



Town of Paradise Town Council Meeting Agenda 6:00 PM – March 12, 2024

Town of Paradise Council Chamber – 5555 Skyway, Paradise, CA

Mayor, Ron Lassonde
Vice Mayor, Greg Bolin
Council Member, Steve Crowder
Council Member, Steve “Woody” Culleton
Council Member, Rose Tryon

Town Manager, Jim Goodwin
Town Attorney, Scott E. Huber
Town Clerk/Elections Official, Dina Volenski
CDD, Planning & Onsite, Susan Hartman
CDD, Building & Code Enforcement, Tony Lindsey
Finance Director/Town Treasurer, Aimee Beleu
Public Works Director/Town Engineer, Marc Mattox
Division Chief, CAL FIRE/Paradise Fire, Garrett Needles
Chief of Police, Eric Reinbold
Recovery & Economic Development Director, Colette Curtis
Human Resources & Risk Management Director, Crystal Peters
Information Systems Director, Luis Marquez

Meeting Procedures

- I. The Mayor is the Presiding Chair and is responsible for maintaining an orderly meeting. The Mayor calls the meeting to order and introduces each item on the agenda.
- II. The Town staff then provides a report to Council and answers questions from the Council.
- III. Citizens are encouraged to participate in the meeting process and are provided several opportunities to address Council. Any speaker addressing the Council is limited to three minutes per speaker - fifteen minutes per agenda item
 - A. If you wish to address the Council regarding a specific agenda item, please complete a “Request to Address Council” card and give it to the Town Clerk prior to the beginning of the meeting. This process is voluntary and allows for citizens to be called to the speaker podium in alphabetical order. Comments and questions from the public must be directed to the Presiding Chair and Town Council Members (please do not address staff.) Town staff is available to address citizen concerns Monday through Thursday at Town Hall between the hours of 8am and 5pm.
 - B. If you wish to address Council regarding an item not on the agenda, you may do so under Item 4, “Public Communication.” Again, please fill out a card and give it to the Town Clerk before the meeting. State Law prohibits Council action on items not listed on a public agenda.

In compliance with the Americans with Disabilities Act (ADA) Compliance, persons who need special accommodations to participate in the Town Council meeting may contact the Town Clerk at least three business days prior to the date of the meeting to provide time for any such accommodation.

1. OPENING

- 1a. Call to Order
- 1b. Pledge of Allegiance to the Flag of the United States of America
- 1c. Invocation
- 1d. Roll Call

- 1e. Paradise Moose Lodge presentation of Tommy and Rosie Moose dolls for first responders, presented by Cal Turner and Jerry Lundberg.
- 1f. Paradise Fire Department 2023 Year in Review - Garrett Needles, Paradise Fire Chief
- 1g. Camp Fire Recovery Updates - Written reports are included in the agenda packet.
 - p6 Colette Curtis, Recovery and Economic Development Director - Recovery Projects, Advocacy, Economic Recovery and Development, Communications and Emergency Operations.
 - p9 Marc Mattox, Public Works Director/Town Engineer - Infrastructure and Sewer Update.
 - p11 Tony Lindsey, CDD-Building and Code Enforcement-Code Enforcement Update.
 - p15 Kate Anderson, Business and Housing Manager-Business and Housing Update.

2. CONSENT CALENDAR

One roll call vote is taken for all items. Consent items are considered to be routine business that does not call for discussion.

- 2a. p16 Approve minutes of the February 13, 2024 Regular and Special Town Council meetings and February 16, 2024 Special Town Council meeting.
- 2b. p25 Approve February 2024 Cash Disbursements in the amount of \$2,350,480.36.
- 2c. p33 Acknowledge receipt of and file the Planning Commission's annual report concerning implementation status of the 1994 Paradise General Plan and Housing Element for the 2023 calendar year.
- 2d. p60 Approve write-off of uncollectible miscellaneous invoices and citations which are attached as Exhibit A.
- 2e. p80 Approve and authorize Town staff to implement the Hazardous Fuels Reduction Project. Project would include the hiring of three (3) full-time, limited term staff members to facilitate the 36-month program that will increase capacity for hazardous fuels along all Town Right-of-Ways.
- 2f. p81 1. Re-appoint two Planning Commissioners, Charles Holman and Zeb Reynolds, whose terms will expire on June 30, 2024 for one 4-year term effective July 1, 2024 through June 30, 2028; or,

2. Approve a Notice of Vacancy and application and authorize staff to advertise the upcoming vacancies on the Planning Commission and designate two (2) Town Council members to serve as an interview panel.

3. ITEMS REMOVED FROM CONSENT CALENDAR

4. PUBLIC COMMUNICATION

For matters that are not on the Council business agenda, speakers are allowed three (3) minutes to address the Council. The Town Council is prohibited from taking action on matters that are not listed on the public agenda. The Council may briefly respond for clarification and may refer the matter to the Town staff.

5. PUBLIC HEARINGS

For items that require a published legal notice and/or a mailed notice.

Public Hearing Procedure:

- A. Staff Report
- B. Mayor opens the hearing for public comment in the following order:
 - i. Project proponents (in favor of proposal)
 - ii. Project opponents (against proposal)
 - iii. Rebuttals – if requested
- C. Mayor closes the hearing
- D. Council discussion and vote

- 5a. p82 1. Consider concurring with the recommended actions adopted by the Planning Commission of February 27, 2024, and embodied within Planning Commission Resolution No. 2024-01; and, 2. Concur that the final draft Safety Element is within the scope of the previously adopted Negative Declaration; and, 3. Adopt Town of Paradise Resolution No. 2024-_____, “A Resolution of the Town Council of the Town of Paradise Adopting an Amendment to the Safety Element of the 1994 Paradise General Plan and Finding the Amendment Within the Scope of the Certified Negative Declaration Prepared for the Town of Paradise Housing and Safety Element Updates: Town of Paradise Safety Element 2024 Update”; or, 4. Provide alternative direction to town staff. (ROLL CALL VOTE)

6. COUNCIL CONSIDERATION

Action items are presented by staff and the vote of each Council Member must be announced. A roll call vote is taken for each item on the action calendar. Citizens are allowed three (3) minutes to comment on agenda items.

- 6a. p219 1. Consider concurring with staff’s recommendation for awarding the contract for Progressive Design Build Services for the Paradise Sewer Project to the Mountain Cascade-Carollo team; and, 2. Authorize the Town Manager to enter into a Progressive Design Build Contract (2023-005) with the recommended firm, contingent upon approval by the Town Attorney; and, 3. Adopt Resolution No. 2024-___, “A Resolution Designating Authority to the Paradise Town Manager to Execute Individual Contract Amendments Under the Resultant Progressive Design Build Contract for RFQ 2023-005 Progressive Design Build Services with Mountain Cascade/Carollo Engineers for the Paradise Sewer Project up to the maximum contract aggregate amount of \$17,000,000 to complete the initial design and

progressive design build process for the Paradise Sewer Project.” (ROLL CALL VOTE)

- [6b.](#) p558 1. Consider directing staff to enter into an agreement with the City of Chico to provide an investment of \$75,000 to the Chico Airport Revenue Guarantee Fund; and, 2. Direct staff to enter into an agreement with Adventist Health Feather River Foundation to accept \$75,000 in matching funds, contingent upon approval by Adventist Health Feather River Foundation; and, 3. Direct Staff to transmit a total investment of \$150,000, contingent on matching funds approval, to the City of Chico Airport Revenue Guarantee Fund; or, 4. Provide alternate direction. (ROLL CALL VOTE)
- [6c.](#) p561 1. Discuss and consider concurring with staff recommendation to approve the Intergovernmental Subrecipient Agreement for the Town of Paradise to assist Paradise Irrigation District in utilizing CDBG-DR funds; and, 2. Adopt Resolution No. 2024-___, A Resolution of the Town Council of the Town of Paradise authorizing the Town Manager, or his designee, to sign the Intergovernmental Subrecipient Agreement to allow the Town of Paradise to administer and support in the utilization of CDBG-DR funds allocated to PID by HCD via the CDBG-DR program. (ROLL CALL VOTE)
- [6d.](#) p721 1. Consider adopting Resolution No. 2024-____, “A Resolution of the Town Council of the Town of Paradise Adopting the California Uniform Public Construction Cost Accounting Act Policy and Procedure” and, 2. Consider waiving the first reading of the Town of Paradise Ordinance No. 634 and read by title only; and, 3. Introduce Town Ordinance No. 634 “An Ordinance Adding Section 2.45.105 to the Paradise Municipal Code Relating to an Informal Bid Process for Public Works Projects of \$200,000 or Less.” (ROLL CALL VOTE)
- [6e.](#) p726 1. Consider adopting Resolution No. 2024-____, “A Resolution of the Town Council of the Town of Paradise Awarding Contract No. 9435, Fire Station 82 Re-Roofing Project to Four Seasons Roofing of Chico in the Amount of Their Base Bid Plus Additive Bid Number One” for a total of \$37,088.00 and, 2. Authorize the Town Manager to execute an agreement with Four Seasons Roofing in the amount of their base plus additive bid number one and to approve contingency expenditures not exceeding 10%. (ROLL CALL VOTE)
- [6f.](#) p745 Hear an update on the potential applicability of Red-Light Enforcement Cameras in Paradise.
- [6g.](#) p748 1. Discuss and consider adopting Resolution No. 2024-___, "A Resolution of The Town Council of The Town of Paradise Making Findings Concerning Sole Vendor For The Purchase of E-Citation and Collision reporting software, by Crossroads Software Inc. Pursuant To Paradise Municipal Code Sections 2.45.070B, 245.070C, and 245.070G"; and, 2. Authorize the Town Manager to enter into an agreement to purchase the Crossroads software and to pay Sun Ridge Systems (RIMS) for the integration of the software into the Police Department’s CAD system. (ROLL CALL VOTE)

- [6h.](#) p753 Provide an update on Police Department Drone Program and review policy with Council. (Adopted May 9, 2023)
- [6i.](#) p756 Discuss and consider adopting the following: 1. Adopt Resolution No. 2024-__ , “A Resolution of the Town Council of the Town of Paradise Approving an application for funding and the execution of a grant agreement and any amendments thereto from the 2023-2024 funding year of the State CDBG Mitigation Resilience Infrastructure (MIT-RIP) program.” and, 2. Adopt Resolution No. 2024-__ , “A Resolution of the Town Council of the Town of Paradise Approving an application for funding and the execution of a grant agreement and any amendments thereto from the 2023-2024 funding year of the State CDBG Resilient Planning and Public Services (MIT-PPS) Program.” (ROLL CALL VOTE)

7. COUNCIL INITIATED ITEMS AND REPORTS

- 7a. Council initiated agenda items
 - [7a1.](#) p765 Discuss Ordinance No. 632 and the provisions for residents to store RVs on vacant properties. (CULLETON)
 - 7a2. Discuss electronic signs in the Commercial Zones. (CULLETON)
- 7b. Council reports on committee representation
- 7c. Future Agenda Items

8. STAFF COMMUNICATION

- 8a. Town Manager Report

9. CLOSED SESSION

10. ADJOURNMENT

STATE OF CALIFORNIA)	SS.
COUNTY OF BUTTE)	
I declare under penalty of perjury that I am employed by the Town of Paradise in the Town Clerk's Department and that I posted this Agenda on the bulletin Board both inside and outside of Town Hall on the following date:	

TOWN/ASSISTANT TOWN CLERK SIGNATURE	



Town of Paradise
Council Agenda Summary
Date: March 12, 2024

Agenda Item: 1(g)

ORIGINATED BY: Colette Curtis, Recovery and Economic Development Director

REVIEWED BY: Jim Goodwin, Town Manager

SUBJECT: Monthly Recovery Update

LONG TERM RECOVERY PLAN: Yes

COUNCIL ACTION REQUESTED:

1. None

Background:

This report continues the Monthly Updates provided to keep the Town Council apprised of important developments related to the recovery of the Town of Paradise from the Camp Fire. Included in this update are items related to recovery projects, advocacy economic recovery and development, communications and emergency operations.

Analysis:

ECONOMIC DEVELOPMENT

CDBG-DR Economic Development

- The Butte County allocation for CDBG DR Economic Development is \$18.7 Million
- The Town worked with our regional workforce partners on an application for a workforce training center, located on the Paradise High School campus, that will focus on resilient building techniques.
- Our partners include Paradise Unified School District, Butte College, Valley Contractor's Exchange, and NorTEC.
- The application has been submitted.
- Status of the application and funding will be shared as soon as it is available.

Restoration of Regional Air Service

- Council heard a presentation regarding the restoration of air service at the Chico Airport at their last Council meeting and asked staff to bring back a proposal for investment into the Revenue Guarantee Fund.
- An item will be presented tonight with a staff recommendation for investment.

RECOVERY

Category 4 Tree Removal Program

- Program opened to applicants in July of 2022 and received 577 applicants. This represents 1,014 acres of private property across the Town.
- Phase 2 Federal Environmental Review actions are now complete. CalOES is now completing final reviews and obligation processes. We anticipate full approval in the next 5-6 weeks.
- Town staff are working day with BCFSC on the implementation plan in order to be able to move quickly upon approval by FEMA.
- The first 3 RFPs for the project were published the last week of February for a Forester, Archeology, and Biological Surveyor.
- In March, we will begin property owner outreach and authorization paperwork for Phase two tree removal.

Early Warning Sirens

- All towers are standing and operational.
- 20 of the 21 standing Towers have all aesthetic branches installed.
- 7 of the 8 traffic cameras have been installed.
- 15 of the 21 have completed trenching and are connected to permanent power or in process of connecting.
- The final tower foundation (Rocky Ln.) is complete and the tower should be standing by the March Council meeting.
- We anticipate full system completion, training and handover of the operation will occur in June 2024 in coordination with the future 24 hour dispatch center.
- We are working with HQE team and FEMA for options to consider for supplementing the system to increase options for audibility and expect a Council update in April.

Residential Ignition Resistant Retrofit Program

- This project was opened to residents to apply in May 2023 and closed July 31, 2023.
- 118 property owners have submitted applications.
- Assessments were completed in October 2023 and all Phase 1 closeout documents transferred to CalOES/FEMA for final environmental review.
- Phase 2 retrofits will occur upon full approval of the environmental process in early 2024.

Hazardous Fuels Reduction Program

- We are working with the Public Works team and expect an implementation plan to come before Council in the coming months.

Defensible Space Code Enforcement

- The Defensible Space Code Enforcement Project was fully approved in November 2023 by FEMA and Cal OES.
- Town Staff are coordinating the process to implement this project in order to have the program operating for the Spring 2024 inspection season.
- Town Council approved an implementation plan in January 2024. Human Resources has posted approved limited term project positions and is in the interview process.

COMMUNICATIONS

State of the Town

- The Town of Paradise is working with the Paradise Chamber of Commerce on a “State of the Town” presentation in conjunction with a ridge business update.
- The Chamber will host the event on March 27th at 3pm at Paradise Elks Lodge.

EMERGENCY MANAGEMENT

- The Town is working on an agreement with Butte County for a virtual EOC platform to streamline EOC processes.
- The Town is working with Butte County to update the Local Hazard Mitigation Plan (LHMP) in advance of the 2024 deadline.

Financial Impact:

None.



**TOWN OF PARADISE
Council Agenda Summary
Date: March 12, 2024**

Agenda No. 1(g)

ORIGINATED BY: Marc Mattox, Public Works Director / Town Engineer

REVIEWED BY: Jim Goodwin, Town Manager

SUBJECT: Camp Fire Recovery Updates - Infrastructure

COUNCIL ACTION REQUESTED:

- 1. None, written monthly update only.

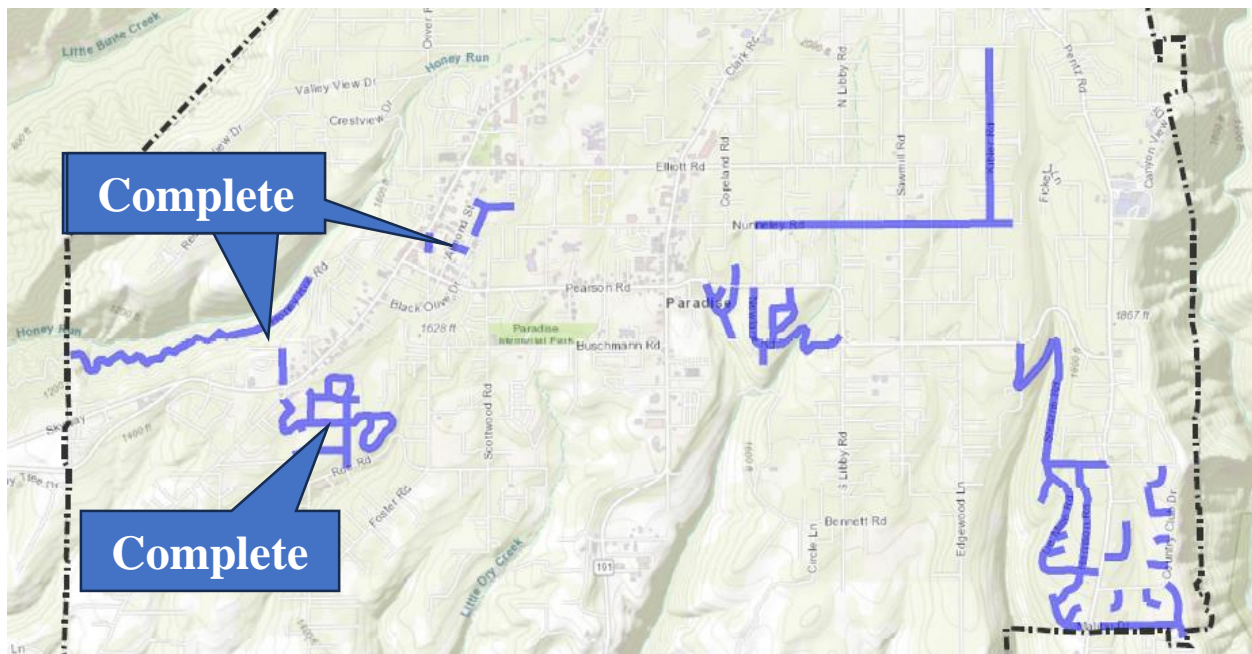
Background:

This report continues the Monthly Disaster Recovery Updates provided to keep the Town Council apprised of important developments related to the recovery of the Town of Paradise from the Camp Fire.

Analysis:

Road Rehabilitation

In August, Town Council awarded a contract to Hat Creek Construction for road rehabilitation work in areas such as lower Honey Run Road, Circlewood Drive, Glen Drive, Stearns Road, DeMille Road, Malibu Drive, Nunneley Road, Kibler Road and others. The project's first phase is complete, paving the Circlewood neighborhood, Honey Run Road and downtown streets. Remaining work will be completed in spring of 2024. A map of the project areas is provided below:



Project approvals for 2024 paving projects (20 miles) are complete. Staff has advertised the On-System Road Rehabilitation project for 2024 with award expected in March – if awarded, work will begin in June 2024.

Paradise Sewer Project

Accomplishments in Past Month

Finalized contract negotiations with the Mountain Cascade – Carollo team.

Aligned with the DFA team in monthly recurring coordination meeting, including receiving updates on DFA review status.

Met with the Project Coordination Team (PCT), including representative from the Town, HDR & Chico.

Engaged with City of Chico, PG&E and Butte County to gather available design support data.

Progressed preparations for permit submittals via initial and follow-up consultation meetings.

Key Activities in the Next Month

Kick-off the Project with the Mountain Cascade – Carollo team.

Align with the DFA team in monthly recurring coordination meeting, including providing an introduction to the HCD leadership team.

Complete initial informal consultations with remaining permitting entities and submit Biological Assessment.



Town of Paradise
Council Agenda Summary
Date: March 12, 2024

Agenda Item: 1(g)

ORIGINATED BY: Tony Lindsey, Community Development
 Director, Building & Code Enforcement

REVIEWED BY: Jim Goodwin, Town Manager

SUBJECT: Camp Fire Recovery Updates – Code Enforcement

LONG-TERM RECOVERY PLAN: No

COUNCIL ACTION REQUESTED:

None.

Background:

The Code Enforcement Division is committed to fostering a safe and appealing living and working environment. Our mission is to uphold and enhance our community's overall quality through the fair and impartial implementation of an enforcement program to rectify violations of municipal codes and land use regulations. In collaboration with residents, neighborhood associations, public service agencies, and other Town departments, we strive to:

- Promote voluntary compliance with Town codes.
- Identify and address violations promptly and fairly.
- Foster collaboration efforts to address community concerns.
- Actively engage with the community in navigating the code enforcement process.

Analysis:

Temporary Use Permits (TUPs) are issued under the Urgency Ordinance (Exhibit A).

	February	January
Parcels with RV Storage only	51	51
Parcels permitted to occupy an RV	83	83
Accessory structures	13	13

All permit holders were notified about extensions, revocations, and upcoming expiration dates.

RV Code Enforcement activity. (Exhibit B):

	February	January
Occupied sites without TUPs	23	26
Occupied sites with TUP Violations	7	4
Compliance gained/RV cases closed	4	4

The Community Enhancement Outreach Team, comprised of Disaster Case Managers, Fire

Prevention, Housing, Police Department, and Code Enforcement personnel, visited permitted and unpermitted RV sites. Throughout these visits, the team engaged with community members to address unmet needs and provided information about available assistance programs.

	February	January
Sites Visited	30	38
Community members contacted	22	21
Tenants	10	7
Owner-occupied	12	14
Supplied contact information	12	15
Do not qualify	2	2

Fire Prevention is crucial to our community's safety and supports our continued economic growth, focusing on three primary goals: Education, Engineering, and Enforcement. Our defensible space and hazardous fuel management ordinance requires property owners to uphold fire-safe conditions, regardless of residency. The dedicated Fire Prevention team conducts weed abatement inspections on 11,100 parcels throughout our community to ensure compliance and reduce fire hazards.

	February	January
Escrow defensible space inspections		
• Clearance requests received	69	68
• Certificates issued	60	65
• Land Surveyor's Certifications	17	18
• First inspection compliance rate	81%	94%
Weed abatement inspections		
• Compliant parcels	8,761 – 79%	8,690 – 78%
• Active Code cases	214	225
• Commercial parcels	17	17
• Residential parcels	197	208

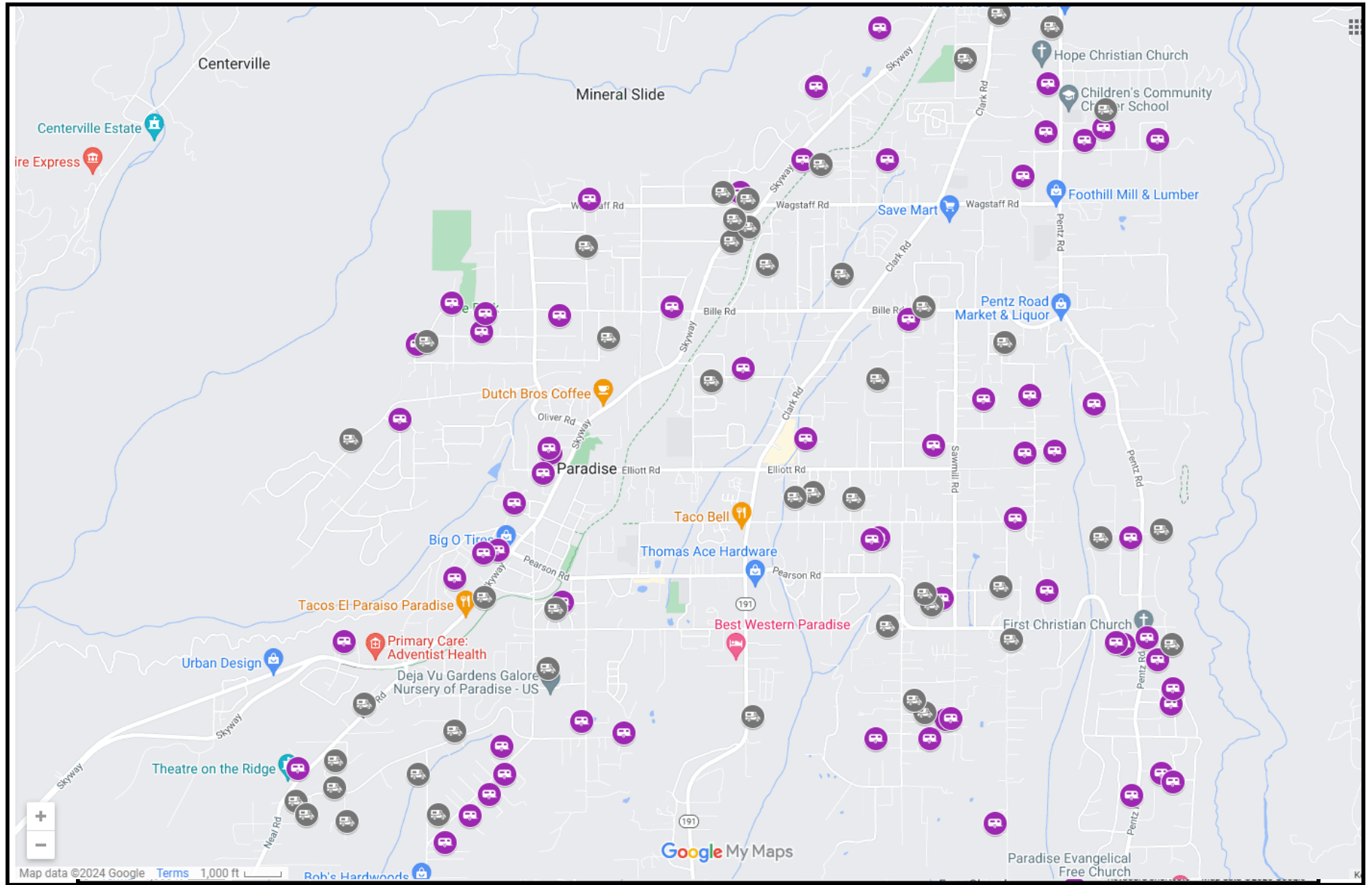
Other Code Enforcement Items:

	February	January
Abandoned Vehicle Authority		
• Abatements	5	1

	February	January
Commercial Sign		
• Violations	2	3

Only 2 out of the original 98 violations are outstanding. The Recovery and Economic Department will make one final push to these property owners before reallocating the grant funds.

Additionally, Code Enforcement received complaints covering various issues, including waste and refuse problems, zoning violations related to signs, construction without the required permits, fire hazards, concerns about vehicles, unauthorized dwellings, absence of garbage service, grading issues, vending, and unpermitted laydown yards.

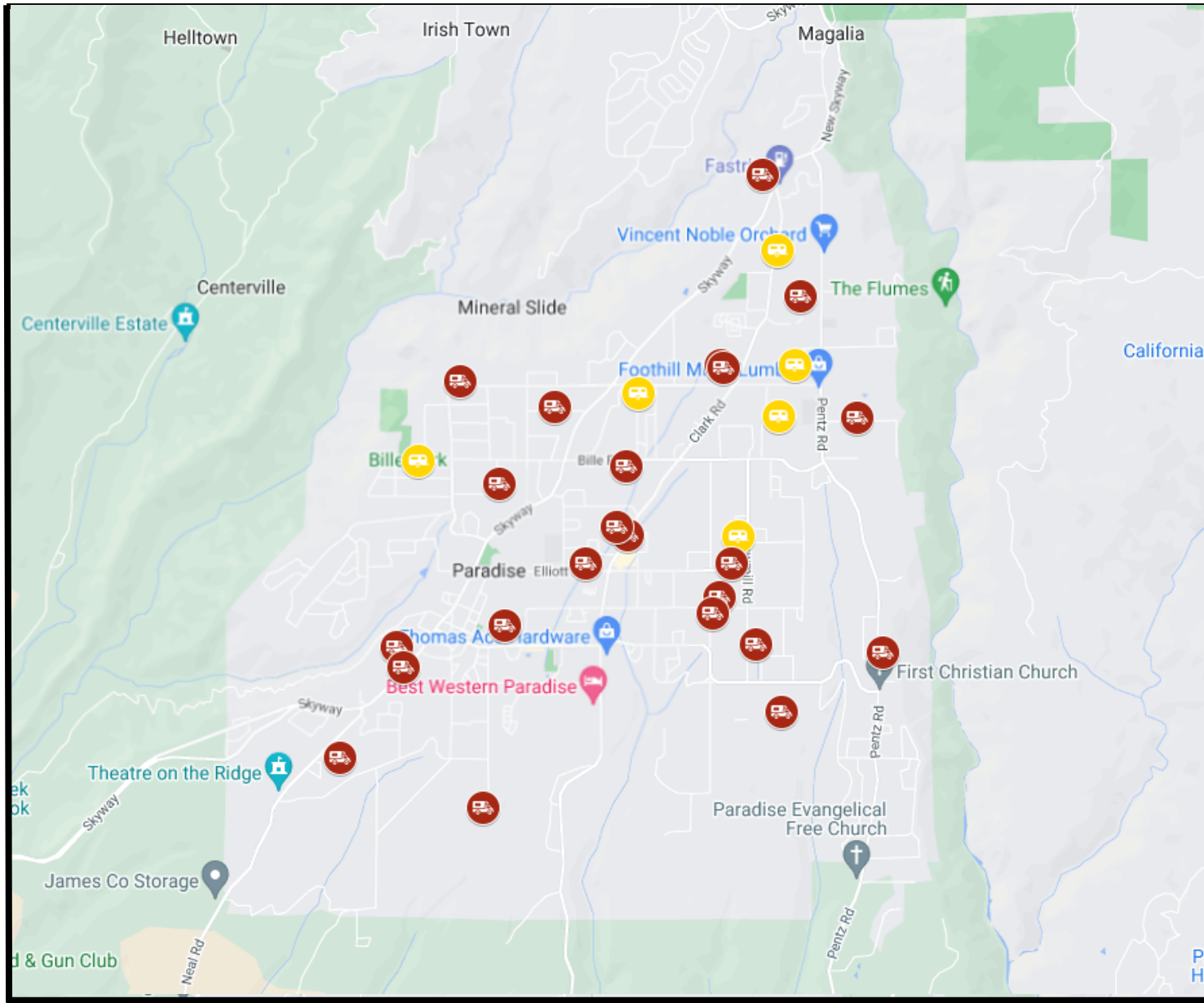


RV TUP STORAGE ONLY 51



RV TUP OCCUPIED 83

TUP Violations 2/28/2024



Violations w/ TUP 6



RV no TUP 23



Town of Paradise
Council Agenda Summary
Date: March 12, 2024

Agenda Item: 1(g)

ORIGINATED BY: Nadia Alekseev, Housing Program Technician
REVIEWED BY: James Goodwin, Town Manager
SUBJECT: Housing Recovery Update
LONG TERM RECOVERY PLAN: No

COUNCIL ACTION REQUESTED:

None

Background:

This report provides the Town Council with an update on Housing activities.

Analysis:

We have 34.5% of our pre-disaster housing stock to-date (1,377 surviving units + 2,769 new CofOs to-date [an increase of 27 from last month] = 4,146 habitable dwellings / 12,015 housing units before the Camp Fire). An additional 638 permits have been issued but have not received their CofO yet.

Town of Paradise Owner-Occupied Rehabilitation/Reconstruction Program (\$16 million) -- This program helps homeowners rehabilitate or reconstruct their home. We have completed 51 homes, have 11 under construction, and 16 applications in process.

Town of Paradise First-Time Homebuyer Program (\$7 million) -- Helping to make home ownership more affordable. We have assisted 31 households to-date and have 14 applications in process.

CDBG-DR Multifamily Rental Housing Program (\$55 million) -- Affordable rental housing. Seven (7) projects are eligible for funding; a total of 290 units. One project (4 units) has leased up, and two projects (55 units) are under construction and anticipated to be completed this fall. Two more projects (91 units) have received tax credits and are working toward construction, and the last 2 projects (140 units) have applied for tax credits.

CDBG (2023 Annual Allocation=\$100,691; unspent funds=\$109,305) -- Continuing to fund public services and lot acquisition for affordable homeownership. CV funds (\$208,244 not included above) can assist households living in RVs with emergency rental assistance; applications available now; 1 application in process.

HOME Infill New Construction (\$700,000) -- Create affordable housing for first-time homebuyers. Grant has been awarded but still waiting for Standard Agreement from HCD. Not expected now until March.

Permanent Local Housing Allocation (PLHA) (\$399,166) – Allocates matching funds to North Valley Housing Trust to administer short-term, pre-development loans for affordable multifamily projects. First predevelopment loan of \$400,000 has been made (\$200,000 of PLHA funds).

Financial Impact:

None.



**MINUTES
PARADISE TOWN COUNCIL
SPECIAL MEETING – 5:00 PM – February 13, 2024**

1. OPENING

The Special meeting of the Paradise Town Council was called to order by Mayor Lassonde at 5:00 p.m. in the Council Chambers located at 5555 Skyway, Paradise, California who led the Pledge of Allegiance to the Flag of the United States of America.

COUNCIL MEMBERS PRESENT: Greg Bolin, Steve Crowder, Steve “Woody” Culleton, Rose Tryon and Ronald Lassonde, Mayor.

COUNCIL MEMBERS ABSENT: None

STAFF PRESENT: Town Manager Jim Goodwin, Town Clerk/Elections Official Dina Volenski, Town Attorney Scott E. Huber and Public Works Director/Town Engineer Marc Mattox.

At 5:02 p.m. Mayor Lassonde announced that the Town Council would adjourn to Closed Session for the following items:

2. CLOSED SESSION

- 2a. Pursuant to Government Code section 54956.9(d)(4), the Town Council will meet with the Town Manager and Town Attorney to consider initiation of litigation - two (2) potential cases.

After reconvening from Closed Session at 5:50 p.m. Mayor Lassonde announced that no reportable action was taken, direction was given.

3. ADJOURNMENT

Mayor Lassonde adjourned the Council meeting at 5:54 p.m.

Date approved:

By:

Attest:

Ronald Lassonde, Mayor

Dina Volenski, CMC, Town Clerk



TOWN COUNCIL Meeting Minutes

6:00 PM – February 13, 2024

1. OPENING

The Regular meeting of the Paradise Town Council was called to order by Mayor Lassonde at 6:00 p.m. in the Town Council Chamber located at 5555 Skyway, Paradise, California who led the Pledge of Allegiance to the Flag of the United States of America. An invocation was offered by Council Member Culleton.

COUNCIL MEMBERS PRESENT: Greg Bolin, Steve Crowder, Steve “Woody” Culleton, Rose Tryon and Ronald Lassonde, Mayor

COUNCIL MEMBERS ABSENT: None

STAFF PRESENT: Town Manager Jim Goodwin, Town Attorney Scott E. Huber, Town Clerk/Elections Official Dina Volenski, Finance Director/Town Treasurer Aimee Belev, Public Works Director/Town Engineer Marc Mattox, Community Development Director Susan Hartman, Community Development Director Tony Lindsey, Recovery and Economic Development Director Colette Curtis, Business and Housing Manager Kate Anderson, Recovery and Economic Development Project Manager Brian Solecki, Information Systems Director Luis Marquez, Police Chief Eric Reinbold, Police Lieutenant Anthony Borgman, and Police Lieutenant Cameron Kovacs.

Mayor Lassonde stated that in order for the Council to discuss and make the recommendation of accepting the Notice of Completion for the Interim Striping Safety Project 2023 - the item must be formally added to the agenda under the consent calendar. It takes two thirds vote to add the item to the agenda, or if less than two thirds are present a unanimous vote of those present.

As such, Council is requested to take the following actions:

Pursuant to Government Code Section 54954.2(b)(2) the Town Council finds that there is a need to take immediate action and that the need came to the attention of the Town after the posting of the agenda concerning the following item:

- 2(n) Consider adopting Resolution No. 2024-_____, “ A Resolution of the Town Council of Town of Paradise accepting the work performed under the Interim Striping Safety Project 2023 Contract 9429.CON performed by Specialized Pavement Marking, LLC”.

Motion by Bolin, seconded by Crowder, the Town Council finds that there is a need to take immediate action and that the need came to the attention of the Town after the posting of the agenda and added Agenda Item 2(n) to the consent calendar. Roll call vote was unanimous.

- 1a. Town Council recognition of Employee Service to the Town of Paradise for 2023 was ready by Vice Mayor Bolin and presented by Mayor Lassonde. (360-20-022)

15 Years

Shawn Jordan - Police Department
Dina Volenski - Town Clerk Department
John Wilkey - Police Department

10 Years

Colette Curtis - Recovery and Economic Development Department
Marc Mattox - Public Works and Engineering Departments

5 Years

Andrew Anaya - Animal Control
LeAnn Rice - Fire Department
Mollie St John - Animal Control
Dominic Vannucci - Police Department
Tanya Yelenskaya - Community Development Department

- 1b. Special recognition was awarded to sworn and non-sworn police personnel and volunteers for their exemplary contributions to the department and presented by Police Chief Eric Reinbold.

Officer of the Year:

Officer, Andrew Cooper

Dispatcher of the Year:

Support Services Supervisor, Jeannette Huggins

Civilian Employee of the Year:

Property & Evidence Technician, Shawn Jordan

VIP of the Year:

Lisa Robinson

PASH Volunteer of the Year:

Charlotte Amoroso

- 1c. The Presentation of VIPS 2023 Annual Report was given by Lisa Robinson. (480-60-009)
- 1d. Executive Director, Monica Nolan presented on Paradise Ridge Chamber of Commerce newly release social media platforms and website, "Welcome to the Ridge".
- 1e. Executive Director, Jen Goodlin presented on the Rebuild Paradise Foundation and the handprint mural project.
- 1f. Camp Fire Recovery Updates - Written reports are included in the agenda packet. (110-60-061)

Colette Curtis, Recovery and Economic Development Director - Recovery Projects, Advocacy, Economic Recovery and Development, Communications and Emergency Operations.

Marc Mattox, Public Works Director/Town Engineer - Infrastructure and Sewer Update.

Tony Lindsey, CDD-Building and Code Enforcement-Code Enforcement Update.

Kate Anderson, Business and Housing Manager-Business and Housing Update.

2. CONSENT CALENDAR

MOTION by Bolin, seconded by Tryon, approved consent calendar items 2a through 2l and item 2n. Item 2m was removed from the consent calendar by Vice Mayor Bolin. Roll call vote was unanimous.

- 2a. Approved the Regular minutes of the January 9, 2024, Town Council meeting.
- 2b. Approved January 2024 Cash Disbursements in the amount of \$3,572,262.23. (310-10-035)
- 2c. 1. Waived the second reading of Town Ordinance No. 633 and read by title only; and, 2. Adopted Town Ordinance No. 633 “An Ordinance Amending Paradise Municipal Code Chapter 15.09 Relating to The Fire Code And Burn Permits.” (540-16-202)
- 2d. Adopted Resolution No. 2024-03, “A Resolution of the Town Council of Town of Paradise accepting the work performed under the 2023 On-System Roadway Rehabilitation – Pearson (Project 2)/ HSIP Systemic Intersection Safety Improvement Project Contract 7303.2 CON performed by Baldwin Contracting Company, Inc. dba Knife River Construction.” (510-20-368)
- 2e. 1. Adopted Resolution No. 2024-04, “A Resolution of The Town Council of the Town of Paradise Authorizing Disposal of Certain Town Records Maintained in the Town Clerk Department Pursuant to Government Code Section 34090”; and,
2. Adopted Resolution No. 2024-05, “A Resolution of The Town Council of the Town of Paradise Authorizing Disposal of Certain Town Records Maintained in the Human Resources Department Pursuant to Government Code Section 34090.” (160-20-016, 160-20-017)
- 2f. Adopted Resolution No. 2024-06, a Resolution of the Town Council of the Town of Paradise to finalize and obligate the CalFire California Climate Investment Grant Agreement in order to receive up to \$2,469,159.00 in match funding for Phase 2 Tree Removal. (420-25-009, 510-20-405)
- 2g. Reviewed and approved Town of Paradise Investment Policy – Administrative Policy No. 140. (360-30-002, 110-10-020)

- 2h. Adopted Resolution No. 2024-07, "A Resolution of the Town Council of the Town of Paradise to Assign Council Member Participation to the Legislative Committee." (120-10-010)
- 2i. 1. Declared the Police Department equipment as surplus property; and, 2. Adopted Resolution No. 2024-08, "A Resolution of the Town Council of the Town of Paradise declaring certain Town Equipment to be surplus and obsolete and authorizing disposal by the Town Manager or his designee." (380-10-003)
- 2j. Reviewed and filed the 2nd Quarter Investment Report for the Fiscal Year ending June 30, 2024. (360-30-006)
- 2k. Adopted Resolution No. 2024-09 "A Resolution of the Town Council of the Town of Paradise Repealing Resolution No. 15-45, and Amending and Restating Procedures Relating to the Conduct of Town Council Meetings." (580-40-025)
- 2l. Accepted a donation of \$5,000 from the Rotary Club of Paradise to support the E-Citation program. (395-50-024, 480-35-002)
- 2m. ITEM REMOVED FROM THE CONSENT CALENDAR.
- 2n. Adopted Resolution No. 2024-10, "A Resolution of the Town Council of Town of Paradise accepting the work performed under the Interim Striping Safety Project 2023 Contract 9429.CON performed by Specialized Pavement Marking, LLC". (510-20-402, 950-40-069)

3. ITEMS REMOVED FROM CONSENT CALENDAR

Item 2m was removed from the consent calendar by Vice Mayor Bolin due to a potential conflict of interest. Vice Mayor Bolin recused himself from the dais at 6:59 p.m.

2m. **MOTION by Tryon, seconded by Culleton**, Authorized the not to exceed (NTE) increase amendment for \$10,000 with the Butte Fire Safe Council and authorized the Town Manager to execute the amendment in order to continue with FEMA/Cal OES approved Pre-Phase 2 award work. Roll call vote was unanimous with Vice Mayor Bolin absent and not voting. (510-20-381)

Vice Mayor Bolin returned to the dais at 6:59 p.m.

4. PUBLIC COMMUNICATION

- 1. Shannon Hawkins asked about receiving an exception for Urgency Ordinance No. 632 and asked to be allowed to store her RV on her vacant property.
- 2. Carrie Max thanked the Town for allowing her to stay in an RV on her property for another year while she waits for her PG&E settlement money.

5. PUBLIC HEARINGS - None

6. COUNCIL CONSIDERATION

- 6a. Finance Director/Town Treasurer Aimee Belevu presented the proposed agreement for banking services with Tri Counties Bank.
1. Sonny Ventimiglio, a representative from Tri Counties Bank spoke on the proposed contract and on Tri Counties' dedication to the Town of Paradise.
 2. Scott Cadow, Vice President of Tri Counties Bank spoke about how the bank will secure the Town's monies and what caused Silicon Valley Bank's failure.

MOTION by Bolin, seconded by Culleton, authorized the Mayor and Town Manager to enter into an agreement for banking services with Tri Counties Bank for five years with an optional extension of two years, contingent upon final review and approval by the Town Attorney. Roll call vote was unanimous. (510-20-417)

- 6b. THIS ITEM WAS PULLED FROM THE AGENDA FOR FUTURE CONSIDERATION.

p275 1. Consider concurring with staff's recommendation for awarding the contract for Progressive Design Build Services for the Paradise Sewer Project to the Mountain Cascade-Carollo team; and, 2. Authorize the Town Manager to enter into a Progressive Design Build Contract (2023-005) with the recommended firm, contingent upon approval by the Town Attorney; and, 3. Adopt Resolution No. 2024-__, "A Resolution Designating Authority to the Paradise Town Manager to Execute Individual Contract Amendments Under the Resultant Progressive Design Build Contract for RFQ 2023-005 Progressive Design Build Services with Mountain Cascade/Carollo Engineers for the Paradise Sewer Project up to the maximum contract aggregate amount of \$17,000,000 to complete the initial design and progressive design build process for the Paradise Sewer Project" (ROLL CALL VOTE) This item will be brought back on a future agenda.

- 6c. Public Works Director/Town Engineer Marc Mattox provided an overview of the proposed Roe Road Extension Phase 2 Local Transportation Climate Adaptation Program.

MOTION by Bolin, seconded by Tryon, 1. Approved a Letter of Intent to the California Transportation Commission relating to the Town's \$33,000,000 Roe Rd Extension Phase 2 Local Transportation Climate Adaptation Program grant award and funding needs for project construction; and, 2. Approved a Letter of Support for the Town's \$25,000,000 federal Rebuilding American Infrastructure with Sustainability and Equity (RAISE) funding opportunity; and, 3. Allocated \$3,800,000 of the Town's Paradise Recovery & Operations Reserve to leverage the Roe Road Extension Phase 2 Project. (180-30-101, 950-40-059)

- 6d. Recovery and Economic Development Director Colette Curtis introduced representatives from the Chico Regional Airport. The airport representatives presented marketing investment opportunities available to

Paradise in support of reopening the Chico Regional Airport.

Council directed staff to continue research into these investment opportunities and their specific benefit to Paradise and to bring the findings back to Council.

7. COUNCIL INITIATED ITEMS AND REPORTS

7a. Council initiated agenda items

7a1. Discussion of lay down yards/citations and utility work on private roads (CULLETON)

Council discussed the current process of lay down yards/citations and utility work on private roads. Community Development Director Tony Lindsey clarified the procedural processes through the Building Department and Code Enforcement. Council determined the current process was sufficient.

7b. Council reports on committee representation

Council Member Tryon reported that the monthly Butte County Association of Government (BCAG) meeting had been cancelled; she attended Butte County Air Quality Management District (BCAQMD) meeting where she was reappointed to the Executive Committee; and that she attended the Butte County Fire Safe Council (BCFSC) board member meeting.

Vice Mayor Bolin attended Butte Local Agency Formation Commission (LAFCO) and Solid Waste Committee meetings.

Council Member Crowder reported on his trip to Washington DC; attended the swear-in of a new dispatcher; attended the BCFSC open-house; several new business grand openings; and participated in interviewing applicants for Community Development Block Grant (CDBG) funds administered by Business and Housing.

Council Member Culleton attended the Solid Waste Committee meeting and participated in interviewing applicants for CDBG funds administered by Business and Housing.

Mayor Lassonde attended the Butte County Oversight Board meeting; the True Value and Paradise Playdium ribbon cuttings; participated in the Legislative Tour of Paradise; attended a meeting to discuss Paradise tourism; and was interviewed by Blue Flamingo for the Make it Paradise blog.

7c. Future Agenda Items

7c1. Council Member Culleton asked to discuss Ordinance No. 632 and the provisions for residents to store RVs on vacant properties at a future Council meeting.

8. STAFF COMMUNICATION

- 8a. Town Manager Jim Goodwin apologized for the last-minute change to the agenda concerning item 6b. He disclosed the Town Attorney advised to pull the item until staff could present a more polished contract than was included in the agenda packet.

Community Development Director Susan Hartman shared that Planning Commission approved the use permit for a 72-unit multi-housing family project; permits have been issued for the Cypress Lane Family apartments; permits have been issued for a 21-unit senior housing project; CDD received a rebuild application for a 10-unit project on Oliver Road; CDD received a rebuild application for Country Club Market on Stearns; and CDD received a wastewater review for a 10-unit apartment complex. Ms. Hartman shared that Planning Commission will review the Safety Element at a Special Meeting in February; CDD issued a minor tenant improvement permit for an Italian restaurant on Pearson; it is believed that Wendy's has decided to wait for the sewer to rebuild; and shared that Jack-in-the-Box has been looking to buy property and reopen in Paradise.

9. CLOSED SESSION - None

10. ADJOURNMENT

Mayor Lassonde adjourned the meeting at 8:47 p.m.

Date approved:

By:

Attest:

Ronald Lassonde, Mayor

Dina Volenski, CMC, Town Clerk



**MINUTES
PARADISE TOWN COUNCIL
SPECIAL MEETING – 8:00 AM – February 16, 2024**

1. OPENING

The Special meeting of the Paradise Town Council was called to order by Mayor Lassonde at 8:03 a.m. in the Council Chambers located at 5555 Skyway, Paradise, California who led the Pledge of Allegiance to the Flag of the United States of America.

COUNCIL MEMBERS PRESENT: Greg Bolin, Steve Crowder, Steve “Woody” Culleton, and Ronald Lassonde, Mayor.

COUNCIL MEMBERS ABSENT: Rose Tryon

STAFF PRESENT: Town Manager Jim Goodwin, Town Clerk/Elections Official Dina Volenski, Public Works Director/Town Engineer Marc Mattox, Finance Director/Town Treasurer Aimee Belev, Community Development Director Susan Hartman, Community Development Director Tony Lindsey, Recovery and Economic Development Director Colette Curtis, Human Resources and Risk Management Crystal Peters, Information Systems Director Luis Marquez, Business and Housing Manager Kate Anderson, Police Chief Eric Reinbold and Fire Chief Garrett Needles.

2. ANNUAL PLANNING WORKSHOP FOR THE TOWN COUNCIL AND STAFF

- 2a. Council and staff participated in a planning workshop facilitated by Scott Winters.

3. ADJOURNMENT

Mayor Lassonde adjourned the Council meeting at 12:17 p.m.

Date approved:

By:

Attest:

Ronald Lassonde, Mayor

Dina Volenski, CMC, Town Clerk

TOWN OF PARADISE

CASH DISBURSEMENTS REPORT

FOR THE PERIOD OF
February 1, 2024 - February 29, 2024



CASH DISBURSEMENTS REPORT
February 1, 2024 - February 29, 2024

Check Date	Pay Period End	Description	Amount	Total
2/2/2024	1/28/2024	Net Payroll - Direct Deposits and Checks	\$ 227,644.00	
2/16/2024	2/11/2024	Net Payroll - Direct Deposits and Checks	<u>\$ 227,349.81</u>	
				\$ 454,993.81
 Accounts Payable				
		Payroll Vendors: Taxes, PERS, Dues, Insurance, Etc.	531,426.97	
		Operations Vendors: Supplies, Contracts, Utilities, Etc.	<u>\$1,364,059.58</u>	
		TOTAL CASH DISBURSEMENTS ACCOUNTS PAYABLE		<u>1,895,486.55</u>
		GRAND TOTAL CASH DISBURSEMENTS		<u><u>\$ 2,350,480.36</u></u>

APPROVED BY: _____
 Aimee Belev - Finance Director/Town Treasurer

APPROVED BY: _____
 Jim Goodwin - Town Manager

Payment Register

From Payment Date: 2/1/2024 - To Payment Date: 2/29/2024

Number	Date	Status	Void Reason	Reconciled/ Voided Date	Source	Payee Name	Transaction Amount	Reconciled Amount	Difference
AP - US Bank TOP AP Checking									
<u>Check</u>									
85317	02/01/2024	Open			Accounts Payable	ICMA 457 - MissionSquare	\$1,310.28		
85318	02/01/2024	Open			Accounts Payable	STATE DISBURSEMENT UNIT	\$848.29		
85319	02/08/2024	Open			Accounts Payable	4LEAF, Inc	\$7,304.00		
85320	02/08/2024	Open			Accounts Payable	ADO Professional Solutions, Inc.	\$2,152.80		
85321	02/08/2024	Open			Accounts Payable	ADVENTIST HEALTH Clearlake	\$29.00		
85322	02/08/2024	Open			Accounts Payable	ALLIANT INSURANCE	\$149.00		
85323	02/08/2024	Open			Accounts Payable	Amazon Capital Services	\$2,337.20		
85324	02/08/2024	Open			Accounts Payable	Anderson Brothers Corporation	\$18,022.00		
85325	02/08/2024	Open			Accounts Payable	AT&T & CALNET3 - CIRCUIT LINES	\$102.91		
85326	02/08/2024	Open			Accounts Payable	AT&T MOBILITY	\$89.46		
85327	02/08/2024	Open			Accounts Payable	AT&T/CALNET3 - REPEATER LINES	\$197.05		
85328	02/08/2024	Open			Accounts Payable	AT&T/CALNET3 - COMMUNITY PARK	\$27.80		
85329	02/08/2024	Open			Accounts Payable	AT&T/CALNET3 - Summary	\$27.93		
85330	02/08/2024	Open			Accounts Payable	AT&T/CALNET3 - Summary	\$2,221.04		
85331	02/08/2024	Open			Accounts Payable	AT&T/CALNET3 - TH/FDPD FIBER LINES	\$1,053.16		
85332	02/08/2024	Open			Accounts Payable	Aviat U.S., Inc.	\$4,803.00		
85333	02/08/2024	Open			Accounts Payable	AWARDS COMPANY	\$17.32		
85334	02/08/2024	Open			Accounts Payable	BIDWELL TITLE & ESCROW	\$100,000.00		
85335	02/08/2024	Open			Accounts Payable	Big O Tires	\$249.95		
85336	02/08/2024	Open			Accounts Payable	Biometrics4ALL, Inc	\$15.00		
85337	02/08/2024	Open			Accounts Payable	Blue Flamingo Marketing Advocates	\$4,608.70		
85338	02/08/2024	Open			Accounts Payable	Bureau Veritas North America, Inc	\$57,299.88		
85339	02/08/2024	Open			Accounts Payable	BUTTE REGIONAL TRANSIT	\$73.20		
85340	02/08/2024	Open			Accounts Payable	Calif Dept of Tax and Fee Administration	\$14.41		
85341	02/08/2024	Open			Accounts Payable	CALIFORNIA BUILDING STANDARDS COMMISSION	\$928.80		
85342	02/08/2024	Open			Accounts Payable	Code 3 Technologies	\$34,625.11		
85343	02/08/2024	Open			Accounts Payable	Cole Huber LLP	\$63,051.99		
85344	02/08/2024	Open			Accounts Payable	Cooper, Andrew	\$375.00		
85345	02/08/2024	Open			Accounts Payable	Cordico Psychological Corporation	\$500.00		
85346	02/08/2024	Open			Accounts Payable	DATCO SERVICES CORPORATION	\$315.00		
85347	02/08/2024	Open			Accounts Payable	Denise Marie Hardesty Special Needs Trust	\$84,904.29		
85348	02/08/2024	Open			Accounts Payable	Dewberry Engineers Inc.	\$5,127.43		
85349	02/08/2024	Open			Accounts Payable	Dobrich Septic Service, Inc.	\$985.00		
85350	02/08/2024	Open			Accounts Payable	Dokken Engineering, Inc.	\$2,770.24		
85351	02/08/2024	Open			Accounts Payable	DURHAM PENTZ TRUCK CENTER	\$20.16		
85352	02/08/2024	Open			Accounts Payable	Employment Development Dept	\$3,600.00		
85353	02/08/2024	Open			Accounts Payable	Golden State Emergency Vehicle Service, Inc.	\$258.07		
85354	02/08/2024	Open			Accounts Payable	GREAT AMERICA LEASING CORP.	\$145.47		
85355	02/08/2024	Open			Accounts Payable	GREEN RIDGE LANDSCAPING	\$5,296.00		
85356	02/08/2024	Open			Accounts Payable	Hawkins Delafield & Wood LLP	\$28,937.50		
85357	02/08/2024	Open			Accounts Payable	HDR Engineering, Inc	\$144,065.62		
85358	02/08/2024	Open			Accounts Payable	Housing Authority of the County of Butte	\$133,784.43		

Payment Register

From Payment Date: 2/1/2024 - To Payment Date: 2/29/2024

Number	Date	Status	Void Reason	Reconciled/ Voided Date	Source	Payee Name	Transaction Amount	Reconciled Amount	Difference
85359	02/08/2024	Open			Accounts Payable	I.M.P.A.C. PAYMENTS IMPAC GOV SVCS/US BANCORP	\$13,178.51		
85360	02/08/2024	Open			Accounts Payable	INTERSTATE OIL COMPANY	\$203.88		
85361	02/08/2024	Open			Accounts Payable	James or Lavenia Riotto	\$250.00		
85362	02/08/2024	Open			Accounts Payable	JOHNNY ON THE SPOT PORTABLES	\$566.60		
85363	02/08/2024	Open			Accounts Payable	KNIFE RIVER CONSTRUCTION	\$1,148.76		
85364	02/08/2024	Open			Accounts Payable	KP Research Services, Inc.	\$1,578.88		
85365	02/08/2024	Open			Accounts Payable	L.N. CURTIS & SONS	\$12,633.39		
85366	02/08/2024	Open			Accounts Payable	LEAGUE OF CALIFORNIA CITIES	\$100.00		
85367	02/08/2024	Open			Accounts Payable	LIFE ASSIST INC	\$172.40		
85368	02/08/2024	Open			Accounts Payable	Look Ahead Veterinary Services	\$1,099.33		
85369	02/08/2024	Open			Accounts Payable	Lui, Andrea	\$51.94		
85370	02/08/2024	Open			Accounts Payable	Mark Thomas & Company Inc	\$1,394.29		
85371	02/08/2024	Open			Accounts Payable	Mathew Blaine	\$125.00		
85372	02/08/2024	Open			Accounts Payable	MCA Direct	\$108.54		
85373	02/08/2024	Open			Accounts Payable	Mendes Supply Company	\$261.87		
85374	02/08/2024	Open			Accounts Payable	Meyers Police K-9 Training, LLC	\$2,050.00		
85375	02/08/2024	Voided	Incorrect Bank	02/21/2024	Accounts Payable	MID VALLEY TITLE & ESCROW	\$100,000.00		
85376	02/08/2024	Open			Accounts Payable	Mt Shasta Spring Water Co., Inc	\$671.82		
85377	02/08/2024	Open			Accounts Payable	Northern California Glove & Safety	\$278.59		
85378	02/08/2024	Open			Accounts Payable	NORTHGATE PETROLEUM CO	\$10,872.98		
85379	02/08/2024	Open			Accounts Payable	OFFICE DEPOT ACCT#36233169	\$351.58		
85380	02/08/2024	Open			Accounts Payable	PACIFIC GAS & ELECTRIC	\$2,171.97		
85381	02/08/2024	Open			Accounts Payable	PARADISE IRRIGATION DIST	\$3,404.65		
85382	02/08/2024	Open			Accounts Payable	PARADISE POST	\$309.07		
85383	02/08/2024	Open			Accounts Payable	Peters, Habib, McKenna, Juhl- Rhodes & Cardoza, LLP	\$354.00		
85384	02/08/2024	Open			Accounts Payable	PETTY CASH, CHRISTINA SHOEMAKER	\$100.00		
85385	02/08/2024	Open			Accounts Payable	Rochelle Prest	\$100.00		
85386	02/08/2024	Open			Accounts Payable	SBA Monarch Towers III LLC	\$180.09		
85387	02/08/2024	Open			Accounts Payable	Spherion Staffing	\$1,813.02		
85388	02/08/2024	Open			Accounts Payable	T MOBILE USA, INC.	\$1,672.19		
85389	02/08/2024	Open			Accounts Payable	THOMAS ACE HARDWARE - ENG. DEPT.	\$423.62		
85390	02/08/2024	Open			Accounts Payable	THOMAS ACE HARDWARE - FIRE DEPT.	\$29.23		
85391	02/08/2024	Open			Accounts Payable	THOMAS ACE HARDWARE - MOTORPOOL	\$12.20		
85392	02/08/2024	Open			Accounts Payable	THOMAS ACE HARDWARE - POLICE DEPT.	\$46.32		
85393	02/08/2024	Open			Accounts Payable	Tri Flame Propane	\$538.01		
85394	02/08/2024	Open			Accounts Payable	TURNBOW, DAVID LYNN	\$290.00		
85395	02/08/2024	Open			Accounts Payable	TURNBOW, DEBBIE	\$396.00		
85396	02/08/2024	Open			Accounts Payable	Western Fire Supply	\$2,488.56		
85397	02/08/2024	Open			Accounts Payable	Wood Rodgers, Inc.	\$734.32		
85398	02/15/2024	Open			Accounts Payable	ICMA 457 - MissionSquare	\$1,310.28		
85399	02/15/2024	Open			Accounts Payable	STATE DISBURSEMENT UNIT	\$848.29		
85400	02/20/2024	Open			Accounts Payable	Aflac	\$57.98		
85401	02/20/2024	Open			Accounts Payable	Met Life	\$12,673.24		

Payment Register

From Payment Date: 2/1/2024 - To Payment Date: 2/29/2024

Number	Date	Status	Void Reason	Reconciled/ Voided Date	Source	Payee Name	Transaction Amount	Reconciled Amount	Difference
85402	02/20/2024	Open			Accounts Payable	OPERATING ENGINEERS	\$1,088.00		
85403	02/20/2024	Open			Accounts Payable	PARADISE POLICE OFFICERS ASSOCIATION	\$2,298.46		
85404	02/20/2024	Open			Accounts Payable	SUN LIFE INSURANCE	\$7,628.01		
85405	02/20/2024	Open			Accounts Payable	SUPERIOR VISION SVC INC	\$905.57		
85406	02/20/2024	Open			Accounts Payable	TOP CONFIDENTIAL MID MGMT ASSOCIATION	\$60.00		
85407	02/22/2024	Open			Accounts Payable	ABILITY USA	\$276.00		
85408	02/22/2024	Open			Accounts Payable	ACCESS INFORMATION PROTECTED	\$130.17		
85409	02/22/2024	Open			Accounts Payable	ADO Professional Solutions, Inc.	\$3,821.22		
85410	02/22/2024	Open			Accounts Payable	AIRGAS SAFETY, INC.	\$417.32		
85411	02/22/2024	Open			Accounts Payable	Amazon Capital Services	\$183.13		
85412	02/22/2024	Open			Accounts Payable	Anderson Brothers Corporation	\$60,000.00		
85413	02/22/2024	Open			Accounts Payable	ANIMAL HOSPITAL/VETMOBILE	\$74.85		
85414	02/22/2024	Open			Accounts Payable	Asbury Environmental Services	\$139.69		
85415	02/22/2024	Open			Accounts Payable	AT&T & CALNET3 - CIRCUIT LINES	\$764.08		
85416	02/22/2024	Open			Accounts Payable	AWARDS COMPANY	\$365.61		
85417	02/22/2024	Open			Accounts Payable	Bear Electrical Systems, Inc	\$1,696.00		
85418	02/22/2024	Open			Accounts Payable	Big O Tires	\$260.00		
85419	02/22/2024	Open			Accounts Payable	Blue Flamingo Marketing Advocates	\$3,409.95		
85420	02/22/2024	Open			Accounts Payable	Broad & Gusman	\$4,000.00		
85421	02/22/2024	Open			Accounts Payable	BURTON'S FIRE, INC.	\$313.17		
85422	02/22/2024	Open			Accounts Payable	BUTTE CO RECORDER	\$142.50		
85423	02/22/2024	Open			Accounts Payable	CALIFORNIA STATE DEPARTMENT OF JUSTICE	\$906.00		
85424	02/22/2024	Open			Accounts Payable	Cobb, Bryan	\$240.00		
85425	02/22/2024	Open			Accounts Payable	Cole Huber LLP	\$53,515.83		
85426	02/22/2024	Open			Accounts Payable	COMCAST CABLE	\$429.63		
85427	02/22/2024	Open			Accounts Payable	COMCAST CABLE	\$166.63		
85428	02/22/2024	Open			Accounts Payable	CSG Consultants, Inc.	\$22,242.50		
85429	02/22/2024	Open			Accounts Payable	Dalton, Ray	\$25.00		
85430	02/22/2024	Open			Accounts Payable	DEPARTMENT OF FORESTRY & FIRE PROTECTION	\$1,589.56		
85431	02/22/2024	Open			Accounts Payable	Diana Cirimele	\$30.00		
85432	02/22/2024	Open			Accounts Payable	Dokken Engineering, Inc.	\$5,049.43		
85433	02/22/2024	Open			Accounts Payable	Eagle Security Systems	\$693.27		
85434	02/22/2024	Open			Accounts Payable	ENLOE MEDICAL CENTER, INC.	\$794.00		
85435	02/22/2024	Open			Accounts Payable	Entersect	\$109.95		
85436	02/22/2024	Open			Accounts Payable	Golden State Emergency Vehicle Service, Inc.	\$577.00		
85437	02/22/2024	Open			Accounts Payable	I.M.P.A.C. PAYMENTS IMPAC GOV SVCS/US BANCORP	\$779.02		
85438	02/22/2024	Open			Accounts Payable	INTERSTATE OIL COMPANY	\$227.54		
85439	02/22/2024	Open			Accounts Payable	J.J.R. Enterprises Inc	\$1,092.73		
85440	02/22/2024	Open			Accounts Payable	J2 Electric	\$611.00		
85441	02/22/2024	Open			Accounts Payable	Kimberley Hutton	\$71.39		
85442	02/22/2024	Open			Accounts Payable	KOEFRAN INDUSTRIES	\$1,200.00		
85443	02/22/2024	Open			Accounts Payable	Kruger, Christopher	\$379.50		
85444	02/22/2024	Open			Accounts Payable	L.N. CURTIS & SONS	\$3,567.86		
85445	02/22/2024	Open			Accounts Payable	LACO Associates	\$12,750.00		

Payment Register

From Payment Date: 2/1/2024 - To Payment Date: 2/29/2024

Number	Date	Status	Void Reason	Reconciled/ Voided Date	Source	Payee Name	Transaction Amount	Reconciled Amount	Difference
85446	02/22/2024	Open			Accounts Payable	LES SCHWAB TIRE CENTER - MOTORPOOL	\$1,368.95		
85447	02/22/2024	Open			Accounts Payable	LIFE ASSIST INC	\$500.60		
85448	02/22/2024	Open			Accounts Payable	Look Ahead Veterinary Services	\$130.90		
85449	02/22/2024	Open			Accounts Payable	Maine Town & City Clerks Association	\$80.00		
85450	02/22/2024	Open			Accounts Payable	Mark Thau Photography	\$150.00		
85451	02/22/2024	Open			Accounts Payable	Mt Shasta Spring Water Co., Inc	\$147.29		
85452	02/22/2024	Open			Accounts Payable	MUNIMETRIX SYSTEMS CORP	\$39.99		
85453	02/22/2024	Open			Accounts Payable	NAPA Auto Parts	\$1,047.94		
85454	02/22/2024	Open			Accounts Payable	North State Tire Co. Inc.	\$442.31		
85455	02/22/2024	Open			Accounts Payable	NORTHERN RECYCLING & WASTE SERVICES, INC.	\$1,705.28		
85456	02/22/2024	Open			Accounts Payable	NORTHGATE PETROLEUM CO	\$9,308.11		
85457	02/22/2024	Open			Accounts Payable	NORTHSTAR	\$2,962.00		
85458	02/22/2024	Open			Accounts Payable	NorthWestern Construction	\$14,290.00		
85459	02/22/2024	Open			Accounts Payable	O'REILLY AUTO PARTS	\$216.50		
85460	02/22/2024	Open			Accounts Payable	OFFICE DEPOT ACCT#36233169	\$768.95		
85461	02/22/2024	Open			Accounts Payable	Old Republic Title Company	\$100,000.00		
85462	02/22/2024	Open			Accounts Payable	PACIFIC GAS & ELECTRIC	\$22,208.81		
85463	02/22/2024	Open			Accounts Payable	PARADISE POST	\$436.06		
85464	02/22/2024	Open			Accounts Payable	Parks, Lorissa	\$195.10		
85465	02/22/2024	Open			Accounts Payable	Psomas	\$65,302.29		
85466	02/22/2024	Open			Accounts Payable	RENTAL GUYS - CHICO	\$2,756.73		
85467	02/22/2024	Open			Accounts Payable	Richardson & Company, LLP	\$2,575.00		
85468	02/22/2024	Open			Accounts Payable	Shelby's Pest Control, Inc.	\$80.00		
85469	02/22/2024	Open			Accounts Payable	Specialized Pavement Marking, LLC	\$9,624.04		
85470	02/22/2024	Open			Accounts Payable	Spherion Staffing	\$4,979.04		
85471	02/22/2024	Open			Accounts Payable	Stratti	\$22,576.63		
85472	02/22/2024	Open			Accounts Payable	SUN RIDGE SYSTEMS, INC.	\$25,020.00		
85473	02/22/2024	Open			Accounts Payable	SUTTER BUTTES COMMUNICATIONS, INC.	\$5,311.19		
85474	02/22/2024	Open			Accounts Payable	Tahoe Pure Water Co.	\$66.50		
85475	02/22/2024	Open			Accounts Payable	The Ferguson Group	\$5,000.00		
85476	02/22/2024	Open			Accounts Payable	The Flag Center	\$727.27		
85477	02/22/2024	Open			Accounts Payable	THOMAS ACE HARDWARE - ENG. DEPT.	\$364.30		
85478	02/22/2024	Open			Accounts Payable	THOMAS ACE HARDWARE - FIRE DEPT.	\$48.76		
85479	02/22/2024	Open			Accounts Payable	THOMAS ACE HARDWARE - MOTORPOOL	\$79.32		
85480	02/22/2024	Open			Accounts Payable	THOMAS ACE HARDWARE - POLICE DEPT.	\$51.99		
85481	02/22/2024	Open			Accounts Payable	Top Notch Commercial Cleaning Inc.	\$6,600.00		
85482	02/22/2024	Open			Accounts Payable	TRUEPOINT SOLUTIONS, LLC	\$1,650.00		
85483	02/22/2024	Open			Accounts Payable	TUCKER PEST CONTROL INC	\$95.00		
85484	02/22/2024	Open			Accounts Payable	Valley Lock & Safe	\$10.80		
85485	02/22/2024	Open			Accounts Payable	Vannucci, Dominic	\$306.00		
85486	02/22/2024	Open			Accounts Payable	VERIZON WIRELESS	\$570.15		
85487	02/22/2024	Open			Accounts Payable	VERIZON WIRELESS	\$1,206.66		
85488	02/22/2024	Open			Accounts Payable	VERIZON WIRELESS	\$249.50		
85489	02/22/2024	Open			Accounts Payable	Williams Scotsman, Inc. (Mobile Mini)	\$475.93		

Payment Register

From Payment Date: 2/1/2024 - To Payment Date: 2/29/2024

Number	Date	Status	Void Reason	Reconciled/ Voided Date	Source	Payee Name	Transaction Amount	Reconciled Amount	Difference
85490	02/22/2024	Open			Accounts Payable	WITTMER AUTO CENTER	\$245.63		
85491	02/29/2024	Open			Accounts Payable	ICMA 457 - MissionSquare	\$1,310.28		
85492	02/29/2024	Open			Accounts Payable	STATE DISBURSEMENT UNIT	\$783.68		
Type Check Totals:									
<u>EFT</u>									
1526	02/01/2024	Open			Accounts Payable	CALPERS - RETIREMENT	\$59,823.36		
1527	02/01/2024	Open			Accounts Payable	EMPLOYMENT DEVELOPMENT DEPARTMENT	\$10,453.13		
1528	02/01/2024	Open			Accounts Payable	ING LIFE INS & ANNUITY COMPANY	\$10,424.44		
1529	02/01/2024	Open			Accounts Payable	INTERNAL REVENUE SERVICE	\$35,592.14		
1530	02/15/2024	Open			Accounts Payable	CALPERS - RETIREMENT	\$60,054.82		
1531	02/15/2024	Open			Accounts Payable	EMPLOYMENT DEVELOPMENT DEPARTMENT	\$10,493.91		
1532	02/15/2024	Open			Accounts Payable	ING LIFE INS & ANNUITY COMPANY	\$10,478.12		
1533	02/15/2024	Open			Accounts Payable	INTERNAL REVENUE SERVICE	\$35,818.52		
1534	02/15/2024	Open			Accounts Payable	CALPERS	\$145,353.58		
1535	02/29/2024	Open			Accounts Payable	CALPERS - RETIREMENT	\$60,894.89		
1536	02/29/2024	Open			Accounts Payable	EMPLOYMENT DEVELOPMENT DEPARTMENT	\$10,690.95		
1537	02/29/2024	Open			Accounts Payable	ING LIFE INS & ANNUITY COMPANY	\$10,478.12		
1538	02/29/2024	Open			Accounts Payable	INTERNAL REVENUE SERVICE	\$36,148.63		
Type EFT Totals:									
AP - US Bank TOP AP Checking Totals									

Checks	Status	Count	Transaction Amount	Reconciled Amount
	Open	175	\$1,298,781.94	\$0.00
	Reconciled	0	\$0.00	\$0.00
	Voided	1	\$100,000.00	\$0.00
	Stopped	0	\$0.00	\$0.00
	Total	176	\$1,398,781.94	\$0.00

EFTs	Status	Count	Transaction Amount	Reconciled Amount

Payment Register

From Payment Date: 2/1/2024 - To Payment Date: 2/29/2024

Number	Date	Status	Void Reason	Reconciled/ Voided Date	Source	Payee Name	Transaction Amount	Reconciled Amount	Difference
					Open		13	\$496,704.61	\$0.00
					Reconciled		0	\$0.00	\$0.00
					Voided		0	\$0.00	\$0.00
					Total		13	\$496,704.61	\$0.00
					All				
					Status		Count	Transaction Amount	Reconciled Amount
					Open		188	\$1,795,486.55	\$0.00
					Reconciled		0	\$0.00	\$0.00
					Voided		1	\$100,000.00	\$0.00
					Stopped		0	\$0.00	\$0.00
					Total		189	\$1,895,486.55	\$0.00
Grand Totals:									
					Checks				
					Status		Count	Transaction Amount	Reconciled Amount
					Open		175	\$1,298,781.94	\$0.00
					Reconciled		0	\$0.00	\$0.00
					Voided		1	\$100,000.00	\$0.00
					Stopped		0	\$0.00	\$0.00
					Total		176	\$1,398,781.94	\$0.00
					EFTs				
					Status		Count	Transaction Amount	Reconciled Amount
					Open		13	\$496,704.61	\$0.00
					Reconciled		0	\$0.00	\$0.00
					Voided		0	\$0.00	\$0.00
					Total		13	\$496,704.61	\$0.00
					All				
					Status		Count	Transaction Amount	Reconciled Amount
					Open		188	\$1,795,486.55	\$0.00
					Reconciled		0	\$0.00	\$0.00
					Voided		1	\$100,000.00	\$0.00
					Stopped		0	\$0.00	\$0.00
					Total		189	\$1,895,486.55	\$0.00



Town of Paradise

Council Agenda Summary

Agenda Item: 2(c)

Date: March 12, 2024

ORIGINATED BY: Susan Hartman, Community Development
 Director – Planning & Wastewater

REVIEWED BY: Jim Goodwin, Town Manager

SUBJECT: Acceptance of the 2023 Annual Report of the Paradise
 Planning Commission to the Town Council Regarding
 the Implementation Status of the 1994 Paradise
 General Plan & Housing Element

LONG TERM RECOVERY PLAN: N/A

COUNCIL ACTION REQUESTED:

1. Acknowledge receipt of and file the Planning Commission’s annual report concerning implementation status of the 1994 Paradise General Plan and Housing Element for the 2023 calendar year.

Background:

General Plan Status

California Government Code Section 65400 requires a local planning agency (Paradise Planning Commission and staff) to annually review and provide a report to the local legislative body (i.e. the Town Council) concerning progress achieved toward the implementation of its General Plan. The wording of the Government Code Section is as follows:

Provide an annual report to the Town Council on the status of the "General Plan" and progress in its implementation, including the progress in meeting its share of regional housing needs determined pursuant to section 65584 and local efforts to remove governmental constraints to the maintenance, improvement and development of housing...

On behalf of the Paradise Planning Commission, town staff is pleased to officially submit to the Town Council its annual "Calendar Year 2023 1994 Paradise General Plan Implementation Status Report" dated March 2024 (NOTE: Refer to attached copy of the report). The content of this report reflects General Plan implementation progress made during the 2023 calendar year. The report is a culmination of a work effort of the staff and Planning Commissioners.

Similar to the contents of prior annual reports, the attached annual report is submitted in a format that is directly linked with the 1994 Paradise General Plan Volume I - Policy Document. The report specifically lists individual General Plan policies and implementation measures, their respective text page number where located within the General Plan Volume I - Policy Document, and their respective implementation status.

In order for the attached report to be meaningful, each Town Council member may wish to refer

to their individual copy of the 1994 Paradise General Plan Volume I - Policy Document to read the actual text of each General Plan policy or implementation measure corresponding to the comments within the report. Alternatively, you may access the policy document via the Town's website (townofparadise.com).

During the 2023 calendar year and over the last several years, the Town of Paradise achieved additional progress toward implementation of the 1994 Paradise General Plan. Next year's status update will include new Safety Element goals and implementation measures as the Town works towards adoption of an updated Safety Element in 2024. As you read the attached annual report in regard to the implementation status of our Paradise General Plan you should note that updated comments regarding the past year's progress toward implementation of individual policy statements and implementation measures are shaded and bolded **thus**.

Housing Element Status

Government Code Section 65400 requires each local jurisdiction to prepare an annual report on the status and progress in implementing its General Plan Housing Element using forms and definitions adopted by the California State Department of Housing and Community Development (HCD). The annual progress report should be submitted to HCD and the Governor's Office of Planning and Research (OPR) each year for the prior calendar year.

Section 65400 further states that the annual Housing Element progress report "shall be at an annual public meeting before the legislative body where members of the public shall be allowed to provide oral testimony and written comments." In order to provide an opportunity for members of the public to provide this input, the Planning Commission reviewed and forwarded the report to the Town Council during their regularly scheduled meeting on March 12, 2024. Town Council acceptance of the report will facilitate its submittal to HCD and OPR as required.

The attached annual Housing Element progress report reveals that, of a total of four hundred ninety-six (496) new dwelling units, the majority of permits issued in 2023 were for above-moderate income dwelling units. Remaining Regional Housing Needs Allocations (RHNA) for the 2022-2030 planning period are 4,618 Above Moderate, 892 Moderate, 143 Low, and 372 Very Low-income levels.

Since the adoption of the Housing Element on June 14, 2022 (Resolution 2022-39), staff continues to pursue opportunities to further the implementation of housing program objectives in addition to those programs where implementation involves ongoing directives to promote affordable housing through various means. The report contains a detailed enumeration of each newly adopted program and its implementation status as of December 31, 2023.

Financial Impact:

Acceptance of this annual Paradise General Plan and Housing Element progress report and its submittal to OPR and HCD will have no financial impact upon the Town of Paradise.

Attachments



CALENDAR YEAR 2023

1994 PARADISE GENERAL PLAN

IMPLEMENTATION STATUS REPORT

**Presented to the
Paradise Town Council**

**March 2024
REPORT OF THE PLANNING COMMISSION**

1994 PARADISE GENERAL PLAN
IMPLEMENTATION STATUS REPORT
FOR CALENDAR YEAR 2023

LAND USE ELEMENT:

GROWTH AND LAND USE DEVELOPMENT:

<u>Policy/ Implem. Measure</u>	<u>Text Page</u>	<u>Policy Brief</u>	<u>Implementation Status</u>
LUP-1	(6-3)	Recognize site limitations	Implemented and ongoing.
LUP-2	(6-3)	Factor in constraints analysis	Implemented and ongoing.
LUP-3	(6-3)	Minimize grading	Implementation ongoing as opportunity so afforded.
LUP-4	(6-3)	Specific Plan for south of town	Not yet implemented. Private work effort was initiated in 2006 for a portion of the secondary planning area south of town limits; and has been idle due to funding and staffing shortages. Butte County General Plan 2030 was adopted October 2010 and includes directive to develop a specific plan for a portion of this area, for which the Town will provide input.
LUP-5	(6-3)	Open Space/Ag designation	Implemented.
LUP-6	(6-3)	Annexations south of town	Not implemented due to lack of necessity.
LUP-7	(6-3)	35' maximum building height	Implemented and ongoing.
LUP-8	(6-3)	Evaluate cumulative impacts	Required by law; implemented and ongoing.
LUP-9	(6-3)	Public notice requirements	Implemented and ongoing.
LUP-10	(6-3)	Encourage planned developments	Ongoing directive; implemented as opportunities arise.
LUP-11	(6-3)	Design projects to avoid constraints	Implemented and ongoing.
LUI-1	(6-4)	Track residential growth rate	Implemented and ongoing.
LUI-2	(6-4)	Prepare Specific Plan	Not implemented. See LUP-4.

LUI-3	(6-4)	Amend PMC for grading	Implemented via Town adoption of the 2010 and 2016 California Green Building Standards Code and updated through the 2019 code adoption.
LUI-4	(6-4)	Amend zoning for GP consistency	Fully implemented (1997).

PUBLIC SERVICES AND INFRASTRUCTURE:

LUP-12; 13; 14	(6-4)	Growth not to exceed availability of public services	Implemented via planning process reforms; an ongoing directive.
LUP-15	(6-5)	Improve public service capacity	Implemented and an ongoing directive.
LUP-16	(6-5)	No discretionary residential permit unless adequate public services	Implemented and ongoing.
LUP-17	(6-5)	Encourage service districts to expand or enhance capacity	Partially implemented and ongoing as opportunities arise.
LUP-18	(6-5)	TOP and PID meet bi-annually	The Town/PID Liaison Committee met two times in 2023, February 15th and December 13th, to publicly discuss several issues of importance to the Town and PID.
LUP-19	(6-5)	Densities based on constraints	Implemented and ongoing.
LUP-20	(6-5)	Police and Fire service levels	Implemented and ongoing.
LUP-21	(6-5)	Assessment districts	Partially implemented and ongoing as needed.
LUP-22	(6-5)	Fees for service delivery costs	Partially implemented via the Town’s development impact fee program.
LUP-23	(6-5)	Feasibility of annexation	Implemented and an ongoing directive.
LUP-24	(6-5)	Feasibility of merging with PID	Feasibility studies are tabled by the Town pending adequate funding and other post Camp Fire factors.
LUP-25	(6-5)	Designate general locations for public and open space uses	Fully implemented.
LUP-26	(6-6)	Findings for public service and infrastructure capacity	Implemented and ongoing.
LUI-5	(6-6)	Capital improvements program	The Town developed & adopted a \$121M 5-year capital improvements program in 2020.
LUI-6	(6-6)	Assure adequate water delivery	Partially implemented and ongoing.
LUI-7	(6-6)	Implement <i>Master Storm Drain</i>	An updated Storm Drainage Master Plan was adopted by the Town in

		<i>Study & Facilities Plan</i>	2022.
LUI-8	(6-6)	Public safety impact fees	Implemented and ongoing.
LUI-9	(6-6)	Service fees for existing uses	Partially implemented and ongoing directive.
LUI-10	(6-6)	Development impact fees	Partially fund implemented and ongoing.
LUI-11	(6-6)	Investigate forms of assessment districts	Partially implemented and ongoing.
LUI-12	(6-6)	LAFCO to study any potential merging with special districts	Not implemented; lack of necessity prior to 2018 Camp Fire.
LUI-13	(6-6)	Monitor population trends for effects on public services	Implemented and ongoing.

LAND USE DISTRIBUTION AND LOCATION

LUP-27; LUP-28	(6-7)	Create Central Commercial Area	Implemented via Town Council adoption of Town Resolution No. 01-37 in November, of 2001.
LUP-29	(6-7)	Central Commercial area to focus on visitors	Implemented and ongoing.
LUP-30	(6-7)	CIP for revitalization areas	Ongoing Directive. In 2023, work was completed on the Almond Street and Gap Closure projects which installed walkable pathways, lighting, landscaping, and road repairs in the Downtown.
LUP-31	(6-7)	Retail sales and infill on Skyway	Implemented and ongoing as opportunities arise.
LUP-32	(6-7)	Discourage strip development on Clark Rd	Ongoing directive.
LUP-33	(6-8)	Encourage existing strip fill in	Ongoing directive.
LUP-34	(6-8)	Larger retail to locate in centers with adequate facilities	Ongoing directive.
LUP-35	(6-8)	Professional office development	Ongoing directive.
LUP-36	(6-8)	Expand industrial park	Town efforts to acquire/develop additional business or industrial park property continue as opportunities arise.
LUP-37; 38	(6-8)	Lt Industrial/Business Park areas	Implemented.

LUP-39	(6-8)	Preserve residential neighborhoods	Ongoing directive and implemented.
LUP-40	(6-8)	Community facilities compatibility	Ongoing directive.
LUP-41	(6-8)	Airport compatibility uses	Ongoing directive.
LUP-42	(6-8)	Locations for cemeteries	Implemented.
LUP-43	(6-8)	Timber production areas	Implemented.
LUP-44	(6-8)	Locations for gateway areas	Implemented.
LUI-14	(6-8)	Provisions for mixed land uses	Implemented.
LUI-15	(6-8)	Zoning consistent with GP	Implemented.
LUI-16	(6-8)	Provide for visitor services	Implemented.
LUI-17	(6-8)	Adopt Capital Improvements Plan	Implemented. See comment for LUI-5.
LUI-18	(6-8)	Develop. guidelines for large retail	Largely implemented via adoption of town-wide design standards in March, of 2010. Updated commercial design standards in the Downtown and Community Commercial corridors were adopted in 2022.

LAND USE DENSITIES

LUP-45	(6-9)	Higher density compatibility	Ongoing directive.
LUP-46	(6-9)	Higher density locations	Partially implemented and ongoing.
LUP-47	(6-9)	½ acre minimum residential lot size	Ongoing implementation.
LUP-48	(6-9)	High density residential locations	Partially implemented and ongoing.
LUP-49	(6-9)	Higher density requirements	Ongoing directive, implemented as opportunities are afforded.
LUP-50	(6-9)	Low density Multi-Family locations	Ongoing directive and partially implemented.
LUI-19	(6-9)	Zoning consistent with GP	Implemented and ongoing directive.
LUI-20	(6-9)	Make findings consistent with GP	Implemented and ongoing.
LUI-21	(6-9)	Safety standards for high density	Implemented.
LUI-22	(6-9)	Identify difficult to develop areas	Implemented and ongoing.

ECONOMIC DEVELOPMENT/REDEVELOPMENT

LUP-51	(6-10)	Attract needed industries	Partially implemented; additional implementation as new opportunities arise. A post-fire non-residential market study was completed in early 2022.
LUP-52	(6-10)	Promote reuse of empty buildings	Ongoing directive. Dissolution of RDA eliminated a primary funding source for the façade renovation program, which targeted reuse of existing buildings. In 2023 staff worked with commercial developers for the reuse of empty suites in the Holiday Shopping Center.
LUP-53, 54	(6-11)	Town theme for Central Comm.	Implemented. Town-wide Design Standards are adopted. Various PMC sign regulation changes adopted in 2010 have assisted as well. Refer to LUI-18.
LUP-55	(6-11)	35' max commercial height	Implemented and ongoing.
LUP-56	(6-11)	Screen commercial parking areas	Ongoing directive; implemented.
LUP-57	(6-11)	Artisan and tourist center	Chamber of Commerce and the Paradise Art Association continue to sponsor cultural events. The Town has formed a committee that includes local business owners as part of an effort to promote Downtown beautification and commerce.
LUP-58	(6-11)	Create scenic gateway areas	Ongoing directive; partially implemented.
LUP-59	(6-11)	Support retention of open space	Ongoing directive.
LUP-60	(6-11)	Common theme for gateway areas	Implemented via PMC zoning code text amendments and adoption of design standards in 2010.
LUP-61	(6-11)	Eliminate unsightly materials near entrances to town	Ongoing directive.
LUP-62; 63	(6-11)	Promote town as tourist destination	Ongoing and partially implemented.
LUP-64	(6-11)	Bed and breakfast locations	This directive is implemented via Town's zoning regulations.
LUP-65	(6-11)	Develop destination resort	Ongoing directive, but not implemented.
LUP-66	(6-11)	Update <i>Downtown Revitalization Plan</i> as needed	Adopted plan implementation is promoted via 2010 adoption of Design Standards.
LUP-67	(6-12)	Sites for business park	Partially implemented. See LUP-51.
LUI-23	(6-12)	Calif. "Main Street" program	Functionally Implemented. "Main Street" concepts/components were

			incorporated within the adopted Downtown Revitalization Plan and the 2010 Design Standards.
LUI-24	(6-12)	Promote farmers market	Ongoing implementation. The Chico Certified Farmers’ Market at the Holiday shopping center was held from June to October 2022.
LUI-25	(6-12)	Staffing business development Programs and activities	Ongoing implementation.
LUI-26	(6-12)	Design guidelines for commercial	Implemented. Refer to LUI-18.
LUI-27	(6-12)	Enforce comm. zoning ordinance	Implemented.
LUI-28	(6-12)	Design review committee	Not ongoing or needed since 2010 due to adoption of Town’s Design Standards.
LUI-29	(6-12)	Apply design guidelines to existing businesses	Implemented.
LUI-30	(6-12)	Land use controls in gateways	Implemented via adoption of scenic highway corridor zoning regulations and 2010 adoption of Design Standards specific to gateway areas.
LUI-31	(6-12)	Funding for gateway areas	Partially implemented as opportunities arise.
LUI-32	(6-12)	Upgrade entrance signs	A post-Camp Fire volunteer group, “The Sign Committee”, conducted an online vote for new entrance signs to Town and is working on funding to replace them. The entrance sign on Skyway completed construction in 2022.
LUI-33	(6-12)	Review sign regulations	Ongoing directive and implemented.
LUI-34	(6-12)	Promote completion of auditorium	Implemented.
LUI-35	(6-12)	Facilitate weekend tourist events	Implementation ongoing. In 2023, the Recovery & Economic Development Dept coordinated and supported monthly TOP-POP weekend events highlighting local businesses.
LUI-36	(6-12)	Parking facilities study	Ongoing directive as part of the Downtown Revitalization Master Plan.
LUI-37	(6-12)	Improve code enforcement program	Implemented and ongoing as funds permit. Additional code enforcement staff was brought on in 2021.
LUI-38	(6-12)	Outdoor display ordinance	Implemented via adoption of ord. No. 550 in 2014 (see LUI-37 also).
LUI-39	(6-13)	Relocate nonconforming uses	Ongoing directive.

INTERGOVERNMENTAL COORDINATION

LUP-68	(6-13)	Use BCAG for land use decisions	Ongoing and partially implemented as opportunities are afforded.
LUP-69	(6-13)	Regional decision making	Ongoing and partially implemented as opportunities are afforded.
LUP-70	(6-13)	Butte County urban reserve policy	Ongoing and partially implemented as opportunities are afforded.
LUP-71	(6-13)	Protection of Paradise watershed	Ongoing and partially implemented as opportunities are afforded.
LUI-40; 41; 42	(6-13)	Coordination with Butte County	Ongoing and partially implemented as opportunities are afforded.

LAND USE CONTROLS

LUP-72	(6-14)	Relocation of nonconforming uses	Ongoing directive.
LUP-73	(6-14)	Discourage expansion of legal nonconforming uses	During post Camp Fire in 2019 the Town adopted specific and short-term natural disaster regulations within Section 17.39.300 [Restoration of damaged nonconforming use] of the Paradise Municipal Code.
LUP-74	(6-14)	Improve code enforce program	Implemented and ongoing. \$100,000 of ARPA funds were allocated to code enforcement activities in 2023 related to the removal of nonconforming/abandoned signs.
LUP-75	(6-14)	Comm. handicap accessibility	Ongoing and implemented.
LUP-76	(6-14)	Revise local CEQA guidelines	Implemented.
LUI-43; 44	(6-14)	Zone parcels consistent with GP	Implemented.
LUI-45	(6-14)	Consistently enforce regulations	Implemented and ongoing.

TERTIARY PLANNING AREA

LUP-77; 78; 79	(6-15)	Projects in tertiary area should not be approved if adverse impacts on Town of Paradise	Partially implemented and ongoing directive.
LUP-80; 81	(6-15)	Projects in tertiary area should	

		have open space	Partially implemented and ongoing as opportunities are afforded.
LUP-82	(6-15)	Projects in tertiary area should Acknowledge high fire hazards	Partially implemented and ongoing as opportunities are afforded.
LUI-46; 47	(6-15)	Coordinate with county agencies/districts	Implemented and ongoing. Town staff provided input for the Butte County General Plan 2030 adopted in October of 2010.
LUI-48	(6-15)	Joint powers agreements	Partially implemented.
LUI-49	(6-15)	Expand Sphere of Influence	Partially implemented.

CIRCULATION ELEMENT:

CP-1	(6-18)	LOS "D" or better for roadways	Partially implemented and ongoing.
CP-2	(6-18)	Circulation problems eliminated	In March 2022 a new Paradise Transportation Master Plan was adopted which identifies needed roadway improvements/connections. In late 2022, the Town prioritized identified road projects for its +/- \$229M CDBG-DR Infrastructure allocation to be carried out between 2023-2028.
CP-3	(6-18)	Impacts of street extensions	Ongoing directive and implemented.
CP-4	(6-19)	Mitigate circulation impacts	Ongoing and implemented on case-by-case basis.
CP-5	(6-19)	Upper Ridge roadway impact fees	Partially implemented and ongoing. Butte County collects development impact fees for upper ridge development, a portion of which is earmarked for Skyway and Clark Roads in Paradise.
CP-6	(6-19)	Additional street connections	Ongoing directive. Refer to CP-2.
CP-7	(6-19)	New traffic signal synchronization	Partially implemented. Synchronized traffic signals from Elliott Road to Neal Road along Skyway were completed in 2014. Grant secured in 2015 will fund signalization of the Black Olive Drive/Skyway intersection, further improving signal synchronization along Skyway.
CP-8	(6-19)	Regulate truck routes	Implemented and ongoing.
CP-9	(6-19)	Establish park-and-ride facilities	Ongoing, partially implemented as opportunities afforded.
CP-10	(6-19)	Sidewalk and pathway program	Ongoing directive. Pearson Road improvements/signalization at Recreation Drive were completed in 2013. Infill sidewalks, curbs and gutters along Pearson Road between Academy Dr. and Skyway was constructed in 2017. Grant funding has been secured for environmental

CP-11	(6-19)	Bicycle and hiking trails	<p>review and design for new sidewalks along Birch, Elliott, Foster and Black Olive Drive. Grant funding was secured for construction of new sidewalks along Pearson Road between Academy and Black Olive Drives. The Almond Street and Gap Closure projects, which began in 2021, will install walkable pathways, lighting, landscaping, and road repairs in the Downtown.</p> <p>Ongoing directive; partially implemented. The Downtown Paradise Safety Project installed bicycle lanes along Skyway between Elliot and Pearson Roads in 2014. Bicycle lanes along Pearson Rd. between Pentz and Clark Roads and along Maxwell Dr. were largely completed in 2015. Shoulder widening and the addition of bicycle lanes on Pearson Road from Clark Road to Pentz Road was completed in 2016. Construction/installation of flashing beacons at trailway crossing of major streets completed in 2018. Class 1 multi-use paths are included in multiple road improvement projects allocated for the CDBG-DR infrastructure funding in 2022 to be completed between 2024-2026.</p>
CP-12	(6-19)	Butte County road standards	Implemented. Butte County and the Town have adopted compatible road standards for the Town's Sphere of Influence.
CP-13	(6-19)	Trip reduction plan programs	Partially implemented and ongoing. In 2022, the Town adopted local-level VMT policies from the 2020 Regional Transportation Plan (RTP) and Sustainable Communities Strategy (SCS) from BCAG for reducing vehicle miles traveled at a project level.
CP-14	(6-19)	Senior and handicapped transit	Ongoing directive; partially implemented via Paradise Express service.
CP-15	(6-19)	Expand public transit services	Consolidation of County-wide transit services has helped promote implementation.
CP-16	(6-19)	Improve commercial parking	Ongoing directive implemented as opportunities arise. Construction of an additional public parking facility in the Central Commercial area was completed in 2011.
CP-17	(6-19)	Improving traffic flows	Ongoing and partially implemented.
CP-18	(6-20)	Roadway extension workshops	Ongoing and partially implemented.
CP-19	(6-20)	Increase transit opportunities	Partially implemented. The component regarding children has not been implemented due to lack of available funding.

CP-20	(6-20)	Town Engineer to review circulation studies for revision	BCAG development of a Regional Transportation Plan initiated in 2014/2015 has assisted. The 2022 Transportation Master Plan reviewed the Town's daily traffic needs.
CI-1	(6-20)	Access standards along arterials.	Ongoing directive.
CI-2	(6-20)	Road connection feasibility study	Completed in the March 2022 Transportation Master Plan.
CI-3	(6-20)	Establish development impact fees	Implemented and ongoing.
CI-4; 5	(6-20)	Road maint. agreement w/ B.C.	Ongoing and partially implemented.
CI-6	(6-20)	Locations for pathways	Ongoing and partially implemented. Additional opportunities identified in the Action Transportation Plan section of the 2022 Transportation Master Plan and are partially funded through the CDBG-DR infrastructure allocation.
CI-7	(6-20)	Pedestrian pathways for private development	Partially/potentially implemented by covenant agreements.
CI-8	(6-20)	Improve road shoulders	Ongoing implementation via various public infrastructure projects.
CI-9	(6-20)	Transportation facilities	Ongoing directive.
CI-10	(6-21)	Utilizing transportation funds	Ongoing implementation as funds permit.
CI-11	(6-21)	Butte County Circulation Element	Refer to comment for CP-5.

HOUSING ELEMENT:

NOTE: A separate report detailing implementation of the Town of Paradise Housing Element is prepared for Planning Commission review and recommended referral to the Town Council. The format and contents of the Housing Element report is dictated by the California Department of Housing and Urban Development and is therefore generated as a stand-alone, but related document.

NOISE ELEMENT:

NP-1	(6-33)	Noise level acoustical analysis	Ongoing implementation as needed.
------	--------	---------------------------------	-----------------------------------

NP-2	(6-33)	Transportation noise levels	Ongoing implementation as needed.
N-3	(6-33)	Exterior noise levels	Ongoing implementation as needed.
N-4	(6-33)	Noise mitigation measures	Ongoing implementation as needed.
N-5	(6-33)	Acoustical analysis standards	Ongoing implementation as needed.
N-6; 7	(6-33)	Paradise Skypark Airport levels	Ongoing implementation as needed.
NP-8	(6-33)	Preserve quiet residential areas	Ongoing directive.
NP-9	(6-33)	Control obtrusive noise	Ongoing implementation via noise regulations of the Paradise Municipal Code.
NP-10	(6-34)	Development near care facilities	Ongoing implementation as needed.
NI-1; 2	(6-34)	Monitor mitigation compliance	Ongoing implementation as needed.
NI-3	(6-34)	Noise insulation standards	Implemented and ongoing.
NI-4; 5	(6-34)	Review and update noise element	Ongoing implementation as required.
NI-6	(6-34)	Improve noise ordinance	Implemented and ongoing.
NI-7	(6-34)	Adopt Airport Land Use Plan	Implemented.

SAFETY ELEMENT:

SP-1	(6-41)	Public service response times	Ongoing implementation as needed.
SP-2	(6-42)	Adequate road improvements	Ongoing implementation as needed.
SP-3	(6-42)	Fire and crime prevention design	Implemented and ongoing.
SP-4	(6-42)	Adequate fire flow	Ongoing implementation at staff level. See LUP-6 and LUP-18.
SP-5	(6-42)	Require brush removal	Implemented and ongoing. In 2021, Town Council adopted amendments to Chapter 8.58 of the Paradise Municipal Code, <i>Defensible Space and Hazardous Fuel Management</i> , which allowed the temporary use of goats for weed abatement as well as required a defensible space clearance with every title transfer in Town starting April 2022.
SP-6	(6-42)	Adoption of Uniform Fire Code	Implemented and ongoing.
SP-7	(6-42)	New fire station locations	Implemented and ongoing. In 2021 the Town closed escrow on a more centralized property to serve as a new location for Fire Station 82.

SP-8	(6-42)	County SRA fire safety standards	Ongoing directive.
SP-9	(6-42)	Adverse effects of increased runoff	Implemented and ongoing.
SP-10; 11	(6-42)	Development in floodways	Implemented and ongoing. A new Special Permit Zone study was completed in 2022, identifying post-fire areas of town to be reviewed for potential flooding and drainage impacts.
SP-12	(6-42)	Master Storm Drain Study Plan	Implemented and ongoing. The updated Storm Drainage Master Plan was completed in 2022.
SP-13	(6-42)	Airport height restriction policy	Ongoing implementation as needed.
SP-14	(6-42)	Detrimental and toxic discharge	Ongoing implementation via regulatory efforts of the Town's Onsite Sanitation Division, the County Dept. of Public Health Services and RWQCB.
SP-15	(6-43)	Projects to minimize soil erosion	Implemented an Erosion and Sediment Control Plan for all development projects complying with the Town's Phase II MS4 NPDES General Permit issued by the State Water Board.
SP-16	(6-43)	Erosion control on sloped lots	Ongoing implementation as needed.
SP-17	(6-43)	No development on slopes $\geq 30\%$	Ongoing implementation as needed.
SI-1	(6-43)	Standards for adequate fire flow	Implemented and ongoing.
SI-2	(6-43)	Review and amend existing roadway standards	Ongoing directive. Updated roadway standards were included in the 2022 Transportation Master Plan.
SI-3	(6-43)	Public safety impact fees	Partial funding implemented and ongoing.
SI-4	(6-43)	Public safety service fees	Not implemented at this time due to legal (Prop.218) constraints.
SI-5	(6-43)	Earthquake and fire danger Education for residents	Implemented and ongoing.
SI-6	(6-43)	Enforce UBC (bldg) and UFC (fire)	Implemented and ongoing.
SI-7	(6-43)	Adequate dry brush clearance	Implemented and ongoing. Two additional limited-term fire prevention inspectors were approved through a FEMA hazard mitigation grant program in 2023.
SI-8	(6-43)	Amend ordinances as necessary to require erosion control	Ongoing and partially implemented.
SI-9	(6-43)	Evaluate and implement the	

		Master Storm Drain Study	Ongoing as opportunities arise. Multiple project improvement recommendations in the 2022 Storm Drainage Master Plan are being implemented through the CDBG-DR infrastructure funding.
SI-10	(6-43)	Adopt Airport Land Use Plan	Implemented.
SI-11	(6-43)	Airport Commission review	Ongoing implementation as needed. In September 2023, the draft Safety Element General Plan Amendment was submitted to the Airport Land Use Commission for review and approval.
SP-18; 19	(6-45)	Siting of HHW facilities	Functionally implemented and ongoing as a result of establishment and successful operation of the Town's HHW facility. The facility was temporarily closed in 2020 due to lack of funding and staffing post-Camp Fire. Grant funding paid for an HHW single-day event in May and October of 2023.
SP-20; 21	(6-45)	Countywide HHW agreements	Ongoing. See County Hazardous Waste Management Plan.
SP-22	(6-45)	HHW transportation routes	Ongoing. See County Hazardous Waste Management Plan.
SP-23; 24	(6-45)	Siting of collection facilities in the industrial area	Implemented.
SI-12	(6-46)	Develop. to consider HHW Element	Ongoing implementation as needed.
SI-13	(6-46)	Regional facility siting	Ongoing implementation as needed.
SI-14	(6-46)	Hazardous waste data collection	Ongoing implementation as needed.
SI-15	(6-46)	Ordinances compliant with AB 2948	Ongoing implementation as needed.
SI-16	(6-46)	Develop HHW reduction program	Ongoing implementation as needed.
SI-17	(6-46)	Program to manage waste oil	Implemented.
SI-18;19	(6-46)	Develop HHW educational programs	Ongoing implementation as needed.
SI-20	(6-46)	HHW air quality standards	Ongoing and implemented.
SI-21;22	(6-46)	Collection and education programs	Ongoing and implemented.

OPEN SPACE/CONSERVATION ELEMENT:

OCEP-1; 2; 3	(6-49)	Scenic highway corridors	Implemented.
--------------	--------	--------------------------	--------------

OCEP-4	(6-49)	New billboard size and location restrictions	Implemented and ongoing.
OCEP-5; 6	(6-49)	Protecting scenic view corridors	Ongoing implementation as needed.
OCEI-1	(6-50)	Development standards to maintain Integrity of scenic highway	Implemented via Town adoption of scenic highway zoning regulations.
OCEI-2	(6-50)	Utility locations in gateways	Implemented as needed.
OCEI-3	(6-50)	New billboard regulations	Implemented and ongoing.
OCEP-7	(6-51)	Open space as infill tool	Implemented, ongoing directive.
OCEP-8	(6-51)	Trailways with new development	Ongoing and partially implemented as needed; Yellowstone Kelly Heritage Trailway (formerly Paradise Memorial Trailway) extension completed in 2010 indicates progress.
OCEP-9	(6-51)	Public access to Lookout Point	Implemented and ongoing via Butte County.
OCEP-10	(6-51)	Linear park around trailway	Partially implemented/ongoing via Trailway Plan & recent improvements.
OCEP-11	(6-51)	Work with PRPD for park locations	Implemented and ongoing.
OCEP-12	(6-51)	Work to acquire open space	Ongoing directive and merits implementation due to 2018 Camp Fire circumstances. A joint grant application between TOP and PRPD was submitted to the State Office of Planning & Research (OPR) in 2023 to fund the planning of implementation of wildfire buffers along the periphery of Town.
OCEI-4;	(6-51)	Work with PRPD to develop open space specific plan	The PRPD adopted a revised and updated 15-year District Master Plan during 2010 that will assist in implementation of this directive.
OCEI-5	(6-51)	Park facilities consistent with GP	Implemented and ongoing.
OCEI-6	(6-51)	Expansion of Sphere of Influence	Not implemented due to lack of necessity.
OCEI-7	(6-51)	Open space east of Neal Rd	Partially implemented as an ongoing directive.
OCEP-13	(6-52)	Protect large trees	Ongoing directive and implemented as opportunities afforded.
OCEP-14; 15	(6-52)	Maintenance of natural habitat	Partially implemented and ongoing.
OCEP-16	(6-52)	Protect area fisheries	Partially implemented and ongoing.

OCEP-17	(6-52)	Protect deer herd migration routes	Ongoing directive.
OCEP-18;	19(6-53)	Protect view sheds	Ongoing and partially implemented.
OCEP-20;	21(6-53)	Protect neighboring views	Ongoing and partially implemented.
OCEP-22	(6-53)	Underground utilities encouraged	Partially implemented and ongoing. The Town established two new underground utility districts in 2016. During 2019 PG&E agreed to and commenced undergrounding some of its electrical transmission lines along the Skyway and within the Town. During 2023, PG&E continued to install multiple miles of underground utilities.
OCEP-23	(6-53)	Preserve groundwater quality	Implemented and ongoing.
OCEP-24;	25(6-53)	Protect town's water resources	Implemented and ongoing.
OCEP-26	(6-53)	Keep natural riparian vegetation	Partially implemented and ongoing via case-by-case analysis.
OCEP-27	(6-53)	Land uses near sensitive lands	Implemented and ongoing.
OCEP-28	(6-53)	Control grading in subdivisions	Implemented and ongoing.
OCEP-29	(6-53)	Golf course operation encouraged	Ongoing directive.
OCEP-30	(6-53)	Grey water usage ordinance	Implemented and ongoing. The Town adopted grey water use regulations in 2014.
OCEP-31	(6-53)	Retention of agricultural lands	Ongoing partial implementation.
OCEP-32;	33(6-53, 54)	Identify ag and timber lands	Implemented.
OCEP-34;	35(6-54)	Support programs to recycle	Implemented/ongoing via execution of a solid waste franchise agreement with NRWS.
OCEP-36	(6-54)	Archaeologically sensitive lands	Implemented and ongoing.
OCEI-8	(6-54)	Develop standards for stream and drainage way protection	Implemented and ongoing.
OCEI-9	(6-54)	Low density on sensitive land	Implemented and ongoing.
OCEI-10	(6-54)	Regulations for creek discharges	Implemented and ongoing via RWQCB and the Town's Wastewater Management District.
OCEI-11	(6-54)	Seek grants for reforestation	Partially implemented and ongoing as opportunity affords itself.
OCEI-12	(6-54)	Mitigation for tree removal	Largely implemented via tree ordinance regulations. The Town was awarded a grant in 2020, through FEMA's Hazard Mitigation Grant Program, for the advanced planning of reseeded (due to loss of trees in the Camp Fire) in the Town's rights-of-way and public lands. The grant will

			include the study of how to control brush and provide for reseeded training to homeowners.
OCEI-13	(6-54)	Encourage Arbor Day	Ongoing directive.
OCEI-14	(6-54)	Preserve natural wildlife areas	Implemented and ongoing.
OCEI-15	(6-54)	Undergrounding utilities	Partially implemented and ongoing. See OCEP 22.
OCEI-16	(6-54)	Acquire conservation easements	Not implemented; lack of funding.
OCEI-17	(6-54)	Establish Williamson Act program	Not implemented; lack of local opportunities.
OCEI-18	(6-55)	Compliance with CEQA archaeological impacts	Implemented and ongoing directive.
OCEI-19; 20	(6-55)	Use of qualified archaeologists	Implemented and ongoing.
OCEI-21; 22; 23; 24	(6-55)	Implement recycling programs	Implemented and ongoing. See OCEP-34; 35 and SP-18; 19 comments
OCEI-25	(6-55)	Eliminate leaf burning	Progress toward implementation has been achieved; the post-fire reopening of the green waste yard has helped reduce the need to burn.
OCEI-26	(6-55)	Support water conservation	Partial implementation and ongoing. See note for LUP-6 and LUP-18.
OCEI-27	(6-55)	PRPD impact mitigation program	Implemented and ongoing.
OCEP-37	(6-56)	Cogeneration possibilities	Not implemented due to a history of limited opportunities and constraints predating the 2018 Camp Fire.
OCEP-38	(6-56)	Support recycling	Implemented.
OCEP-39	(6-56)	Siting of multi-family housing	Ongoing directive. In 2023, the Planning Commission approved a 72-unit multi-family housing development near shopping areas and on a main arterial with access to the local bus system.
OCEP-40	(6-56)	Commercial sign design	Implemented by Town-wide Design Standards adopted in 2010.
OCEP-41	(6-57)	Landscape plan standards	Implemented and ongoing. Landscaping was incorporated into the updated Design Standards for the Downtown and Community Commercial corridors in 2022.
OCEP-42	(6-57)	Pedestrian and bicycle consideration in new subdivisions	Ongoing and partially implemented on a case-by-case basis.
OCEP-43	(6-57)	Bike lanes on collector streets	Implemented as opportunities arise.
OCEI-28	(6-57)	Energy conservation partnership	Partially implemented and ongoing.

OCEI-29	(6-57)	Energy conservation ordinance	Functionally implemented though adoption of 2022 Green Building Standards.
OCEI-30	(6-57)	Energy conservation in zoning	Ongoing directive.

EDUCATION AND SOCIAL SERVICES ELEMENT:

SOCIAL SERVICES ELEMENT - (Education and Schools)

ESP-1-7	(6-59)	School siting requirements	Ongoing directives; implemented as opportunities arise.
ESP-8	(6-60)	PUSD review of rezone	Ongoing directive.
ESP-9; 10	(6-60)	PUSD considerations for density	Implemented and ongoing.
ESI-1	(6-60)	PUSD to review GP amendments	Implemented and ongoing.
ESI-2	(6-60)	Notify PUSD of Fed or State develop.	Ongoing directives implemented as opportunities arise.
ESI-3; 4	(6-61)	Ongoing review of school sites	Ongoing directives implemented as opportunities arise.
ESI-5	(6-61)	Findings for school capacities	Not implemented.
ESI-6	(6-61)	PUSD impact mitigation program	Not implemented; prohibited by California State law.

SOCIAL SERVICES ELEMENT - (Senior Services):

ESP-11-13	(6-62)	Needs of the aging and elderly	Partially implemented and ongoing.
ESP-14-16	(6-62)	Help improve senior facilities/svcs	Partially implemented and ongoing.
ESI-7	(6-62)	Work with senior groups	Partially implemented and ongoing but no formally established liaison.
ESI-8; 9	(6-62)	Add Community Services land uses	Implemented.
ESI-10	(6-62)	Alternative means to improve svcs	Partially implemented via federally funded Town housing programs.

SOCIAL SERVICES ELEMENT - (Child Day Care):

ESP-17-19	(6-63)	Large family daycare requirements	Implemented.
-----------	--------	-----------------------------------	--------------

ESI-11	(6-63)	Streamline large family daycares	Implemented. Updated large family daycare ordinance in 2021 to comply with current state law requiring they be treated the same as small family daycares (permitted-by-right).
--------	--------	----------------------------------	--

SOCIAL SERVICES ELEMENT - (The Arts)

ESP-20	(6-64)	Encourage art and retail crafts	Partially implemented and ongoing as opportunities are afforded.
ESP-21	(6-64)	Dramatic theater facility siting	Implemented and ongoing.
ESP-22	(6-64)	Add arts program opportunities	Implementation ongoing.
ESP-23	(6-64)	Local arts education program	Partially implemented and ongoing.
ESI-12	(6-64)	Ongoing support of the arts	Partially implemented, but no formally established liaison.
ESI-13	(6-64)	Feasibility of art related incentives	Not being implemented by local government efforts but via private sector (Paradise Ridge Chamber, etc.).
ESI-14	(6-64)	Display local art within Town Hall	Partially implemented and ongoing. No art, through the Paradise Art Center, has been displayed post-fire or during COVID due to restricted access to the building.
ESP-24	(6-65)	Education on value of library	Limited implementation effort.
ESP-25	(6-65)	Assist in funding library programs	Not implemented. Such opportunities have yet to materialize.
ESP-26	(6-65)	Support offerings of local library	Limited implementation effort.

SOCIAL SERVICES ELEMENT - (Library Services)

ESI-15	(6-65)	TOP and library liaison	Limited implementation effort.
ESI-16	(6-65)	Consolidate library with TOP	Not implemented. No advocacy nor demand for implementation currently exists.

SOCIAL SERVICES ELEMENT - (Activities for Teenagers):

ESP-27; 28	(6-66)	Facilities available for teens	Implemented and ongoing. PRPD programs/activities contribute greatly as does the newly reopened Boys & Girls Club in 2022.
------------	--------	--------------------------------	--

ESP-29	(6-66)	Solicit teen input	Limited implementation as opportunities are afforded.
ESI-17; 18	(6-66)	Develop avenues for teen input	Implemented as the opportunity arises.
ESI-19	(6-66)	Teens on citizen committees	Limited opportunities for implementation.

j:\cdd\planning\General Plan Misc\Status Reports\gp-imp-23 rpt

Jurisdiction	Paradise
Reporting Year	2023 (Jan. 1 - Dec. 31)
Planning Period	6th Cycle 06/15/2022 - 06/15/2030

This table is auto-populated once you enter your jurisdiction name and current year data. Past year information comes from previous APRs.
Please contact HCD if your data is different than the material supplied here

ANNUAL ELEMENT PROGRESS REPORT Housing Element Implementation

Table B Regional Housing Needs Allocation Progress Permitted Units Issued by Affordability													
Income Level	RHNA Allocation by Income Level	Projection Period - 12/31/2024 - 06/14/2022	2022-2030							Total Units to Date (all years)	Total Remaining RHNA by Income Level		
			2022	2023	2024	2025	2026	2027	2028			2029	2030
Very Low	383	3	1	7	-	-	-	-	-	-	-	11	372
Low	374	65	44	116	-	-	-	-	-	-	-	225	140
Moderate	1,319	82	127	218	-	-	-	-	-	-	-	427	892
Above Moderate	5,103	200	130	155	-	-	-	-	-	-	-	485	4,618
Total RHNA	7,179	350	302	496	-	-	-	-	-	-	-	1,148	6,031
Progress toward extremely low-income housing need, as determined pursuant to Government Code 65583(a)(1).													
			2022	2023	2024	2025	2026	2027	2028	2029	2030	Total Units to Date	Total Units Remaining
Extremely Low-Income Units*	192		-	-	4	-	-	-	-	-	-	4	188

*Extremely low-income housing need determined pursuant to Government Code 65583(a)(1). Value in Section 5 is default value, assumed to be half of the very low-income RHNA. May be overwritten.
Note: units serving extremely low-income households are included in the very low-income RHNA progress and must be reported as very low-income units in section 7 of Table A2. They must also be reported in the extremely low-income category (section 13) in Table A2 to be counted as progress toward meeting the extremely low-income housing need determined pursuant to Government Code 65583(a)(1).
Please note: For the last year of the 5th cycle, Table B will only include units that were permitted during the portion of the year that was in the 5th cycle. For the first year of the 6th cycle, Table B will only include units that were permitted since the start of the planning period. Projection Period units are in a separate column.
Please note: The APR form can only display data for one planning period. To view progress for a different planning period, you may login to HCD's online APR system, or contact HCD staff at apr@hcd.ca.gov.

ANNUAL ELEMENT PROGRESS REPORT

Housing Element Implementation

Paradise 2023	(Jan. 1 - Dec. 31)
------------------	--------------------

Table D

Program Implementation Status pursuant to GC Section 65583			
Housing Programs Progress Report			
Describe progress of all programs including local efforts to remove governmental constraints to the maintenance, improvement, and development of housing as identified in the housing element.			
1 Name of Program	2 Objective	3 Timeframe in H.E	4 Status of Program Implementation
HI-1 Reduce Infrastructure constraints to development	Continue to reduce infrastructure constraints to new development.	Annually an ongoing to 2030	A grant application for \$182M to construct the sewer was submitted to the State Water Board Division of Financial Assistance (DFA) on June 1, 2023 and the Town is awaiting announcement of the award. 10,700 septic system installation maps were scanned and made available to the public to review and download online.
Affordable Housing Resources	Continue to promote affordable housing by working with and assisting developers who are interested in producing affordable housing and by providing staff support.	Housing stakeholders group held by July 2022. Affordable housing brochure prepared by December 2022.	The Housing Division convened a Housing Advisory Committee which includes affordable housing developers that meets once a month to discuss housing projects, housing constraints, housing market analysis, and potential partnerships with Town funding programs.
Affordable Housing incentives	Provide incentives through project processing and development regulations to promote extremely low, very low, and low income households.	Identify incentives and prepare brochure by December 2022.	
Density Bonus, SSA Overlay, and other opportunities for increased density	Revise the density bonus ordinance (Chapter 17.44) to be consistent with Government Code Sections 65915 and 65917 and identify incentives for affordable housing development	PMC revision by 8/22. Affordable housing incentives by 2/23. Density bonus brochure by 6/23. Identify areas for tiny home villages by 12/23. Rezoning SSA parcels by 01/25.	Awarded HCD REAP 2.0 funds were used to secure a consultant to draft the Sewer Service Overlay Zone with increased density. Project work began in November 2023 and is expected to be completed by end of 2024.
Publicly Owned Land Inventory	Continue to maintain an inventory of publicly owned land in the Town and its sphere of influence for potential housing sites.	updated bi-annually	ongoing
Housing Authority	Support the Housing Authority's continued implementation of the conventional Public Housing Rental Program and the Housing Choice Voucher	ongoing	ongoing

Small lot consolidation and development	Continue to encourage consolidation of small multi family parcels as well as small, commercially designated parcels appropriate for residential use.	Small lot owners contacted by June 2023	Through the Dept of Conservation Wildfire Resiliency & Planning Grant, the Town secured 4 ADU plans which have been preapproved resulting in lower permitting fees and had an ADU handbook created both digitally and hard copy. The ADU mastered plan program was promoted to the public at the Town's monthly Building Stakeholders Meeting in October 2023
Promote Second Units	Continue to encourage development of affordable second units.	Prepare an ADU handbook, publicize 2nd unit program online, explore partnerships with prefabricated ADU manufacturers by 12/22.	No housing discrimination complaints were received or referred to the CA Dept of Fair Employment and Housing and/or HUD for 2023.
Address Discrimination	Continue to provide filing information and direct residents with discrimination complaints to the CA Dept of Fair Employment and Housing and/or the US Dept of Housing and Urban Development	ongoing	
Annual Report	Provide an annual report to the Town Council and Planning Commission that describes 1. implementation of Housing Element to date, 2. the amount an type of housing activity and 3. an updated summary of the Town's housing needs.	ongoing	ongoing
Housing Rehabilitation and Improvement	Continue to provide housing rehabilitation and repair opportunities for extremely low income, very low income, low income, elderly, disabled, developmentally disabled and special needs households.	Update housing conditions survey by 12/23, Update housing brochure no less than annually by December of each year.	13 OOR loans from CalHome, 19 FTHB loans from CalHome. Closed out 26 OOR projects in 2023 funded with CalHome, but many of those loans were funded in 2021 and 2022. Housing Brochure updated for 2023-2024
Condominium and Mobile Home Conversions	Revise Chapter 16.10 of the municipal code to address both condominium and mobile home park conversions.	Municipal Code Revisions by June 2024	
Enforce Housing Codes	Provide a safe and decent living environment through enforcement of housing codes.	Ongoing	
Fire Resiliency	Increase wildfire resiliency through identified actions.	Safety Element Adoption by 7/23. Meetings with insurance companies by 10/23. Meeting on wildfire risk reduction buffers by 1/24. Community engagement plan on a wild fire risk reductions by 8/24.	At the end of 2023, the Safety Element was approved to be scheduled for Board of Forestry review in January 2024. Continued to meet with the Paradise Recreation & Parks District and other stakeholders to identify the highest priority parcels for Wildfire Risk Reduction Buffers with a community engagement meeting scheduled for late February 2024.

<p>Transitional/ Supportive Housing</p>	<p>Revise the zoning ordinance to allow transitional housing and supportive housing by-right in zones where multifamily and mixed uses are permitted.</p>	<p>Amend Zoning Ordinance by June 2024</p>	
<p>Housing for Persons with Disabilities</p>	<p>Continue to ensure that new housing for persons with disabilities and home improvements intended to provide accessibility for projects for persons with disabilities are reasonably accommodated.</p>	<p>Brochure prepared by March 2023, after the 2022 building code adoption.</p>	
<p>Special Needs Housing</p>	<p>Provide incentives, such as a density bonus, expediated processign, relaxation of development standards etc to encourage development of housing for persons with special needs</p>	<p>outreach program within a year of adopting housing element, Prepare brochure by June 2023. Review Zoning ordinance by Dec 2022</p>	
<p>Residential Care facilities</p>	<p>The Town will amend the zoning regulations to include provisions to allow residential care facilities of any size only subject to those restrictions that apply to residential uses in the same zone to make it easier to locate these types of facilities.</p>	<p>Amend Zoning Ordinance by June 2024</p>	
<p>Energy conservation and efficiency</p>	<p>Promote energy efficiency and conservation in residential development.</p>	<p>Review every 2 years and revise codes as necessary</p>	<p>2022 Title 24 energy codes adopted November 2022.</p>
<p>Utilize ADUs to provide affordable housing in higher opportunity areas</p>	<p>Use of the Town's mastered ADU plans would require they affirmatively market the ADU to populations with disappropriate housing needs.</p>	<p>ongoing</p>	
<p>Non enforcement of private CC&Rs</p>	<p>Continue to disallow the governmental enforcement of private Covenants, Conditions, and Restrictions given their potential to cause areas of affluence and exclusion.</p>	<p>ongoing</p>	<p>ongoing</p>
<p>Affirmatively Market Affordable Developments</p>	<p>Require affordable housing developments be affirmatively marketed to households with disproportionate housing needs.</p>	<p>Ongoing, Marketing plans are submitted at time of building inspection.</p>	
<p>Monitoring of Fair Housing issues</p>	<p>The Town will gather and assess fair housing issues by reporting indicators in the annual progress reports.</p>	<p>Annual reporting by April 1 mid cycle evaluation in December 2026 with action on any necessary adjustments by December 31, 2026</p>	

<p>Facilitate Diverse Housing Types in the Sewer service area</p>	<p>Utilize zoning tools to facilitate the construction of diverse housing types and a mix of uses within the sewer service area.</p>	<p>June 2024 for mixed use incentives and January 2025 for rezoning parcels within the sewer overlay zone</p>	
<p>Utilize an Equity lens in upcoming planning activities</p>	<p>Utilize an equity lens in the upcoming General Plan update as well as the ongoing implementation of the Long-Term Community Recovery Plan.</p>	<p>Ongoing between 2023 - 2025 during the general plan update</p>	
<p>Fund Minor Home Repairs</p>	<p>Continue to fund minor home repairs for income eligible households through the owner occupied rehab program.</p>	<p>Conduct publicity campaign for the program once annually in addition to hosting information on Town website</p>	<p>Multiple social media posts were run on the Town's Facebook page for the OOR program and it was presented at a Building Stakeholders Meeting.</p>
<p>Targeted Accessibility Upgrades</p>	<p>Target Accessibility upgrades in area with greatest need. Implement the Transportation Master Plan to prioritize intersection improvements where ADA upgrades are needed.</p>	<p>During public road repaving project from August 2022 through 2025</p>	<p>ongoing - in progress - 33 of 44 designated intersections have been completed as of Jan 2024</p>
<p>Enhanced Home Hardening Programs</p>	<p>Through partnerships with the Paradise Ridge and Butte County Fire Safe Councils explore home hardening programs that allow policy holders to lower their insurance rates.</p>	<p>Meeting on Wildfire Risk Reduction Buffers by Jan 2023. Community engagement plan on wildfire risk reduction buffers by Aug 2023.</p>	<p>Participated in Wildfire Buffer meeting hosting by Paradise Recreation and Parks District 9/23/22. Met with PRPD about wildfire risk reduction buffers multiple times in 2023. First community engagement meeting scheduled late February 2024.</p>



Town of Paradise
Council Agenda Summary
Date: March 12, 2024

Agenda Item: 2(d)

ORIGINATED BY: Aimee Beleu, Finance Director/Town Treasurer
REVIEWED BY: Jim Goodwin, Town Manager
SUBJECT: Annual Review of Town of Paradise Investment Policy

COUNCIL ACTION REQUESTED:

Approve write-off of uncollectible miscellaneous invoices and citations which are attached as Exhibit A.

Background:

Periodically the Town will bill citizens or businesses for special services; to recover costs associated with animal control activities; repairing public property; or to collect bank returned checks. In addition, for the safety of the community, code enforcement staff will issue administrative citations to individuals that aren't willing to comply with requests to correct code enforcement violations. If the invoice is not paid within 30 days, Town staff begins a vigorous collection process that generally takes about six months. During this time, staff is sending frequent correspondence, utilizing web-based location services, and offering payment plan options.

After exhausting all collection attempts, the Town turns accounts receivables, that cannot be leveraged through real property liens, over to a collection agency for continued collection efforts. Occasionally the collection agency will secure a payment and then shares the collection with the Town. Most often, the collection agency is also not successful as the payee is deemed to be insolvent or simply impervious to collections.

On an annual basis, the miscellaneous accounts receivable sub-ledger is reviewed for bad debt. Staff identifies which accounts have gone through both Town collection and collection agency collection processes and have not shown any activity for over a year. It is best practice to complete this progress on annual basis so as not to overstate receivables with uncollectible amounts and to create too large of a "bad debt" expense on any one fiscal year. It is important to note that administrative citations and police restitution activities are recorded on a cash basis meaning that they are not recorded as revenue until actually paid. Therefore, the write-off of these receivables has no negative impact on the financials of the Town as they haven't been recorded in the income statement or balance sheet.

Discussion:

This receivable write-off request is larger than usual for two reasons.

1. Collections for the past four years were further complicated by the realities of the Camp Fire. Activities and violations that occurred prior to the Camp Fire and post Camp Fire, in most cases, are no longer relevant. Land/homeowners have moved and are difficult to find. Many of the properties no longer belong to the people with violations. Many of the citations mailed out are returned. Staff attempted to use its usual methods of contacting

citizens and businesses for collection, but most of those individuals are unreachable. Because staff was unable to reach these individuals, it doesn't seem appropriate to turn those invoices over to collections or to lien property where the violation no longer exists. Staff is actively pursuing collections for activities that have occurred after the Camp Fire.

2. The last receivable write off was brought forward in December 2019; therefore, it's been 4 years since the last adjustment.

The Town is not prevented from recording payments on any of these write-offs should a payment be collected later.

Financial Impact:

Experience has shown that certain receivables are less likely to be collected and that it takes time for citations to be paid, so revenues are not recorded for these invoices until received.

The write-offs at this time are all citations, thus there will be no fiscal impact to the town.

Invoice Type	Amount
FS Cite 104 - Administrative Citation Fire *revenue not recorded	\$ 131,200.00
Late Fee Fire - Late Fee Invoice for Fire Citation *revenue not recorded	\$ 200.00
FS Cite 101 - Administrative Citation Planning *revenue not recorded	\$ 180,208.50
FS Cite 102 - Administrative Citation WM *revenue not recorded	\$ 36,000.00
FS Cite 106 - Administrative Citation BSWW *revenue not recorded	\$ 66,425.00
Late Fee CDD Pla - Late Fee Invoice CDD Planning *revenue not recorded	\$ 1,300.00
FS Cite 105 - Administrative Citation AC *revenue not recorded	\$ 19,200.00
Late Fee AC - Late Fee for AC *revenue not recorded	\$ 6,000.00
	<u>\$ 440,533.50</u>

EXHIBIT A

Town of Paradise

Accounts Receivable Write Off Schedule

03/13/24

Invoice Type	Amount
FS Cite 104 - Administrative Citation Fire *revenue not recorded	\$ 131,200.00
Late Fee Fire - Late Fee Invoice for Fire Citation *revenue not recorded	\$ 200.00
FS Cite 101 - Administrative Citation Planning *revenue not recorded	\$ 180,208.50
FS Cite 102 - Administrative Citation WM *revenue not recorded	\$ 36,000.00
FS Cite 106 - Administrative Citation BSWW *revenue not recorded	\$ 66,425.00
Late Fee CDD Pla - Late Fee Invoice CDD Planning *revenue not recorded	\$ 1,300.00
FS Cite 105 - Administrative Citation AC *revenue not recorded	\$ 19,200.00
Late Fee AC - Late Fee for AC *revenue not recorded	\$ 6,000.00
	<u>\$ 440,533.50</u>

Invoice	Customer	Due Date	Balance
Invoice Type FS Cite 104 - Administrative Citation Fire *revenue not recorded			
2022-00000539	49	12/14/2021	\$ 200.00
2023-00000077	51	09/04/2022	\$ 200.00
2022-00000540	572	12/14/2021	\$ 200.00
2016-00000005	573	08/30/2015	\$ 200.00
2016-00000012	573	09/30/2015	\$ 400.00
2016-00000015	573	10/30/2015	\$ 1,000.00
2016-00000019	573	11/28/2015	\$ 1,000.00
2022-00000225	754	10/10/2021	\$ 200.00
2020-00000019	965	06/13/2020	\$ 200.00
2023-00000488	1182	06/01/2023	\$ 100.00
2022-00000179	1208	09/30/2021	\$ 100.00
2022-00000144	1244	09/15/2021	\$ 100.00
2023-00000296	1244	11/12/2022	\$ 400.00
2023-00000406	1244	03/13/2023	\$ 500.00
2023-00000181	1259	09/22/2022	\$ 400.00
2024-00000056	1259	09/02/2023	\$ 500.00
2024-00000253	1259	10/08/2023	\$ 500.00
2023-00000022	1302	08/22/2022	\$ 200.00
2023-00000342	1302	01/13/2023	\$ 400.00
2023-00000443	1302	03/23/2023	\$ 500.00
2016-00000003	1369	08/30/2015	\$ 200.00
2016-00000011	1369	09/30/2015	\$ 400.00
2016-00000014	1369	10/30/2015	\$ 1,000.00
2016-00000018	1369	11/28/2015	\$ 1,000.00
2017-00000001	1369	08/18/2016	\$ 400.00
2017-00000002	1369	08/05/2016	\$ 200.00
2017-00000005	1369	09/15/2016	\$ 1,000.00
2021-00000090	1486	01/31/2021	\$ 200.00
2021-00000111	1486	02/28/2021	\$ 400.00
2021-00000112	1486	02/28/2021	\$ 1,000.00
2018-00000025	1509	10/21/2017	\$ 200.00
2022-00000029	1509	08/31/2021	\$ 200.00
2022-00000358	1509	10/20/2021	\$ 400.00
2018-00000092	1512	05/31/2018	\$ 200.00
2018-00000094	1512	05/22/2018	\$ 400.00
2023-00000205	1512	09/25/2022	\$ 200.00
2022-00000706	1548	04/23/2022	\$ 200.00
2021-00000107	1580	02/28/2021	\$ 200.00
2021-00000108	1580	02/28/2021	\$ 400.00
2022-00000059	159	09/15/2021	\$ 200.00
2018-00000019	1620	10/06/2017	\$ 200.00
2018-00000021	1620	10/14/2017	\$ 400.00
2024-00000532	1699	12/18/2023	\$ 500.00
2024-00000617	1850	01/09/2024	\$ 200.00

2023-00000298	1858	11/12/2022	\$	200.00
2023-00000478	1858	06/26/2023	\$	200.00
2024-00000093	1858	09/16/2023	\$	500.00
2024-00000310	1858	10/12/2023	\$	500.00
2014-00000002	1865	07/30/2014	\$	200.00
2016-00000008	1867	08/28/2015	\$	1,000.00
2016-00000013	1867	09/30/2015	\$	1,000.00
2016-00000016	1867	10/30/2015	\$	1,000.00
2016-00000020	1867	11/28/2015	\$	1,000.00
2017-00000004	1867	08/17/2016	\$	200.00
2017-00000007	1867	09/15/2016	\$	400.00
2017-00000012	1867	01/12/2017	\$	1,000.00
2017-00000015	1867	07/20/2017	\$	200.00
2018-00000003	1867	08/27/2017	\$	400.00
2018-00000010	1867	09/21/2017	\$	1,000.00
2018-00000024	2271	10/14/2017	\$	200.00
2018-00000029	2271	10/28/2017	\$	400.00
2021-00000117	2277	02/28/2021	\$	200.00
2022-00000542	2277	12/14/2021	\$	200.00
2023-00000301	2277	11/12/2022	\$	400.00
2023-00000445	2277	03/23/2023	\$	500.00
2024-00000398	2277	11/05/2023	\$	500.00
2024-00000619	2277	01/09/2024	\$	500.00
2022-00000495	2318	11/18/2021	\$	200.00
2022-00000622	2326	02/14/2022	\$	200.00
2022-00000135	2370	09/15/2021	\$	200.00
2022-00000140	2374	09/15/2021	\$	200.00
2021-00000002	2399	08/15/2020	\$	200.00
2021-00000040	2399	09/30/2020	\$	400.00
2023-00000055	2399	08/20/2022	\$	400.00
2023-00000156	2399	09/17/2022	\$	1,000.00
2023-00000446	2399	03/23/2023	\$	500.00
2021-00000110	2409	02/28/2021	\$	400.00
2021-00000029	2411	08/31/2020	\$	200.00
2022-00000248	2425	11/08/2021	\$	200.00
2022-00000403	2425	11/10/2021	\$	400.00
2022-00000476	2481	11/15/2021	\$	200.00
2023-00000057	2531	08/20/2022	\$	200.00
2022-00000019	2595	08/31/2021	\$	200.00
2022-00000171	2595	09/30/2021	\$	400.00
2023-00000184	2595	09/22/2022	\$	1,000.00
2023-00000448	2595	03/23/2023	\$	500.00
2023-00000449	2595	03/23/2023	\$	500.00
2018-00000002	2638	08/27/2017	\$	200.00
2018-00000009	2638	09/21/2017	\$	400.00
2018-00000014	2638	09/30/2017	\$	500.00
2018-00000004	2657	09/21/2017	\$	200.00

2018-00000005	2657	09/21/2017	\$	200.00
2018-00000006	2657	09/21/2017	\$	200.00
2018-00000020	2675	10/14/2017	\$	200.00
2018-00000032	2675	10/28/2017	\$	400.00
2018-00000037	2675	11/13/2017	\$	1,000.00
2018-00000040	2675	11/18/2017	\$	1,000.00
2018-00000054	2675	12/07/2017	\$	1,000.00
2018-00000062	2675	12/16/2017	\$	1,000.00
2018-00000075	2675	12/29/2017	\$	1,000.00
2018-00000089	2675	01/21/2018	\$	1,000.00
2018-00000039	2693	11/13/2017	\$	200.00
2018-00000047	2693	12/07/2017	\$	1,000.00
2018-00000048	2693	12/07/2017	\$	400.00
2018-00000070	2693	12/22/2017	\$	1,000.00
2018-00000079	2693	01/04/2018	\$	1,000.00
2018-00000084	2693	01/21/2018	\$	1,000.00
2018-00000044	2706	11/26/2017	\$	200.00
2018-00000049	2706	12/07/2017	\$	400.00
2018-00000046	2707	11/26/2017	\$	200.00
2018-00000050	2707	12/07/2017	\$	400.00
2018-00000068	2707	12/22/2017	\$	1,000.00
2018-00000077	2707	01/04/2018	\$	1,000.00
2023-00000116	2708	09/15/2022	\$	400.00
2023-00000450	2708	03/23/2023	\$	500.00
2018-00000081	2726	01/04/2018	\$	200.00
2018-00000087	2726	01/21/2018	\$	400.00
2018-00000082	2727	01/04/2018	\$	200.00
2018-00000085	2727	01/21/2018	\$	400.00
2018-00000083	2728	01/04/2018	\$	200.00
2018-00000088	2728	01/21/2018	\$	400.00
2023-00000302	2742	11/12/2022	\$	400.00
2023-00000451	2742	03/23/2023	\$	500.00
2021-00000077	2788	11/30/2020	\$	200.00
2023-00000081	2800	09/04/2022	\$	200.00
2023-00000380	2800	02/26/2023	\$	400.00
2022-00000668	2816	03/23/2022	\$	200.00
2022-00000011	2825	08/31/2021	\$	200.00
2022-00000160	2825	09/15/2021	\$	400.00
2020-00000010	2860	11/24/2019	\$	100.00
2022-00000371	2860	10/20/2021	\$	200.00
2022-00000232	2867	10/10/2021	\$	200.00
2023-00000259	2867	10/21/2022	\$	400.00
2023-00000250	2887	10/20/2022	\$	200.00
2023-00000331	2887	12/03/2022	\$	400.00
2023-00000381	2887	02/26/2023	\$	1,000.00
2024-00000354	2887	10/27/2023	\$	500.00
2023-00000024	2902	08/22/2022	\$	200.00

2023-00000117	2902	09/15/2022	\$	400.00
2023-00000343	2902	01/13/2023	\$	1,000.00
2023-00000344	2902	01/13/2023	\$	1,000.00
2023-00000382	2902	02/26/2023	\$	1,000.00
2023-00000452	2902	03/23/2023	\$	500.00
2022-00000620	293	02/14/2022	\$	200.00
2024-00000430	293	12/09/2023	\$	100.00
2024-00000614	293	01/09/2024	\$	200.00
2020-00000018	3008	06/13/2020	\$	200.00
2020-00000024	3036	07/31/2020	\$	200.00
2021-00000007	3036	08/15/2020	\$	400.00
2021-00000003	3040	08/15/2020	\$	200.00
2021-00000042	3056	09/30/2020	\$	400.00
2021-00000068	3058	10/31/2020	\$	400.00
2021-00000069	3058	10/31/2020	\$	400.00
2021-00000047	3059	09/30/2020	\$	400.00
2021-00000050	3062	09/30/2020	\$	400.00
2021-00000071	3062	10/31/2020	\$	1,000.00
2021-00000070	3063	10/31/2020	\$	1,000.00
2021-00000022	3064	08/31/2020	\$	200.00
2021-00000049	3064	09/30/2020	\$	400.00
2021-00000072	3064	10/31/2020	\$	1,000.00
2024-00000154	3064	09/17/2023	\$	100.00
2024-00000355	3064	10/27/2023	\$	200.00
2021-00000035	3073	09/30/2020	\$	400.00
2021-00000024	3075	08/31/2020	\$	200.00
2021-00000041	3075	09/30/2020	\$	400.00
2022-00000097	3075	09/15/2021	\$	200.00
2021-00000028	3078	08/31/2020	\$	200.00
2021-00000030	3079	08/31/2020	\$	200.00
2021-00000037	3079	09/30/2020	\$	200.00
2021-00000031	3080	08/31/2020	\$	200.00
2021-00000034	3083	09/30/2020	\$	200.00
2021-00000039	3085	09/30/2020	\$	200.00
2021-00000043	3087	09/30/2020	\$	200.00
2021-00000045	3090	09/30/2020	\$	200.00
2022-00000308	3113	10/28/2021	\$	200.00
2024-00000567	3116	12/31/2023	\$	200.00
2021-00000118	3128	03/31/2021	\$	400.00
2021-00000119	3128	04/19/2021	\$	1,000.00
2021-00000073	3140	11/30/2020	\$	200.00
2021-00000074	3141	11/30/2020	\$	200.00
2021-00000082	3141	12/31/2020	\$	400.00
2021-00000092	3141	01/31/2021	\$	1,000.00
2021-00000075	3146	11/30/2020	\$	200.00
2021-00000076	3147	11/30/2020	\$	200.00
2021-00000083	3147	12/31/2020	\$	400.00

2021-00000088	3147	01/31/2021	\$	1,000.00
2023-00000083	3147	09/04/2022	\$	1,000.00
2021-00000080	3150	12/31/2020	\$	200.00
2021-00000081	3151	12/31/2020	\$	200.00
2021-00000084	3154	12/31/2020	\$	200.00
2021-00000086	3154	01/31/2021	\$	400.00
2021-00000087	3154	01/31/2021	\$	1,000.00
2021-00000085	3155	12/31/2020	\$	200.00
2021-00000097	3156	02/28/2021	\$	100.00
2021-00000091	3160	01/31/2021	\$	200.00
2021-00000096	3163	02/28/2021	\$	200.00
2022-00000544	3164	12/14/2021	\$	200.00
2022-00000579	3164	01/01/2022	\$	400.00
2023-00000305	3164	11/12/2022	\$	1,000.00
2023-00000345	3164	01/13/2023	\$	1,000.00
2023-00000453	3164	03/23/2023	\$	500.00
2023-00000084	3166	09/04/2022	\$	200.00
2023-00000319	3166	11/27/2022	\$	400.00
2023-00000384	3166	02/26/2023	\$	1,000.00
2024-00000012	3166	08/01/2023	\$	500.00
2024-00000018	3166	08/01/2023	\$	500.00
2021-00000103	3173	02/28/2021	\$	200.00
2021-00000104	3173	02/28/2021	\$	400.00
2021-00000105	3174	02/15/2021	\$	200.00
2022-00000681	3220	03/25/2022	\$	200.00
2023-00000346	3220	01/13/2023	\$	400.00
2023-00000386	3220	02/26/2023	\$	1,000.00
2022-00000159	3252	09/15/2021	\$	400.00
2022-00000167	3256	09/30/2021	\$	200.00
2023-00000207	3256	09/25/2022	\$	400.00
2022-00000016	3270	08/31/2021	\$	200.00
2022-00000022	3273	08/31/2021	\$	200.00
2022-00000359	3273	10/20/2021	\$	400.00
2024-00000063	3276	09/02/2023	\$	100.00
2024-00000259	3276	10/08/2023	\$	200.00
2022-00000032	3279	08/31/2021	\$	200.00
2022-00000207	3279	09/20/2021	\$	400.00
2022-00000033	3280	08/31/2021	\$	200.00
2022-00000035	3281	08/31/2021	\$	200.00
2022-00000046	3290	08/31/2021	\$	200.00
2023-00000320	3290	11/27/2022	\$	400.00
2022-00000052	3293	08/31/2021	\$	200.00
2022-00000065	3301	09/15/2021	\$	200.00
2022-00000066	3302	09/15/2021	\$	200.00
2022-00000067	3303	09/15/2021	\$	200.00
2022-00000068	3304	09/15/2021	\$	200.00
2022-00000070	3306	09/15/2021	\$	200.00

2022-00000071	3307	09/15/2021	\$	200.00
2022-00000074	3307	09/15/2021	\$	200.00
2022-00000093	3307	09/15/2021	\$	200.00
2022-00000078	3312	09/15/2021	\$	200.00
2022-00000121	3314	09/15/2021	\$	200.00
2022-00000088	3319	09/15/2021	\$	200.00
2022-00000099	3326	09/15/2021	\$	200.00
2022-00000101	3328	09/15/2021	\$	200.00
2023-00000186	3328	09/22/2022	\$	400.00
2022-00000109	3336	09/15/2021	\$	200.00
2022-00000113	3340	09/15/2021	\$	200.00
2022-00000117	3343	09/15/2021	\$	200.00
2022-00000122	3346	09/15/2021	\$	200.00
2022-00000129	3351	09/15/2021	\$	200.00
2022-00000130	3352	09/15/2021	\$	200.00
2023-00000159	3352	09/17/2022	\$	400.00
2023-00000390	3352	02/26/2023	\$	1,000.00
2022-00000132	3353	09/15/2021	\$	200.00
2022-00000133	3354	09/15/2021	\$	200.00
2022-00000136	3356	09/15/2021	\$	200.00
2022-00000141	3357	09/15/2021	\$	200.00
2023-00000410	3357	03/13/2023	\$	100.00
2024-00000440	3357	12/09/2023	\$	200.00
2024-00000622	3357	01/09/2024	\$	500.00
2022-00000146	3360	09/15/2021	\$	200.00
2022-00000148	3362	09/15/2021	\$	200.00
2023-00000354	3369	02/05/2023	\$	1,000.00
2023-00000208	3383	09/25/2022	\$	400.00
2022-00000190	3389	09/04/2021	\$	200.00
2022-00000216	3417	10/10/2021	\$	200.00
2023-00000282	3417	10/28/2022	\$	400.00
2022-00000222	3422	10/10/2021	\$	200.00
2022-00000227	3425	10/10/2021	\$	200.00
2022-00000237	3433	10/10/2021	\$	200.00
2022-00000242	3437	11/08/2021	\$	100.00
2022-00000547	3437	12/14/2021	\$	500.00
2022-00000411	3438	11/10/2021	\$	200.00
2022-00000402	3439	11/10/2021	\$	200.00
2022-00000252	3440	11/08/2021	\$	200.00
2022-00000291	3479	11/01/2021	\$	200.00
2022-00000293	3482	11/01/2021	\$	200.00
2022-00000294	3484	11/01/2021	\$	200.00
2022-00000311	3496	10/28/2021	\$	200.00
2022-00000316	3501	10/28/2021	\$	200.00
2022-00000324	3509	10/28/2021	\$	200.00
2022-00000328	3513	10/28/2021	\$	200.00
2022-00000333	3518	10/28/2021	\$	200.00

2022-00000335	3520	10/28/2021	\$	200.00
2022-00000337	3522	10/28/2021	\$	200.00
2022-00000339	3524	10/28/2021	\$	200.00
2024-00000316	3524	10/12/2023	\$	100.00
2024-00000568	3524	12/31/2023	\$	200.00
2024-00000665	3524	01/16/2024	\$	500.00
2022-00000340	3525	10/28/2021	\$	200.00
2022-00000344	3529	10/28/2021	\$	200.00
2023-00000262	3530	10/21/2022	\$	400.00
2022-00000373	3541	10/20/2021	\$	200.00
2022-00000374	3542	10/20/2021	\$	200.00
2024-00000159	3542	09/17/2023	\$	100.00
2024-00000358	3542	10/27/2023	\$	200.00
2024-00000570	3542	12/31/2023	\$	500.00
2022-00000379	3547	10/20/2021	\$	200.00
2022-00000413	3566	11/10/2021	\$	200.00
2022-00000420	3573	11/10/2021	\$	200.00
2022-00000421	3574	11/10/2021	\$	200.00
2023-00000123	3588	09/15/2022	\$	400.00
2023-00000285	3588	10/28/2022	\$	1,000.00
2022-00000445	3596	11/13/2021	\$	200.00
2022-00000446	3597	11/13/2021	\$	200.00
2023-00000124	3597	09/15/2022	\$	400.00
2022-00000447	3598	11/13/2021	\$	200.00
2022-00000449	3600	11/13/2021	\$	200.00
2022-00000452	3603	11/13/2021	\$	200.00
2022-00000453	3604	11/13/2021	\$	200.00
2024-00000539	3606	12/18/2023	\$	200.00
2022-00000460	3609	11/13/2021	\$	200.00
2022-00000731	3609	06/23/2022	\$	400.00
2022-00000732	3609	06/23/2022	\$	200.00
2022-00000461	3610	11/13/2021	\$	200.00
2022-00000465	3614	11/13/2021	\$	200.00
2024-00000390	3614	10/29/2023	\$	100.00
2022-00000467	3616	11/13/2021	\$	200.00
2022-00000470	3619	11/13/2021	\$	200.00
2023-00000458	3619	03/23/2023	\$	100.00
2024-00000442	3619	12/09/2023	\$	200.00
2024-00000625	3619	01/09/2024	\$	500.00
2022-00000481	3628	11/15/2021	\$	200.00
2022-00000484	3631	11/15/2021	\$	200.00
2022-00000485	3632	11/15/2021	\$	200.00
2022-00000490	3637	11/15/2021	\$	200.00
2022-00000493	3640	11/15/2021	\$	200.00
2022-00000517	3662	11/18/2021	\$	200.00
2022-00000528	3673	11/18/2021	\$	200.00
2022-00000550	3684	12/14/2021	\$	200.00

2022-00000557	3691	12/14/2021	\$	200.00
2022-00000582	3728	01/01/2022	\$	200.00
2022-00000586	3732	01/01/2022	\$	200.00
2022-00000738	3765	07/02/2022	\$	400.00
2022-00000626	3766	02/14/2022	\$	200.00
2024-00000309	378	10/12/2023	\$	100.00
2024-00000497	378	12/19/2023	\$	200.00
2022-00000646	3787	01/29/2022	\$	200.00
2022-00000652	3793	02/14/2022	\$	200.00
2022-00000673	3820	03/23/2022	\$	200.00
2023-00000087	3825	09/04/2022	\$	400.00
2022-00000697	3838	03/25/2022	\$	200.00
2022-00000700	3841	03/25/2022	\$	200.00
2022-00000704	3846	03/25/2022	\$	200.00
2022-00000714	3864	04/23/2022	\$	200.00
2023-00000335	3955	12/03/2022	\$	400.00
2023-00000235	3974	10/09/2022	\$	1,000.00
2023-00000100	3983	09/04/2022	\$	200.00
2023-00000128	3998	09/15/2022	\$	400.00
2023-00000291	3998	10/28/2022	\$	1,000.00
2023-00000350	3998	01/13/2023	\$	1,000.00
2023-00000435	3998	03/09/2023	\$	500.00
2023-00000171	4024	09/17/2022	\$	200.00
2023-00000173	4026	09/17/2022	\$	200.00
2023-00000191	4030	09/22/2022	\$	200.00
2023-00000416	4032	03/13/2023	\$	200.00
2023-00000196	4035	09/22/2022	\$	200.00
2023-00000198	4037	09/22/2022	\$	200.00
2023-00000219	4050	09/25/2022	\$	200.00
2023-00000474	4050	03/23/2023	\$	200.00
2024-00000364	4050	10/27/2023	\$	500.00
2023-00000256	4070	10/20/2022	\$	200.00
2023-00000351	4070	01/13/2023	\$	400.00
2023-00000497	4219	07/29/2023	\$	100.00

Invoice Type FS Cite 104 - Administrative Citation Fire Totals \$ 131,200.00

Invoice Type Late Fee Fire - Late Fee Invoice for Fire Citati *revenue not recorded				
2020-00000005	1867	04/04/2020	\$	100.00
2020-00000001	2860	04/04/2020	\$	100.00

Invoice Type Late Fee Fire - Late Fee Invoice for Fire Citati Totals \$ 200.00

Invoice	Customer	Due Date	Balance
Invoice Type FS Cite 101 - Administrative Citation Planning *revenue not recorded			
2021-00000067	1167	11/30/2020	\$ 100.00
2011-00000036	1270	01/13/2011	\$ 1,000.00
2011-00000037	1270	01/13/2011	\$ 1,000.00

2011-00000038	1270	01/13/2011	\$	1,000.00
2011-00000039	1270	01/13/2011	\$	1,000.00
2016-00000069	1270	06/30/2016	\$	200.00
2016-00000073	1270	06/30/2016	\$	600.00
2016-00000081	1270	06/30/2016	\$	1,400.00
2016-00000082	1270	06/30/2016	\$	2,000.00
2016-00000083	1270	06/30/2016	\$	2,000.00
2016-00000084	1270	06/30/2016	\$	2,000.00
2016-00000085	1270	06/30/2016	\$	2,000.00
2016-00000086	1270	06/30/2016	\$	2,200.00
2016-00000087	1270	06/30/2016	\$	2,000.00
2011-00000050	1356	01/31/2011	\$	200.00
2011-00000060	1356	01/01/2011	\$	400.00
2014-00000038	1435	02/21/2014	\$	400.00
2014-00000046	1435	03/27/2014	\$	800.00
2014-00000054	1435	04/28/2014	\$	2,000.00
2014-00000064	1435	05/29/2014	\$	2,000.00
2014-00000068	1435	07/03/2014	\$	2,000.00
2015-00000012	1435	08/02/2014	\$	2,000.00
2015-00000026	1435	09/14/2014	\$	2,000.00
2015-00000042	1435	10/16/2014	\$	2,000.00
2015-00000049	1435	11/19/2014	\$	2,000.00
2015-00000061	1435	12/31/2014	\$	2,000.00
2015-00000075	1435	02/15/2015	\$	2,000.00
2016-00000015	1435	08/28/2015	\$	2,000.00
2016-00000016	1435	08/28/2015	\$	200.00
2016-00000026	1435	09/30/2015	\$	400.00
2016-00000027	1435	09/30/2015	\$	2,000.00
2016-00000041	1435	10/30/2015	\$	2,000.00
2016-00000042	1435	10/30/2015	\$	1,000.00
2016-00000048	1435	11/15/2015	\$	1,000.00
2016-00000060	1435	11/28/2015	\$	2,000.00
2018-00000001	1435	08/27/2017	\$	2,400.00
2018-00000045	1435	09/30/2017	\$	6,000.00
2018-00000086	1435	10/28/2017	\$	6,000.00
2017-00000008	1542	10/30/2016	\$	200.00
2013-00000042	1860	07/13/2013	\$	200.00
2015-00000031	1860	09/21/2014	\$	200.00
2015-00000043	1860	11/14/2014	\$	400.00
2015-00000060	1860	12/31/2014	\$	1,000.00
2015-00000074	1860	02/15/2015	\$	1,000.00
2015-00000087	1860	03/20/2015	\$	2,000.00
2015-00000089	1860	05/08/2015	\$	1,000.00
2015-00000092	1860	06/07/2015	\$	200.00
2015-00000099	1860	06/22/2015	\$	1,000.00
2015-00000108	1860	07/25/2015	\$	1,000.00
2016-00000014	1860	08/28/2015	\$	1,000.00

2016-00000024	1860	09/30/2015	\$	1,000.00
2016-00000038	1860	10/30/2015	\$	1,000.00
2016-00000058	1860	11/28/2015	\$	1,000.00
2017-00000013	1860	01/21/2017	\$	800.00
2017-00000014	1860	01/21/2017	\$	200.00
2017-00000017	1860	02/24/2017	\$	1,600.00
2017-00000031	1860	04/15/2017	\$	4,000.00
2014-00000001	1865	08/08/2013	\$	200.00
2014-00000075	1865	07/30/2014	\$	400.00
2015-00000021	1865	09/14/2014	\$	1,200.00
2015-00000036	1865	10/16/2014	\$	1,200.00
2015-00000045	1865	11/19/2014	\$	3,000.00
2015-00000052	1865	12/25/2014	\$	3,000.00
2016-00000018	1865	09/30/2015	\$	3,000.00
2016-00000031	1865	10/30/2015	\$	3,000.00
2016-00000052	1865	11/29/2015	\$	3,000.00
2015-00000111	1867	07/25/2015	\$	400.00
2020-00000008	1867	11/02/2019	\$	100.00
2011-00000046	1889	01/31/2011	\$	100.00
2011-00000047	1889	01/31/2011	\$	400.00
2015-00000088	1916	05/06/2015	\$	1,908.50
2015-00000093	1916	06/07/2015	\$	2,000.00
2015-00000107	1916	07/25/2015	\$	2,000.00
2016-00000013	1916	08/28/2015	\$	2,000.00
2016-00000023	1916	09/30/2015	\$	2,000.00
2016-00000062	1952	04/28/2016	\$	400.00
2014-00000022	197	11/22/2013	\$	600.00
2014-00000030	197	01/18/2014	\$	1,200.00
2014-00000035	197	02/22/2014	\$	3,000.00
2014-00000047	197	03/27/2014	\$	3,000.00
2014-00000053	197	04/28/2014	\$	3,000.00
2014-00000065	197	05/29/2014	\$	3,000.00
2014-00000070	197	07/03/2014	\$	3,000.00
2015-00000007	197	08/02/2014	\$	3,000.00
2015-00000022	197	09/14/2014	\$	3,000.00
2015-00000039	197	10/16/2014	\$	3,000.00
2015-00000046	197	11/19/2014	\$	3,000.00
2015-00000057	197	12/31/2014	\$	3,000.00
2015-00000071	197	02/15/2015	\$	3,000.00
2015-00000084	197	03/21/2015	\$	4,000.00
2015-00000104	197	07/25/2015	\$	3,000.00
2016-00000010	197	08/28/2015	\$	3,000.00
2016-00000019	197	09/30/2015	\$	3,000.00
2016-00000034	197	10/30/2015	\$	3,000.00
2016-00000055	197	11/28/2015	\$	3,000.00
2020-00000001	2050	08/23/2019	\$	400.00
2020-00000005	2050	11/24/2019	\$	800.00

2020-00000031	2050	03/27/2020	\$	1,600.00
2017-00000022	2086	04/12/2017	\$	400.00
2016-00000074	212	06/30/2016	\$	200.00
2016-00000032	2156	10/30/2015	\$	200.00
2016-00000043	2156	11/15/2015	\$	400.00
2015-00000110	2194	07/25/2015	\$	400.00
2020-00000061	2521	07/31/2020	\$	200.00
2017-00000021	2595	04/12/2017	\$	400.00
2018-00000126	2671	05/26/2018	\$	200.00
2021-00000202	2981	12/31/2020	\$	100.00
2021-00000203	2981	12/31/2020	\$	200.00
2021-00000204	2981	12/31/2020	\$	500.00
2022-00000068	2981	01/01/2022	\$	1,000.00
2021-00000170	3010	04/30/2021	\$	400.00
2021-00000188	3010	06/15/2021	\$	500.00
2020-00000060	3037	07/31/2020	\$	200.00
2020-00000062	3038	07/31/2020	\$	200.00
2022-00000041	3178	10/10/2021	\$	1,000.00
2023-00000098	3189	11/27/2022	\$	200.00
2023-00000109	3189	12/03/2022	\$	400.00
2023-00000133	3189	01/13/2023	\$	1,000.00
2021-00000191	3218	06/30/2021	\$	200.00
2021-00000217	3218	07/31/2021	\$	400.00
2021-00000195	3220	06/30/2021	\$	200.00
2021-00000211	3220	07/31/2021	\$	400.00
2022-00000011	3264	08/15/2021	\$	200.00
2022-00000081	3264	02/14/2022	\$	400.00
2023-00000011	3264	08/22/2022	\$	1,000.00
2023-00000148	4118	01/13/2023	\$	200.00
2023-00000163	4118	03/13/2023	\$	200.00
2023-00000164	4118	03/13/2023	\$	500.00
2017-00000023	754	04/12/2017	\$	400.00

Invoice Type FS Cite 101 - Administrative Citation Planning Totals \$ 180,208.50

Invoice Type FS Cite 102 - Administrative Citation WM *revenue not recorded

2015-00000152	1259	07/25/2015	\$	1,000.00
2016-00000011	1259	09/02/2015	\$	1,000.00
2016-00000023	1259	10/17/2015	\$	1,000.00
2016-00000028	1259	11/18/2015	\$	1,000.00
2018-00000037	1259	03/08/2018	\$	200.00
2011-00000045	1270	01/13/2011	\$	1,000.00
2011-00000046	1270	01/13/2011	\$	1,000.00
2011-00000047	1270	01/13/2011	\$	1,000.00
2011-00000048	1270	01/13/2011	\$	1,000.00
2011-00000065	1309	01/31/2011	\$	200.00
2012-00000066	1309	04/04/2012	\$	200.00
2012-00000041	1412	07/01/2011	\$	200.00

2012-00000076	1412	05/26/2012	\$	200.00
2018-00000046	1430	04/05/2018	\$	200.00
2012-00000073	1435	04/06/2012	\$	400.00
2011-00000146	1451	07/28/2011	\$	200.00
2018-00000015	159	12/22/2017	\$	200.00
2015-00000032	1610	10/03/2014	\$	200.00
2014-00000010	1889	08/29/2013	\$	100.00
2014-00000043	2004	04/20/2014	\$	200.00
2014-00000053	2004	05/21/2014	\$	400.00
2015-00000052	2004	12/06/2014	\$	200.00
2015-00000067	2004	01/08/2015	\$	400.00
2015-00000102	2004	03/11/2015	\$	1,000.00
2015-00000111	2004	05/02/2015	\$	1,000.00
2015-00000133	2004	06/06/2015	\$	1,000.00
2015-00000148	2004	07/25/2015	\$	1,000.00
2016-00000007	2004	09/02/2015	\$	1,000.00
2017-00000033	2004	07/04/2017	\$	200.00
2018-00000058	2004	05/26/2018	\$	400.00
2017-00000027	2086	03/09/2017	\$	200.00
2015-00000029	2125	10/03/2014	\$	200.00
2015-00000075	2125	01/15/2015	\$	400.00
2015-00000083	2125	02/20/2015	\$	1,000.00
2015-00000108	2125	03/25/2015	\$	1,000.00
2015-00000109	2125	04/23/2015	\$	1,000.00
2015-00000127	2125	05/21/2015	\$	1,000.00
2016-00000001	2125	07/31/2015	\$	1,000.00
2016-00000009	2125	09/02/2015	\$	1,000.00
2015-00000053	2156	12/06/2014	\$	200.00
2017-00000012	2156	12/08/2016	\$	200.00
2017-00000016	2156	01/07/2017	\$	400.00
2017-00000019	2156	02/08/2017	\$	1,000.00
2018-00000006	2271	10/21/2017	\$	200.00
2016-00000021	2327	09/23/2015	\$	200.00
2018-00000042	2399	03/08/2018	\$	200.00
2018-00000047	2399	04/15/2018	\$	400.00
2018-00000051	2399	05/09/2018	\$	1,000.00
2016-00000036	2425	03/23/2016	\$	200.00
2017-00000004	2491	08/27/2016	\$	200.00
2017-00000008	2514	09/17/2016	\$	200.00
2017-00000010	2514	10/20/2016	\$	400.00
2018-00000013	2520	12/22/2017	\$	200.00
2018-00000020	2520	01/21/2018	\$	400.00
2018-00000031	2520	02/22/2018	\$	1,000.00
2018-00000017	2543	12/22/2017	\$	200.00
2018-00000021	2543	01/21/2018	\$	400.00
2017-00000021	2579	02/24/2017	\$	200.00
2018-00000023	2579	02/10/2018	\$	200.00

2017-00000029	2593	03/09/2017	\$	200.00
2017-00000031	2595	03/09/2017	\$	200.00
2018-00000024	2595	02/10/2018	\$	1,000.00
2018-00000004	2671	09/30/2017	\$	200.00
2018-00000008	2671	10/28/2017	\$	400.00
2018-00000010	2671	12/07/2017	\$	1,000.00
2018-00000033	2759	03/05/2018	\$	200.00
2018-00000049	2776	04/15/2018	\$	200.00
2018-00000062	2776	05/31/2018	\$	400.00
2020-00000001	3021	06/29/2020	\$	200.00
2024-00000001	4204	09/09/2023	\$	500.00
2017-00000026	754	03/09/2017	\$	200.00

Invoice Type FS Cite 102 - Administrative Citation WM Totals

\$ 36,000.00

Invoice Type FS Cite 106 - Administrative Citation BSWW *revenue not recorded

2017-00000021	1266	10/06/2016	\$	200.00
2017-00000064	1266	11/06/2016	\$	400.00
2017-00000077	1266	12/14/2016	\$	1,000.00
2016-00000072	1309	10/18/2015	\$	200.00
2015-00000117	1341	07/25/2015	\$	1,000.00
2016-00000021	1341	09/04/2015	\$	1,000.00
2016-00000051	1341	10/03/2015	\$	1,000.00
2016-00000090	1341	11/06/2015	\$	1,000.00
2011-00000038	1356	03/01/2011	\$	200.00
2011-00000044	1356	03/01/2011	\$	400.00
2014-00000028	1356	10/23/2013	\$	200.00
2014-00000123	1356	07/30/2014	\$	400.00
2017-00000007	1356	08/05/2016	\$	200.00
2017-00000020	1356	09/15/2016	\$	400.00
2017-00000042	1356	10/20/2016	\$	1,000.00
2017-00000107	1356	02/18/2017	\$	1,000.00
2018-00000018	1356	08/27/2017	\$	1,000.00
2015-00000119	1367	07/24/2015	\$	1,000.00
2016-00000024	1367	09/04/2015	\$	1,000.00
2016-00000055	1367	10/04/2015	\$	1,000.00
2016-00000097	1367	11/06/2015	\$	1,000.00
2018-00000024	1367	08/27/2017	\$	200.00
2018-00000065	1367	11/26/2017	\$	400.00
2012-00000020	1412	05/31/2012	\$	400.00
2015-00000125	1435	07/25/2015	\$	2,000.00
2017-00000132	1435	07/20/2017	\$	1,200.00
2013-00000043	1451	03/07/2013	\$	200.00
2017-00000006	1509	08/14/2016	\$	200.00
2016-00000048	1580	10/02/2015	\$	200.00
2016-00000099	1580	11/06/2015	\$	400.00
2016-00000119	1580	12/12/2015	\$	1,000.00

2014-00000062	1610	10/19/2013	\$	200.00
2017-00000056	1852	10/23/2016	\$	200.00
2018-00000124	1852	04/27/2018	\$	400.00
2016-00000012	1858	08/13/2015	\$	200.00
2016-00000041	1858	09/17/2015	\$	400.00
2016-00000071	1858	10/17/2015	\$	1,000.00
2016-00000101	1858	11/18/2015	\$	1,000.00
2018-00000083	1858	02/15/2018	\$	200.00
2018-00000096	1858	03/23/2018	\$	400.00
2018-00000009	1865	08/27/2017	\$	200.00
2018-00000037	1865	09/30/2017	\$	400.00
2016-00000156	197	05/07/2016	\$	1,200.00
2016-00000104	2028	11/12/2015	\$	500.00
2018-00000049	2150	10/21/2017	\$	400.00
2018-00000069	2150	11/26/2017	\$	1,000.00
2017-00000060	2206	11/17/2016	\$	200.00
2016-00000004	2260	07/31/2015	\$	1,000.00
2016-00000032	2260	09/04/2015	\$	1,000.00
2016-00000054	2321	10/08/2015	\$	400.00
2016-00000096	2321	11/12/2015	\$	1,000.00
2016-00000034	2326	09/05/2015	\$	200.00
2016-00000063	2326	10/08/2015	\$	400.00
2016-00000107	2326	11/12/2015	\$	1,000.00
2017-00000129	2326	06/08/2017	\$	200.00
2017-00000134	2326	07/20/2017	\$	400.00
2018-00000017	2326	08/27/2017	\$	1,000.00
2016-00000035	2327	09/04/2015	\$	200.00
2016-00000064	2327	10/04/2015	\$	400.00
2016-00000087	2327	11/05/2015	\$	1,000.00
2013-00000028	2332	03/07/2013	\$	200.00
2016-00000040	2332	09/12/2015	\$	200.00
2016-00000067	2332	10/14/2015	\$	400.00
2016-00000081	2332	11/05/2015	\$	200.00
2016-00000093	2332	11/19/2015	\$	1,000.00
2016-00000130	2332	12/19/2015	\$	400.00
2016-00000137	2332	03/31/2016	\$	1,000.00
2016-00000083	2362	11/05/2015	\$	200.00
2016-00000131	2362	12/20/2015	\$	400.00
2017-00000091	2364	12/16/2016	\$	1,000.00
2017-00000115	2364	02/11/2017	\$	1,000.00
2018-00000026	2364	08/27/2017	\$	1,000.00
2016-00000094	2368	11/11/2015	\$	200.00
2016-00000117	2368	12/13/2015	\$	400.00
2016-00000138	2368	03/31/2016	\$	1,000.00
2017-00000124	2368	04/12/2017	\$	200.00
2018-00000015	2368	08/27/2017	\$	400.00
2018-00000058	2368	11/26/2017	\$	1,000.00

2017-00000123	2371	04/12/2017	\$	200.00
2016-00000160	2383	07/09/2016	\$	200.00
2017-00000068	2383	11/10/2016	\$	400.00
2017-00000092	2383	12/15/2016	\$	1,000.00
2016-00000147	2384	04/22/2016	\$	575.00
2016-00000144	2399	03/31/2016	\$	400.00
2016-00000151	2399	04/21/2016	\$	1,000.00
2016-00000128	2400	12/25/2015	\$	200.00
2016-00000142	2400	03/31/2016	\$	400.00
2016-00000153	2400	04/21/2016	\$	1,000.00
2017-00000005	2481	08/07/2016	\$	200.00
2017-00000019	2481	09/17/2016	\$	400.00
2017-00000037	2481	10/20/2016	\$	1,000.00
2018-00000094	2481	03/13/2018	\$	200.00
2018-00000104	2481	04/15/2018	\$	400.00
2018-00000021	2486	08/27/2017	\$	450.00
2017-00000038	2520	10/27/2016	\$	200.00
2018-00000047	2520	10/21/2017	\$	200.00
2017-00000073	2525	12/02/2016	\$	400.00
2017-00000052	2529	10/23/2016	\$	200.00
2017-00000083	2529	12/02/2016	\$	400.00
2017-00000102	2529	01/08/2017	\$	1,000.00
2017-00000062	2543	11/16/2016	\$	200.00
2017-00000098	2543	01/01/2017	\$	400.00
2017-00000108	2543	02/18/2017	\$	1,000.00
2018-00000019	2543	08/27/2017	\$	1,000.00
2017-00000094	2564	12/14/2016	\$	200.00
2017-00000082	2565	12/07/2016	\$	200.00
2018-00000078	2579	02/10/2018	\$	200.00
2017-00000120	2596	03/06/2017	\$	200.00
2017-00000121	2598	03/10/2017	\$	200.00
2017-00000125	2598	04/22/2017	\$	400.00
2017-00000128	2616	06/08/2017	\$	200.00
2018-00000007	2640	08/27/2017	\$	200.00
2018-00000041	2640	09/30/2017	\$	400.00
2018-00000008	2641	08/27/2017	\$	200.00
2018-00000040	2641	09/30/2017	\$	400.00
2018-00000023	2646	08/27/2017	\$	100.00
2018-00000056	2646	11/26/2017	\$	400.00
2018-00000028	2648	08/27/2017	\$	200.00
2018-00000048	2648	10/21/2017	\$	400.00
2018-00000059	2700	11/26/2017	\$	200.00
2018-00000095	2700	03/23/2018	\$	200.00
2018-00000060	2701	11/26/2017	\$	400.00
2017-00000011	873	08/05/2016	\$	200.00
2017-00000027	873	09/15/2016	\$	400.00
2017-00000051	873	10/20/2016	\$	1,000.00

Invoice Type FS Cite 106 - Administrative Citation BSWW Totals

\$ 66,425.00

Invoice Type Late Fee CDD Pla - Late Fee Invoice CDD Planning *revenue not recorded

2020-00000002	2050	04/04/2020	\$ 400.00
2020-00000003	2050	04/04/2020	\$ 800.00
2020-00000007	2964	04/04/2020	\$ 100.00

Invoice Type Late Fee CDD Pla - Late Fee Invoice CDD Planning Totals

\$ 1,300.00

Invoice Customer Due Date Balance

Invoice Type FS Cite 105 - Administrative Citation AC *revenue not recorded

2016-00000076	1542	07/02/2016	\$ 600.00
2015-00000051	2055	05/02/2015	\$ 400.00
2018-00000037	2088	05/22/2018	\$ 400.00
2015-00000018	2150	11/16/2014	\$ 800.00
2015-00000038	2150	02/07/2015	\$ 400.00
2015-00000039	2150	02/07/2015	\$ 1,000.00
2015-00000040	2150	02/08/2015	\$ 1,000.00
2015-00000048	2150	04/09/2015	\$ 1,000.00
2015-00000053	2150	05/07/2015	\$ 2,000.00
2015-00000054	2150	04/11/2015	\$ 1,200.00
2016-00000003	2150	08/21/2015	\$ 2,000.00
2016-00000020	2150	11/05/2015	\$ 2,000.00
2020-00000003	2281	08/17/2019	\$ 100.00
2020-00000034	2281	04/30/2020	\$ 200.00
2016-00000059	2443	05/06/2016	\$ 400.00
2018-00000013	2690	11/04/2017	\$ 200.00
2020-00000005	2938	09/20/2019	\$ 100.00
2020-00000010	2953	11/02/2019	\$ 200.00
2020-00000045	2953	07/22/2020	\$ 200.00
2022-00000010	2953	08/31/2021	\$ 200.00
2022-00000013	2953	10/27/2021	\$ 600.00
2021-00000018	3134	02/28/2021	\$ 200.00
2021-00000032	3134	06/15/2021	\$ 400.00
2022-00000074	3134	06/15/2022	\$ 400.00
2022-00000087	3134	07/15/2022	\$ 800.00
2021-00000026	3172	04/12/2021	\$ 200.00
2021-00000034	3172	07/15/2021	\$ 400.00
2022-00000023	3172	01/10/2022	\$ 1,000.00
2023-00000069	3991	07/29/2023	\$ 200.00
2023-00000070	3991	07/29/2023	\$ 100.00
2024-00000003	3991	11/04/2023	\$ 100.00
2024-00000004	3991	11/04/2023	\$ 200.00
2023-00000063	4177	07/29/2023	\$ 100.00
2023-00000072	4231	06/30/2023	\$ 100.00

Invoice Type FS Cite 105 - Administrative Citation AC Totals

\$ 19,200.00

Invoice Type Late Fee AC - Late Fee for AC *revenue not recorded			
2020-00000001	2281	04/04/2020	\$ 100.00
2020-00000002	2938	04/04/2020	\$ 100.00
2020-00000003	2938	04/04/2020	\$ 200.00
2020-00000020	2939	05/09/2020	\$ 2,000.00
2020-00000007	2952	04/04/2020	\$ 200.00
2020-00000016	2953	04/04/2020	\$ 200.00
2020-00000008	2954	04/04/2020	\$ 100.00
2020-00000011	2963	04/04/2020	\$ 200.00
2020-00000004	2966	04/04/2020	\$ 200.00
2020-00000006	2967	04/04/2020	\$ 200.00
2020-00000005	2968	04/04/2020	\$ 200.00
2020-00000012	2969	04/04/2020	\$ 300.00
2020-00000013	2969	04/04/2020	\$ 400.00
2020-00000010	2970	04/04/2020	\$ 500.00
2020-00000019	2970	05/09/2020	\$ 1,000.00
2020-00000017	-31	04/04/2020	\$ 100.00

Invoice Type Late Fee AC - Late Fee for AC Totals \$ 6,000.00



Town of Paradise

Council Agenda Summary

Agenda Item: 2(e)

Date: March 12, 2024

ORIGINATED BY: Marc Mattox, Public Works Director

REVIEWED BY: Jim Goodwin, Town Manager

SUBJECT: Hire Temporary Staff for Hazardous Fuels Reduction Project

LONG TERM RECOVERY PLAN: Yes

COUNCIL ACTION REQUESTED:

1. Approve and authorize Town staff to implement the Hazardous Fuels Reduction Project. Project would include the hiring of three (3) full-time, limited term staff members to facilitate the 36-month program that will increase capacity for hazardous fuels along all Town Right-of-Ways.

Background:

The Town Council approved submission of 7 Hazard Mitigation Grant (HMGP) applications on October 8, 2019. Since that time, staff has continued to work with CalOES/FEMA on implementing these projects and moving them through all required environmental clearances. One of those applications was for the Hazardous Fuels Reduction Project.

With this grant, the Town of Paradise will establish a Hazardous Fuels Reduction Program to help protect the Town's Right of Ways. Town staff will use a combination of mechanical measures and chemical techniques for the clearing of vegetation along all rights-of-way.

We anticipate full obligation and approval of this project by April 2024 by FEMA for the amount up to \$1,625,872.00. Town staff has been working with CalOES/FEMA on the implementation plan to have the program ready upon approval and we have been approved to move forward with pre-award hiring activities.

Implementation of the project will require hiring 3 "limited-term" Public Works Maintenance Workers that will be employed for the length of the project. The grant allows for \$575,000 in expenses for these positions.

The "limited term" described above matches the anticipated length of the project of 36 months, from approximately May 2024 through May 2027.

Financial Impact:

The total upcoming project obligation award will be for \$1,625,872 and includes 75% of the cost (\$1,219,404.00) provided by the FEMA Hazard Mitigation Program and 25% (\$406,468.00) provided by the Town.



Town of Paradise

Council Agenda Summary

Agenda Item: 2(f)

Date: March 12, 2024

ORIGINATED BY: Susan Hartman, Community Development Director –
Planning & Wastewater

REVIEWED BY: Jim Goodwin, Town Manager

SUBJECT: Re-Appoint two Planning Commissioners Due to
Expiration of Term of Office on June 30, 2024.

**LONG TERM
RECOVERY PLAN:** No

COUNCIL ACTION REQUESTED:

1. Re-appoint two Planning Commissioners, Charles Holman and Zeb Reynolds, whose terms will expire on June 30, 2024 for one 4-year term effective July 1, 2024 through June 30, 2028; or,
2. Approve a Notice of Vacancy and application and authorize staff to advertise the upcoming vacancies on the Planning Commission and designate two (2) Town Council members to serve as an interview panel.

Background:

The Paradise Planning Commission consists of a five-member board that was established by ordinance (Paradise Municipal Code Sections 2.12.030 through 2.12.039) to serve as an advisory board to the Paradise Town Council. The Commission meets once a month on the third Tuesday of the month at 6:00 p.m. in the Town Hall Council Chambers.

The Town Council generally appoints citizens to vacancies on boards and commissions by authorizing recruitment by application and scheduling appointments at a regular meeting. The Town Council has also utilized an interview process where two (2) Council Members serve as an interview panel and make recommendations for appointment to the full Council. In other instances of term expiration, the Town Council has re-appointed Commissioners who have voiced an interest in serving an additional term.

Analysis:

The Planning Commission terms filled by Commissioners Holman and Reynolds will expire on June 30, 2024. Discussion with Commissioners Holman and Reynolds have indicated that they would welcome a 2nd term as a Paradise Planning Commissioner. Commissioner Reynolds has served a full four-year term, but Commissioner Holman was appointed mid-term and has not served an entire 4-year appointment. Commissioners Holman and Reynolds bring an incredible wealth of knowledge to the Commission with Commissioner Holman’s background as a building plans designer, who serves on our Design Review Committee, and Commissioner Reynolds’ fire and WUI background through his CAL FIRE employment.

Staff supports the re-appointment of Commissioners Holman and Reynolds. Doing so will provide continuity on the Planning Commission. Since 2016, seven (7) Planning Commissioners (Clarkson, Neumann, Nichols, Towslee, Morris, Costa and Gerrard) have been re-appointed to second terms by the Town Council. As such, the request for re-appointment is reasonable and supported by past practice.

Financial Impact: None.



Town of Paradise

Council Agenda Summary

Agenda Item: 5(a)

Date: March 12, 2024

ORIGINATED BY: Susan Hartman, Community Development
Director – Planning & Wastewater

REVIEWED BY: Jim Goodwin, Town Manager

SUBJECT: Planning Commission Recommendation for Town
Council Adoption of the Town of Paradise Safety
Element Update

LONG TERM RECOVERY PLAN: Yes – General Plan Update

COUNCIL ACTION REQUESTED:

1. Consider concurring with the recommended actions adopted by the Planning Commission of February 27, 2024, and embodied within Planning Commission Resolution No. 2024-01; and,
2. Concur that the final draft Safety Element is within the scope of the previously adopted Negative Declaration; and,
3. Adopt Town of Paradise Resolution No. 2024-_____, “A Resolution of the Town Council of the Town of Paradise Adopting an Amendment to the Safety Element of the 1994 Paradise General Plan and Finding the Amendment Within the Scope of the Certified Negative Declaration Prepared for the Town of Paradise Housing and Safety Element Updates: Town of Paradise Safety Element 2024 Update”; or,
4. Provide alternative direction to town staff.

Background:

The Safety Element is one of seven mandatory elements that comprise a local agency's General Plan according to Section 65302(c) of the California Government Code. The Safety Element identifies community safety risks and establishes goals, policies, and implementation programs to safeguard residents and businesses from those risks.

The current Safety Element was originally adopted by the Town Council as part of the General Plan on October 4, 1994, through Resolution No. 94-42. The Safety Element was last updated in 2000 with minor text changes to make the Safety Element and Land Use Element internally consistent as they pertained to fire protection emergency response times.

Under changes in State law, the Town is now mandated by State Government Code Section 65302 (g)(3) to update the Safety Element in conjunction with updates to the Housing Element, or upon the update of the next Hazard Mitigation Plan. The Town’s 6th Cycle Housing Element was adopted on June 14, 2022, through Resolution No. 2022-39, and covers the 2022-2030 planning period, which triggered a review and update of the Town’s Safety Element.

Safety Elements are governed by the California Government Code which regulates how, when and what is included in a Safety Element and identifies the triggers for future updates. Legislation affecting Safety Elements includes, but is not limited to, SB 1035, SB 99, AB 747, SB 1241, and SB 379. The mandated requirements of the Safety Element under these laws include the following:

- Protecting against significant risks related to earthquakes, tsunamis, landslides, subsidence, flooding, and wildfires as applicable.
- Including maps of known seismic and other geologic hazards.
- Addressing evacuation routes, water supply requirements, and minimum road widths and clearances around structures as related to fire and geologic hazards, where applicable.
- Identifying areas subject to flooding and wildfires.
- Avoiding locating critical facilities within areas of highest risk.
- Assessing the community's vulnerability to climate change.
- Including adaptation and resilience goals, policies, and implementation measures.

In addition, each Safety Element must geographically identify the location and potential extent of the risks exposed to the community using maps, which primarily include hazards surrounding seismicity, flooding, and fires.

Analysis:

The updated Safety Element builds upon post-fire studies and projects such as the Transportation Master Plan, Master Storm Drain Study and Facilities Plan, the Long-term Community Recovery Plan, the updated Emergency Operations Plan, CDBG-DR multi-family housing funds, FEMA Hazard Mitigation Grant Programs (siren towers and home hardening program), scheduled road improvements, and the Wildfire Buffer project to create a multi-faceted approach to fire safety on the ridge that is supported by updated and locally adopted plans and programs as well as multi-agency cooperation. The Town has used the lessons learned in the Camp Fire to build a Safety Element that is a blueprint for other jurisdictions who have faced, or who are at risk of, the same types of natural disasters.

Community Outreach

On September 21, 2021, a public workshop was held for both the Safety Element and Housing Element updates to provide a presentation and information to members of the public, answer any questions, and receive feedback on several potential Safety Element policy questions posed to the participants that was also made available as an online poll for a week following the meeting. An excerpt of those questions and responses can be found on page 3 of the Safety Element. In October 2021, local tribes were contacted for consultation on both the Housing and Safety Elements. A notice seeking review and comments was also provided to local agencies such as LAFCo, Paradise Irrigation District, Butte County Association of Governments, Del Oro Water Company, Paradise Recreation & Park District (PRPD), Butte County Fire Safe Council, Ridge Fire Safe Council, and the Butte County Office of Emergency Management in August 2023. Comments received from PRPD and the Ridge Fire Safe Council were incorporated into the draft Safety Element.

Butte County Airport Land Use Commission

As the southern border of Town falls within the Airport Influence Area of the Paradise Airport, the Safety Element is subject to review and comment by the Butte County Airport Land Use Commission (BCALUC), pursuant to the State Aeronautic Act, which provides compatibility criteria for local jurisdictions in preparing land use plans. The Safety Element was reviewed by

the BCALUC on September 20, 2023, and subsequently issued a letter of consistency on September 25, 2023, with no further amendments required.

State Board of Forestry and Fire Protection's Resource Protection Committee

After multiple consultations resulting in text amendments with CAL FIRE's Land Use Planning Unit, the Town's Safety Element was agendaized, reviewed and approved by the Board of Forestry and Fire Protection's Resource Protection Committee on January 23, 2024, as required for all jurisdictions within a fire hazard severity zone. During the committee's review, committee members recognized the efforts the Town has made towards fire safety and had no further recommendations for amendments. The final letter of recommendation has not yet been received by the Board so an email confirming their approval has been included in the staff report.

Environmental Review

During April and May of 2022, a joint Initial Study and Negative Declaration, regarding identified environmental impacts as outlined by the California Environmental Quality Act, was circulated for public review for the draft Housing and Safety Elements. The Negative Declaration was ultimately adopted by the Town Council on June 14, 2022. Staff has determined that there are no new significant environmental impacts or new information associated with later text amendments to the Safety Element and therefore finds the Safety Element Update within the scope of the previously adopted Negative Declaration.

Attached with the staff report for your review and consideration is a copy of the proposed final Town of Paradise Safety Element Update as well as the Planning Commission Resolution and other supporting documents for review.

Financial Impact:

If adopted by the Town Council, the cost associated with filing the Notice of Determination with the County Clerk for the (CEQA) Negative Declaration will be paid out of the General Plan Update fund.

Attachments:

- Notice of the Town Council public hearing of March 12, 2024.
- Planning Commission Resolution No. 2024-01.
- Town of Paradise Resolution No. 2024-____; "A Resolution of the Town Council of the Town of Paradise Adopting an Amendment to the Safety Element of the 1994 Paradise General Plan".
- Final Adoption Draft of the Town of Paradise Updated Safety Element.

**TOWN OF PARADISE
NOTICE OF PUBLIC HEARING
PARADISE TOWN COUNCIL**

NOTICE IS HEREBY GIVEN BY THE Paradise Town Council that a public hearing will be held on **Tuesday, March 12, 2024 at 6:00 p.m.**, or as soon thereafter as possible, in the Town Hall Council Chambers, 5555 Skyway, Paradise, California, regarding the following matter:

a. Item for which a Negative Declaration was previously certified

Town of Paradise Safety Element Update – The Town Council will hold a public hearing regarding the proposed Final Town of Paradise General Plan Safety Element Update. State law requires that the Town update the Safety Element upon revision of the Housing Element, which it updated in June 2022. The goal of the Safety Element is to reduce the negative impacts caused by natural phenomena, such as fire, floods, droughts, and earthquakes. The General Plan Safety Element is required to address climate adaptation and resiliency strategies over the next 6 years as well as identify residential developments in hazard areas that do not have at least two emergency evacuation routes. Environmental review of the draft Housing and Safety Elements was completed and adopted in June 2022. The Town has determined that the final draft Safety Element does not include substantive changes that would result in new or more impacts than those identified, analyzed, and adopted and is within the scope of and consistent with the Negative Declaration certified by Town Council through Resolution No. 2022-39. The final draft Safety Element and associated environmental document can be found online at <https://www.townofparadise.com/planning/page/safety-element> or a public view copy is available at the Building Resiliency Center located at 6295 Skyway. If you challenge this project in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice, or in written correspondence delivered to the Town Clerk at, or prior to, the public hearing. For further information please contact the Planning Division at (530) 872-6291, extension 424.

Dina Volenski
Town Clerk

**PARADISE PLANNING COMMISSION
RESOLUTION NO. 2024-01**

**A RESOLUTION OF THE PLANNING COMMISSION OF THE TOWN OF PARADISE
RECOMMENDING TOWN COUNCIL ADOPTION OF TEXT AMENDMENTS TO THE SAFETY
ELEMENT OF THE 1994 PARADISE GENERAL PLAN
(Town of Paradise Safety Element Update)**

WHEREAS, California Government Code Section 65588(b) requires the Town of Paradise to periodically prepare an update to the Housing Element of its General Plan (“Project”); and

WHEREAS, on June 14, 2022; the Paradise Town Council adopted the Housing Element Update to the General Plan; and

WHEREAS, recent legislation, including SB 1035 and SB 379, require that Safety Elements be updated in conjunction with Housing Element updates; and

WHEREAS, as provided in Government Code Section 65350 et. Seq. and Public Resources Code this Safety Element Update constitutes a General Plan Amendment; and

WHEREAS, the Town of Paradise Safety Element incorporates by reference the current Butte County Local Hazard Mitigation Plan, approved by the Federal Emergency Management Agency (FEMA) in 2019, as required by AB 2140 to increase opportunities for financial assistance under the California Disasters Assistance Act; and

WHEREAS, the Town is also required to conduct early coordination with participating State agencies, such as CAL FIRE, and receive certification of the Safety Element from the Board of Forestry and Fire Protection due to the Town’s location within a designated Very High Fire Hazard Severity Zone; and

WHEREAS, on January 23, 2024, the Board of Forestry and Fire Protection’s Resource Protection Committee approved the Safety Element; and

WHEREAS, an Initial Study and Negative Declaration were prepared to evaluate the environmental impacts of the Housing and Safety Element Updates pursuant to the California Environmental Quality Act (CEQA) and certified on June 14, 2022 through Paradise Town Council Resolution No. 2022-39 (State Clearinghouse No. 2022040351); and

WHEREAS, the Town of Paradise acting as lead agency has determined that there are no new significant environmental impacts or new information associated with the Project and therefore finds the Safety Element Update within the scope of the previously adopted Negative Declaration; and

WHEREAS, the Paradise Planning Commission has conducted a public hearing, pursuant to California planning and zoning law concerning a proposed amendment to the Safety Element text of the 1994 Paradise General Plan; and

WHEREAS, California Government Code Sections 65353 and 65354 require the Planning Commission to conduct a public hearing and notify the Town Council in writing of its recommendation; and

TOWN OF PARADISE
PARADISE PLANNING COMMISSION
RESOLUTION NO. 2024-01

WHEREAS, the Planning Commission has considered the analysis and recommendations of town staff; has considered the Safety Element, as revised in response to comments received from the California Department of Forestry and Fire Protection (CAL FIRE); and has considered comments made at a public hearing conducted by the Planning Commission; and on the basis thereof has determined pursuant to Government Code Section 65358 that a certain amendment to the 1994 Paradise General Plan that would update the Safety Element in order to attain compliance with current State safety element law is not only in the public interest but also would be internally consistent with the remainder of the Paradise General Plan.

NOW, THEREFORE, BE IT RESOLVED by the Paradise Planning Commission of the Town of Paradise as Follows:

SECTION 1. The Planning Commission hereby recommends that the Town Council concur that the final draft Safety Element Update is within the scope of the previously adopted Negative Declaration; and

SECTION 2. The Planning Commission further recommends that the Town Council adopt the amendment to the Safety Element of the 1994 Paradise General Plan in order to make the Paradise Safety Element consistent with current State safety element law, which amendment is set forth in Exhibit "A" attached hereto.

PASSED AND ADOPTED by the Planning Commission of the Town of Paradise this 27th day of February 2024, by the following vote:

AYES: Lynn Costa, Kim Morris, and Zeb Reynolds, Chair
NOES: Charles Holman
ABSENT: Carissa Garrard
ABSTAIN: None



Zeb Reynolds, Chair

ATTEST: February 29, 2024

By: 

Melanie Elvis, Deputy Town Clerk

**TOWN OF PARADISE
RESOLUTION NO. 2024-___**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PARADISE ADOPTING AN
AMENDMENT TO THE SAFETY ELEMENT OF THE 1994 PARADISE GENERAL PLAN AND
FINDING THE AMENDMENT WITHIN THE SCOPE OF THE CERTIFIED NEGATIVE
DECLARATION PREPARED FOR THE TOWN OF PARADISE HOUSING AND SAFETY
ELEMENT UPDATES: TOWN OF PARADISE SAFETY ELEMENT 2024 UPDATE**

WHEREAS, the Safety Element is one of the seven mandatory elements of the Town's General Plan that are required by State law; and

WHEREAS, the update of the Safety Element focuses on identifying public safety risks and creating a unique set of goals, policies, and implementation actions that address these risks; and

WHEREAS, Senate Bill (SB) 1035 requires jurisdictions to review their Safety Element at least every eight years and revise it as necessary to address climate change and resiliency strategies; and

WHEREAS, SB 99 requires jurisdictions to review their Safety Element concurrently with the update to the Town's Housing Element and revise it as necessary to identify residential developments in a hazard area identified in the Safety Element that do not have at least two emergency evacuation routes; and

WHEREAS, Assembly Bill (AB) 747 requires jurisdictions to identify evacuation routes and their capacity, safety, and viability under a range of emergency scenarios; and

WHEREAS, the Town has prepared an update to the Safety Element pursuant to the requirements of SB 1035, SB 99, and AB 747; and

WHEREAS, the Town of Paradise Safety Element incorporates by reference the current Butte County Local Hazard Mitigation Plan, approved by the Federal Emergency Management Agency (FEMA) in 2019, as required by AB 2140 to increase opportunities for financial assistance under the California Disasters Assistance Act; and

WHEREAS, the update to the Safety Element was completed concurrently as part of the Housing Element for 2022-2030 and will be a stand-alone Safety Element upon adoption; and

WHEREAS, pursuant to Government Code section 65302(g)(8), the draft update of the Safety Element was made available for review to the California Geological Survey of the Department of Conservation (CGS) and the Office of Emergency Services as well as the State Board of Forestry and Fire Protection; and

WHEREAS, pursuant to California Public Utilities Code (PUC) Section 21676(b), the draft Safety Element was referred to the Butte County Airport Land Use Commission (BCALUC) for a determination of consistency with relevant airport/land use compatibility criteria in the comprehensive Airport Land Use Compatibility Plan for the environs of the Paradise Skypark Airport; and

**TOWN OF PARADISE
RESOLUTION NO. 2024-_____**

WHEREAS, on September 20, 2023, the BCALUC determined the update to the Town of Paradise Safety Element to be consistent with the applicable airport/land use policies; and

WHEREAS, the Town is also required to conduct early coordination with participating State agencies, such as CAL FIRE, and receive a recommendation for the Safety Element from the Board of Forestry and Fire Protection due to the Town's location within a designated Very High Fire Hazard Severity Zone; and

WHEREAS, on January 23, 2024, the Board of Forestry and Fire Protection's Resource Protection Committee had no recommendations for further updates to the Safety Element; and

WHEREAS, an Initial Study and Negative Declaration were prepared to evaluate the environmental impacts of the Housing and Safety Element Updates pursuant to the California Environmental Quality Act (CEQA) and certified on June 14, 2022 through Paradise Town Council Resolution No. 2022-39 (State Clearinghouse No. 2022040351); and

WHEREAS, the Town of Paradise acting as lead agency has determined that there are no new significant environmental impacts or new information associated with the project and therefore finds the Safety Element Update within the scope of the previously adopted Negative Declaration; and

WHEREAS, the Safety Element was publicly made available on February 11, 2024, and no written comments were received from members of the public; and

WHEREAS, California Government Code Sections 65353 and 65354 require the Planning Commission to conduct a public hearing and notify the Town Council in writing of its recommendation; and

WHEREAS, the Paradise Planning Commission conducted a duly noticed public hearing on February 27, 2024 concerning the proposed amendment to the Safety Element text of the 1994 Paradise General Plan and, after conducting the public hearing, adopted Resolution No. 2024-01 recommending Town Council approval of the Draft Safety Element Update; and

WHEREAS, on February 28, 2024, a public hearing notice was published for the Town Council public hearing on March 12, 2024; and

WHEREAS, the Town Council has considered the analysis and recommendations of town staff; has considered the Safety Element, as revised in response to comments received from the California Department of Forestry and Fire Protection (CAL FIRE); and has considered comments made at a public hearing conducted by the Town Council; and on the basis thereof has determined pursuant to Government Code Section 65358 that a certain amendment to the 1994 Paradise General Plan that would update the Safety Element in order to attain compliance with current State safety element law is not only in the public interest but also would be internally consistent with the remainder of the Paradise General Plan.

NOW, THEREFORE, BE IT RESOLVED by the Paradise Town Council of the Town of Paradise as follows:

TOWN OF PARADISE
RESOLUTION NO. 2024-_____

SECTION 1. The Town, as lead agency under CEQA, has certified the Town of Paradise Housing and Safety Elements Update Negative Declaration by adoption of Town Resolution No. 2022-39 on June 14, 2022. The Town as lead agency, has determined that the update of the Safety Element does not include substantive changes that would result in new or more impacts than those identified, analyzed, and adopted as part of the project and is within the scope of and consistent with the final Negative Declaration certified by Town Council through Resolution No. 2022-39. Therefore, the update of the Safety Element has been determined to be within the scope of and consistent with the certified Negative Declaration and therefore no addendum or supplement to the Negative Declaration is necessary; and

SECTION 2. The Town Council hereby adopts the amendment to the Safety Element of the 1994 Paradise General Plan known as Town of Paradise Safety Element 2024 Update in order to make the Paradise Safety Element consistent with current State safety element law, which amendment is set forth in Exhibit "A" attached hereto.

PASSED AND ADOPTED by the Town Council of the Town of Paradise this 12th day of March 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Ron Lassonde, Mayor

ATTEST:

By: _____
Dina Volenski, Town Clerk

APPROVED AS TO FORM:

By: _____
Scott E. Huber, Town Attorney



Town of Paradise

Safety Element



Prepared for:
Town of Paradise

Draft December 2023





TABLE OF CONTENTS

INTRODUCTION..... 1

PLANNING PROCESS AND OUTREACH..... 2

REGULATORY FRAMEWORK 2

 Relationship to Other Plans..... 4

COMMUNITY PROFILE..... 7

HAZARD PROFILES 8

 Fire Hazards 8

 Geologic and Seismic Hazards..... 16

 Flooding 19

 Hazardous Materials 21

 Climate Resiliency/Severe Weather..... 21

 Drought..... 29

 Disaster Preparedness, Response, and Recovery..... 30

GOALS, POLICIES, AND PROGRAMS..... 38

LIST OF TABLES

Table 1:	Town of Paradise - Structures Damaged in the Camp Fire by Level of Damage	12
Table 2:	Butte County – Cal-Adapt Climate Projections.....	22
Table 3:	Overall Evacuation Scenarios Analysis Summary	31
Table 4:	Newly Created Access Easement or Right-of-Way Width Requirements	36
Table 5:	Roadway Design Guidelines	36

LIST OF FIGURES

Figure 1:	Public Community Meeting.....	2
Figure 2:	Excerpt of Survey Results	3
Figure 3:	Fire Hazard Severity Zones	10
Figure 4:	General Plan Land Use and Critical Facilities	11
Figure 5:	Wildfire Likelihood	12
Figure 6:	Map of Historical Fires.....	13
Figure 7:	CAL FIRE Direct Protection Areas	15
Figure 8:	Map of Faults	18
Figure 9:	Map of Earthquake Shaking Potential	19
Figure 10:	Climate Change Vulnerability Assessment	22
Figure 11:	Projected Heat Waves – California and Historical Heat Health Events	26
Figure 12:	Inadequate Emergency Access: Existing	32
Figure 13:	Inadequate Emergency Access: After Transportation Master Plan Improvements	33
Figure 14:	Evacuation Routes	34
Figure 15:	Transportation Master Plan Roadway Improvement Plan.....	35
Figure 16:	Evacuation Zones.....	37

LIST OF EXHIBITS

Exhibit A:	Butte County Climate Change Vulnerability Assessment.....	57
------------	--	----



GENERAL PLAN | SAFETY ELEMENT

INTRODUCTION

The Safety Element is the primary document for linking land use, conservation, and housing decisions to local safety planning. The goal of the element is to protect public health and safety by reducing potential short- and long-term unreasonable risk of death, injuries, property damage, and economic impacts resulting from the effects of natural and non-natural hazards. Natural hazards for the town of Paradise include fire hazards, seismic and other geologic hazards, flooding, drought, and hazardous materials. The Safety Element also includes sections on climate resiliency and disaster preparedness and recovery, which include evacuation routes and emergency services.

The impacts of climate change pose an increasing and growing challenge to the safety and well-being of the residents of Paradise. California will continue to experience effects of climate change in different ways, including increased likelihood of wildfires, heat waves, drought, flooding, severe weather, and sea-level rise. The Safety Element also addresses climate vulnerability and adaptation. The primary goals of the Safety Element are to protect the residents of Paradise from these hazards and to ensure that law enforcement and fire protection continue to meet the demands of new and existing land use development.

In November of 2018, Paradise and some surrounding areas in Butte County faced one of the most destructive wildfires in California history. This fire, known as the 2018 Camp Fire, resulted in the loss of 85 lives, nearly 19,000 structures, the burning of more than 150,000 acres over two weeks, and \$9 billion in insurance claims. It took less than six hours for the Camp Fire to destroy over 90 percent of Paradise. Thousands were left without a home to return to and some were only fortunate enough to grab a few of their possessions before escaping. The fire was reported 100 percent contained 17 days after it began. Addressing short- and long-term risks associated with wildfires and other hazards is important to ensure the improved safety of the community and assist in rebuilding with additional resiliency as Paradise recovers from the Camp Fire.

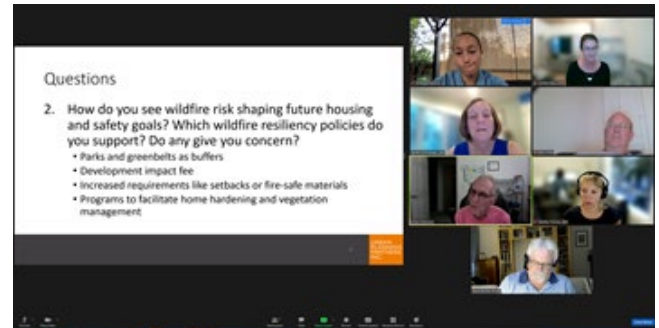
The Safety Element is organized as described below.

- **Introduction** provides context and outlines the purpose of this document.
- **Planning Process and Outreach** summarizes stakeholder outreach conducted in development of the Safety Element.
- **Regulatory Framework** outlines the various regulatory bodies and documents that also govern safety issues and describes the Safety Element’s relationship to these other policies and plans.
- **Community Profile** describes the geographic context of the town as well as information on population and development trends and existing circulation.
- **Hazard Profiles** are provided for each required hazard: fire, geologic and seismic hazards, flooding, hazardous materials, climate resilience/severe weather, and drought. This section also discusses the Town’s efforts and existing programs related to disaster preparedness, response, and recovery.
- **Goals, Policies, and Programs** establishes new (and identifies ongoing) policies and implementation programs to continue to protect residents and property.

PLANNING PROCESS AND OUTREACH

In tandem with the Housing Element update, the Safety Element update involved community outreach through stakeholder interviews as well as a community meeting, which offered valuable feedback on safety and resiliency policies. The public community meeting was held on September 21, 2021 which utilized breakout rooms (see Figure 1) and a live poll to gather community feedback. The live poll was made available as an online survey to gather additional public feedback for one week following the meeting.

Figure 1: Public Community Meeting



Based on this meeting and survey, it was understood that community members strongly supported establishing greenbelts or parks on key parcels to serve as wildfire buffers around the periphery of town. Other supported policies included easements to allow the Town to perform vegetation management on private property, increasing resiliency standards for new construction, and programs to educate and facilitate property owners on hardening their homes. See Figure 2 for an excerpt of the survey results.

In addition, consistent with [Government Code Section 65302\(g\)\(8\)](#), the Town reached out to the California Geological Survey of the Department of Conservation and the Office of Emergency Services to request data sources and provide opportunity for consultation. No consultations were requested.

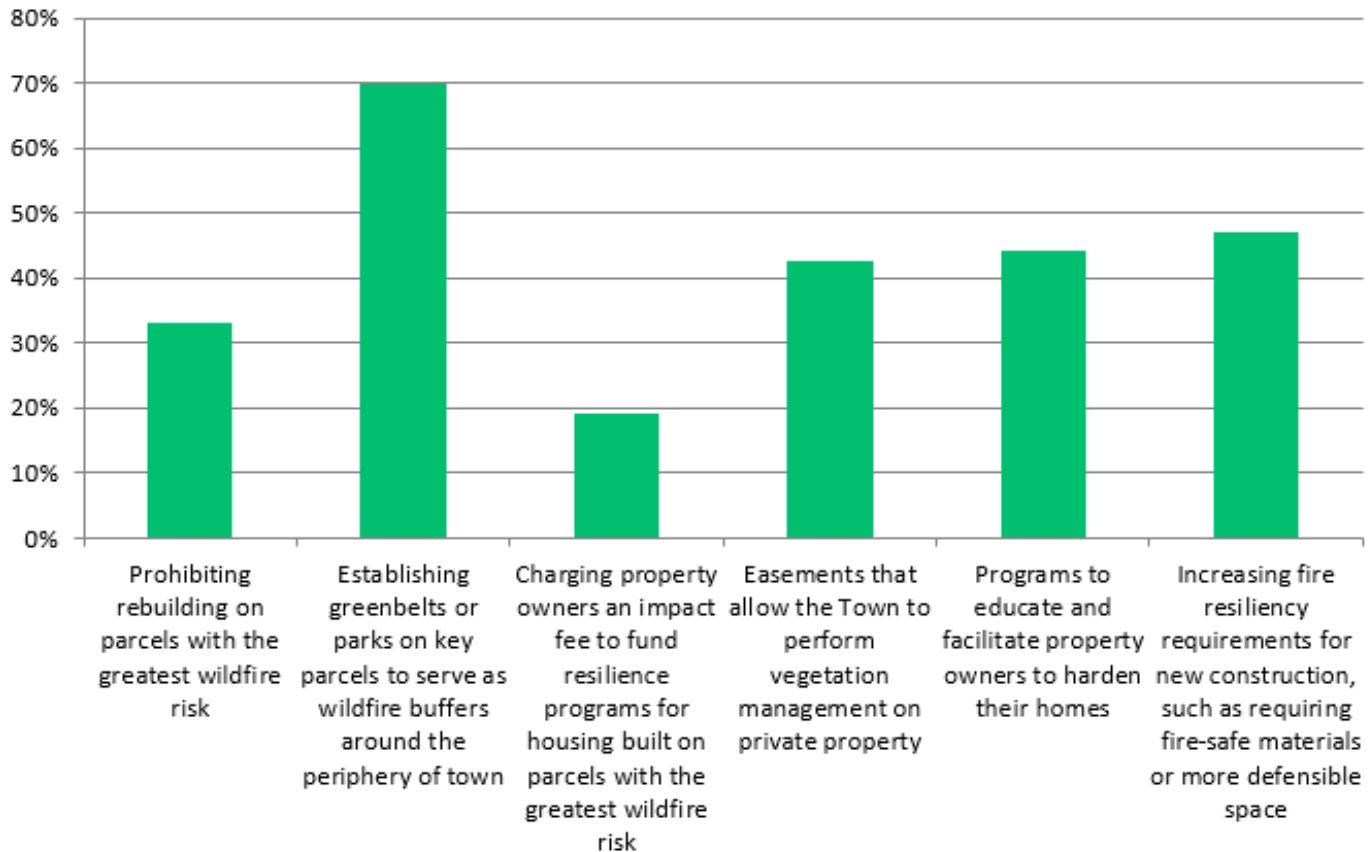
REGULATORY FRAMEWORK

This chapter describes the regulatory context of the Safety Element and its relationship to other local planning documents.

All counties and incorporated communities in California must prepare a General Plan, and one of the required elements (or chapters) of the General Plan is a Safety Element. This Safety Element meets these requirements, which are laid out in California law, particularly [Section 65302\(g\) of the California Government Code](#). State law requires that the Safety Element address the following:

Figure 2: Excerpt of Survey Results

Of the resiliency solutions listed below, which do you support? Select all that apply.



- Protect the community from risks associated with a **variety of hazards**, including seismic activity, landslides, flooding, and wildfire, as required by the California Government Code Section 65302(g)(1).
- Map and assess the risk associated with **flood hazards**, develop policies to minimize the flood risk to new development and essential public facilities, and establish effective working relationships among agencies with flood protection responsibilities, as required by California Government Code Section 65302(g)(2).
- Map and assess the risk associated with **wildfire hazards**, develop policies to reduce the wildfire risk to new land uses and essential facilities, ensure there is adequate road and water infrastructure to respond to wildfire emergencies, and establish cooperative relationships between wildfire protection agencies, as required by California Government Code Section 65302(g)(3).
- Assess the risks associated with **climate change** on local assets, populations, and resources. Note existing and planned development in at-risk areas and identify agencies responsible for providing public health and safety and environmental protection. Develop goals, policies, and objectives to reduce the risks associated with climate change impacts, including locating new public facilities outside of

high hazard areas, providing adequate infrastructure in at-risk areas, and supporting natural infrastructure for climate adaptation, as required by California Government Code Section 65302(g)(4).

- Identify "residential developments in any hazard area identified in the safety element that do not have at least two **emergency evacuation routes**" as required by California Government Code Section 65302(g)(5), added by SB 99 (2019).

RELATIONSHIP TO OTHER PLANS

This Safety Element is one of several plans that address public safety, disaster mitigation, wildfire protection, and other related topics. The Safety Element is consistent with these other plans, ensuring the Town and the surrounding region have a unified strategy to address public safety issues. The Safety Element's relationship to other local plans is detailed below.

Butte County Local Hazard Mitigation Plan (LHMP)

LHMPs are required by the Federal Disaster Mitigation Act of 2000 (Public Law 106-390). Having an approved LHMP is needed in order for a local jurisdiction to qualify for certain federal disaster assistance and hazard mitigation funding. LHMPs are required to be updated every five years.

The Butte County LHMP was developed in accordance with the Disaster Mitigation Act of 2000 (DMA 2000) and followed FEMA's Local Hazard Mitigation Plan guidance. The LHMP incorporates a process where hazards are identified and profiled, the people and facilities at risk are analyzed, and mitigation actions are developed to reduce or eliminate hazard risk. The implementation of these mitigation actions, which include both short and long-term strategies, involve planning, policy changes, programs, projects, and other activities.

The LHMP can be found at this location: <https://www.buttecounty.net/808/Local-Hazard-Mitigation-Plan>.

The Town of Paradise has participated in the LHMP multi-jurisdictional effort and has adopted each update of the LHMP. The LHMP was also developed, among other things, to ensure Butte County and participating jurisdictions' continued eligibility for certain federal disaster assistance, specifically the FEMA Hazard Mitigation Grant Program (HMGP), Pre-Disaster Mitigation Program (PDM), and the Flood Mitigation Assistance Program (FMA).

The Safety Element is aligned with and draws heavily from the Butte County LHMP. The LHMP and Safety Element requirements are very similar in many respects, but not identical. The LHMP focuses on more specific mitigation actions while the Safety Element provides a higher-level view and more general safety-related policies across a broader array of topics. AB 2140 (2006) encourages (but does not require) a jurisdiction to incorporate the LHMP by reference into the Safety Element. Recent State legislation, SB 379 (2015) and SB 1035 (2018), have linked required updates of the Safety Element to the required updates of the LHMP and Housing Element.

The Town of Paradise has adopted and hereby incorporates by reference the most current Butte County LHMP as part of this Safety Element.

Butte County Community Wildfire Protection Plan

A Community Wildfire Protection Plan (CWPP) is a planning and funding prioritization tool authorized by the Federal Healthy Forests and Restoration Act of 2003 as an incentive for communities to engage in comprehensive forest and fire hazard planning and help define and prioritize local needs. CWPPs are updated every five years.

The [Butte County CWPP](#) was collaboratively developed through interested parties including Federal, State, City, Town, and County agencies within the Unit (the Unit includes Butte County and

some adjacent areas). The plan identifies and prioritizes pre-fire and post-fire management strategies and tactics meant to reduce the loss of values at risk within the Unit. It is intended to be used as a planning and assessment tool only. By placing the emphasis on what needs to be done long before a fire starts, the fire plan strives to reduce firefighting costs and property losses, increase firefighter safety, and enhance ecosystem health. The Butte County CWPP has been developed based upon the priority goals and objectives identified by the Butte County Fire Department and by local collaborators. The plan addresses the pre-fire strategies and tactics that will be implemented in cooperation with the fire agencies in Butte County, the Butte County Fire Safe Council, local community groups, and landowners.

The Butte CWPP can be found at this location: <https://buttefiresafe.net/document-library/butte-county-community-wildfire-protection-plan-cwpp-2021-2025/>.

The Butte CWPP also serves as the Butte Unit Fire Plan, further described below.

Butte Unit Fire Plan

California Department of Forestry and Fire Protection (CAL FIRE) operations are divided into 21 operational units. Each unit is required to have a Unit Fire Plan. Annual updates to the [Unit Fire Plans](#) are due June 1 of each year. Each unit plan addresses how each CAL FIRE Unit and Contract County is achieving the goals and objectives of the California Strategic Fire Plan. For the CAL FIRE Butte Unit, the Butte County CWPP also serves as the Butte Unit Fire Plan.

The Butte Unit Fire Plan can be found at this location: <https://osfm.fire.ca.gov/divisions/community-wildfire-preparedness-and-mitigation/fire-plan/#unit>.

Long Term Community Recovery Plan

The Town of Paradise Long Term Community Recovery Plan (LTCRP) was created in 2019 by the

community in direct response to the 2018 Camp Fire. The LTCRP includes an overview of the disaster, a detailed description of the community engagement process, the full recovery plan, and detailed recovery projects, both Town-led and partner-led. The LTCRP is centered around a consensus vision and goals generated by community members through outreach efforts. Projects proposed in the LTCRP include road evaluation and rehabilitation, a walkable downtown, reseeded the town, broadband services, public safety, and much more. In 2022, the LTCRP was updated to reflect new priorities and projects in the Town's recovery.

The LTCRP and any updates can be found at this location: <https://www.townofparadise.com/recovery>.

Town of Paradise Transportation Master Plan

Funded by a United States Economic Development Administration (EDA) grant, the Town of Paradise Transportation Master Plan (TMP) is a foundational document that guides the Town of Paradise's (Town) recovery through transportation initiatives and strategies consistent with the Town of Paradise LTCRP. The TMP is a critical step to both the Town's short-term recovery and vibrant long-term future. The TMP includes a comprehensive analysis of the Town's transportation daily needs, as well as recommend gap closures to strengthen future traffic evacuation demands. Additionally, the TMP considers how travel within the community can benefit from dedicated sidewalks and bikeways, and how transportation improvements can increase safety and support economic growth. The TMP will help to ensure safe, modern travel options, and efficient evacuation routes for the Town's residents, business owners, and visitors.

The TMP can be found at this location: <https://www.townofparadise.com/pwe/page/transportation-recovery-efforts>.

Town of Paradise – Other General Plan Elements

The Safety Element is one of the required elements of a general plan in California. State law requires that “the general plan and elements and parts thereof comprise an integrated, internally consistent, and compatible statement of policies.” The Safety Element is being updated concurrently with the Housing Element. The Housing Element for 2022-2030 was adopted in 2022. The remainder of the Town of Paradise General Plan was adopted in 1994 and last amended in 2008. A comprehensive update of the remaining elements of the General Plan is proposed for 2023-2025.

Several Safety Element goals and policies are related to topics and policies in other general plan elements, including the Land Use, Circulation, Housing, and Open Space/Conservation/Energy Elements. Goals and policies most relevant to the Safety Element are listed below.

- LUP-2 The environmental and infrastructure constraints analysis system should be used to determine future zoning classifications, densities, and intensities of land use and to evaluate future development projects.
- LUG-8 Assure that law enforcement and fire protection services are enhanced sufficiently to meet the demands of new and existing land use development.
- LUP-14 Growth and land use development should be linked to the availability of public services and facilities, and to the degree of overall infrastructure and environmental constraints affecting property in the town.
- LUP-20 New land use development shall not cause the levels of police and fire protection to fall below the service levels established by this plan.
- LUG-10 Encourage infill development consistent with open space needs, neighborhood character and infrastructure capacity.
- LUG-13 Designate appropriate areas for high density residential use and for institutional and public uses in centralized and convenient locations.
- LUP-27 The town shall create a Central Commercial area generally bounded by Skyway, the Paradise Memorial Trailway, Elliott Road, and Pearson Road, evidencing the following: ready access from a variety of directions, visibility, established businesses, available developable land, and sufficient infrastructure planned or in place to support a more concentrated form of activity.
- LUP-82 Proposed development projects in the tertiary planning area shall acknowledge potential high wildland fire hazards, and include a comprehensive approach to regional fire protection, consistent with State and local fire protection laws and standards.
- OCEI-9 Establish open space, resource conservation, or low density rural residential zoning on sensitive (environmentally constrained) lands, such as areas of resource production, stream corridors and slopes greater than 30 percent.
- OCEI-25 Eliminate leaf burning after establishing a program for disposing of yard waste in an environmentally sensitive manner.
- CG-4 Provide adequate access, including access for emergency vehicles and evacuation, to all new parcels and to existing parcels when feasible.
- HG-2 Improve, rebuild, and preserve safe, decent housing and neighborhoods for all Paradise residents, including preparation for wildfire resiliency.

Paradise Household Hazardous Waste Element

In accordance with the requirements of State law, the Town of Paradise adopted a Household Hazardous Waste Element (HHWE) in 1992, which is

hereby incorporated by reference into this Safety Element.

Town of Paradise Emergency Operations Plan

The Town of Paradise Emergency Operations Plan (EOP) addresses the Town's planned response to extraordinary emergency situations associated with natural disasters, technological incidents, and national security emergencies in or affecting the Town of Paradise. The plan does not apply to normal day-to-day emergencies or the established departmental procedures used to cope with such emergencies. Rather, this plan focuses on operational concepts and would be implemented relative to large-scale disasters that can pose major threats to life, property, and the environment requiring unusual emergency responses. The plan establishes the emergency management organization required to mitigate any significant emergency or disaster and identifies the roles and responsibilities required to protect the health and safety of Paradise residents and public and private property. The plan also establishes the operational concepts associated with a field response to emergencies, the Town of Paradise Emergency Operations Center (EOC) activities, and the recovery process.

The Emergency Operations Plan can be found at this location: <https://www.townofparadise.com/community/page/emergency-operations-plan>.

Paradise Skypark Airport Land Use Plan

The Paradise Skypark Airport is a privately owned and operated general aviation airport located south of the Town limits between Neal Road and Pentz Road. Land uses around airports are subject to the limitations established by the Airport Land Use Commission (ALUC) through the adoption of Airport Land Use Compatibility Plans.

The Butte County Airport Land Use Compatibility Plan adopted by the ALUC provides compatibility criteria for use by local jurisdictions in preparing land

use plans and ordinances and review of proposed development. The Airport Influence Area extends up to approximately one mile into the Town of Paradise (approximately 1.8 miles from the north end of the runway). The Butte County Airport Land Use Compatibility Plan is hereby adopted by reference into this Safety Element.

The Butte County Airport Land Use Compatibility Plan can be found at this location: <https://www.buttecounty.net/541/Airport-Land-Use-Commission-ALUC>.

COMMUNITY PROFILE

Incorporated in 1979, the town of Paradise is located at the juncture of the western slopes of the Cascade and Sierra Nevada systems in north central Butte County. Topography and drainage patterns have had a major influence on development patterns in the area. This area is defined by steep canyons—to the east by the West Branch of the Feather River drainage, and to the northwest by the Butte Creek-Little Butte Creek drainage. The town of Paradise is accessible via Skyway, State Highway 191, Neal Road, and Pentz Road from the south. Skyway is the main entrance to town from the north. Paradise occupies an area identified as the Lower Ridge, which ranges from 2,200 feet in elevation in the north to 1,500 feet in elevation at the town's southern boundary. The area encompassing Paradise has a hot-summer Mediterranean climate.

Originally settled during the Gold Rush era, the Town of Paradise and surrounding area grew very slowly during the first half of this century. Paradise is predominately residential in character, and most of its dwelling units are single-family units. Multi-family units, at densities ranging from 8 to 12 units per acre, are found primarily in central Paradise, near commercial uses, and along major arterial streets. The Town's central business district consists of a narrow band of commercial uses along both sides of Skyway generally between Pearson Road and Elliott Road and stretching as far east as Black Olive Drive. The Town contains relatively little industrial

development. Agricultural uses, including vineyards, orchards, and grazing land, are located primarily in the southern third of the town.

The population of Paradise remained relatively constant, within a few hundred people, between 2000 and 2018. The Town was projected to reach a population of 29,547 by 2030, a growth rate of less than 1 percent per year, which is about half as much growth as was expected for the County. However, according to California Department of Finance estimates, the 2018 Camp Fire led to a population decrease from 26,581 as of January 1, 2018 to 4,474 as of January 1, 2019. Population has since increased to 9,142 as of January 1, 2023.

Historically, the highest percentage of jobs in Paradise and Butte County have been in Health & Education Services at 31 percent and 26 percent, respectively. Between 2002 and 2015, the number of jobs in Paradise increased by 17 percent, and then dropped again by 7 percent between 2015 and 2018. After the 2018 Camp Fire, many jobs, especially related to the hospital, were lost or moved elsewhere in the County due to the destruction caused by the fire.

Paradise's housing stock in 2015 was made up of 69 percent single-family detached homes, 16 percent mobile homes, and 9 percent multi-family homes with 2 to 4 units. The Camp Fire led to significant decreases in all housing stock, from 13,091 units in 2018 to 1,720 in 2019 to 4,365 in January 2023 according to the California Department of Finance. In 2023, the housing stock consisted of a 66 percent single-family detached or single-family attached homes, 15 percent multi-family homes with 2 to 4 units, 6 percent multi-family homes with five or more units, and 13 percent mobile homes.

Transportation within and around Paradise is predominately done by private vehicle. North to South circulation is provided by four main streets: Skyway, Neal Road, Clark Road, and Pentz Road. Circulation east to west is more constrained, as there is not one road that crosses the entire town's

diameter. Larger east to west roads include Wagstaff Road, Bille Road, Elliott Road, and Pearson Road. The Town of Paradise uses a great number of private streets as local streets. Development patterns have resulted in narrow, substandard streets with deteriorated lanes, which affects access for fire and police protection. The Butte Regional Transit (B-Line) is the regional public transit system. B-Line routes 40 and 41 serve Paradise with service to Chico and Magalia.

As previously mentioned, the existing development in Paradise is primarily single-family homes, followed by small multi-family buildings (i.e., duplexes, triplexes, and fourplexes). Through the Regional Housing Needs Allocation process, the Town has been assigned 7,179 housing units for which it has to plan for the 2022-2030 planning period. The Housing Element envisions reaching this number with increased density along Skyway and Clark Road where a sewer system is planned in addition to the rebuilding of single-family homes lost to the Camp Fire.

HAZARD PROFILES

This section outlines the existing hazardous conditions and other public safety issues in Paradise. Consistent with State law, the hazard events discussed include those related to fires, geologic and seismic hazards, flooding, hazardous materials, climate change related severe weather (e.g., extreme heat, power shutoffs), and drought. This section also discusses emergency preparedness.

Each of the identified hazards includes a discussion of the existing conditions, past examples of the hazard in and around Paradise, and the regulatory setting and responsible agencies associated with the hazard.

FIRE HAZARDS

Given its combination of complex terrain, Mediterranean climate, and ample natural ignition sources from productive natural plant communities,

California is a very fire-prone area. In addition, utilities have frequently been the cause of wildfire, including in the case of the Camp Fire where a spark from an aging power line was determined to have started the blaze.

Existing Conditions

Wildland fire is an ongoing concern for the Town of Paradise, as exemplified by the Camp Fire in 2018. Generally, the fire season extends from early spring through late fall of each year during the hotter, dryer months. Fire conditions arise from a combination of high temperatures, low moisture content in the air and fuel, accumulation of vegetation, and high winds. Throughout California, communities are increasingly concerned about wildfire safety as increased development in the foothills and mountain areas and subsequent fire suppression practices have affected the natural cycle of the ecosystem.

The topography of the town contributes to the fire hazards. Paradise is flanked by steep canyons to the northwest and east sides of the community and intermediary drainages to the south. At the southern end of Paradise, 1,600-foot elevation wildland fuels consist of light grass and brush with residential structures intermixed within the wildland fuels. The wildland fuels transition to heavy brush in the adjoining canyons and conifer forests through the majority of town to the northern extent at 2,300-foot elevation.

The climate in Butte County is Mediterranean which means summer conditions are warm, dry, and often accompanied by wind. The topography, fuel conditions, and Mediterranean climate combine to make the town of Paradise and surrounding areas of Butte County at high risk for wildfire. This coupled with the relatively moderate residential population of Paradise and the surrounding area present a unique wildland urban interface firefighting problem. The

Town can best be described as a mix of relatively high-density wildland urban interface environment where structures on the northwest and eastern sides of town abruptly adjoin the wildland, and on the southern end of town, a moderate density wildland urban intermix where homes are intermixed with the wildland vegetation.

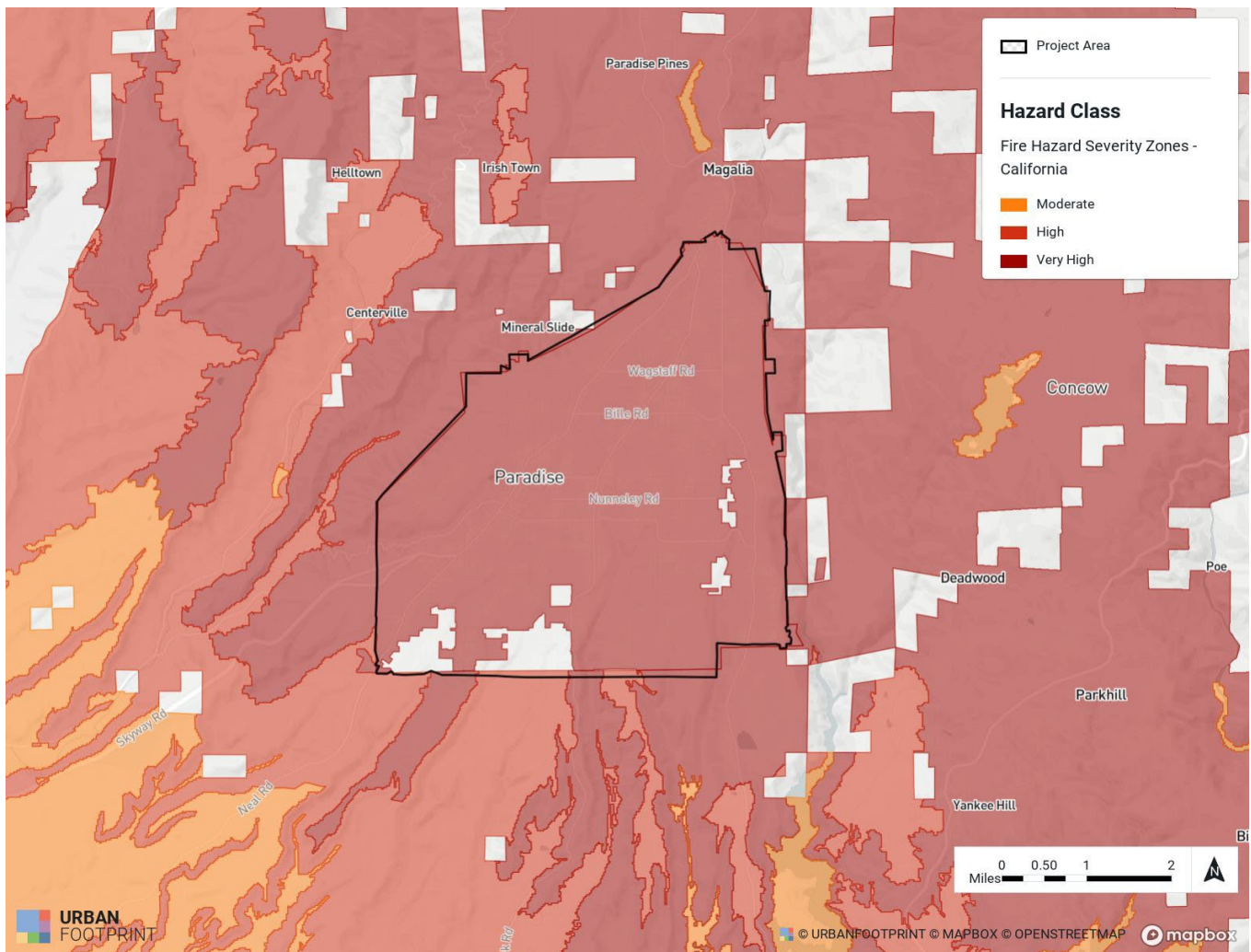
CAL FIRE is required by Government Code Section 51178 to map areas of moderate, high, and very high fire hazard severity zones based on “fuel loading, slope, fire weather, and other relevant factors including where winds have been identified...as a major cause of wildfire spread.” These designations, referred to as Fire Hazard Severity Zones (FHSZ), mandate how people construct buildings and protect property to reduce risk associated with wildland fires. There are three zones, based on increasing fire hazard: medium, high, and very high. Maps of the FHSZs are provided by the California Department of Forestry and Fire Protection’s Fire and Resource Assessment Program (FRAP). FRAP issues maps for Local Responsibility Areas (LRA) such as Paradise and State Responsibility Areas (SRA).

As shown in Figure 3 below, wildfire threat as identified by the FRAP maps within the town is almost entirely Very High Fire Hazard Severity Zone (VHFHSZ). Some areas along the southern boundary of the Town and along the Dry Creek west of Pentz Road are non-VHFHSZ.

Although a few areas are not designated VHFHSZ by the FRAP maps, the Town, by local ordinance, has designated the entire town in a VHFHSZ concurrently with the adoption of the California Building Standards Code. The Camp Fire showed that the whole town has extreme fire risk and based on professional opinion, the entire region known as the Ridge (e.g., Paradise, Concow, Magalia, Pulga) has extreme fire hazard severity potential.¹

¹ Lunder, Zeke, Founder and Pyrogeographer, 2021. Personal communication with Deer Creek Resources, November 4.

Figure 3: Fire Hazard Severity Zones



Source: California Department of Forestry and Fire Protection, Fire and Resource Assessment Program (FRAP), Fire Hazard Severity Zone Map for Paradise (<https://osfm.fire.ca.gov/divisions/community-wildfire-preparedness-and-mitigation/wildfire-preparedness/fire-hazard-severity-zones/fire-hazard-severity-zone-maps/>).

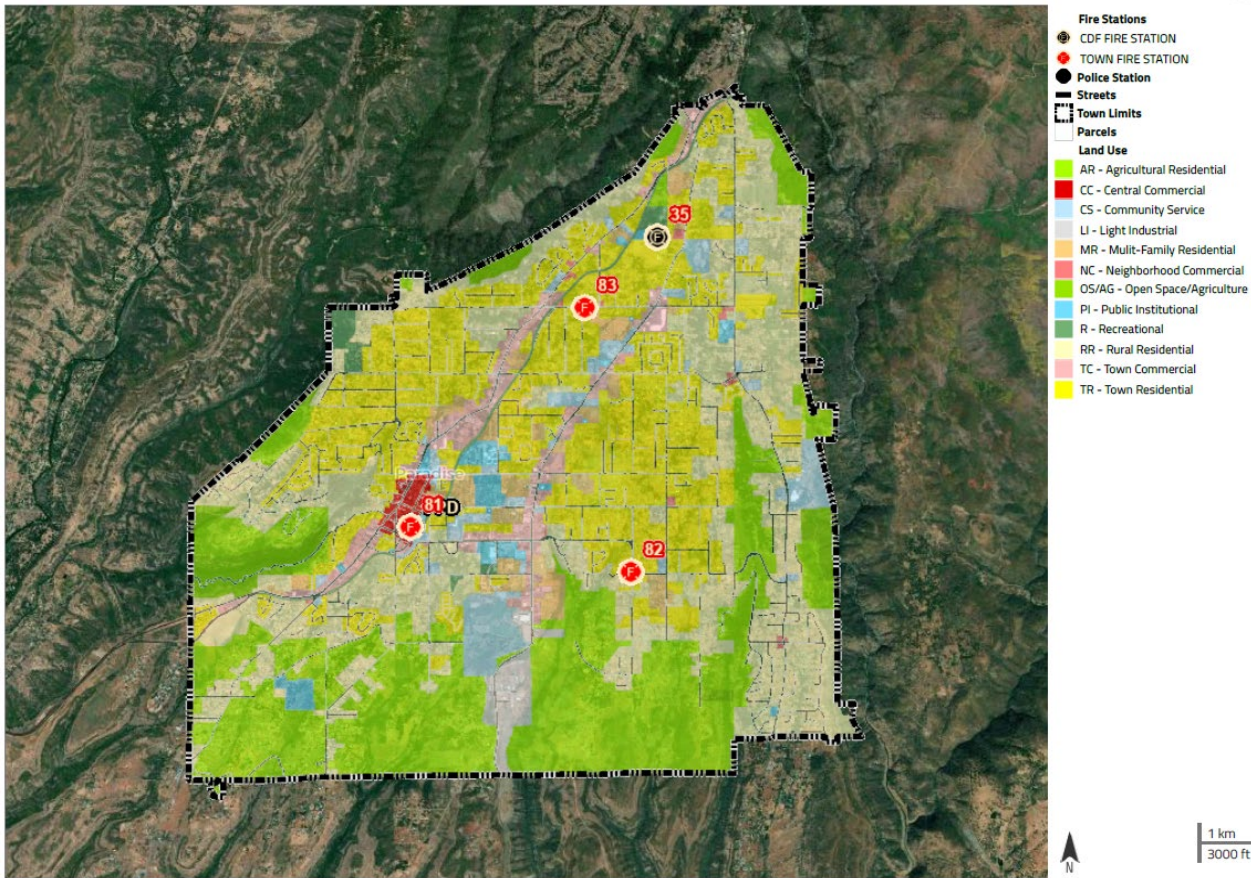
Critical facilities, such as Police and Fire Stations, as located along primary evacuation routes and are therefore in accessible locations. There are no areas of the Town lacking service. Figure 4 shows the General Plan Land Use designations, Police and Fire Stations.

The Town’s interactive geographic information system (GIS) including zoning, land use and other information can be found here: <https://www.townofparadisemapping.com/>.

Fire Hazard Severity Zones Maps for both LRAs and SRAs can be found here: <https://osfm.fire.ca.gov/divisions/community-wildfire-preparedness-and-mitigation/wildfire-preparedness/severity-zones/fire-hazard-severity-zone-maps/>.

Areas designated VHFHSZ are subject to more stringent requirements for buildings and property maintenance. California’s wildland building codes (CBC Chapter 7A) apply to the design and construction of new buildings located in VHFHSZs in Local Responsibility Areas. Local ordinances may require ignition-resistant construction for remodel

Figure 4: General Plan Land Use and Critical Facilities



Source: Town of Paradise, 2023 (see: <https://www.townofparadisemapping.com/>).

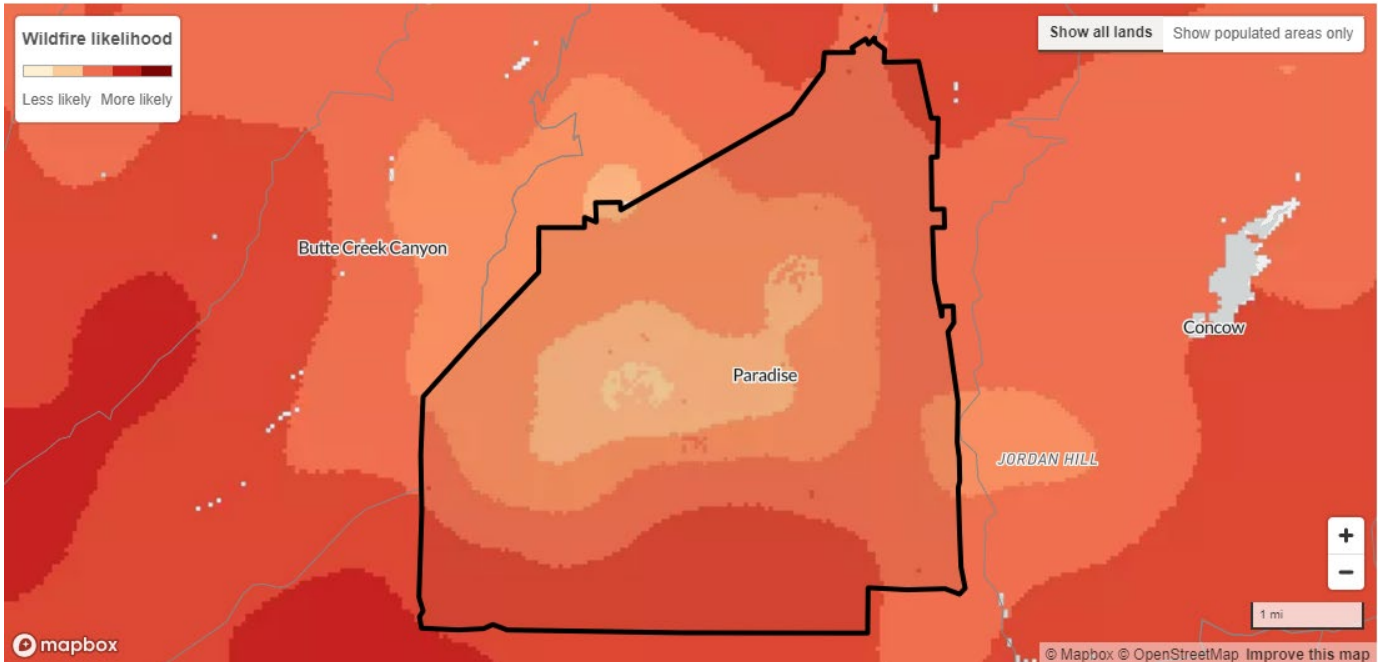
projects. The Town considers any additions or remodels to be new construction and therefore subject to wildland building codes when 50 percent or more of the exterior weight bearing walls are removed or demolished. In addition, [Government Code Section 51182](#) calls for defensible space clearance and other wildland fire safety practices for buildings. Owners are also required to make a natural hazard disclosure as part of a real estate transfer. Beginning July 1, 2021, California Assembly Bill 38 (AB 38, 2019) requires all homes in a High or VHFHSZ to be compliant following a Defensible Space Inspection.

Another resource to help understand wildfire risk is the [Wildfire Risk to Communities maps](#) provided by

the USDA Forest Service. These maps are based on a variety of data, including vegetation and fuels from LANDFIRE, weather from the national Weather Service and community data from the U.S. Census Bureau. Figure 5 shows the Wildfire Hazard Potential for Paradise using these datasets. Compared to the CAL FIRE FHSZ maps, this map shows more areas of lower risk. Many of the lower-risk areas to the east around Concow were mapped as lower hazard because of the presence of the 2008 fire scar there. This assumption (recent burns will have lower severity fire) was not borne out by the Camp Fire. Fire experts recommend looking at potential future vegetation, not just existing conditions and for this reason, caution against considered areas on the Ridge as low fire risk.²

² Ibid.

Figure 5: Wildfire Likelihood



Source: U.S. Department of Agriculture Forest Service, Wildfire Risk to Communities, 2023.

Historical Data

The 2018 Camp Fire was the most destructive and deadliest fire in the State’s history up to that point.³ Fire was first reported around 6:30 a.m. on November 8 near Poe Dam and grew rapidly given extreme (up to almost 50 mph) winds, entering the Town of Paradise by 8:00 a.m. The Butte County Fire Department issued an evacuation order for the entire town, but many residents of Paradise were unable to evacuate before the fire arrived. Failures in the emergency alert system, including the loss of 17 cell towers, compounded the danger of the situation. Four at-risk areas in the town were not notified of evacuation orders due to human error and a technical error led to 94 percent of residents in some areas not being notified of emergency alerts.

In its first week, the fire burned tens of thousands of acres per day. The western half was contained once

the fire reached highway and roadway arteries that formed barriers, but the eastern half continued to burn into a second week. Heavy rain fell starting on November 21 which helped contain the fire, and on November 25, CAL FIRE declared it 100 percent contained. The counts of structures damaged and destroyed in the Town of Paradise are provided in Table 1.

TABLE 1: TOWN OF PARADISE - STRUCTURES DAMAGED IN THE CAMP FIRE BY LEVEL OF DAMAGE

Damage Assessment	Damaged Structure Count	% of Total Structure Count
Destroyed (>50%)	14,352	86.9%
Major (25-50%)	18	0.1%
Minor (10-25%)	69	0.4%
Affected (1-9%)	449	2.7%
No Damage	1,633	9.9%
Town of Paradise Total	16,521	100%

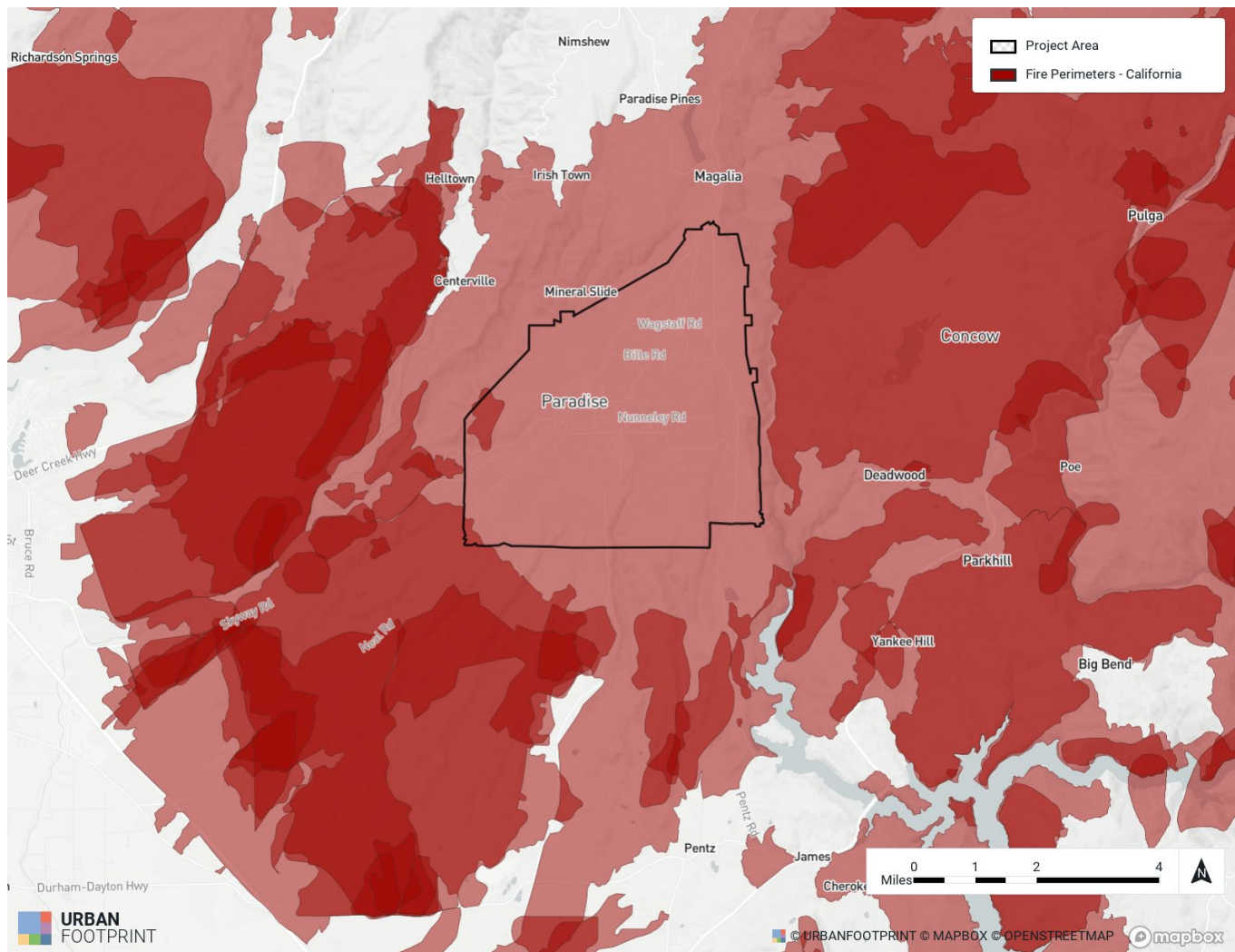
Source: CAL FIRE, Camp Incident Damage Inspection Report (DINS) November 26, 2018.

³ Butte County Office of Emergency Management, Butte County Camp Fire Response County-Wide After Action Report, August 2020, p. 5.

In addition to the Camp Fire, there have been multiple wildfires over the years in and near the Town, as noted in the LHMP. More details including maps of previous fires are contained in the LHMP Volume 1. The previous fires in and near the Town of Paradise are shown in Figure 6 and summarized below.

- August 26, 2016 – Santos Incident. A small fire occurred off Highway 32 at Santos Ranch Road, south of Forest Ranch. Evacuation warnings were issued, but the fire was contained before evacuations became necessary.
- September 6, 2016 – Saddle Fire. On September 5, a fire was started off Pentz Road and Lime Saddle Road south of the Town of Paradise. Sparks from a malfunctioning exhaust started the blaze. Evacuation orders were issued for residents on both sides of Pentz Road from Lago Vista to Messilla Valley Road. Evacuation shelters were opened, as were animal shelters. The blaze consumed 850 acres before being contained, causing three injuries and destroying three structures.

Figure 6: Map of Historical Fires



Note: Darkness of red indicates overlap of multiple fires. Note that the severity of the fire is not shown here, only its perimeter.

Source: California Department of Forestry and Fire Protection, Fire and Resource Assessment Program (FRAP), Map of Fire Perimeters, 2022.

- July 2, 2017 – De Sabla Incident. A small fire occurring in the vicinity of De Sabla Powerhouse Rd and Humbug Rd. The fire burned 14 acres.
- October 10, 2017 – Honey Fire. Active for 91 days, 150 acres burned.
- December 12, 2017 – Fire vicinity of Clark and Bille.
- September 24, 2018 – NimsheW Incident. A small fire occurred in the vicinity of NimsheW Road and Centerville Road. The fire burned 33 acres and was active for 102 days.
- November 8, 2018 – Camp Fire. Active for 229 days, 153,336 acres burned, 18,793 structures, 85 fatalities.

According to data from Urban Footprint, the Camp Fire had the most destruction, relatively speaking, on residential buildings built in 1911-1920 (95 percent of these structures were destroyed) and 1951-1961 (92 percent of structure destroyed). Newer construction tended to fare better. In 2008, Chapter 7A of the California Building Code was adopted, which requires certain fire resistance measures in fire hazard severity zones. Of the residential structures built between 2001-2010, 71 percent of structures were destroyed and 63 percent of residential structures built between 2011 and 2016 were destroyed, compared to an overall destruction rate of 86 percent for the residential building stock in general. However, research has found that the difference in survival percentage for homes built before and after adoption of Chapter 7A is not statistically significant. Instead, the following factors were strongest predictors of home survival: distance to nearest destroyed structure, number of structures destroyed within 100 meters, and pre-fire overstory tree canopy within 100 meters.⁴

⁴ Knapp, Erik et al, 2021. Housing Arrangement and Vegetation Factors Associated with Single-Family Home Survival in the 2018 Camp Fire, California. Available at

Regulatory Setting/Responsible Agencies

Town of Paradise Fire Department / CAL FIRE)

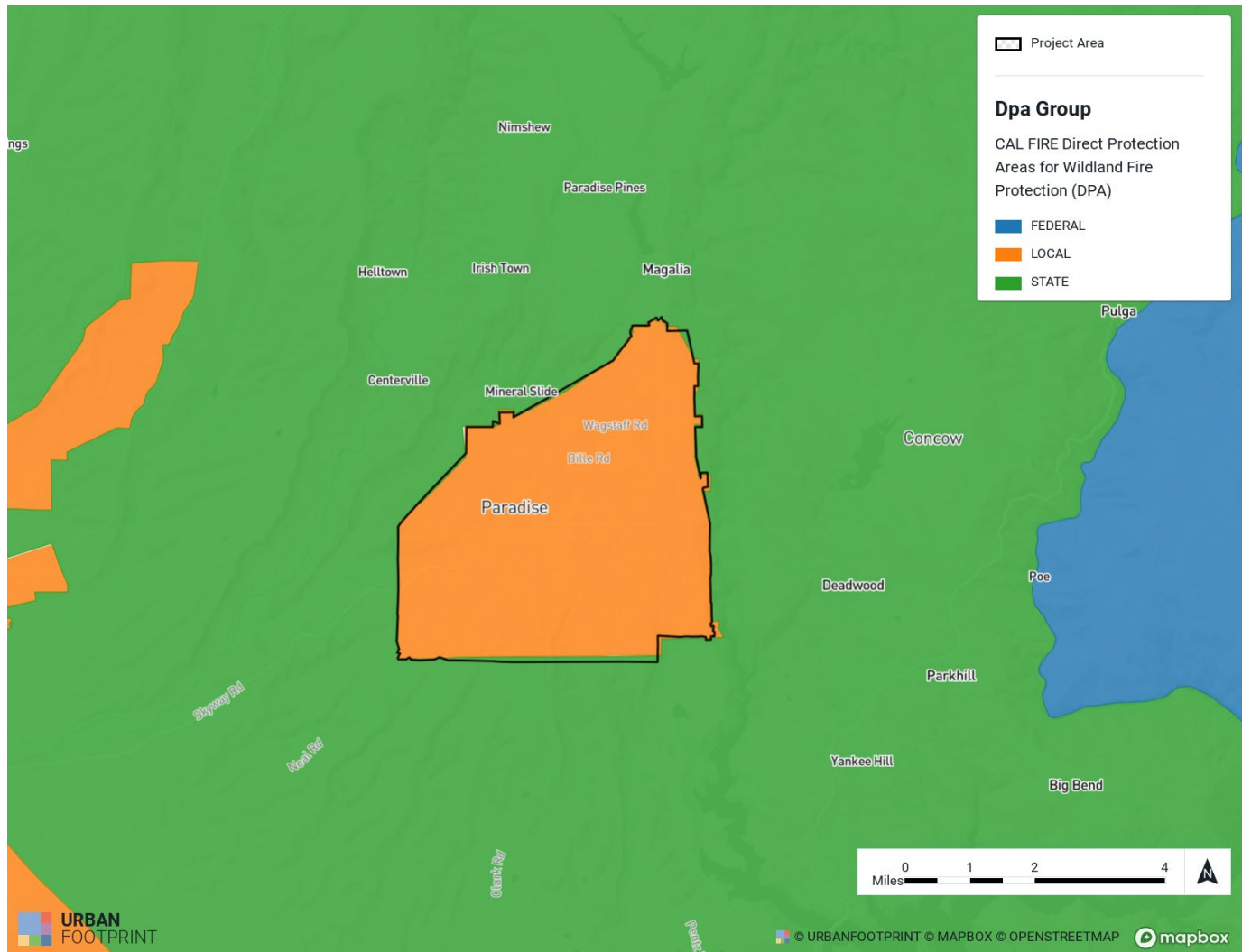
The Town of Paradise and CAL FIRE provide fire protection services through a cooperative agreement. By contracting with CAL FIRE, the Town is able to staff two fire stations with three-person engine companies, and one station with a two-person engine company. In addition to the Town’s resources, CAL FIRE maintains their own stations in Paradise and the neighboring community of Magalia. These resources are available to assist with the Town’s fire protection efforts as necessary. The Town of Paradise employs two fire prevention inspectors, fire marshal, and administrative assistant for the fire department. The Town also utilizes citizen volunteer firefighters.

Paradise’s fire chief (or his/her designee) is responsible for enforcing Chapter 8.58 Defensible Space and Hazardous Fuel Management of the Paradise Municipal Code. This includes inspecting properties, requesting records, and filing notices and public nuisance abatements in order to rectify violations.

The Direct Protection Area (DPA) map in Figure 7 identifies who responds when a fire breaks out. CAL FIRE is responsible for emergency response, fire suppression, and fire prevention in the State Responsibility Area (SRA). The Town of Paradise is bordered entirely by SRA, as shown in Figure 7. Maps maintained by the State illustrate Federal Responsibility Areas (FRA) in addition to SRAs. The [SRA viewer](#) illustrates who pays for firefighting on a given acre. For example, the State would respond to fires on the Bureau of Land Management (part of the U.S. Department of Interior) lands outside Paradise, but the Federal government pays for the costs of fire suppression

<https://fireecology.springeropen.com/articles/10.1186/s42408-021-00117-0>, October 4.

Figure 7: CAL FIRE Direct Protection Areas



Source: California Department of Forestry and Fire Protection, Fire and Resource Assessment Program (FRAP), Map of State Responsibility Areas, 2022

Town of Paradise Building Department

The Town of Paradise Building Department is responsible for ensuring that building code and local requirements for fire resilient structures are included in new and remodeled buildings. The Town of Paradise has adopted changes to the California Building Standards Code based on the town’s climatic, geologic, and topographical conditions. The Town’s local amendments include requirements for automatic fire sprinkler systems, ignition-resistant roofing materials, ignition-resistant outbuildings, and non-combustible gutters.

In 2022, the Town adopted requirements for new construction that are consistent with the Wildfire Prepared Home program for single-family homes developed by the Insurance Institute for Business and Home Safety (IBHS). These requirements address:

- Home Ignition Zone – The first 5 feet around the home is noncombustible.
- Accessory structures and outbuildings, including a minimum 10-foot separation.
- Enclosing decks or porches 4 feet or less above the ground.

- Non-combustible fencing within 5 feet of the home and eliminating back-to-back fencing.

The updated LTCRP calls for adoption of the Wildfire Prepared Home Multifamily and Wildfire Prepared Community standards when they are completed.

Retrofitting and maintenance of existing homes for fire safety are encouraged or required by a number of programs, including:

- Town of Paradise Defensible Space Requirements
- Wildfire preparedness programs of Paradise Ridge Fire Safe Council and Butte County Fire Safe Council

Butte County Safe Fire Council

The Butte County Fire Safe Council (BCFSC) formed in 1998 and is Butte County’s largest ally in educating and assisting the public with wildfire preparedness.

The BCFSC is a non-profit community organization funded by grants and community donations. The organization operates in cooperation with local, State, and federal fire agencies throughout Butte County.

The BCFSC is the “parent” organization to several active local fire safe councils, including the Paradise Ridge Fire Safe Council, and nationally recognized FIREWISE Communities throughout the County. The BCFSC Board of Directors is comprised of representatives from the local councils and representatives of many public and private stakeholders throughout Butte County. The organization staff help implement projects, connect with community members, and leverage partnerships.

Peak Load Water Supplies

In order to have effective fire suppression capability, it is necessary to have an adequate and reliable supply of water. The Paradise Irrigation District (PID) provides water to most areas of the Town of Paradise. The PID obtains its surface water from the

Little Butte Creek watershed and a single groundwater well. A few small areas near the edges of the Town limits are served by Del Oro Water Company.

The PID’s distribution system suffered severe damage from the 2018 Camp Fire and related clean-up activities. The 2020 [Urban Water Management Plan](#) (UWMP) for the PID states that the PID will continue to rely on their existing water rights post Camp Fire as the quality and availability of these surface water supplies has remained unaltered. The UWMP states that as regrowth of the Town continues, PID is actively working toward the reconstruction and recovery of critical infrastructure as well as ways to increase the reliability and quantity of available supply for the future. PID continues to work on the rehabilitation of the water distribution system. Two major projects were completed in 2023, including the two new 1.5 million gallon tanks that replaced Reservoir B and a new waterline from the treatment plant to Reservoir A. The largest components of the recovery work include replacing the main pipelines, water meters, and service laterals which will take several years to complete.

The UWMP found that the supply and drought risk assessment do not anticipate a water deficit for a single-year or for a five-year consecutive drought in the near term or long term.

GEOLOGIC AND SEISMIC HAZARDS

Seismic and geologic hazards are caused when different part of the Earth’s crust move. Seismic hazards refer to earthquakes whereas geologic hazards are related to unstable soils, minerals in the soil, or certain ground formations. Landslides and soil erosion are examples of geologic hazards.

Existing Conditions

The State of California has identified five areas of critical seismic concern including surface ruptures, ground shaking, ground failure, tsunamis, and seiches. Each of these is caused by earthquake activity thereby creating hazards for life and

property, which has the potential anywhere in California. Paradise is not at risk for tsunamis or seiches due to its inland location and the absence of nearby large bodies of water. Earthquakes can also cause liquefaction. Liquefaction is a process whereby soil is temporarily transformed to a fluid formed during intense and prolonged ground shaking.

The amount of energy released during an earthquake is usually expressed as a magnitude and is measured directly from the earthquake as recorded on seismographs. Seismologists have developed several magnitude scales, as discussed in Section 4.2.9 of the LHMP. The [Richter Scale](#) is used to quantify the magnitude or strength of the seismic energy released by an earthquake, expressed in whole numbers and decimals (e.g., 6.8). Another measure of earthquake severity is intensity. The [Modified Mercalli Intensity \(MMI\) Scale](#) is an expression of the amount of shaking at any given location on the ground surface, rated from I to XII. Seismic shaking is typically the greatest cause of losses to structures during earthquakes.

There are a number of faults within Butte County and a large number of relatively nearby faults that could be considered potentially active, based either on the fairly restrictive criteria developed by the California Geological Survey. These faults are detailed in the Butte County LHMP beginning on page 4-82 and shown in Figure 8 to include the following near the Town of Paradise:

- **Magalia Fault.** The Magalia Fault is located near the northern end of the Foothill Fault System, a system of northwest trending east dipping normal fault formed along the margin of the Great Valley and the Sierra Nevada provinces. The DSD, based on Fault Activity Guidelines in 2001 reclassified the Magalia Fault as conditionally active. The Paradise Irrigation District commissioned a study by Holdrege & Kull, dated January 2007 to evaluate the Magalia Fault.
- **Foothills Shear Zone.** The Foothills shear zone extends into southern Butte County. A possible

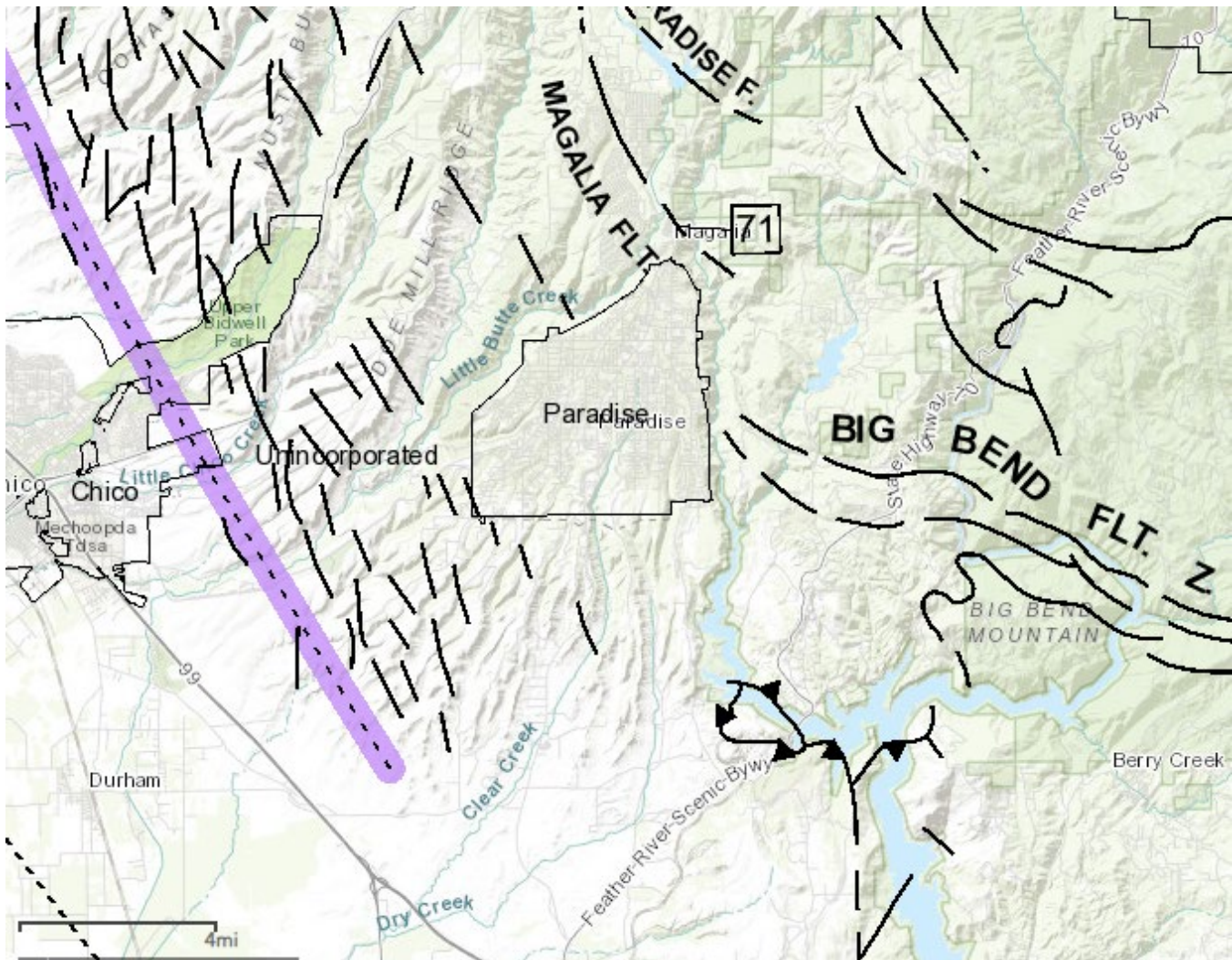
magnitude 7.0 earthquake in this zone would result in intensities as high as IX in Butte County.

Since earthquakes are regional events, the whole of the town is at risk to earthquake. However, Paradise and the surrounding area are relatively free from significant seismic and geologic hazards. There are no known or inferred active faults within the town. The only known active fault in Butte County is the Cleveland Hills fault, the site of the August 1975 Oroville earthquake. This earthquake had a Richter magnitude of 5.7. Due to the proximity of the Town to the nearby Cleveland Hills Fault, the Town can expect low to medium intensity shocks from time to time.

In 2016, the USGS and the California Geological Survey (CGS) released an update of the time-dependent version of the Uniform California Earthquake Rupture Forecast (UCERF III) model. The UCERF III results have helped to reduce the uncertainty in estimated 30-year probabilities of strong ground motions in California. The UCERF III map is shown in Figure 4-40 of the Butte County LHMP and indicates that Butte County has a low to moderate risk of earthquake occurrence, which coincides with the likelihood of future occurrence rating of occasional. This is consistent with Figure 9 below, which shows the expected relative intensity of ground shaking and damage in Paradise and its surroundings from anticipated future earthquakes. Shaking potential is calculated as the level of ground motion that has a 2 percent chance of being exceeded in 50 years.

Similar to earthquakes, the town is at risk of occasional landslides. The areas surrounding the town are where the topography most dramatically changes and are at greater risk to landslide. Figure E-9 and Table E-26 of the Butte County LHMP Paradise Annex show the geographical extent of land in landslide potential areas. The majority of the town is in the low to moderate susceptibility category.

Figure 8: Map of Faults



Source: California Department of Conservation, Fault Activity Map of California, 2010.

Historical Data

Historical data on earthquakes Magnitude 5.0 or greater within 90 miles of Butte County is contained in the Butte County LHMP base plan. The largest of these was the August 1, 1975 Oroville Earthquake at 5.7 Richter magnitude. Structural damage, consisting mainly of cracks in chimneys and walls, broken windows and plaster, and loosened light fixtures occurred at several schools, hospitals, and houses in the Oroville-Thermalito area. Many chimneys toppled or had to be taken down in Oroville and Palermo. Property damage was estimated at \$2.5 million.

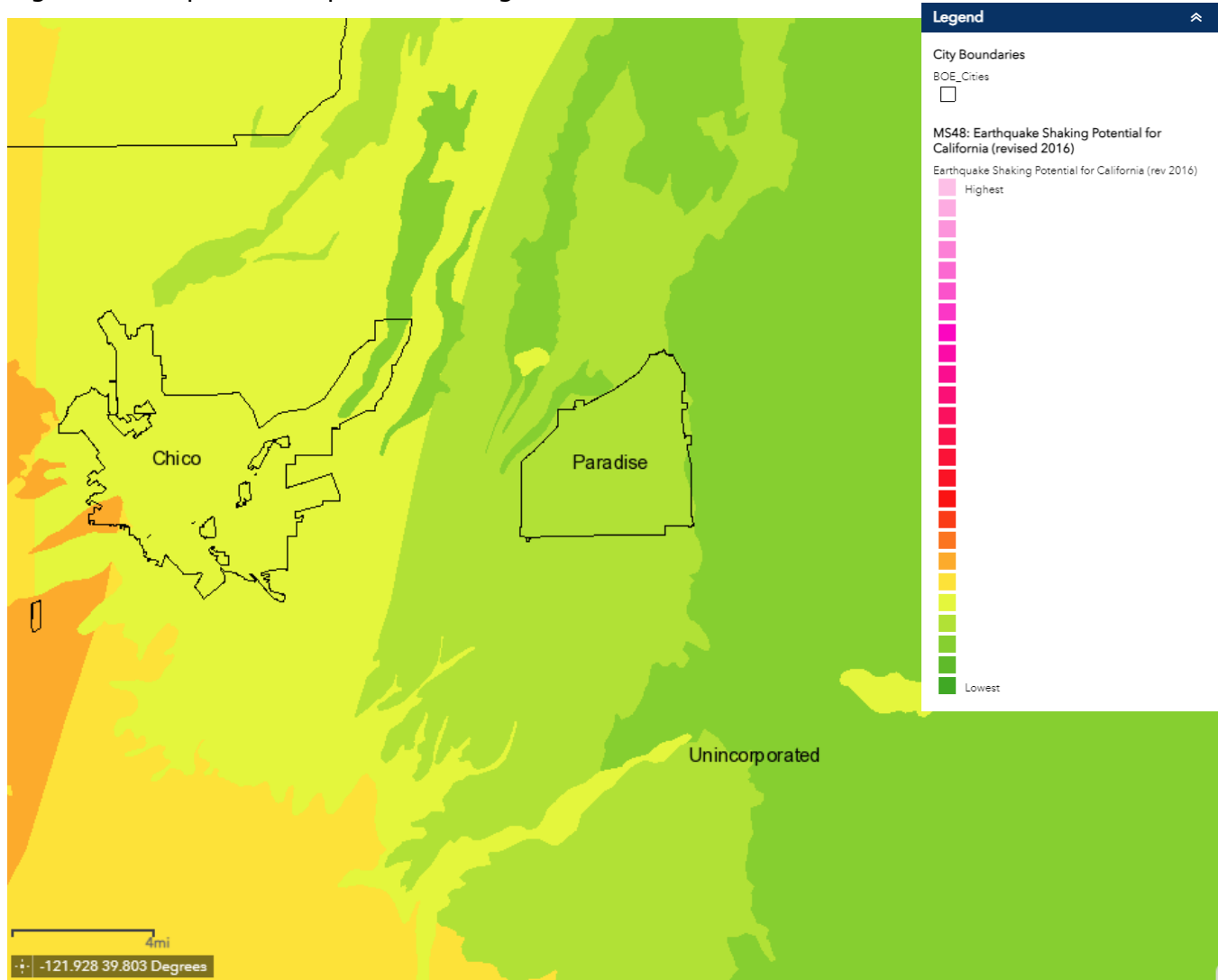
Paradise does not have any significant past occurrences of landslides or mudslides.

Regulatory Setting/Responsible Agencies

Uniform Building Code

The Uniform Building Code (UBC) identifies four seismic zones in the United States. The zones are numbered one through four, with Zone 4 representing the highest level of seismic hazard. The UBC establishes more stringent construction standards for areas within Zones 3 and 4. All of California lies within either Zone 3 or Zone 4. The town of Paradise is within Zone 3.

Figure 9: Map of Earthquake Shaking Potential



Source: California Department of Conservation, 2016.

Town of Paradise Building Department

The Building Department is responsible for ensuring the UBC is followed for new and renovated structures.

California Division of Safety of Dams (DSOD)

Also of concern during an earthquake event are the various dams located near the town of Paradise. The DSOD regulates dams to prevent failure, safeguard life, and protect property. The DSOD inspects each dam on an annual basis.

FLOODING

Floods are usually caused by large amounts of precipitation, either from a period of very intense precipitation or a long period of steady precipitation. In addition to storms, floods can also be caused by very rapid snow melting or from infrastructure failure, such as dam collapses or burst water storage tanks.

Existing Conditions

Paradise’s location on a ridge makes it less susceptible to flooding and thus it does not have any

designated flood hazard areas as depicted on the Federal Emergency Management Agency (FEMA) [Digital Flood Insurance Rate Map \(DFIRM\)](#). The entire Town of Paradise is located outside both the 1 percent and 0.2 percent annual chance flood zone as defined by FEMA. (See Figure E-7 in the Butte County LHMP Paradise Annex.) Any flooding that occurs is localized in nature, resulting from a temporary lack of capacity or blockage of a drainage basin.

According to the Butte County LHMP Paradise Annex, dam failure is unlikely in the town and limited in severity. See Table 4-72 of the Butte County LHMP for dam counts and inundation classifications. The Paradise Dam north of the town is considered an Extremely High Hazard dam for inundation, but the inundation area is completely outside of the town limits (see Figure 4-95 of the Butte County LHMP). Paradise Irrigation District's 2012 Water System Emergency Response plan includes an Emergency Action Plan for dam failure.

Although not mapped as a flood event by FEMA, there have been smaller, more frequent storm events, that have led to flooding of streets, homes, and buildings. During the Camp Fire, numerous culverts within Paradise were destroyed as a result of the wildfire. An On-System Culvert Replacement is one of the Infrastructure Recovery Projects identified by the Town. This project is in process. The Town Council adopted a Resolution on 1/11/2022 to award the contract to Escherman Construction. Replacement of damaged plastic culverts with reinforced concrete pipe culverts will decrease future possible damage to storm water infrastructure, improving safety along evacuation routes and effectively managing storm water runoff. A Storm Drain Master Plan was approved in June 2022 and will be used to prioritize replacements and improvements in coordination with transportation improvements to reduce the potential for localized flooding.

Historical Data

As discussed in the LHMP Paradise Annex, the only past occurrences of flood were related to storm water and had minor affects and damages to the Town. The LHMP lists the following occurrences of localized storm water flooding in the Town:

- October 20, 2017 – Heavy rain and localized flooding.
- December 15, 2016 – Heavy rain and localized flooding.
- November 19, 2015 – Localized flooding.

In addition, the Town suffered flood damage in January 1997. Most of the east/west roads that have dips such as Elliott, Bille, and Wagstaff were flooded as well as some homes and the Eden Roc Trailer Condominium Park. Subsequent to the 1997 flooding, the Town obtained a FEMA mitigation grant and did major improvements to the storm drain system to address these issues.

See Tables E-24 and E-25 of the LHMP Paradise Annex for State and Federal Disaster Declarations from Flood in Butte County from 1950-2018 and a list of roads with localized flooding problems.

Dam Inundation

The Town of Paradise is outside the potential inundation areas for both the Paradise Dam and the Magalia Dam, as shown on the maps approved by the California Department of Water Resources, Division of Safety of Dams.

Regulatory Setting/Responsible Agencies

Federal Emergency Management Agency (FEMA)

Using the results of flood insurance studies, FEMA prepares Flood Insurance Rate Maps (FIRMs) that depict flood risk. FEMA is responsible for maintaining the FIRMs as communities grow and as new or better scientific and technical data concerning flood risks becomes available.

California Division of Safety of Dams (DSOD)

The DSOD regulates dams to prevent failure, safeguard life, and protect property. The DSOD inspects each dam on an annual basis.

HAZARDOUS MATERIALS

Hazardous materials include toxic chemicals, flammable or corrosive materials, petroleum products, and unstable or dangerously reaction materials. Risks related to hazardous materials can arise when these materials are released through human error or broken equipment or indirectly via another emergency (e.g., a fire damages a hazardous material storage tank). Spilling or releasing large quantities of hazardous materials could result in a fire, explosion, or toxic cloud, as well as the contamination of water, people, or property. Health problems could be immediate, such as corrosive effects on skin and lungs, or gradual, such as the development of cancer from a carcinogen.

Existing Conditions

The LHMP assessed the potential for transportation-related hazardous materials releases from transportation corridors in the County. In the Town of Paradise, this included a 1-mile buffer on each side of Highway 191. The LHMP indicated four Essential Services Facilities (Fire, two Public Assembly Points, Emergency Animal Shelter) and one At Risk Population Facility (school) within this buffer area. The LHMP concludes that impacts from hazardous materials transportation incidents vary by location and severity, depending on the type of event and can be expected to continue to occur in the future.

Historical Data

One incident recorded by Butte County Environmental Health occurred on Clark Road,

between McKale Road and Easy Street. The incident recorded on March 12, 1998, involved a transportation spill of 30-40 gallons of diesel. The incident was properly cleaned up under the oversight of Butte County Environmental Health and Regional Water Quality Control Board (RWQCB).

Regulatory Setting/Responsible Agencies

The Butte County Public Health Department is the Certified Unified Program Agency (CUPA) managing hazardous wastes in Butte County. The CUPA is certified by CalEPA to implement and enforce several State laws regarding hazardous waste. The CUPA program was created by SB 1082 (1993), eliminating the requirement for each County to have a Hazardous Waste Management Plan.

In accordance with the requirements of State law, the Town of Paradise adopted a Household Hazardous Waste Element (HHWE) in 1992, which is hereby incorporated by reference into this Safety Element.

CLIMATE RESILIENCY/SEVERE WEATHER

In accordance with the requirements of SB 379 (2015), codified at Government Code section 65302(g)(4), climate change adaptation and resilience must be addressed in the safety element of all general plans in California. This section provides advice to support a jurisdiction's compliance with the requirements of Government Code section 65302(g)(4), including use of the California Adaptation Planning Guide (Cal-Adapt).

Climate change refers to a change in the climate that can be identified by changes in the mean and/or variability of its properties and that persists for an extended period, typically decades or longer.⁵ Climate change is already impacting the Town of Paradise and Butte County, contributing to the

⁵ Intergovernmental Panel on Climate Change (IPCC), 2014. "Annex II: Glossary," eds. K.J. Mach, S. Planton, and C. von Stechow, in *Climate Change 2014: Synthesis Report*, eds. Core Writing Team, R.K. Pachauri, and L.A.

Meyer (Geneva, Switzerland), pp. 117–130. Available at: <https://www.ipcc.ch/report/ar5/syr/>, accessed October 24, 2021.

intensity of wildfires, and is anticipated to cause more instances of severe weather in the future. This section will address the general impacts of climate change/severe weather and then provide additional discussion on each of the severe weather categories. This section draws substantially from the Butte County Climate Change Vulnerability Assessment and the Butte County LHMP.

The LHMP includes the summary of Cal-Adapt Climate Projections for the North Central Valley Region in Table 2.

TABLE 2: BUTTE COUNTY – CAL-ADAPT CLIMATE PROJECTIONS	
Temperature Change 1990-2100	January increase in average temperature of 4°F to 6°F and between 8°F and 12°F by 2100. July increase in average temperature of 6°F to 7°F in 2050 and 12°F to 15°F by 2100. (Modeled average temperatures; high emissions scenario)
Precipitation	Annual precipitation is projected to decline by approximately 1 to 2 inches by 2050 and 3 to 6 inches by 2100. (Community Climate System Model Version 3 (CCSM3) climate model; high carbon emissions scenario)
Heat Wave	Heat wave is defined as five days over 102°F to 105°F except in the mountainous areas to the east. Two to 3 more heat waves per year are expected by 2050 with 5 to 8 more by 2100.
Wildfire	By 2085, the north and eastern portions of the region will experience an increase in wildfire risk, more than four times current levels in some areas. (Geophysical Fluid Dynamics Laboratory (GFDL) climate model; high carbon emissions scenario).

Source: Cal-Adapt.

The Butte County Climate Change Vulnerability Assessment, July 2021 (BCCCVA) provides a qualitative analysis of how climate change may impact Butte County in the 21st Century and is hereby incorporated by reference. The BCCCVA is also found in Appendix A. The BCCCVA utilizes the process outlined in the Cal-Adapt model to complete Phases 1 and 2 of the Cal-Adapt recommended process to provide a vulnerability assessment, as illustrated in Figure 10. Each jurisdiction is then able to draw on this information to complete Phases 3 and 4 to define

an adaptation framework and strategies and specify how these will be implemented and monitored.

Figure 10: Climate Change Vulnerability Assessment



Source: LHMP Base, p. 4-49.

Key Findings of BCCCVA

Out of the 71 populations and assets Butte County analyzed, 50 are highly vulnerable to at least one hazard condition. Wildfire is responsible for the highest vulnerability scores, followed by severe storms, severe wind, and extreme heat. The following list provides the key findings and critical vulnerabilities identified in the Climate Change Vulnerability Assessment:

- Populations and assets in the eastern portion of the county are most vulnerable to wildfires and populations in the western portion of the county are most vulnerable to severe storms.
- Outdoor workers and low-resourced ethnic minorities are the most vulnerable populations, and highly vulnerable to all climate change hazards.
- Electrical transmission infrastructure and energy delivery services are highly vulnerable to damage or Public Safety Power Shutoff (PSPS) events from extreme heat, severe wind, severe storms, and wildfire. Energy delivery services are a key supporting factor for everyday activities, economic drivers, and key services.
- Water and wastewater serving both the county and other areas of California can be disrupted

from drought, severe wind, severe storms, and wildfire.

- Major roads, highways, and single-access roads can become impassable due to severe wind, severe storms, and wildfire, isolating populations in remote areas of the county and disrupting services to those areas.
- Recreation infrastructure and recreation on regional, State, and federal land can be disrupted by all climate change hazards.
- Agriculture is the most vulnerable economic driver in Butte County.
- Conifer forests and open water ecosystems are the most vulnerable ecosystems.

Key Recommendations of the BCCCVA

The resilience of these populations and assets can increase through the implementation of adaptation measures. Adaptation is the adjustment to natural and human systems, in response to actual or expected changes in climate conditions to reduce the harmful effects of actual or expected changes.⁶

Potential adaptation measures that could reduce vulnerability in Butte County, and some of which are planned items in the LHMP, include:

- Promoting the creation of community support networks to check on persons without access to lifelines, seniors living alone, and persons with disabilities during dangerous conditions.
- Collaborating with PG&E and other utility providers to underground electricity transmission lines.
- Increasing funding through grants or private organizations for fuel reduction and vegetation management projects for both neighborhoods and infrastructure.
- Continuing to provide residential assistance programs to help homeowners create and

maintain defensible space and fuels management on their properties.

- Conducting structural retrofits for at-risk bridges and ensuring that these retrofits include protections against flooding and landslides.
- Expanding the chipper program throughout the county to help private homeowners dispose of trees near structures, supplementing existing cost-sharing programs.
- Working with farming organizations and the University of California Cooperative Extension to promote the availability of crop varieties that are more resilient to climate change while meeting market demand for yield and quality, as options become available.
- Continuing to work with State and federal land management agencies to support fuel and pest management activities.
- In coordination with local, State, and federal plant and wildlife management agencies and organizations, monitoring shifts in habitats, and preserving habitats where habitat migration may be needed.
- Working with local, State, and federal plant and wildlife management agencies and organizations to protect vulnerable habitat and improve ecosystem connectivity.
- Coordinating with utility providers to conduct regular evaluations and retrofits of energy transmission and delivery infrastructure.
- Incentivizing water conservation measures by establishing indoor plumbing retrofit and turf replacement programs.
- Support the implementation of Groundwater Sustainability Plans that take into consideration of the increased severity of droughts and climate change.
- Identifying equitably located resilience hubs in each community in the County to provide

⁶ Cal OES, 2020. California Adaptation Planning Guide. Available at <https://www.caloes.ca.gov/HazardMitigation>

[Site/Documents/CA-Adaptation-Planning-Guide-FINAL-June-2020-Accessible.pdf](https://www.caloes.ca.gov/DocumentCenter/View/1000000/CA-Adaptation-Planning-Guide-FINAL-June-2020-Accessible.pdf), June.

emergency assistance and information, cooling spaces on extreme heat days, and refuge for those who are unable to evacuate during hazardous conditions.

Extreme Heat

According to the Cal-Adapt tool, an [extreme heat day](#) is a day when the maximum/minimum temperature exceeds the 98th percentile of observed historical data from 1961–1990 between April and October. A [heat wave](#) is four or more consecutive days of extreme heat. By this calculation, eight consecutive extreme heat days would count as two heat waves.

Heat kills by taxing the human body beyond its abilities. In extreme heat and high humidity, evaporation is slowed and the body must work extra hard to maintain a normal temperature. Most heat disorders occur because the victim has been overexposed to heat or has over-exercised for his or her age and physical condition. Older adults, young children, and those who are sick or overweight are more likely to succumb to extreme heat. Conditions that can induce heat-related illnesses include stagnant atmospheric conditions and poor air quality. Consequently, people living in urban areas may be at greater risk from the effects of a prolonged heat wave than those living in rural areas. Also, asphalt and concrete store heat longer and gradually release heat at night, which can produce higher nighttime temperatures known as the urban heat island effect.

Existing Conditions

Heat is a regional phenomenon and affects the whole of the Town. Heat emergencies are often slower to develop, taking several days of continuous, oppressive heat before a significant or quantifiable impact is seen. Heat waves do not strike victims immediately, but rather their cumulative effects slowly take the lives of vulnerable populations. Heat waves do not generally cause damage or elicit the

immediate response of floods, fires, earthquakes, or other more “typical” disaster scenarios.

The National Weather Service (e) has in place a system to initiate alert procedures (advisories or warnings) when extreme heat is expected to have a significant impact on public safety. The expected severity of the heat determines whether advisories or warnings are issued. The [NWS Heat Risk forecast](#) provides a quick view of heat risk potential over the upcoming seven days. The heat risk is portrayed in a numeric (0-4) and color (green/yellow/orange/red/magenta) scale which is similar in approach to the [Air Quality Index](#) (AQI) or the ultraviolet (UV) Index. This can be seen in Section 4.2.2 of the Base Plan.

Health impacts are the primary concern with this hazard, though economic impacts are also an issue. Heat can exacerbate drought and can increase wildfire risk.

The elderly and individuals below the poverty level are the most vulnerable to extreme temperatures. Nursing homes and elder care facilities are especially vulnerable to extreme heat events if power outages occur and air conditioning is not available. In addition, individuals below the poverty level may be at increased risk to extreme heat if use of air conditioning is not affordable. This is especially true of homeless people and the transient population. Reliance on air conditioning causes a strain on the electrical energy in the Town. Occasionally peak demands outweigh supply and a condition known as brown-out occurs. This is an extremely dangerous situation for electrical equipment as it operates without the needed electricity causing damage to the systems. Periods of extended heat and dryness (droughts) can have major economic, agricultural, and water resources impacts. Extreme heat can also dry out vegetation, making it more receptive to wildfire ignitions.

Vulnerability to extreme heat will increase as the average age of the population in each city shifts. The residents of nursing homes and elder care facilities

are especially vulnerable to extreme temperature events. It is encouraged that such facilities have emergency plans or backup power to address power failure during times of extreme heat and in the event of a Public Safety Power Shutoff. Low-income residents and homeless populations are also vulnerable. Cooling centers for these populations should be utilized when necessary. However, many of the residents of the Town are accustomed to living with extreme heat and take precautions to guard against the threat of extreme heat. In addition, the shading provided by the numerous trees around town will be significantly different with the loss of an estimated 350,000 trees.

The Cal-Adapt tool looks at the 30-year average annual frequency of extreme heat days and uses four different Global Climate Models (all models were by California's Climate Action Team for performance in California) to project the number of heat waves lasting more than three days. Figure 11 shows the average across all four models. Paradise and the majority of Butte County are estimated to experience a high degree of heat waves in the future, an estimated annual average of 14 to 18 heat waves in 2070-2099, compared to an average of 1 per year in 1961-1990 and 5 per year in 2035-2064.

Historical Data

The LHMP Base Plan in Section 4.2.2 includes a list of past heat events, noting fourteen extreme heat events between 1993 and October 31, 2018.

Regulatory Setting/Responsible Agencies

Several general disaster preparedness efforts by the Town will also improve the ability of the Town to respond to extreme heat events, including enhanced public education (LHMP Action 2), improved Early Warning System (LHMP Action 3), and Public Works signs (LHMP Action 4).

Extreme Freeze and Winter Storms

According to the National Weather Service (NWS) and the Western Regional Climate Center (WRCC),

extreme cold often accompanies a winter storm or is left in its wake. Prolonged exposure to cold can cause frostbite or hypothermia and can be life-threatening. Winter snowstorms can include heavy snow, ice, and blizzard conditions.

Existing Conditions

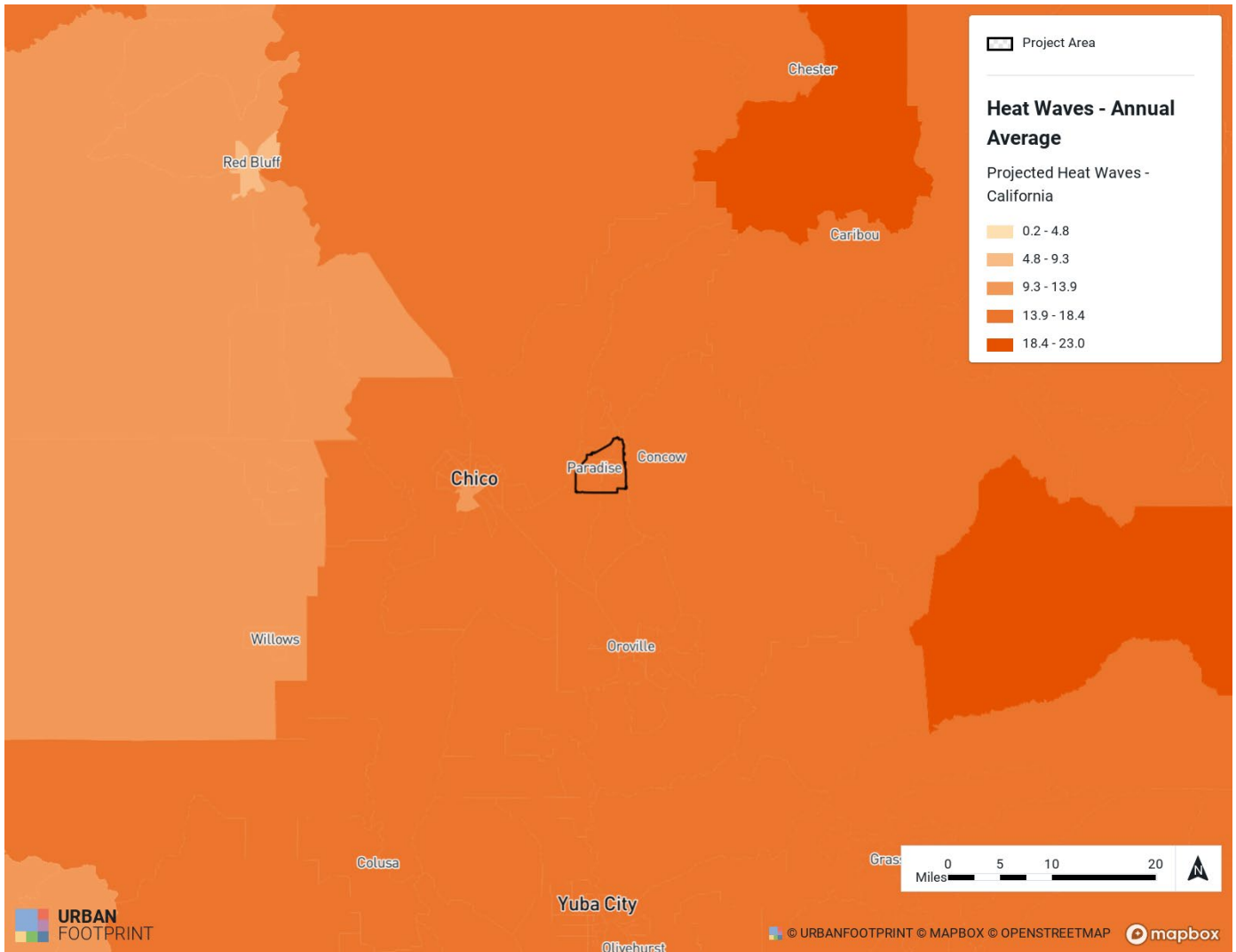
Freeze and winter storms are regional issues, meaning the entire town is at risk. While there is no scale (e.g., Richter, Enhanced Fujita) to measure the effects of freeze, temperature data from the WRCC indicates that there are 21.8 days that fall below 32°F in eastern Butte County, with no days falling below 0°F. Freeze has a slow onset and can generally be predicted in advance. Freeze events can last for hours (i.e., in a cold overnight) or for days to weeks at a time. Snowfall is measured in snow depths. It is rare for snow to fall in the town, and even rarer that snow accumulates in the town. Snowfall has an onset similar to freeze in the Town.

Historical Data

Between 1950 and 2019, Butte County had two State disaster declarations for freeze or winter storms. [Severe weather data](#) from the National Oceanic and Atmospheric Administration's (NOAA's) National Centers for Environmental Information (NCEI), shows 139 freeze and winter storm events in Butte County between 1993 and 10/31/2018. The Town Planning Team for the LHMP noted that since freeze and winter storm is a regional phenomenon, events that affected the lower elevations of the County also affected the Town. Those past occurrences were shown in the Base Plan in Section 4.2.3.

A significant winter storm event occurred in February 1990 that did major damage to buildings including the collapse of the bowling alley, Long's Drugs, the Cannery grocery store, a tire shop, and also many homes damaged by snow and downed trees. The snowstorm immobilized the Town for ten days with power outages lasting over two weeks. After the 1990 storm, the Town changed the building snow load requirements above 1,800 feet elevation.

Figure 11: Projected Heat Waves – California and Historical Heat Health Events



Source: Cal-Adapt, 2022

In addition, the following freeze and winter storms since 2014 were noted in the LHMP:

- February 22, 2018 – Snowstorm/Winter Storm (road closures).
- February 23, 2017 – Freezing Temperatures.

The Town experiences temperatures below 32°F during the winter months. The temperature moves to the teens in rather extreme situations. Freeze normally does not impact structures but is a life safety issue. Secondary impacts of extreme cold can affect the supporting mechanisms or systems of a community’s infrastructure. For example, when

extreme cold is coupled with high winds or ice storms, power lines may be downed, resulting in an interruption in the transmission of that power shutting down electric furnaces, which may lead to frozen pipes in homes and businesses.

Occasionally, winter storms with snow and ice can affect the Town. Transportation networks, communications, and utilities infrastructure are the most vulnerable physical assets in the Town. The ability for the Town to continue to operate during periods of winter storm and freeze is paramount.

The elderly population in the planning area is most vulnerable to temperature extremes. The residents of nursing homes and elder care facilities are especially vulnerable to extreme temperature events. It is encouraged that such facilities have emergency plans or backup power to address power failure during times of extreme cold. Transient and homeless populations are also at risk to freeze.

Regulatory Setting/Responsible Agencies

Several general disaster preparedness efforts by the Town will also improve the ability of the Town to respond to extreme freeze and winter storm events, including enhanced public education (LHMP Action 2), improved Early Warning System (LHMP Action 3), Public Works signs (LHMP Action 4).

The Town's Building Department is responsible for enforcing building code requirements related to building snow loads and insulating pipes from freezing temperatures in new construction. Future development built to code should be able to withstand snow loads from severe winter storms. Pipes at risk of freezing should be mitigated by either burying or insulating them from freeze as new facilities are improved or added. Vulnerability to extreme cold will increase as the average age of the population in the County shifts. Greater numbers of future senior citizens will result from the large number of baby boomers in the planning area. The elderly are more at risk to the effects of freeze. However, many of the residents of the town are accustomed to living with freeze and take precautions to guard against the threat of freeze.

Extreme Rain and Storms

Storms in the Town of Paradise occur annually and are generally characterized by heavy rain often accompanied by strong winds and sometimes lightning and hail. Approximately 10 percent of the thunderstorms that occur each year in the United States are classified as severe. A thunderstorm is classified as severe when it contains one or more of the following phenomena: hail that is three-quarters

of an inch or greater, winds in excess of 50 knots (57.5 mph), or a tornado.

High winds can cause significant property and crop damage, threaten public safety, and have adverse economic impacts from business closures and power loss. High winds, as defined by the NWS glossary, are sustained wind speeds of 40 mph or greater lasting for 1 hour or longer, or winds of 58 mph or greater for any duration. These winds may occur as part of a seasonal climate pattern or in relation to other severe weather events such as thunderstorms.

Existing Conditions

Heavy precipitation in the Town falls mainly in the fall, winter, and spring months. Location and Extent Heavy rain events occur on a regional basis. Rains and storms can occur in any location of the Town. All portions of the Town are at risk to heavy rains. Most of the severe rains occur during the winter months. There is no scale by which heavy rains and severe storms are measured. Magnitude of storms is measured often in rainfall and damages. The speed of onset of heavy rains can be short, but accurate weather prediction mechanisms often let the public know of upcoming events. Duration of severe storms in California, Butte County, and the Town is often short, ranging from minutes to hours. In some cases, rains can continue for days at a time.

The entire Town is subject to significant, non-tornadic (straight-line), winds. Each area of the Town is at risk to high winds. Magnitude of winds is measured often in speed and damages. These events are often part of a heavy rain and storm event, but can occur outside of storms. The speed of onset of winds can be short, but accurate weather prediction mechanisms often let the public know of upcoming events. Duration of winds in California is often short, ranging from minutes to hours. The Beaufort scale is an empirical measure that relates wind speed to observed conditions at sea or on land. Its full name is the Beaufort wind force scale. It can be seen in Section 4.2.5 of the Base Plan.

Historical Data

Information on precipitation extremes can be found in Section 4.2.4 of the Base LHMP. According to historical hazard data, severe weather is an annual occurrence in the Town of Paradise.

Damage and disaster declarations related to heavy rains and storms have occurred and will continue to occur in the future. Heavy rain and severe storms are the most frequent type of severe weather occurrences in the Town. Wind and lightning often accompany these storms and have caused damage in the past. Hail is rare in the Town. Actual damage associated with the primary effects of severe weather have been limited. It is the secondary hazards caused by weather, such as fire, that have had the greatest impact on the Town. Impacts to property, critical facilities (such as utilities), and life safety can be expected. The risk and vulnerability associated with these secondary hazards are discussed in the flood and localized flood sections of the LHMP Paradise Annex.

According to historical hazard data, high winds are an annual occurrence in the Town of Paradise. These high wind events are typically expected 7 to 8 times per year.

Regulatory Setting/Responsible Agencies

The Town Building Department is responsible for enforcing building code requirements developed to minimize damage from high winds in new development.

Several general disaster preparedness efforts by the Town will also improve the ability of the Town to respond to extreme rain and storm events, including enhanced public education (LHMP Action 2), improved Early Warning System (LHMP Action 3), Public Works signs (LHMP Action 4).

New critical facilities such as communications towers and others should be built to withstand hail damage, lightning, and thunderstorm winds. While deaths have occurred in the planning area in the past due to

2019 lightning, it is difficult to quantify future deaths and injuries due to lightning. Future losses to new development should be minimal.

Power Shutoffs

Public Safety Power Shutoffs (PSPS) are used to reduce the risk of power equipment inducing wildfires, as was found to be the cause of the Camp Fire. According to PG&E, factors considered include low humidity levels, high winds, and fuel conditions. Another potential cause of power shutoffs is a rotating outage (rolling blackout) caused by demands on the power grid. During heat waves, the California Independent System Operator (CAISO), the organization that runs the state’s electric grid, can call for rotating outages when power demand threatens to exceed the capacity of the system.

Existing Conditions

PSPS events may be limited to specific areas or affect broad regions of the state. Power outages combined with high heat or extreme cold events can add to the risks to the public, especially for vulnerable populations such as low-income residents and the homeless. Power outages can also impact emergency communications and operations.

Historical Data

In 2019, PSPS events occurred in the County on June 8-9, August 23-25, and again on September 23-24.

Regulatory Setting/Responsible Agencies

The California Public Utilities Commission (CPUC) has adopted guidelines and rules that the power utilities must follow regarding PSPS events. PG&E must file reports with the CPUC for each PSPS event.

In 2019, PG&E completed significant upgrades to its Wildfire Safety Operations Center (WSOC) to assist in evaluating whether to enact a PSPS. PG&E provides a Medical Baseline Program to provide extra notifications during PSPS to Medical Baseline customers.

DROUGHT

Drought is different than many of the other natural hazards in that it is not a distinct event and usually has a slow onset. Drought can severely impact a region both physically and economically. Drought affects different sectors in different ways and with varying intensities. Adequate water is the most critical issue and is critical for manufacturing, tourism, recreation, and commercial and domestic use. As the population in the area continues to grow, so will the demand for water.

Existing Conditions

As discussed in the LHMP Base Plan, drought and water shortage are regional phenomenon. The whole of the County, as well as the whole of the Town, is at risk. Drought has a slow speed of onset and a variable duration. Drought can last for a short period of time, which does not usually affect water shortages. Should a drought last for a long period of time, water shortage becomes a larger issue.

Historical Data

Since drought is a regional phenomenon, past occurrences of drought for Paradise are the same as those for the County. Those past occurrences can be found in Section 4.2.8 of the LHMP Base Plan.

Based on historical information, the occurrence of drought in California, including the Town of Paradise, is cyclical, driven by weather patterns. Drought has occurred in the past and will occur in the future. Periods of actual drought with adverse impacts can vary in duration, and the period between droughts is often extended. Although an area may be under an extended dry period, determining when it becomes a drought is based on impacts to individual water users.

The vulnerability of the Town of Paradise to drought is Town-wide, but impacts may vary and include reduction in water supply and an increase in dry fuels. The increased dry fuels result in an increased fire danger. Areas of Paradise are in the foothill

interface and become more susceptible to wildfire as drought conditions increase. Residents of these areas are often times dependent upon ground water (water wells) for their water supply. As these water wells begin to fail during periods of drought, the ability of the residents to water landscaping decreases, and fire fuel loads increase.

Other qualitative impacts associated with drought in the planning area are those related to water intensive activities such as wildfire protection, municipal usage, commerce, tourism, and recreation.

Voluntary conservation measures are typically implemented during extended droughts. Drought conditions can also cause soil to compact and not absorb water well, potentially making an area more susceptible to flooding. With more precipitation likely falling as rain instead of snow in the Sierra's, and warmer temperatures causing decreased snowfall to melt faster and earlier, water supply is likely to become more unreliable. In addition, drought and water shortage is predicted to become more common. This means less water available for use over the long run, and additional challenges for water supply reliability, especially during periods of extended drought. These and other impacts are thoroughly evaluated in the Paradise Irrigation District's 2020 Urban Water Management Plan, including a 2021 Water Shortage Contingency Plan.

Post Camp Fire, the Paradise Irrigation District is restoring potable water to standing homes, permitted homes, businesses, and Town buildings. While the process will take time, the District is working diligently to restore water to the community. The UWMP found that the supply and drought risk assessment do not anticipate a water deficit for a single-year or for a five-year consecutive drought in the near term or long term.

In addition, the Town's LTCRP has a project for the development of a wastewater system in the Town. As this Recovery project takes shape, a sewer system in the commercial areas would incentivize economic growth and reduce environmental impacts in the Town.

DISASTER PREPAREDNESS, RESPONSE, AND RECOVERY

Police

The Town strives to ensure a town-wide five-minute response time for police. The Paradise Police Department currently has 23 employees and 5 units: Administration, Patrol, Investigations, Communication/Records, and Animal Control. The Paradise Police Department is currently contracting 911 emergency and non-emergency dispatch services with the Butte County Sheriff's Office.

Patrol operations is the largest of the five units, with 11 authorized sworn patrol officers and 5 sergeants. Patrols provide 24/7 service every day of the year. Patrol personnel are the first responders to routine calls and crimes that are in progress. According to the Town of Paradise's police webpage, traffic safety is one of the most significant police issues in Paradise. The Police Department reports that there has been a reduction of injury collisions.

As previously mentioned, the Town of Paradise has an Emergency Operations Plan in place, in which all employees of the Paradise Police Department are subject to immediate recall. The Emergency Operations Plan also includes response from fire, medical and health, communication, and transportation services and facilities, to cope with problems around rescue, relief, evacuation, rehabilitation, and reconstruction in the event of a disaster.

Communications

As mentioned earlier, flaws in the Town's communications systems were exposed by the Camp Fire. There were failures in the emergency alert system, including the loss of 17 cell towers, and four at-risk areas in the town were not notified of evacuation orders due to human and technical errors.

Following the 2018 Camp Fire, the Town of Paradise has made improved communications a key priority,

consistent with the LTCRP. The Town is utilizing funds from FEMA's Hazard Mitigation Grant Program to develop and implement an early warning system throughout the town. The system would immediately notify residents of hazardous events via sirens, text messages, voice messages, and more. 21 towers will be constructed across the Town as the basis of an audible system. 20 are operational as of October 2023.

The Town currently uses direct contact with residents by Town officials and mass media to notify residents of evacuation. AM radio, TV, and social media are all suggested sources for residents to stay informed and aware when an evacuation is ordered or warning issued.

The Town is also pursuing the installation of a fiber optic network that would be accessible to all residents and businesses in Paradise. A fiber optic network would improve access to the Internet and would provide a safer method of internet service distribution. The feasibility study for this project was completed in 2021. A funding request is part of the Town's federal advocacy platform.

Evacuation Planning

The topography and development history of the Town present problems in delivery of emergency services, including fire protection and evacuation. Hilly terrain with narrow, winding roads with little circulation, limited escape routes, and limited ingress and egress to access the Town limits rapid access and orderly evacuations. There are many miles of public streets and private roads, many of which were built years ago. Private roads may be substandard in design and access capability due to topography.

The Paradise Municipal Code sets a maximum cul-de-sac length of 1,800 lineal feet, measured as the distance between the cul-de-sac's terminus and its nearest intersection with a through street. For this Safety Element, areas are identified as having inadequate access if they are served exclusively by a cul-de-sac or dead-end road that exceeds this

standard (i.e., areas that do not have at least two emergency evacuation routes).

See Figure 12 for existing areas with inadequate emergency access/evacuation routes. These areas are predominantly located in the southern portion of the Town along South Libby Road and Edgewood Lane. With implementation of the TMP, described below, the areas with inadequate access/evacuation routes would be reduced, as shown in Figure 13.

Post-Camp Fire, one of the community’s biggest concerns has been to improve emergency evacuation routes and evacuation planning. Consistent with the LTCRP, the Town of Paradise approved a TMP on May 10, 2022 that looks at emergency evacuation planning and local roadway safety with detailed information in [Appendix D, Evacuation Technical Memorandum](#). The TMP evaluated the impact of permanent improvements and potential temporary modifications on emergency evacuation, focusing on an “all at once” event similar to the Camp Fire evacuation but applicable for a range of emergency scenarios.

The high-level town-wide evacuation analysis prepared for the TMP was completed for several different scenarios as shown in Table 3.

TABLE 3: OVERALL EVACUATION SCENARIOS ANALYSIS SUMMARY

Tested Scenario	Impact on Evacuation Time
Full Town of Paradise (Baseline Scenario)	N/A Baseline Scenario
Partial Evacuation of Paradise (North to South from Clark Road to Pentz Road)	Total evacuation time decreases by over 50%
Partial Evacuation of Paradise (North to South from Skyway to Clark Road)	Total evacuation time decreases by over 50%
Full Town of Paradise & Magalia	Total evacuation time decreases by 15% from Baseline Scenario
Staggered Full Town of Paradise & Magalia	Total evacuation time decreases by approximately 30% from full town of Paradise & Magalia scenario

Source: Transportation Master Plan, [Appendix D, Evacuation Technical Memorandum](#), April 5, 2022, p. 10.

The TMP effort has included a high-level capacity analysis to determine major and secondary evacuation routes, potential areas of congestion (intersections or roadway segments), and opportunities for roadway extensions/connections on dead-end streets for additional routes and increased evacuation capacity. Figure 14 shows the primary, secondary, and potential future evacuation routes, as well as the number of travel lanes.

The TMP effort has developed a Roadway Improvement Plan, as shown in Figure 15, that identifies proposed improvements such as:

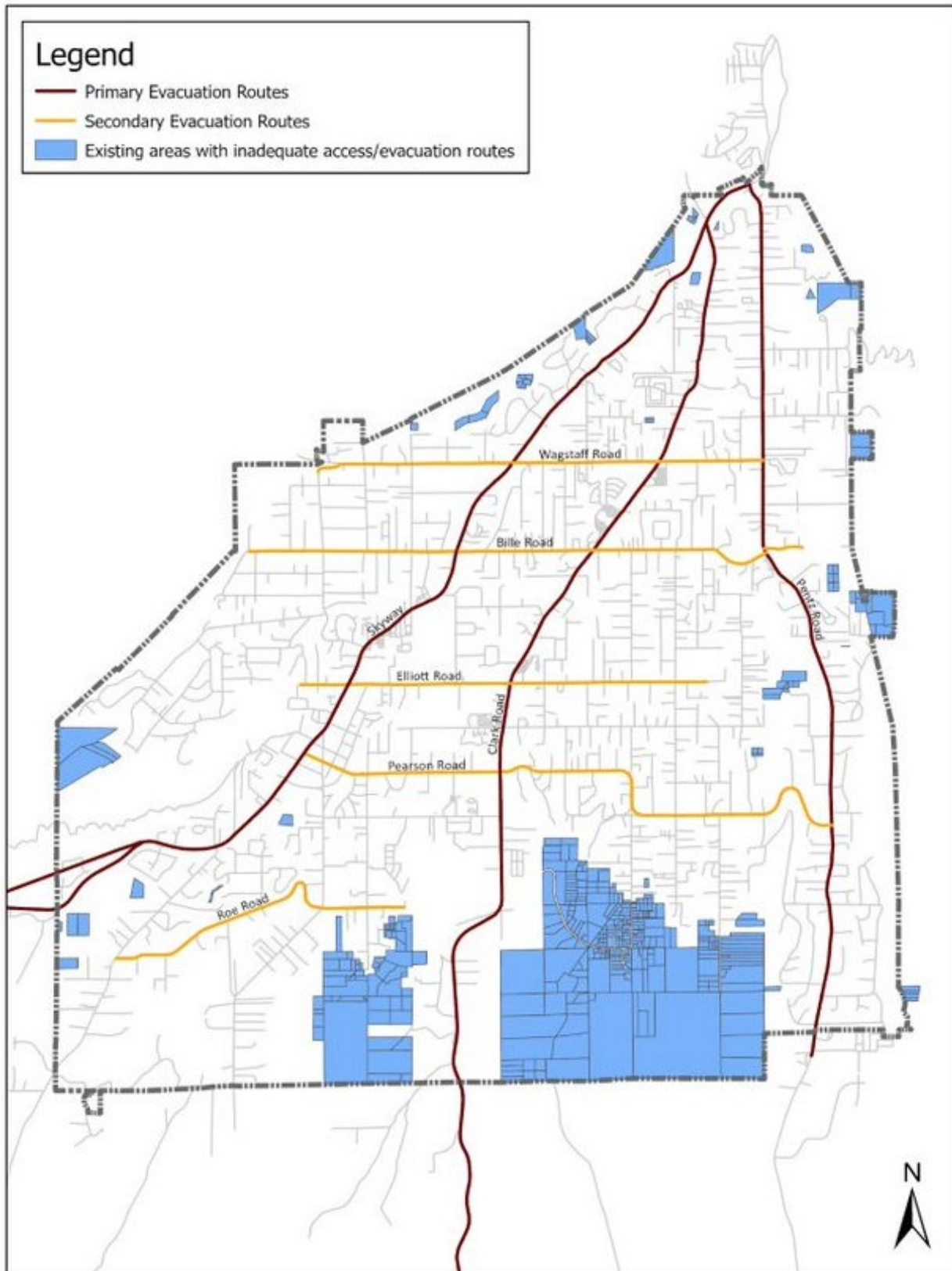
- Roadway widening, particularly downtown Skyway between Elliott Road and Pearson Road.
- Roadway widening plus a multiuse path that could be used by first responders during an evacuation on segments of Skyway, Neal Road, Clark Road, and Pentz Road.
- New roadway extensions including Roe Road, Elliott Road extension and others.
- Intersection improvements at select locations.

One identified project on Figure 15, “Skyway Capacity Improvements” including removal of the median and bulb outs on Skyway to facilitate flow during an evacuation, has been implemented. Another landscape median on Pearson Road is planned to be removed in 2024.

The TMP builds on the Camp Fire After-Action Report (AAR) and Corrective Action Plan (CAP) to develop the actions and recommendations in the TMP. The TMP includes recommendations for:

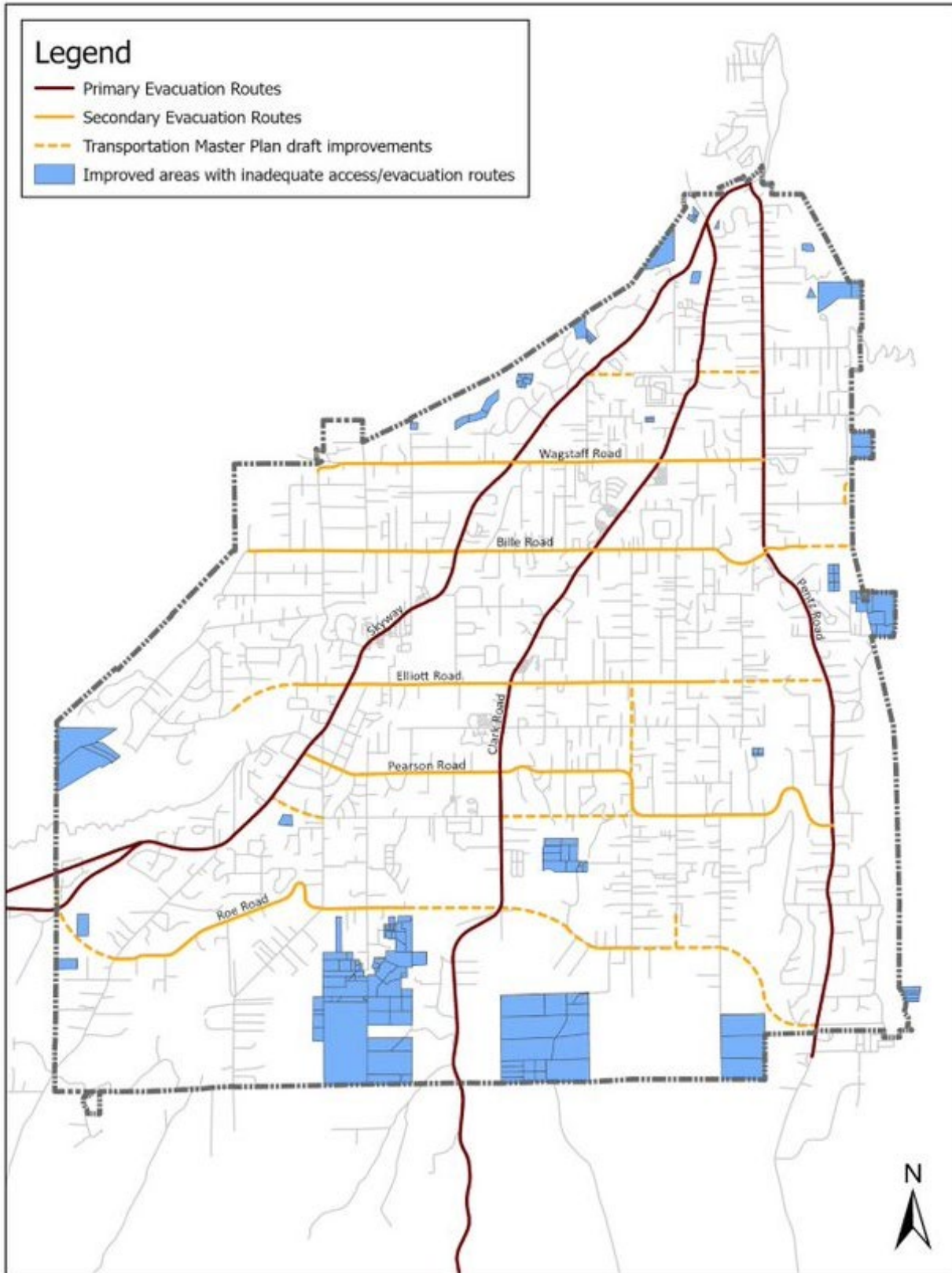
- Traffic control for evacuation.
- Facilitate multiagency collaboration.
- Non-roadway projects, such as signage, a traffic management center, and traffic signal interconnect.

Figure 12: Inadequate Emergency Access: Existing



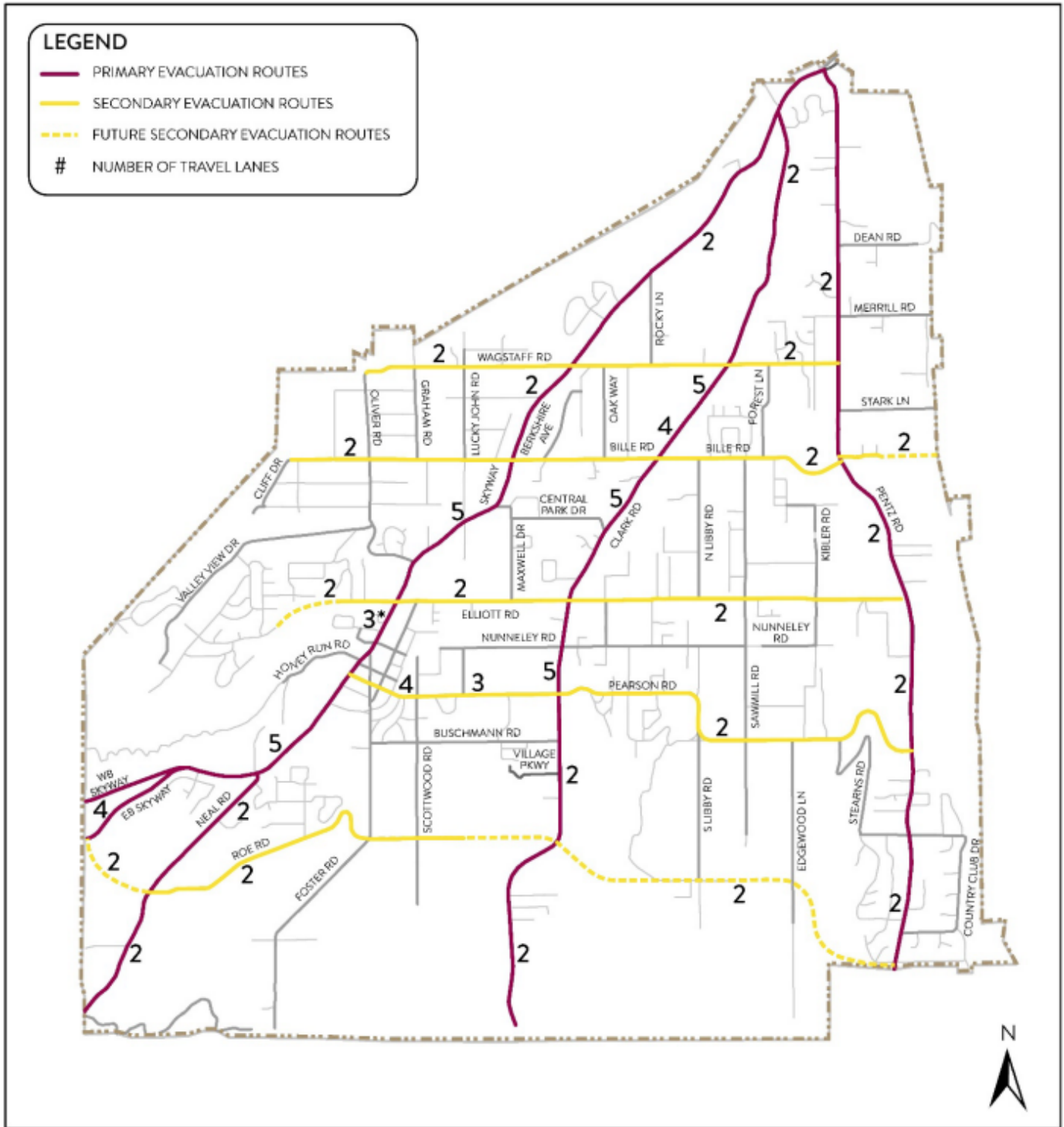
Source: Town of Paradise, 2022.

Figure 13: Inadequate Emergency Access: After Transportation Master Plan Improvements



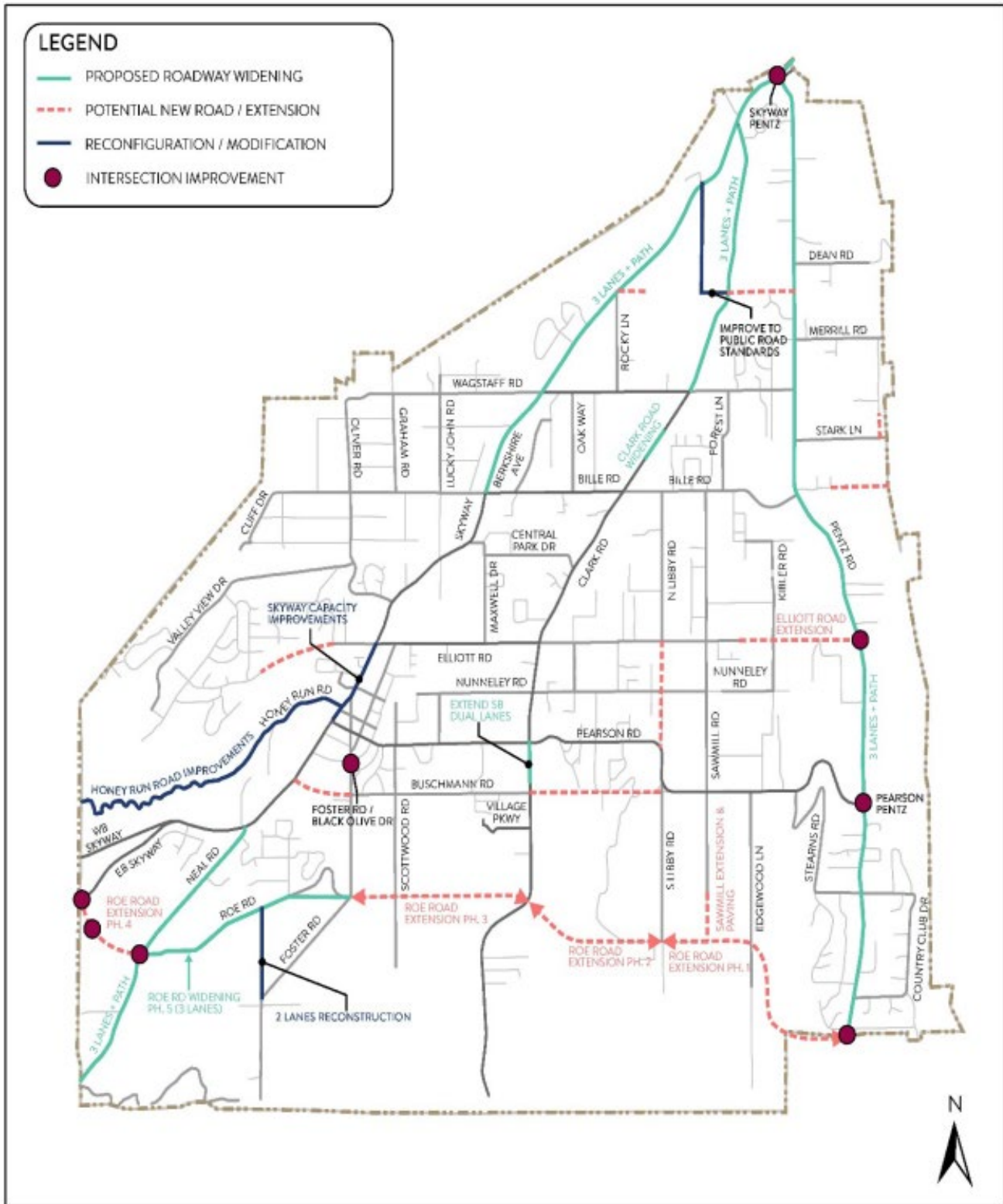
Source: Town of Paradise, 2022.

Figure 14: Evacuation Routes



Source: Town of Paradise, 2022.

Figure 15: Transportation Master Plan Roadway Improvement Plan



Source: Town of Paradise, 2022.

Proposed evacuation improvements have also been identified, including signal timing plans and multiagency coordination to address flow at key intersections outside the Town.

The TMP also provides a framework for identifying, evaluating, and prioritizing transportation safety improvements on local streets, as well as other roadway-related standards and policies.

Roadway Standards

Existing roadway requirements are contained in Sections 17.06.090 and Chapter 16.06 of the Paradise Municipal Code. Per Section 17.06.900, the Town does not allow any discretionary permit or project that seeks to increase the existing residential density on parcels that are on a cul-de-sac that exceeds 1,800 lineal feet. Chapter 16.06 requires all access easements or rights-of-way to be 50 feet in width, except for those which serve four or fewer lots. However, subdivision applicants may request widths of less than 50 feet for privately maintained roads (see Table 4). They must connect, via private roads if necessary, with a publicly-maintained street. The Town’s maximum cul-de-sac length for new streets is 1,320 lineal feet.

TABLE 4: NEWLY CREATED ACCESS EASEMENT OR RIGHT-OF-WAY WIDTH REQUIREMENTS

Total Lots Served by Road or Street	Minimum Access Width Required (Feet)
5+	Public Street: 60 (Access width of 50 feet may be acceptable to Town engineer if underground utilities are installed) Private Street: 50*
4	40
3	30
2	25
1	20

* Unless special circumstances warrant a 60-foot access width, as determined by the Town engineer.
Source: Town of Paradise, 2021.

Concurrent with approval of the TMP, the Town adopted Roadway Design Guidelines that include Roadway Standard Drawings. This includes a

minimum paved width of 14 feet for driveway access to single dwelling units and increased widths based on the roadway classification, as shown in Table 5.

TABLE 5: ROADWAY DESIGN GUIDELINES

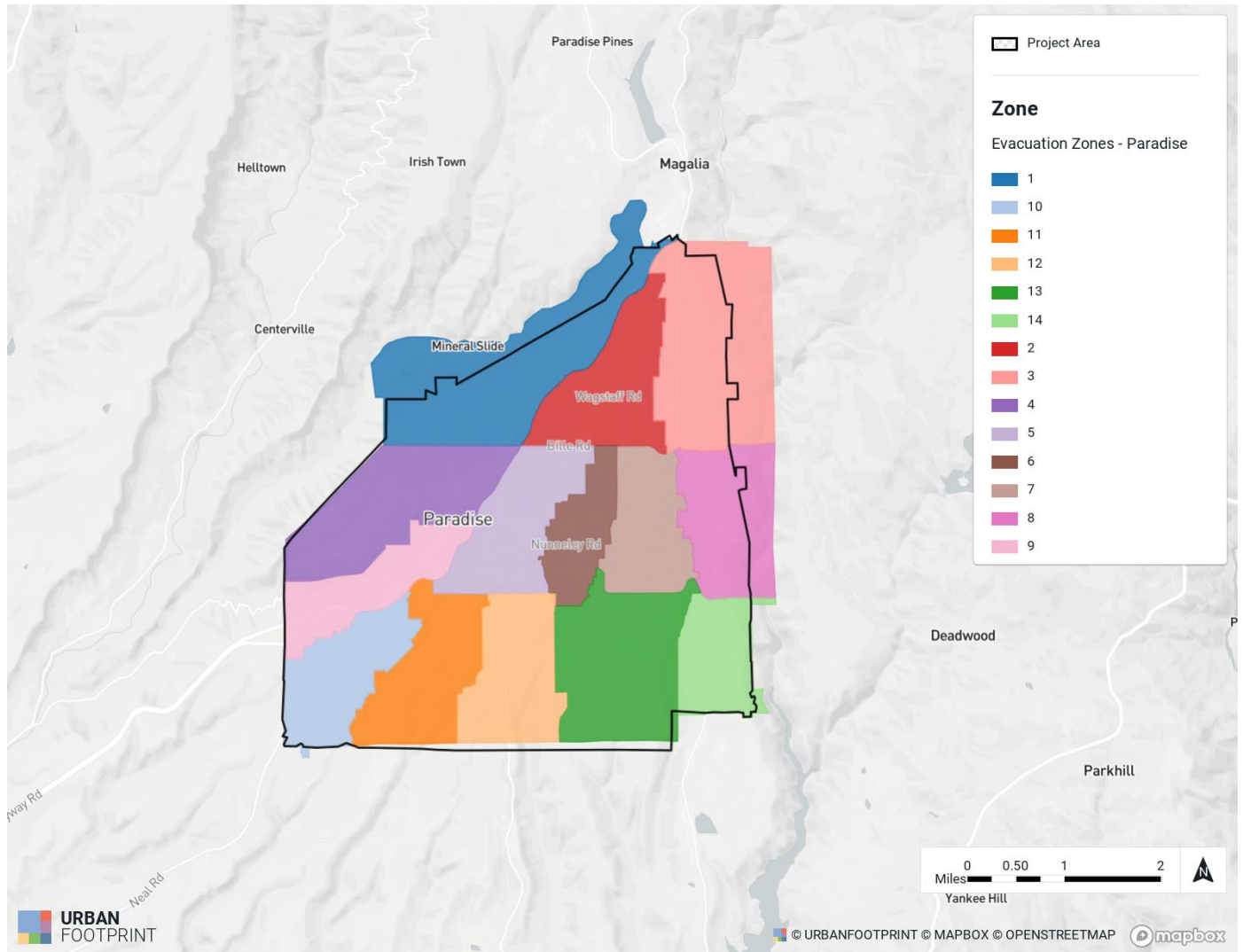
Roadway Type	Roadway Description	Minimum Surface Width (Feet)
A-1	Access for Single Family	14
A-2a	Private Interior Road	16
A-2b	Private Interior Road	18
A-3a, b	Private Interior Road, 5+ lots	20
B-1	Public Interior Road	24
B-2	Collector Residential	28
B-3	Multi-Family	40
B-4	Commercial	40
B-5	Local Road	32
B-6A, 6B	Collector	36
C-1	Arterial	60
C-1A	2-Lane Principal Arterial	40
C-1B	Minor Arterial without Sidewalk	40
C-2	Arterial-Divided Highway	28
C-2A	Principal Arterial 2-Lane	40
C-2B	Principal Arterial (Urban Diet)	46
C-3A	Principal Arterial No TWLTL	58
C-3B	Principal Arterial	72
C-3C	Principal Arterial with Multi-Use Trail	72

Source: Town of Paradise.

Evacuation Zones

The Town has 14 evacuation zones, shown in Figure 16. The Town has also identified Paradise Alliance Church and Paradise Auditorium as assembly points. The primary evacuation routes are Skyway, which provides access to Highway 99 and Chico; Neal Road; Clark Road, which provides access to Highway 70 and Oroville; and Pentz Road. Officials will determine which routes to use and to avoid given the specific circumstances of the emergency. Residents are encouraged to know several routes out of their neighborhood and their community.

Figure 16: Evacuation Zones



Source: Town of Paradise, 2022.

According to the BCFSC, evacuation notices can be provided directly to residents by law enforcement, volunteers in police service, or fire or other public safety personnel, or given indirectly through mass media (e.g., radio, TV) or social media. There is a notification service residents can subscribe to for cell phone and email evacuation notifications.

Resources Related to Implementation

The studies and resources available related to emergency preparedness and especially related to wildfires is constantly growing. Contained below is a short list of resources related to program implementation:

- [Building a Wildfire-Resistant Home: Codes and Costs](#)
- [Butte County Camp Fire Response – County-wide Corrective Action Plan](#)
- [Butte County Community Wildfire Protection Plan \(CWPP\)](#)
- [Butte County Fire Safe Council website](#)
- [Butte County Local Hazard Mitigation Plan \(LHMP\)](#)
- [CAL FIRE – Ready for Wildfire website](#)
- [California Department of Insurance – Safer from Wildfires Program](#)
- [Community Planning Assistance for Wildfire](#)
- [Fire Adapted Communities Learning Network](#)
- [Knapp, Eric E et al: Housing arrangement and vegetation factors associated with single-family home survival in the 2018 Camp Fire, California](#)
- [Next10 Report – Rebuilding for a Resilient Recovery](#)
- [Paradise Forest Management Plan](#)
- [Paradise Grazing Plan](#)
- [Paradise Nature-Based Fire Resilience Project Report](#)
- [Town of Paradise Emergency Services Information website](#)
- [Town of Paradise Emergency Operations Plan](#)
- [Town of Paradise Transportation Master Plan](#)
- [ULI Report – Firebreak: Wildfire Resilience Strategies for Real Estate](#)
- [Wildfire Risk to Communities](#)

GOALS, POLICIES, AND PROGRAMS

This chapter describes safety goals (SG), policies (SP), and programs for the Town of Paradise. A goal is defined as a general statement of the highest aspirations of the community. A policy is a course of action chosen from among many possible alternatives. It guides decision-making and provides a framework around which the housing programs operate. An implementation program (SI) is a specific action that implements the policy and moves the community toward the achievement of its goals.

The goals of this Safety Element are consistent with and build off of the Butte County LHMP. The Safety Element goals are:

- SG-1 – Minimize risk and vulnerability of the community to hazards and reduce damages and protect lives, properties, and public health in Paradise.
- SG-2 – Provide protection for critical facilities, infrastructure, and services from hazard impacts.
- SG-3 – Increase public awareness of the risk and vulnerability of the community to hazards and promote personal awareness and responsibility.
- SG-4 – Increase the community’s ability to be prepared for, respond to, and recover from a disaster event.
- SG-5 – Reduce fire severity and intensity in Paradise and surrounding lands.
- SG-6 – Increase community resiliency to climate change’s influence on disasters.
- SG-7 – Collaborate with the USDA Forest Service (USFS), Bureau of Land Management (BLM), California Department of Forestry and Fire Protection (CAL FIRE), and other fire protection agencies and stakeholders to mitigate the risk of wildfire.
- SG-8 – Collaborate with Butte County Fire Safe Council, Paradise Ridge Fire Safe Council, Paradise Recreation and Park District, and other

community groups and organizations to increase homeowner awareness of and participation in voluntary wildfire resiliency and climate change adaptation interventions.

- SG-9 – Utilize Paradise’s experiences with wildfire to advocate for State and federal policies and regulations that assist in creating disaster resilient communities and facilitate post-disaster recovery.

For each implementation measure, the party responsible for implementation, funding source, timing of implementation, and quantified results (where appropriate) are identified.

SG-1 MINIMIZE RISK AND VULNERABILITY OF THE COMMUNITY TO HAZARDS AND REDUCE DAMAGES AND PROTECT LIVES, PROPERTIES, AND PUBLIC HEALTH IN PARADISE.

- SP-1 The Town will consider extreme heat days in building and landscape design, including park design.
- SP-2 The Town will stay informed on methods for home hardening and periodically review whether to include additional requirements as the town continues to recover and more science and information become available. The Town will evaluate home hardening and construction requirements annually and amend local buildings codes as warranted to take into account additional stressors on buildings including, but not limited to, building materials to reduce the impacts of high heat days, fire resistance in areas of increasing wildfire risk, and flood proofing for intermittent inundation.
- SP-3 The Town will consider the costs of mandates and increased standards for climate change adaptation regulations and those standards and regulations on housing affordability. These standards and regulations may include home hardening, building materials standards, landscaping,

and siting. Policies should balance the need for climate adaptation with the negative impact of decreasing housing affordability for vulnerable populations.

- SP-4 The Town will ensure adaptation planning includes best available science, adequate mapping, and consideration of planning horizons. Best available, up-to-date scientific information about hazards shall be used in vulnerability assessments, permit applications that present hazard risks, and the preparation of technical reports and related findings. Map areas subject to existing and future hazards that present risks to life and property using multiple scenarios, including worst case scenario.
- SP-5 The Town will encourage infill development near services and evacuation routes through regulatory levers such as reduced or waived permitting fees and zoning incentives. The proposed Sewer Service Area Overlay Zone will include considerations to incentivize development that has fewer GHG emissions relative to sprawl and to encourage building in safer parts of town.
- SP-6 Because, by local designation, the entire Town is located in a Very High Fire Hazard Severity Zone (VHFHSZ), it is not feasible to avoid or minimize new residential development within VHFHSZs. The Town will improve the resiliency of residential development through enforcement of State requirements as well as local requirements for defensible space and fire resilient construction, consistent with the Fire Safe Regulations and Public Resources Code (PRC) 4290.
- SP-7 The Town will limit and discourage construction of new development (including rebuild projects) in zones or overlay areas that have been identified or designated as key parcels for wildfire risk reduction.

- SP-8 The Town will conduct an assessment that identifies housing units and neighborhoods in fire hazard severity zones that do not meet current fire safe building codes or road standards and develop retrofit programs that target highest risk areas including but not limited to programs to encourage lot consolidation, taking into consideration the increase in frequency and severity of wildfires.
- SP-9 The Town will identify, map and establish land use designations and development standards that protect areas of significant habitat, biodiversity, carbon-sequestration, ecological integrity and those areas with high natural resilience to climate change to reduce loss of critical habitat, increase biodiversity, mitigate climate change effects and protect ecological resources.
- SP-10 The Town will continue to implement provisions of the California Fire Code for Very High Fire Hazard Severity zones.
- SP-11 The Town will revise the Paradise Municipal Code to adopt development standards that meet or exceed Title 14, California Code of Regulations (CCR), Division 1.5, Chapter 7, Subchapter 2, Articles 1-5 (commencing with Section 1270) (SRA Fire Safe Regulations) and Title 14, CCR, Division 1.5, Chapter 7, Subchapter 3, Article 3 (commencing with Section 1299.01) (Fire Hazard Reduction Around Buildings and Structures Regulations), and PRC 4290. These standards will include but not limited to 30-foot setbacks for all buildings from all property lines or mitigation measures, designation and preservation of undeveloped and strategic ridgelines, and standards for emergency ingress and egress.
- SP-12 New fire station(s) shall be located so that all areas within Town limits are within a five-minute emergency response time for 90 percent of all emergency incidents. New fire station locations should be within a 0.5-mile radius of the symbols indicated on the *Land Use Diagram*.
- SP-13 The Town will endeavor to maintain an overall Insurance Services Office (ISO) rating⁷ of three or better and an emergency fire response time within five minutes from 90 percent of all emergency incidents within the Town limits.
- SP-14 The Town will strive to reduce the impact of pollutants on the well-being of Paradise citizens.
- SP-15 The Town shall ensure that any new development or project for improvement of a structure located within potential floodways consider and account for special flood hazards by enforcing the Paradise Municipal Code standards for building in areas prone to flood hazards.
- SP-16 Detrimental and toxic discharge into natural waterways shall not be permitted.
- SP-17 Development projects should be designed to minimize soil erosion and shall be required to comply with all Town of Paradise-adopted soil erosion standards maintained by the Paradise Public Works Department.
- SP-18 Butte County and its cities and towns, including Paradise, shall act to provide for the safe, effective management of hazardous wastes generated within the county. New off-site hazardous waste management facilities shall be primarily limited to a scale necessary to meet the hazardous waste management needs of this

⁷ ISO Fire Suppression Rating Schedule (FSRS), evaluates four primary categories of fire suppression — fire department, emergency communications, water supply,

and community risk reduction. The FSRS includes standards set by the National Fire Protection Association (NFPA).

county; larger facilities may be permitted in accordance with effective inter-jurisdictional agreements reached between Butte County and other jurisdictions or upon determination of the local governing body that the project meets local planning criteria and serves public needs.

- SP-19 Butte County and its cities and towns, including Paradise, encourage multi-county and regional efforts to plan and implement alternatives to land disposal of untreated hazardous wastes and to limit the risks posed by the transportation of hazardous wastes around the state. Agreements for new facilities to provide the offsite capacity needed for hazardous waste treatment and residuals disposal should be reached among jurisdictions according to their fair share of the hazardous waste stream, each jurisdiction's environmental suitability for different types of facilities, their economic interests, and the economic viability of different types and sizes of facilities.
- SP-20 Butte County and its cities and towns, including Paradise, shall ensure that on-site and offsite hazardous waste treatment facilities are subject to complete local review.
- SP-21 Butte County and its cities and towns, including Paradise, should designate a system of preferred transportation routes for hazardous wastes within the county. Selection of preferred routes should be determined on the criteria of minimal risk of accident, and minimal exposure of the county's population to the consequences of any accidents. The designation of preferred routes need not imply any restrictions on other routes, nor any conflict with the California Highway Patrol's role in establishing transportation routes for hazardous materials.
- SP-22 Butte County, and its cities and towns, including Paradise, shall require that all local

land use decisions on siting specified hazardous waste management facilities are consistent with Butte County Public Health Department requirements and State law.

SI-1 INCREASE SHADE AND REDUCE HEAT IMPACTS

The Town will amend landscaping and development standards to ensure landscaping and building features such as awnings, canopies, arcades, and/or colonnades that can encroach in the public sidewalk area are used to create shade for pedestrians and reduce heat absorption.

The Town will develop design standards for parks to ensure that all park facilities, including recreational sports complexes, include a tree canopy, shade structures, and materials with low solar gain to improve usability on high heat days and reduce heat retention.

Responsible Party: Planning
 Funding Source: General Fund
 Implementation Schedule: Ongoing

SI-2 BALANCED AND EVOLVING NEEDS

Annually, the Town will review its building requirements against best practices for sustainability and fire resistance and construction costs. The Wildfire Prepared Home Program adopted in 2022 establishes standards for new fire resistant single-family home construction. Based on the Town's progress in recovery and the cost of requirements, the Town will identify whether requirements around building materials, construction methods, and/or energy systems should be made more stringent to achieve goals around minimized risk and reduced damage to property. Items to consider include building construction and operation practices that consume less energy and/or facilitate passive design; incorporating residential Electric Vehicle (EV) charging capabilities; facilitating decarbonization, such as converting from gas-powered to electric appliances; supporting back up energy systems; and requiring additional fire-resistant building materials

and practices such as ignition resistance improvements.

The Town will utilize incentives and aid whenever possible to offset the costs associated with increased resiliency. Potential incentives include rebates, reduced or waived fees, density bonuses, and/or a revolving loan or grant program to assist vulnerable populations, and owners of the properties that provide housing to these groups, with modifications to dwelling units. The Town will seek partnerships with non-profit organizations and funding mechanisms to assist property owners with climate adaptation and resiliency interventions, such as home hardening, expansion of defensible space, and energy improvements.

Responsible Party: Planning, Building, Recovery and Economic Development

Funding Source: General Fund

Implementation Schedule: Ongoing

SI-3 REMOVE RISK AND INCENTIVIZE INFILL

Utilizing the work of the Paradise Nature-Based Fire Resilience Project,⁸ the Town will identify and map parcels to prioritize as Wildfire Risk Reduction Buffers (WRRBs). The Town will explore and implement at least one tool to disincentivize development on these parcels, such as a fire risk impact fee or an overlay zone that provides heightened development standards.

At the same time as development on the riskiest parcels is disincentivized, development in the town core will be encouraged. With the development of a sewer system, the Town will develop a zoning overlay for mixed-use and multi-family development in the Sewer Service Area (SSA) predominantly around Skyway and Clark. Increased densities up to 30 units/acre will be allowed in this area, which is better served by transit, flatter, and easier to evacuate. The Town will prepare a fact sheet on the sewer service overlay to send to active developers that will include a map of the SSA and a clear

⁸ Conservation Biologist Institute in partnership with The Nature Conservancy and Paradise Recreation & Parks

explanation of development standards within the overlay. The Town will explore other regulatory incentives to apply with or without the sewer, such as reduced permit fees, expedited processing, a special permitting desk, California Environmental Quality Act (CEQA) streamlining through a Specific Plan, and/or density bonus programs.

Responsible Party: Planning, Building, Recovery, and Economic Development

Funding Source: General Fund

Implementation Schedule: Ongoing

SI-4 DEVELOPMENT STANDARDS

Consistent with the Board of Forestry and Fire Protection (Board) State Minimum Fire Safe Regulations, the Town will notify the Board before revising local regulations and will utilize technical assistance for the Board as appropriate.

The Town will monitor the approval and codification of the State Minimum Fire Safe Regulations into the California Code of Regulations and will amend the Paradise Municipal Code to adopt development standards that meet or exceed Title 14, California Code of Regulations (CCR), Division 1.5, Chapter 7, Subchapter 2, Articles 1-5 (commencing with Section 1270) (SRA Fire Safe Regulations) and Title 14, CCR, Division 1.5, Chapter 7, Subchapter 3, Article 3 (commencing with Section 1299.01) (Fire Hazard Reduction Around Buildings and Structures Regulations), PRC 4290, and PRC 4291 consistent with the local designation of the entire Town as a VHFHSZ.

Through the development review process, the Town will also ensure that future development is designed and constructed to take maximum advantage of known fire and crime prevention siting, orientation, and building techniques. The Town will incorporate these measures as objective development standards.

Responsible Party: Fire

Funding Source: General Fund

District, 2020. Paradise Nature-Based Fire Resilience Project, June.

Implementation Schedule: Objective design standards to be completed by December 2024.

SI-5 FIRE PROTECTION PLANS

New development projects in the Town shall prepare a Fire Protection Plan for adequate emergency water flow, emergency vehicle access, visible addressing and signage, evacuation routes, fuel management, defensible space, fire safe building construction, and wildfire preparedness.

Responsible Party: Planning and Fire

Funding Source: General Fund and EDA grant

Implementation Schedule: Adopt requirements for Fire Protection Plans by July 2024.

SI-6 STORMWATER MANAGEMENT

The Town will also assure that increased runoff resulting from additional coverage of surface area on developing properties does not adversely affect surrounding properties, roads, or stream courses. All development will be checked for compliance with the Master Storm Drain Study and Facilities Plan. Development will not be permitted if potential flooding and drainage impacts cannot be overcome by sound engineering practices.

The Town will require all development proposals on sites which contain slopes exceeding 20 percent and/or which border or include significant and sensitive stream courses or natural drainageways, to include programs for replanting and slope stabilization, erosion control plans, and to incorporate designs which minimize grading and cut-and-fill. Building on slopes in excess of 30 percent will not be permitted.

Responsible Party: Planning and Public Works

Funding Source: EDA Grant

Implementation Schedule: Ongoing

SI-7 HAZARDOUS WASTE

The current Paradise General Plan recommends the siting of community collection and transfer facilities in the industrial area of Paradise (see Figure 8-11, Hazardous Waste Management Plan). The Town has

a Household Hazardous Waste (HHW) and recycling center which has been temporarily closed post-fire. The Town’s goal is to reopen the HHW facility within 2-3 years. In the meantime, residents are directed to use the regional HHW facility in Chico.

The Town’s development review process shall take into consideration the findings, recommendations, and requirements of the Certified Unified Program Agency (CUPA), State law, and the Town’s Household Hazardous Waste Element.

The Town will work with Butte County to seek agreements with other counties in the region to site regionally scaled facilities designed to meet the needs of hazardous waste generators from several counties and to develop a program for ongoing hazardous waste data collection to increase accuracy and reliability of data estimates during subsequent plan updates. The Town will also work with Butte County to develop a countywide hazardous waste reduction program which will identify economically feasible waste reduction practices and incentives available to the following key target groups: large and small quantity industrial and commercial hazardous waste generators, agriculture, and individual households. In particular, the Town will work with Butte County to establish a program to manage waste oil produced by households and small quantity generators in Butte County.

The Town will work with Butte County to prepare countywide air quality control standards pertaining to siting of hazardous waste treatment facilities as necessary to protect the health and welfare of the residents of Butte County.

Responsible Party: Planning

Funding Source: General Fund

Implementation Schedule: Ongoing

SI-8 EMERGENCY RESPONSE

The Town will evaluate the need for and establish, as applicable, law enforcement and fire protection for new land use development sufficient to assure that adequate levels of protection are maintained. The

potential to levy fees on existing land uses will also be evaluated. The Town will consider the burden fees put on property owners and will balance construction feasibility with the need for emergency response.

Responsible Party: Planning and Economic Development

Funding Source: General Fund

Implementation Schedule: Ongoing

SG-2 PROVIDE PROTECTION FOR CRITICAL FACILITIES, INFRASTRUCTURE, AND SERVICES FROM HAZARD IMPACTS.

SP-23 The Town will seek funding sources to provide assistance in installing efficient air conditioning or cooling alternatives in existing structures to reduce peak electrical demands during high heat events to ensure reliability of the electrical grid (new homes will have efficient air conditioning as part of new construction).

SP-24 The Town will strive to harmonize the General Plan, the community’s capital improvements plan and annual fiscal budget with climate action and/or adaptation policies.

SP-25 The Town will partner with community organizations to develop and maintain a community capacity inventory to facilitate drawing on the strengths of the community’s individuals and organizations to work toward community goals, such as safety and resiliency. The inventory will identify the hard assets (e.g., educational institutions, community organizations) in and/or serving Paradise.

SP-26 The Town will maintain and implement the Town’s Storm Drain Master Plan to provide safe and effective management of stormwater to reduce flooding.

SP-27 The Town will continue to implement infrastructure recovery projects to improve the safety and longevity of key infrastructure, including evacuation routes.

SP-28 The Town will require all new development to comply with the airport height restriction policy, airport safety area(s) policies, and land use guidelines for safety compatibility of the Paradise Skypark Airport as contained in the Butte County Airport Land Use Compatibility Plan.

SP-29 The Town will locate, when feasible, new essential public facilities along major evacuation routes, including hospitals and healthcare facilities, emergency shelters, fire stations, emergency command centers, and emergency communications facilities.

SI-9 ELECTRICAL GRID INTEGRITY

Design an incentive program, such as providing forgivable loans or a rebate program, to encourage alternatives to conventional air conditioning for retrofitting existing buildings constructed to older standards, such as high efficiency heat pumps, ceiling fans, air exchangers, increased insulation and low-solar-gain exterior materials to reduce peak electrical demands during high heat events to ensure reliability of the electrical grid. Cooling products that recirculate inside air and do not bring in outside air such as efficient heating, ventilation and air conditioning (HVAC) systems and heat pumps will be prioritized given the added air quality benefits of these methods when wildfire smoke may force residents to close their windows.

Responsible Party: Housing Division

Funding Source: TBD

Implementation Schedule: Ongoing

SI-10 IDENTIFY COMMUNITY ASSETS

The Town will engage non-profits and community-based organizations to develop and maintain a map or directory of community assets. The effort will require first defining the elements that should be included (such as critical facilities and community services), engaging non-governmental organizations (NGOs) and Town agencies to utilize current work, and then developing and sustaining standardized, transferrable procedures for collecting and managing

data. Partnerships with NGOs such as Code for America could yield an open-source, collaborative format for collecting and sharing this information.

Responsible Party: Planning

Funding Source: TBD

Implementation Schedule: Ongoing

SI-11 STRENGTHEN INFRASTRUCTURE

The Town will review standards for roadway widths, maximum cul-de-sac lengths, emergency access, and road and structural identification and amend as necessary to meet or exceed State Fire Safe Regulations.

Consistent with the Long Term Community Recovery Plan (LTCRP) and the ongoing Transportation Master Plan, the Town will continue to implement long-term recovery projects related to improving and protecting infrastructure, including the following:

- Replace damaged plastic culverts with reinforced concrete pipe culverts to improve the safety and long-term maintenance of evacuation routes.
- Remove and replace damaged hardscape, including concrete curb, gutter and sidewalk lighting, planters, and amenities.
- Repair damaged roadways and roadway signs along evacuation routes.
- Rehabilitate Neal Road, a key evacuation route, from Wayland Road to Skyway.
- Remove standing burnt trees on private lands that are hazardous to public safety.
- Repair off-system (i.e., local, public roads that are not part of the federal aid system) roadways along evacuation routes.
- Widen key evacuation routes (i.e., Upper Skyway from Bille Road to Pentz Road, Clark Road from Wagstaff Road to Skyway, Pentz Road from Skyway to Town limits, Neal Road from Skyway to Town limits) to include a center turn lane, widened shoulders, and a multi-use pathway to improve evacuation and increase evacuation capacity.

- Implement other circulation improvements in the Transportation Master Plan that will provide benefits for emergency preparedness, response, and evacuation.
- Develop a program to prioritize and facilitate correction of existing non-conforming development in terms of road standards and vegetative hazard.

The Town will include emergency vehicle access requirements in the Paradise Municipal Code subdivision and zoning ordinances, Town-adopted road standards, and Town-adopted current California Fire Codes. Through the development review process and in accordance with the Butte County Community Wildfire Protection Plan, adequate roads shall be required to be constructed and/or improved for emergency vehicle access.

The Town will maintain and continue to implement the updated Storm Drain Master Plan.

Responsible Party: Public Works Planning and Recovery

Funding Source: FHWA – Emergency Relief, FEMA – Hazard Mitigation Grant, FEMA – Public Assistance and some unsecured

Implementation Schedule: Ongoing

SI-12 AIRPORT

The Town will submit all zoning, subdivision, and General Plan amendment applications within the adopted airport area of influence to the Butte County Airport Land Use Commission for review and approval. In conjunction with the General Plan update, the Town will adopt zoning changes within the Skypark Airport’s “C” Compatibility Zone to meet the standards of the Airport Land Use Compatibility Plan.

Responsible Party: Planning

Funding Source: General Fund

Implementation Schedule: Ongoing

SI-13 CRITICAL FACILITIES

In conjunction with the General Plan update, the Town will look at the current public-institutional (P-I) and community-service (C-S) land use designations

and, where feasible, ensure these designations are along or near major evacuation routes, recognizing it is not feasible to locate such facilities outside VHFHSZs because, by local designation, the entire Town is designated a VHFHSZ. Existing and new critical facilities will continue to provide visible street signs and adequate clearance for emergency response vehicles.

In conjunction with the Town’s ongoing development of an early warning system, emergency communications facilities will be sited with consideration for future disasters.

Whenever feasible, critical facilities that serve the town will be placed outside of VHFHSZs. Within Town limits, the development of new critical facilities will be prohibited in WRRBs.

Responsible Party: Planning
Funding Source: General Fund
Implementation Schedule: Ongoing

SG-3 INCREASE PUBLIC AWARENESS OF THE RISK AND VULNERABILITY OF THE COMMUNITY TO HAZARDS AND PROMOTE PERSONAL AWARENESS AND RESPONSIBILITY.

SP-30 Incorporate links and references in system maps and incorporate interpretive signage at multi-use path trailheads providing education on climate change related health threats including heat-related illness and wildfire smoke and personal care steps.

SP-31 Require residential property managers and landlords to disclose hazard risk information to renters in a manner similar to that required when residential properties are sold.

SP-32 Continue to maintain and disseminate education and resources on wildfire risk and mitigation using a variety of methods and materials to reach at-risk or hard to reach populations.

SP-33 Conduct practice exercises to increase awareness of emergency operations for Town staff and members of the public.

SP-34 Conduct outreach and education around safe handling and disposal of household hazardous materials using a variety of methods and materials to reach at-risk or hard to reach populations.

SI-14 COMMUNITY AWARENESS

The Town to install signage along the Yellowstone Kelly Heritage Trailway, the planned Paradise Transit Center, and the planned multi-use pathways along main ingress and egress routes to remind residents of climate change related threats, including heat-related illness and wildfire smoke. The Town will work with local public health professionals to provide information on personal care steps to prevent heat-related illness and wildfire smoke in a brochure or placard that can be placed at trailheads and park entrances and on municipal bulletin boards.

Responsible Party: Public Works Department
Funding Source: TBD
Implementation Schedule: Ongoing

SI-15 PUBLIC EDUCATION

The Town will also amend the Town’s Health and Safety Code (Title 8 of the Paradise Municipal Code) to require all residential property managers and landlords to disclose information in rental leases that identifies areas of unreasonable risks (pursuant to California Government Code 65302(g)(1)), including but not limited to California Department of Forestry and Fire Protection (CAL FIRE) fire hazard severity zone for the property and specifies whether the property is in an area prone to flood pursuant to Chapter 8.55 of the Municipal Code, in a high liquefaction susceptibility zone, or at risk of ground shaking.

Responsible Party: Planning
Funding Source: General Fund
Implementation Schedule: Ongoing

The Town will conduct Emergency Operations Center (EOC) training exercises throughout the life of the Safety Element, in addition to simulation exercises with the public.

The Town will initiate public education programs for household hazardous waste to increase public awareness of proper hazardous waste disposal. Working with Butte County and the franchised solid waste hauler, the Town will develop small quantity generator and residential hazardous waste educational programs. Such programs should provide information as to types of hazardous waste products, State and local requirements for disposal of hazardous wastes, available means for disposal of small quantities of hazardous wastes, and the risks associated with illegal disposal of hazardous wastes in septic systems, public wastewater treatment facilities and the municipal waste stream, and disposal to Land. Public information programs will also improve the level of general understanding about hazardous waste management and siting issues; educate Butte County residents as to particular hazardous waste issues of concern, such as the risk to groundwater and drinking water supplies; involve the public in hazardous waste management; and build a vehicle for incorporating public concerns into subsequent Safety Element updates.

The Town will educate residents regarding the dangers of seismic activity public outreach efforts and promotion of the findings contained within the adopted Butte County Local Hazard Mitigation Plan (LHMP), which hereby is incorporated by reference within the Paradise General Plan.

Public education efforts shall include outreach using a variety of methods and materials to reach at-risk or hard to reach populations.

Responsible Party: Planning
 Funding Source: General Fund and TBD
 Implementation Schedule: Ongoing

SI-16 PROMULGATE WILDFIRE MATERIALS

The Town will maintain its Emergency Services Information webpage and associated resources, including but not limited to the ember awareness checklist, disaster supplies kit checklist, evacuation routes map and plan, and defensible space brochures. The Town will periodically utilize its social media accounts to disseminate information on wildfire risk and reduction and will staff information tables or booths at community and/or neighborhood events (e.g., Paradise Chocolate Festival, Party in the Park, National Night Out) at least three times per year to pass out informational resources. In conjunction with Goal 8, the Town will continue to partner with the Butte County Fire Safe Council and other community organizations to lift up training sessions and share education resources. Working with community partners, the Town will explore the feasibility of holding an annual fire prevention and risk reduction day of awareness or workshop that could be held on the anniversary of the Camp Fire.

Responsible Party: Recovery and Fire Department
 Funding Source: FHWA – Emergency Relief, FEMA – Hazard Mitigation Grant, FEMA – Public Assistance and some unsecured
 Implementation Schedule: Ongoing

SG-4 INCREASE THE COMMUNITY’S ABILITY TO BE PREPARED FOR, RESPOND TO, AND RECOVER FROM A DISASTER EVENT.

- SP-35 Implement the Emergency Operations Plan.
- SP-36 Prioritize the needs of vulnerable and disadvantaged communities, including renters and low-income homeowners, during the emergency response and disaster recovery efforts.
- SP-37 The Town shall develop policies and provide updates, as appropriate, that ensure recovery and redevelopment after a large fire reduces future vulnerabilities to fire hazard risks through site preparation, redevelopment layout design, fire-resistant landscape planning, and ignition resistant building design and materials.

- SP-38 Provide adequate access, including emergency vehicle access and evacuation, to all new parcels and existing parcels in accordance with Title 14, California Code of Regulations (CCR), Division 1.5, Chapter 7, Subchapter 2, Articles 1-5 (commencing with Section 1270) (SRA Fire Safe Regulations) and Title 14, CCR, Division 1.5, Chapter 7, Subchapter 3, Article 3 (commencing with Section 1299.01) (Fire Hazard Reduction Around Buildings and Structures Regulations), and PRC 4290, where feasible and preferable in accordance with the town-adopted Butte County Community Wildfire Protection Plan.
- SP-39 Continue to implement the Transportation Master Plan to improve circulation infrastructure used for evacuation and ensure it is appropriately sized for future populations and explore capital expenses for maintaining the system to ensure reliability in an emergency. Incorporate into appropriate plans the role of the active transportation options (such as walking paths, sidewalks, and bikeways) and local transit agency(s) in providing evacuation options based upon the duration and severity of events as well as different community needs, particularly those residents with access and functional needs.
- SP-40 Continue to implement standards to prohibit or limit development on parcels without adequate emergency access.
- SP-41 The Town will develop and provide a multi-layered, redundant communications system to be used for disaster preparedness education and emergency communications.
- SP-42 The Town will work with community partners to run disaster event simulations twice per year for community members to be able to practice evacuation.

SP-43 The Town will designate an emergency aircraft landing area(s) within the Paradise primary and secondary planning areas.

SI-17 TOWN ACTION TO HELP VULNERABLE COMMUNITIES

The Town will support post-disaster funding for multi-family and affordable housing development, including manufactured housing. To the extent feasible within the Community Development Block Grant-Disaster Recovery (CDBG-DR) funding requirements, the Town will prioritize the replacement of affordable housing units that have been damaged or demolished, as well as the deployment of interim housing in vulnerable communities and the creation of new affordable housing.

Ensure that vulnerable populations and agencies and non-governmental organizations that work with these populations are represented in the development of any emergency response plan(s) and climate adaptation strategies.

Responsible Party: Housing and Planning
 Funding Source: CDBG-R and General Fund
 Implementation Schedule: Ongoing

SI-18 AFTER ACTION REPORTING

An after-action report shall be prepared following any declaration of a local emergency by the Town for which the governor proclaims a state of emergency, pursuant to the California Code of Regulations, Title 19, Section 2450 and Section 3.1 of the [Town of Paradise Emergency Operations Plan](#). The after-action report will serve as a source for documenting the Town emergency response activities and identifying areas of concern and successes. It will also be utilized to develop a work plan for implementing improvements.

Responsible Party: Recovery and Planning
 Funding Source: General Fund/TBD
 Implementation Schedule: Ongoing

SI-19 DISASTER RESPONSE INFRASTRUCTURE

The Town will develop and maintain an early warning system that includes sirens, text messages, voice messages, and other alert best practices so that there are multiple layers of communication and built-in redundancy in case of disaster-driven failures. The warning system will be used at least twice per year for disaster simulations, which could occur on the anniversary of major past disasters like the Camp Fire. The simulations will help residents overcome behavioral obstacles related to evacuation as they become familiar with assigned evacuation routes and practice their own response plans.

Through its General Plan update process, the Town will designate an emergency aircraft landing area. This could be within Paradise’s primary or secondary planning area.

The Town will continue to explore funding resources for improving and maintaining its evacuation system. The Town will continue to implement the evacuation route upgrades recommended in the Long-Term Community Recovery Plan and the Transportation Master Plan (TMP), and implementation will be according to the priority levels identified in the TMP. As mentioned under SG-3, the Town will continue to provide education around evacuation zones and routes and other disaster recovery educational resources.

The Town will continue to limit the densities of development on parcels that do not have adequate emergency access. At a minimum, the Town will not approve any discretionary permit or project that requests an increase of existing residential density on parcels that are served access by either an existing or resultant cul-de-sac exceeding a maximum length of 1,800 lineal feet. The Town will look to the TMP and Board of Forestry and Fire Protection for guidance on potentially developing more stringent access requirements. New development will be assessed on a project basis to ensure that new land uses will not cause emergency responses times to fall below acceptable levels. The Town will strive to maintain an

overall fire insurance (ISO) rating of three or better, and an emergency fire response within five minutes for 90 percent of all emergency incidents within the Town Limits.

Responsible Party: Recovery and Public Works

Funding Source: HMGP

Implementation Schedule: Ongoing

SI-20 EARLY NOTICING FOR CONSTRAINED AREAS

The Town will establish a new evacuation zone for areas identified as having inadequate access/evacuation routes. Parcels within this new evacuation zone will be notified when the Town issues a warning or notice to any other evacuation zone, giving residents additional time to prepare.

Responsible Party: CAL FIRE and Planning

Funding Source: General Fund

Implementation Schedule: Ongoing

SG-5 REDUCE FIRE SEVERITY AND INTENSITY IN PARADISE AND SURROUNDING LANDS.

SP-44 Adopt an urban canopy ordinance that includes guidance and standards for new tree planting, proper tree pruning, and vegetation management to preserve the structural integrity of trees while ensuring fire resistance and fuels management. Recommendations for fire-resistant trees species (e.g., black oak) will be included.

SP-45 The Town will encourage the acquisition of high hazard parcels on the periphery of town (i.e., the Wildfire Risk Reduction Buffers identified by the Conservation Biology Institute) for open space or similar uses that serve as wildfire buffers. Explore zoning changes or other policy tools like the Bureau of Land Management’s Area of Critical Environmental Concern planning process or the establishment of an impact fee to discourage or prohibit development in the most dangerous places.

SP-46 Support efforts to reduce health hazards from wildfire smoke, such as access to

respirators and air filtration systems, access to clean air refuge centers, and limits on outdoor activities.

SP-47 Support hazardous fuel reduction, defensible space clearing and forest fuel reduction in rural forested areas with high tree mortality and unnaturally high fuel loads to reduce the size and severity of catastrophic wildfires which reduces the release non-anthropogenic black carbon and methane.

SP-48 Continue to ensure that defensible space and hazardous fuel management requirements of Chapter 8.58 are enforced as expeditiously as possible. Maintain resident records as the Town continues to rebuild so that citations can be served more quickly.

SP-49 Work with community organizations to provide grants or volunteer assistance for vegetation management to help offset costs for low-income households. Assistance will prioritize seniors, persons with disabilities, and low-income residents. Consider contracting for or subsidizing a herd of goats or sheep in order to provide fuels management services to property owners at reduced rates. Grazing programs are most effective for fuels management in large areas and areas with steep or difficult terrain.

SI-21 WILDFIRE BUFFERS

Planning staff will meet with Paradise Parks and Recreation District staff, the Nature Conservancy, Conversation Biology Institute, and other stakeholders to identify the highest priority parcels for Wildfire Risk Reduction Buffers. The Paradise Nature-Based Fire Resilience Project Final Report will be used as a starting point for discussion.

The Town will work with potential funders and other partners to facilitate undeveloped, high-priority parcels being turned into parks or open space. If these parcels are not able to be acquired for open space use, the Town will explore establishing an

impact fee for future development on these parcels that will go to fund fire prevention and resilience efforts, such as vegetation management programs and circulation upgrades for evacuation purposes. Development on these parcels would be subject to the most stringent fire and building codes.

Responsible Party: Recovery, Planning, and Recreation & Parks
Funding Source: TBD
Implementation Schedule: Ongoing

SI-22 VEGETATION MANAGEMENT

The Town will provide educational and financial resources to facilitate adequate fuels management. Assistance resources can include volunteer days in partnership with a local service organization, provision of goats or sheep to provide grazing services, and grants to help offset costs for low-income households. Assistance will prioritize seniors, persons with disabilities, and low-income residents. The Town will also continue to publicize local weed abatement businesses through the Town’s online business directory: <https://www.townofparadise.com/business-directory>.

The Town of Paradise Public Works Department will continue to implement the annual roadside vegetation management program in a manner that is consistent with the California Department of Forestry and Fire Protection (CAL FIRE) Butte Unit Fire Plan and the Butte County Community Wildfire Protection Plan.

The Town will continue to enforce defensible space requirements and to publicize its system for code enforcement complaints related to hazardous fuel management. Based on community feedback, the Town will consider shortening the length of time that property owners have to become compliant with the Town’s requirements from 30 calendar days to 20 calendar days and to look at opportunities to streamline the abatement process for properties that don’t comply.

Responsible Party: Recovery, Public Works, Planning, Fire, and Recreation & Parks
Funding Source: TBD

Implementation Schedule: Ongoing

SI-23 STATE COMPLIANCE

The Town will enforce and comply with the provisions of Title 14, California Code of Regulations (CCR), Division 1.5, Chapter 7, Subchapter 2, Articles 1-5 (commencing with Section 1270) (SRA Fire Safe Regulations) and Title 14, CCR, Division 1.5, Chapter 7, Subchapter 3, Article 3 (commencing with Section 1299.01) (Fire Hazard Reduction Around Buildings and Structures Regulations), and PRC 4290 and Town-adopted California Fire Code, the Town will also require adequate clearance around structures.

Responsible Party: Recovery, Planning, and Fire

Funding Source: General Fund/Building Enterprise Fund/FEMA – Hazard Mitigation Grant

Implementation Schedule: Ongoing

SG-6 INCREASE COMMUNITY RESILIENCY TO CLIMATE CHANGE’S INFLUENCE ON DISASTERS.

SP-50 The Town will encourage or require native, low-water-use, drought-tolerant and fire-resistant plant species for use with open space and park development. The list will also be included in landscaping standards for private development to reduce reliance on potable and recycled water resources.

SP-51 The Town will develop a public outreach and engagement strategy to address impacts of climate change and its associated hazards, especially disproportionate impacts on vulnerable populations, that identifies all stakeholders, utilizes methods to engage the entire community, and includes education components in all planning and policy-making processes for climate change and adaptation.

SP-52 Educate and encourage property owners to consider site design and building features that can increase energy efficiency and improve the resiliency of structures.

SP-53 Complete a comprehensive General Plan update to align land uses and other Town

policies with post-fire recommendations, community needs, and the threats of climate change.

SP-54 Work to provide safeguards so that infrastructure will be available to support residents during extreme weather and disasters.

SI-24 ENCOURAGING RESILIENCY

The Town will develop a guidance project checklist for building and site adaptation measures. The checklist, included with permit applications, will provide education to permit applicants on modifications to site plans and structures that can improve a project’s resiliency to existing and potential future climate change hazards. The items on the checklist are not requirements but simply information on practices that could increase energy efficiency, reduce greenhouse gas emission, and increase resiliency. The checklist will include information on weatherizing techniques, solar panels, and wind energy.

In the public realm, consider using impact fees or other funding mechanism to develop battery charging stations for residents during power outages that can double as cooling stations during extreme heat days.

Responsible Party: Planning and Building

Funding Source: TBD

Implementation Schedule: Ongoing

SI-25 FUTURE PLANNING

The Town will continue its comprehensive General Plan update and will use the update process as an opportunity to continue to infuse resiliency into land use planning and local policy. Any General Plan updates will include robust community engagement processes that uses a combination of engagement methods (e.g., digital exercises, in-person meetings both large and small, phone-based engagement), culturally competent messaging, and engagement activities to target vulnerable populations that have historically been excluded from the planning process.

Targeted engagement activities could include focus groups with residents with protected characteristics, interviews with community-based organizations serving these populations, using stipends to remove barriers to participation, scheduling meetings at transit-served locations, and other equitable best practices.

Responsible Party: Planning

Funding Source: General Fund

Implementation Schedule: Ongoing

SG-7 COLLABORATE WITH THE USDA FOREST SERVICE (USFS), BUREAU OF LAND MANAGEMENT (BLM), CALIFORNIA DEPARTMENT OF FORESTRY AND FIRE PROTECTION (CAL FIRE), AND OTHER FIRE PROTECTION AGENCIES AND STAKEHOLDERS TO MITIGATE THE RISK OF WILDFIRE AND OTHER HAZARDS.

SP-55 Adopt plans and support projects for forest management activities to restore California forest lands that have high tree mortality and unnaturally dense fuel loads to a fire resilient condition that will mitigate wildfire size and severity.

SP-56 The Town will continue to maintain adoption of a current California Fire Code amended to reflect the unique needs of Paradise and require compliance with its provisions. In addition, the Town shall require that, after a large fire event, a detailed and comprehensive evaluation of redevelopment of the affected area(s).

SP-57 The Town will harmonize and coordinate updates to hazard mitigation and safety planning. The Town will align and coordinate updates to the community's General Plan and Local Hazard Mitigation Plan to efficiently meet requirements and SB 379 (2015) and synchronize future updates of the Safety and Housing Element to ensure compliance with Senate Bill 1035 (2018) and consistency between policies, strategies, and implementation measures. Paradise will

collaborate with Butte County jurisdictions and applicable, consider adoption of a multi-jurisdictional climate adaptation plan, climate action plans, capital improvements plans, transportation plans, or Local Hazard Mitigation plan(s) that can address cross jurisdictional issues or issues in which coordination and pooling of resources is a benefit.

SP-58 Designate an inter-departmental/inter-agency working group to coordinate the implementation and monitoring of the community's climate action and/or adaptation strategies.

SP-59 Designate a department, or staff position within an existing department, with responsibility for monitoring, reporting and progress towards implementation of the Safety Element.

SP-60 Support hazardous fuel reduction and forest fuel reduction in rural forested areas with unnaturally high fuel loads to reduce the size and severity of catastrophic wildfires. Ensure forest fuels reductions benefit the upper-watershed water quality, quantity, and timing.

SP-61 The Town will promote fire prevention by continuing to require brush removal and fuel load clearing in accordance with Title 14, California Code of Regulations (CCR), Division 1.5, Chapter 7, Subchapter 2, Articles 1-5 (commencing with Section 1270) (SRA Fire Safe Regulations) and Title 14, CCR, Division 1.5, Chapter 7, Subchapter 3, Article 3 (commencing with Section 1299.01) (Fire Hazard Reduction Around Buildings and Structures Regulations), and PRC 4290., the Butte County Local Hazard Mitigation Plan (LHMP), and the Butte County Community Wildfire Protection Plan as ongoing conditions of development approval and property maintenance.

SP-62 The Town will work with Del Oro Water Company and the Paradise Irrigation District to assure the adequacy and long-term maintenance of water supply, fire flow, and peak-load water supplies in accordance with Town-adopted current California Fire Codes.

SI-26 AGENCY COOPERATION

The Town will continue to coordinate with local, state, and federal agencies to update emergency, evacuation, and hazard mitigation plans, as necessary, to support inter-agency preparedness coordination, and establish and maintain mutual aid agreements where feasible.

The Town will continue to serve as a partner for fire protection agencies, including USDA Forest Service (USFS), Bureau of Land Management (BLM), California Department of Forestry and Fire Protection (CAL FIRE). The Town will distribute information on behalf of these organizations to Paradise residents as appropriate and will continue to publicize fire safe programs and resources from firefighting agencies.

In particular, the Town will continue to promote and support the vegetation clearance, defensible space activities, and fire prevention programs of the Fire Safe Councils, community organizations, and other local agencies such as the California Department of Transportation (Caltrans).

The Town will alert fire agencies of all evacuation drills in the event that fire fighters or agency representatives would like to participate. The Town will strive to establish emergency service training that meets or exceeds State or national standards, as provided by CAL FIRE. The Town will work with CAL FIRE to execute the trainings.

The Town will reduce wildland fuels through community fuel reduction, including lineal fuel breaks within and adjacent to the town and defensible space around homes through hazard abatement at the parcel level, particularly in

reference to the Town of Paradise Defensible Space Ordinance the Butte County Local Hazard Mitigation Plan (LHMP), and the Town-adopted Butte County Community Wildfire Protection Plan. The Town will also endeavor to establish an assured funding means and cooperative partnership program(s) for ongoing maintenance of existing and proposed fuel breaks as well as private and public road clearances.

Through the development review and long-range planning processes, the Town will continue to coordinate and assure current and future water supply for fire suppression needs. The Town will establish standards for adequate fire flows for new land use development and expansion of existing development in accordance with the requirements of the Town-adopted California Fire Code.

Responsible Party: Planning and Fire
 Funding Source: General Fund and TBD
 Implementation Schedule: Ongoing

SI-27 COUNTY COLLABORATION

Maintain the Butte County Local Hazard Mitigation Plan (LHMP) and Butte County Community Wildfire Protection Plan. Share information and resources with other Butte County jurisdictions as the Town continues to recover.

The Town shall encourage Butte County to enforce standards conforming to the fire safety standards established by the Board of Forestry and Fire Protection for State Responsibility Areas within the Paradise secondary and tertiary planning areas, including the following:

- Road standards for fire equipment access. Common road standards for the Town’s sphere of influence have been adopted by Butte County and the Town of Paradise.
- Standards for signs identifying streets, roads, and buildings, including standards for address identification.
- Minimum private water supply reserves for emergency fire use.

- Fuel breaks and greenbelts.
- Land use policies and safety standards that take into account the recurrent nature of wildland fires.
- Design standards establishing minimum road widths and clearances around structures.
- Emergency preparedness protocol and procedures.
- Maximum length of cul-de-sac roadways.

The Town will share its Operations Playbook (see SI-18) with other Butte County jurisdictions to promote collaboration and collective problem solving.

Responsible Party: Planning, Fire, and Public Works

Funding Source: General Fund and TBD

Implementation Schedule: Ongoing

SG-8 COLLABORATE WITH BUTTE COUNTY FIRE SAFE COUNCIL, PARADISE RIDGE FIRE SAFE COUNCIL, PARADISE RECREATION AND PARK DISTRICT, AND OTHER COMMUNITY GROUPS AND ORGANIZATIONS TO INCREASE HOMEOWNER AWARENESS OF AND PARTICIPATION IN VOLUNTARY WILDFIRE RESILIENCY AND CLIMATE CHANGE ADAPTATION INTERVENTIONS.

SP-63 Work with local fire officials to educate homeowners and landlords through social media and education programs on how to reduce fire risk to structures and landscaping as wildfire risk continues to increase due to climate change.

SP-64 Ensure coordination between emergency management personnel and local hospitals, urgent care medical providers, and area doctors to develop community-wide communications and response plans for high heat days exacerbated by climate change. These response plans should include alerts to medical professionals to ensure providers are equipped to handle increased patient load, allow local providers to check in or notify their vulnerable patients, and first

responders are properly staffed and equipped to transport vulnerable patients to community heat shelters or medical facilities, if experiencing emergent conditions.

SP-65 Ensure all segments of the Paradise community, and especially vulnerable populations, are aware of and involved in adaptation planning. Utilize methods to engage the entire community and include education components in all planning and policy-making processes for climate change and adaptation.

SP-66 Work with community partners, local officials, and non-profit organizations to incorporate social media, traditional forms of outreach, and education programs into community plans, such as the Paradise Fuel Reduction Program, that seek to educate homeowners and landlords on how to reduce risks to structures, landscaping, and property.

SP-67 Work with community partners to implement recognition program(s) such as Firewise Community, Wildfire Prepared Home (see SI-2), and the California Department of Insurance Safer from Wildfires program to recognize new and existing properties that have implemented best practices for siting structures outside of the wildland-urban-interface, incorporated fuel reduction in landscaping, and incorporated building retrofitting and/or new construction standards to harden structures against fire.

SI-28 INCLUSIVE ENGAGEMENT AND EDUCATION

Seek opportunities to fund and partner with existing, successful community-based programs (e.g., community health programs, neighborhood associations and advocacy organizations, volunteer groups, and others) to connect community members to hazard and climate change risk information. An

example of such an expansion would be the promotion of voluntary retrofits to building owners in coordination with the public health sector Healthy Homes educational campaigns. The Town will encourage and promote neighborhood-based communication networks through which community members can post requests for assistance, availability of tools/supplies, local 'news' updates, helpful resources, etc. The Town will continue to post links to the Butte County Fire Safe Council and California Wildland Coordinating Group and its fire prevention website.

The Town and its partners will utilize best practices for inclusive engagement and education, including holding varying meeting times to accommodate different schedules, holding meetings in locations accessible to those without transportation, providing culturally relevant language, providing childcare, diversifying outreach through storytelling and active listening techniques, and ensure all materials are designed to communicate effectively to all groups.

Responsible Party: Planning
 Funding Source: General Fund
 Implementation Schedule: Ongoing

SI-29 ONGOING EDUCATION

The Town will continue to maintain and publicize information resources and workshop opportunities from the Butte County Fire Safe Council, including on the Town's Recovery Facebook page and other social media accounts. The Town will also continue to make fire safety resources available online, such as the ember awareness checklist, disaster supplies kit checklist, evacuation routes map and plan, and defensible space brochures.

The Town will approach local community partners about their interest in holding an annual fire prevention and risk reduction day of awareness or workshop that could be held during the NFPA National Fire Prevention Week. Should there be interest and feasibility, the Town will serve as a connector and play a role in support, with one of the Fire Safe Councils taking a more lead role.

Responsible Party: Planning and Fire
 Funding Source: General Fund and TBD
 Implementation Schedule: Ongoing

SG-9 UTILIZE PARADISE'S EXPERIENCES WITH WILDFIRE TO ADVOCATE FOR STATE AND FEDERAL POLICIES AND REGULATIONS THAT ASSIST IN CREATING DISASTER RESILIENT COMMUNITIES AND FACILITATE POST-DISASTER RECOVERY

SP-68 Advocate for new sources of State or federal financing for adaptation and resilience.

SP-69 Support the integration of disaster resilience and hazard mitigation planning into existing regional planning processes, including the Regional Housing Needs Assessments.

SP-70 Explore funding mechanisms for climate adaptation and fire resiliency, including but not limited to special districts, impact fees, a parcel tax, establishment of a regional adaptation authority, or enabling the Butte County Association of Governments to raise revenue.

SP-71 Engage with insurance companies in the area to identify ways to align insurance policies and incentive programs with wildfire mitigation priorities, such as allowing policyholders to lower their rates through home hardening and vegetation management or other risk reduction measures, or through programs such as those mentioned in SP-67. Offer grants or no-interest loans to low and moderate-income households to ensure the most vulnerable households are not left behind.

SP-72 Encourage local utilities to retain and enhance lifeline programs for life sustaining services such as water and electricity for vulnerable populations, especially due to hazards such as an increase in high heat and the potential for related power disruptions. Partner with utilities to provide education to program participants and property owners to

encourage retrofitting of appliances, lighting, plumbing fixtures and landscaping to reduce energy and water demand and backup power for life-dependent in-home medical equipment and devices.

SP-73 The Town will maintain and regularly update its 2021 Federal Advocacy Platform as recovery continues and more lessons are learned.

SI-30 REGIONAL COLLABORATION

The Town will work with Butte County and its cities to explore new sources of funding, such as establishing a regional adaptation authority or enabling the Butte County Association of Governments to raise revenues. The Town will continue to work with other jurisdictions on implementing and maintaining collaborative plans like the Butte County Local Hazard Mitigation Plan (LHMP) and Butte County Community Wildfire Protection Plan (CWPP). The Town will continue to participate in cross-jurisdictional planning processes, especially should a Butte County climate action or resiliency plan be instigated.

When feasible, Town staff who were/are integral to Camp Fire recovery and emergency operations should participate in professional development events, including speaking on panels or participating in roundtables, so that the Town can continue to learn best practices and share their experience with other jurisdictions. The Town will email its Operations Playbook (see SI-18) with all other Butte County jurisdictions to promote collaboration and collective problem solving. The Town should consider a press release and Q&A event for other jurisdictions and agencies with the release of the playbook to facilitate information-sharing.

Responsible Party: All departments, but especially Recovery
Funding Source: General Fund
Implementation Schedule: Ongoing

SI-31 ADVOCACY

The Town will maintain and implement its 2021 Federal Advocacy Platform. As the Town becomes aware of potential fundings resources and/or State legislation relevant to wildfire, the Town will share its experiences and continue to try to establish systems and policies that can help other communities recover from large wildfire events.

Town officials will reach out to local insurance providers to gauge interest in a partnership to reform property insurance. The intended reform would incentivize private fire mitigation actions with a program that allows policyholders to lower their rates through home hardening and vegetation. The Town will work with local, regional, and State level organizations and politicians to scale up the program should there be interest.

Responsible Party: Town Manager and Fire
Funding Source: General Fund/TBD
Implementation Schedule: Ongoing

BUTTE COUNTY CLIMATE CHANGE VULNERABILITY ASSESSMENT

Prepared for:

Butte County
Development Services

Prepared by:

Molly Marcussen
2017-2018 CivicSpark Fellow

Updated by:

PlaceWorks
2040 Bancroft Way, Suite 400
Berkeley, CA 94704

July 2021

Table of Contents

Executive Summary.....7

1. Introduction8

1.1. Climate Change Vulnerability Assessment Method..... 8

1.2. Butte County Community Profile..... 14

1.3. Water Resources 16

1.3.1. Surface Water..... 16

1.3.2. Groundwater 20

1.4. Cal-Adapt and Climate Change Projections 22

2. Populations and Assets23

2.1. Populations..... 23

2.2. Buildings and Infrastructure 23

2.3. Economic Drivers..... 24

2.4. Ecosystems and Natural Resources 24

2.5. Key Services..... 25

3. Hazards of Concern25

3.1. Primary Climate Stressors..... 26

3.1.1. Increase in Air Temperatures 26

3.1.2. Changes in Precipitation Patterns 26

3.2. Secondary Climate Hazards 26

3.2.1. Agriculture and Forestry Pests and Diseases..... 26

3.2.2. Drought 27

3.2.3. Extreme Heat..... 27

3.2.4. Human Health Hazards..... 28

3.2.5. Severe Wind 28

3.2.6. Severe Storms..... 29

3.2.7. Wildfire..... 31

4. Potential Impacts.....33

4.1. Agriculture and Forestry Pests and Diseases..... 33

4.2. Drought 33

4.3. Extreme Heat..... 35

4.4. Human Health Hazards..... 39

4.5. Severe Wind 40

4.6. Severe Storms 40

4.7. Wildfire..... 42

5. Adaptive Capacity46

5.1. Agriculture and Forestry Pests and Diseases..... 47

5.2. Drought 47

5.3. Extreme Heat..... 49

5.4. Human Health Hazards..... 50

5.5. Severe Wind 50

5.6. Severe Storms 51

5.7. Wildfire..... 52

6. Conclusion54

6.1. Key Findings..... 54

6.2. Recommendations 55

7. References.....56

Appendix A: Countywide Climate Change Projections60

Appendix B: Climate Change Vulnerability Assessment Results Matrix61

Appendix C: Glossary66

8. Endnotes68

Tables

Table 1. Rubric for Impact Scoring 12

Table 2. Rubric for Adaptive Capacity Scoring 13

Table 3. Vulnerability Scoring Matrix..... 13

Table 4. Primary and Secondary Climate Stressors in Butte County 25

Figures

Figure 1. California Adaptation Planning Guide Process 9

Figure 2. California Adaptation Planning Guide Vulnerability Assessment Method 9

Figure 4: Surface Water Hydrology in Butte County..... 19

Figure 5. Butte County Groundwater Subbasins 21

Figure 6. Butte County Fire Hazard Severity Zones 32

Figure 7. Map of Predicted Annual Temperature Average in 2050 under the RCP 8.5 Scenario in Relation to Critical Habitats in Butte County 37

Figure 8. Map of Predicted Annual Temperature Average in 2090 Under the RCP 8.5 Scenario in Relation to Critical Habitats in Butte County 38

Figure 9. Rural Communities Living in Wildfire Severity Zones 43

Figure 10. Wildland-Urban Interface Areas in Butte County 44

Acronyms/Abbreviations

Acronym/Abbreviation	Meaning
°F	degrees Fahrenheit
AB	Assembly Bill
APG	<i>California Adaptation Planning Guide</i>
BCAQMD	Butte County Air Quality Management District
CalOES	California Governor’s Office of Emergency Services
CAL FIRE	California Department of Forestry and Fire Protection
CAP	Climate Action Plan
CEC	California Energy Commission
FEMA	Federal Emergency Management Agency
GHG	greenhouse gas
GSA	Groundwater Sustainability Agency
GSP	groundwater sustainability plan
IPCC	Intergovernmental Panel on Climate Change
LHMP	Local Hazard Mitigation Plan
OEM	Office of Emergency Management
PSPS	Public Safety Power Shutoff
RCP	Representative Concentration Pathway
SB	Senate Bill
SGMA	Sustainable Groundwater Management Act
WUI	wildland-urban interface

This page intentionally left blank.

Executive Summary

In 2015, Senate Bill (SB) 379 was signed into law, establishing California Government Code Section 65302(g)(4), which states that local governments need to address climate adaptation and resilience in General Plan Safety Elements upon the next revision of a local hazard mitigation plan, or before 2022. The first step in meeting this requirement is conducting a Climate Change Vulnerability Assessment to identify the risks that climate change poses to a local jurisdiction and the populations and assets at highest risk from climate change. California Government Code Section 65302(g)(4) requires the following information to be included in the Climate Change Vulnerability Assessment:

- I. Information from the Internet-based Cal-Adapt tool.
- II. Information from the most recent version of the California Adaptation Planning Guide.
- III. Information from local agencies on the types of assets, resources, and populations that will be sensitive to various climate change exposures.
- IV. Information from local agencies on their current ability to deal with the impacts of climate change.
- V. Historical data on natural events and hazards, including locally prepared maps of areas subject to previous risk, areas that are vulnerable, and sites that have been repeatedly damaged.
- VI. Existing and planned development in identified at-risk areas, including structures, roads, utilities, and essential public facilities.
- VII. Federal, state, regional, and local agencies with responsibility for the protection of public health and safety and the environment, including special districts and local offices of emergency services.

Climate change is currently impacting Butte County, including contributing to major wildfires, and is projected to lead to more severe conditions in the future. Butte County Development Services staff saw an immediate need to meet SB 379 to ensure that the community could adapt and build resilience to the changing climate.

This Climate Change Vulnerability Assessment provides a qualitative analysis on how climate change may impact Butte County throughout the twenty-first century. Direct climate stressors in the county include an increase in average temperature and changes in annual precipitation patterns. Secondary climate stressors, or hazards, include agricultural pests and diseases, drought, extreme heat, human health hazards, severe wind, severe storms, and wildfire. **Appendix A** shows future climate projections for Butte County and **Appendix B** shows the full results of the Climate Change Vulnerability Assessment. **Appendix C** is a glossary identifying key terms used in the Climate Change Vulnerability Assessment.

Climate change hazards that create the highest vulnerabilities in Butte County include wildfire due to the heavily forested areas of eastern Butte County and limited access roads, followed by severe storms, severe wind, and extreme heat. The County's frontline populations, energy and water infrastructure, agricultural economic drivers, and conifer forest ecosystems are among the most vulnerable to climate change hazards. As part of the General Plan Update process, this Climate Change Vulnerability Assessment will directly inform the goals, policies, and actions of the Health and Safety Element of the General Plan to help create a more resilient Butte County.

1. Introduction

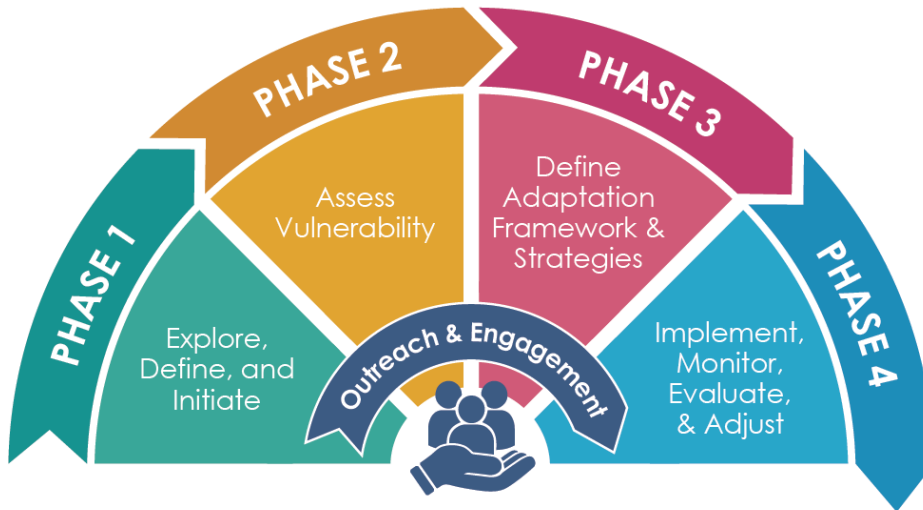
Climate change is a long-term change in the average meteorological conditions in an area. Currently, the global climate is changing due to an increase in greenhouse gas (GHG) emissions that trap heat near the Earth's surface. While some levels of these gases are necessary to maintain a comfortable temperature on Earth, an increased concentration of these gases from human activity traps additional heat, changing Earth's climate system in several ways. These effects can lead to an increase in frequency and intensity of climate change hazards, which, according to the *California Adaptation Planning Guide* (APG), have the potential to cause fatalities, injuries, property and infrastructure damage, interruption of business, and other types of harm or loss. These hazards can include agricultural pests and diseases, severe storms, wildfires, extreme heat, and drought conditions, among others. This Climate Change Vulnerability Assessment provides an overview of the primary and secondary climate stressors associated with climate change and identifies the hazards most likely to affect Butte County. The findings of the Climate Change Vulnerability Assessment will be used to develop climate adaptation strategies that address these vulnerabilities and inform the update to the Butte County General Plan Health and Safety Element, meeting California Government Code Section 65302(g) requirements, as amended by SB 379.

Other important updates to Section 65302(g) of the California Government Code related to Safety Elements, climate change, and resiliency and addressed in the Butte County General Plan Update include SB 1035 and SB 99. SB 1035 builds on previous legislation and requires local governments to review and update as needed their Safety Element during an update to their Housing Element or Local Hazard Mitigation Plan (LHMP) (or no less than every eight years). Any revisions should include updated information related to flood hazards, fire hazards, and climate adaptation and resilience. SB 99 established Section 65302(g)(5) of the California Government Code and requires jurisdictions to review and update the Safety Element to include information identifying residential developments in hazard areas that do not have at least two emergency evacuation routes. This vulnerability assessment, along with the update to the Safety Element, will help Butte County meet the state's requirements, in addition to increasing consistency with the LHMP.

1.1. Climate Change Vulnerability Assessment Method

The APG, developed by the California Governor's Office of Emergency Services (CalOES), helps communities throughout California plan for and adapt to the impacts of climate change. The APG includes a four-phase process, shown in **Figure 1**, which allows jurisdictions to assess specific climate vulnerabilities and provides strategies to reduce climate-related risks and prepare for current and future impacts of climate change.

Figure 1. California Adaptation Planning Guide Process



The first two phases in the APG (see **Figure 1**) result in a vulnerability assessment, which is an evaluation of climate change hazard impacts to populations and assets and the adaptive capacity of these populations and assets to prepare for, respond to, and recover from climate change hazards. The last two phases of the process use the information gathered in the vulnerability assessment to develop adaptation strategies and measures to help the community prepare for, respond to, and adapt to local climate change vulnerabilities, which is not included as part of this assessment. The second phase, Assess Vulnerability, is the focus of this report. This phase includes a four-step process: (1) characterizing the County’s exposure to current and projected climate hazards; (2) identifying potential sensitivities and potential impacts to County populations and assets; (3) evaluating the current ability of the populations and assets to cope with climate impacts, also referred to as its adaptive capacity; and (4) identifying priority vulnerabilities based on systematic scoring. These steps are shown in **Figure 2**.

Figure 2. California Adaptation Planning Guide Vulnerability Assessment Method



Step 1: Identify Exposure. The goal of this step is to characterize the County’s exposure to current and projected climate change hazards. Many projections of climate change hazards rely on multiple scenarios that reflect different levels of how global GHG emissions and atmospheric GHG concentrations may change over time. The Intergovernmental Panel on Climate Change (IPCC), an organization that represents the global scientific consensus about climate change, has identified four climate scenarios, also called Representative Concentration Pathways (RCPs), that can be used to project future conditions. RCPs are labeled with different numbers (e.g., RCP 2.6, RCP 6) that refer to the increase in the amount of energy that reaches each square meter of Earth’s surface under that scenario. The four RCPs are:

- **RCP 2.6:** Under this scenario, global GHG emissions peak around 2020 and then decline quickly.
- **RCP 4.5:** Under this scenario, global GHG emissions peak around 2040 and then decline.
- **RCP 6:** Global emissions continue to rise until the middle of the century.
- **RCP 8.5:** Global emissions continue to increase at least until the end of the century.

The Cal-Adapt database, which provides California-specific climate change hazard projections, uses RCP 4.5 for a low emissions scenario and RCP 8.5 for a high emissions scenario. The Governor’s Office of Planning and Research *Planning and Investing for a Resilient California* document and the APG recommend using RCP 8.5 for analyses considering impacts through 2050, as there are minimal differences between emission scenarios for the first half of the century. The APG also recommends using RCP 8.5 for late-century projections, for a more conservative and risk-adverse approach. The County used the RCP 8.5 GHG emission scenario results provided by the Cal-Adapt database and other resources for this assessment.

The first step of this Climate Change Vulnerability Assessment was to confirm which of the hazards are expected to take place at the local level in Butte County. The County identified seven climate change hazards for this assessment, listed here and discussed in more detail in Section 3.

1. Agricultural Pests and Diseases
2. Drought
3. Extreme Heat
4. Human Health Hazards
5. Severe Wind
6. Severe Storms
7. Wildfire

The climate change hazard data was derived from up-to-date information, including the Cal-Adapt database, the APG, the *California 4th Climate Change Assessment*, the California Geological Survey, the Federal Emergency Management Agency (FEMA), the California Department of Forestry and Fire Protection (CAL FIRE), and the Butte County 2019 LHMP.

Step 2. Identify Sensitivities and Potential Impacts. This step included evaluating past and potential future climate change impacts to community populations and assets. The County first identified a list of populations and assets to include in the assessment with the following five categories:

1. Populations: People that experience a heightened risk and increased sensitivity to climate change and have less capacity and fewer resources to adapt to or recover from climate impacts.
2. Infrastructure and Buildings: Structures that provide various services to Butte County community members and visitors.
3. Economic Drivers: Economic sectors and activities that make significant contributions to the Butte County economy.
4. Ecosystems and Natural Resources: Types of wild and natural lands within the County boundary.
5. Key Services: Important functions to community members provided by government agencies and private companies.

This list included 16 populations, 26 infrastructure and building types, 10 economic drivers, 7 ecosystems and natural resources, and 8 key services. Once this list was confirmed, the County looked at which hazards are likely to affect which populations and assets, because not all hazards would affect all populations or assets. For example, human health hazards are likely to impact most populations, but it would not physically affect parks and open space or school buildings. The outcome of this step was a matrix that identified whether a population or asset is likely to be exposed to a hazard. If a population or asset has the potential to be affected directly or indirectly by a hazard, a “yes” was indicated in the appropriate box. Direct impacts affect buildings and infrastructure, health or populations, or immediate operations of economic drivers or community services, and they can lead to indirect impacts on the broader system or community, including populations or asset types in a different category. For example, severe wind can *directly* damage electrical transmission lines causing power outages, which can *indirectly* impact persons with chronic illnesses who depend on the electricity for life support systems. Therefore, both electrical transmission lines and persons with chronic illnesses were marked as “yes” for being affected by severe wind and would be evaluated in the assessment.

After the applicability review, the County evaluated potential impacts to the applicable populations and community assets. To identify how great the impacts of each relevant hazard are on the populations and community assets, the County considered a number of different questions that helped ensure the assessment broadly covered a range of potential harm. Examples of these questions include:

- Could the hazards cause injury or damage?
- Is there a risk of behavioral or mental harm, loss of economic activity, or other nonphysical effects?
- How many people or community assets could be harmed both directly and indirectly?
- How long would the impacts persist?

Sensitivity: The level to which a species, natural system, or community, government, etc., would be affected by changing climate conditions.

Source: California Adaptation Planning Guide

Exposure: The presence of people, infrastructure, natural systems, and economic, cultural, and social resources in areas that are subject to harm.

Impact: The effects (especially the negative effects) of a hazard or other conditions associated with climate change.

Source: California Adaptation Planning Guide

- Is there a substantial chance of death or widespread destruction?

Based on the results of the impact assessment, the County ranked each population and asset low, medium, or high for each relevant hazard. Impact is considered a negative quality, and therefore a higher impact score means that there is a higher potential for harm to a population or asset. A lower impact score means that there is a lower potential for harm to a population or asset. **Table 1** provides more detail about what each score means.

Table 1. Rubric for Impact Scoring

Impact Score	Meaning (People and Ecosystems)	Meaning (Buildings, Infrastructure, Services, and Economic Drivers)
Low Impact	Community members may not notice any change. If noticed, effect would be minor with only occasional disruptions.	Damage, interruption in service, or impacts on the local economy is small or intermittent enough to mostly go unnoticed. If noticed, effects are only minor.
Medium Impact	There is a marked impact to the community. Quality of life may decline. Impacts may be chronic, and at times substantial.	Damage, service interruptions, and other impacts are clearly evident. Impacts may be chronic and occasionally substantial.
High Impact	The well-being of the community declines significantly. The community’s current lifestyle and behavior may no longer be possible. There is a severe risk of widespread injury or death to people, or of significant or total ecosystem loss.	Buildings, infrastructure, and services often or always cannot function as intended or needed to meet community demand. Large sections of the economy experience major hardships or are not feasible.

Step 3. Assess Adaptive Capacity. Adaptive capacity is the ability of populations and community assets to prepare for, respond to, and recover from the impacts of climate change. Each population and asset were evaluated for adaptive capacity by considering the following questions:

1. Are there existing programs, policies, or funding to provide assistance?
2. Are there barriers that limit response of recovery?
Are these barriers, financial limitations, political challenges, lack of access to technology or other resources?
3. Do alternatives exist in or near Butte County that community members can use?

Adaptive Capacity: The “combination of the strengths, attributes, and resources available to an individual, community, society, or organization that can be used to prepare for and undertake actions to reduce adverse impacts, moderate harm, or exploit beneficial opportunities.”

Source: California Adaptation Planning Guide

Based on the results of the adaptive capacity assessment, the County ranked each population or asset as low, medium, or high adaptive capacity. Adaptive capacity is considered a positive attribute, so a higher adaptive capacity score will mean that a population or asset may be more adaptable to the hazard. A lower adaptive capacity score means that a population or asset may have a harder time adjusting to the changing conditions. **Table 2** provides more detail about what each score means.

Table 2. Rubric for Adaptive Capacity Scoring

Adaptive Capacity Score	Meaning
Low Adaptive Capacity	Adaptive solutions are available, but they are expensive, technologically difficult, and/or politically unpopular. Alternatives may not exist that can provide similar services. Some assets may not have feasible means to adapt.
Medium Adaptive Capacity	Some adaptation methods are available, but not always feasible. Adapting may create significant challenges for some sensitivities. Some alternatives exist within the jurisdiction area that can provide similar services.
High Adaptive Capacity	Adaptation solutions are feasible for most or all sensitivities. There may be occasional or small-scale challenges to implementing adaptation methods, but populations and assets can adapt with little or no effort. Many alternatives exist in the area that can provide similar services.

Step 4. Prioritize Vulnerability Scoring. The County used the impact and adaptive capacity scores for each population and asset for each relevant hazard to determine the vulnerability score. The vulnerability score reflects how susceptible a population or asset is to harm from a particular hazard. Vulnerability is assessed on a scale of low, medium, and high. Low vulnerability does not mean that the population or asset will be unaffected by climate change, but that the effects are likely to be less substantial. The matrix in **Table 3** shows how impact and adaptive capacity scores combine and translate into a vulnerability score. For example, extreme heat would create a high impact on energy delivery services by damaging electrical infrastructure and potentially exceeding the available electrical supply as mechanical failures, heat damage, and high demand for electricity from cooling equipment, can disrupt service. Adaptive capacity is low because many County residents need to use more electricity on extreme heat days to keep cool and because retrofitting electrical equipment can be expensive. Therefore, energy delivery services have a high vulnerability to extreme heat.

Vulnerability: The degree to which natural, built, and human systems are susceptible “...to harm from exposure to stresses associated with environmental and social change and from the absence of capacity to adapt.”

Source: California Adaptation Planning Guide

Table 3. Vulnerability Scoring Matrix

	Low Impact	Medium Impact	High Impact
Low Adaptive Capacity	Medium	High	High
Medium Adaptive Capacity	Low	Medium	High
High Adaptive Capacity	Low	Low	Medium

1.2. Butte County Community Profile

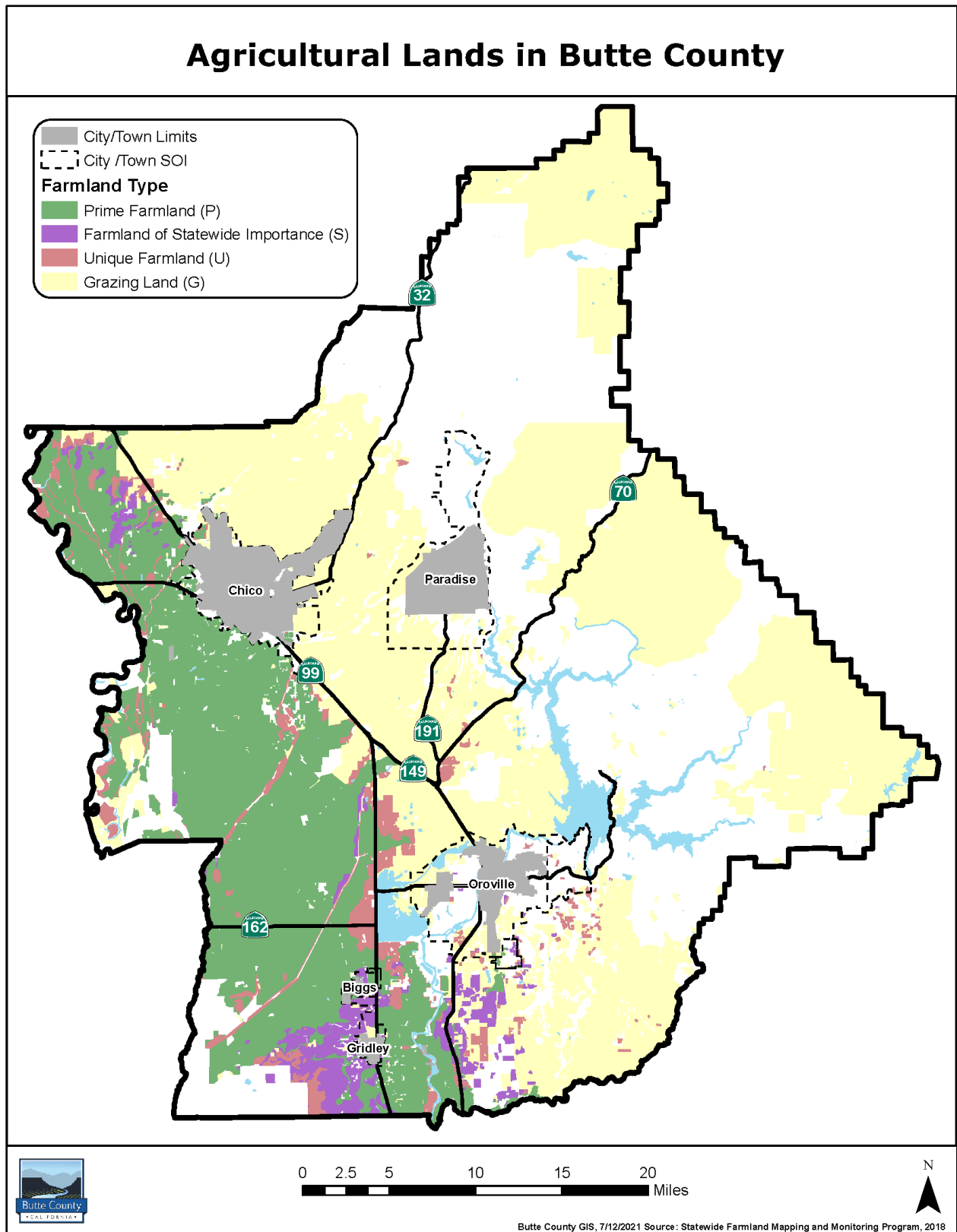
Located in Northern California, unincorporated Butte County has an area of approximately 1,680 square miles within the northeastern end of the Sacramento Valley extending east into the northern Sierra Nevada foothills. Butte County is a predominantly rural area; urban land makes up less than 5 percent of the total county area. Weather is generally temperate and warm, with hot, dry summers and cold, wet winters. The historic average minimum annual temperature is 44.6 degrees Fahrenheit (°F) and historic average maximum annual temperature is 71°F (Cal-Adapt 2018).

Homes and businesses are dispersed throughout the unincorporated county, resulting in transportation activity that is typical for a rural unincorporated county. Given the distribution of homes, businesses, and daily activities, driving in personal vehicles is common. Several unincorporated communities in eastern Butte County are located on single access and rural roadways.

Agriculture is a strong and growing sector of the Butte County economy and according to the 2019 *Butte County Crop & Livestock Report*, agriculture occupied about 425,000 acres of county land in 2019. Butte County's gross 2019 agricultural production totaled \$688,369,916. Walnuts, almonds, and rice crops are the highest-value crop types grown in Butte County. Generally, agricultural activity has been shifting from field crops to higher-value nut crops that typically require less water and fertilizer. **Figure 3** shows agricultural lands within Butte County.

The primary crops grown in Butte County are rice, fruits, and nuts, with rice crops covering approximately 96,772 acres and fruit and nut orchards covering approximately 108,113 acres. Almonds (39,205 acres), walnuts (56,312 acres), and prunes (7,100 acres) are the primary orchard crops. Decreases in prune acreage and, to a lesser extent, other trees and vines (e.g., olives, peaches and nectarines, kiwis, pistachios, pears, and cherries) has been offset by increases in walnuts. Other agricultural activities include alfalfa crops (727 acres) and raising cattle (with pasture covering 207,000 acres). Acreages for grain and other crops have decreased substantially over time, while pasture and alfalfa acreage has increased. Approximately 16,000 head of cattle and sheep support the livestock industry, and 68,484,000 board feet of timber was harvested in 2019 (Butte County Department of Agriculture, Weights, and Measures 2019).

Figure 3. Agricultural Lands in Butte County



1.3. Water Resources

The following sections describe the water resources providing water to domestic and agricultural users locally, and to the rest of the state through Lake Oroville and the State Water Project.

1.3.1. Surface Water

Water districts, irrigators, private well owners, and municipal utilities in Butte County rely on snowmelt, originating in the Sierra Nevada, as well as precipitation as a key source of surface water. The Feather River, Big Chico Creek, Little Chico Creek, and many other creeks and streams provide municipal, agricultural, domestic, aquatic habitat, and recreational water uses for the County. The flow-regimes of these rivers and streams depend on spring and summer snowmelt originating from the Sierra Nevada runoff from precipitation as well as groundwater flows. The ability of snowpack to retain water and release it gradually is fundamental to water supply planning in the County and throughout the state.

Figure 4 shows the principal entry points to Butte County for surface water and the major channels, natural and modified, by which water flows through the county (Butte County Department of Water and Resources Conservation 2016). The principal waterways originating outside the County are:

- The Sacramento River
- The Feather River. The North, Middle, and South Forks originate outside Butte County and, together with the West Branch, supply water to Lake Oroville with a portion of flow routed through the Thermalito Forebay and Afterbay facilities to generate hydropower and deliver irrigation water supply, with the remaining water returning to the Feather River.
- Big Chico Creek
- Butte Creek
- Pine Creek

Runoff within the County also contributes to the flows in these waterways. These waterways represent the major streams, water supply, and drainage features in the county, including:

Natural Waterways

- The West Branch of the Feather River. The West Branch joins the forks originating outside the county and supplies water to Lake Oroville and then to Thermalito Forebay and Afterbay. Diversions are additionally made by the Pacific Gas and Electric Company (PG&E) to Butte Creek.
- Little Chico Creek
- Rock Creek
- Dry Creek
- Little Dry Creek
- Clear Creek
- Angel Slough
- Wyandotte Creek
- Honcut Creek

Supply Canals

- Western Main Canal
- Western Lateral 374
- Richvale Main Canal
- Sutter Butte Canal
- Minderman Canal
- Biggs-West Gridley Main Canal

Flood Control Channels

- Cherokee Canal
- Lindo Channel (Sandy Gulch)
- Sycamore Bypass Channel

Water is distributed from Thermalito Afterbay to canals serving multiple users, including Western Canal Water District and the Joint Districts. The Joint Districts include Richvale Irrigation District, Biggs-West Gridley Water District, Butte Water District, and Sutter Extension Water District.

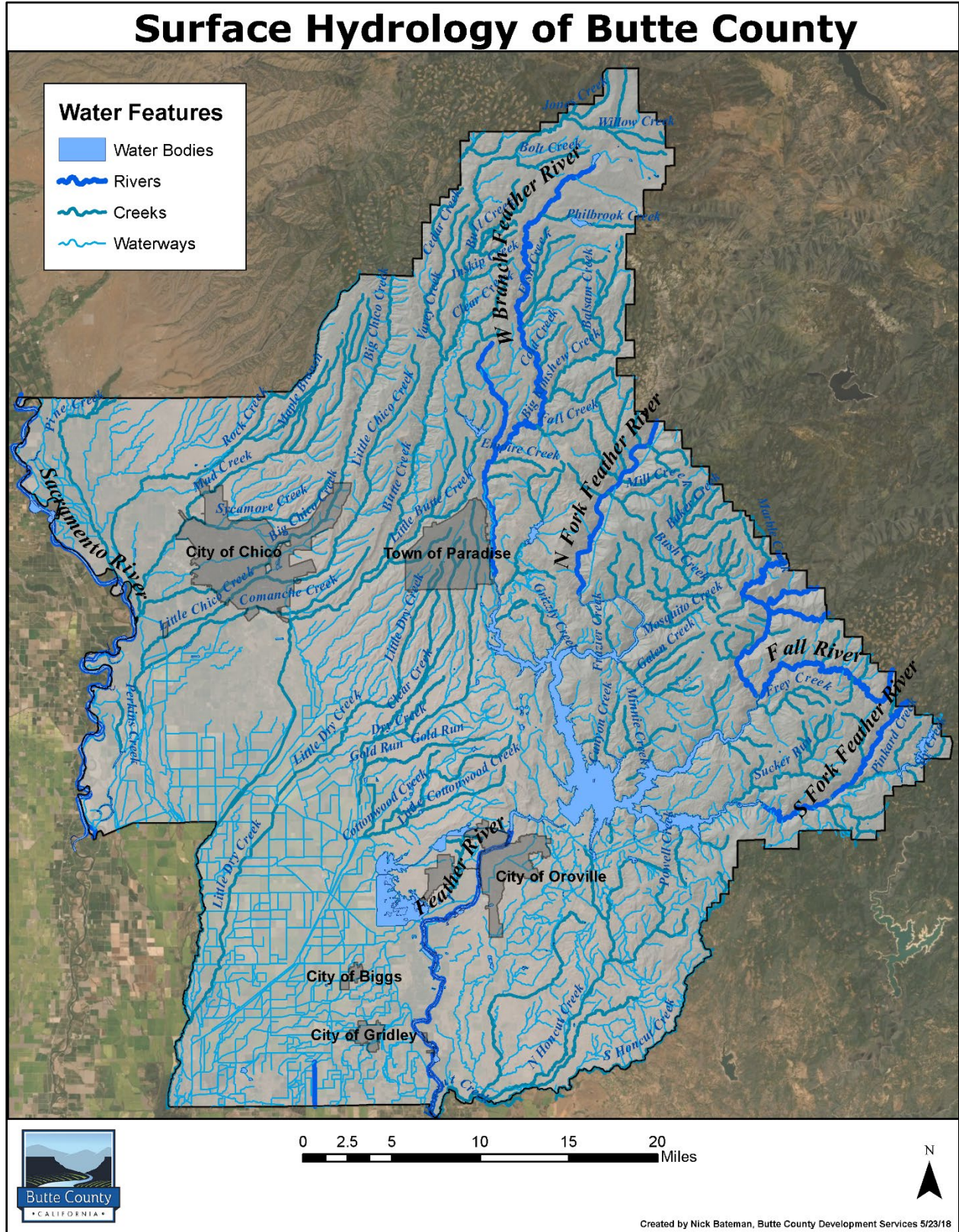
Water from the west branch of the Feather River is diverted to the Toadtown Canal for power generation by PG&E, where it also provides cold water for fish. The Butte Canal carries Toadtown Canal and Butte Creek water to the De Sabla power plant forebay. Hydropower is also generated at several other locations. Operations at these sites affect the timing of water releases. At Lake Oroville, Thermalito, Toadtown, and De Sabla Centerville, water for power generation is transferred from the Feather River watershed to the Butte Creek watershed (Butte County Department of Water and Resources Conservation 2016).

Average monthly flows for the Sacramento River are highest between January and March, reflecting runoff from precipitation on the valley floor, planned reservoir releases, and reservoir spillage in some years. Flows are sustained through July or August and even into November, as water is released from storage in Lake Shasta. In contrast, unimpaired flows from the Feather River, Butte Creek, and Big Chico Creek are highest between approximately February and May, as a result of runoff from snowmelt. These flows decrease greatly between May and July once the snow has melted. If the snowpack melts earlier, it could affect Feather River, Sacramento River, Butte Creek, Big Chico Creek, and other local creeks and streams that support the spring and winter Chinook salmon runs.

Local agencies in Butte County have entered into several contracts with the Department of Water Resources to retain their water rights which they held prior to the construction of Oroville Dam. Water rights settlement agreements were executed with the Joint Water District Boards (555,000 acre-feet) and Western Canal Water District (295,000 acre-feet) to settle protests over the construction of State Water Project facilities in Oroville. Under these agreements, the California Department of Water Resources provides the districts with water supply from Lake Oroville in exchange for the districts' individual water rights (Butte County Department of Water and Resources Conservation 2016). The delivery of water under these agreements may be curtailed if inflows into Lake Oroville do not meet specific targets by April 1st of each year. Under these circumstances, the Department of Water Resource could curtail water deliveries by no more than 50% in any one year and no more than 100% over a seven-year period.

Climate change may increase the variability between wet and dry months and the county will likely experience drought-like conditions, reducing overall water supply (Butte County Department of Water and Resources Conservation 2016). Climate change projections in the draft Butte Subbasin Groundwater Sustainability Plan assumes an increase in the frequency of curtailments over the next twenty years. Groundwater Sustainability Plans are being prepared pursuant to the Sustainable Groundwater Management Act and are described in the Groundwater Section.

Figure 4: Surface Water Hydrology in Butte County



1.3.2. Groundwater

Groundwater is directly linked to surface water in the county and snowmelt in the Sierra Nevada; therefore, increased average temperatures and changes in the timing and amounts of precipitation in the form of rain and snow could affect local aquifer recharge for groundwater supplies (DWR 2019). Butte County overlays a portion of the Sacramento Valley Groundwater Basin and is made up of three subbasins: Vina Subbasin, Butte Subbasin, and the Wyandotte Creek Subbasin (see **Figure 5**). While there is no single source of groundwater recharge, according to the studies (e.g., Lower Tuscan Aquifer Study, Isotope Recharge Study) conducted by the Butte County Department of Water and Resource Conservation, different parts of the basin are recharged from one or more of the following sources:

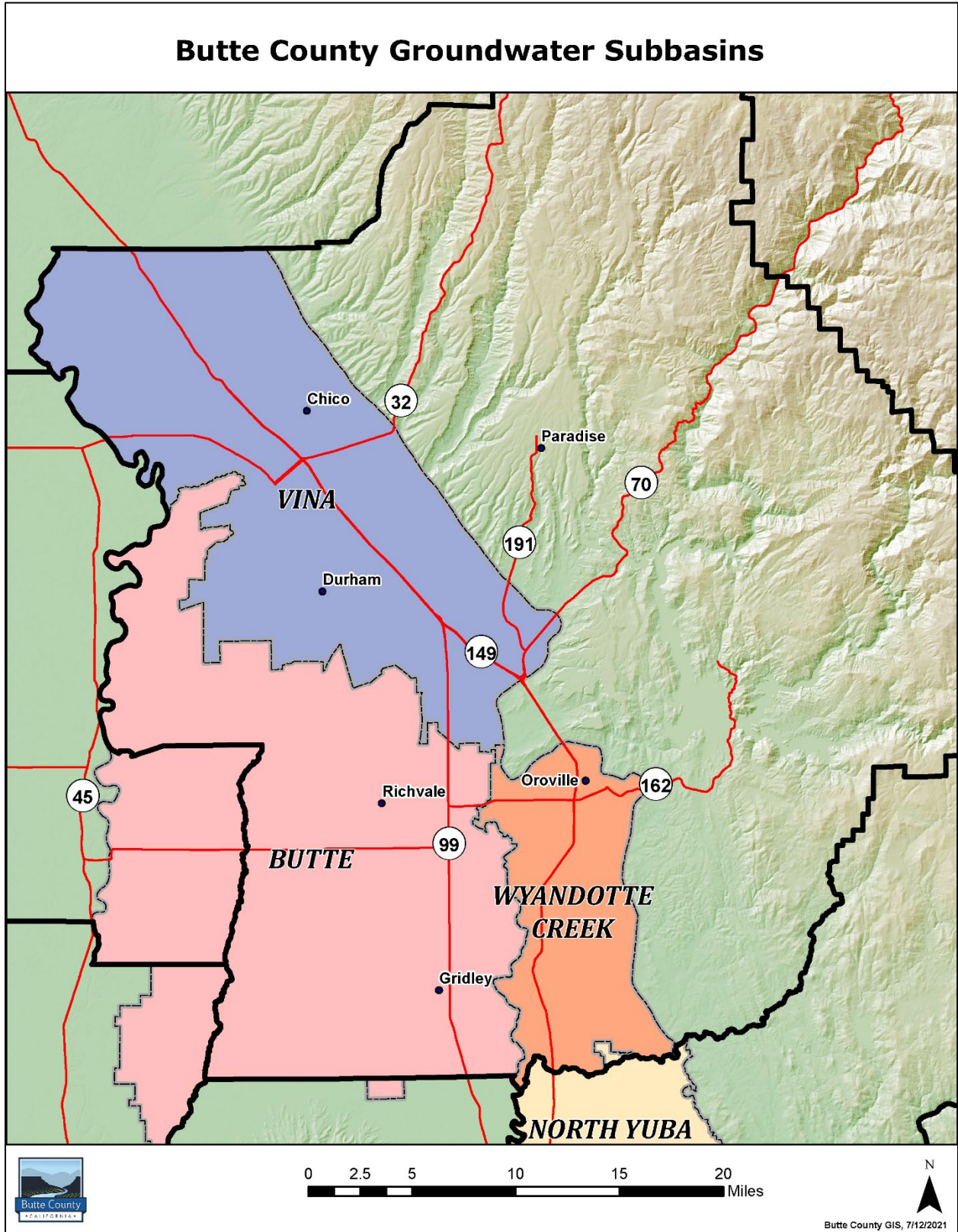
- Rainfall on the Lower Foothills
- Creeks
- Rivers
- Irrigation water
- Local rainfall on the Valley Floor

Butte County monitors groundwater conditions under the Groundwater Conservation Ordinance passed in 1996. The Ordinance requires that the County monitor groundwater levels, saltwater intrusion, and land subsidence quarterly. An annual groundwater status report is presented to the Butte County Board of Supervisors. Groundwater use typically increases during years characterized as dry and critical water years, or droughts. The most significant concern about increased groundwater use is the lowering of groundwater levels in the Vina and Wyandotte subbasins of the Sacramento Valley groundwater basin. Drought conditions exacerbate groundwater level declines due to reduced percolation (potential recharge) and increased groundwater pumping (Butte County Department of Water and Resources Conservation 2018). Under the Sustainable Groundwater Management Act, the groundwater sustainability plans for the three subbasins in Butte County will implement projects and actions to ensure that groundwater conditions will operate within a sustainable yield to avoid undesirable results for groundwater users.

The primary climate variable affecting water conditions in the county is inter-annual differences in precipitation and snowfall. Variability from year-to-year impacts both the availability of surface water to meet demands and the amount of pumping required to meet crop irrigation requirements. In the future, temperatures are likely to increase as a result of climate change, resulting in less snowpack in the Feather River watershed as well as earlier runoff. These changes will make existing surface water supplies less reliable, increasing the need to rely on groundwater to meet demands.

Butte County is currently addressing groundwater conservation through the Sustainable Groundwater Management Act (SGMA), which went into effect in January 2015. One of the key principles of SGMA is that each groundwater basin has unique characteristics and challenges; therefore, groundwater is best managed at the local level, and local agencies should have the tools they need to sustainably manage their resources (Butte County Department of Water and Resources Conservation 2016). To avoid state intervention, groundwater sustainability agencies were formed before June 2017 and these agencies are currently implementing groundwater sustainability plans (GSPs) that will bring the basin into sustainability in the next 20 years. The components of GSPs are subject to regulations adopted by the California Department of Water Resources. A water budget with potential use of a groundwater model is a required component of a GSP. GSPs establish the sustainable yield of the basin and identify regulatory and non-regulatory actions that will be taken to achieve sustainability by 2042.

Figure 5. Butte County Groundwater Subbasins



1.4. Cal-Adapt and Climate Change Projections

As directed by the APG, data needed to prepare the vulnerability assessment is available through several sources, with Cal-Adapt being one of the main sources. Cal-Adapt is a Web-based climate change scenario planning tool developed by the California Energy Commission (CEC) and the University of California, Berkeley, Geospatial Innovation Facility. The data available on this website offers a view of how climate change will likely affect Butte County at the local level. Climate projections included in this Climate Change Vulnerability Assessment include an average of four models representing Warm/Drier (HadGEM2-ES), Cooler/Wetter (CNRM-CM5), Average (CanESM2), and Complement (MIROC5) models. Cal-Adapt provides projections using two RCPs, RCP 4.5 and RCP 8.5, which project different possible future GHG emission scenarios. This Climate Change Vulnerability Assessment uses the recommended RCP 8.5 scenario in the APG, which represents a business-as-usual, sometimes called a “worst-case,” scenario.

For the purposes of this assessment, climate change effects are characterized for two milestone years: midcentury (2050) and end of the century (2090). This data was downloaded from Cal-Adapt using the Butte County boundary. Projections for 2050 include an average of the years 2040 to 2060, and projections for 2090 include an average of the years 2070 to 2099. Historic data includes an average of the years 1961 to 1990.

Over the long term, these climate change impacts create the potential for a wide variety of consequences, including human health and safety risks, economic disruptions, diminished water supply, shifts in ecosystem function and habitat qualities, as well as difficulties with the provision of basic services such as utilities.

2. Populations and Assets

Populations and assets are the people, infrastructure, services, and economic drivers in Butte County that can be affected by climate change. The Climate Change Vulnerability Assessment looks at how each population and community asset has been and will continue to be affected by each of the climate change hazards discussed in Section 3. The APG provides a general list of populations and assets, which Butte County refined and used to develop five distinct asset categories: (1) populations, (2) buildings and infrastructure, (3) economic drivers, (4) ecosystems and natural resources, and (5) key services. The following sections describe the populations and assets included in each of the five categories.

2.1. Populations

The Climate Change Vulnerability Assessment evaluated 19 populations that may be disproportionately harmed by climate change hazards. These populations have financial, age, mobility, health, or other characteristics that make them more vulnerable to hazardous events. Butte County gathered data for many populations listed from the 2021 *Settings and Trends Report*, the California Native American Heritage Commission, the Healthy Places Index, and the 2019 Point-in-Time Count for Butte County. The following populations were included in the Climate Change Vulnerability Assessment:

- Children
- Cost-burdened households
- Households in poverty
- Immigrant communities
- Linguistically isolated persons
- Low-income households
- Low-resourced ethnic minorities
- Overcrowded households
- Outdoor workers
- Persons experiencing homelessness
- Indigenous peoples and tribal nations
- Persons living in mobile homes
- Communities on single access roads
- Persons with disabilities and/or chronic illnesses
- Persons without access to lifelines
- Renters
- Seniors
- Seniors living alone
- Students

2.2. Buildings and Infrastructure

The Climate Change Vulnerability Assessment assessed the vulnerability of 26 different types of buildings and infrastructure in the County. These infrastructure categories help daily activities, economic drivers, community services, and emergency response events. Several of these assets support the transportation network, energy delivery, water and wastewater services, and recreation and tourism activities. The infrastructure section of the Climate Change Vulnerability Assessment focuses on the physical effects of climate change hazards on infrastructure itself instead of the services or economic activity they provide. The County derived information on buildings and infrastructure from local, state, and federal agencies. The following building and infrastructure assets were included in the Climate Change Vulnerability Assessment:

- Airports
- Bridges and tunnels
- Communication facilities
- Community centers and libraries
- Dams

- Electrical transmission infrastructure (substations and power lines)
- Emergency operation buildings
- Evacuation and cooling centers
- Flood control infrastructure (levees, dikes, etc.)
- Government administrative facilities
- Hazardous materials sites
- Hiking and biking trails
- Homes and residential structures
- Hospitals and medical facilities
- Major roads and highways
- Natural gas pipelines
- Parks and open space
- Power plants
- Public safety buildings
- Railways
- Schools
- Single access, rural, and minor roads
- Solid waste facilities and landfills
- Transit facilities
- Water and wastewater infrastructure
- Waterway infrastructure

2.3. Economic Drivers

The Climate Change Vulnerability Assessment evaluated the vulnerability of 10 distinct economic drivers in Butte County. These economic assets include three separate agricultural-based sectors, major employment industries, and recreation and tourism on regional, state, and federal lands. The County obtained information on economic drivers from the 2019 *Butte County Crop Report* and the 2019 to 2020 *Butte County Comprehensive Annual Financial Report*. The following economic driver assets were included in the Climate Change Vulnerability Assessment:

- Agriculture
- Construction
- Education
- Healthcare
- Livestock
- Manufacturing
- Regional recreation and tourism
- Rice-growing areas
- State and federal land recreation and tourism
- Timber production

2.4. Ecosystems and Natural Resources

There are eight primary ecosystems in Butte County, although many can be subdivided into specific habitats. The Climate Change Vulnerability Assessment analyzes these seven ecosystems. The ecosystems and natural resources section of the vulnerability assessment focuses on the how the plants and wildlife in ecosystems are likely to be affected by climate change hazards and the current ability of these systems to adapt to changing conditions. The primary resource for this analysis is the 2021 *Settings and Trends Report*, Biological Resources chapter. The following ecosystems and natural resources were included in the Climate Change Vulnerability Assessment:

- Conifer forest
- Oak woodland
- Riparian woodland
- Chaparral
- Annual grassland
- Open water: reservoirs, ponds, drainages
- Wetlands
- Pacific Flyway

2.5. Key Services

The Climate Change Vulnerability Assessment assessed the vulnerability of eight different types of services in the county. These key service categories provide essential goods, utilities, and services to residents and visitors in the county. These services are provided by public and private agencies, as well as volunteer organizations. The key services section of the vulnerability assessment focuses on the actions and services provided in these categories instead of the physical buildings and infrastructure that support the services. The following key services were included in the Climate Change Vulnerability Assessment:

- Communication services
- Emergency medical response
- Energy delivery
- Vital goods delivery
- Government administration
- Public safety response
- Public transit access
- Water and wastewater

3. Hazards of Concern

The first step in the vulnerability assessment is to identify the climate change hazards projected for Butte County. Based on the Cal-Adapt projections and information obtained from the APG; the *California Fourth Climate Change Assessment*; the 2019 Butte County LHMP; and the 2021 *Setting and Trends Report*, “Hazards and Safety” chapter, direct climate stressors to Butte County include changes in air temperature and annual precipitation. Secondary climate stressors, also known as climate change hazards, include agriculture and forestry pests and diseases, drought, extreme heat, human health hazards, severe wind, severe storms, and wildfire. The Climate Change Vulnerability Assessment focuses on the climate change hazards, as shown in **Table 4**, as these will directly affect populations and assets within the County. The following sections describe the primary climate stressors and secondary climate change hazards likely to occur within Butte County.

Table 4. Primary and Secondary Climate Stressors in Butte County

Primary Climate Stressors	Secondary Climate Stressors
Increase in air temperature	Agriculture and forestry pests and diseases
	Extreme heat
	Human health hazards
	Wildfire
Changes in precipitation patterns	Drought
	Severe wind
	Severe storms (flooding and landslides)
	Wildfire

3.1. Primary Climate Stressors

3.1.1. Increase in Air Temperatures

Annual average air temperatures in Butte County are projected to rise substantially during the next century, compared to historic levels, as global temperatures continue to rise (Houlton 2018). This is measured through annual average minimum and maximum temperatures. Butte County's historical (1961 to 1990) average maximum temperature is 71°F (Cal-Adapt 2018). Butte County's average annual maximum temperature is projected increase to 76.4°F by 2050 and 80.1°F by 2090 (Cal-Adapt 2018).

Butte County's annual average minimum temperature is also projected to increase throughout the century. Historically, average annual minimum temperature was 44.6°F (Cal-Adapt 2018). The annual average minimum temperature is projected to increase to 49.5°F by 2050 and to 53.3°F by 2090 (Cal-Adapt 2018).

The increase in annual average temperatures is expected to create or worsen hazards throughout the County, such as agriculture and forestry pests and diseases, extreme heat, human health hazards, and wildfire. Increasing temperatures will increase evapotranspiration rates in plants, increasing the water demand for crops in the County. These secondary hazards are discussed in more detail in Section 3.2.

3.1.2. Changes in Precipitation Patterns

Global climate change will affect physical processes and conditions beyond average temperatures. For example, historic precipitation patterns could be altered. Rainfall and the winter snowpack in the Sierra Nevada range provides significant surface water flows and groundwater recharge as water drains through the County. While Cal-Adapt projections show minimal changes in total annual precipitation in California, even slight changes could have a dramatic effect on California's ecosystems, which are conditioned to historic precipitation levels (CalOES 2020). It is anticipated that climate change would lead to an increase in the frequency and intensity of storms, meaning more precipitation may fall in fewer storms throughout the year. This may also result in more frequent and prolonged periods of drought (Bedsworth et al. 2018).

According to Cal-Adapt, historical annual average precipitation was approximately 52.3 inches throughout Butte County. Precipitation is expected to vary over the course of the century, with an annual average of 47.2 inches by 2050 and an annual average of 50.8 inches by 2099 (Cal-Adapt 2018).

Changes in precipitation can directly and indirectly cause or worsen hazards in the County, such as drought, severe wind, severe storms, and wildfire. These secondary hazards are discussed in more detail in Section 3.2.

3.2. Secondary Climate Hazards

3.2.1. Agriculture and Forestry Pests and Diseases

According to the *2019 Butte County Crop Report*, agricultural production and timber harvesting had total gross production of over \$688 million in 2019, with walnuts being the largest grossing crop. Agricultural and forestry pests and diseases can affect crop plants, forests, and livestock throughout Butte County. This hazard is measured by the occurrence of pests and diseases, which is likely to increase as higher temperatures allow for insects to reproduce more rapidly.

These pests and diseases, such as fruit flies (*Drosophila melanogaster*), Japanese beetles (*Popillia japonica*), gypsy moth (*Lymantria dispar dispar*), glassy-winged sharpshooter (*Homalodisca vitripennis*), Asian citrus psyllid (*Diaphorina citri*), European grapevine moths (*Lobesia botrana*), fir engraver beetle (*Scolytus ventralis*), white-fir sawfly (*Neodiprion*), fall webworm (*Hyphantria cunea*), black stain root disease, and heterobasidion root disease, can cause plants and animals to grow more slowly, damage them so that their products are less appealing and harder to sell, or even kill them (California Climate and Agricultural Network 2019). Many pests and organisms that carry diseases are most active during warmer months, so the threat of infection or infestation can be higher during this time of year. Temperatures are expected to get warmer earlier in the year and remain warmer until later in the year due to climate change, creating a wider activity window for pests and diseases.

3.2.2. Drought

A drought occurs when conditions are drier than normal for a long period of time, making less water available for people, agricultural uses, and ecosystems. Droughts are a regular occurrence in California and are measured by the timing and length of drought. However, in the past 50 years, there have been four major statewide droughts, plus smaller regional droughts (CalOES 2018). Due to changes in precipitation patterns discussed in Section 3.1.2, droughts will likely last longer and occur more frequently due to more variability in precipitation extremes. Baseflow in rivers and creeks is projected to decline significantly. Historic annual average baseflow in rivers and creeks in Butte County was 12.2 inches, which is projected to decrease to an annual average of 8.1 inches during a mid-century drought and an annual average of 7.4 inches during a late-century drought.

Changes in weather patterns resulting from increases in global average temperature could result in a decrease in the total amount of precipitation falling as snow, leading to a loss in snowpack. Projections show an overall reduction of snowpack in the Sierra Nevada (Cal-Adapt 2018). Based on historical data and climate projections, State studies indicate that the Sierra Nevada snowpack will decrease by more than a third from its historic average by 2050 and decrease 50 percent to 66 percent or more by 2100 (DWR 2008; Bedsworth et al. 2018 2013).

The historic average snow water equivalent, a common measurement of snowpack, for Butte County was 1.9 inches (Cal-Adapt 2018). By 2050, the average annual snow water equivalence is projected to be 0.5 inches and by 2100 the average annual snow water equivalence is projected to be 0.1 inches (Cal-Adapt 2018).

3.2.3. Extreme Heat

Extreme heat occurs when temperatures rise significantly above normal levels and is measured by the number of extreme heat events per year and heat wave duration. “Extreme heat” is a relative term—temperatures of 100°F are normal in locations like Palm Springs, but almost unprecedented in Truckee. An extreme heat day in Butte County is where temperatures reach at least 100.1°F (Cal-Adapt 2018). Although temperatures are typically lower at higher elevations in the county, it is still dangerous when temperatures are higher than usual for people and assets that are not accustomed to them and may not have the resources to cope with the warmer temperatures.

Butte County historically experiences an average of five extreme heat days a year. Climate change is already increasing the number of extreme heat days in Butte County substantially. Butte County is projected to experience an average of 29 extreme heat days per year by 2050 and 59 extreme heat days per year by 2090 (Cal-Adapt 2018).

High temperatures can also occur during the night, as temperatures may not cool off and provide relief from the heat. A warm night in Butte County is when temperatures exceed 64.8°F (Cal-Adapt 2018). Historically, Butte County experienced 4 warm nights per year, which is projected to increase to 33 warm nights per year by 2050 and 76 warm nights per year by 2090 (Cal-Adapt 2018).

When extreme temperatures are experienced over a period of four or more days, the State's Cal-Adapt database defines these as heat waves.

Climate change is already increasing the number of extreme heat days in Butte County substantially. Butte County experienced an average of 11 extreme heat days per year from 2010 to 2016, including 26 extreme heat days in 2015.

3.2.4. Human Health Hazards

Human health hazards are bacteria, viruses, parasites, and other organisms that can cause diseases and illness in people. Some of these diseases may only cause a mild inconvenience, but others are potentially life threatening. Examples include hantavirus pulmonary syndrome, Lyme disease, West Nile virus, and influenza, which can be debilitating or fatal for some of the population. These diseases are carried by animals such as mice and rats, ticks, and mosquitos, which are usually seen as pests even if they do not cause infections.

Similar to agriculture and forestry pests and diseases, changes in temperature and precipitation can increase the rates of infections because many of the animals that carry diseases are more active during warmer weather. Warmer temperatures earlier in the spring and later in the winter can cause these animals to be active for longer periods, increasing the time for the disease to be transmitted. Warmer temperatures and higher levels of rainfall lead to increased populations of animals such as mosquitos, rodents, and ticks, creating a greater risk of diseases carried by these animals.

3.2.5. Severe Wind

Severe wind in Butte County is defined as sustained wind speeds exceeding 40 miles per hour and lasting for one hour or longer, or winds of 58 miles per hour for any duration (Butte County 2019). These winds can occur seasonally or as part of a severe weather event, such as a thunderstorm. The entire county has historically been subject to severe winds, from high winds in the mountain areas of the County to tornadoes in the valley portion of the county. Severe wind or tornado events occur approximately every 3.3 years according to historic records (Butte County 2019). The climate science surrounding wind is less certain; however, the intensity of individual thunderstorm events is likely to increase throughout the century, which may bring stronger thunderstorm winds (Butte County 2019). Severe wind can damage or destroy buildings, knock over trees, damage power lines and electrical equipment, and exacerbate wildfire conditions, as seen during Butte County's 2018 Camp Fire (see Section 3.2.7).

3.2.6. Severe Storms

Climate change is projected to alter the frequency, intensity, and duration of severe storm events, with sustained periods of heavy precipitation and increased rainfall. Precipitation patterns may have more intense characteristics, such as a high volume of rain falling over a shorter period of time. These storms may produce higher volumes of runoff and contribute to an increased risk of flooding. These projected changes could lead to increased flood magnitude and flooding frequency (Bedsworth et al. 2018). Several factors determine the severity of floods, including rainfall intensity, duration, and localized drainage characteristics. Flash floods occur when a large amount of rain falls over a brief period of time. Currently, the county experiences localized flooding in several areas.

When the Sacramento River and Feather River reach their peak capacity, Big Chico Creek and the other tributaries that flow into these river systems cannot discharge at a normal rate. These conditions can cause tributaries to overflow and flood.

The precipitation that will fall may have more intense characteristics, such as high volume of rain falling over a shorter period of time and stronger, more destructive wind patterns.

Butte County is susceptible to various types of flood events: riverine, flash, and localized stormwater flooding (Butte County 2019). Butte County includes numerous watersheds as well as several watersheds that drain into Butte County from surrounding counties. The County has assessed its flooding hazards as part of the Butte County LHMP. According to the LHMP, the following are the principal areas subject to flooding in Butte County:

- Butte Creek
- Little Chico Creek
- Little Chico Creek Diversion
- Mud Creek
- Ruddy Creek and Ruddy Creek Tributary
- Sycamore Creek
- Wyman Ravine and Tributaries
- Comanche Creek

In addition to these streams, flooding in Rock Creek and Keefer Slough, located north of Chico, regularly occurs. These floods inundate State Route 99, State Route 32, and several county roadways, as well as impact extensive residential and agricultural areas in and around the North Chico area and the unincorporated community of Nord. The Dry Creek-Cherokee Canal poses a flood risk to the Richvale area, including rice research grounds and rice storage and chemical storage facilities (Butte County 2010).

Factors that directly affect the amount of flood runoff include precipitation quantity, intensity and distribution, the amount of soil moisture, seasonal variations in vegetation, snow depth in headwater regimes, and impermeability of developed surfaces, development patterns, building and infrastructure material choices, and project designs. The placement and integrity of existing levees, as well as reservoir operation for flood control, are also important factors. Intense storms may overwhelm local waterways, as well as threaten the integrity of flood-control structures (Butte County 2019).

Heavy rainfall can also cause landslides in the mountain areas of the county. Hillsides commonly absorb water, which increases instability of the slope, leading to increased slope failure. Steep slopes made up of loose or fractured material are more likely to slide. In some cases, the hillsides can become so saturated that slope failures can result in a mudslide (a mixture of soil and water moving downslope). Landslides and mudslides can move fast enough to damage or destroy buildings or other structures in their path, block roads or railways, and injure or kill people caught in them.

Butte County is also susceptible to localized stormwater flooding, where stormwater runoff exceeds the rate of drainage. Stormwater flooding occurs during periods of severe weather and unusually high amounts of rainfall, and where stormwater infrastructure is physically impaired or inadequate. This kind of flooding event typically occurs in urbanized areas with expanses of impervious surfaces.

During a large flooding event, some areas of the County may be vulnerable to levee and dam failure. Dam and levee failure-related flooding would vary in the planning area depending on which structure fails and the nature and extent of the failure and associated flooding. This flooding presents a threat to life and property, including buildings, their contents, and their use. Large flood events can affect lifeline utilities (e.g., water, sewerage, and power), transportation, jobs, tourism, the environment, agricultural industry, and the local and regional economies (Butte County 2019).

Butte County is home to Lake Oroville, which releases water into the Feather River before joining with the Sacramento River. Eventually, the water flows into the Sacramento-San Joaquin Delta where the State Water Project's California Aqueduct diverts freshwater to the San Joaquin Valley for irrigation as well as contributing it to municipal and industrial water supplies in Southern California. Lake Oroville is a critical component of supplying water locally and throughout the state.

In February 2017, a record high rainfall event took place in Butte County. An infrastructure failure caused significant damage to Oroville Dam's main spillway, which led to reduced releases and resulted in Lake Oroville reaching its maximum capacity. The emergency spillway was activated for the first time since its construction. Due to the potential infrastructure failure of the emergency spillway, 188,000 people in the region were evacuated. Southern Butte County experienced flooding during this event, temporarily displacing many families. Most of this flooding was a result of infrastructure failure rather than the dam's inability to hold that much water. Climate change is expected to cause more frequent, extreme rainfall events such as the one that occurred in February 2017. If an event like this happened again, southern Butte County residents could be at risk of flooding.

Severe storms can also include severe winter weather, hail, and lightning. Severe winter weather includes blizzards, ice storms, and extreme cold. Blizzards and ice storms can damage buildings and other structures, knock over electricity lines and trees, and block roadways. Ice can form on roadways and paths, creating slippery conditions that make it difficult or even hazardous to get around, especially for visitors who may not be used to icy conditions. Very cold temperatures create a health risk for people who are exposed to them, including the possibility of trench foot, frostbite, or hypothermia. Hail can damage buildings and plants (and in extreme cases injure people), and lightning can spark fires, injure people, or cause fatalities.

3.2.7. Wildfire

Rising temperatures combined with changes in precipitation patterns and reduced vegetation moisture content can lead to a secondary climate impact: an increase in the frequency and intensity of wildfires. Changes in precipitation patterns and increased temperatures associated with climate change alter the distribution and character of natural vegetation and associated moisture content of plants and soils (CNRA 2012b:11). Increased temperatures increase the rate of evapotranspiration in plants, resulting in a greater presence of dry fuels in forests and creating a higher potential for wildfires (CNRA 2012b).

In addition to property damage and loss of life, increased wildfire activity across the western United States in recent decades has contributed to widespread forest mortality, carbon emissions, periods of degraded air quality, and substantial fire suppression expenditures. Although numerous factors aided the recent rise in fire activity, observed warming and drying have significantly increased fire-season fuel aridity, fostering a more favorable fire environment across forested systems. On October 11, 2016, the Proceedings of the National Academy of Sciences reported that climate change has contributed to over half of the documented increases in fuel aridity since the 1970s and doubled the cumulative forest fire area since 1984. This analysis suggests that climate change will continue to contribute to the potential for western U.S. forest fire activity where fuels are abundant. A description of the devastating 2018 Camp Fire and 2020 North Complex Fire can be found in the “Hazards and Safety” chapter of the 2021 *Butte County Setting and Trends Report*.

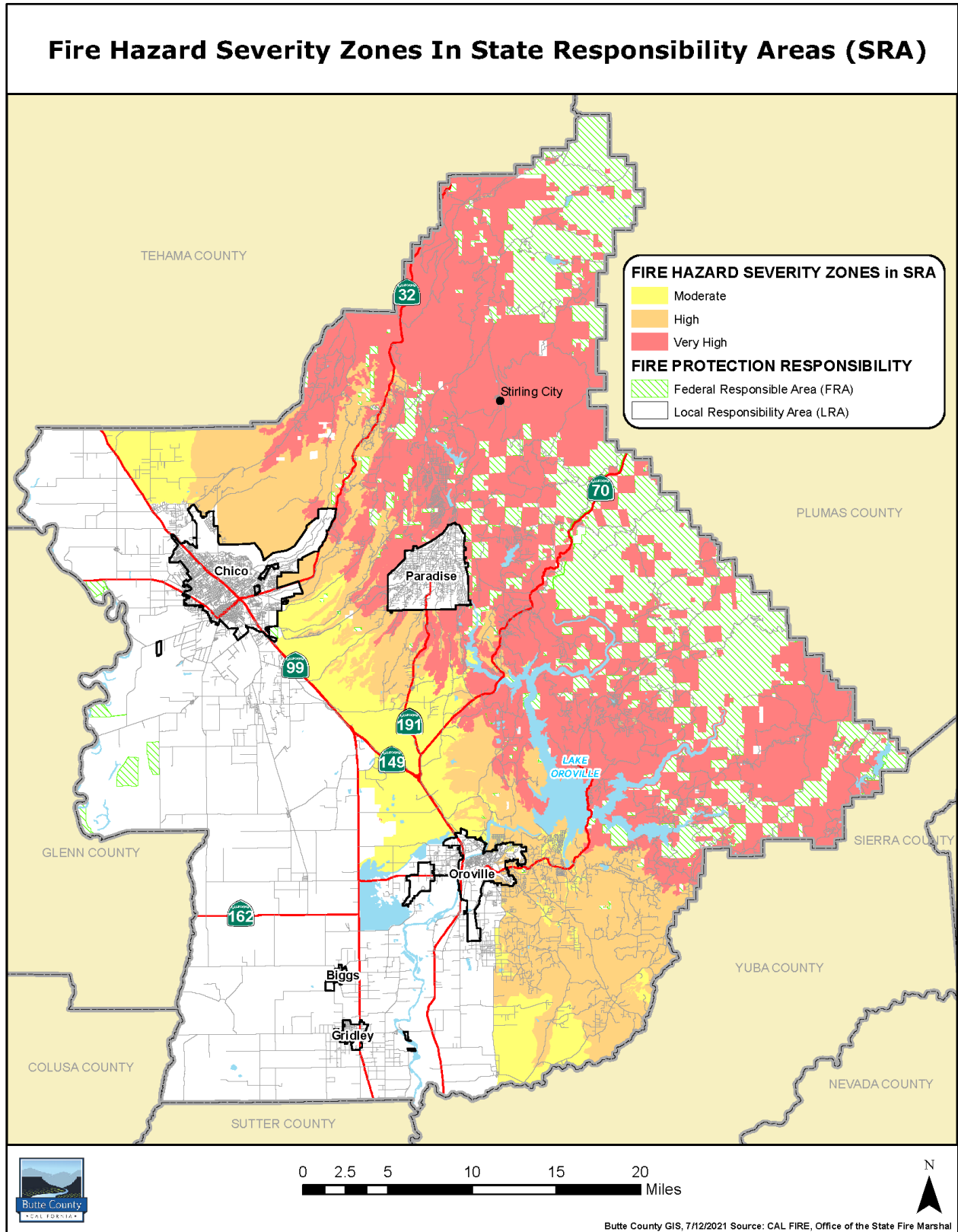
According to the Butte County 2019 LHMP, wildfire is an ongoing concern for the County. Generally, the fire season extends from early spring to late fall. With climate change, Butte County’s fire season may now extend further into the winter months. Wildfire conditions arise from a combination of weather, topography, wind patterns, accumulation of vegetation, and low-moisture content in the air. Wildland fire hazards (open space, rangeland, chaparral, and forested areas) exist in approximately 70 percent of Butte County.

Urban wildfires often occur in areas where development has expanded into rural areas. Currently, many homes within the county are located in the wildland-urban interface (WUI), which is characterized by zones of transition between wildland and developed areas and often includes heavy fuel loads that increase wildfire risk. See **Figure 6** for a look at Butte County’s Fire Severity Zones. Areas in eastern Butte County that appear empty but are surrounded by Very High Fire Hazard Severity Zones are mostly areas under federal jurisdiction.

The historic yearly average of area burned in Butte County was approximately 5,306 average annual acres per year, which is projected to increase to an annual average of 8,961 acres per year by 2050 and an annual average of 13,939 acres per year by 2099 (Cal-Adapt 2018).

Generally, the fire season for Butte County extends from early spring to late fall. With climate change, Butte County’s fire season may now extend further into the winter months.

Figure 6. Butte County Fire Hazard Severity Zones



4. Potential Impacts

Climate change hazards at the local and regional scale carry some uncertainty. Therefore, the Climate Change Vulnerability Assessment included a qualitative analysis that describes the potential impacts based on the hazards discussed in Chapter 3 (CNRA 2012a). This assessment provides a high-level overview of potential impacts that could occur as a result of identified climate change hazards. Further evaluation and research would be needed to identify vulnerabilities to specific properties, structures, or services. The following sections describe the general impacts of hazards on populations and assets within Butte County, which was used to conduct vulnerability scoring. The results of the vulnerability scoring are provided in Appendix B.

4.1. Agriculture and Forestry Pests and Diseases

Agriculture and forestry pests and diseases can affect all population and asset sectors in Butte County. These pests and diseases can cause plants and animals to grow more slowly, damage them so that their products are less appealing and harder to sell, or even kill them. Though there are treatment options for several agriculture and forestry diseases, some have no cure. The forests face particular harm from insects and other pests, diseases caused by bacterial or viruses, fungal infections, and other conditions that can affect the health of forest trees and plants. Specific pests and diseases include sudden oak death, fir engraver, white-fir sawfly, fall webworm, black stain root disease, and heterobasidion root disease (California Forest Pest Council 2019). Pest or disease infections can cause trees and other plants to grow more slowly, damage them so they are less able to function in an ecosystem, or kill them outright, which can impact the timber production industry. Forest and wilderness managers can cure or treat some pests or diseases or control their spread. However, in some cases, there is nothing that can be done.

In places where forests are a scenic and recreation attraction—and an important contributor to local quality of life—such as the conifer forests, forestry pests and diseases can cause significant economic harm. Dead trees or tree limbs may fall, especially during high winds and severe storms, and can damage or destroy buildings and structures, electrical transmission lines, homes, and other property. Falling trees or tree limbs may block roadways and cause injuries or even fatalities to community members and visitors. Blocked roadways can isolate communities located in the remote regions of the County. Dead trees and other plants can also create more fuel for wildfires.

In the agricultural sector, pests and diseases can affect the quality and viability of crops and livestock, which could become chronic as conditions continue to warm. Outdoor workers, immigrant communities, and low-resourced ethnic minorities could face economic hardship if they rely on this industry for work. It may be difficult for these populations to find alternative work if agricultural production declines.

4.2. Drought

More persistent drought conditions coupled with reduced flows of freshwater and increased water demands will likely affect the quantity and quality of water supplies. When flows decrease, water temperature increases, leading to harmful bacteria and algal blooms in open water and wetland ecosystems. Butte County experienced harmful algae blooms in the summer of 2017; people and animals were advised to stay out of waters in Table Mountain Ecological Reserve due to toxic blue algal blooms in the water.

As mentioned previously, climate change will likely result in more periods of drought. Less precipitation and snowpack in the headwater region means Butte County may face a decrease in surface water availability. A reduction in surface water availability can result in an increased dependence on groundwater supplies. It is generally understood that groundwater use goes up when surface water flows are curtailed (Butte County Department of Water and Resources Conservation 2016). Many of California's groundwater basins are already in overdraft conditions, with groundwater use exceeding the rate of recharge.

Those who rely on agricultural wells may face challenges in meeting water demands of crops and livestock as groundwater levels decline. The cost of meeting crop water demands will increase due to the need to extend groundwater pumps deeper or install new wells. The economic impact to agriculture is likely to harm both the agricultural operations and the outdoor workers employed by these operations (Butte County Public Health Department 2017). Those who have domestic wells may see their wells go dry, unless they drill further into the aquifer. Drilling can be expensive and may not be possible for those with financial burdens or limited resources. Households dependent on community water supplies could experience price hikes during drought conditions, and those without financial means may be unable to afford water prices. Drought could also cause statewide water supply issues, as the State Water Project relies on water from the Sacramento River and Feather River watersheds. Shallow domestic wells may not be able to reach lower groundwater levels during drought conditions and the State Water Resources Control Board may curtail surface water rights, negatively impacting Butte County agriculture.

Increases or decreases in precipitation could have an effect on ecosystems in the Butte County area. If plant life is decimated, there may be numerous consequences that can lead to a steeper loss of biodiversity. Moisture can impact both host plants and pathogens in many ways. Some pathogens, such as apple scab, late blight, and several vegetable root pathogens, are more likely to infect plants with increased moisture content. Other pathogens, like the powdery mildew species, tend to thrive under conditions with lower (but not low) moisture. Drought conditions are also expected to lead to an increased frequency of tree pathogens due to indirect effects on host physiology. This can lead to tree mortality, which can devastate the timber production industry. Harm to ecosystems and natural resources can also affect regional recreation and tourism, as fewer individuals may be interested in traveling to the area for regional, state, and federal land recreation and tourism if water levels drop too low or the scenic appearance of the county has changed.

More persistent drought conditions, coupled with reduced flows of freshwater and increased water demands, will likely lead to increased water temperature in streams, lakes, and reservoirs. Higher water temperatures tend to lead to lower levels of dissolved oxygen in the water, resulting in more stress on fish, insects, crustaceans, and other aquatic animals that rely on it. This can also affect the patterns and availability of suitable ecosystems for migratory birds along the Pacific Flyway. Butte Creek, Big Chico Creek, Feather River, and the Sacramento River support Chinook salmon and are used for winter and spring-runs. They also support many other federally and state protected fish and wildlife species. Changes in water temperature will eventually cause waterways to be unable to support various life stages of protected fish in these areas. Many streams and rivers have already become unviable for salmon to spawn in, such as parts of Big Chico Creek in Upper Bidwell Park. Under the new climate scenarios, salmon and many other aquatic species may not be able to use these channels located in Butte County to thrive. Some ecosystems, such as wetlands, may shift to other ecosystems that require less water, such as grasslands and chaparral (Kershner 2014).

4.3. Extreme Heat

The projected rise in temperature will have severe impacts on human health. Cases of heat-related illnesses, such as nausea, dizziness, stroke, dehydration, and heat exhaustion, will likely rise, especially for those who do not have access to air conditioning, cool spaces, or shelter. Children, outdoor workers, financially burdened households, persons experiencing homelessness, and those who cannot easily regulate their body temperature face the greatest health impacts (OPR TAG 2018). Higher temperatures will also mean greater instances of record high minimum temperatures. When there is not a significant drop in temperature overnight (at least 20°F), the human body continues to behave in distress—high blood pressure, elevated heart rate—overtaxing the body. With longer heat waves, Butte County medical centers are likely to see an increase in patients admitted for care related to prolonged heat exposure. According to the Climate Change and Health Profile Report for Butte County, from 2005-2010 there was an annual average of 41 heat-related emergency room visits. This number is projected to increase and may become a concern for Butte County medical centers with the increase of heat-related illnesses (Maizlish Neil et al. 2017).

Disadvantaged communities in Butte County are likely to face greater challenges in dealing with extreme heat than others. People in low-income areas, some of which are communities of color; people with existing health issues, such as chronic diseases and mental health conditions; young children and the elderly; people experiencing homelessness; outdoor workers, including farmworkers; immigrants; some tribal nations; and socially or linguistically isolated people will likely be most affected by extreme heat. Many of these individuals may not have access to or be able to afford their own air conditioning. Low-income populations may live in older buildings with poor insulation and ventilation, leading to higher indoor air temperatures on warm days. These populations often live in communities where residents are less likely to have air conditioning to cool homes or shade from trees in their neighborhoods, more likely to have one or more chronic medical conditions, and less likely to own cars that can provide mobility to avoid deleterious climate effects.

As of 2019, there are 891 unsheltered persons experiencing homelessness in Butte County (Butte County CoC 2019). Homeless populations are especially vulnerable to heat-related illnesses in periods of excessively high heat, as refuge from high temperatures may not be accessible even if homeless shelters are available. The majority of agriculture laborers in Butte County work in orchards and rice fields. The harvest of walnuts and almonds takes place in late summer and early autumn when the highest annual temperatures occur. Cal-Adapt estimates that an annual average of 29 extreme heat days will occur in Butte County by 2050. These days will likely occur during the harvest season, exposing farm workers to extreme temperatures and intense sun. Farmworkers in row crop fields will be the most exposed and vulnerable because they work under the open sun, with no shade. Farmworkers in the orchards and rice fields have slightly lower exposure because most harvesting is done with machinery, and the workers are provided some shade by the orchard trees or within a tractor and harvesting machinery. Health risks such as heat stroke and dehydration may occur and could potentially lead to disability.

Increases in temperature can have a severe impact on Butte County's biological resources and ecological functions. Water temperature will generally increase in streams, lakes, and reservoirs as air temperature rises. This tends to lead to lower levels of dissolved oxygen in the water, resulting in more stress on the fish, insects, crustaceans, and other aquatic animals that rely on oxygen in open water and wetland ecosystems. An increase in temperature will decrease food availability, resulting in loss of habitat for many species, including migratory birds along the Pacific Flyway. In conifer forests, extreme heat can lead to heat stress, making them more susceptible to harm from forestry pests and diseases. It is also projected that scrublands or grasslands will expand into conifer forests under drier future scenarios

(Lenihan et al. 2003, 2008). See **Figure 7** and **Figure 8** for a map of projected temperature increases in relation to critical habitats.

CalFlora, a website that hosts information on wild California plants, lists about 35 species that are rare, native, or edaphically inclined to serpentine soils in Butte County. Many of these plants will be outcompeted by invasive species and are prone to disease. Virus vectors such as aphids, soil-borne fungi, and “weeds” (non-native invasive plants), can quickly spread the disease to heat-stressed natives. Plants that cannot disperse fast enough or those with longer life cycles, such as perennials and trees, might fail to survive under these new stressful conditions. There are about 153 invasive plant species in Butte County alone (CalFlora 2017). Invasive species often flourish where native species struggle. Faster development of non-perennial crops results in a shorter life cycle resulting in smaller plants, shorter reproductive duration, and lower yield potential. Temperature extremes that occur at critical times during development can significantly impact plant productivity.

Plant and wildlife distributions may also be affected by changes in temperature, competition from colonizing species, regional hydrology, and other climate-related effects. These shifts could also increase the ability of disease vectors (organisms that transmit diseases, such as mosquitoes) to survive or thrive in areas that were previously uninhabitable (City of Oroville 2015).

Extreme heat events can also harm agricultural crops and livestock, which could have economic impacts on farms and consumers. The majority of Butte County’s commodities are walnut, almond, and prune orchards as well as rice farms. According to the 2016 *Water Inventory Analysis*, the county contains around 425,000 acres of plant crops. Out of these plant crops, around 108,113 acres produce nuts and around 96,772 acres produce rice. These two types of farming practices make up almost half of the designated agricultural lands.

Butte County agriculture productivity is vulnerable to increases in average temperature. Nut trees, such as walnuts, require chilling hours during winter. “Chilling hours” can be defined as the cumulative number of hours below 45°F (Tapan B. Pathak et al. 2018). Almonds require between 400 and 700 chilling hours while walnuts range from 400 to 1,500 chilling hours each winter (Tapan B. Pathak et Al. 2018). Increases in average temperatures will directly reduce the number of chilling hours experienced by fruit and nut crops. Fewer chilling hours has the potential to reduce yields and therefore profits. Changes in growing season conditions could cause variations in crop quality and yield.

The increase in summer temperatures will also impact livestock and dairy production negatively, as well as their supply of forage crops. When dairy cows become overheated or stressed, their milk production decreases.

Changes in growing season conditions could cause variations in crop quality and yield. Plant and wildlife distributions may also be affected by changes in temperature, competition from colonizing species, regional hydrology, and other climate-related effects.

Figure 7. Map of Predicted Annual Temperature Average in 2050 under the RCP 8.5 Scenario in Relation to Critical Habitats in Butte County

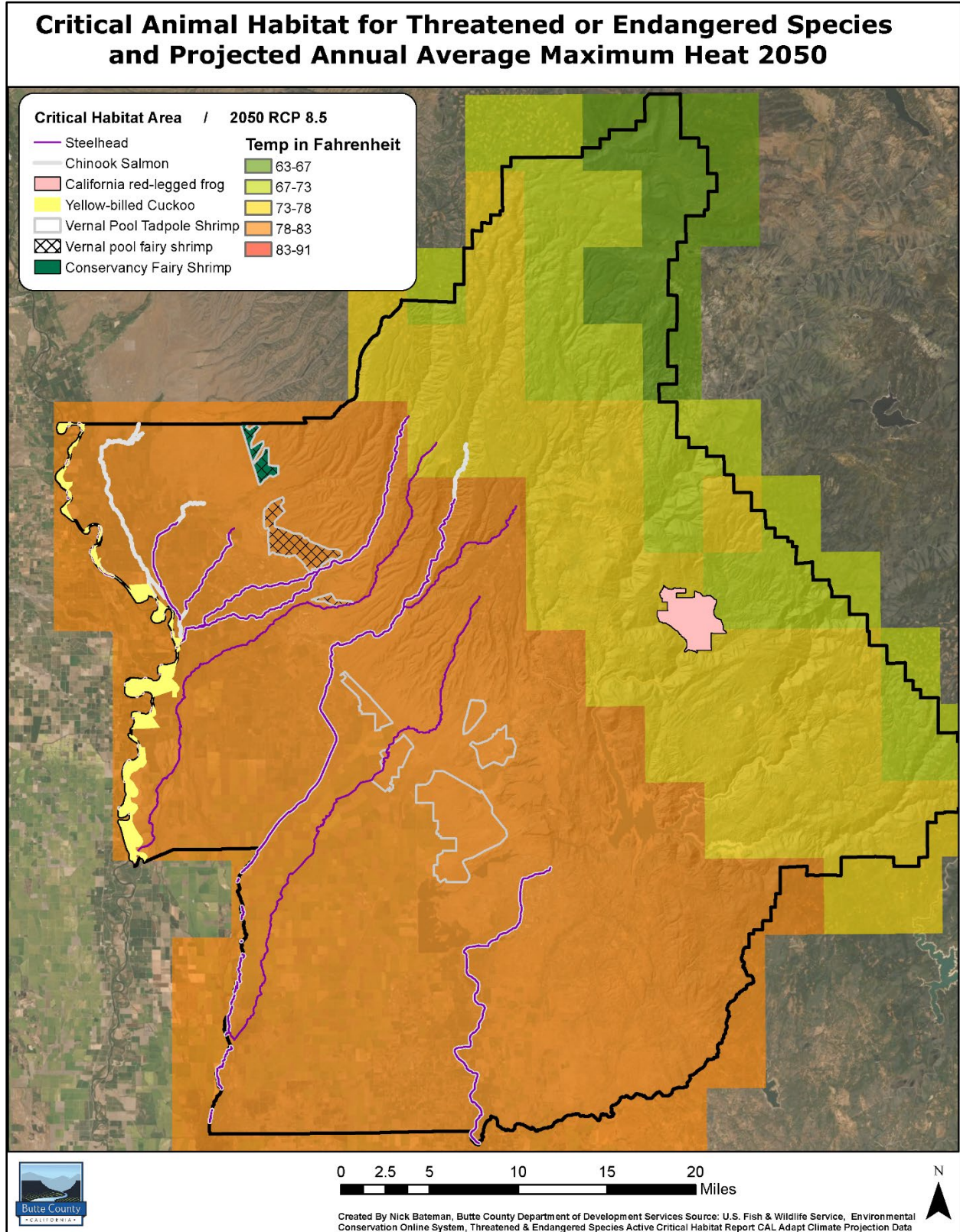
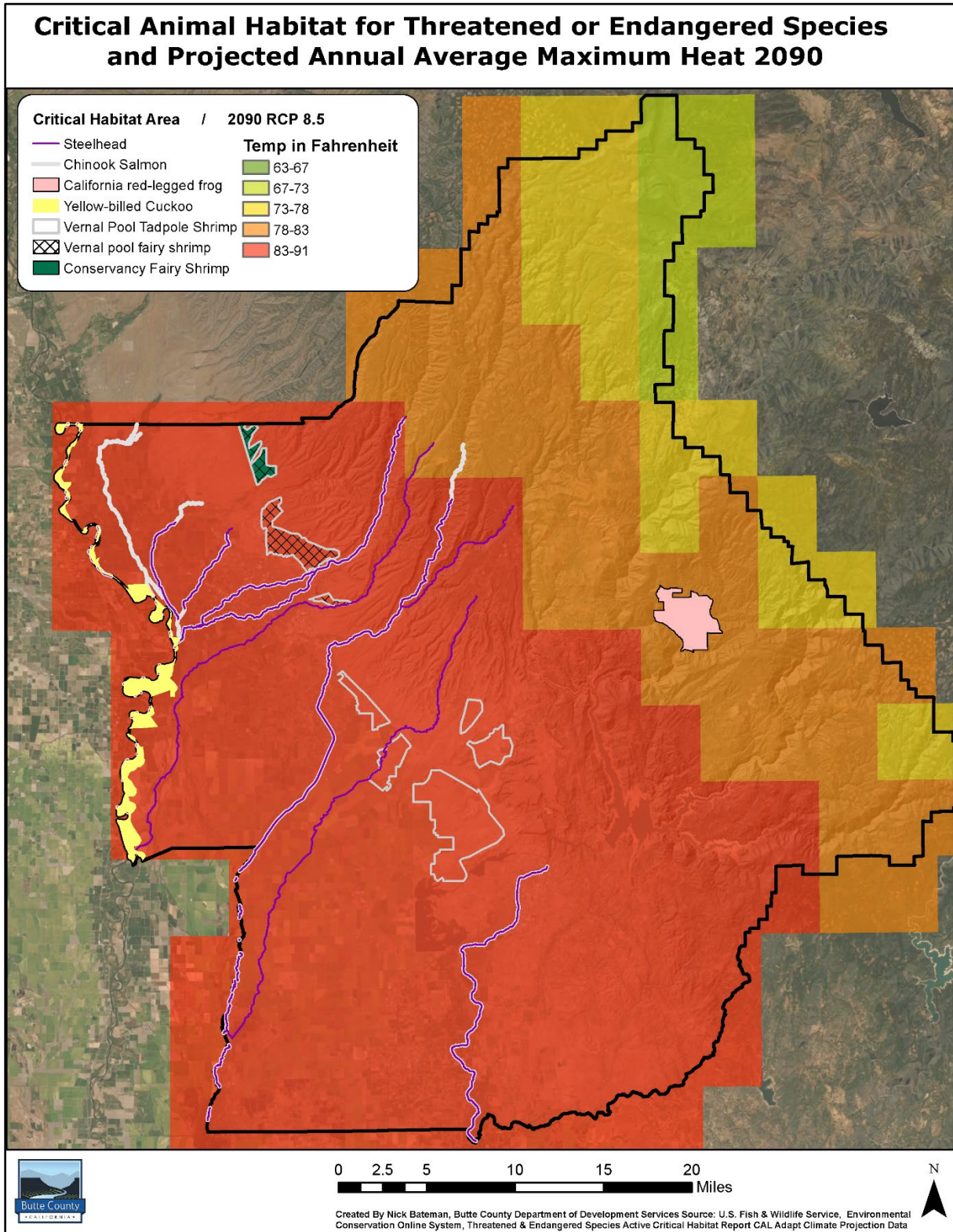


Figure 8. Map of Predicted Annual Temperature Average in 2090 Under the RCP 8.5 Scenario in Relation to Critical Habitats in Butte County



Extreme heat is also projected to impact infrastructure and utility services within Butte County. Infrastructure, such as roads, railroads, and bridges may bend and buckle in extreme heat conditions. Roads exposed to continued heat spells can experience cracks and pavement rutting, causing dangerous conditions for all transportation modes. Bridges experience expansion and contraction as temperature changes throughout the day. This impacts the way that bridge expansion joints function and absorbs movement over time. Butte County has railroad lines running through many small communities. The rail line's power system may experience thermal expansion, which can cause loss of tension, which can lead to reduced speeds that will impact public safety and mobility by increasing the need for road maintenance and road closures (Maizlish Neil et Al. 2017).

Utility services will also be impacted. High temperatures decrease power transmission line efficiency while summer air conditioning use increases electricity demand. This can lead to more power outages and blackouts and high winds could cause Public Safety Power Shutoffs. This could put public health and safety at risk with limited ways to stay cool during these times.

Utility services are likely to be impacted. High temperatures decrease the efficiency of power transmission lines while summer air conditioning use increases electricity demand. This can lead to more power outages and blackouts, leading to public health and safety risks if there are limited ways to stay cool during extreme heat events (Maizlish Neil et al. 2017). Limited or no access to air conditioning during heat events can be fatal for persons with chronic illnesses and seniors.

Quality of life could be affected by heat-related power outages. Loss of electricity reduces the ability to cool inside areas, which could affect people's ability to seek refuge from the heat. Food service and grocery stores could see economic losses from food spoilage due to loss of refrigeration caused by power outages. The ability to communicate via the Internet, cell towers, and landline could also be affected. Internet outages due to high heat can have a negative impact on local businesses who rely on internet to run business systems and communication.

Butte County is well known for its variety of outdoor activities. Spring and summer months are often filled with people hiking, swimming, and attending outdoor community events such as farmers' markets. As an increase in extreme heat events occurs, outdoor recreation will become less desirable. Visitors participating in recreation activities could be doing physically demanding hiking, biking, or other recreation activities, increasing the potential for heat-related illness. Reduced outdoor activity has the potential to affect revenue for businesses in the outdoor recreation industry on regional, state, and federal lands. Increases in temperature and extreme heat days could also affect quality of life, as getting outside and exercising is no longer an option. This could also lead to negative health impacts, such as obesity, weight gain, and anxiety.

4.4. Human Health Hazards

Human health hazards primarily affect populations within Butte County; however, they can have indirect impacts on economic drivers and key services. Some human health hazards can cause a mild inconvenience, while others are potentially life threatening. Examples include hantavirus pulmonary syndrome, Lyme disease, West Nile virus, and influenza, which can be debilitating or fatal for some

people. Other hazards that affect human health include extreme heat (discussed in Section 4.3), poor air quality, and smoke created from wildfires in the region, which can cause additional risks or exacerbate existing cardiovascular and respiratory illnesses. Populations at highest risk for human health hazards are those that spend a disproportionate amount of time outside, such as children, outdoor workers, and persons experiencing homelessness; those with chronic illnesses or weakened immune systems; persons in overcrowded households that spread illnesses more easily; and financially burdened households that may not be able to seek medical attention. Pandemic-scale human health hazards can also harm several economic sectors within the county, as well as emergency medical response services.

4.5. Severe Wind

Severe wind can harm all population and asset sectors in Butte County. Severe wind can damage homes and essential infrastructure that can isolate households or communities. High-velocity winds increase the risk of sparking from electrical power lines. In recent years, this has caused PG&E to conduct Public Safety Power Shutoff (PSPS) events. This can affect those who rely on electricity to power life-support devices or refrigerate medicine and food, in addition to affecting communication services throughout the county. The uncertainty of PSPS events during severe wind can trigger stress and anxiety for residents and business owners. Severe wind can also cause trees and other debris to fly through the air, which can damage homes, other buildings, and infrastructure. Older buildings and infrastructure would likely be most affected by this, and those with financial burdens may be unable to repair structures and other infrastructure. If a roadway is blocked by downed trees or debris, communities on single-access roads could become isolated from the rest of the county.

Agriculture is the economic driver most likely to be affected by severe winds, as these winds can flatten crops and severely damage the agricultural economy (Motha 2011). Other economic activities may also be hindered, as high winds can create dangerous conditions for construction and visitors for recreation and tourism may be deterred from traveling to Butte County during severe wind events.

Ecosystems can also be harmed by severe winds, as diseases such as sudden oak death can spread more easily through high-velocity winds (Kershner 2014).

4.6. Severe Storms

Climate change will not only lead to an increase in frequency and intensity of storms, meaning more water in the form of rain and flash flood, but it is also predicted we will see more prolonged periods of drought, which can lead to water shortages and decreases in groundwater levels. This dichotomy makes analyzing the impacts of precipitation difficult because not only will Butte County see more rainfall at times but also drought conditions.

Severe storms will most adversely affect populations living in 100-, 200-, and 500-year floodplains in western Butte County (FEMA 2021). All County residents living in flood zones may be adversely affected if a flood event occurs; however, flooding-related impacts will likely disproportionately affect populations with financial burdens, those who spend a disproportionate amount of time outdoors, those who live in less-resilient structures, and persons with limited mobility. Households in poverty and low-income

households may suffer higher mortality rates and their homes may sustain greater damage due to the housing stock and location. Furthermore, low-income households may not be able to afford structural upgrades or flood insurance to mitigate the effects of flooding associated with dam failure or levee collapse (Burton and Cutter 2008). Financially burdened households or those with limited mobility may also lack transportation and other resources to respond to or evacuate during a flood event.

Race, income, ethnicity, and immigration status are also drivers of flood-related impacts. These factors may impose cultural and language barriers that may affect pre-disaster mitigation and access to post-disaster resources for recovery. Those with limited mobility and chronic illnesses may not have the capacity to adequately respond to or evacuate during a flood event. Educational status also contributes to the social vulnerability of a population. Lower education typically coincides with poverty, overcrowding, unemployment, income inequality, and marginalization (California Justice Working Group 2017), which are all factors that may increase vulnerability to climate-related hazards.

Floodwaters from heavy rainfall can interact with sources of pollution and distribute hazardous pollutants locally and regionally. The resulting water contamination may lead to human health impacts as well as the degradation of ecosystems. Floodwater intrusion also has the potential to damage critical infrastructure, such as bridges, flood-control infrastructure, roadways, and cause mold and mildew to grow in homes and residential structures, which can affect indoor air quality. This may also lead to a large economic impact to the County and its residents as well as leave people displaced.

Localized flooding already poses a threat to Butte County roadways, especially near the Sacramento and Feather Rivers. Heavy rainfall will likely exacerbate this issue, blocking access to commuters, affecting road infrastructure, home infrastructure, and could lead to school closures. Flooding events may disrupt communications, energy transmission, public services, and transportation systems by damaging infrastructure. Flood events can cause considerable property damage as well as structural damage, through erosion and an increased risk of mudslides. Increased flooding could lead to degradation of flood-control infrastructure, such as dikes and levees. During high-flow events, bridges over waterways are particularly vulnerable to damage and blockage due to high-velocity water and debris. Bridge collapses pose a risk to human life and can cause damage to property and structures. Collapsed bridges may also disrupt transportation routes.

The relatively minimal reported damages and loss of life attributed to flooding over the past 25 years in Butte County indicates that the current land use management practices have proven effective. However, increasing development and population growth will require disciplined land use management practices to ensure that the urbanization of land protected by levees does not occur and is not allowed to exacerbate the effects of flooding in other areas (Butte County 2006).

Several issues cause drainage problems that lead to flooding in Butte County's watersheds. Ditches and stormwater systems are needed to convey stormwater away from developed areas; however, in some areas, the topography prevents surface water from draining quickly to a ditch, stream, or storm drain. Typically, stormwater systems are designed to handle storm runoff for events smaller than the 100-year event, such as a 10-year event. Older stormwater systems were typically designed to convey the 10-year storm or less and may become inadequate as additional watershed development and associated runoff increases. Stormwater systems, ditches, and other waterways can be blocked by debris, resulting in ponding, which may flood adjacent areas. Many roads in the FEMA-designated floodplains have experienced flood damage in the past. The Butte County Storm Drainage criteria have not been updated to account for existing, excess flows and future conditions (Butte County 2006).

In addition to flooding, severe storms can cause landslides, which can block roadways, damage or destroy utility infrastructure, wash out hiking and biking trails, and harm the railway system. This can leave those living in communities on single-access roadways with few options for evacuating. Those with limited mobility may be unable to evacuate prior to a landslide event, further isolating them from the rest of the county. Landslides can also disrupt several key services that rely on the roadways and utility infrastructure, such as communication and energy delivery services, delivery of vital goods, and public transit access. Debris flows can also occur in wildfire burn scars, damaging structures, infrastructure, and economic sectors.

4.7. Wildfire

Increased temperatures, changes in precipitation patterns, and reduced moisture content in vegetation during dry years are expected to increase the severity of wildland fire within and beyond the boundaries of the county. As higher temperatures begin to last for longer periods of time, dead fuels of a wider diameter (e.g., twigs and sticks) will also become drier and contribute to increased wildfire intensity in the county. These conditions are predicted to lead to an increase in the total area burned by grassland fire, especially in the foothill areas in the eastern portion of the county, of which, a section is designated a moderate Fire Hazard Severity Zone by CAL FIRE. Climate change is also expected to subject forests to increased stress due to drought, disease, invasive species, and insect pests. These stressors are likely to make these forests more vulnerable to catastrophic fire, as seen in the 2018 Camp Fire and 2020 North Complex Fire (Westerling 2007). An increased rate and intensity of wildfire in the coniferous forests of the Sierra Nevada could adversely impact the populations, functions, and structures within the county.

Increased wildfire activity may occur on the WUIs around Butte County from drier conditions and development encroaching on wildland areas. The WUI is defined as the areas where community development has expanded into the foothills and mountainous areas prone to wildfire. The WUI describes those communities that are mixed in with grass, brush, and timbered covered lands (wildland). These are areas where wildland fire once burned only vegetation but now burns homes as well. The Town of Paradise and community of Magalia and Paradise Pines are examples of high-density housing meeting wildland in Butte County. Development can also occur in the wildland-urban intermix, which are rural, low-density areas where homes are intermixed in wildland areas. In Butte County, the communities of Cohasset, Forest Ranch, Concow, Yankee Hill, Berry Creek, and Forbestown are considered urban-wildland intermix areas. WUI communities are difficult to defend because they sprawl over large geographical areas with wildland fuels throughout. These attributes make emergency access, structure protection, and fire control difficult as fires are relatively difficult to stop. Human development of wildland areas has made it much more difficult to protect life and property during a wildland fire. This home construction creates a new fuel load, which shifts firefighting operations from wildland to structural. **Figure 9** and **Figure 10** show rural communities in CAL FIRE-designated Fire Hazard Severity Zones and communities within the WUI. A full description of the impacts from the 2018 Camp Fire and 2020 North Complex Fire is provided in the Hazards and Safety chapter of the 2021 *Butte County Setting and Trends Report*.

Figure 9. Rural Communities Living in Wildfire Severity Zones

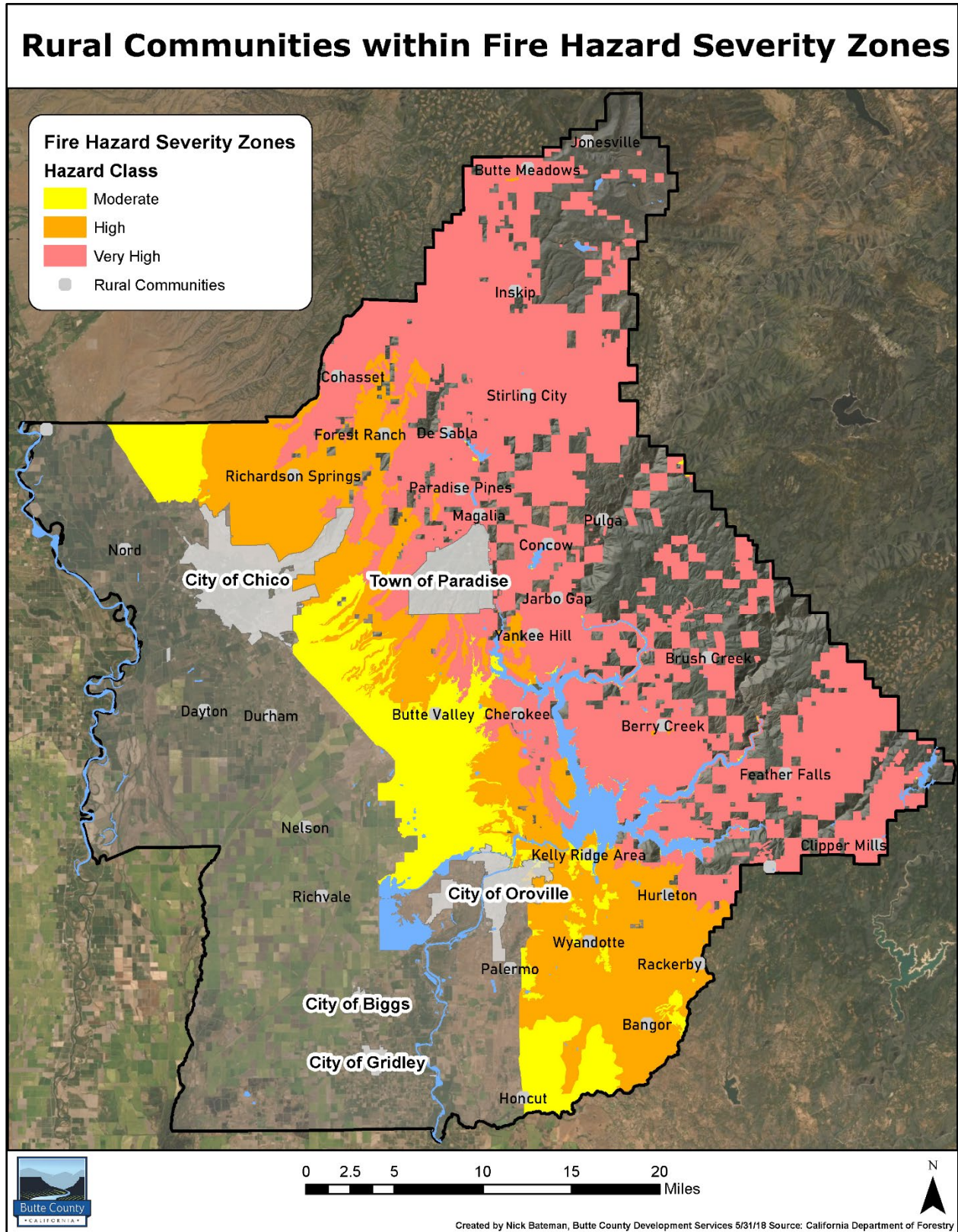
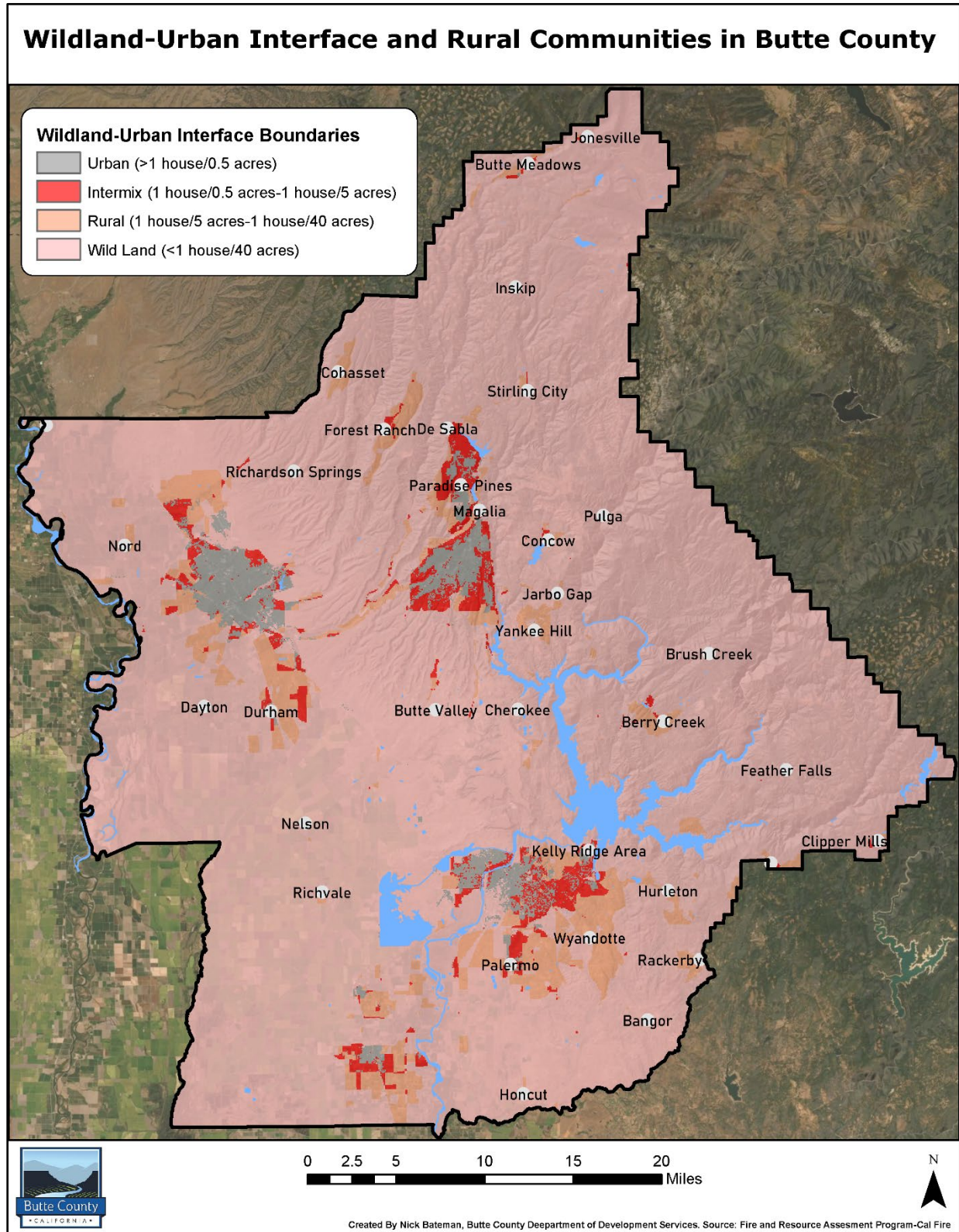


Figure 10. Wildland-Urban Interface Areas in Butte County



In addition to an increased threat to human safety, the increased frequency of wildfire may result in the release of harmful air pollutants into the atmosphere, which can affect the respiratory health of residents across a broad geographical scope. Particulate matter (including PM_{2.5}, which is soot and smoke), carbon monoxide, nitrogen oxides, and other pollutants are emitted during the burning of vegetation and can cause acute and chronic cardiovascular and respiratory illness, especially in vulnerable populations, such as the elderly, children, agricultural and outdoor workers, and those suffering from pre-existing cardiovascular or respiratory conditions.

Butte County is filled with many creeks, streams, lakes, reservoirs, etc. With more frequent and intense wildfires, there is a high probability that sedimentation within fish-bearing waters will increase. Nutrients and temperatures within the water will change and woody debris will become more prominent in the environment. Ultimately, this will negatively affect the overall health of the water and the fisheries themselves. This could affect the recreation and tourism industries that rely on healthy rivers and water sources. Loss of species such as deer and salmon from wildfires can impact Butte County's fishing and hunting industry, which can, in turn, have negative impacts on conservation efforts and funding.

The risk of wildfire may threaten deer migration and habitats. Herds may be temporarily forced out of their migration patterns and most likely move north to adjust for loss in habitat and food. This could cause deer to move into developed or populated areas. Traits that commonly make a species vulnerable to climate change include limited dispersal abilities, slow reproductive rates, specialized habitat and dietary requirements, restricted distribution and rarity, and narrow physiological tolerances, while potentially vulnerable habitats include montane habitats, savannahs, and grasslands. Migratory bird patterns along the Pacific Flyway can also be disrupted by smoke and ash that fill the sky during wildfires.

Wildfire can cause direct and indirect damage to electrical infrastructure. Direct exposure to fire can sever transmission lines, and heat and smoke can affect transmission capacity. Furthermore, because of historical forest management trends over the past century, increased temperatures, and more frequent drought, California wildfires are characteristically hotter and more intense as compared to naturally occurring fire regimes.

Forest health in Butte County and the economic vitality that these forests provide are likely to decrease because of wildfire. Forestry is over a \$16 million-a-year economic sector in Butte County (Butte County Sustainable Forestry Brochure). Without the combination of ample rainfall, long growing seasons, and deep soils, forests in Butte County will be unable to maintain the productivity for our current and future needs. High-intensity fires may also affect the ability of Butte County's forests and other natural lands to sequester carbon, as tree growth potentially becomes less productive and trees are burnt more regularly. Carbon sequestration is an emerging source of economic activity for forested areas in California and increases in wildfire may threaten this nascent industry.

5. Adaptive Capacity

The California APG defines adaptive capacity as the ability of a population, asset, or community to prepare for, respond to, and recover from climate change hazards based on current resources, tools, funding, policies, and programs. Review of the County's existing local policies, plans, programs, resources, or institutions provides a good snapshot of the County's ability to adapt to climate change and reduce vulnerability. Based on this information, adaptive capacity for a specific population or asset rated high, medium, or low, as discussed in the Section 1.1.

A description of adaptive capacity of Butte County's populations and assets is provided in the following sections, based on identified hazard where possible. It is important to note that this review of local climate adaptation-related work offers an initial, high-level perspective on the issue and is not all-inclusive nor site-specific analysis. As more specific facilities, structures, and areas are identified in the future, additional review of adaptive capacity would be valuable.

On a planning level, the County addresses current and future impacts related to existing natural hazards, as evidenced by the County's LHMP, most recently updated in December 2019. The 2019 LHMP identifies current hazard risks and mitigation strategies for climate change, flooding, levee failure, drought/water shortage, severe weather, and wildfires (Butte County 2019).

Furthermore, the County's Climate Action Plan (CAP), adopted in 2014, contains policies aimed at reducing local contributions to global climate change and encourages sustainable building practices, efficient use of resources (i.e., water, land, and energy), and ecological stewardship. The County's CAP also addresses climate adaptation and resiliency. Chapter 5 of the CAP lays out several actions that should be taken to adapt to the changing climate. Example actions include establishing cooling centers during heat waves, promoting energy efficiency and renewable energy to reduce peak-load demand, and developing low-impact development standards to reduce stormwater runoff and increase groundwater demand. The County is currently preparing updates to the CAP and General Plan. These updates will include updates to adaptation goals, policies, and strategies that will be informed by this vulnerability assessment.

The Butte County Office of Emergency Management (OEM) website contains a variety of resources for disaster preparedness. Evacuation plans and routes, standards for defensible spaces, disaster supplies kit checklists, heatwave precautions, drought assistance, and flood after fire information are some of the resources provided by Butte County OEM.

Disaster recovery efforts require extreme measures and commitment to the development of healthy, organized responses to chaotic situations. Every region has a unique need. If a jurisdiction is not in sync with current regulation it may not only miss opportunities for state and federal funding but leave that jurisdiction more vulnerable to the threats of climate change-induced natural disasters. The County is conducting this assessment to find where its vulnerabilities lie and to be able to address them by incorporating adaptation strategies and emergency plans into the General Plan.

5.1. Agriculture and Forestry Pests and Diseases

Butte County's agriculture and timber production industries, persons who rely on these industries, and ecosystems surrounding these economic sectors will likely be harmed by an increase in agriculture and forestry pests and diseases. Pesticides can help crops and pastures resist pests and diseases; however, if pests and diseases quickly evolve, this may not be feasible for all crops. Agricultural owners and operators can work with the University of California Cooperative Extension to conduct more research on solutions to pests and diseases, or crop types that can more easily resist pest and diseases with less water and higher temperatures.

The timber production industry relies heavily on a healthy conifer forest ecosystem, which under normal conditions can resist pests and diseases. However, due to high temperatures and increased drought, the adaptive capacity of this ecosystem plummets and the forests have virtually no ability to resist pests and diseases, such as bark beetles. The timber industry may see additional challenges, as new market opportunities may shrink if forest resources are not available. Other tree ecosystems that can typically recover from pests and diseases, oak woodlands, and chaparral, may not be able to manage diseases such as sudden oak death (Kershner 2014). Other ecosystems may shift to other ecosystems that may be better suited for future conditions and disturbance regimes, such as grasslands (Kershner 2014). If forested ecosystems cannot recover, state and federal land recreation may decrease, as people may be deterred from traveling to the county.

The populations that rely on the agriculture and timber industries, such as immigrant populations and outdoor workers, may be able to transfer industries through educational opportunities. The Oroville Adult Education Program offers several programs for those living in or near the Cities of Chico and Oroville. However, due to potential fears of accessing government benefits and educational institutions, immigrant communities, low-resourced ethnic minorities, and outdoor workers may not seek these educational opportunities (Roos 2018).

The buildings and infrastructure damaged or blocked by diseases or dead trees can be repaired or retrofitted to prevent damage. Trees on single-access roadways can also be removed. However, these repairs, removals, and retrofits may take a considerable amount of time, and the facilities may not be useable until cleared and repaired. Mitigation action 46 of the Butte County LHMP may assist with this, as it is focused on hazard tree removal around infrastructure, specifically power lines; however, this project will require extensive funding to complete (Butte County 2019). Additional mitigation actions that may assist with agricultural pests and diseases include a marine and aquatic invasive species survey and surveillance project, foreign animal diseases rapid response quarantine program, and a Broom eradication project (Butte County 2019).

5.2. Drought

Butte County's Department of Water and Resource Conservation implements programs to protect Butte County's water resources. The priorities of the department come from the 2005 *Butte County Integrated Water Resource Plan*, some of which include: Administering Water Resource Management Programs, Groundwater Management Plan, Drought Management Plan, Coordination Regional Watershed Management Plan, and more.

The department also leads Butte County's involvement to implement the SGMA. SGMA went into effect in January 2016 and is California's new comprehensive statewide groundwater management law designed to provide for local management of groundwater resources. Butte County is a member agency in the Vina Groundwater Sustainability Agency and the Wyandotte Creek GSA. Butte County is a GSA for a

portion of the Butte subbasin. The GSAs are currently working on developing groundwater sustainability plans (GSP) for each subbasin. The GSPs must be adopted by 2022. The GSPs will ensure that groundwater extraction operates within the sustainable yield, accounting for future drought conditions, wet years, climate change, and future growth. The GSPs will provide a buffer against drought and contribute to reliable water supplies. However, SGMA recognized that drought conditions may result in impacts that cannot be avoided provided that the basin returns to its sustainable yield after the drought. California depends on groundwater for a major portion of its annual water supply, and sustainable groundwater management is essential to a reliable and resilient water system.

Butte County and other GSAs have been working with stakeholders to evaluate the feasibility of artificially recharging the groundwater in the Vina subbasin to ensure groundwater sustainability by 2042. One option would be to use the City of Chico's treated wastewater that now is discharged into the Sacramento River as a potential direct or indirect source of groundwater recharge. Other options under consideration are to promote recharging of winter flood water from streams and creeks, and water conservation.

General Plan 2030 contains policies and actions designed to promote groundwater recharge and minimize impervious land cover. Policy W-P3.3 protects groundwater recharge and groundwater quality in new development projects. Action W-A3.1 directs the County to seek funding for and conduct comprehensive, countywide mapping of water resources and groundwater recharge areas, and Action W-A3.2 directs the County to develop standards to preserve groundwater recharge and protect groundwater quality (Butte County 2010).

Drought impacts are wide-reaching and may be economic, environmental, and/or societal. The most significant impacts associated with drought in the planning area are those related to water-intensive activities, such as agriculture, wildfire protection, municipal usage, commerce, tourism, recreation, and wildlife preservation. Those who are financially burdened or may rely on water-dependent economic activities may not be able to prepare for or recover from water price hikes or disruptions to economic drivers. Voluntary conservation measures are a normal and ongoing part of system operations and are actively implemented during extended droughts. A reduction of electric power generation and water quality deterioration are also potential problems. Drought conditions can also cause soil to compact and not absorb water well, potentially making an area more susceptible to flooding and erosion (Butte County 2019).

Butte County has several programs in place to conserve domestic water supply. Butte County citizens can engage in rebate programs provided by Cal-Water and other water purveyors and PG&E to improve the water efficiency of home appliances and replace water-demanding landscapes. Further, PACE financing programs can also help homeowners finance upgrades to their homes and landscapes to improve water efficiency along with energy efficiency. Implementation of these efforts can help to lower Butte County's overall domestic water usage, thereby helping ensure that Butte County residents continue to have a reliable source of potable water in the face of future dry years.

The primary water source within the county is surface water (55 percent), followed by groundwater (31 percent), and surface water reuse (14 percent). The majority of the surface water supply used by Butte County residents and businesses originates in the Feather River watershed, accumulates in Lake Oroville, and is primarily used for agriculture locally (Butte County Department of Water and Resource Conservation 2005). During drought years, county residents may face water shortages from dry wells. Residents served by water purveyors may face strict restrictions on water supply and permitted uses.

Agriculture operations relying on surface water may experience water shortages that can impact crop production during drought years.

Butte County also has a Drought Preparedness Plan, which established a Drought Task Force, drought monitoring, and drought response and mitigation to ensure that water supply limitation are addressed during drought conditions. Adaptive capacity will also be improved once SGMA begins to implement groundwater recharge throughout the county. Capturing stormwater and early snowmelt and getting that water back into the water table will ensure Butte County residents will have adequate water during droughts and help to mitigate any subsidence that could occur. Butte County may want to look into the development of drought response rules in advance of a drought.

5.3. Extreme Heat

The Butte County Public Health Department provides Butte County community members with information on how to stay safe during periods of extreme heat through press releases and their webpage. However, linguistically isolated persons and those without access to internet may not be aware or able to look for these notifications.

Butte County participates in several Property Assessed Clean Energy (PACE) financing programs. PACE programs help homeowners finance home energy and water-efficiency upgrades and save money on energy and water bills through special financing options. By enabling homeowners to retrofit their homes and install upgrades, this program increases insulation and air conditioning in homes, while reducing energy costs associated with extreme heat events and heat waves. It should be noted that PACE programs are only available to homeowners and cannot be used by renters or occupants of multifamily housing.

Urban greening and urban forestry in the county are supported by numerous organizations and agencies. Urban forestry involves the planting of trees to mitigate these impacts. Trees provide shade for homes, roadways, parking lots, and provide relief during periods of extreme heat. Further, ground-level ozone produced from excessive heat can be filtered by certain tree species, which improves local air quality (California Natural Resources Agency 2018). Tree canopy cover also reduces energy demand.

As discussed previously in Section 4.3, the populations most likely to be endangered by extreme heat events are those who spend a disproportionate amount of time outdoors, such as outdoor workers, children, and persons experiencing homelessness; seniors; persons with chronic illnesses; indigenous and tribal nations; linguistically isolated persons; and households in poverty and low-income households. Several cooling centers are available throughout the county for these individuals to seek relief from the heat. Persons in low-resourced ethnic minority communities or immigrant communities may not seek cooling centers or know about them because of immigration status or language barriers. For those with limited mobility or chronic illnesses, Butte Regional Transit does offer Dial-A-Ride and paratransit services, which seniors and other populations can use to seek relief from the heat.

Transportation infrastructure (e.g., roads, bridges, sidewalks) can also be damaged by extreme heat events. Damage from extreme heat conditions would place additional strain on already limited financial resources for maintenance and repair of county and state roads. Existing efforts to maintain and enhance the urban forest canopy may provide some increase in shading on local roads throughout the county, mitigating portions of transportation-related surfaces (e.g., asphalt) from excessive sun exposure. However, planting of shade trees alone may not be enough to fully mitigate potential damage from increased temperatures and extreme heat. Some roadways and rail lines may be managed by multiple agencies, which requires coordination that can extend the timeline for repairs and retrofits.

Other infrastructure that can be damaged by extreme heat includes electrical transmission lines. These transmission lines can be turned off during extreme heat events to reduce damage, and renewable energy, such as solar panels and wind turbines, can be installed to reduce electricity demands during the warmest part of the day. However, retrofits are expensive and may not be feasible for all structures. Turning off electricity lines can also be detrimental to critical facilities, residents who rely on electricity for life-support devices and refrigeration of medicines, and businesses in Butte County.

Butte County's agriculture sector will likely be highly affected by extreme heat. Agriculture owners and operators can work with the University of California Cooperative Extension and the Agriculture Commissioner's Office to conduct more research on crop types that can more easily resist damage from extreme heat days and warmer nights. By conducting this research, Butte County will increase its adaptive capacity for the increase of temperature on agriculture functions. Some industries, such as outdoor recreation and timber harvesting, may be less able to prepare for and recover from extreme heat, as visitors may be less likely to travel to the area during extreme heat days to participate in outdoor recreation and forests that support timber harvesting may be more susceptible to wildfires due to higher temperatures.

5.4. Human Health Hazards

As stated previously, households with financial burdens, overcrowded households, and populations that spend a disproportionate amount of time outdoors are most susceptible to human health hazards, in addition to the economic drivers they support and services they require. These populations may not be able to isolate if they have a contagious illness and may not have health insurance or financial means to seek medical attention. Persons working outdoors, persons experiencing homelessness, and others can wear protective clothing or bug spray to reduce exposure to vector-borne illnesses, but this may not be effective in all cases. Households with financial burdens may also not be able to take time off work to recover or seek medical attention, therefore worsening health outcomes.

Butte County does have a Mosquito and Vector Control District that can help mitigate the exposure to vector-borne illnesses, by removing ponding water and pests from specific areas. For those with limited mobility who need to seek medical attention, Butte Regional Transit offers paratransit and Dial-A-Ride services that can transport individuals to medical appointments. Even with these adaptive capacity measures, emergency medical response services may be overwhelmed by a human health hazard event. Strengthening medical supply chains and preparing emergency contingency plans for if and when human health hazards increase may take time and require extensive coordination.

5.5. Severe Wind

Butte County's adaptive capacity to severe wind events is similar to extreme heat and severe storms. For those whose homes may be impacted by severe wind, the County has low-cost PACE programs that homeowners can participate in to retrofit their homes to be more protected from severe wind events. Some populations may not feel safe participating in these programs because of immigration status or racial profiling towards low-resourced ethnic minorities (Roos 2018). For those who do not have permanent shelter during severe wind events, several homeless shelters are available throughout the county that can provide safety for these individuals or families.

Some populations, such as communities on single-access roads, persons with disabilities, and seniors, may become isolated during and after severe wind events. Communities on single-access roads can clear fallen trees and debris after a wind event, but this may take hours or days depending on the severity and remoteness of the community. Persons with disabilities and seniors may not be able to travel to find

shelter during extreme wind events. Butte Regional Transit's paratransit and Dial-A-Line services can help these individuals seek treatment following a severe wind event.

Severe wind may also cause PG&E to conduct PSPS events, which can harm both populations and economic drivers. The Butte County Disability Action Center does provide disaster preparedness and training programs and portable battery programs that may be able to assist persons with chronic illnesses and/or disabilities in the event of power loss. For energy delivery, electrical transmission lines can be undergrounded to reduce PSPS events; however, this can be expensive and may be difficult to do for larger transmission lines. Communication services may also be limited if the power is shut off, and there are few redundancies in communication infrastructure in the county, especially in remote mountain areas. Other infrastructure can be retrofitted to resist damage from severe wind or have trees trimmed to reduce damage from other debris carried by severe winds.

Some assets, such as crops flattened by high winds and oak woodlands decimated by sudden oak death, may be unable to recover from an increase in severe winds.

5.6. Severe Storms

Butte County Office of Emergency Management coordinates the overall countywide response to large-scale incidents and severe storm-related disasters through their Emergency Operations Center, which provides information and resources for agencies to coordinate disaster response efforts.

The County's website also provides information on flood evacuation plans for flood zones in southern Butte County that contains strategies to ensure evacuations are handled smoothly. For those with limited mobility or lack of access to transportation, Butte County has a Special Needs Awareness Program, established after the 2008 BTU lightning complex fire, which may be able to assist these individuals or families in evacuations during severe storm events.

General Plan 2030 includes policies that protect people and property from flooding that may be caused by severe storms. Health and Safety Element Policies HS-P2.4 and HS-P2.5 protect people and property from flood risks within the 100-year flood hazard zone and ensure that development within this area will not impede or redirect flood flows, and Policies HS-P3.1 through HS-P3.4 work to prevent and reduce flooding. In addition, Policy HS-P2.1 supports the efforts of regional, state, and federal agencies to improve flood management facilities along the Sacramento River, and Policy HS-P2.2 supports the efforts of private landowners and public agencies to maintain existing flood-management facilities (Butte County 2010).

There are a number of levees in Butte County that provide various levels of protection for the citizens and property in the county from flooding hazards. However, the levee system is maintained by independent local levee and reclamation districts and overseen by the U.S. Army Corps of Engineers, California Department of Water Resources, and the Bureau of Reclamation, and would require extensive coordination to raise or extend levees. Many of these are aging and may need repair and maintenance to adequately control flood flows. There are also dams that serve as water storage features in the county and surrounding areas (Butte County 2010). However, in February 2017, an atmospheric river dropped heavy rainfall on the Feather River watershed, filling Oroville Dam more quickly than water could be released. Emergency evacuations occurred throughout Oroville and the communities south of the dam as the emergency spillway crumbled under the weight of the water being released from the dam.

Butte County contains areas currently designated as 100-year flood zones, and the General Plan 2030 land use map allows occupied development within these flood hazard areas. However, General Plan 2030 includes policies designed to prevent flooding of occupied developments. Specifically, Health and Safety Element Policy HS-P2.4 prohibits development on lands within the 100-year flood zone, as identified on the most current available maps from FEMA, unless the applicant meets criteria that FEMA has set out demonstrating development will not cause a danger to life or property (Butte County 2010).

The Urban Level of Flood Protection Criteria was developed in response to the requirements from the Central Valley Flood Protection Act of 2008, enacted by SB 5. Urban level of flood protection means the level of protection necessary to withstand a 200-year flood in any given year. The criteria were developed by the Department of Water Resources as a systematic approach to assist affected cities and counties within the Sacramento-San Joaquin Valley in making findings related to an urban level of flood protection before approving certain land-use decisions. In response to the passage of SB 5, Butte County adopted the Flood Hazard Prevention Ordinance. This ordinance requires the Department of Development Services to review all applications for new construction or subdivisions in flood hazard areas and requires that the lowest floor of any new construction or substantial improvement in FEMA-designated Flood Zones be elevated by 1 foot or more above the regulatory flood elevation. In addition, applicants must show that development within the floodplain will not raise the existing flood level in a manner that adversely affects any neighboring property.

Residents living in areas at high risk for inundation from levee or dam failure have limited adaptive capacity to deal with flooding. Structural improvements to modify or elevate homes and other structures, as well as the purchase of flood insurance, can reduce the financial burden of recovering from flooding; however, these options are not universally acquirable. The County does participate in PACE financing programs, which can help populations with financial burdens increase the resiliency of their homes to severe storms and flooding.

Severe storms can also cause landslides in mountain areas of the county. Slope stabilization and increasing the capacity of drainage systems can help protect transportation, communication, and electrical infrastructure from damage by landslides. However, this can be difficult in remote areas of the county. Services such as energy delivery, vital good delivery, communication services, public transit access, and other utility services may be disrupted until infrastructure repairs can occur. Landslides may also affect timber harvesting, but they are required to have Timber Harvesting Plans to avoid harvesting trees in landslide-prone areas.

5.7. Wildfire

Butte County Office of Emergency Management coordinates the overall countywide response to large-scale incidents and disasters through their Emergency Operations Center, which provides information and resources for agencies to coordinate disaster response efforts.

There are wildfire evacuation plans for each town and city in the county on the Office of Emergency Management's website that contain strategies to ensure evacuations are handled smoothly and residents know where evacuation meeting points are located. However, those without internet access or linguistically isolated people may have difficulty receiving and acting on evacuation notices and emergency alerts. For those with limited mobility or lack of access to transportation, Butte County has a Special Needs Awareness Program, established after the 2008 BTU Lightning Complex Fire, which may be able to assist these individuals or families in evacuations during wildfires.

Butte County has adopted the 2019 California Fire Code, which includes provisions to help prevent the accumulation of combustible vegetation or rubbish that can be found to create fire hazards and potentially impact the health, safety, and general welfare of the public. Provisions include ensuring that defensible spaces, which are adjacent to each side of a building or structure, are cleared of all brush, flammable vegetation, or combustible growth (Butte County 2010). Damage to infrastructure development in Butte County must comply with the 2019 California Fire Code, which includes standards to reduce the safety risks associated with fire. This includes the incorporation of 100 feet of defensible space, which limits the proximity of combustible vegetation to new structures. However, those with limited mobility, chronic illnesses, or lack of financial resources may be unable maintain defensible space around their homes, especially in heavily forested areas.

The 2019 LHMP provides several wildfire hazard mitigation strategies to increase adaptive capacity of county residents and infrastructure to wildfire. These include wildfire fuels reduction and maintenance on the Upper Ridge, Concow/Yankee Hill, Berry Creek, Butte Meadows, Cohasset, Forest Ranch, Feather Falls, and Forbestown. Other hazard-reduction strategies include eave vent replacement and education projects, fire-wise communities and education programs, chipper programs, residents assistance defensible space programs, hazardous tree removal, fuel load management through the Department of Water Resources, and the creation of refuge areas. Policy HS-P11.4 in the Butte County General Plan requires that new development meet current State regulations for adequate emergency water flow, emergency vehicle access, signage, evacuation routes, fuel management, defensible space, fire-safe building construction, and wildfire preparedness, which would help to reduce the wildfire impacts on new development. Furthermore, Action HS-A11.1 directs the County to complete roadside fuel reduction projects to reduce wildfire risk, increase visibility, and maintain safe evacuation routes, which would help to reduce wildfire hazards (Butte County 2010).

In addition, Health and Safety Goal HS-12 and its associated policies and actions seek to protect people and property from wildland and urban fires. Specifically, Policy HS-P12.1 maintains regulations regarding vegetation clearance around structures, and Policy HS-P12.3 requires the use of fire-resistant landscaping and fuel breaks in residential areas. In addition, Policy HSP12.2 requires fuel breaks along the edge of developing areas in High and Very High Fire Hazard Severity Zones, and Policy HS-P12.4 requires all developments in WUI areas in High or Very High Fire Hazard Severity Zones to provide, at a minimum, small-scale water systems for fire protection (Butte County 2010).

The County's Wildfire Mitigation Action Plan aims to reduce damage and prevent injury from wildfire through wildfire mitigations, including a fuel-reduction program, a weed-abatement program, construction codes requiring the use of fire-resistant building materials in new construction, and improvements to the water supply and hydrant system. Additionally, the Butte County Community Wildfire Protection Plan (CWPP) of 2015 will help mitigate impacts associated with wildfire in developed areas through evaluation and assessment of proposed structures, implementation of mitigation measures associated with construction and education programs for private landowners and public agencies. Additional projects completed, in progress, or proposed in the CWPP include fuel reduction, evacuation signage, education programs, defensible space assistance, prescribed burns, defensible space inspections, and general fire planning.

The Butte County Fire Safe Council provides the portions of Butte County within its jurisdiction with a plan to combat the effects of wildland fire. The Butte County Fire Safe Council serves to protect both people and structures from fire-related damage and provides useful strategies to create an environment that is not conducive to ignition and spreading. Specific programs include a chipper program, residents

assistance program, fire-safe home visits, wildfire education, and forest health and fuels reduction projects.

Butte County Air Quality Management District (BCAQMD) takes actions to reduce exposure to harmful pollutants related to wildfire (e.g., particulate matter) by implementing no-burn days during periods of poor air quality. BCAQMD also provides resources to educate the public on the status of air quality on a daily basis, provides alerts on poor air quality days, and provides educational material on the health effects of air pollution. Due to the heavily forested areas of the county and several communities living on single-access roads, the adaptive capacity of several populations and assets is still relatively low for wildfires. As seen in the 2018 Camp Fire and 2020 North Complex Fire, when several of these programs were already in place, people had difficulties evacuating, lost homes and businesses, and suffered economic loss due to these fires.

6. Conclusion

The impacts and adaptive capacity described create several key vulnerabilities within Butte County. The following sections describe the key findings of the Climate Change Vulnerability Assessment and provide recommended actions to increase adaptive capacity and reduce vulnerabilities to populations and assets throughout the county.

6.1. Key Findings

Out of the 71 populations and assets Butte County analyzed, 50 are highly vulnerable to at least one hazard condition. Wildfire is responsible for the highest vulnerability scores, followed by severe storms, severe wind, and extreme heat. The following list provides the key findings and critical vulnerabilities identified in the Climate Change Vulnerability Assessment:

- Populations and assets in the eastern portion of the county are most vulnerable to wildfires and populations in the western portion of the county are most vulnerable to severe storms.
- Outdoor workers and low-resourced ethnic minorities are the most vulnerable populations, and highly vulnerable to all climate change hazards.
- Electrical transmission infrastructure and energy delivery services are highly vulnerable to damage or PSPS events from extreme heat, severe wind, severe storms, and wildfire. Energy delivery services are a key supporting factor for everyday activities, economic drivers, and key services.
- Water and wastewater serving both the county and other areas of California can be disrupted from drought, severe wind, severe storms, and wildfire.
- Major roads, highways, and single-access roads can become impassable due to severe wind, severe storms, and wildfire, isolating populations in remote areas of the county and disrupting services to those areas.
- Recreation infrastructure and recreation on regional, state, and federal land can be disrupted by all climate change hazards.
- Agriculture is the most vulnerable economic driver in Butte County.
- Conifer forests and open water ecosystems are the most vulnerable ecosystems.

6.2. Recommendations

The resilience of these populations and assets can increase through the implementation of adaptation measures. Adaptation is the adjustment to natural and human systems, in response to actual or expected changes in climate conditions to reduce the harmful effects of actual or expected changes (Cal OES 2020).

Potential adaptation measures that could reduce vulnerability in Butte County, and some of which are planned items in the 2019 LHMP, include:

- Promoting the creation of community support networks to check on persons without access to lifelines, seniors living alone, and persons with disabilities during dangerous conditions.
- Collaborating with PG&E and other utility providers to underground electricity transmission lines.
- Increasing funding through grants or private organizations for fuel reduction and vegetation management projects for both neighborhoods and infrastructure.
- Continuing to provide residential assistance programs to help homeowners create and maintain defensible space and fuels management on their properties.
- Conducting structural retrofits for at-risk bridges and ensuring that these retrofits include protections against flooding and landslides.
- Expanding the chipper program throughout the county to help private homeowners dispose of trees near structures, supplementing existing cost-sharing programs.
- Working with farming organizations and the University of California Cooperative Extension to promote the availability of crop varieties that are more resilient to climate change while meeting market demand for yield and quality, as options become available.
- Continuing to work with state and federal land management agencies to support fuel and pest management activities.
- In coordination with local, state, and federal plant and wildlife management agencies and organizations, monitoring shifts in habitats, and preserving habitats where habitat migration may be needed.
- Working with local, state, and federal plant and wildlife management agencies and organizations to protect vulnerable habitat and improve ecosystem connectivity.
- Coordinating with utility providers to conduct regular evaluations and retrofits of energy transmission and delivery infrastructure.
- Incentivizing water conservation measures by establishing indoor plumbing retrofit and turf replacement programs.
- Support the implementation of Groundwater Sustainability Plans that take into consideration of the increased severity of droughts and climate change.
- Identifying equitably located resilience hubs in each community in the County to provide emergency assistance and information, cooling spaces on extreme heat days, and refuge for those who are unable to evacuate during hazardous conditions.

7. References

- Bedsworth, Louise, Dan Cayan, Guido Franco, Leah Fisher, Sonya Ziaja. (California Governor's Office of Planning and Research, Scripps Institution of Oceanography, California Energy Commission, California Public Utilities Commission). 2018. *Statewide Summary Report. California's Fourth Climate Change Assessment*. Publication number: SUMCCCA4-2018-013.
- Burton, Christopher and Susan L. Cutter. 2008. *Levee Failures and Social Vulnerability in the Sacramento-San Joaquin Delta Area, California*. Natural Hazards Review. Pp 136-149.
https://www.researchgate.net/profile/Christopher_Burton3/publication/228756947_Levee_failures_and_social_vulnerability_in_the_Sacramento-San_Joaquin_Delta_area_California/links/00b4953c3a884f3878000000.pdf.
- Butte County. 2006. *Butte County Flood Mitigation Plan*. 2006.
http://www.buttecounty.net/Portals/19/ButteFMP_FINAL1-8-10.pdf.
- Butte County. 2010. *Butte County General Plan Draft Environmental Impact Report*,
https://www.buttecounty.net/Portals/10/Docs/GP2030/ButteCountyGP_PublicReview_EIR.pdf?ver=2019-07-25-160952-113.
- Butte County. 2020. *Butte County Community Wildfire Protection Plan 2020-2025*.
<https://buttecounty.opennrm.org/wiki/10689>.
- Butte County. 2019. *Butte County 2019 Local Hazard Mitigation Plan*.
- Butte County. 2021. *Settings and Trends Report*.
- Butte County CoC (Butte Countywide Homeless Continuum of Care). 2019 Continuum of Care Homeless Assistance Programs Homeless Populations and Subpopulations, Conducted March 27, 2019.
https://files.hudexchange.info/reports/published/CoC_PopSub_CoC_CA-519-2019_CA_2019.pdf.
- Butte County Department of Agriculture, Weights, and Measures. 2019. *Butte County 2019 Crop Report*.
- Butte County Department of Water and Resources Conservation. 2005. *Integrated Water Resources Plan*. May 2005.
- Butte County Department of Water and Resources Conservation. 2016. *Butte County Water Inventory Analysis*. <https://www.buttecounty.net/wrcdocs/Reports/1%26A/2016WI%26AFINAL.pdf>.
- Butte County Department of Water and Resources Conservation. 2017. *Stable Isotope Recharge Study Final Report*.
<https://www.buttecounty.net/wrcdocs/Reports/SpecialProjects/SIRS/SIRSFinalReport.pdf>.

- Butte County Department of Water and Resources Conservation. 2018a. *Evaluation of Restoration and Recharge within the Butte County Groundwater Basins*.
https://www.buttecounty.net/wrcdocs/Reports/SpecialProjects/GWRecharge/Recharge_Eval.pdf.
- Butte County Department of Water and Resources Conservation. 2018b. *Groundwater Status Report (2017 Water Year)*.
<https://www.buttecounty.net/wrcdocs/Reports/GWStatusReports/2017/2017GSRCoverReport.pdf>.
- Butte County Public Health Department. 2017. *Butte County Community Health Assessment: 2015-2017*.
- Cal-Adapt. 2018. "Annual Averages". <https://cal-adapt.org/tools/annual-averages/>.
- CalFlora. 2017. Roy West. <http://www.calflora.org/about-cf.html>.
- California Climate and Agricultural Network. 2019. Cultivating Climate Resilience in Farming: Ensuring California Farms and Ranches Thrive in the Face of Climate Change. <https://calclimateag.org/wp-content/uploads/2019/07/Cultivating-Resilience-August-2019.pdf>.
- California Environmental Protection Agency. 2013 (October) *Preparing California for Extreme Heat*.
http://www.climatechange.ca.gov/climate_action_team/reports/Preparing_California_for_Extreme_Heat.pdf.
- California Department of Forestry and Fire Protection. 2007. Fire Hazard Severity Zones in State Responsibility Areas: Butte County. https://osfm.fire.ca.gov/media/6652/fhszs_map4.pdf.
- California Department of Food and Agriculture. 2013. Climate Change Consortium for Specialty Crops: Impacts and Strategies for Resilience.
https://www.cdfa.ca.gov/oefi/climate/docs/CCC_Report.pdf.
- California Department of Water Resources (DWR). 2020. *California's Groundwater Update 2020*.
file:///C:/Users/jprotsman/Downloads/calgw2020_chapters1_6.pdf.
- California DWR. 2008. *Managing an Uncertain Future: Climate Change Adaptation Strategies for California's Water*. <https://cawaterlibrary.net/document/managing-an-uncertain-future-climate-change-adaptation-strategies-for-californias-water/>.
- California DWR. 2018. <https://www.water.ca.gov/Water-Basics/Climate-Change-Basics>
- California DWR. 2019. Groundwater Basin Boundary Assessment Tool (BBAT). Last updated February 11, 2019. <https://gis.water.ca.gov/app/bbat/>.
- California Forest Pest Council. 2019. 2018 California Forest Pests Conditions.
- California Governor's Office of Emergency Services (CalOES). 2020. *California Adaptation Planning Guide*. June 2020.

- California Natural Resources Agency (CNRA). 2012a. *California Adaptation Planning Guide*.
http://resources.ca.gov/docs/climate/01APG_Planning_for_Adaptive_Communities.pdf.
- CNRA. 2012b. Our Changing Climate 2012: Vulnerability and Adaptation to the Increasing Risk from Climate Change in California. https://ucanr.edu/sites/Jackson_Lab/files/155618.pdf.
- CNRA. 2014. Safeguarding California: Reducing Climate Risk—An Update to the 2009 California Climate Adaptation Strategy.
http://resources.ca.gov/docs/climate/Final_Safeguarding_CA_Plan_July_31_2014.pdf.
- CNRA. 2016. Safeguarding California: Implementation Action Plan.
<https://resources.ca.gov/CNRALegacyFiles/docs/climate/safeguarding/Safeguarding%20California-Implementation%20Action%20Plans.pdf>.
- CNRA. 2018. *Safeguarding California Plan: 2018 Update*. January 2018.
<https://resources.ca.gov/CNRALegacyFiles/docs/climate/safeguarding/update2018/safeguarding-california-plan-2018-update.pdf>.
- California Governor’s Office of Emergency Services (CalOES). 2018. 2018 State of California Multi-Hazard Mitigation Plan. https://www.caloes.ca.gov/HazardMitigationSite/Documents/002-2018%20SHMP_FINAL_ENTIRE%20PLAN.pdf.
- CalOES. 2020. California Adaptation Planning Guide. June 2020.
<https://www.caloes.ca.gov/HazardMitigationSite/Documents/CA-Adaptation-Planning-Guide-FINAL-June-2020-Accessible.pdf>.
- California Justice Working Group. 2017. *Advancing Climate Justice in California: Guiding Principles and Recommendations for Policy and Funding Decisions*.
- City of Oroville. 2015. *City of Oroville Community Climate Action Plan*.
<http://www.cityoforoville.org/home/showdocument?id=12191>.
- Federal Emergency Management Agency (FEMA). 2021. “Butte County.” National Flood Hazard Layer Viewer. Accessed May 14, 2021. <https://hazards-fema.maps.arcgis.com/apps/webappviewer/index.html?id=8b0adb51996444d4879338b5529aa9cd>.
- George, Holly; David Lile; Cheree Childers; Cindy Noble; Andrea Oilar; Katherine Haworth; Kristen Schmidt; Gabe Miller. "Upper Feather River Watershed (UFRW) Irrigation Discharge Management Program" (PDF). University of California. Archived from the original (PDF) on 12 June 2010. Retrieved 4 August 2010.
- Houlton, Benjamin, Jay Lund. (University of California, Davis). 2018. Sacramento Summary Report. California’s Fourth Climate Change Assessment. Publication number: SUM-CCCA4-2018-002.

- Intergovernmental Panel on Climate Change (IPCC). 2007. *Fourth Assessment Report*.
http://www.ipcc.ch/publications_and_data/publications_and_data_reports.shtml.
- IPCC. 2014. *Climate Change 2014 Synthesis Report*. <http://www.ipcc.ch/report/ar5/wg1/>.
- Kershner, J.M., editor. 2014. A Climate Change Vulnerability Assessment for Focal Resources of the Sierra Nevada. Version 1.0. EcoAdapt, Bainbridge Island, WA.
- Lenihan, J.M., D. Bachelet, R.P. Neilson, & R. Drapek. 2008. Response of vegetation distribution, ecosystem productivity, and fire to climate change scenarios for California. *Clim. Change* 87:215-230.
- Lenihan, J.M., R. Drapek, D. Bachelet, & R.P. Neilson. 2003. Climate change effects on vegetation distribution, carbon, and fire in California. *Ecological Applications* 13(6):1667-1681.
- Maizlish Neil, English Dorette, Chan Jacqueline, Dervin Kathy, English Paul, 'Climate Change and Health Profile Report Butte County' February 2017.
- Motha, Ray. 2011. Chapter 30: The Impact of Extreme Weather Events on Agriculture in the United States.
- OPR TAG. 2018. Executive Order B-30-15 Resiliency Guidebook Vulnerable Populations.
http://opr.ca.gov/docs/20180312-Vulnerable_Communities_Descriptions.pdf.
- Roos, Michelle. (E4 Strategic Solutions). 2018. Climate Justice Summary Report. California's Fourth Climate Change Assessment. Publication number: SUM-CCCA4-2018-012.
- Sacramento Area Council of Governments. 2015. Sacramento Region Transportation Climate Adaptation Plan. https://www.sacog.org/sites/main/files/file_attachments/2015_sacramento_region_transportation_climate_adaptation_plan_1.pdf?1601491789.
- U.S. Census Bureau, 2015. Butte County Poverty Report.
<https://www.census.gov/quickfacts/fact/table/buttecountycalifornia/PST045217>.
- U.S. Department of Agriculture. 2011 (August). Social Vulnerability and Climate Change: Synthesis of Literature. http://www.fs.fed.us/pnw/pubs/pnw_gtr838.pdf.
- Tapan B. Pathak, Mahesh L. Maskey, Jeffery A. Dahlberg, Faith Kearns, Khaled M. Bali and Daniele Zaccaria. 2018. Climate Change Trends and Impacts on California Agriculture: A Detailed Review.

Appendix A: Countywide Climate Change Projections

<u>Climate Change Stressor</u>	<u>Historical Average</u> 1961-1990	<u>2050 – High Emission</u> <u>(RCP 8.5)</u> 2040-2060	<u>2090 – High Emission</u> <u>(RCP 8.5)</u> 2070-2099
Maximum Average Annual Temperature	71.0°F	76.4° F	80.1°F
Minimum Average Annual Temperature	44.6°F	49.5°F	53.3°F
Annual Average Extreme Heat Days Threshold: 100.1°F	5 days	29 days	59 days
Annual Average Warm Nights Threshold: 64.8°F	4 nights	33 nights	76 nights
Annual Average Precipitation	52.3 inches	47.2 inches	50.8 inches
Annual Average Snowpack Level	1.9 inches	0.5 inches	.01 inches
Annual Average Wildfire Size	5,306 average annual acres per year	8,961 average annual acres per year	13,939 average annual acres per year
Source: California Energy Commission. 2018. "Climate Tools". https://cal-adapt.org/tools/ .			

Appendix B: Climate Change Vulnerability Assessment Results Matrix

The Climate Change Vulnerability Assessment Results Matrix shows the detailed results of the vulnerability assessment, which are summarized in Chapter 4 and Chapter 5 above. The vulnerability assessment evaluates how the populations and assets (people, buildings and structures, resources, etc.) in the unincorporated areas of Butte County are vulnerable to different types of emergencies and hazardous conditions that may be created or made worse because of climate change. The assessment follows the recommended process in the updated *California Adaptation Planning Guide*, as described in Section 1.1, above, which is the State of California’s guidance for how local communities should conduct climate adaptation planning efforts, including vulnerability assessments. The vulnerability assessment relies on local, regional, and statewide datasets and studies to support the assessment.

The hazards, populations, and assets were first put into an applicability matrix to determine which hazards would affect which populations and assets. For example, bridge and tunnel infrastructure would likely be affected by wildfire but is not likely to be affected by human health hazards. For each relevant hazard and population or asset pairing, the team assessed the **impact** from the applicable hazard(s), and the County’s **adaptive capacity** to the hazard. Impact refers to how substantial the effects of the hazard are on the population or asset, from a score of low (low impact) to high (severe impact). Adaptive capacity refers to the population’s or asset’s ability to resist and recover from damage given current programs and resources, from a score of low (low adaptive capacity) to high (high adaptive capacity).

The combination of the impact (IM) and adaptive capacity (AC) score determines the population’s or asset’s vulnerability to that hazard. A low impact and high adaptive capacity score lead to low vulnerability, while a high impact and low adaptive capacity score leads to a high vulnerability score. The vulnerability scores are:

- Low: Minimal to low vulnerability
- Medium: Moderate vulnerability
- High: High to severe vulnerability

Populations and Assets	Agriculture and Forestry Pests and Diseases	Drought	Extreme Heat	Human Health Hazards	Severe Wind	Severe Storms	Wildfire
Populations							
Children	-	-	High	Medium	Medium	High	High
Cost-burdened households	-	Low	Medium	Medium	Low	Medium	Medium
Households in poverty	-	High	High	High	High	High	High
Immigrant communities	High	Medium	High	High	High	High	High
Linguistically isolated persons	-	-	Medium	Medium	Medium	Medium	High
Low-income households	-	Low	Medium	Medium	Medium	Medium	High
Low-resourced ethnic minorities	High	High	High	High	High	High	High
Overcrowded households	-	-	Medium	High	Low	Medium	Medium
Outdoor workers	High	High	High	High	High	High	High
Persons experiencing homelessness	-	-	High	High	High	High	High
Indigenous peoples and tribal nations	Medium	Medium	Medium	Medium	Medium	Medium	Medium
Persons living in mobile homes	-	-	High	Low	High	High	High
Communities on single access roads	Medium	-	Low	Low	High	High	High
Persons with disabilities and/or chronic illnesses	-	-	High	High	High	Medium	High
Persons without access to lifelines	-	-	Medium	Medium	Medium	Medium	Medium
Renters	-	-	Low	Low	Low	Medium	Medium
Seniors	-	-	High	High	Medium	High	High
Seniors living alone	-	-	High	High	High	High	High
Students	-	-	Low	Low	Low	Low	Low

Populations and Assets	Agriculture and Forestry Pests and Diseases	Drought	Extreme Heat	Human Health Hazards	Severe Wind	Severe Storms	Wildfire
Buildings and Infrastructure							
Airports	-	-	Low	-	Low	Low	Low
Bridges and tunnels	-	-	-	-	High	High	Medium
Communication facilities	-	-	Medium	-	High	Medium	Medium
Community centers and libraries	-	-	Medium	-	Medium	Medium	Medium
Dams	-	-	-	-	-	High	Low
Electrical transmission infrastructure (substations and power lines)	Low	-	High	-	High	High	High
Emergency operation buildings	-	-	Low	-	Low	Low	-
Evacuation and cooling centers	-	-	Medium	-	Medium	Medium	High
Flood control infrastructure (levees, dikes, etc.)	-	-	-	-	-	High	-
Government administrative facilities	-	-	Medium	-	Low	Low	-
Hazardous materials sites	-	-	-	-	-	Medium	Medium
Hiking and biking trails	Low	Low	-	-	Low	High	High
Homes and residential structures	High	-	Medium	-	High	High	High
Hospitals and medical facilities	-	-	Low	-	Low	Low	Low
Major roads and highways	Medium	-	Medium	-	-	High	High
Natural gas pipelines	-	-	-	-	-	Medium	Medium
Parks and open space	Low	Low	Medium	-	Low	Low	Medium
Power plants	-	-	Low	-	Medium	High	Medium
Public safety buildings	-	-	Low	-	Low	Medium	High

Populations and Assets	Agriculture and Forestry Pests and Diseases	Drought	Extreme Heat	Human Health Hazards	Severe Wind	Severe Storms	Wildfire
Railways	Low	-	High	-	-	High	High
Schools	-	-	Medium	-	Medium	Medium	High
Single access, rural, and minor roads	High	-	Medium	-	High	High	High
Solid waste facilities and landfills	-	-	-	-	Low	Low	Medium
Transit facilities	-	-	-	-	High	Medium	Low
Water and wastewater infrastructure	-	Low	-	-	-	Medium	High
Waterway infrastructure	-	Medium	-	-	-	Low	Low
Economic Drivers							
Agriculture	High	High	High	High	High	High	High
Construction	-	-	Medium	Medium	Medium	Medium	Medium
Education	-	-	-	Medium	Low	Low	Low
Healthcare	-	-	Low	Medium	Low	Low	Medium
Livestock	Medium	High	High	Low	Medium	Medium	High
Manufacturing	-	-	-	Low	Low	Low	Low
Regional recreation & tourism	Low	High	Medium	Medium	Medium	Medium	High
Rice-growing areas	Medium	High	Medium	High	Medium	High	Low
State and federal land recreation and tourism	High	High	High	Medium	Medium	Medium	High
Timber production	High	High	High	Medium	Low	High	Medium

Populations and Assets	Agriculture and Forestry Pests and Diseases	Drought	Extreme Heat	Human Health Hazards	Severe Wind	Severe Storms	Wildfire
Ecosystems and Natural Resources							
Conifer forest	High	High	High	-	Low	Low	High
Oak woodland	High	Low	Low	-	High	Low	Low
Riparian woodland	Medium	Medium	Medium	-	Medium	Medium	Medium
Chaparral	High	Medium	Low	-	Medium	Low	High
Annual grassland	Low	Medium	Low	-	Low	Low	Medium
Open water: reservoirs, ponds, drainages	Low	High	High	-	Low	High	High
Wetlands	Low	High	High	-	Low	Medium	Medium
Pacific Flyway	Low	High	High	-	Medium	Low	High
Key Services							
Communication services	Medium	-	Medium	-	High	High	Medium
Emergency medical response	Low	-	Medium	High	Low	Medium	Medium
Energy delivery	High	Low	High	-	High	High	High
Vital goods delivery	Medium	-	Low	Low	Low	High	Medium
Government administration	-	-	Low	Low	Low	Low	Low
Public safety response	Low	-	Low	Medium	Medium	Medium	High
Public transit access	Medium	-	High	Low	High	High	Medium
Water and wastewater	-	High	Medium	-	Low	High	High

Appendix C: Glossary

The Climate Change Vulnerability Assessment uses some terms specific to adaptation planning. The following identifies and defines key terms that will be used throughout the vulnerability assessment. For a more comprehensive list of terms commonly used in adaptation planning, consult the California Adaptation Planning Guide (<https://www.caloes.ca.gov/climate>).

List of Termsⁱ

Adaptation: Making changes in response to current or future conditions (such as the increased frequency and intensity of climate-related hazards), usually to reduce harm and to take advantage of new opportunities.^{ii, iii}

Adaptive Capacity: The “combination of the strengths, attributes, and resources available to an individual, community, society, or organization that can be used to prepare for and undertake actions to reduce adverse impacts, moderate harm, or exploit beneficial opportunities.”^{iv}

Climate Change: A change in the state of the climate that can be identified by changes in the mean and/or the variability of its properties, and that persists for an extended period, typically decades or longer.

Community Asset: A valued feature of a community that may be harmed by climate change. Community assets may include buildings, infrastructure, community services, ecosystems, and economic drivers. See also “*Populations and Assets.*”

Disadvantaged Communities: Areas disproportionately affected by environmental pollution and other hazards that can lead to negative public health effects, exposure, or environmental degradation, or with concentrations of people that are of low income, high unemployment, low levels of homeownership, high rent burden, sensitive populations, or low levels of educational attainment.^{v,vi}

Drought: When conditions are drier than normal for a long period of time, making less water available for people, agricultural uses, and ecosystems.

Economic Driver: Economic assets in Butte County, including three agricultural-based sectors, major employment industries, and recreation and tourism on regional, state, and federal lands.

Exposure: The presence of people, infrastructure, natural systems, and economic, cultural, and social resources in areas that are subject to harm.^{vii}

Extreme Event: When a weather or climate variable exceeds the upper or lower thresholds of its observed range.^{viii, ix}

Extreme Heat: When temperatures rise significantly above normal levels and is measured by the number of extreme heat events per year and heat wave duration. An extreme heat day in Butte County is where temperatures reach at least 100.1°F.

Frontline Population: Those disproportionately affected by climate change. See “*Vulnerable Populations.*”

Hazard: An event or physical condition that has the potential to cause fatalities, injuries, property damage, infrastructure damage, agricultural losses, damage to the environment, interruption of business, or other types of harm or loss.^x

Hazard Mitigation: Sustained action taken to reduce or eliminate the long-term risk to human life and property through actions that reduce hazard, exposure, and vulnerability.^{xi}

Impact: The effects (especially the negative effects) of a hazard or other conditions associated with climate change.

Populations and Assets: Populations and assets are the people, infrastructure, services, and economic drivers in Butte County that can be affected by climate change.

Resilience: The capacity of any entity—an individual, a community, an organization, or a natural system—to prepare for disruptions, to recover from shocks and stresses, and to adapt and grow from a disruptive experience. Community resilience is the ability of communities to withstand, recover, and to learn from past disasters to strengthen future response and recovery efforts.

Risk: The potential for damage or loss created by the interaction of hazards with assets such as buildings, infrastructure, or natural and cultural resources.

Sensitivity: The level to which a species, natural system, or community, government, etc., would be affected by changing climate conditions.^{xii}

Susceptibility: A person or population’s potential for vulnerability due to demographic, socioeconomic, and geolocation characteristics.

Vulnerability: Climate vulnerability describes the degree to which natural, built, and human systems are susceptible “...to harm from exposure to stresses associated with environmental and social change and from the absence of capacity to adapt.”^{xiii}

Vulnerability Assessment: An analysis of how a changing climate may harm a community and which elements—people, buildings and structures, resources, and other assets—are most vulnerable to its effects based on an assessment of exposure, sensitivity, the potential impact(s), and the community’s adaptive capacity.

Vulnerable Populations: Vulnerable populations include, but are not limited to, elderly, children, agricultural and outdoor workers, and those suffering from pre-existing cardiovascular or respiratory conditions.^{xiv, xv}

8. Endnotes

- ⁱ California Governor’s Office of Emergency Services, “California Adaptation Planning Guide”, 2020.
- ⁱⁱ Louise Bedsworth, Dan Cayan, Guido Franco, Leah Fisher, Sonya Ziaja, “Statewide Summary Report,” in *California’s Fourth Climate Change Assessment*, publication number: SUMCCCA4-2018-013, 2018.
- ⁱⁱⁱ California Natural Resource Agency, *Safeguarding California Plan: 2018 Update: California’s Climate Adaptation Strategy*, 2018, <http://resources.ca.gov/docs/climate/safeguarding/update2018/safeguarding-california-plan-2018-update.pdf>.
- ^{iv} Intergovernmental Panel on Climate Change, “Annex II: Glossary,” ed. K. J. Mach, S. Planton, and C. von Stechow, in *Climate Change 2014: Synthesis Report*, ed. Core Writing Team, R. K. Pachauri, and L. A. Meyer (Geneva, Switzerland: IPCC, 2014), p. 117–130, <https://www.ipcc.ch/report/ar5/syr/>.
- ^v California Natural Resource Agency, *Safeguarding California Plan: 2018 Update: California’s Climate Adaptation Strategy*, 2018, p. 231.
- ^{vi} California Health and Safety Code, Division 26, Part 2, Chapter 4.1, “Greenhouse Gas Reduction Fund Investment Plan and Communities Revitalization Act,” Section 39711.
- ^{vii} Louise Bedsworth, Dan Cayan, Guido Franco, Leah Fisher, Sonya Ziaja, “Statewide Summary Report,” in *California’s Fourth Climate Change Assessment*, publication number: SUMCCCA4-2018-013, 2018.
- ^{viii} California Natural Resource Agency, *Safeguarding California Plan: 2018 Update: California’s Climate Adaptation Strategy*, 2018, p. 231.
- ^{ix} International Panel on Climate Change, “Glossary of Terms,” in *Managing the Risks of Extreme Events and Disasters to Advance Climate Change Adaptation*, special report of Working Groups I and II of the IPCC, ed. C. B. Field et al. (Cambridge, UK, and New York: Cambridge University Press, 2012), p. 555–564, https://www.ipcc.ch/site/assets/uploads/2018/03/SREX_Full_Report-1.pdf.
- ^x California Governor’s Office of Emergency Services, *California State Hazard Mitigation Plan*, 2018, <https://www.caloes.ca.gov/cal-oes-divisions/hazard-mitigation/hazard-mitigation-planning/state-hazard-mitigation-plan>.
- ^{xi} California Governor’s Office of Emergency Services, *California State Hazard Mitigation Plan*, 2018.
- ^{xii} California Natural Resource Agency, *Safeguarding California Plan: 2018 Update: California’s Climate Adaptation Strategy*, 2018, p. 231.
- ^{xiii} Neil Adger, “Vulnerability,” *Global Environmental Change* 16 (2006): 268–281, https://www.geos.ed.ac.uk/~nabo/meetings/glthec/materials/simpson/GEC_sdarticle2.pdf.
- ^{xiv} California Natural Resource Agency, *Safeguarding California Plan: 2018 Update: California’s Climate Adaptation Strategy*, 2018, p. 231, <http://resources.ca.gov/docs/climate/safeguarding/update2018/safeguarding-california-plan-2018-update.pdf>.
- ^{xv} California Health and Safety Code, Division 112, Part 1, Chapter 1, “Organization of the State Department of Public Health,” Section 131019.5.



Town of Paradise
Council Agenda Summary
Date: March 12, 2024

Agenda Item: 6(a)

ORIGINATED BY: Colin Nelson, Capital Projects Manager
REVIEWED BY: Jim Goodwin, Town Manager
SUBJECT: Award Contract No. 2023-005 Progressive Design Build Services to Mountain Cascade/Carollo Engineers for the Paradise Sewer Project

LONG TERM RECOVERY PLAN: Yes

COUNCIL ACTION REQUESTED:

1. Consider concurring with staff's recommendation for awarding the contract for Progressive Design Build Services for the Paradise Sewer Project to the Mountain Cascade-Carollo team; and,
2. Authorize the Town Manager to enter into a Progressive Design Build Contract (2023-005) with the recommended firm, contingent upon approval by the Town Attorney; and,
3. Adopt Resolution No. 2024-___, "A Resolution Designating Authority to the Paradise Town Manager to Execute Individual Contract Amendments Under the Resultant Progressive Design Build Contract for RFQ 2023-005 Progressive Design Build Services with Mountain Cascade/Carollo Engineers for the Paradise Sewer Project up to the maximum contract aggregate amount of \$17,000,000 to complete the initial design and progressive design build process for the Paradise Sewer Project." (ROLL CALL VOTE)

Background:

Since its incorporation in 1979, the Town has sought a formal wastewater treatment solution for the community, with service for commercial and densely populated residential areas being a priority. Failed and failing septic systems create public health and environmental concerns and have limited economic growth. Prior to the Camp Fire, which almost completely destroyed the town in 2018, Paradise was the largest unsewered community in California. The Town has prepared numerous studies to address its need for a centralized wastewater treatment solution, and in its most recent study, the Town identified a proposed sewer service area. The proposed sewer service area includes the Town's commercial corridors, and as described in the 2017 feasibility study, it represented the area that had the most septic systems that had failed or were projected to fail by 2022.

The Paradise Sewer Project consists of three primary components: Core Collection System, Export Pipeline System, and Extended Collection System. The Core Collection System would support the centralized businesses and housing in Town, including approximately 1,500 parcels

along the Skyway, Clark Road, and Pearson Road corridors. The proposed Export Pipeline System would start at the southern end of the Core Collection System as a gravity sewer line and would continue southwest approximately 18 miles to the City of Chico for connection to the Chico Water Pollution Control Plant. Other than the Town of Paradise flow, no other connections will be allowed to the export pipeline. The Extended Collection System would be an extension of the Core Collection System that would allow collection of sewage from parcels outside the Core Collection System, but within the Town limits.

The Town of Paradise has secured \$30 million for pre-construction phases of work (environmental, design, right of way, and permitting) and an additional \$15 Million for construction through Community Development Block Grant Disaster Recovery Planning and Infrastructure funds to facilitate the design phase of the Paradise Sewer Project.

Analysis:

On October 30, 2023, staff issued a formal Request for Qualifications (RFQ 2023-005) utilizing formal selection procedures in compliance with Paradise Municipal Code, State and Federal requirements including regulations for typical federally funded projects as well as specific requirements utilizing CDBG-DR funds. The RFQ stated the scope of work for the Progressive Design Build Services and requested proposers provide their qualifications and experience and included price as a component.

In general, the Scope of Work for the Progressive Design Build Team is as follows:

- Develop and implement Project Management Plan, including all schedule and cost tools.
- Perform Risk Management and Mitigation activities.
- Establish and maintain Change Management Plan
- Develop and implement Project Health and Safety practices.
- Facilitate resolution of Project issues and challenges
- Support Project funding activity
- Support Public Information activity
- Provide additional Town-requested, Project-specific services necessary for Project success
- Lead engineering and design team resources
- Develop design deliverables
- Support Project funding activity
- Recommend technology solutions
- Facilitate review of construction submittals and verify design intent is being met during construction
- Manage interface between design and construction team members
- Support Project funding activity
- Prepare and maintain a Project Cost Model and Project Schedule
- Provide constructability input during design.
- Prepare equipment and subcontract procurement plans.
- Develop procurement and construction proposal(s) and negotiate in good faith
- Deliver constructed work
- Support Project funding requirements
- Manage self-performing and subcontracted work

- Manage craft labor
- Maintain site safety and security
- Perform engineering services during construction
- Obtain and comply with government approvals and permits for which the Design-Builder is responsible
- Provide warranty coverage for constructed work
- Maintain and transmit as-built drawings to the Town at construction completion
- Participate in the early development of the operations plan
- Coordinate construction activities with and lead assigned testing, commissioning, startup, and training activities, coordinating with future O&M staff to minimize impacts
- Provide timely and complete submission of manufacturer's equipment O&M materials
- Prepare system O&M manual

The contract term for the Progressive Design Build Team is designed for a base term of five years, with the possibility of one-year extensions at the sole discretion of the Town Manager.

By December 15, 2023 at 12:00 P.M., Town staff had received seven (7) responses to the RFQ.

The proposers are listed below:

1. Kiewit / Woodard & Curan
2. Flatiron / Rasic JV
3. Teichert / AECOM JV
4. Preston Pipelines / Sandis Engineers
5. Mountain Cascade / Carollo Engineers
6. Sukut / West Coast Civil
7. Garney

A five-member evaluation committee was formed to evaluate the proposals, including the following members:

Ashley Stanley, Butte County Department of Public Works
 Marc Mattox, Town of Paradise Public Works Director/Town Engineer
 Jim Goodwin, Town of Paradise, Town Manager
 Colin Nelson, Town of Paradise, Capitol Projects Manager
 Guy Voss, HDR, Town of Paradise Owners Agent

The Committee received and ranked the proposals according to the criteria provided in the RFQ and shown in Table 1 below.

Table 1: Evaluation Criteria Table

Section	Evaluation Criteria	Points Possible
1	Respondent Profile and Minimum Requirements (Pass/Fail)	
2	Project Understanding and Project Approach	30
3	Project Team and Organizational Structure	10
4	Key Personnel	30
5	Relevant Project Experience	25
6	BODR Scope of Services, Schedule and Fee	5

Committee review of the proposals was performed independently. Evaluation scoring & ranking are shown in Table 2 below.

Table 2

PDB Team Name	Raw Score Total	Ranking Total	Final Ranking
MCI/Carollo	438	5	1
Garney	414	11	2
AECOM-Teichert JV	407	19	3
Kiewit	371	20	4
Sukut	361	22	5
Flatiron-Rasic JV	339	28	6
Preston Pipelines	234	35	7

Staff recommends Council consider awarding contract 2023-005 to the Mountain Cascade/ Carollo Engineers Progressive Design Build Team to complete final design on the Paradise Sewer Project and eventually construct the project once construction funding is secured.

The proposed Progressive Design Build Contract is attached to this Agenda Summary. Council is requested to approve this Agreement in its current form and any minor modifications prior to full Contract execution by the Town Manager as approved by the Town Attorney. Minor modifications are defined as agreed items which do not affect the cost or delivery of the project.

Following award of the Progressive Design Build Contract, staff and the Progressive Design Build team will immediately begin work on Phase 1A, as described in the Contract, to deliver a Basis of Design Report. Subsequent to completion of the Basis of Design Report, the Town Manager will be authorized to execute subsequent Contract Amendments to deliver the remaining Project services described under the not-to-exceed aggregate amount of \$17M approved by Council.

Future Council actions relating to this contract award will include major milestones such as amendments to include construction services.

Financial Impact:

The Progressive Design Build Contract and associated Contract Amendments will include a combination of federal and state funds with an estimated not-to-exceed aggregate amount of \$17,000,000. It is anticipated all costs associated with this Agreement will be sourced to the \$30 million CDBG-DR award.

Attachments:

1. Resolution approving Contract 2023-005
2. Agreement (Contract) for Progressive Design Build Services for the Paradise Sewer Project
3. Scope of services for the PDB contract
4. Schedule
5. Budget for phase 1A up to the Basis of Design Report

**TOWN OF PARADISE
RESOLUTION NO. 2024-__**

**RESOLUTION DESIGNATING AUTHORITY TO THE PARADISE TOWN MANAGER
TO EXECUTE INDIVIDUAL CONTRACT AMENDMENTS UNDER
THE RESULTANT PROGRESSIVE DESIGN BUILD CONTRACT
FOR RFQ 2023-005 PROGRESSIVE DESIGN BUILD SERVICES WITH MOUNTAIN
CASCADE/ CAROLLO ENGINEERS FOR THE PARADISE SEWER PROJECT
UP TO THE MAXIMUM CONTRACT AGGREGATE AMOUNT OF \$17,000,000
TO COMPLETE THE INITIAL DESIGN AND PROGRESSIVE DESIGN BUILD
PROCESS FOR THE PARADISE SEWER PROJECT.**

WHEREAS, the 2018 Camp Fire caused unprecedented damage to the Town of Paradise and has necessitated a variety of recovery projects which are further guided by the Paradise Long-Term Recovery Plan;

WHEREAS, the Paradise Sewer Project is by far the largest project in scale, cost and overall benefit to the community;

WHEREAS, to ensure delivery of the Town of Paradise Sewer Project, Town staff issued a Request for Qualifications “Progressive Design Build Services for the Paradise Sewer Project” (RFQ 2023-005);

WHEREAS, RFQ 2023-005 was designed for a base term of five years, with the possibility of one-year extensions at the sole discretion of the Town Manager;

WHEREAS, RFQ 2023-005 was designed for a not-to-exceed aggregate contract amount of \$17,000,000 to be issued as individual contract amendments to the Progressive Design Build Contract;

WHEREAS, RFQ 2023-005 was prepared and reviewed under the most stringent of procurement standards, meeting Paradise Municipal Code, State and Federal requirements;

WHEREAS, RFQ 2023-005 was advertised on October 30, 2023 for work relating to the Town of Paradise Sewer Project, with major scopes of work categories listed below:

- Develop and implement a Project Management Plan, including all schedule and cost tools
- Perform Risk Management and Mitigation activities
- Establish and maintain a Change Management Plan
- Develop and implement a Project Health and Safety practices
- Facilitate resolution of Project issues and challenges
- Support Project funding activity
- Support Public Information activity
- Provide additional Town-requested, Project-specific services necessary for Project success
- Lead engineering and design team resources

- Develop design deliverables
- Support Project funding activity
- Recommend technology solutions
- Facilitate review of construction submittals and verify design intent is being met during construction
- Manage interface between design and construction team members
- Prepare and maintain a Project Cost Model and Project Schedule
- Provide constructability input during design
- Prepare equipment and subcontract procurement plans
- Develop procurement and construction proposal(s) and negotiate in good faith
- Deliver constructed work
- Support Project funding requirements
- Manage self-performing and subcontracted work
- Manage craft labor
- Maintain site safety and security
- Perform engineering services during construction
- Obtain and comply with government approvals and permits for which the Design-Builder is responsible
- Provide warranty coverage for constructed work
- Maintain and transmit as-built drawings to the Town at construction completion
- Participate in the early development of the operations plan
- Coordinate construction activities with and lead assigned testing, commissioning, startup, and training activities, coordinating with future O&M staff to minimize impacts
- Provide timely and complete submission of manufacturer's equipment O&M materials
- Prepare system O&M manual

WHEREAS, seven (7) proposals were received by December 15, 2023, and following subsequent evaluation and interview, the Mountain Cascade-Carollo Team was recommended for the Progressive Design Build Contract;

WHEREAS, by designating the Town Manager authority to execute all contract amendments associated with RFQ 2023-005, full benefits of this robust procurement process will be realized.

NOW, THEREFORE, BE IT RESOLVED, by the Town Council of the Town of Paradise as follows:

Section 1. The above recitals are true and correct and are incorporated as if fully set forth herein.

Section 2. The Paradise Town Manager is authorized to execute a Progressive Design Build Contract with the above-recommended Progressive Design Build Team in its current form including any current or subsequent minor modifications approved in

writing by the Town Attorney. Minor modifications are defined as agreed items which do not affect the cost or delivery of the project.

Section 3. The Paradise Town Manager is authorized to execute individual contract amendments under the Progressive Design Build Contract for RFQ 2023-05 Progressive Design Build Services for the Paradise Sewer Project, not to exceed the maximum contract aggregate amount of \$17,000,000 to complete the initial design and progressive design build process for the Paradise Sewer Project and for a base term of five years, with the possibility of one-year extensions.

PASSED AND ADOPTED by the Town Council of the Town of Paradise on this 12th day of March, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

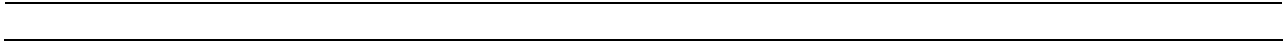
By: _____
Ronald Lassonde, Mayor

ATTEST:

Dina Volenski, CMC, Town Clerk

APPROVED AS TO FORM:

Scott E. Huber, Town Attorney



DESIGN-BUILD CONTRACT
FOR THE
TOWN OF PARADISE SEWER PROJECT

between

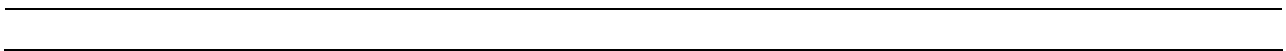
THE TOWN OF PARADISE

and

MOUNTAIN CASCADE, INC.

Dated

March 13, 2024



[This Page Intentionally Left Blank]

TABLE OF CONTENTS

Page

ARTICLE 1

DEFINITIONS AND INTERPRETATION

SECTION 1.1.	DEFINITIONS	3
SECTION 1.2.	INTERPRETATION	28
	(A) Gender and Plurality	28
	(B) Persons	28
	(C) Headings	28
	(D) References Hereto	28
	(E) References to Days and Time of Day	28
	(F) References to Including	28
	(G) References to Statutes	28
	(H) References to the Town, Governmental Bodies and Private Persons	29
	(I) References to Documents and Standards	29
	(J) References to All Reasonable Efforts	29
	(K) Entire Agreement	29
	(L) Standards of Workmanship and Materials	29
	(M) Technical Standards and Codes	29
	(N) Causing Performance	29
	(O) Party Bearing Cost of Performance	30
	(P) Good Engineering and Construction Practice	30
	(Q) Interpretation of Contract Documents	30
	(R) Applicability, Stringency and Consistency of Contract Standards	30
	(S) Delivery of Documents in Digital Format	30
	(T) Severability	30
	(U) Drafting Responsibility	31
	(V) No Third-Party Rights	31
	(W) Acting Reasonably and in Good Faith; Discretion	31
	(X) Counterparts	31
	(Y) Governing Law	31
	(Z) Defined Terms	31
	(AA) Interpolation	31
	(BB) Accounting and Financial Terms	31
	(CC) References to Dollar Amounts	31
	(DD) Liquidated Damages	31
	(EE) Convenience Termination	32

ARTICLE 2

DESIGN-BUILDER REPRESENTATIONS AND WARRANTIES

SECTION 2.1.	REPRESENTATIONS AND WARRANTIES OF THE DESIGN-BUILDER	33
	(A) Existence and Powers	33
	(B) Due Authorization and Binding Obligation	33
	(C) No Conflict	33
	(D) No Commitments Limiting Ability to Perform Contract Obligations	33
	(E) No Approvals Required	33
	(F) Licensing and Registration Requirements	33
	(G) No Litigation	34

Table of Contents
(continued)

Page

(H)	Claims and Demands.....	34
(I)	Applicable Law Compliance.....	34
(J)	Information Supplied by the Design-Builder.....	34
(K)	Intellectual Property.....	34
(L)	Practicability of Performance.....	34
(M)	Required Insurance.....	34

ARTICLE 3

TERM

SECTION 3.1.	EFFECTIVE DATE AND TERM.....	35
	(A) Term.....	35
	(B) Accrued Rights.....	35
SECTION 3.2.	SURVIVAL.....	35

ARTICLE 4

GENERAL PERFORMANCE REQUIREMENTS

SECTION 4.1.	PROJECT SCOPE AND PERSONNEL.....	37
	(A) Project Scope Generally.....	37
	(B) Pricing Established on the Contract Date.....	37
	(C) Pricing Established Subsequent to the Contract Date.....	37
SECTION 4.2.	DESIGN-BUILDER RESPONSIBILITIES GENERALLY.....	37
	(A) Reliance.....	37
	(B) Scope of the Contract Obligations.....	37
	(C) Cooperation.....	38
	(D) Responsibility for Personnel and Subcontractors.....	38
	(E) Stationing of Key Personnel.....	38
SECTION 4.3.	ENVIRONMENTAL REVIEW.....	38
	(A) CEQA.....	38
	(B) NEPA.....	39
SECTION 4.4.	ACCESS TO AND SUITABILITY OF THE PROJECT SITES.....	39
	(A) Familiarity with the Project Sites.....	39
	(B) Independent Verification of the Town-Provided Project Sites Information.....	40
	(C) Access to the Project Sites.....	40
	(D) Core Collection System Rights of Way.....	40
	(E) Export Pipeline System Rights of Way.....	41
	(F) Project Sites Signage.....	41
SECTION 4.5.	INFORMATION PROVIDED BY OR ON BEHALF OF THE TOWN.....	41
	(A) Generally.....	41
SECTION 4.6.	COMPLIANCE WITH APPLICABLE LAW.....	41
	(A) Compliance with Applicable Law Generally.....	41
	(B) Compliance with Conditions in Governmental Approvals.....	41
	(C) Fines, Penalties and Remediation.....	42
	(D) Compliance with Conditions in Grants.....	42
SECTION 4.7.	ENGAGEMENT OF TOWN REPRESENTATIVES.....	42
SECTION 4.8.	OWNERSHIP AND USE OF DOCUMENTS AND INFORMATION.....	43
SECTION 4.9.	MONTHLY PROGRESS REPORTS.....	43

Table of Contents
(continued)

Page

ARTICLE 5

PRELIMINARY SERVICES

SECTION 5.1.	SCOPE OF THE PRELIMINARY SERVICES.....	44
	(A) Generally.....	44
	(B) Phase 1a Base Preliminary Services; Notice to Proceed.....	44
	(C) Development of Subsequent Preliminary Services Phase Base Preliminary Services.....	44
	(D) Subsequent Preliminary Services Phase Base Preliminary Services; Notice to Proceed.....	46
	(E) No Obligation of Town to Enter Into Any Subsequent Preliminary Services Phase Preliminary Services Amendment	46
SECTION 5.2.	CHANGES TO THE SCOPE OF THE PRELIMINARY SERVICES	47
	(A) Generally.....	47
	(B) Additional Preliminary Services	47
	(C) Additional Preliminary Services Resulting From Delay	47
	(D) Exclusions from Additional Preliminary Services.....	47
	(E) Changes that Reduce the Scope of the Preliminary Services	47
SECTION 5.3.	PRELIMINARY SERVICES SCHEDULE	48
SECTION 5.4.	COORDINATION WITH TOWN	48
	(A) Meetings and Reports Generally	48
	(B) Information Provided by the Town	48
	(C) Required Design Information.....	49
	(D) Revisions to Drawings and Specifications	49
SECTION 5.5.	PROJECT DESIGN	49
	(A) Design Considerations	49
	(B) Design-Builder Assumption of Full Design Liability	49
SECTION 5.6.	EARLY WORK PACKAGES	50
	(A) Early Work Packages	50
	(B) Early Work Package Submittals	50
	(C) Early Work Package Submittal Revisions.....	51
	(D) Negotiation and Execution	51
	(E) Complete Early Design-Build Work Package Pricing.....	51
	(F) Compensation Payable in Connection With Early Work Packages	51
	(G) Design-Builder Representations in an Early Work Package Amendment	52
	(H) Limited Authorization to Proceed; Commencement of Early Work Package	52
SECTION 5.7.	GMP SUBMITTAL	52
	(A) Preliminary Services and GMP Submittal.....	52
	(B) Derivation of Proposed Base Guaranteed Maximum Price	54
	(C) Design-Builder Fee	54
	(D) Early GMP Submittal	54
SECTION 5.8.	GMP AMENDMENT	54
	(A) Non-Compliant GMP Submittal	54
	(B) Negotiation and Execution of the GMP Amendment	55
	(C) Base Guaranteed Maximum Price Negotiating Principles.....	55
	(D) Obligations of the Design-Builder Relating to the GMP Amendment	56
	(E) No Obligation of the Town to Enter Into a GMP Amendment.....	56
	(F) Elective Continuance of the Project by the Parties on Other Bases	56

Table of Contents
(continued)

	<u>Page</u>
(G) Elective Continuance of the Project by the Town with Other Contractors; Project Documents	57
(H) Design-Builder Representations in a GMP Amendment	57
(I) Performance Bond and Payment Bond.....	58
SECTION 5.9. APPROVALS REQUIRED PRIOR TO DESIGN-BUILD PERIOD	58

ARTICLE 6

DESIGN-BUILD WORK

SECTION 6.1. DESIGN-BUILD PERIOD WORK GENERALLY	59
(A) Authorization to Proceed; Commencement and Completion of the Design-Build Period Work	59
(B) Elements of the Design-Build Period Work.....	59
(C) Sequencing and Staging of Design-Build Period Work	60
(D) Construction Work Hours	60
(E) Laydown Areas	60
(F) Design-Build Period Work Schedule and Reports	60
(G) On-Site Meetings and Design and Construction Review	61
(H) Construction Utilities.....	61
(I) Quality Assurance and Quality Control	61
(J) Title and Risk of Loss.....	61
(K) Encumbrances	61
(L) Notice of Default	61
(M) Required Project Manager Certification.....	62
(N) Partnering Requirements	62
(O) Temporary Project Sites Facilities	62
(P) Sensitivity to Stakeholders	62
(Q) Utility Coordination and Relocation	62
SECTION 6.2. CONSTRUCTION COMMENCEMENT DATE	63
(A) Construction Commencement Date Generally.....	63
(B) Establishment of the Construction Commencement Date.....	64
(C) Effect of the Establishment of the Construction Commencement Date.....	64
SECTION 6.3. DIFFERING SITE CONDITIONS	64
(A) Preliminary Services Relating to Differing Site Conditions	64
(B) Commencing Subsurface Excavations	64
(C) Discovery of Differing Site Conditions	65
(D) Relief for Differing Site Conditions	65
SECTION 6.4. REGULATED SITE CONDITIONS.....	65
(A) Design-Builder Responsibilities.....	65
(B) Cultural Resources	66
(C) Endangered Species.....	66
(D) Encountering of Regulated Substances.....	66
(E) Uncontrollable Circumstance Relief.....	66
(F) Generator Liability	66
SECTION 6.5. PERMITTING RESPONSIBILITIES AND SCHEDULE.....	67
(A) Design-Builder Governmental and Non-Governmental Approval Responsibility Generally	67
(B) Application Process.....	67
(C) Town Managed Governmental Approval Responsibility.....	67

Table of Contents
(continued)

	<u>Page</u>
(D) Design-Builder Responsibility For the Town Managed Governmental Approvals and Town Managed Non-Governmental Approvals.....	68
(E) No Relief for Delays or Conditions in Design-Builder Managed Governmental Approvals or Design-Builder Managed Non-Governmental Approvals	69
(F) Adjustment to Scheduled Substantial Completion Date Based on Delays in Obtaining Town Managed Governmental Approvals or Town Managed Non-Governmental Approvals	69
(G) Relief Based on Certain Permitting Terms and Conditions.....	69
SECTION 6.6. INTERFACE AND COORDINATION WITH OTHER ENTITIES	70
(A) City of Chico.....	70
(B) Butte County.....	70
(C) UPRR	70
(D) Caltrans	70
SECTION 6.7. FINAL DESIGN RESPONSIBILITIES AND RISK ASSUMPTION.....	70
(A) Performance of the Design Work.....	70
(B) Sole Responsibility and Liability	70
(C) Town Review and Comment on Final Design Documents.....	71
(D) Documents at the Project Site	71
SECTION 6.8. CHANGES TO THE BASELINE DESIGN DOCUMENTS AT DESIGN-BUILDER REQUEST	71
(A) Town Consent Required	71
(B) Notice and Information as to Proposed Change	72
SECTION 6.9. OTHER CHANGES TO THE BASELINE DESIGN DOCUMENTS	72
(A) Changes Made Due to Uncontrollable Circumstances	72
(B) Changes Required by Governmental Bodies	72
(C) Changes Required by the Town	73
SECTION 6.10. CHANGE PROCEDURES.....	73
(A) Generally.....	73
(B) Design-Builder Change Order Proposal	73
(C) Negotiation of Proposed Change Order.....	73
(D) Effect of Design-Builder's Signature	74
SECTION 6.11. WORK CHANGE DIRECTIVES.....	74
(A) Town Right to Issue	74
(B) Disagreement with Terms of a Work Change Directive	75
SECTION 6.12. DESIGN-BUILD PERIOD WORK DELIVERABLE MATERIAL.....	75
SECTION 6.13. INTERFACE AND COORDINATION WITH TOWN, UTILITIES AND OTHER CONTRACTORS	75
(A) Maintenance of Operations During Construction	75
(B) Related Projects Generally.....	75
(C) Interrelated Work.....	76
(D) Disputes Associated with Separate Work.....	76
SECTION 6.14. SUSPENSION OF WORK	76
SECTION 6.15. CONSTRUCTION PRACTICE	77
(A) Exclusive Responsibility of Design-Builder	77
(B) Project Sites Debris, Trash and Waste	77
SECTION 6.16. RESPONSIBILITY FOR SAFETY AND SECURITY	77
(A) Safety Manager.....	77
(B) Precautions and Protection; Project Sites Security	78
(C) Health and Safety Inspections and Meetings.....	78
(D) Health and Safety Compliance Requirements.....	78

Table of Contents
(continued)

	<u>Page</u>
(E) Emergencies	79
(F) Traffic Control	79
SECTION 6.17. CONSTRUCTION MONITORING, OBSERVATIONS, TESTING AND UNCOVERING OF WORK	79
(A) Observations and Design-Build Work Review Protocol	79
(B) Factory Fabrication, Inspection and Testing	79
(C) Design-Builder Tests.....	80
(D) Certificates and Reports.....	80
(E) Town Tests, Observations and Inspections	80
(F) Notice of Covering Design-Build Work	80
SECTION 6.18. CORRECTION OF WORK	81
(A) Correction of Non-Conforming Design-Build Work	81
(B) Election to Accept Non-Conforming Design-Build Work.....	81
(C) Relation to Other Obligations	81
SECTION 6.19. PROPERTY DAMAGE DURING THE DESIGN-BUILD PERIOD	82
(A) Damage Prevention	82
(B) Restoration	82
(C) Notice and Reports.....	82
(D) Insurance and Other Third-Party Payments.....	82
(E) Payment for Restoration Work and Uninsured Costs.....	82
(F) Repair of the Town and Private Property	83
SECTION 6.20. OPERATIONS AND MAINTENANCE MANUAL.....	83
SECTION 6.21. PUNCH LIST ITEMS.....	83
(A) Punch List Requirements	83
(B) Completion of Punch List Items.....	84

ARTICLE 7

MANAGEMENT, LABOR AND SUBCONTRACTORS

SECTION 7.1. MANAGEMENT	85
(A) Project Manager.....	85
(B) Town Rights With Respect to Key Personnel	85
SECTION 7.2. LABOR.....	86
(A) Personnel Performance	86
(B) Training of Design-Builder and Subcontractor Employees.....	86
(C) Labor Relations.....	86
(D) Notice of Labor Disputes	86
(E) Federal and State Prevailing Wage Requirements	86
(F) Labor Compliance	88
(G) Non-Discrimination in Employment	88
(H) Drug-Free Workplace	88
(I) Overtime Work.....	88
(J) Inclusion in Subcontracts	89
(K) Design-Builder Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights	89
(L) Employee-Related Insurance Coverage	89
(M) Applicability of Certain Grant Requirements	89
(N) Skilled and Trained Workforce Requirements.....	89
SECTION 7.3. SUBCONTRACTING GENERALLY.....	89
(A) Limited Right to Subcontract	89
(B) Approval Required	90

Table of Contents
(continued)

		<u>Page</u>
	(C) Performance Failure.....	90
	(D) Restricted Persons	90
	(E) Subcontractor Licensing	90
	(F) Availability of Subcontractors and Key Personnel.....	90
	(G) Assignability	91
	(H) Prompt Payment	91
	(I) Subcontractor Claims	91
	(J) Design-Builder Employee Claims.....	91
	(K) Subcontracting with Small and Minority Businesses, Women’s Business Enterprises and Labor Surplus Area Firms	92
SECTION 7.4.	SELF-PERFORMANCE AND SUBCONTRACTOR SELECTION	92
	(A) Self-Performed Construction Work Generally	92
	(B) Subcontractor Selection Generally.....	92
	(C) Subcontracting Plan	92
	(D) Division of Work	93
	(E) Pre-Bid Conferences.....	93
	(F) Competitive Procedures for Construction Work.....	93
	(G) Alternative Procedures for Construction Work	94
	(H) Procurement of Subcontractors Prior to the GMP Amendment Date	94
	(I) Use of Approved Subcontractors; Non-Substitution	94
	(J) Security for Construction Subcontractor Performance	94
SECTION 7.5.	TERMINATION, AMENDMENT, ASSIGNMENT AND REPLACEMENT OF MATERIAL SUBCONTRACTS	95
	(A) Termination, Amendment and Assignment	95
	(B) Replacement.....	95

ARTICLE 8

SUBSTANTIAL COMPLETION AND FINAL COMPLETION

SECTION 8.1.	SUBSTANTIAL COMPLETION DATE CONDITIONS	96
	(A) Substantial Completion Date Conditions	96
SECTION 8.2.	CONCURRENCE OR DISAGREEMENT WITH SUBSTANTIAL COMPLETION DATE	97
	(A) Substantial Completion Date Concurrence	97
	(B) Substantial Completion Date Disagreement.....	97
SECTION 8.3.	EFFECT OF UNEXCUSED DELAY; EXTENSION PERIOD	97
	(A) Schedule for Completing the Design-Build Work.....	97
	(B) Unexcused Delay	97
	(C) Delay Liquidated Damages	97
	(D) Failure to Achieve Substantial Completion by End of Extension Period	98
SECTION 8.4.	FINAL COMPLETION	98
	(A) Requirements of Final Completion.....	98
	(B) Notice and Report of Final Completion.....	98
	(C) Achievement of Final Completion	98

ARTICLE 9

CONTRACT COMPENSATION

SECTION 9.1.	COMPENSATION FOR PRELIMINARY SERVICES.....	100
--------------	--	-----

Table of Contents
(continued)

	<u>Page</u>
(A) Compensation for Base Preliminary Services	100
(B) Compensation for Additional Preliminary Services	100
(C) Payment Requests and Payment.....	100
(D) Non-Compliant Preliminary Services	100
(E) Billing Statement Disputes.....	100
SECTION 9.2. DESIGN-BUILD PRICE	101
SECTION 9.3. DESIGN-BUILD PRICE PAYMENT PROCEDURE	101
(A) Payments	101
(B) Payment Request	101
(C) Online Project Management System	102
(D) Review and Payment	103
(E) Payment Dispute Procedures.....	103
(F) Retainage	104
(G) Cost Control and Reporting.....	104
(H) Certification of Amounts Due	104
SECTION 9.4. PERMISSIBLE WITHHOLDINGS.....	104
(A) Permissible Withholdings	104
SECTION 9.5. PAYMENT UPON FINAL COMPLETION	105
(A) Final Completion Payment Request	105
(B) Final Completion Payment	106
(C) Final Determination and Approval of Design-Build Price	107
(D) Completion of Design-Build Period Work	107
SECTION 9.6. NO SUBSTANTIAL COMPLETION, WAIVER OR RELEASE	107
SECTION 9.7. CHANGES IN DESIGN-BUILD PRICE.....	108
(A) Determination of Base Guaranteed Maximum Price Adjustment.....	108
(B) Design Professional Services	108
(C) Construction Subcontractor’s Maximum Mark-Up on Subcontracted Construction Work.....	108
SECTION 9.8. COST SUBSTANTIATION	108
(A) Required Substantiation	108
(B) Cost Substantiation Certificate.....	109
SECTION 9.9. INTEREST ON OVERDUE OBLIGATIONS.....	109
SECTION 9.10. RETENTION AND AUDIT OF BOOKS AND RECORDS	109
(A) Books and Records	109
(B) Town Rights to Audit and Examine Payments.....	110
(C) Notice and Process.....	110
(D) Selection of Auditor or Examiner and Determination of Scope.....	110
(E) Preservation of Books and Records.....	110
(F) Overpayment	111

ARTICLE 10

PROJECT WARRANTIES

SECTION 10.1. PROJECT WARRANTIES	112
(A) Project Warranties Defined.....	112
(B) Term of the Project Warranties	112
SECTION 10.2. WARRANTY WORK	112
(A) “Call-Back” Obligations.....	112
(B) Right of the Town to Proceed with Corrective Action; Design- Builder Liability	113
(C) No Period of Limitation on Other Obligations	113

Table of Contents
(continued)

	<u>Page</u>
(D) Extension of Warranties.....	113
(E) Manufacturers' Warranties.....	113
(F) Performance of Warranty Work.....	113
(G) Responsibility for Costs.....	114
SECTION 10.3. PROJECT WARRANTIES NOT EXCLUSIVE	114
SECTION 10.4. MANUFACTURERS' WARRANTIES	114
(A) Manufacturers' Warranties Generally	114
(B) No Limitation on Third Party Warranties	114

ARTICLE 11

DISPUTE RESOLUTION

SECTION 11.1. DISPUTE RESOLUTION PROCEDURES.....	115
(A) Compliance with California Public Contract Code	115
(B) Alternative Dispute Resolution Procedures	115
SECTION 11.2. FORUM FOR DISPUTE RESOLUTION.....	116
SECTION 11.3. CONTINUANCE OF PERFORMANCE DURING DISPUTE.....	116

ARTICLE 12

BREACH, DEFAULT, REMEDIES AND TERMINATION

SECTION 12.1. REMEDIES FOR BREACH.....	117
(A) Generally	117
(B) No Effect On Contract Obligations	117
(C) No Duplicative Recovery; Express Remedies	117
SECTION 12.2. EVENTS OF DEFAULT BY THE DESIGN-BUILDER	117
(A) Events of Default Not Requiring Previous Notice or Cure Opportunity for Termination.....	117
(B) Events of Default Requiring Previous Notice and Cure Opportunity for Termination	118
(C) Notice and Cure Opportunity	118
(D) Other Remedies Upon Design-Builder Event of Default	119
(E) Relationship to Liquidated Damages.....	119
SECTION 12.3. LIMITATION ON DESIGN-BUILDER LIABILITY.....	119
(A) Design-Builder Liability Limit.....	119
(B) Liquidated Damages Sub-Limit	119
SECTION 12.4. APPLICABILITY AND INTERPRETATION OF THE LIMITATION ON LIABILITY.....	120
SECTION 12.5. EVENTS OF DEFAULT BY THE TOWN	120
(A) Events of Default Permitting Termination	120
(B) Notice and Cure Opportunity	120
(C) Other Town Breaches Constituting Uncontrollable Circumstances	121
(D) Effect of Termination.....	121
SECTION 12.6. TOWN CONVENIENCE TERMINATION RIGHTS	121
(A) Convenience Termination Right and Payment	121
(B) Convenience Termination Payment for Preliminary Services	121
(C) Convenience Termination Payment for Design-Build Period Work.....	121
(D) Early Work Packages	122
(E) Settlement of Subcontracts	122
(F) Payment of Amounts Due as a Result of Convenience Termination.....	122

Table of Contents
(continued)

	<u>Page</u>
(G) Completion or Continuance by the Town	123
(H) Convenience Termination Rights as Consideration.....	123
SECTION 12.7. OBLIGATIONS OF THE DESIGN-BUILDER UPON TERMINATION	123
(A) Obligations of the Design-Builder Upon Termination	123
SECTION 12.8. NO WAIVERS	125
SECTION 12.9. WAIVER OF CONSEQUENTIAL AND PUNITIVE DAMAGES	125

ARTICLE 13

INSURANCE

SECTION 13.1. INSURANCE.....	127
(A) Required Insurance	127
(B) Insurers, Deductibles and the Town Rights	127
(C) Certificates, Policies and Notice	127
(D) Subcontractors	128
(E) Maintenance of Insurance Coverage	128
(F) Compliance with Insurer Requirements	128
(G) Reductions for Insurance Proceeds.....	129

ARTICLE 14

UNCONTROLLABLE CIRCUMSTANCES

SECTION 14.1. UNCONTROLLABLE CIRCUMSTANCES GENERALLY	130
(A) Extent of Relief Available to the Design-Builder	130
(B) Mitigation Given Effect.....	130
(C) Applicable Law Compliance	130
(D) Contract Obligations Not Affected; Resumption of Performance	130
SECTION 14.2. UNCONTROLLABLE CIRCUMSTANCE CLAIM PROCEDURES	130
(A) Notice and Written Report	130
(B) Updates.....	130
(C) Submittal of Relief Request	131
(D) Delay in Notification.....	131
(E) Multiple and Overlapping Claims	131
(F) Burden of Proof and Mitigation.....	131
(G) Town Response.....	131
(H) Agreement or Dispute	131
(I) Certifications	131
SECTION 14.3. UNCONTROLLABLE CIRCUMSTANCES RELIEF	132
SECTION 14.4. SCHEDULE RELIEF AND RELATED PRICE RELIEF	132
(A) Conditions to Schedule Relief.....	132
(B) Compensable Uncontrollable Circumstance Delay	133
(C) Concurrent Delay	133
SECTION 14.5. UNUSUALLY SEVERE AND ABNORMAL CLIMATIC EVENTS	133
SECTION 14.6. RELEASE.....	134
SECTION 14.7. UNIT PRICING	134

Table of Contents
(continued)

Page

ARTICLE 15

INDEMNIFICATION

SECTION 15.1.	DESIGN-BUILDER'S OBLIGATION TO INDEMNIFY	135
SECTION 15.2.	INDEMNIFICATION PROCEDURES	136
(A)	Notice	136
(B)	Consolidation of Claims	136
(C)	Design-Builder Right to Dispute Claim	136
(D)	Rights and Duties of the Parties	136
(E)	The Town Indemnitee Rights to Conduct Defense	137
(F)	Transfer of Conduct of Claim to the Town Indemnitee	137
(G)	Design-Builder Responsibility for Costs	137

ARTICLE 16

SECURITY FOR PERFORMANCE

SECTION 16.1.	BONDS	138
(A)	Performance and Payment Bonds	138
(B)	Bond Forms	139
(C)	Delivery of Bonds	139
(D)	Surety Requirements	139
(E)	Monitoring of Sureties	140
(F)	Completion of Work	140
SECTION 16.2.	COSTS OF PROVIDING SECURITY INSTRUMENTS	140

ARTICLE 17

MISCELLANEOUS PROVISIONS

SECTION 17.1.	OWNERSHIP OF THE PROJECT	141
SECTION 17.2.	RELATIONSHIP OF THE PARTIES	141
SECTION 17.3.	AFFILIATE TRANSACTIONS	141
SECTION 17.4.	CONTRACT ADMINISTRATION	141
(A)	Administrative Communications	141
(B)	Contract Administration Memoranda	141
(C)	Procedure	142
(D)	Effect	142
SECTION 17.5.	CONTRACT AMENDMENTS	142
(A)	Amendments Generally	142
(B)	Procedure	142
SECTION 17.6.	CONTRACT REPRESENTATIVES	142
(A)	Design-Builder Contract Representative and Senior Supervisors	142
(B)	Town Contract Representative	143
(C)	Town Approvals and Consents	143
SECTION 17.7.	PROPERTY RIGHTS	143
(A)	Protection from Infringement	143
(B)	Substitutes for Deliverable Material, Process or Equipment	144
(C)	Exceptions to Infringement Protection	144
(D)	Pre-Existing Intellectual Property	144
(E)	Protection of Proprietary Rights of the Town	145

Table of Contents
(continued)

	<u>Page</u>
SECTION 17.8. AFFIRMATIVE ACTION REQUIREMENTS	145
(A) Applicable Law.....	145
(B) Affirmative Action Statement.....	145
(C) Subcontracts	145
SECTION 17.9. GENERAL DUTY TO MITIGATE	146
(A) Mitigation by the Design-Builder	146
(B) Mitigation by the Town.....	146
SECTION 17.10. ASSIGNMENT OF ANTI-TRUST CLAIMS	146
SECTION 17.11. ACTIONS OF TOWN IN ITS GOVERNMENTAL CAPACITY.....	146
SECTION 17.12. ASSIGNMENT	147
(A) By the Design-Builder.....	147
(B) By the Town	147
SECTION 17.13. CONFIDENTIALITY.....	147
(A) Confidential Nature of Information	147
(B) Limitation on Use and Disclosure.....	148
SECTION 17.14. LIMITED RECOURSE TO TOWN	148
SECTION 17.15. BINDING EFFECT	148
SECTION 17.16. AMENDMENT AND WAIVER	148
(A) Contract Amendments	148
(B) Waiver	148
SECTION 17.17. NOTICES	148
(A) Procedure	148
(B) Town Notice Address.....	149
(C) Design-Builder Notice Address	150
SECTION 17.18. OTHER NOTICES	150
(A) Notice of Litigation	150
(B) Notice of Third Party Claim	150
SECTION 17.19. FURTHER ASSURANCES.....	150
SECTION 17.20. RIGHTS OF GRANTING AGENCIES AND FEDERAL AGENCIES	151
SECTION 17.21. ELECTRONIC SIGNATURES	151

Table of Contents
(continued)

Page

APPENDICES

1. Project and Project Sites
 - Attachment 1A – Potential Project Alignments
2. Preliminary Services
 - Attachment 2A – Planned Survey Extents
 - Attachment 2B – Preliminary Services Schedule
 - Attachment 2B-1 – Phase 1a Preliminary Services Schedule
 - Attachment 2B-2 – Form of Subsequent Preliminary Services Phase Preliminary Services Schedule
 - Attachment 2C – Preliminary Services Not-To-Exceed Pricing
 - Attachment 2C-1 – Phase 1a Preliminary Services Not-To-Exceed Pricing
 - Attachment 2C-2 – Form of Subsequent Preliminary Services Phase Preliminary Services Not-To-Exceed Pricing
 - Attachment 2D – Preliminary Services Billing Rates
 - Attachment 2D-1 – Phase 1a Preliminary Services Billing Rates
 - Attachment 2D-2 – Form of Subsequent Preliminary Services Phase Preliminary Services Billing Rates
3. Governmental and Non-Governmental Approvals
4. Baseline Design Documents
5. General Design-Build Work Requirements
6. Design-Build Quality Assurance and Quality Control Requirements
7. Design-Build Work Review Procedures
8. Design-Build Price
 - Attachment 8A - Description of General Conditions Costs
 - Attachment 8B – Billing Rates for Design-Build Period Work Professional Services Personnel
 - Attachment 8C – Billing Rates for Self-Performed Construction Work
 - Attachment 8D - Anticipated Design-Build Period Work Cost Schedule and Design-Builder Contingency
9. Substantial Completion and Final Completion
10. Insurance Requirements
11. Key Personnel and Approved Subcontractors
 - Attachment 11A – Key Personnel Organization Chart
 - Attachment 11B – Key Personnel Roles
12. Certain Grant Requirements and Guidelines
 - Attachment 12A – Davis Bacon Act Wage Determinations
13. Certain Provisions of the California Public Contract Code

TRANSACTION FORMS

- A. Form of Performance Bond (Early Work Package Amendment)
- B. Form of Payment Bond
- C. Form of Performance Bond (GMP Amendment)

[This Page Intentionally Left Blank]

DESIGN-BUILD CONTRACT
FOR THE
TOWN OF PARADISE SEWER PROJECT

THIS DESIGN-BUILD CONTRACT (“Design-Build Contract”) is entered into on March 13, 2024 between the TOWN OF PARADISE (the “Town”), a municipal corporation organized and existing and by virtue of the laws of the State of California and MOUNTAIN CASCADE, INC., a corporation organized and existing under the laws of the State of California (the “Design-Builder”).

RECITALS

WHEREAS, the Town is the largest town in California that relies solely on septic systems for the treatment and disposal of its wastewater. Prior to the Camp Fire in 2018, the Town struggled to support a thriving economy, in part due to the lack of a municipal sewer system.

WHEREAS, for more than 50 years, the Town pursued a municipal solution for wastewater treatment to address failed septic systems that degraded local groundwater quality and constrained affordable housing, essential community services, and related economic growth. Economically, the lack of a sewer system suppressed the development of a sustainable business community by limiting the size and types of businesses that could affordably operate in the community. Development of affordable housing and workforce housing also was hindered, as larger housing facilities require more sewer treatment capacity than a traditional septic system can provide within the available parcel sizes.

WHEREAS, on November 8, 2018, the Camp Fire severely impacted the Town. More than 26,000 Town residents were displaced; 90 percent of structures in the Town, including more than 11,000 homes and 1,000 businesses, were burned to the ground; and, most tragically, 85 people lost their lives. The 2018 Camp Fire affected the Town’s business and management operations, as resources were redirected toward recovery, which delayed further development of a municipal wastewater solution for the Town. Concurrently, many private septic systems were found to be damaged by the fire, which further compounded the pre-fire sewer needs. These additional impacts from the Camp Fire constrained affordable housing, essential community services, overall economic growth and rebuild efforts. The Town embarked on the rebuild while continuing to seek municipal sewer treatment options.

WHEREAS, the Town plans to construct the Paradise Sewer Project (as more particularly defined herein, the “Project”) to establish a municipal sewer system for the Town, as well as connection to the City of Chico Water Pollution Control Plant (as more particularly defined herein, the “Chico WPCP”) for regional treatment of the Town’s wastewater. The project includes three distinct components to serve approximately 1,400 parcels within the Sewer Service Area: a core sewer collection system in the Town, an 18-mile sewer export pipeline system to convey wastewater to the Chico WPCP, and the sewer pipeline connection to the Chico WPCP.

WHEREAS, the Town has determined that it is in the Town’s best interests to contract with a private entity to design and construct the Project using the progressive design-build project delivery method in accordance with Chapter 4.1 of Part 3 of Division 2 (Section 22170 et seq.) of the California Public Contract Code (the “Enabling Law”);

WHEREAS, pursuant to the Enabling Law, the Town issued a Request for Qualifications for Progressive Design-Build Services for the Paradise Sewer Project, Town of Paradise Project Number: CIP-9394, Federal Aid Project Number: 18-DRINFRA-18009, Town of Paradise, Public Works Department, 5555 Skyway, Paradise, CA 95969, No. RFQ

2023-9394-01, on October 30, 2023 (as amended by addenda issued on November 13, 2023, November 21, 2023 and November 30, 2023 (the "RFQ"), in order to select the design-build entity whose statement of qualifications would be evaluated and determined to be the most advantageous to the Town based upon the evaluation criteria set forth in the RFQ;

WHEREAS, statements of qualifications submitted in response to the RFQ were received on December 15, 2023, from seven entities, including the Design-Builder;

WHEREAS, the Town's selection committee engaged in a comprehensive evaluation of the competing statements of qualifications in accordance with the evaluation factors and selection criteria set forth in the RFQ;

WHEREAS, the Town's selection committee determined that the statement of qualifications submitted by the Design-Builder was the most advantageous to the Town considering the evaluation factors set forth in the RFQ, subject to the negotiation of an acceptable contract;

WHEREAS, on March 12, 2024, the Town Council adopted a resolution authorizing the execution and delivery of this Design-Build Contract;

WHEREAS, the Project will be designed and constructed by the Design-Builder pursuant to the terms of this Design-Build Contract and the appendices attached hereto; and

WHEREAS, the Town desires to receive, and the Design-Builder desires to provide design and construction services under the terms of this Design-Build Contract.

NOW, THEREFORE, in consideration of the mutual covenants herein contained, the parties hereto, intending to be legally bound, agree as follows:

ARTICLE 1

DEFINITIONS AND INTERPRETATION

SECTION 1.1. DEFINITIONS.

As used in this Design-Build Contract, the following terms shall have the meanings set forth below:

“Additional Preliminary Services” (i) with respect to Phase 1a, means the Phase 1a Additional Preliminary Services, (ii) with respect to any Subsequent Preliminary Services Phase, means the applicable Subsequent Preliminary Services Phase Additional Preliminary Services and (iii) in the aggregate, means the Phase 1a Additional Preliminary Services and all Subsequent Preliminary Services Phase Additional Preliminary Services.

“Affiliate” means any person directly or indirectly controlling or controlled by another person, corporation or other entity or under direct or indirect common control with such person, corporation or other entity.

“Anticipated Design-Build Period Work Cost Schedule” means the detailed, itemized list of prices and costs that establishes the value of each part or component of the Design-Build Period Work, to be developed by the Design-Builder in accordance with the Contract Standards, and to serve as the basis for tracking contingency and line item savings of the Design-Build Price during the Design-Build Period.

“Appendix” means any of the Appendices and, as applicable, any attachments thereto, that are appended to this Design-Build Contract and identified as such in the table of contents to this Design-Build Contract.

“Applicable Law” means:

- (1) Any federal, state, Town or local law, statute, ordinance, code, rule or regulation;
- (2) Any formally adopted and generally applicable rule, requirement, determination, standard, policy, implementation schedule, or other order of any Governmental Body having appropriate jurisdiction;
- (3) Any established interpretation of law or regulation utilized by an appropriate Governmental Body if such interpretation is documented by such Governmental Body and generally applicable;
- (4) Any Governmental Approval; and
- (5) Any consent order or decree, settlement agreement or similar agreement between the Town and any Governmental Body;

in each case having the force of law and applicable from time to time, over the Project, the Contract Obligations or any other transaction contemplated hereby.

“Approved Subcontractors” means the subcontractors identified in Appendix 11 (Key Personnel and Approved Subcontractors).

“Archaeological Construction Monitoring, Mitigation and Preservation Plans” means the archaeological construction monitoring, mitigation and preservation plans

anticipated to be developed by the Design-Builder as part of a Subsequent Preliminary Services Phase Preliminary Services in accordance with the Contract Standards and required to comply with CEQA and NEPA in accordance with Section 4.3 (Environmental Review).

“Base Guaranteed Maximum Price” means the initial amount approved by the Town as the Guaranteed Maximum Price pursuant to Appendix 8 (Design-Build Price) as part of the GMP Amendment.

“Base Guaranteed Maximum Price Adjustment” means an adjustment to the Base Guaranteed Maximum Price made in accordance with and subject to the terms and conditions of Appendix 8 (Design-Build Price).

“Base Preliminary Services” (i) with respect to Phase 1a, means the Phase 1a Base Preliminary Services, (ii) with respect to any Subsequent Preliminary Services Phase, means the applicable Subsequent Preliminary Services Phase Base Preliminary Services and (iii) in the aggregate, means the Phase 1a Base Preliminary Services and all Subsequent Preliminary Services Phase Base Preliminary Services.

“Baseline Cost Model” means the cost model to be prepared by the Design-Builder and included in or submitted no later than thirty (30) days following delivery of the Basis of Design Report pursuant to the Phase 1a Base Preliminary Services set forth in Appendix 2 (Preliminary Services).

“Baseline Date” means the Contract Date; except that:

- (1) With respect to any Design-Build Work authorized pursuant to an Early Work Package Amendment, the Baseline Date shall mean the Early Work Package Amendment Date; and
- (2) Upon the execution and delivery of a GMP Amendment, the Baseline Date shall mean the GMP Amendment Date.

“Baseline Design Documents” means the Specifications, Drawings, and other technical requirements for the performance of the Design-Build Work developed by or on behalf of the Design-Builder through the performance of the Preliminary Services and established in any Early Work Package Amendment or GMP Amendment, as applicable and including the Technical Standards set forth in Appendix 4 (Baseline Design Documents) hereto.

“Baseline Design Requirements Change” means a change to the Baseline Design Documents made by a Change Order pursuant to Section 6.8 (Changes to the Baseline Design Documents at Design-Builder Request), Section 6.9 (Other Changes to the Baseline Design Documents) or a Work Change Directive pursuant to Section 6.11 (Work Change Directives):

- (1) As a result of a Design-Builder request agreed to by the Town;
- (2) Due to Uncontrollable Circumstances;
- (3) As a result of a term or condition imposed by a Governmental Body; or
- (4) At the direction of the Town.

“Baseline Design and Construction Phasing Plan and Schedule” means the non-guaranteed schedule so designated to be prepared by the Design-Builder and included in or submitted no later than thirty (30) days following delivery of the Basis of Design Report

pursuant to the Phase 1a Base Preliminary Services set forth in Appendix 2 (Preliminary Services).

“Basis of Design Report” or **“BODR”** means the report so designated to be prepared by the Design-Builder pursuant to the Phase 1a Base Preliminary Services set forth in Appendix 2 (Preliminary Services).

“Bankruptcy Law” means the United States Bankruptcy Code, 11 U.S.C. 101 *et seq.*, as amended from time to time and any successor statute thereto. “Bankruptcy Law” shall also include any similar state law relating to bankruptcy, insolvency, the rights and remedies of creditors, the appointment of receivers or the liquidation of companies and estates that are unable to pay their debts when due.

“Books and Records” has the meaning specified in Section 9.10(A) (Books and Records).

“Business Day” means a day other than a Saturday, Sunday or an official the Town holiday.

“Butte County” means the County of Butte, a political subdivision of the State.

“Caltrans” means the California State Department of Transportation.

“Caltrans Requirements” means the written and oral requirements of Caltrans regarding construction of the Project below Highway 99.

“CERCLA” means the Comprehensive Environmental Response, Compensation, and Liability Act, 42 U.S.C. 9601 *et seq.*, and applicable regulations promulgated thereunder, each as amended from time to time.

“CEQA” means the California Environmental Quality Act of 1970, California Public Resources Code Section 21000 *et seq.*, and applicable regulations promulgated thereunder, each as amended from time to time.

“Change in Law” means any of the following acts, events or circumstances to the extent that compliance with the change materially expands the scope, interferes with, delays or increases the cost of performing the obligations of the Design-Builder:

(1) Except as provided below with respect to the exclusions from the definition of “Change in Law”, the adoption, amendment, promulgation, issuance, modification, repeal or written change in administrative or judicial interpretation of any Applicable Law on or after the Baseline Date, unless such Applicable Law was on or prior to the Baseline Date duly adopted, promulgated, issued or otherwise officially modified or changed in interpretation, in each case in final form, to become effective without any further action by any Governmental Body;

(2) Except as provided below with respect to the exclusions from the definition of “Change in Law”, the order or judgment of any Governmental Body issued on or after the Baseline Date (unless such order or judgment is issued to enforce compliance with Applicable Law which was effective as of the Baseline Date) to the extent such order or judgment is not the result of willful or negligent action, error or omission or lack of reasonable diligence of the Design-Builder; provided, however, that the contesting in good faith or the failure in good faith to contest any such order or judgment shall not constitute or be construed as such a willful or negligent action, error or omission or lack of reasonable diligence; or

(3) Except as provided below with respect to the exclusions from the definition of “Change in Law”, the denial of an application for, a delay in review, issuance or renewal of, or the suspension, termination or interruption of any Town Managed Governmental Approvals, or the imposition of a term, condition or requirement on or after the Baseline Date in connection with the issuance, renewal or failure of issuance or renewal of any Town Managed Governmental Approval, to the extent such occurrence is not the result of willful or negligent action, error or omission or a lack of reasonable diligence of the Design-Builder; provided, however, that the contesting in good faith or the failure in good faith to contest any such occurrence shall not be construed as such a willful or negligent action or lack of reasonable diligence.

It is specifically understood, however, that none of the following shall constitute a “Change in Law”:

(1) Any Change in Law relating to Taxes other than a change in law pertaining to state sales Taxes or tariffs on materials and equipment incorporated in the Project;

(2) A change in the severity of the actions typically taken by a Governmental Body to enforce compliance with Applicable Law that was in effect as of the Contract Date;

(3) Any increase in any fines or penalties provided for under Applicable Law in effect as of the Baseline Date;

(4) Any Change in Law (including the enactment of any statute, or the promulgation of any regulation) the terms and conditions of which do not impose more stringent or burdensome requirements on the Design-Builder than are imposed by the Contract Standards in effect as of the Baseline Date;

(5) Any event that affects generally applicable working conditions or standards that is not specific to the wastewater pipeline construction industry or the Project; or

(6) Acts, events and circumstances with respect to Design-Builder Managed Governmental Approvals to the extent the Design-Builder has assumed the permitting risk under Section 6.5 (Permitting Responsibilities and Schedule).

“**Change Order**” means a written order issued by the Town and agreed to in writing by the Design-Builder prior to Final Completion making a Baseline Design Requirements Change, a Base Guaranteed Maximum Price Adjustment, adjustment to the Scheduled Substantial Completion Date or any other change to the terms and conditions of the Contract Documents. A Change Order shall be deemed to constitute a Contract Amendment.

“**Chico WPCP**” means the City of Chico’s Water Pollution Control Plant.

“**Chico WPCP Connection**” means the sewer pipeline connection from the Export Pipeline System to the Chico WPCP at its Influent Sewer Junction Box A.

“**Chico WPCP Connection Site**” means the site where the Chico WPCP Connection will be located pursuant to the Baseline Design Documents.

“**City of Chico**” means the City of Chico, California, a municipal corporation organized and existing and by virtue of the laws of the State.

“Construction” means that part of the Design-Build Work consisting of the construction of the Project as required by the Contract Documents, including furnishing, installing or incorporating Supplies into the Project.

“Construction Commencement Date” means the date, following satisfaction of the Construction Commencement Date Conditions by the Design-Builder, upon which the Design-Builder shall have the right to proceed with the Construction of the Project, as determined in accordance with Section 6.1(A)(1) (Notice to Proceed).

“Construction Commencement Date Conditions” has the meaning specified in Section 6.2(A) (Construction Commencement Date Generally).

“Construction Phasing Plan” means the Design-Builder’s plan for Construction sequencing site access, to be developed as part of the Preliminary Services in accordance with the requirements set forth in Appendix 2 (Preliminary Services).

“Contaminated Media Management Plan” means the Design-Builder’s plan for the management of contaminated soils and groundwater, to be developed as part of the Preliminary Services in accordance with the Contract Standards and required to comply with CEQA and NEPA in accordance with Section 4.3 (Environmental Review).

“Contract Administration Memorandum” has the meaning specified in Section 17.4(B) (Contract Administration Memoranda).

“Contract Amendment” has the meaning specified in Section 17.5(A) (Amendments Generally).

“Contract Compensation” means the Preliminary Services Fees and the Design-Build Price.

“Contract Date” means the date this Design-Build Contract is executed and delivered by the parties hereto.

“Contract Documents” means:

- (1) This Design-Build Contract and all Appendices;
- (2) Any amendments to the Design-Build Contract including the GMP Amendment and any Early Work Package Amendment;
- (3) The Baseline Design Documents;
- (4) Any Change Order, Work Change Directive or other Contract Amendment;
- (5) Any Notice to Proceed;
- (6) Any Contract Administration Memoranda; and
- (7) The Issued for Construction Drawings and Specifications.

“Contract Obligations” means everything required to be furnished and done for and relating to the Design-Build Work and the Warranty Work pursuant to the Contract Documents.

“Contract Standards” means the standards, terms, conditions, methods, techniques and practices imposed or required by:

- (1) Applicable Law;
- (2) The Baseline Design Documents;
- (3) The Substantial Completion Standards;
- (4) Good Engineering and Construction Practice;
- (5) The Insurance Requirements;
- (6) All plans required to be developed by the Design-Builder pursuant to the requirements of this Design-Build Contract;
- (7) All applicable requirements of the Grants, including all applicable provisions identified in Appendix 12 (Certain Grant Requirements and Guidelines); and
- (8) the Quality Management Plan;
- (9) the Health and Safety Plan;
- (10) the Operations and Maintenance Manual; and
- (11) Any other standard, term, condition or requirement specifically provided in the Contract Documents to be observed by the Design-Builder.

Section 1.2(R) (Applicability, Stringency and Consistency of Contract Standards) shall govern issues of interpretation related to the applicability, stringency and consistency of the Contract Standards.

“Core Collection System” means the wastewater pipelines (including connections beginning at the property lines and trunkline) for the collection of wastewater from the properties located in the Sewer Service Area to the Export Pipeline System, including all related structures, lift stations, pipes, valves and equipment, as generally described in Appendix 1 (Project and Project Sites) and more particularly described in the Baseline Design Documents, to be designed, constructed, and tested by the Design-Builder in accordance with the Contract Documents.

“Core Collection System Rights of Way” means the right of access to the real property, as generally described in Appendix 1 (Project and Project Sites) and more particularly described in the Baseline Design Documents, on or under which the Core Collection System are to be constructed by the Design-Builder.

“Cost Substantiation” means the process of providing evidence of actual costs in accordance with Section 9.8 (Cost Substantiation).

“Deliverable Material” means the Preliminary Services Deliverable Material and the Design-Build Period Work Deliverable Material.

“Design-Build Contract” means this Design-Build Contract for the Town of Paradise Sewer Project between the Design-Builder and the Town, including the Appendices and all other Contract Documents, as the same may be amended or modified from time to time in accordance herewith.

“Design-Build Period” means the period from and including the GMP Amendment Date (or with respect to any Design-Build Work authorized pursuant to an Early Work Package Amendment, the applicable Early Work Package Amendment Date) through the date Final Completion is achieved.

“Design-Build Period Costs” has the meaning specified in Appendix 8 (Design-Build Price).

“Design-Build Period Work Health and Safety Plan” means the Design-Builder’s plan for health and safety in implementing the Design-Build Period Work including related field work, to be developed as part of the Preliminary Services as an update to the Preliminary Services Quality Management Plan in accordance with the requirements set forth in Appendices 2 and 5.

“Design-Build Period Work Quality Management Plan” means the Design-Builder’s plan for quality assurance and quality control in implementing the Design-Build Period Work, to be developed as part of the Preliminary Services as an update to the Preliminary Services Quality Management Plan.

“Design-Build Period Work” means all Design-Build Work performed by the Design-Builder hereunder on and after (1) the GMP Amendment Date and (2) the Early Work Package Amendment Date in connection with any Early Work Package.

“Design-Build Period Work Deliverable Material” means all documents, reports, studies, surveys, computer programs, warranties, manuals, submittals, licenses and other documents and materials required to be delivered by the Design-Builder to the Town in the performance of the Design-Build Period Work pursuant to this Design-Build Contract, including the Final Design Documents.

“Design-Build Period Work Schedule” means the Design-Builder’s critical path method completion schedule for the performance of the Design-Build Period Work, as set forth as an attachment to Appendix 5 (General Design-Build Work Requirements) on the GMP Amendment Date and as updated and maintained by the Design-Builder in accordance with Section 6.1(F) (Design-Build Period Work Schedule and Reports).

“Design-Build Price” has the meaning specified in Appendix 8 (Design-Build Price).

“Design-Build Work” means everything required to be furnished and done for and relating to the design and construction of the Project pursuant to the Contract Documents. Design-Build Work includes the employment and furnishing of all labor, materials, equipment, supplies, tools, scaffolding, transportation, Utilities, insurance, temporary facilities and other things and services of every kind whatsoever necessary for the full performance and completion of the Design-Builder’s design, engineering, permitting, procurement, construction, Testing, and related obligations with respect to the construction of the Project under the Contract Documents, including all completed structures, assemblies, fabrications, acquisitions and installations, all testing, and all of the Design-Builder’s administrative, accounting, recordkeeping, notification and similar responsibilities of every kind whatsoever under the Contract Documents pertaining to such obligations. Design-Build Work includes the Preliminary Services, all work performed pursuant to Early Work Package Amendments, the Design-Build Period Work and the Warranty Work. A reference to Design-Build Work shall mean any part and all of the Design-Build Work unless the context otherwise requires, and shall include all Design-Build Work authorized by Change Order or Work Change Directive.

“Design-Builder” means Mountain Cascade, Inc., a corporation organized and existing under the laws of the State of California, and its permitted successors and assigns.

“Design-Builder Contingency” has the meaning specified in Appendix 8 (Design-Build Price).

“Design-Builder Contract Representative” has the meaning specified in Section 17.6(A) (Design-Builder Contract Representative and Senior Supervisors).

“Design-Builder Fault” means:

- (1) A breach by the Design-Builder of any of its obligations under this Design-Build Contract;
- (2) A breach of any representation or warranty made by the Design-Builder under this Design-Build Contract;
- (3) Willful misconduct of the Design-Builder or any other Design-Builder Person; or
- (4) A negligent act or omission of the Design-Builder or any other Design-Builder Person.

“Design-Builder Fee” has the meaning specified in Appendix 8 (Design-Build Price).

“Design-Builder Managed Governmental Approvals” means the Governmental Approvals other than the Town Managed Governmental Approvals. The Design-Builder Managed Governmental Approvals are those Governmental Approvals for which the Design-Builder is the application manager, as designated in Appendix 3 (Governmental and Non-Governmental Approvals). [Note: Appendix 3 to be developed as part of the Preliminary Services]

“Design-Builder Managed Non-Governmental Approvals” means the Non-Governmental Approvals other than the Town Managed Non-Governmental Approvals. The Design-Builder Managed Non-Governmental Approvals are those Non-Governmental Approvals for which the Design-Builder is the application manager, as designated in Table A3-2 in Appendix 3 (Governmental and Non-Governmental Approvals). [Note: Appendix 3 to be developed as part of the Preliminary Services]

“Design-Builder Person” means each of the following:

- (1) The Design-Builder;
- (2) Any director, officer, employee or agent of the Design-Builder in each case acting as such;
- (3) Any Subcontractor and any representative, advisor (including any legal and financial advisor) of the Design-Builder, in any such person’s capacity as a provider of services directly or indirectly to the Design-Builder in connection with the Project; and
- (4) Anyone for whose acts any of the foregoing may be legally or contractually liable in connection with this Design-Build Contract, including officers, directors, employees, representatives, agents, consultants, and contractors.

“Design Professional Services” means that part of the Design-Build Work consisting of the preparation of plans, drawings and specifications for the Project by licensed professional engineering, architectural and land surveying firms, as well as all other services required to be performed by licensed design professionals as part of the Design-Build Work for the design and engineering of the Project, including professional engineering, architectural and land surveying services.

“Design Professional Services Firm” means any person providing Design Professional Services.

“Differing Site Conditions” means (a) actual subsurface or latent physical subsurface conditions along the Core Collection System Rights of Way, along the Export Pipeline System Rights of Way or at the Transition Chamber Site or the Flow Control and Metering Structure Site that differ materially from those indicated in the Reference Documents or those documents prepared by the Design-Builder as part of the Preliminary Services (including the Basis of Design Report), or (b) unknown physical subsurface conditions of an unusual nature, which differ materially from those ordinarily encountered and generally recognized as inherent in work of the character required herein; provided, however, that the term “Differing Site Conditions” excludes: (1) conditions of which the Design-Builder had actual or constructive knowledge as of the Baseline Date (including through review of the Reference Documents and those documents prepared by the Design-Builder as part of the Preliminary Services as well as conditions that are evident from the location, topography and nature of the Project Sites); and (2) conditions that should have been discovered through a reasonable investigation performed prior to the Baseline Date and through the geotechnical, hydrogeology, and contaminated soil and water management work required to be performed by the Design-Builder as part of the Preliminary Services.

“Document Management Plan” means the Design-Builder’s plan for document management in implementing the Preliminary Services and the Design-Build Period Work to be developed as part of the Preliminary Services in accordance with Appendix 2 (Preliminary Services).

“Drawings” means drawings, diagrams, illustrations, schedules and other data that show the scope, extent, and character of the Design-Build Work, as prepared by or on behalf of the Design-Builder.

“Early Work Package” has the meaning specified in Section 5.6(A) (Early Work Packages).

“Early Work Package Amendment” has the meaning specified in Section 5.6(A) (Early Work Packages).

“Early Work Package Amendment Date” means the date that an Early Work Package Amendment is executed and delivered by the parties.

“Early Work Package Price” means the price established in any Early Work Package for the portion of the Design-Build Work to be performed thereunder.

“Early Work Package Submittal” has the meaning specified in Section 5.6(A) (Early Work Packages).

“Encumbrances” means any Lien, lease, mortgage, security interest, charge, judgment, judicial award, attachment or encumbrance of any kind with respect to the Project.

“Engineer-of-Record” means the professional engineer licensed in the State in good standing who is designated by the Design-Builder and acceptable to the Town, acting reasonably, as the engineer responsible for the preparation, signing, dating, sealing and issuing of the engineering documents relating to all or a portion of the Design-Build Work.

“EPA” means the United States Environmental Protection Agency and any successor agency.

“Environmental Mitigation Measures” means any environmental mitigation measures set forth in, or required in connection with, a Governmental Approval.

“Event of Default” means, with respect to the Design-Builder, those items specified in Section 12.2 (Events of Default by the Design-Builder) and, with respect to the Town, those items specified in Section 12.5 (Events of Default by the Town).

“Expiration Date” means the last day of the Warranty Period.

“Export Pipeline System” means the 18-mile-long export pipeline system to convey wastewater from the Core Collection System to the Chico WPCP, including all related structures, pipes, valves and equipment, as generally described in Appendix 1 (Project and Project Sites) and more particularly described in the Baseline Design Documents, to be designed, constructed, and tested by the Design-Builder in accordance with the Contract Documents. The Export Pipeline System will include the Ridge Gravity Section, the Gravity Force Main Section, the Transition Chamber and the Flow Control and Metering Structure.

“Export Pipeline System Rights of Way” means the right of access to the real property, as generally described in Appendix 1 (Project and Project Sites) and more particularly described in the Baseline Design Documents, on or under which the Export Pipeline System are to be constructed by the Design-Builder.

“Extension Period” means 60 days following the Scheduled Substantial Completion Date.

“Fees and Costs” means reasonable fees and expenses of employees, attorneys, architects, engineers, expert witnesses, contractors, consultants and other persons, and costs of transcripts, printing of briefs and records on appeal, copying and other reimbursed expenses, and expenses reasonably incurred in connection with investigating, preparing for, defending or otherwise appropriately responding to any Legal Proceeding.

“Federal Agencies” means (a) the California Department of Housing and Urban Development; (b) the California Department of Housing and Urban Development; and (c) the California State Water Resources Control Board.

“Federal Highway Administration Requirements” means the written and oral requirements of Federal Highway Administration regarding construction of the Project below Highway 99.

“Final Completion” means completion of the Design-Build Work, including all construction of the Project, in compliance with the Contract Documents and the requirements of Section 8.4 (Final Completion).

“Final Design Documents” means the Design-Builder’s plans, technical specifications, drawings, record drawings and other design documents prepared following the GMP Amendment Date (or in connection with any Early Work Package, the applicable Early Work Package Amendment Date) in connection with the Design-Build Period Work, including:

(1) Specifications, Drawings and all other work product generated through the performance of the Design Professional Services following the establishment of the Baseline Design Documents; and

(2) All technical criteria, written descriptions and design data necessary for obtaining Governmental Approvals and performing Construction, such as shop drawings, product data and samples whether or not such documents are required to be prepared by licensed design professionals.

“Flow Control and Metering Structure” means a structure and equipment located therein for the flow control and metering of wastewater, located at or near the Chico WPCP, including all related structures, pipes, valves and equipment, as generally described in Appendix 1 (Project and Project Sites) and more particularly described in the Baseline Design Documents, to be designed, constructed, and tested by the Design-Builder in accordance with the Contract Documents.

“Flow Control and Metering Structure Site” means the site where the Flow Control and Metering Structure will be located pursuant to the Baseline Design Documents.

“General Conditions Costs” has the meaning specified in Appendix 8 (Design-Build Price).

“General Conditions Fee” has the meaning specified in Appendix 8 (Design-Build Price).

“Geotechnical Baseline Report” means the report so designated to be prepared by the Design-Builder pursuant to Preliminary Services set forth in Appendix 2 (Preliminary Services).

“Geotechnical Evaluation Report” means the report so designated to be prepared by the Design-Builder pursuant to Preliminary Services set forth in Appendix 2 (Preliminary Services).

“GMP Amendment” has the meaning specified in Section 5.8(B) (Negotiation and Execution of the GMP Amendment).

“GMP Amendment Date” has the meaning specified in Section 5.8(B) (Negotiation and Execution of the GMP Amendment).

“GMP Submittal” has the meaning specified in Section 5.7 (GMP Submittal).

“GMP Submittal Design Level” means the design of the Project progressed to a level sufficient to permit the Design-Builder to provide the GMP Submittal, to be agreed to by the parties during the performance of the Preliminary Services and to be described in an amendment to Appendix 2 (Preliminary Services) by a Subsequent Preliminary Services Phase Preliminary Services Amendment and in any event not later than the last Subsequent Preliminary Services Phase Preliminary Services Amendment.

“Good Engineering and Construction Practice” means (a) with respect to the design and engineering services performed by the Design-Builder under this Design-Build Contract, those methods, techniques, standards and practices which, at the time they are to be employed and in light of the circumstances known or reasonably believed to exist at such time, are generally recognized and accepted as meeting the prevailing standard of care ordinarily used by members of the subject profession, having experience with projects similar in scope and complexity and practicing in the State, and (b) with respect to equipping, installation,

construction, commissioning and testing services performed by the Design-Builder under this Design-Build Contract, those methods, techniques, standards and practices which, at the time they are to be employed and in light of the circumstances known or reasonably believed to exist at such time, are generally recognized and accepted as good equipping, installation, construction, commissioning and testing practices as observed for water and sewer pipelines, as followed in the State.

“Governmental Approval” means any permit, license, authorization, consent, certification, exemption, ruling, entitlement or approval issued by a Governmental Body of whatever kind and however described, which is required under Applicable Law to be obtained or maintained by any person with respect to the Design-Build Work, including any Town Managed Governmental Approvals and Design-Builder Managed Governmental Approvals.

“Governmental Approval Application Date” means the applicable date set forth in the Governmental and Non-Governmental Approvals Table.

“Governmental and Non-Governmental Approvals Table” means Table A3-1 and A3-2 of Appendix 3 (Governmental and Non-Governmental Approvals) to be developed by the Design-Builder as part of the Phase 1a Preliminary Services in accordance with Appendix 2 (Preliminary Services). [Note: To be completed as part of the Phase 1a Base Preliminary Services.]

“Governmental Body” means any federal, State, Town, regional or local legislative, executive, judicial or other governmental board, department, agency, authority, commission, administration, court or other body (including the Town, acting in its governmental capacity other than as a party to this Design-Build Contract), or any official thereof, having jurisdiction in any way over or in respect of any aspect of the performance of this Design-Build Contract or the Project.

“Grant Requirements” means the written requirements of the Grants relating to the Preliminary Services and the Design-Build Work, including all applicable provisions identified in Appendix 12 (Certain Grant Requirements and Guidelines). As of the Contract Date, the written requirements of any California State Water Resources Control Board grants have not yet been established and therefore are not yet reflected in Appendix 12 (Certain Grant Requirements and Guidelines). The parties intend to update Appendix 12 (Certain Grant Requirements and Guidelines) by Contract Amendment once such written requirements have been established.

“Granting Agencies” means (a) the California Department of Housing and Urban Development; (b) the California Department of Housing and Urban Development; and (c) the California State Water Resources Control Board.

“Grants” means (a) the \$30,000,000 Community Development Block Grant – Disaster Recovery grant from the California Department of Housing and Urban Development; and (b) the \$200,000,000 Community Development Block Grant – Disaster Recovery grant from the California Department of Housing and Urban Development, approximately \$15,000,000 of which will be used to pay all amounts under this Design-Build Contract, including the Phase 1a Preliminary Services Fee, the Subsequent Preliminary Services Phase Preliminary Services Fees and the Design-Build Price. [Note: To be updated by Contract Amendment to include any California State Water Resources Control Board grants administered by the Division of Financial Assistance of the California State Water Resources Control Board and any new grants obtained by the Town.]

“Gravity Force Main Section” means the second section of the Export Pipeline System anticipated to be approximately 60,150 feet or 11.4 miles long, beginning at the

Transition Chamber, dropping 224 feet in elevation and ending at the Flow Control and Metering Structure.

“Guaranteed Maximum Price” has the meaning specified in Appendix 8 (Design-Build Price).

“Hazardous Material” means any waste, substance, object or material deemed hazardous under Applicable Law, including “hazardous substances” as defined under CERCLA, “hazardous waste” as defined under RCRA or in California Health and Safety Code Section 25117, and “hazardous material” as defined under US DOT regulations (49 CFR 100-180).

“Health and Safety Plan” means (a) for the Preliminary Services Period, the Preliminary Services Health and Safety Plan and (b) for the Design-Build Period, the Design-Build Period Work Health and Safety Plan.

“Intellectual Property” means any trade secrets, proprietary rights, patents, copyrights or trademarks recognized under Applicable Law.

“Inter-Municipal Agreement” means the Inter-Municipal Agreement, City of Chico Wastewater Treatment Services to the Town of Paradise, approved by the Town Council on February 14, 2023 and approved by the City of Chico City Council February 21, 2023, by and between the City of Chico and the Town, as the same may be amended from time to time in accordance therewith.

“Insurance Requirement” means any rule, regulation, code, or requirement issued by any insurance company that has issued a policy of Required Insurance under this Design-Build Contract or by any insurance company that has issued a policy of insurance required to be obtained and maintained by the Town in connection with this Design-Build Contract, compliance with which is a condition to the effectiveness of such policy.

“Issued for Construction Drawings and Specifications” means the Drawings and Specifications which have been accepted by the Town as final Drawings and Specifications for the commencement of Construction of all or any portion of the Design-Build Work.

“Legal Proceeding” means every action, suit, litigation, arbitration, administrative proceeding, and other legal or equitable proceeding having a bearing upon this Design-Build Contract, and all appeals therefrom.

“Lien” means any and every lien against the Project or against any monies due or to become due from the Town to the Design-Builder under this Design-Build Contract, for or on account of the Contract Obligations, including mechanics’, materialmen’s, laborers’ and lenders’ liens.

“Limited Notice to Proceed” means a written notice issued by the Town Contract Representative authorizing the Design-Builder to proceed with Construction under certain specific terms and conditions pursuant to Section 6.1(A)(2) (Limited Notice to Proceed), in either case as specified in the Limited Notice to Proceed.

“Loss-and-Expense” means any and all actual loss, liability, forfeiture, obligation, damage, fine, penalty, judgment, Lien, deposit, Tax, charge, assessment, cost or expense, including all Fees and Costs, relating to third party claims for which the Design-Builder is obligated to indemnify the Town Indemnitees pursuant to this Design-Build Contract.

“Mediator” means any person serving as a third-party mediator of disputes hereunder pursuant to Section 11.1 (Dispute Resolution Procedures).

“Monthly Progress Report” has the meaning specified in Section 4.9 (Monthly Progress Reports).

“NEPA” means the National Environmental Policy Act, 42 U.S.C. 4321 et seq., and applicable regulations promulgated thereunder, each as amended from time to time.

“NEPA Document” means the categorical exclusion, environmental assessment, finding of no significant impact or environmental impact statement for the Project pursuant to NEPA, in draft and final forms as applicable.

“Non-Binding Mediation” means the voluntary system of dispute resolution through third-party mediation established by Section 11.1 (Dispute Resolution Procedures) for the resolution of any dispute arising under this Design-Build Contract.

“Non-Governmental Approvals” means the UPRR Approval and access approvals and easements from private property owners, including any Town Managed Non-Governmental Approvals and Design-Builder Managed Non-Governmental Approvals.

“Notice of Final Completion” has the meaning set forth in Section 8.4(B) (Notice and Report of Final Completion).

“Notice to Proceed” or **“NTP”** means a written notice issued by the Town Contract Representative authorizing the Design-Builder to commence performing a portion of the Design-Build Work, as specified in the Notice to Proceed.

“Operations and Maintenance Manual” means the manual and related computer programs prepared by the Design-Builder containing detailed standard operating and maintenance procedures and other specific instructions, policies, directives, routines, schedules and other matters relating to the Project, developed and maintained as required by Section 6.20 (Operations and Maintenance Manual) and Appendix 5 (General Design-Build Work Requirements). The Operations and Maintenance Manual includes the service manuals describing the operation and maintenance requirements for each equipment system, package and unit incorporated into the Project.

“OSHA” means the Occupational Safety and Health Act of 1970, 29 U.S.C. Section 650 *et seq.*, including the applicable regulations promulgated thereunder, as amended or superseded from time to time.

“Overdue Rate” means the maximum rate of interest permitted by the laws of the State, if applicable, or the Prime Rate, whichever is lower; provided, however, that if applicable State law mandates payment of a specified interest rate, such specified interest rate shall apply.

“Owner Representative” means any individual or firm, or team of individuals or firms, under contract with the Town, including subcontractors, and designated by the Town from time to time as part of its management-consulting, engineering or construction management team for purposes of administering this Design-Build Contract on behalf of the Town.

“Payment Bond” means the labor and materials payment bond provided by the Design-Builder as described in and maintained pursuant to this Design-Build Contract and in the form set forth in the Transaction Forms.

“Payment Request” means a written submission by the Design-Builder in the form approved by the Town and accompanied by all required supporting documentation, requesting payment hereunder of any portion of the Contract Compensation.

“Performance Bond” means the performance bond provided by the Design-Builder as described in and maintained pursuant to this Design-Build Contract and in the form set forth in the Transaction Forms.

“Permitted Encumbrances” means, as of any particular time, any one or more of the following:

(1) Encumbrances for utility charges, taxes, rates and assessments not yet delinquent or, if delinquent, the validity of which is being contested diligently and in good faith by the Design-Builder and against which the Design-Builder has established appropriate reserves in accordance with generally accepted accounting principles;

(2) Any encumbrance arising out of any judgment rendered that is being contested diligently and in good faith by the Design-Builder, the execution of which has been stayed or against which a bond or bonds in the aggregate principal amount equal to such judgments shall have been posted with a financially-sound insurer and which does not have a material and adverse effect on (a) the ability of the Design-Builder to construct the Project in accordance with this Design-Build Contract or (b) the ability of the Town to utilize the Project;

(3) Any encumbrance arising in the ordinary course of business imposed by law dealing with materialmen’s, mechanics’, workmen’s, repairmen’s, warehousemen’s, landlords’, vendors’ or carriers’ encumbrances created by law, or deposits or pledges which are not yet due or, if due, the validity of which is being contested diligently and in good faith by the Design-Builder and against which the Design-Builder has established appropriate reserves or bonded against, at the Town’s request;

(4) Servitudes, licenses, leases, easements, restrictions, rights-of-way, rights in the nature of easements or similar items which shall not individually or in the aggregate materially and adversely impair (a) the construction of the Project by the Design-Builder in accordance with this Design-Build Contract or (b) the operation of the Project by the Town;

(5) Applicable zoning and building bylaws and ordinances, municipal bylaws and regulations, and restrictive covenants, which individually or in the aggregate do not materially interfere with and adversely affect (a) the construction of the Project by the Design-Builder in accordance with this Design-Build Contract or (b) the utilization of the Project by the Town;

(6) Encumbrances which are created on or before the Contract Date;

(7) Encumbrances which are created by a Change in Law on or after the Contract Date; and

(8) Any encumbrance created by the Town.

“PG&E” means Pacific Gas and Electric Company.

“Phase 1a” means the initial phase of the Preliminary Services Period. Phase 1a shall commence on the Contract Date.

“Phase 1a Additional Preliminary Services” means those services designated as Additional Preliminary Services for Phase 1a in Section 5.2(B) (Additional Preliminary Services).

“Phase 1a Base Preliminary Services” means those services designated as Phase 1a Base Preliminary Services in Appendix 2 (Preliminary Services).

“Phase 1a Preliminary Services Fee” has the meaning specified in Section 9.1 (Compensation for Preliminary Services) and Appendix 2 (Preliminary Services).

“Phase 1a Preliminary Services Period” means the period between the Contract Date and the next following Subsequent Preliminary Services Phase Preliminary Services Amendment Date.

“Phase 1a Preliminary Services Schedule” has the meaning specified in Section 5.3 (Preliminary Services Schedule).

“Preliminary Design Documents” means the Design-Builder’s plans, technical specifications, drawings and other documents prepared in connection with the Preliminary Services, including the Baseline Design Documents.

“Preliminary Services” means, collectively, the Phase 1a Preliminary Services and the Subsequent Preliminary Services Phase Preliminary Services.

“Preliminary Services Deliverable Material” means all documents, reports, studies, surveys, computer programs, warranties, manuals, submittals, licenses and other documents and materials required to be delivered by the Design-Builder to the Town in the performance of the Preliminary Services pursuant to this Design-Build Contract, including the Preliminary Design Documents.

“Preliminary Services Fee” (i) with respect to Phase 1a, means the Phase 1a Preliminary Services Fee, (ii) with respect to any Subsequent Preliminary Services Phase, means the applicable Subsequent Preliminary Services Phase Preliminary Services Fee and (iii) in the aggregate, means an amount equal to the sum of the Phase 1a Preliminary Services Fee and all Subsequent Preliminary Services Phase Preliminary Services Fees.

“Preliminary Services Health and Safety Plan” means the Design-Builder’s plan for health and safety in implementing the Preliminary Services including related field work, to be developed as part of the Phase 1a Preliminary Services in accordance with the requirements set forth in Appendix 2.

“Preliminary Services Period” means the period between the Contract Date and the GMP Amendment Date, comprising the Phase 1a Preliminary Services Period and the Subsequent Preliminary Services Phase Preliminary Services Periods.

“Preliminary Services Phase” means Phase 1a or any Subsequent Preliminary Services Phase.

“Preliminary Services Quality Management Plan” means the Design-Builder’s plan for quality assurance and quality control in implementing the Preliminary Services, to be developed as part of the Phase 1a Preliminary Services.

“Preliminary Services Schedule” (i) with respect to Phase 1a, means the Phase 1a Preliminary Services Schedule, (ii) with respect to any Subsequent Preliminary Services Phase, means the applicable Subsequent Preliminary Services Phase Preliminary

Services Schedule and (iii) in the aggregate, means the Phase 1a Preliminary Services Schedule together with all Subsequent Preliminary Services Phase Preliminary Services Schedules.

“Preliminary Services Tasks” means the subtasks specified in Appendix 2 (Preliminary Services) for Phase 1a Preliminary Services or for any Subsequent Preliminary Services Phase Preliminary Services, as applicable.

“Prime Rate” means the prime rate as published in The Wall Street Journal (Eastern Edition), or a mutually agreeable alternative source of the prime rate if it is no longer published in The Wall Street Journal (Eastern Edition) or the method of computation thereof is substantially modified.

“Project” means the Core Collection System, the Core Collection System Rights of Way, the Export Pipeline System, the Export Pipeline System Rights of Way, the Transition Chamber Site, the Flow Control and Metering Structure Site, the Chico WPCP Connection and all Contract Obligations required to be performed under the Contract Documents.

“Project Management Plan” means the Design-Builder’s plan for project management in implementing the Preliminary Services and the Design-Build Period Work to be developed as part of the Preliminary Services in accordance with Appendix 2 (Preliminary Services).

“Project Manager” has the meaning specified in Section 7.1(A) (Project Manager).

“Project Schedule” means the Phase 1a Preliminary Services Schedule, the Subsequent Preliminary Services Phase Preliminary Services Schedules and the Design-Build Period Work Schedule.

“Project Sites” means the Core Collection System Rights of Way, the Export Pipeline System Rights of Way, the Transition Chamber Site, the Flow Control and Metering Structure Site and the Chico WPCP Connection Site.

“Project Warranties” has the meaning specified in Section 10.1(A) (Project Warranties Defined).

“Punch List” has the meaning specified in Section 6.21(A) (Punch List Requirements).

“Quality Management Plan” means (a) for the Preliminary Services Period, the Preliminary Services Quality Management Plan and (b) for the Design-Build Period, the Design-Build Period Work Quality Management Plan.

“RCRA” means the Resource Conservation and Recovery Act, 42 U.S.C.A. 6901 *et seq.*, and applicable regulations promulgated thereunder, each as amended from time to time.

“Reference Documents” means the documents listed as reference documents in Appendix 1 (Project and Project Sites) Table A1-1 to this Design-Build Contract.

“Regulated Site Condition” means, and is limited to:

- (1) The presence or habitat of a species that is classified under Applicable Law as endangered, rare, threatened, of special concern, or similarly subject to the protections of Applicable Law;

(2) The presence anywhere in, on or under the Project Sites of historical, archaeological, religious architectural or other cultural artifacts, relics, vestiges, remains or objects of antiquity that are regulated by Applicable Law;

(3) The presence anywhere in, on or under the Project Sites on the Baseline Date of wells or underground storage tanks for the storage of chemicals, petroleum products or Regulated Substances; and

(4) The presence of Regulated Substances in environmental media anywhere in, on or under the Project Sites (including presence in surface water, groundwater, soils or subsurface strata), but not including Regulated Substances used, stored or otherwise brought to the Project Sites by the Design-Builder or any Subcontractor as provided in Section 6.4(A) (Design-Builder Responsibilities).

“Regulated Substance” means:

(1) Any oil, petroleum or petroleum product; and

(2) Any pollutant, contaminant, hazardous substance, hazardous material, toxic substance, toxic pollutant, solid waste, municipal waste, industrial waste or hazardous waste that is defined as such by and is subject to regulation under any Applicable Law. Regulated Substances include Hazardous Materials.

“Related Projects” has the meaning specified in Section 6.13(B) (Related Projects Generally).

“Relief Request Notice” has the meaning specified in Section 14.2(C) (Submittal of Relief Request).

“Request for Qualifications” or **“RFQ”** means the Town’s Request for Qualifications for Progressive Design-Build Services for the Paradise Sewer Project, Town of Paradise Project Number: CIP-9394, Federal Aid Project Number: 18-DRINFRA-18009, Town of Paradise, Public Works Department, 5555 Skyway, Paradise, CA 95969, No. RFQ 2023-9394-01, on October 30, 2023, as amended.

“Required Insurance” means the insurance policies and coverage required to be provided by the Design-Builder under this Design-Build Contract, as set forth in Section 13.1 (Insurance) and Appendix 10 (Insurance Requirements).

“Restricted Person” means any person who (or any member of a group of persons acting together, any one of which):

(1) Is disbarred, suspended, or otherwise disqualified from federal, State, or Town contracting for any services similar in nature to the Contract Obligations;

(2) Was or is subject to any material claim of the United States, State, or Town in any proceedings (including regulatory proceedings) which have been concluded or are pending at the time at which the determination of whether the person falls within this definition is being made, and which (in respect of any such pending claim, if it were to be successful) would, in the Town’s view, in either case, be reasonably likely to materially affect the ability of the Design-Builder to perform its obligations under this Design-Build Contract;

(3) In the case of an individual, he or she (or in the case of a legal entity, any of the members of the board of directors or its senior executive managers) has been

sentenced to imprisonment or otherwise given a custodial sentence for any criminal offense (other than minor traffic offenses or misdemeanor) less than 5 years prior to the date at which the determination of whether the person falls within this definition is being made;

(4) Has, directly or indirectly, its principal or controlling office in a country that is subject to any economic or political sanctions imposed by the United States for reasons other than its trade or economic policies; or

(5) Has as its primary business the illegal manufacture, sale, distribution or promotion of narcotic substances or arms, or is or has been involved in terrorism.

“Ridge Gravity Section” means the first section of the Export Pipeline System anticipated to be approximately 35,700 feet or 8.8 miles long, beginning at the southwest edge of the Town, dropping about 1,070 in elevation and ending at the Transition Chamber.

“Safety Manager” has the meaning specified in Section 6.16(A) (Safety Manager).

“Scheduled Substantial Completion Date” means the date which is [TBD] days following the GMP Amendment Date, as such Scheduled Substantial Completion Date may be adjusted in accordance with Section 14.4 (Schedule Relief and Related Price Relief). [Note: To be negotiated as part of the GMP Amendment.]

“Security Instruments” means the Performance Bond and the Payment Bond.

“Senior Supervisors” has the meaning specified in Section 17.6(A) (Design-Builder Contract Representative and Senior Supervisors).

“Separate Contractor” means any person or entity under contract with the Town for the performance of work associated with the Related Projects or under contract with a non-Town owner to perform work at the Project Sites.

“Shared Savings Amount” has the meaning specified in Appendix 8 (Design-Build Price).

“Sewer Service Area” means the Town’s sewer service area as depicted in Appendix 1 (Project and Project Sites).

“Specifications” means the documents prepared by or on behalf of Design-Builder comprising written technical descriptions of materials, equipment, construction systems, standards, and workmanship for the Design-Build Work and certain administrative details applicable thereto.

“Specified Project Risk Contingency” means the amount that the Town has included in the Base Guaranteed Maximum Price to address certain Design-Builder assumed risks as set forth in Appendix 8 (Design-Build Price).

“State” means the State of California.

“Statement of Qualifications” means the statement of qualifications submitted by the Design-Builder on December 15, 2023, in response to the RFQ.

“Subcontract” means any contract entered into by the Design-Builder, or a Subcontractor of the Design-Builder of any tier, with one or more persons in connection with

the carrying out of the Design-Builder's obligations under this Design-Build Contract, whether for the furnishing of labor, materials, equipment, supplies, services or otherwise, including contracts for Construction, Design Professional Services and Supplies.

"Subcontracting Plan" means the Design-Builder's plan for entering into Subcontracts, to be developed as part of the Preliminary Services in accordance with the requirements set forth in Appendix 2 (Preliminary Services) and the attachment to Appendix 11 (Key Personnel and Approved Subcontractors) and finalized on the GMP Amendment Date in accordance with Section 7.4(C) (Subcontracting Plan).

"Subcontractor" means any person, other than the Design-Builder, that enters into a Subcontract, including Construction Subcontractors, Design Professional Services Firms and Suppliers.

"Subsequent Preliminary Services Phase" means each phase of the Preliminary Services Period (other than Phase 1a) as designated in subsection 5.1(A) (Generally). Each Subsequent Preliminary Services Phase shall be defined sequentially as Phase 1b, Phase 1c, Phase 1d, etc. as proposed in the applicable Subsequent Preliminary Services Phase Preliminary Services Submittal and, if agreed to by the parties, incorporated into this Design-Build Contract by the applicable Subsequent Preliminary Services Phase Preliminary Services Amendment.

"Subsequent Preliminary Services Phase Additional Preliminary Services" (i) with respect to a Subsequent Preliminary Services Phase, means those services designated as Additional Preliminary Services for such Subsequent Preliminary Services Phase in Section 5.2(B) (Additional Preliminary Services), and (ii) in the aggregate, means those services designated as Additional Preliminary Services for all such Subsequent Preliminary Services Phases in Section 5.2(B) (Additional Preliminary Services). The applicable Subsequent Preliminary Services Phase Additional Preliminary Services shall also be defined sequentially as Phase 1b, Phase 1c, Phase 1d, etc. corresponding to the applicable Subsequent Preliminary Services Phase.

"Subsequent Preliminary Services Phase Base Preliminary Services" (i) with respect to a Subsequent Preliminary Services Phase, means those services designated as Base Preliminary Services for such Subsequent Preliminary Services Phase in Appendix 2 (Preliminary Services), and (ii) in the aggregate, means those services designated as Base Preliminary Services for all such Subsequent Preliminary Services Phases in Appendix 2 (Preliminary Services). The applicable Subsequent Preliminary Services Phase Base Preliminary Services shall also be defined sequentially as Phase 1b, Phase 1c, Phase 1d, etc. corresponding to the applicable Subsequent Preliminary Services Phase.

"Subsequent Preliminary Services Phase Preliminary Services Submittal" with respect to a Subsequent Preliminary Services Phase, means the submittal for such Subsequent Preliminary Services Phase described in subsection 5.1(C) (Development of Subsequent Preliminary Services Phase Preliminary Services). The applicable Subsequent Preliminary Services Phase Preliminary Services Submittal shall also be defined sequentially as Phase 1b, Phase 1c, Phase 1d, etc. corresponding to the applicable Subsequent Preliminary Services Phase.

"Subsequent Preliminary Services Phase Preliminary Services Amendment" with respect to a Subsequent Preliminary Services Phase, means the Contract Amendment authorizing such Subsequent Preliminary Services Phase Preliminary Services described in subsection 5.1(C) (Development of Subsequent Preliminary Services Phase Preliminary Services). The applicable Subsequent Preliminary Services Phase Preliminary Services

Amendment shall also be defined sequentially as Phase 1b, Phase 1c, Phase 1d, etc. corresponding to the applicable Subsequent Preliminary Services Phase.

“Subsequent Preliminary Services Phase Preliminary Services Amendment Date” with respect to a Subsequent Preliminary Services Phase, means the date of execution and delivery of the Subsequent Preliminary Services Phase Preliminary Services Amendment described in subsection 5.1(C) (Development of Subsequent Preliminary Services Phase Preliminary Services). The applicable Subsequent Preliminary Services Phase Preliminary Services Amendment Date shall also be defined sequentially as Phase 1b, Phase 1c, Phase 1d, etc. corresponding to the applicable Subsequent Preliminary Services Phase Preliminary Services Amendment.

“Subsequent Preliminary Services Phase Preliminary Services” (i) with respect to a Subsequent Preliminary Services Phase, means the Base Preliminary Services and the Additional Preliminary Services performed by the Design-Builder hereunder during such Subsequent Preliminary Services Phase, and (ii) in the aggregate, means all of the Base Preliminary Services and the Additional Preliminary Services performed by the Design-Builder hereunder for all of the Subsequent Preliminary Services Phases prior to the GMP Amendment Date. The applicable Subsequent Preliminary Services Phase Preliminary Services shall also be defined sequentially as Phase 1b, Phase 1c, Phase 1d, etc. corresponding to the applicable Subsequent Preliminary Services Phase.

“Subsequent Preliminary Services Phase Preliminary Services Fee” (i) with respect to a Subsequent Preliminary Services Phase, has the meaning specified in Section 9.1 (Compensation for Preliminary Services) and Appendix 2 (Preliminary Services) for such Subsequent Preliminary Services Phase, and (ii) in the aggregate, has the meaning specified in Section 9.1 (Compensation for Preliminary Services) and Appendix 2 (Preliminary Services) for all of the Subsequent Preliminary Services Phases prior to the GMP Amendment Date. The applicable Subsequent Preliminary Services Phase Preliminary Services Fee shall also be defined sequentially as Phase 1b, Phase 1c, Phase 1d, etc. corresponding to the applicable Subsequent Preliminary Services Phase.

“Subsequent Preliminary Services Phase Preliminary Services Period” means the period between the applicable Subsequent Preliminary Services Phase Preliminary Services Amendment Date and the next following Subsequent Preliminary Services Phase Preliminary Services Amendment Date, and, in the case of the final Subsequent Preliminary Services Phase Preliminary Services Period, the period between the applicable Subsequent Preliminary Services Phase Preliminary Services Amendment Date and the GMP Amendment Date.

“Subsequent Preliminary Services Phase Preliminary Services Schedule” with respect to a Subsequent Preliminary Services Phase, means the Preliminary Services Schedule for such Subsequent Preliminary Services Phase as described in Section 5.3 (Preliminary Services Schedule). The applicable Subsequent Preliminary Services Phase Preliminary Services Schedule shall also be defined sequentially as Phase 1b, Phase 1c, Phase 1d, etc. corresponding to the applicable Subsequent Preliminary Services Phase.

“Substantial Completion” means demonstration by the Design-Builder in accordance with Article 8 (Substantial Completion and Final Completion) and Appendix 9 (Substantial Completion and Final Completion) that the Project has met all of the Substantial Completion Conditions, as certified by the Design-Builder pursuant to Section 8.1(A) (Substantial Completion Date Conditions) and agreed to by the Town pursuant to Section 8.2(A) (Substantial Completion Date Concurrence).

“Substantial Completion Date” means the date on which Substantial Completion of the Project occurs or is deemed to have occurred under Article 8 (Substantial Completion and Final Completion).

“Substantial Completion Date Conditions” means the preconditions for the achievement of Substantial Completion by the Design-Builder, as set forth in Section 8.1 (Substantial Completion Date Conditions).

“Supplier” means a manufacturer, distributor, materialman, fabricator, vendor or other supplier having a Subcontract to furnish Supplies.

“Supplies” means materials, equipment or other supplies furnished in connection with the Design-Build Work.

“Surety” means the surety company issuing the Performance Bond, the Payment Bond, as applicable.

“Tax” means any tax, fee, levy, duty, impost, charge, surcharge, assessment or withholding, or any payment-in-lieu thereof, and any related interest, penalty or addition to tax.

“Technical Standards” means the technical standards applicable to design and testing for the Project set forth in Appendix 4 (Baseline Design Documents) hereto.

“Term” has the meaning set forth in Section 3.1 (Effective Date and Term).

“Termination Date” means the last day of this Design-Build Contract resulting from a termination under any provision hereof.

“Town” means the Town of Paradise, California, a municipal corporation organized and existing and by virtue of the laws of the State.

“Town Allowance” means the amount that the Town has included in the Guaranteed Maximum Price to address Uncontrollable Circumstances as set forth in Section 8.8 of Appendix 8 (Design-Build Price).

“Town Contract Representative” has the meaning specified in Section 17.6(B) (Town Contract Representative).

“Town Fault” means any breach (including the untruth or breach at the time made of any Town representation or warranty herein set forth), failure, non-performance or non-compliance by the Town under this Design-Build Contract with respect to its obligations and responsibilities under this Design-Build Contract to the extent not directly attributable to any Uncontrollable Circumstance and which materially and adversely affects the Design-Builder’s rights, obligations or ability or costs to perform under this Design-Build Contract.

“Town Indemnitee” has the meaning specified in Section 15.1 (Design-Builder’s Obligation to Indemnify).

“Town Managed Governmental Approvals” means those Governmental Approvals for which the Town is the application manager, as designated in Appendix 3 (Governmental and Non-Governmental Approvals). [Note: For purposes in addition to Uncontrollable Circumstances, we can revisit.]

“Town Managed Non-Governmental Approvals” means those Non-Governmental Approvals for which the Town is the application manager, as designated in Table A3-2 in Appendix 3 (Governmental and Non-Governmental Approvals).

“Town Property” means any structures, improvements, equipment, or other real or personal property owned, leased, operated, maintained, or occupied by the Town.

“Traffic Control Plan” means the Design-Builder’s plan for traffic control, to be developed as part of the Design-Build Period Work in accordance with the requirements set forth in Appendix 2 (Preliminary Services). The Traffic Control Plan shall include the traffic control requirements of all applicable jurisdictions, including, without limitation, Butte County, the City of Chico, Caltrans and UPRR.

“Transaction Form” means any of the transaction forms identified in the table of contents to this Design-Build Contract.

“Transition Chamber” means the chamber that provides the necessary transition of the wastewater flow from the steep Ridge Gravity Section to the Gravity Force Main Section that runs along the flatter portions of the valley floor, connecting the Gravity Force Main Section to the Chico WPCP.

“Transition Chamber Site” means the site where the Transition Chamber will be located pursuant to the Baseline Design Documents.

“Unallowable Costs” has the meaning specified in Appendix 8 (Design-Build Price).

“Uncontrollable Circumstance” means any act, event or condition that (1) is beyond the reasonable control of the party relying on it as a justification for not performing an obligation or complying with any condition required of the party under this Design-Build Contract, and (2) materially expands the scope, interferes with, delays or increases the cost of performing the party’s obligations under this Design-Build Contract, to the extent that such act, event or condition is not the result of the willful or negligent act, error or omission, failure to exercise reasonable diligence, or breach of this Design-Build Contract on the part of the party claiming the occurrence of an Uncontrollable Circumstance.

(1) Inclusions. Subject to the foregoing, Uncontrollable Circumstances may include the following:

- (a) A Change in Law;
- (b) The existence of Differing Site Conditions, as and to the extent provided in Section 6.3 (Differing Site Conditions) but subject to the limited relief set forth in Section 6.3(D) (Relief for Differing Site Conditions);
- (c) The existence of a Regulated Site Condition, as and to the extent provided in Section 6.4 (Regulated Site Conditions) but subject to the limited relief set forth in Section 6.4(E) (Uncontrollable Circumstance Relief);
- (d) Acts, events or circumstances associated with the Separate Contractors, as and to the extent provided in Section 6.13(C) (Interrelated Work);
- (e) Naturally occurring events, including unusually severe and abnormal climatic conditions (as determined in accordance with Section 14.5 (Unusually Severe

and Abnormal Climatic Events)), landslides, underground movement, earthquakes, fires, tornadoes, hurricanes, floods, lightning, epidemics and other acts of God;

(f) Explosion, terrorism, sabotage or similar occurrence, acts of a declared public enemy, extortion, war, blockade or insurrection, riot or civil disturbance;

(g) Labor disputes or actions, except labor disputes or actions involving employees of the Design-Builder, its Affiliates, or Subcontractors, which affect the performance of the Design-Build Work;

(h) The failure of any Subcontractor (other than the Design-Builder or any Affiliate of the Design-Builder) to furnish services, materials, chemicals or equipment on the dates agreed to, but only if such failure is the result of an event which would constitute an Uncontrollable Circumstance if it affected the Design-Builder directly, and the Design-Builder is not able after exercising all reasonable efforts to timely obtain replacements;

(i) The preemption, confiscation, diversion, destruction or other interference in possession or performance of materials or services by a Governmental Body in connection with a public emergency or any condemnation or other taking by eminent domain of any material portion of the Project;

(j) An act, event or circumstance occurring outside of the United States only to the extent that such act, event or circumstance (i) directly impacts the Design-Builder's foreign Suppliers or vendors with respect to the performance of the Design-Build Work, and (ii) would otherwise constitute an Uncontrollable Circumstance affecting the Design-Builder directly, as determined in accordance with Article 14 (Uncontrollable Circumstances);

(k) Failure of Utilities to perform any relocation work identified in the Utility Relocation Plan in a timely manner following reasonable notice provided that reasonable notice shall at a minimum be [TBD] days; [Note: The number of days' notice for each Utility shall be developed as part of the Preliminary Services.]

(l) With respect to the Design-Builder, any Town Fault or a Change Order not made due to Design-Builder Fault;

(m) With respect to the Town, any Design-Builder Fault;

(n) The addition of any new federal or state project funding requirements that did not exist as of the GMP Submittal; or

(o) Any other act, event or circumstance specifically identified herein as providing a basis for Uncontrollable Circumstance relief.

(2) Exclusions. It is specifically understood that, without limitation, none of the following acts, events or circumstances shall constitute Uncontrollable Circumstances:

(a) Any act, event or circumstance that would not have occurred but for the affected party's failure to comply with its obligations hereunder;

(b) Changes in interest rates, inflation rates, wage rates, insurance premiums, commodity prices, labor availability, currency values, exchange rates or other economic conditions; [Note: Parties to determine whether to provide for escalation of cost of materials prior to GMP Submittal.]

- (c) Changes in the financial condition of the Town, the Design-Builder or their Affiliates or Subcontractors affecting the ability to perform their respective obligations;
- (d) The consequences of error, neglect or omissions by the Design-Builder, any Subcontractor, any of their Affiliates or any other person in the performance of the Design-Build Work;
- (e) Union or labor work rules, requirements or demands which have the effect of increasing the number of employees employed at the Project or otherwise increasing the cost to the Design-Builder of performing the Design-Build Work;
- (f) Except as specifically included as an Uncontrollable Circumstance pursuant to clause (i)(g) of this definition, strikes, labor disputes, work slowdowns, work stoppages, boycotts or other similar labor disruptions;
- (g) Weather conditions that do not constitute unusually severe and abnormal climatic conditions (as determined in accordance with Section 14.5 (Unusually Severe and Abnormal Climatic Events));
- (h) Except as specifically provided in Section 6.3 (Differing Site Conditions) and Section 6.4 (Regulated Site Conditions), any surface or subsurface conditions affecting the Project Sites during the Design-Build Period Work;
- (i) Except as specifically provided in the "Inclusions" section of this definition, any act, event, circumstance or Change in Law occurring outside of the United States;
- (j) Mechanical failure of equipment or repair delays to the extent not resulting from a condition that is listed in the "Inclusions" section of this definition;
- (k) The failure of the Design-Builder to secure any patent or other Intellectual Property right which is or may be necessary for the performance of the Design-Build Work; or
- (l) Acts, events and circumstances with respect to Design-Builder Managed Governmental Approvals to the extent the Design-Builder has assumed the permitting risk under Section 6.5 (Permitting Responsibilities and Schedule).

"UPRR" means the Union Pacific Railroad.

"UPRR Approval" means the approval required to be granted by UPRR regarding construction of the Project in the UPRR right of way.

"UPRR Requirements" means the written and oral requirements of UPRR relating to the Design-Build Work to be performed near, next to or under the railway owned by UPRR.

"Utilities" means any and all utility services and installations whatsoever (including gas, water, sewer, electricity, telephone, and telecommunications), and all piping, wiring, conduit, and other fixtures of every kind whatsoever related thereto or used in connection therewith.

“Utility Relocation Plan” means the Design-Builder’s plan for utility relocation to be developed as part of the Preliminary Services in accordance with the requirements set forth in Appendix 2 (Preliminary Services).

“Warranty Period” has the meaning specified in Section 10.1(B) (Term of the Project Warranties).

“Warranty Work” means all work and services required to be performed or provided by the Design-Builder pursuant to the Project Warranties in accordance with Article 10 (Project Warranties).

“Wastewater Pipelines” means the wastewater pipes to be designed and installed by the Design-Builder as set forth in Appendix 4 (Baseline Design Documents).

“Work Change Directive” has the meaning specified in Section 6.11 (Work Change Directives).

SECTION 1.2. INTERPRETATION.

This Design-Build Contract shall be interpreted according to the following provisions, except to the extent the context or the express provisions of this Design-Build Contract otherwise require:

(A) Gender and Plurality. Words of the masculine gender mean and include correlative words of the feminine and neuter genders and words importing the singular number mean and include the plural number and vice versa.

(B) Persons. Words importing persons include firms, individuals, legal personal representatives, companies, associations, joint ventures, general partnerships, limited partnerships, limited liability corporations, trusts, business trusts, corporations, Governmental Bodies and other legal entities.

(C) Headings. The table of contents and any headings preceding the text of the Articles, Sections and subsections of this Design-Build Contract shall be solely for convenience of reference and shall not affect its meaning, construction or effect.

(D) References Hereto. The terms “hereto”, “hereby,” “hereof,” “herein,” “hereunder” and any similar terms refer to this Design-Build Contract.

(E) References to Days and Time of Day. All references to days herein are references to calendar days, unless otherwise indicated, such as by reference to Business Days. If the time for doing an act falls or expires on a day that is not a Business Day, the time for doing such act shall be extended to the next Business Day. Each reference to time of day is a reference to Pacific Standard time or Pacific Daylight Saving time, as the case may be.

(F) References to Including. The words “include,” “includes” and “including” are to be construed as meaning “include without limitation,” “includes without limitation” and “including without limitation,” respectively.

(G) References to Statutes. Each reference to a statute or statutory provision includes any statute or statutory provision which amends, extends, consolidates or replaces the statute or statutory provision or which has been amended, extended, consolidated or replaced by the statute or statutory provision and includes any orders, regulations, by-laws, ordinances, codes of practice or instruments made under the relevant statute.

(H) References to the Town, Governmental Bodies and Private Persons. Each reference to the Town or a Governmental Body is deemed to include a reference to any successor to the Town or such Governmental Body or any organization or entity or organizations or entities which has or have taken over the functions or responsibilities of the Town or such Governmental Body. Each reference to a private person that is not an individual is deemed to include a reference to its successors and permitted assigns.

(I) References to Documents and Standards. Each reference to an agreement, document, standard, principle or other instrument includes a reference to that agreement, document, standard, principle or instrument as amended, supplemented, substituted, innovated or assigned.

(J) References to All Reasonable Efforts. The expression “all reasonable efforts” and expressions of like import, when used in connection with an obligation of either party, means taking in good faith and with due diligence all commercially reasonable steps to achieve the objective and to perform the obligation, including doing all that can reasonably be done in the circumstances taking into account each party’s obligations hereunder to mitigate delays and additional costs to the other party, and in any event taking no less steps and efforts than those that would be taken by a commercially reasonable and prudent person in comparable circumstances.

(K) Entire Agreement. This Design-Build Contract contains the entire agreement between the parties hereto with respect to the transactions contemplated by this Design-Build Contract. Without limiting the generality of the foregoing, this Design-Build Contract shall completely and fully supersede all other understandings and agreements among the parties with respect to such transactions, including those contained in the RFQ, the Statement of Qualifications, and any amendments or supplements to any such documents.

(L) Standards of Workmanship and Materials. Any reference in the Contract Documents to materials, equipment, systems or supplies (whether such references are in lists, notes, specifications, schedules, or otherwise) shall be construed to require the Design-Builder to furnish the same in accordance with the grades and standards therefor indicated in the Contract Documents. Where the Contract Documents do not specify any explicit quality or standard for construction materials or workmanship, the Design-Builder shall use only workmanship and new materials of a quality consistent with that of construction workmanship and materials that are specified elsewhere in the Contract Documents, and the Contract Documents are to be interpreted accordingly.

(M) Technical Standards and Codes. References in the Contract Documents to all professional and technical standards, codes and specifications are to the most recently published professional and technical standards, codes and specifications of the institute, organization, association, authority or society specified, all as in effect as of the Baseline Date. Unless otherwise specified to the contrary, (1) all such professional and technical standards, codes and specifications shall apply as if incorporated in the Baseline Design Documents, and (2) if any material revision occurs, to the Design-Builder’s actual knowledge, after the Baseline Date, and prior to completion of the applicable Design-Build Work, the Design-Builder shall notify the Town. If so directed by the Town through a Work Change Directive or Change Order, the Design-Builder shall perform the applicable Design-Build Work in accordance with the revised professional and technical standard, code, or specification, subject to the Design-Builder’s rights under this Design-Build Contract with respect to Work Change Directives and Change Orders at the direction of the Town.

(N) Causing Performance. A party shall itself perform, or shall cause to be performed, subject to any limitations specifically imposed hereby with respect to

Subcontractors or otherwise, the obligations affirmatively undertaken by such party under this Design-Build Contract.

(O) Party Bearing Cost of Performance. All obligations undertaken by each party hereto shall be performed at the cost of the party undertaking the obligation or responsibility, unless the other party has explicitly agreed herein to bear all or a portion of the cost either directly, by reimbursement to the other party or through an adjustment to the Guaranteed Maximum Price.

(P) Good Engineering and Construction Practice. Good Engineering and Construction Practice shall be utilized hereunder, among other things, to implement and in no event displace or lessen the stringency of, the Contract Standards.

(Q) Interpretation of Contract Documents. The Contract Documents are intended to be complementary, and what is set forth in any one document is as binding as if set forth in each document. The parties recognize that Contract Amendments, Change Orders and Work Change Directives may provide for specific modification to the terms and conditions of other Contract Documents, in which case, the modified terms and conditions shall govern, as expressly set forth in the Contract Amendment, Change Order or Work Change Directive. However, all terms and conditions of such other Contract Documents that are not expressly modified or deleted by a Contract Amendment, Change Order or Work Change Directive shall remain in effect. Section 1.2(R) (Applicability, Stringency and Consistency of Contract Standards) shall govern matters of interpretation related to the applicability, stringency and consistency of the Contract Documents, the requirements of which are included among the Contract Standards.

(R) Applicability, Stringency and Consistency of Contract Standards. The Design-Builder shall be obligated to comply only with those Contract Standards which are applicable in any particular case. Where more than one Contract Standard applies to any particular performance obligation of the Design-Builder hereunder, each such applicable Contract Standard shall be complied with. In the event there are different levels of stringency among such applicable Contract Standards, the most stringent of the applicable Contract Standards shall govern. In the event of any inconsistency among the Contract Standards, the Town's determination, acting reasonably, as to the applicable standard shall be binding.

(S) Delivery of Documents in Digital Format. In the Contract Documents, the Design-Builder is obligated to deliver reports, records, designs, plans, drawings, specifications, proposals and other documentary submittals in connection with the performance of its duties hereunder. The Design-Builder agrees that all such documents shall be submitted to the Town both in printed form (in the number of copies indicated) and, at the Town's request, in digital form. Digital copies shall consist of computer readable data submitted in any standard interchange format which the Town may reasonably request to facilitate the administration and enforcement of this Design-Build Contract. In the event that a conflict exists between the signed or the signed and stamped hard copy of any document and the digital copy thereof, the signed or the signed and stamped hard copy shall govern.

(T) Severability. Each provision of this Design-Build Contract shall be valid and enforceable to the fullest extent permitted by law. If any provision of this Design-Build Contract is held to be invalid, unenforceable or illegal to any extent, such provision shall be severed and such invalidity, unenforceability or illegality shall not prejudice or affect the validity, enforceability and legality of the remaining provisions of this Design-Build Contract, unless such continued effectiveness as modified would be contrary to the basic understandings and intentions of the parties as expressed herein. If any provision of this Design-Build Contract is held to be invalid, unenforceable or illegal, the parties will promptly endeavor in good faith to

negotiate new provisions to eliminate such invalidity, unenforceability or illegality and to restore this Design-Build Contract as nearly as possible to its original intent and effect.

(U) Drafting Responsibility. The parties waive the application of any rule of law which otherwise would be applicable in connection with the construction of this Design-Build Contract to the effect that ambiguous or conflicting terms or provisions should be construed against the party who (or whose counsel) prepared the executed agreement or any earlier draft of the same.

(V) No Third-Party Rights. This Design-Build Contract is exclusively for the benefit of the Town and the Design-Builder and, except as specifically provided in Article 15 (Indemnification) with respect to the Town Indemnitees and except as specifically provided in Section 17.20 (Rights of Granting Agencies and Federal Agencies) with respect to Granting Agencies and Federal Agencies, shall not provide any third parties with any remedy, claim, liability, reimbursement, cause of action or other rights.

(W) Acting Reasonably and in Good Faith; Discretion. Each party shall act reasonably and in good faith in the exercise of its rights hereunder, except where a party has the right to act in its "discretion" by the express terms hereof. When a party has "discretion", it means that party has the sole, absolute and unfettered discretion, with no requirement to act reasonably or provide reasons unless specifically required under the provisions of this Design-Build Contract. When a party does not have "discretion" it means that the party shall act reasonably.

(X) Counterparts. This Design-Build Contract may be executed in any number of original counterparts. All such counterparts shall constitute but one and the same Design-Build Contract.

(Y) Governing Law. This Design-Build Contract shall be governed by and construed in accordance with the applicable laws of the State.

(Z) Defined Terms. The definitions set forth in Section 1.1 (Definitions) shall control in the event of any conflict with any definitions used in the recitals hereto.

(AA) Interpolation. If any calculation hereunder is to be made by reference to a chart or table of values, and the reference calculation falls between two stated values, the calculation shall be made on the basis of linear interpolation.

(BB) Accounting and Financial Terms. All accounting and financial terms used herein are, unless otherwise indicated, to be interpreted and applied in accordance with generally accepted accounting principles.

(CC) References to Dollar Amounts. All statements of, or references to, dollar amounts or money, including references to "\$" and "dollars", are to the lawful currency of the United States of America. All payments required to be made by either party hereunder shall be made in dollars.

(DD) Liquidated Damages. This Design-Build Contract provides for the payment by the Design-Builder of liquidated damages in certain circumstances associated with unexcused delays in achieving Substantial Completion, as and to the extent provided in Section 8.3(C) (Delay Liquidated Damages). Each party agrees that the Town's actual damages in each such circumstance of replacement or unexcused delay would be difficult or impossible to ascertain, and that the liquidated damages provided for herein with respect to each such circumstance of unexcused delay are intended to place the Town in the same economic position as it would have been in had the unexcused delay not occurred. Such liquidated

damages shall constitute the only damages payable by the Design-Builder to the Town to compensate the Town for such replacement or for unexcused delays in achieving Substantial Completion by the Scheduled Substantial Completion Date, as applicable, regardless of legal theory. This limitation, however, is not intended to limit any of the other remedies for breach specifically provided for in this Design-Build Contract, including the Town's remedies associated with an Event of Default by the Design-Builder under Section 12.2 (Events of Default by the Design-Builder). The parties acknowledge and agree that the additional remedies specifically provided for in this Design-Build Contract are intended to address harms and damages which are separate and distinct from those which the liquidated damages are meant to remedy. In addition, the parties agree as follows:

(1) that the liquidated damages payable under this Design-Build Contract are not a penalty, and are fair and reasonable and such payment represents a reasonable estimate of fair compensation for the losses that may reasonably be anticipated from the circumstances of unexcused delay; and

(2) that, in recognition of the acknowledgments above, the Design-Builder is expressly estopped from arguing, and waives any rights it may have to argue, that the liquidated damages provided for herein are a penalty and that they are not enforceable.

(EE) Convenience Termination. The Town may exercise its right of convenience termination under this Design-Build Contract in its discretion. The exercise by the Town of its right of convenience termination under any provision of this Design-Build Contract shall not be deemed a breach of any implied duty of good faith dealing or a Town Event of Default nor shall any damages be payable by the Town on account thereof. The only compensation payable by the Town upon the exercise of its convenience termination option shall be any amounts specified in Section 12.6 (Town Convenience Termination Rights) in connection therewith.

ARTICLE 2

DESIGN-BUILDER REPRESENTATIONS AND WARRANTIES

SECTION 2.1. REPRESENTATIONS AND WARRANTIES OF THE DESIGN-BUILDER.

In addition to any other representations and warranties made by the Design-Builder in this Design-Build Contract, the Design-Builder represents and warrants that:

(A) Existence and Powers. The Design-Builder is a corporation, having its principal office at 555 Exchange Court, Livermore, California 94550. Such corporation is duly organized, validly existing and in good standing under the laws of the State and has the authority to do business in the State and in any state in which it conducts its activities, with the full legal right, power and authority to enter into and perform its obligations under this Design-Build Contract.

(B) Due Authorization and Binding Obligation. This Design-Build Contract has been duly authorized, executed and delivered by all necessary corporate action of the Design-Builder and constitutes a legal, valid and binding obligation of the Design-Builder, enforceable against the Design-Builder in accordance with its terms, except to the extent that its enforceability may be limited by the Bankruptcy Law or by equitable principles of general application.

(C) No Conflict. Neither the execution nor delivery by the Design-Builder of this Design-Build Contract nor the performance by the Design-Builder of its obligations in connection with the transactions contemplated hereby nor the fulfillment by the Design-Builder of the terms or conditions hereof (1) conflicts with, violates or results in a breach of any constitution, law, governmental regulation, by-laws or certificates of incorporation applicable to the Design-Builder or (2) conflicts with, violates or results in a breach of any order, judgment or decree, or any contract, agreement or instrument to which the Design-Builder or any of its Affiliates is a party or by which the Design-Builder or any of its Affiliates or any of its properties or assets are bound, or constitutes a default under any of the foregoing.

(D) No Commitments Limiting Ability to Perform Contract Obligations. The Design-Builder has no commitments, obligations, or impediments of any kind that would have a material and adverse impact on the ability of the Design-Builder to perform the Contract Obligations in accordance with the Contract Standards. The Design-Builder covenants that it will not enter into any such commitment throughout the Term.

(E) No Approvals Required. No approval, authorization, order or consent of, or declaration, registration or filing with, any Governmental Body is required for the valid execution and delivery of this Design-Build Contract by the Design-Builder except as such have been duly obtained or made.

(F) Licensing and Registration Requirements. The Design-Builder together with its Subcontractors possess all licenses required under Applicable Law to perform all services required of the Design-Builder under this Design-Build Contract and is not in violation of any of the terms or conditions of such licenses. The Design-Builder is registered with all appropriate Governmental Bodies to the extent necessary to perform all services required of the Design-Builder under this Design-Build Contract.

(G) No Litigation. There is no legal proceeding, at law or in equity, before or by any court, arbitral tribunal or other Governmental Body pending or, to the best of the Design-Builder's knowledge after due inquiry, overtly threatened or publicly announced against the Design-Builder, in which an unfavorable decision, ruling or finding could reasonably be expected to have a material and adverse effect on the execution and delivery of this Design-Build Contract by the Design-Builder or the validity, legality or enforceability of this Design-Build Contract against the Design-Builder, or any other agreement or instrument entered into by the Design-Builder in connection with the transactions contemplated hereby, or on the ability of the Design-Builder to perform its obligations hereunder or under any such other agreement or instrument.

(H) Claims and Demands. There are no material and adverse claims or demands based in environmental, contract or tort law pending or threatened against the Design-Builder or any of its Affiliates with respect to any facilities designed or constructed by the Design-Builder or any of its Affiliates that would have a material and adverse effect upon the ability of the Design-Builder to perform the Contract Obligations.

(I) Applicable Law Compliance. To the best of its knowledge after due inquiry, the Design-Builder and its Affiliates have no material violation of any law, order, rule or regulation with respect to any facilities designed or constructed by the Design-Builder or any of its Affiliates.

(J) Information Supplied by the Design-Builder. The information supplied and representations and warranties made by the Design-Builder in all submittals made in response to the RFQ with respect to the Design-Builder (and to its knowledge after due inquiry, all information supplied in such submittals with respect to any Affiliate or Subcontractor) are true, correct and complete in all material respects.

(K) Intellectual Property. The Design-Builder owns, or has sufficient rights to use, all Intellectual Property necessary for the Project without any material conflict with the rights of others.

(L) Practicability of Performance. Subject to, and in accordance with, the terms of this Design-Build Contract, the Design-Builder assumes the risk of the practicability and possibility of performance of the Contract Obligations in compliance with the requirements of the Contract Standards on the scale, within the time for completion, and in the manner required hereunder, and agrees that sufficient consideration for the assumption of such risk is included in the Contract Compensation.

(M) Required Insurance. Concurrently with the execution of this Design-Build Contract, the Design-Builder has provided the Town with certificates of insurance for all Required Insurance specified in Appendix 10 (Insurance Requirements) to be in effect as of the Contract Date. The Required Insurance is in compliance with the requirements of Section 13.1 (Insurance).

ARTICLE 3

TERM

SECTION 3.1. EFFECTIVE DATE AND TERM.

(A) Term. This Design-Build Contract shall become effective, and the term hereof (the “Term”) shall commence, on the Contract Date. The Term shall continue to the Expiration Date or, if this Design-Build Contract is earlier terminated by either party in accordance with their respective termination rights under Article 12 (Breach, Default, Remedies and Termination), to the Termination Date.

(B) Accrued Rights. No termination of this Design-Build Contract shall:

(1) Limit or otherwise affect the respective rights and obligations of the parties hereto accrued prior to the date of such termination; or

(2) Preclude either party from impleading the other party in any Legal Proceeding originated by a third-party as to any matter occurring during the Term.

SECTION 3.2. SURVIVAL.

Notwithstanding any other provision of this Design-Build Contract, this Section and the following provisions hereof shall survive the expiration or any earlier termination of this Design-Build Contract:

(1) Article 2 (Design-Builder Representations and Warranties);

(2) Section 4.8 (Ownership and Use of Documents and Information);

(3) Section 5.8(F) (Elective Continuance of the Project by the Parties on Other Bases);

(4) Section 5.8(G) (Elective Continuance of the Project by the Town with Other Contractors; Project Documents);

(5) Section 7.2(G); (Non-Discrimination in Employment);

(6) Section 9.9 (Interest on Overdue Obligations);

(7) Section 9.10 (Retention And Audit of Books and Records);

(8) Section 10.3 (Project Warranties Not Exclusive);

(9) Article 11 (Dispute Resolution);

(10) Article 12, as applicable to the obligations of the parties following the Termination Date (Breach, Default, Remedies and Termination);

(11) Article 15, including all of the indemnities, limitations and releases set forth therein (Indemnification);

(12) Section 17.7 (Property Rights);

- (13) Section 17.13 (Confidentiality);
- (14) Attachment 8D (Anticipated Design-Build Period Work Cost Schedule and Design-Builder Contingency) of Appendix 8 (Design-Build Price) regarding Subcontractor and surety recoveries;
- (15) Appendix 10 (Insurance Requirements);
- (16) All provisions of this Design-Build Contract with respect to payment obligations of the Design-Builder or the Town accrued prior to the Termination Date;
- (17) Any other provisions which either expressly or by their context or inherent character should survive expiration or earlier termination of this Design-Build Contract or the completion of the Contract Obligations; and
- (18) Any provisions necessary to give effect to the provisions referenced or described in this Section 3.2 (Survival).

ARTICLE 4

GENERAL PERFORMANCE REQUIREMENTS

SECTION 4.1. PROJECT SCOPE AND PERSONNEL.

(A) Project Scope Generally. The Project and the Project Sites are generally described in Appendix 1. The Design-Builder recognizes that the Project will ultimately be defined by the Baseline Design Documents, which will be developed by the Design-Builder as part of the Preliminary Services.

(B) Pricing Established on the Contract Date. The parties acknowledge and agree that the not-to-exceed limit for the Phase 1a Preliminary Services Fee was negotiated by the parties prior to the Contract Date and the Design-Builder Fee was proposed by the Design-Builder as part of the Statement of Qualifications, and both were included in this Design-Build Contract as executed on the Contract Date, and shall not be the subject of (1) any Early Work Package Submittal or any Early Work Package Amendment, and (2) the GMP Submittal or the GMP Amendment.

(C) Pricing Established Subsequent to the Contract Date. The parties further acknowledge and agree that all other elements of pricing provided for in this Design-Build Contract (including the Subsequent Preliminary Services Phase Preliminary Services Fees, the General Conditions Fee and the Guaranteed Maximum Price) are to be negotiated by the parties subsequent to the Contract Date in connection with establishing the applicable Subsequent Preliminary Services Phase Preliminary Services Amendment, any Early Work Package Amendment and the GMP Amendment in accordance with the terms and conditions of this Design-Build Contract. The parties acknowledge that the General Conditions Fee is intended to fully compensate the Design-Builder for General Conditions Costs as defined in Appendix 8 (Design-Build Price). The Town reserves the right to transition the Phase 1a Preliminary Services Fee, any Subsequent Preliminary Services Phase Preliminary Services Fee, the Design-Builder Fee, the General Conditions Fee and/or the Guaranteed Maximum Price to a lump sum basis.

SECTION 4.2. DESIGN-BUILDER RESPONSIBILITIES GENERALLY.

(A) Reliance. The Design-Builder acknowledges and agrees that the Town is entering into this Design-Build Contract in reliance on the Design-Builder's expertise with respect to the performance of the Contract Obligations. The Design-Builder recognizes that the Town's sole purpose is to provide an essential public service and that the achievement of Substantial Completion by the Scheduled Substantial Completion Date and Final Completion by the date specified in Section 8.4 (Final Completion) is critically important to the Town. The Design-Builder agrees that it will be relieved of its performance obligations under this Design-Build Contract solely to the extent provided in Article 14 (Uncontrollable Circumstances) with respect to the occurrence of Uncontrollable Circumstances.

(B) Scope of the Contract Obligations. The Contract Obligations are divided into the Phase 1a Preliminary Services, the Subsequent Preliminary Services Phase Preliminary Services, the Design-Build Period Work and the Warranty Work, each as more particularly described in Article 5 (Preliminary Services), Article 6 (Design-Build Work), Article 8 (Substantial Completion and Final Completion) and Article 10 (Project Warranties). The Design-Builder recognizes that, notwithstanding this division, the Contract Obligations may overlap and agrees to perform all Contract Obligations in accordance with the Contract Standards. In no event shall the Design-Builder commence with any Early Work Package prior to the execution of an Early Work Package Amendment and the issuance by the Town of the

associated Notice to Proceed in accordance with Section 5.6(H) (Limited Authorization to Proceed; Commencement of Early Work Package). In no event shall the Design-Builder commence with any portion of the Design-Build Period Work authorized in a Limited Notice to Proceed prior to the issuance by the Town of the associated Limited Notice to Proceed in accordance with Section 6.1(A)(2) (Limited Notice to Proceed). Except in respect of any Early Work Package or in respect of any portion of the Design-Build Work authorized in a Limited Notice to Proceed pursuant to Section 6.1(A)(2) (Limited Notice to Proceed), in no event shall the Design-Builder commence with the Design-Build Period Work prior to the GMP Amendment Date and the issuance of the Notice to Proceed with respect to Design-Build Period Work in accordance with Section 6.1(A)(1) (Notice to Proceed). Following the issuance of the earlier of the Notice to Proceed with Design-Build Period Work in accordance with Section 6.1(A)(1) (Notice to Proceed) or a Limited Notice to Proceed pursuant to Section 6.1(A)(2) (Limited Notice to Proceed), the Design-Builder shall be solely responsible for undertaking and completing the design and for the construction of the Project in accordance with the Contract Documents, including supervision, coordination and administration of all design work and of all Construction, and all other work reasonably inferable from the Contract Documents.

(C) Cooperation. The Design-Builder agrees to cooperate with the Town in connection with the work to be performed toward completion of the Project and the work by any Separate Contractor on any Related Project, as well as any other projects the Town or non-Town owner may be undertaking at or near the Project Sites, that could affect the Preliminary Services or the Design-Build Period Work. The Design-Builder recognizes that a cooperative and collaborative environment among all persons engaged in performing such work is essential to the successful implementation of the Project and agrees to use all reasonable efforts to work towards fostering such an environment.

(D) Responsibility for Personnel and Subcontractors. All obligations of the Design-Builder under this Design-Build Contract shall be performed by Design-Builder employees, agents or Subcontractors (subject to the limitations set forth in Article 7 (Management, Labor and Subcontractors)) who are qualified to perform the specific services and meet all licensing and certification requirements of Applicable Law. The Design-Builder shall be fully responsible, in accordance with the terms and conditions of this Design-Build Contract, for all Contract Obligations performed by its employees, agents or Subcontractors.

(E) Stationing of Key Personnel. From and after the Construction Commencement Date, the Design-Builder's construction superintendent shall on a full-time basis be stationed at the Project Site, and the Project Manager and other appropriate Key Personnel shall also be stationed at the Project Site or be available as required for communications with the Town.

SECTION 4.3. ENVIRONMENTAL REVIEW.

(A) CEQA. The Town is complying with CEQA for the Project as described herein. The Town Council approved and certified a Programmatic EIR in November 2022. The Design-Builder shall provide the Town with any reasonably requested assistance associated with CEQA compliance and any environmental mitigation measures required as a result of the CEQA process shall constitute Baseline Design Documents, which the Design-Builder is required to comply with hereunder. The CEQA analysis for the Project will not be completed prior to the Contract Date. The Town will not issue the Notice to Proceed with Design-Build Period Work in accordance with Section 6.1(A)(1) (Notice to Proceed) or a Limited Notice to Proceed pursuant to Section 6.1(A)(2) (Limited Notice to Proceed) with ground disturbing construction (as opposed to ground disturbing investigations) until the CEQA process is successfully completed and all other Construction Commencement Date Conditions are achieved. Prior to the issuance of the Notice to Proceed with Design-Build Period Work in accordance with Section 6.1(A)(1) (Notice to Proceed) establishing the Construction

Commencement Date, the Design-Builder is authorized to perform the following Design-Build Work:

- (1) Design Professional Services, including site investigations and the preparation of the Archaeological Construction Monitoring, Mitigation and Preservation Plans;
- (2) Design work to support environmental regulatory compliance and early permit coordination; and
- (3) Surface, subsurface and geotechnical studies or tests.

(B) NEPA. The Town will serve as the lead agency with respect to any necessary NEPA compliance. The Design-Builder shall provide the Town with any reasonably requested assistance associated with NEPA compliance and any environmental mitigation measures required as a result of the NEPA process shall constitute Baseline Design Documents, which the Design-Builder is required to comply with hereunder. The NEPA analysis for the Project will not be completed prior to the Contract Date. The Town will not issue the Notice to Proceed with Design-Build Period Work in accordance with Section 6.1(A)(1) (Notice to Proceed) or a Limited Notice to Proceed pursuant to Section 6.1(A)(2) (Limited Notice to Proceed) with ground disturbing construction (as opposed to ground disturbing investigations) until the NEPA process is successfully completed and all other Construction Commencement Date Conditions are achieved. Prior to the issuance of the Notice to Proceed with Design-Build Period Work in accordance with Section 6.1(A)(1) (Notice to Proceed) establishing the Construction Commencement Date, the Design-Builder is authorized to perform the following Design-Build Work:

- (1) Design Professional Services, including site investigations and the preparation of the Archaeological Construction Monitoring, Mitigation and Preservation Plans;
- (2) Design work to support environmental regulatory compliance and early permit coordination; and
- (3) Surface, subsurface and geotechnical studies or tests.

SECTION 4.4. ACCESS TO AND SUITABILITY OF THE PROJECT SITES.

(A) Familiarity with the Project Sites. Prior to the issuance of the earlier of the Notice to Proceed with Design-Build Period Work in accordance with Section 6.1(A)(1) (Notice to Proceed) or a Limited Notice to Proceed pursuant to Section 6.1(A)(2) (Limited Notice to Proceed), the Design-Builder's agents and representatives shall have inspected and become familiar with the Project Sites, their physical condition relevant to the obligations of the Design-Builder pursuant to this Design-Build Contract, including surface conditions, normal and usual soil conditions, roads, Utilities, topographical conditions and air and water quality conditions and, as part of the Preliminary Services, shall have developed the Geotechnical Baseline Report, the Geotechnical Evaluation Report and the Contaminated Media Management Plan and other Preliminary Services Deliverable Materials. As of the issuance of the earlier of the Notice to Proceed with Design-Build Period Work in accordance with Section 6.1(A)(1) (Notice to Proceed) or a Limited Notice to Proceed pursuant to Section 6.1(A)(2) (Limited Notice to Proceed), the Design-Builder shall be familiar with all local and other conditions which may be material to the Design-Builder's performance of the Design-Build Period Work (including transportation; seasons and climate; water tables; typical weather; access, availability, disposal, handling and storage of materials and equipment; and availability and quality of labor and Utilities); the Design-Builder shall have received and reviewed all

information regarding the Project Sites provided to it or developed by it in connection with the Preliminary Services pursuant to this Design-Build Contract; and the Design-Builder shall have made all other site investigations that it deems necessary to make a determination as to the suitability of the Project Sites and to submit its GMP Submittal to the Town in accordance with Section 5.7 (GMP Submittal).

(B) Independent Verification of the Town-Provided Project Sites Information.

The Design-Builder acknowledges that it is responsible for the independent verification and confirmation of any Project Sites information, including geotechnical, soils, utility locations, groundwater levels and other reports, surveys and analyses regarding the Project Sites, supplied to it by or on behalf of the Town and upon which it elects to rely in connection herewith. Except with respect to Differing Site Conditions and Regulated Site Conditions, as and to the extent provided in Section 6.3(D) (Relief for Differing Site Conditions) and (E) (Uncontrollable Circumstance Relief) respectively, no error or omission in any such information shall constitute an Uncontrollable Circumstance, or relieve the Design-Builder from the Contract Obligations or entitle the Design-Builder to any increase in compensation hereunder. Notwithstanding any factual statement, conclusion, or any language or recommendation contained in any information supplied to the Design-Builder by or on behalf of the Town, the Design-Builder assumes full responsibility for inspecting the Project Sites and for the means and methods of construction that it employs when performing the Design-Build Work.

(C) Access to the Project Sites.

Subject to the provisions of this Section 4.4(C), the Design-Builder shall have access to the Project Sites for the purposes of performing the Contract Obligations, including such surface, subsurface and geotechnical studies or tests required to be performed as part of the Preliminary Services and as deemed necessary by the Design-Builder prior to the commencement of Construction in accordance with Good Engineering and Construction Practice. Such access shall be subject to the Town's prior approval, which shall not be unreasonably withheld, as to time and scope, and shall be subject to all Town procedures and requirements regarding Project Sites security and any applicable easement or right of way restrictions. The Design-Builder shall perform all such activities in accordance with the Contract Standards, including the specific requirements set forth in Appendix 2 (Preliminary Services) and Appendix 5 (General Design-Build Work Requirements), and shall provide the Town with all reports or analyses generated by such activities promptly after such reports or analyses are generated. Except to the extent provided in Section 6.4 (Regulated Site Conditions) with respect to Regulated Site Conditions, the Design-Builder shall assume all risks associated with such activities and shall indemnify, defend and hold harmless the Town Indemnitees in accordance with and to the extent provided in Article 15 (Indemnification) from and against all Loss-and-Expense resulting therefrom. Following the issuance of the Notice to Proceed with Design-Build Period Work and for the duration of the Design-Build Period, the Design-Builder shall have all Project Sites access rights as are necessary for the performance of the Design-Build Work in accordance with the Contract Documents. Notwithstanding any of the foregoing, the Design-Builder shall not access portions of the alignment until the Town has obtained legal access rights, and the Design-Builder shall at all times comply with the Project Sites access requirements and restrictions set forth in the Contract Documents, including Appendix 5 (General Design-Build Work Requirements), and shall coordinate the Design-Build Work in accordance with Section 6.13 (Interface and Coordination with Town, Utilities and Other Contractors).

(D) Core Collection System Rights of Way.

The Town shall acquire all easements or rights of way necessary for the Core Collection System Rights of Way. The Design-Builder shall comply with all conditions of all Non-Governmental Approvals. Upon such acquisition, the Town shall notify the Design-Builder, and the Design-Builder shall thereafter have access rights in respect thereof in accordance with Section 4.4(C) (Access to the Project Sites). The Town shall use all reasonable efforts to inform the Design-Builder of its progress toward acquiring such.

(E) Export Pipeline System Rights of Way. The Town shall acquire all easements or rights of way necessary for the Export Pipeline System Rights of Way, including the UPRR and Caltrans crossings. The Design-Builder shall comply with all conditions of all Non-Governmental Approvals. Upon such acquisition, the Town shall notify the Design-Builder, and the Design-Builder shall thereafter have access rights in respect thereof in accordance with Section 4.4(C) (Access to the Project Sites). The Town shall use all reasonable efforts to inform the Design-Builder of its progress toward acquiring such.

(F) Project Sites Signage. The Design-Builder shall provide all Project Sites signage, including directional, safety, information, and warning signs in accordance with the Contract Standards.

SECTION 4.5. INFORMATION PROVIDED BY OR ON BEHALF OF THE TOWN.

(A) Generally. The Town has made data and information available to the Design-Builder on the Project website. The Town makes no representation or warranty with respect to any information provided to the Design-Builder by or on behalf of the Town in connection with this Design-Build Contract. The Design-Builder shall assess all risks related to the Project and independently verify and confirm all information supplied to it by or on behalf of the Town and upon which the Design-Builder elects to rely in connection herewith. Except as may reasonably be requested by the Design-Builder, agreed upon by the Town in its discretion, and expressly established in the GMP Amendment or any Early Work Package Amendment, the Design-Builder shall have no right to relief hereunder or to make any claim against the Town, or to seek any adjustment to the Contract Compensation or the Scheduled Substantial Completion Date as the result of any error, omission or insufficiency relating to any information provided to the Design-Builder by or on behalf of the Town in connection with this Design-Build Contract.

SECTION 4.6. COMPLIANCE WITH APPLICABLE LAW.

(A) Compliance with Applicable Law Generally. The Design-Builder shall, and shall cause all Subcontractors to, perform the Contract Obligations in accordance with Applicable Law and all other applicable Contract Standards. The Design-Builder shall provide all notices required by Applicable Law and the Contract Standards. The incorporation, reference or citation of specific statutes or other parts of Applicable Law in the Contract Documents is not intended, nor shall it be construed, to limit the generality of the Design-Builder's and all Subcontractors' obligations to comply with Applicable Law (whether or not specifically incorporated or referenced in the Contract Documents).

(B) Compliance with Conditions in Governmental Approvals. The Design-Builder shall comply with all conditions and requirements of all Governmental Approvals required to be made, obtained or maintained under Applicable Law in connection with the performance of the Contract Obligations, including the Town Managed Governmental Approvals. The Design-Builder shall report to the Town, immediately upon obtaining knowledge thereof, all violations of the terms and conditions of any Governmental Approval or Applicable Law pertaining to the Project. The Town, in its capacity as the counterparty to the Design-Builder under this Design-Build Contract, shall have the right independently to enforce compliance with this Design-Build Contract regarding the requirements of any Governmental Approval regardless of whether a concurrent or different regulatory enforcement action has been undertaken by any other Governmental Body. The Design-Builder shall comply with and perform all Environmental Mitigation Measures in a timely manner to the extent required under applicable Governmental Approvals. Any violations of or noncompliance with any Governmental Approval caused by the Design-Builder violating or not being in compliance with

a Governmental Approval shall be at the sole risk of the Design-Builder and shall not be a basis for Uncontrollable Circumstance relief under this Design-Build Contract.

(C) Fines, Penalties and Remediation. In the event that the Design-Builder or any Subcontractor fails at any time to comply with Applicable Law with respect to the Design-Build Work, the Design-Builder shall:

- (1) Promptly respond to any notice of non-compliance, warning letter, notice of violation or other enforcement action and seek amicable resolution of the issues;
- (2) Immediately correct such failure and resume compliance with Applicable Law;
- (3) Pay any resulting fines, assessments, levies, impositions, penalties or other charges;
- (4) Indemnify, defend and hold harmless the Town Indemnitees in accordance with and to the extent provided in Article 15 (Indemnification) from and against all Loss-and-Expense resulting therefrom;
- (5) Make all changes in performing the Contract Obligations which are necessary so that the failure of compliance with Applicable Law will not recur; and
- (6) Comply with any corrective action plan filed with or mandated by any Governmental Body in order to remedy a failure of the Design-Builder to comply with Applicable Law.

(D) Compliance with Conditions in Grants. The parties acknowledge and agree that the Town intends to utilize Grants for the entirety of its financing structure. The Design-Builder hereby acknowledges that the utilization of the Grants is predicated on complying with all applicable requirements of the Grants, including, as applicable, complying with Davis-Bacon Act wage requirements, the Disadvantaged Business Enterprise Program, Build America Buy America Act, American Iron and Steel requirements and Section 3 of the Housing and Urban Development Act of 1968. The Design-Builder shall comply will all such requirements, including all applicable provisions identified in Appendix 12 (Certain Grant Requirements and Guidelines). The Design-Builder represents and warrants that the costs of compliance with all federal or state programs that may be required in order to obtain the Grants (including the requirements identified in Appendix 12 (Certain Grant Requirements and Guidelines) are incorporated into the Phase 1a Preliminary Services Fee as of the Contract Date. Only the addition of any new federal or state project funding requirements that did not exist as of the GMP Submittal shall constitute an Uncontrollable Circumstance.

SECTION 4.7. ENGAGEMENT OF TOWN REPRESENTATIVES.

The Design-Builder shall fully cooperate with the Owner Representative and any other representative designated by the Town from time to time. The services of the Owner Representative and other Town-designated representatives may include the following:

- (1) Reviewing drawings, plans and specifications for compliance with the Contract Documents;
- (2) Reviewing proposed changes to the Baseline Design Documents;

- (3) Determining the completion of specified portions of the Design-Build Work and reviewing the release of funds to the Design-Builder pursuant hereto;
- (4) Reviewing and monitoring Construction progress, scheduling, payments and procedures;
- (5) Monitoring testing undertaken by the Design-Builder;
- (6) Assisting the Town in reviewing the validity of the Design-Builder's written notice that an Uncontrollable Circumstance has occurred; and
- (7) Reviewing and advising the Town with respect to material changes to the Project during the Term.

It is understood that the services intended to be provided by the Owner Representative shall be of an observational and review nature only, and that the Owner Representative shall not have authority to interfere with, halt or delay in any way the construction of the Project or to require or approve changes to the Design-Builder's Baseline Design Documents or plans and specifications made in accordance therewith. Any fees of the Owner Representative shall be paid by the Town. Nothing in this Section 4.7 shall be construed to limit the right of any Town personnel or representative having the authority to protect the health and safety from inspecting the Project or otherwise exercising any power permitted under Applicable Law.

SECTION 4.8. OWNERSHIP AND USE OF DOCUMENTS AND INFORMATION.

The Design-Builder acknowledges and agrees that the Town shall own exclusively the Deliverable Material and any and all other documents and information in whatsoever form and character produced or maintained in accordance with, pursuant to, or as a result of this Design-Build Contract. All such documents and information may be used as the Town determines and shall be delivered to the Town at no additional cost to the Town as required hereunder, upon request, upon Project completion or upon termination of this Design-Build Contract. If the Town uses any such documents and material for a purpose other than the Project, such use shall be at the Town's sole risk and liability.

SECTION 4.9. MONTHLY PROGRESS REPORTS.

The Design-Builder shall provide the Town and the Owner Representative with monthly written reports ("Monthly Progress Report") prepared in accordance with the Contract Standards, covering the Project and addressing work performed during the past month, percentage of work completion and compliance with the Project Schedule. The Design-Builder shall describe Project issues, problems or concerns that the Town should be made aware of and how the Design-Builder proposes to address them in each Monthly Progress Report. The Monthly Progress Report shall include a description of the work planned for the next three months. The Monthly Progress Report shall also include cash flow reports and forecasts that satisfy the Town's reporting requirements for the Grants. The Town's and the Owner Representative's receipt or acceptance of the Monthly Progress Report (or any revised Monthly Progress Report) shall not bind the Town in any manner. Thus, the Town's and the Owner Representative's receipt or acceptance of the Monthly Progress Report (or any revised Monthly Progress Report) shall not imply the Town approval or consent to any of the matters set forth therein and shall not limit or otherwise affect the Design-Builder's obligations to achieve Substantial Completion by the Scheduled Substantial Completion Date and Final Completion by the date specified in Section 8.4 (Final Completion).

ARTICLE 5

PRELIMINARY SERVICES

SECTION 5.1. SCOPE OF THE PRELIMINARY SERVICES.

(A) Generally. The Design-Builder shall render and perform the Preliminary Services to and for the Town in accordance with Appendix 2 (Preliminary Services) and the terms and conditions of this Design-Build Contract. The Design-Builder's responsibility to perform the Preliminary Services shall include the employment of or the subcontracting for all necessary professionals, technicians and engineers, properly qualified, licensed and skilled in the various aspects of the Preliminary Services, and the performance of all services reasonably inferable from the Contract Documents. The Preliminary Services are intended to be delivered in multiple phases: the Phase 1a Preliminary Services and any Subsequent Preliminary Services Phases. The Town intends to expand the scope of the Preliminary Services to be performed by the Design-Builder under this Design-Build Contract as described in paragraph (C) below.

(B) Phase 1a Base Preliminary Services; Notice to Proceed. The Design-Builder acknowledges that the Phase 1a Base Preliminary Services are divided into discrete Preliminary Services Tasks identified in Appendix 2 (Preliminary Services) and associated with the advancement of the Phase 1a Base Preliminary Services. The Design-Builder shall commence performing a discrete Preliminary Services Task of the Phase 1a Base Preliminary Services only upon the issuance by the Town Contract Representative of a Notice to Proceed with such discrete Preliminary Services Task of the Phase 1a Base Preliminary Services. In no event shall the Design-Builder be entitled to compensation for the performance of any Preliminary Services Task of the Phase 1a Base Preliminary Services prior to the issuance by the Town of a Notice to Proceed with such discrete Preliminary Services Task of the Phase 1a Base Preliminary Services.

(C) Development of Subsequent Preliminary Services Phase Base Preliminary Services. The parties acknowledge and agree that no Subsequent Preliminary Services Phase Base Preliminary Services were proposed by the Design-Builder as part of the Statement of Qualifications, and therefore are not included in this Design-Build Contract as executed on the Contract Date. The parties further acknowledge and agree that the not-to-exceed limit for any Subsequent Preliminary Services Phase Preliminary Services Fee was not proposed by the Design-Builder as part of the Statement of Qualifications, and therefore not included in this Design-Build Contract as executed on the Contract Date. The Town shall have the discretion to authorize any Subsequent Preliminary Services Phase Preliminary Services Fee pursuant to this Section. This Section is intended to provide the procedure for the Town to expand the scope of the Preliminary Services performed by the Design-Builder under this Design-Build Contract at any time, in its discretion, beyond those services included in the Phase 1a Preliminary Services based, in part, on the recommendations of the Design-Builder, to be delivered in additional phases of the Preliminary Services as Subsequent Preliminary Services Phases defined sequentially as Phase 1b, Phase 1c, Phase 1d, etc.

(1) Subsequent Preliminary Services Phase Preliminary Services Submittal. As part of the Phase 1a Base Preliminary Services and concurrently with delivery of the Basis of Design Report delivered to the Town as part of the Phase 1a Base Preliminary Services, the Design-Builder shall recommend, and the parties shall agree upon, the scope of the initial Subsequent Preliminary Services Phase Base Preliminary Services and the discrete Preliminary Services Tasks thereof and, if applicable, the scope of the initial Subsequent Preliminary Services Phase Additional Preliminary Services. The Design-Builder shall

propose the amount of the Subsequent Preliminary Services Phase Preliminary Services Fee and the Subsequent Preliminary Services Phase Preliminary Services Schedule for such initial Subsequent Preliminary Services Phase to the Town pursuant to a Subsequent Preliminary Services Phase Preliminary Services Submittal (the “Subsequent Preliminary Services Phase Preliminary Services Submittal” for such Subsequent Preliminary Services Phase). Thereafter, as applicable, as part of the most recent Subsequent Preliminary Services Phase Preliminary Services incorporated into this Design-Build Contract, the Design-Builder shall recommend, and the parties shall agree upon, the scope of the next Subsequent Preliminary Services Phase Base Preliminary Services and the discrete Preliminary Services Tasks thereof and, if applicable, the scope of the next Subsequent Preliminary Services Phase Additional Preliminary Services. The Design-Builder shall propose the amount of the Subsequent Preliminary Services Phase Preliminary Services Fee and the Subsequent Preliminary Services Phase Preliminary Services Schedule for such next Subsequent Preliminary Services Phase to the Town pursuant to the applicable Subsequent Preliminary Services Phase Preliminary Services Submittal for such Subsequent Preliminary Services Phase. The scope of any Subsequent Preliminary Services Phase Base Preliminary Services described in the applicable Subsequent Preliminary Services Phase Preliminary Services Submittal shall include the milestones at which the Design-Builder recommends review and update of the Baseline Cost Model and the Baseline Design and Construction Phasing Plan and Schedule (non-guaranteed). Each Subsequent Preliminary Services Phase Preliminary Services Submittal shall be completed and submitted to the Town on a timely basis as required in this Section 5.1(C)(1), and shall remain a firm offer by the Design-Builder for at least 90 days. The Design-Builder shall not condition the Subsequent Preliminary Services Phase Preliminary Services Submittal by inclusion of any requirement that a Subsequent Preliminary Services Phase Preliminary Services Amendment be entered into by the parties or that a Notice to Proceed with a discrete Preliminary Services Task of such Subsequent Preliminary Services Phase Base Preliminary Services be issued by the Town prior to the expiration of such 90-day period.

(2) No Material Change to Design Set Forth in Basis of Design Report. The Design-Builder acknowledges the Town’s material interest in each provision of the Basis of Design Report, and agrees that, subject to Section 5.1(C)(3), no material change to the design of the Project set forth in the Basis of Design Report shall be made except with the consent of the Town, which may be withheld or conditioned in its discretion.

(3) Permitted Change to Design Set Forth in Basis of Design Report Made Due to Uncontrollable Circumstances. Upon the occurrence of an Uncontrollable Circumstance after the Basis of Design Report, the Design-Builder shall promptly proceed, subject to the terms, conditions and procedures set forth in Article 14 (Uncontrollable Circumstances) and subject to the Town’s approval, to make or cause to be made all changes to the design of the Project set forth in the Basis of Design Report reasonably necessary to address the Uncontrollable Circumstance. The Design-Builder shall consult with the Town concerning possible means of addressing and mitigating the effect of any Uncontrollable Circumstance. The parties shall use all reasonable efforts to address all changes to the design of the Project set forth in the Basis of Design Report required due to Uncontrollable Circumstances in a manner that will not impact the critical path of planned Subsequent Preliminary Services Phase Preliminary Services in the applicable Subsequent Preliminary Services Phase Preliminary Services Schedule.

(4) Subsequent Preliminary Services Phase Preliminary Services Amendment. The agreement of the parties as to the scope of any Subsequent Preliminary Services Phase Base Preliminary Services and the discrete Preliminary Services Tasks thereof and, if applicable, the scope of any Subsequent Preliminary Services Phase Additional Preliminary Services, the amount of the Subsequent Preliminary Services Phase Preliminary Services Fee and the Subsequent Preliminary Services Phase Preliminary Services Schedule for such Subsequent Preliminary Services Phase, as well as to any permitted change to the design of the Project set forth in the Basis of Design Report, shall be effectuated through a Contract Amendment authorizing such Subsequent Preliminary Services Phase Preliminary Services (each, a “Subsequent Preliminary Services Phase Preliminary Services Amendment”). Without limiting anything set forth in this Design-Build Contract, the Subsequent Preliminary Services Phase Preliminary Services Amendment may include modifications to any other provisions of this Design-Build Contract as and to the extent agreed to by the parties. In the event the parties elect to execute a Subsequent Preliminary Services Phase Preliminary Services Amendment, the date of execution and delivery thereof shall constitute the applicable “Subsequent Preliminary Services Phase Preliminary Services Amendment Date” hereunder. All work performed pursuant to a Subsequent Preliminary Services Phase Preliminary Services Amendment shall constitute Preliminary Services hereunder and shall be performed in accordance with Appendix 2 (Preliminary Services), the Health and Safety Plan and the Quality Management Plan, and the terms and conditions of this Design-Build Contract.

(D) Subsequent Preliminary Services Phase Base Preliminary Services; Notice to Proceed. The Design-Builder acknowledges that it is intended that the Subsequent Preliminary Services Phase Base Preliminary Services for a Subsequent Preliminary Services Phase will be divided into discrete Preliminary Services Tasks and identified in Appendix 2 (Preliminary Services) and associated with the advancement of such Subsequent Preliminary Services Phase Base Preliminary Services. The Design-Builder shall commence performing a discrete Preliminary Services Task of any Subsequent Preliminary Services Phase Base Preliminary Services only upon the issuance by the Town Contract Representative of a Notice to Proceed with such discrete Preliminary Services Task of such Subsequent Preliminary Services Phase Base Preliminary Services. In no event shall the Design-Builder be entitled to compensation for the performance of any Preliminary Services Task of any Subsequent Preliminary Services Phase Base Preliminary Services prior to the issuance by the Town of a Notice to Proceed with such discrete Preliminary Services Task of such Subsequent Preliminary Services Phase Base Preliminary Services.

(E) No Obligation of Town to Enter Into Any Subsequent Preliminary Services Phase Preliminary Services Amendment. Notwithstanding the intent of the parties as expressed in Section 5.1(C) (Development of Subsequent Preliminary Services Phase Preliminary Services) and (D) (Subsequent Preliminary Services Phase Base Preliminary Services; Notice to Proceed), the Town has no obligation whatsoever to negotiate with the Design-Builder to enter into a Subsequent Preliminary Services Phase Preliminary Services Amendment. The Town, in its discretion, may elect not to commence or continue negotiations and not to enter into and execute any Subsequent Preliminary Services Phase Preliminary Services Amendment for any reason. The Design-Builder acknowledges and agrees that no failure by the Town to negotiate or to enter into a Subsequent Preliminary Services Phase Preliminary Services Amendment shall entitle the Design-Builder to make any claim for damages or compensation as a result of any such failure, and all such claims are hereby waived and released by the Design-Builder. The Design-Builder acknowledges and agrees that neither the intent of the parties to negotiate and enter into a Subsequent Preliminary Services Phase Preliminary Services Amendment, nor the conduct or discontinuance of any such

negotiations, shall be construed to limit or affect the Town's right to off-ramp or terminate this Design-Build Contract for its convenience at any time as provided in Section 12.6 (Town Convenience Termination Rights).

SECTION 5.2. CHANGES TO THE SCOPE OF THE PRELIMINARY SERVICES.

(A) Generally. The Town shall have the right to make changes to the scope of the applicable Preliminary Services for any Preliminary Services Phase set forth in Appendix 2 (Preliminary Services) at any time, in its discretion, by written notice to the Design-Builder, subject to the terms and conditions of this Section. Changes to the scope of the applicable Preliminary Services for any Preliminary Services Phase may be made by the Town to account for an Uncontrollable Circumstance or any other reason determined by the Town.

(B) Additional Preliminary Services. Except as otherwise specifically provided in this Section, the Design-Builder shall be entitled to an equitable adjustment to the applicable Preliminary Services Fee (as stated in Appendix 2 (Preliminary Services)) and, as agreed to by the Town, the applicable Preliminary Services Schedule for a Preliminary Services Phase in the event of any expansion of the scope of the applicable Base Preliminary Services pursuant to this Section, which are designated as Additional Preliminary Services for such Preliminary Services Phase. Any expansion of the scope of any Base Preliminary Services under this subsection (B) and the corresponding equitable adjustment to the applicable Preliminary Services Fee and, as agreed to by the Town, the applicable Preliminary Services Schedule for such Preliminary Services Phase shall be reflected in a Change Order, a Contract Amendment or a Contract Administration Memorandum (as described in Section 2.2.11 of Appendix 2 (Preliminary Services)). The Design-Builder shall not be entitled to compensation for any Additional Preliminary Services beyond the scope of the applicable Base Preliminary Services unless, prior to the performance of any such Additional Preliminary Services, the Design-Builder shall have received express written authorization from the Town to perform such Additional Preliminary Services. In the absence of any the Town-directed change to the scope of any Base Preliminary Services reflected in a Change Order or a Contract Amendment, the Design-Builder shall have no obligation to perform work outside the scope of such Base Preliminary Services.

(C) Additional Preliminary Services Resulting From Delay. Except as otherwise set forth in Section 6.5 (Permitting Responsibilities and Schedule), extra costs resulting from delays caused by Uncontrollable Circumstances, shall be deemed to be costs resulting from Additional Preliminary Services for such Preliminary Services Phase, provided the Design-Builder demonstrates that the costs claimed (1) resulted from time or expenses actually incurred in performing the applicable Base Preliminary Services, (2) were incurred by Design-Builder as a direct result of the delay and not otherwise within the scope of the applicable Base Preliminary Services, and (3) are documented to the Town's reasonable satisfaction.

(D) Exclusions from Additional Preliminary Services. Additional Preliminary Services shall not include work or services necessary because of errors, omissions or conflicts of any type in the Design-Builder's plans and specifications or other Preliminary Services Deliverable Material. All such work or services shall constitute Phase 1a Base Preliminary Services or Subsequent Preliminary Services Phase Base Preliminary Services, as applicable, and shall be performed at no cost to the Town, and shall include any required corrections or revisions to reports, plans or specifications.

(E) Changes that Reduce the Scope of the Preliminary Services. The Town shall have the right to reduce the scope of the Preliminary Services at any time by written notice to the Design-Builder. Changes to the Preliminary Services that reduce the scope of the

Preliminary Services shall be effective upon the delivery of the written notice by the Town pursuant to this subsection (E). Any reduction in the scope of the Preliminary Services shall result in an appropriate reduction in the applicable Preliminary Services Fee and an adjustment to the applicable Preliminary Services Schedule, which shall be reflected in a Change Order or a Contract Amendment.

SECTION 5.3. PRELIMINARY SERVICES SCHEDULE.

The Phase 1a Preliminary Services Schedule is set forth in Attachment 2B-1 (Phase 1a Preliminary Services Schedule) and shall be updated as provided in Appendix 2 (Preliminary Services). The Design-Builder acknowledges that time is of the essence with respect to major milestones and in relation to days from completion of all prerequisites in the performance of the Phase 1a Preliminary Services and agrees to complete the Phase 1a Preliminary Services in a diligent, efficient and timely manner in accordance with Good Engineering and Construction Practice and in any event in accordance with the Phase 1a Preliminary Services Schedule.

As part of any Subsequent Preliminary Services Phase Preliminary Services Amendment, the applicable Subsequent Preliminary Services Phase Preliminary Services Schedule will be set forth in an Attachment substantially in the form of Attachment 2B-2 (Form of Subsequent Preliminary Services Phase Preliminary Services Schedule) and shall be updated as provided in Appendix 2 (Preliminary Services). The Design-Builder acknowledges that time is of the essence in the performance of the Subsequent Preliminary Services Phase Preliminary Services and agrees to complete the Subsequent Preliminary Services Phase Preliminary Services in a diligent, efficient and timely manner in accordance with Good Engineering and Construction Practice and in any event in accordance with the applicable Subsequent Preliminary Services Phase Preliminary Services Schedule.

SECTION 5.4. COORDINATION WITH TOWN.

(A) Meetings and Reports Generally. The Design-Builder shall hold periodic meetings and conferences with the Town during the Preliminary Services Period, in accordance with Appendix 2 (Preliminary Services), to verify and confirm that the development of the Project (1) has the full benefit of the Town's experience and knowledge of existing needs and facilities, (2) is consistent with the Town's current policies and standards, and (3) is proceeding in accordance with the Preliminary Services Schedule. The Design-Builder shall also keep the Town regularly informed as to the progress of the Preliminary Services through the submittal of Monthly Progress Reports in accordance with the requirements set forth in Section 4.9 (Monthly Progress Reports) and Appendix 2 (Preliminary Services). The Monthly Progress Report shall present Project budget information and indicate amounts billed by Preliminary Services Task by the Design-Builder for the past month, cumulatively to date and the amount of funds remaining. The Monthly Progress Report shall include a section on the progress of the design and list any concerns, actions, changes, and reviews and approvals from the Town that the Design-Builder requires. The Design-Builder shall indicate any Governmental Body, UPRR or Utility requirements and issues that the Town should be aware of.

(B) Information Provided by the Town. The Town shall make available for the Design-Builder's use in the performance of the Preliminary Services all existing plans, maps, field notes, statistics, computations, and other data in the Town's possession relating to the Project, as reasonably requested in writing by the Design-Builder, at no cost to the Design-Builder. All such information is provided to the Design-Builder for the sole purpose of the Design-Builder's convenience and for use in relation to the performance of the Preliminary Services, may not be relied upon by the Design-Builder, and must be verified by the Design-Builder as provided in subsection (C) of this Section. The Design-Builder shall promptly notify the Town in writing when it reasonably believes or suspects that information provided by the

Town is not accurate or cannot be checked. Any and all information provided by the Town shall remain the property of the Town and shall be returned promptly to the Town upon written request.

(C) Required Design Information. Notwithstanding the provisions of subsection (B) of this Section, the Design-Builder shall be responsible for obtaining and verifying all information required as further described in Appendix 2 (Preliminary Services) in order to properly design the Project so that it is designed, constructed and performs in accordance with Applicable Law and the Contract Standards.

(D) Revisions to Drawings and Specifications. Notwithstanding anything in this Design-Build Contract to the contrary, the Design-Builder shall, at no additional expense to the Town, provide reasonable minor revisions to any and all drawings and specifications provided to the Town, whether or not previously reviewed and accepted by the Town, as may be required to satisfy the Preliminary Services established by this Design-Build Contract. It is agreed and understood that the scope of each of the Preliminary Services Tasks in Appendix 2 (Preliminary Services) (Preliminary Services) may require some reasonable minor revisions to drawings and specifications provided to the Town, as the scope of the Project is refined, and that such reasonable minor revisions are included within the existing Preliminary Services under this Design-Build Contract. The Design-Builder shall make, without additional expense to the Town, such reasonable minor revisions or corrections to the Preliminary Services Deliverable Material as may be required.

SECTION 5.5. PROJECT DESIGN.

(A) Design Considerations. The design for the Project undertaken and performed by the Design-Builder shall:

(1) Be undertaken by a design team exercising such degree of care as required for design and engineering services by Good Engineering and Construction Practice, as of the date of this Design-Build Contract, and the Design-Builder shall appoint a design team that:

(a) Is so qualified;

(b) Includes (as required by Applicable Law) licensed or registered professional engineers and architects; and

(c) Has sufficient expertise and experience to expeditiously and efficiently perform all of the design in a proper and professional manner to the standard set out in this Design-Build Contract;

(2) Include specific consideration of “constructability” and “life cycle” cost issues at all stages of design, as appropriate; and

(3) Include consideration of efficient and cost-effective operation and maintenance.

(B) Design-Builder Assumption of Full Design Liability. The Design-Builder acknowledges and agrees that, as provided in Section 6.7 (Final Design Responsibilities and Risk Assumption), if and when a GMP Amendment is executed by the parties (and with respect to any Early Work Package work, when an Early Work Package Amendment is executed by the parties), the Design-Builder will have the sole and exclusive responsibility and liability for the design, construction and performance of the Project in accordance with and subject to the terms and conditions of the Contract Documents. Accordingly, the Design-Builder shall have

the right and the responsibility to develop and provide the Preliminary Design Documents and to perform the Preliminary Services under this Design-Build Contract in a manner that would permit a design-build contractor, acting reasonably and having the experience and qualifications required to successfully undertake and complete the design and construction of a project similar in scale and complexity to the Project, to assume such responsibility and liability. In particular, the Design-Builder shall not propose or agree to any element of the Baseline Design Documents or other work product to be incorporated in any GMP Amendment or Early Work Package Amendment that would, in its reasonable judgment, be inconsistent with the assumption of such responsibility and liability.

SECTION 5.6. EARLY WORK PACKAGES.

(A) Early Work Packages. The parties anticipate that there may be some phases of the Design-Build Work that are ready for commencement before it is appropriate to arrive at an overall agreed-upon Base Guaranteed Maximum Price in accordance with Section 5.7 (GMP Submittal). The Design-Builder shall recommend such phases or elements of the Design-Build Work (“Early Work Packages”) to the Town Contract Representative, as appropriate, through the performance of the Preliminary Services, based on Early Work Package submittals (“Early Work Package Submittals”). The Town shall have the discretion to authorize the commencement of Design-Build Work associated with an Early Work Package pursuant to this Section. The agreement of the parties as to an Early Work Package shall be effectuated through a Contract Amendment authorizing the Design-Build Work associated with the Early Work Package and specifying the terms and conditions of compensation payable to the Design-Builder and the completion dates associated with such Design-Build Work (an “Early Work Package Amendment”). All work performed pursuant to an Early Work Package Amendment shall constitute Design-Build Work hereunder and shall be performed in accordance with the Contract Standards. The Town shall have no obligation to enter into an Early Work Package Amendment. All Early Work Package Amendments agreed upon in accordance with this subsection (A) shall be taken into consideration in the preparation of the GMP Submittal submitted in accordance with Section 5.7 (GMP Submittal). The Design-Builder shall furnish a Performance Bond and a Payment Bond with a penal sum equal to the guaranteed maximum price or lump sum amount applicable to the Early Work Package, in compliance with the requirements set forth in Section 16.1 (Bonds) prior to the Town’s issuance of a construction NTP for the Early Work Package.

(B) Early Work Package Submittals. An Early Work Package Submittal shall include and be based upon the applicable Baseline Design Documents and all other specifications, information, analysis, findings and reports developed by the Design-Builder during the performance of the Preliminary Services as developed to the date of submittal, and shall be prepared in accordance with the Contract Standards. An Early Work Package Submittal shall include the following:

Price Submittal:

(1) a proposed lump sum or guaranteed maximum price, as authorized by the Town, including the terms and conditions of payment, focused solely on the Design-Build Work associated with the Early Work Package and prepared in accordance with subsection (E) of this Section, together with a description of how such price will impact overall Project costs;

Technical Submittal:

(2) A detailed description of the Design-Build Work associated with the Early Work Package Submittal and the associated Baseline Design Documents;

(3) A proposed schedule for completion of the Design-Build Work associated with the Early Work Package, together with a description of how such work will impact the Project Schedule;

(4) A listing of any assumptions, clarifications or qualifications made by the Design-Builder in providing the Early Work Package Submittal that are material to any part thereof, including a statement as to what information supplied by the Town (if any) the Design-Builder proposes to use as the basis of any portion of its Early Work Package Submittal; and

(5) Any other information reasonably requested by the Town prior to the due date for the Early Work Package Submittal as necessary or appropriate to negotiate and complete the Early Work Package Amendment.

(C) Early Work Package Submittal Revisions. The Design-Builder shall provide the Town with at least seven days' notice prior to submitting an Early Work Package Submittal for review. The Town will act reasonably in considering any proposed Early Work Package in light of the schedule requirements under this Design-Build Contract. In the event the Early Work Package Submittal does not comply with the Contract Standards, the Town may provide written notice to the Design-Builder of any additions, corrections or revisions required to achieve such compliance. In such event, the Design-Builder, without any increase in the Preliminary Services Fee, shall promptly take all necessary rectification action, making multiple re-submittals if required.

(D) Negotiation and Execution. If the Town agrees to authorize the commencement of a portion of the Design-Build Work under an Early Work Package Submittal, the Design-Builder and the Town shall negotiate and enter into an Early Work Package Amendment. An Early Work Package Amendment at a minimum shall incorporate and definitively address all of the items identified in subsection (B) of this Section, and shall contain any other commercial terms and conditions specific to the Early Work Package, including the rights of the Town to terminate the work being performed pursuant to the Early Work Package Amendment and the right of the Town to direct the Design-Builder to continue performance of the Early Work Package in the event the parties do not enter into a GMP Amendment. Early Work Packages may be structured in a manner that provides for the commencement of the related Design-Build Work at any time determined by the parties.

(E) Complete Early Design-Build Work Package Pricing. It is the intention of the parties that each Early Work Package Submittal, and any associated Early Work Package Amendment, include complete pricing for the Design-Build Work to be performed thereunder, including: (1) the maximum cost of the Design-Build Work described in the Early Work Package Submittal excluding the Design-Builder Fee, the General Conditions Fee and contingency; (2) the Design-Builder Fee, attributable to the Design-Build Work described in the Early Work Package Submittal; (3) the General Conditions Fee attributed to the Design-Build Work described in the Early Work Package Submittal; and a contingency amount for such Design-Build Work to be administered in the same manner as the Design-Builder Contingency. Alternatively, an Early Work Package Submittal may include pricing for all or part of the Design-Build Work on a firm, fixed price basis.

(F) Compensation Payable in Connection With Early Work Packages. The Town shall pay the Early Work Package Price to the Design-Builder for Design-Build Work properly performed and completed pursuant to the terms of the Early Work Package Amendment in accordance with, and subject to the limitations contained in, Appendix 8 (Design-Build Price), notwithstanding the fact that no GMP Amendment will be in effect at the time the parties execute an Early Work Package Amendment.

(G) Design-Builder Representations in an Early Work Package Amendment.

The execution of any Early Work Package Amendment will be deemed to constitute representations by the Design-Builder with respect to the Early Work Package to the same effect as the representations made in Section 5.8(H) (Design-Builder Representations in a GMP Amendment) with respect to the GMP Amendment, with references to Design-Build Work referring to the Early Work Package and references to the Base Guaranteed Maximum Price referring to the Early Work Package Price.

(H) Limited Authorization to Proceed; Commencement of Early Work Package. If the parties have executed and delivered an Early Work Package Amendment, the Town shall issue a limited Notice to Proceed with the Design-Build Work associated with the Early Work Package, subject to this Section. Notwithstanding the issuance of a limited Notice to Proceed with an Early Work Package, the Design-Builder shall not commence any Construction at the Project Sites in connection with such Early Work Package until the Design-Builder has satisfied the following requirements:

(1) The Design-Builder shall have provided a Performance Bond and a Payment Bond for the Early Work Package, and certified that such Performance Bond and Payment Bond are in full force and effect and in compliance with the requirements set forth in Section 16.1 (Bonds);

(2) The Design-Builder shall have provided the Town with certificates for all Required Insurance in accordance with Section 13.1 (Insurance) and certified that all such policies are in full force and effect and in compliance with the requirements of Section 13.1 (Insurance) and Appendix 10 (Insurance Requirements);

(3) The Design-Builder shall have satisfied all requirements of Applicable Law with respect to the commencement of construction and shall comply with all Governmental Approvals required for the commencement of the Construction of the Early Work Package Design-Build Work as well as Governmental Approvals that the Town has determined in its discretion must be obtained prior to the commencement of Construction and provided copies of such Governmental Approvals to the Town. All such Governmental Approvals shall be in full force and effect; and

(4) The Design-Builder shall have provided the Town with the final, approved Health and Safety Plan.

The foregoing requirements are in addition to any other preconditions to the commencement of Construction established by the Contract Documents.

SECTION 5.7. GMP SUBMITTAL.

(A) Preliminary Services and GMP Submittal. As part of the Preliminary Services, the parties intend that the Design-Builder will develop the design of the Project to the GMP Submittal Design Level. The GMP Submittal, which is anticipated to be required as part of a Subsequent Preliminary Services Phase Preliminary Services shall be completed and submitted to the Town on a timely basis and shall remain a firm offer by the Design-Builder for at least 90 days. The Design-Builder shall not condition the GMP Submittal by inclusion of any requirement that a GMP Amendment be entered into by the parties or that the Notice to Proceed with Design-Build Period Work in accordance with Section 6.1(A)(1) (Notice to Proceed) or a Limited Notice to Proceed pursuant to subsection 6.1(A)(2) (Limited Notice to Proceed) be issued by the Town prior to the expiration of such 90 day period. The GMP Submittal shall include and be based upon the Baseline Design Documents, Substantial Completion Standards and all other information, analysis, findings and reports developed by the Design-Builder during the performance of the Preliminary Services, and shall be prepared in accordance with

the Contract Standards. The GMP Submittal shall include a price submittal, a technical submittal and an additional information submittal, as follows:

Price Submittal:

(1) A proposed Base Guaranteed Maximum Price, to be incorporated in Section 8.7.2 of Appendix 8 (Design-Build Price), together with all supporting information required by subsection (B) of this Section;

(2) A proposed Anticipated Design-Build Period Work Cost Schedule and a proposed Design-Builder Contingency and a proposed Specified Project Risk Contingency, to be prepared in accordance with, and attached as part of Attachment 8D (Anticipated Design-Build Period Work Cost Schedule and Design-Builder Contingency) to Appendix 8 (Design-Build Price);

(3) If applicable and requested by the Town, a list of any proposed allowance items (including a proposed Town Allowance), alternate prices and unit prices;

Technical Submittal:

(1) Proposed Baseline Design Documents, to be incorporated in and to constitute Appendix 4 (Baseline Design Documents) of this Design-Build Contract;

(2) The final and complete list of required Governmental Approvals for the Project (including Governmental Approval Application Dates and Assumed Approval Issuance Dates, all as required by Appendix 2 (Preliminary Services)) to be incorporated in Appendix 3 (Governmental and Non-Governmental Approvals) of this Design-Build Contract;

(3) A description of any Change-in-Law that has occurred between the Contract Date and the date of the GMP Submittal;

(4) An updated and finalized description of the Project alignment and the Project Sites;

Commercial Terms Submittal:

(1) A proposed Design-Build Period Work Schedule including the Scheduled Substantial Completion Date (expressed as the number of calendar days following the GMP Amendment Date by which Substantial Completion shall be achieved); and

(2) A proposed delay liquidated damages amount to be inserted in Section 8.3(C) (Delay Liquidated Damages).

Additional Information Submittal:

(1) A proposed final Subcontracting Plan;

(2) The names of additional proposed Subcontractors (other than any existing Approved Subcontractors) and descriptions of their roles for approval by the Town as Approved Subcontractors;

(3) A description of the manner in which any Early Work Packages will be integrated into the final Design-Build Work, including price, schedule and performance considerations;

(4) A letter from a surety qualified under Section 16.1 (Bonds) confirming the intent of the surety to provide the Payment Bond and Performance Bond required under such Section on the GMP Amendment Date;

(5) A description of the manner in which the Design-Builder will comply with the skilled and trained workforce requirements of Section 22172(b) of the California Public Contract Code;

(6) A listing of any assumptions, clarifications or qualifications made by the Design-Builder in providing its GMP Submittal that are material to any part thereof, including a statement as to what information supplied by the Town (if any) the Design-Builder proposes to use as the basis of any portion of its GMP Submittal; and

(7) Any other information reasonably requested by the Town prior to the due date for the GMP Submittal as necessary or appropriate to negotiate and complete the GMP Amendment.

(B) Derivation of Proposed Base Guaranteed Maximum Price. The GMP Submittal shall include a detailed and comprehensive description of how the proposed Base Guaranteed Maximum Price was derived and the material factors on which it was based, all in compliance with the requirements for establishing the Base Guaranteed Maximum Price set forth in Appendix 2 (Preliminary Services), together with any other related information required pursuant to this Section. All costs, bids, quotes, estimates and other information supporting the GMP Submittal shall be made available to the Town upon request. The proposed Base Guaranteed Maximum Price and the other elements of the GMP Submittal shall be based upon the risk allocation established by this Design-Build Contract as of the Contract Date, unless the Town, in its discretion, agrees to changes in such risk allocation.

(C) Design-Builder Fee. The parties acknowledge and agree that the Design-Builder Fee was proposed by the Design-Builder as part of the Statement of Qualifications and included in this Design-Build Contract as executed on the Contract Date, and shall not be subject to increase in any Early Work Package, the GMP Submittal or the GMP Amendment.

(D) Early GMP Submittal. The parties may agree, each in its discretion, that the GMP Submittal may be made, and the GMP Amendment negotiated, prior to the GMP Submittal Design Level stage. In such event, any Preliminary Services that have not been completed at the time of an early GMP Amendment shall be performed as part of the Design-Build Work and the compensation therefor paid as part of the Design-Build Price.

SECTION 5.8. GMP AMENDMENT.

(A) Non-Compliant GMP Submittal. In the event the GMP Submittal does not comply with the requirements of this Design-Build Contract, the Town shall provide written notice to the Design-Builder of any additions, corrections or revisions required to achieve such compliance. In such event, the Design-Builder, at its cost and expense, and without any increase in the Preliminary Services Fee, shall promptly take all necessary rectification action, making multiple re-submittals if required. The failure of the Design-Builder to furnish the Preliminary Services and provide the GMP Submittal in accordance with the Contract Standards shall be a material breach of this Design-Build Contract.

(B) Negotiation and Execution of the GMP Amendment. The Town and the Design-Builder acknowledge and agree that each intends to negotiate and enter into a Contract Amendment for the performance of all Construction and all other Design-Build Work necessary to achieve Final Completion (the “GMP Amendment”) based on the GMP Submittal and the completion of the other Preliminary Services. The principles for negotiating the Base Guaranteed Maximum Price are set forth in subsection (C) of this Section. The GMP Amendment at a minimum shall incorporate and definitively address all of the items identified in Section 5.7(A) (Preliminary Services and GMP Submittal). In the event the parties elect to execute the GMP Amendment, the date of execution and delivery thereof shall constitute the “GMP Amendment Date” hereunder, and thereupon the Design-Build Period shall commence. Without limiting anything set forth in this Design-Build Contract, the parties may enter into a GMP Amendment that includes a fixed lump sum price for completion of the Design-Build Work in lieu of a Base Guaranteed Maximum Price, and such GMP Amendment shall include modifications to the terms and conditions specified herein necessary to effectuate payment for Design-Build Work based upon the fixed lump sum price. In addition, without limiting anything set forth in this Design-Build Contract, the parties may enter into a GMP Amendment that includes fixed lump sum prices for completion of portions of the Design-Build Work and a Base Guaranteed Maximum Price for completion of the balance of the Design-Build Work, and such GMP Amendment shall include modifications to the terms and conditions specified herein necessary to effectuate payment for Design-Build Work based upon such fixed lump sum prices and Base Guaranteed Maximum Price. In addition, the GMP Amendment may include modifications to any other provisions of this Design-Build Contract as and to the extent agreed to by the parties. The parties acknowledge and agree that the GMP Amendment shall be reflected in an amendment and restatement of this Design-Build Contract, and will not be effective except upon approval by the Town Council.

(C) Base Guaranteed Maximum Price Negotiating Principles. Each party acknowledges that it intends to negotiate the Base Guaranteed Maximum Price taking into account the following:

(1) The reasonably estimated costs of completing the design and construction of the Project (including costs payable under Early Work Packages) and achieving Substantial Completion and Final Completion in accordance with the Contract Standards and the cost elements set forth in Appendix 2 (Preliminary Services). Considerations of risk shall be taken into account separately, pursuant to item (2) below. Such costs shall be the basis of the items constituting the Anticipated Design-Build Period Work Cost Schedule.

(2) An amount reasonably attributable to indeterminable costs that, considered individually and valued in the aggregate based on agreed-upon probability-of-occurrence models adapted specifically to the Project, may be incurred should the risks assumed by the Design-Builder in performing the Design-Build Work occur. Such costs shall be the basis of establishing the Design-Builder Contingency. The risks assumed by the Design-Builder shall be identified in the risk register prepared as part of the Preliminary Services, and include:

- (a) The risks identified as excluded from the definitions of “Uncontrollable Circumstances”;
- (b) The risk of Subcontractor delay or non-performance;
- (c) Changes in the scope or cost of Design-Build Work that may occur as the design is advanced from the level set forth in the Baseline Design Documents to a fully complete level;

(d) The risk that inflation in the cost of commodities, materials, equipment, labor and services necessary for the completion of the Design-Build Work will exceed the level assumed by the parties in establishing the Base Guaranteed Maximum Price under item (1) above;

(e) The risk that it may be necessary to incur additional capital and operating expenses in order to meet the Substantial Completion Standards and achieve Substantial Completion; and

(f) Any other risk specifically referred to herein as a risk to be borne by the Design-Builder in performing the Design-Build Work.

(3) The fact that costs associated with Uncontrollable Circumstances are separately compensable from the Design-Build Period Costs that are limited by the Base Guaranteed Maximum Price. Such costs shall be borne by the Town as and to the extent provided in Article 14 (Uncontrollable Circumstances) and shall not be included in the Design-Builder Contingency.

(D) Obligations of the Design-Builder Relating to the GMP Amendment. In connection with a potential GMP Amendment, the Design-Builder shall be obligated (1) to make a complete bona-fide GMP Submittal in accordance with this Section and Section 5.7 (GMP Submittal), and (2) to negotiate in good faith toward a GMP Amendment based on the GMP Submittal, if and to the extent the Town elects pursuant to subsection (E) of this Section to enter into and continue such negotiations. The Preliminary Services do not include negotiating a GMP Amendment, and the Design-Builder represents that the Preliminary Services Fee does not include consideration for the costs and expenses of negotiating the GMP Amendment. The Design-Builder shall bear all such negotiating costs and expenses, whether paid or incurred concurrently with or upon completion of the performance of the Preliminary Services and the preparation and delivery of the GMP Submittal.

(E) No Obligation of the Town to Enter Into a GMP Amendment. Notwithstanding the intent of the parties as expressed in subsection (B) of this Section, the Town has no obligation whatsoever to negotiate with the Design-Builder to enter into a GMP Amendment. The Town, in its discretion, may elect not to commence or continue negotiations and not to enter into and execute a GMP Amendment for any reason. The Design-Builder acknowledges and agrees that no failure by the Town to negotiate or to enter into the GMP Amendment shall entitle the Design-Builder to make any claim for damages or compensation as a result of any such failure, and all such claims are hereby waived and released by the Design-Builder. The Design-Builder acknowledges and agrees that neither the intent of the parties to negotiate and enter into the GMP Amendment, nor the conduct or discontinuance of any such negotiations, shall be construed to limit or affect the Town's right to terminate this Design-Build Contract for its convenience at any time as provided in Section 12.6 (Town Convenience Termination Rights).

(F) Elective Continuance of the Project by the Parties on Other Bases. The Town at any time may request a proposal from the Design-Builder or the lead design Subcontractor acting as Engineer-of-Record to provide professional engineering and other services necessary to advance the design of the Project (either partially or to the fully complete level) so that the Project may be procured and constructed on a design-bid-build or other alternative basis. The Design-Builder shall make a bona fide proposal to enter into such services on terms and conditions substantially identical to the terms and conditions of this Design-Build Contract pertaining to the design services element of the Preliminary Services, and to negotiate in good faith to enter into a Change Order with the Town to provide such services. At the Town's request, the Design-Builder shall cause the lead design Subcontractor

to make such proposal and to negotiate in good faith to enter into a separate agreement with the Town to provide such services.

(G) Elective Continuance of the Project by the Town with Other Contractors; Project Documents. The Town shall have the right at any time in its discretion to proceed to develop and implement the Project with other contractors and service providers. The Town may exercise such right during the performance of the Preliminary Services, upon termination of this Design-Build Contract or upon any failure of the parties to execute a GMP Amendment. The Town shall have the further right in connection therewith, based on its ownership of the Preliminary Services Deliverable Material as provided in Section 4.8 (Ownership and Use of Documents and Information), to use any Preliminary Services Deliverable Material in any manner it chooses to complete the design and construction of the Project. In such event, the Design-Builder shall be liable for the Preliminary Services Deliverable Material solely to the extent of negligent errors or omissions in the Preliminary Services Deliverable Material, as determined based on the developmental stage of the Preliminary Services Deliverable Material at the time of transfer to the Town and Good Engineering and Construction Practice. This limitation as to the Design-Builder's liability for the Preliminary Services Deliverable Material is applicable only to the extent the Town determines not to enter into the GMP Amendment or otherwise terminates this Design-Build Contract and is intended to recognize the Town's investment in the Preliminary Services Deliverable Material and to provide the Town with a meaningful alternative for the design and construction of the Project in such circumstances, while recognizing that the Design-Builder will not have control over the use of the Preliminary Services Deliverable Material in such circumstances and that the Preliminary Services Deliverable Material may not be complete, final, appropriately stamped and/or signed. The Design-Builder acknowledges and agrees that such limitation will have no applicability if the parties enter into the GMP Amendment and proceed with the Design-Build Period Work.

(H) Design-Builder Representations in a GMP Amendment. In the event the parties execute a GMP Amendment, the GMP Amendment shall be deemed to constitute a representation by the Design-Builder that:

- (1) It has examined, carefully studied, and thoroughly understands the Contract Documents associated with the Design-Build Work;
- (2) It has thoroughly reviewed and verified all information provided to or obtained by the Design-Builder through the performance of the Preliminary Services, including:
 - (a) Reports of explorations and tests of subsurface conditions at or contiguous to the Project Sites and all drawings of physical conditions in or relating to existing surface or subsurface structures at or contiguous to the Project Sites which have been identified or made available by the Town; and
 - (b) Reports as to Regulated Substances, if any, at the Project Sites which have been identified or made available by the Town;
- (3) It has become familiar with and is satisfied as to the general, local, and Project Sites conditions that may affect cost, progress, and performance of the Design-Build Work;
- (4) It is familiar with and is satisfied as to all Applicable Law that may affect cost, progress, and performance of the Design-Build Work;

(5) It is aware of the nature of the Related Projects and is satisfied that the Design-Build Work can be performed in accordance with the requirements concerning the Related Projects, as set forth in the Contract Documents;

(6) It has considered the information known to the Design-Builder, including information commonly known to designers and contractors doing business in the locality of the Project Sites; information and observations obtained from visits to the Project Sites; and the Project Sites-related reports and drawings identified in the Contract Documents, with respect to the effect of such information, observations, and documents on:

(a) The cost, progress, and performance of the Design-Build Work;

(b) The means, methods, techniques, sequences, and procedures of construction to be employed by the Design-Builder, including any specific means, methods, techniques, sequences, and procedures of construction expressly required by the Contract Documents; and

(c) Design-Builder's health and safety precautions and programs;

(7) Based on all of the foregoing and the performance of the Preliminary Services, the Project Sites constitute acceptable and suitable sites for the performance of the Design-Build Work;

(8) It does not consider that further examinations, investigations, explorations, tests, studies, or data are necessary for it to enter into the GMP Amendment for the performance of the Design-Build Work for the Base Guaranteed Maximum Price on or before the Scheduled Substantial Completion Date, and in accordance with the other terms and conditions of this Design-Build Contract;

(9) The Baseline Design Documents are sufficient to enable the Design-Builder to determine the Base Guaranteed Maximum Price; and

(10) Subject to the terms and conditions of this Design-Build Contract, the Design-Build Work can be completed in accordance with the Contract Standards for the Base Guaranteed Maximum Price by the Scheduled Substantial Completion Date.

(I) Performance Bond and Payment Bond. The Design-Builder, as provided in Section 5.6(A) (Early Work Packages) and in Section 16.1 (Bonds), shall provide the Performance Bond and the Payment Bond concurrently with the execution of the GMP Amendment.

SECTION 5.9. APPROVALS REQUIRED PRIOR TO DESIGN-BUILD PERIOD.

The parties acknowledge that the Design-Builder and the Town will be obtaining Governmental and Non-Governmental Approvals during the Preliminary Services Period. The parties further acknowledge that the Town does not intend to execute a GMP Amendment until all Governmental and Non-Governmental Approvals listed in Appendix 3 (Governmental and Non-Governmental Approvals) have been obtained, unless waived in writing by the Town.

ARTICLE 6

DESIGN-BUILD WORK

SECTION 6.1. DESIGN-BUILD PERIOD WORK GENERALLY.(A) Authorization to Proceed; Commencement and Completion of the Design-Build Period Work.

(1) Notice to Proceed. The Town shall issue the Notice to Proceed with the Design-Build Period Work concurrently with or promptly following the occurrence of the GMP Amendment Date, and following issuance of the Notice to Proceed with Design-Build Period Work the Design-Builder shall promptly proceed to undertake, perform and complete the Design-Build Work in accordance with the Contract Standards; provided, however, that the Design-Builder shall not commence Construction of the Project until the Construction Commencement Date. The Design-Builder shall be paid the Design-Build Price pursuant to Article 9 (Contract Compensation) as its entitlement to payment of portions of the Design-Build Price arise thereunder.

(2) Limited Notice to Proceed. The Town, in its discretion, may issue a Limited Notice to Proceed with Construction and the specific terms and conditions under which the Design-Builder is authorized to proceed with Construction shall be specified in such Limited Notice to Proceed, and following issuance of such Limited Notice to Proceed the Design-Builder shall promptly proceed to undertake, perform and complete such Design-Build Period Work identified in such Limited Notice to Proceed Construction under the specific terms and conditions specified in the Limited Notice to Proceed and otherwise in accordance with the Contract Standards.

(B) Elements of the Design-Build Period Work. In performing the Design-Build Period Work generally, the Design-Builder shall, in accordance with the Contract Standards:

(1) Apply for, obtain and maintain any Design-Builder Managed Approvals or any Design-Builder Managed Non-Governmental Approvals required for the Design-Build Period Work not obtained as of the GMP Amendment Date, and assist the Town in obtaining the Town Managed Governmental Approvals and the Town Managed Non-Governmental Approvals which have not been obtained as of the GMP Amendment Date;

(2) Perform all necessary Project Sites preparation and excavation activities;

(3) Demolish and remove any existing improvements at the Project Sites, as and to the extent required by the Baseline Design Documents;

(4) Modify, re-route, repair or replace or cause the modification, re-routing, repair, or replacement of, any Utilities, as and to the extent required by the Contract Documents;

(5) Remove from the Project Sites and dispose of any demolition or construction debris resulting from the Design-Build Work and any unused soil excavated therefrom, as well as water from de-watering activities, in an environmentally safe manner;

- (6) Complete the design and construct the Project;
- (7) Restore the surface of the Project Sites to the condition prior to construction and consistent with the standards and requirements set forth in Appendix 4 (Baseline Design Documents);
- (8) Achieve Substantial Completion; and
- (9) Achieve Final Completion,

all so that the Project is suitable and adequate for the purposes hereof.

(C) Sequencing and Staging of Design-Build Period Work. The Design-Builder shall not be limited in the sequencing or staging of the Design-Build Period Work, except to the extent that: (1) the Contract Standards impose limitations, and (2) the Town's issuances of Limited Notices to Proceed impose limitations. The Town understands and acknowledges that the Design-Builder intends to complete the Design-Build Period Work in stages, whereby particular segments of the Design-Build Period Work will be designed and built prior to the completion of the design of the Project as a whole. Although this Design-Build Contract does not require the Design-Builder to fully complete the entire design of the Project prior to proceeding with particular segments of the Construction of the Project, the Design-Builder shall comply with all requirements of Applicable Law in performing the Design-Build Work and shall further comply with the design submittal requirements set forth in Section 6.7(C) (Town Review and Comment on Final Design Documents).

(D) Construction Work Hours. Without limiting any other requirement hereunder, the Design-Builder shall not perform Construction work outside of the hours authorized for construction for such location under the applicable zoning and building bylaws and ordinances, municipal bylaws and regulations, and restrictive covenants for such location of the applicable Governmental Body with jurisdiction over such location (which may be the Town), or under any applicable Governmental Approvals, or on Sundays or holidays without specific permission from the applicable Governmental Body (which may be the Town). The parties acknowledge that compliance with the Project Schedule is critical, and the Town agrees to act reasonably and cooperate with the Design-Builder in an effort to accommodate reasonable Design-Builder requests to perform Construction work outside the hours specified in the preceding sentence to the extent consistent with Applicable Law.

(E) Laydown Areas. Laydown and staging areas for construction materials required for the Design-Build Work shall be located off-Project Site at locations identified and provided by the Design-Builder and shall be identified in the Baseline Design Documents. Without limiting any other requirement hereunder, all such laydown and staging areas for construction materials required for the Design-Build Work shall comply with all requirements of Applicable Law (including any applicable utility laydown yard ordinance) for such location of the applicable Governmental Body with jurisdiction over such location (which may be the Town).

(F) Design-Build Period Work Schedule and Reports. The initial Design-Build Period Work Schedule shall be prepared in accordance with Appendices 2 and 5 during performance of the Preliminary Services. Throughout the Design-Build Period, the Design-Builder shall further update and maintain the Design-Build Period Work Schedule in accordance with Appendix 5 (General Design-Build Work Requirements). The Design-Builder shall provide Monthly Progress Reports, which shall include updates to the Design-Build Period Work Schedule, in accordance with the requirements set forth in Section 4.9 (Monthly Progress Reports) and Appendix 5 (General Design-Build Work Requirements). The Design-Builder acknowledges and agrees that it has a material obligation to provide the Town with, and to

update, maintain and revise, the Design-Build Period Work Schedule throughout the Design-Build Period in accordance with the Contract Standards.

(G) On-Site Meetings and Design and Construction Review. During the Design-Build Period, the Design-Builder, the Town and the Owner Representative shall conduct regular progress and management meetings as set forth in Appendix 5 (General Design-Build Work Requirements). Such meetings shall take place in a field office to be provided by the Design-Builder in accordance with Appendix 5 (General Design-Build Work Requirements) or as otherwise directed by the Town. The Monthly Progress Report shall be prepared by the Design-Builder and provided to the Town and the Owner Representative at least five days prior to each monthly meeting.

(H) Construction Utilities. The Design-Builder shall provide, make all arrangements necessary to secure the availability of all Utilities necessary for the performance of the Design-Build Work. The Design-Builder shall be responsible for the payment of all Utility bills in a timely manner in connection with all Design-Build Work performed from the issuance of the Notice to Proceed with Design-Build Period Work until the Substantial Completion Date.

(I) Quality Assurance and Quality Control. The Design-Builder shall have full responsibility for quality assurance and quality control for the Design-Period Work, including compliance with the Quality Management Plan. Without limiting any other requirement hereunder, the Design-Builder shall perform quality control inspection and testing services to confirm compliance with the Contract Standards.

(J) Title and Risk of Loss. Title to the pipes, structures, improvements, fixtures, machinery, equipment and materials constituting the Project shall pass to the Town upon incorporation in the Project or payment therefor by the Town, whichever first occurs, free and clear of all Encumbrances as provided in subsection (K) of this Section. Except to the extent provided in Section 6.19(E) (Payment for Restoration Work and Uninsured Costs), however, the Design-Builder shall bear all risk of loss concerning such pipes, structures, improvements, fixtures, machinery, equipment and materials until the Substantial Completion Date, regardless of the extent to which the loss was insured or the availability of insurance proceeds. The procedures set forth in Section 6.19 (Property Damage During the Design-Build Period) shall be applicable in the event of any damage to, loss or the destruction of the Design-Build Work at the Project. Notwithstanding anything set forth in this subsection (J) or Section 6.19 (Property Damage During the Design-Build Period), the Design-Builder shall bear all risk of loss concerning any pipes, structures, improvements, fixtures, machinery, equipment or materials required for the Design-Build Work and stored at any location other than the Project, regardless of whether the Town has paid for any such structures, improvements, fixtures, machinery, equipment or materials.

(K) Encumbrances. The Design-Builder shall not directly or indirectly create or permit to be created or to remain, and shall promptly discharge or bond any Encumbrance or Lien (other than Permitted Encumbrances) arising in relation to the Project or the Design-Build Work. The Design-Builder's Subcontracts with all materialmen, suppliers, and Subcontractors shall provide that the sole recourse for such materialmen, suppliers, and Subcontractors for non-payment shall be against the Payment Bond or the giving of a Stop Payment Notice under Section 9350 et seq. of the California Civil Code.

(L) Notice of Default. The Design-Builder shall provide to the Town, promptly following the receipt thereof, copies of any notice of default, breach or non-compliance received under or in connection with any Governmental Approval, Subcontract, Security Instrument or other transaction agreement pertaining to the Contract Obligations.

(M) Required Project Manager Certification. Any notice, certification, report or application delivered by the Design-Builder to the Town in connection with the Design-Build Work, or payment therefor, under this Article 6, Article 8 (Substantial Completion and Final Completion), Article 9 (Contract Compensation) or any Appendix relating to the performance of the Design-Build Work shall be accompanied by a signed certificate of the Project Manager affirming the accuracy thereof to the best of his or her knowledge. The form of certification required pursuant to this subsection (M) shall comply with all requirements of Applicable Law.

(N) Partnering Requirements. The Design-Build Work shall be subject to the Town’s formal partnering requirements, as set forth in Appendix 5 (General Design-Build Work Requirements).

(O) Temporary Project Sites Facilities. The Design-Builder shall be responsible for ensuring that adequate temporary facilities are provided as necessary to enable Subcontractors to perform their work and that provisions have been made for all Project Sites facilities necessary for the Design-Builder to manage, inspect and supervise the Design-Build Work, including all facilities and services the cost of which constitutes a General Conditions Cost.

(P) Sensitivity to Stakeholders. It is the intention of the Town to be sensitive to the needs and concerns of the stakeholders, including the residents of the Town. It is the Design-Builder’s responsibility to adhere to this intent to the best of its ability and in accordance with the approved Stakeholder Outreach Plan to be developed as part of the Preliminary Services. The Design-Builder shall, whenever possible, address stakeholder inquiries about the Project in coordination with the Town, provide to citizens lodging complaints the names and numbers of the Town personnel with whom they can follow up (as provided by the Town), immediately inform the Town of any citizen complaints, and provide for continuous access to all private property affected by the Design-Build Work.

(Q) Utility Coordination and Relocation. The parties acknowledge the existence of underground Utility facilities along the alignment of the Project. The Design-Builder shall use good faith efforts under Good Engineering and Construction Practice to prepare a design that avoids or minimizes conflicts with existing Utility facilities to the extent practicable. The Design-Builder is responsible for coordination with the Utilities and implementing the measures identified in the Utility Relocation Plan developed by the Design-Builder as part of the Preliminary Services and approved by the Town. Such measures shall be carried out in a manner which will avoid or minimize any delays to the Project. In undertaking excavation and tunneling, the Design-Builder shall comply with California Government Code Section 4216 et seq. Prior to conducting any excavation or trenching, the Design-Builder shall contact the appropriate regional notification center as required by California Government Code Section 4216 et seq. Since the Design-Builder is performing the engineering design work for the Project and the Town is not preparing and providing detailed plans and specifications to the Design-Builder, the parties acknowledge and agree that California Government Code Section 4215 (concerning potential Town responsibility for the removal, relocation or protection of existing main or trunkline Utility facilities) does not apply to the Design-Build Work. The Design-Builder shall provide all Utilities with reasonable notification of the need for the Utility to adjust or relocate any facilities. With respect to Utilities identified in the Utility Relocation Plan prepared as part of the Preliminary Services, such Utilities shall be notified promptly following the finalization of the draft Utility Relocation Plan pursuant to Appendix 2 (Preliminary Services) and in any event shall be provided a minimum of [TBD] days’ notice of the need for the relocation. With respect to Utilities discovered following the commencement of the Construction work, the Design-Builder shall notify the Town of the need for the Utility relocation and shall meet with the Town to discuss potential “work arounds” so as to minimize any schedule disruption and associated additional costs. If the parties agree that the best course of action is to seek a Utility relocation, the Design-Builder shall notify the Utility on

behalf of the Town of the required action. In the event that a Utility is uncooperative or notifies the Design-Builder that it is unable to comply with the notice provided by the Design-Builder, the Design-Builder shall immediately notify the Town so that the Town can exercise any legal rights it may have. To the extent that the discovery of the need for the Utility relocation constitutes a Differing Site Condition, the Design-Builder shall be entitled to Uncontrollable Circumstance relief pursuant to Section 6.3(D) (Relief for Differing Site Conditions); provided, however, that the Design-Builder shall not be entitled to recover costs associated with a delay for the first [TBD] days of delay caused by the need for a Utility relocation. [Note: The number of days' notice for each Utility shall be developed as part of the Preliminary Services.]

SECTION 6.2. CONSTRUCTION COMMENCEMENT DATE.

(A) Construction Commencement Date Generally. Except with respect to Early Work Packages as provided in Section 5.6 (Early Work Packages) and except as authorized in a Limited Notice to Proceed as provided in Section 6.1(A)(2) (Limited Notice to Proceed), in no event shall the Design-Builder commence with the Construction of the Project prior to the "Construction Commencement Date". The Construction Commencement Date shall not occur prior to the satisfaction of the following "Construction Commencement Date Conditions," each of which must be and remain satisfied as of the Construction Commencement Date:

(1) The Design-Builder shall have certified that it has completed all Preliminary Services and pre-construction requirements set forth in Appendix 5 (General Design-Build Work Requirements) and shall have provided the Town with an updated Design-Build Period Work Schedule in accordance with Appendix 5 (General Design-Build Work Requirements) and the Health and Safety Plan.

(2) The Design-Builder shall have satisfied all requirements of Applicable Law with respect to the commencement of construction and all Governmental Approvals and Non-Governmental Approvals set forth in Appendix 3 (Governmental and Non-Governmental Approvals) and as otherwise required for the commencement of the Construction of the Project (unless waived by the Town) shall have been obtained, and the Design-Builder shall have provided copies of all Design-Builder Managed Governmental Approvals and Design-Builder Managed Non-Governmental Approvals to the Town. All such Governmental and Non-Governmental Approvals shall be in full force and effect.

(3) The Design-Builder shall have provided the Town with certificates for all Required Insurance in accordance with Section 13.1 (Insurance) and certified that all such policies are in full force and effect and in compliance with the requirements of Section 13.1 (Insurance) and Appendix 10 (Insurance Requirements).

(4) The Design-Builder shall have complied with the design submittal requirements set forth in Section 6.7(C) (Town Review and Comment on Final Design Documents) to the extent necessary to commence with the Construction of the Project.

(5) The Design-Builder shall have held pre-construction conferences with the Town and its representatives in accordance with Appendix 5 (General Design-Build Work Requirements).

(6) The Design-Builder shall have provided the Town with the Performance Bond and the Payment Bond in accordance with Section 5.6(A) (Early Work Packages), Section 5.8(I) (Performance Bond and Payment Bond) and Section 16.1 and certified that such bonds are in full force and effect and in compliance with the requirements of Section 16.1 (Bonds).

(7) The Town has acquired all easements or rights of way necessary for the Design-Builder to construct the Project.

(8) The Design-Builder shall have received written notice from the Town that the Town has received satisfactory evidence of the binding commitments from the California Department of Housing and Urban Development and the Division of Financial Assistance of the California State Water Resources Control Board regarding the availability of Grant funding.

The foregoing requirements are in addition to any other preconditions to the commencement of Construction established by the Contract Documents.

(B) Establishment of the Construction Commencement Date. In no event shall the Construction Commencement Date be established prior to the satisfaction of the Construction Commencement Date Conditions. The Design-Builder shall provide 10 days' written notice to the Town as to the satisfaction of the Construction Commencement Date Conditions and the date it proposes to establish as the Construction Commencement Date hereunder. The Town shall issue the Notice to Proceed with Design-Build Period Work on the Construction Commencement Date proposed by the Design-Builder upon satisfaction of the Construction Commencement Date Conditions. In the event the Town determines that the Construction Commencement Date Conditions have not been satisfied, notwithstanding the Design-Builder's notice pursuant to this subsection, the Town Contract Representative, by written notice to the Design-Builder delivered not later than three days prior to the Construction Commencement Date proposed by the Design-Builder, shall notify the Design-Builder of the Town's determination and state which conditions have not been satisfied. Without limiting any of the foregoing, the Town, in its discretion, may waive (in writing) a Construction Commencement Date Condition or issue a Limited Notice to Proceed as set forth in Section 6.1(A)(2) (Limited Notice to Proceed) above.

(C) Effect of the Establishment of the Construction Commencement Date. Upon the issuance by the Town of the Notice to Proceed establishing the Construction Commencement Date, the Design-Builder shall have the right to proceed with the Construction of the Project. Absent the occurrence of Uncontrollable Circumstances (including a delay by the Town in obtaining Grant funding or obtaining Town Managed Governmental Approvals beyond those time periods or dates set forth in the Design-Builder's critical path schedule previously approved by the Town as and to the extent provided in this Design-Build Contract, no delay in the establishment of the Construction Commencement Date shall entitle the Design-Builder to any price, schedule or performance relief hereunder.

SECTION 6.3. DIFFERING SITE CONDITIONS.

(A) Preliminary Services Relating to Differing Site Conditions. The Design-Builder shall review all available information and undertake all soils, groundwater, utility locations, facilities and other site conditions investigations required with respect to the Project Sites as required by the Preliminary Services, and shall furnish the Town with the reports identified in Appendix 2 (Preliminary Services).

(B) Commencing Subsurface Excavations. Prior to commencing any trenching or excavations, the Design-Builder shall, taking into account the information in the Reference Documents and reports developed as part of the Preliminary Services and in compliance with Good Engineering and Construction Practice, conduct further site investigations in accordance with Appendix 5 (General Design-Build Work Requirements), including exploratory excavations and further borings, to confirm the location and type of underground structures that could be damaged as a result of the excavations. Such underground structures include, but are not limited to, all sewer, water, gas, and other piping,

and manholes, chambers, electrical conduits, wires, tunnels and other existing subsurface work located within or adjacent to the Project Sites. The Design-Builder shall carefully sustain in their places and support, or if necessary relocate or causes to be relocated, all underground and surface structures located within or adjacent to the Project Sites and as required by the party owning or controlling such structure. Existing surface facilities which are temporarily removed to facilitate installation of the Design-Build Work shall be replaced and restored to their original condition. The Design-Builder shall notify the Town at least five Business Days in advance of any work that might impact utilities of business or residents in the area surrounding the Project Sites so that the Town can notify such businesses or residents of such work. As set forth in Section 6.1(Q) (Utility Coordination and Relocation), the Design-Builder shall comply with all requirements set forth under Applicable Law, including California Government Code Section 4216 et seq. prior to and during undertaking such excavations or tunneling.

(C) Discovery of Differing Site Conditions. Upon discovering an alleged Differing Site Condition and before the condition is further disturbed, the Design-Builder shall immediately, after taking appropriate measures to secure the affected Design-Build Work: (1) stop work in and secure the affected area; and (2) notify the Town of the alleged Differing Site Condition. The Design-Builder's notice to the Town shall be issued by telephone or in person and followed no later than by the end of the next Business Day thereafter by written notice, providing a brief description of why the condition encountered is considered a Differing Site Condition. Promptly upon receipt of the Design-Builder's notice, the Town will investigate the Project Site conditions. Such notice shall describe the specific ground conditions encountered and the measures taken to deal with the ground conditions. Notwithstanding anything set forth in Section 6.3 (Differing Site Conditions) or in Article 14 (Uncontrollable Circumstances), no Uncontrollable Circumstance relief shall be allowed for any alleged Differing Site Condition unless the Design-Builder provides the Town with notice in accordance with this subsection.

(D) Relief for Differing Site Conditions. If the Design-Builder establishes that the actual conditions encountered during Construction: (1) meet the criteria for a Differing Site Condition, and (2) directly and materially impact the Design-Builder's cost or time of performance, then the Design-Builder shall be entitled to Uncontrollable Circumstance relief as and to the extent provided in Section 14.4 (Schedule Relief and Related Price Relief).

SECTION 6.4. REGULATED SITE CONDITIONS.

(A) Design-Builder Responsibilities. The parties recognize that in performing the Design-Build Work, the Design-Builder may encounter various Regulated Site Conditions. In performing the Design-Build Work, the Design-Builder shall exercise due care, in light of all relevant facts and circumstances, to avoid exacerbating any Regulated Site Condition after the location and existence of such Regulated Site Condition has been disclosed to the Design-Builder or becomes actually known by the Design-Builder through Preliminary Services or physical observation. Notwithstanding anything to the contrary in this Section, the Design-Builder shall bear full responsibility for the handling, treatment, storage, removal, remediation, avoidance, or other appropriate action (if any), with respect to:

(1) Any Regulated Substance present at, on, in or under, or migrating or emanating to or from the Project Sites, that was generated by or brought or caused to be brought on the Project Sites by any act or omission of the Design-Builder or any Subcontractor; and

(2) The creation of any Regulated Site Condition due to Design-Builder Fault, or the exacerbation of any Regulated Site Condition due to Design-Builder Fault

once the location and existence of such Regulated Site Condition becomes actually known to the Design-Builder.

All remediation costs resulting from Regulated Substances or Regulated Site Conditions for which the Design-Builder bears responsibility pursuant to this subsection (A) shall constitute Unallowable Costs borne solely by the Design-Builder. The Design-Builder shall indemnify, defend and hold harmless the Town Indemnitees in accordance with and to the extent provided in Article 15 (Indemnification) from and against all Loss-and-Expense resulting from Regulated Substances or Regulated Site Conditions for which the Design-Builder bears responsibility pursuant to this subsection (A).

(B) Cultural Resources. The Design-Builder shall not remove or disturb, or cause to be removed or disturbed, any historical, archaeological, architectural, or other cultural artifacts, relics, vestiges, remains, or objects of antiquity. If the Design-Builder discovers any of these items, the Design-Builder shall immediately notify the Town Contract Representative and comply with the Archaeological Construction Monitoring, Mitigation and Preservation Plans and all Applicable Law.

(C) Endangered Species. Should either threatened or endangered plant or animal species (as determined under Applicable Law) be encountered in the performance of the Design-Build Work, the Design-Builder shall cease work immediately in the area of encounter, notify the Town Contract Representative and comply with all Applicable Law. The Design-Builder shall not resume Design-Build Work in the affected area until authorized to do so by the Town Contract Representative.

(D) Encountering of Regulated Substances. If the Design-Builder encounters any materials or substances at the Project Site that it reasonably believes to be Regulated Substances, it shall immediately notify the Town and comply with the Contaminated Media Management Plan and all Applicable Law.

(E) Uncontrollable Circumstance Relief. Without limiting the Design-Builder's obligations under subsection (D) of this Section, if the Design-Builder establishes that the actual conditions encountered during Construction:

- (1) Meet the criteria for Regulated Site Conditions;
- (2) Directly and materially impact the Design-Builder's cost or time of performance; and
- (3) Were not known or could not have been reasonably discovered through the Design-Builder's performance of the Preliminary Services, review of Reference Documents or reasonable diligence;

then the Design-Builder shall be entitled to Uncontrollable Circumstance relief as and to the extent provided in Article 14 (Uncontrollable Circumstances). The Design-Builder acknowledges that the Reference Documents and Preliminary Services have identified the presence of Regulated Substances on the Project Sites and the Base Guaranteed Maximum Price is intended to include all costs associated with such identified Regulated Substances.

(F) Generator Liability. Nothing contained herein is intended to identify the Design-Builder as the generator of any pre-existing Regulated Substance, except as provided by Applicable Law. Except with respect to those Regulated Substances identified in subsection (A) of this Section as to which the Design-Builder bears responsibility, the Town shall execute, as generator, Hazardous Waste manifests required in order for the Design-Builder to fulfill its obligations under this Section, as and to the extent required under Applicable Law.

SECTION 6.5. PERMITTING RESPONSIBILITIES AND SCHEDULE.

(A) Design-Builder Governmental and Non-Governmental Approval Responsibility Generally. The Design-Builder shall obtain and maintain all Design-Builder Managed Governmental Approvals and all Design-Builder Managed Non-Governmental Approvals necessary to commence, continue and complete the Design-Build Work and achieve Substantial Completion. In connection therewith, the Design-Builder shall:

- (1) Prepare and complete all required filings, applications and reports;
- (2) Develop and furnish all necessary data, information, plans, documentation and supporting material;
- (3) Familiarize itself with all applicable terms and conditions;
- (4) Attend all required meetings and hearings;
- (5) Pay all required permit and filing fees; and
- (6) Take all other action necessary in obtaining, maintaining, renewing, extending and complying with the terms of all Design-Builder Governmental and Non-Governmental Approvals.

The Design-Builder shall be responsible for identifying, obtaining and maintaining any Governmental and Non-Governmental Approvals required for the performance of the Design-Build Work that are not the Town Managed Governmental Approvals.

(B) Application Process. The Town shall be notified by the Design-Builder prior to any application, data submittal, or other communication by the Design-Builder with any Governmental Body regarding Governmental Approvals. The Design-Builder shall not knowingly take any action in any application, data submittal or other communication with any entity regarding Governmental or Non-Governmental Approvals or the terms and conditions thereof that would impose any unreasonable cost or unreasonable burden on the Town or that would materially contravene any Town policies with respect to the matters contained therein. The Town reserves the right, after reasonable notification and consultation with the Design-Builder, to modify, alter, amend, delete or supplement any information supplied, or term or condition proposed, by the Design-Builder which would have the effect described in the preceding sentence. The final terms and conditions of any Governmental Approval and Non-Governmental Approval shall be subject to the Town's approval, which approval shall not be unreasonably withheld or delayed. The Design-Builder shall deliver to the Town, promptly after the Design-Builder's receipt, a copy of each Governmental Approval and Non-Governmental Approval, and shall provide a listing of the status of all Governmental Approvals and Non-Governmental Approval in its Monthly Progress Report.

(C) Town Managed Governmental Approval Responsibility. The Town shall:

- (1) Be responsible for obtaining the Town Managed Governmental Approvals, subject to the Design-Builder's obligations under subsection (D) of this Section;
- (2) Cooperate with and, upon the reasonable request of the Design-Builder, provide reasonable assistance to the Design-Builder in obtaining from Governmental Bodies the Design-Builder Governmental Approvals (including any modifications, renewals and extensions of existing Design-Builder Governmental Approvals from Governmental Bodies) required to be obtained by the Design-Builder under this Section;

(3) Where necessary to obtain, renew, replace, extend the validity of, or arrange necessary amendments to any Governmental Approval and within a reasonable period of time after being requested to do so by the Design-Builder:

(a) Execute Governmental Approval application and related documents, either in its own name or jointly with the Design-Builder, as and to the extent required under Applicable Law or the administrative practices of the applicable Governmental Body;

(b) Provide for attendance by appropriate Town staff at public hearings and meetings of applicable Governmental Bodies; and

(c) Provide the Design-Builder with existing relevant data and documents that are within the Town's custody or control or are reasonably obtainable by the Town and which are reasonably required for such purpose.

To the extent Applicable Law or the administrative practice of the applicable Governmental Body requires that Governmental Approvals that are required to be obtained by the Design-Builder pursuant to this Section be applied for or issued in the Town's name or that the Town directly coordinates with such Governmental Bodies, the Design-Builder shall, at its own cost and expense, provide all necessary support and efforts to apply for and obtain such Governmental Approvals, including preparing all application and related documents for execution by the Town. The Town's obligation to assist and cooperate pursuant to this Section shall be subject to the Design-Builder's obligations under this Section and shall not require the Town to:

(1) Staff the Design-Builder's permitting or development efforts, to undertake any new studies or investigations with respect to the Project, or to affirmatively seek to obtain the issuance of the Governmental Approvals required to be obtained by the Design-Builder hereunder;

(2) Take a position which it believes to be inconsistent with the Contract Documents, the Contract Standards, or the Town policy (except policies that are incompatible with the contracting methodology associated with this Design-Build Contract or are inconsistent with the express obligations of the Town hereunder);

(3) Take a position that is not usual and customary for the Town to take in addressing similar circumstances affecting its own projects (except for usual and customary arrangements that are incompatible with the contracting methodology associated with this Design-Build Contract or are inconsistent with the express obligations of the Town hereunder); and

(4) Refrain from concurring with a position taken by Governmental Body if the Town believes that position to be correct.

(D) Design-Builder Responsibility For the Town Managed Governmental Approvals and Town Managed Non-Governmental Approvals. In connection with the Town Managed Governmental Approvals and the Town Managed Non-Governmental Approvals, the Design-Builder shall cooperate with and assist the Town in carrying out any of the Town's responsibilities hereunder with respect to the Town Managed Governmental Approvals and the Town Managed Non- Governmental Approvals, including:

(1) Preparing and completing all required filings, applications and reports;

- (2) Developing and furnishing all necessary data, information, plans, documentation and supporting material;
- (3) Familiarizing itself with all applicable terms and conditions;
- (4) Attending all required meetings and hearings; and
- (5) Take all other action reasonably necessary in accordance with Good Engineering and Construction Practice to assist the Town in obtaining, complying with, maintaining, renewing, and extending all of the Town Managed Governmental Approvals and the Town Managed Non-Governmental Approvals.

(E) No Relief for Delays or Conditions in Design-Builder Managed Governmental Approvals or Design-Builder Managed Non-Governmental Approvals. The parties acknowledge that the Town is taking responsibility for the Town Managed Governmental Approvals and the Town Managed Non-Governmental Approvals and as such, is taking responsibility for obtaining most, if not all, environmental permits for the Project and that the Design-Builder is taking responsibility for the Design-Builder Managed Governmental Approvals and the Design-Builder Managed Non-Governmental Approvals and as such, is taking responsibility for obtaining routine construction permits. Therefore, the Design-Builder will not be afforded schedule or price relief in the event of any delay in the issuance of a Design-Builder Managed Governmental Approval or a Design-Builder Managed Non-Governmental Approval or such Design-Builder Managed Governmental Approval or Design-Builder Managed Non-Governmental Approval imposes unanticipated terms and conditions.

(F) Adjustment to Scheduled Substantial Completion Date Based on Delays in Obtaining Town Managed Governmental Approvals or Town Managed Non-Governmental Approvals. In the event any delay in the issuance of a Town Managed Governmental Approval or a Town Managed Non-Governmental Approval materially delays the achievement of Substantial Completion, an Uncontrollable Circumstance shall be deemed to have occurred and the Design-Builder shall be entitled to an adjustment to the Scheduled Substantial Completion Date as and to the extent provided, and upon compliance with the procedures set forth in Article 14 (Uncontrollable Circumstances), except to the extent the Design-Builder fails to comply with its obligations with respect thereto under this Section, under the Governmental and Non-Governmental Approvals Table, or under Section 17.9 (General Duty to Mitigate). Schedule relief shall be granted under this subsection only if the delay in issuance of a Town Managed Governmental Approval or a Town Managed Non-Governmental Approval materially affects the Design-Build Schedule's critical path. In the event any such delay constitutes an Uncontrollable Circumstance, the Design-Builder shall be entitled to a Base Guaranteed Maximum Price Adjustment as and to the extent set forth in Article 14 (Uncontrollable Circumstances).

(G) Relief Based on Certain Permitting Terms and Conditions. In the event that a Governmental Body imposes terms and conditions in connection with a Town Managed Governmental Approval following the execution of the GMP Amendment that require material changes to the Technical Specifications or the Substantial Completion Standards, an Uncontrollable Circumstance shall be deemed to have occurred and the Design-Builder shall be entitled to a Base Guaranteed Maximum Price Adjustment as and to the extent provided in Article 14 (Uncontrollable Circumstances).

SECTION 6.6. INTERFACE AND COORDINATION WITH OTHER ENTITIES.

As set forth in Section 6.5(C) (Town Managed Governmental Approval Responsibility), the Town is responsible for obtaining the Town Managed Governmental Approvals and the Town Managed Non-Governmental Approvals and may require assistance and cooperation from the Design-Builder in connection with the Town's efforts in obtaining, complying with, maintaining, renewing, and extending all of such approvals from the following entities:

(A) City of Chico. The parties acknowledge that the Town has entered into the Inter-Municipal Agreement with the City of Chico that defines the procedures and terms and conditions for the Town's use of the Chico Sanitary Sewer System at the connection to the Chico WPCP. The Design-Builder shall cooperate with and assist the Town in carrying out any of the Town's responsibilities under the Inter-Municipal Agreement. The Design-Builder shall perform the Contract Services in a manner that does not violate the Inter-Municipal Agreement. If in the performance of the Contract Services hereunder it becomes necessary for the Design-Builder to coordinate any of its activities with the City of Chico, the Design-Builder shall only interface with the City of Chico with the prior approval and participation of the Town.

(B) Butte County. The parties acknowledge that Construction of the Project requires coordinate with Butte County. If in the performance of the Contract Services hereunder it becomes necessary for the Design-Builder to coordinate any of its activities with Butte County, the Design-Builder shall only interface with Butte County with the prior approval and participation of the Town.

(C) UPRR. The parties acknowledge that Construction of the Project requires a Non-Governmental Approval from UPRR for the UPRR crossing. If in the performance of the Contract Services hereunder it becomes necessary for the Design-Builder to coordinate any of its activities with UPRR, the Design-Builder shall only interface with UPRR with the prior approval and participation of the Town.

(D) Caltrans. The parties acknowledge that Construction of the Project requires a Non-Governmental Approval from Caltrans for the Highway 99 crossing. If in the performance of the Contract Services hereunder it becomes necessary for the Design-Builder to coordinate any of its activities with Caltrans, the Design-Builder shall only interface with Caltrans with the prior approval and participation of the Town.

SECTION 6.7. FINAL DESIGN RESPONSIBILITIES AND RISK ASSUMPTION.

(A) Performance of the Design Work. Following the issuance of the Notice to Proceed with Design-Build Period Work, the Design-Builder agrees to undertake, perform, and complete the designs and plans for the Project in accordance with the Contract Standards and to prepare all Final Design Documents necessary or appropriate to carry out and complete the Design-Build Period Work. All Design-Builder working design documents and Final Design Documents shall comply with the Baseline Design Documents and shall provide that the Project is constructed to a standard of quality, integrity, durability and reliability which is equal to or better than the standard established by the Baseline Design Documents. The Design-Builder shall be responsible for the professional quality, technical accuracy, timely completion and coordination of all Final Design Documents and shall, without additional compensation, correct or revise any errors, omissions or other deficiencies in the Baseline Design Documents or the Final Design Documents.

(B) Sole Responsibility and Liability. The Design-Builder shall have the sole and exclusive responsibility and liability for the design, construction, and performance

capability of the Project hereunder in accordance with the Contract Standards, (1) notwithstanding the fact that the RFQ included certain design criteria, requirements and performance standards for the Design-Build Work, and (2) the Town's role in defining the nature and extent of the Preliminary Services, reviewing and commenting on the Preliminary Services Deliverable Material, and negotiating and agreeing upon the GMP Amendment. The Design-Builder acknowledges that, in the RFQ process, the performance of the Preliminary Services, the delivery of the GMP Submittal and the negotiation of the GMP Amendment, the Design-Builder had the unrestricted right and opportunity not to submit its Statement of Qualifications and not to execute this Design-Build Contract or the GMP Amendment if the Design-Builder had determined that such design criteria and requirements or the establishment of the Contract Standards would in any manner or to any degree impair the Design-Builder's ability to perform the Design-Build Work in compliance herewith. Without limiting the Design-Builder's right to claim relief in the event of Uncontrollable Circumstances as and to the extent provided in this Design-Build Contract, all risks relating to the design, construction and performance capability of the Project, including all risks of design defects, constructability and efficacy, have been transferred to the Design-Builder under this Design-Build Contract.

(C) Town Review and Comment on Final Design Documents. The Town shall have the right to review and comment on all Final Design Documents within the time frames specified in Appendix 7 (Design-Build Work Review Procedures) in order to confirm the compliance and consistency of the Final Design Documents with the Contract Documents. In no event shall the Design-Builder proceed with the Construction of any particular segment of the Design-Build Work without first complying with the requirements of Appendix 7 (Design-Build Work Review Procedures). The Design-Builder shall give due consideration and provide written responses, in the time and manner provided in Appendix 7 (Design-Build Work Review Procedures), to any comments delivered by the Town or its representatives as to the Design-Builder's design submittals. Neither compliance by the Design-Builder with the Baseline Design Documents, nor review and comment by the Town or the Owner Representative on the Design-Builder's Preliminary Design Documents or Final Design Documents, nor any failure by the Town or the Owner Representative to comment on any design submittals shall in any way relieve the Design-Builder of full responsibility for the design, construction and performance capability of the Project, as demonstrated through the Substantial Completion Test, in accordance with the Contract Standards. The parties acknowledge and agree that the review and comment rights of the Town under this subsection (C) are intended for the informational purposes of the Town and for the Town to determine whether the Final Design Documents comply with the Baseline Design Documents.

(D) Documents at the Project Site. The Design-Builder shall maintain at the Project Site all Final Design Documents, including a complete set of record drawings, in accordance with the Contract Standards. These documents shall be available to the Town for reference, copying and use, and a complete set thereof shall be delivered to the Town upon completion of the Design-Build Work.

SECTION 6.8. CHANGES TO THE BASELINE DESIGN DOCUMENTS AT DESIGN-BUILDER REQUEST.

(A) Town Consent Required. The Design-Builder acknowledges the Town's material interest in each provision of the Baseline Design Documents, and agrees that, subject to Section 6.9 (Other Changes to the Baseline Design Documents), no material change to the Baseline Design Documents shall be made except with the consent of the Town, which may be withheld or conditioned in its discretion. Any such changes shall be evidenced by a Contract Amendment or Change Order, as applicable.

(B) Notice and Information as to Proposed Change. Without limiting anything under subsection (A) of this Section, the Design-Builder shall give the Town written notice of, and reasonable opportunity to review and approve, any Baseline Design Requirements Change proposed to be made at the Design-Builder's request. The notice shall contain sufficient information for the Town to determine that the proposed Baseline Design Requirements Change:

- (1) Does not diminish the capacity of the Project to be operated so as to meet the Contract Standards;
- (2) Does not impair the quality, integrity, durability and reliability of the Project;
- (3) Is reasonably necessary or is advantageous for the Design-Builder to fulfill its obligations under this Design-Build Contract; and
- (4) Is feasible.

SECTION 6.9. OTHER CHANGES TO THE BASELINE DESIGN DOCUMENTS.

(A) Changes Made Due to Uncontrollable Circumstances. Upon the occurrence of an Uncontrollable Circumstance after the GMP Amendment Date, the Design-Builder shall promptly proceed, subject to the terms, conditions and procedures set forth in Article 14 (Uncontrollable Circumstances) and subject to the Town's approval, to make or cause to be made all Baseline Design Requirements Changes reasonably necessary to address the Uncontrollable Circumstance. The Design-Builder shall consult with the Town concerning possible means of addressing and mitigating the effect of any Uncontrollable Circumstance. The parties shall use all reasonable efforts to address Baseline Design Requirements Changes required due to Uncontrollable Circumstances in a manner that will not impact the critical path of planned Design-Build Work in the Design-Build Period Work Schedule. The Design-Builder shall be entitled to schedule and price relief resulting from any such Baseline Design Requirements Change to the extent provided in Article 14 (Uncontrollable Circumstances). Without limiting the right of the Town to issue a Work Change Directive under Section 6.11 (Work Change Directives), any Baseline Design Requirements Change made on account of Uncontrollable Circumstances, and any related change in the terms and conditions of the Contract Documents, shall be reflected in a Change Order.

(B) Changes Required by Governmental Bodies. The parties recognize that a Governmental Body may impose terms and conditions in connection with a Governmental Approval after the issuance of the Notice to Proceed with Design-Build Period Work that require a Baseline Design Requirements Change. In the event of the imposition of any such additional terms and conditions imposed by a Governmental Body, the Design-Builder shall promptly proceed, subject to the Town's approval, to make or cause to be made all Baseline Design Requirements Changes reasonably necessary to comply with such additional terms and conditions, or the Town may elect to contest any such additional terms and conditions if such terms and conditions are not acceptable to the Town; provided that, if such contest by the Town delays the performance of the Design-Build Work, the Design-Builder shall be entitled to Uncontrollable Circumstance relief as and to the extent provided in Article 14 (Uncontrollable Circumstances). As set forth in Section 6.5(G) (Relief Based on Certain Permitting Terms and Conditions), the Town shall bear the risk of the imposition of any such additional terms and conditions imposed by a Governmental Body in connection with a Governmental Approval. Without limiting the right of the Town to issue a Work Change Directive under Section 6.11 (Work Change Directives), any such Baseline Design Requirements Change and any related

change in the terms and conditions of this Design-Build Contract shall be reflected in a Change Order.

(C) Changes Required by the Town. The Town shall have the right to require the Design-Builder to make Baseline Design Requirements Changes at any time prior to Final Completion in its discretion for any reason whatsoever, whether and however the exercise of such rights affects this Design-Build Contract so long as the Design-Builder's rights are protected as provided in this subsection (C). The Design-Builder shall be entitled to a Change Order providing appropriate price, schedule, performance and other relief in the event of a Baseline Design Requirements Change made at the direction of the Town under this subsection (C); provided, however, that the Design-Builder shall not be entitled to any such price, schedule, performance or other relief to the extent that any such Baseline Design Requirements Change is required due to Design-Builder Fault. The Town shall have no obligation to make any Baseline Design Requirements Change on account of its rights under this subsection (C).

SECTION 6.10. CHANGE PROCEDURES.

(A) Generally. The sole means of providing for an adjustment to the Scheduled Substantial Completion Date, the Contract Compensation or a Base Guaranteed Maximum Price Adjustment, or any other price, performance or schedule relief under this Design-Build Contract shall be through the issuance of a Change Order or Work Change Directive. All work authorized or modified pursuant to a Change Order shall constitute Design-Build Work hereunder and shall be completed in accordance with the Contract Standards. Each Change Order, except as otherwise expressly agreed to in such Change Order, shall be specific and final as to prices and extensions of time with no reservations or other provisions allowing for future additional money or time as a result of the particular changes identified and fully compensated in the Change Order, except as provided in subsection (C) of this Section with respect to actual costs subject to Cost Substantiation. Price determinations associated with Change Orders and Work Change Directives shall be made in accordance with Section 9.7 (Changes in Design-Build Price). The Design-Builder is not authorized to proceed with any contemplated change in the Design-Build Work prior to the Design-Builder's receipt of a Change Order or Work Change Directive.

(B) Design-Builder Change Order Proposal. The Town Contract Representative may, in anticipation of possibly issuing a Change Order, request the Design-Builder to prepare a proposal of cost and time to perform the contemplated changes in the Design-Build Work, along with any other proposed changes to this Design-Build Contract. The Design-Builder's written proposal shall be prepared in accordance with the Contract Standards on a proposal request form approved by the Town Contract Representative and shall be transmitted to the Town Contract Representative promptly, but not later than seven days (unless the Town Contract Representative agrees to a longer duration, in writing) after the Design-Builder's receipt of the Town Contract Representative's written request, and shall remain a firm offer for a period not less than 15 Business Days after receipt thereof by the Town Contract Representative, unless the parties agree to a longer duration, in writing.

(C) Negotiation of Proposed Change Order. The Design-Builder shall consult with the Town and the Owner Representative concerning possible means of addressing any proposed Change Order, and the Design-Builder and the Town shall cooperate in order to minimize any delay and lessen any additional cost associated with the Change Order. The Town may negotiate the written proposal delivered pursuant to subsection (B) of this Section. If the Town accepts such written proposal without adjustment to its terms, the Town may issue a Change Order for the written proposal within the firm-offer period specified in subsection (B) of this Section, and the parties' signing of the written proposal shall be deemed equivalent to signing the Change Order. Change Orders may provide for a Base Guaranteed Maximum Price

Adjustment based on (1) unit prices included in the GMP Amendment or otherwise agreed to by the parties; (2) negotiated lump sum pricing; (3) actual costs subject to Cost Substantiation in accordance with Section 9.8 (Interest on Overdue Obligations); or (4) a combination of the foregoing. A Change Order that reduces the scope of the Design-Build Work shall provide for a Base Guaranteed Maximum Price Adjustment reducing the Guaranteed Maximum Price, as determined in the same manner as provided for any increase to the Guaranteed Maximum Price. Except as otherwise directed by the Town pursuant to Section 6.14 (Suspension of Work), the Design-Builder shall, pending the negotiation of any Change Order, diligently proceed with the performance of all Design-Build Work not subject to such proposed Change Order.

(D) Effect of Design-Builder's Signature. The signing of a Change Order by the Design-Builder indicates the Design-Builder's acceptance and approval thereof, including any adjustment to the Scheduled Substantial Completion Date or the Contract Compensation or other price, performance or schedule relief or change provided for therein. The signing of any Change Order by the Design-Builder shall constitute an acknowledgement and agreement, except as otherwise expressly agreed to in such Change Order, that:

(1) Any compensation paid in conjunction with the terms of a Change Order shall comprise the total compensation due the Design-Builder for the work or the change defined in the Change Order;

(2) The stipulated compensation includes all payment for the Design-Build Work authorized by the Change Order, including all payment for the interruption of schedules, stop work orders, extended overhead, delay, or any other impact, claim or ripple effect;

(3) The Change Order constitutes full accord and satisfaction for the change in the Design-Build Work;

(4) The Design-Builder reserves no right to pursue any subsequent claim concerning the Change Order; and

(5) All necessary amendments to this Design-Build Contract, including all necessary Baseline Design Requirements Changes, are reflected in the Change Order and no subsequent claim or amendment to the Contract Documents will arise out of or as a result of the Change Order.

SECTION 6.11. WORK CHANGE DIRECTIVES.

(A) Town Right to Issue. The parties intend to negotiate the terms of any Change Order providing for a Baseline Design Requirements Change prior to the Design-Builder incurring any costs with respect to any such change or adjustment. However, notwithstanding the foregoing, the Town shall have the right to issue a written order directing a Baseline Design Requirements Change or other change to the Design-Build Work pursuant to this subsection (A), which order shall specify any appropriate price, performance or schedule relief, if any, associated with any such change (a "Work Change Directive"). No Work Change Directive shall be made that would be contrary to Applicable Law. Upon receipt of a Work Change Directive, the Design-Builder shall promptly proceed with the performance of any change in the Design-Build Work as instructed and shall promptly advise the Town in writing of the Design-Builder's agreement (or disagreement) with any price, performance or schedule relief, if any, as may be proposed by the Town in the Work Change Directive. If the Design-Builder receives a written communication signed on behalf of the Town, which the Design-Builder believes is a Work Change Directive that is not so identified, it shall not proceed with the purported change in the Design-Build Work until it receives written confirmation from the

Town that such communication is in fact a Work Change Directive. A Work Change Directive that is signed by the Design-Builder and approved by the Town in accordance with its procurement rules and regulations, reflecting the scope of work and any price, schedule and performance relief, if any, shall be deemed a Change Order.

(B) Disagreement with Terms of a Work Change Directive. If the Design-Builder disagrees in writing with the suggested price, schedule or performance relief, if any, set out in the Work Change Directive, the Design-Builder may elect to initiate dispute resolution procedures in accordance with Section 11.1 (Dispute Resolution). In such case, the Design-Builder shall proceed with the performance of the Design-Build Work in accordance with the Work Change Directive and shall keep and present, in such form as the Town may request, an itemized accounting to go with the appropriate supporting data with respect to the Design-Builder's position, including all information necessary to substantiate any cost claimed by the Design-Builder. The Design-Builder shall provide notice of any disagreement pursuant to this subsection (B) within 15 days after receipt of the Work Change Directive. The failure of the Design-Builder to provide notice of any such disagreement in accordance with this subsection (B) shall constitute a waiver of any further right to dispute the terms and conditions of a Work Change Directive.

SECTION 6.12. DESIGN-BUILD PERIOD WORK DELIVERABLE MATERIAL.

As the Design-Build Work progresses (or upon the termination of the Design-Builder's right to perform the Design-Build Work), the Design-Builder shall deliver to the Town all Design-Build Period Work Deliverable Material. The provisions of Section 17.7 (Property Rights) shall apply to any Design-Build Period Work Deliverable Material used by the Design-Builder in the Design-Build Work that is proprietary in nature or otherwise subject to the property rights of a third party. The Town shall have the right from and after the Contract Date to use (or permit use of) all such Design-Build Period Work Deliverable Material, all oral information received by the Town in connection with the Design-Build Work, and all ideas or methods represented by such Design-Build Period Work Deliverable Material, without additional compensation; provided, however, that the Town shall not publish, distribute, or sell such Design-Build Period Work Deliverable Material to third parties not employed by or under contract to the Town, except as required by Applicable Law with respect to public records requests or in connection with requests for proposals to perform construction work or design, or consulting services on behalf of the Town and in connection with the performance of such work. The Town's use of any such Design-Build Period Work Deliverable Material for any purpose other than the Project shall be at its own risk and the Design-Builder shall have no liability therefor.

SECTION 6.13. INTERFACE AND COORDINATION WITH TOWN, UTILITIES AND OTHER CONTRACTORS.

(A) Maintenance of Operations During Construction. The Design-Builder shall undertake and execute the Design-Build Work in a manner which does not interfere with or impair the ongoing operations of the Town utility systems or private utilities. The Design-Builder shall comply with the requirements of the Utility Relocation Plan developed as part of the Preliminary Services and shall arrange and/or provide for all necessary bypasses and other measures necessary to maintain utility services. The Design-Builder shall coordinate all Design-Build Work with the Town in accordance with the Contract Standards, including the approved Utility Relocation Plan.

(B) Related Projects Generally. The Design-Builder acknowledges that the Town may be undertaking other projects at the Project Sites and, without limiting any other obligation under this Design-Build Contract, agrees to coordinate through communications with the Town the Design-Build Work with the work associated with such other projects in

accordance with the Contract Standards. Any other project being undertaken at or in the vicinity of the Project Sites, are referred to herein as the “Related Projects”. Nothing in this Design-Build Contract shall be interpreted as granting the Design-Builder exclusive occupancy of the Project Sites. The Design-Builder must ascertain to its own satisfaction the scope of the Project and the nature of any other contracts that have been or may be awarded by the Town in relation to its overall capital improvement program or other Related Project, of which the Design-Builder becomes aware. The Design-Builder shall cause the Design-Build Work to be performed without damaging the work or property of any Separate Contractor and so as not to cause any unnecessary hindrance or delay to any Separate Contractors working at the Project Sites. The Design-Builder agrees to reasonably cooperate and coordinate its activities with the Town so that the Project and any Related Project can be completed in an orderly and coordinated manner without unreasonable disruption. The Design-Builder agrees that it shall not be entitled to any price, performance or other Uncontrollable Circumstance relief hereunder due to any delay or hindrance to the extent caused by a failure of any Design-Builder Person to cooperate or coordinate with the Town with respect to the work of any Separate Contractor.

(C) Interrelated Work. If part of the Design-Build Work depends on proper execution of construction or operations by the Town or a Separate Contractor, the Design-Builder shall, prior to proceeding with that portion of the Design-Build Work, inspect the other work and promptly report to the Town Contract Representative any apparent discrepancies or defects in the other construction that would render it unsuitable for the proper execution of the Design-Build Work. The Design-Builder shall be entitled to Uncontrollable Circumstance relief as and to the extent provided in Article 14 (Uncontrollable Circumstances) in the event that defects in the work of the Town or any Separate Contractor render the work unsuitable for the proper execution or result of any part of the Design-Build Work. However, failure of the Design-Builder to report apparent discrepancies or defects in the other construction shall constitute acknowledgment that the Town’s or the Separate Contractor’s completed or partially completed construction is fit and proper to receive the Design-Build Work, except as to discrepancies or defects not then reasonably discoverable pursuant to Good Engineering and Construction Practice.

(D) Disputes Associated with Separate Work. If the performance of any work by the Town or a Separate Contractor under contract with the Town is likely to be interfered with by the simultaneous performance of some other contract or contracts, the Town shall decide which contractor shall cease work temporarily and which contractor shall continue or whether the work under the contracts can be coordinated so that the contractors may proceed simultaneously. Any decision by the Town to halt or delay the performance of the Design-Build Work by the Design-Builder pursuant to this Section shall be made in accordance with Section 6.14 (Suspension of Work), and the Design-Builder shall be entitled to Uncontrollable Circumstance relief as and to the extent provided therein.

SECTION 6.14. SUSPENSION OF WORK.

The Town may, through a written notice executed by the Town Contract Representative, order the Design-Builder to suspend, delay or interrupt all or any part of the Design-Build Work for such period of time as the Town Contract Representative may determine to be appropriate for the coordination of the Related Projects or otherwise for the convenience of the Town. The Design-Builder shall have no entitlement to relief hereunder or any adjustment to the Scheduled Substantial Completion Date or the Contract Compensation under circumstances of the Town ordering the Design-Builder to suspend, delay or interrupt all or any part of the Design-Build Work due to Design-Builder Fault, including any failure of compliance by any Design-Builder Person with the Design-Builder’s obligations under this Design-Build Contract in respect of the maintenance of operations during Construction, coordination in respect of Related Projects, maintenance of Required Insurance or any health

and safety requirement. However, if the Town exercises its right to suspend, delay or interrupt all or any part of the Design-Build Work pursuant to this Section under circumstances other than Design-Builder Fault, an Uncontrollable Circumstance shall be deemed to have occurred, subject to the terms and conditions of Article 14 (Uncontrollable Circumstances).

SECTION 6.15. CONSTRUCTION PRACTICE.

(A) Exclusive Responsibility of Design-Builder. The Design-Builder shall have exclusive responsibility for all construction means, methods, techniques, sequences, and procedures necessary or desirable for the correct, prompt, and orderly prosecution and completion of the Design-Build Work as required by the Contract Documents. The responsibility to provide the construction means, methods, techniques, sequences and procedures referred to above shall include the obligation of the Design-Builder to provide the following construction requirements: supervision, tools, implements, machinery, labor, materials and accessories necessary and proper for the purpose; installation, periodic inspection, and removal of temporary site lighting, including specific task lighting and emergency lighting; temporary offices and construction trailers; installation, daily inspection, and removal of miscellaneous temporary barricades, fencing, partitions, and other means of temporary separation/isolation on the site during construction, including any temporary covered wooden walkways for sidewalks; required design certifications; required approvals; weather protection; dust control; noise abatement, barriers, etc.; miscellaneous de-watering requirements; clean-up and housekeeping of the Project Sites; construction trade management; temporary parking; vehicle traffic; health, safety and first aid facilities and equipment; correction of defective work or equipment; Subcontractors' insurance; storage areas; workshops and warehouses; temporary fire protection; security of the Project Sites; temporary Utilities; Utility relocations necessary or convenient to its performance of the Design-Build Work; potable water; sanitary services; Subcontractor and vendor qualification; receipt and unloading of delivered materials and equipment; erection rigging; temporary supports; and construction coordination. The use of explosives in connection with the performance of the Design-Build Work is permitted solely to the extent permissible under Applicable Law and with the prior written approval of the Town, acting reasonably.

(B) Project Sites Debris, Trash and Waste. The Design-Builder shall keep the Project Sites reasonably free from debris, trash and construction wastes to permit the Design-Builder to perform its construction services efficiently, safely and without interfering with the use of adjacent land areas and without causing complaints from Separate Contractors, adjacent property owners, local public officials or members of the public. The Design-Builder shall be responsible for the maintenance of grass, shrubbery and trees located on the Project Sites, including any right of way. Prior to Final Completion, the Design-Builder shall remove all debris, trash, construction wastes, materials, equipment, machinery and tools arising from the Design-Build Work or applicable portions thereof (and not otherwise incorporated into the Project in accordance with the Contract Documents).

SECTION 6.16. RESPONSIBILITY FOR SAFETY AND SECURITY.

(A) Safety Manager. The Design-Builder assumes responsibility for implementing and monitoring all health and safety precautions and programs related to the performance of the Design-Build Work. The Design-Builder shall, prior to commencing construction, designate an individual with the qualifications and experience necessary under Good Engineering and Construction Practice to supervise the implementation and monitoring of all health and safety precautions and programs related to the Design-Build Work (the "Safety Manager"). The Safety Manager shall be an individual stationed at the Project Sites.

(B) Precautions and Protection; Project Sites Security. The Design-Builder shall take all reasonable precautions for the health and safety of, and shall provide all reasonable protection to prevent damage, injury or loss to:

- (1) All employees on the Project Sites and all other persons who may be affected thereby;
- (2) All the Design-Build Work, whether in storage on or off the Project Sites, under the care, custody or control of Design-Builder or any of its Subcontractors. Machinery and equipment shall have proper guards in place and all hazards shall be eliminated in accordance with the latest health and safety provisions of the OSHA Construction Industry Regulations 29 CFR, Parts 1910 and 1926; and
- (3) Other property at the Project Sites or adjacent thereto, including plant facilities, trees, shrubs, lawns, walks, pavements, roadways, structures and Utilities not designated for removal, relocation or replacement in the course of construction.

The Design-Builder shall develop and administer a security program for the Project Sites in coordination with the Town. The Design-Builder shall cooperate with the Town in connection with the Town's program for the badging of all personnel and vehicles that require authorization for entry to the Project Sites.

(C) Health and Safety Inspections and Meetings. The Design-Builder is solely responsible to inspect, survey, and assess the Project Sites and identify the existence of all permit-required confined spaces and non-permit confined spaces and comply with applicable OSHA regulations and standards. The Design-Builder's Project Sites assessment shall begin upon the initiation of Design-Build Work and continue throughout the duration of the Design-Build Period. The Design-Builder shall comply with all health and safety requirements imposed by Applicable Law, including 29 CFR 1910.146, in the performance of the Design-Build Work. The Safety Manager shall make routine daily inspections of the Project Sites and shall hold weekly health and safety meetings with the Design-Builder's personnel, Subcontractors and others as applicable. The Design-Builder shall provide minutes of each health and safety meeting to the Town within five days of such meeting.

(D) Health and Safety Compliance Requirements. The Design-Builder shall, and shall cause all Subcontractors to, shall comply with:

- (1) All Applicable Law relating to safety;
- (2) The Health and Safety Plan; and
- (3) Any the Town-specific health and safety requirements provided to the Design-Builder.

The Design-Builder shall immediately report (no later than within 12 hours after its occurrence), in writing, any health and safety-related injury, loss, damage, accident or near miss arising from the Design-Build Work to the Town and, to the extent mandated by Applicable Law, to all Governmental Bodies having jurisdiction over health and safety-related matters involving the Project. Where any dangerous condition or nuisance exists in and around the Project Sites, including equipment and supply storage areas or other areas in any way connected with the performance of the Contract Obligations, the Design-Builder shall provide and maintain reasonable warning of such danger or nuisance. The Design-Builder shall not create excavation, obstructions, or any dangerous condition or nuisance of any nature whatsoever in connection with the performance of this Design-Build Contract unless necessary to its performance, and in that event the Design-Builder shall provide and maintain

at all times reasonable means of warning of any danger or nuisance created. The duties of the Design-Builder in this Section shall be non-delegable, and the Design-Builder's compliance with any specific recommendations or requirements of the Town as to the means of warning shall not excuse the Design-Builder from the faithful performance of these duties should such recommendations or requirements not be adequate or reasonable under the circumstances. The Town, through the Town Contract Representative, shall have the right to suspend any or all Design-Build Work if the Design-Builder fails to comply with its obligations hereunder without any requirements of providing the Design-Builder with Uncontrollable Circumstance relief hereunder.

(E) Emergencies. The Design-Builder shall develop an emergency response plan in accordance with the requirements set forth in Appendix 5 (General Design-Build Work Requirements). The emergency response plan shall be subject to the approval of the Town and shall establish the protocols for the Design-Builder in dealing with emergencies impacting the performance of the Design-Build Work. In case of an emergency which threatens immediate loss or damage to property or health and safety of life, the Design-Builder shall act immediately to prevent threatened loss, damage, injury or death. The Design-Builder shall notify the Town of the situation and all actions taken immediately thereafter. If, in the opinion of the Design-Builder, immediate action is not required, the Design-Builder shall notify the Town of the emergency situation and proceed in accordance with the Town's instructions. However, if any loss, damage, injury or death occurs that could have been prevented by the Design-Builder's prompt and immediate action, Design-Builder shall be fully liable for all costs, damages, claims, actions, suits, attorneys' fees and all other expenses arising therefrom or relating thereto. Prior to commencing its Design-Build Work and at all times during the performance of the Design-Build Work, the Design-Builder shall provide the Town with two 24 hour emergency phone numbers where its representatives can be contacted.

(F) Traffic Control. In the performance of Construction, the Design-Builder shall comply with all traffic related requirements of Applicable Law and shall comply with the traffic control requirements set forth in the Traffic Control Plan.

SECTION 6.17. CONSTRUCTION MONITORING, OBSERVATIONS, TESTING AND UNCOVERING OF WORK.

(A) Observations and Design-Build Work Review Protocol. During the progress of the Design-Build Work through Final Completion, the Design-Builder shall at all times during normal working hours afford the Town and its designated representatives, including the Owner Representative, every reasonable opportunity for observing all Design-Build Work at the Project Sites, and shall comply with the Design-Build Work review procedures set forth in Appendix 7 (Design-Build Work Review Procedures). The Design-Builder shall provide sufficient, safe and proper facilities at all reasonable times for the observation and inspection of the Design-Build Work by the Town and its designated representatives. During any such observation and inspection, all representatives of the Town shall comply with all reasonable health and safety and other rules and regulations applicable to presence in or upon the Project Sites, and shall in no material way interfere with the Design-Builder's performance of any Design-Build Work. The right of access provided for under this subsection (A) shall extend to all storage facilities associated with the Design-Build Work, whether located on or off the Project Sites.

(B) Factory Fabrication, Inspection and Testing. The Town reserves the right to have its designated representatives, including the Owner Representative, witness any factory fabrication, inspection or testing. The Design-Builder shall provide the Town with its anticipated schedule for such fabrication, inspection and testing at the initial Project meeting and shall provide 30 days' advanced written notice of any actual factory fabrication, inspection or test. The Town shall provide the Design-Builder with reasonable advance notice (at least 14

days) of its intention to witness any factory fabrication, inspection or test pursuant to this subsection (B), which notice shall indicate the identity and number of designated representatives of the Town who will witness the fabrication, inspection or test.

(C) Design-Builder Tests. The Design-Builder shall conduct all tests of the Design-Build Work (including shop tests) or inspections required by the Contract Standards. The Design-Builder shall give the Town and the Owner Representative reasonable advance notice (consistent with the approved Quality Management Plan prepared in accordance with Appendix 6 (Design-Build Quality Assurance and Quality Control Requirements)) of tests or inspections required by the Contract Standards prior to the conduct thereof. In no event shall the inability, failure, or refusal of the Town or any of its representatives to attend or be present at or during any such test or inspection delay the conduct of such test or inspection, delay the performance of the Design-Build Work, or otherwise serve as the basis for relief from the Design-Builder's obligations hereunder. The Engineer-of-Record shall conduct or witness any such test or inspection to the extent required by the Contract Standards. All analyses of test samples shall be conducted by persons appearing on lists of laboratories authorized to perform such tests by the State or federal agency having jurisdiction or, in the absence of such an authorized list in any particular case, shall be subject to the approval of the Town, which approval shall not be unreasonably withheld or delayed.

(D) Certificates and Reports. The Design-Builder shall secure and deliver to the Town promptly all required certificates of inspection, test reports, work logs, or approvals with respect to the Design-Build Work as and when required by the Contract Standards.

(E) Town Tests, Observations and Inspections. The Town, its employees, agents, representatives and contractors (which may be selected in the Town's discretion), and all Governmental Bodies having lawful jurisdiction, may at any reasonable time conduct such on-site observations and inspections, and such civil, structural, mechanical, electrical or other tests as the Town deems necessary or desirable to ascertain whether the Design-Build Work complies with the Contract Standards. The Design-Build Period Costs incurred in connection with any of such test, observation or inspection shall result in a Change Order unless such test, observation or inspection reveals a material failure of the Design-Build Work to comply with the Contract Documents or Applicable Law, in which event the costs and expenses of such observation, inspection or test shall be Unallowable Costs borne solely by the Design-Builder. The Design-Builder shall be entitled to Uncontrollable Circumstance relief as and to the extent provided in Article 14 (Uncontrollable Circumstances) in the event that any requested test, observation or inspection causes a delay in the critical path of the Design-Build Period Work Schedule, but only if such testing, observation or inspection does not reveal any material failure or non-compliance as set forth herein.

(F) Notice of Covering Design-Build Work. The Design-Builder shall give the Town notice in the Monthly Progress Report of its upcoming schedule with respect to the covering and completion of any Design-Build Work regarding the Chico WPCP Connection or structures, and shall update such notice, if necessary, within a reasonable time period (at least seven days) before such covering and completion. The Town shall give the Design-Builder reasonable notice (a minimum of 48 hours) of any intended inspection or testing of such Design-Build Work in progress prior to its covering or completion. If the Town provides such notice, the Design-Builder shall afford the Town a reasonable opportunity to conduct such tests or inspections, which the Town shall promptly complete. At the Town's written request, the Design-Builder shall take apart or uncover for inspection or testing any previously-covered or completed Design-Build Work; provided, however, that the Town's right to make such requests shall be limited to circumstances where there is a reasonable basis for concern by the Town as to whether the disputed Design-Build Work complies with the requirements of the Contract Documents. The cost of uncovering, taking apart, or replacing such Design-Build

Work along with the costs related to any delay in performing Design-Build Work caused by such actions, shall:

(1) Be Unallowable Costs borne solely by the Design-Builder, if such Design-Build Work was covered prior to any observation or test required by the Contract Standards or for which the Town was not provided reasonable advance notice hereunder, or prior to the date on which the Town was to conduct any observation or test as to which the Town has provided notice of its intention to conduct in accordance with this subsection (F); and

(2) In all other cases, as follows:

(a) Be Unallowable Costs borne solely by the Design-Builder, if such observation or test reveals that the Design-Build Work does not comply with the Contract Documents; or

(b) Be Design-Build Period Costs, if such observation or test reveals that the Design-Build Work complies with the Contract Documents, and shall result in a Change Order.

In the event such Design-Build Work does comply with the Contract Documents and the associated costs are determined to be Design-Build Period Costs pursuant to this subsection, the delay caused by such observation or test shall be treated as having been caused by an Uncontrollable Circumstance and any costs incurred with respect to such observation or test shall be costs for the account of the Town in accordance with Article 14 (Uncontrollable Circumstances).

SECTION 6.18. CORRECTION OF WORK.

(A) Correction of Non-Conforming Design-Build Work. Throughout the Design-Build Period, the Design-Builder shall complete, repair, replace, restore, re-perform, rebuild and correct promptly any Design-Build Work that does not conform with the Contract Standards. The Design-Builder shall be solely responsible at its cost for the removal of defective work. In the event of a failure of the Design-Builder to correct any such nonconforming Design-Build Work in a timely manner, the Town shall have the right, but not the obligation, to correct or provide for the correction of such nonconforming Design-Build Work and the costs and expenses reasonably incurred by the Town in connection therewith shall be reimbursed by the Design-Builder to the Town. The Town shall provide the Design-Builder with seven days' advance written notice prior to exercising its right to correct or provide for the correction of any nonconforming Design-Build Work pursuant to this subsection (A).

(B) Election to Accept Non-Conforming Design-Build Work. The Town may elect by Change Order, at the Design-Builder's request, to accept non-conforming Design-Build Work and charge the Design-Builder (through a Base Guaranteed Maximum Price Adjustment) for the amount agreed upon by the parties as reflecting the reduction in value of the Design-Build Work. The Town shall have no obligation to accept non-conforming Design-Build Work pursuant to this subsection (B).

(C) Relation to Other Obligations. The obligations specified in this Section establish only the Design-Builder's specific obligation to correct the Design-Build Work and shall not be construed to establish any limitation with respect to any other obligations or liabilities of the Design-Builder under this Design-Build Contract. This Section is intended to supplement (and not to limit) the Design-Builder's obligations under any other provisions of this Design-Build Contract or Applicable Law.

SECTION 6.19. PROPERTY DAMAGE DURING THE DESIGN-BUILD PERIOD.

(A) Damage Prevention. In performing the Design-Build Work, the Design-Builder shall use care and diligence, and shall take all appropriate precautions in accordance with the Contract Standards to protect the Design-Build Work from loss, damage or destruction.

(B) Restoration. During the Design-Build Period, in case of damage to the Design-Build Work, and regardless of the extent thereof or the estimated cost of restoration, and whether or not any insurance proceeds are sufficient or available for the purpose, the Design-Builder shall promptly undertake and complete restoration of the damage to the Design-Build Work to the character and condition existing immediately prior to the damage and in accordance with the procedures set forth herein, as applicable, regarding Uncontrollable Circumstances, Change Orders and Work Change Directives. The Town shall have the right to monitor, review and inspect the performance of any repair, replacement and restoration work by the Design-Builder in accordance with this Article 6. If the Design-Builder fails to undertake restoration of the damage, or having so commenced fails to complete restoration in accordance with the Contract Documents, the Town may (but shall not be obligated to) undertake or complete restoration at the Design-Builder's expense to the extent applicable in accordance with this Section. The Town shall provide the Design-Builder with seven days' advance written notice prior to exercising its right to undertake or complete restoration pursuant to this subsection (B). Notwithstanding any of the foregoing, to the extent that Uncontrollable Circumstances cause damage to the Design-Build Work and insurance proceeds or other third-party payments are not sufficiently available to pay for restoration work pursuant to this subsection (B), the Design-Builder's obligation to perform such restoration work shall be subject to the receipt of reasonable assurances from the Town of its ability to pay the costs for which it is financially responsible under this Section.

(C) Notice and Reports. In addition to the notification requirements set forth in Section 6.16(E) (Emergencies), the Design-Builder shall notify the Town and the insurers under any applicable policy of Required Insurance of any incident causing property damage to the Design-Build Work in excess of \$5,000 or of any OSHA recordable injury accident on the Project Sites related to the Design-Build Work, as promptly as reasonably possible after the Design-Builder learns of any such damage or accident. As soon as practicable after learning of any such incident or accident (but in no event later than 72 hours), the Design-Builder shall submit a written report to the Town. Such report shall be updated on a weekly basis and upon culmination of all tests, analysis and reviews, a final report incorporating all of the tests, analysis and reviews and the findings thereof shall be submitted to the Town. The Design-Builder shall also submit to the Town copies of all accident and other reports filed with (or given to the Design-Builder by) any insurance company, adjuster, or Governmental Body or otherwise prepared or filed in connection with the damage or accident.

(D) Insurance and Other Third-Party Payments. To the extent that any repair, replacement or restoration costs incurred pursuant to this Section can be recovered from any insurer or from another third party, each party shall assist each other in exercising such rights as it may have to effectuate such recovery. Each party shall provide the other with copies of all relevant documentation, and shall cooperate with and assist the other party upon request by participating in conferences, negotiations and litigation regarding insurance claims; provided, however, that neither party shall be obligated pursuant to this subsection (D) to provide the other party with documents subject to the attorney-client privilege under the laws of the State.

(E) Payment for Restoration Work and Uninsured Costs. All insurance proceeds and recoveries from third parties resulting from damage to or the loss or destruction of the Design-Build Work, including proceeds from all policies of Required Insurance, shall be

for the benefit of the Town. The Town shall pay the Design-Builder for restoration work required pursuant to this Section with such proceeds and recoveries and, as necessary, other funds of the Town obtained pursuant to the Change Order provisions of this Article 6 and the payment provisions of Article 9 (Contract Compensation), as applicable. All costs not covered by insurance proceeds or third-party payments shall constitute Design-Build Period Costs; provided, however, that such costs shall be Unallowable Costs borne solely by the Design-Builder to the extent the loss, damage or destruction was caused by Design-Builder Fault or to the extent insurance proceeds are not available due to a failure of the Design-Builder to obtain or maintain any applicable policy of Required Insurance.

(F) Repair of the Town and Private Property. The Design-Builder shall promptly at its sole cost and expense repair or replace all the Town Property and all private property damaged by the Design-Builder or any officer, director, employee, representative, agent or Subcontractor of the Design-Builder in connection with the performance of, or the failure to perform, the Design-Build Work. The repair and replacement work shall restore the damaged property, to the maximum extent reasonably practicable, to its character and condition existing immediately prior to the damage. Nothing in this subsection (F) is intended to waive any rights of recovery under applicable policies of insurance.

SECTION 6.20. OPERATIONS AND MAINTENANCE MANUAL.

The Design-Builder shall develop a comprehensive Operations and Maintenance Manual in accordance with the Contract Standards, including the specific requirements set forth in Appendix 5 (General Design-Build Work Requirements). The Operations and Maintenance Manual shall contain a detailed description of the means and methods of properly operating and maintaining the Project; shall integrate all equipment and systems service manuals; shall document standard operating procedures and predictive, preventive and corrective maintenance procedures, practices and schedules; and shall otherwise be sufficiently detailed to permit the Project to be operated and maintained by operations and maintenance personnel by or on behalf of the Town. The Design-Builder shall submit preliminary, interim, pre-final and final versions of the Operations and Maintenance Manual for the Town's review, comment and approval in accordance with Appendix 5 (General Design-Build Work Requirements). A pre-final Operations and Maintenance Manual meeting the specific requirements set forth in Appendix 5 (General Design-Build Work Requirements) shall be submitted to and approved by the Town as a condition precedent to the achievement of Substantial Completion in accordance with Section 8.1 (Substantial Completion Date Conditions). A final Operations and Maintenance Manual meeting the specific requirements set forth in Appendix 5 (General Design-Build Work Requirements) shall be submitted to and approved by the Town as a condition precedent to the achievement of Final Completion in accordance with Section 8.4 (Final Completion).

SECTION 6.21. PUNCH LIST ITEMS.

(A) Punch List Requirements. The Design-Builder shall submit a proposed Punch List to the Town and the Owner Representative when the Design-Builder believes that the Design-Build Work has achieved the requirements for Substantial Completion in compliance with the Contract Documents. The "Punch List" shall be a statement of repairs, corrections and adjustments to the Design-Build Work, and incomplete aspects of the Design-Build Work, which in the Design-Builder's opinion:

(1) The Design-Builder can complete before the date specified in subsection (B) of this Section, and with minimal interference to the occupancy, use and lawful operation of the Project; and

(2) Would represent, to perform or complete, a total cost of not more than 0.3% of the portion of the Guaranteed Maximum Price applicable to the construction of the Project (unless the Town determines, in its discretion, that a higher percentage is acceptable, as evidenced by the written approval of the Town Contract Representative).

The Town shall have the right to approve the Punch List in its discretion.

(B) Completion of Punch List Items. The Design-Builder shall complete all items on the Punch List within 60 days following the Substantial Completion Date. All work associated with the Punch List items shall constitute Design-Build Work hereunder and shall be performed by the Design-Builder in accordance with the Contract Standards.

ARTICLE 7

MANAGEMENT, LABOR AND SUBCONTRACTORS

SECTION 7.1. MANAGEMENT.

(A) Project Manager. The Design-Builder has designated an employee of the Design-Builder, as the “Project Manager” to oversee all Preliminary Services and all Design-Build Period Work. When the Design-Builder or any Subcontractor is performing Construction Work, the Construction Superintendent (or designee reasonably acceptable to the Town) shall be present at the Project Sites. The Project Manager shall, among other things:

- (1) Be familiar with the Contract Obligations and all requirements of the Contract Documents;
- (2) Coordinate the Contract Obligations and give the Contract Obligations regular and careful attention and supervision;
- (3) Maintain a daily status log of the Design-Build Work when being performed; and
- (4) Attend all Project meetings (including meetings concerning scope, review, pre-bid, pre-construction, and construction matters) with the Town and its representatives.

The Design-Builder represents and warrants that the Project Manager shall be vested with the authority to act on behalf of the Design-Builder in connection with the performance of the Contract Obligations and to bind the Design-Builder with respect to any certification required under this Design-Build Contract to be made by the Project Manager. If the Design-Builder is comprised of two or more persons functioning as a joint venture, the Design-Builder shall have the authority to represent and act for the joint venture. The Design-Builder may change the person assigned as the Project Manager solely in accordance with the provisions of subsection (B) of this Section.

(B) Town Rights With Respect to Key Personnel. The Design-Builder acknowledges that the identity of the Project Manager and the other key management and supervisory personnel proposed by the Design-Builder and its Subcontractors in its Statement of Qualifications was a material factor in the selection of the Design-Builder to perform this Design-Build Contract. Such personnel, their affiliations and their anticipated roles in the performance of the Contract Obligations are set forth in Appendix 11 (Key Personnel and Approved Subcontractors). The Design-Builder shall utilize such personnel to perform such services unless such personnel are unavailable for good cause shown. “Good cause shown” shall not include performing services on other projects for the Design-Builder or any of its Affiliates, but shall include termination for cause, employee death, disability, retirement, resignation or any job protected leave available under Applicable Law. In the event of any such permissible unavailability, the Design-Builder shall utilize replacement key management and supervisory personnel of equivalent skill, experience and reputation. Any on-site personnel change shall be proposed to the Town with reasonable advance notice for its review and approval, which shall not be unreasonably withheld or delayed. The Design-Builder shall remove or replace, or have removed or replaced, any personnel performing the Contract Obligations if the Town, acting reasonably, determines that an unworkable relationship has developed between the Town and the individual.

SECTION 7.2. LABOR.

(A) Personnel Performance. The Design-Builder shall enforce discipline and good order at all times among the Design-Builder's employees and all Subcontractors. All persons engaged by the Design-Builder for performance of the Contract Obligations shall have requisite skills for the tasks assigned. The Design-Builder shall employ or engage and compensate engineers and other consultants to perform all engineering and other services required for the Contract Obligations. The Design-Builder shall cause all persons performing Contract Obligations, including all Subcontractors, to comply with all registration, licensing and certification requirements imposed by any Governmental Body or otherwise under Applicable Law, including Design-Builder and Subcontractor employees.

(B) Training of Design-Builder and Subcontractor Employees. The Design-Builder shall provide training for all individuals employed by the Design-Builder or Subcontractors as a prerequisite to their entry to the Project Sites. The Design-Builder's training program for such employees shall include orientation training, safety and awareness training, and any other training deemed necessary. In addition, the training program shall, to the extent applicable for each employee, provide training for the start-up, Commissioning and Substantial Completion Test activities, and transition management and administration of the Project.

(C) Labor Relations. The Design-Builder shall furnish labor that can work in harmony with all other elements of labor employed for the performance of the Design-Build Work. The Design-Builder shall have exclusive responsibility for disputes or jurisdictional issues among unions or trade organizations representing employees of the Design-Builder or its Subcontractors, whether pertaining to organization of the Design-Build Work, arrangement or subdivision of the Baseline Design Documents, employee hiring, or any other matters. The Town shall have no responsibility whatsoever for any such disputes or issues and the Design-Builder shall indemnify, defend and hold harmless the Town and the Town Indemnitees in accordance with and to the extent provided in Section 15.1 (Design-Builder's Obligation to Indemnify) from and against all Loss-and-Expense resulting from any such labor dispute.

(D) Notice of Labor Disputes. If the Design-Builder has knowledge of an actual or potential labor dispute that may affect any of the Contract Obligations, the Design-Builder shall promptly:

(1) Give notice thereof to the Town, including all relevant information related to the dispute of which the Design-Builder has knowledge; and

(2) Take all reasonable steps to avoid an impact on the performance of any of the Contract Obligations including by applying for relief to appropriate forums or courts.

(E) Federal and State Prevailing Wage Requirements. The Project requires the payment of prevailing wage rates as set forth below:

(1) Pursuant to California Labor Code Section 1770 et seq., the general prevailing wage rates in the county in which the project work is to be done have been determined by the Director of the California Department of Industrial Relations. These wages are set forth in the General Prevailing Wage Rates for this project, available at the Town and available from the California Department of Industrial Relations' Internet web site at <http://www.dir.ca.gov/DLSR/PWD>. Future effective general prevailing wage rates, which have been predetermined and are on file with the California

Department of Industrial Relations are referenced but not printed in the general prevailing wage rates.

(2) Both federal and State wage rates shall apply. Attention is directed to the Federal minimum wage rate requirements in Appendix 12 (Certain Grant Requirements and Guidelines). The Federal minimum wage rates for the Project as predetermined by the United States Secretary of Labor are set forth in the books entitled “Notice to Contractors, Special Provisions, and Contract Documents”. The Federal minimum wage rates for the Project may be obtained at [www.SAM.gov]. Click on “California”, and then click on the “Butte County.” A Contract Administration Memorandum to modify the Federal minimum wage rates, if necessary, will be executed and delivered. [Note: To be confirmed as part of the Preliminary Services.]

(3) If there is a difference between the minimum wage rates predetermined by the United States Secretary of Labor and the general prevailing wage rates determined by the Director of the California Department of Industrial Relations for similar classifications of labor, the Design-Builder and its Subcontractors shall pay not less than the higher wage rate. The California Department of Industrial Relations will not accept lower State wage rates not specifically included in the Federal minimum wage determinations. This includes “helper” (or other classifications based on hours of experience) or any other classification not appearing in the Federal wage determinations. Where Federal wage determinations do not contain the State wage rate determination otherwise available for use by the Design-Builder and its Subcontractors, the Design-Builder and its Subcontractors shall pay not less than the Federal minimum wage rate, which most closely approximates the duties of the employees in question.

(4) The minimum wage shall be periodically increased during the Design-Build Period in an amount equal to the increase in the prevailing wages for those kinds of work as periodically determined by the State Director of Department of Industrial Relations or the United States Secretary of Labor, as applicable. Since the Town has obtained the Grants to pay portions of the Design-Build Price, both federal and State wage rates shall apply and the Design-Builder shall comply with the Davis-Bacon Act (40 U.S.C. 3141-3144 and 3146-3148) as supplemented by the United States Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”) and all applicable provisions summarized in Appendix 12 (Certain Grant Requirements and Guidelines). Where rates for any class of laborers and mechanics differ, the higher rates shall prevail. A copy of the wage rate determination, (including any additional classification and wage rate conformed under 29 CFR 5.5a(1)(ii) and Davis-Bacon poster (WH-1321)) shall be posted at all times at the site of work in a prominent and accessible place where it can be easily seen by the workers. Notwithstanding the provisions of this Design-Build Contract when entered into by the parties (including the Davis-Bacon Act wage determination attached to Appendix 12 (Certain Grant Requirements and Guidelines)), if the applicable prevailing wage rate has increased during the Term, the rate of pay of laborers and mechanics performing Design-Build Work shall be raised accordingly. The Guaranteed Maximum Price shall not be increased due to increases in the prevailing wage rate during the Term unless such increase is due to an Uncontrollable Circumstance. The Design-Builder and all Subcontractors shall also comply with the Copeland “Anti-Kickback” Act (40 U.S.C. 3145), as

supplemented by United States Department of Labor regulations (29 CFR Part 3, “Contractors and Subcontractors on Public Building or Public Work Financed in Whole or in Part by Loans or Grants from the United States).

(F) Labor Compliance. The Design-Builder and all Subcontractors must submit certified payrolls and labor compliance documentation starting with the first Certified Payroll Report (CPR) and every CPR thereafter.

(G) Non-Discrimination in Employment. During the performance of the Contract Services, the Design-Builder agrees as follows:

(1) The Design-Builder will not discriminate against any employee or applicant for employment because of race, religion, color, gender, sexual orientation or national origin, except where religion, gender, sexual orientation or national origin is a bona fide occupational qualification reasonably necessary to the normal operation of the Design-Builder, and the Design-Builder agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause;

(2) The Design-Builder, in all solicitations or advertisements for employees placed by or on behalf of the Design-Builder, will state that the Design-Builder is an equal opportunity employer;

(3) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation, shall be deemed sufficient for the purpose of meeting the requirements of this provision; and

(4) The Design-Builder shall include the provisions of items (1), (2) and (3) above in every Subcontract of over \$10,000 so that the provisions will be binding upon every Subcontractor or vendor.

(H) Drug-Free Workplace. During the performance of this Design-Build Contract, the Design-Builder agrees to (a) provide a drug-free workplace for the Design-Builder’s employees; (b) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Design-Builder’s workplace and specifying the actions that will be taken against employees for violations of such prohibition; (c) state in all solicitations or advertisements for employees placed by or on behalf of the Design-Builder that the Design-Builder maintains a drug-free workplace; and (d) include the provisions of the foregoing clauses in every Subcontract of over \$10,000, so that the provisions will be binding upon each Subcontractor. For the purposes of this Section, “drug-free workplace” means a site for the performance of Contract Obligations performed in conjunction with this Design-Build Contract. The Design-Builder’s employees, in accordance with this Section, are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of this Design-Build Contract. The Design-Builder shall adhere to and certify that its employees comply with this substance abuse program.

(I) Overtime Work. No laborer or mechanic employed at the Project Sites during the Design-Build Period shall be permitted or required to work on a Saturday, Sunday, or a legal holiday of the State or in excess of eight hours on any other day unless the laborer or mechanic receives overtime compensation for all hours worked on a Saturday, Sunday, and a

legal holiday of the State or in excess of eight hours on any other day. For purposes of determining overtime compensation under this subsection, the basic hourly rate of any laborer or mechanic shall not be less than the basic hourly rate determined by the California Department of Industrial Relations to be the prevailing basic hourly rate for corresponding classes of laborer and mechanics on projects of similar character in the State. The Design-Builder and all Subcontractors shall also comply with the 40 U.S.C. 3702 and 3704, as supplemented by United States Department of Labor regulations (29 CFR Part 5, “Labor Standards Provisions Applicable to Contracts Covering Federally Financed and Assisted Construction”) and all applicable requirements of the Grants, including all applicable provisions identified in Appendix 12 (Certain Grant Requirements and Guidelines).

(J) Inclusion in Subcontracts. The Design-Builder shall include Section 7.2(E) (Federal and State Prevailing Wage Requirements) through Section 7.2(I) (Overtime Work) in every Subcontract for Design-Build Period Work.

(K) Design-Builder Employee Whistleblower Rights and Requirement to Inform Employees of Whistleblower Rights. As a result of the federal funding that the Town is obtaining to reimburse itself for a portion of the Design-Build Price, this Design-Build Contract and employees working on the Design-Build Work will be subject to the whistleblower rights and remedies in the pilot program on contractor employee whistleblower protections established at 41 U.S.C. 4712 by Section 828 of the National Defense Authorization Act for Fiscal Year 2013 (Pub. L. 112-239) and Federal Acquisition Regulation (FAR) 3.908. The Design-Builder shall inform its employees in writing, in the predominant language of the workforce, of employee whistleblower rights and protections under 41 U.S.C 4712, as described in FAR 3.908. The Design-Builder shall insert the substance of this subsection, including this sentence, in all Subcontracts over the simplified acquisition threshold, as defined in FAR 2.101 on the date of Subcontract award.

(L) Employee-Related Insurance Coverage. The Design-Builder is responsible for securing all employee-related insurance coverage for the Design-Builder and the Design-Builder’s employees and agents that is or may be required by law, and for payment of all premiums, costs, and other liabilities associated with securing such insurance coverage.

(M) Applicability of Certain Grant Requirements. Nothing set forth in this Section is intended to limit the Design-Builder’s obligations as identified in Appendix 12 (Certain Grant Requirements and Guidelines). Section 1.2(R) (Applicability, Stringency and Consistency of Contract Standards) shall govern issues of interpretation related to any inconsistency between terms and conditions set forth in this Section and in Appendix 12 (Certain Grant Requirements and Guidelines).

(N) Skilled and Trained Workforce Requirements. The Design-Builder shall comply with the requirements of Section 22172(b) of the California Public Contract Code obligating the Design-Builder to use a skilled and trained workforce in performing the Design-Build Work, and shall report to the Town monthly on actions taken to achieve such compliance.

SECTION 7.3. SUBCONTRACTING GENERALLY.

(A) Limited Right to Subcontract. The Design-Builder may carry out the Design-Build Work and other Contract Obligations by contracting such obligations to one or more Subcontractors in accordance with the requirements of this Article 7; provided, however, that the Design-Builder shall not subcontract more than seventy percent (70%) of the Construction work on the Project unless otherwise approved by the Town. The Design-Builder shall retain full responsibility to the Town under this Design-Build Contract for all matters

related to the Contract Obligations, notwithstanding the execution of, or the terms and conditions contained in, any Subcontract. Subcontracts entered into by the Design-Builder for the performance of the Contract Obligations shall neither supersede nor abrogate any of the terms or provisions of this Design-Build Contract.

(B) Approval Required. The Subcontractors identified in Appendix 11 (Key Personnel and Approved Subcontractors) are approved by the Town for the performance of the specific Contract Obligations identified therein, subject to the rights of the Town under this Section. The Design-Builder shall retain such Subcontractors to perform such services, unless otherwise agreed to in writing by the Town. All other Subcontractors shall be subject to the approval of the Town, which approval shall not be unreasonably withheld. The Design-Builder shall replace any Subcontractor at the request of the Town, after notice and a reasonable opportunity for corrective action, in the event that the Town determines, acting reasonably, that an unworkable relationship has developed between the Town or the Design-Builder and the Subcontractor. The Town's approval of any Subcontractor performing Contract Obligations shall be subject to the terms and conditions of Section 7.4 (Self-Performance and Subcontractor Selection).

(C) Performance Failure. The Design-Builder shall retain full responsibility to the Town under this Design-Build Contract for all matters related to the Contract Obligations. No failure of any Subcontractor used by the Design-Builder in connection with the provision of the Contract Obligations shall constitute an Uncontrollable Circumstance or otherwise relieve the Design-Builder from its obligations hereunder to perform the Contract Obligations, except as provided in items (h) and (j) of the list of "Inclusions" in the definition of Uncontrollable Circumstances. The Design-Builder shall be responsible for settling and resolving with all Subcontractors all claims including those:

- (1) Arising out of delay, disruption, interference, hindrance, schedule extension caused by the Design-Builder;
- (2) Arising from the actions or inactions of the Design-Builder or a Subcontractor; or
- (3) Inflicted on the Design-Builder or a Subcontractor by the actions of another Subcontractor.

The Design-Builder shall provide to the Town, promptly following the receipt thereof, copies of any notice of default, breach or non-compliance received under or in connection with any Subcontract that may have a material and adverse effect on performance by the Design-Builder of its obligations under the Contract Documents.

(D) Restricted Persons. In providing the Contract Obligations, the Design-Builder shall not contract with, or allow any of its Subcontractors to contract with, any person that, in the reasonable opinion of the Town, is a Restricted Person.

(E) Subcontractor Licensing. All trade Subcontractors shall possess a valid contractor license as required by Applicable Law for the classification required for the work to be performed by the Subcontractor at the time of the Subcontract and throughout the duration of the Subcontract. Section 7.2(A) (Personnel Performance) shall be applicable to all Subcontractors performing Design Professional Services.

(F) Availability of Subcontractors and Key Personnel. At the request of the Town, the Design-Builder shall make the key representatives of Subcontractors available for meetings between the Town and the Design-Builder concerning design review, construction

progress, Substantial Completion or any other matter relating to the performance of the Design-Build Work. The Design-Builder shall provide the Town with periodic human resource allocation summary reports concerning the personnel of the Material Subcontractors, which reports shall include anticipated personnel allocations for all ongoing and planned projects and shall demonstrate human resource sufficiency.

(G) Assignability. All Subcontracts entered into by the Design-Builder with respect to the Project shall be assignable to the Town, solely at the Town's election and without cost or penalty, upon any early termination of this Design-Build Contract, including convenience termination under Section 12.6 (Town Convenience Termination Rights).

(H) Prompt Payment. The Design-Builder shall pay its Subcontractors in accordance with Applicable Law. Any reduction of retention by the Town to the Design-Builder under Article 9 (Contract Compensation) shall result in a corresponding reduction to Subcontractors who have performed satisfactory work. The Design-Builder shall pay Subcontractors the reduced retention within 10 days after the payment of the reduction of the retention to the Design-Builder. No contract between the Design-Builder and its Subcontractors may materially alter the rights of any Subcontractor to receive prompt payment and retention reduction as provided herein. If the Design-Builder fails to make payments in accordance with this Section, the Town may take any one or more of the following actions and the Design-Builder agrees that the Town may take such actions:

- (1) To declare the Design-Builder in breach of this Design-Build Contract;
- (2) Withhold future payments, including retention, until proper payment has been made to Subcontractors in accordance with this Section; or
- (3) Terminate this Design-Build Contract for an Event of Default by the Design-Builder under Section 12.2(B) (Events of Default Requiring Previous Notice and Cure Opportunity for Termination).

The Design-Builder shall include prompt payment provisions consistent with this Section and the requirements of Applicable Law in every Subcontract, including procurement of materials and leases of equipment entered into in connection with this Design-Build Contract. Nothing contained in this Section or otherwise in this Design-Build Contract shall provide a basis for any Subcontractor claim against the Town.

(I) Subcontractor Claims. The Design-Builder shall pay or cause to be paid to all Subcontractors all amounts due in accordance with their respective Subcontracts and the requirements of this Article 7. The Design-Builder acknowledges that its indemnity obligations under Article 15 (Indemnification) shall extend to all claims for payment or damages by any Subcontractor who furnishes or claims to have furnished any labor, services, materials or equipment in connection with the Design-Build Work. No Subcontractor shall have any right or claim against the Town for labor, services, materials or equipment furnished for the Contract Obligations except the right to give a Stop Payment Notice under Section 9350 et seq. of the California Civil Code.

(J) Design-Builder Employee Claims. The Design-Builder specifically assumes potential liability for actions brought by the Design-Builder's own employees against the Town and, solely for the purpose of this indemnification and defense, the Design-Builder specifically waives any immunity available to it under State law. The Design-Builder recognizes that this waiver was the subject of mutual negotiation.

(K) Subcontracting with Small and Minority Businesses, Women’s Business Enterprises and Labor Surplus Area Firms. In accordance with 2 CFR 200.321, the Design-Builder shall take all necessary affirmative steps to cause minority businesses, women’s business enterprises and labor surplus area firms to be used when possible in performance of the Design-Build Work. Affirmative steps must include:

- (1) Placing qualified small and minority businesses and women’s business enterprises on solicitation lists;
- (2) Assuring that small and minority businesses, and women’s business enterprises are solicited whenever they are potential sources;
- (3) Dividing total requirements, when economically feasible, into smaller tasks or quantities to permit maximum participation by small and minority businesses, and women’s business enterprises;
- (4) Establishing delivery schedules, where the requirement permits, which encourage participation by small and minority businesses, and women’s business enterprises; and
- (5) Using the services and assistance, as appropriate, of such organizations as the Small Business Administration and the Minority Business Development Agency of the United States Department of Commerce.

SECTION 7.4. SELF-PERFORMANCE AND SUBCONTRACTOR SELECTION.

(A) Self-Performed Construction Work Generally. A minimum of thirty percent (30%) of Construction work on the Project shall be performed by the Design-Builder, or its Affiliates unless otherwise approved by the Town. Additional Construction work may be performed by the Design-Builder, or its Affiliates, with the approval of the Town given in its discretion pursuant to subsection (G) of this Section. The parties agree that, during the performance of the Preliminary Services, specific aspects of the Construction may be proposed for self-performance by the Design-Builder, any Affiliate of the Design-Builder or by an Approved Subcontractor. The Town agrees to approve the proposed self-performance of the required minimum of thirty percent (30%) of Construction work on the Project required by this Section 7.4(A) and to allow the proposed self-performance of Construction work on the Project in excess of such required minimum of thirty percent (30%) of Construction work on the Project if the Design-Builder demonstrates to the Town’s satisfaction that providing for such self-performance is in the best interest of the Project and that the pricing therefor will be fair, reasonable and consistent with industry standards for similar services. The Town, in its discretion, may require that any such demonstration be supported by an independent cost estimate. Notwithstanding the foregoing, the Town shall have the right in its sole discretion to require that the Design-Builder utilize a competitive procedure as set forth in Section 7.4(F) (Competitive Procedures for Construction Work) and (G) (Alternative Procedures for Construction Work) for any and all Construction work proposed to be self-performed by the Design-Builder, any Affiliate of the Design-Builder or by an Approved Subcontractor.

(B) Subcontractor Selection Generally. Subcontractors shall be selected on a competitive basis, unless the Town approves otherwise in accordance with subsection (G) (Alternative Procedures for Construction Work) of this Section.

(C) Subcontracting Plan. A proposed final Subcontracting Plan shall be prepared during performance of the Preliminary Services and proposed by the Design-Builder

as part of the GMP Submittal, and negotiated and agreed upon by the parties as part of the GMP Amendment.

(D) Division of Work. The Design-Builder shall coordinate and develop with the Town Contract Representative bid packages and work scope descriptions for each separate bid category that represents the entirety of the scope of the Design-Build Work for each phase and stage of the Project. The Design-Builder shall be responsible for determining the Baseline Design Documents that are applicable to each Subcontractor performing Design-Build Work, including all trade Subcontractors and Suppliers. The Design-Builder shall be responsible for the assembly, reproduction and distribution of all documents defining the scope of work for each Subcontractor.

(E) Pre-Bid Conferences. The Design-Builder shall schedule and conduct pre-bid or pre-proposal conferences with trade Subcontractors and Suppliers for the purpose of generating interest in the Project among potential Subcontractors. The Design-Builder shall coordinate such pre-bid conferences with the Town Contract Representative and shall record and preserve conference minutes.

(F) Competitive Procedures for Construction Work. Except for Construction work approved by the Town to be self-performed by the Design-Builder, any Affiliate of the Design-Builder or by an Approved Subcontractor pursuant to Section 7.4(A) (Self-Performed Construction Work Generally) or as may otherwise be approved in writing by the Town Contract Representative in accordance with subsection (G) of this Section, the Design-Builder shall enter into fixed-price Subcontracts for the performance of all Construction work and, in connection therewith, shall utilize a competitive bidding or competitive sealed proposal process approved by the Town. In connection with any such procurement, the Design-Builder shall, in accordance with the Contract Standards:

- (1) Develop procurement procedures in consultation with the Town Contract Representative and prepare all necessary procurement documents;
- (2) Publicly advertise and receive bids or proposals;
- (3) Open and review all bids or proposals in a manner that does not disclose the contents of the bids or proposals to persons not employed by the Design-Builder, the Town or the Owner Representative;
- (4) Evaluate the bids or proposals in accordance with the selection criteria established in the procurement documents; and
- (5) Recommend a bid or proposal for approval by the Town Contract Representative in accordance with such evaluation.

Any Subcontract awarded for the performance of Construction work shall be subject to the Town's approval and shall have terms and conditions and a risk allocation substantially identical to that established by this Design-Build Contract. The Town Contract Representative's approval of a bid or proposal recommended by the Design-Builder in accordance with this Section shall not be unreasonably withheld. Without limiting any of the foregoing, the Design-Builder acknowledges and agrees that the Town and the Owner Representative shall have the right to: (i) review and comment on all procurement documents; (ii) attend any bid or proposal openings; (iii) attend any meetings with prospective Subcontractors or Suppliers, including scope review meetings; (iv) review all bids, proposals, and other information developed or otherwise resulting from any competitive procurement, including the Design-Builder's tabulation, scoring or evaluation materials; and (v) otherwise

participate in the negotiation and contract award process. Upon contract award, the Design-Builder shall provide the Town Contract Representative with a description of the competitive process undertaken in connection with such contract award, together with copies of all material documents used in connection therewith and agreements resulting therefrom.

(G) Alternative Procedures for Construction Work. The Design-Builder may propose to the Town Contract Representative alternative procedures for the procurement of Construction work other than Construction work approved by the Town to be self-performed by the Design-Builder, any Affiliate of the Design-Builder or by an Approved Subcontractor pursuant to Section 7.4(A) (Self-Performed Construction Work Generally). The Town Contract Representative's approval of any such alternative procedure shall be in the Town Contract Representative's sole discretion. If the Design-Builder or any Affiliate of the Design-Builder intends to submit a competitive bid or proposal for Construction work, the Design-Builder shall notify the Town Contract Representative in writing prior to the issuance of procurement documents for the work, and the Town Contract Representative shall have the right in its sole discretion to disallow the Design-Builder or any Affiliate of the Design-Builder from submitting a competitive bid or proposal for such Construction work or to require the submittal of all bids or proposals directly to the Town (and not to the Design-Builder) for review, evaluation and selection. Any decision by the Town Contract Representative to approve the performance of Construction work without obtaining competitive bids or proposals shall be subject to an "open book" process to provide the Town Contract Representative with sufficient information to determine whether the proposed pricing of the work is fair, reasonable and consistent with industry standards for similar services.

(H) Procurement of Subcontractors Prior to the GMP Amendment Date. The Design-Builder, during the Preliminary Services Period, in the development of the proposed Base Guaranteed Maximum Price to be submitted to the Town in the GMP Submittal (1) may conduct discussions with and obtain indicative pricing information from potential Construction Subcontractors, and (2) may initiate, subject to the approval of the Town given in its discretion, the formal procurement process for selecting Construction Subcontractors. Any such formal procurement process shall be conducted in accordance with the requirements of this Section and Section 22172.3 of the California Public Contract Code. No Subcontract resulting from such procurement process shall be executed prior to the GMP Amendment Date without the Town's consent given in its discretion.

(I) Use of Approved Subcontractors; Non-Substitution. The Design-Builder acknowledges that the identity of the Subcontractors identified by the Design-Builder in the Proposal was a material factor in the decision of the Town to execute this Design-Build Contract. Such Subcontractors constitute the Approved Subcontractors. The Approved Subcontractors designated in Appendix 11 (Key Personnel and Approved Subcontractors) for the performance of Design-Build Work are deemed qualified and shall be used for the performance of the portion of the Design-Build Work indicated in Appendix 11 (Key Personnel and Approved Subcontractors). In accordance with Sections 22172.3(a) and (c) of the California Public Contract Code, no substitution of Approved Subcontractors shall be made except upon compliance with the substitution requirements set forth in Chapter 4 (commencing with Section 4100) of Part 1 of Division 2 of the California Public Contract Code (the "Subletting and Subcontracting Fair Practices Act").

(J) Security for Construction Subcontractor Performance. Security for the performance of Subcontractors under Construction Subcontracts shall be provided in a manner agreed to by the parties, and the costs therefor shall constitute Design-Build Period Costs.

SECTION 7.5. TERMINATION, AMENDMENT, ASSIGNMENT AND
REPLACEMENT OF MATERIAL SUBCONTRACTS.

(A) Termination, Amendment and Assignment. Unless the Design-Builder has, at its earliest practicable opportunity, submitted to the Town notice of the proposed course of action (and any relevant documentation) and the Town has consented in writing to such course of action, such consent not to be unreasonably withheld or delayed, the Design-Builder shall not:

(1) Terminate, or agree to, or permit the termination of, any Material Subcontract;

(2) Make, or agree to, or permit the making of (a) any material amendment of any Material Subcontract; or (b) any departure by any party from any material provision of any Material Subcontract; or

(3) Permit any Material Subcontract party to assign or transfer to any person any of such Material Subcontract party's rights or obligations under a Material Subcontract.

(B) Replacement. If any Subcontract at any time lapses, terminates, or otherwise ceases to be in full force and effect (whether by reason of expiration or otherwise), unless the goods, services or rights which were the subject matter of such Subcontract are no longer reasonably required for the Project, the Design-Builder will forthwith enter into, or cause to be entered into, a replacement contract or contracts upon the same or substantially similar terms as the contract so replaced (to the extent reasonably practicable). If at any time any amendment is made to any Material Subcontract, or a replacement Material Subcontract (or any agreement which materially affects the interpretation or application of any Material Subcontract) is entered into, the Design-Builder shall deliver to the Town a copy of each such amendment or agreement within 14 days of the date of its execution or creation, certified as a true copy by the Project Manager.

ARTICLE 8

SUBSTANTIAL COMPLETION AND FINAL COMPLETION

SECTION 8.1. SUBSTANTIAL COMPLETION DATE CONDITIONS.

(A) Substantial Completion Date Conditions. The following conditions shall constitute the “Substantial Completion Date Conditions”, each of which must be satisfied in all material respects by the Design-Builder in order for the Substantial Completion Date to occur, and each of which must be and remain satisfied as of the Substantial Completion Date:

(1) Physical Completion. All pipelines, facilities, materials and equipment for the Project have been installed in accordance with the requirements of the Contract Documents and inspected (tv'd), (each joint isolated and air tested, Mandrel test for flexible pipes), tested in accordance with Appendix 4 (Baseline Design Documents) and the Project has been cleaned out as necessary and required by the Town and Applicable Law;

(2) Project Equipment. The Project pipes and other equipment are installed in a manner that does not void any Subcontractor or Supplier warranties and such Project pipes and equipment can be operated in a safe and prudent manner;

(3) Certificates of Proper Installation. The Design-Builder has delivered to the Town certificates of proper installation for the Project;

(4) Verification of Governmental Approval Compliance. The Design-Builder shall provide documentation that all activities and conditions have been met to comply with all the Governmental Approvals and Non-Governmental Approvals;

(5) No Encumbrances. There are no Encumbrances registered or recorded on the Project Sites or any part of the Project other than Permitted Encumbrances;

(6) Equipment Warranties and Manuals. The Design-Builder shall be in possession of, and shall have delivered to the Town, copies of the warranties of pipes and equipment constituting a part of the Project, together with copies of any related operating manuals supplied by the equipment supplier;

(7) Operations and Maintenance Manual. The Design-Builder has delivered to the Town and the Town has approved in writing, such approval not to be unreasonably withheld or delayed, the pre-final Operations and Maintenance Manual in accordance with the requirements set forth in Appendix 5 (General Design-Build Work Requirements);

(8) Punch List. The Design-Builder and the Town have agreed in writing upon the Punch List (or, if they are unable to agree, the Town shall have prepared and issued the Punch List to the Design-Builder within 30 days of the Design-Builder having submitted its proposed Punch List to the Town); and

(9) Approvals. All Governmental and Non-Governmental Approvals required under Applicable Law and this Design-Build Contract to be obtained by the Design-Builder which are necessary for the continued use of the Project shall be in full force and effect and certified copies of all such Governmental and Non-Governmental Approvals shall have been delivered to the Town.

The Design-Builder shall notify the Town in writing when all of the Substantial Completion Date Conditions have been achieved and provide evidence and/or certifications to such achievement, as applicable.

SECTION 8.2. CONCURRENCE OR DISAGREEMENT WITH SUBSTANTIAL COMPLETION DATE.

(A) Substantial Completion Date Concurrence. The Substantial Completion Date shall be the day on which the Substantial Completion Date Conditions have been achieved, as determined in accordance with this Section. If the Design-Builder certifies in writing pursuant to Section 8.1 (Substantial Completion Date Conditions) that the Substantial Completion Date Conditions have been achieved, the Town shall determine, within 30 days following its receipt of such report, whether it concurs in such certification. If the Town states in writing that it concurs with the Design-Builder's certification, the Project shall be deemed to have achieved Substantial Completion and the Substantial Completion Date shall be deemed to have been established on the date of the Design-Builder's original certification.

(B) Substantial Completion Date Disagreement. If the Town determines at any time during such 30-day review period that it does not concur with the Design-Builder's certification of Substantial Completion, the Town shall immediately send written notice to the Design-Builder of the basis for its disagreement. In the event of any such non-concurrence by the Town, the parties shall meet to discuss such disagreement. Either party may elect to initiate dispute resolution procedures in accordance with Section 11.1 (Dispute Resolution Procedures) following such meeting if the parties are unable to resolve the disagreement.

SECTION 8.3. EFFECT OF UNEXCUSED DELAY; EXTENSION PERIOD.

(A) Schedule for Completing the Design-Build Work. The Design-Builder shall achieve Substantial Completion by the Scheduled Substantial Completion Date, as such date may be extended in accordance with this Section. In the event one or more delays in the Design-Build Work caused by an Uncontrollable Circumstance or a Change Order, occurring during the Design-Build Period, the Scheduled Substantial Completion Date shall be the date determined by adding to the Scheduled Substantial Completion Date the aggregate number of days of delay in the performance of the Design-Build Work by the Design-Builder caused by such occurrence.

(B) Unexcused Delay. It is agreed that time is of the essence in the performance of the Design-Build Work. If Substantial Completion has not occurred on or before the Scheduled Substantial Completion Date, the Design-Builder shall be entitled to complete the Substantial Completion Date Conditions in order to secure Substantial Completion of the Project, subject to the Town's right to terminate this Design-Build Contract in accordance with subsection (D) of this Section. During the Extension Period, the Design-Builder shall pay delay liquidated damages, as and to the extent provided in subsection (C) of this Section.

(C) Delay Liquidated Damages. Subject to relief in accordance with the terms and conditions of this Design-Build Contract in the event of Uncontrollable Circumstances, if the Substantial Completion Date occurs subsequent to the Scheduled Substantial Completion Date, the Design-Builder shall pay to the Town delay liquidated damages in the amount of \$[TBD] per day for each day that the Substantial Completion Date falls after the Scheduled Substantial Completion Date. [Note: Amount to be finalized on the GMP Amendment Date.]

(D) Failure to Achieve Substantial Completion by End of Extension Period. If, as of the last day of the Extension Period, the Design-Builder has not achieved Substantial Completion in accordance with this Article 8, an Event of Default by the Design-Builder shall be deemed to have occurred, notwithstanding any absence of notice, further cure opportunity or other procedural rights accorded the Design-Builder thereunder, and the Town shall thereupon have the right to terminate this Design-Build Contract upon written notice to the Design-Builder. Upon any such termination, the Town shall have all of the rights provided in Article 12 (Breach, Default, Remedies and Termination) upon a termination of this Design-Build Contract for cause.

SECTION 8.4. FINAL COMPLETION.

(A) Requirements of Final Completion. The Design-Builder shall achieve Final Completion within 60 days following the Substantial Completion Date. “Final Completion” shall be deemed to have occurred when all of the following conditions have been satisfied:

(1) Design-Build Work Completed. All Design-Build Work (including the Punch List items, and all clean up and removal of construction materials, demolition debris and temporary facilities and excluding Warranty Work) is complete and in all respects is in compliance with the Contract Documents;

(2) Deliverable Material. The Design-Builder shall have delivered to the Town all Deliverable Material required by the Contract Documents;

(3) Final Record Drawings. The Design-Builder shall have delivered to the Town a final and complete reproducible set of “as-built” construction record drawings, as required by Appendix 7 (Design-Build Work Review Procedures);

(4) Final Completion Payment Requirements. The Design-Builder shall have satisfied all requirements associated with payment for Final Completion, as set forth in Section 9.5 (Payment Upon Final Completion);

(5) No Event of Default. The Design-Builder shall have certified that there is no Event of Default by the Design-Builder existing under this Design-Build Contract, or event which with the giving of notice or the passage of time would constitute an Event of Default by the Design-Builder hereunder; and

(6) Certification. The Design-Builder has submitted written certification that all of the foregoing conditions have been satisfied and the Town has approved the Design-Builder’s certification, which approval shall be effective as of the date of the Design-Builder’s certification.

(B) Notice and Report of Final Completion. When the Design-Builder believes that it has achieved Final Completion, it shall deliver to the Town a written notice thereof (the “Notice of Final Completion”). The Notice of Final Completion shall contain a report in a form acceptable to the Town, and with sufficient detail to enable the Town to determine the completion by the Design-Builder of all Design-Build Work to be performed under this Design-Build Contract, including completed Punch List items, and such other information that the Town may require to determine whether Final Completion has been achieved.

(C) Achievement of Final Completion. The Town shall, in consultation with the Owner Representative, within 20 days following receipt of the Notice of Final Completion,

inspect the Project, review the report submitted by the Design-Builder and either (1) deliver a written certificate to the Design-Builder stating that all conditions set forth in subsection (A) of this Section have been satisfied, or (2) notify the Design-Builder in writing that Final Completion has not been achieved, stating in detail the reasons therefor. In the event that the Town determines that Final Completion has not been achieved, the Design-Builder shall promptly take such action or perform such Design-Build Work as will achieve Final Completion and shall issue to the Town another Notice of Final Completion pursuant to subsection (B) of this Section. Such procedure shall be repeated as necessary until Final Completion is achieved. If the Town, in its written certificate delivered in accordance with this subsection, states that it concurs that all conditions set forth in subsection (A) of this Section have been satisfied, the Project shall be deemed to have achieved Final Completion and Final Completion shall be deemed to have been established on the date of the Design-Builder's most recent Notice of Final Completion.

ARTICLE 9

CONTRACT COMPENSATION

SECTION 9.1. COMPENSATION FOR PRELIMINARY SERVICES.

(A) Compensation for Base Preliminary Services. The Town shall pay the Design-Builder the applicable Preliminary Services Fee for a Preliminary Services Phase in the manner and subject to the terms and conditions set forth in this Design-Build Contract including Appendix 2 (Preliminary Services). The Design-Builder agrees that the applicable Preliminary Services Fee for a Preliminary Services Phase, when earned, shall be the Design-Builder's entire compensation and reimbursement for the performance of the applicable Preliminary Services for such Preliminary Services Phase, inclusive of all costs, expenses and disbursements paid or incurred by the Design-Builder, as well as all overhead, administration, risk and profit. The applicable Preliminary Services Fee for a Preliminary Services Phase shall be subject to the not-to-exceed amount set forth for such Preliminary Services Phase in Appendix 2 (Preliminary Services) which amount shall be subject to adjustment solely in accordance with Section 5.2 (Changes to the Scope of the Preliminary Services).

(B) Compensation for Additional Preliminary Services. The Design-Builder shall be compensated for any Additional Preliminary Services for a Preliminary Services Phase on a time and materials or lump sum basis, as set forth for such Preliminary Services Phase in Appendix 2 (Preliminary Services) or as otherwise agreed to in writing through a Change Order, a Contract Amendment or a Contract Administration Memorandum (as described in Section 2.2.11 of Appendix 2 (Preliminary Services)). Compensation for Additional Preliminary Services for a Preliminary Services Phase may consist of compensation on the basis of Design-Builder's and Subcontractors' billing rates for such Preliminary Services Phase set forth in Appendix 2 (Preliminary Services) or as otherwise approved by the Town. Appendix 2 (Preliminary Services) or the Change Order or Contract Amendment, as applicable, may set forth additional compensation and Payment Request requirements.

(C) Payment Requests and Payment. The Design-Builder shall provide the Town with a Payment Request for the performance of the Preliminary Services on a monthly basis in accordance with the specific requirements set forth in Appendix 2 (Preliminary Services). The Payment Request shall state the amount payable for the month and the total amount paid against the Preliminary Services Fee through the date of the Payment Request, along with a Monthly Progress Report regarding the performance of the Preliminary Services and such other information or documentation as the Town may reasonably require. The Town shall make payment to the Design-Builder of all properly supported invoiced amounts within 30 days of receipt of the Payment Request, subject to the terms and conditions of this Design-Build Contract. Payments of the Preliminary Services Fee shall not be subject to retainage holdback or, except as provided in subsection (E) of this Section, offset.

(D) Non-Compliant Preliminary Services. Nothing contained in this Design-Build Contract shall require the Town to pay for any unsatisfactory or duplicative Preliminary Services or for Preliminary Services that are not in compliance with the terms and conditions of this Design-Build Contract. The Town shall not be required to pay the Preliminary Services Fee to the Design-Builder at any time the Design-Builder is in breach or default under this Design-Build Contract.

(E) Billing Statement Disputes. If the Town disputes in good faith any Payment Request for Preliminary Services, the Town shall pay all undisputed amounts when due but may withhold payment of the disputed amount, and shall provide the Design-Builder with a written objection indicating the amount being disputed and the reasons then known to

the Town for the dispute. In the event that the Design-Builder disputes any amounts offset by the Town, it shall provide the Town with a written objection indicating the amount being disputed and the reasons then known to the Design-Builder. If the Design-Builder is unable to reach agreement with the Town as to the payment dispute, the Design-Builder may elect to initiate dispute resolution procedures in accordance with Section 11.1 (Dispute Resolution Procedures). When any billing dispute is finally resolved, if payment by the Town to the Design-Builder of amounts withheld is required, such payment shall be made within 30 days of the date of resolution of the dispute, together with interest thereon, from the date originally due, determined as provided in Section 9.9 (Interest on Overdue Obligations) of this Design-Build Contract.

SECTION 9.2. DESIGN-BUILD PRICE.

The Town shall pay the Design-Builder the Design-Build Price for properly performed and completed Design-Build Work during the Design-Build Period. The Design-Build Price and the components thereof are defined in Appendix 8 (Design-Build Price). The Town's obligation to pay the Design-Build Price is subject to the Guaranteed Maximum Price and the terms and conditions of this Article 9 and Appendix 8 (Design-Build Price). Except with respect to (1) payments of the Preliminary Services Fee in accordance with Section 9.1 (Compensation for Preliminary Services), (2) Design-Build Work performed pursuant to an Early Work Package Amendment and (3) Design-Build Work authorized in a Limited Notice to Proceed pursuant to Section 6.1(A)(2) (Limited Notice to Proceed), the Design-Builder shall not be entitled to any compensation for costs or expenses incurred, or Design-Build Work performed, prior to the issuance by the Town of the Notice to Proceed with Design-Build Period Work. Any amount payable for Design-Build Work performed pursuant to an Early Work Package shall, upon the GMP Amendment Date, be part of the Design-Build Price and subject to the Guaranteed Maximum Price and all other terms and conditions of this Article 9 and Appendix 8 (Design-Build Price).

SECTION 9.3. DESIGN-BUILD PRICE PAYMENT PROCEDURE.

(A) Payments. The Design-Builder shall be paid the Design-Build Price in accordance with the final agreed upon Anticipated Design-Build Period Work Cost Schedule of the direct cost of the Design-Build Period Work and the terms and conditions of this Section. The Design-Builder shall prepare and submit to the Town for its approval preliminary and final drafts of the Anticipated Design-Build Period Work Cost Schedule in accordance with the Contract Standards. After the final Anticipated Design-Build Period Work Cost Schedule is accepted by the Town, it shall be used to assist in the tracking of actual Design-Build Period Costs against the anticipated costs and for keeping track of line item savings and the use of Contingency. The use of line item savings and use of the Design-Builder Contingency will be subject to any conditions or limitations imposed by the Grants.

(B) Payment Request. Subject to subsection (C) of this Section, the Design-Builder shall be entitled to submit Payment Requests to the Town on a monthly basis and to receive from the Town the payments, which (1) shall be made on a cost substantiated basis; (2) shall be subject to the Guaranteed Maximum Price limitations; and (3) shall be subject to the conditions to payment set forth in this Article 9. Each Payment Request shall be in a form reasonably acceptable to the Town and must be accompanied by a monthly requisition report, which shall include:

- (1) A reasonably detailed description of all Design-Build Period Work actually completed to date;

- (2) Revisions to the Design-Build Period Work Schedule, which shall reflect changes in the Design-Builder's critical path schedule since the date of the last Payment Request;
- (3) An update to the Anticipated Design-Build Period Work Cost Schedule indicating the amount invoiced against each line item in such month;
- (4) The amount of the Design-Builder Contingency utilized in such month, the specific uses thereof and the balance of the Design-Builder Contingency remaining after such use;
- (5) A certificate of the Project Manager and the Design-Builder Contract Representative certifying (a) the portion of the Design-Build Price payable to the Design-Builder for completed Design-Build Work; (b) that the Design-Builder is neither in default under this Design-Build Contract nor in breach of any material provision of this Design-Build Contract such that the breach would, with the giving of notice or passage of time, constitute an Event of Default; and (c) that all items applicable to the Design-Build Period Work entitling the Design-Builder to the requested payment have been completed in accordance therewith and with the Contract Documents;
- (6) Notice of any Encumbrances which have been filed together with evidence that the Design-Builder has discharged any such Encumbrances or made timely notification to the Payment Bond Surety regarding such Encumbrances;
- (7) A verified statement setting forth the information required under any Applicable Law and all applicable requirements of the Grants, including all applicable provisions identified in Appendix 12 (Certain Grant Requirements and Guidelines) pertaining to prevailing wages; and
- (8) Any other documents or information relating to the Design-Build Work or this Design-Build Contract reasonably requested by the Town or the Owner Representative or as may be required by Applicable Law, this Design-Build Contract or generally accepted accounting practices or principles, including payrolls, receipts, fully detailed invoices with check vouchers or other evidence of Design-Build Period Costs incurred which the Town or the Owner Representative deems necessary to support the amount requested in the Payment Request.

The General Conditions Fee shall be shown as a separate line item on each Payment Request in accordance with Appendix 8 (Design-Build Price). The Design-Builder Fee shall also be shown as a separate line item on each Payment Request. The Design-Builder shall identify the dollar amount of the total expected Design-Builder Fee and General Conditions Fee in each Payment Request based on the total expected Design-Build Period Costs to which the Design-Builder Fee and General Conditions Fee applies in accordance with Appendix 8 (Design-Build Price). The amount requested for the Design-Builder Fee and General Conditions Fee in each Payment Request shall be in the same proportion to the total expected Design-Builder Fee and General Conditions Fee as the amount requested for the applicable Design-Build Period Costs bears to the total expected Design-Build Period Costs to which the Design-Builder Fee and General Conditions Fee applies, subject to the Guaranteed Maximum Price.

(C) Online Project Management System. The Design-Build Work shall be administered through the internet-based project management e-Builder system [TBD] (hereinafter referred to as the "Project Online System"). The Design-Builder shall conduct all of its invoicing and billing to the Town through the Project Online System, and the Design-Builder shall perform all contract and billing related functions using the Project Online System to

submit and process all documentation to be generated, received or used in the performance of the Contract Obligations, including Payment Requests and processing of payments for the Contract Obligations. The [Design-Builder]/[Town] shall administer the Project Online System software. The software shall be accessible via the internet to all Town designated personnel and Design-Builder Project team members. The Design-Builder shall designate a member of its key personnel to be the sole responsible party for the Design-Builder for receiving and implementing all software updates and to manage all Project documentation through the Project Online System. The Design-Builder will schedule training sessions with Town's designated personnel on the Project Online System. [Note: To be determined as part of the Phase 1a Base Preliminary Services.]

(D) Review and Payment. Prior to submitting a Payment Request for the Design-Build Price to the Town, the Design-Builder shall submit a draft Payment Request to the Town Contract Representative and the Owner Representative, including all information required pursuant to this Section. The Owner Representative shall have no fewer than 10 days to review each draft Payment Request. Within such 10-day period, the Owner Representative shall verify or dispute in writing (or by telecommunication promptly confirmed in writing) the Design-Builder's certification that the Design-Builder has achieved the level of progress indicated and is entitled to payment. If the Owner Representative determines that the Design-Build Work has progressed as indicated in the draft Payment Request, the Owner Representative shall notify the Town and the Design-Builder, and the Design-Builder shall submit a final, certified Payment Request to the Town, which may not contain any material change from the draft Payment Request reviewed by the Owner Representative, in accordance with subsection (C) of this Section. The Town shall pay the Design-Builder the requisitioned amount included in the final, certified Payment Request within 30 days following receipt of such final, certified Payment Request, subject to subsection (E) of this Section and the Town's rights to withhold payments under Section 9.4. Disputes regarding payments of the Design-Build Price shall be resolved in accordance with subsection (E) of this Section. Any undisputed amounts of the Design-Build Price shall be paid within 30 days after receipt of the Design-Builder's final, certified Payment Request.

(E) Payment Dispute Procedures. If the Town determines that the Design-Build Period Work required for any payment has not progressed as indicated by the Design-Builder in the draft Payment Request, or otherwise disputes any Payment Request, the Town shall provide prompt written notice to the Design-Builder as to the Town's reasons, in reasonable detail, for such determination or the basis for such dispute. After receiving such determination notice, the Design-Builder may make the necessary corrections and resubmit the Payment Request, or the Town may agree on a revised amount, in which case the Design-Builder shall promptly submit a final, certified Payment Request to the Town as to any undisputed amount. If the Design-Builder is unable to reach agreement with the Town as to the progress of the Design-Build Work or the payment dispute, the Design-Builder may exercise its right to contest the Town's determination in accordance with the dispute resolution procedures set forth in Section 11.1 (Dispute Resolution Procedures). Any proceedings undertaken to resolve a dispute arising under this subsection (E) shall immediately terminate if (1) the Design-Builder demonstrates to the Town that the Design-Build Period Work has progressed as indicated in the Payment Request giving rise to the dispute and that the disputed Payment Request is correct, and (2) the Town concurs with such demonstration. The Design-Builder shall not be entitled to payment of the amount so requisitioned and disputed except upon resolution of the dispute in accordance with this subsection (E); provided, however, that the Town shall pay all requisitioned amounts which are not in dispute in accordance with subsection (C) of this Section. In the event that upon resolution of any such dispute, it is determined that the Design-Builder was properly entitled to the disputed amount as of a date earlier than the date on which payment is actually made, the Design-Builder shall be entitled to receive, promptly following such resolution, such disputed amount plus interest

on such disputed amount as and to the extent provided under Section 9.9 (Interest on Overdue Obligations).

(F) Retainage. Pursuant to California Public Contract Code Section 7201, the Town will withhold five percent (5%) from each payment to the Design-Builder until Final Completion. The Town will release such retention amount to the Design-Builder forty-five (45) days after Final Completion has been achieved. Subject to approval of and coordination with the applicable Granting Agencies, pursuant to California Public Contract Code Section 22300, for monies earned by the Design-Builder and withheld by the Town to secure the performance of this Design-Build Contract, the Design-Builder, may, at its option, choose to substitute securities meeting the requirements of said California Public Contract Code Section 22300. Such securities shall be valued by the Town Treasurer, whose decision shall be final. Securities not listed under California Public Contract Code Section 22300 or California Government Code Section 16430 must be pre-qualified by the Town Treasurer before bid opening in order to be accepted by the Town as security. [Note: During the Phase 1a Preliminary Services, the Town will endeavor to discuss mechanisms to accelerate retainage payments with the agency providing the Grant for construction.]

(G) Cost Control and Reporting. The Design-Builder shall implement a Cost/Schedule Status Report (CSSR) program for Design-Build Period Work cost control, which system shall be disclosed to and reviewed and approved by the Town and the Owner Representative prior to the GMP Amendment Date. The Design-Builder shall develop cash flow reports and forecasts that comply with the Document Management Plan and that satisfy the Town's reporting requirements for the Grants and as otherwise reasonably requested or required by the Town and the Owner Representative, including a good faith calendar quarterly estimate of payments of the Design-Build Price throughout the Design-Build Period, specifying the range of minimum and maximum monthly payments, which shall not exceed the Guaranteed Maximum Price. The Design-Builder shall promptly (within seven days) after acquiring such information, identify and report to the Town and the Owner Representative all variances between estimated costs and actual costs of the Design-Build Period Work, including any proposed corrective action to be taken by the Design-Builder.

(H) Certification of Amounts Due. Whenever requested by the Town or the Owner Representative, the Design-Builder shall submit a sworn statement certifying all amounts then due (or yet to become due) the Design-Builder for the Design-Build Period Work (or any portion thereof) and describing any payment or other dispute which may exist between the Design-Builder and any Subcontractor.

SECTION 9.4. PERMISSIBLE WITHHOLDINGS.

(A) Permissible Withholdings. In addition to the amounts required to be retained pursuant to Section 9.3(F) (Retainage), the Town may disapprove and withhold and retain all or any portion of any payment requested in any Payment Request for Design-Build Period Work in an amount equal to the sum of:

- (1) Any liquidated damages or reimbursement payments which are due and owing to the Town hereunder;
- (2) Any indemnification amounts which are due and owing to the Town hereunder and with respect to which a claim has been filed against a the Town Indemnitee by a third party in accordance with Applicable Law;

- (3) Any premiums or amounts paid to procure Required Insurance or similar insurance coverage paid by the Town pursuant to Section 13.1(E) (Maintenance of Insurance Coverage) and Appendix 10 (Insurance Requirements);
- (4) Any other deductions which are required by Applicable Law;
- (5) Any payments with respect to which documents to be delivered in connection therewith are not correct and complete;
- (6) Any payments to the extent that the Design-Build Period Work covered by such Payment Request (or any previous Payment Request) does not comply with this Design-Build Contract;
- (7) Damage to the work of a Separate Contractor to the extent caused by the Design-Builder or any Subcontractor;
- (8) Any payments with respect to which any person has filed a Lien resulting from the acts or omissions of the Design-Builder in performing the Design-Build Work and such Lien remains unreleased or unbonded;
- (9) All requisitioned payments if an Event of Default of the Design-Builder has occurred under Section 12.2 (Events of Default by the Design-Builder); and
- (10) In the event the Design-Builder fails to pay any Taxes, assessments, penalties or fees imposed by any Governmental Body, then the Design-Builder authorizes the Town to deduct and withhold or pay over to the appropriate Governmental Body those unpaid amounts upon demand by the Governmental Body.

In addition, the Town may withhold payment for persistent and uncured Design-Builder noncompliance with the administrative provisions of this Design-Build Contract. In the event of any permissible withholding under this Section, the Town shall notify the Design-Builder in writing at least seven days prior to the date payment is otherwise due. The notice shall indicate the specific amounts the Town intends to withhold, the reasons and contractual basis for the withholding, and the specific measures the Design-Builder must take to rectify the Town's concerns. Any dispute associated with any such withholding shall be handled in accordance with Section 9.3(E) (Payment Dispute Procedures).

SECTION 9.5. PAYMENT UPON FINAL COMPLETION.

(A) Final Completion Payment Request. In connection with the achievement of Final Completion in accordance with Section 8.4 (Final Completion), the Design-Builder shall prepare and submit to the Town and the Owner Representative a Final Completion Payment Request. The Final Completion Payment Request shall enclose:

- (1) A notarized affidavit in duplicate stating under oath that all Subcontractors, vendors, and other persons or firms who have furnished or performed labor or furnished materials for the Design-Build Period Work have been fully paid or satisfactorily secured; and if requested by the Town, the Design-Builder shall submit further proof including waiver or release of lien or claims from any Subcontractors or Suppliers;
- (2) A certificate of the Surety for both the Performance Bond and the Payment Bond certifying that the Surety consents to payment for Final Completion and

agrees that such payment shall not relieve the Surety of any of its obligations under the Performance Bond or the Payment Bond;

(3) A general release executed by the Design-Builder waiving, upon receipt of payment for Final Completion, all claims arising out of or resulting from the Design-Build Period Work, except those claims made in writing to the Town and remaining unsettled at the time of such payment, which claims shall be specifically listed in an attachment to the general release, identifying the claimant and the nature of the claim; and

(4) Certificates of insurance confirming that required coverages will remain in effect consistent with the requirements of this Design-Build Contract.

(B) Final Completion Payment. If based on the Owner Representative's (1) observation of the Design-Build Work, (2) final inspection, and (3) review of the Final Completion Payment Request and other documents required by subsections (A) and (C) of this Section and Section 8.4 (Final Completion), the Owner Representative is satisfied that the conditions for Final Completion have been achieved, the Owner Representative shall, within [15] days after receipt of the Final Completion Payment Request, furnish to the Town and the Design-Builder the Owner Representative's recommendation of payment for Final Completion. If the Owner Representative is not satisfied, the Owner Representative shall return the Final Completion Payment Request to the Design-Builder, indicating in writing the reasons for not recommending payment, in which case the Design-Builder shall either (1) exercise its right to contest the Owner Representative's determination in accordance with Section 9.3(E) (Payment Dispute Procedures), or (2) make the necessary corrections and resubmit the Final Completion Payment Request. [Note: Time periods to be developed pending Town discussions with the agency providing the Grant for construction.]

(1) Town Concurrence. If the Town concurs with the Owner Representative's recommendation of payment for Final Completion, the Town shall, within [15] days, file a written notice of Final Completion and notify the Design-Builder of such concurrence. As soon as reasonably practicable (but in no event later than [forty-five (45)] days after Final Completion, subject to the Town's right to dispute payment in accordance with this Design-Build Contract and Applicable Law) after filing such notice, the Town shall pay to the Design-Builder the balance of the Design-Build Price, subject to any withholdings and any other provisions governing final payment specified herein. [Note: Time periods to be developed pending Town discussions with the agency providing the Grant for construction.]

(2) Town Non-Concurrence. If the Town does not concur with the Owner Representative's determination, the Town shall return the Payment Request to the Design-Builder, indicating in writing its reasons for refusing payment for Final Completion. The Design-Builder shall promptly make the necessary corrections and resubmit the Payment Request to the Town and the Owner Representative. The Town's written determination shall bind the Design-Builder, unless the Design-Builder delivers to the Town written notice of a claim within 30 days after receipt of the Town's determination.

Payment for Final Completion does not constitute a waiver by the Town of any rights relating to the Design-Builder's obligations under this Design-Build Contract. Except as specifically provided in subsection (A) of this Section with respect to exceptions taken in the Design-Builder's general release, payment for Final Completion constitutes a waiver of all claims by the Design-Builder against the Town, including all claims associated with Uncontrollable

Circumstances, relating to the Design-Build Period Work, the payment of the Design-Build Period Costs or otherwise in connection with the Design-Build Period.

(C) Final Determination and Approval of Design-Build Price. Notwithstanding any of the foregoing, the Town shall have no obligation to make payment for Final Completion hereunder until a final accounting of the Design-Build Period Costs has been submitted by the Design-Builder and has been verified by the Town and the Owner Representative. Such accounting shall be provided by the Design-Builder in connection with the Final Completion Payment Request. The aggregate total of payments to the Design-Builder with respect to the Design-Build Price (including amounts retained pursuant to Section 9.3(F) (Retainage)) shall not exceed the total of the actual Design-Build Period Costs, as verified by the Town and the Owner Representative from the Design-Builder's final accounting, plus the Design-Builder Fee and the General Conditions Fee, which together shall not exceed the Guaranteed Maximum Price. If payments to the Design-Builder exceed that which is due and owing the Design-Builder pursuant to this Article 9, the Design-Builder shall promptly refund the excess to the Town. The Design-Builder acknowledges and agrees that the Town shall have the right to withhold and retain amounts from payment for Final Completion in accordance with Section 9.4 (Permissible Withholdings).

(D) Completion of Design-Build Period Work. Notwithstanding payment for Final Completion pursuant to this Section, the Design-Builder acknowledges and agrees that the performance of the Design-Build Period Work is not complete until the expiration of the Warranty Period, and that the Design-Builder shall have the continuing obligation to perform Warranty Work pursuant to the terms and conditions of Article 10 (Project Warranties) until the expiration of the Warranty Period.

SECTION 9.6. NO SUBSTANTIAL COMPLETION, WAIVER OR RELEASE.

Unless other provisions of this Design-Build Contract specifically provide to the contrary, none of the following, without limitation, shall be construed as (i) the Town's acceptance of any Design-Build Work which is defective, incomplete, or otherwise not in compliance with this Design-Build Contract, (ii) the Town's release of the Design-Builder from any obligation under this Design-Build Contract, (iii) the Town's extension of the Design-Builder's time for performance, (iv) an estoppel against the Town, or (v) the Town's acceptance of any claim by the Design-Builder:

- (1) The Town's payment to the Design-Builder or any other person with respect to performance of the Design-Build Work;
- (2) The review, consent, approval or acceptance, as applicable, of any submissions, permit applications, punch lists, other documents, certifications, or Design-Build Work of the Design-Builder or any Subcontractor by the Town, the Owner Representative or any other person;
- (3) The review of (or failure to prohibit) any construction applications, means, methods, techniques, sequences, or procedures for the Design-Build Work by the Town, the Owner Representative or any other person;
- (4) The entry at any time on the Project Site (including any area in which the Design-Build Work is being performed) by the Town, the Owner Representative or any other person;

(5) Any observation, inspection or testing of (or failure to observe, inspect or test) any Design-Build Work (whether finished or in progress) by the Town, the Owner Representative or any other person;

(6) The failure of the Town, the Owner Representative or any other person to respond in writing to any notice or other communication of the Design-Builder; or

(7) Any other exercise of rights or failure to exercise rights by the Town hereunder.

SECTION 9.7. CHANGES IN DESIGN-BUILD PRICE.

(A) Determination of Base Guaranteed Maximum Price Adjustment. Without limiting any requirement of Article 14 (Uncontrollable Circumstances), any Base Guaranteed Maximum Price Adjustment included in a Change Order or Work Change Directive shall be determined as follows:

(1) Where unit prices set forth in the Contract Documents are applicable to the Design-Build Period Work that is the subject of the Change Order or Work Change Directive, by application of such unit prices to the quantities of the items involved;

(2) To the extent unit prices are not applicable, by a mutually agreed lump sum; and

(3) To the extent unit prices are not applicable and the parties are unable to reach agreement on a lump-sum value, on the basis of the actual cost of performing the applicable Design-Build Period Work (subject to Cost Substantiation and excluding any cost attributable to Design-Builder Fault), plus the Design-Builder Fee and a Subcontractor mark-up determined in accordance with this Section.

(B) Design Professional Services. Without limiting anything in subsection (C) of this Section and subject to any unit rates specified in the Contract Documents, for purposes of determining the amount payable for Design Professional Services included in any Change Order or Work Change Directive, the rates payable for Design-Builder personnel and personnel of Subcontractors providing Design Professional Services shall not exceed their then currently applicable rates for similar services on projects of similar size and scope to the Design-Build Period Work. The Design-Builder shall use commercially reasonable efforts to use available Design-Builder personnel for additional work hereunder before using Subcontractors.

(C) Construction Subcontractor's Maximum Mark-Up on Subcontracted Construction Work. The price payable to all Subcontractors for work performed under Construction Subcontracts, including Construction Subcontractor overhead and mark-ups for risk and profit, shall be commercially reasonable. A Change Order or Work Change Directive may provide for a mark-up payable to Construction Subcontractors for their Subcontractor risk, profit, administration, and all other overhead where Construction work that is the subject of the Change Order or Work Change Directive is performed through such Construction Subcontractors. Any such Construction Subcontractor mark-up shall not exceed 5% of the costs incurred by such Construction Subcontractor in respect of labor, materials, equipment, supplies and any lower-tier Construction Subcontract.

SECTION 9.8. COST SUBSTANTIATION.

(A) Required Substantiation. Without limiting anything in Appendix 8 (Design-Build Price), the Design-Builder shall substantiate any costs for which it claims

compensation hereunder, other than (1) the Design-Builder Fee and (2) the General Conditions Fee, each of which was proposed and negotiated on a percentage basis, and any other costs that are part of a negotiated lump sum price. [Note: General Conditions Fee to be agreed to on the GMP Amendment Date.] In incurring costs which are or may be subject to Cost Substantiation, the Design-Builder shall utilize competitive practices to the maximum reasonable extent (including, where practicable, obtaining three competing bids, quotes, proposals or estimates for costs expected to be in excess of \$[50,000]), and shall enter into Subcontracts on commercially reasonable terms and prices in light of the work to be performed and the Town's obligation to pay for it. [Note: Amount to be determined based on conditions or limitations imposed by the Grants.]

(B) Cost Substantiation Certificate. Any Payment Request for compensation relating to costs requiring Cost Substantiation shall be accompanied by a certificate stating that the Design-Build Period Costs or other costs being invoiced (1) are properly payable under this Design-Build Contract, and specifying the provisions of this Design-Build Contract under which compensation is due; and (2) are equal to amounts paid by the Design-Builder for Design-Build Work that has been properly performed. The Cost Substantiation certificate shall describe the competitive or other process utilized by the Design-Builder to obtain the commercially reasonable price, and shall state that such services and materials are reasonably required pursuant to this Design-Build Contract. Each Cost Substantiation certificate shall be accompanied by copies of all documentation reasonably necessary to demonstrate that the Design-Build Period Costs have been paid and are reasonable. Such documentation shall be in a format and level of detail reasonably acceptable to the Town. To the extent reasonably necessary to confirm the payment of costs that are subject to Cost Substantiation, copies of timesheets, invoices, canceled checks, expense reports, receipts and other documents, as appropriate, including the schedule of values for fixed price components of the Design-Build Work accompanied by documentation demonstrating the progress of such Design-Build Work shall be provided.

SECTION 9.9. INTEREST ON OVERDUE OBLIGATIONS.

Except as otherwise provided for herein, all amounts due hereunder, whether as damages, credits, revenue, charges or reimbursements, that are not paid when due shall bear interest at the rate of interest which is the Overdue Rate, on the amount outstanding from time to time, on the basis of a 365-day year, counting the actual number of days elapsed, and such interest accrued at any time shall, to the extent permitted by Applicable Law, be deemed added to the amount due as accrued. Any such interest shall be in addition to any penalties mandated by State law.

SECTION 9.10. RETENTION AND AUDIT OF BOOKS AND RECORDS.

(A) Books and Records. The Design-Builder shall, and shall cause its Subcontractors to, prepare and maintain proper, accurate and complete books and records regarding the Contract Obligations and all transactions related thereto, including all books of account, bills, vouchers, invoices, personnel rate sheets, cost estimates and bid computations and analyses, Subcontracts, time books, daily job diaries and reports, correspondence, and any other documents showing all acts and transactions in connection with or relating to or arising by reason of the Contract Obligations, any Subcontract or any operations or transactions in which the Town has or may have a financial or other material interest hereunder (collectively, "Books and Records"). The Design-Builder and its Subcontractors shall produce such Books and Records for inspection, audit and reproduction within 15 days of request by the Town. All financial records of the Design-Builder and its Subcontractors shall be maintained in accordance with generally accepted accounting principles and generally accepted auditing standards. The Design-Builder and its Subcontractors shall maintain such

Books and Records in accordance with subsection (E) of this Section. The provisions of this Section shall survive termination of this Design-Build Contract.

(B) Town Rights to Audit and Examine Payments. All payments whatsoever by the Town to the Design-Builder and all Contract Obligations shall be subject to audit at any time by the Town, the Granting Agencies and the Federal Agencies. The Design-Builder shall provide all evidence necessary to support Cost Substantiation as required under this Design-Build Contract, and allow the Town, the Granting Agencies and the Federal Agencies access to the Design-Builder's Books and Records. The Design-Builder shall require all Subcontractors to comply with the provisions of this Section and include the requirements hereof in the written contract between the Design-Builder and the Subcontractor. The Design-Builder shall also require all Subcontractors to include the requirements of this Section in any lower tier Subcontracts relating to the Project.

(C) Notice and Process. Upon written notice by the Town, the Design-Builder shall, and shall cause its Subcontractors to, promptly (in no event later than 15 days following the notice) make available at its office at all reasonable times the Books and Records for examination, audit, or reproduction. Notice shall be in writing, delivered by hand or by certified mail, and shall provide not fewer than five days' prior notice of the examination or audit. The Town may take possession of such Books and Records by reproducing such Books and Records for off-site review or audit. When requested in the Town's written notice of examination or audit, the Design-Builder shall provide the Town with copies of electronic and electronically stored Books and Records in a reasonably usable format that allows the Town to access and analyze all such Books and Records. For Books and Records that require proprietary software to access and analyze, the Design-Builder shall provide the Town with two licenses with maintenance agreements authorizing the Town to access and analyze all such Books and Records. If the Design-Builder is unable to provide the licenses, the Design-Builder shall provide the Town with access to the Design-Builder's accounting system whereby the Town can obtain applicable Books and Records, including job cost reports, material distribution reports, labor cost reports, labor productivity reports, standard time/overtime analysis reports, man-hour reports, and the like.

(D) Selection of Auditor or Examiner and Determination of Scope. The Town has discretion as to the selection of an examiner or auditor and the scope of the examination or audit.

(E) Preservation of Books and Records. The Design-Builder shall preserve all of its Books and Records, and the Town may examine, audit, or reproduce Books and Records, from the Contract Date until the later of five (5) years after the latest of:

- (1) Final payment under this Design-Build Contract;
- (2) Final settlement of a termination for convenience under Section 12.6 (Town Convenience Termination Rights);
- (3) The final resolution of any dispute; and
- (4) The last of the notices from the Granting Agencies to the Town that the applicable Grant contract has been closed according to the record retention requirements at 2 CFR 200.334.

The failure by the Design-Builder to make available to the Town Books and Records in accordance with this Section or the Design-Builder's refusal to cooperate with a notice of audit

or examination shall be deemed a material breach of this Design-Build Contract and grounds for termination.

(F) Overpayment. In the event an audit by the Town determines that the Design-Builder cannot document a cost or expense for which payment has been made, or that the Town has overpaid the Design-Builder, the Design-Builder, upon demand, shall refund to the Town the amounts overpaid or undocumented. If the overpayment exceeds 1% of the total amount that should have been properly paid by the Town during the period audited, then the Design-Builder shall, in addition, reimburse the Town for any and all fees and costs incurred in connection with the inspection or audit. Payments to the Design-Builder, or approval by the Town of any requisition for payment submitted by the Design-Builder, shall in no way affect the Design-Builder's obligation hereunder or the right of the Town to obtain a refund of any payment to the Design-Builder which is in excess of that to which it was lawfully entitled.

ARTICLE 10

PROJECT WARRANTIES

SECTION 10.1. PROJECT WARRANTIES.

(A) Project Warranties Defined. The Design-Builder warrants to the Town that the Design-Build Work, including all completed materials, equipment, systems and structures comprising the Project, shall: (i) be new, of recent manufacture and of good quality; (ii) conform to the requirements of the Contract Documents; (iii) be free of material faults or defects; and (iv) be suitable for its intended purposes, as established by the Contract Documents (the “Project Warranties”). The Project Warranties are further subject to the following:

(1) Inclusions. The Project Warranties include remedy for damage or defect caused by Substantial Completion Test performed by the Design-Builder or performed by the Town as directed by the Design-Builder.

(2) Exclusions. The Project Warranties exclude remedy for damage or defect caused by capital modifications not undertaken or executed by the Design-Builder under this Design-Build Contract. In addition, except as provided in Item (1), above, the Project Warranties exclude remedy for damage or defect caused by improper or insufficient maintenance or improper operation, or for normal wear and tear under normal usage.

(B) Term of the Project Warranties. The Project Warranties set forth in this Article 10 shall be in full force and effect for the period of time beginning on the Substantial Completion Date and, subject to Section 10.2(D) (Extension of Warranties), continuing for [one year] following the Substantial Completion Date (the “Warranty Period”). [Note: Duration of warranty period to be agreed to by parties, in any event prior to GMP Submittal.]

SECTION 10.2. WARRANTY WORK.

(A) “Call-Back” Obligations. If, at any time during the Warranty Period, the Project or any of the Design-Build Work is found to be malfunctioning, defective or otherwise not in accordance with the requirements of the Project Warranties, the Design-Builder shall correct the condition promptly after receipt of written notice from the Town to do so. The Town shall provide such notice promptly after discovery of the condition. The Design-Builder shall respond to critical or emergency service calls from the Town within four hours through teleconference discussions or virtual meetings (or other reasonable means agreed upon by the Design-Builder and the Town). The Design-Builder shall respond to non-critical or non-emergency calls within twenty-four hours by reasonable means agreed upon by the Design-Builder and the Town. If the Town determines as a result of such teleconference discussions or virtual meetings, that an onsite visit from the Design-Builder is necessary to address such critical or emergency situation, the Design-Builder shall within twelve hours of the initial response to such critical or emergency service call, inspect the Project and, while on site, either correct the problem or initiate a course of action that will fully correct the problem within a reasonable period of time in accordance with Good Engineering and Construction Practice and the specific requirements of this subsection (A). If the Town determines as a result of such teleconference discussions or virtual meetings, that no onsite visit from the Design-Builder is necessary to address such critical or emergency situation, the Design-Builder shall nonetheless initiate a course of action that will fully correct the problem within a reasonable period of time in accordance with Good Engineering and Construction Practice and the specific requirements of this subsection (A). Any such response shall require that a competent representative or

representatives of the Design-Builder familiar with the Project, including its specific equipment, design and operational requirements, participate in such response. In critical or emergency situations, the correction shall be made in the minimum amount of time required in accordance with Good Engineering and Construction Practice.

(B) Right of the Town to Proceed with Corrective Action; Design-Builder Liability. If the Design-Builder fails to commence and complete the steps set forth in subsection (A) of this Section within the required time frames, in addition to any other remedies provided under this Design-Build Contract, the Security Instruments or Applicable Law, the Town may commence and complete the correction of such nonconforming Design-Build Work with its own forces or with third party contractors. If the Town does perform such corrective work, the Design-Builder shall be responsible for all costs reasonably incurred in performing such correction. The Town shall have the right to charge any cost reasonably incurred by the Town in performing corrective action pursuant to this subsection (B) against the funds retained to secure the Warranty Work pursuant to Section 9.3(F) (Retainage); provided, however, that the amount retained by the Town pursuant to Section 9.3(F) (Retainage) shall in no way be deemed to constitute a limit of liability to the Design-Builder for the performance of Warranty Work, and the Design-Builder shall be required to reimburse the Town for all costs reasonably incurred in performing corrective action pursuant to this subsection (B) to the extent such costs exceed the retained funds.

(C) No Period of Limitation on Other Obligations. Nothing contained in this Section shall be construed to establish a period of limitation with respect to other obligations that the Design-Builder has under this Design-Build Contract or under Applicable Law with respect to the Design-Build Work, including warranties and obligations with respect to latent defects. The Warranty Period relates only to the specific obligations of the Design-Builder to respond to notices from the Town under the Project Warranties, and has no relationship to the time within which the obligation of the Design-Builder to comply with this Design-Build Contract may be enforced, nor the time within which proceedings may be commenced to establish the Design-Builder's liability with respect to its obligations under this Design-Build Contract.

(D) Extension of Warranties. The "call-back" obligations set forth in this Section shall apply to all Design-Build Work re-done or corrected pursuant to this Design-Build Contract. The "call-back" obligations for re-done or corrected elements of the Design-Build Work shall extend beyond the Warranty Period, if necessary, to provide a minimum one-year period following acceptance by the Town of such re-done or corrected Design-Build Work; provided, however, that in no event shall such "call-back" obligations extend beyond one year following the expiration of the Warranty Period.

(E) Manufacturers' Warranties. During the Warranty Period, the Design-Builder (or the Town) shall be permitted to enforce all warranties provided by manufacturers, suppliers and other third parties with respect to the Design-Build Work. However, as provided in Section 10.4(A) (Manufacturers' Warranties Generally), no such warranty shall relieve the Design-Builder of any obligation with respect to the Project Warranties.

(F) Performance of Warranty Work. The Design-Builder acknowledges that time is of the essence in the performance of all Warranty Work required under this Section in light of the Project's essential public purpose. Accordingly, all Warranty Work shall be performed in accordance with the Contract Standards and within the minimum amount of time required in accordance with Good Engineering and Construction Practice. The Design-Builder shall perform or cause to be performed all Warranty Work performed under this Section in a manner that will minimize interference with the ongoing operations of the Project and the Town Distribution System. The Design-Builder shall provide a written plan for all proposed Warranty Work (unless expressly waived by the Town).

(G) Responsibility for Costs. The Design-Builder shall be fully responsible for the costs associated with all Warranty Work, and shall reimburse the Town for its costs resulting from a breach of the Project Warranties, subject to the terms and conditions of this Design-Build Contract.

SECTION 10.3. PROJECT WARRANTIES NOT EXCLUSIVE.

The Design-Builder acknowledges and agrees that the Project Warranties are in addition to, and not in limitation of, any other warranties, rights and remedies available under this Design-Build Contract or Applicable Law, and shall not limit the Design-Builder's liability or responsibility imposed by this Design-Build Contract or Applicable Law with respect to the Design-Build Work, including liability for design defects, latent construction defects, strict liability, negligence or fraud. The provisions of this Section shall survive the termination of this Design-Build Contract.

SECTION 10.4. MANUFACTURERS' WARRANTIES.

(A) Manufacturers' Warranties Generally. Without limiting any of the Project Warranties, the Design-Builder shall, for the protection of the Town, obtain from all Subcontractors (including vendors, suppliers and other persons from which the Design-Builder procures structures, improvements, fixtures, machinery, equipment and materials) such warranties and guarantees as are normally provided with respect thereto and as may be specifically required by the Contract Standards, each of which is hereby assigned to the Town to the full extent of the terms thereof. No such warranty or guarantee shall relieve the Design-Builder of any obligation hereunder, and no failure of any warranted or guaranteed structures, improvements, fixtures, machinery, equipment or material shall be the cause for any increase in the Guaranteed Maximum Price or otherwise excuse the Design-Builder from the performance of any Design-Build Work or Warranty Work obligations, unless such failure is itself attributable to an Uncontrollable Circumstance.

(B) No Limitation on Third Party Warranties. Nothing in this Design-Build Contract is intended to limit any third party warranty that provides the Town with greater warranty rights than those provided under the Project Warranties, as set forth in this Design-Build Contract.

ARTICLE 11

DISPUTE RESOLUTION

SECTION 11.1. DISPUTE RESOLUTION PROCEDURES.

(A) Compliance with California Public Contract Code. Notwithstanding any other provision herein, all claims by the Design-Builder for \$375,000 or less against the Town shall be subject to the procedures set forth in Sections 20104 to 20104.6 of the California Public Contract Code. The provisions of Sections 20104 to 20104.6 of the California Public Contract Code or a summary thereof is included in Appendix 13 (Certain Provisions of the California Public Contract Code) and shall be set forth in the Issued for Construction Drawings and Specifications. Notwithstanding any other provision herein, all claims by the Design-Builder against the Town shall be subject to the procedures set forth in Sections 9201 to 9204 of the California Public Contract Code. The provisions of Sections 9201 to 9204 of the California Public Contract Code or a summary thereof is included in Appendix 13 (Certain Provisions of the California Public Contract Code) and shall be set forth in the Issued for Construction Drawings and Specifications. For any Design-Build Work-related claim by the Design-Builder of less than \$375,000, such claim shall be processed and resolved pursuant to the resolution of claims provisions set forth in California Public Contract Code Sections 20104 to 20104.6. In addition, claim filing deadlines shall be governed by the California Government Claims Act (California Government Code Sections 900 to 915.4) and California Public Contract Code Section 20104.2.

(B) Alternative Dispute Resolution Procedures. If (i) the provisions of Section 9204 of the California Public Contract Code are no longer in effect, (ii) the mediation conducted pursuant to Section 9204 of the California Public Contract Code does not resolve the parties dispute, or (iii) for any claims brought by the Town against the Design-Builder, each party shall follow the dispute resolution procedures set forth in this Section 11.1(B) (Alternative Dispute Resolution Procedures) to attempt to resolve and settle disputes between themselves concerning the rights, obligations and liabilities of the parties. The dispute resolution procedures set forth in this Section are intended to encourage a negotiated resolution of disputes in a prompt and efficient manner without resort to litigation, which should be a last resort.

(1) Informal Negotiations. Representatives of the Town and the Design-Builder with day-to-day involvement in the administration of this Design-Build Contract and the performance of the Contract Obligations shall initially and promptly enter into negotiations to attempt to address and resolve any disputes that may arise concerning this Design-Build Contract. In connection with such negotiations, the party asserting the dispute shall provide the other with a written description of the nature of the dispute, along with reasonable supporting documentation. The parties shall consider involving senior representatives and other upper management personnel of each party in the informal negotiation process, as well as other representatives of the parties not actively involved in the day-to-day activities associated with the dispute who might be able to take a broader look at the dispute in the context of the overall objectives of the Project and this Design-Build Contract. At the Town's request, the Design-Builder shall involve senior representatives of any of its Subcontractors in such negotiations. Upon the expenditure of reasonable efforts towards resolution of a dispute through such informal negotiations without reaching agreement, a party may declare that the informal negotiations have been exhausted and such party may request Non-Binding Mediation or may initiate the institution of Legal Proceedings.

(2) Rights to Request and Decline Non-Binding Mediation. Subject to the requirements of paragraph (1) of this Section 11.1(B) (Alternative Dispute Resolution Procedures), either party may request Non-Binding Mediation of any dispute arising under this Design-Build Contract, whether technical or otherwise. Non-Binding Mediation is voluntary and will not be a condition precedent to initiating the institution of Legal Proceedings by either party. The non-requesting party may decline the request in its sole discretion. If there is concurrence that any particular matter shall be mediated, the provisions of this Section 11.1(B) (Alternative Dispute Resolution Procedures) shall apply. The costs of such Non-Binding Mediation shall be divided equally between the Town and the Design-Builder.

(3) Procedure. The Mediator shall be a professional engineer, attorney or other professional mutually acceptable to the parties who has no current or on-going relationship to either party. The Mediator shall have full discretion as to the conduct of the mediation. Each party shall participate in the Mediator's program to resolve the dispute until and unless the parties reach agreement with respect to the disputed matter or one party determines in its sole discretion that its interests are not being served by the mediation.

(4) Non-Binding Effect. Mediation is intended to assist the parties in resolving disputes over the correct interpretation of this Design-Build Contract. No Mediator shall be empowered to render a binding decision.

(5) Relation to Judicial Legal Proceedings. Nothing in this Section shall operate to limit, interfere with or delay the right of either party under this Article 11 to commence judicial Legal Proceedings upon a breach of this Design-Build Contract by the other party, whether in lieu of, concurrently with, or at the conclusion of any Non-Binding Mediation.

SECTION 11.2. FORUM FOR DISPUTE RESOLUTION.

It is the express intention of the parties that all Legal Proceedings related to this Design-Build Contract or to the Project or to any rights or any relationship between the parties arising therefrom shall be solely and exclusively initiated and maintained in State or federal courts located in Butte County, California, having appropriate jurisdiction therefor. The Design-Builder and the Town each irrevocably consents to the jurisdiction of such courts in any such Legal Proceeding and waives any objection it may have to the laying of the jurisdiction of any such Legal Proceeding.

SECTION 11.3. CONTINUANCE OF PERFORMANCE DURING DISPUTE.

Unless otherwise directed in writing by the Town, at all times during the course of any dispute resolution procedure or Legal Proceeding, the Design-Builder shall continue with the performance of the Contract Obligations in a diligent manner and in accordance with the applicable provisions of this Design-Build Contract. The Town shall continue to satisfy its uncontested payment obligations to the Design-Builder during the pendency of any such dispute, subject to the terms and conditions of this Design-Build Contract. Records of the Contract Obligations performed during such time shall be kept in accordance with the applicable provisions of this Design-Build Contract.

ARTICLE 12

BREACH, DEFAULT, REMEDIES AND TERMINATION

SECTION 12.1. REMEDIES FOR BREACH.

(A) Generally. The parties agree that, except as otherwise provided in this Section, in the event that either party breaches this Design-Build Contract, the other party may exercise any legal rights it may have under this Design-Build Contract and under Applicable Law. Neither party shall have the right to terminate this Design-Build Contract except as expressly provided in this Article 12.

(B) No Effect On Contract Obligations. The exercise by the Town of any of its rights under this Article 12 shall not reduce or affect in any way the Design-Builder's responsibility hereunder to perform the Contract Obligations.

(C) No Duplicative Recovery; Express Remedies. Every right to claim compensation, indemnification or reimbursement under this Design-Build Contract shall be construed so that recovery is without duplication to any other amount recoverable under this Design-Build Contract. Without prejudice to any legal right or entitlement of the Design-Builder to specific performance or injunctive relief, the Design-Builder's sole remedy in relation to matters for which an express right or remedy is stated in this Design-Build Contract shall be that express right or remedy, and the Design-Builder shall have no additional right or remedy arising by common law, in equity, by statute or otherwise.

SECTION 12.2. EVENTS OF DEFAULT BY THE DESIGN-BUILDER.

(A) Events of Default Not Requiring Previous Notice or Cure Opportunity for Termination. Each of the following shall constitute an Event of Default by the Design-Builder upon which the Town, by notice to the Design-Builder, may terminate this Design-Build Contract without any requirement of having given notice previously or of providing any further cure opportunity:

(1) Failure to Achieve Substantial Completion. Except to the extent excused due to the occurrence of Uncontrollable Circumstances, the failure of the Design-Builder to achieve Substantial Completion prior to the end of the Extension Period;

(2) Failure to Achieve Final Completion. Except to the extent excused due to the occurrence of Uncontrollable Circumstances, the failure of the Design-Builder to achieve Final Completion by the date set forth in Section 8.4(A) (Requirements of Final Completion);

(3) Security for Performance. The failure of the Design-Builder to obtain and maintain in full force and effect in accordance with the requirements of this Design-Build Contract any Security Instrument required by Article 16 (Security for Performance) as security for the performance of this Design-Build Contract;

(4) Assignment or Transfer Without Consent. The Design-Builder assigns or transfers this Design-Build Contract or any right or interest therein without the Town's prior written consent;

(5) Insolvency. The insolvency of the Design-Builder as determined under the Bankruptcy Law;

(6) Voluntary Bankruptcy. The filing by the Design-Builder of a petition of voluntary bankruptcy under the Bankruptcy Law; the consenting of the Design-Builder to the filing of any bankruptcy or reorganization petition against the Design-Builder under the Bankruptcy Law; or the filing by the Design-Builder of a petition to reorganize the Design-Builder pursuant to the Bankruptcy Law;

(7) Involuntary Bankruptcy. The issuance of an order of a court of competent jurisdiction appointing a receiver, liquidator, custodian or trustee of the Design-Builder or of a major part of the property of the Design-Builder or the filing against the Design-Builder of a petition to reorganize the Design-Builder pursuant to the Bankruptcy Law, which order shall not have been discharged or which filing shall not have been dismissed within 90 days after such issuance or filing; or

(8) Abandonment. The Design-Builder suspends, ceases, stops or abandons the Design-Build Work or fails to continuously and diligently prosecute the Design-Build Work, exclusive of work stoppages due to an Uncontrollable Circumstance.

(B) Events of Default Requiring Previous Notice and Cure Opportunity for Termination. It shall be an Event of Default by the Design-Builder upon which the Town may terminate this Design-Build Contract, by notice to the Design-Builder and subject to the Design-Builder's cure rights set forth in subsection (C) of this Section, if:

(1) Any representation or warranty in this Design-Build Contract made by the Design-Builder, or in any certificate, schedule, report, instrument, agreement or other document delivered by or on behalf of Design-Builder to the Town pursuant to this Design-Build Contract, is false, misleading or inaccurate in any material respect when made or omits material information when made;

(2) The Design-Builder fails, refuses or otherwise defaults in its duty to pay any amount required to be paid to the Town under this Design-Build Contract within 60 days following the due date for such payment;

(3) The Design-Builder fails to resume performance of the Design-Build Work which has been suspended or stopped within a reasonable time after receipt of notice from the Town to do so or (if applicable) after cessation of the event preventing performance;

(4) The Design-Builder fails to comply with any Applicable Law or fails to comply with the instructions of the Town consistent with this Design-Build Contract; or

(5) The Design-Builder commits a material breach of this Design-Build Contract or otherwise fails to perform any other material obligation under this Design-Build Contract (unless such breach or failure is excused by an Uncontrollable Circumstance as and to the extent provided herein).

(C) Notice and Cure Opportunity. The Design-Builder acknowledges that the Town has an immediate termination right upon the occurrence of any of the defaults listed in subsection (A) of this Section and that the Design-Builder has no further right of notice or cure in such circumstances of default. Conversely, no default listed in subsection (B) of this Section shall constitute an Event of Default giving the Town the right to terminate this Design-Build Contract for cause under this Section unless:

(1) The Town has given prior written notice to the Design-Builder stating that a specified default has occurred which gives the Town a right to terminate this

Design-Build Contract for cause under this Section, and describing the default in reasonable detail; and

(2) The Design-Builder has not initiated within a reasonable time (in any event not more than 10 days from the initial default notice) and continued with due diligence to carry out to completion all actions reasonably necessary to correct the default and prevent its recurrence.

If the Design-Builder shall have initiated and continued with due diligence to carry out to completion all actions required under item (2), above, the default shall not constitute an Event of Default during such period of time (in any event not more than 60 days from the initial default notice) as the Design-Builder shall continue with due diligence to carry out to completion all such actions.

(D) Other Remedies Upon Design-Builder Event of Default. The right of termination provided under this Section upon an Event of Default by the Design-Builder is not exclusive. If this Design-Build Contract is terminated by the Town for an Event of Default by the Design-Builder, the Town shall have the right to pursue a cause of action for actual damages and to exercise all other remedies which are available to it under this Design-Build Contract, under the Security Instruments and under Applicable Law. The Design-Builder shall not be entitled to any compensation for services provided subsequent to receiving any notice of termination for an Event of Default under this Section.

(E) Relationship to Liquidated Damages. Termination by the Town pursuant to this Section shall not relieve the Design-Builder or its Surety from liability for the liquidated damages provided for under this Design-Build Contract. The parties acknowledge and agree that such liquidated damages are intended solely to compensate the Town for costs and expenses associated with unexcused delay in the specific circumstances identified in the specific provisions providing for such liquidated damages and are not intended to liquidate all damages that the Town might suffer in the event of a termination due to a Design-Builder Event of Default under this Article 12. Accordingly, except with respect to damages relating solely to the specific circumstances of unexcused delay for which liquidated damages are provided under this Design-Build Contract, the payment of any such liquidated damages by the Design-Builder shall not serve to limit or otherwise affect the Town's right to pursue and recover damages under subsection (D) of this Section.

SECTION 12.3. LIMITATION ON DESIGN-BUILDER LIABILITY.

(A) Design-Builder Liability Limit. Subject to subsection (B) of this Section, the Design-Builder's aggregate liability under this Design-Build Contract with respect to damages payable to the Town arising out of a breach of contract claim or suit initiated by the Town shall not exceed an amount equal to: (1) the aggregate value of Early Work Package Prices for all Early Work Packages and the Preliminary Services Fees, during the period commencing on the Contract Date and ending on the GMP Amendment Date; and (2) the sum of (i) the Preliminary Services Fees, (ii) amounts paid by the Town for Early Work Packages and (iii) the Guaranteed Maximum Price commencing on the GMP Amendment Date and at all times thereafter.

(B) Liquidated Damages Sub-Limit. The aggregate liability of the Design-Builder, with respect to any liquidated damages payable pursuant Section 8.3(C) (Delay Liquidated Damages), shall not exceed an amount equal to 10% of the Guaranteed Maximum Price.

SECTION 12.4. APPLICABILITY AND INTERPRETATION OF THE LIMITATION ON LIABILITY.

The limitation on Design-Builder liability provided for in Section 12.3 (Limitation on Design-Builder Liability) applies solely to the liability of the Design-Builder for damages to the Town arising out of the performance or unexcused nonperformance of this Design-Build Contract as a consequence of a breach of contract claim initiated by the Town. The limitation on liability provided for in Section 12.3 (Limitation on Design-Builder Liability) shall not apply in the event the Design-Builder wrongfully abandons the Project, and does not apply to any other liability, loss, damage, cost or expense that may be incurred by the Design-Builder in connection with this Design-Build Contract, including any of the following liabilities, losses, damages, costs or expenses:

- (1) Any loss, cost or expense sustained by the Design-Builder in the performance of the Design-Build Work or any other loss sustained by the Design-Builder or any other party in connection with this Design-Build Contract or other agreement relating to the Project (e.g. Design-Build Period Costs necessary to complete the Design-Build Work that are in excess of the Guaranteed Maximum Price);
- (2) Any fines or penalties levied or imposed by any Governmental Body in connection with the performance or nonperformance of this Design-Build Contract;
- (3) Any indemnity payment (resulting from third party claims) made by the Design-Builder to the Town;
- (4) Payment of any defense costs (including attorney's fees, to, for, or on behalf of the Town with respect to any third party claim for which the Design-Builder is responsible under the indemnity provisions of this Design-Build Contract);
- (5) Any proceeds recovered from any Required Insurance under this Design-Build Contract and the payment of any premium, deductible or self-insured retention with respect thereto; and
- (6) Any claims, losses, penalties or settlement payments paid to the Town in connection with any tort claim by the Town against the Design-Builder based on negligence, willful misconduct, fraud, misrepresentation or false claims.

SECTION 12.5. EVENTS OF DEFAULT BY THE TOWN.

(A) Events of Default Permitting Termination. The failure, refusal or other default by the Town in its duty to pay any undisputed amount required to be paid to the Design-Builder under this Design-Build Contract within 60 days following the due date for such payment shall constitute an Event of Default by the Town upon which the Design-Builder, by notice to the Town, may terminate this Design-Build Contract, subject to the terms and conditions of this Section.

(B) Notice and Cure Opportunity. No such default described in subsection (A) of this Section shall constitute an Event of Default giving the Design-Builder the right to terminate this Design-Build Contract for cause under this subsection (B) unless:

- (1) The Design-Builder has given prior written notice to the Town stating that a specified default has occurred which gives the Design-Builder a right to terminate this Design-Build Contract for cause under this Section, and describing the default in reasonable detail; and

(2) The Town has neither challenged in an appropriate forum the Design-Builder's conclusion that such default has occurred nor initiated within a reasonable time (in any event not more than 30 days from the initial default notice) and continued with due diligence to carry out to completion all actions reasonably necessary to correct the default and prevent its recurrence.

If the Town shall have initiated and continued with due diligence to carry out to completion all actions required under item (2), above, the default shall not constitute an Event of Default during such period of time (in any event not more than 60 days from the initial default notice) as the Town shall continue with due diligence to carry out to completion all such actions.

(C) Other Town Breaches Constituting Uncontrollable Circumstances. Except for the Town Events of Default described in subsection (A) of this Section, the failure of the Town to perform any other material obligation under this Design-Build Contract (unless such default is the due to Design-Builder Fault or excused by an Uncontrollable Circumstance as and to the extent provided herein), shall constitute an Uncontrollable Circumstance as and to the extent provided in Article 14 (Uncontrollable Circumstances), and the Design-Builder shall have no right to terminate this Design-Build Contract.

(D) Effect of Termination. If this Design-Build Contract is terminated by the Design-Builder for cause as a result of an Event of Default by the Town, the Town shall pay the Design-Builder the same amount which would be payable under Section 12.6 (Town Convenience Termination Rights) if this Design-Build Contract were terminated at the election of the Town for convenience and without cause based on the date of termination. The Town shall have no further liability to the Design-Builder for any Event of Default or termination under this Section.

SECTION 12.6. TOWN CONVENIENCE TERMINATION RIGHTS.

(A) Convenience Termination Right and Payment. The Town shall have the right at any time following the Contract Date, exercisable in its discretion for any reason (including the failure to agree to a GMP Amendment) upon 30 days' written notice to the Design-Builder, to terminate this Design-Build Contract.

(B) Convenience Termination Payment for Preliminary Services. In the event of a convenience termination pursuant to this Section of the Preliminary Services, the Design-Builder shall not be entitled to a convenience termination settlement payment, but shall be entitled to payment of that portion of the Preliminary Services Fees that has been earned by the terms hereof as of the Termination Date but not yet paid by the Town. No other compensation shall be payable by the Town on account of the Town's convenience termination of the Preliminary Services.

(C) Convenience Termination Payment for Design-Build Period Work. In the event of a convenience termination pursuant to this Section following issuance of a Notice to Proceed with Design-Build Period Work (including Design-Build Work performed pursuant to an Early Work Package Amendment), the Design-Builder shall be entitled to a convenience termination settlement payment in an amount equal to the sum of:

(1) The difference between, (a) the value of all such Design-Build Period Work performed up to the Termination Date, and (b) all payments already made to the Design-Builder pursuant to this Design-Build Contract for Design-Build Period Work; and

(2) Subject to subsection (E) of this Section, the reasonable costs incurred by the Design-Builder in connection with the termination, including all actual and reasonable demobilization costs and amounts due in settlement of terminated Subcontracts.

In the event of a termination for convenience under this Section, the Design-Builder acknowledges and agrees that it shall not be entitled to any compensation in excess of the value of the Design-Build Period Work performed plus its settlement and closeout costs. Under no circumstances shall the Design-Builder or any Subcontractor be entitled to anticipatory or unearned profits, unabsorbed overhead, opportunity costs, or consequential or other damages as a result of a termination for convenience under this Section.

(D) Early Work Packages. If the parties have entered into any Early Work Package Amendment prior to any convenience termination pursuant to this Section, the Town shall have the right to:

(1) Terminate the Design-Builder's right to perform any Design-Build Work authorized by any such Early Work Package Amendment and, at the Town's option, require the Design-Builder to assign any Subcontracts to the Town; or

(2) Require the Design-Builder to complete performance of such Design-Build Work in accordance with the applicable Early Work Package Amendment.

If the Town elects to terminate such Design-Build Work pursuant to clause (1) of this subsection (D), (x) the Design-Builder shall be entitled to a termination settlement payment associated solely with the terminated Early Work Package Design-Build Work, as and to the extent provided in subsection (C) of this Section and (y) shall be relieved from the "call-back" obligations set forth in Section 10.2 (Warranty Work) for any uncompleted Early Work Package Design-Build Work. Nothing in this subsection (D) shall provide grounds for adjustment of any applicable Early Work Package Price or limit the Town's rights to convenience terminate Design-Build Work authorized by an Early Work Package Amendment without terminating the Preliminary Services or the Design-Build Period Work.

(E) Settlement of Subcontracts. The obligation of the Town to pay amounts due in settlement of Subcontracts under subsection (C) of this Section shall be limited to the reasonable costs incurred by the Design-Builder in settling and closing out Subcontracts that the Town does not elect to have assigned to it pursuant to Section 12.7 (Obligations of the Design-Builder Upon Termination) and shall be subject to Cost Substantiation. Any convenience termination settlement payment under any Subcontract shall be calculated in the same manner as provided in subsection (C) of this Section with respect to the convenience termination settlement payment to the Design-Builder. In no event shall the Town be responsible for anticipatory or unearned profits, unabsorbed overhead, opportunity costs, or consequential or other damages payable to any Subcontractor as a result of the termination of any Subcontract.

(F) Payment of Amounts Due as a Result of Convenience Termination. The Design-Builder shall submit a termination for convenience claim, in the form and with the certification prescribed by the Town, promptly following the Termination Date but in any event not later than 60 days following the Termination Date. The parties will promptly endeavor in good faith to negotiate the settling and closing out of this Design-Build Contract, to be reflected in the final termination for convenience claim submitted by the Design-Builder after such discussions. In the event of a failure of the Design-Builder to submit a termination for convenience claim within the time allowed pursuant to this subsection (F), the Town may determine, on the basis of information available to the Town, the amount, if any, due to the

Design-Builder by reason of the convenience termination and shall thereupon pay to the Design-Builder the amount so determined, if any. In no event shall the amount payable to the Design-Builder pursuant to this Section exceed the Guaranteed Maximum Price as reduced by the amount of payments otherwise made. In addition, any amount payable to the Design-Builder pursuant to this Section shall be reduced in the amount of (1) any claim the Town may have against the Design-Builder under this Design-Build Contract, and (2) the fair value, as determined by the Town, of property which is destroyed, lost, stolen or damaged so as to become undeliverable to the Town, excluding normal spoilage and except to the extent that the Town shall have otherwise expressly assumed the risk of loss with respect to such property hereunder. Any payment required to be made to the Design-Builder pursuant to this Section shall be made within 120 days following the Termination Date, subject to compliance by the Design-Builder with its obligations under Section 12.7 (Obligations of the Design-Builder Upon Termination). Any payment required to be made by the Design-Builder to the Town pursuant to this Section shall be made within 120 days following the Termination Date. In the event of a dispute between the parties as to the amount of any payment required to be made pursuant to this Section, either party may elect to initiate dispute resolution procedures in accordance with Section 11.1 (Dispute Resolution Procedures).

(G) Completion or Continuance by the Town. Without limiting any other the Town right or remedy provided for under this Design-Build Contract, after the date of any termination under this Section, the Town may at any time (but without any obligation to do so) take any and all actions necessary or desirable to continue and complete the Contract Obligations so terminated, including entering into contracts with other contractors.

(H) Convenience Termination Rights as Consideration. The right of the Town to terminate this Design-Build Contract for its convenience and in its sole discretion in accordance with this Section constitutes an essential part of the overall consideration for this Design-Build Contract, and, except with respect to the determination as to the amount due the Design-Builder pursuant to this Section, the Design-Builder hereby waives any right it may have under Applicable Law to assert that the Town owes the Design-Builder a duty of good faith dealing in the exercise of such right. The only compensation payable by the Town upon the exercise of its convenience termination option shall be any amounts specified herein in connection therewith.

SECTION 12.7. OBLIGATIONS OF THE DESIGN-BUILDER UPON TERMINATION.

(A) Obligations of the Design-Builder Upon Termination. Upon any termination of the Design-Builder's right to perform this Design-Build Contract, the Design-Builder shall, as applicable and subject to any written directions provided by the Town:

- (1) Stop any further Contract Obligations at the Project Sites or otherwise in connection with the Project;
- (2) Cease incurring any further obligations or liabilities pertaining to the Contract Obligations;
- (3) Promptly take all action as necessary to protect and preserve all materials, equipment, tools, facilities, and other property pertaining to the Project;
- (4) Vacate possession of the Project Sites and turn possession of the Project Sites over to the Town;
- (5) Clean up and remove all debris and trash from the Project Sites;

(6) Promptly remove from the Project Sites all equipment, tools, or material owned by the Design-Builder, or its Subcontractors, agents or representatives;

(7) Promptly deliver a list of all suppliers, materials, machinery, equipment, property or other pending items being fabricated or on order for delivery to the Project but not yet delivered to the Project Sites or incorporated into the Design-Build Work, and comply with the written instructions of the Town with respect to such matters;

(8) Deliver a complete copy of all books, notes, and records of the Design-Builder pertaining to Design-Build Contract performance or planned construction or design activities;

(9) Promptly provide a list of (and make available to the Town for review or copying) all files pertaining to the Design-Build Work, including any and all access and security codes, and including instructions and demonstrations that show how to open and modify such codes;

(10) Promptly deliver complete copies of all Subcontracts to the Town, together with a detailed report on the status of such Subcontracts (status of orders and work performed and not performed or delivered under each Subcontract); a record of proposals made and balances due under each Subcontract; any cancellation penalties pertaining thereto; and any further information required by the Town, and furthermore assist the Town in contacting such Subcontractors to verify such information or answer any questions of the Town;

(11) Assign to the Town any Subcontract for the design and engineering of the Project that the Town elects in writing, in its discretion, to have assigned to it, with the Town assuming, and the Design-Builder being relieved of, all obligations under the Subcontract from the date of the assignment;

(12) Assign to the Town all other Subcontracts at the request of the Town (other than those expressly agreed upon by the parties in writing that will not be subject to assignment) that the Town elects in writing to have assigned to it and cancel or terminate all Subcontracts that the Town does not elect to have assigned to the Town, in accordance with the written instructions of the Town; provided, however, in the event of a termination pursuant to Section 12.6 (Town Convenience Termination Rights), the Design-Builder shall use good faith efforts to assign such Subcontracts but shall not be in breach of its obligation under this item (12) in the event it is unable to cause such assignment despite such good faith efforts;

(13) Promptly assign and transfer to the Town all right, title, and interest of Design-Builder to any items ordered for the Contract Obligations (but not yet delivered to the Project Sites or incorporated into the Project), as requested by the Town in its discretion; provided the Town (or Surety) assumes responsibility for payment thereof;

(14) Promptly deliver and assign to the Town all warranties or guarantees by any vendor, supplier, manufacturer, or subcontractor pertaining to the Project;

(15) Promptly notify the Town (in writing) of any pending or threatened Legal Proceedings against the Design-Builder; and

(16) Promptly take such other action and execute such documents as requested by the Town, and to assist in the transition of the Contract Obligations to the Surety or the Town, or as reasonably deemed necessary or appropriate by the Town,

and avoid any action or conduct that would increase any expense or cost that would become an obligation or liability to the Town unless requested or directed by the Town Contract Representative in writing.

With respect to any of the foregoing obligations that cannot reasonably be completed by the Termination Date, the Design-Builder shall complete such obligations as promptly as is practicable, but in no event later than 30 days following the Termination Date. Compliance with these obligations shall be conditions precedent to the payment of any sums otherwise due the Design-Builder by reason of the termination. If any Subcontracts are assigned to the Town under this Section, the Town shall not be directly liable to any Subcontractors for amounts owed to such parties for Design-Build Work performed prior to termination, and the Design-Builder shall remain liable to any such parties for such amounts.

SECTION 12.8. NO WAIVERS.

No action of the Town or the Design-Builder pursuant to this Design-Build Contract (including any investigation or payment), and no failure to act, shall constitute a waiver by either party of the other party's compliance with any term or provision of this Design-Build Contract. No course of dealing, failure or delay by the Town or the Design-Builder in exercising any right, power or remedy under this Design-Build Contract shall operate as a waiver thereof or otherwise prejudice such party's rights, powers and remedies. No single or partial exercise of (or failure to exercise) any right, power or remedy of the Town or the Design-Builder under this Design-Build Contract shall preclude any other or further exercise thereof or the exercise of any other right, power or remedy. No waiver of any breach of any provision of this Design-Build Contract will be deemed to be a waiver of any subsequent breach of that provision or of any similar provision.

SECTION 12.9. WAIVER OF CONSEQUENTIAL AND PUNITIVE DAMAGES.

To the fullest extent permitted by law, and notwithstanding any other provision of the Contract Documents, in no event, whether arising out of contract, breach of warranty (express or implied), tort (including negligence), strict liability, or any other cause of or form of action whatsoever, shall either party be liable to the other for any consequential damages (including damages for loss of use, loss of profits or anticipated profits, loss of revenue, and loss of business opportunity) or punitive damages arising out of or in connection with the performance or non-performance of its obligations under this Design-Build Contract; provided, however, that, except as provided in the next sentence, the waiver of the foregoing damages under this Section is intended to apply only to disputes and claims as between the Town and the Design-Builder and, with respect to damages payable by the Design-Builder, the waiver of consequential or punitive damages applies only to the extent such damages are in excess of consequential or punitive damages covered or required to be covered by insurance. Nothing in this Section shall limit the indemnification obligations of the Design-Builder hereunder for any consequential or punitive damages payable to third parties resulting from any act or circumstance for which the Design-Builder is obligated to indemnify the Town or the Town Indemnitees hereunder. In addition, the Design-Builder acknowledges and agrees that the foregoing waiver shall not apply to, serve as a limitation or defense in respect of, or otherwise limit any right of recovery the Town may have respecting:

- (1) Any damage, cost, loss or expense (including defense costs) to the extent (a) covered or required to be covered by the proceeds of Required Insurance, or (b) covered by the proceeds of insurance actually carried by or insuring Design-Builder under policies solely with respect to the Project, regardless of whether required to be carried pursuant to Appendix 10 (Insurance Requirements); and

(2) The Design-Builder's obligation to pay any liquidated damages specifically provided for under this Design-Build Contract.

ARTICLE 13

INSURANCE

SECTION 13.1. INSURANCE.

(A) Required Insurance. At all times during the Term, the Design-Builder shall obtain, maintain and comply with the terms and conditions of the Required Insurance in accordance with Appendix 10 (Insurance Requirements) and shall pay all premiums with respect thereto as the same become due and payable. The Required Insurance shall be provided concurrently with the execution and delivery of this Design-Build Contract (or as otherwise specified in Appendix 10 (Insurance Requirements)) and remain in effect for the periods specified in Appendix 10 (Insurance Requirements). The Design-Builder's liability insurance, including professional liability, shall not include any design-build or similar exclusions that would compromise coverages because of the design-build nature of the work to be performed pursuant to this Design-Build Contract. Appendix 10 (Insurance Requirements) also includes notice and reporting requirements for the Required Insurance, including the required workers' compensation insurance.

(B) Insurers, Deductibles and the Town Rights. All insurance required by this Section shall be obtained and maintained from insurance companies, firms or entities that comply with the applicable requirements specified in Appendix 10 (Insurance Requirements). The insurers shall be selected by the Design-Builder with the consent of the Town, which consent shall not be unreasonably withheld, and authorized to write such insurance in the State. All deductibles or self-insured retention amounts included in the Required Insurance coverage shall be subject to the reasonable approval of the Town. The Design-Builder shall be responsible for the payment of any deductible amounts. The Design-Builder shall also be responsible for all self-insured retentions contained in its insurance coverages, as well as any excluded losses if such losses are within the liability of the Design-Builder hereunder. All policies of insurance, except for professional liability and workers' compensation, shall list the Town as an additional insured, and provide for:

(1) Payment of the losses to the Town, and to the Design-Builder as their respective interests may appear;

(2) At least 30 days' prior written notice of the cancellation thereof to the Town (except for cancellation resulting from non-payment of premium); and

(3) At least 10 days' prior written notice of cancellation thereof to the Town in the event of cancellation resulting from non-payment of premium.

All policies of insurance, except for professional liability and workers' compensation, provided by or on behalf of the Design-Builder shall be primary and non-contributory with respect to any insurance or self-insurance carried by the Town. The Town shall have the right to fully participate in all insurance claim settlement negotiations and to approve all final insurance settlements, which approval shall not be unreasonably withheld.

(C) Certificates, Policies and Notice. The Required Insurance, including any renewals thereof, shall be evidenced by certificates of insurance as provided herein and in Appendix 10 (Insurance Requirements). No later than 30 days prior to the issuance date of each policy of Required Insurance, including any renewals thereof, the Design-Builder shall provide the Town with a draft certificate of insurance for review and approval, and shall deliver the final, approved certificate of insurance to the Town promptly following its issuance. All policies of Required Insurance shall be made available for review by the Town's outside legal

counsel, who will conduct the review solely for the purposes of providing the Town legal advice as to whether the Design-Builder's policies meet Required Insurance requirements hereunder. The Design-Builder shall certify to the Town that the policies being provided for review are a complete, true and correct compilation of all relevant policies evidencing insurance required under Appendix 10 (Insurance Requirements), recognizing that the Town and its designated representatives will rely on such certification. The Town's outside legal counsel's legal advice shall be limited to only confirming whether such policies of insurance comply with the insurance requirements in this Design-Build Contract, or generally describing the nature of any deficiency observed in such policies. In its submission, the Design-Builder may claim confidentiality with respect to its insurance policies to protect the same against disclosure under the Public Information Act, and in such event the Town will take reasonable action (up to seeking an attorney general opinion regarding exceptions that may apply) to seek to preserve the confidentiality of the information about the Design-Builder's insurance policies in the possession of the Town's outside legal counsel, pursuant to the attorney client privilege and any other applicable exception to disclosure under the Public Information Act that the Town in its sole discretion determines to assert. In addition, upon conducting such review, if the Town's outside legal counsel determines that policies of Required Insurance contain deficiencies that cause such policies not to comply with the requirements of this Design-Build Contract, the Design-Builder shall remedy the defect and, without limiting any other the Town right or remedy provided for under this Design-Build Contract, in the event of a failure of compliance with the Required Insurance, the Design-Builder shall reimburse the Town for the cost and expense incurred by the Town in connection with the Town's outside legal counsel attempting to resolve such policy deficiencies by modification or endorsement thereof to achieve compliance with the requirements hereunder.

(D) Subcontractors. Whenever a Subcontractor is utilized, the Design-Builder shall either obtain and maintain or require the Subcontractor to obtain and maintain insurance in accordance with the applicable requirements of Appendix 10 (Insurance Requirements).

(E) Maintenance of Insurance Coverage. If the Design-Builder fails to pay any premium for Required Insurance, or if any insurer cancels any Required Insurance policy and the Design-Builder fails to obtain replacement coverage so that the Required Insurance is maintained on a continuous basis, then, at the Town's election (but without any obligation to do so), the Town, following notice to the Design-Builder, may pay such premium or procure similar insurance coverage from another company or companies and upon such payment by the Town the amount thereof shall be immediately reimbursed to the Town by the Design-Builder. The Design-Builder shall not perform Design-Build Work during any period when any policy of Required Insurance is not in effect. The Design-Builder shall comply with all Insurance Requirements and take all steps necessary to continuously insure the Project in accordance with the requirements of this Design-Build Contract. The failure of the Design-Builder to obtain and maintain any Required Insurance shall not relieve the Design-Builder of its liability for any losses intended to be insured thereby. Should any failure to provide continuous insurance coverage occur, the Design-Builder shall indemnify, defend and hold harmless the Town Indemnitees in accordance with and to the extent provided in Article 15 (Indemnification) from and against all Loss-and-Expense arising out of such failure. The purchase of the Required Insurance to satisfy the Design-Builder's obligations under this Section shall not be a satisfaction of any Design-Builder liability under this Design-Build Contract or in any way limit, modify or satisfy the Design-Builder's indemnity obligations hereunder.

(F) Compliance with Insurer Requirements. The Design-Builder shall comply promptly with the requirements of all insurers providing the Required Insurance pertaining to the Project. The Design-Builder shall not knowingly do or permit anything to be

done that results in the cancellation or the reduction of coverage under any policy of Required Insurance.

(G) Reductions for Insurance Proceeds. Whenever this Design-Build Contract obligates the Town to pay any amount to the Design-Builder in respect of an event or circumstance for which, or with respect to the consequences of which, an insurance claim may be made by the Design-Builder under the Required Insurance, the amount which the Town is obligated to pay will be reduced by the amount of insurance proceeds which the Design-Builder recovers or would have been entitled to recover if it had complied with the requirements of this Design-Build Contract or any policy of Required Insurance.

ARTICLE 14

UNCONTROLLABLE CIRCUMSTANCES

SECTION 14.1. UNCONTROLLABLE CIRCUMSTANCES GENERALLY.

(A) Extent of Relief Available to the Design-Builder. If an Uncontrollable Circumstance occurs, the Design-Builder may be entitled to relief from its obligations, extensions of time and compensation, as and to the extent provided in this Article 14. Such relief shall be available irrespective of whether an obligation of this Design-Build Contract expressly states that it is excused by Uncontrollable Circumstances.

(B) Mitigation Given Effect. Any relief to which the Design-Builder is entitled under this Article 14 on account of Uncontrollable Circumstances shall be adjusted to account for the effect of the mitigation measures which were or should have been taken by the Design-Builder in compliance with its duty to mitigate under Section 17.9 (General Duty to Mitigate).

(C) Applicable Law Compliance. Nothing in this Article 14 shall be interpreted as relieving the Design-Builder of its obligation, following any and all Uncontrollable Circumstances, to perform its obligations under this Design-Build Contract in compliance with Applicable Law.

(D) Contract Obligations Not Affected; Resumption of Performance. The occurrence of an Uncontrollable Circumstance shall not excuse the Design-Builder from performing any obligation hereunder not directly affected by the occurrence of the Uncontrollable Circumstance. Upon the occurrence of an Uncontrollable Circumstance, the Design-Builder shall promptly use all reasonable efforts to eliminate the cause thereof and resume performance of the affected Contract Obligations.

SECTION 14.2. UNCONTROLLABLE CIRCUMSTANCE CLAIM PROCEDURES.

(A) Notice and Written Report. In order to assert an entitlement based on the occurrence of an Uncontrollable Circumstance, the Design-Builder shall give notice of the occurrence of the Uncontrollable Circumstance to the Town as soon as practicable, and in any event within 14 days of the date the Design-Builder has knowledge that the Uncontrollable Circumstance has caused or is likely to cause an entitlement under this Design-Build Contract. The Design-Builder's notice shall include a written report:

- (1) Describing the Uncontrollable Circumstance and the cause thereof, to the extent known;
- (2) Stating the date on which the Uncontrollable Circumstance began and its estimated duration, to the extent known;
- (3) Summarizing the consequences of the Uncontrollable Circumstance and the expected impact on the performance of the Design-Builder's obligations under this Design-Build Contract; and
- (4) Indicating the nature and scope of the Design-Builder's potential entitlement to relief.

(B) Updates. The Design-Builder shall provide the Town with periodic updates, together with further details and supporting documentation, as it receives or develops additional information pertaining to the Uncontrollable Circumstance and the matters

described in subsection (A) of this Section. In particular, the Design-Builder shall notify the Town as soon as the Uncontrollable Circumstance has ceased and of the time when performance of its affected obligations can be resumed.

(C) Submittal of Relief Request. The Design-Builder shall submit to the Town a further notice making its request for specific relief, the basis therefor and the event giving rise to the requested relief (the "Relief Request Notice"), promptly after becoming aware of such occurrence, but not more than 30 days after the Town's receipt of the notice required under subsection (A) of this Section; provided that, if the specific relief cannot reasonably be ascertained within such period, the Design-Builder shall furnish the Relief Request Notice within such longer period as is reasonably necessary to detail the event and ascertain such relief; however, in any event, such Relief Request Notice shall be submitted to the Town not more than 60 days after the Town's receipt of the notice required under subsection (A) of this Section. Each Relief Request Notice shall include all information required in this Article 14 with respect to the specific relief being requested.

(D) Delay in Notification. The Design-Builder acknowledges that any delay by the Design-Builder in submitting to the Town any Uncontrollable Circumstance notice or any information required under this Section, beyond the applicable time period required under this Section may adversely affect the Town, and agrees that the relief to be provided in respect of any Uncontrollable Circumstance shall be reduced or limited to the extent of any such adverse effect, as reasonably determined by the Town. The Design-Builder shall be deemed to have become aware of the occurrence of an Uncontrollable Circumstance if such occurrence could reasonably have been known, identified, discovered or observed by the Design-Builder through the employment of procedures consistent with Good Engineering and Construction Practice. Without limiting any of the foregoing, if the Design-Builder fails to submit a Relief Request Notice within 60 days after the Town's receipt of the notice required under subsection (A) of this Section or to notify the Town of the occurrence of an Uncontrollable Circumstance within 60 days following the occurrence, then the Design-Builder shall be deemed to have irrevocably and forever waived and released any and all claim or right with respect to the subject Uncontrollable Circumstance.

(E) Multiple and Overlapping Claims. The Design-Builder may make multiple but not duplicative claims with respect to an Uncontrollable Circumstance.

(F) Burden of Proof and Mitigation. The Design-Builder shall bear the burden of proof in establishing the occurrence of an Uncontrollable Circumstance and the entitlement to relief based thereon, and shall demonstrate that the Design-Builder complied with its mitigation obligations under Section 17.9 (General Duty to Mitigate).

(G) Town Response. The Town may, but shall have no obligation to, respond to the Design-Builder's initial notice concerning the occurrence of an Uncontrollable Circumstance under subsection (A) of this Section. Within 15 days after receipt of a Relief Request Notice pursuant to subsection (C) of this Section, the Town shall issue a written determination as to the extent, if any, to which it concurs with the Design-Builder's request and the reasons therefor.

(H) Agreement or Dispute. The agreement of the parties as to the specific relief to be given the Design-Builder on account of an Uncontrollable Circumstance shall be evidenced by a Change Order, a Contract Amendment or other written agreement between the parties. Either party may refer any dispute for resolution in accordance with Section 11.1 (Dispute Resolution Procedures).

(I) Certifications. Each submittal made under this Section by the Design-Builder shall be accompanied by a certification of the Design-Builder Contract Representative

that the submittal is made in good faith; that the supporting data are complete and accurate at the time of the submittal to the best knowledge of the Design-Builder; and that the requested relief accurately reflects the relief to which the Design-Builder reasonably believes it is entitled hereunder. The Design-Builder shall have no entitlement to relief for uncertified claims.

SECTION 14.3. UNCONTROLLABLE CIRCUMSTANCES RELIEF.

If and to the extent that an Uncontrollable Circumstance interferes with, delays or increases the cost to the Design-Builder performing the Design-Build Work in accordance herewith, the Design-Builder shall, subject to Section 14.4 (Schedule Relief and Related Price Relief), be entitled to:

- (1) Relief from its performance obligations;
- (2) An adjustment to the Scheduled Substantial Completion Date;
- (3) An adjustment to the Contract Compensation for such costs (except as otherwise expressly provided herein); or
- (4) A Base Guaranteed Maximum Price Adjustment (except as and to the extent provided in this Section, Section 14.2 (Uncontrollable Circumstance Claim Procedures) and Article 15 (Indemnification));

or any combination thereof, each of which properly reflects the interference with performance, the time lost as a result thereof, or the amount of the increased cost, in each case only to the minimum extent necessary to compensate the Design-Builder or provide performance or schedule relief and only to the extent directly attributable to the Uncontrollable Circumstance. Any cost reduction achieved or which should have been achieved taking into consideration the Design-Builder's obligations under this Design-Build Contract (including the mitigation measures to be undertaken by the Design-Builder pursuant to Section 17.9 (General Duty to Mitigate)) shall be reflected in a reduction of the amount of the additional Contract Compensation or Base Guaranteed Maximum Price Adjustment as appropriate to reflect such mitigation measures. The Design-Builder shall not be entitled to any price relief on account of any costs incurred as the result of Design-Builder Fault or an act, event or circumstance that the Design-Builder is obligated to insure against under Article 13 (Insurance), irrespective of any limits of coverage and of any deductible applicable under any policy of insurance maintained or required to be maintained thereunder.

SECTION 14.4. SCHEDULE RELIEF AND RELATED PRICE RELIEF.

(A) Conditions to Schedule Relief.

(1) Float in the Design-Build Period Work Schedule. The parties acknowledge and agree that "float" in the Design-Build Period Work Schedule:

- (a) Means the amount of time that any given activity or logically connected sequence of activities shown on the Design-Build Period Work Schedule may be delayed before it delays the occurrence of a scheduled completion milestone; and
- (b) Is an expiring resource available to the Project for the benefit of both parties, available to each of them as needed to absorb delays in achieving the scheduled completion milestones, whether such delays are caused by Uncontrollable Circumstances or otherwise.

(2) Required Demonstration for Schedule Relief. Without limiting any other requirement of this Article 14, the Design-Builder shall not be entitled to any adjustment to the Scheduled Substantial Completion Date, the number of days allowed for the achievement of Final Completion or any other schedule adjustment under this Design-Build Contract, unless the Design-Builder demonstrates:

(a) That an Uncontrollable Circumstance has occurred and, subject to the time impact analysis requirements of Appendix 5 (General Design-Build Work Requirements), that the Uncontrollable Circumstance impacts one or more critical path activities in the Design-Build Period Work Schedule, as updated, maintained and revised by the Design-Builder in accordance with the Contract Standards, such that the Uncontrollable Circumstance will consume all available float and extend the time required to achieve the scheduled milestone from which relief is being sought;

(b) The Design-Builder, in view of all circumstances, exercised reasonable efforts to avoid the delay; and

(c) The delay was not caused by the Design-Builder or any other Design-Builder Person.

(B) Compensable Uncontrollable Circumstance Delay. The Design-Builder shall be entitled to schedule relief but shall not be entitled to price relief for schedule delays due to (i) unusually severe and abnormal climatic conditions, (ii) the existence of Differing Site Conditions, or (iii) the existence of a Regulated Site Condition. Price relief for schedule delays caused by other Uncontrollable Circumstances (including delays in the receipt of Town Managed Governmental Approvals or Town Managed Non-Governmental Approvals, a Change in Law, Town Fault or the performance or non-performance of Separate Contractors, in each case, as and to the extent such events or circumstances constitute Uncontrollable Circumstances pursuant to this Article 14) shall be limited to a reasonable and equitable Base Guaranteed Maximum Price Adjustment, which shall not exceed the sum of (i) a reasonable daily value for the Design-Builder's General Conditions Costs based upon the Design-Builder's General Conditions Fee multiplied by the number of days of compensable Uncontrollable Circumstance delay, and (ii) any additional Design-Build Period Costs attributable to such Uncontrollable Circumstance delay taking into consideration the Design-Builder's obligations under this Design-Build Contract (including the mitigation measures to be undertaken by the Design-Builder pursuant to Section 17.9 (General Duty to Mitigate)) as substantiated in accordance with Section 9.8 (Cost Substantiation).

(C) Concurrent Delay. The Design-Builder's entitlement to price relief for Uncontrollable Circumstance delays under subsection (B) of this Section shall be limited to the extent of any concurrent delay by the Design-Builder or to the extent performance was, or would have been, suspended, delayed, or interrupted by Design-Builder Fault.

SECTION 14.5. UNUSUALLY SEVERE AND ABNORMAL CLIMATIC EVENTS.

If the Design-Builder intends to seek Uncontrollable Circumstance schedule relief on the basis of unusually severe and abnormal climatic events, the Design-Builder shall, in addition to fulfilling all other requirements of this Article 14, demonstrate that the actual weather encountered was unusually severe and abnormal compared with the five-year average weather statistics compiled by the United States National Oceanic and Atmospheric Administration for the time of year and locality of the Project Sites.

SECTION 14.6. RELEASE.

The Design-Builder's acceptance of any performance, price or schedule adjustment under this Article 14 shall be construed as a release of the Town by the Design-Builder (and all persons claiming by, through or under the Design-Builder) from any and all losses or expenses resulting from, or otherwise attributable to, the event giving rise to the adjustment claimed. Notwithstanding the foregoing, the parties may agree that any schedule, performance or price relief does not constitute the entire relief to be afforded due to such event but only to the extent set forth in a written agreement of the parties.

SECTION 14.7. UNIT PRICING.

[Note: To be developed if parties negotiate per unit charge for treatment/disposal of contaminated material that would constitute an Uncontrollable Circumstance as part of the GMP Amendment.]

ARTICLE 15

INDEMNIFICATION

SECTION 15.1. DESIGN-BUILDER'S OBLIGATION TO INDEMNIFY.

The Design-Builder shall indemnify, defend and hold harmless the Town, and their respective elected officials, trustees, members, appointed officers, employees, representatives and agents, including the Owner Representative (each a "the Town Indemnatee"), from and against (and pay the full amount of) any and all Loss-and-Expense that any the Town Indemnatee may sustain in connection with any claim made by one or more third parties (including claims for loss of or physical damage to property or assets), or any claim for, or in respect of, the death, personal injury, disease or illness of any person, including any Town Indemnatee, to the extent arising by reason of (or alleged to result from or in connection with) any:

- (1) Design-Builder Fault;
- (2) Non-compliance by the Design-Builder or any Design-Builder Person with any of the provisions of this Design-Build Contract or any Subcontract or any document, instrument or agreement delivered to the Town as required under this Design-Build Contract;
- (3) Activities on the Project Sites, as and to the extent provided in Section 4.4(C) (Access to the Project Sites);
- (4) Non-compliance with Applicable Law, as provided in Section 4.6(C) (Fines, Penalties and Remediation);
- (5) Release of Regulated Substances by the Design-Builder or any Design-Builder Person, as provided in Section 6.4(A) (Design-Builder Responsibilities);
- (6) Labor disputes, as provided in Section 7.2(B) (Labor Relations);
- (7) Subcontractor claims, as provided in Section 7.3(I) (Subcontractor Claims);
- (8) Design-Builder Employee claims, as provided in subsection 7.3(K) (Subcontracting with Small and Minority Businesses, Women's Business Enterprises and Labor Surplus Area Firms);
- (9) Intellectual Property claims, as provided in Section 17.7(A) (Protection from Infringement);
- (10) Failure by the Design-Builder to advise the Town of any potential infringement or unauthorized use resulting from a the Town-directed Change Order, as provided in Section 17.7(C) (Exceptions to Infringement Protection);
- (11) Any claims of harassment arising from the conduct of the Design-Builder or any Design-Builder Person;
- (12) Breach by the Design-Builder or any Design-Builder Person of, or non-compliance by the Design-Builder or any Design-Builder Person with, any Governmental Approval or Applicable Law, or the failure of the Design-Builder or any

Design-Builder Person to obtain all necessary Governmental Approvals which it is required to obtain in accordance with this Design-Build Contract; or

(13) Any other act, event or circumstance as to which the Design-Builder is obligated to provide an indemnity hereunder.

The Design-Builder's indemnity obligations under this Section shall not be limited by any coverage exclusions or other provisions in any policy of Required Insurance or other insurance maintained by the Design-Builder which is intended to respond to such events. Notwithstanding the foregoing, the Town Indemnitees' right to indemnification pursuant to this Section shall be reduced by all insurance, settlement proceeds or third party indemnification proceeds actually received by the Town Indemnitees. This Section may be relied upon by the Town Indemnitees and may be enforced directly by any of them against the Design-Builder in the same manner and for the same purpose as if pursuant to a contractual indemnity directly between them and the Design-Builder.

SECTION 15.2. INDEMNIFICATION PROCEDURES.

(A) Notice. If a Town Indemnitee receives any notice, demand, letter or other document concerning any claim for which it appears that the Town Indemnitee is, or may become entitled to, indemnification or compensation under this Design-Build Contract in respect of the entire claim, the Town Indemnitee shall give notice in writing to the Design-Builder as soon as reasonably practicable.

(B) Consolidation of Claims. If a notice of claim is given pursuant to subsection (A) of this Section by more than one the Town Indemnitee relating to the same facts or circumstances, the Design-Builder may, in its discretion, require the consolidated administration and coordination of all such noticed claims by common counsel.

(C) Design-Builder Right to Dispute Claim. If notice is given as provided in subsection (A) of this Section, the Design-Builder shall be entitled to dispute the claim in the name of the Town Indemnitee at the Design-Builder's own expense and take conduct of any defense, dispute, compromise, or appeal of the claim and of any incidental negotiations. The Town Indemnitee will give the Design-Builder all reasonable cooperation, access and assistance for the purposes of considering and resisting such claim.

(D) Rights and Duties of the Parties. With respect to any claim conducted by the Design-Builder pursuant to subsection (C) of this Section:

(1) The Design-Builder shall keep the Town Indemnitee fully informed and consult with it about material elements of the conduct of such defense;

(2) The Design-Builder shall demonstrate to the Town Indemnitee, at the reasonable request of the Town Indemnitee, that the Design-Builder has sufficient means to pay all costs and expenses that it may incur by reason of conducting such defense; and

(3) The Design-Builder shall have full control of such defense and proceedings, including any compromise or settlement thereof; provided, however, that any such compromise or settlement involving non-monetary obligations of the Town, or otherwise having a direct effect upon its continuing operations, shall (1) contain a full release of the Town and (2) be subject to the consent of the Town, which consent shall not be unreasonably withheld, conditioned or delayed. If requested by the Design-Builder, the Town (with the approval of the Board of Trustees, given in its discretion) shall, at the sole cost and expense of the Design-Builder, cooperate with the Design-

Builder and its counsel in contesting any claim which the Design-Builder elects to contest.

(E) The Town Indemnatee Rights to Conduct Defense. A Town Indemnatee may take conduct of any defense, dispute, compromise or appeal of any claim subject to the Design-Builder's indemnification obligations hereunder, including any incidental negotiations, if

(1) The Design-Builder fails to notify the Town Indemnatee of its intention to take conduct of the relevant claim within 14 days of the notice from the Town Indemnatee under subsection (A) of this Section or notifies the Town Indemnatee that it does not intend to take conduct of the claim; or

(2) The Town Indemnatee reasonably determines that a conflict exists between it and the Design-Builder which prevents or potentially prevents the Design-Builder from presenting a full and effective defense; or

(3) The Design-Builder fails to comply in any material respect with subsection (D) of this Section in a timely manner following reasonable notice from the Town.

(F) Transfer of Conduct of Claim to the Town Indemnatee. A the Town Indemnatee may at any time, give notice to the Design-Builder that it is retaining or taking over, as the case may be, the conduct of any defense, dispute, compromise, settlement or appeal of any claim, or of any incidental negotiations, to which subsection (E) of this Section applies. On receipt of such notice the Design-Builder will promptly take all steps necessary to transfer the conduct of such claim to the Town Indemnatee, and will provide to the Town Indemnatee all reasonable cooperation, access and assistance for the purposes of considering and resisting such claim.

(G) Design-Builder Responsibility for Costs. If the Town Indemnatee is entitled and elects to conduct its own defense pursuant to subsection (E) of this Section, all reasonable Fees and Costs incurred by the Town Indemnatee in investigating, defending and conducting the claim for which it is entitled to indemnification hereunder shall constitute an indemnified loss subject to the Design-Builder's indemnification obligations hereunder.

ARTICLE 16

SECURITY FOR PERFORMANCE

SECTION 16.1. BONDS.

(A) Performance and Payment Bonds. Performance Bonds and Payment Bonds for the Design-Build Work shall be provided as follows:

(1) Early Work Packages Bonds. If the Town authorizes an Early Work Package, then the Design-Builder shall provide to the Town, on or before the Early Work Package Amendment Date, a Performance Bond and a Payment Bond covering the Design-Builder's faithful performance of such Early Work Package Amendment and the payment of its obligations arising thereunder. The penal sum of each such bond shall be in an amount equal to the Early Work Package Price applicable to the Early Work Package. The Payment Bond shall be in the form required by California Civil Code Section 3247 as attached as Transaction Form B issued by a Surety meeting the requirements set forth in subsection (D) of this Section, and the Performance Bond shall be in the form attached as Transaction Form C issued by a Surety meeting the requirements set forth in subsection (D) of this Section. If the Town authorizes additional Early Work Packages, then the Design-Builder shall, on or before each subsequent Early Work Package Amendment Date, provide to the Town, for each subsequent Early Work Package, an amendment to the above-referenced Performance Bond and Payment Bond, executed by both the Design-Builder and the Surety, that: (a) increases the penal sum of each bond by an amount equal to the Early Work Package Price of such Early Work Package; and (b) affirmatively states that the obligations under such bonds encompass the Design-Builder's performance and payment obligations under each Early Work Package Amendment.

(2) Amendment of Early Work Package Bonds on GMP Amendment Date. If Performance and Payment Bonds have been provided pursuant to item (1) above, then the Design-Builder shall, on or before the GMP Amendment Date, provide to the Town an amendment to the Performance Bond and the Payment Bond, executed by both Design-Builder and the Surety, that: (a) increases the penal sum of each bond to an amount equal to the Base Guaranteed Maximum Price; and (b) affirmatively states that such bonds cover faithful performance of this Design-Build Contract and payment of obligations arising thereunder.

(3) New Design-Build Work Performance and Payment Bonds on GMP Amendment Date. If the Performance Bond and the Payment Bond have not been provided pursuant to item (1) above, then the Design-Builder shall, on or before the GMP Amendment Date, provide to the Town a Performance Bond and a Payment Bond that are in the penal sum of an amount equal to the Base Guaranteed Maximum Price and cover faithful performance of this Design-Build Contract and payment of obligations arising hereunder. The forms of such bonds are set forth in Transaction Forms B and C and shall be issued by a Surety meeting the requirements set forth in subsection (D) of this Section.

(4) Example Penal Sum Determination. The following example is intended to illustrate the operation of the above, on the assumption that there are two Early Work Package Amendments before the GMP Amendment:

(a) The parties enter into an Early Work Package Amendment for Scope X with a lump sum price of \$1 million. The Performance Bond and the

Payment Bond will each have a penal sum of \$1 million, and such bonds will cover the performance and payment obligations of the Design-Builder for Scope X.

(b) The parties enter into another Early Work Package Amendment for Scope Y with a lump sum price of \$1.5 million. The Performance Bond and the Payment Bond will be amended to have a penal sum of \$2.5 million, and such bonds will cover the performance and payment obligations of Design-Builder for Scope X and Y.

(c) The parties enter into the GMP Amendment, with a Base Guaranteed Maximum Price of \$10 million, inclusive of the lump sum pricing for Scopes X and Y. The Performance Bond and the Payment Bond will be amended to have a penal sum of \$10 million, and such bonds will cover all performance and payment obligations of the Design-Builder under this Design-Build Contract, inclusive of Scope X, Y and all other Design-Build Work under this Design-Build Contract.

(5) Base Guaranteed Maximum Price Adjustments. The amount of the Performance Bond and the Payment Bond shall be increased by the Design-Builder to reflect any Base Guaranteed Maximum Price Adjustments at the time such adjustment is implemented by the parties and as a condition to its entitlement to the adjustment.

(6) Term of Bonds. The Payment Bond shall be security for the payment of all persons supplying labor and material in the prosecution of the Design-Build Work and shall remain open until Final Completion. The Performance Bond shall secure the performance of the Design-Build Work and shall remain open until Final Completion.

(B) Bond Forms. Each bond given or tendered to the Town pursuant to this Design-Build Contract must be on the Town forms (Transaction Forms B and C), with no changes made by the Design-Builder or the Surety, and must be dated, executed, and accompanied by a power of attorney stating that the attorney in fact executing the bond has requisite authority to execute such bond. The bonds must be dated and must be no more than 30 days old when delivered to the Town.

(C) Delivery of Bonds. The Design-Builder shall deliver required bonds to the Town within the time limits specified in this Section.

(D) Surety Requirements. The bonds required to be provided pursuant to this Section shall be issued by a Surety:

(1) Approved by the Town having a rating of A- or better in the latest revision of the A.M. Best Company's Insurance Report;

(2) Listed in the United States Treasury Department's Circular 570, "Companies Holding Certificates of Authority as Acceptable Sureties on Federal Bonds and as Acceptable Reinsurance Companies";

(3) Holding a certificate of authority to transact surety business in the State;
and

(4) In compliance with the requirements of State law.

If a bond is given or tendered to the Town pursuant to this Design-Build Contract in an amount greater than 10 percent of Surety's capital and surplus, the Surety shall provide certification that the Surety has reinsured that portion of the risk that exceeds 10 percent of the Surety's capital and surplus. The reinsurance must be with one or more reinsurers who are duly authorized, accredited, or trusted to do business in the State. The amount reinsured by any reinsurer may not exceed 10 percent of the reinsurer's capital and surplus. The amount of allowed capital and surplus must be based on information received from the California Board of Insurance.

(E) Monitoring of Sureties. The Design-Builder shall be responsible throughout the Term for monitoring the financial condition of any Surety issuing bonds under this Design-Build Contract and for making inquiries no less often than annually to confirm that each such Surety maintains at least the minimum rating level specified in this Section. In the event the rating of any issuing Surety falls below such minimum level, or if any surety company is declared bankrupt or becomes insolvent or has the rights to do business in the State terminated, the Design-Builder shall promptly notify the Town of such event and shall promptly take steps to cause continued compliance with this Section by furnishing or arranging for the furnishing of a substitute or additional bond of a surety company whose rating and other qualifications satisfy all above requirements, unless the Town agrees to accept the surety company that no longer satisfies the minimum rating level specified above, or agrees to an alternative method of assurance. Upon such notice by the Design-Builder of such an event, the Town shall not unreasonably withhold its approval of such assurance.

(F) Completion of Work. Without limiting any other right or remedy provided for under the Performance Bond, if this Design-Build Contract is terminated by the Town for an Event of Default and the Surety fails to pursue completion of the Contract Obligations with reasonable speed, the Town may arrange for completion of the Contract Obligations and deduct the cost thereof from any amount otherwise due to the Design-Builder under this Design-Build Contract, including the cost of additional the Town administration and consultant services made necessary by such default or neglect. In such event, no further payment shall then be made by the Town until all costs of completing the Contract Obligations shall have been paid.

SECTION 16.2. COSTS OF PROVIDING SECURITY INSTRUMENTS.

The cost and expense of obtaining and maintaining the Security Instruments required under this Article 16 as security for the performance of the Design-Builder's obligations hereunder shall be borne by the Design-Builder. Premiums for the Performance Bonds and the Payment Bonds shall be Design-Build Period Costs that may be requisitioned by the Design-Builder in accordance with the provisions of Appendix 8 (Design-Build Price).

ARTICLE 17

MISCELLANEOUS PROVISIONS

SECTION 17.1. OWNERSHIP OF THE PROJECT.

The Project shall be owned by the Town at all times. The Design-Builder shall perform the Contract Obligations provided for herein as an independent contractor and shall not have any legal, equitable, tax beneficial or other ownership or leasehold interest in the Project. The Design-Builder shall not use the Project for any purpose other than the purposes contemplated by this Design-Build Contract or to serve or benefit any person other than the Town.

SECTION 17.2. RELATIONSHIP OF THE PARTIES.

The Design-Builder is an independent contractor of the Town and the relationship between the parties shall be limited to performance of this Design-Build Contract in accordance with its terms. Neither party shall have any responsibility with respect to the services to be provided or contractual benefits assumed by the other party. Nothing in this Design-Build Contract shall be deemed to constitute either party a partner, agent or legal representative of the other party. No liability or benefits, such as workers compensation, pension rights or liabilities, or other provisions or liabilities arising out of or related to a contract for hire or employer/employee relationship shall arise or accrue to any party's agent or employee as a result of this Design-Build Contract or the performance thereof.

SECTION 17.3. AFFILIATE TRANSACTIONS.

If any costs to be reimbursed by the Town to the Design-Builder under this Design-Build Contract arise from a transaction between the Design-Builder and any Affiliate of the Design-Builder, the Design-Builder shall notify the Town of the specific nature of the contemplated transaction, including the identity of the Affiliate, the nature of the work to be performed by the Affiliate and the anticipated cost to be incurred, before any such transaction is consummated or cost incurred. The Design-Builder shall not enter into any such transaction, nor incur any such cost, absent the written approval of the Town in its sole discretion.

SECTION 17.4. CONTRACT ADMINISTRATION.

(A) Administrative Communications. The parties recognize that a variety of contract administrative matters will routinely arise throughout the performance of this Design-Build Contract. These matters will by their nature involve requests, notices, questions, assertions, responses, objections, reports, claims, and other communications made personally, in meetings, by phone, by mail and by electronic and computer communications. The purpose of this Section is to set forth a process by which the resolution of the matters at issue in such communications, once resolution is reached, can be formally reflected in the common records of the parties so as to permit the orderly and effective administration of this Design-Build Contract.

(B) Contract Administration Memoranda. The principal formal tool for the administration of routine matters arising under this Design-Build Contract between the parties that do not require a Contract Amendment shall be a "Contract Administration Memorandum." A Contract Administration Memorandum shall be prepared, once all preliminary communications have been concluded, to evidence the resolution reached by the Town and the

Design-Builder as to matters of interpretation and application arising during the course of the performance of their obligations hereunder. Such matters may include, for example:

- (1) Issues as to the meaning, interpretation or application of this Design-Build Contract in particular circumstances or conditions;
- (2) Calculations required to be made;
- (3) Notices, waivers, releases, satisfactions, confirmations, further assurances, consents and approvals given hereunder; and
- (4) Other similar routine contract administration matters.

(C) Procedure. Either party may request the execution of a Contract Administration Memorandum. When resolution of the matter is reached, a Contract Administration Memorandum shall be prepared by or at the direction of the Town reflecting the resolution. Contract Administration Memoranda shall be serially numbered, dated, signed by the Design-Builder Contract Representative and the Town Contract Representative, and, at the request of the Town, co-signed by a Senior Supervisor for the Design-Builder. The Town and the Design-Builder each shall maintain a parallel, identical file of all Contract Administration Memoranda, separate and distinct from the Contract Amendments and all other documents relating to the administration and performance of this Design-Build Contract.

(D) Effect. Executed Contract Administration Memoranda shall serve to guide the ongoing interpretation and application of the terms and conditions of this Design-Build Contract. Any material change, alteration, revision or modification of this Design-Build Contract, however, shall be effectuated only through a formal Contract Amendment in accordance with Section 17.5 (Contract Amendments).

SECTION 17.5. CONTRACT AMENDMENTS.

(A) Amendments Generally. Notwithstanding the provisions of Section 17.4 (Contract Administration) but without limiting any approval authority delegated to the Town Contract Representative pursuant to Section 17.6(B) (Town Contract Representative), no material change, alteration, revision or modification of the terms and conditions of this Design-Build Contract shall be made except through a written amendment to this Design-Build Contract (a “Contract Amendment”), duly authorized, approved or ratified by the Town Council and duly authorized by the Design-Builder.

(B) Procedure. Contract Amendments shall be serially numbered, dated and signed by a Senior Supervisor for the Design-Builder and by the Town Contract Representative or an authorized signatory of the Town for the Town, as determined in accordance with Section 17.6(B) (Town Contract Representative). The Town and the Design-Builder each shall maintain a parallel, identical file of all Contract Amendments, separate and distinct from the Contract Administration Memoranda and all other documents relating to the administration and performance of this Design-Build Contract.

SECTION 17.6. CONTRACT REPRESENTATIVES.

(A) Design-Builder Contract Representative and Senior Supervisors. The Design-Builder shall appoint and inform the Town in writing from time to time of the identity of (1) the individual with the responsibility and power from time to time to administer this Design-Build Contract and to bind the Design-Builder with respect to any Contract Administration Memorandum, Change Order and Contract Amendment (which may be the same or different

individual with respect to the Preliminary Services and the Design-Build Period Work) (the “Design-Builder Contract Representative”), and (2) the corporate officials of the Design-Builder with senior supervisory responsibility for the Project and the performance of this Design-Build Contract (the “Senior Supervisors”). The Design-Builder shall promptly notify the Town in writing of the appointment of any successor Senior Supervisors. The Senior Supervisors shall cooperate with the Town in any reviews of the performance of the Project Manager and the Design-Builder Contract Representative which the Town may undertake from time to time, and shall give full consideration to any issues raised by the Town in conducting such performance reviews.

(B) Town Contract Representative. The Town shall appoint an individual or individuals to act as the “Town Contract Representative” for this Design-Build Contract. Such appointment shall be in writing and include a specific description of the extent of the Town Contract Representative’s power to administer this Design-Build Contract, including specific dollar limitations of his or her authority. The Design-Builder shall be entitled to a copy of any such written appointment. The Design-Builder understands and agrees that any delegation to the Town Contract Representative may provide only limited authority with respect to the implementation of this Design-Build Contract, which may or may not include the authority to bind the Town with respect to any Change Order, Work Change Directive or Contract Amendment. Within such limitations, the Design-Builder shall be entitled to rely on the written directions of any the Town Contract Representative. The Town Contract Representative shall have the right at any time to issue the Design-Builder a written request for information relating to this Design-Build Contract. Any written request designated as a “priority request” shall be responded to by the Design-Builder within three Business Days.

(C) Town Approvals and Consents. When this Design-Build Contract requires any approval or consent by the Town to a Design-Builder submission, request or report, the approval or consent shall, within the limits of the authority of subsection (B) of this Section, be given by the Town Contract Representative in writing and such writing shall be conclusive evidence of such approval or consent, subject only to compliance by the Town with the Applicable Law that generally governs its affairs. Unless expressly stated otherwise in this Design-Build Contract, and except for requests, reports and submittals made by the Design-Builder that do not, by their terms or the terms of this Design-Build Contract, require a response or action, if the Town does not find a request, report or submittal acceptable, it shall provide written response to the Design-Builder describing its objections and the reasons therefor within 30 days of the Town’s receipt thereof. If no response is received, the request, report or submittal shall be deemed rejected unless the Town’s approval or consent may not be unreasonably delayed by the express terms hereof, and the Design-Builder may resubmit the same, with or without modification. Requests, reports and submittals that do not require a response or other action by the Town pursuant to some specific term of this Design-Build Contract shall be deemed acceptable to the Town if the Town shall not have objected thereto within 30 days of the receipt thereof.

SECTION 17.7. PROPERTY RIGHTS.

(A) Protection from Infringement. The Design-Builder shall pay all royalties and license fees in connection with the Contract Obligations during the Term. Except as provided in subsection (C) of this Section, the Design-Builder shall indemnify, defend and hold harmless the Town Indemnities in accordance with and to the extent provided in Section 15.1 (Design-Builder’s Obligation to Indemnify) from and against all Loss-and-Expense arising out of or related to the infringement or unauthorized use of any patent, trademark, copyright or trade secret relating to, or for the Contract Obligations. The Design-Builder’s indemnity pursuant to this Section shall apply only when infringement occurs or is alleged to occur from the intended

use for which the Deliverable Material, process or equipment was provided by the Design-Builder pursuant to this Design-Build Contract.

(B) Substitutes for Deliverable Material, Process or Equipment. Except as provided in subsection (C) of this Section, in the event the Design-Builder or the Town is enjoined from using any Deliverable Material, process or equipment, the Design-Builder, at its sole cost and expense, shall:

(1) Acquire the right to legally use such infringing Deliverable Material, process or equipment (or any affected Design-Build Work) under infringed patents or copyrights; or

(2) Modify or replace such Deliverable Material, process or equipment (or any affected Design-Build Work) with un-infringed Deliverable Material, process or equipment (or any affected Design-Build Work) equivalent in quality, performance, useful life and technical characteristics and development; provided, however, that any such modification or replacement shall be subject to the Town's approval, which shall not be unreasonably withheld or delayed.

(C) Exceptions to Infringement Protection. Unless otherwise agreed to by the parties, the Design-Builder's obligations under this Section shall not apply to:

(1) Infringement resulting from the Town-directed Change Orders and Work Change Directives issued under Section 6.9(C) (Changes Required by the Town) or Section 6.11 (Work Change Directives);

(2) Infringement resulting from unauthorized additions, changes or modifications to the Deliverable Material, process or equipment made or caused to be made by the Town subsequent to delivery by the Design-Builder; or

(3) Any claimed infringement which is settled without the consent of the Design-Builder.

The Design-Builder shall promptly advise the Town as to whether any the Town-directed Change Order or Work Change Directive issued under Section 6.9(C) (Changes Required by the Town) or Section 6.11 (Work Change Directives) may result in any infringement or unauthorized use and, in the event of any failure by the Design-Builder to so advise the Town, the Design-Builder will indemnify the Town for any Loss-and-Expense resulting from any such infringement or unauthorized use.

(D) Pre-Existing Intellectual Property. The Town acknowledges and agrees that in the performance of Contract Obligations under this Design-Build Contract, the Design-Builder may use proprietary algorithms, software, hardware, databases, other background technology, and other proprietary information that the Design-Builder developed or licensed from third parties prior to the Contract Date ("Pre-Existing Intellectual Property"). Without limiting the Town's rights with respect to the Deliverable Material, the Design-Build Work or the Project, the Design-Builder will retain all right, title, and interest in such Pre-Existing Intellectual Property. However, the Town shall have the irrevocable, perpetual, and unrestricted right from and after the Contract Date to use (or permit use of) all Pre-Existing Intellectual Property incorporated in the Deliverable Material, the Design-Build Work or the Project, all oral information received by the Town in connection with the Design-Build Work, and all ideas or methods represented by Pre-Existing Intellectual Property incorporated in the Deliverable Material or the Project, in each case without additional compensation. The Design-Builder hereby licenses such irrevocable, perpetual, and unrestricted rights to the Town. The

Town's use of such license rights for any purpose other than the Project shall be at its own risk, and the Design-Builder shall have no liability for or relating to any such use. Notwithstanding any other provision of this Design-Build Contract, the Design-Builder shall retain all rights, title and interest (including all Intellectual Property rights) with respect to the following specialized equipment used in the performance of the Design-Build Work: [soil cement systems].

(E) Protection of Proprietary Rights of the Town. The Design-Builder agrees and covenants to protect any and all proprietary rights of the Town in any material provided to the Design-Builder. Such protection of proprietary rights by the Design-Builder shall include the insertion in any copy intended for publication of a copyright mark reserving all rights to the Town in any such material provided by the Town to the Design-Builder. Additionally, any materials provided to the Design-Builder by the Town shall not be released to any third party without the written consent of the Town and shall be returned intact to the Town upon completion or termination of this Design-Build Contract. The provisions of this subsection shall not apply to material in the public domain on the Contract Date or material that subsequently comes into the public domain by other than an unauthorized disclosure.

SECTION 17.8. AFFIRMATIVE ACTION REQUIREMENTS.

(A) Applicable Law. The Design-Builder shall comply at all times with the affirmative action requirements of and the anti-discrimination requirements of the Grant Requirements, including all applicable provisions identified in Appendix 12 (Certain Grant Requirements and Guidelines).

(B) Affirmative Action Statement. The Design-Builder shall actively solicit the employment of minority group members. The Design-Builder shall actively solicit bids for the subcontracting of goods or services from qualified minority businesses. The Design-Builder shall furnish evidence of the Design-Builder's compliance with these requirements of minority employment and solicitation. The Design-Builder further agrees to consider the grant of subcontracts to said minority bidders on the basis of substantially equal proposals in the light most favorable to said minority businesses. As used in this Section, the term "minority business" means a business at least fifty-one percent of which is owned by minority group members. Minority group members include, but are not limited to, blacks, women, native Americans, Asians, Eskimos, Aleuts, and Hispanics. The Design-Builder and all subcontractors shall also comply with the anti-discrimination requirements of the Grant Requirements, including all applicable provisions identified in Appendix 12 (Certain Grant Requirements and Guidelines). The Design-Builder agrees to take all steps necessary to comply with all federal, state and Town laws and policies regarding non-discrimination and equal employment opportunities. The Design-Builder, and all of its subcontractors, shall not discriminate in any employment action because of race, religion, color, national origin or ancestry, sex, gender identity, sexual orientation, age, marital status, familial status or the presence of any sensory, mental, or physical handicap. In the event of non-compliance by the Design-Builder or its subcontractors with any of the non-discrimination provisions of this Contract, the Town, shall be deemed to have cause to terminate this Agreement, in whole or in part. The Design-Builder shall comply with all Federal and State laws, regulations and policies against discrimination.

(C) Subcontracts. The Design-Builder further agrees that the affirmative action statement in subsection (B) of this Section shall be incorporated in all Subcontracts with all labor organizations furnishing skilled, unskilled and union labor, or who may perform any such labor or services in connection with this Design-Build Contract.

SECTION 17.9. GENERAL DUTY TO MITIGATE.

(A) Mitigation by the Design-Builder. In all cases where the Design-Builder is entitled to receive any relief from the Town or exercise any rights, including the right to receive any payments, costs, damages or extensions of time, whether on account of Uncontrollable Circumstance or otherwise, the Design-Builder shall use all reasonable efforts to mitigate such amount required to be paid by the Town to the Design-Builder under this Design-Build Contract, or the length of the extension of time. Upon request from the Town, the Design-Builder shall promptly submit a detailed description, supported by all such documentation as the Town may reasonably require, of the measures and steps taken by the Design-Builder to mitigate and meet its obligations under this Section.

(B) Mitigation by the Town. In all cases where the Town is entitled to receive from the Design-Builder any compensation, costs or damages, but not in any other cases, the Town shall use all reasonable efforts to mitigate such amount required to be paid by the Design-Builder to the Town under this Design-Build Contract, provided that such obligation shall not require the Town to:

- (1) Take any action which is contrary to the public interest, as determined by the Town in its discretion;
- (2) Undertake any mitigation measures that might be available arising out of its status as a Governmental Body, but which measure would not normally be available to a private commercial party; or
- (3) Alter the amount of liquidated damages it is entitled to receive hereunder.

the Town shall have no obligation to mitigate, implied or otherwise, except as set forth in this Section or as expressly provided in this Design-Build Contract. Upon request by the Design-Builder, the Town shall promptly submit a detailed description, supported by all such documentation as the Design-Builder may reasonably require, of the measures and steps taken by the Town to mitigate and meet its obligations under this Section.

SECTION 17.10. ASSIGNMENT OF ANTI-TRUST CLAIMS.

In accordance with Section 7103.5 of the California Public Contract Code, in entering into this Design-Build Contract, the Design-Builder offers and agrees to assign to the Town all rights, title and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. § 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the California Business and Professions Code), arising from purchases of goods, services or materials pursuant to this Design-Build Contract. The assignment shall be made and become effective at the time the Town tenders final payment to the Design-Builder for the Design-Build Work, without further acknowledgement by the parties.

SECTION 17.11. ACTIONS OF TOWN IN ITS GOVERNMENTAL CAPACITY.

Nothing in this Design-Build Contract shall be interpreted as limiting the rights and obligations of the Town under Applicable Law in its governmental capacity (including police power actions to protect health, safety and welfare or to protect the environment), or as limiting the right of the Design-Builder to bring any action against the Town, not based on this Design-Build Contract, arising out of any act or omission of the Town in its governmental capacity.

SECTION 17.12. ASSIGNMENT.

(A) By the Design-Builder. The Design-Builder shall not assign, transfer, convey, lease, encumber or otherwise dispose of this Design-Build Contract, its right to execute the same, or its right, title or interest in all or any part of this Design-Build Contract or any monies due hereunder whatsoever prior to their payment to the Design-Builder, whether legally or equitably, by power of attorney or otherwise, without the prior written consent of the Town. Any such approval given in one instance shall not relieve the Design-Builder of its obligation to obtain the prior written approval of the Town to any further assignment. Any such assignment of this Design-Build Contract which is approved by the Town, shall require the assignee of the Design-Builder to assume the performance of and observe all obligations, representations and warranties of the Design-Builder under this Design-Build Contract which shall remain in full force and effect during this Design-Build Contract. The approval of any assignment, transfer or conveyance shall not operate to release the Design-Builder in any way from any of its obligations under this Design-Build Contract unless such approval specifically provides otherwise. In the event of any assignment or subletting without the prior written approval of the Town, the Town may, in addition to any other remedy provided herein, withhold any further payment of Contract Compensation.

(B) By the Town. The Town may not assign its rights or obligations under this Design-Build Contract without the prior written consent of the Design-Builder, which may be given or withheld in the Design-Builder's reasonable discretion. The Town may, however, assign its rights and obligations under this Design-Build Contract, without the consent of the Design-Builder, to another Governmental Body if such assignee assumes, and is legally capable of discharging the duties and obligations of the Town hereunder.

SECTION 17.13. CONFIDENTIALITY.

(A) Confidential Nature of Information. The Design-Builder shall treat all confidential information obtained from the Town in the performance of this Design-Build Contract as confidential and proprietary to the Town to the extent permitted by law. "Confidential Information", for purposes of this covenant, means any information and materials which is clearly identified or marked as being "confidential" or "proprietary" or otherwise marked in accordance with applicable federal law by the disclosing party. Confidential Information does not include information which: (1) was in the public domain at the time of a disclosing party's communication thereof to the receiving party; (2) entered the public domain through no fault of the receiving party subsequent to the time of the disclosing party's communication thereof to the receiving party; (3) was in the receiving party's possession free of any obligation of confidence at the time of the disclosing party's communication thereof to the receiving party, as evidenced in the receiving parties records; (4) was rightfully communicated by a third party to a receiving party free of any obligation of confidence subsequent to the time of the disclosing party's communication thereof to the receiving party; (5) was developed by employees or agents of the receiving party independently of and without reference to any proprietary information or other information that the disclosing party has disclosed in confidence to the receiving party; (6) is approved for release by written authorization of the disclosing party; or (7) the receiving party reasonably believes on advice of legal counsel it is legally obligated to disclose by law, rule, regulation, court order, or other compulsory process of a court or other governmental body, provided, however, that in such case, the receiving party shall immediately notify the disclosing party of its intention to disclose (unless the receiving party reasonably believes based on the advice of legal counsel that providing such notice would violate applicable law, rule, regulation, court order, or other compulsory process of a court or other governmental body) so that the disclosing party can take such legal action as it deems necessary or appropriate to prevent such disclosure.

(B) Limitation on Use and Disclosure. The Design-Builder shall not use any Confidential Information obtained as a consequence of the performance of the Contract Obligations for any purpose other than the performance of the Contract Obligations in accordance with this Design-Build Contract. The Design-Builder shall not disclose any information obtained from the Town or obtained as a consequence of the performance of the Contract Obligations to any person other than its own employees, agents or Subcontractors who have a need for the information for the performance of work under this Design-Build Contract, unless such disclosure is specifically approved in writing by the Town, which approval may be withheld in the sole and absolute discretion of the Town.

SECTION 17.14. LIMITED RECOURSE TO TOWN.

The Design-Builder shall have recourse to the general fund or general credit of the Town for the payment of any unpaid amount due the Design-Builder hereunder, whether on account of the Design-Build Price or for any Loss-and-Expense or payment or claim of any nature arising from the performance or non-performance of the Town's obligations hereunder, for completed Design-Build Work for which the Design-Builder has not previously been paid. Except as set forth in the preceding sentence, no recourse shall be had to the general fund or general credit of the Town for the payment of any other amount due the Design-Builder hereunder, whether on account of the Design-Build Price or for any Loss-and-Expense or payment or claim of any nature arising from the performance or non-performance of the Town's obligations hereunder. The sole recourse of the Design-Builder for the amounts set forth in the preceding sentence shall be to the proceeds of the Grants. All such Grant proceeds shall be held for the uses permitted and required by the Grant documentation and by Applicable Law, and no such amounts shall constitute property of the Design-Builder. The Town shall hold the proceeds of the Grants in a segregated account and shall not commingle such amounts with other general fund moneys.

SECTION 17.15. BINDING EFFECT.

This Design-Build Contract shall inure to the benefit of and shall be binding upon the Town and the Design-Builder and any assignee acquiring an interest hereunder consistent with Section 17.12 (Assignment).

SECTION 17.16. AMENDMENT AND WAIVER.

(A) Contract Amendments. This Design-Build Contract may not be amended except by a written agreement signed by the parties in accordance with Section 17.5 (Contract Amendments).

(B) Waiver. Any of the terms, covenants, and conditions of this Design-Build Contract may be waived at any time by the party entitled to the benefit of such term, covenant or condition if such waiver is in writing and executed by the party against whom such waiver is asserted.

SECTION 17.17. NOTICES.

(A) Procedure. All notices, consents or approvals or written communications (unless otherwise provided in the communication plan required to be developed pursuant to Appendix 2 (Preliminary Services)) given pursuant to the terms of this Design-Build Contract shall be:

- (1) In writing and delivered in person;

(2) Transmitted by certified mail, return, receipt requested, postage prepaid or by overnight courier utilizing the services of a nationally-recognized overnight courier service with signed verification of delivery; or

(3) Given by email transmission, if a signed original of the emailed letter or other communication is deposited in the United States Mail within two days after transmission.

Notices shall be deemed given only when actually received at the address first given below with respect to each party; provided, however, that email transmissions shall be deemed given only when the signed original of the emailed letter or other communication is received at such address. Either party may, by like notice, designate further or different addresses to which subsequent notices shall be sent.

(B) Town Notice Address. Notices required to be given to the Town shall be addressed as follows:

Town of Paradise
5555 Skyway
Paradise, California 95969
Attn: Public Works Director, Marc Mattox
Email: mmattox@townofparadise.com
Telephone: (530) 872-6291

with a copy to:

Town of Paradise
5555 Skyway
Paradise, California 95969
Attn: Public Works, Engineering Department, Colin Nelson
Email: cnelson@townofparadise.com
Telephone: (530) 872-6291

with a copy to:

Scott E. Huber, Esq.
Town Attorney
Town of Paradise
Cole Huber LLP
2281 Lava Ridge Court #300
Roseville, CA 95661
Email: shuber@colehuber.com
Telephone: (916) 780-9009

(C) Design-Builder Notice Address. Notices required to be given to the Design-Builder shall be addressed as follows:

Mountain Cascade, Inc.
555 Exchange Court
Livermore, California 94550
Attn: Randy Buckman
Email: randyb@mountaincascade.com
Telephone: (925) 570-8413

With a copy to:

Mountain Cascade, Inc.
555 Exchange Court
Livermore, California 94550
Attn: Roger Williamson
Email: rogerw@mountaincascade.com
Telephone: (925) 525-2794

and

Mountain Cascade, Inc.
555 Exchange Court
Livermore, California 94550
Attn: Diana Fuller
Telephone: (925) 373-8370

SECTION 17.18. OTHER NOTICES.

(A) Notice of Litigation. In the event the Design-Builder or the Town receives notice of or undertakes the defense or the prosecution of any Legal Proceedings in connection with the Project, the party receiving such notice or undertaking such defense or prosecution shall give the other party timely notice of such proceedings and shall inform the other party in advance of all hearings regarding such proceedings. For purposes of this Section only, “timely notice” shall be deemed given if the receiving party has a reasonable opportunity to provide objections or comments or to proffer to assume the defense or prosecution of the matter in question, given the deadlines for response established by the relevant rules of procedure.

(B) Notice of Third Party Claim. In the event the Town receives any notice, demand, letter or other document concerning any claim made by one or more third parties (including claims for loss of or physical damage to property or assets), or any claim for, or in respect of, the death, personal injury, disease or illness of any person, including the Town, relating to this Design-Build Contract, the Town shall give the Design-Builder timely notice of such in satisfaction of the requirement of Section 9201(b) of the California Public Contract Code. The reasonable costs incurred by the Town in providing such notification to the Design-Builder shall be reimbursed by the Design-Builder to the Town.

SECTION 17.19. FURTHER ASSURANCES.

The Town and Design-Builder each agree to execute and deliver such further instruments and to perform any acts that may be necessary or reasonably requested in order to give full effect to this Design-Build Contract. The Town and the Design-Builder, in order to carry out this Design-Build Contract, each shall use all commercially reasonable efforts to

provide such information, execute such further instruments and documents and take such actions as may be reasonably requested by the other and not inconsistent with the provisions of this Design-Build Contract and not involving the assumption of obligations or liabilities different from or in excess of or in addition to those expressly provided for herein.

SECTION 17.20. RIGHTS OF GRANTING AGENCIES AND FEDERAL AGENCIES.

The parties acknowledge and agree that the Town intends to utilize Grants for the entirety of its financing structure. The Design-Builder hereby acknowledges that the utilization of the Grants is predicated on complying with all applicable requirements of the Grants, including, as applicable, complying with all applicable provisions identified in Appendix 12 (Certain Grant Requirements and Guidelines). In furtherance of such compliance, the Granting Agencies and the Federal Agencies are each made express third-party beneficiaries of this Design-Build Contract with the power to enforce any remedy, claim, liability, reimbursement or cause of action of the Town against the Design-Builder under this Design-Build Contract not involving or subject to the discretion of the Town until the date all amounts payable under the applicable Grant have been satisfied or paid in full. In furtherance of such compliance, the Granting Agencies and the Federal Agencies have been granted access to the Books and Records pursuant to Section 9.10(B) (Town Rights to Audit and Examine Payments).

SECTION 17.21. ELECTRONIC SIGNATURES.

Any Party may execute this Design-Build Contract using an “electronic signature,” as that term is defined in California Civil Code Section 1633.2, or a “digital signature,” as defined by California Government Code Section 16.5. An electronic or digital signature will have the same force and effect as original ink signatures.

[Signature Page Follows]

TRANSACTION FORMS
TO THE
DESIGN-BUILD CONTRACT
FOR THE
TOWN OF PARADISE SEWER PROJECT

between

THE TOWN OF PARADISE

and

MOUNTAIN CASCADE, INC.

Dated

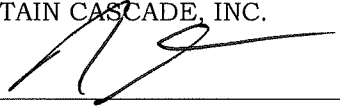
March 13, 2024

IN WITNESS WHEREOF, the parties have caused this Design-Build Contract to be executed by their duly authorized representatives as of the day and year first above written.

TOWN OF PARADISE, a California municipal corporation

MOUNTAIN CASCADE, INC.

Jim Goodwin
Town Manager

By: 

Michael Duke Fuller
President

Approved and certified as being in conformance with the requirements of the Public Contract Code Section 20170 et seq.:

Scott E. Huber
Town Attorney

Approved Effective: _____

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

CALIFORNIA ALL-PURPOSE CERTIFICATE OF ACKNOWLEDGMENT

State of California)

County of Alameda)

On 3/1/2024 before me, Yvonne Wallace, Notary Public,
(here insert name and title of the officer)

personally appeared Michael Duke Fuller

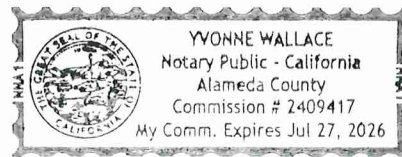
who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature

Yvonne Wallace



(Seal)

OPTIONAL INFORMATION

Although the information in this section is not required by law, it could prevent fraudulent removal and reattachment of this acknowledgment to an unauthorized document and may prove useful to persons relying on the attached document.

Description of Attached Document

The preceding Certificate of Acknowledgment is attached to a document titled/for the purpose of _____

containing _____ pages, and dated _____

The signer(s) capacity or authority is/are as:

- Individual(s)
- Attorney-in-Fact
- Corporate Officer(s) _____
Title(s)

- Guardian/Conservator
- Partner - Limited/General
- Trustee(s)
- Other: _____

representing: _____
Name(s) of Person(s) or Entity(ies) Signer is Representing

Additional Information

Method of Signer Identification

Proved to me on the basis of satisfactory evidence:
 form(s) of identification credible witness(es)

Notarial event is detailed in notary journal on:
Page # _____ Entry # _____

Notary contact: _____

Other

Additional Signer(s) Signer(s) Thumbprint(s)

[This Page Intentionally Left Blank]

TRANSACTION FORM A
FORM OF PERFORMANCE BOND
(EARLY WORK PACKAGE AMENDMENT)

[This Page Intentionally Left Blank]

FORM OF PERFORMANCE BOND (EARLY WORK PACKAGE AMENDMENT)

KNOW ALL PERSONS BY THESE PRESENTS:

That we, [_____], hereinafter referred to as "Design-Builder", as principal, and _____ as surety, are held and firmly bound unto the Town of Paradise, a municipal corporation organized and existing and by virtue of the laws of the State of California (the "Owner"), in the sum of _____ dollars (\$_____) lawful money of the United States of America, for the payment of which sum, well and truly to be made, we bind ourselves, heirs, executors, administrators, successors, and assigns jointly and severally, firmly by these presents.

The condition of the foregoing obligation is such that,

WHEREAS, the Design-Builder has been awarded and entered into the annexed Design-Build Contract with the Owner for the Town of Paradise Sewer Project, dated as of _____, 20[___], as amended from time to time (the "Design-Build Contract"),

WHEREAS, the Design-Builder and the Owner have entered into an Early Work Package Amendment dated _____ ("Early Work Package Amendment [1]"), with an Early Work Package Price of _____ (\$_____);

WHEREAS, one of the conditions of the Design-Build Contract is that the Design-Builder provide this bond for Early Work Package Amendment [1]; and

WHEREAS, for purposes of this bond, the term "Work" refers to all of the Design-Builder's obligations under the Design-Build Contract to perform Early Work Package Amendment [1];

NOW, THEREFORE, if the Design-Builder, its heirs, executors, administrators, successors, and assigns shall well and truly do and perform all of the covenants and obligations of the Design-Build Contract and any alteration thereof made as therein provided, on its part to be done and performed at the times and in the manner specified therein, then this obligation shall be null and void, otherwise it shall be and remain in full force and effect inclusive of any period of any guarantees or warranties required under the Design-Build Contract.

Any alterations in the work to be done or the material to be furnished, which may be made pursuant to the terms of the Design-Build Contract, shall not in any way release either the Design-Builder or the surety, nor shall any extensions of time granted under the provisions of the Design-Build Contract release either the Design-Builder or the surety, and notice of such alterations or extensions of the Design-Build Contract is hereby waived by the surety.

The surety hereby waives the provisions of California Civil Code Sections 2819 (regarding exoneration of sureties in certain circumstances), 2845 (regarding certain limitations on remedies against sureties) and 2849 (regarding a surety's rights as to other security held by the creditor).

In the event suit is brought upon this bond by the Owner and judgment is recovered, the surety shall pay all costs incurred by the Owner in such suit, including, but not limited to, reasonable attorneys' fees and administrative and consultant costs to be fixed by the court. Any proceeding, legal or equitable, under this bond shall be instituted in State courts located in Santa Clara County, California or in federal courts located in the Northern District of California.

The address or addresses at which the principal and surety may be served with notices, papers and other documents under the California Bond and Undertaking Law (California Code of Civil Procedure Section 995.010 et seq.) is the following: _____.

WITNESS our hands this _____ day of _____, 20__.

(Seal)

Design-Builder

By _____

Title

(Surety's Corporate Seal)

Surety

By _____

Title

Address of Surety

Notice: No substitution or revision to this bond form will be accepted.

ACKNOWLEDGMENT BY NOTARY PUBLIC

[Cal. Civ. Code, § 1189]

State of California)
County of)

On _____ before me, _____, a notary public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

[Any acknowledgement taken in another state shall be sufficient if it is taken in accordance with the laws of the state where the acknowledgement is made.]

(Attach proof of authority of attorney in fact of surety.)

[This Page Intentionally Left Blank]

TRANSACTION FORM B
FORM OF PAYMENT BOND

[This Page Intentionally Left Blank]

FORM OF PAYMENT BOND FOR MATERIALS AND LABOR

KNOW ALL PERSONS BY THESE PRESENTS:

That we, [_____], hereinafter referred to as "Design-Builder", as principal, and _____ as surety, are held and firmly bound unto the Town of Paradise, a municipal corporation organized and existing and by virtue of the laws of the State of California (the "Owner"), in the sum of _____ dollars (\$_____) lawful money of United States of America, for the payment of which sum, well and truly to be made, we bind ourselves, heirs, executors, administrators, successors, and assigns jointly and severally, firmly by these presents.

The condition of the foregoing obligation is such that,

WHEREAS, the Design-Builder has been awarded and entered into the annexed Design-Build Contract with the Owner for the Town of Paradise Sewer Project, dated as of _____, 20[___], as amended from time to time (the "Design-Build Contract"), whereby the Design-Builder is required by the Owner to give this bond on the GMP Amendment Date (as defined in the Design-Build Contract) pursuant to said Design-Build Contract;

NOW, THEREFORE, if Design-Builder, or its subcontractors, fails to pay any of the persons referred to in Section 9100 of the Civil Code of the State of California for any materials, provisions, provender, equipment, or other supplies, used in, upon, for or about the performance of the work contracted to be done, or for any work or labor thereon of any kind, or for amounts due under the Unemployment Insurance Code or for any amounts required to be deducted, withheld and paid over to the Employment Development Department from the wages of employees of the Design-Builder and its subcontractors pursuant to Section 13020 of the Unemployment Insurance Code with respect to such work and labor, the surety will pay for the same, in an amount not exceeding the sum specified above, and also, in case suit is brought upon this bond, reasonable attorneys' fees, to be fixed by the court. This bond shall inure to the benefit of any and all persons entitled to file claims under Section 9100 of the Civil Code of the State of California so as to give a right of action to them or their assigns in any suit brought upon this bond.

Any alterations in the work to be done, or the materials to be furnished, which may be made pursuant to the terms of the Design-Build Contract, shall not in any way release either the Design-Builder or the surety, nor shall any extensions of time granted under the provisions of the Design-Build Contract release either Design-Builder or the surety, and notice of such alterations or extensions of the Design-Build Contract is hereby waived by the surety.

The surety hereby waives the provisions of California Civil Code Sections 2819 (regarding exoneration of sureties in certain circumstances), 2845 (regarding certain limitations on remedies against sureties) and 2849 (regarding a surety's rights as to other security held by the creditor).

The address or addresses at which the Design-Builder and surety may be served with notices, papers and other documents under the California Bond and Undertaking Law (California Code of Civil Procedure Section 995.010 et seq.) is the following:
_____.

WITNESS our hands this _____ day of _____, 20__.

(Seal)

Design-Builder

By _____

Title

(Surety's Corporate Seal)

Surety

By _____

Title

Address of Surety

Notice: No substitution or revision to this bond form will be accepted.

ACKNOWLEDGMENT BY NOTARY PUBLIC

[Cal. Civ. Code, § 1189]

State of California)
County of)

On _____ before me, _____, a notary public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

[Any acknowledgement taken in another state shall be sufficient if it is taken in accordance with the laws of the state where the acknowledgement is made.]

(Attach proof of authority of attorney in fact of surety.)

[This Page Intentionally Left Blank]

TRANSACTION FORM C
FORM OF PERFORMANCE BOND
(GMP AMENDMENT)

[This Page Intentionally Left Blank]

FORM OF PERFORMANCE BOND (GMP AMENDMENT)

KNOW ALL PERSONS BY THESE PRESENTS:

That we, [_____], hereinafter referred to as "Design-Builder", as principal, and _____ as surety, are held and firmly bound unto the Town of Paradise, a municipal corporation organized and existing and by virtue of the laws of the State of California (the "Owner"), in the sum of _____ dollars (\$_____) lawful money of the United States of America, for the payment of which sum, well and truly to be made, we bind ourselves, heirs, executors, administrators, successors, and assigns jointly and severally, firmly by these presents.

The condition of the foregoing obligation is such that,

WHEREAS, the Design-Builder has been awarded and entered into the annexed Design-Build Contract with the Owner for the Town of Paradise Sewer Project, dated as of _____, 20[___], as amended from time to time (the "Design-Build Contract"),

WHEREAS, the Design-Builder and the Owner have entered into a GMP Amendment dated _____ ("GMP Amendment"), with a Base Guaranteed Maximum Price of _____ (\$_____);

WHEREAS, one of the conditions of the Design-Build Contract is that the Design-Builder provide this bond for the Design-Build Work; and

WHEREAS, for purposes of this bond, the term "Work" refers to all of the Design-Builder's obligations under the Design-Build Contract to perform Design-Build Work;

NOW, THEREFORE, if the Design-Builder, its heirs, executors, administrators, successors, and assigns shall well and truly do and perform all of the covenants and obligations of the Design-Build Contract and any alteration thereof made as therein provided, on its part to be done and performed at the times and in the manner specified therein, then this obligation shall be null and void, otherwise it shall be and remain in full force and effect inclusive of any period of any guarantees or warranties required under the Design-Build Contract.

Any alterations in the work to be done or the material to be furnished, which may be made pursuant to the terms of the Design-Build Contract, shall not in any way release either the Design-Builder or the surety, nor shall any extensions of time granted under the provisions of the Design-Build Contract release either the Design-Builder or the surety, and notice of such alterations or extensions of the Design-Build Contract is hereby waived by the surety.

The surety hereby waives the provisions of California Civil Code Sections 2819 (regarding exoneration of sureties in certain circumstances), 2845 (regarding certain limitations on remedies against sureties) and 2849 (regarding a surety's rights as to other security held by the creditor).

In the event suit is brought upon this bond by the Owner and judgment is recovered, the surety shall pay all costs incurred by the Owner in such suit, including, but not limited to, reasonable attorneys' fees and administrative and consultant costs to be fixed by the court. Any proceeding, legal or equitable, under this bond shall be instituted in State courts located in Santa Clara County, California or in federal courts located in the Northern District of California.

The address or addresses at which the principal and surety may be served with notices, papers and other documents under the California Bond and Undertaking Law (California Code of Civil Procedure Section 995.010 et seq.) is the following: _____.

WITNESS our hands this _____ day of _____, 20__.

(Seal)

Design-Builder

By _____

Title

(Surety's Corporate Seal)

Surety

By _____

Title

Address of Surety

Notice: No substitution or revision to this bond form will be accepted.

ACKNOWLEDGMENT BY NOTARY PUBLIC

[Cal. Civ. Code, § 1189]

State of California)
County of)

On _____ before me, _____, a notary public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

[Any acknowledgement taken in another state shall be sufficient if it is taken in accordance with the laws of the state where the acknowledgement is made.]

(Attach proof of authority of attorney in fact of surety.)

[This Page Intentionally Left Blank]

APPENDICES
TO THE
DESIGN-BUILD CONTRACT
FOR THE
TOWN OF PARADISE SEWER PROJECT

between

THE TOWN OF PARADISE

and

MOUNTAIN CASCADE, INC.

Dated as of

March 13, 2024

TABLE OF CONTENTS

	Page
APPENDIX 1 PROJECT AND SITE INFORMATION.....	1-1
1.1. PURPOSE.....	1-1
1.2. PROJECT SITE DESCRIPTION.....	1-1
1.3. REFERENCE DOCUMENTS.....	1-1
ATTACHMENT 1A – POTENTIAL PROJECT ALIGNMENTS	
APPENDIX 2 PRELIMINARY SERVICES.....	2-1
2.1. GENERAL.....	2-1
2.2. SCOPE OF PHASE 1A BASE PRELIMINARY SERVICES TASKS.....	2-1
2.3. PHASE 1A PRELIMINARY SERVICES SCHEDULE.....	2-18
2.4. PHASE 1A PRELIMINARY SERVICES COMPENSATION.....	2-19
ATTACHMENT 2A – PLANNED SURVEY EXTENTS	
ATTACHMENT 2B - PRELIMINARY SERVICES SCHEDULE	
ATTACHMENT 2B-1 – PHASE 1A PRELIMINARY SERVICES SCHEDULE	
ATTACHMENT 2B-2 – FORM OF SUBSEQUENT PRELIMINARY SERVICES PHASE PRELIMINARY SERVICES SCHEDULE	
ATTACHMENT 2C – PRELIMINARY SERVICES NOT-TO-EXCEED PRICING	
ATTACHMENT 2C-1 – PHASE 1A PRELIMINARY SERVICES NOT-TO-EXCEED PRICING	
ATTACHMENT 2C-2 – FORM OF SUBSEQUENT PRELIMINARY SERVICES PHASE PRELIMINARY SERVICES NOT-TO-EXCEED PRICING	
ATTACHMENT 2D – PRELIMINARY SERVICES BILLING RATES	
ATTACHMENT 2D-1 – PHASE 1A PRELIMINARY SERVICES BILLING RATES	
ATTACHMENT 2D-2 – FORM OF SUBSEQUENT PRELIMINARY SERVICES PHASE PRELIMINARY SERVICES BILLING RATES	
APPENDIX 3 GOVERNMENTAL AND NON-GOVERNMENTAL APPROVALS.....	3-1
3.1. PURPOSE.....	3-1
3.2. GOVERNMENT AND NON-GOVERNMENTAL APPROVALS.....	3-1
APPENDIX 4 TECHNICAL STANDARDS AND BASELINE DESIGN DOCUMENTS.....	4-1
4.1. TECHNICAL STANDARDS.....	4-1
4.2. BASELINE DESIGN DOCUMENTS.....	4-1
APPENDIX 5 GENERAL DESIGN-BUILD WORK REQUIREMENTS.....	5-1
5.1. PURPOSE.....	5-1
5.2. MANAGEMENT AND COORDINATION.....	5-1
5.3. DESIGN-BUILD PERIOD WORK SCHEDULE.....	5-1
5.4. CONSTRUCTION MEETINGS AND REPORTS.....	5-4
5.5. CONSTRUCTION WORK GENERALLY.....	5-8
5.6. COORDINATION OF CONSTRUCTION WORK AND OPERATIONS.....	5-10
5.7. CONSTRUCTION SAFETY AND SECURITY.....	5-10
5.8. OPERATIONS AND MAINTENANCE MANUAL.....	5-12
5.9. SERVICE MANUALS.....	5-13
5.10. ENVIRONMENTAL REVIEW AND PROTECTION.....	5-15
APPENDIX 6 QUALITY ASSURANCE AND QUALITY CONTROL REQUIREMENTS.....	6-1
6.1. PURPOSE.....	6-1

6.2.	TOWN'S QUALITY OBJECTIVES	6-1
6.3.	ROLES AND RESPONSIBILITIES	6-2
6.4.	QUALITY MANAGEMENT PLAN UPDATE AND IMPLEMENTATION	6-2
6.5.	DESIGN QUALITY CONTROL AND QUALITY ASSURANCE REQUIREMENTS	6-3
6.6.	CONSTRUCTION QUALITY CONTROL REQUIREMENTS	6-4
6.7.	INSPECTION OF DESIGN-BUILD WORK	6-6
6.8.	TIME OF INSPECTION AND TESTS	6-7
6.9.	MATERIALS SAMPLING AND TESTING	6-7
6.10.	MATERIALS TESTING SERVICES.....	6-8
6.11.	INSTALLATION	6-9
6.12.	PERSONNEL QUALIFICATIONS.....	6-10
APPENDIX 7	DESIGN-BUILD WORK REVIEW PROCEDURES	7-1
7.1.	OVERVIEW.....	7-1
7.2.	DOCUMENTS TO BE SUBMITTED	7-1
7.3.	TOWN REVIEW DURING GOVERNMENTAL AND NON-GOVERNMENTAL APPROVAL PROCESS	7-3
7.4.	TOWN DOCUMENT REVIEW.....	7-3
7.5.	TOWN CONSTRUCTION INSPECTION	7-5
7.6.	FINAL SURVEY AND RECORD DRAWINGS	7-6
APPENDIX 8	DESIGN-BUILD PRICE.....	8-1
8.1.	PURPOSE	8-1
8.2.	DESIGN-BUILD PRICE.....	8-1
8.3.	DESIGN-BUILD PERIOD COSTS	8-3
8.4.	UNALLOWABLE COSTS	8-6
8.5.	GENERAL CONDITIONS FEE	8-7
8.6.	DESIGN-BUILDER FEE	8-8
8.7.	GUARANTEED MAXIMUM PRICE.....	8-8
8.8.	TOWN ALLOWANCE	8-9
8.9.	DESIGN-BUILDER CONTINGENCY	8-9
8.10.	SPECIFIED PROJECT RISK CONTINGENCY	8-9
8.11.	SHARED SAVINGS AMOUNT	8-10
	ATTACHMENT 8A – DESCRIPTION OF GENERAL CONDITIONS COSTS	
	ATTACHMENT 8B – BILLING RATES FOR DESIGN-BUILD PERIOD WORK PROFESSIONAL SERVICES PERSONNEL	
	ATTACHMENT 8C – BILLING RATES FOR SELF-PERFORMED CONSTRUCTION WORK	
	ATTACHMENT 8D – ANTICIPATED DESIGN-BUILD PERIOD WORK COST SCHEDULE AND DESIGN-BUILDER CONTINGENCY	
APPENDIX 9	SUBSTANTIAL COMPLETION.....	9-1
9.1.	PURPOSE.....	9-1
9.2.	RELATIONSHIP TO BASELINE DESIGN DOCUMENTS.....	9-1
9.3.	SUBSTANTIAL COMPLETION PROCEDURES	9-1
APPENDIX 10	INSURANCE REQUIREMENTS	10-1
10.1.	GENERAL REQUIREMENTS.....	10-1
10.2.	EVIDENCE OF INSURANCE.....	10-2
10.3.	CERTIFICATE REQUIREMENTS SPECIFIC REPRESENTATIONS.....	10-2
10.4.	SUBCONTRACTORS	10-3
10.5.	CERTIFICATE REQUIREMENTS FOR COVERAGES AND LIMITS	10-3

APPENDIX 11 KEY PERSONNEL AND APPROVED SUBCONTRACTORS 11-1

 11.1. PURPOSE 11-1

 11.2. KEY PERSONNEL 11-1

 11.3. APPROVED SUBCONTRACTORS..... 11-1

 11.4. SUBCONTRACTING PLAN 11-2

 ATTACHMENT 11A – SUBCONTRACTING PLAN

APPENDIX 12 CERTAIN STATE AND FEDERAL GRANT REQUIREMENTS AND
GUIDELINES 12-1

 ATTACHMENT 12A – DAVIS BACON ACT WAGE DETERMINATIONS

APPENDIX 13 CERTAIN PROVISIONS OF THE CALIFORNIA PUBLIC CONTRACT CODE 13-1

APPENDIX 1
PROJECT AND SITE INFORMATION

APPENDIX 1**PROJECT AND SITE INFORMATION****1.1. PURPOSE**

The purpose of this Appendix is to describe the Project and Project site, and to list Reference Documents for the Project.

1.2. PROJECT SITE DESCRIPTION

The Project will establish a municipal sewer system for the Town, as well as connection to the City of Chico's Water Pollution Control Plant (WPCP) for regional treatment of the Town's wastewater. The Project includes three distinct components to serve approximately 1,400 parcels within the Sewer Service Area (SSA): a core sewer collection system in the Town of Paradise (Core Collection System), an approximately 18-mile sewer export pipeline to convey wastewater to the City of Chico's WPCP (Export Pipeline), and a sewer pipeline connection to the City of Chico's WPCP (WPCP Connection).

An overview of the Project location is shown on Attachment 1A as copied from the Final PEIR – Executive Summary, Figure ES-1. Proposed Project Location.

The following key components are associated with the Core Collection System, Export Pipeline and WPCP Connection.

- Core Collection System – approximately 157,000 feet of 6- to 8-inch-diameter gravity sewers, approximately 29,000 feet of 2- to 4-inch-diameter force mains, and up to 28 pump stations.
- Export Pipeline – approximately 18-miles of 8- to 12-inch sewer pipeline dropping approximately 1,300 feet in elevation from the Town to the Chico WPCP.
- WPCP Connection – a flow control and metering structure and necessary modifications to the City of Chico's WPCP to allow wastewater flow into the WPCP.

1.3. REFERENCE DOCUMENTS

The following Reference Documents are being made available to the Design-Builder at the start of Preliminary Services. The Design-Builder is responsible for reviewing and updating the list during The Preliminary Services Period with additional documents obtained or developed by the Design-Builder. The Town may also update the Reference Document list from time to time with new information via amendments to this Design-Build Contract.

Table A1-1. Reference Documents		
Studies, Plans, Reports, and Legal Documents		
No.	Document name	Document type
1.	2020 HDR Phase 1a Executive Summary	Technical Report
2.	2022 HDR Technical Memo 8 Export Pipeline Analysis	Technical Report

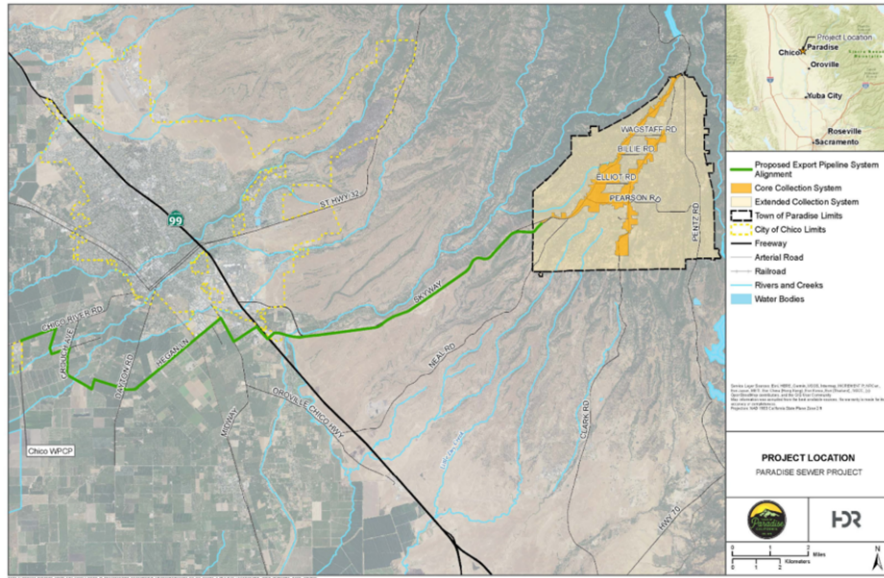
Table A1-1. Reference Documents		
3.	2022 HDR Technical Memo 8 Export Pipeline Analysis	Technical Report
4.	2022 HDR Technical Memo 9 EIR Construction Analysis	Technical Report
5.	2022 HDR Technical Memo 10 Analysis of Extended Collection System	Technical Report
6.	2022 HDR Technical Memo 11 Environmental Permitting Strategy	Technical Report
7.	Final PEIR Documents: <ul style="list-style-type: none"> • Final PEIR Main Document • Final PEIR Addendum • Appendix A: NOP Scoping Report • Appendix B: Town of Paradise 1994 General Plan Resolution and Amendments • Appendix C: Regulatory Framework • Appendix D: Emissions Modeling • Appendix E: Vegetation Community Descriptions and Special-Status Species Accounts • Appendix F: Swainson’s Hawk Survey and Elderberry Shrub Mapping Report • Appendix G: Tribal Consultation • Appendix H: Pump Station Energy Consumption Calculation • Appendix I: Public Comments and Responses on Draft PEIR • Final PEIR Notice of Determination 	Environmental Report
8.	2023 Inter-Municipal Agreement, City of Chico Wastewater Treatment Services to the Town of Paradise	Legal Document
9.	2023 Board Approval/LAFCO Resolution	Authorizing Proceedings

Record drawings and work orders may be included in the Reference Documents as updated by the Town or Design-Builder in advance of or during Preliminary Services Period services.

ATTACHMENT 1A
POTENTIAL PROJECT ALIGNMENTS

ATTACHMENT 1A

POTENTIAL PROJECT ALIGNMENTS



APPENDIX 2
PRELIMINARY SERVICES

APPENDIX 2**PRELIMINARY SERVICES****2.1. GENERAL**

The Preliminary Services are intended to be delivered in multiple phases: the Phase 1a Preliminary Services and any Subsequent Preliminary Services Phases. The Town intends to expand the scope of the Preliminary Services set forth in this Appendix 2 at any time, in its discretion, beyond those services included in the Phase 1a Preliminary Services based, in part, on the recommendations of the Design-Builder, to be delivered in additional phases of the Preliminary Services as Subsequent Preliminary Services Phases. Each Subsequent Preliminary Services Phase shall be defined sequentially as Phase 1b, Phase 1c, Phase 1d, etc. as proposed in the applicable Subsequent Preliminary Services Phase Preliminary Services Submittal and, if agreed to by the parties, incorporated into this Appendix 2 by the applicable Subsequent Preliminary Services Phase Preliminary Services Amendment.

This Appendix 2 initially sets forth the scope of the Phase 1a Base Preliminary Services, the not-to-exceed price for conducting such scope, as well as all inclusive billing rates for the Phase 1a Preliminary Services and information on invoicing the Phase 1a Preliminary Services.

This Appendix 2 is intended to be amended by Subsequent Preliminary Services Phase Preliminary Services Amendment to set forth the scope of any Subsequent Preliminary Services Phase Preliminary Services, the not-to-exceed price for conducting such scope, as well as all inclusive billing rates for such Subsequent Preliminary Services Phase Preliminary Services, and information on invoicing such Subsequent Preliminary Services Phase Preliminary Services.

2.2. SCOPE OF PHASE 1A BASE PRELIMINARY SERVICES TASKS

The scope of the Phase 1a Base Preliminary Services shall include the following tasks:

- Task 1 - Project Management
- Task 2 - Reference Document Review and Validation
- Task 3 - Field Investigation Plan
- Task 4 - Hydraulic Model Development and Analysis
- Task 5 - Basis of Design Report
- Task 6 - Funding Support
- Task 7 - Permitting Support
- Task 8 - Stakeholder and Public Outreach Support
- Task 9 – Baseline Design and Construction Phasing Plan and Schedule
- Task 10 - Cost Model
- Task 11 – Phase 1a Additional Preliminary Services

Required Deliverable Material (the “**Deliverables**”) for each Phase 1a Base Preliminary Services Task is identified in this Appendix 2. All Deliverables shall be reviewed with the Town. The Design-Builder shall promptly correct deficiencies and shall make modifications to conform to Project requirements and achieve acceptability to the Town. Draft deliverables shall be provided to the Town in the format agreed to by the Town and documented in the “Deliverables” sections below. [Note: Formats for deliverables shall be discussed and agreed to during Phase 1a Preliminary Services.]

Specific tasks and Tasks for the scope of Phase 1a Base Preliminary Services are described below.

2.2.1 TASK 1 - PROJECT MANAGEMENT

Design-Builder shall provide all necessary project management and coordination throughout the Phase 1a Preliminary Services Period. Project Management shall include the following subtasks.

2.2.1.1 SUBTASK 1.1 - PROJECT MANAGEMENT AND ADMINISTRATION

Project Management Documents. As part of Subtask 1.1, the Design-Builder shall prepare and submit drafts of the following documents for review and concurrence by the Town, and final versions of each that address/incorporate Town feedback from review of the draft versions. The Design-Builder shall also implement the activities described by the documents, make the Project team familiar with their contents, and keep the documents up to date.

- **Project Management Plan (PMP).** The PMP shall communicate basic Project requirements and approach to the Project team, including subconsultants.
- **Preliminary Services Health and Safety Plan (PSHSP).** The PSHSP shall describe the Design-Builder's approach and Project team requirements and procedures to manage safety practices throughout all Preliminary Services and comply with all applicable Town procedures and local, state and federal regulations. Preliminary Services activities include, but are not limited to site visits, field investigations, in-person meeting attendance, and applicable Town procedures and local, state and federal regulations. The PSHSP shall incorporate Town-specific health and safety requirements.
- **Preliminary Services Quality Management Plan (PSQMP).** The PSQMP shall identify a plan to deliver quality in all Preliminary Services deliverables that are complete and accurate in accordance with this Design-Build Contract and the scope of the Phase 1a Base Preliminary Services as well as the Subsequent Preliminary Services Phase Base Preliminary Services. The plan shall include descriptions of each team member's role in quality control and/or quality assurance, procedures for adequate collection of data prior to design, checking of work, verification that checks were complete, corrective action, and document control.
- **Document Management Plan (DMP).** The DMP shall describe the Design-Builder's approach and Project team requirements and procedures to manage all documents generated and used in the execution of the Project. This plan shall describe the tools to be used for collaboration, communication and submittal of documents from the Design-Builder to the Town and feedback from the Town to the Design-Builder. The plan shall include protocols and naming conventions required by the Town to provide for proper and adequate documentation of technical data during Phase 1a and provide placeholders for use during the Subsequent Preliminary Services Phases and Design-Build Period Work phases as well as for the life of the constructed facilities. The plan should address accommodating grant requirements.
- **Phase 1a Preliminary Services Schedule.** The Phase 1a Preliminary Services Schedule shall contain at a minimum the following components:
 - Activities for all Tasks and Subtasks necessary to complete the scope of the Phase 1a Preliminary Services including, as applicable, durations for preparation of deliverables and Town review periods.
 - Start and finish dates for each activity.
 - Major milestones including all deliverable and key meeting dates.

- Critical Path analysis.

Project Coordination and Communication. As part of Subtask 1.1, include general coordination and communication with the Design-Builder's Project team and with the Town and its Owner Representative regarding issues as they arise, including but not limited to scheduling and progress of Project activities.

Risk Management. As part of Subtask 1.1, include overall Project risk management, incorporating all Project risks that become evident as the Project development progresses. An initial Program and Project Risk Register has been created by the Town and its Owner Representative and shall be reviewed with the Design-Builder as part of the initial "Risk Register Workshop" described in Subtask 1.2. Components of the initial Project Risk Register are listed below. The Risk Register shall be updated as noted in "Progress Tracking and Reporting" below. Following the initial "Risk Register Workshop", the Town's Owner Representative shall maintain ownership of the Project Risk Register and the Design-Builder shall provide updates to the Project Risk Register items where the Design-Builder is deemed the "Risk Owner."

- Risk identification and description
- Risk Owner
- Estimated percent likelihood that risk may occur
- Potential schedule impact should risk occur
- Potential cost impact should risk occur
- Probability weighted cost associated with each risk item
- Risk management/mitigation strategy

Progress Tracking and Reporting. The Design-Builder shall submit monthly reports summarizing Project progress. The monthly progress reports shall include a narrative summarizing the progress of the Project and shall identify any recommended actions by the Town, its Owner Representative or the Design-Builder to mitigate risks or modify the Project approach and scope. Monthly progress reports shall be due by the fifth (5th) of each month. Attachments to the monthly progress report shall include:

- **Summary of Work.** Identify activities worked on and/or completed during the last month including meetings and workshops, progress on deliverables, as well as significant items related to external agencies such as grants, permits, etc.
- **Planned Activities.** Summarize planned activities and scheduled meetings/workshops for the next month.
- **Issues and Concerns.** Identify issues and concerns that may affect the Preliminary Services Schedule or budget and require discussion between the Town, its Owner Representative and Design-Builder.
- **Progress Schedule.** An updated P6 schedule file and a table of major milestones with originally scheduled completion dates and updated scheduled completion dates, including explanation of any changes to schedule since the last progress report.
- **Updated Action Item Log (if changed).**
- **Updated Decision Log (if changed).**
- **Updated Risk Register (if changed).**

In addition, the Design-Builder shall submit a simplified weekly progress email to the Town's Project Manager detailing the major accomplishments of the week and planned key tasks for the week ahead. This weekly email shall be due by 5 pm PT every Friday.

2.2.1.2 SUBTASK 1.1 – DELIVERABLES

- Project Management Plan (PMP) – Draft & Final
- Preliminary Services Health and Safety Plan (PSHSP)
 - PSHSP to be submitted prior to initiation of any field activities.
- Preliminary Services Quality Management Plan (PSQMP) – Draft & Final
- Document Management Plan (DMP) – Draft & Final
- Phase 1a Preliminary Services Schedule – Draft & Final
- Project Risk Register – Monthly updates (if changed)
- Action Item Log – On-going
- Decision Log – On-going
- Monthly Progress Reports – On-going

2.2.1.3 SUBTASK 1.1 - ASSUMPTIONS

- Phase 1a shall be 10 months in length.
- Action Log, Decision Log, and Risk Register document updates shall be incorporated into existing Town/Owner Representative files (stored and maintained by the Town/Owner Representative on shared Teams site).
- Deliverable dates in accordance with the attached schedule.
- The Town shall provide Town-specific health and safety requirements/language for incorporation in the PSHSP.
- The Town shall lead all efforts related to regulated sites with exception to those with regulated substances.

2.2.1.4 SUBTASK 1.2 – MEETINGS

As part of Subtask 1.2, the Design-Builder shall plan to participate in and/or schedule, prepare for and facilitate the following meetings, including the Design-Builder's Project team, the Town and its Owner Representative, and any additional attendees necessary for a productive meeting. The meetings listed below are exclusive of additional meetings identified later in their respective Tasks or Subtasks.

- **Project Kickoff Meeting.** The Design-Builder shall schedule, prepare for and facilitate a four-hour Project Kickoff Meeting. Project Kickoff meeting shall be in-person, held at Town Hall in the Town and attended by up to eight (8) Design-Builder key staff.
- **Team Building and Project Chartering Workshop.** The Design-Builder shall participate in one (1) in-person six-hour Team Building and Project Chartering Workshop at Town Hall in Paradise. The Town's Owner Representative shall schedule, prepare for and facilitate the workshop. Up to eight (8) Design-Builder key staff shall attend.
- **File Storage/Team Collaboration Site Workshop.** The Design-Builder shall schedule, prepare for and facilitate (1) in-person two-hour Workshop at Town Hall in the Town. Up to eight (8) Design-Builder key staff shall attend.
- **Risk Register Workshop.** The Design-Builder shall prepare for and participate in one (1) in-person three-hour Risk Register Workshop at Town Hall in Paradise. The Town's Owner Representative shall schedule and facilitate the workshop. Up to six (6) Design-Builder key staff shall attend.
- **Permitting, Funding, and Stakeholder/Public Outreach Strategy Workshop.** The Design-Builder shall schedule and facilitate a review workshop (in-person, up to four hours) with the Town and its Owner Representative to discuss permitting, funding, and stakeholder/public outreach coordination needs and to collaborate action items and

schedule for accomplishing related work. Up to eight (8) Design-Builder key staff shall attend.

- **Stakeholder Meetings.** The Design-Builder shall participate in various stakeholder meetings scheduled and facilitated by the Town's Owner Representative (i.e. septic standards committee, zoning and land use studies, Caltrans, Butte County, etc.). The fee associated with this task assumes ten (10) targeted/one-hour stakeholder meetings, attended in-person by up to six (6) Design-Builder key staff.
- **Progress Meetings.** The Design-Builder shall schedule, prepare for and facilitate one-hour Progress Meetings at least every two (2) weeks. Meetings shall be hosted with hybrid participation options (MS Teams or other) and shall be attended by six (6) Design-Builder key staff (on average).
- **Weekly Collaboration Meetings.** The Design-Builder shall participate in weekly collaboration meetings with the Town and its Owner Representative (two (2) – one-hour remote/hybrid meetings each week). The Town's Owner Representative shall schedule and facilitate the meetings. Meetings shall be hosted with hybrid participation options (MS Teams or other) and shall be attended by four (4) Design-Builder key staff (on average).
- **Project Coordination Team (PCT) Meetings.** The Design-Builder shall attend monthly PCT meetings, in-person for the first meeting and via remote/hybrid option for the following months. The Town's Owner Representative shall schedule and facilitate the meetings. The fee associated with this task assumes one-hour long meetings, attended by up to two (2) Design-Builder key staff.
- **Phase 1b Preliminary Services Review Meetings.** Upon completion of all Tasks of the Phase 1a Preliminary Services, the Design-Builder shall schedule, prepare for and facilitate up to three (3) in-person 2-hour review meetings to present and ultimately finalize the scope, schedule and budget for the next Subsequent Preliminary Services Phase defined as Phase 1b ("**Phase 1b**"). Up to eight (8) Design-Builder key staff shall attend.

2.2.1.5 SUBTASK 1.2 – DELIVERABLES

- Meeting Agendas – Draft & Final (when facilitating) or pre-meeting comments (when participating).
- Meeting Notes – Draft & Final (when facilitating) or post-meeting comments (when participating).

2.2.1.6 SUBTASK 1.2 – ASSUMPTIONS

- Electronic deliverables.
- Deliverable and meeting dates in accordance with the attached schedule.

2.2.1.7 SUBTASK 1.3 – IMPLEMENT LOCAL OFFICE

The Design-Builder shall rent local office space within the Town for the Design-Builder and provide the necessary utilities and office supplies, furnishings, and equipment to perform work on site when necessary.

2.2.1.8 SUBTASK 1.3 – ASSUMPTIONS

- Budget is based on office space of approximately 2,000 sf.
- Budget assume that minimal tenant improvements will be necessary.
- Conference room shall be included within the office space.
- Design-build team is working to prioritize office spaces that have highspeed internet service available.

2.2.2 TASK 2 - REFERENCE DOCUMENT REVIEW AND VALIDATION

The Design-Builder shall consult with the Town and its Owner Representative to develop a better understanding of the Project, Project site, constraints, Project requirements, and other information relevant to the Project. The Design-Builder shall schedule, prepare for and facilitate all necessary review meetings to help familiarize the Design-Builder's Project Team with the past and on-going Project related work, as well, to allow the Design-Builder to inquire as to additional reference documentation that may be needed to progress the Project.

2.2.2.1 SUBTASK 2.1 – REVIEW EXISTING INFORMATION/DOCUMENTS

Under this task the Design-Build team shall review the existing information as available by the Town and its Owner Representative. At a minimum, the following reference documents should be reviewed by the Design-Builder ahead of initial review meetings (all documents are located at <https://paradisewer.com/project-materials/>):

- 2020 HDR Phase 1 Executive Summary
- 2022 HDR Technical Memo 8 Export Pipeline Analysis
- 2022 HDR Technical Memo 8 Export Pipeline Analysis
- 2022 HDR Technical Memo 9 EIR Construction Analysis
- 2022 HDR Technical Memo 10 Analysis of Extended Collection System
- 2022 HDR Technical Memo 11 Environmental Permitting Strategy
- Final PEIR Documents:
 - Executive Summary
 - Final PEIR Main Document
 - Final PEIR Addendum
 - Appendix A: NOP Scoping Report
 - Appendix B: Town of Paradise 1994 General Plan Resolution and Amendments
 - Appendix C: Regulatory Framework
 - Appendix D: Emissions Modeling
 - Appendix E: Vegetation Community Descriptions and Special-Status Species Accounts
 - Appendix F: Swainson's Hawk Survey and Elderberry Shrub Mapping Report
 - Appendix G: Tribal Consultation
 - Appendix H: Pump Station Energy Consumption Calculation
 - Appendix I: Public Comments and Responses on Draft PEIR
 - Final PEIR Notice of Determination
- 2023 Inter-Municipal Agreement, City of Chico Wastewater Treatment Services to the Town of Paradise
- 2023 Board Approval/LAFCO Resolution
- Permit Matrix and necessary permit accommodations (to be provided to Design-Builder upon Notice to Proceed)
- Town land-use/parcel mapping information and GIS files.
- Lidar file(s) from Town's recent Stormwater Master Planning effort.

2.2.2.2 SUBTASK 2.2 – INFORMATION/DATA NEEDS

The Design-Builder shall prepare an information/data needs summary upon initial review of all reference documents, noting any missing data/information that the Town may have.

2.2.2.3 SUBTASK 2.3 – INFORMATION/DATA NEEDS REVIEW WORKSHOP

The Design-Builder shall schedule, prepare for, and facilitate one (1) in-person, one (1) week information gathering session at Town Hall in the Town to review of all information shared (as

requested in the Information/Data needs summary and supplemented with additional data/information that the Town finds relevant to the Project). The Design-Builder shall also schedule a second in-person, one (1) week information gathering session at Town Hall in the Town, to occur one week after the first information gathering session. It is understood that the Town/Owner Representative shall come to the sessions prepared to provide updates on various project efforts that may not yet be well documented.

2.2.2.4 TASK 2 – DELIVERABLES

- Meeting Agendas and Meeting Notes – Draft and Final
- Data/information needs summary
- Reference Document Log documenting:
 - Documents, reports, drawings, and information Design-Builder has reviewed
 - Follow-up questions for the Town and its Owner Representative

2.2.2.5 TASK 2 – ASSUMPTIONS

- Electronic deliverables
- Deliverable and meeting dates in accordance with the attached schedule.

2.2.3 TASK 3 – FIELD INVESTIGATION PLAN

Robust field investigations shall be required to confirm Project and site conditions. The work associated with this Task is intended to develop a plan for the following objectives:

- Inform the Design-Builder's analysis of alternatives, including hydraulic modeling criteria, pipe alignments, and approach(es) to construction planning and methods, including accommodations for pertinent climatic information (i.e., groundwater in Town vs. down Skyway).
- Allow the Design-Builder to develop its recommended geotechnical design criteria.
- Provide information on expected ground behavior for selection and design of trenchless methods.
- Define areas with contaminated soils, the types of contamination, and the appropriate methods for transport and disposal, including disposal locations.

This work shall be delivered as separate packages for the (1) survey effort and (2) the geotechnical and environmental hazards investigation efforts, as described in the following Subtasks.

2.2.3.1 SUBTASK 3.1 – DESKTOP GEOTECHNICAL AND ENVIRONMENTAL HAZARDS STUDY

The Design-Builder shall conduct a Desktop Geotechnical and Environmental Hazards Study to identify known geologic conditions and environmental hazards along the Project alignment that will be used to inform early project decisions and the plan for performing geotechnical and environmental hazards field investigations. The Desktop Study shall include review of available geologic, regulatory agency, mineral resource maps and literature, and previous geotechnical reports which are relevant to the geology, soil, bedrock, environmental, and groundwater conditions within the Project alignment. The Design-Builder understands that the northbound lane at Butte Creek bridge of Highway 99 was replaced by Caltrans in 2014 due to scour issues at the underpinning of the bridge. The Design-Builder shall gather and review any available geotechnical reports, plans and as-built plans from Caltrans or other sources related to the construction of the new bridge in 2014 and past, current, and planned projects along the proposed alignment. Information shall include the geologic setting, geologic hazards, historical

land uses, and general hazardous materials conditions that shall potentially be encountered within the alignment during construction. The data shall then be interpreted to delineate areas of concern for significant geologic and environmental hazards or other adverse conditions. The geotechnical engineer shall perform a two-day site reconnaissance to walk and drive the Project alignment. The information gathered shall be consolidated in a preliminary geologic map. Preliminary geotechnical recommendations shall be summarized in a Geotechnical and Environmental Hazards Field Investigation Plan (Task 3.3) along with additional Preliminary Services field investigations and analyses needed to develop recommendations for design (including earthwork, trenchless crossings, lateral earth pressures, seismic design parameter using the USGS on-line mapping tool, and foundation recommendations, corrosivity and groundwater conditions).

2.2.3.2 SUBTASK 3.2 – EXISTING UTILITY RESEARCH

The Design-Builder shall complete existing utility research necessary for the development of an existing utility base map. This effort will also be useful before performing Survey Field Investigations to identify existing utility surface features to look for during the survey and help identify unmarked existing utility surface features. This will help expedite development of background CAD files that will be used for design development.

Existing utility research shall be conducted consistent with American Society of Civil Engineers Standard Guideline for Investigating and Documenting Existing Utilities (ASCE/UESI/CI 38-22) Quality Level D. This work generally includes:

- Conducting utility records research to assist in identifying utility owners that may have facilities on or be affected by the Project.
- Collecting applicable utility owner records.
- Reviewing utility owner records for:
 - Indications of additional available records
 - Duplicate information and credibility of such duplicate information
 - The need for clarifications by utility owners

This effort shall also include coordination with PG&E and other local stakeholders (as deemed useful by the Town) to obtain information about existing utility installation.

Mapping existing utilities based on the drawings would occur as part of the Survey Field Investigations.

2.2.3.3 SUBTASK 3.3 – FIELD INVESTIGATION PLANS

Prior to conducting any field investigations and mobilizing any subconsultants specializing in the work below, the Design-Builder shall submit Field Investigation Plans for the Town and its Owner Representative review and acceptance. As a part of field investigation planning, the Town intends to provide the Design-Builder access to its GIS database and any available LiDAR files; no geotechnical, topographic survey, nor hazardous materials information is currently available. The Field Investigation Plans shall include, but not be limited to, the following information:

- Outline and schedule of proposed field investigation needed for BODR development
- Planned field inspection methods, testing methods, and procedures, including identification of proposed boring locations and depths, testing, analyses, and recommendations that will be developed
- Governmental Approvals required and approvals required from other third parties

- Public outreach plan recommendations for any work planned in the Town or within effected stakeholder communities
- Town and its Owner Representative staff support needed during field investigations
- Scope and budget for any field investigation work recommended in the field investigation plans

The fee associated with this task assumes the development of the following Field Investigation Plans:

- Survey Field Investigation Plan.
- Geotechnical and Environmental Hazards Field Investigation Plan
- Potholing Plan

The Design-Builder shall submit each Draft Field Investigation Plan for Town/Owner Representative review, prior to facilitating the review of each during a regularly scheduled progress meeting. The Design-Builder shall prepare Final Field Investigation Plans that incorporate changes based on the Town/Owner Representative feedback.

2.2.3.4 SUBTASK 3.4 – SCOPING FOR PHASE 1 FIELD INVESTIGATIONS

The Design-Builder shall meet with the Town and its Owner Representative upon completion of early-phase field investigations (Subtask 11.1) and each Task 3.3 field investigation plan to discuss scope, schedule, and fee for additional Preliminary Services field efforts recommended for incorporation into the BODR. The Design-Builder shall prepare amendments for additional services associated with (1) survey field investigations, (2) geotechnical and environmental hazards field investigation, and (3) identified potholing efforts that might contribute to efficiencies in the BODR development based on Town feedback received during the scoping sessions and any stakeholder interests identified during earlier Task 3 efforts. It is assumed that the scoping meetings for the field investigations will be virtual.

An amendment for additional Preliminary Services field investigations (included as allowances in Task 11) shall be negotiated with the Town and its Owner Representative before initiation of associated effort.

2.2.3.5 TASK 3 – DELIVERABLES

- Survey Field Investigation Plan - Draft and Final
- Geotechnical and Environmental Hazards Field Investigation Plan - Draft and Final
- Potholing Plan - Draft and Final

2.2.3.6 TASK 3 – ASSUMPTIONS

- Access to Town GIS databases will be provided.
- Town LiDAR files will be provided and are sufficient for use in building the initial hydraulic model.
- Fee negotiations for Task 11 allowance items shall be completed during regularly scheduled progress meetings and the Town shall expedite release of amendments for the work (one for survey field investigation efforts, and one for geotechnical and environmental hazards field work).
- Electronic deliverables.
- The Town or its Owner Representative shall provide a consolidated set of comments on all draft deliverables via Bluebeam Studio review session (or similar, as mutually agreed by all participants).

- Existing utility owners will provide existing utility records without a fee. Some utility owners require the existing utility request be signed by a representative of a public agency. In this case, we assume the Design-Builder will draft the letter for the Town to sign and send to the existing utility owner.
- Geotechnical Baseline Report (the “GBR”) will be completed in a Subsequent Preliminary Services Phase.
- Deliverable dates in accordance with the attached schedule.

2.2.4 TASK 4 – HYDRAULIC MODEL DEVELOPMENT AND ANALYSIS

Sewer flowrates for the system will vary over time. The hydraulics associated with the Core Collection System and Export Pipeline will be reliant on alignments which are reliant on existing geologic conditions and locations of existing utilities. The work associated with this Task is intended to meet the following objectives:

- Document sewer flowrates over time
- Analyze pipeline and pumping hydraulics based on the realities of geologic conditions and locations of existing utilities
- Confirm the optimum pipe, pump, WPCP Connection, and other associated design criteria for use in the Basis of Design Report

2.2.4.1 SUBTASK 4.1 - HYDRAULIC MODEL

The Design-Builder shall develop a sewer system hydraulic model of the Core Collection System and Export Pipeline. This includes the development of phased sewer system flow estimates, which shall be developed based on the current (and projected) land use, as provided by the Town, and other input from the Town’s or the Owner Representative’s staff through completion of this task. Average dry weather flow (ADWF) and peak wet weather flow (PWWF) estimates shall be developed for up to three flow conditions, which could include the following:

- Initial (Near-Term) ADWF and PWWF Condition
- Core Collection System ADWF and PWWF Conditions
- Extended Collection System ADWF and PWWF Conditions

Following completion of the flow estimates, a hydraulic model shall be developed for the Core Collection System and Export Pipeline in a software package agreed upon by the Town and the Design-Builder. The hydraulics associated with the Core Collection System and Export Pipeline shall be analyzed based alignments which are reliant on existing geologic conditions and locations of existing utilities. As part of the hydraulic modeling, up to four alternative alignments shall be considered for the Core Collection System and Export Pipeline to confirm the optimum pipe alignment and sizing, pump station location and sizing, WPCP Connection, and other associated design criteria for use in the Basis of Design Report. The hydraulic modeling results including phased sewer flow estimates and hydraulic modeling results shall be generated for use in the Basis of Design Report.

2.2.4.2 SUBTASK 4.2 - HYDRAULIC MODEL TECHNICAL MEMORANDUM

The Design-Builder shall summarize the methodology and findings of the hydraulic modeling efforts in a brief 5-10 page technical memorandum (the “TM”). The Hydraulic Model TM shall be submitted to the Town and its Owner Representative in draft form for review at the Hydraulic Model Review Meeting. Comments from the Town and its Owner Representative shall be incorporated into a final version of the TM, which shall be included as an attachment to the BODR.

2.2.4.3 SUBTASK 4.3 - HYDRAULIC MODEL REVIEW MEETING

The Design-Builder shall schedule and facilitate a review workshop (in-person, up to four (4) hours) with the Town and its Owner Representative to present and summarize the draft findings of the hydraulic modeling effort and collect feedback from the Town and its Owner Representative. Up to six (6) Design-Builder staff shall participate.

2.2.4.4 TASK 4 – DELIVERABLES

- Hydraulic Model – format as recommended by Design Builder
- Hydraulic Model TM
- Workshop agenda and minutes

2.2.4.5 TASK 4 – ASSUMPTIONS

- Electronic deliverables.
- Model calibration based on industry standard of care.
- Town shall provide land use plan for core collection system and extended collection system.
- Deliverable and meeting dates in accordance with the attached schedule.

2.2.5 TASK 5 – BASIS OF DESIGN REPORT**2.2.5.1 SUBTASK 5.1 - DRAFT BASIS OF DESIGN REPORT**

The Design-Builder shall prepare and deliver a draft and final Basis of Design Report (the “**BODR**”) that summarizes the information from Task 2 (Reference Document Review and Validation), Task 3 (Field Investigations), Task 4 (Hydraulic Model Development and Analysis), and Task 11 (Phase 1a Additional Preliminary Services) (if completed), as well as feedback/findings from workshops included in Task 5 (Basis of Design Report) and provides the basis to finalize design and construction of the Core Collection System, Export Pipeline and WPCP Connection. At a minimum, the BODR shall include the following:

- Project Summary, Goals/Objectives, and Requirements
- Design Criteria
- Design Standards
- Pipeline Alignment
- WPCP Connection Details
- Core Collection System Final Lateral Connection Alternatives Analysis and Recommendations
- Sewer System Operations and Maintenance Alternatives Analysis and Recommendations

The Design-Builder shall facilitate review of the draft BODR in the most efficient manner for the Town. Account for a period of fourteen (14) calendar days for the Town and its Owner Representative review of the draft BODR submittal.

2.2.5.2 SUBTASK 5.2 - IDENTIFICATION OF PROPERTY ACQUISITION AND RIGHT-OF-WAY NEEDS WORKSHOP

The Design-Builder shall schedule and facilitate a review workshop (in-person, up to four (4) hours) with the Town and its Owner Representative to discuss property acquisition and right-of-way needs and to collaborate action items and schedule for accomplishing related work. Up to eight (8) Design-Builder key staff shall attend.

2.2.5.3 SUBTASK 5.3 - LATERAL CONNECTION STRATEGY SESSION

The Design-Builder shall schedule and facilitate a review workshop (in-person, up to four (4) hours) with the Town and its Owner Representative to discuss alternatives for the collection system lateral connections and collect feedback from the Town and its Owner Representative for the draft BODR. Up to eight (8) Design-Builder key staff shall attend.

2.2.5.4 SUBTASK 5.4 - COLLECTION SYSTEM OPERATIONS WORKSHOP

The Design-Builder shall schedule and facilitate a review workshop (in-person, up to four (4) hours) with the Town and its Owner Representative to discuss opportunities/limitations related to various collection system operational/design strategies and collect feedback from the Town and its Owner Representative for the draft BODR. Up to eight (8) Design-Builder key staff shall attend.

This task includes the preparation of a Life Cycle Cost Analysis (the “LCCA”) to compare collection system options developed by the Design-Builder. Methodology and findings of the LCCA shall be shared during the Task 5.3 Workshop (via PowerPoint slides) and shall be documented in the Basis of Design Report.

2.2.5.5 SUBTASK 5.5 - EXPORT PIPELINE/CHICO WPCP CONNECTION OPERATIONS WORKSHOP

The Design-Builder shall schedule and facilitate a review workshop (in-person, up to four (4) hours, attended by up to six (6) Design-Builder key staff) with the Town, and its Owner Representative, the City of Chico, and Butte County to discuss opportunities/limitations related to differing export pipeline and Chico WPCP connection operational/design strategies and collect feedback for the draft BODR. The Design-Builder shall schedule and facilitate a separate, subsequent follow-up meeting with the City of Chico and Butte County (in-person, up to two (2) hours, attended by up to six (6) Design-Builder key staff), as needed to clarify the strategies discussed in the original review workshop.

2.2.5.6 SUBTASK 5.6 - SCADA STRATEGY WORKSHOP

The Design-Builder shall schedule and facilitate a review workshop (in-person, up to four (4) hours) with the Town and its Owner Representative to discuss supervisory control and data acquisition (the “SCADA”) options for the overall project. Up to six (6) Design-Builder key staff shall attend.

2.2.5.7 SUBTASK 5.7 - DRAFT BASIS OF DESIGN REVIEW MEETINGS

The Design-Builder shall schedule and facilitate up to two (2) in-person, four-hour review meetings with the Town and its Owner Representative to present and summarize the BODR and address comments received from the Town and its Owner Representative. Up to eight (8) Design-Builder key staff shall attend each review meeting.

2.2.5.8 SUBTASK 5.8 - FINAL BASIS OF DESIGN REPORT

The Design-Builder shall revise the BODR in response to the Town and its Owner Representative comments, as appropriate, and furnish the final BODR in a format acceptable to the Town within fourteen (14) calendar days of receipt of the Town and its Owner Representative comments.

The Town shall notify the Design-Builder of its acceptance of the final BODR. The final BODR, in conjunction with the deliverables associated with the deliverables from Tasks 6-10 shall serve as the basis for the next Subsequent Preliminary Services Phase(s) of the Project.

2.2.5.9 TASK 5 – DELIVERABLES

- Workshop agendas and minutes
- Basis of Design Report - Draft and Final
- Basis of Design Review Meeting Agendas and Notes - Draft and Final

2.2.5.10 TASK 5 – ASSUMPTIONS

- Electronic deliverables.
- The Town or its Owner Representative shall provide a consolidated set of comments on the Draft Basis of Design Report via Bluebeam Studio review session (or similar, as mutually agreed by all participants).
- Review meeting(s) participation from up to eight (8) Design-Builder key staff.
- Deliverable and meeting dates in accordance with the attached schedule.

2.2.6 TASK 6 – FUNDING SUPPORT

The Project's funding comes through various grants. The Design-Builder shall be required to support the Town and its Owner Representative in responding to funding questions from funding entities. The Design-Builder should assume up to twenty (20) hours per month over the duration of the Design-Builder's proposed Phase 1a Preliminary Services Schedule in response to questions related to overall Project cost and schedule. The Design-Builder shall receive questions from the Town and/or its Owner Representative and shall provide responses back to the Town and/or its Owner Representative.

2.2.6.1 TASK 6 – DELIVERABLES

- Response to questions (as required)

2.2.6.2 TASK 6 – ASSUMPTIONS

- Electronic deliverables.

2.2.7 TASK 7 – PERMITTING SUPPORT

The Town's Owner Representative is responsible for obtaining environmental permits associated with the Project on behalf of the Town. The Design-Builder shall be required to support creation of a detailed Project Permit Matrix that identifies anticipated permits, approvals, and consultations required for the Project, as well as the respective responsibilities of the Town, its Owner Representative and the Design-Builder in obtaining the required permits and approvals shall be provided. The Town's Owner Representative shall be responsible for maintaining the Project Permit Matrix at least until construction Notice to Proceed – maintenance of the Project Permit Matrix may transition to the Design-Builder during construction.

2.2.7.1 TASK 7 – DELIVERABLES

- Project Permit Matrix updates (as required)

2.2.7.2 TASK 7 – ASSUMPTIONS

- Electronic deliverables.

2.2.8 TASK 8 – STAKEHOLDER AND PUBLIC OUTREACH SUPPORT**2.2.8.1 SUBTASK 8.1 – DESIGN-BUILDER’S SUPPORT OF PUBLIC OUTREACH ACTIVITIES**

The Town’s Owner Representative in conjunction with the Town is responsible for public outreach activities throughout the life of the Project. As a part of the Subtask 1.2 “Team Building and Project Chartering Workshop”, the Design-Builder shall be provided the Project’s Public Outreach Plan and with the Town and its Owner Representative, shall confirm the Design-Builder’s support of public outreach activities for use in the Subtask 1.2 “Phase 1b Preliminary Services Review Meetings.”

2.2.8.2 TASK 8 – DELIVERABLES

- Design-Builder Public Outreach support responsibilities – Draft and Final

2.2.8.3 TASK 8 – ASSUMPTIONS

- Electronic deliverables.
- Deliverable dates in accordance with the attached schedule.

2.2.9 TASK 9 – BASELINE DESIGN AND CONSTRUCTION PHASING PLAN AND SCHEDULE**2.2.9.1 SUBTASK 9.1 - DRAFT BASELINE DESIGN AND CONSTRUCTION PHASING PLAN AND SCHEDULE**

The Design-Builder shall schedule a four (4) hour in-person meeting with the Town and its Owner Representative to strategize breaking down the project into design and build segments (with up to eight (8) Design-Builder key team). This shall incorporate the limitations/capabilities of designing the systems, permitting, obtaining rights of way, constructability, and perhaps funding mechanisms. The goal is to have a plan that promotes efficiency in the design process and facilitates construction productivity while maximizing opportunities for early and/or late work packages if necessary.

The Design-Builder shall schedule a meeting with the Town and its Owner Representative scheduler to develop a draft schedule WBS activities. Upon agreement of the schedule WBS activities, and after the initial cost model (draft estimate) has been submitted, a cost-loaded schedule shall be developed through testing and commissioning of the Project. This schedule shall be based on the information provided in the technical reference documents listed under Subtask 2.1.

No later than thirty (30) calendar days after completion of the BODR, the Design-Builder shall submit an updated draft Baseline Design and Construction Phasing Plan and Schedule that includes all activities through the completion of testing, commissioning and start-up of the Project.

2.2.9.2 SUBTASK 9.2 - DRAFT BASELINE DESIGN AND CONSTRUCTION PHASING PLAN SCHEDULE REVIEW MEETINGS

The Design-Builder shall schedule the following meetings with the Town and its Owner Representative:

- One (1) two-hour meeting to develop the schedule WBS (with up to six (6) Design-Builder key staff).
- Up to three (3) two-hour meetings to review draft schedules and updates (with up to six (6) Design-Builder key staff).
- Up to two (2) four-hour meetings to review cost loaded schedules (with up to six (6) Design-Builder key staff).

2.2.9.3 SUBTASK 9.3 - REVISED BASELINE DESIGN AND CONSTRUCTION PHASING PLAN AND SCHEDULE

The Design-Builder shall revise the draft Baseline Design and Construction Phasing Plan and Schedule in response to the Town and its Owner Representative comments, as appropriate, for use in the Subtask 1.2 “Phase 1b Preliminary Services Review Meetings”.

2.2.9.4 TASK 9 – DELIVERABLES

- Draft WBS Schedule Structure
- Draft Cost-Loaded Schedule based on reference documents identified in Subtask 2.1
- Baseline Design and Construction Phasing Plan and Schedule – Draft and Final

2.2.9.5 TASK 9 – ASSUMPTIONS

- WBS activity meeting will be virtual.
- Electronic deliverables.
- Initial Schedule shall be based off of reference documents identified in Subtask 2.1.
- The Schedule shall be updated to reflect the BODR once complete.

2.2.10 TASK 10 – COST MODEL**2.2.10.1 SUBTASK 10.1 - DRAFT BASELINE COST MODEL TEMPLATE**

The Design-Builder shall meet with the Town’s Owner Representative and develop an agreed upon cost model (estimate) template for the work through design, construction, and startup.

Once an agreed upon template is developed, the Design-Builder shall produce an estimate based on the reference documents identified in Subtask 2.1 and using current market rates for labor, equipment, and materials. Upon completion of the estimate, the Design-Builder shall review it with the Town and its Owner Representative and compare it with the Town’s current schedule of costs for the Design and Construction portions of the project. The estimate shall then be used to provide a cost-loaded schedule as described in Task 9 (Baseline Design and Construction Phasing Plan and Schedule).

After completion of the BODR, the estimate shall be updated and reviewed with the Town. The final Phase 1a estimate shall be incorporated into an updated Schedule and Phasing Plan for Design and Construction.

2.2.10.2 SUBTASK 10.2 - DRAFT BASELINE COST MODEL REVIEW MEETINGS

The Design-Builder shall schedule and facilitate one (1) two-hour meeting to review the estimate template and up to two (2), four-hour review meetings with the Town to compare the Town's Owner Representative's initial Design and Construction Estimate with the Design-Builder's estimate.

The Design-Builder shall schedule and facilitate up to two (2), 4-hour review meetings with the Town and its Owner Representative to present and summarize the draft Baseline Cost Model and address comments received from the Town and its Owner Representative. Review meetings may be in conjunction with the review meetings for the Task 9 "Draft Baseline Design and Construction Phasing Plan and Schedule".

2.2.10.3 SUBTASK 10.3 - REVISED BASELINE COST MODEL

The Design-Builder shall revise the draft Baseline Cost Model in response to the Town and its Owner Representative comments, as appropriate, for use in Subtask 1.2 "Phase 1b Preliminary Services Review Meetings".

2.2.10.4 TASK 10 - DELIVERABLES

- Initial Cost Model using reference documents identified in Subtask 2.1 and current market pricing.
- Baseline Cost Model – Draft and Final

2.2.10.5 TASK 10 - ASSUMPTIONS

- Initial two (2) hour meeting will be virtual or scheduled on the same day as other in-person meetings.
- Electronic PDF copies shall be made available to the Town and its Owner Representative on a secure site provided by the Design Builder for review.
- Deliverable and meeting dates in accordance with the attached schedule.
- Task 10 meetings shall be attended by up to six (6) Design-Builder key staff.

2.2.11 TASK 11 -PHASE 1A ADDITIONAL BASE PRELIMINARY SERVICES

The Design-Builder shall provide Phase 1a Additional Preliminary Services as requested by the Town. These may include but are not limited to the subtasks summarized herein.

The Design-Builder shall request prior approval from the Town for any work performed pursuant to this Task 11 before initiation of related efforts. The Town shall approve all additional services and the terms of compensation therefor pursuant to a Contract Administration Memorandum on the terms set forth below prior to any Notice to Proceed for any work performed pursuant to this Task 11. The Town's approval of any work performed pursuant to this Task 11 and the terms of compensation therefor shall be memorialized in a Contract Administration Memorandum delivered in accordance with Section 17.4 (Contract Administration) of the Design-Build Contract signed by the Design-Builder Contract Representative and the Town Manager of the Town as the Town Contract Representative. Receipt of email approval from the Town or its Owner Representative shall suffice as a Notice to Proceed with respect to such additional services described in such Contract Administration Memorandum.

2.2.11.1 SUBTASK 11.1 – EARLY-PHASE FIELD INVESTIGATION (ALLOWANCE)

An allowance is included herein for use by the Town for payment of Phase 1a Additional Preliminary Services for early-phase field investigation efforts needed to expedite the development of the BODR and related predesign efforts (including, but not limited to, geotechnical borings at the various trenchless crossings and in the Town). This Subtask also includes the preparation of a Geotechnical Data Report, summarizing methodology and key findings from the early phase borings.

2.2.11.2 SUBTASK 11.2 – ADDITIONAL PHASE 1A TOPOGRAPHIC SURVEY (ALLOWANCE)

An allowance is included herein for use by the Town for payment of Phase 1a Additional Preliminary Services for topographic survey efforts developed and documented as part of the Survey Field Investigation Plan in Subtask 3.3 (Field Investigation Plans). The fee associated with this allowance amount may require amendment, pending the actual survey requirements needed for completion of BODR efforts.

2.2.11.3 SUBTASK 11.3 – ADDITIONAL PHASE 1A GEOTECHNICAL AND ENVIRONMENTAL INVESTIGATION (ALLOWANCE)

An allowance is included herein for use by the Town for payment of Phase 1a Additional Preliminary Services for additional geotechnical and environmental investigation efforts developed and documented as part of the Geotechnical and Environmental Hazards Field Investigation Plan in Subtask 3.3 (Field Investigation Plans). The fee associated with this allowance amount may require amendment, pending the actual geotechnical and environmental requirements needed for completion of BODR efforts.

2.2.11.4 SUBTASK 11.4 – ADDITIONAL ALIGNMENT ALTERNATIVES (ALLOWANCE)

An allowance is included herein for use by the Town for payment of Phase 1a Additional Preliminary Services for effort associated with the development and evaluation of additional alignment alternatives, as needed to identify an alignment that provides the most advantageous environmental and ROW opportunities (if different from current alignment).

2.2.11.5 SUBTASK 11.5 – ADDITIONAL PROJECT MEETINGS (ALLOWANCE)

An allowance is included herein for use by the Town for payment of Phase 1a Additional Preliminary Services for attendance, participation, and/or facilitation of meetings or workshops outside of those specifically identified herein.

2.2.11.6 SUBTASK 11.6 – ADDITIONAL OUTREACH EFFORT (ALLOWANCE)

An allowance is included herein for use by the Town for payment of Phase 1a Additional Preliminary Services for additional outreach effort associated with local business happenings, labor sourcing, community education, or other as requested by the Town or its Owner Representative.

2.2.11.7 SUBTASK 11.7 – PARTICIPATION/SUPPORT AT TOWN COUNCIL MEETINGS/PUBLIC COMMUNICATION (ALLOWANCE)

An allowance is included herein for use by the Town for payment of Phase 1a Additional Preliminary Services for support with Town Council updates and other public communications, as requested by the Town or its Owner Representative.

2.2.11.8 SUBTASK 11.8 – PUBLIC RECORDS REQUEST (ALLOWANCE)

An allowance is included herein for use by the Town for payment of Phase 1a Additional Preliminary Services for effort associated with submittal and management of a public records request for PG&E as-built information.

2.2.11.9 FUNDING COMPLIANCE REQUIREMENTS (ALLOWANCE)

An allowance is included herein for use by the Town for payment of Phase 1a Additional Preliminary Services for coordination, assistance, and/or execution of compliance requirements required by the Town's funding source, which currently includes the following efforts/deliverables:

- Hydrogeology and water management investigation.
- Archaeological investigation.
- Weather risk consideration in schedule updates.
- CA National Historical Preservation Act compliance (Federal and State).
- Report on Grant funding provisions for establishing MSA milestones and other compliance requirements.
- Certification Clause development (Phase 1a certifications and as required for grant funding/reimbursement).

The Design-Builder will work with the Town and its Owner Representative early in Phase 1a to determine responsibility, scope, and timeline for delivery of these efforts and others that may be associated with current and future funding sources.

2.2.11.10 SUBTASK 11.10 – OTHER UNANTICIPATED WORK IDENTIFIED BY THE TOWN (ALLOWANCE)

An allowance is included herein for use by the Town for payment of Phase 1a Additional Preliminary Services for execution of other unanticipated work as requested by the Town or its Owner Representative).

2.2.12 TASK 11 – DELIVERABLES

- Geotechnical Data Report – Draft and Final.
- To be subsequently determined.

2.2.13 TASK 11 – ASSUMPTIONS

- The Town shall approve all additional services prior to Notice to Proceed for any work performed pursuant to this Task 11.
- Investigations on private property will require access from private property owners. The Town and its Owner Representative shall lead discussions with private property owners and the Design-Builder will provide technical assistance and supporting information for the Town and its Owner Representative to obtain access to private property for the investigations.

2.3. PHASE 1A PRELIMINARY SERVICES SCHEDULE

The Phase 1a Preliminary Services Schedule is included as Attachment 2B-1.

2.4. PHASE 1A PRELIMINARY SERVICES COMPENSATION**2.4.1 COMPENSATION FOR PHASE 1A BASE PRELIMINARY SERVICES**

The Town shall pay the Design-Builder for Phase 1a Base Preliminary Services direct costs for labor and expenses based on all inclusive hourly labor rates documented in Attachment 2D-1, up to a not-to-exceed limit of \$3,435,136 (the "Phase 1a Preliminary Services Fee"). Attachment 2C-1 is a breakdown by Task of the not-to-exceed amount of the Phase 1a Preliminary Services Fee. As set forth in Sections 9.1(B) (Compensation for Additional Preliminary Services) of the Design-Build Contract, the Design-Builder shall be compensated for any Phase 1a Additional Preliminary Services described in Task 11 on a time and materials or lump sum basis, as agreed to in writing by the Town as set forth in this Appendix 2, which the Town intends to pay from the allowance described in the following sentence. An allowance up to a not-to-exceed limit of \$4,157,150 is available to the Town for payment of Phase 1a Additional Preliminary Services described in Task 11. Attachment 2C-1 is a breakdown by Subtask of the allowance for Task 11. Work on Task 11 shall be billed at the rates shown in Attachment 2D-1.

The Design-Builder may include in Phase 1a Base Preliminary Services direct costs for labor and expenses a mark-up of a direct Subcontract in an amount not to exceed 5% of the costs incurred under such Subcontract in respect of labor, materials, equipment, supplies and any lower-tier Subcontract; provided that in no event shall any mark-up of a direct Subcontract or any lower-tier Subcontract at any level include a mark-up of a lower-tier Subcontract which has already been marked-up under another Subcontract.

2.4.2 PAYMENT REQUESTS

The Design-Builder shall request monthly progress payments for direct labor and expense costs incurred. All billings and requests for progress payments shall require a written invoice from the Design-Builder in a form acceptable to the Town, including itemization of labor and expenses by task. The Design-Builder shall submit all billings with appropriate summaries of work progress, after which the Town shall make payment at the earliest practicable time, but not later than 30 days following receipt of a proper payment request. To the extent that prevailing wages apply to any Phase 1a Preliminary Services so invoiced, the Design-Builder shall provide certified payrolls with respect to any such Phase 1a Preliminary Services so invoiced.

2.4.3 COMPENSATION FOR PHASE 1A ADDITIONAL PRELIMINARY SERVICES

In the event the Town elects to request any Phase 1a Additional Preliminary Services, compensation for such Phase 1a Additional Preliminary Services shall be negotiated by the Town and the Design-Builder in accordance with Section 9.1(B) (Compensation for Phase 1a Additional Preliminary Services) of this Design-Build Contract, and shall be billed using the rates set forth in Attachment 2D-1.

ATTACHMENT 2A
PLANNED SURVEY EXTENTS

[Note: To be developed.]

ATTACHMENT 2B
PRELIMINARY SERVICES SCHEDULE

ATTACHMENT 2B-1

PHASE 1A PRELIMINARY SERVICES SCHEDULE

[See attached pages]

ID	Task Name	Duration	Start	Finish	Qtr 1, 2024		Qtr 2, 2024			Qtr 3, 2024			Qtr 4, 2024					
					Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov				
1	Town Council Approval (assumed)	0 days	Tue 2/13/24	Tue 2/13/24	◆ 2/13													
2	Notice to Proceed (assumed)	0 days	Wed 3/13/24	Wed 3/13/24	◆ 3/13													
3	Phase 1	1003 days	Fri 12/22/23	Tue 10/26/27														
4	Task 1: Project Management	210 days	Tue 3/19/24	Tue 1/7/25														
5	1.1 - Project Management and Administration	65 days	Wed 3/20/24	Tue 6/18/24														
6	Project Management Documents	65 days	Wed 3/20/24	Tue 6/18/24														
7	Develop and Submit Draft Documents	45 days	Wed 3/20/24	Tue 5/21/24														
8	Project Management Plan	3 wks	Wed 4/17/24	Tue 5/7/24														
9	Phase 1 Health and Safety Plan	3 wks	Wed 4/17/24	Tue 5/7/24														
10	Document Management Plan	2 wks	Wed 5/8/24	Tue 5/21/24														
11	Phase 1 Schedule	4 wks	Wed 3/20/24	Tue 4/16/24														
12	Internal QC Review	1 wk	Wed 5/22/24	Tue 5/28/24														
13	Submit Draft Documents	0 days	Tue 5/28/24	Tue 5/28/24														
14	Town Review	1 wk	Wed 5/29/24	Tue 6/4/24														
15	Update Final Documents	10 days	Wed 6/5/24	Tue 6/18/24														
16	Project Management Plan	2 wks	Wed 6/5/24	Tue 6/18/24														
17	Phase 1 Health and Safety Plan	2 wks	Wed 6/5/24	Tue 6/18/24														
18	Document Management Plan	2 wks	Wed 6/5/24	Tue 6/18/24														
19	Phase 1 Schedule	2 wks	Wed 6/5/24	Tue 6/18/24														
20	Submit Final Documents	0 days	Tue 6/18/24	Tue 6/18/24	◆ 6/18													
21	Risk Management	10 days	Wed 5/29/24	Tue 6/11/24														
22	Internal Review of Potential Risks	2 wks	Wed 5/29/24	Tue 6/11/24														
23	Progress Tracking and Reporting	1 day	Wed 3/20/24	Wed 3/20/24														
24	Monthly Progress Reports	1 day	Wed 3/20/24	Wed 3/20/24														
25	1.2 - Meetings	210 days	Tue 3/19/24	Tue 1/7/25														
26	Project Kickoff Meeting	0 days	Tue 3/19/24	Tue 3/19/24	◆ 3/19													
27	Team Building and Project Chartering Workshop	0 days	Tue 3/26/24	Tue 3/26/24	◆ 3/26													
28	File Storage/Team Collaboration Workshop	0 days	Tue 6/4/24	Tue 6/4/24	◆ 6/4													
29	Risk Register Workshop	0 days	Tue 6/11/24	Tue 6/11/24	◆ 6/11													
30	Permitting, Funding, and Stakeholder/Public Outreach Strategy Workshop	0 days	Tue 6/11/24	Tue 6/11/24	◆ 6/11													
31	Stakeholder Meetings	4 mons	Wed 6/12/24	Tue 10/1/24														
32	Bi-Weekly Progress Meetings	10 mons	Wed 4/3/24	Tue 1/7/25														
33	Weekly Collaboration Meetings	10 mons	Wed 4/3/24	Tue 1/7/25														
34	Project Coordination Team (PCT) Meetings	200 days	Wed 4/3/24	Tue 1/7/25														
35	Phase 2 Preliminary Services Amendment Review Meetings #1	0 days	Tue 12/10/24	Tue 12/10/24														
36	Phase 2 Preliminary Services Amendment Review Meetings #2	0 days	Tue 12/17/24	Tue 12/17/24														
37	Phase 2 Preliminary Services Amendment Review Meetings #3	0 days	Tue 12/24/24	Tue 12/24/24														

Project: Paradise Collection Sys
Date: Mon 2/26/24
By: MCI/Carollo DB Team

Task		Inactive Task		Manual Summary Rollup		External Milestone	◆	Manual Progress	
Split		Inactive Milestone	◇	Manual Summary		Deadline	↓		
Milestone	◆	Inactive Summary		Start-only		Critical			
Summary		Manual Task		Finish-only		Critical Split			
Project Summary		Duration-only		External Tasks		Progress			

ID	Task Name	Duration	Start	Finish	Qtr 1, 2024		Qtr 2, 2024			Qtr 3, 2024			Qtr 4, 2024	
					Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov
38	1.3 - Implement Local Office	200 days	Wed 3/20/24	Tue 12/24/24										
39	Rent Local Office Space	10 mons	Wed 3/20/24	Tue 12/24/24										
40	Task 2: Reference Document Review and Validation	20 days	Wed 3/20/24	Tue 4/16/24										
41	2.1 - Review Existing Information/Documents	3 wks	Wed 3/20/24	Tue 4/9/24										
42	2.2 - Information/Data/Needs	0 days	Tue 4/9/24	Tue 4/9/24										
43	2.3 - Information/Data Needs Workshop	0 days	Tue 4/16/24	Tue 4/16/24										
44	Task 3: Field Investigation Plan	115 days	Wed 3/20/24	Tue 8/27/24										
45	3.1 - Desktop Geotechnical and Environmental Hazards Study	30 days	Wed 3/20/24	Tue 4/30/24										
46	Perform Desktop Study	3 wks	Wed 3/20/24	Tue 4/9/24										
47	Internal QC Review	1 wk	Wed 4/10/24	Tue 4/16/24										
48	Submit Draft Desktop Report	0 days	Tue 4/16/24	Tue 4/16/24										
49	Town Review	1 wk	Wed 4/17/24	Tue 4/23/24										
50	Update Final Desktop Report	1 wk	Wed 4/24/24	Tue 4/30/24										
51	Submit Final Desktop Report	0 days	Tue 4/30/24	Tue 4/30/24										
52	3.2 - Existing Utility Research	115 days	Wed 3/20/24	Tue 8/27/24										
53	Send Utility Information Request Letters	3 wks	Wed 3/20/24	Tue 4/9/24										
54	Utility Responses	2 mons	Wed 4/10/24	Tue 6/4/24										
55	Meet with Utilities, if needed	3 mons	Wed 6/5/24	Tue 8/27/24										
56	3.3 - Field Investigation Plan	65 days	Wed 3/20/24	Tue 6/18/24										
57	Geotechnical and Hazardous Materials	35 days	Wed 5/1/24	Tue 6/18/24										
58	Develop Field Investigation Plan	3 wks	Wed 5/1/24	Tue 5/21/24										
59	Internal QC Review	1 wk	Wed 5/22/24	Tue 5/28/24										
60	Submit Draft Plan	0 days	Tue 5/28/24	Tue 5/28/24										
61	Town Review	2 wks	Wed 5/29/24	Tue 6/11/24										
62	Update Final Plan	1 wk	Wed 6/12/24	Tue 6/18/24										
63	Submit Final Plan	0 days	Tue 6/18/24	Tue 6/18/24										
64	Land Survey	30 days	Wed 3/20/24	Tue 4/30/24										
65	Review City LIDAR Information	2 wks	Wed 3/20/24	Tue 4/2/24										
66	Develop Field Investigation Plan	3 wks	Wed 3/20/24	Tue 4/9/24										
67	Internal QC Review	1 wk	Wed 4/10/24	Tue 4/16/24										
68	Submit Draft Plan	0 days	Tue 4/16/24	Tue 4/16/24										
69	Town Review	1 wk	Wed 4/17/24	Tue 4/23/24										
70	Update Final Plan	1 wk	Wed 4/24/24	Tue 4/30/24										
71	Submit Final Plan	0 days	Tue 4/30/24	Tue 4/30/24										
72	3.4 - Scoping for Phase 1 Field Investigations	35 days	Tue 5/7/24	Tue 6/25/24										
73	Scoping for Land Survey	0 days	Tue 5/7/24	Tue 5/7/24										
74	Scoping for Geotech	0 days	Tue 6/25/24	Tue 6/25/24										

Project: Paradise Collection Sys
Date: Mon 2/26/24
By: MCI/Carollo DB Team

Task		Inactive Task		Manual Summary Rollup		External Milestone		Manual Progress	
Split		Inactive Milestone		Manual Summary		Deadline			
Milestone		Inactive Summary		Start-only		Critical			
Summary		Manual Task		Finish-only		Critical Split			
Project Summary		Duration-only		External Tasks		Progress			

ID	Task Name	Duration	Start	Finish	Qtr 1, 2024		Qtr 2, 2024			Qtr 3, 2024			Qtr 4, 2024	
					Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov
75	Task 4: Hydraulic Model Development and Analysis	80 days	Tue 4/2/24	Tue 7/23/24										
76	4.1 - Hydraulic Model	65 days	Tue 4/2/24	Tue 7/2/24										
77	Create Baseline Model (already done)	0 days	Tue 4/2/24	Tue 4/2/24			4/2							
78	Town Provide Land Use Type for Collection System Model Development	1 wk	Wed 4/3/24	Tue 4/9/24										
79	Develop Hydraulic Model of Collection System and Pipeline	5 wks	Wed 4/10/24	Tue 5/14/24										
80	Perform Model Simulations of Project Alternatives	2 wks	Wed 5/15/24	Tue 5/28/24										
81	Internal QC Review	2 wks	Wed 5/29/24	Tue 6/11/24										
82	Update Model based on Meeting with Town	3 wks	Wed 6/12/24	Tue 7/2/24										
83	4.2 - Hydraulic Model Technical Memorandum	3 wks	Wed 7/3/24	Tue 7/23/24										
84	4.3 - Hydraulic Model Review Meeting	0 days	Tue 6/11/24	Tue 6/11/24						6/11				
85	Task 5: Basis of Design Report	213 days	Fri 12/22/23	Tue 10/15/24										
86	5.1 - Draft Basis of Design Report	40 days	Wed 7/24/24	Tue 9/17/24										
87	DRAFT BODR	4 wks	Wed 7/24/24	Tue 8/20/24										
88	Internal QC Review	2 wks	Wed 8/21/24	Tue 9/3/24										
89	Submit Draft BODR	0 days	Tue 9/3/24	Tue 9/3/24									9/3	
90	Town Review	2 wks	Wed 9/4/24	Tue 9/17/24										
91	5.2 - Identificaiton of Property Acquisition and Right-of-Way Needs Workshop	0 days	Fri 12/22/23	Fri 12/22/23										
92	5.3 - Lateral Connection Stragety Session	0 days	Fri 12/22/23	Fri 12/22/23										
93	5.4 - Collection System Operations Workshop	0 days	Fri 12/22/23	Fri 12/22/23										
94	5.5 - Export Pipeline / Chico WPCP Connection Operations Workshop	0 days	Fri 12/22/23	Fri 12/22/23										
95	5.6 - SCADA Strategy Workshop	0 days	Fri 12/22/23	Fri 12/22/23										
96	5.7 - Draft BODR Review Meetings	5 days	Tue 9/17/24	Tue 9/24/24										
97	Town Review Workshop #1 - Collection System	0 wks	Tue 9/17/24	Tue 9/17/24									9/17	
98	Town Review Workshop #2 - Export Pipeline	0 wks	Tue 9/24/24	Tue 9/24/24									9/24	
99	5.8 - Final BODR	15 days	Wed 9/25/24	Tue 10/15/24										
100	Update Final BODR	3 wks	Wed 9/25/24	Tue 10/15/24										
101	Submit Final BODR	0 days	Tue 10/15/24	Tue 10/15/24										10/15
102	Task 6: Funding Support	160 days	Wed 6/12/24	Tue 1/21/25										
103	Funding Support	8 mons	Wed 6/12/24	Tue 1/21/25										
104	Task 7: Permitting Support	160 days	Wed 6/12/24	Tue 1/21/25										
105	Permitting Support	8 mons	Wed 6/12/24	Tue 1/21/25										
106	Task 8: Stakeholder and Public Outreach Support	940 days	Wed 3/20/24	Tue 10/26/27										
108	Task 9: Design and Construction Phasing Plan and Schedule	140 days	Wed 4/17/24	Tue 10/29/24										
109	Meet w/ Town to Develop WBS Structure	1 day	Wed 4/17/24	Wed 4/17/24										
110	Develop Draft Phasing Plan and Schedule	3 wks	Thu 4/18/24	Wed 5/8/24										
111	Internal QC Review	1 wk	Thu 5/9/24	Wed 5/15/24										
112	Submit Draft Phasing Plan and Schedule	0 days	Wed 5/15/24	Wed 5/15/24									5/15	

Project: Paradise Collection Sys
Date: Mon 2/26/24
By: MCI/Carollo DB Team

Task		Inactive Task		Manual Summary Rollup		External Milestone		Manual Progress	
Split		Inactive Milestone		Manual Summary		Deadline			
Milestone		Inactive Summary		Start-only		Critical			
Summary		Manual Task		Finish-only		Critical Split			
Project Summary		Duration-only		External Tasks		Progress			

ID	Task Name	Duration	Start	Finish	Qtr 1, 2024		Qtr 2, 2024			Qtr 3, 2024			Qtr 4, 2024	
					Feb	Mar	Apr	May	Jun	Jul	Aug	Sep	Oct	Nov
113	Town Review	1 wk	Thu 5/16/24	Wed 5/22/24										
114	Update Schedule & Cost Load	1 wk	Thu 5/23/24	Wed 5/29/24										
115	Town Review Workshop #1	0 days	Wed 5/29/24	Wed 5/29/24										
116	Town Review Workshop #2	0 days	Wed 6/5/24	Wed 6/5/24										
117	Update Final Phasing Plan and Schedule	2 wks	Wed 10/16/24	Tue 10/29/24										
118	Submit Final Phasing Plan and Schedule	0 days	Tue 10/29/24	Tue 10/29/24										
119	Task 10: Cost Model	190 days	Wed 3/13/24	Tue 12/3/24										
120	Setup Draft Estimate Template	2 wks	Wed 3/13/24	Tue 3/26/24										
121	Review Template w/ Town	1 day	Wed 3/27/24	Wed 3/27/24										
122	Revise Template	3 days	Thu 3/28/24	Mon 4/1/24										
123	Town Approval of Template	1 day	Tue 4/2/24	Tue 4/2/24										
124	Provide Initial Estimate to Town	3 wks	Wed 4/3/24	Tue 4/23/24										
125	Town Review of Estimate	1 wk	Wed 4/24/24	Tue 4/30/24										
126	Meet with Town to Review Estimate	1 day	Wed 5/1/24	Wed 5/1/24										
127	Revise Initial Estimate	1 wk	Thu 5/2/24	Wed 5/8/24										
128	Submit Initial Cost Estimate (Final)	0 days	Wed 5/8/24	Wed 5/8/24										
129	Update Estimate per BODR	3 wks	Wed 10/16/24	Tue 11/5/24										
130	Town Review	2 wks	Wed 11/6/24	Tue 11/19/24										
131	Town Review Workshop #1	0 days	Tue 11/19/24	Tue 11/19/24										
132	Town Review Workshop #2	0 days	Tue 11/19/24	Tue 11/19/24										
133	Update Final Baseline Cost Model	2 wks	Wed 11/20/24	Tue 12/3/24										
134	Submit Final Baseline Cost Model	0 days	Tue 12/3/24	Tue 12/3/24										
135	Task 11: Phase 1 Additional Preliminary Services	215 days	Wed 3/20/24	Tue 1/14/25										
136	11.1 - Early-Phase Field Investigations	4 mons	Wed 6/5/24	Tue 9/24/24										
137	11.2 - Additional Phase 1 Topographic Survey	4 mons	Wed 5/8/24	Tue 8/27/24										
138	11.3 - Additional Phase 1 Geotechnical and Environmental Investigation	4 mons	Wed 9/25/24	Tue 1/14/25										
139	11.4 - Additional Alignment Alternatives	1 mon	Wed 6/12/24	Tue 7/9/24										
140	11.5 - Additional Project Meetings	10 mons	Wed 3/20/24	Tue 12/24/24										
141	11.6 - Additional Outreach Effort	10 mons	Wed 3/20/24	Tue 12/24/24										
142	11.7 - Participation/Support at Town Council Meetings / Public Communication	10 mons	Wed 3/20/24	Tue 12/24/24										
143	11.8 - Public Records Request	2 mons	Wed 6/12/24	Tue 8/6/24										
144	11.9 - Other Unanticipated Work Identified by the Town	10 mons	Wed 3/20/24	Tue 12/24/24										

Project: Paradise Collection Sys
Date: Mon 2/26/24
By: MCI/Carollo DB Team

Task		Inactive Task		Manual Summary Rollup		External Milestone		Manual Progress	
Split		Inactive Milestone		Manual Summary		Deadline			
Milestone		Inactive Summary		Start-only		Critical			
Summary		Manual Task		Finish-only		Critical Split			
Project Summary		Duration-only		External Tasks		Progress			

ATTACHMENT 2B-2

**FORM OF SUBSEQUENT PRELIMINARY SERVICES PHASE PRELIMINARY SERVICES
SCHEDULE**

[From the applicable Subsequent Preliminary Services Phase Preliminary Services Submittal.]

ATTACHMENT 2C

PRELIMINARY SERVICES NOT-TO-EXCEED PRICING

ATTACHMENT 2C-1

PHASE 1A PRELIMINARY SERVICES NOT-TO-EXCEED PRICING

[See attached pages]



Task Order Total

Task Order 01 - Phase 1a Preliminary Services

Task 0	Reimbursable Expenses	\$	149,028
Task 1	Project Management	\$	871,252
Task 2	Reference Document Review and Validation	\$	165,329
Task 3	Field Investigations	\$	424,257
Task 4	Hydraulic Model Development and Analysis	\$	277,862
Task 5	Basis of Design Report	\$	843,884
Task 6	Funding Support	\$	70,062
Task 7	Permitting Support	\$	159,495
Task 8	Stakeholder and Public Outreach Support	\$	29,556
Task 9	Design and Construction Phasing Plan and Schedule	\$	251,603
Task 10	Cost Model	\$	192,809
Phase 1a Base Preliminary Services Labor & Expense Total		\$	3,435,136
Task 11	Phase 1a Additional Services		
11.1	Early Phase Field Investigations	\$	898,600
11.2	Additional Phase 1 Topographic Survey	\$	1,301,800
11.3	Additional Phase 1 Geotechnical and Environmental Investigation	\$	1,084,750
11.4	Additional Alignment Alternatives	\$	134,750
11.5	Additional Project Meetings	\$	118,250
11.6	Additional Outreach Effort	\$	107,750
11.7	Participation/Support at Town Council Meetings/Public Communication	\$	87,250
11.8	Public Records Request	\$	49,000
11.9	Funding Compliance Requirements	\$	134,750
11.10	Other Unanticipated Work Identified by Town	\$	240,250
Phase 1a Allowance Labor & Expense Total		\$	4,157,150

ATTACHMENT 2C-2

**FORM OF SUBSEQUENT PRELIMINARY SERVICES PHASE PRELIMINARY SERVICES NOT-
TO-EXCEED PRICING**

[From the applicable Subsequent Preliminary Services Phase Preliminary Services Submittal.]

ATTACHMENT 2D
PRELIMINARY SERVICES BILLING RATES

ATTACHMENT 2D-1

PHASE 1A PRELIMINARY SERVICES BILLING RATES

[See attached pages]

Billing Rate Schedule

Role	Rate/Hour	Role	Rate/Hour
Project Manager (MCI)	\$ 290	Principal In Charge (Carollo)	\$ 365
Assistant Project Manager (MCI)	\$ 245	Deputy Project Manager (Carollo)	\$ 365
Preconstruction Manager (MCI)	\$ 290	Engineer of Record (Carollo)	\$ 385
Professional (MCI)	\$ 273	QA/QC Manager (Carollo)	\$ 385
Project Controls Manager (MCI)	\$ 268	Design Manager (Carollo)	\$ 365
Cost Model Manager (MCI)	\$ 266	Funding Manager (Carollo)	\$ 339
Design-Build Manager (MCI)	\$ 247	Permitting Manager (Carollo)	\$ 339
Testing & Commissioning Manager (MCI)	\$ 245	Hydraulics Engineer (Carollo)	\$ 339
Safety Manager (Corporate) (MCI)	\$ 245	Professional (Carollo)	\$ 289
Safety Manager (MCI)	\$ 190	Asst. Professional (Carollo)	\$ 241
Project Coordinator (MCI)	\$ 190	Senior Technician (Carollo)	\$ 253
Administrative Support (MCI)	\$ 125	Technician (Carollo)	\$ 186
		Clerical Support (Carollo)	\$ 167

ATTACHMENT 2D-2

**FORM OF SUBSEQUENT PRELIMINARY SERVICES PHASE PRELIMINARY SERVICES
BILLING RATES**

[From the applicable Subsequent Preliminary Services Phase Preliminary Services Submittal.]

APPENDIX 3

GOVERNMENTAL AND NON-GOVERNMENTAL APPROVALS

APPENDIX 3**GOVERNMENTAL AND NON-GOVERNMENTAL APPROVALS**

[Note: To be developed.]

3.1. PURPOSE

The purpose of this Appendix is to identify the Governmental and Non-Governmental Approvals that are expected to be required to proceed to the Design-Build Period of the Project. (Tables A-3.1 and A-3.2).

The Design-Builder shall be responsible for obtaining and maintaining any Governmental and Non-Governmental Approvals that are not explicitly identified as a Town responsibility, irrespective of whether any such Governmental or Non-Governmental Approval is identified in this Appendix.

3.2. GOVERNMENT AND NON-GOVERNMENTAL APPROVALS

Tables A3-1 and A3-2 indicate the responsibilities of the Design-Builder and the Town with respect to Governmental and Non-Governmental Approvals, respectively.

Table A3-1. Governmental Approvals Responsibility					
Name of Governmental Approval	Issuing Agency	Permittee /Approval Holder	Application Manager	Responsibility for Obtaining / Supporting Permit Application Process	Fee Payment Responsibility
				[Note: To be developed as part of the Preliminary Services.]	

(1) Payment for review time by permitting entity above and beyond that covered by permit fees will be paid by the Town.

Table A3-2. Non-Governmental Approvals Responsibility					
Name of Governmental Approval	Issuing Agency	Permittee /Approval Holder	Application Manager	Information Supply Responsibility	Fee Payment Responsibility
				[Note: To be developed as part of the Preliminary Services.]	

[THIS PAGE INTENTIONALLY LEFT BLANK]

APPENDIX 4

TECHNICAL STANDARDS AND BASELINE DESIGN DOCUMENTS

APPENDIX 5
GENERAL DESIGN-BUILD WORK REQUIREMENTS

APPENDIX 5**GENERAL DESIGN-BUILD WORK REQUIREMENTS****5.1. PURPOSE**

The purpose of this Appendix is to set forth certain requirements for the performance of the Design-Build Work. The Design-Builder shall perform the Design-Build Work in accordance with the Contract Standards, including the requirements set forth in this Appendix.

5.2. MANAGEMENT AND COORDINATION

As needed, the Design-Builder shall hold meetings that are separate from and in addition to weekly Construction progress meetings described in Section 5.4.2 of this Appendix, and shall prepare correspondence and make any other arrangements as necessary to coordinate the Design-Build Work. The Design-Builder shall coordinate its activities with other contractors performing work at or near the Project Sites. The Design-Builder shall identify other construction contracts that may be in progress in close proximity to or bordering on the Project. The Design-Builder shall coordinate all Construction activities that could impact existing Utility services and installations (e.g., conduits, pipelines, transmission mains and other Utility equipment and appurtenances) with the Utilities, and shall coordinate, arrange for and/or implement any required utility relocations with the applicable utility, consistent with its Utility Relocation Plan. Coordination meetings may include review of the Design-Build Period Work Schedule and installation procedures of other contractors to identify potential conflicts, allocation of space on the Project Sites, drawing/design interchange among contractors, establishment and modification of schedules and sequences of Construction operations, and planning of future meetings.

5.3. DESIGN-BUILD PERIOD WORK SCHEDULE**5.3.1 Design-Build Period Work Schedule.**

All activities comprising the Design-Build Work shall be scheduled and monitored by use of Microsoft Project or Primavera software which sets forth all tasks and key Tasks in a logical and efficient work sequence that the Design-Builder intends to utilize to plan, organize and execute design and Construction work in taking the Project from the Baseline Design Documents to Final Completion and Town operation, to record and report actual performance and progress, to show plans to complete all remaining activities as of the end of each progress report period, and to enable Town and its Owner Representative to monitor and evaluate work progress. If Primavera is used, the Design-Builder shall provide schedule information to the Town in both native and PDF format as directed by the Town.

The Design-Build Period Work Schedule shall be in the form of an activity oriented network diagram (Critical Path Method) and the principles and definitions of the terms used herein shall be as set forth in the Associated General Contractors of America (AGC) publication The Use of CPM in Construction, 1976. In the event of discrepancies, this Appendix shall govern the development and utilization of the Design-Build Period Work Schedule.

The Design-Build Period Work Schedule shall be comprised of the cost and resource loaded Detailed Network Diagram and reports described herein. The Design-Build Period Work Schedule shall show the sequence and interdependence of activities required for complete performance of all the work including design development, procurement, Construction, Substantial Completion and Final Completion. The Design-Build Period Work Schedule shall begin with the Contract Date, include milestones representing release of design packages for

Construction, include the Interim Construction Milestones, include milestones representing completion of Substantial Completion and conclude with a milestone representing Final Completion, in addition to any control milestones provided by the Town. [Note: Other milestones may be added based on Construction Phasing Plan and as part of GMP Amendment.]

The Design-Build Period Work Schedule shall be initially prepared and updated in accordance with Appendix 2 and further updated as required in accordance with this Appendix. The Design-Builder shall undertake and complete the Design-Build Work in accordance with the Design-Build Period Work Schedule. The Design-Builder shall develop, revise and provide all information and input necessary for the Design-Build Period Work Schedule required pursuant to this Appendix in accordance with the Contract Standards. The planning, scheduling, coordination and execution of the Design-Build Work are the sole responsibility of the Design-Builder. The Scheduled Substantial Completion Date and the date for Final Completion shall not be changed in any updates without written permission from the Town in accordance with the Contract Documents.

5.3.2 Detailed Network Diagram

The Design-Build Period Work Schedule shall include a time-scaled “**Detailed Network Diagram**” based on calendar days. The Detailed Network Diagram shall be in Critical Path Method (the “**CPM**”) precedence format and shall show the sequence and interdependence of activities required for complete performance of all items of work. A calendar shall be shown on all sheets along the entire sheet length. Each activity shall be plotted so that the beginning (and completion dates) of the activity can be determined graphically (by comparison) with the calendar scale.

The Detailed Network Diagram shall provide sufficient detail and clarity of form and technique so that the Design-Builder can plan, schedule, and control the Design-Build Work properly and the Town and its Owner Representative can readily monitor and follow progress for all portions of the Design-Build Work. The Detailed Network Diagram shall include all activities of the Design-Build Work. Critical path activities shall be identified, including critical paths for milestone dates.

The Detailed Network Diagram shall include the following information related to the activities:

- Activity number.
- Activity Description.
- Estimated duration in working days.
- Major materials and equipment acquisition and arrivals/departures at/from the Project.

The degree of detail of the Detailed Network Diagram shall consider the following factors:

- Normal weather delays per season that would delay or affect the work plan using identified schedule buffer activities in the logic chain to the next control milestone in the logic chain
- The type of work to be performed and the labor trades involved.
- All delivery activities for all major materials and equipment.
- A schedule for all submittals requiring outside or design Subcontractor approval, including allowed review response time, and logic linked to start of appropriate work items so that any resubmittal requirements shall adjust the start or ordering of the consequential work item(s)

- Submittal and approval of shop and working drawings and material samples.
- Efforts and activities for all Subcontract work by discrete Subcontractor.
- Access and availability to work areas.
- Test, submissions, and acceptance of test results.

Seasonal weather conditions shall be considered and included in the planning and scheduling of all work influenced by high or low ambient temperatures and/or precipitation to complete all Design-Build Work by the Final Completion date. Seasonal weather conditions shall be determined by an assessment of average historical climatic conditions based upon the preceding ten year records published for the locality by the National Ocean and Atmospheric Administration based on the Chico Army Flying School reporting station.

The Design-Builder may use labor or equipment restraints separately noted to optimize and level labor and equipment requirements. The individual activities involved may be sequenced within the limits of total float to the next control milestone in the logic chain. When this technique is used in establishing the working schedule, it shall be reflected in the logic. Critical or near-critical paths developed from the use of labor restraints shall be kept to a minimum. Near-critical paths shall be defined as those paths having 14 calendar days or less of total float at time of initial submission.

The Design-Build Period Work Schedule (and any updates thereto) shall be submitted to the Town in hardcopy, pdf and native format.

5.3.3 Design-Build Period Work Schedule Updates.

The Design-Builder shall, as required from time to time during the Design-Build Period, but no less than once per calendar month, in consultation with the Town update the Design-Build Period Work Schedule so that it is at all times an accurate, reasonable and realistic representation of the Design-Builder's plans for the completion of the Design-Build Work in accordance with the requirements of the Contract Documents. The Design-Builder shall submit schedule updates (in hard copy, pdf and native format) to the Town 3 business days in advance of the first progress meeting of each month. Each schedule update shall include the following elements:

- (a) A complete updated CPM schedule showing progress against each activity;
- (b) a four week look ahead schedule and a present to complete summary schedule and a Construction activity status report to include current and forecasted status of each Construction activity and submittal event in WBS start sort order; and
- (c) status for any weather schedule buffers shall be made on the number of observed and recorded weather delays that occurred to date for the schedule buffer timespan, which must be verifiable against the daily field reports for each work segment.

The updates shall include adjustments resulting from Uncontrollable Circumstances and Baseline Design Requirements Changes, if any, as permitted by this Design-Build Contract and as provided in Section 5.3.5 of this Appendix.

Should any negative float items appear, the Design-Builder shall provide specific explanation of the causes of each and proposed remedies.

5.3.4 Town Review.

The Town shall review the updated Design-Build Period Work Schedule and advise the Design-Builder as to any of its concerns, along with proposed changes. Every three months, or more frequently if requested by the Town, in addition to the weekly Construction progress meetings, the Design-Builder shall meet with the Town to discuss Project progress and the updated Design-Build Period Work Schedule. The Design-Builder shall respond to the Town concerns and indicate how the proposed changes or revisions thereto can be made to satisfactorily address Town concerns. Upon Town approval, the changes shall be incorporated in the updated Design-Build Period Work Schedule and replace the previous baseline Design-Build Period Work Schedule. Design-Build Period Work Schedule updates are for the purpose of providing the Design-Builder with flexibility in its work activity durations and sequences, but in no event shall such updates result in a change in the Scheduled Substantial Completion Date or the date for Final Completion. The Scheduled Substantial Completion Date shall be adjusted solely as provided in Sections 8.4 and 8.10, respectively, of this Design-Build Contract.

5.3.5 Events Affecting the Design-Build Period Work Schedule.

No later than 15 days following the occurrence of an Uncontrollable Circumstance or a Town-directed Change Order, or delays are experienced that may impact the critical path, the Design-Builder shall submit a report containing a “**Time Impact Analysis**” illustrating the effects of such events on the current Design-Build Period Work Schedule, including any new dates for work task and major Tasks, Interim Construction Milestones, Substantial Completion, the Scheduled Substantial Completion Date or the date for Final Completion. Additionally, the analysis shall demonstrate the time impact based on the date that the Design-Builder was notified of the authorization of the change or the date that the delay began, the status of Construction at that point in time, and the event time computation of all affected activities. The Design-Builder shall present mitigation measures that were considered to offset potential work delays; those proposed for Town review and acceptance; and a revised Design-Build Period Work Schedule incorporating the Design-Builder’s proposed changes.

The event items used in the analysis shall be those included in the latest updated copy of the detailed progress schedule. In cases in which the Design-Builder does not submit a Time Impact Analysis for a specific change within the time requirements established under this Section 5.3.5, then it is mutually agreed that that particular potential revision or delay has no time impact on any of the scheduled completion dates and the Project’s critical path and no time extension will be granted.

5.4. CONSTRUCTION MEETINGS AND REPORTS

5.4.1 Pre-Construction and Partnering Conferences.

Consistent with its Town Approved Design and Construction Phasing Plan, the Design-Builder shall hold a pre-Construction conference prior to commencement of each Construction work package. Additionally, the Design-Builder shall hold Partnering conferences at intervals agreed to by the Town. The Design-Builder shall prepare an agenda which shall be reviewed with the Town prior to each conference, and shall preside at each conference, contributing appropriate items for discussion, providing any data requested, recording minutes to summarize significant proceedings and decisions, and distributing the minutes to all parties in attendance.

Each conference shall be scheduled by the Design-Builder at a time reasonably acceptable to the Town and shall be attended by the Project Manager (Project Manager), the Design-Builder’s Construction Manager, the Design-Builder’s Construction Superintendent, and the Design-

Builder's principal Subcontractors' project managers or superintendents and representatives of major suppliers as the Design-Builder deems appropriate. Other attendees may be added at the discretion of the Design-Builder and the Town.

5.4.2 Construction Progress Meetings - Scheduling and Attendance.

The Design-Builder shall schedule, hold, and facilitate regular weekly Construction progress meetings from the time mobilization for Construction commences through Final Completion, and at other times if requested by the Town or as the Design-Builder deems necessary. The Construction progress meetings shall be attended by the Design-Builder Construction Manager, the Design-Builder Superintendent, the QA/QC Manager, as applicable, and the Design-Builder's principal Subcontractors' project managers or superintendents and representatives of major Suppliers, as the Design-Builder deems appropriate. The Project Manager shall attend weekly Construction progress meetings, and the representatives from the Design-Builder's executive team shall attend weekly Construction progress meetings periodically as requested by the Town. Other attendees may include any other contractors whose work affects or is affected by Construction of the Project, and others deemed appropriate by these parties. The Town and its Owner Representative shall attend the weekly Construction progress meetings and monthly management meetings. Construction progress meetings shall be held at a location designated by the Town.

5.4.3 Construction Progress Meetings Agenda.

At such weekly meetings, discussions shall be held concerning all aspects of the Design-Build Work. The Design-Builder shall prepare an agenda, preside at meetings, record minutes to include significant proceedings and decisions, and distribute the minutes to all parties in attendance within three Business Days of the meeting. The agenda shall generally include the status of the following matters, as applicable:

- (a) Summary of previous meeting issues, actions and assignments.
- (b) Progress since last meeting (Design-Builder and Subcontractors).
- (c) Schedules, including updates on planned progress for next four weeks, off-site fabrication and delivery schedules; corrective action measures, if required and when to be implemented.
- (d) Problems, issues and considerations.
- (e) Change Orders, Contract Administration Memoranda and Contract Amendments.
- (f) Status of submittals, including to be submitted, submitted, responses requiring corrective actions and resubmittal and approved.
- (g) Requests for Information, including those to be submitted, submitted, responses and whether adequate or more information is required.
- (h) QA/QC reviews, findings, issues and actions.
- (i) Coordination among parties.
- (j) Safety program update, concerns, accidents, and injuries, if any.

-
- (k) Public affairs and issues or concerns of nearby businesses and other stakeholders.
 - (l) Project Sites visits by the Town, the Town's representatives, representatives of Governmental Bodies, issuers of Non-Governmental Approvals and Design-Builder's representatives.
 - (m) Compliance with Governmental Approval mitigations and any environmental issues.
 - (n) Status of record drawings and specifications.

5.4.4 Monthly Progress Reports.

Monthly Progress Report required to be submitted by the Design-Builder shall include:

- (a) a summary of Design-Build Work activities during the reporting month.
- (b) a schedule of upcoming Design-Build Work activities.
- (c) a listing of submittals delivered during the reporting month and their status;
- (d) a listing of submittals scheduled for delivery the following month.
- (e) the Design-Builder's verification that the record documents have been updated as appropriate.
- (f) a summary of activities involved with obtaining Governmental Approvals and Non-Governmental Approvals.
- (g) a listing of any violations of Governmental Approvals, Non-Governmental Approvals or Applicable Law and actions taken or to be taken to eliminate any subsequent violations.
- (h) a listing of issues needing resolution.
- (i) a listing of all telephone calls received during the reporting month involving material inquiries or complaints.
- (j) Design-Build Period Work Schedule updates and Cost/Schedule Status Report (CSSR).
- (k) the Design-Builder's recovery plan for meeting the Scheduled Substantial Completion Date should the Design-Builder's progress-to-date indicate that the Design-Builder's Design-Build Work is behind schedule and at risk of not being completed by the Scheduled Substantial Completion Date (as adjusted for extensions of time permitted under this Design-Build Contract).
- (l) Expenditures for the most recently completed month and for the Project to date, and a comparison to the Anticipated Design-Build Period Work Cost Schedule; explanations for significant deviations from the Anticipated Design-Build Period Work Cost Schedule for both over-expenditures and under-expenditures.

- (m) Progress payment requests as described in Article 9 of this Design-Build Contract. The format of the payment request shall be matched with the description of work activities completed for the reporting month and the Anticipated Design-Build Period Work Cost Schedule so that the Town can easily relate the breakdown of the payment request to work progress on specific tasks and Tasks. Supporting documentation shall be provided so that the Town can readily determine the basis for the requested payment amounts for Design-Build Work performed during the month by task or Tasks in terms of labor hours, construction equipment costs, Capital Improvements equipment and materials expenditures, including similar breakdowns for Subcontracts and other Project costs incurred during the month unless waived by the Town. Current retainage and total retainage to date shall be included in the monthly report. Payment request information shall include similar information for changes made pursuant to Sections 6.7 and 6.8 of this Design-Build Contract.

The Monthly Progress Reports shall also provide a description of (1) any concerns or issues raised by the Town or other parties regarding the Design-Build Work, and the Design-Builder's approach to promptly addressing and resolving such concerns or issues, and (2) a section containing health and safety statistics and a description of any accidents or injuries that occurred and the follow up investigations as to cause and subsequent corrective actions to be taken or already implemented by the Design-Builder. The format of the Monthly Progress Reports shall be developed by the Design-Builder and approved by the Town prior to the commencement of any Construction on the Project Sites.

5.4.5 Project Records.

The Design-Builder, in connection with the Design-Build Work generally, shall maintain and provide the following records:

- (a) Record Drawings and Specifications: The Design-Builder shall:
- (1) throughout the Construction, update the Design Documents (with respect to the drawings, such update shall be in hard copy and "CAD" or other electronic format reasonably acceptable to the Town), including approved shop drawings that are available from Subcontractors in CAD format, so as to produce accurate and complete record documents for the Project.
 - (2) as requested from time to time during the Construction, make available such record drawings and specifications to the Town for review to permit the Town to monitor the Design-Builder's compliance with the requirements of this Section 5.4.5.
 - (3) provide eight half-size and two full-sized hard copies of the completed record drawings as a condition to Final Completion. The record drawings shall not be deemed to have satisfied the condition to Final Completion unless reviewed and deemed final by the Town.
- (b) Equipment and Systems Manuals: The Design-Builder shall:
- (1) (1) as a condition to Final Completion, and in accordance with Sections 5.8.2 (Content of the Operations and Maintenance Manual) and 5.9 (Service Manuals) of this Appendix,, make available all operation and

- maintenance manuals, specifications, warranties and related information, in both written and electronic form, for all the equipment and systems that have been included in the Design-Build Work for review by the Town; and
- (2) organize and store such information in accordance with Section 6.6(D) of this Design-Build Contract;
- (c) **Design Records:** The Design-Builder shall retain records of the design development.
- (d) **Minutes of Meetings:** The Design-Builder shall retain minutes of meetings between the Town and the Design-Builder relating to the Design-Build Work, and shall circulate such minutes to the Town and its Owner Representative for review and comment.
- (e) **Inspection Reports and Tests Results:** The Design-Builder shall retain official reports and certified test records of all inspections and tests which were undertaken as part of the Construction.
- (f) **Utility Plans:** The Design-Builder shall retain utility plans for the Project and the Project Sites.
- (g) **Landscape and Irrigation Plans:** The Design-Builder shall retain landscape and irrigation plans for the Project and the Project Sites.
- (h) **Copies of all Governmental Approvals and Non-Governmental Approvals:** The Design-Builder shall retain copies of all Governmental Approvals and Non-Governmental Approvals for the Construction and occupation of the Project.
- (i) **Signed Quality Management Plan as updated for the Design-Build Period Work:** The Design-Builder shall retain a signed copy of the Quality Management Plan as updated for the Design-Build Period Work for the design and Construction and all records of the quality assurance program implemented as required by the Contract Documents.
- (j) **Daily field logs recording the weather at each work site throughout the day, what contractors are on site and equipment/material deliveries as well as any events such as outages, work stoppage, accidents, material/equipment loss, and property damage.**

The records referred to in this Section 5.4.5 shall be retained for at least five (5) years after the latest of: (1) final payment under this Design-Build Contract; (2) final settlement of a termination for convenience under Section 12.6; (3) the final resolution of any dispute; and (4) the last of the notices from the Granting Agencies to the Town that the applicable Grant contract has been closed according to the record retention requirements at 2 CFR 200.334.

5.5. CONSTRUCTION WORK GENERALLY

5.5.1 Geotechnical Work and Subsurface Exploration

As part of the Preliminary Services, it is expected that the Design-Builder will conduct geotechnical and subsurface investigations of portions of the Project Sites and the results of these investigations will be presented in the applicable reports required pursuant to

Appendix 2, including the Contamination Assessment Report and the Contaminated Media Management Plan. The Design-Builder shall conduct any additional subsurface investigations of the Project Sites as necessary in accordance with Good Engineering and Construction Practice to determine design requirements for Construction, including dewatering and foundation requirements. The Design-Builder shall employ a qualified firm to perform the subsurface investigations. The Design-Builder shall employ a professional engineer, licensed in the State, to plan, oversee, and evaluate the results of all additional subsurface investigations and to determine requirements for the design of the Project, including foundations, superstructures, and dewatering systems, with regard to seismic conditions and existing soil conditions. The engineer shall provide recommendations for Construction requirements as to protecting the Design-Build Work and any existing structures and Utilities. The Design-Builder shall perform all geotechnical work and subsurface explorations in accordance with the Contract Standards.

The Design-Builder shall have the full responsibility for verifying the presence and location of all subsurface utilities structures at the Project Site.

5.5.2 Deliverable Material.

The Design-Builder shall deliver to the Town all Deliverable Material required to be delivered under this Appendix, Appendix 6, Appendix 7 and Appendix 9.

5.5.3 Signs.

The Design-Builder shall provide and maintain temporary identification and information signs during the Design-Build Period in conformance with Town requirements and specifications. No signs shall be erected until their appearance, content, and location have been fully reviewed and approved by the Town, which approval shall not unreasonably be withheld, conditioned or delayed. The Design-Builder shall remove temporary signs from the Project Sites when they are no longer necessary.

5.5.4 Laydown Areas and Town Construction Office Space.

Laydown and staging areas for construction materials shall be located at the Project Sites or at other locations arranged and paid for by the Design-Builder that are approved by the Town. The Design-Builder shall not store materials in a Town Right of Way unless authorized by the Town.

5.5.5 Maintenance of the Project Sites.

During performance of the Design-Build Work, the Design-Builder shall be responsible for the overall maintenance of the Project Sites. The Design-Builder shall keep the Project Sites neat and orderly at all times, and shall clean up and remove all rubbish and construction debris from the Project Sites as they accumulate in accordance with the Contract Standards.

5.5.6 Temporary Utilities.

The Design-Builder shall supply all necessary temporary Utilities, including electricity, telecommunications services, potable water, fire protection, lighting, and sanitary facilities, during Construction, testing and start-up of the Project. Prior to the Substantial Completion Date, the Design-Builder shall disconnect and arrange for the disconnection and removal of all temporary Utility connections and services. The Design-Builder shall coordinate with the Town on all temporary Utilities.

5.5.7 Relocation of Existing Utilities.

The Design-Builder shall be responsible for all Construction activities required with regard to existing utility services and installations (e.g., conduits, pipelines, transmission mains and other utility equipment and appurtenances), including after Town review and approval of any relocation of Utilities consistent with the Design-Builder's Utility Relocation Plan.

5.5.8 Noise Control and Construction Work Hours.

The Design-Builder shall comply with all noise regulations required pursuant to Applicable Law. The Design-Builder shall not perform Construction work between 6 PM and 7 AM, or on Sundays, holidays or Saturdays without specific permission from the Town.

5.6. COORDINATION OF CONSTRUCTION WORK AND OPERATIONS**5.6.1 Maintenance of Operations.**

The Design-Builder shall take no actions during Construction that adversely affect operation of Town, public or private Utilities. The Town shall arrange and provide all necessary bypasses and other measures needed to maintain utility service.

5.6.2 Coordination with Related Projects

The Design-Builder shall take no actions during Construction that adversely affect the construction of the Related Projects.

5.7. CONSTRUCTION SAFETY AND SECURITY**5.7.1 Safety and Security.**

The Design-Builder shall maintain safety and security at the Project Sites at all times at a level consistent with the Contract Standards. Without limiting the foregoing, the Design-Builder shall:

- (a) Take appropriate precautions for the safety and security of the Design-Build Work and provide appropriate protection to prevent damage, injury or loss related to the performance of the Design-Build Work over the Design-Build Period for:
 - (1) Workers at the Project Sites and all other persons who may be involved with deliveries or inspections;
 - (2) Visitors to the Project Sites;
 - (3) Passersby, neighbors and adjacent properties with respect to the Design-Build Work activities;
 - (4) Materials and equipment under the care, custody or control of the Design-Builder or Subcontractors on the Project Sites;
 - (5) Other property constituting part of the premises or the Project under construction; and
 - (6) Town Property;

-
- (b) Establish and enforce appropriate safeguards for safety and protection, including posting danger signs and other warnings against hazards;
 - (c) Provide temporary fencing of all open or partially open trenches and excavations, all open or partially completed structures, and all work and storage areas at all times while unattended by workmen;
 - (d) Implement a comprehensive safety program in accordance with Applicable Law;
 - (e) Give all notices and comply with all Applicable Law relating to the safety of persons or property or their protection from damage, injury or loss;
 - (f) Operate and maintain all equipment in a manner consistent with the manufacturer's safety requirements;
 - (g) Provide for safe and orderly vehicular movements and maintain compliance with the Traffic and Pedestrian Control Plan prepared as a Preliminary Service;
 - (h) Develop and implement a Project Sites-specific update to the Health and Safety Plan for the Design-Build Period Work that includes management commitment, maintaining a safe workplace, employee participation, hazard evaluation and controls, employee training and periodic inspections;
 - (i) Designate an appropriately certified and experienced safety professional to develop and sign the Project Sites-specific update to the Health and Safety Plan for the Design-Build Period Work, including all safety rules at the Project Sites;
 - (j) Designate a qualified safety professional at the Project Sites during on-site Construction activities who shall be responsible for the implementation of safety rules at the Project Sites, the prevention of fires and accidents, monitoring compliance with the Design-Builder's Project Sites-specific update to the Health and Safety Plan for the Design-Build Period Work, and the coordination of such activities as shall be necessary with the Town and all Governmental Bodies related to health and safety; and
 - (k) Require all Subcontractors to work in accordance with and implement the updated Health and Safety Plan for the Design-Build Period Work, comply with the Design-Builder's on-site safety requirements, and designate a qualified safety professional whose duty shall be the implementation of safety rules at the Project Sites and monitoring compliance of Subcontractor employees with the Project Sites-specific update to the Health and Safety Plan for the Design-Build Period Work.

5.7.2 Construction Site Security.

The Design-Builder shall develop, maintain and comply with a Project Sites security plan that complies with Appendix 5 is approved by the Town and constitutes part of the Health and Safety Plan. The security plan shall provide for the security of the Project Sites when perimeter fencing cannot be continuously maintained.

5.8. OPERATIONS AND MAINTENANCE MANUAL

5.8.1 Development by the Design-Builder

The Operations and Maintenance Manual shall be a secured online, electronic manual with hard copy reproduction capability. During the Design-Build Period, the Design-Builder shall develop the Operations and Maintenance Manual in accordance with the Contract Standards. The Design-Builder shall provide the Town with preliminary, interim, pre-final and final versions of the Operations and Maintenance Manual for the Town's review, comment and approval.

A pre-final Operations and Maintenance Manual shall be submitted to and approved by the Town as a condition precedent to the achievement of Substantial Completion. A final Operations and Maintenance Manual shall be submitted to and approved by the Town as a condition precedent to the achievement of Final Completion.

5.8.2 Content of the Operations and Maintenance Manual

The Operations and Maintenance Manual shall (i) include the practices and procedures necessary for Project operation and control, auxiliary facility equipment and systems, system maintenance, repair and replacement, and grounds and buildings maintenance; and (ii) integrate all equipment and systems manuals and Service Manuals. The Operations and Maintenance Manual will be comprehensive, suitable as a resource for training operational staff, and will include the following information:

- (a) process design criteria;
- (b) Project layout drawings and process flow diagrams;
- (c) detailed operation and control procedures;
- (d) standard operating procedures;
- (e) emergency response procedures;
- (f) maintenance instructions, including:
 - (1) information necessary to properly assemble and install the equipment, including alignment, clearances, tolerances and interfacing equipment requirements; the trade and skill level required to install the equipment; any special rigging required to place the equipment; and any special test equipment required to place the equipment in service;
 - (2) manufacturer's schedule for routine preventive maintenance, calibration, lubrication, inspections, tests, and adjustments required to provide for proper and economical operation and to minimize corrective maintenance and repair;
 - (3) manufacturer's projection of preventive maintenance labor-hours on a daily, weekly, monthly, and annual basis, including required trades and skill levels required for performance of maintenance and the total time required to perform the work;

-
- (4) manufacturer's troubleshooting guide and recommendations on procedures and instructions for correcting problems and making repairs;
 - (5) step-by-step procedures to isolate the cause of typical malfunctions, describing clearly why the checkout is performed and what conditions are to be sought;
 - (6) a description of maintenance and operating tools, replacement parts and materials, including specified quantity of spare parts;
 - (7) information available from the manufacturers to use in training personnel to maintain the equipment and systems properly;
 - (8) information on test equipment required to perform specified tests and/or special tools needed for the maintenance and repair of components;
 - (9) instructions related to when equipment is in operation, including lubrication requirements;
 - (10) all warranty information, including effective warranty dates;
 - (11) Governmental Approvals indicating approval of all installations requiring permits; and
 - (12) the development of asset records and the means to assess equipment condition;
- (g) a long-term schedule of major repairs and replacements, including a long-term budgeting plan to maintain the operability, durability and reliability of the Project through its projected operational life;
- (h) the practices and procedures necessary to maintain the appearance of the buildings, grounds and landscaping of the Project; and
- (i) procurement procedures for all additional tools, equipment, maintenance supplies and component parts necessary for the operations and maintenance of the Project, including specifications and quantity of the items to be procured and procedures for planning and scheduling delivery of such items.

[Note: To be developed.]

5.9. SERVICE MANUALS

The Service Manuals shall include the practices and procedures necessary for the operation and control, maintenance, and repair and replacement of each equipment system, package, or unit incorporated into the Project. The Service Manuals shall be suitable as a resource for operating and maintaining the components of the Project, and shall include the following information:

- (a) safety information for each equipment system, package or unit incorporated into the Project, including mechanical and electrical lockout procedures for all Project components; and

-
- (b) descriptions of units or systems and component parts, their functions, operating characteristics and limiting conditions, including:
 - (i) equipment summary, which will include nameplate data, supplier, manufacturer and local representative;
 - (ii) start-up sequences, including inspections required before initiation of sequence;
 - (iii) performance monitoring requirements to confirm proper operation and guide component control adjustments;
 - (iv) adjustment of variable functions and settings;
 - (v) interface among the components and systems of the Project;
 - (vi) troubleshooting guidelines to identify non-performing components and identify probable cause;
 - (vii) shut-down sequences and lock-out requirements to safely remove components from service without adverse impact on system performance;
 - (viii) preparation to isolate off-line equipment piping, power, and controls for safe execution of maintenance activities; and
 - (c) description of instrumentation and control system, including alarm summary.

Pre-final Service Manuals shall be submitted to and approved by the Town as a condition precedent to the achievement of Substantial Completion. Final Service Manuals shall be submitted to and approved by the Town as a condition precedent to the achievement of Final Completion.

5.9.2 Electronic Requirements

The Operations and Maintenance Manual will cover all process, electrical, instrumentation, and control equipment in the Project as secure digital electronic files that are designed for both web-based and local network access [with capability to be linked and coordinated the Chico WPCP]. The Design-Builder shall:

- (a) provide links within the final Operations and Maintenance Manual to digital files of all Final Design Documents and individual equipment service manuals;
- (b) provide special secure applications and links required to permit access to the final Operations and Maintenance Manual files from hand-held electronic devices and other portable or fixed electronic devices designated by the Town; and
- (c) coordinate digital Operations and Maintenance Manual development with the Town's information technology group to determine compatibility with currently available hardware and software in the Town network.

[Note: To be developed.]

5.10. ENVIRONMENTAL REVIEW AND PROTECTION**5.10.1 Wildlife and Protected Species Protection.**

In accordance with the Environmental Mitigation Measures, if any exist, the Design-Builder shall develop and implement a plan that is consistent with required mitigation measures for wildlife and protected species that may be affected by Construction activities of the Design-Builder. Prior to implementing the plan, the Design-Builder shall obtain Town approval.

5.10.2 Design-Builder Construction Environmental Monitor.

If required by the Environmental Mitigation Measures, if any exist, the Design-Builder shall assign a Design-Builder Construction Environmental Monitor (the “**CEM**”) to confirm that its mitigations plan is properly and fully implemented. The CEM shall be the single, identified entity or person responsible for, at a minimum, the following duties:

- (a) Planning of environmentally compliant construction methods.
- (b) Oversight of Construction activities to determine compliance with mitigation measures.
- (c) Ensuring that all training has been conducted, and signage, marking and barriers to protected areas have been installed.
- (d) Ensuring compliance with the Stormwater Pollution Prevention Program (SWPPP).
- (e) Coordination with the Town on implementation of environmental mitigation measures.
- (f) Coordination with Governmental Bodies that have administrative oversight of the environmental sites to be protected, if required.
- (g) Compliance with environmental Governmental Approvals.
- (h) Meeting or interacting with representatives of Governmental Bodies with environmental oversight authority, if required.

All environmental monitoring duties conducted by the CEM shall be recorded in the form of a standard report and photographic log (as required). The photographic log shall be kept in both electronic and hardcopy form. All reports shall be submitted to the Town in summary form on a monthly basis or more frequently if required by the Town. Copies of all daily monitoring records shall be maintained at the Terminus Site by the CEM.

5.10.3 Contaminated Media Management Plan.

The Design-Builder shall develop, maintain and implement a Contaminated Media Management Plan that includes at a minimum the requirements specified in this Section 5.10.3 and Appendix 2. A copy of the Contaminated Media Management Plan shall be submitted to the Town and all appropriate Governmental Bodies for review and approval. The intent of the plan is to prevent accidental spills, site contamination, and injury or illness of all personnel on the site due to contact or exposure to Regulated Substances. The Town shall notify the Design-Builder of any observed conditions that may be in violation of the plan. If the Design-Builder fails to address Town-reported concerns about observed conditions that may be

in violation of the plan in a timely and appropriate manner, the Town may notify all appropriate Governmental Bodies, and report the observed conditions to them, and request that they inspect the sites involved that are under the Design-Builder's control. All documents required by the Contaminated Media Management Plan shall be made available to the Town immediately upon request.

5.10.4 Design-Builder Regulated Substances.

Any Regulated Substances generated by the Design-Builder shall be the responsibility of the Design-Builder. The Design-Builder shall obtain an EPA identification number for all Design-Builder Regulated Substances, listing the Design-Builder's name and construction site address as the generator of the Design-Builder Regulated Substances. The Design-Builder shall be responsible for the identification, analysis, profiling, documentation, reporting, transport and disposal of Design-Builder Regulated Substances. Any fines that are levied against the Town for violations of Applicable Law as determined by any Governmental Body relating to Design-Builder Regulated Substances shall be reimbursed immediately by the Design-Builder after payment by the Town.

5.10.5 Emergency/Spill Response Plan.

As part of the Design-Build Period Work, the Design-Builder shall develop an Emergency/Spill Response Plan (the "**Emergency Response Plan**"), for each Regulated Substance or class/group of Regulated Substances either known to be on the Project Sites or intended to be brought to the Project Sites by the Design-Builder. At a minimum, the Emergency Response Plan must include the following:

- (a) A description of on-site equipment available to contain and respond to an emergency/spill of the Regulated Substance.
- (b) Notification procedures, including notification to potentially impacted residents adjacent to the Project Sites.
- (c) Response coordination procedures between the Design-Builder and the Town.
- (d) A Regulated Substance site map showing the location of stored Regulated Substances and location spill containment/response equipment.
- (e) A description of the Regulated Substances handling and spill response training provided to the Design-Builder's employees and Subcontractors.

5.10.6 Dust Control.

The Design-Builder shall be responsible for dust control during the performance of the Design-Build Work and shall comply with all applicable air pollution control regulations and the Environmental Mitigation Measures, if any exist. The Design-Builder shall furnish all necessary labor, materials and equipment for dust control.

[THIS PAGE INTENTIONALLY LEFT BLANK]

APPENDIX 6

DESIGN-BUILD QUALITY ASSURANCE AND QUALITY CONTROL REQUIREMENTS

APPENDIX 6**QUALITY ASSURANCE AND QUALITY CONTROL REQUIREMENTS****6.1. PURPOSE**

The purpose of this Appendix is to describe the minimum requirements for the Quality Management Plan (the “**QMP**”) for each of the Preliminary Services and the Design-Build Period Work, including quality assurance (“**QA**”) and quality control (“**QC**”) procedures.

- (a) Quality assurance refers to the overall efforts to assuring project quality. Quality assurance shall include the planning and activities necessary to verify that the required QC activities have been satisfactorily conducted and that the quality requirements were met.
- (b) Quality control shall include the monitoring, inspection, sampling and testing as applicable, and evaluation of the Design-Build Work through the project to verify that quality requirements as specified in the Contract Documents are met. Quality control also includes the identification of any defective work and documentation of completed corrective measures.

6.2. TOWN’S QUALITY OBJECTIVES

The QMP is a critical component of the design and Construction of the Project. The QMP, including quality assurance and quality control (“**QA/QC**”), shall be consistent with and support the following quality objectives for the Project:

- (a) Confirm that permitting, design, construction and testing are consistent with the Contract Standards;
- (b) Confirm that Governmental and Non-Governmental Approval requirements are effectively incorporated into Design-Build Work;
- (c) Develop and implement procedures to provide that problems are discovered early, resolved in a timely manner, and do not recur;
- (d) Confirm that adequate QA/QC procedures and resources are provided by the Design-Builder to effectively assess and provide for high quality in all work products and services and compliance with warranty requirements, safety, security and environmental compliance requirements;
- (e) Provide timely reporting and documentation of QA/QC inspections, technical reviews, testing, analysis and determinations of compliance with the Contract Standards;
- (f) Provide follow up inspections, analysis and testing if conditions are found to be non-compliant with the Contract Standards and verify through special reports and direct communications with the Town that all corrective actions have been effectively implemented and that the resultant product or service is of acceptable quality.

6.3. ROLES AND RESPONSIBILITIES

6.3.1 Design-Builder's Role and Responsibilities for QA/QC.

The Project QA/QC functions as defined in this Appendix are the responsibility of the Design-Builder.

6.3.2 Town's Role and Responsibilities for QA/QC.

The Town ultimately retains its rights with respect to the Substantial Completion of the Project. The Town may perform design reviews, verification sampling and testing, independent assurance sampling and testing, review of the Design-Builder's construction management scheduling, and other actions to verify payment of progress payments under the terms of this Design-Build Contract. However, by doing these actions, the Town does not assume responsibility for any design or construction issue except as otherwise indicated in this Design-Build Contract.

6.4. QUALITY MANAGEMENT PLAN UPDATE AND IMPLEMENTATION

6.4.1 General Requirements.

The Project requires one QMP applicable to the Preliminary Services, as updated to become applicable to the Design-Build Period Work. The development and implementation of the QMP shall be the responsibility of the Design-Builder. The QMP shall integrate, as applicable, the permitting, design and construction as parts of the Project and shall include detailed QA and QC programs as attachments. Other QMP requirements are defined in Sections 6.5 and 6.6 of this Appendix.

6.4.2 Quality Management Plan Requirements.

As part of Subtask 1.1 of the Phase 1a Preliminary Services and within twenty-one (21) calendar days of Notice to Proceed, the Design-Builder shall prepare and submit its draft of the QMP for review and concurrence by the Town. The final QMP shall be submitted within twenty-one (21) calendar days of receipt of comments from the Town. Throughout the Preliminary Services, the Design-Builder shall also implement the activities described by the QMP, cause the Project team to be familiar with their contents, and keep the QMP up to date.

As part of the Design-Build Period Work and within twenty-one (21) calendar days of Notice to Proceed, the Design-Builder shall prepare and submit its draft of an update to the QMP for the Design-Build Period Work for review and concurrence by the Town. The final updated QMP for the Design-Build Period Work shall be submitted within twenty-one (21) calendar days of receipt of comments from the Town. Throughout the Design-Build Period Work, the Design-Builder shall also implement the activities described by the updated QMP for the Design-Build Period Work, cause the Project team to be familiar with their contents, and keep the QMP up to date.

The QMP shall include a description of how the Design-Builder will provide the following (as applicable to each of the Preliminary Services and the Design-Build Period Work, as applicable):

- (a) Adequate resources for effective plan implementation throughout the applicable stage of the Project.

- (b) Information on QA/QC staff to be assigned to the Project and their qualifications for performing required QA/QC functions;
- (c) Programs, procedures, methods, tests, analyses and communications procedures, reports, photographs and comments on drawings and specifications and other documents used by the Design-Builder to assess quality and compliance with the Contract Standards;
- (d) How the QA/QC program shall be empowered to enforce plan objectives, define quality requirements, independently verify quality of Preliminary Services and Design-Build Period Work products and services, identify potential causes of unacceptable quality of work and provide safeguards to prevent unacceptable work quality, and require prompt corrective action for identified deficiencies;
- (e) Communication of quality requirements to their commencement of providing products or services on the Project. This shall include information on the roles, responsibilities and authorities of identified QA/QC staff;
- (f) The Design-Builder shall submit its draft of the Quality Management Plan and its draft of the update to Quality Management Plan for the Design-Build Period Work, the Town will provide comments thereon and the Design-Builder shall submit the final forms thereof as outlined above; and
- (g) If any Early Work Packages are initiated prior to the GMP Submittal, the update to the Quality Management Plan for the Design-Build Period Work submittal shall be issued prior to Construction. The Town will provide comments on the Quality Management Plans, and the Design-Builder shall make required changes within twenty-one (21) calendar days of receipt of such comments.

6.4.3 Changes to the Quality Management Plan.

Revisions and updates to the QMP may be proposed by the Design-Builder as Preliminary Services and the Design-Build Work progresses. Changes to the approved QMP require written approval of the Town. Proposed revisions or updates shall be provided to the Town at least 30 days prior to the start of the Design-Build Work to which the revision applies. The Town will review and respond in a timely manner to QMP proposed changes. The Design-Builder shall not initiate any of the Design-Build Work that is impacted by such proposed revision or change until the Town has reviewed and accepted the change.

6.5. DESIGN QUALITY CONTROL AND QUALITY ASSURANCE REQUIREMENTS

6.5.1 Design QA/QC Program.

The Design-Builder has primary responsibility for design quality to cause the design documents to be professionally reviewed and checked to provide for a quality project. The QMP shall include the details of the Design-Builder's Design QA/QC program and include a description of how the Design-Builder will provide the following:

- (a) Design management functions and design review processes, which are the responsibility of the Design-Builder, will be described;
- (b) Typical design QC tasks to be accomplished by the Design-Builder will be described and may include technical review of design deliverables, checking of calculations, checking of quantities, and the review of specifications;

- (c) Describe the process to approve and release design packages for Construction in alignment with the Design QA/QC program;
- (d) Demonstrate that the Town retains oversight in the form of review and verification of the design's ability to meet the stated contract requirements. The Town and its designated consultants will participate in the design review process while not relieving the Design-Builder from its obligation to comply with the Contract Documents;
- (e) Describe the application of the Design QA/QC program through design review techniques to be used by the Design-Builder, such as over-the shoulder design reviews to supplement formal reviews, formal milestone reviews, and submittal reviews during the Design-Build Period.

6.5.2 Design Quality Assurance Manager.

The Design-Builder shall designate a Design Quality Assurance Manager to determine whether the Baseline Design Documents and other Contract Standards are being met and that design QA/QC activities are following the approved QMP. The Design Quality Assurance Manager shall compile and maintain documentation of the review.

6.6. CONSTRUCTION QUALITY CONTROL REQUIREMENTS

6.6.1 Construction QA/QC Program.

The QMP shall include the details of the Design-Builder's Construction QA/QC program, including the following:

- (a) The Construction QA/QC program shall require inspection during Construction by inspectors who are not responsible, in whole or in part, for the scheduling or Construction of the Design-Build Work being inspected.
- (b) Instructions for performing inspections must be clearly defined, including the work attributes to be inspected, acceptability criteria, frequency of inspections, and the requirements for documenting the inspection results.
- (c) Inspection records must be kept current, have sufficient detail to enable the Engineer-of-Record to identify inspections which have been performed, and the results of these inspections. Inspections must be made throughout the period of construction, including the initial construction, in-process inspections, final inspections, and testing during Construction.
- (d) Documentation requirements shall include contractor production reports, contractor quality control reports, field test reports, testing plan and log, inspection reports, rework items list and quality control meeting minutes.
- (e) Procedures and controls shall be provided to cause inspections to be performed using the latest Design Documents and approved shop drawings. Procedures shall require that an adequate number of inspection personnel are available as needed, and that all inspectors are qualified, trained, and proficient in performing inspections for the Design-Build Work to which they are assigned.
- (f) A full-time quality control inspector and necessary specialty inspectors are to be provided by the Design-Builder.

6.6.2 Non-Conforming Work.

The Construction QA/QC program shall establish and maintain a non-conformance system and procedures for uniform reporting, controlling, and disposition of nonconformance, including the following:

- (a) The non-conformance system shall describe methods to be implemented, including a daily non-conformance report (NCR), to identify and track all unsatisfactory, deviating, and nonconforming work until the required repair, rework, or replacement is performed, and the work has been re-inspected and accepted. In addition, the non-conformance system shall detail the methods and measures to be used to develop corrective action procedures and prevent the recurrence of non-conforming work.
- (b) The Construction QA/QC program shall detail the means and methods for identifying and correcting all Construction deficiencies such that Construction quality meets the Contract Standards and the Design-Builder's Design Documents.
- (c) The Construction Quality Assurance Manager shall be informed of all unsatisfactory conditions within 24 hours of identification, and a copy of the condition report sent to the design-engineer. The Design-Builder will correct any nonconforming conditions in accordance with Section 6.16 of this Design-Build Contract.
- (d) The Design-Builder is encouraged to make corrections for non-conforming work as soon as practical rather than waiting until Substantial Completion. The Town may use the NCR as a basis for conducting its own final acceptance activities.

6.6.3 Construction Quality Assurance Manager.

The Design-Builder shall designate a Construction Quality Assurance Manager to determine whether the Baseline Design Documents and other Contract Standards are being met and that Construction QA/QC activities are following the approved QMP.

6.6.4 Materials and Equipment.

The Construction QA/QC program shall set the minimum requirements for the quality of all material and equipment. Procedures shall be used to verify that the procurement documents meet all Contract Standards and the Design-Builder's Design Documents, and shall include the following

- (a) Define how quality will be controlled during the manufacture and testing of all equipment which is being fabricated for the Project.
- (b) Written documentation of inspection of all material and equipment to confirm that it meets all Contract Standards and the Design-Builder's Design Documents. Documentation such as material test reports, certifications, and equipment tests results must be delivered to the Town and the Town-designated representatives to demonstrate compliance with all Contract Standards and the Design-Builder's Design Documents.

- (c) Monitoring procedures to confirm that material and equipment is delivered to the Project Sites are undamaged, in the proper quantities and in accordance with the specification requirements, and that all materials and equipment are stored and maintained on the Project Sites according to the Contract Standards, including the requirements of the designer and the manufacturer.

6.6.5 Construction Management and Testing.

The Design-Builder shall provide all necessary construction management and comprehensive construction administration for the Design-Build Period Work. Construction inspectors, who shall be provided with the latest Design Documents released to Construction, shall perform initial verification of procurement and Construction activities at the Project Sites, so that any conflicts will be identified at an early stage. The Construction QA/QC program shall clearly identify the circumstances under which the Design-Builder's registered soils or geotechnical engineer and the Engineer-of-Record will be involved in Construction quality oversight. The Design-Builder shall perform all testing and inspections as required by the Contract Standards, approved design documents, applicable codes, regulations, and standards (such as ACI and ASTM) which may be referenced in Appendix 4. Section 1.2(R) of this Design-Build Contract shall govern any conflicts or inconsistency in the stringency of test requirements.

6.6.6 Laboratories.

All Construction testing shall be performed by individuals who are qualified and experienced in providing these testing services. Equipment used to perform tests shall be calibrated according to requirements in the testing procedure. The Design-Builder shall hire a certified independent testing laboratory to perform all laboratory testing. The laboratory selected shall be authorized to operate in the State, certified under the State's Environmental Laboratory Accreditation Program, as applicable, and shall be subject to the approval of the Town. Design-Builder requests for laboratory approval shall be made by the Design-Builder in a timely manner, in writing, to the Town. Laboratory tests shall include the proposed concrete mix design, concrete aggregate tests, strength of concrete field test cylinders, gradation, and moisture density relationship of soils. The certified testing laboratories must also perform on-site tests that the Design-Builder is not experienced, qualified, or certified to perform or that require independent testing under the Contract Standards. On-site tests shall include tests for: concrete slump, concrete air entrainment, concrete temperature, casting of concrete test cylinder specimens, in-place testing of concrete strength, compaction density testing of soils, and bedding materials coating thickness measurements and structural bolting torque.

6.7. INSPECTION OF DESIGN-BUILD WORK

6.7.1 Inspection and Correction.

All Design-Build Work performed by the Design-Builder or its Subcontractors shall be inspected by the Design-Builder. All nonconforming Design-Build Work and any safety hazards in the work area shall be noted and promptly corrected. The Design-Builder is responsible for the performance of the Design-Build Work safely and in conformance with Section 5.7 of Appendix 5.

6.7.2 Town Access.

The Town, its employees, agents, representatives and contractors shall be permitted access to all parts of the Design-Build Work, including plants where materials or equipment are manufactured or fabricated. The presence of the Town, its employees, agents, representatives and contractors shall not relieve the Design-Builder of the responsibility for the proper

execution of the Design-Build Work in accordance with all requirements of the Contract Documents. No act or omission on the part of the Town, its employees, agents, representative and contractors (other than Town Fault) shall be construed as relieving the Design-Builder of this responsibility.

6.7.3 Materials Inspection.

All materials and articles furnished by the Design-Builder shall be subject to documented inspection, by qualified personnel, and no materials or articles shall be used in the Design-Build Work until they have been inspected and accepted by the Construction QA/QC Manager or other designated representative. Any Design-Build Work covered in the absence of inspection shall be subject to uncovering as set forth in Section 6.15 of this Design-Build Contract.

6.8. TIME OF INSPECTION AND TESTS

Whenever the Design-Builder is ready to backfill, bury, cast in concrete or otherwise cover any Design-Build Work, the Town shall be notified before such covering and completion, and the Town shall notify the Design-Builder of a requested inspection of any such Design-Build Work as set forth in Section 6.15(G) of this Design-Build Contract. Failure of the Design-Builder to properly notify the Town, as required by Section 6.15(G) of this Design-Build Contract, in advance of any such covering or completion shall be reasonable cause for the Town to request the Design-Builder take apart or uncover for inspection or testing any previously covered or completed Design-Build Work in accordance with Section 6.15(G) of this Design-Build Contract. The costs of any uncovering, taking apart, remedial or corrective work required and all costs of such delays, including the impact on other portions of the Design-Build Work, shall be borne as set forth in Section 6.15(G) of this Design-Build Contract.

6.9. MATERIALS SAMPLING AND TESTING

6.9.1 Materials Testing and Removal.

All sampling and testing of materials shall be conducted in accordance with the methods prescribed in the current standards of the ASTM or otherwise required by the Contract Standards, as applicable to the class and nature of the article or materials considered. The Town reserves the right to require the Design-Builder to use any generally accepted system of inspection that, in the opinion of the Town, will provide sufficient evidence to the Town that the quality of the materials workmanship is in full accord with the Contract Documents. Results of such tests and analyses shall be considered along with the tests or analyses made by the Design-Builder to determine compliance with the applicable specifications for the materials so tested or analyzed. Wherever any material, as a result of such independent testing or investigation by the Town, fails to meet the requirements of the Contract Documents, all costs of such independent inspection and investigation and all costs of removal, correction, reconstruction, or repair of any such material shall be borne by the Design-Builder in accordance with Sections 6.15(G) and 6.16 of this Design-Build Contract.

6.9.2 Materials Rejection.

The Town shall have the right at all times and places to reject any articles or materials to be furnished hereunder which, in any respect, fail to meet the requirements of the Contract Documents, regardless of whether the defects in such articles or materials are detected at the point of manufacture or after completion of the Design-Build Work at the Project Sites. If the Town, through an oversight or otherwise, has accepted materials or work which are defective or in any way contrary to the Contract Documents, such materials, no matter in what stage or

condition of manufacture, delivery, or erection, may be rejected. The Design-Builder, at its cost and expense and without any adjustment to the Scheduled Substantial Completion Date and the Scheduled Acceptance Date, shall promptly remove and replace rejected articles or materials from the Project Sites after notification of rejection.

6.10. MATERIALS TESTING SERVICES

6.10.1 Design-Builder's Laboratories.

The Design-Builder shall perform all tests requiring the services of a laboratory, to determine compliance with the Contract Documents, using independent commercial materials testing firms acceptable to the Town. The materials testing firm's laboratory shall be staffed with experienced technicians, properly equipped, and fully qualified to perform the tests in accordance with the specified standards. The Design-Builder shall obtain the Town's acceptance of the testing firm before having testing services performed, and pay all costs for these testing services.

6.10.2 Interruptions For Testing and Sampling.

The Design-Builder shall furnish all sample materials and cooperate in the testing activities, including sampling, and shall interrupt the Design-Build Work when necessary to allow testing, including sampling, to be performed. The Design-Builder shall have no claim for an increase in the Design-Build Price or extension of the Scheduled Substantial Completion Date due to such interruption. When testing activities, including sampling, are performed in the field by the testing firm's laboratory personnel, the Design-Builder shall furnish personnel and facilities to assist in the activities.

6.10.3 Test Reports.

Written reports of tests and engineering data regarding materials and equipment proposed to be used in the Design-Build Work shall be submitted by the Design-Builder for the Town's review. The testing firm's laboratory shall perform all laboratory tests within a reasonable time, consistent with the specified standards, and shall furnish a written report of each test. The Town shall furnish one copy of each field and laboratory QA/QC test conducted by the Town to the Design-Builder. The testing firm retained by the Design-Builder for material testing shall furnish a written report for each test. A copy of each test report shall be transmitted directly to the Town and Design-Builder electronically, within five days after each test is completed. The Design-Builder shall consecutively number each report for each type of test.

6.10.4 Town's Laboratories.

The Town shall have the right to inspect work performed by the Town-approved independent testing laboratory utilized by the Design-Builder, both at the Project Sites and at the laboratory. This may include inspection of the independent testing laboratory's internal quality assurance records (quality assurance manual, equipment calibrations, proficiency sample performance, etc.). Testing services provided by the Town, if any, are for the sole benefit of the Town; however, test results shall be available to the Design-Builder. Testing necessary to satisfy the Design-Builder's internal QA/QC procedures shall be the sole responsibility of the Design-Builder.

6.10.5 Materials to be Tested.

The Design-Builder shall provide all testing services in connection with the following materials as required under Good Design-Build Practice, and deliver the test reports for review by the Town:

- (1) Concrete materials and mix designs.
- (2) Asphalt concrete materials and design mixtures.
- (3) Embankment, fill, and backfill materials.
- (4) QC testing of all precast concrete.
- (5) Holiday testing of pipeline coatings.
- (6) Air testing of field-welded joints for steel pipe and fabricated specials.
- (7) Hydrostatic testing of pipeline and structures.
- (8) Concrete strength tests.
- (9) Magnetic particle or dye penetrant testing of field welds for steel pipe and fabricated specials.
- (10) Moisture-density and relative-density tests on embankment, fill, and backfill materials, pipe bedding, and road bedding.
- (11) In-place field density test on embankments, fills, backfill, pipe bedding and road bedding.
- (12) Other materials and equipment as specified herein.
- (13) All other tests and engineering data required for the Town's review of materials and equipment proposed to be used in the Design-Build Work.

6.11. INSTALLATION**6.11.1 Inspection and Measurement.**

The Design-Builder shall inspect materials or equipment upon the arrival at the jobsite and immediately prior to installation, and remove damaged and defective items from the jobsite. The Town shall be provided the opportunity to observe any such Design-Builder inspections in accordance with Section 6.15 of this Design-Build Contract. The Design-Builder shall verify measurements and dimensions of the work as an integral step of starting each installation.

6.11.2 Manufacturer's Instructions.

Where installations include manufactured products, the Design-Builder shall comply with manufacturer's applicable instructions and recommendations for installation, to whatever extent these are more explicit or more stringent than the Contract Standards, so as not to violate manufacturers' warranty conditions.

6.12. PERSONNEL QUALIFICATIONS

The QMP shall include a QA/QC organization chart with named individuals performing QA/QC including their experience and qualifications. The QMP shall describe staffing levels required for QA/QC and qualifications and experiences requirements for persons performing QA/QC functions, including the following:

- (a) Description of minimum qualifications and experiences that demonstrate quality management personnel have related experience and certifications. Typically, this indicates professional engineers and professional certified quality personnel who have a certain level of similar project experience, which may include:
 - (i) QA/QC Management/Supervisors should possess experience managing professional personnel in similar circumstances or on similar projects; demonstrate excellent communication skills; possess a working knowledge of QA/QC and quality management; possess certification as quality professionals by appropriate certifying bodies or have completed training courses in the quality discipline.
 - (ii) The Design Quality Assurance Manager must be a registered professional engineer in the State; may work directly for the Design-Builder or may be contracted from an independent firm or organization; must have at least five years' experience in projects similar in scale or scope to the Project.
 - (iii) The Construction Quality Assurance Manager may work directly for the Design-Builder or may be contracted from an independent firm or organization; must have at least five years of recent experience (within the past ten years) overseeing the inspection and materials testing of projects similar in scale or scope to the Project.
 - (iv) QA and QC reviewers, inspectors, and testing technicians for design and Construction must be qualified for the duties they must perform; must possess the appropriate education or experience commensurate with the job responsibilities; and must possess the necessary certifications required for assignments.
- (b) Persons performing QC and/or QA functions shall be at an organizational level that reports directly to upper level management of the Design-Builder to assure independence from the influences of the Project production staff.
- (c) All key personnel performing QC and/or QA functions shall be identified.

APPENDIX 7

DESIGN-BUILD WORK REVIEW PROCEDURES

APPENDIX 7**DESIGN-BUILD WORK REVIEW PROCEDURES****7.1. OVERVIEW****7.1.1 Purpose.**

The purpose of this Appendix is to set forth the procedures for the Town's review of each aspect of the Design-Build Work to verify that the Project has been designed and constructed in accordance with the Contract Documents.

7.2. DOCUMENTS TO BE SUBMITTED

At a minimum, the documents to be submitted during the Design-Build Period shall include the following:

- (a) Monthly Design-Build Period Work Schedule updates
- (b) Intermediate submittals for review sessions and workshops on various materials, facilities, systems, equipment, and disciplines
- (c) Final Design Documents (issued for Construction)
- (d) Test reports
- (e) Operations and Maintenance Manual, if applicable
- (f) Applications and supporting documents required for any remaining Governmental Approvals
- (g) Record drawings and specifications

7.2.2 Design-Construction Work Package Information.

Consistent with its Town-approved Design and Construction Phasing Plan, the Design-Builder shall have flexibility with how it organizes and performs design-Construction work packages so that it can proceed with ordering any necessary materials and equipment or commence with any Early Works Package(s) prior to the Final Design; provided, however, such Construction or ordering of materials and equipment prior to the Final Design shall not negatively affect the remaining Design-Build Period Work, the Design-Build Price or the Design-Build Period Work Schedule. The Design-Builder shall provide the following information in the appropriate design-construction work package(s):

- (a) Specifications, Design Narratives and Lists:
 - (1) Project design criteria
 - (2) Specifications list
 - (3) Piping list
 - (4) Valve list, if applicable

-
- (5) Cathodic protection narrative, if applicable
 - (6) Construction sequencing and Dewatering Narrative
 - (7) Contaminated Media Management Plan
 - (8) Specifications (general requirements, civil, structural, specialties and mechanical sections)
- (b) Drawings prepared and accepted for the GMP Submittal Design Level shall continue to be progressed to Final Design completion and shall be submitted, in both electronic and standard design formats:
- (1) Cover sheet
 - (2) Drawing index
 - (3) List of abbreviations
 - (4) Legends
 - (5) Layouts of the Project Sites and Piping
 - (6) Construction Staging and Phasing Plans
 - (7) Access and Traffic Control Plans
 - (8) Landscape plans, surface restoration and irrigation plans and details
 - (9) TESC plans and details
 - (10) Project Sites grading and utility plans, with sections as needed for Construction clarity or dimensioning
 - (11) Surface drainage plans and details
 - (12) Outfall structure and other structural foundation plans and sections
 - (13) Outfall structure and other structural plans
 - (14) Outfall structure and other structural exterior elevations and sections, if applicable
 - (15) Sections through all major crossings and structures
 - (16) Other systems plans, details and schedules, if applicable
 - (17) Pipeline plan and profile sheets
 - (18) Pipeline sections and details
 - (19) Tunnel and access pit plans, sections and details
 - (20) Dewatering plans and details

7.3. TOWN REVIEW DURING GOVERNMENTAL AND NON-GOVERNMENTAL APPROVAL PROCESS

The Design-Builder's responsibilities for obtaining and maintaining the Governmental and Non-Governmental Approvals required for Construction of the Project are described in Section 6.5 of this Design-Build Contract and Appendix 3. The Town shall have the right to review and comment on Design-Builder submittals as provided by Section 6.5 of this Design-Build Contract and this Appendix. Governmental Approval applications shall not include design specifications or drawings that the Town has not previously reviewed. For all Governmental Approval applications, the Design-Builder shall provide draft copies of the applications and supporting documents for Town review and comment. The Town's review will not diminish the Design-Builder's responsibility for timely submittals of complete applications for Governmental Approvals. The Town may attend Design-Builder meetings with permitting agencies and help arrange for agency reviews and meetings.

7.4. TOWN DOCUMENT REVIEW**7.4.1 Town Review Responsibilities.**

The Town shall review design-construction work package documents included in the Design-Builder's Final Design Documents for compliance and consistency with the design at the GMP Amendment and for overall compliance with the requirements of the Contract Documents. The Town's input during finalization of the design documents and preparation and finalization of design-construction work packages shall be solicited by the Design-Builder on a timely basis so as to provide adequate periods for review by the Town, revisions by the Design-Builder and final review by the Town without negatively impacting the Design-Build Period Work Schedule. The Town shall make reasonable efforts to bring staff or representatives with review and decision-making authority to the work sessions as requested and scheduled by the Design-Builder. The Design-Builder shall provide the Town with advance notice of the work sessions and agenda topics to facilitate the Town's scheduling of the appropriate participants for the work sessions. The Design-Builder shall provide the Town with Final Design Documents before commencing any Construction activity, except as provided in Section 7.2.2 of this Appendix. Construction activities shall not vary from the Final Design Documents submitted to the Town except where such variations are allowed, subject to the Town's and applicable Governmental Body's review and approval. Adherence to the Final Design Documents as well as to the Baseline Design Documents during work completion shall be a factor used by the Town in its review and approval of the Design-Builder's Payment Requests during Construction.

7.4.2 Changes to Baseline Design Documents.

Any change requested by the Design-Builder to the Baseline Design Documents (regardless of prior oral discussion) must be clearly identified by the Design-Builder in its cover letter that transmits the submittal and must be fully documented with compelling justification of the Design-Builder's request for a change to the Baseline Design Documents and the benefits to the Town for consenting to such a change. Any such change shall comply with the requirements set forth in Article 6 of this Design-Build Contract, as applicable. No change to the Baseline Design Documents shall be made except with the Town's approval pursuant to Section 6.7 of this Design-Build Contract. The Design-Builder shall assume all risks associated with obtaining Town approval of any change to the Baseline Design Documents.

7.4.3 Time for Town Review.

Town review time for Preliminary Services Period submittals is planned to be no longer than two weeks, unless otherwise agreed to by the Town and the Design-Builder. Town review time for Design-Build Period submittals will be established by the GMP amendment.

The Design-Builder and the Town shall periodically review key submittals and the target submittal dates, and develop a submittal review schedule for each submittal based on the content and criticality of each submittal. The Town shall complete its review of each submittal in a timely manner based on such target submittal dates in order to determine that the Design-Build Work conforms to the Baseline Design Documents and other Contract Standards. Nothing in this Section 7.4 shall prevent the Town from conducting a subsequent review raising a question as to whether the submittal was in compliance with the Contract Standards.

The review and comment rights of the Town under this Appendix are intended for the informational purposes of the Town and for the Town to determine whether the Design Documents comply with the Baseline Design Documents and other Contract Standards. The Town's approval of any Design-Document shall not be required in order for the Design-Builder to proceed with the performance of the Design-Build Work.

7.4.4 Time for Design-Builder Response.

For each submittal, the Town shall provide written comments in a tabular summation describing any concerns, problems, or assertions of non-compliance with the applicable Contract Standards. The tabular summation shall be on a form created mutually by the Design-Builder and the Town, with provisions on the form for the Design-Builder's responses. The Design-Builder shall provide a written response to the Town's comments within 15 days of receipt of the Town's comments, primarily through use of the tabular summary form, including documentation of responses and agreed-upon action items.

7.4.5 Design-Build Progress Meetings.

For the purpose of facilitating a timely review process, the Design-Builder shall schedule design-build progress meetings with the Town on a routine basis and at least bi-weekly (unless both parties agree that more frequent meetings are required) throughout the design finalization and design-construction work package development period. Any outstanding review comments not satisfactorily resolved shall be transferred to an issues tracking form by the Design-Builder for subsequent follow-up. The primary purpose of these meetings shall be to discuss overall Design-Builder work progress, the conformance of the design and design-construction work packages to the Baseline Design Documents, and to address outstanding issues arising from the review and response process. The status and issues of related permitting and early Construction activities may also be included as agenda items for each design-build progress meeting. These meetings shall be held in the Town's offices, or another location agreed to by the Town. Design-Builder representatives with responsibility for design and Construction shall participate in the meeting. Similarly, the Town shall be appropriately represented by individuals with knowledge and authority for decision making at the meeting.

7.4.6 Design Submittals During Construction.

It is anticipated that there could be some redesign or design clarifications needed during Construction. Additional design work by the Design-Builder shall be subject to the Town's review for compliance and consistency with applicable Baseline Design Documents and Contract Standards. Design changes to a particular Design Document performed following the issuance of the Design Document for Construction shall be issued under a Design Change

Notice (DCN) process that accurately tracks and documents changes to the design. No later than 30 days prior to initiation of Construction, the Design-Builder shall submit to the Town any DCNs. The Town shall be provided with copies of all DCNs in a timely manner to allow review, comment, and, where appropriate, approval in the same manner as set forth with respect to the initial design. Design clarifications shall be issued in a timely manner using a similar procedure. If a DCN requires a material change from what was reflected in the applications for Governmental Approvals, the DCN must be approved by the appropriate Governmental Body if required by Applicable Law.

7.4.7 Design Change Authority.

The Design-Builder shall be responsible for providing design changes to the Design Documents necessary to complete the Project in accordance with the Contract Documents. All such changes shall be implemented in accordance with the DCN process described above, and in accordance with this Appendix. No DCN shall operate to change the Baseline Design Documents unless approved by the Town in writing. Any DCN which requests a change to the Baseline Design Documents shall be subject to the Town's rights under Section 7.4.2 of this Appendix.

7.5. TOWN CONSTRUCTION INSPECTION

7.5.1 Construction Review Intent.

The Town and its designated representatives, including the Owner Representative, shall have the right, as provided in this Appendix, to review and inspect Construction activities and participate in Construction progress meetings as needed to verify compliance with the Contract Standards. In addition, the Town shall have the right to monitor the progress of Construction work and verify all applications for payment covering all Construction work performed during the preceding calendar month in accordance with the procedures set forth in Article 9 and Appendix 8 of this Design-Build Contract. Notwithstanding the Town's review of Construction activities, the Design-Builder shall be fully responsible for means, methods, techniques, sequences, and procedures of Construction, as well as safety precautions and programs in the performance of the Design-Build Work. The Town's review and involvement in Construction activities is intended for the informational purposes of the Town and to monitor compliance with the Contract Documents. Such activities shall also be a part of the Town's independent quality assurance process and shall not be viewed as an additional layer or integral part of the Quality Management Plan.

7.5.2 "Or Equals".

Whenever an item of material or equipment is specified in the Baseline Design Documents by using the name of a proprietary item or the name of a particular supplier, and is followed by the words "or equal", material or equipment of other suppliers may be considered. The Town shall determine, acting reasonably, the acceptability of proposed "or equal" items associated with the Design-Build Work. The Design-Builder shall reserve adequate time for the Town to review and approve all "or equal" items for the Design-Build Work. Any delays resulting from submittal of "or equal" items shall be the responsibility of the Design-Builder. The Design-Builder's design personnel shall be permitted to review proposed "or equal" suppliers for the balance of the Design-Build Work.

7.5.3 Named Suppliers.

Whenever an item of material or equipment is specified in the Baseline Design Documents by using the name of a proprietary item or the name of a particular supplier, and is not followed by the words “or equal”, the Design-Builder shall provide the named material or equipment.

7.5.4 Functionally Equal.

If, in the Town’s reasonable discretion, an item of material or equipment proposed by the Design-Builder for the Design-Build Work is functionally equal to that named, it may be considered by the Town as an “or equal” item. A proposed item of material or equipment shall be considered functionally equal to an item so named if:

- (a) The Town determines that:
 - (1) it is at least equal in quality, durability, appearance, strength, and design characteristics; and
 - (2) it shall reliably perform at least equally well the function imposed by the design concept of the completed Project as a functioning whole; and
- (b) the Design-Builder certifies that it shall conform substantially, even with deviations, to the detailed requirements of the item named in the Contract Documents.

7.5.5 Corrections and Changes.

The procedures to be followed for correction of non-conforming Design-Build Work and for instituting changes and additions to such work are set forth in Article 6 of this Design-Build Contract.

7.6. FINAL SURVEY AND RECORD DRAWINGS

At the completion of Construction, the Design-Builder shall (i) conduct a final survey of the alignment including all structures and (ii) prepare and submit to the Town two complete sets of record drawings for the Project as built. The record drawings shall be prepared in accordance with the Contract Standards. The Design-Builder shall obtain the Town’s approval of the record drawings as a condition of Final Completion. The Town’s approval of the record drawings shall not be unreasonably withheld.

APPENDIX 8
DESIGN-BUILD PRICE

APPENDIX 8**DESIGN-BUILD PRICE****8.1. PURPOSE**

The purpose of this Appendix is to set forth the procedures and requirements for determining (1) the Design-Build Price, and (2) the Guaranteed Maximum Price.

8.2. DESIGN-BUILD PRICE**8.2.1 Payment.**

The Town shall pay the Design-Builder the Design-Build Price for its performance of the Design-Build Period Work, subject to the Guaranteed Maximum Price established in accordance with Section 8.7 of this Appendix.

8.2.2 Design-Build Price Defined.

The Design-Build Price shall be an amount equal to the sum of:

- (a) The Design-Build Period Costs;
- (b) The General Conditions Fee; and
- (c) The Design-Builder Fee,

all subject to the following:

- (a) The Design-Build Price shall not include Unallowable Costs, all of which shall be borne by the Design-Builder without payment or reimbursement by the Town;
- (d) The only compensation payable for General Conditions Costs is the General Conditions Fee; and
- (e) The Design-Build Price shall not exceed the Guaranteed Maximum Price.

8.2.3 Related Definitions.

As used in this Design-Build Contract, the following terms shall have the meanings set forth below:

- (a) “**Design-Build Period Costs**” has the meaning specified in Section 8.3 of this Appendix.
- (b) “**Design-Build Price**” has the meaning specified in Section 8.2.2 of this Appendix.
- (c) “**Design-Builder Contingency**” has the meaning specified in Attachment 8D of this Appendix.
- (d) “**Design-Builder Fee**” has the meaning specified in Section 8.6 of this Appendix.

- (e) **“General Conditions Costs”** has the meaning specified in Attachment 8A of this Appendix.
- (f) **“General Conditions Fee”** has the meaning specified in Section 8.5 of this Appendix.
- (g) **“Guaranteed Maximum Price”** has the meaning specified in Section 8.7 of this Appendix.
- (h) **“Specified Project Risk Contingency”** has the meaning specified in Section 8.10.1 of this Appendix.
- (i) **“Specified Project Risks”** has the meaning specified in Section 8.10.1 of this Appendix.
- (j) **“Town Allowance”** has the meaning specified in Section 8.8.1 of this Appendix.
- (k) **“Unallowable Costs”** has the meaning specified in Section 8.4 of this Appendix.
- (l) **“Uncontrollable Circumstance Costs”** means, subject to Article 14, Section 17.8, and all other terms and conditions of this Design-Build Contract, any Design-Build Period Costs paid by the Design-Builder to the extent that such Design-Build Period Cost has been paid due to the occurrence of an Uncontrollable Circumstance.

8.2.4 Certification and Cost Substantiation.

Each Payment Request shall:

- (a) Comply with and be submitted in accordance with the procedures and requirements of Article 9 of this Design-Build Contract.
- (b) Provide Cost Substantiation for the Design-Build Period Cost for which reimbursement is sought, including copies of all documentation reasonably necessary to demonstrate that the reimbursable Design-Build Period Cost has been paid or incurred.
- (c) Be presented by element of the Design-Build Price.
- (d) If Uncontrollable Circumstance Costs are being invoiced, present such Uncontrollable Circumstance Costs separately from other Design-Build Period Costs.
- (e) If costs resulting from Subcontractor or Supplier delay or non-performance are being invoiced, present such costs separately from other Design-Build Period Costs.
- (f) For Design-Build Period Costs payable on a lump sum basis, provide copies of all documentation reasonably necessary to demonstrate the value of the Design-Build Period Work in place.

All such documentation shall be in a format and a level of detail reasonably acceptable to the Town.

8.2.5 Relation to General Conditions Costs

Section 8.5 of this Appendix obligates the Town to pay a General Conditions Fee to the Design-Builder. The General Conditions Fee is based upon a percentage of the Design-Build Period Costs incurred, is intended to compensate the Design-Builder for Design-Build Period Work General Conditions Costs, and is the only amount payable for General Conditions Cost whether the Design-Builder's actual Design-Build Period Work General Conditions Costs are higher or lower than the amount of the General Conditions Fee. Accordingly, Design-Build Period Costs shall not include any costs constituting Design-Build Period Work General Conditions Costs unless otherwise expressly agreed to in writing by the parties.

8.2.6 Discounts, Rebates and Refunds.

All cash discounts, trade discounts, rebates, refunds and returns from the sale of surplus materials and equipment shall be reported and accrue to the benefit of the Town and serve to offset the Design-Build Period Costs.

8.3. DESIGN-BUILD PERIOD COSTS

"Design-Build Period Costs" means the reasonable and necessary costs paid or incurred by the Design-Builder in the proper performance of the Design-Build Period Work (including costs resulting from the occurrence of the risks assumed by the Design-Builder under this Design-Build Contract) that (1) are described in and meet the requirements of this Section 8.3 (including all subsections) of this Appendix, and (2) are not Unallowable Costs.

As used in this Section 8.3, "reasonable and necessary costs paid or incurred by the Design-Builder in the proper performance of the Design-Build Period Work" includes (1) costs of Design-Build Period Work necessitated by ordinary mistakes or inadvertence; (2) costs incurred in repairing or correcting defective, damaged or non-conforming Design-Build Period Work; (3) additional costs incurred due to Subcontractor delay or non-performance; (4) costs incurred in performing needed corrective action; and (5) Uncontrollable Circumstances Costs, in all cases except to the extent any such costs constitute Unallowable Costs. Such reasonable and necessary costs are further described in subsections 8.3.1 – 8.3.6. [Note: Include unit costs for contaminated soil disposal and contaminated groundwater treatment for Uncontrollable Circumstances in new Attachment 8E in the GMP Amendment, if applicable.]

8.3.1 Third-Party Professional Services Fees.

- (a) Professional fees and expenses payable by the Design-Builder to design engineers for design engineering services under third party design Subcontracts. Such fees for third-party design engineering services during the Design-Build Period or in connection with an Early Work Package shall be calculated based upon the rates set forth in Attachment 8B to this Appendix.
- (b) Fees and expenses payable by the Design-Builder for professional services under third-party professional services Subcontracts for other professional services, including accounting, planning, surveying, consulting and other professional services.

8.3.2 Construction Subcontractor and Materials Supplier Costs.

An amount equal to the amounts properly payable by the Design-Builder to Subcontractors for Construction Work performed under Construction Subcontracts, and Subcontracts for equipment and materials entered into in accordance with the procedures and requirements set

forth in Section 7.4 of this Design-Build Contract. No Subcontract shall provide for payment of Unallowable Costs.

8.3.3 Design-Builder's Own Direct Labor Costs.

Except to the extent that any of the following costs are supervisory and administrative personnel costs (excluding those personnel costs specifically approved by the Town as Design-Build Period Costs), and, as such, constitute General Conditions Costs payable as part of the General Conditions Fee:

- Wages or salaries, employee benefits, premiums, taxes, insurance, contributions and assessments required by law, collective bargaining agreements and, for personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions paid by the Design-Builder, excluding bonuses, of direct employees of the Design-Builder (a) directly performing Design-Build Period Work (including Construction Work and design services) at the Project Sites or, with the written consent of the Town, at locations off of the Project Sites, or (b) providing services for the prosecution of the Design-Build Period Work as mechanics or fabricators in connection with materials, equipment, systems, and supplies incorporated, to be incorporated or reasonably used in completing the Design-Build Period Work. The costs for such employees of the Design-Builder performing Design-Build Period Work during the Design-Build Period or in connection with an Early Work Package shall be calculated based on the "all in" rates set forth in Attachment 8C to this Appendix or, if such rates are not set forth in Attachment 8C, based on the prevailing market rates for labor performing similar services.

8.3.4 Costs of Materials, Equipment and Supplies.

Except to the extent any of the following constitute General Conditions Costs or costs paid or incurred under Subcontracts with Suppliers for equipment and materials:

- (a) Costs, including transportation, inspection, testing, storage and handling, of materials, equipment, systems, and supplies incorporated, to be incorporated or reasonably used in completing the Design-Build Period Work.
- (b) Costs of materials, equipment and supplies, described in item (c) of this Section 8.3.4, in excess of those actually installed to allow for reasonable waste and spoilage. Unused excess materials, equipment and supplies, if any, shall become the Town's property at the completion of the Design-Build Period Work or, at the Town's option, shall be sold by the Design-Builder. Any amounts realized from such sales shall be credited to the Town as a deduction from the Design-Build Price.
- (c) Costs, including transportation and storage, installation, maintenance, dismantling and removal of materials, supplies, temporary facilities, machinery, equipment and hand tools not customarily owned by the construction workers, that are provided by the Design-Builder at the Project Sites and fully consumed in the performance of the Design-Build Period Work; and costs (less salvage value) of such items if not fully consumed, whether sold to others or retained by the Design-Builder. The basis for the cost of items previously used by the Design-Builder shall be fair market value.

- (d) Rental charges and the costs of transportation, installation, minor repairs and replacements, dismantling and removal of temporary facilities, machinery, equipment and hand tools not customarily owned by the construction workers, which are provided by the Design-Builder at the Project Sites, whether rented from the Design-Builder or others, and incurred in the performance of the Design-Build Period Work. Rates and quantities of equipment rented shall be subject to the Town's prior written approval.
- (e) Costs of materials and equipment suitably stored off the Project Sites at a mutually acceptable location, if approved in advance in writing by the Town.
- (f) Any sales commissions related to the foregoing.

8.3.5 Other Costs.

Except to the extent any of the following constitute General Conditions Costs:

- (a) Costs of conducting tests.
- (b) Premiums for any Subcontractor Default Insurance.
- (c) Increases in insurance premiums resulting from the Town request to modify lines of insurance coverage pursuant to Appendix 10.
- (d) Costs of handling, removal and disposal of Hazardous Material and remediating Regulated Site Conditions (except as provided in Section 6.4(A) of this Design-Build Contract).
- (e) Fuel and utility costs paid or incurred in the performance of the Design-Build Period Work.
- (f) Sales, use or similar taxes, tariffs or duties imposed by a Governmental Body and incurred by the Design-Builder in the performance of the Design-Build Period Work for which the Design-Builder is not able to obtain an exemption under Applicable Law.
- (g) Costs for obtaining and maintaining Governmental Approvals and Non-Governmental Approvals as set forth in Appendix 3.
- (h) Fees of laboratories for tests required by this Design-Build Contract.
- (i) Royalties and license fees paid for the use of a particular design, process or product required by this Design-Build Contract.
- (j) Costs of travel, accommodations and meals for the Design-Builder's personnel.
- (k) Premiums for Builder's Risk and other Project specific insurance policies.
- (l) Premiums for the Performance Bonds and the Payment Bonds.

8.3.6 Compensation for On-Going Design Costs During the Negotiation of the GMP Amendment.

Section 5.10(B) of this Design-Build Contract anticipates that, following the GMP Submittal, the parties will negotiate the GMP Amendment. The Design-Build Period Work Schedule anticipates a negotiating period of approximately four weeks. The Design-Builder may, but is not obligated to, continue the development of the Project design during the negotiating period in order to preserve the continuity of the design effort by the design engineers. Any costs and expenses by the Design-Builder during the negotiating period in furtherance of the Project, including the cost and expense of the design team, shall be incurred at the sole risk of the Design-Builder and shall not be subject to payment or reimbursement by the Town unless the Town specifically agrees to the payment of such costs and expenses in connection with the negotiation and execution of a GMP Amendment, in which case such costs and expenses shall constitute Design-Build Period Costs hereunder. Any such costs shall be payable in the same manner as Design-Build Period Costs are payable following the GMP Amendment Date or in any other manner agreed to by the parties in executing the GMP Amendment.

8.4. UNALLOWABLE COSTS**8.4.1 No Payment Obligation.**

Notwithstanding any other provision of the Contract Documents, the Town shall have no obligation to pay the Design-Builder any Unallowable Costs.

8.4.2 Unallowable Costs Defined.

“Unallowable Costs” means:

- (a) Premiums for Required Insurance other than Builder’s Risk and other Project specific insurance policies.
- (b) In the event of damage to or destruction of any portion of the Project that is caused by Design-Builder Fault, cost of repair or reconstruction not covered by the Required Insurance policies on account of deductibles or exceedances under the policy’s stated coverage limitations, except for such costs of repair or reconstruction specifically included as Design-Build Period Costs in Section 8.3 of this Appendix.
- (c) Costs for wages, salaries and professional services fees, to the extent they exceed wage and salary rates or fees customarily paid for similar services by comparably qualified workers and professionals in the Town or in excess of the rates set forth in the Attachments to this Appendix, except for such excess costs for wages, salaries and professional services fees that are expressly approved by the Town following written request from the Design-Builder for approval of such specific wages, salaries and professional services fees, including a specific explanation of the reasons therefor.
- (d) Any costs incurred in handling disputes or litigation with Subcontractors or any other third party.
- (e) Salaries and other compensation for the Design-Builder’s personnel stationed at the Design-Builder’s principal office or branch offices other than the Project Sites, except as provided in Section 8.3.3 of this Appendix.

- (f) Expenses of the Design-Builder's principal office or branch offices other than the Project Sites, except as provided in Section 8.3.3 of this Appendix.
- (g) Overhead, office and general expenses at any location, except as provided for in Section 8.3.3 of this Appendix.
- (h) [The cost of the capital (including interest on capital) used in the performance of the Design-Build Period Work or otherwise.] [Note: To be revisited once payment terms for Design-Build Work is finalized based upon input from Grant funding agency.]
- (i) Rental costs of machinery and equipment, except as specifically provided in Section 8.3.4(d) of this Appendix.
- (j) Costs incurred as a result of the negligence or willful misconduct of the Design-Builder, any Affiliate, any Subcontractor or any other party performing any aspect of the Design-Build Period Work.
- (k) Fines, penalties, sanctions or impositions assessed or imposed by any Governmental Body as a result of Design-Builder Fault, including violations of or non-compliance with any Governmental Approval.
- (l) Any cost relating to the Design-Builder's indemnification obligations hereunder.
- (m) Travel and subsistence expenses, except as specifically allowed pursuant to provided in Section 8.3.3(j).
- (n) Legal costs incurred for any reason.
- (o) The fees of independent experts hired to assist in connection with dispute resolution.
- (p) Amounts required to be paid the Design-Builder or any Subcontractor for federal or State income, franchise or other business Taxes, other than state sales Taxes or tariffs on materials and equipment incorporated in the Project.
- (q) Any costs that would cause the Guaranteed Maximum Price to be exceeded.

8.5. GENERAL CONDITIONS FEE

The "**General Conditions Fee**" is an amount equal to [TBD]% of the Design-Build Period Costs (other than sales taxes or tariffs). The General Conditions Fee is an amount attributable to Design-Build Period Work General Conditions Costs, as described in Attachment 8A, all of which shall be paid by the Design-Builder without reimbursement hereunder and irrespective of the sufficiency of the General Conditions Fee. The General Conditions Fee includes consideration for all costs and expenses paid or incurred by the Design-Builder, as well as all profit, risk, mark-up and general and indirect overhead, in connection with the Design-Build Period Work General Conditions Costs. The General Conditions Fee shall be adjusted in the event the Scheduled Substantial Completion Date is extended as provided in Article 14 of this Design-Build Contract. [Note: General Conditions Fee to be agreed to on the GMP Amendment Date.]

8.6. DESIGN-BUILDER FEE

The “**Design-Builder Fee**” is an amount equal to 12% of the Design-Build Period Costs (other than sales taxes or tariffs). The Design-Builder Fee is an amount attributable to profit, risk above and beyond the amounts associated with the Specified Project Risk Contingency and the Design-Builder Contingency, mark-up and general or indirect overhead with respect to the Design-Build Work, and includes an amount attributable to the cost of Required Insurance other than Builder’s Risk and other Project specific insurance policies.

8.7. GUARANTEED MAXIMUM PRICE

8.7.1 Guaranteed Maximum Price Generally.

The Town shall pay the Design-Builder the Design-Build Price for the Design-Build Period Work, subject to the Guaranteed Maximum Price calculated in accordance with this Section 8.7. The “**Guaranteed Maximum Price**” shall be the sum of (1) the Base Guaranteed Maximum Price, and (2) the Base Guaranteed Maximum Price Adjustments. The Guaranteed Maximum Price represents the absolute limit of the total of all amounts payable to the Design-Builder by the Town for the performance of the Design-Build Period Work. In the event additional amounts are required to be expended over and above the Guaranteed Maximum Price to perform the Design-Build Period Work and achieve Substantial Completion and Final Completion, liability for and payment of such additional amounts shall be the sole responsibility of the Design-Builder. The Town shall not be liable for any such amounts, and the Design-Builder shall not pursue any claim for any such additional amounts against the Town. Notwithstanding any reference in this Design-Build Contract to the terms “mark-up” or “profit”, the Design-Builder acknowledges that (1) the Town is not guaranteeing the Design-Builder any profit, a particular level of profit, or the avoidance of any loss in the overall performance of the Design-Build Period Work, and (2) the obligation of the Design-Builder to complete the Design-Build Period Work may result in a loss or in a mark-up and profit that is less than the mark-up and profit amounts anticipated by the Design-Builder in proposing its Design-Builder Fee, in making its GMP Submittal, and in entering into this Design-Build Contract.

8.7.2 Base Guaranteed Maximum Price.

The “**Base Guaranteed Maximum Price**” shall be specified in the GMP Amendment. Except as provided in Section 8.7.3 of this Appendix, the Base Guaranteed Maximum Price shall not be increased for any reason. [Note: The Base Guaranteed Maximum Price shall be the Guaranteed Maximum Price as of the GMP Amendment Date minus the Town Allowance.]

8.7.3 Base Guaranteed Maximum Price Adjustments.

The adjustments to the Base Guaranteed Maximum Price provided for in this Section 8.7.3 constitute the “**Base Guaranteed Maximum Price Adjustments**”, and each adjustment shall be reflected in a Contract Administration Memorandum. The Base Guaranteed Maximum Price shall be adjusted (increased or decreased) only to reflect adjustments required on account of:

- (a) Uncontrollable Circumstances generally, as provided in Article 14 of this Design-Build Contract);
- (b) Baseline Design Requirements Changes made under Section 6.8 of this Design-Build Contract; or
- (c) Work Change Directives made under Section 6.10 of this Design-Build Contract.

8.7.4 Value of Base Guaranteed Maximum Price Adjustments

The value of a Base Guaranteed Maximum Price Adjustment shall be determined as follows:

- (a) Where the Design-Build Work involved is covered by unit prices contained in the Contract Documents, by application of such unit prices to the quantities of the items involved; or
- (b) To the extent unit prices are not applicable, by a mutually agreed amount.

Base Guaranteed Maximum Price Adjustment may provide for markup by a Subcontractor on work performed by a direct lower tier Subcontractor where Design-Build Period Work is performed through Subcontracts. Any such Construction Subcontractor mark-up shall not exceed 5% of the costs incurred by such Construction Subcontractor in respect of labor, materials, equipment, supplies and any lower-tier Construction Subcontract.

8.8. TOWN ALLOWANCE

The Town Allowance in the amount of \$[TBD] may be used by the Town to address the occurrence of compensable Uncontrollable Circumstances. The Design-Builder has no right to the Town Allowance unless expressly approved by the Town. Any amount not expended against the Town Allowance shall be solely for the account of the Town and the Design-Builder shall not be entitled to share in any unexpended balance thereof. The Base Guaranteed Maximum Price does not include the Town Allowance. The [Town shall keep]/[Design-Builder shall keep and provide the Town with] an ongoing record of the original amount of the Town Allowance, all uses thereof under this Appendix, and the remaining balance of the Town Allowance. [Note: To be negotiated as part of the GMP Amendment.]

8.9. DESIGN-BUILDER CONTINGENCY

The Design-Builder Contingency in the amount of \$[TBD] may be used by the Design-Builder for payment of Design-Build Costs only as provided in Attachment 8D to this Appendix. The Base Guaranteed Maximum Price includes the Design-Build Contingency as set forth in the Anticipated Design-Build Period Work Cost Schedule. [Note: To be negotiated as part of the GMP Amendment.]

8.10. SPECIFIED PROJECT RISK CONTINGENCY

8.10.1 Specified Project Risk Contingency Amount

The Specified Project Risk Contingency in the amount of \$[TBD] may be used by the Design-Builder to address the occurrence of certain of the risks assumed by the Design-Builder under this Design-Build Contract as specified below (each, a "Specified Project Risk"): [TBD]. [Note: To be negotiated as part of the GMP Amendment.]

Any amount not expended against the Specified Project Risk Contingency shall be solely for the account of the Town and the Design-Builder shall not be entitled to share in any unexpended balance thereof. The Base Guaranteed Maximum Price includes the Specified Project Risk Contingency as set forth in the Anticipated Design-Build Period Work Cost Schedule. [Note: To be negotiated as part of the GMP Amendment.]

8.10.2 Use of the Specified Project Risk Contingency

In the event the cost for completing Design-Build Period work arising in connection with a Specified Project Risk described in any particular Anticipated Design-Build Period Work Cost Schedule line item relating to such cost, exceeds the Anticipated Design-Build Period Work Cost Schedule dollar amount listed for such line item, and such exceedance is due to an occurrence of such Specified Project Risk, the Design-Builder shall have the right to request compensation for such excess amount from any remaining balance in the Specified Project Risk Contingency. The Town shall respond to any such request within 15 days of receipt of such request. If the Town approves such request, which approval shall not be unreasonably withheld, then the Design-Builder shall receive such excess amounts from any remaining balance in the Specified Project Risk Contingency; provided, however, that the Design-Builder shall not need prior written approval for amounts under \$50,000. If and when the Specified Project Risk Contingency has been fully used in compensating the Design-Builder for such excess amounts, the Design-Builder shall not be entitled to any compensation for costs of Design-Build Work arising in connection with a Specified Project Risk exceeding the Anticipated Design-Build Period Work Cost Schedule line item relating to such cost, notwithstanding the fact that the Design-Builder has paid or incurred Design-Build Period Costs arising in connection with such Specified Project Risk in excess of such line item in the Anticipated Design-Build Period Work Cost Schedule; provided, however, that upon Final Completion the Design-Builder shall be entitled to request and to receive compensation for such excess Design-Build Period Costs arising in connection with such Specified Project Risk to the extent that payment of such costs does not cause the Design-Build Period Costs to exceed the Guaranteed Maximum Price.

The Design-Builder shall keep and provide the Town with an ongoing record of the original amount of the Specified Project Risk Contingency, all uses thereof under this Appendix, and the remaining balance of the Specified Project Risk Contingency at any time. The Design-Builder shall provide the Town with notice of all anticipated charges against the Specified Project Risk Contingency, and shall provide the Town as part of the monthly status report all reasonably foreseeable potential uses of the Specified Project Risk Contingency in the upcoming three month period. Any use of the Specified Project Risk Contingency must be clearly identified in the associated Payment Request. Any dispute between the Town and the Design-Builder regarding the reallocation and use of the Design-Builder Contingency shall be resolved (with both parties using good faith efforts to accelerate the resolution of such dispute) in accordance with Article 11 of this Design-Build Contract.

8.11. SHARED SAVINGS AMOUNT

In the event that upon Final Completion, the Design-Build Price is less than an amount equal to: (1) the Guaranteed Maximum Price, minus (2) all amounts not expended against the Town Allowance or the Specified Project Risk Contingency, both of which shall be for the account of the Town, minus (3) the used Design-Builder Contingency, as each such amount is finally determined in accordance with this Appendix, the Town shall pay the Design-Builder an amount equal to [TBD]% of the difference between the Guaranteed Maximum Price (minus (a) all amounts not expended against the Town Allowance or the Specified Project Risk Contingency and (b) the used Design-Builder Contingency) and the Design-Build Price (the **“Shared Savings Amount”**). The Design-Builder shall not be entitled to share in any unexpended balance of the Town Allowance or the Specified Project Risk Contingency. The Shared Savings Amount shall be paid as part of the final payment to the Design-Builder in accordance with Section 9.5 (Payment Upon Final Completion) of this Design-Build Contract. The Town’s determination of the Shared Savings Amount shall be final and binding upon the Design-Builder. [Note: Shared Savings to be determined and only if permitted by the Granting Agencies.]

ATTACHMENT 8A
DESCRIPTION OF GENERAL CONDITIONS COSTS

ATTACHMENT 8A**DESCRIPTION OF DESIGN-BUILD PERIOD WORK GENERAL CONDITIONS COSTS****GENERAL CONDITIONS COSTS**

In connection with the Design-Build Period Work, the Design-Builder is responsible for the Design-Build Period Work General Conditions Costs, as well as the performance of the related obligations, identified in this Attachment 8A. The Design-Builder's compensation for the Design-Build Period Work General Conditions Costs is limited to the General Conditions Fee. Design-Build Period Costs shall not include any Design-Build Period Work General Conditions Costs. Design-Build Period Work General Conditions Costs consist solely and exclusively of costs incurred for the following items with respect to the Design-Build Period Work:

(1) Design-Builder Employee Supervisory and Administrative Personnel Costs

- (a) Hourly costs of wages or salaries of all Design-Builder's supervisory and administrative personnel engaged in the performance of the Design-Build Period Work but only for that portion of their time required for the Design-Build Period Work, including but not limited to the Project Manager (Project Manager), Construction Manager, Superintendent(s), and those responsible for managing and implementing Design-Builder's scheduling, cost control, billing, surveying, QA/QC and Health and Safety expenses. Only the Design-Builder's craft labor shall be excluded from this category.
- (b) Hourly costs of wages or salaries of the Design-Builder's supervisory and administrative personnel engaged off of the Project Site at factories, workshops or on the road, to assist in the coordination, production or transportation of material or equipment necessary for the Design-Build Period Work, but only for that portion of their time required for the Design-Build Period Work.
- (c) Hourly costs of wages or salaries of the Design-Builder's personnel stationed at the Design-Builder's principal or branch offices and performing Design-Build Period Work.
- (d) Costs reasonably paid or incurred by the Design-Builder for employee benefits, premiums, taxes, insurance, contributions and assessments for supervisory and administrative personnel required by law, collective bargaining agreements and, for supervisory and administrative personnel not covered by such agreements, customary benefits such as sick leave, medical and health benefits, holidays, vacations and pensions paid by the Design-Builder, excluding bonuses, to the extent such costs are based on wages and salaries paid to supervisory and administrative personnel of the Design-Builder included in the Design-Build Period Costs under item (1)(a-c) of this Attachment.
- (e) The reasonable cost of travel, accommodations and meals for the Design-Builder's personnel necessarily and directly incurred in connection with the performance of the Design-Build Period Work.

(2) Field Office and Construction Supply Costs for Design-Builder Staff Only

- Design-Builder field office mobilization and demobilization
- Office trailer rental
- Office furniture and equipment

-
- Office janitorial
 - Document reproduction services (off-site or custom)
 - Copy machines, fax machines, printers, scanners and paper shredders
 - Office computers, software and maintenance
 - Office telephones, telephone and internet services, and all job site communication for the Project
 - Accounting and data processing costs
 - Jobsite radios/cellular phones
 - Postage, courier, and express delivery
 - Scheduling expenses
 - Job travel, including fuel and vehicle
 - Job meeting expenses
 - Temporary parking and laydown areas
 - Storage facilities, both on and off site
 - Small tools, tool shed and consumables
 - Surveying equipment and supplies
 - Office supplies
 - Partnering sessions (Design-Build Period Work only)
 - Project redline drawings
 - Record drawings and specifications
 - Project specific signage
 - Reference manuals
 - Employee identification system
- (3) **Temporary Amenities (unless otherwise indicated, includes hookup costs, metering, and consumption costs)**
- Incidental construction equipment, fuel, drayage, and parking (on and off-site)
 - Temporary toilets
 - Temporary fire protection
 - Site security
 - Traffic control equipment rental
 - Fencing, barricades, partitions, protected walkways, and other measures used for traffic control on-site
 - Temporary water distribution and meters
 - Temporary power generation
 - Temporary and emergency lighting
 - Temporary weather protection
 - Site erosion control
 - Street cleaning
 - Drinking water
 - Temporary construction facilities and services
 - Temporary heat and ventilation
- (4) **Confined Space Entry**
- Personnel and monitoring protective equipment
 - Standby personnel
 - All other costs
- (5) **Site Cleanup**
-

- Daily site cleanup, dumpsters and garbage/recyclables disposal
- Cleanup at Substantial Completion

(6) Design-Builder Construction Trade Training Program

(7) Health and Safety Program (Excluding Incentives)

- PPE for staff and visitors
- First aid
- Fall protection
- Safety program administration and training
- Safety incentives
- Drug testing
- Safety signage

(8) Project Information and Documentation

- Photographs to document pre-construction conditions
- Project progress photos

Any General Conditions Costs that is subcontracted shall be payable from the General Conditions Fee. The Design-Builder shall make such payments to the extent such Subcontractors are involved in Design-Builder's affirmative action efforts.

ATTACHMENT 8B

**BILLING RATES FOR DESIGN-BUILD PERIOD WORK PROFESSIONAL SERVICES
PERSONNEL**

ATTACHMENT 8C

BILLING RATES FOR SELF-PERFORMED CONSTRUCTION WORK

ATTACHMENT 8D

**ANTICIPATED DESIGN-BUILD PERIOD WORK COST SCHEDULE AND DESIGN-BUILDER
CONTINGENCY**

ATTACHMENT 8D**ANTICIPATED DESIGN-BUILD PERIOD WORK COST SCHEDULE AND DESIGN-BUILDER CONTINGENCY****GENERAL**

The purpose of this Attachment is (1) to define the requirements for the Design-Builder's preparation of the Anticipated Design-Build Period Work Cost Schedule and the Design-Builder Contingency, which will be used as the basis for payments of the Design-Build Price pursuant to Article 9 of this Design-Build Contract, and (2) to describe the manner in which payment of the Design-Build Price will be made based on the Anticipated Design-Build Period Work Cost Schedule and the Design-Builder Contingency.

EARLY DESIGN-BUILD WORK PACKAGES

As provided in Section 5.7(F) of this Design-Build Contract, the parties intend that each Early Design-Build Work Package Amendment will contain complete pricing for the Design-Build Work covered by the Early Design-Build Work Package, and that an estimated Design-Build Period Cost schedule and contingency will be established for such Early Design-Build Work Package separate and apart from the Anticipated Design-Build Period Work Cost Schedule and Design-Builder Contingency established on the GMP Amendment Date for the balance of the Design-Build Work.

TOTAL ANTICIPATED DESIGN-BUILD PERIOD WORK COST SCHEDULE AMOUNT

The sum of all amounts comprising the line items in the initial Anticipated Design-Build Period Work Cost Schedule shall be equal to the total amount of the reasonably estimated direct costs of achieving Substantial Completion and Final Completion, as such total amount of reasonably estimated costs is negotiated by the parties pursuant to Section 5.8(C) of this Design-Build Contract. The total Anticipated Design-Build Period Work Cost Schedule amount, and the line items in the Anticipated Design-Build Period Work Cost Schedule, shall be adjusted appropriately by agreement of the parties to account for Base Guaranteed Maximum Price Adjustments.

DESIGN-BUILDER CONTINGENCY AMOUNT

The Design-Builder Contingency amount shall be a single stated dollar amount equal to the amount negotiated by the parties pursuant to Section 5.8(C)(2) of this Design-Build Contract.

SUM OF THE ANTICIPATED DESIGN-BUILD PERIOD WORK COST SCHEDULE AMOUNT, THE DESIGN-BUILDER FEE AMOUNT, THE GENERAL CONDITIONS FEE AMOUNT AND THE DESIGN-BUILDER CONTINGENCY AMOUNT

The sum of the total Anticipated Design-Build Period Work Cost Schedule amount, the associated Design-Builder Fee amount, the associated General Conditions Fee amount, the Design-Builder Contingency amount and the Specified Project Risk Contingency amount shall be equal to the Base Guaranteed Maximum Price.

PREPARATION OF THE ANTICIPATED DESIGN-BUILD PERIOD WORK COST SCHEDULE

As part of the GMP Submittal, the Design-Builder shall prepare an Anticipated Design-Build Period Work Cost Schedule identifying, on a line item basis, costs of major items of Design-

Build Work and other costs in accordance with this Attachment, and which shall include a Town Allowance, a Design-Builder Contingency and a Specified Project Risk Contingency, each separately stated as a block amount.

The Anticipated Design-Build Period Work Cost Schedule shall be consistent with the work scope and cost breakdown structure presented in the GMP Submittal, as negotiated and agreed to by the Town. The Anticipated Design-Build Period Work Cost Schedule shall assign prices to major elements of the Design-Build Work based on costs associated with scheduled activities for each such element.

The Anticipated Design-Build Period Work Cost Schedule shall:

- (a) Be broken down by each major component of the Project, in accordance with the approved WBS, and show each specification division within each structure; and
- (a) Show the division of work between the Design-Builder and each of the Subcontractors.

The Design-Builder shall provide supporting data, including certified payrolls, as requested by the Town for any Anticipated Design-Build Period Work Cost Schedule item. The final Anticipated Design-Build Period Work Cost Schedule must be approved by the Town.

USE OF THE DESIGN-BUILDER CONTINGENCY

The Design-Builder Contingency shall be used for payment of Design-Build Period Costs only as provided in this Section. [Note: Use of line item savings and use of the Design-Builder Contingency will be subject to any conditions or limitations imposed by the Grants, and are TBD for the California State Water Resources Control Board grant.]

In the event the cost for completing Design-Build Period Work described in any particular Anticipated Design-Build Period Work Cost Schedule line item exceeds the Anticipated Design-Build Period Work Cost Schedule dollar amount listed for such line item, the Design-Builder shall have the right to request compensation for such excess amounts from any remaining balance in the Design-Builder Contingency. The Town shall respond to any such request within 15 days of receipt of such request. If the Town approves such request, which approval shall not be unreasonably withheld, then the Design-Builder shall receive such excess amounts from any line item savings and only after exhaustion of all line item savings amounts, from any remaining balance in the Design-Builder Contingency; provided, however, that the Design-Builder shall not need prior written approval for amounts under \$50,000. If and when the Design-Builder Contingency has been fully used in compensating the Design-Builder for such excess amounts, the Design-Builder shall not be entitled to any compensation for costs of Design-Build Work exceeding the Anticipated Design-Build Period Work Cost Schedule line item relating to such cost (except as provided below in "Use of Line Item Savings"), notwithstanding the fact that the Design-Builder has paid or incurred Design-Build Period Costs in excess of such line item in the Anticipated Design-Build Period Work Cost Schedule; provided, however, that upon Final Completion the Design-Builder shall be entitled to request and to receive compensation for such excess Design-Build Period Costs to the extent that payment of such costs does not cause the Design-Build Period Costs to exceed the Guaranteed Maximum Price.

The Design-Builder shall keep and provide the Town with an ongoing record of the original amount of the Design-Builder Contingency, all uses thereof under this Appendix, and the remaining balance of the Design-Builder Contingency at any time. The Design-Builder shall

provide the Town with notice of all anticipated charges against the Design-Builder Contingency, and shall provide the Town as part of the monthly status report all reasonably foreseeable potential uses of the Design-Builder Contingency in the upcoming three month period. Any use of the Design-Builder Contingency must be clearly identified in the associated Payment Request.

USE OF LINE ITEM SAVINGS

In administering payment of the Design-Build Price based on the Anticipated Design-Build Period Work Cost Schedule line items, the parties acknowledge that the Design-Build Period Costs associated with any particular line item may be less than the dollar amount provided for such line item in the Anticipated Design-Build Period Work Cost Schedule. If the Design-Build Period Costs associated with a particular Anticipated Design-Build Period Work Cost Schedule line item are less than the dollar amount provided for such line item in the Anticipated Design-Build Period Work Cost Schedule, subject to the following sentence, the dollar value associated with the line item cost underage shall be available to be paid to the Design-Builder in the event the Design-Build Period Costs associated with another particular line item exceed the Anticipated Design-Build Period Work Cost Schedule dollar amount listed for such line item. Such line item savings amounts shall be in addition to any Design-Builder Contingency amounts that may be available to pay such Anticipated Design-Build Period Work Cost Schedule line item excess costs; provided, however, that in any event line item savings shall be used prior to Design-Builder Contingency amounts.

DAMAGE TO THE PROJECT AND INSURANCE RECOVERIES

The costs of repairing any damage to the Project constitute Design-Build Period Costs, and (1) are payable to the Design-Builder as part of the Design-Build Period Costs, as provided in Section 8.3 of this Appendix, (2) shall result in an appropriate revision of the Anticipated Design-Build Period Work Cost Schedule, and (3) shall result in a Base Guaranteed Maximum Price Adjustment, as provided in Section 8.7.3 of this Appendix. All recoveries under policies of Required Insurance on account of any damage to the Project shall be applied to the payment of such repair costs, as provided in Section 6.17 and Article 13 of this Design-Build Contract.

SUBCONTRACTOR AND SURETY RECOVERIES

A substantial portion of the Construction of the Project is expected to be performed by Construction Subcontractors. The risks of delay and non-performance by Subcontractors are borne by the Design-Builder, and costs incurred by the Design-Builder that result from the occurrence of such risks constitute Design-Build Period Costs payable by the Town from the Design-Builder Contingency hereunder, subject to the Guaranteed Maximum Price. All payments from the Design-Builder Contingency for costs incurred as a result of the occurrence of the risk of Subcontractor delay or non-performance shall be separately identified and recorded. In the event the Design-Builder, in the exercise of its mitigation duties under this Design-Build Contract, receives any judgment or settlement awards or otherwise makes any financial recoveries from Subcontractors or their guarantors or sureties on account of any such delays or non-performance, the amounts so received (net of reasonable enforcement costs), whether before or after Final Completion, shall be paid by the Design-Builder first to the Town, up to the amount of any Design-Builder Contingency payments made due to the occurrence of such risks. Any remaining amounts then may be retained by the Design-Builder for its own account. The obligation of the Design-Builder to take such mitigation measures and to make such payments to the Town shall survive termination of this Design-Build Contract.

APPENDIX 9
SUBSTANTIAL COMPLETION

APPENDIX 9**SUBSTANTIAL COMPLETION****9.1. PURPOSE**

The purpose of Substantial Completion is to demonstrate that the Project complies with all Contract Standards. This Appendix sets forth certain supplementary requirements for Substantial Completion.

9.2. RELATIONSHIP TO BASELINE DESIGN DOCUMENTS

The Baseline Design Documents applicable to the requirements of this Appendix are set forth in Appendix 4.

9.3. SUBSTANTIAL COMPLETION PROCEDURES**9.3.1 Substantial Completion Procedures Generally**

The intent of the Substantial Completion Procedures (as defined below) are to demonstrate that the installed facilities, systems, and the Project as a whole are ready to perform in accordance with the requirements of the Contract Documents and the Contract Standards.

9.3.2 Construction Testing

To confirm compliance with the testing (including but not limited to air tests, Mandrel tests, and the testing of materials described in subsection 6.10.5 of Appendix 6) required by the Contract Documents, including but not limited to Appendix 4, the Design-Builder shall submit certified reports. The certified reports shall be from the appropriate certifying entity demonstrating that construction complies with the Contract Documents and has satisfactorily passed relevant testing. For general construction, the reports will be submitted by a professional engineer. For valves and any mechanical equipment, the certifications shall be factory certifications.

9.3.3 Observation of Substantial Completion Procedures

The Town reserves the right to observe and inspect the Project testing. The Design-Builder shall provide at least five days' notice to the Town prior to commencement of any tests. The Design-Builder shall also ensure that each material manufacturer representative that is required to witness such test is present.

APPENDIX 10
INSURANCE REQUIREMENTS

APPENDIX 10**INSURANCE REQUIREMENTS****10.1. GENERAL REQUIREMENTS**

- (a) The Town of Paradise (the “**Town**”) reserves the right to approve or reject the insurance provided based upon the insurer (including financial condition), terms and coverage, the Certificate of Insurance (COI), and/or endorsements. The insurance must be provided by an insurer with a rating of (A-) VII or higher in the A.M. Best’s Key Rating Guide (<http://www.ambest.com/home/default.aspx>), and licensed to do business in the State of California. By requiring the insurance herein, the Town does not represent that the insurance coverages and limits will necessarily be adequate to protect the Design-Builder and such coverages and limits shall not be deemed as a limitation on the Design-Builder’s liability under the indemnities granted to the Town in this Design-Build Contract.
- (b) The Design-Builder shall keep the Required Insurance in force during the entire Term and for thirty (30) calendar days after the expiration of the Term, unless otherwise provided herein.
- (c) The liability insurance policies required by this section shall:
- (1) For insurance policies other than for professional liability or workers’ compensation, contain a “severability of insureds,” “separation of interest,” or “cross liability” provision.
 - (2) Be primary and non-contributory insurance to any insurance coverage or self-insurance program the Town may maintain.
 - (3) For insurance policies other than for professional liability or workers’ compensation, contain a Waiver of Subrogation clause in favor of the Town.
 - (4) Other than professional liability, reflect coverage on an “occurrence”, not “claims-made” policy form.
- (d) The Design-Builder shall provide the Town notice of any cancellation or non-renewal of this required insurance within 30 calendar days.
- (e) The Design-Builder shall forward to the Town, full and original certificates of insurance with endorsements required by this Appendix.
- (f) The Design-Builder shall not begin work under this Design-Build Contract until the required insurance has been obtained and approved by the Town.
- (g) Failure on the part of the Design-Builder to obtain and maintain the insurance as required by this section shall constitute a material breach of this Design-Build Contract, upon which the Town may, after giving five business day notice to the Design-Builder to correct the breach, immediately terminate this Design-Build Contract or, at its discretion, procure or renew such insurance and pay any and all premiums in connection therewith; with any sums so expended to be

repaid to the Town by the Design-Builder upon demand, or at the sole discretion of the Town, offset against funds due the Design-Builder from the Town.

- (h) All costs for insurance shall be incidental to and included in the unit or lump sum prices of this Design-Build Contract and no additional payment will be made by the Town to the Design-Builder.
- (i) For all liability insurance policies required by this Section, the Town, including its officers, elected officials, employees, agents, and volunteers, and any other entities as required by this Design-Build Contract, shall be named as additional insured(s) by amendatory endorsement, EXCEPT Professional Liability (if applicable), Workers Compensation, Owner's and Design-Builder's Protective Liability, and Railroad Protective Liability.
- (j) Except for the builders' risk insurance required pursuant to V(I) of this Appendix 10, the Design-Builder may provide the insurance coverages required pursuant to this Appendix 10 through the general corporate policies of the Design-Builder or its affiliates. In such case, the general corporate policies shall meet the applicable requirements of this appendix.

10.2. EVIDENCE OF INSURANCE

The Design-Builder shall deliver a COI and endorsements for each policy of insurance meeting the requirements set forth herein when the Design-Builder delivers the signed Design-Build Contract for the work to the Town. The certificate and endorsements must conform to the following requirements:

- (a) An ACORD certificate or a form determined by the Town to be equivalent.
- (b) Copies of all endorsements showing the policy number and naming the Town as an additional insured.
- (c) Except for insurance policies other than for professional liability or workers' compensation, the endorsement is to state that the insurance is primary and non-contributory over any Town insurance or self-insurance.
- (d) For insurance policies for general liability, the endorsement is to extend "Products/Completed Operations" coverage to the Town as an additional insured.
- (e) A statement of additional insured status on an ACORD COI shall not satisfy this requirement.
- (f) Any other amendatory endorsements to show the coverage required herein.

10.3. CERTIFICATE REQUIREMENTS SPECIFIC REPRESENTATIONS

The following must be indicated on the COI:

- (a) The Town is named as an additional insured ("with respect to this Design-Build Contract" or "for any and all work performed with the Town" may be included in this statement) for insurance policies for General Liability and Automobile Liability.

- (b) “This insurance is primary and non-contributory over any insurance or self-insurance the Town may carry” (“with respect to this Design-Build Contract” or “for any and all work performed with the Town” may be included in this statement) for insurance policies for General Liability and Automobile Liability.
- (c) A Waiver of Subrogation in favor of the Town for General Liability and Automobile Liability.
- (d) Self-Insured Retention and applicable deductible limits must be disclosed on the COI and be consistent with good industry practice.
- (e) Contract or Permit number and the Town Department.
- (f) All coverage other than professional liability, Cyber/Privacy & Security, and Pollution Liability must be written on “occurrence” form and not “claims-made” form.
- (g) Reflect the existence and form numbers of all required endorsements.

10.4. SUBCONTRACTORS

It is the Design-Builder's responsibility to cause each Subcontractor to obtain and maintain adequate liability insurance coverage. The Design-Builder shall provide evidence of such insurance upon the Town's request.

10.5. CERTIFICATE REQUIREMENTS FOR COVERAGES AND LIMITS

The insurance shall provide the minimum coverages and limits set forth below. Providing coverage in these stated minimum limits shall not be construed to relieve the Design-Builder from liability in excess of such limits. None of the policies or coverage required by this section shall be subject to a deductible or self-insured retained limit of more than \$10,000 unless first approved in writing by the Town Contracting Department, which self-insured retention may be satisfied by either the named insured or the Town.

A. General Liability Insurance

(1) Commercial General Liability (CGL) Insurance

The CGL insurance policy must provide limits not less than \$1,000,000 each occurrence and \$2,000,000 annual aggregate. A deductible of \$25,000 for Commercial General Liability Insurance is approved by the Town.

The CGL policy shall be written on an "occurrence", not "claims-made", basis and shall include the following coverage:

- a) Must use (Insurance Services Office (ISO) form CG0001(04-13) or its equivalent).
- b) Products Hazard/Completed Operations.
- c) Personal/Advertising Injury.
- d) Contractual Liability.
- e) Explosion, Collapse, or Underground Property Damage.

- g) Blasting (only required when the Design-Builder's work under this Design-Build Contract includes exposures to which this specified coverage responds).
- h) If Design-Builder is performing work within 50 feet of a railroad right of way, the General Liability policy shall be endorsed to eliminate the Contractual Liability exclusion pertaining to work within 50 feet of a railroad right of way using ISO form CG2417(10-01) or equivalent.
- i) Include the Town as additional insured and:
 1. Use ISO forms CG2010(04-13) and CG2037(04-13) or equivalent for Design-Builders performing work on behalf of the Town and name the Town as an additional insured for ongoing and completed operations.
 2. Use ISO form CG2012(04-13) or equivalent for Permits and name the Town as an additional insured.
 3. Use ISO form CG2026(04-13) or equivalent for Facility Use Agreements and name the Town as an additional insured.
 4. Blanket additional insured provisions within a policy form will be accepted in lieu of the specific additional insured endorsement forms specified herein. However, a blanket additional insured endorsement shall provide the equivalent coverage provided by specific additional insured endorsements specified herein.

- (2) Marine General Liability (MGL) Insurance (only applicable in the event Design-Builder will utilize rented or owned vessels on a waterway to perform Design-Build Work.)

The MGL policy must provide limits no less than \$1,000,000 each occurrence and \$2,000,000 annual aggregate. The MGL policy shall be provided before the commencement of Design-Build Period Work.

MGL insurance must have no exclusions for non-owned watercraft. A policy of MGL Insurance shall be written on an "occurrence", not "claims-made", basis and shall include the following coverage:

- a) A per project aggregate policy limit.
- b) Products Hazard/Completed Operations- for a period of one year following final acceptance of the work.
- c) Personal/Advertising Injury.
- d) Contractual Liability.

If Design-Builder is performing work within 50 feet of a railroad right of way, the General Liability policy shall be endorsed to eliminate the Contractual Liability exclusion pertaining to work within 50 feet of a railroad right of way using ISO form CG2417(10-01) or equivalent.

- e) Include the Town as an additional insured for this Design-Build Contract and contracts both ongoing and for completed operations.

- (3) Protection and Indemnity (P&I) Insurance

The Design-Builder shall procure and maintain P&I insurance. This insurance must cover all claims with respect to injuries or damages to persons or property, arising out of the use, operation or ownership of

boats, ships, or vessels with limits of liability not less than One Million Dollars (\$1,000,000) each occurrence. If required, the Design-Builder shall procure and maintain commercial umbrella liability insurance covering claims for these risks. The P&I policy shall be provided before the commencement of the Design-Build Period Work.

B. Commercial Automobile Liability (CAL) Insurance

The Design-Builder shall obtain and keep in force during the term of the Contract, a policy of CAL insurance coverage, providing bodily injury coverage and property damage coverage for owned (if any), non-owned, hired, and leased vehicles.

The Design-Builder must also maintain an MCS 90 endorsement or equivalent and a CA 9948 endorsement or equivalent if "Pollutants" are to be transported. CAL policies must provide limits not less than \$1,000,000 each accident for bodily injury and property damage.

Must use ISO form CA 0001 or equivalent.

C. Workers' Compensation

(1) State of California Workers' Compensation

The Design-Builder shall comply with Workers' Compensation coverage as required by California Labor Code Section 3700.

D. Employers' Liability (EL) (Stop-Gap) Insurance

The Design-Builder shall maintain EL coverage with limits not less than \$1,000,000 each employee, \$1,000,000 each accident, and \$1,000,000 policy limit.

E. Professional Liability Insurance (PLI)

The Design-Builder and/or its Subcontractors shall provide evidence of PLI covering professional errors and omissions. Such policy must provide minimum limits of \$2,000,000 per claim and \$4,000,000 aggregate. If the scope of such design-related professional services includes work related to pollution conditions, the PLI policy shall include Pollution Liability coverage. If provided on a "claims-made" basis, such coverage shall be maintained by policy renewals or an extended reporting period endorsement for not less than five years following the end of the Contract.

F. Excess or Umbrella Liability (UL) Insurance

The Design-Builder shall provide Excess or UL coverage at limits of not less than \$5,000,000 per occurrence and \$10,000,000 in the aggregate. This Excess or UL coverage shall apply, at a minimum, to the CGL, EL and Automobile Liability forms required herein.

G. Pollution Liability (PL) Insurance

The Design-Builder shall procure and maintain a PL or Environmental Liability policy providing coverage, including investigation and defense costs, for bodily injury and property damage, including loss of use of damaged property or of property that has been physically damaged or destroyed. Such coverage shall provide both on-site and off-site cleanup costs and cover gradual and sudden pollution, and include in its scope of coverage the Town damage claims for loss arising out of the Design-Builder's work with limits not less than \$1,000,000 each occurrence and \$2,000,000 aggregate. This policy shall include Environmental Resource Damage coverage. A deductible of \$25,000 for Pollution Liability Insurance is approved by the Town.

Such insurance may be provided on an "occurrence" or "claims-made" basis. If such coverage is provided on a "claims-made" basis, the following additional conditions must be met:

- (1) The policy shall not exclude coverage for Hazardous Substance Removal.
- (2) The policy must contain no retroactive date, or the retroactive date must precede the commencement date of this contract.
- (3) If provided on a "claims-made" basis and the insurer providing coverage changes during the term of the contract, the prior acts date must remain on or before the commencement date of this contract.
- (4) The extended reporting period (tail) must be purchased to cover a minimum of six years beyond completion of work.

H. Commercial Property (CP) Insurance

The Design-Builder shall provide CP for loss or damage to any and all equipment owned by the Town while in the care, custody or control of the Design-Builder, its Subcontractors, or their agents. The coverage shall be provided on an ISO special form Causes of Loss form or equivalent and shall provide full replacement cost coverage. The Design-Builder shall be liable for the payment of the deductible.

I. Builder's Risk (BR) Insurance

Prior to the commencement of Design-Build Period Work, the Design-Builder shall purchase and maintain throughout the remainder of the term of the Contract, a policy of BR insurance providing coverage for all-risk of physical injury to all structures to be constructed according to the Contract. The Town shall be named as an additional insured to the extent of its insurable interests, and a loss payee under the policy. BR insurance shall:

- (1) Be on an ISO special form Causes of Loss form or equivalent and shall insure against the perils flood, earthquake, theft, vandalism, malicious mischief, and collapse.

- (2) Include coverage for temporary buildings, debris removal, and damage to materials in transit or stored off-site.
- (3) Be written in the amount of the completed value of the structures, with no coinsurance provisions exposure on the part of the Design-Builder or the Town.
- (4) Have a deductible consistent with good industry practice for each occurrence, the payment of which will be the responsibility of the Design-Builder. Any increased deductibles accepted by the Town will remain the responsibility of the Design-Builder.
- (5) Be maintained until Final Completion of the work.

The Design-Builder and the Town waive all rights against each other, their respective subcontractors, agents and representatives for damages caused by fire or other perils to the extent covered by BR insurance or other property insurance applicable to the work. The policies shall provide such waivers by endorsement or otherwise.

J. Owners and Design-Builders Protective Liability (OCPL) Insurance

The Design-Builder shall obtain and keep in force during the performance of any and all work required by this Design-Build Contract, an ISO form OCPL policy, on which the Town shall be a named insured. Said policy shall provide coverage for bodily injury and property damage arising from the work to be performed under the Contract, and shall have policy limits of no less than Three Million Dollars \$3,000,000 combined single limit of liability with a dedicated aggregate limit of no less than Six Million Dollars \$6,000,000.

K. Other Insurance

Other insurance as may be deemed appropriate to cover the specified risk and exposure arising from the scope of work or changes to the scope of work required by the Town. The costs of such necessary and appropriate insurance coverage shall be borne by the Design-Builder.

The Design-Builder will also be responsible to comply with all specific insurance requirements of the Union Pacific Railroad (UPRR) and California State Department of Transportation (Caltrans) associated with the highway and rail crossings.

APPENDIX 11

KEY PERSONNEL AND APPROVED SUBCONTRACTORS

APPENDIX 11**KEY PERSONNEL AND APPROVED SUBCONTRACTORS****11.1. PURPOSE**

The purpose of this Appendix is to identify (1) the Key Personnel proposed to be used by the Design-Builder in performing the Contract Obligations and (2) those Subcontractors that the Town has approved for use by the Design-Builder in performing the Contract Obligations.

11.2. KEY PERSONNEL**11.2.1 Key Personnel Generally.**

As referenced in Section 7.1 of this Design-Build Contract, certain Key Personnel were proposed by the Design-Builder and shall be used by the Design-Builder in connection with the performance of the Contract Obligations (the “**Key Personnel**”). Any change in the Key Personnel shall be subject to review and approval of the Town in accordance with Section 7.1 of this Design-Build Contract.

11.2.2 Key Personnel.

At a minimum, the Key Personnel shall include the following:

	Design-Builder Party	Role	Name
1.	Mountain Cascade, Inc.	Project Management	Randy Buckman
2.	Carollo Engineers, Inc.	Outreach	Beverly Hann
3.	Carollo Engineers, Inc.	BODR Development	Tim Taylor
4.	Carollo Engineers, Inc.	Collection System	Darren Baune
5.	Mountain Cascade, Inc.	Project Controls	Gary Silveira
6.	Mountain Cascade, Inc.	Testing, Commissioning, and Start-Up	Howard Reiss
7.	Carollo Engineers, Inc.	Export Pipeline/Chico Connection	Jon Marshall
8.	Mountain Cascade, Inc.	Cost Model	Don Crivello
9.	Mountain Cascade, Inc.	Construction Phasing	Randy Buckman
10.	Mountain Cascade, Inc.	Safety	Rickey Arslanian
11.	Carollo Engineers, Inc.	Quality	Andrew Frost

11.3. APPROVED SUBCONTRACTORS

As of the Contract Date, Approved Subcontractors are identified in the following table. Additional potential Subcontractors shall be proposed by the Design-Builder and approved by the Town for any Early Work Packages and for the balance of the Design-Build Work in accordance with Sections 5.7 and 7.4 of this Design-Build Contract and Attachment 11A to this Appendix. Approved Subcontractors proposed by the Design-Builder and approved by the Town after the GMP Amendment Date shall be reflected in a Contract Administration Memorandum.

[Note: The names and roles of all additional Approved Subcontractors as of the GMP Amendment Date shall be added to the table below as part of the GMP Amendment.]

	Subcontractor	Role
1.	Carollo Engineers, Inc.	Engineer-of-Record
2.	Rolls, Anderson & Rolls	Surveying
3.	Fugro	Hazardous Materials Survey
4.	Montrose Environmental	Environmental
5.	Pacific Boring, Inc.	Tunneling and Auger Boring
6.	San Joaquin Electric, Inc.	Electrical Contractor
7.		

11.4. SUBCONTRACTING PLAN

A preliminary Subcontracting Plan is included as Attachment 11A. The final Subcontracting Plan will be set forth in the GMP Amendment.

ATTACHMENT 11A
SUBCONTRACTING PLAN

APPENDIX 12
CERTAIN STATE AND FEDERAL GRANT REQUIREMENTS AND GUIDELINES

APPENDIX 12**CERTAIN STATE AND FEDERAL GRANT REQUIREMENTS AND GUIDELINES**

The Town intends to utilize Grants for the entirety of its financing structure. The utilization of the Grants is predicated on complying with all applicable requirements of the Grants, including, as applicable, complying with all applicable provisions identified in this Appendix. As of the Contract Date, the written requirements of any California State Water Resources Control Board grants have not yet been established and therefore are not yet reflected in this Appendix. The parties intend to update this Appendix by Contract Amendment once such written requirements have been established.

This Appendix is a summary only of such requirements, and is not intended to be an exhaustive list of all of the Grant Requirements. Reference is made to the Grant documentation for the full terms and provisions of the written requirements of the Grants.

In order to satisfy the requirements of the Community Development Block Grant – Disaster Recovery grant funding, as well as additional procurement requirements of the Town, this Design-Build Contract and all Subcontracts must incorporate the following basic requirements:

[INTENTIONALLY LEFT BLANK]

Table A12-1
Federal Statutes, Regulations and Other Requirements

	Reference	Subject
1.	2 C.F.R. parts 200.339, 200.342, 200.343	Remedies for Noncompliance
2.	2 C.F.R. parts 200.340 and 200.341	Termination
3.	2 C.F.R. 200.334	Five-Year Retention Requirement
4.	2 C.F.R. 200 Subpart F	Audit Requirements
5.	2 C.F.R. 200.208	Authority to Impose Additional Special Conditions
6.	2 C.F.R. 200.318	General procurement standards
7.	2 C.F.R. 200.319	Competition
8.	2 C.F.R. 200.320	Methods of procurement to be followed
9.	2 C.F.R. 200.322	Domestic Preferences for Procurements
10.	2 C.F.R. 200.324	Contract cost and price
11.	2 C.F.R. 200.325	Federal awarding agency or pass-through entity review
12.	2 C.F.R. 200.326	Bonding Requirements
13.	40 U.S.C. 3702	Contract Work Hours and Safety Standards Act
14.	40 U.S.C. 3702, Sections 103 and 107	Contract Work Hours and Safety Standards Act
15.	24 C.F.R. 570.489(h)	Conflicts of Interest
16.	15 U.S.C. Sec. 15 (Section 4)	Clayton Act
17.	37 C.F.R. 401	Rights To Inventions Made By Nonprofit Organizations And Small Business Firms Under Government Grants, Contracts, And Cooperative Agreements
18.	41 U.S.C. 51-58	Anti-Kickback Act of 1986
19.	40 U.S.C. 3141-3148; 42 U.S.C. 3212 29 C.F.R. Subtitle A, Parts 1, 3, and 5	Davis Bacon and Related Acts (DBRA)
20.	2 C.F.R. Part 200.214	Suspension and Debarment

21.	2 C.F.R. 1400	Nonprocurement Debarment and Suspension
22.	Executive Order No. 12,549, 1986	Debarment and suspension prohibitions relating to violations of the Clean Water Act and Clean Air Act with respect to federal contracts, grants or loans
23.	31 U.S.C. 1352	Byrd Anti-Lobbying Amendment
24.	43 C.F.R. 18	New Restrictions on Lobbying
25.	Pub. L. No. 117-58, §§ 70901-52	Build America, Buy America Act (BABA)
26.	33 U.S.C. 3914	American Iron and Steel (AIS) Requirement
27.	31 U.S.C. 1352	Limitations on the Payment of Funds to Influence Federal Transactions
28.	42 U.S.C. 2000d et seq.	Title VI of the Civil Rights Act of 1964
29.	42 U.S.C. 3601	Title VII of the Civil Rights Act of 1968 (The Fair Housing Act)
30.	Public Law 100-259; 102 Stat. 28	Civil Rights Restoration Act of 1987
31.	42 U.S.C. 5309, Section 109 of Title 1	Housing and Community Development Act of 1974
32.	42 U.S.C. 3604	Fair Housing Amendment Act of 1988
33.	42 U.S.C. 6101 and DOI implementing regulations published at 43 C.F.R. 17.300-17.339	The Age Discrimination Act of 1975
34.	Section 504 of the Rehabilitation Act of 1973, as amended 29 U.S.C. 794, and DOI implementing regulations published at 43 C.F.R. 17 subpart B	Rehabilitation Act of 1973
35.	42 U.S.C. 12101	The Americans with Disabilities Act of 1990 (ADA)
36.	Executive Order 11063, 1962	Prohibiting discrimination in the sale, leasing, rental, or other disposition of properties and facilities owned or operated by the federal government or provided with federal funds
37.	42 U.S.C. 2000e	Equal Employment Opportunity Act
38.	29 C.F.R. 1607	Uniform Guidelines on Employee Selection Procedures adopted by the EEOC in 1978

39.	38 U.S.C. 4212	Vietnam Era Veteran's Readjustment Act of 1974 (revised Jobs for Veterans Act of 2002)
40.	Executive Order 11246, 1965	Prohibiting federal contractors and federally assisted construction contractors and subcontractors, who do business with the federal government from discriminating in employment decisions
41.	2 C.F.R. 200.321	Small, Minority and Women's Business Enterprises and Labor Surplus Area Firms
42.	Executive Order No. 12,432, 1983	Minority Business Enterprise Development
43.	41 U.S.C. 8101 2 C.F.R. Parts 182 and 1401	Drug-Free Workplace Act of 1988
44.	Executive Order No. 11,246, 1965	Prohibiting discrimination on the basis of race, color, sex, religion and national origin to enhance hiring training, and promotion opportunities for minorities and women in construction programs financed, in part, by federal dollars
45.	12 U.S.C. 1701u 24 C.F.R. 75	Section 3 of the Housing and Urban Development Act of 1968
46.	24 C.F.R. 50 24 C.F.R. 58 40 C.F.R. 1500-1508	The National Environmental Policy Act (NEPA)
47.	40 C.F.R. Parts 15 and 50	Environmental Protection Agency (EPA) Regulations
48.	24 C.F.R. 58	Environmental Review Procedures
49.	42 U.S.C. 7401-7671q	Clean Air Act
50.	33 U.S.C. 1251-1387	Federal Water Pollution Control Act
51.	33 U.S.C. 1251	Clean Water Act
52.	45 C.F.R. 75.331 2 C.F.R. 200.323	Procurement of Recovered Materials
53.	Pub. L. 94-163, 89 Stat. 871	The Energy Policy and Conservation Act
54.	42 U.S.C. 4001	Flood Disaster Protection Act
55.	42 U.S.C. 4151-4157	Architectural Barriers Act
56.	https://www.epa.gov/greeningepa/federal-sustainability-requirements-and-guidelines	Sustainability Requirements, such as those provided by the EPA and Department of Energy

57.	83 F.R. 5850, 83 F.R. 5861	National Floodplain Elevation Standards
58.	Title X	Residential Lead-Based Paint Hazard Reduction Act
59.	42 U.S.C. 63, Section 401(b)	Lead-Based Paint Poisoning Prevention Act of 1971
60.	54 U.S.C. 300101 16 U.S.C. 470	The National Historic Preservation Act of 1966
61.	Pub. L. 93-291	Archaeological and Historical Preservation Act of 1974
62.	36 C.F.R. 800	Advisory Council on Historic Preservation Procedures for Protection of Historic Properties
63.	Executive Order 11593	Protection and Enhancement of the Cultural Environment
64.	42 U.S.C. Chapter 51	The Architectural Barriers Act of 1968
65.	2 C.F.R. Subtitle A, Chapter II, Part 200, et. seq., adopted by HUD at 2 C.F.R. 2400	Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards
66.	42 U.S.C. 4601, and implementing regulations issued at 24 C.F.R. 42 and 49 C.F.R. 24	Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970
67.	42 U.S.C. 69 (Housing and Community Development Act of 1974), Section 104(d)	Residential Antidisplacement and Relocation Assistance Plan; Certification of Adherence; Contents
68.	Title 29, C.F.R., Subtitle A Parts 1, 3, and 5	Federal Labor Standards
69.	24 C.F.R. 570	HUD regulations concerning Community Development Block Grants
70.	24 C.F.R. 570	HUD regulations concerning Community Development Block Grants
71.	24 C.F.R. 85.40	HUD Reporting Requirements
72.	Chapter XIII, Bureau of Labor Standards, Department of Labor, Part 1518	Safety Standards for General Industry and Construction
73.	Federal Register, Volume 36, No. 75. Title 29	Safety and Health Regulations for Construction

Table A12-2
State Statutes, Regulations and Other Requirements

	Reference	Subject
1.	Government Code 12900, et. seq. Cal. Code Regs., Title 2 Section 11000, et. seq.	California Fair Employment and Housing Act
2.	Government Code 11135 – 11139.5	California Discrimination
3.	Public Contract Code Section 10115, et seq.	Minority and Women Business Participation Goals for State Contracts
4.	2 Cal. Code Regs. 1896.60, et seq.	Disabled Veteran Business Enterprise (DVBE) program
5.	Public Contract Code 10353	Priority Hiring Considerations
6.	Public Contract Code Sections 12205 and 12156(e)	Recycled Content Certification
7.	Pub. Res. Code 21000, et seq.	California Environmental Quality Act (CEQA)
8.	California Green Buildings Standards Code Title 24, Part 11	California Green Buildings Standards Code (CAL Green)
9.	Wildland-Urban Interface Building Code Title 24, Chapter 7a	Wildland-Urban Interface Building Code (WUI Code)
10.	Pub. L. 94-163, 89 Stat. 871	California Energy Conservation Plan, developed in accordance with the federal Energy Policy and Conservation Act
11.	Cal. Code Regs. Title 25 Section 7122	Audit Requirements
12.	Government Code 8546.7	Audits
13.	Public Contract Code 7110 Family Code Chapter 8 Part 5 of Division 9	Child Support Compliance Act
14.	Cal. Code of Regs. Title 25	Grant Administration

15.	Public Contract Code 10344(e)	Requirement for Loss Leader Provision
16.	Labor Code Section 1720- 1743 Labor Code 1770-1784	State Prevailing Wages
17.	State Contract Manual Requirements Section 3.11, for Federally Funded Contracts	State Contract Manual Requirements
18.	Business and Professions Code Chapter 2 of Part 2 of Division 7	Cartwright Act
19.	Government Code 4550 – 4554 Chapter 11	Antitrust Claims

ATTACHMENT 12A

DAVIS BACON ACT WAGE DETERMINATIONS

APPENDIX 13**CERTAIN PROVISIONS OF THE CALIFORNIA PUBLIC CONTRACT CODE****California Public Contract Code Sections 20104 to 20104.6****Public Contract Code - PCC****DIVISION 2. GENERAL PROVISIONS [1100 - 22355] (Division 2 enacted by Stats. 1981, Ch. 306.)****PART 3. CONTRACTING BY LOCAL AGENCIES [20100 - 22178] (Part 3 added by Stats. 1982, Ch. 465, Sec. 11.)****CHAPTER 1. Local Agency Public Construction Act [20100 - 20929] (Chapter 1 added by Stats. 1982, Ch. 465, Sec. 11.)****ARTICLE 1.5. Resolution of Construction Claims [20104 - 20104.6] (Article 1.5 added by Stats. 1994, Ch. 726, Sec. 22.)**

20104. (a) (1) This article applies to all public works claims of three hundred seventy-five thousand dollars (\$375,000) or less which arise between a contractor and a local agency.

(2) This article shall not apply to any claims resulting from a contract between a contractor and a public agency when the public agency has elected to resolve any disputes pursuant to Article 7.1 (commencing with Section 10240) of Chapter 1 of Part 2.

(b) (1) "Public work" means "public works contract" as defined in Section 1101 but does not include any work or improvement contracted for by the state or the Regents of the University of California.

(2) "Claim" means a separate demand by the contractor for (A) a time extension, (B) payment of money or damages arising from work done by, or on behalf of, the contractor pursuant to the contract for a public work and payment of which is not otherwise expressly provided for or the claimant is not otherwise entitled to, or (C) an amount the payment of which is disputed by the local agency.

(c) The provisions of this article or a summary thereof shall be set forth in the plans or specifications for any work which may give rise to a claim under this article.

(d) This article applies only to contracts entered into on or after January 1, 1991.

(Amended by Stats. 2010, Ch. 697, Sec. 47. (SB 189) Effective January 1, 2011. Operative July 1, 2012, by Sec. 105 of Ch. 697.)

20104.2. For any claim subject to this article, the following requirements apply:

(a) The claim shall be in writing and include the documents necessary to substantiate the claim. Claims must be filed on or before the date of final payment. Nothing in this subdivision is intended to extend the time limit or supersede notice requirements otherwise provided by contract for the filing of claims.

(b) (1) For claims of less than fifty thousand dollars (\$50,000), the local agency shall respond in writing to any written claim within 45 days of receipt of the claim, or may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the local agency may have against the claimant.

(2) If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the local agency and the claimant.

(3) The local agency's written response to the claim, as further documented, shall be submitted to the claimant within 15 days after receipt of the further documentation or within a period of time no greater than that taken by the claimant in producing the additional information, whichever is greater.

(c) (1) For claims of over fifty thousand dollars (\$50,000) and less than or equal to three hundred seventy-five thousand dollars (\$375,000), the local agency shall respond in writing to all written claims within 60 days of receipt of the claim, or may request, in writing, within 30 days of receipt of the claim, any additional documentation supporting the claim or relating to defenses to the claim the local agency may have against the claimant.

(2) If additional information is thereafter required, it shall be requested and provided pursuant to this subdivision, upon mutual agreement of the local agency and the claimant.

(3) The local agency's written response to the claim, as further documented, shall be submitted to the claimant within 30 days after receipt of the further documentation, or within a period of time no greater than that taken by the claimant in producing the additional information or requested documentation, whichever is greater.

(d) If the claimant disputes the local agency's written response, or the local agency fails to respond within the time prescribed, the claimant may so notify the local agency, in writing, either within 15 days of receipt of the local agency's response or within 15 days of the local agency's failure to respond within the time prescribed, respectively, and demand an informal conference to meet and confer for settlement of the issues in dispute. Upon a demand, the local agency shall schedule a meet and confer conference within 30 days for settlement of the dispute.

(e) Following the meet and confer conference, if the claim or any portion remains in dispute, the claimant may file a claim as provided in Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code. For purposes of those provisions, the running of the period of time within which a claim must be filed shall be tolled from the time the claimant submits his or her written claim pursuant to subdivision (a) until the time that claim is denied as a result of the meet and confer process, including any period of time utilized by the meet and confer process.

(f) This article does not apply to tort claims and nothing in this article is intended nor shall be construed to change the time periods for filing tort claims or actions specified by Chapter 1 (commencing with Section 900) and Chapter 2 (commencing with Section 910) of Part 3 of Division 3.6 of Title 1 of the Government Code.

(Added by Stats. 1994, Ch. 726, Sec. 22. Effective September 22, 1994.)

20104.4. The following procedures are established for all civil actions filed to resolve claims subject to this article:

(a) Within 60 days, but no earlier than 30 days, following the filing or responsive pleadings, the court shall submit the matter to nonbinding mediation unless waived by mutual stipulation of both parties. The mediation process shall provide for the selection within 15 days by both parties of a disinterested third person as mediator, shall be commenced within 30 days of the submittal, and shall be concluded within 15 days from the commencement of the mediation unless a time requirement is extended upon a good cause showing to the court or by

stipulation of both parties. If the parties fail to select a mediator within the 15-day period, any party may petition the court to appoint the mediator.

(b) (1) If the matter remains in dispute, the case shall be submitted to judicial arbitration pursuant to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, notwithstanding Section 1141.11 of that code. The Civil Discovery Act (Title 4 (commencing with Section 2016.010) of Part 4 of the Code of Civil Procedure) shall apply to any proceeding brought under this subdivision consistent with the rules pertaining to judicial arbitration.

(2) Notwithstanding any other provision of law, upon stipulation of the parties, arbitrators appointed for purposes of this article shall be experienced in construction law, and, upon stipulation of the parties, mediators and arbitrators shall be paid necessary and reasonable hourly rates of pay not to exceed their customary rate, and such fees and expenses shall be paid equally by the parties, except in the case of arbitration where the arbitrator, for good cause, determines a different division. In no event shall these fees or expenses be paid by state or county funds.

(3) In addition to Chapter 2.5 (commencing with Section 1141.10) of Title 3 of Part 3 of the Code of Civil Procedure, any party who after receiving an arbitration award requests a trial de novo but does not obtain a more favorable judgment shall, in addition to payment of costs and fees under that chapter, pay the attorney's fees of the other party arising out of the trial de novo.

(c) The court may, upon request by any party, order any witnesses to participate in the mediation or arbitration process.

(Amended by Stats. 2004, Ch. 182, Sec. 54. Effective January 1, 2005. Operative July 1, 2005, by Sec. 64 of Ch. 182.)

20104.6. (a) No local agency shall fail to pay money as to any portion of a claim which is undisputed except as otherwise provided in the contract.

(b) In any suit filed under Section 20104.4, the local agency shall pay interest at the legal rate on any arbitration award or judgment. The interest shall begin to accrue on the date the suit is filed in a court of law.

(Added by Stats. 1994, Ch. 726, Sec. 22. Effective September 22, 1994.)

California Public Contract Code Sections 9201 to 9204**Public Contract Code - PCC****DIVISION 2. GENERAL PROVISIONS [1100 - 22355] (Division 2 enacted by Stats. 1981, Ch. 306.)****PART 1. ADMINISTRATIVE PROVISIONS [1100 - 9204] (Heading of Part 1 added by Stats. 1982, Ch. 1120, Sec. 2.)****CHAPTER 9. Claims and Disputes [9201 - 9204] (Chapter 9 added by Stats. 1982, Ch. 1120, Sec. 5.)**

9201. (a) A public entity shall have full authority to compromise or otherwise settle any claim relating to a contract at any time.

(b) The public entity shall include provisions in a public works contract for timely notification of the contractor of the receipt of any third-party claim, relating to the contract.

(c) The public entity shall be entitled to recover its reasonable costs incurred in providing the notification required by subdivision (b).

(Amended by Stats. 2002, Ch. 315, Sec. 1. Effective January 1, 2003.)

9203. (a) Payment on any contract with a local agency for the creation, construction, alteration, repair, or improvement of any public structure, building, road, or other improvement, of any kind which will exceed in cost a total of five thousand dollars (\$5,000), shall be made as the legislative body prescribes upon estimates approved by the legislative body, but progress payments shall not be made in excess of 95 percent of the percentage of actual work completed plus a like percentage of the value of material delivered on the ground or stored subject to, or under the control of, the local agency, and unused. The local agency shall withhold not less than 5 percent of the contract price until final completion and acceptance of the project. However, at any time after 50 percent of the work has been completed, if the legislative body finds that satisfactory progress is being made, it may make any of the remaining progress payments in full for actual work completed.

(b) Notwithstanding the dollar limit specified in subdivision (a), a county water authority shall be subject to a twenty-five thousand dollar (\$25,000) limit for purposes of subdivision (a).

(Amended by Stats. 2000, Ch. 126, Sec. 1. Effective January 1, 2001.)

9204. (a) The Legislature finds and declares that it is in the best interests of the state and its citizens to ensure that all construction business performed on a public works project in the state that is complete and not in dispute is paid in full and in a timely manner.

(b) Notwithstanding any other law, including, but not limited to, Article 7.1 (commencing with Section 10240) of Chapter 1 of Part 2, Chapter 10 (commencing with Section 19100) of Part 2, and Article 1.5 (commencing with Section 20104) of Chapter 1 of Part 3, this section shall apply to any claim by a contractor in connection with a public works project.

(c) For purposes of this section:

(1) "Claim" means a separate demand by a contractor sent by registered mail or certified mail with return receipt requested, for one or more of the following:

(A) A time extension, including, without limitation, for relief from damages or penalties for delay assessed by a public entity under a contract for a public works project.

(B) Payment by the public entity of money or damages arising from work done by, or on behalf of, the contractor pursuant to the contract for a public works project and payment for which is not otherwise expressly provided or to which the claimant is not otherwise entitled.

(C) Payment of an amount that is disputed by the public entity.

(2) “Contractor” means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who has entered into a direct contract with a public entity for a public works project.

(3) (A) “Public entity” means, without limitation, except as provided in subparagraph (B), a state agency, department, office, division, bureau, board, or commission, the California State University, the University of California, a city, including a charter city, county, including a charter county, city and county, including a charter city and county, district, special district, public authority, political subdivision, public corporation, or nonprofit transit corporation wholly owned by a public agency and formed to carry out the purposes of the public agency.

(B) “Public entity” shall not include the following:

(i) The Department of Water Resources as to any project under the jurisdiction of that department.

(ii) The Department of Transportation as to any project under the jurisdiction of that department.

(iii) The Department of Parks and Recreation as to any project under the jurisdiction of that department.

(iv) The Department of Corrections and Rehabilitation with respect to any project under its jurisdiction pursuant to Chapter 11 (commencing with Section 7000) of Title 7 of Part 3 of the Penal Code.

(v) The Military Department as to any project under the jurisdiction of that department.

(vi) The Department of General Services as to all other projects.

(vii) The High-Speed Rail Authority.

(4) “Public works project” means the erection, construction, alteration, repair, or improvement of any public structure, building, road, or other public improvement of any kind.

(5) “Subcontractor” means any type of contractor within the meaning of Chapter 9 (commencing with Section 7000) of Division 3 of the Business and Professions Code who either is in direct contract with a contractor or is a lower tier subcontractor.

(d) (1) (A) Upon receipt of a claim pursuant to this section, the public entity to which the claim applies shall conduct a reasonable review of the claim and, within a period not to exceed 45 days, shall provide the claimant a written statement identifying what portion of the claim is disputed and what portion is undisputed. Upon receipt of a claim, a public entity and a contractor may, by mutual agreement, extend the time period provided in this subdivision.

(B) The claimant shall furnish reasonable documentation to support the claim.

(C) If the public entity needs approval from its governing body to provide the claimant a written statement identifying the disputed portion and the undisputed portion of the claim, and the governing body does not meet within the 45 days or within the mutually agreed to extension of time following receipt of a claim sent by registered mail or certified mail, return receipt requested, the public entity shall have up to three days following the next duly publicly noticed meeting of the governing body after the 45-day period, or extension, expires to provide the claimant a written statement identifying the disputed portion and the undisputed portion.

(D) Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. If the public entity fails to issue a written statement, paragraph (3) shall apply.

(2) (A) If the claimant disputes the public entity's written response, or if the public entity fails to respond to a claim issued pursuant to this section within the time prescribed, the claimant may demand in writing an informal conference to meet and confer for settlement of the issues in dispute. Upon receipt of a demand in writing sent by registered mail or certified mail, return receipt requested, the public entity shall schedule a meet and confer conference within 30 days for settlement of the dispute.

(B) Within 10 business days following the conclusion of the meet and confer conference, if the claim or any portion of the claim remains in dispute, the public entity shall provide the claimant a written statement identifying the portion of the claim that remains in dispute and the portion that is undisputed. Any payment due on an undisputed portion of the claim shall be processed and made within 60 days after the public entity issues its written statement. Any disputed portion of the claim, as identified by the contractor in writing, shall be submitted to nonbinding mediation, with the public entity and the claimant sharing the associated costs equally. The public entity and claimant shall mutually agree to a mediator within 10 business days after the disputed portion of the claim has been identified in writing. If the parties cannot agree upon a mediator, each party shall select a mediator and those mediators shall select a qualified neutral third party to mediate with regard to the disputed portion of the claim. Each party shall bear the fees and costs charged by its respective mediator in connection with the selection of the neutral mediator. If mediation is unsuccessful, the parts of the claim remaining in dispute shall be subject to applicable procedures outside this section.

(C) For purposes of this section, mediation includes any nonbinding process, including, but not limited to, neutral evaluation or a dispute review board, in which an independent third party or board assists the parties in dispute resolution through negotiation or by issuance of an evaluation. Any mediation utilized shall conform to the timeframes in this section.

(D) Unless otherwise agreed to by the public entity and the contractor in writing, the mediation conducted pursuant to this section shall excuse any further obligation under Section 20104.4 to mediate after litigation has been commenced.

(E) This section does not preclude a public entity from requiring arbitration of disputes under private arbitration or the Public Works Contract Arbitration Program, if mediation under this section does not resolve the parties' dispute.

(3) Failure by the public entity to respond to a claim from a contractor within the time periods described in this subdivision or to otherwise meet the time requirements of this section shall result in the claim being deemed rejected in its entirety. A claim that is denied by reason of the public entity's failure to have responded to a claim, or its failure to otherwise

meet the time requirements of this section, shall not constitute an adverse finding with regard to the merits of the claim or the responsibility or qualifications of the claimant.

(4) Amounts not paid in a timely manner as required by this section shall bear interest at 7 percent per annum.

(5) If a subcontractor or a lower tier subcontractor lacks legal standing to assert a claim against a public entity because privity of contract does not exist, the contractor may present to the public entity a claim on behalf of a subcontractor or lower tier subcontractor. A subcontractor may request in writing, either on their own behalf or on behalf of a lower tier subcontractor, that the contractor present a claim for work which was performed by the subcontractor or by a lower tier subcontractor on behalf of the subcontractor. The subcontractor requesting that the claim be presented to the public entity shall furnish reasonable documentation to support the claim. Within 45 days of receipt of this written request, the contractor shall notify the subcontractor in writing as to whether the contractor presented the claim to the public entity and, if the original contractor did not present the claim, provide the subcontractor with a statement of the reasons for not having done so.

(e) The text of this section or a summary of it shall be set forth in the plans or specifications for any public works project that may give rise to a claim under this section.

(f) A waiver of the rights granted by this section is void and contrary to public policy, provided, however, that (1) upon receipt of a claim, the parties may mutually agree to waive, in writing, mediation and proceed directly to the commencement of a civil action or binding arbitration, as applicable; and (2) a public entity may prescribe reasonable change order, claim, and dispute resolution procedures and requirements in addition to the provisions of this section, so long as the contractual provisions do not conflict with or otherwise impair the timeframes and procedures set forth in this section.

(g) This section applies to contracts entered into on or after January 1, 2017.

(h) Nothing in this section shall impose liability upon a public entity that makes loans or grants available through a competitive application process, for the failure of an awardee to meet its contractual obligations.

(i) This section shall remain in effect only until January 1, 2027, and as of that date is repealed, unless a later enacted statute that is enacted before January 1, 2027, deletes or extends that date.

(Amended by Stats. 2019, Ch. 489, Sec. 1. (AB 456) Effective January 1, 2020. Repealed as of January 1, 2027, by its own provisions.)



Town of Paradise
Council Agenda Summary
Date: March 12, 2024

Agenda Item: 6(b)

ORIGINATED BY: Colette Curtis, Recovery and Economic Development Director

REVIEWED BY: Jim Goodwin, Town Manager

SUBJECT: Chico Regional Airport Investment Opportunity

LONG TERM RECOVERY PLAN: Yes

COUNCIL ACTION REQUESTED:

1. Consider directing staff to enter into an agreement with the City of Chico to provide an investment of \$75,000 to the Chico Airport Revenue Guarantee Fund; and,
2. Direct staff to enter into an agreement with Adventist Health Feather River Foundation to accept \$75,000 in matching funds, contingent upon approval by Adventist Health Feather River Foundation; and
3. Direct Staff to transmit a total investment of \$150,000, contingent on matching funds approval, to the City of Chico Airport Revenue Guarantee Fund; or,
4. Provide alternate direction. (ROLL CALL VOTE)

Background:

At the February Council meeting, Town Council heard a presentation from the Chico Airport Manager offering an investment opportunity for the Chico Airport Revenue Guarantee Fund. As part of the renewed effort to restore air service to the region, the Chico Airport requires a Revenue Guarantee Fund of \$1.5 Million to begin negotiations with airlines in earnest.

The Airport Manager reports they are anticipating the airport will provide 2 flights per day to LAX, will offer plane sizes between 50-160 seats, and have a goal of active flight service by Fall of 2025. Once operational, it is expected the airport will see 700 or more passengers per day, bringing 15,000 new visitors to the region each year in addition to the daily travel of local residents. A conservative estimate of the financial impact to the region is estimated at \$10 Million in regional benefit per year.

Reestablishing air service in the region provides a benefit to Paradise residents and businesses. The availability of a nearby airport is a factor in the decision to relocate to Paradise, and during recovery Paradise is interested in supporting these types of services for residents. The investment opportunity presented at the February Council meeting also includes marketing space in the Chico Airport.

Analysis:

An investment into the Revenue Guarantee Fund would benefit the Town of Paradise and our residents in two ways.

1. The ultimate restoration of commercial air service, which cannot be accomplished without the Revenue Guarantee Fund, is an important factor in the attraction of residents and businesses to Paradise. When families are making the decision of where to relocate, access to air travel is a factor that influences that decision. According to the recent Paradise Ridge Chamber of Commerce marketing study, residents of the Sacramento area, Bay Area, and southern California area are all interested in Paradise as an affordable place to raise a family. Residents from those areas are used to the ability to access air travel within a short distance, and having air service in nearby Chico would make Paradise a viable option.

Additionally, businesses in our region need the Chico airport for their operations and to attract employees to the area. Paradise has long served as workforce housing for the region, and now has the opportunity to regain those households as businesses recruit from outside the area, with the benefits Paradise provides for families, including small town feel, affordable housing, great schools, and a beautiful location.

2. An investment into the Revenue Guarantee Fund also provides the Town of Paradise marketing real estate within the Chico Airport which could be used to target local residents and visitors to move to Paradise. The majority of residents moving to Paradise come from other areas of Butte County, with Chico providing the most residents. Town advertising in the Chico Airport would target local residents traveling out of and back home to the Chico Airport, offering Paradise as a great local alternative for those looking to relocate. The investment into the Revenue Guarantee Fund would ensure advertising real estate in the airport for an indefinite period, meaning the value of that investment is high overtime.

The Chico Airport Manager estimates restored air travel will see 700 travelers per day through the Chico Airport. Assuming this is true, over the course of the next five years, Town advertising would be seen by over 1.2 million people.

Staff Recommendation:

Given the significant benefits to the Town of Paradise for repopulation efforts after the fire to sustain the Town's tax base and provide the highest quality of life possible for our residents, staff recommends Council invest \$75,000 into the Revenue Guarantee Fund.

Staff has requested matching funds for this investment from Adventist Health Feather River Health Foundation to bring the total investment into the fund to \$150,000. Adventist Health Feather River Health Foundation is considering this request and if approved, will provide the funds to the Town of Paradise to match the Town's \$75,000 investment bringing the total contribution to \$150,000.

Financial Impact:

This investment of \$75,000 would impact the Town's General Fund. Contingent on approval, the \$75,000 matching funds from Adventist Health Feather River Foundation would be received by the Town and transmitted to the Chico Airport Revenue Guarantee Fund.

The investment opportunity has been presented as a one-time investment towards the Revenue Guarantee Fund, however any content for the advertising space, and the periodic updating of that content would be an additional cost.

The Chico airport has asked for a 25% deposit upon approval of the investment, with the remainder of the investment paid upon execution of an agreement with an airline. It is expected the negotiation and agreement process with the airline will take 6-12 months to complete.



Town of Paradise

Council Agenda Summary

Agenda Item: 6(c)

Date: March 12, 2024

ORIGINATED BY: Colin Nelson, Capital Projects Manager
REVIEWED BY: Jim Goodwin, Town Manager
SUBJECT: CDBG-DR PID Subrecipient Agreement
LONG TERM RECOVERY PLAN: Yes

COUNCIL ACTION REQUESTED:

1. Discuss and consider concurring with staff recommendation to approve the Intergovernmental Subrecipient Agreement for the Town of Paradise to assist Paradise Irrigation District in utilizing CDBG-DR funds; and,
2. Adopt Resolution No. 2024-___, A Resolution of the Town Council of the Town of Paradise authorizing the Town Manager, or his designee, to sign the Intergovernmental Subrecipient Agreement to allow the Town of Paradise to administer and support in the utilization of CDBG-DR funds allocated to PID by HCD via the CDBG-DR program. (ROLL CALL VOTE)

Background:

The Town of Paradise received and accepted an allocation from HCD which included Community Development Block Grant Infrastructure Funds. PID also received an allocation from HCD. PID has expertise in providing Water Utility service and managing a water treatment facility and the Town of Paradise will assist PID in utilizing HCD funds.

Analysis:

To properly assist PID in their management of HCD funds the Town of Paradise and PID are executing an Intergovernmental Subrecipient Agreement. This agreement serves as a contract between the Town of Paradise and the Paradise Irrigation District, binding each to certain responsibilities in accordance with requirements imposed by federal statues, regulations, and the terms and conditions of the Town of Paradise’s federal award and MSA. In addition, the Town of Paradise is required to adopt a resolution identifying and designating an official authorized to execute the Intergovernmental Subrecipient Agreement.

Financial Impact:

The Subrecipient Allocation is \$199,592,735.75 while the Subaward, Amount of Federal Award obligated to the Subrecipient is \$3,518,100.

Provisions of the agreement will require PID to invoice the Town of Paradise for eligible costs. The Town of Paradise will request reimbursement to HCD on PID’s behalf. The Town of Paradise will then pay PID for their incurred expenses when HCD remits reimbursement funds – ensuring the Town of Paradise will not cashflow PID projects.

**TOWN OF PARADISE
RESOLUTION NO. 2024-_____**

**A REOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PARADISE AUTHORIZING
THE TOWN MANAGER; OR HIS DESIGNEE, TO SIGN THE INTERGOVERNMENTAL
SUBRECIPIENT AGREEMENT TO ALLOW THE TOWN OF PARADISE TO ADMINISTER
AND SUPPORT IN THE UTILIZATION OF CDBG-DR FUNDS ALLOCATED TO PID BY HCD
VIA THE CDBG-DR PROGRAM - PID SUBRECIPIENT AGREEMENT**

WHEREAS, the Town of Paradise and Paradise Irrigation District received and accepted an allocation from HCD which includes CDBG-DR funds; and;

WHEREAS, the Town of Paradise will assist Paradise Irrigation District in utilizing HCD funds; and;

WHEREAS, an Intergovernmental Subrecipient Agreement will be executed between the Town of Paradise and Paradise Irrigation District; and;

WHEREAS, the Town of Paradise and Paradise Irrigation District are held to certain responsibilities in accordance with requirements imposed by federal statues, regulations, and the terms and conditions of the Town of Paradise's federal award and MSA; and;

WHEREAS, the Town Council of the Town of Paradise has approved and agreed to this Intergovernmental Subrecipient Agreement.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Paradise:

Section 1. The above recitals are true and correct and are incorporated as if fully set forth herein.

Section 2. The Town Manager of the Town of Paradise, or their designee, is hereby authorized to enter into an Intergovernmental Subrecipient Agreement with the Paradise Irrigation District attached as Exhibit "A".

PASSED AND ADOPTED by the Town Council of the Town of Paradise on this 12th day of March 2024, by the following vote:

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

Ronald Lassonde, Mayor

ATTEST:

Dina Volenski, CMC, Town Clerk

APPROVED AS TO FORM:

Scott E. Huber, Town Attorney



**INTERGOVERNMENTAL SUBRECIPIENT AGREEMENT
BETWEEN THE TOWN OF PARADISE AND THE PARADISE IRRIGATION DISTRICT FOR GRANT
ADMINISTRATION AND PROJECT SET-UP SERVICES**

THIS AGREEMENT, is entered into as of _____, 2023, between the Town of Paradise, referred to as GRANTEE, and the Paradise Irrigation District (PID), referred to as SUBRECIPIENT, with reference to the following:

WHEREAS, GRANTEE has received and accepted an allocation from California Department of Housing and Community Development (Department) (HCD), attached as Exhibit A. Community Development Block Grant Infrastructure Funds were granted by the Department of Housing to HCD. The Town of Paradise, in Resolution No. 2022-72 accepting the funding and established project funding priorities, attached as Exhibit B.

WHEREAS, SUBRECIPIENT has expertise providing Water Utility service and managing a water treatment facility; and

WHEREAS, GRANTEE wishes to engage the Subrecipient to assist the Grantee in utilizing such funds;

WHEREAS, the CDBG-DR funds made available for use by Subrecipient under the Agreement constitute a subaward of The Town’s Federal Award (“Subaward”), the use of which must be in accordance with requirements imposed by federal statutes, regulations, and the terms and conditions of the Town of Paradise’s Federal Award and MSA; and

NOW, THEREFORE, the parties mutually agree to the terms described in the Agreement.

Town of Paradise
Jim Goodwin
Town Manager
Town of Paradise
5555 Skyway
Paradise CA 95969

Subrecipient
Tom Lando
District Manager
Paradise Irrigation District
6332 Clark Road
Paradise, CA 95969

Federal Award Identification Number: 18-DRINFRA-18006

Federal Award Date: 6/8/2023

Federal Awarding Agency: Department of Housing and Urban Development

Catalog of Federal Domestic Assistance (CFDA) Number and Name: 14.228; Community Development Block Grants/State's program and Non-Entitlement Grants in Hawaii

The Subaward, Amount of Federal Award obligated to Subrecipient: **\$3,518,100**

The Subaward may not be used for Research and Development.

The amount obligated by the Agreement represents all federal funds obligated to Subrecipient by The Town of Paradise, under this Federal Award and any other federal award.

Subrecipient shall comply with all terms of the MSA, attached hereto as Appendix A, and as amended from time to time.

1. SCOPE OF SERVICE

a. Activities

The Subrecipient will be responsible for administering a CDBG-DR Infrastructure Grant. Such program will include the eligible activities under the CDBG program as detailed in 2018 Community Development Block Grant –Disaster Recovery Infrastructure Program Policies and Procedures Version 3.0. (Exhibit C). Per the resolution signed by the Town of Paradise in Exhibit B. The purpose of this Subrecipient Agreement is to identify specific grant administration tasks associated with this project(s) throughout the life of the grant, expiring on December 30, 2025, and the five (5) years beyond. The grant administration tasks required of the Subrecipient under this Agreement include but are not limited to developing procedures and policies to ensure compliance with CDBG DR policies as outlined in Exhibit E, monthly activity and financial reporting, Labor Reports and monitoring, adherence to CDBG DR procurement policies and procedures, CDBG DR regulatory requirements and other reports as required by the CDBG DR as described in the documents noted in Exhibit E.

Scope of Work

The Scope of Work (“SOW”) shall be provided in Exhibit F, Notice to Proceed (“NTP”), of the MSA, when same is provided to The Town of Paradise by HCD.

Subrecipient will provide program management and general administrative services to support the Program as described above. Administrative support includes, but is not limited to, the following: data collection and analysis, preparation and submission of quarterly, year-end, and close-out reports, budget preparation and submission of demands for reimbursement, and any other function that will ensure compliance with the Agreement and applicable

federal regulations as expressed herein. Expenses incurred for General Administration are not reimbursable under the Agreement. Subrecipient can request reimbursements under the following categories: Preliminary Engineering, Final Design, Environmental Docs/ Engineering, Environmental Mitigation, Project Administration, Project Construction.

b. National Objectives/Eligibility Compliance

The Subrecipient certifies that the activities carried out will meet the National Objective of benefit to low/moderate income persons, as is detailed in Exhibit C. Subrecipient agrees to maintain documentation that demonstrates that the activities carried out with funds provided under the Agreement meet the CDBG-DR Program's national objective of benefit to low- and moderate- income persons ("LMI").

The community served by the Program is in an area that qualifies under "area benefit" (LMA) as defined by HUD. Area benefit activities are activities, the benefits of which are available to all the residents in a particular area, where at least 51 percent of the residents are low-and moderate-income persons.

c. Levels of Accomplishment – Goals and Performance Measures

The Subrecipient agrees to provide the levels of program services as detailed in Exhibit D. In addition to the normal administrative services required as part of the Agreement, Subrecipient agrees to operate the Program throughout the term of the Agreement. Subrecipient is responsible for employing a trained and qualified staff needed to carry out the Program.

d. Staffing

Staffing will be determined by the Subrecipient after consultation with the Grantee. The Grantee shall not unreasonably withhold its concurrence to any proposed staffing and/or subcontracting plan. Subrecipient shall inform The Town of Paradise in writing, within ten (10) working days, of any changes in staff that occur during the term of the Agreement.

e. Performance Monitoring

The Grantee will monitor the performance of the Subrecipient against goals and performance standards stated above. Substandard performance as determined by the Grantee will constitute non-compliance with this Agreement. If action to correct such substandard performance is not taken by the Subrecipient within ninety (90) days after being notified by the

Grantee, contract suspension or termination procedures may be initiated.

2. TIME OF PERFORMANCE

This Agreement shall become effective upon execution and shall expire on December 30, 2030, five years beyond the closeout date of the project, or thereto unless otherwise terminated as provided in this Agreement. With the exception of the grant closeout procedures set forth in the MSA, Subrecipient shall complete all Program activities on or before December 1, 2025, or unless terminated by either party for cause or convenience. All grant funds must be expended by December 1, 2025, unless expressly extended by The Town of Paradise and Department in writing. The term of the Agreement and the provisions herein shall be extended to cover any additional time period during which Subrecipient remains in control of CDBG-DR funds or other CDBG-DR assets, including Program Income.

Any indirect costs charged must be consistent with the conditions of Paragraph 7 (e) (iii) of this Agreement. Any amendments to the budget must be approved in writing by both the Grantee and the Subrecipient and HCD.

3. DUPLICATION OF BENEFIT

Grantee is required to complete a duplication of benefits analysis to demonstrate that no financial assistance has been received or is available to pay costs charged to a CDBG-DR grant per the mandatory duplication of benefits requirements described in Federal Register notice published November 16, 2011 (76 FR 2018 CDBG-DR Infrastructure Program Policies and Procedures 14 71066) and Federal Register notice published June 20, 2019.

Grantee shall work with Subrecipient on the following in order to address any potential duplication of benefit:

1. Prior to implementation of activity to be performed by Subrecipient per Subrecipient Agreement, Subrecipient shall provide Grantee a report detailing any assistance received from other sources for the same or similar activity.
2. If Grantee determines that there is any potentially duplicative assistance, Grantee may request additional information from the Subrecipient, including:
 - a. Dates funds were received.
 - b. Specific uses of funds received, including receipts and dates as appropriate.
3. Based on a review of this information, Grantee may:
 - a. Determine that there is no duplication and allow Subrecipient to proceed with activity for the full budget amount as detailed in Subrecipient Agreement.
 - b. Determine that there is a partial duplication and allow Subrecipient to proceed with activity for a budgeted amount that is reduced by the duplication of benefit amount.

- c. Determine that there is a complete duplication and revoke the approval of the Subrecipient Agreement for the provision of activity services.

All documents shall be retained in compliance with HUD's record retention requirements.

4. PAYMENT

It is expressly agreed and understood that the total to be paid by the Grantee to Subrecipient under this contract shall not exceed \$3,518,100. Drawdowns for the payment of eligible expenses shall be made against the line item budgets specified in Paragraph 3 and in accordance with performance. Expenses for general administration shall also be paid against the line item budgets specified herein and in accordance with performance.

To the extent practicable, the Subaward shall be used before other funds provided to the Program. Requests for reimbursement of eligible expenses shall be based upon information submitted by Subrecipient consistent with the approved Program Budget per the NTP and with The Town of Paradise /Department payment policy as follows:

- Subrecipient shall submit an Expenditure Summary and Payment Request (ESPR) by the 5th day of each month.
- ESPRs may be submitted no more often than once a month and no less frequently than once every three (3) months for projects incurring expenses, unless otherwise agreed to by The Town of Paradise.
- Reimbursement is contingent upon the timely submission of any required reports and/or documents.
- Reimbursement shall be in accordance with Exhibit B of the MSA.
- The Grantee will not issue reimbursement to the Subrecipient until funding for the reimbursement has been provided by HCD.

Payments may be contingent upon Grantee certification of the Subrecipient's financial management system in accordance with the standards specified in 24 CFR 84.21.

5. NOTICES

Communication and details concerning this contract shall be directed to the following contract representatives:

6. GENERAL CONDITIONS

a. General Compliance

Subrecipient agrees to comply with the requirements of Title 24 of the Code of Federal Regulations, Part 570, the U.S. Housing and Urban Development regulations concerning Community Development Block Grants ("CDBG") including subparts J and K of these regulations, except (1) Subrecipient does not assume The Town of Paradise's

environmental responsibilities described in 24 CFR 570.604 and (2) Subrecipient does not assume The Town of Paradise's responsibility for initiating the review process under the provisions of 24 CFR Part 52.

1. The subrecipient is responsible for preparing the appropriate Environmental Review ("ER") per 24 CFR Part 58; the ER shall be submitted to The Town of Paradise for approval and certification prior to The Town of Paradise's issuing a NTP. The ER shall be completed by a qualified person or consultant, and may be entered directly into the HUD Environmental Review Online System ("HEROS") for The Town to review.
2. Subpart J (24 CFR 570.500–570.513) addresses general responsibilities for grant administration, including the applicability of uniform administrative requirements, provisions of subrecipient agreements, program income, use of real property, record keeping and reporting, and closeout procedures.
3. Subpart K (24 C.F.R. 570.600–570.614) covers other program requirements of the CDBG-DR program, including civil rights; labor standards; environmental standards; flood insurance; relocation; displacement; acquisition; employment and contracting opportunities; lead-based paint; use of debarred, suspended, or ineligible contractors; uniform administrative requirements and cost principles; and conflicts of interest.

Subrecipient shall comply with the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Final Guidance, adopted by HUD at 2 CFR 2400, and any and all federal regulations, guidelines, rules, and policies issued pursuant to the foregoing. The Subrecipient further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.

Subrecipient must maintain compliance with the Housing Element requirements detailed in Health and Safety Code (HSC) sections 50829 and 50830 for the duration of this Agreement, if applicable.

b. "Independent Contractor"

Nothing contained in this Agreement is intended to, or shall be construed in any manner, as creating or establishing the relationship of employer/employee between the parties. The Subrecipient shall at all times remain an "independent contractor" with respect to the services to be performed under this Agreement.

The Grantee shall be exempt from payment of all Unemployment Compensation, FICA, retirement, life and/or medical insurance and Workers' Compensation Insurance, as the Subrecipient is an independent contractor.

c. Hold Harmless

The Subrecipient shall hold harmless, defend and indemnify the Grantee from any and all claims, actions, suits, charges and judgments whatsoever that arise out of the Subrecipient's performance or nonperformance of the services or

subject matter called for in this Agreement.

Subrecipient shall be responsible for any costs incurred which are disallowed in reimbursement eligibility review by HCD.

Subrecipient shall be responsible for any costs, including staff and consultant costs borne by the Town of Paradise for addressing any potential audits of the Subrecipient's use of the subaward, including potential findings of the audit and corrective actions.

d. Worker's Compensation

The Subrecipient shall provide Workers' Compensation Insurance coverage for all of its employees involved in the performance of this Agreement.

e. Insurance & Bonding

The Subrecipient shall carry sufficient insurance coverage to protect contract assets from loss due to theft, fraud and/or undue physical damage, and as a minimum shall purchase a blanket fidelity bond covering all employees in an amount equal to cash advances from the Grantee. Detailed insurance requirements listed in Exhibit "G".

The Subrecipient shall comply with the bonding and insurance requirements of 24 CFR 84.31 and 84.48.

f. Grantor Recognition

The Subrecipient shall insure recognition of the role of the Grantee in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to funding source. In addition, the Subrecipient will include reference to the support provided herein in all publications made possible with funds made available under this agreement.

g. Amendments

The Grantee and Subrecipient may amend this Agreement at any time provided that such amendments make specific reference to this Agreement, and are executed in writing, signed by a duly authorized representative of both organizations, and approved by the Grantee's governing body. Such amendments shall not invalidate this Agreement, nor relieve or release the Grantee or Subrecipient from its obligations under this Agreement.

The Grantee may, in its discretion, amend this Agreement to conform with Federal, state or local governmental guidelines, or policies and available funding amounts.. If such amendments result in a change in the funding, the scope of services, or schedule of the activities to be undertaken as part of this

Agreement, such modifications will be incorporated only by written amendment signed by both Grantee and Subrecipient.

h. Suspension or Termination

Either party may terminate this contract at any time by giving written notice to the other party of such termination and specifying the effective date thereof at least 30 days before the effective date of such termination. Partial termination of the Scope of Service in Exhibit D may only be undertaken with the prior approval of the Grantee. In the event of any termination for convenience, all finished or unfinished documents, data, studies, surveys, maps, models, photographs, reports or other material prepared by the Subrecipient or assets generated under this Agreement shall, at the option of the Grantee, become the property of the Grantee, and the Subrecipient shall be entitled to receive just and equitable compensation for any satisfactory work completed on such documents, materials, or assets prior to the termination. The Subrecipient shall submit a settlement proposal to Grantee supported by appropriate cost and scheduling information within ten (10) working days from notice of termination for convenience. The Grantee shall negotiate settlement with the Subrecipient and enter into a settlement agreement within twenty (20) working days following notice of termination.

The Grantee may also suspend or terminate this Agreement, in whole or in part, if the Subrecipient materially fails to comply with any term of this Agreement, or with any of the rules, regulations or provisions referred to herein; and Grantee may declare the Subrecipient ineligible for any further participation in the Grantee's contract, in addition to other remedies as provided by law. In the event there is probable cause to believe the Subrecipient is in noncompliance with any applicable rule or regulations, the Grantee may withhold up to fifteen (15) percent of payments until such time as the Subrecipient is found to be in compliance by the Grantee, or is otherwise adjudicated to be in compliance. Prior to Grantee terminating the Agreement, they will provide Subrecipient written notice of the alleged material failure to comply and afford Subrecipient thirty (30) days to remedy the breach.

7. ADMINISTRATIVE REQUIREMENTS

- a. The Subrecipient agrees to comply with all CDBG DR Policies and Procedures as set forth in Exhibits C and E.
- b. The Subrecipient agrees to comply with all regulatory requirements as set forth in Exhibits C, E and F.
- c. Financial Management

i. Accounting Standards

The Subrecipient agrees to comply with 24 CFR 84.21-28 and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls, and maintain necessary source documentation for all costs incurred.

ii. Cost Principles

The Subrecipient shall administer its program in conformance with OMB Circular A-122, "Cost Principles for Non-Profit Organizations" or A-21 "Cost Principles for Educational Institutions, both mentioned here by reference only, as applicable. These principles shall be applied for all costs incurred whether charged on a direct or indirect basis.

d. Documentation and Record-Keeping

i. Records to be Maintained

The Subrecipient shall maintain all records required by the Federal regulations specified in 24 CFR Part 570.506 that are pertinent to the activities to be funded under this Agreement. Such records shall include but not be limited to:

1. Records providing a full description of each activity undertaken;
2. Records demonstrating that each activity undertaken meets one of the National Objectives of the CDBG-DR program;
3. Records required to determine the eligibility of activities;
4. Records required to document the acquisition, improvement, use or disposition of real property acquired or improved with CDBG assistance;
5. Records documenting compliance with the fair housing and equal opportunity components of the CDBG-DR program;
6. Financial records as required by 24 CFR Part 570.502, and 24 CFR 84.21-28; and
7. Other records necessary to document compliance with Subpart K of 24 CFR 570.

ii. Retention

The Subrecipient shall retain all financial records, supporting documents, statistical records, and all records pertinent to this Agreement for a period of four (4) years after the termination of all activities funded under this Agreement. The retention period begins on the date of the submission of the Grantee's annual performance and evaluation report which the activities assisted under the Agreement are reported for the final time. Records for non-

expendable property acquired with funds under this contract shall be retained for four (4) years after final disposition of such property. Records for any displaced person must be kept for four (4) years after he/she has received final payment. Notwithstanding the above, if there is litigation, claims, audits, negotiations or other actions that involve any of the records cited and that have started before the expiration of the four-year period, then such records must be retained until completion of the actions and resolutions of all issues, or the expiration of the four-year period, whichever occurs later.

iii. Client Data

The Subrecipient shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to Grantee monitors or their designees for review upon request.

iv. Disclosure

The Subrecipient understands that client information collected under this contract is private and the use or disclosure of such information, when not directly connected with the administration of the Grantee's or Subrecipient's responsibilities with respect to services provided under this contract, is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian.

v. Close-Outs

The Subrecipient's obligation to the Grantee shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to the grantee), and determining the custodianship of records.

vi. Audits & Inspections

All Subrecipient records with respect to any matters covered by this Agreement shall be made available to the Grantee, granter agency, their designees or the Federal Government at any time during normal business hours, as often as the Grantee or granter agency deems necessary, to audit, examine, and make excerpts or transcripts of all relevant data. Any deficiencies noted in audit reports must be fully cleared by the Subrecipient within 30 days after receipt by the Subrecipient. Failure of

the Subrecipient to comply with the above audit requirements will constitute a violation of this contract and may result in the withholding of future payments. The Subrecipient hereby agrees to have an annual agency audit conducted in accordance with current Grantee policy concerning Subrecipient audits and, as applicable, OMB Circular A-133.

e. Reporting and Payment Procedures

i. Reporting Procedures

The Subrecipient shall submit Monthly Activity and Monthly Financial reports directly to HCD as described in Exhibit C and E.

ii. Indirect Costs

If indirect costs are charged, the Subrecipient will develop an indirect cost allocation plan for determining the appropriate Subrecipient's share of administrative costs and shall submit such plan to the Grantee for approval, in a form specified by the Grantee.

iii. Payment Procedures

The Grantee will pay to the Subrecipient funds available under this Agreement based upon information submitted by the Subrecipient and consistent with any approved budget and Grantee policy concerning payments. In addition, the Grantee reserves the right to liquidate funds available under this contract for costs incurred by the Grantee on behalf of the Subrecipient.

f. Monitoring

The Grantee, in addition to specific activity monitoring specified in Section 1.e., shall monitor Subrecipient administrative performance at least annually either through a desk review of program documents or an on-site review. At a minimum, Grantee shall ensure Subrecipient complies with all regulations and requirements governing their administrative, financial, and programmatic operations as well as ensuring that the Subrecipient achieves their performance objectives within schedule and budget and for taking appropriate actions when performance problems arise. This will continue for 5 years after the closeout of the project.

g. Procurement

i. Compliance

The Subrecipient shall comply with current Grantee policy concerning the purchase of equipment and shall maintain inventory records of all non-expendable personal property as defined by such policy as may be procured with funds provided herein. All program assets

(unexpended program income, property equipment, etc.) shall revert to the Grantee upon termination of this contract.

ii. OMB Standards

Unless specified otherwise within this agreement, the Subrecipient shall procure all materials, property, or services in accordance with requirements of 24 CFR 84.40-48.

iii. Travel

The Subrecipient shall obtain written approval from the Grantee for any travel outside the metropolitan area with funds provided under this agreement unless otherwise specified in the Budget.

8. RELOCATION. REAL PROPERTY ACQUISITION AND ONE-FOR-ONE HOUSING ELEMENT

The Subrecipient agrees to comply with (a) the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended (URA), and implementing regulations at 49 CFR Part 24 and 24 CFR 570.606(b); (b) the requirement of 24 CFR 570.606(c) governing the Residential Anti-displacement and Relocation Assistance Plan under section 104(d) of the HCD Act; and (c) the requirements in 570.606(d) governing optional relocation policies. The Subrecipient shall provide relocation assistance to persons defined by 24 CFR 570.606(b) (2) that are displaced as a direct result of acquisition, rehabilitation, demolition or conversion for a CDBG-assisted project. The Subrecipient also agrees to comply with applicable Grantee ordinances, resolutions and policies concerning the displacement of persons from their residences.

9. PERSONAL & PARTICIPANT CONDITIONS

a. Civil Rights

i. Compliance

The Subrecipient agrees to comply with Title VI of the Civil Rights Act of 1964 as amended, Title VIII of the Civil Rights Act of 1968 as amended, Section 104(b) and Section 109 of Title I of the Housing and Community Development Act of 1974 as amended, Section 504 of the Rehabilitation Act of 1973, the Americans with Disabilities Act of 1990, the Age Discrimination Act of 1975, Executive Order 11063, and with Executive Order 11246 as amended by Executive Orders 11375, 11478, and 12086.

ii. Nondiscrimination

The Subrecipient will not discriminate against any employee or applicant for employment because of race, color, creed, religion, sex, sexual orientation, gender identity, national origin, disability or other

handicap, age, marital/familial status, or status with regard to public assistance. The Subrecipient will take affirmative action to insure that all employment practices are free from such discrimination. Such employment practices include but are not limited to the following: hiring, upgrading, demotion, transfer, recruitment advertising layoff, termination, rates of pay or other forms of compensation, and selection for training, including apprenticeship. The Subrecipient agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the contracting agency setting forth the provisions of this nondiscrimination clause.

The Subrecipient agrees to comply with the non-discrimination in employment and contracting opportunities laws, regulations, and executive orders referenced in 41 CFR §60-1.4(b), in accordance with Executive Order 11246, "Equal Employment Opportunity" (30 FR 12319, 12935, 3 CFR §1964-1965 Comp., p. 339), as amended by Executive Order 11375, "Amending Executive Order 11246 Relating to Equal Employment Opportunity," and implementing regulations at 41 CFR §60, "Office of Federal Contract Compliance Programs, Equal Employment Opportunity, Department of Labor."

iii. Land Covenants

This contract is subject to the requirements of Title VI of the Civil Rights Act of 1964 (P.L. 88-352) and 24 CFR 570.601 and 602. In regard to the sale, lease, or other transfer of land acquired, cleared or improved with assistance provided under this contract, the Subrecipient shall cause or require a covenant running with the land to be inserted in the deed or lease for such transfer, prohibiting discrimination as herein defined, in the sale, lease or rental, or in the use or occupancy of such land, or in any improvements erected or to be erected thereon, providing that the Grantee and the United States are beneficiaries of and entitled to enforce such covenants. The Subrecipient, in undertaking its obligation to carry out the program assisted hereunder, agrees to take such measures as are necessary to enforce such covenant, and will not itself so discriminate.

iv. Section 504

The Subrecipient agrees to comply with any Federal regulations issued pursuant to compliance with Section 504 of the Rehabilitation Act of 1973 (29 U.S.C. 794), which prohibits discrimination against the handicapped in any Federally assisted program. The Grantee shall provide the Subrecipient with any guidelines necessary for compliance with that portion of the regulations in force during the term of this contract.

b. Affirmative Action

i. Approved Plan

The Subrecipient agrees that it shall be committed to carry out pursuant to the Grantee's specifications an Affirmative Action Program in keeping with the principles as provided in President's Executive Order 11246 of September 24, 1966. The Grantee shall provide Affirmative Action guidelines to the Subrecipient to assist in the formulation of such program.

ii. Women and Minority-Owned Businesses (W/MBE)

The Subrecipient will use its best efforts to afford small businesses, minority businesses and - women-owned business enterprises the maximum practicable opportunity to participate in the performance of this contract. As used in this contract, the term "small business" means a business that meets the criteria set forth in Section 3(a) of the Small Business Act, as amended (15 U.S.C. 632) and "minority and women's business enterprise" means a business at least fifty-one (51) percent owned and controlled by minority group members or women. For the purpose of this definition, "minority group members" are Afro-Americans, Spanish speaking, Spanish surnamed or Spanish-heritage Americans, Asian-Americans, and American Indians. The Subrecipient may rely on written representations by businesses regarding their status as minority and female business enterprises in lieu of an independent investigation.

iii. Access to Records

The Subrecipient shall furnish and cause each of its own Subrecipients or subcontractors to furnish all information and reports required hereunder and will permit access to its books, records and accounts by the Grantee, HUD or its agent, or other authorized Federal officials for purposes of investigation to ascertain compliance with the rules, regulations and provisions stated herein.

iv. Equal Employment Opportunity and Affirmative Action (EEO/AA) Statement

The Subrecipient will, in all solicitations or advertisements for employees placed by or on behalf of the Subrecipient; state that it is an Equal Opportunity or Affirmative Action employer.

v. Subcontract Provisions

The Subrecipient will include the provisions of Paragraphs 10.A., Civil Rights and B, Affirmative Action, in every subcontract or purchase order, specifically or by reference, so that such provisions will be binding

upon each of its own Subrecipients or subcontractors.

c. Employment Restrictions

i. Prohibited Activity

The Subrecipient is prohibited from using funds provided herein or personnel employed in the administration of the program for: political activities; sectarian or religious activities; lobbying, political patronage, and nepotism activities.

ii. Labor Standards

The Subrecipient agrees to comply with the requirements of the Secretary of Labor in accordance with the Davis-Bacon Act as amended and all other applicable Federal, state and local laws and regulations pertaining to labor standards insofar as those acts apply to the performance of this contract. The Subrecipient shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the Grantee for review upon request.

iii. "Section 3" Clause

1. Compliance

Compliance with the provisions of Section 3 of the Housing and Urban Development Act of 1968, the regulations set forth in 24 CFR 135, and all applicable rules and orders issued hereunder prior to the execution of this contract, shall be a condition of the Federal financial assistance provided under this contract and binding upon the Grantee, the Subrecipient and any of the Subrecipient's subrecipients or subcontractors. Failure to fulfill these requirements shall subject the Grantee, the Subrecipient and any of the Subrecipient's subrecipients or subcontractors, their successors and assigns, to those sanctions specified by the Agreement through which Federal assistance is provided. The Subrecipient certifies and agrees that no contractual or other disability exists which would prevent compliance with these requirements.

The Subrecipient further agrees to comply with these "Section 3" requirements and to include the following language in all subcontractor agreements executed under this Agreement:

"The work to be performed under this Agreement is a project assisted under a program providing direct

Federal financial assistance from HUD and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C.1701. Section 3 requires that to the greatest extent feasible opportunities for training and employment be given to low-and very low-income residents of the project area and contracts for work in connection with the project be awarded to business concerns that provide economic opportunities for low-and very low-income persons residing in the metropolitan area in which the project is located."

The Subrecipient further agrees to ensure that opportunities for training and employment arising in connection with a housing rehabilitation (including reduction and abatement of lead-based paint hazards), housing construction, or other public construction project are given to low-and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to low-and very low-income persons within the service area of the project or the neighborhood in which the project is located, and to low-and very low-income participants in other HUD programs; and award contracts for work undertaken in connection with a housing rehabilitation (including reduction and abatement of lead based paint hazards), housing construction, or other public construction project are given to business concerns that provide economic opportunities for low- and very low-income persons residing within the metropolitan area in which the CDBG-funded project is located; where feasible, priority should be given to business concerns which provide economic opportunities to low- and very low-income residents within the service area or the neighborhood in which the project is located, and to low-and very low-income participants in other HUD programs. The Subrecipient certifies and agrees that no contractual or other legal incapacity exists which would prevent compliance with these requirements.

2. Notifications

The Subrecipient agrees to send to each labor organization or representative of workers with which Subrecipient has a collective bargaining agreement or other contract or understanding, if any, a notice advising said labor organization or worker's representative of its commitments under this

Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

3. Subcontracts

The Subrecipient will include this Section 3 clause in every subcontract and will take appropriate action pursuant to the subcontract upon a finding that the subcontractor is in violation of regulations issued by the grantor agency. The Subrecipient will not subcontract with any entity where it has notice or knowledge that the latter has been found in violation of regulations under 24 CFR 135 and will not let any subcontract unless the entity has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

d. Conduct

i. Assignability

The Subrecipient shall not assign or transfer any interest in this contract without the prior written consent of the Grantee thereto; provided, however, that claims for money due or to become due to the Subrecipient from the Grantee under this contract may be assigned to a bank, trust company, or other financial institution without such approval. Notice of any such assignment or transfer shall be furnished promptly to the Grantee.

ii. Subcontracts

1. Approvals

The Subrecipient shall not enter into any subcontracts with any agency or individual in the performance of this contract without the written consent of the Grantee prior to the execution of such agreement.

2. Monitoring

The Subrecipient will monitor all subcontracted services on a regular basis to assure contract compliance. Results of monitoring efforts shall be summarized in written reports and supported with documented evidence of follow-up actions taken to correct areas of noncompliance.

3. Content

The Subrecipient shall cause all of the provisions of this contract

in its entirety to be included in and made part of any subcontract executed in the performance of this Agreement.

iii. Hatch Act

The Subrecipient agrees that no funds provided, nor personnel employed under this contract, shall be in any way or to any extent engaged in the conduct of political activities in violation of Chapter 15 of Title V United States Code.

iv. Conflict of Interest

The Subrecipient agrees to abide by the provisions of 24 CFR 84.42 and 24 CFR 570.611 with respect to conflicts of interest, and covenants that it presently has no financial interest and shall not acquire any financial interest, direct or indirect, which would conflict in any manner or degree with the performance of services required under this Agreement.

v. Lobbying

The Subrecipient hereby certifies that:

1. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
2. If any funds other than Federal appropriated funds have been paid or will be paid to any persons for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions; and
3. It will require that the language of paragraph (4) of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and contracts under grants, loans, and cooperative agreements) and that all Subrecipients shall certify and disclose accordingly;

4. Lobbying Certification

This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 152, title 31, U.S.C. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

e. Copyright

If this contract results in any copyrightable material or inventions, the Grantee and/or grantor agency reserves the right to royalty-free, non-exclusive and irrevocable license to reproduce, publish or otherwise use and to authorize others to use, the work or materials for government purposes.

f. Religious Organization

Faith-based organizations are eligible for CDBG funding. The Grantee and Subrecipient may not discriminate against faith-based organizations so long as the activities funded are not inherently religious activities. The Subrecipient agrees that funds provided under this contract will not be utilized for inherently religious activities, to promote religious interests, or for the benefit of a religious organization in accordance with the Federal regulations specified in 24 CFR 570.200(j).

10. ENVIRONMENTAL

a. Air and Water

The Subrecipient agrees to comply with the following requirements insofar as they apply to the performance of this contract:

- i. Clean Air Act, 42 U.S.C., 7401, et seq.
- ii. Federal Water Pollution Control Act, as amended, 33 U.S.C. 1251, et seq., as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
- iii. Environmental Protection Agency (EPA) regulations pursuant to 40 C.F.R., Part 50, as amended.

b. Flood Disaster Protection

In accordance with the requirement of the Flood Disaster Protection Act of 1973 (42 USC 4001), the Subrecipient shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial

assistance for acquisition or construction purposes (including rehabilitation).

c. Lead-Based Paint

The Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this contract shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35 Subpart B. Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and advisability and availability of blood level screening for children under seven. The notice should also point out that if lead-based paint is found on the property, abatement measures may be undertaken. The regulations further require that, depending on the amount of Federal funds applied to a property, paint testing, risk assessment, treatment and/or abatement may be conducted.

d. Historic Preservation

The Subrecipient agrees to comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470) and the procedures set forth in 36 CFR, Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this Agreement.

In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a Federal, state, or local historic property list.

11. SEVERABILITY


If any provision of this Agreement is held invalid, the remainder of the Agreement shall not be affected thereby and all other parts of this Agreement shall nevertheless be in full force and effect.

IN WITNESS WHEREOF, the Parties have executed this contract as of the date first written above.

Town of Paradise
Jim Goodwin, Town Manager

Paradise Irrigation District
Tom Lando, District Manager

Date




01/23/2024
Date

Town of Paradise
Scott Huber, Town Attorney

Paradise Irrigation District
Emily E. LaMoe, District Counsel

Date



01/30/2024
Reviewed as to Form Date

EXHIBIT "A" – 2018 CDBG-DR-INFRASTRUCTURE- MSA AND EXHIBITS

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

STANDARD AGREEMENT

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER

18-DRINFRA-18006

PURCHASING AUTHORITY NUMBER (If Applicable)

1. This Agreement is entered into between the Contracting Agency and the Contractor named below:

CONTRACTING AGENCY NAME

DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT

CONTRACTOR NAME

Town of Paradise

2. The term of this Agreement is:

START DATE

Upon HCD Approval

THROUGH END DATE

March 3, 2026

3. The maximum amount of this Agreement is:

\$199,592,735.75

4. The parties agree to comply with the terms and conditions of the following exhibits, which are by this reference made a part of the Agreement.

Exhibits	Title	Pages
Exhibit A	Authority, Purpose and Scope of Work	8
Exhibit B	Budget Details and Payment Provisions	6
Exhibit C *	General Terms and Conditions	GIC - 04/2017
Exhibit D	CDBG-DR Terms and Conditions	34
Exhibit E	Special Terms and Conditions	2
Exhibit F	Notice to Proceed	8
Exhibit G	Subrecipient Profile	2

Items shown with an asterisk (*), are hereby incorporated by reference and made part of this agreement as if attached hereto.

These documents can be viewed at <https://www.dqs.ca.gov/OLS/Resources>

IN WITNESS WHEREOF, THIS AGREEMENT HAS BEEN EXECUTED BY THE PARTIES HERETO.

CONTRACTOR

CONTRACTOR NAME (if other than an individual, state whether a corporation, partnership, etc.)

Town of Paradise

CONTRACTOR BUSINESS ADDRESS

5555 Skyway

CITY

Paradise

STATE

Ca

ZIP

95969

PRINTED NAME OF PERSON SIGNING

Marc Mattox

TITLE *Interim Town Manager /
Public Works Director*

CONTRACTOR AUTHORIZED SIGNATURE

DATE SIGNED

5/5/23

STATE OF CALIFORNIA - DEPARTMENT OF GENERAL SERVICES

STANDARD AGREEMENT

STD 213 (Rev. 04/2020)

AGREEMENT NUMBER

18-DRINFRA-18006

PURCHASING AUTHORITY NUMBER (If Applicable)

STATE OF CALIFORNIA

CONTRACTING AGENCY NAME

Department of Housing and Community Development

CONTRACTING AGENCY ADDRESS

2020 W. El Camino Ave.

CITY

Sacramento

STATE

CA

ZIP

95833

PRINTED NAME OF PERSON SIGNING

Synthia Rhinehart

TITLE

Manager, Contract Services

CONTRACTING AGENCY AUTHORIZED SIGNATURE

Synthia Rhinehart

DATE SIGNED

6/8/2023

CALIFORNIA DEPARTMENT OF GENERAL SERVICES APPROVAL

EXEMPTION (If Applicable)

Exempt per SCM Vol. 1, 4.04 A.3 (DGS memo dated 6/12/1981)

EXHIBIT A

AUTHORITY, PURPOSE AND SCOPE OF WORK

1. Authority & Purpose

The California Department of Housing and Community Development (hereinafter "Department") is the lead and responsible entity for administering the Community Development Block Grant – Disaster Recovery (hereinafter "CDBG-DR") program funds appropriated under Public Laws 115-254 and 116-20, which cover DR-4382 and DR-4407, and allocated to the State of California by the Department of Housing and Urban Development (hereinafter "HUD"). CDBG-DR supports the State of California's recovery needs related to the Federal Emergency Management Agency's Major Disaster Declaration DR-4382 in August 2018 and DR-4407 in November 2018. CDBG-DR Infrastructure Program (hereinafter "DR-Infrastructure ") projects are funded to meet the unmet infrastructure needs of eligible California units of local government.

2. Scope of Agreement

A. Grant Funds

Subject to the terms and conditions of this Master Standard Agreement (hereinafter "Agreement"), the Department has allocated and agrees to provide Grant Funds in the maximum amount to Town of Paradise (hereinafter "Subrecipient") for all Subrecipient Work (defined below) and Project Work (defined below) identified in this Agreement (hereinafter "Subrecipient Allocation"). All payments made to the Subrecipient will adhere to the provisions described in Exhibit B, Section 3 (Method of Payment) herein. In no instance shall the Department be liable for any costs in excess of this amount, nor for any unauthorized or ineligible costs or expenses. The Subrecipient Allocation is and shall not exceed \$199,592,735.75.

This Agreement governs the Subrecipient Allocation and each individual project ("Project") thereafter proposed by the Subrecipient and approved by the Department ("Approved Project"), the budget for each of which is to constitute some portion of the Subrecipient Allocation. The cumulative total amount of all Approved Projects shall not exceed the total amount of the Subrecipient Allocation.

EXHIBIT A

The Department, in conjunction with its internal DR-Infrastructure Review Board, shall make individual Project application approval determinations pursuant to the 2018 DR-Infrastructure Policies and Procedures, HUD guidelines and regulations, subject to the DR-Infrastructure program requirements to spend 80% of grant-wide DR-Infrastructure program funds in the HUD Identified Most Impacted and Distressed areas (MID) and 70% of grant-wide funds for Low- to Moderate Income (LMI) benefit. Applications may be approved, conditioned, or denied in the sole discretion of the Department. If the Subrecipient disagrees with the Department's decision with respect to its application, the Subrecipient may elect to file an appeal of that decision in accordance with the Project selection appeals process described in the 2018 DR-Infrastructure Policies and Procedures.

B. Implementation of Agreement

By entering into this Agreement and thereby accepting the Subrecipient Allocation of Grant Funds, the Subrecipient agrees to comply with and implement this Agreement in a manner satisfactory to the Department and HUD and consistent with all applicable guidelines and standards that may be required as a condition of the Department providing the Grant Funds, including but not limited to, all applicable CDBG-DR administration and compliance requirements set forth by this Agreement, and in accordance with the due diligence documentation previously provided by the Subrecipient and made a part hereof. The Department's providing of Grant Funds under this Agreement is specifically conditioned on Subrecipient's compliance with this provision and all other terms and conditions of this Agreement, the Notice to Proceed (defined below), the most recently published version of the Department's CDBG-DR Action Plan for 2018 disasters and any amendments thereto, related Federal Register notices, and the requirements of the authorities cited above, as all of the same may be amended from time to time.

This Agreement is subject to written modification and termination as necessary by the Department in accordance with requirements contained in any future state or federal legislation and/or state or federal regulations. All other modifications must be in written form and approved by both parties.

3. Subrecipient Scope of Work

18-DRINFRA-18006
NOI Date: 02/01/2022
Approved Date: 10/04/2022
Prep. Date: 10/17/2022

EXHIBIT A

The Subrecipient scope of work (hereinafter “Subrecipient Work”) for this Agreement shall consist of the Subrecipient submitting individual Project applications to the Department and managing Approved Projects through the lifecycle of the grant, as outlined in the exhibits of this Agreement and the 2018 DR-Infrastructure Policies and Procedures. The obligations undertaken by the Subrecipient include, but are not limited to, the obligation to comply with all local, state, and federal laws, regulations, and grant requirements.

- A. Subrecipient shall collect data and submit reports to the Department in accordance with the reporting requirements detailed in section 23 of Exhibit D herein.
- B. Subrecipient shall meet all Project milestones, project-specific special conditions, budgetary and otherwise, and other requirements, as may be set forth in the Notice to Proceed (hereinafter “NTP”) of Exhibit F for each Approved Project.
- C. Subrecipient shall comply with all Project closeout procedures, timely and accurately, including responding to the Department’s requests for additional information in support of Project closeout in reasonable timeframe.
- D. Subrecipient shall submit requests for reimbursement (Financial Reports) to the Department no less frequently than quarterly and no more frequently than monthly with end-of-quarter reimbursement requests being due to the Department by the 10th calendar day of the month following the end of the preceding quarter. The Department may require monthly requests for reimbursement. For purposes of this provision, the first full month following the effective date of this Agreement shall constitute the first month of the first quarter. Subrecipient shall submit Financial Reports consistent with the other provisions outlined in this Agreement such as Exhibit B.

4. Other Funding Sources

- A. Other Funding Sources: All other sources of funding required to complete the Approved Project must be identified, committed, and documented prior to, and as a condition of, the Department’s issuance of the NTP. If at any time, those identified and secured sources change, the Subrecipient must notify the Department within 10 days of the Subrecipient’s knowledge that funding sources are changing. The terms and conditions of all financing shall be subject to the

EXHIBIT A

Department's review and approval. The Department reserves the right to re-review a Project application at any time in the event there is a change in the amount of, or the material terms and conditions of, any third-party funding for the Project.

5. Effective Date and Commencement of Work

- A. This Agreement is effective upon approval by the Department representative's signature on page one of the fully executed Standard Agreement, STD 213 (the "Effective Date").
- B. Subrecipient agrees that no choice-limiting actions toward the implementation of the submitted Project(s) shall commence, nor shall any costs be paid with CDBG-DR funds incurred or obligated by any party, without prior authorization from the Department via a NTP and prior to the execution of this Agreement by the Department. Additionally, for public facility-related activities, proof of the recorded DR-Infrastructure Regulatory Agreement must be submitted to and accepted by the Department prior to the start of construction on an Approved Project. Details on the Regulatory Agreement will be included in the NTP. Notwithstanding the foregoing, there are two circumstances when costs may be incurred prior to the execution of this Agreement. First, with Program Manager or Section Chief written approval, Activity Delivery expenses for environmental compliance work for intended Project Applications may be incurred prior to the execution of this Agreement provided that such expenses are eligible and are supported by documentation satisfactory to the Department. Second, with Program Manager or Section Chief written approval, other costs may also be incurred prior to the execution of this Agreement, such as the cost of procuring consultants and architectural, engineering and other professional services required to prepare plans, drawings, specifications, or work write ups that are incurred not more than 24 months prior to the Approved Project being set up in DRGR, provided these procurements are conducted in a manner consistent with 2 CFR 200.317 – 200.326, "Procurement Standards".

6. Term of Agreement and Performance Milestones

- A. Term of Agreement: With the exception of the grant closeout procedures set forth in Exhibit B, Section 6, the Subrecipient shall complete all Approved Project activities on or before the Expenditure Deadline identified in Exhibit F of this

18-DRINFRA-18006
NOI Date: 02/01/2022
Approved Date: 10/04/2022
Prep. Date: 10/17/2022

EXHIBIT A

Agreement. Time is of the essence in order to ensure complete and compliant Projects before grant closeout. Failure by Subrecipient to complete all such activities before the expenditure deadline may result in the Department recapturing some or all of the Subrecipient Allocation from Subrecipient.

All Project applications must be submitted to and received by the Department by the deadline identified in the then applicable 2018 DR-Infrastructure Policies and Procedures. Upon review and approval or rejection of all Project applications, the Department reserves the right to reallocate unobligated Grant Funds within the DR-Infrastructure program, in its sole and absolute discretion.

Expenditure Deadline: All Activity funds must be expended by: December 1, 2025.

This Agreement will expire as set forth in Section 2 of the STD 213.

- B. Performance Milestones: Subrecipient shall adhere to the performance milestones below. Time is of the essence with respect to all such milestones.
- 1) Subrecipient shall submit all Project applications to the Department by the application deadline identified in the then applicable 2018 DR-Infrastructure Policies and Procedures.
 - 2) No later than October 31, 2024, Subrecipient shall satisfy all conditions required for the Department to issue a Notice to Proceed for all Approved Projects.
 - 3) No later than March 1, 2025, Subrecipient shall provide evidence of construction, reconstruction, acquisition, or rehabilitation on all Approved Projects.
 - 4) No later than March 1, 2026, Subrecipient shall provide all required closeout documentation as detailed in Exhibit B, Section 5 herein, for all Approved Projects.
 - 5) Subrecipient must expend 50% of the Subrecipient Allocation at least 12 months prior to the agreement expiration date as set forth in Section 2 of the STD 213.

EXHIBIT A

- 6) Subrecipient must submit project applications for their entire allocation of DR-Infrastructure funds by the application deadline. If Subrecipient fails to do so, the Department reserves the right to deobligate, recapture, and/or reallocate the Subrecipient's allocation amount in this Agreement by the amount not applied for.

Failure to meet performance milestones:

If any performance milestones listed above are not timely met by Subrecipient as required, the Department reserves the right to withhold further payments (including, but not limited to, activity delivery fees) on one or more projects to Subrecipient until such time as satisfactory progress is made toward meeting the performance measures. Subrecipient shall diligently work with DR-Infrastructure staff to submit: (a) a written mitigation plan specifying the reason for the delay; (b) the actions to be taken to complete the task that is the subject of the missed measure deadline; and (c) the date by which the completion of said task will occur.

The Department, in its sole and absolute discretion, reserves the right to reallocate unobligated Grant Funds within the DR-Infrastructure program if the Department determines the Subrecipient is unable to meet the performance milestones in a timely manner following a failure of Subrecipient to meet any milestone(s). The Department reserves all rights and remedies available to it in case of a default by Subrecipient of its responsibilities and obligations under the terms of this Agreement. All remedies available to the Department are cumulative and not exclusive.

- C. The Subrecipient and its Contractors, as applicable, shall adhere to all performance and Project milestones as established above and in each Approved Project NTP.

Upon review and approval of a Project application, the Department will issue a NTP using the template provided for on Exhibit F of this Agreement to obligate activity funds to an Approved Project. The NTP will include the Project description and Project-specific scope of work (hereinafter "Project Work"), time of performance, Project budget, Project-specific special conditions, and Project performance measures, and shall be implemented through this Agreement and

EXHIBIT A

subject to the terms and conditions thereof. For each Approved Project, that Project's application, supporting materials and the NTP are thereafter automatically incorporated into this Agreement as its own separate addendum hereto, uniquely identified for ease of monitoring and compliance purposes.

The Department reserves the right to monitor and approve all Subrecipient Work and Project Work in relation to this Agreement and the NTP(s). Any revisions to the Subrecipient Work and/or Project Work which the Department believes are substantial in nature may require a re-review of the affected Approved Project by the DR-Infrastructure Review Board and its subsequent approval thereof. Requests for substantial revisions to the Subrecipient Work and/or Project Work must be submitted in writing for review and approval by the Department in its discretion. Any approval shall not be presumed unless such approval is made by the Department in writing.

7. **Notice to Proceed Revisions**

- A. Adjustments to the Subrecipient Work and/or Project Work that do not require an increase or reduction of Project scope or a change in the type and/or number of beneficiaries assisted may be completed as a Notice to Proceed revision ("NTP Revision"). NTP Revisions may include, but are not limited to:
- 1) Adjustments that itemize the Subrecipient Work and/or Project Work, revise milestone deadlines, change the Subrecipient Work and/or Project Work in a manner that does not change the overall budget, National Objective, expenditures in the MID, and type and count of estimated beneficiaries.
 - 2) Adjustments that increase the estimated number of beneficiaries without increasing or decreasing the scope of work and without changing the overall budget.
- B. NTP Revisions must be approved by the Department in writing prior to implementation by Subrecipient. Approval shall be provided either through Grants Network, or in writing, as determined by the Department. The Department reserves the right to monitor and approve all Subrecipient Work and/or Project Work in relation to this Agreement and the NTP, as modified by any NTP Revisions. NTP Revisions shall be automatically incorporated into this

EXHIBIT A

Agreement.

8. **DR-Infrastructure Program Contract Management**

- A. Department Contract Manager: The Department Contract Manager for this Agreement is the 2018 DR-Infrastructure program or its designee. Written communication regarding this Agreement shall be directed to the Department Contract Manager at the following address:

CA Department of Housing and Community Development
Division of Federal Financial Assistance – 2018 DR-Infrastructure Program
P.O. Box 952054
Sacramento, CA 94252-2054

- B. Contract Management: Day-to-day administration of this Agreement shall take place via Grants Network, including but not limited to:

- 1) Financial Reports (Funds Requests)
- 2) Activity Reports
- 3) Risk Assessment (aka Due Diligence) documents
- 4) Other Reports, as required
- 5) Submittal of any and all requested supporting documentation
- 6) NTP Issuance and Revisions
- 7) Master Standard Agreement Issuance and Amendments

- C. Subrecipient Contract Administrator: The Subrecipient Contract Administrator (must be a Subrecipient employee) is identified in Exhibit G, Profile. Unless otherwise directed by the Department, any notice, report, or other communication required by this Agreement shall be directed via Grants Network or written to the Subrecipient's Contract Administrator at the contact information identified in Exhibit G, Profile.

EXHIBIT B

BUDGET DETAILS AND PAYMENT PROVISIONS

1. Availability of Funds

The Department's provision of funding to Subrecipient pursuant to this Agreement is contingent on the availability of CDBG-DR funds and continued federal and state authorization for CDBG-DR activities and is subject to amendment or termination due to lack of funds or authorization. Availability of CDBG-DR funds is subject to the HUD requirement to spend 80% of grant-wide DR program funds in the MID and 70% of grant-wide DR funds for LMI benefit, unless HUD issues waivers and/or alternative requirements (along with any required and approved Action Plan Amendments), in which case the Department will enter into an amendment with the Subrecipient to provide as such.

The Department shall be relieved of any obligation for making payments to the Subrecipient if funds allocated to the State of California by HUD cease to be available for any reason or there is any limitation on, or withdrawal of, the Department's authority to administer the CDBG-DR program or any portion thereof.

2. Expenditure of Funds

A. No Activity costs may be incurred, funds reimbursed, or choice-limiting actions taken until and unless Subrecipient provides documented compliance with the National Environmental Protection Act (NEPA) requirements established in 24 CFR 50, 24 CFR 58, and 42 USC 4321, et seq. and California Environmental Quality Act (CEQA); California Code of Regulations, Title 14, Division 6, Chapter 3, Sections 15000 – 15387.

Activity Delivery costs may be incurred prior to documented NEPA and CEQA compliance. See Section 3(A)(3) below for reimbursement requirements of Activity Delivery costs.

B. Priority of Use of Funds

The Subrecipient must utilize funds available under this Agreement to supplement rather than supplant funds otherwise available. To the extent available, the Subrecipient must disburse funds available to the Approved Project from, among other sources, Subrecipient funding, third-party loans or grants, contract settlements, audit recoveries, insurance and condemnation proceeds and interest earned on such funds before requesting or receiving Grant Funds.

C. Withholding Funds

18-DRINFRA-18006

NOI Date: 02/01/2022

Approved Date: 10/04/2022

Prep Date: 10/18/2022

EXHIBIT B

The Department reserves the right to withhold payments pending timely delivery of program and project reports or documents as may be required under this Agreement, and for defaults by the Subrecipient, as noted in Exhibit D.

D. Deobligation of Funds

The Subrecipient agrees that Grant Funds determined by the Department to be surplus upon completion of an Approved Project(s) will be subject to deobligation (i.e., removed from the Subrecipient Allocation amount in this Agreement) and/or reallocation by the Department. Subrecipient also agrees that if funds are not obligated to Approved Projects by milestones outlined in Exhibit F, the remaining funds will be subject to deobligation and/or reallocation by the Department.

E. Indirect Costs

The Department will only consider reimbursement of indirect cost expenditures from Subrecipients that have an approved Indirect Cost Rate Proposal from the Department, HUD or other cognizant federal agency. If Subrecipient does not have an approved Indirect Cost Rate Proposal, Subrecipient shall develop a proposal for determining the appropriate CDBG-DR share of indirect costs and shall submit it to the Department for approval prior to submission of Financial Reports for reimbursement of indirect cost expenditures.

F. Compliance with the OMB Uniform Guidance Audit Requirements

Grant Funds will not be disbursed to any Subrecipients identified by the State Controller's Office (SCO) as non-compliant with the Federal Single Audit Act, as described in the OMB Uniform Guidance and 2 CFR Part 200 Sub-Part F. No funds may be disbursed until compliance with the Uniform Guidance is demonstrated to the satisfaction of the Department.

G. Grant Administration

The Subrecipient agrees to administer this Agreement in accordance with the provisions of Section 7097 through and including Section 7126 of Title 25 of the California Code of Regulations.

3. Method of Payment

Payments will be made directly to Subrecipients as reimbursements based on the documented and satisfactory completion of agreed upon milestones detailed in

18-DRINFRA-18006

NOI Date: 02/01/2022

Approved Date: 10/04/2022

Prep Date: 10/18/2022

EXHIBIT B

Subrecipient Work and/or Project Work, identified in Exhibit A, and detailed in each Approved Project NTP incorporated in Exhibit F, and confirmation of Subrecipient's compliance with the terms of this Agreement. No advance payments will be allowed to Subrecipients.

Financial Reports shall be submitted by Subrecipient electronically through Grants Network. The Department shall not authorize payments or reimbursements unless it has determined the activities indicated in the Financial Report have been performed in compliance with the terms of this Agreement and any other agreements executed by the parties in connection herewith, as well as all applicable Program requirements. Financial Reports must be for a minimum of \$1,000, except for the final Financial Report, which must be marked "Final". The Department will specify the frequency (monthly, quarterly, etc.) of Financial Reports, which shall be submitted by the Subrecipient to the Department no less frequently than quarterly and no more frequently than monthly.

A. Reimbursements for Costs Incurred

- 1) The Subrecipient may use Grant Funds for reimbursement by the Department of Eligible Expenses as defined herein, applied to Projects approved by the Department through the application and NTP processes described in Exhibit A and the 2018 DR-Infrastructure Policies and Procedures. Eligible Expenses include, but are not limited to, costs associated with Subrecipient program implementation including staff time and environmental reviews for Approved Projects, architectural and engineering design, permitting fees, and Approved Project costs for Eligible Infrastructure Activities as determined by the DR-Infrastructure Policies and Procedures.
- 2) The Subrecipient shall withhold as retainage ten percent (10%) of all DR-Infrastructure funded Contractor payments. No retainage payments shall be released to the Contractor or reimbursed to the Subrecipient until receipt and approval by the Department as provided in the 2018 DR-Infrastructure Policies and Procedures.
- 3) Approved Project Financial Reports for construction shall be made on the actual expenses of eligible DR-Infrastructure activities as determined by the DR-Infrastructure Policies and Procedures, respectively.
- 4) Activity Delivery Financial Reports shall be paid only after such costs are expended for Subrecipient Work and/or Project Work completed, provided the Department determines that the Program Performance Milestones in

EXHIBIT B

this Agreement and/or Approved Project Performance Milestones in the NTP are on track. Subrecipient may expend up to the indicated Activity Delivery amount as identified in the final, executed NTP, a sample of which is attached as Exhibit F hereto.

- 5) To receive reimbursement for Approved Project activities, the Subrecipient shall timely submit all required Department forms via Grants Network. Financial Reports must include the level of documentation specified by the Department in the Department's Grant Administration Manual located on the Department's website, in order to be reviewed and processed.
- B. Final Financial Reports
- 1) The final Financial Report for the Subrecipient Allocation must be submitted to the Department before the expiration of this Agreement as set forth in Section 2 of the STD 213.
 - 2) If the final Financial Report for costs expended during the term of this Agreement has not been received by the Department before the agreement expiration date set forth in Section 2 of the STD 213, the Department may recapture any funds remaining in which case such Grant Funds will no longer be available to the Subrecipient.

4. Recapture of Funds

A Subrecipient may be required to repay all or a portion of the funds received from the Department, including Activity Delivery, pursuant to this Agreement. The reasons for a recapture of funds by the Department include, but are not limited to, the following:

- A. The Subrecipient does not comply with the terms of this Agreement or any agreement executed by the Subrecipient and the Department in connection herewith or any Program rules, guidelines, policies, or procedures.
- B. The Subrecipient withdraws voluntarily from the Program prior to completion of the Approved Project(s).
- C. The Subrecipient fails to meet a National Objective for any Approved Project.
- D. The taking of any action, or the failure to take any required action, by Subrecipient which results in HUD requiring the Department to repay, directly or indirectly, all or any portion of any Grant Funds provided to Subrecipient under this Agreement, regardless of when such action or failure to act occurred or

EXHIBIT B

when HUD demands repayment from the Department.

The potential recapture of funds pursuant to this provision is in addition to, and not in lieu of, any other rights and remedies of the Department under this Agreement, and Subrecipient's obligations under this provision shall survive the completion and closeout of the Approved Project(s) and/or the expiration of this Agreement.

5. **Project Budget Revisions and Amendments**

Budget line item adjustments may be made in accordance with the following:

- A. Project Budget Revisions: Adjustments to the Approved Project budget that do not require an increase or reduction of the total Approved Project budget, a change in National Objective, a change in project service location if the Approved Project service location is in a MID area, a change in Program Priority Level below its current Priority Level, a change in the NTP, or a change in the type and/or count of estimated beneficiaries assisted, may be completed as a Project budget revision. Project budget revisions shall include but not be limited to:
- 1) Adjustments that reallocate funds between budget line items, but that otherwise do not change the total allocation amount, the Project Work, the National Objective, the project service location to a non-MID area, the Program Priority Level and type and count of estimated beneficiaries.
 - 2) Adjustments that increase or decrease the detail included in the submitted budget, including adding and removing budget line items, without increasing or decreasing the Project Work and without changing the total allocation amount.

Project budget revisions must be submitted through Grants Network and subsequently approved by the Department prior to implementation. Approval shall be provided through Grants Network.

- B. Agreement Budget Revisions: Adjustments to the Subrecipient Allocation that result in an increased or a reduced total allocation amount shall require an Agreement amendment. Agreement amendments must be fully executed by both the Subrecipient and the Department in Grants Network prior to implementation.

6. **Project Closeout Procedures**

The Subrecipient must submit the following to the Department within 90 days of the completion of each Approved Project.

18-DRINFRA-18006

NOI Date: 02/01/2022

Approved Date: 10/04/2022

Prep Date: 10/18/2022

EXHIBIT B

- A. A Final Activity Report (Project Completion Report) that includes all required reporting data for the Approved Project, including but not limited to, eligible activities, costs, beneficiaries, and National Objective compliance.
- B. A recorded Notice of Completion.
- C. Relocation Report: A relocation report is required for those Approved Projects where relocation activities were undertaken pursuant to a Residential Anti-displacement and Relocation Assistance Plan (RARAP) (Section 2.3.21 of the DR-Infrastructure Policies and Procedures).
- D. Final Labor Standards Report as described in Exhibit D(23)(A)(3) herein.
- E. Evidence, satisfactory to the Department, of Subrecipient's compliance with any other special conditions of this Agreement; and,
- F. A resolution from the governing body acknowledging the accomplishments of the Approved Project and confirming that the Approved Project is complete and that all Financial Reports have been timely processed and reimbursed.

Upon receipt of the above documentation, the Department will close the NTP and finalize the activity in Disaster Recovery Grant Reporting (DRGR) system for final reporting to HUD.

7. **Document Retention Policy**

Subrecipient shall retain all books, records, accounts, documentation, and all other materials relevant to this Agreement for a minimum period of five (5) years after the Department notifies the Subrecipient that the grant agreement between HUD and the State of California has been closed.

EXHIBIT D

CDBG-DR TERMS AND CONDITIONS

1. Definitions

Activity Funds – means any eligible, reasonable, and necessary costs that are directly related to labor and/or direct construction and/or direct Project implementation costs which will meet a national objective as defined in 42 U.S.C. 5304(b)(3), as amended and 24 CFR 570.483.

Activity Delivery Funds - means any eligible, reasonable, and necessary costs for the implementation, management or oversight of a Project.

Activity Reports – Reports submitted by the Subrecipient that describe Approved Project progress and/or beneficiaries served during a given reporting period.

Approved Project – A Project that has been submitted to the Department and reviewed and approved with a Notice to Proceed to fund with the Subrecipient Allocation by the Department.

Area Median Income (AMI) - means the median family income for specific geographic areas, adjusted for household size, as calculated by HUD, and published annually by the Department at <https://www.hcd.ca.gov/grants-and-funding/income-limits>.

California Environmental Quality Act (CEQA) - The California statute that requires state and local agencies to identify the significant environmental impacts of their actions and to avoid or mitigate those impacts, if feasible.

Contractor - a properly licensed person or company who is procured competitively that Subrecipients hire to undertake a contract to provide materials or labor to perform a service or do a job for a Project.

Department – means the California Department of Housing and Community Development.

Disaster Recovery Grant Reporting System (DRGR) – The electronic system primarily used by the Department to access Grant Funds from HUD and report performance accomplishments for grant-funded activities to HUD. The DRGR system is used by HUD to review grant-funded activities, prepare reports to Congress and other interested parties, and monitor program compliance.

Duplication of Benefits (DOB) - Financial assistance received from another source that

EXHIBIT D

is provided for the same purpose as the CDBG-DR funds, in accordance with Federal Register Notice 85 4681.

Eligible Expenses – Those necessary and reasonable costs under 2 CFR 200.400 through 475, and applicable notices and waivers, and as identified in the 2018 DR-Infrastructure Policies and Procedures Manual, and as approved by the Department via a Notice to Proceed. Eligible Expenses do not include any costs which are disallowed or otherwise deemed ineligible by the State of California and/or HUD.

Financial Reports (Funds Requests) - the forms and processes required for a Subrecipient to request the drawdown of Grant Funds.

Grant Funds – The CDBG-DR funds allocated to the Subrecipient for the implementation of the DR-Infrastructure programs and eligible, Approved Projects. Grant Funds include Activity Funds and Activity Delivery Funds.

Household - One or more persons occupying a housing unit.

HUD – The United States Department of Housing and Urban Development.

Indirect Costs - means those costs incurred for a common or joint purpose benefitting more than one cost objective, and not readily assignable to the cost objectives specifically benefitted, without effort disproportionate to the results achieved. To facilitate equitable distribution of indirect expenses to the cost objectives served, it may be necessary to establish a number of pools of indirect costs. Indirect cost pools must be distributed to benefitted cost objectives on bases that will produce an equitable result in consideration of relative benefits derived.

Indirect Cost Rate Proposal - means the documentation prepared by a governmental unit or subdivision thereof to substantiate its request for the establishment of an indirect cost rate as further defined in 2 CFR 200.56 and 2 CFR 200.57.

Infrastructure – means an infrastructure repair which is an eligible activity according to 42 USC 5305(a)(2), which authorizes the acquisition, construction, reconstruction, or installation (including design features and improvements with respect to such construction, reconstruction, or installation that promote energy efficiency) of public works, facilities (except for buildings for the general conduct of government), and site or other improvements.

Low- and Moderate- Income (LMI) – Low- and moderate-income people are those having incomes not more than the “moderate-income” level (80% Area Median Family Income) set by the federal government for the HUD-assisted housing programs. This

EXHIBIT D

income standard changes from year to year and varies by household size, county and the metropolitan statistical area.

Master Standard Agreement (“Agreement”) – The contractual arrangement between the Department and the Subrecipient which sets forth the terms and conditions by which CDBG-DR funds must be utilized with regards to Approved Projects.

National Environmental Policy Act (NEPA) – The federal law and associated regulations which establishes a broad national framework for protecting the environment. NEPA's basic policy is to assure that all branches of government consider environmental and related social and economic effect prior to undertaking any proposed action. All HUD-assisted projects are required to undergo an environmental review.

Notice to Proceed (NTP) – The NTP is a binding document, approved as to form as a component of the Agreement, that amends the allocation agreement between the Subrecipient and the Department by committing funds to a specific Project. A fully executed NTP is required for each Approved Project, and no work may be commenced, costs or expenses incurred, nor choice-limiting action(s) taken by Subrecipient prior to the execution of the NTP. The NTP includes, among other things, various Project details, including but not limited to the following: a description of the Approved Project and the permitted uses of program funds; the Approved Project budget and sources and uses of funds and financing; the approved schedule of the Project; the deadlines for the commencement and completion of construction or rehabilitation work; Performance milestones; Performance penalties; and any special conditions applicable to the Approved Project.

Project – Per 49 CFR 24.2(a)(22), project means any activity or series of activities undertaken by a Federal Agency or with Federal financial assistance received or anticipated in any phase of an undertaking in accordance with the Federal funding Agency guidelines. See DR-Infrastructure Policies and Procedures Section 1.2.

Subrecipient – A unit of local government receiving a direct allocation of Grant Funds from the Department for the purpose of funding Approved Projects to be carried out by the Subrecipient.

Subrecipient Allocation – The amount of Grant Funds allocated to the Subrecipient for Project Work.

Subrecipient Work – the scope of work required of the Subrecipient as set forth in section 3 of Exhibit A, and the scope of work required of an Approved Project(s) as set forth in its Notice(s) to Proceed.

EXHIBIT D

Urgent Need - The Urgent Need national objective requires that the project is designed to meet community development needs having a particular urgency. In the absence of substantial evidence to the contrary, a project is considered to address this National Objective if the design of the project is certified to alleviate existing conditions which pose a serious and immediate threat to the health or welfare of the community which are of recent origin or which recently became urgent, that the Subrecipient is unable to finance the activity on its own, and that other sources of funding are not available. A condition is generally considered to be of recent origin if it developed or became critical within 18 months preceding the certification by the Subrecipient.

Urgent Need Mitigation – [Reserved]

2. National Objectives

All DR-Infrastructure Projects approved under this Agreement must be eligible and as a CDBG-DR funded activity must meet a national objective as required under 24 CFR 570.200(a)(2). Under section 101(c) of the authorizing Act (42 U.S.C. 5301) the CDBG program must ensure that the funded activity meets one of the named national objectives. The two qualifying national objectives are:

- A. Benefiting low- and moderate-income persons (LMI); and
- B. Meeting an Urgent Need.

Upon completion of the Approved Project(s) funded under this Agreement and prior to the funding expenditure deadline of this Agreement, the Subrecipient must document that the Approved Project(s) met either the LMI national objective or the Urgent Need national objective. The Department shall review the actual national objective achievements of the Subrecipient.

3. Duplication of Benefits

A Duplication of Benefits (DOB) occurs when a program beneficiary receives assistance from multiple sources for a cumulative amount that exceeds the total need for a particular recovery purpose. The amount of the duplication is the amount of assistance provided in excess of the need. It is the Department's responsibility to ensure that DR-Infrastructure provides assistance only to the extent that the disaster recovery need has not been fully met by funds that have already been paid, or will be paid, from another source.

The Subrecipient must report all funds obtained for the activity from any source from the date of the disaster until the Project is completed.

EXHIBIT D

Additionally, the Department, in coordination with the Subrecipient, will perform a check for DOB prior to issuing a Notice to Proceed to ensure that duplicative assistance is not provided for the Project. The Department also reserves the right to require that the Subrecipient perform additional DOB checks throughout the course of the Approved Project's period/performance, up to and through the closeout of each Approved Project, to ensure there is no duplicative assistance throughout the course of the Approved Project. Any person who knowingly makes a false claim or statement to HUD may be subject to civil or criminal penalties under 18 U.S.C. Sections 287, 1001, and 31 U.S.C. Section 3729.

The Subrecipient agrees to repay to the Department any assistance later received for the same purpose as the CDBG-DR funds and that exceeds the total need for the particular recovery purpose. The obligations of Subrecipient to repay the Department for any Duplication of Benefit shall survive the completion of the Approved Project(s) and the expiration or earlier termination of this Agreement.

4. **Remedies and Termination for Noncompliance; Appeals**

A. **Remedies for Noncompliance:** In addition to any other rights and remedies the Department may have under this Agreement, at law, or in equity, the Department may initiate remedies for noncompliance as identified in 2 CFR 200.338-.339 at any time it has been determined that the Subrecipient is no longer meeting the terms and conditions of this Agreement. Remedies for noncompliance may be required in addition to, in lieu of, or prior to termination. Such remedies for noncompliance with a federal statute or regulation, a state statute or regulation, an assurance, in a state plan or application, an NTP, or elsewhere may include, as appropriate:

- 1) Temporarily withhold cash payments pending correction of the deficiency by the Subrecipient.
- 2) Disallow all or part of the cost of the action not in compliance.
- 3) Wholly or partly suspend or terminate the Subrecipient's allocation of Grant Funds.
- 4) Withhold further and/or future awards for CDBG-DR funds and/or any other funds administered by the Department.
- 5) Request that the federal awarding agency initiate suspension or debarment proceedings.

EXHIBIT D

- 6) Take other remedies that may be legally available, such as:
 - a) In the case of costs incurred without meeting a national objective, require repayment of all funds reimbursed and/or paid to the Subrecipient, including Activity Delivery Funds, as appropriate.
 - b) In the case of Duplication of Benefits, require repayment of all CDBG-DR funds reimbursed and/or paid to the Subrecipient where other financial assistance was received for the same purpose or in excess of the need.

In taking an action to remedy noncompliance, the Department will provide the Subrecipient an opportunity for such hearing, appeal, or other administrative proceeding to which the Subrecipient is entitled under any statute or regulation applicable to the action involved as per 2 CFR 200.341. Such appeal shall be governed by, and conducted in accordance with, the appeal processes and procedures set forth in section 4 of this Exhibit.

- 7) Effects of Suspension and Termination. Subrecipient costs resulting from obligations incurred by the Subrecipient or any of the Subrecipient's Contractors during a suspension or after termination of an Agreement are not allowable unless otherwise authorized by the Department in written notice or as allowable in 2 CFR 200.342. The enforcement remedies identified in this Section do not preclude a Subrecipient or any of the Subrecipient's Contractors from being subject to 2 CFR Part 2424. CDBG-DR funds may not be provided to excluded or disqualified persons pursuant to 24 CFR 570.489(l) and 2 CFR 200.338-200.339.
 - 8) The remedies available to the Department under this Agreement are cumulative and not exclusive.
- B. Termination for Noncompliance: Grant Funds provided by this Agreement may be terminated in whole or in part as per federal regulation at 2 CFR 200.339 by HUD or by the Department if Subrecipient fails to comply with the terms and conditions of both this Agreement and of the federal award. All terminations shall include written notification setting forth the reason(s) for such termination, the effective date, and the portion to be terminated in the case of partial terminations and will follow termination notification requirements identified in 2 CFR 200.340.
- 1) Termination Without Cause: This Agreement may be terminated by the Department in whole or in part at any time without cause only with the consent of the Subrecipient. In the case of a termination of the whole agreement, the parties shall agree upon termination conditions, including

EXHIBIT D

the effective date. In the case of a partial termination, the parties shall agree upon termination conditions, including the portion to be terminated and the effective date.

- 2) Termination with Cause: This Agreement may be terminated by the Department in whole or in part at any time for cause by giving at least 14 days' prior written notice to the Subrecipient. Termination with cause includes termination prior to the end of the period of performance for failure to comply with the terms and conditions of this Agreement, and pursuant to 2 CFR 200.339(b), such termination shall be reported to the appropriate federal program integrity and performance system accessible through the System for Award Management. Termination with cause also includes, without limitation, a failure by Subrecipient to comply with the Approved Project Schedule, Approved Project Performance Milestones, Reporting Requirements, and/or Special Conditions of any Notice to Proceed issued for an Approved Project to use CDBG-DR funds.

C.

Appeals Process for Finding of Noncompliance: In taking an action to address noncompliance, the Department will provide the Subrecipient an opportunity for a such hearing, appeal, or other administrative proceeding to which the Subrecipient is entitled under any statute or regulation applicable to the action involved as per 2 CFR 200.341 and/or the Department's monitoring plan and associated exhibit/exhibits. Contact the monitoring representative for an updated appeal exhibit version. [https://www.hcd.ca.gov/community-development/disaster-recovery-programs/cdbg-dr/cdbg-dr-2017/docs/DR MAC Monitoring Plan Final.pdf](https://www.hcd.ca.gov/community-development/disaster-recovery-programs/cdbg-dr/cdbg-dr-2017/docs/DR_MAC_Monitoring_Plan_Final.pdf)

5. Severability

- A. If any provision of this Agreement, or an underlying obligation, is held invalid by a court of competent jurisdiction, such invalidity, at the sole discretion of the Department, shall not affect any other provisions of this Agreement and the remainder of this Agreement shall remain in full force and effect. Therefore, the provisions of this Agreement are, and shall be, deemed severable.
- B. The Subrecipient shall notify the Department immediately of any claim or action undertaken by or against it which affects or may affect this Agreement or the Department and shall take such action with respect to the claim or action as is consistent with the terms of this Agreement and the interests of the Department.

6. Waivers

18-DRINFRA-18006
NOI Date: 02/01/2022
Approved Date: 10/04/2022
Prep Date: 10/18/2022

EXHIBIT D

No waiver or any breach of this Agreement shall be held to be a waiver of any prior or subsequent breach. The failure of the Department to enforce, at any time, the provisions of this Agreement or to require, at any time, performance by the Subrecipient of these provisions shall in no way be construed to be a waiver of such provisions nor to affect the validity of this Agreement or the right of the Department to enforce these provisions. All waivers by the Department must be in writing in order to be valid.

7. Uniform Administrative Requirements

The Subrecipient, its agencies or instrumentalities, shall comply with the policies, guidelines, and Uniform Administrative Requirements of 2 CFR Part 200, et seq., as applicable, as they relate to the cost principles, audit requirements, acceptance and use of federal funds under this part.

- A. **Single Audit Compliance:** Funds will not be disbursed to any Subrecipient identified by the State Controller's Office (SCO) as non-compliant with the Federal Single Audit Act, as described in the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards at 2 CFR 200 Sub-Part F. No funds may be disbursed until compliance with the Uniform Guidance is demonstrated to the satisfaction of the Department.
- B. **Accounting Standards:** The Subrecipient agrees to comply with, and administer the activity in conformance with, 2 CFR Part 200.300, et seq., and agrees to adhere to the accounting principles and procedures required therein, utilize adequate internal controls and maintain necessary source documentation for all costs incurred.
- C. **Suspension and Debarment:** By executing this Agreement, Subrecipient verifies and affirms that it has not been suspended or debarred from participating in or receiving federal government contracts, subcontracts, loans, grants, or other assistance programs. Subrecipient further agrees to verify that its Contractors have not been suspended or debarred from participating or receiving federal government contracts, subcontracts, loans, grants, or other assistance programs.

8. Compliance with State and Federal Laws and Regulations

- A. The Subrecipient, its agencies or instrumentalities, and Contractors shall comply with all local, state, and federal laws, statutes, and regulations, as well as policies and procedures established by the Department for the administration of the DR-Infrastructure programs, as the same may be amended from time to time.

EXHIBIT D

- B. The Subrecipient shall comply with the requirements of 24 CFR 570, the HUD regulations concerning Community Development Block Grants, 2 CFR 200, Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards, Final Guidance, adopted by HUD at 2 CFR 2400, and any and all federal regulations, guidelines, rules, and policies issued pursuant to the foregoing. The Subrecipient further agrees to utilize funds available under this Agreement to supplement rather than supplant funds otherwise available.
- C. The Subrecipient must maintain compliance with the Housing Element requirements detailed in Health and Safety Code (HSC) sections 50829 and 50830 for the duration of this Agreement, if applicable.

9. **Authority to Impose Additional Special Conditions**

In accordance with 2 CFR 200.207, Department reserves the right and authority to impose additional specific conditions within any NTP issued under this Agreement under any of the following circumstances:

- A. When, in the Department's sole discretion, the Department finds that Subrecipient has a history of failure to comply with the general or specific terms and conditions applicable to the CDBG-DR funds allocated under this Agreement or to other awards of federally-funded grant or loan assistance passed through the Department.
- B. When Subrecipient fails to meet expected performance goals under this Agreement.
- C. When Subrecipient poses an increased risk for noncompliance based on factors including, but not limited to, financial stability, quality of management systems, history of performance under federal awards, history of timeliness under federal awards, history of conformance with terms and conditions of previous federal awards, and reports and findings from audits.
- D. When, in the Department's sole discretion, such conditions are necessary to ensure timely and compliant performance under the Department's Federal award from HUD.

Such specific conditions, or special conditions, may include but are not limited to, withholding of authority to proceed to the next phase of an otherwise eligible Project, requiring additional detailed financial reports, requiring additional project monitoring, requiring the Subrecipient to obtain technical or management assistance, establishing additional prior approvals, or any other condition the Department deems reasonable and

EXHIBIT D

necessary to safeguard federal funds or the Department's interests.

If approved, such additional specific award conditions, or special conditions, shall be included in the NTP for Approved Projects and shall include the nature of the additional requirements, the reason why the additional requirements are being imposed, the nature of the action needed to remove the additional requirement (if applicable), the time allowed for completion of the actions (if applicable), and the method for requesting reconsideration of the additional requirements imposed.

10. **Equal Opportunity Requirements and Responsibilities**

The obligations undertaken by Subrecipient include, but are not limited to, the obligation to comply with all federal laws and regulations described in Subpart K of 24 CFR Part 570 and specifically with each of the following, among other things, as the same may be amended from time to time:

- A. **Title VI of the Civil Rights Act of 1964:** This act provides that no person shall be excluded from participation, denied program benefits, or subject to discrimination based on race, color, and/or national origin under any program or activity receiving federal financial assistance.
- B. **Title VII of the Civil Rights Act of 1968 (The Fair Housing Act):** This act prohibits discrimination in housing on the basis of race, color, religion, sex and/or national origin. This law also requires actions which affirmatively promote fair housing.
- C. **Restoration Act of 1987:** This act restores the broad scope of coverage and clarifies the application of the Civil Rights Act of 1964. It also specifies that an institution which receives federal financial assistance is prohibited from discriminating on the basis of race, color, national origin, religion, sex, disability or age in a program or activity which does not directly benefit from such assistance.
- D. **Section 109 of Title 1 of the Housing and Community Development Act of 1974 [42 U.S.C. 5309]:** This section of Title 1 provides that no person shall be excluded from participation (including employment), denied program benefits, or subject to discrimination on the basis of race, color, national origin, or sex under any program or activity funded in whole or in part under Title 1 of the Act.
- E. **The Fair Housing Amendment Act of 1988:** This act amended the original Fair Housing Act to provide for the protection of families with children and people

EXHIBIT D

- with disabilities, strengthen punishment for acts of housing discrimination, expand the Justice Department jurisdiction to bring suit on behalf of victims in federal district courts, and create an exemption to the provisions barring discrimination on the basis of familial status for those housing developments that qualify as housing for persons age 55 or older.
- F. **The Age Discrimination Act of 1975:** This act provides that no person shall be excluded from participation, denied program benefits, or subject to discrimination on the basis of age under any program or activity receiving federal funding assistance. Effective January 1987, the age cap of 70 was deleted from the laws. Federal law preempts any State law currently in effect on the same topic.
- G. **Section 504 of the Rehabilitation Act of 1973:** It is unlawful to discriminate based on disability in federally assisted programs. This Section provides that no otherwise qualified individual shall, solely by reason of his or her disability, be excluded from participation (including employment), denied program benefits, or subjected to discrimination under any program or activity receiving federal funding assistance. Section 504 also contains design and construction accessibility provisions for multi-family dwellings developed or substantially rehabilitated for first occupancy on or after March 13, 1991.
- H. **The Americans with Disabilities Act of 1990 (ADA):** This act modifies and expands the Rehabilitation Act of 1973 to prohibit discrimination against "a qualified individual with a disability" in employment and public accommodations. The ADA requires that an individual with a physical or mental impairment who is otherwise qualified to perform the essential functions of a job, with or without reasonable accommodation, be afforded equal employment opportunity in all phases of employment.
- I. **Executive Order 11063:** This executive order provides that no person shall be discriminated against on the basis of race, color, religion, sex, or national origin in housing and related facilities provided with federal assistance and lending practices with respect to residential property when such practices are connected with loans insured or guaranteed by the federal government.
- J. **Executive Order 12259:** This executive order provides that the administration of all federal programs and activities relating to housing and urban development be carried out in a manner to further housing opportunities throughout the United States.
- K. **The Equal Employment Opportunity Act:** This act empowers the Equal

EXHIBIT D

Employment Opportunity Commission (EEOC) to bring civil action in federal court against private sector employers after the EEOC has investigated the charge, found "probable cause" of discrimination, and failed to obtain a conciliation agreement acceptable to the EEOC. It also brings federal, state, and local governments under the Civil Rights Act of 1964.

- L. **The Uniform Guidelines on Employee Selection Procedures adopted by the Equal Employment Opportunity Commission in 1978:** This manual applies to employee selection procedures in the areas of hiring, retention, promotion, transfer, demotion, dismissal and referral. It is designed to assist employers, labor organizations, employment agencies, licensing and certification boards in complying with the requirements of federal laws prohibiting discriminatory employment.
- M. **The Vietnam Era Veterans' Readjustment Act of 1974 (revised Jobs for Veterans Act of 2002):** This act was passed to ensure equal employment opportunity for qualified disabled veterans and veterans of the Vietnam War. Affirmative action is required in the hiring and promotion of veterans.
- N. **Executive Order 11246:** This executive order applies to all federally assisted construction contracts and subcontracts. It provides that no person shall be discriminated against on the basis of race.

11. **Relocation, Displacement, and Acquisition**

The Subrecipient shall comply with the provisions of the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended, and regulations adopted to implement the Act in 24 CFR Part 42, 49 CFR Part 24, and Section 104(d) of the Housing and Community Development Act of 1974 as they apply to the performance of this Agreement.

12. **The Training, Employment, and Contracting Opportunities for Business and Lower Income Persons Assurance of Compliance (Section 3):**

The Subrecipient and the Subrecipient's Contractors shall comply with Section 3 of the Housing and Urban Development Act of 1968 (12 U.S.C. 1701u), and implementing regulation at 24 CFR, Part 75. The responsibilities outlined in 24 CFR Part 75.19 include:

- A. Implementing procedures designed to notify Section 3 workers about training and employment opportunities generated by Section 3 covered assistance and Section 3 business concerns about contracting

EXHIBIT D

opportunities generated by Section 3 covered assistance.

- B. Notifying potential Contractors for Section 3 covered projects of the requirements of Part 75, Subpart C and incorporating the Section 3 clause set forth below in all solicitations and contracts in excess of \$100,000 as required at 24 CFR 75.27.

Section 3 Clause

The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

The parties to this contract agree to comply with HUD's regulations in 24 CFR. Part 75, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 75 regulations.

The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 75 and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 75. The

EXHIBIT D

contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 75.

The contractor acknowledges that subrecipients, contractors, and subcontractors are required to meet the employment, training, and contraction requirements of 24 CFR 75.19, regardless of whether Section 3 language is included in recipient or subrecipient agreements, program regulatory agreements, or contracts.

The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 75.

Noncompliance with HUD's regulations in 24 CFR Part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

The contractor agrees to submit, and shall require its subcontractors to submit to them, annual reports detailing the total number of labor hours worked on the Section 3 Project, the total number of labor hours worked by Section 3 Workers, and the total number of hours worked by Targeted Section 3 Workers, and any affirmative efforts made during the quarter to direct hiring efforts to low- and very low-income persons, particularly persons who are Section 3 workers and Targeted Section 3 workers.

Contractor agrees to facilitate the training and employment of Section 3 workers and the award of contracts to Section 3 business concerns by undertaking activities such as described in Section 75.25(b), as appropriate, to reach the goals set forth in Section 75.23 and in Federal Register Vol. 85, No. 189, page 60909, until superseded by HUD in a subsequent publication. As of September 29, 2020, the minimum Section 3 benchmark is twenty-five (25) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Section 3 workers; and five (5) percent or more of the total number of labor hours worked by all workers on a Section 3 project are Targeted Section 3 workers.

Contractor agrees to document actions taken to comply with the foregoing

EXHIBIT D

requirements, the results of those actions taken and impediments, if any.

13. Environmental Compliance

- A. The Subrecipient shall comply with the California Environmental Quality Act (CEQA) requirements as applicable to all Projects.
- B. The Subrecipient shall comply with the Federal Water Pollution Control Act, as amended, 33 U.S.C., 1251, *et seq.*, as amended, 1318 relating to inspection, monitoring, entry, reports, and information, as well as other requirements specified in said Section 114 and Section 308, and all regulations and guidelines issued thereunder.
- C. The Subrecipient shall comply with the requirements of the Clean Air Act, 42 U.S.C. 1857, *et seq.*, as amended.
- D. The Subrecipient shall comply with Environmental Protection Agency (EPA) regulation pursuant to 40 CFR Part 50, as amended.
- E. The Subrecipient shall comply with HUD regulation pursuant to 24 CFR Part 58.
- F. The Subrecipient shall comply with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001). The Subrecipient shall assure that for activities located in an area identified by the Federal Emergency Management Agency (FEMA) as having special flood hazards, that flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).
- G. If applicable, the Subrecipient shall comply with the requirements of the Residential Lead-Based Paint Hazard Reduction Act of 1992 and Section 401(b) of the Lead-Based Paint Poisoning Prevention Act of 1971. The Subrecipient agrees that any construction or rehabilitation of residential structures with assistance provided under this Agreement shall be subject to HUD Lead-Based Paint Regulations at 24 CFR 570.608, and 24 CFR Part 35, Subpart B. Such regulations pertain to all CDBG-assisted housing and require that all owners, prospective owners, and tenants of properties constructed prior to 1978 be properly notified that such properties may include lead-based paint. Such notification shall point out the hazards of lead-based paint and explain the symptoms, treatment and precautions that should be taken when dealing with lead-based paint poisoning and the advisability and availability of blood lead level screening for children under seven. The notice should also point out that if lead-

EXHIBIT D

- based paint is found on the property, abatement measures may be required.
- H. The Subrecipient shall comply with the Historic Preservation requirements set forth in the National Historic Preservation Act of 1966, as amended (16 U.S.C. 470), the Archaeological and Historical Preservation Act of 1974 (Public Law 93-291), and the procedures set forth in 36 CFR Part 800, Advisory Council on Historic Preservation Procedures for Protection of Historic Properties, insofar as they apply to the performance of this agreement. The Subrecipient shall also comply with Executive Order 11593 on the protection and enhancement of the cultural environment. In general, this requires concurrence from the State Historic Preservation Officer for all rehabilitation and demolition of historic properties that are fifty years old or older or that are included on a federal, state, or local historic property list.
- I. This Agreement does not constitute a commitment of funds or site approval, and the commitment of funds or approval may occur only upon satisfactory completion of environmental review and receipt by the Subrecipient of an approval of the request for release of funds and certification from the Department under 24 CFR Part 50, 24 CFR Part 58, and 40 CFR 1500 - 1508. The provision of any funds to the project is conditioned on the Subrecipient's determination to proceed with, modify or cancel the project based on the results of the environmental review. The Subrecipient will not receive an NTP until they have successfully documented compliance with the applicable NEPA requirements, including public noticing and publishing.

14. Procurement

The Subrecipient shall comply with the procurement provisions in 2 CFR Part 200.318 – 200.326, Procurement Standards as well as all other Administrative Requirements for Subrecipient and Cooperative Agreements to State, local and federally recognized Indian tribal governments as set forth in 2 CFR 200, et seq., as applicable. All procurements must be conducted in a fair, open, and competitive manner in compliance with both the spirit and the letter of applicable federal and state procurement laws and the DR-Infrastructure and Mitigation Policies and Procedures.

15. Procurement of Recovered Materials

In accordance with Section 6002 of the Solid Waste Disposal Act, as amended by the Resource Conservation and Recovery Act, the Contractor shall procure items designated in guidelines of the Environmental Protection Agency (EPA) at 40 CFR Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition. The Contractor shall procure items

EXHIBIT D

designated in the EPA guidelines that contain the highest percentage of recovered materials practicable unless the Contractor determines that such items: (1) are not reasonably available in a reasonable period of time; (2) fail to meet reasonable performance standards, which shall be determined on the basis of the guidelines of the National Institute of Standards and Technology, if applicable to the item; or (3) are only available at an unreasonable price.

Pursuant to 30 CFR 247.2, this clause shall apply to items purchased under this Agreement where: (1) the Contractor purchases in excess of \$10,000 of the item under this contract; or (2) during the preceding Federal fiscal year, the Contractor: (i) purchased any amount of the items for use under a contract that was funded with Federal appropriations and was with a Federal agency or a State agency or agency of a political subdivision of a State; and (ii) purchased a total of in excess of \$10,000 of the item both under and outside that contract.

16. **Construction Standards**

The Subrecipient shall ensure that all Approved Projects comply with the following requirements:

The Architectural Barriers Act of 1968 (42 U.S.C. 4151-4157)

The Architectural Barriers Act (ABA) stands as the first measure by Congress to ensure access to the built environment for people with disabilities. The law requires that buildings or facilities that were designed, built, or altered with federal dollars or leased by federal agencies after August 12, 1968, be accessible.

California Green Buildings Standards Code (CALGreen) (Title 24, Part 11 of the California Code of Regulations)

All new construction of residential buildings or reconstruction of substantially damaged buildings must incorporate California Green Buildings Standards Code (CALGreen).

Sustainability Requirements

All rehabilitation, reconstruction, and new construction must be designed to incorporate principles of sustainability, including water and energy efficiency, resilience, and mitigating the impact of future disasters. Wherever feasible, the Subrecipient, Subrecipient's and Contractors must follow best practices, such as those provided by the U.S. Department of Energy.

National Floodplain Elevation Standards

EXHIBIT D

Subrecipients and Contractors must comply with the national floodplain elevation standards for new construction, repair of substantially damaged structures, or substantial improvements to public facilities in flood hazard areas. All structures designed for public facilities use within a special flood hazard area (SFHA), or one percent annual chance, floodplain will be elevated with the lowest floor at least two feet above the base flood elevation level and comply with the requirements of 83 FR 5850 and 83 FR 5861.

Wildland-Urban Interface Building Codes (WUI Codes)

All Approved Projects under this program that are located in a CAL FIRE high fire zone must comply with applicable WUI codes, found in Title 24, Chapter 7a of the California Building Code, which offer specific material, design and construction standards to maximize ignition resistance.

17. Federal Labor Standards Provisions

The Subrecipient and the Developer shall at all times comply, and cause all Project contractors to comply, with applicable federal labor standards, including without limitation, the following:

- A. Davis-Bacon Act (40 U.S.C. §§ 31413148), which requires that workers receive no less than the prevailing wages being paid for similar work in their locality. Prevailing wages are computed by the Federal Department of Labor and are issued in the form of federal wage decisions for each classification of work. The law applies to most construction, alteration, or repair contracts over \$2,000.
- B. "Anti-Kickback Act of 1986" (41 U.S.C. §§ 51-58), which prohibits attempted as well as completed "kickbacks," which include any money, fees, commission, credit, gift, gratuity, thing of value, or compensation of any kind. The act also provides that the inclusion of kickback amounts in contract prices is prohibited conduct in itself. This act requires that the purpose of the kickback was for improperly obtaining or rewarding favorable treatment. It is intended to embrace the full range of government contracting.
- C. Contract Work Hours and Safety Standards Act - CWHSSA (40 U.S.C. § 3702), which requires that workers receive "overtime" compensation at a rate of one and one-half (1-1/2) times their regular hourly wage after they have worked forty (40) hours in one week.
- D. Title 29, Code of Federal Regulations CFR, Subtitle A, Parts 1, 3 and 5, which

EXHIBIT D

are the regulations and procedures issued by the Secretary of Labor for the administration and enforcement of the Davis-Bacon Act, as amended.

The Subrecipient shall maintain documentation that demonstrates compliance with hour and wage requirements of this part. Such documentation shall be made available to the Department for review upon request. Subrecipient shall be responsible for monitoring all Contractors, and subcontractors, as applicable, for compliance with these provisions.

18. State Prevailing Wages

- A. The Subrecipient shall ensure that the requirements of California Labor Code (LC), Chapter 1, commencing with Section 1720, Part 7 [LC Section 1720-1743] pertaining to the payment of prevailing wages and administered by the California Department of Industrial Relations are met.
- B. For the purposes of this requirement "construction work" includes, but is not limited to rehabilitation, alteration, demolition, installation, or repair done under contract and paid for, in whole or in part, through this Agreement. All construction work shall be done through the use of a written contract with a properly licensed building contractor incorporating these requirements (the "Construction Contract"). Where the Construction Contract will be between the Subrecipient and a licensed building contractor, the Subrecipient shall serve as the "awarding body" as that term is defined in the LC. Where the Subrecipient will provide funds to a third party that will enter into the Construction Contract with a licensed building contractor, the third party shall serve as the "awarding body." Prior to any disbursement of funds, including but not limited to release of any final retention payment, the Department may require a certification from the awarding body that prevailing wages have been or will be paid.
- C. The applicable wage rate determination on construction work will be the more restrictive of the rate prescribed in LC Section 1770-1784 or the Davis-Bacon Wage Determination.

19. Agreements with Contractors

- A. The Subrecipient shall not enter into any agreement, written or oral, with any Contractor or other party without the prior determination that the Contractor or other party is eligible to receive federal funds and is not listed on the Federal Consolidated List of Debarred, Suspended, and Ineligible Contractors or similar Federal or state listing of debarred or ineligible parties.

EXHIBIT D

The terms "other party" is defined as public or private nonprofit agencies or organizations and certain (limited) private for-profit entities who receive Grant Funds from a Subrecipient to undertake Approved Projects.

- B. An agreement between the Subrecipient and any Contractor or other party shall require:
- 1) Compliance with all State and federal requirements described in this Agreement including without limitation those that pertain to labor standards, nondiscrimination, Americans with Disabilities Act, Equal Employment Opportunity and Drug Free Workplace, and prevailing wages. In addition to these requirements, all contractors and subcontractors shall comply with the applicable provisions of the California Labor Code.
 - 2) Maintenance of at least the minimum State required Workers' Compensation Insurance for those employees who will perform the Approved Project activities.
 - 3) Maintenance, as required by law, of unemployment insurance, disability insurance and liability insurance, which is reasonable to compensate any person, firm, or corporation, who may be injured or damaged by the contractor, or any subcontractor in performing the Approved Project activities.
 - 4) Compliance with the applicable Equal Opportunity Requirements described in Exhibit D, Section 10 of this Agreement.
- C. Contractors shall:
- 1) Perform the Approved Project activities in accordance with federal, state, and local regulations, as are applicable.
 - 2) Provide security to assure completion of the Approved Project(s) by furnishing the borrower and construction lenders with proof of sufficient insurance and performance and payment bonds, or other security approved in advance in writing by the Department, as determined by the particulars of each individual Project will be required.
- D. Contractors and Subcontractors: Drug-Free Workplace Act of 1988
- 1) Publish and give a policy statement to all covered employees informing them that the unlawful manufacture, distribution, dispensation, possession

EXHIBIT D

or use of a controlled substance is prohibited in the covered workplace and specifying the actions that will be taken against employees who violate the policy.

- 2) Establish a drug-free awareness program to make employees aware of a) the dangers of drug abuse in the workplace; b) the policy of maintaining a drug-free workplace; c) any available drug counseling, rehabilitation, and employee assistance programs; and d) the penalties that may be imposed upon employees for drug abuse violations.
- 3) Notify employees that as a condition of employment on a federal contract or grant, the employee must a) abide by the terms of the policy statement; and b) notify the employer, within 5 calendar days, if he or she is convicted of a criminal drug violation in the workplace.
- 4) Notify the contracting or granting agency within 10 days after receiving notice that a covered employee has been convicted of a criminal drug violation in the workplace.
- 5) Impose a penalty on or require satisfactory participation in a drug abuse assistance or rehabilitation program by any employee who is convicted of a reportable workplace drug conviction.
- 6) Make an ongoing, good faith effort to maintain a drug-free workplace by meeting the requirements of the act.

20. Rights to Inventions Made Under a Contract or Agreement

If a Federal award meets the definition of “funding agreement” under 37 CFR 401.2(a) and the recipient or subrecipient wishes to enter into a contract with a small business firm or nonprofit organization regarding the substitution of parties, assignment or performance of recipient or subrecipient must comply with requirements of 37 CFR Part 401, “Rights to Inventions Made by Nonprofit Organizations and Small Business Firms Under Government Grants, Contracts and Cooperative Agreements,” and any implementing regulation issued by the awarding agency.

21. Special Conditions Pertaining to Hazards, Safety Standards and Accident Prevention

- A. Use of Explosives: When the use of explosives is necessary for the prosecution of the work, the Contractor shall observe all local, state and federal laws in purchasing and handling explosives and comply with all insurance requirements

EXHIBIT D

set forth in section 29.B.4 below. The Contractor shall take all necessary precaution to protect completed work, neighboring property, water lines, or other underground structures. Where there is danger to structures or property from blasting, the charges shall be reduced, and the material shall be covered with suitable timber, steel or rope mats.

The Contractor shall notify all owners of public utility property of intention to use explosives at least 8 hours before blasting is done close to such property. Any supervision or direction of use of explosives by the engineer does not in any way reduce the responsibility of the Contractor or his Surety for damages that may be caused by such use.

- B. Danger Signals and Safety Devices: The Contractor shall make all necessary precautions to guard against damages to property and injury to persons. The Contractor shall put up and maintain in good condition, sufficient red or warning lights at night, suitable barricades and other devices necessary to protect the public.
- C. Protection of Lives and Health: The Contractor shall exercise proper precaution at all times for the protection of persons and property and shall be responsible for all damages to persons or property, either on or off the worksite, which occur as a result of prosecution of the work. The safety provisions of applicable laws and building and construction codes, in addition to specific safety and health regulations described by Chapter XIII, Bureau of Labor Standards, Department of Labor, Part 1518, Safety and Health Regulations for Construction, as outlined in the Federal Register, Volume 36, No. 75, Saturday, April 17, 1971, Title 29 - LABOR, shall be observed and the Contractor shall take or cause to be taken, such additional safety and health measures as reasonably necessary.

22. Prohibition Against Payments of Bonus or Commission

The assistance provided under this Agreement shall not be used in the payment of any bonus or commission for the purpose of:

- A. Obtaining the Department's approval of the Application for such assistance; or,
- B. Any other approval or concurrence of the Department required under this Agreement, Title I of the Housing and Community Development Act of 1974, or the State regulations with respect thereto; provided, however, that reasonable fees for bona fide technical, consultant, managerial or other such services, other than actual solicitation, are not hereby prohibited if otherwise eligible as program costs.

EXHIBIT D

23. Reporting Requirements

- A. Subrecipient must timely submit the reports prescribed below. The Department reserves the right to request additional detail and support for any report made. Reports must be made according to the dates identified, in the formats provided by the Department, and via the Department's Grants Network unless otherwise specified at the discretion of the Department. The Subrecipient's performance under this Agreement will be assessed based in part on whether it has submitted the reports on a timely basis.
- 1) Monthly Activity Report: Subrecipient must submit a Monthly Activity Report that addresses the following, at a minimum: (1) a description of the current status of the Subrecipient Work and Project Work, (2) a description of activities to be undertaken in the next reporting period; (3) a description of problems or delays encountered in Subrecipient Work and Project Work and course of action taken to address them; (4) a description of actions taken to achieve Subrecipient Work and Project Work expenditure deadlines; (5) a summary of Subrecipient Work and Project Work fiscal status, including award amount, funds drawn, and remaining balance; and (6) data on activity accomplishments and beneficiaries served, as requested by the Department. Unless otherwise waived in writing by the Department, Monthly Activity Reports must begin on the 10th calendar day of the second month following execution of this Agreement and must continue through the receipt and approval by the Department of the Project Completion Report, detailed below.
 - 2) Monthly Program Income Report: Program Income, if identified as a funding source for any Approved Project, must be included in the Project budget and must be expended prior to drawing Grant Funds. During the term of this Agreement, if Program Income is generated, the Subrecipient must submit a Monthly Program Income Report certifying the amount of Program Income generated, retained and expended. Program Income remaining at the end of each quarter and at the expiration of this Agreement must be remitted to the Department.
 - 3) Semi-Annual Labor Standards Report and Section 3 Requirements: During the term of construction for each Approved Project, each April 1st and October 1st, and at the completion of the Project, the Subrecipient must submit the Labor Standards Cover Memo, the HUD Form 4710 and the Davis Bacon Labor Standards Report 5.7 (if applicable). These forms are located on the Department's website and are also available upon

EXHIBIT D

request. Additionally, the Department may request additional documentation to meet Section 3 requirements.

- 4) Project Completion Report: Per Exhibit B, Section 6 Project Closeout Procedures, after the completion of construction and once an Approved Project is placed in service, the Subrecipient must submit a Project Completion Report that includes that the project is completed and performing as designed. The report must also include documentation of compliance with Section 3 requirements.

24. Fiscal Controls

The Subrecipient shall be responsible for the internal control and monitoring of fiscal and programmatic/operational goals and procedures. The Subrecipient shall establish and maintain such fiscal controls and fund accounting procedures as required by Federal regulations, or as may be deemed necessary by the Department to ensure the proper disbursement of, and accounting for, funds paid to the Subrecipient under this Agreement.

- A. **Deposit of Funds:** Subrecipient shall maintain separate accounts within established bookkeeping systems for the deposit of CDBG-DR funds and Program Income. Deposits in minority banks are encouraged.
- B. **Fiscal Liability:** Subrecipients shall be liable for all amounts which are determined to be due by the Department, including but not limited to, disallowed or ineligible costs which are the result of Subrecipient's or its Contractor's conduct under this Agreement. Subrecipients shall also be liable for the repayment of any and all amounts it has received under this Agreement and which HUD is seeking reimbursement for from the Department. Subrecipient's obligation to repay the foregoing amounts to the Department shall survive indefinitely the expiration or earlier termination of this Agreement. Subrecipient shall be notified in writing and shall be permitted to respond regarding any controversy or proceeding between the Department and HUD arising from this Agreement.
- C. **Fiscal Records:** All financial transactions must be supported by complete and verifiable source documents. Records shall provide a clear audit trail and shall be maintained as specified in Exhibit D, Section 27 of this Agreement.
- D. **Program Income:** Any and all Program Income received during the administration of this Agreement must be receipted and maintained in a separate Program Income account. Program Income funds may not be comingled with CDBG-DR grant funds in a single account.

EXHIBIT D

25. Monitoring Requirements

The Department monitors its Subrecipients based upon an assessment of risk posed by the Subrecipient and according to specific monitoring criteria per 2 CFR 200.331. During the term of this Agreement, the Department shall perform program and/or fiscal monitoring of the Subrecipient and Approved Projects to ensure compliance with federal and state requirements and timely project completion. The Subrecipient shall be required to resolve any monitoring findings to the Department's satisfaction by the deadlines set by the Department. In the event Subrecipient disagrees with a finding and/or any accompanying corrective actions or sanction(s) that are associated with such finding, Subrecipient shall follow an appeals process provided by the Department and consistent with Section 4 of Exhibit D of this Agreement.

Subrecipient shall ensure their Contractors and Approved Projects are in compliance with CDBG-DR requirements, the 2018 DR-Infrastructure Policies and Procedures, and the terms and conditions of this Agreement, and in connection therewith, shall perform regular, ongoing monitoring of the Contractors and Approved Project(s) for the term of this Agreement. Subrecipient shall ensure their Contractors resolve any monitoring findings to the Subrecipient's satisfaction by the deadlines set by the Subrecipient. Subrecipient shall report any monitoring findings to the Department, as well as the status of those findings until they are resolved by the Contractors.

26. Inspections of Project Activities

The Department reserves the right to inspect any Approved Project activities performed hereunder to verify that the Approved Project activities are being and/or have been performed in accordance with the applicable federal, state and/or local requirements and this Agreement.

- A. The Subrecipient shall inspect any Approved Project activity performed by contractors and subcontractors hereunder to ensure that the Approved Project activities are being and have been performed in accordance with the applicable federal, State and/or local requirements and this Agreement.
- B. The Subrecipient shall require that all Approved Project activities found by such inspections that do not conform to the applicable requirements be promptly corrected, and shall withhold payment to its Contractor or subcontractor, respectively, until it is so corrected.
- C. Access by the Subrecipient, the federal grantor agency, the State, the Comptroller General of the United States, or any of their duly authorized

EXHIBIT D

representatives to any books, documents, papers, and records of the Subrecipient, Contractor, or subcontractor which are directly pertinent to that specific contract for the purpose of monitoring, making audit, examination, excerpts, and transcriptions pursuant to 24 CFR 85.36(i)(10) shall be permitted. Subrecipient shall include in its agreements with Contractors, as applicable, provisions requiring such parties to provide access to its records for the purposes specified above.

27. Audit/Retention and Inspection of Records

- A. The Subrecipient must have intact, auditable fiscal and program records at all times. If the Subrecipient is found to have missing audit reports from the California State Controller's Office (SCO) during the term of this Agreement, the Subrecipient will be required to submit a plan to the State for submitting the audit to the SCO. If the deadlines are not met, the Department may initiate remedies for noncompliance in accordance with Section 4 herein. The Subrecipient's audit completion plan is subject to prior review and approval by the Department.
- B. The Subrecipient agrees that the Department or its designee will have the right to review, obtain, and copy all records pertaining to performance of this Agreement. The Subrecipient agrees to provide the Department or its designee with any relevant information requested and shall permit the Department or its designee access to its premises, during normal business hours for the purpose of interviewing employees and inspecting and copying such books, records, accounts, and other material that may be relevant to a matter under investigation for the purpose of determining compliance with California Public Contract Code (PCC) Section 10115 et seq., Government Code (GC) Section 8546.7 and 2 CCR 1896.60 et seq., and other requirements of this Agreement. The Subrecipient further agrees to maintain such records for a minimum period of five (5) years after the Department notifies Subrecipient that the HUD/the Department contract has been closed according to the record retention requirements at 2 CFR 200.333. The Subrecipient shall comply with the caveats and be aware of the penalties for violations of fraud and for obstruction of investigation as set forth in Public Contract Code section 10115.10.
- C. An expenditure which is not authorized by this Agreement, or which cannot be adequately documented shall be disallowed and must be reimbursed to the Department or its designee by the Subrecipient.
- D. Absent fraud or material error on the part of the Department, the determination by the Department of the allowability or validity of any expenditure shall be final and conclusive.

EXHIBIT D

- E. For the purposes of annual audits, Subrecipient shall comply with 2 CFR Part 200 Subpart F for the State CDBG Program. Pursuant to 2 CFR Part 200 Subpart F, the Subrecipient shall perform an annual audit at the close of each fiscal year in which this Agreement is in effect. The costs of the CDBG-DR related portion of the audit may be charged to the program in accordance with Public Law 98502, 2 CFR Part 200 Subpart F, and Title 25 CCR Section 7122.
- 1) The audit shall be performed by a qualified State, department, local or independent auditor. The agreement/contract for audit shall include a clause which permits access by the Department to the independent auditor's working papers.
 - 2) If there are audit findings, the Subrecipient must submit a detailed response to the Department for each audit finding. The Department will review the response and, if it agrees with the response, the audit process ends, and the Department will notify the Subrecipient in writing. If the Department is not in agreement, the Subrecipient will be contacted in writing and informed what corrective actions must be taken. This action may include the repayment of disallowed costs or other remediation.
 - 3) The Department shall not approve reimbursement for any expenditures for the audit, prior to receiving an acceptable audit report.
 - 4) If so, directed by the Department upon termination of this Agreement, the Subrecipient shall cause all records, accounts, documentation and all other materials relevant to the grant activity(ies) to be delivered to the Department as depository.
- F. Notwithstanding the foregoing, the Department will not reimburse the Subrecipient for any audit cost incurred after the expenditure deadline of this Agreement.

28. Signs

If the Subrecipient places signs stating that the Approved Project is funded with private or public dollars and the Department is also providing financing, it shall indicate in a typeface and size commensurate with the Department's funding portion of the Approved Project that the Department is a source of financing through the CDBG-DR Program.

29. Insurance

18-DRINFRA-18006
NOI Date: 02/01/2022
Approved Date: 10/04/2022
Prep Date: 10/18/2022

EXHIBIT D

Subrecipient, its Contractors shall comply with all requirements outlined in the (A) General Provisions section and (B) Project Insurance Requirements outlined in this section. These requirements are in addition to, and not in lieu of, any other insurance coverages required elsewhere in this Agreement. No payments will be made under this Agreement for Subrecipient Work and Project Work until the Subrecipient fully complies with all requirements. No payments will be made under the terms of any Approved Project until the Subrecipient confirms to the Department that all Contractors on the specified Approved Project fully comply with all requirements. The Department reserves the right to waive or adjust required insurance coverages from time to time in its sole discretion.

A. General Provisions Applying to All Policies

- 1) Coverage Term – Subrecipient’s coverage needs to be in force for the complete term of the Agreement. The Contractor’s coverage needs to be in force for the complete affordability period of each Approved Project. The Contractor’s coverage needs to be in force until a certificate of occupancy is issued for each Approved Project, if applicable. No work may be performed by Subrecipient or a Contractor until and unless all insurances required by this Agreement are in full force and effect. If insurance expires during the term of the Agreement, as applicable, a new certificate must be received by the Department at least 30 days prior to the expiration of said insurance. Any new insurance must comply with the original terms of this Agreement.
- 2) Policy Cancellation or Termination & Notice of Non-Renewal – Subrecipient is responsible to notify the Department within 15 business days prior to any actual or proposed cancellation, non-renewal or material change that affects required coverage. No policy may be cancelled upon less than 30 days’ prior written notice from the insurer to the insured and the Department. New certificates of insurance are subject to the approval of the Department and the Subrecipient agrees no Subrecipient Work and Project Work or services will be commenced or performed prior to obtaining such approval. In the event Subrecipient and Contractor fails to keep in effect at all times the specified insurance coverage, the Department may, in addition to any other remedies it may have, terminate this Agreement and/or Approved Project upon the occurrence of such event, subject to the provisions of this Agreement.
- 3) Premiums, Assessments and Deductibles – Subrecipient and Contractors for each Approved Project are responsible for the payment of all

EXHIBIT D

premiums, policy assessments, deductibles or self-insured retentions associated with their respective insurance programs.

- 4) Primary Clause – Any required insurance contained in this Agreement shall be primary, and not excess or contributory, to any other insurance carried by the Department.
- 5) Insurance Carrier Required Rating – All insurance companies must carry an AM Best rating of at least “A–” with a financial category rating of no lower than VII. If the Subrecipient and/or Contractor is self-insured for a portion or all of its insurance, review of financial information including a letter of credit may be required. Acceptance of self-insurance is within the sole discretion of the Department, and the Department reserves the right to require insurance from third-party commercial insurers.
- 6) Endorsements – Any required endorsements requested by the Department must be physically attached to all requested certificates of insurance and not substituted by referring to such coverage on the certificate of insurance.
- 7) Inadequate Insurance – Inadequate or lack of insurance does not negate the Subrecipient’s or Contractor’s obligations under this Agreement or the terms specific to the relevant Approved Project, nor does the availability or limits of any insurance policies required herein in any way limit the liability of Subrecipient or any Contractor, to the Department hereunder, nor does it in any way limit the liability of such parties to the Department in regards to any indemnification obligations of such parties herein.
- 8) Available Coverages/Limits – All coverage and limits available to the Subrecipient or Contractor shall also be available and applicable to the Department.
- 9) Satisfying an SIR - All insurance required by this Agreement and any required by the terms specific to the relevant Approved Project must allow the Department to pay and/or act as the Subrecipient’s or Contractor’s agent in satisfying any self-insured retention (SIR). The choice to pay and/or act as the Subrecipient’s, or Contractor’s agent in satisfying any SIR is at the Department’s discretion.
- 10) Use of Subcontractors - In the case of Contractor’s utilization of subcontractors to complete the contracted scope of work for the relevant Approved Project, Contractor shall include all subcontractors as insureds

EXHIBIT D

under Contractor's insurance or supply evidence of subcontractor's insurance to the Department equal to policies, coverages, and limits required of Contractor.

B. Project Insurance Requirements

Subrecipient and/or Contractor shall display evidence, as applicable for the relevant Approved Project, of the following on a certificate of insurance evidencing the following coverages:

- 1) Commercial General Liability – Contractor on an Approved Project shall maintain commercial general liability insurance on an occurrence form with limits not less than \$1,000,000 per occurrence for bodily injury and property damage liability combined with a \$2,000,000 annual policy aggregate or such higher amount as the Department may deem appropriate under the circumstances for each Approved Project. The Department shall identify any higher insurance limits in the NTP for the Approved Project subject to them. The policy shall include coverage for liabilities arising out of premises, operations, independent contractors, products, completed operations, personal & advertising injury, and liability assumed under an insured contract. This insurance shall apply separately to each insured against whom claim is made or suit is brought subject to the Contractor's limit of liability.

The policy must name The State of California, its officers, agents, and employees as additional insureds.

- 2) Automobile Liability – Contractor shall maintain, as applicable, business automobile liability insurance for limits not less than \$1,000,000 combined single limit. Such insurance shall cover liability arising out of a motor vehicle including owned, hired and non-owned motor vehicles. Should the scope of the relevant Approved Project involve transportation of hazardous materials, evidence of an MCS-90 endorsement is required.

The policy must name The State of California, its officers, agents, and employees as additional insured.

Workers Compensation and Employer's Liability – Contractor shall maintain statutory worker's compensation and employer's liability coverage for all its employees who will be engaged in the performance of this Agreement and the relevant Approved Project. In addition, employer's liability limits of \$1,000,000 are required. By signing this Agreement,

EXHIBIT D

Subrecipient acknowledges compliance with these regulations. A Waiver of Subrogation or Right to Recover endorsement in favor of the State of California must be attached to certificate.

- 3) Flood Insurance – Subrecipient shall procure and maintain flood insurance if required under Section 13.E. of this Agreement.

- 4) Additional Coverages – In the event that Subrecipient, Developer, and/or any of its Contractors will be engaging in any Hazardous Activity as part of the Collective Work contemplated by this Agreement, then the party(ies) engaging in any Hazard Activity(ies) shall provide to the Department, prior to commencement of any such activity(ies), such insurance coverages in such forms and in such amounts as the Department may require in its sole discretion. Such coverages are in addition to all other insurance coverages required by this Agreement and shall be imposed on the Developer pursuant to the Development Agreement. For purposes of the provision, the term "Hazardous Activity" includes but is not limited to the following: (a) the removal, storage, and/or transportation of any "hazardous material", as such term is defined under federal, state, or local law, ordinance, regulation, or guideline, (b) the removal, storage, or transportation of lead-based paint or asbestos, (c) blasting, (d) any activity which by its nature is abnormally dangerous, and (d) any "ultrahazardous activity" as defined in California case law. In addition to providing proof of such required coverages, the party(ies) engaging in the Hazardous Activity(ies) shall procure, at its expense prior to the commencement of any work, all required permits, licenses, consents, and approvals that are required for the lawful conduct of such activities, and shall provide adequate written proof thereof to the Department. No Hazardous Activity work may be commenced, or contracted for, prior to the provision of the required insurance coverages and licensure proof to the Department."

30. Indemnification

Subrecipient, at its sole cost and expense, shall indemnify, defend, and hold the Department and its employees, representatives, attorneys, agents, and their respective successors, heirs, and assigns harmless from and against any and all claims, demands, actions, costs, losses, damages, and liabilities, whether direct or indirect, and regardless of their nature or source, which in any way relate to or arise from the actions or inactions of Subrecipient and/or its contractors, subcontractors, employees, owners, agents, and representatives in connection with this Agreement and any agreement or instruments executed in connection herewith. The obligations of Subrecipient under this Section 30 shall survive indefinitely the closeout of Approved Projects and the expiration or earlier termination of this Agreement.

EXHIBIT D

31. Anti-Lobbying Certification

The Subrecipient shall require that the language of this certification be included in all contracts or subcontracts entered into in connection with the Approved Project(s) and shall certify and disclose accordingly. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into.

Submission of this certification is a prerequisite for making or entering into this transaction imposed by 31 U.S.C. 1352. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and no more than \$100,000 for such failure.

- A. No federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any federal contract, the cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any federal contract, grant, loan, or cooperative agreement.
- B. If any funds other than federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.

32. Conflict of Interest

Pursuant to 24 CFR 570.489(h), no member, officer, or employee of the Subrecipient, or its designees or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercise or have exercised any functions or responsibilities with respect to CDBG-DR activities assisted under this part, or who are in a position to participate in a decision making process or gain inside information with regard to such activities, including members and delegates to the Congress of the United States, may obtain a financial interest or benefit from a CDBG-DR assisted activity, or have a financial interest in any contract, subcontract or agreement with respect to a CDBG-DR assisted activity or its proceeds, either for themselves or those with whom they have business or immediate family ties, during their tenure, or for 1 year thereafter. The Subrecipient shall incorporate, or cause to be incorporated, in all such contracts or subcontracts a provision prohibiting such interest pursuant to the purposes of this section.

EXHIBIT D

33. **Obligations of Subrecipient with Respect to Certain Third-Party Relationships**

The Subrecipient shall remain fully obligated under the provisions of this Agreement notwithstanding its designation of any third party or parties for the undertaking of all or any part of the Subrecipient Work and/or Project Work with respect to which assistance is being provided under this Agreement to the Subrecipient. The Subrecipient shall comply with all lawful requirements of the Department necessary to ensure that the Subrecipient Work and/or Project Work, with respect to which assistance is being provided under this Agreement to the Subrecipient, is carried out in accordance with the Department's Assurance and Certifications, including those with respect to the assumption of environmental responsibilities of the Department under Section 104(g) of the Housing and Community Development Act of 1974 [42 U.S.C. § 5304(g)].

34. **Energy Policy and Conservation Act**

This Agreement is subject to mandatory standards and policies relating to energy efficiency which are contained in the State Energy Conservation Plan issued in compliance with the federal Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871).

35. **State Contract Manual Requirements (Section 3.11, Federally Funded Contracts (Rev. 3/03)):**

- A. All contracts, except for State construction projects that are funded in whole or in part by the Federal government, must contain a 30-day cancellation clause and the following provisions:
- 1) It is mutually understood between the parties that this contract may have been written for the mutual benefit of both parties before ascertaining the availability of congressional appropriation of funds to avoid program and fiscal delays that would occur if the contract were executed after that determination was made.
 - 2) This contract is valid and enforceable only if sufficient funds are made available to the State by the United States Government for the purpose of this Program. In addition, this contract is subject to any additional restrictions, limitations, or conditions enacted by the Congress or to any statute enacted by the Congress that may affect the provisions, terms, or funding of this contract in any manner.
 - 3) The parties mutually agree that if the Congress does not appropriate

EXHIBIT D

sufficient funds for the program, this contract shall be amended to reflect any reduction in funds.

- 4) The Department has the option to invalidate the contract under the 30 day cancellation clause or to amend the contract to reflect any reduction in funds.
- B. Exemptions from provisions A.1 through A.4 above may be granted by the Department of Finance provided that the director of the State agency can certify in writing that Federal funds are available for the term of the contract.
- C. Gov. Code § 8546.4(e) provides that State agencies receiving Federal funds shall be primarily responsible for arranging for Federally required financial and compliance audits, and shall immediately notify the Director of Finance, the State Auditor, and the State Controller when they are required to obtain Federally required financial and compliance audits.

EXHIBIT E

SPECIAL TERMS AND CONDITIONS

1. Due Diligence Review

Subrecipient has provided the Department with information about the Subrecipient's experience, processes, policies, and procedures related to the development of DR-Infrastructure projects and the management of federal funding in the Subrecipient's jurisdiction. These submissions, in addition to discussions with the Subrecipient, have been used to inform this Agreement and are being materially relied upon by the Department in agreeing to enter into this Agreement.

Should there be substantive changes to the organization, key personnel, methods, policies, or processes of the Subrecipient that impact the implementation of this Agreement, the Subrecipient shall promptly notify the Department of said changes.

Subrecipient agrees to provide documents and information to facilitate the Department's Subrecipient due diligence as required in Federal Register Notice 85 FR 4681. Subrecipient further agrees to comply with the requirements, requests, and results of the Department's due diligence and maintain the capacity to carry out disaster recovery activities in a timely manner at all times during the term hereof.

2. Risk Assessment

During the term of this Agreement, Subrecipient agrees to provide documents and information to facilitate the Department's Subrecipient monitoring risk assessment process. Subrecipient further agrees to comply with the requirements, requests, and results of the Department's risk assessment, including participation in Subrecipient monitoring events.

3. Special Conditions

Pursuant to the Due Diligence and Risk Assessment, Subrecipient agrees to adhere to the following special conditions:

- A. The Department's issuance of one or more project-specific Notice to Proceed is expressly conditioned on the Department's determination that Subrecipient has satisfied all special conditions, contained herein and relevant to Subrecipient's project(s), individually and collectively, as well as all other terms and conditions of this Agreement.
- B. Any and all conditions set forth in a Notice to Proceed issued by the Department with respect to Approved Projects.

EXHIBIT E

- C. Subrecipient will develop and implement procurement policies and procedures that demonstrate conformity with 2 CFR part 200.318-327 and applicable Federal Register Notices. Technical assistance by the department will be provided upon the subrecipient's request. The Subrecipient will submit the procurement policies and procedures to the Department in advance of the Department's release of a Notice to Proceed.
- D. Subrecipient will develop and implement labor compliance and monitoring policies and procedures. The Subrecipient must show how they will comply with federal labor standards and overall construction monitoring, including but not limited to the Davis-Bacon and Related Acts and HUD's Section 3 provision of the Housing and Urban Development Act of 1968 as outlined in the MSA Per Exhibit D, Section 12 The Training, Employment, and Contracting Opportunities for Business and Lower Income Persons Assurance of Compliance (Section 3) and Section 17 Federal Labor Standards Provisions. The Subrecipient will submit the labor compliance and monitoring policies and procedures in advance of the Department's release of a Notice to Proceed.
- E. Subrecipient will develop and implement policies and procedure for timekeeping and financial management which must include how the jurisdiction submits, reviews, and tracks staff time consistent with Subrecipient requirements outlined in the MSA Per Exhibit D, Section 7 Uniform Administrative Requirements and Section 24 Fiscal Controls between the Subrecipient and the Department. The Subrecipient will submit the timekeeping and financial management policies and procedures to the Department in advance of the Department's release of a Notice to Proceed.

EXHIBIT "B" Resolution Approved by Council

**TOWN OF PARADISE
RESOLUTION NO. 2022-72**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PARADISE
AUTHORIZING AND APPROVING EXECUTION OF A GRANT AGREEMENT
TO RECEIVE AN ALLOCATION OF FUNDING FROM THE 2018 CDBG-DR
INFRASTRUCTURE PROGRAM AND ANY FORTHCOMING AMENDMENTS,
THERETO**

BE IT RESOLVED by the Town Council of the Town of Paradise as follows:

SECTION 1:

The Town Council of the Town of Paradise has reviewed the State of California's CDBG-DR Action Plan for 2018 disasters and, hereby, approves the execution of a Standard Agreement between Town of Paradise ("Subrecipient") and the California Department of Housing and Community Development ("HCD"), allocating to the Subrecipient the aggregate amount, not to exceed, \$199,592,735.75 ("Grant").

The Town Council agrees to perform infrastructure-development-related activities, as further detailed in the Standard Agreement and consistent with the applicable Disaster Recovery Infrastructure Program (DR-Infrastructure) Policies and Procedures, as the same may be amended from time to time.

SECTION 2:

The Town Council hereby authorizes and directs the Town Manager or designee, Public Works Director/Town Engineer, to enter into, execute, and deliver the Standard Agreement and any and all subsequent amendments, thereto, with the State of California for the purposes of the Grant.

SECTION 3:

The Town Manager or designee, Public Works Director/Town Engineer, is authorized to execute and deliver all project applications and any and all related documentation required to effectuate the terms of the Standard Agreement, and to act on the Town's behalf in all matters pertaining to all such applications and documentation, thereof.

SECTION 4:

If an application is approved, the Town Manager or designee, Public Works Director/Town Engineer, is authorized to enter into, execute, and deliver all Notice(s) to Proceed, and any and all subsequent amendments, thereto, with the State of California for the purposes of the Grant.

TOWN OF PARADISE
RESOLUTION NO. 2022-72

SECTION 5:

If an application is approved, the Town Manager or designee, Public Works Director/Town Engineer, is authorized to sign and submit Funds Requests and all required reporting forms and other documentation as may be required by the State of California, from time to time, in connection with the Standard Agreement for purposes of the Grant.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Paradise held on October 11, 2022 by the following vote:

AYES: Greg Bolin, Steve "Woody" Culleton, Jody Jones, Rose Tryon and Steve Crowder, Mayor

NOES: None


ABSENT: None

NOT VOTING: None



Steve Crowder, Mayor

ATTEST: *October 13, 2022*



Dina Volenski, CMC, Town Clerk

APPROVED AS TO FORM:



By: _____

Scott E. Huber, Town Attorney

TOWN OF PARADISE
RESOLUTION NO. 2022-72

STATE OF CALIFORNIA
Town of Paradise

I, Dina Volenski, Town Clerk of the Town of Paradise, State of California, hereby certify the above and foregoing to be a full, true and correct copy of a resolution adopted at a duly noticed and convened meeting of said Town Council on October 11, 2022, and that such resolution has not been amended, modified, repealed or rescinded since its date of adoption and is in full force and effect as of the date hereof.

Dina Volenski

Dina Volenski, Town Clerk of the Town of Paradise,
State of California

By: *Dina Volenski, Town Clerk*
Name and Title*

EXHIBIT "C" 18DR INF POLICIES AND PROCEDURES V3.0



State of California
Department of Housing and Community Development
**2018 Community Development Block Grant - Disaster Recovery Infrastructure
Program**

Policies and Procedures Manual

Version 3.0
July 2023

Version Policy

Version history is tracked in the table below with notes regarding version changes. The dates of each publication are also tracked in the table.

Substantive changes within this document that reflect a policy change results in the issuance of a new version. For example, the change to a rolling application process is a substantial change to the procedures provided in Version 1.0. Future policy changes will result in additional revisions and the issuance of a new primary number version.

Non-substantial changes, such as minor wording and editing or clarification of existing policy that do not affect the interpretation or applicability of the policy, are included in minor version updates denoted by a sequential number increase behind the primary version number. Such changes would result in a version number such as 2.1, 2.2, etc.

Version History

Version Number	Date Revised	Description of Revisions
v1.0	June 2021	Initial Draft: Policies and Procedures are <u>subject to change</u> at the sole discretion of the DR-Infrastructure Program
v2.0	December 2021	<p>Section 2.2.1 Tie-Back to the Disaster: Addition of requirements for use of population shift as a result of the disaster as an indirect disaster tie-back.</p> <p>2.2.3 Eligible Applicants: Update of requirements for Eligible Applicants working on behalf of another jurisdiction or special district.</p> <p>2.2.4 Disaster Recovery Infrastructure and Disaster Recovery Multifamily Housing Program Coordination: Clarify coordination of DR-Infrastructure and DR-Multifamily Housing Program for infrastructure projects and establish how project responsibility determines potential program eligibility.</p> <p>2.3.10 Section 3 of the HUD Act of 1968: Update regarding the Section 3 Final Rule.</p> <p>2.6.1 Eligible Uses of Funds: Clarification of the non-federal share of U.S. Army Corps of Engineers projects maximum limit.</p> <p>3.1.1 NOI Process: Clarification of NOI Rounds and timing.</p>

		<p>3.1.5 Allocations from NOI: Update Allocation methodology for Priority Level percentages.</p> <p>3.1.6 Application Process: Update of the Application Process including timing, Due Diligence, and Authorizing Resolution requirements.</p> <p>3.1.7: Application Requirements: Updates on requirements for the Application including the Due Diligence and Authorizing Resolution.</p> <p>3.1.8 Application Review: Update of approval entity for potential projects submitted under the Application.</p> <p>3.1.9 Application Award Methodology: Update of Award Methodology to clarify Application to Agreement timing.</p> <p>3.1.11 Notice to Proceed: Clarification of Notice to Proceed procedure with update of Application to Agreement timing.</p> <p>Appendix 1: Addition of the 2018 Mitigation Resilient Infrastructure Program (MIT-RIP) Policies and Procedures. Unless otherwise noted in the MIT-RIP Addendum MIT-RIP follows the 2018 DR-Infrastructure Policies and Procedures.</p>
<p>v3.0</p>	<p>January 2023</p>	<p>Full Document: General updates related to grammar, capitalization, punctuation, and overall formatting.</p> <p>Full Document: General updates related to grammar, capitalization, punctuation, and overall formatting. Clarification of uses of Standard Agreements (SAs) and Master Standard Agreements (MSAs) throughout grant life cycle.</p> <p>1.2 Terms and Definitions: Clarification of definition and allowable uses for Activity Delivery Costs.</p> <p>1.2 Terms and Definitions: Additional clarification of process triggered by issuance of a Notice to Proceed.</p> <p>2.2.1 Tie-back to Disasters: Additional clarification regarding documentation required for FEMA PA Match projects.</p> <p>2.2.1 Tie-back to Disasters: Clarification of tie-back documentation requirements for road repair projects.</p>

	<p>2.2.1 Tie-back to Disasters: Clarification of location documentation requirements for tie-back documents and images.</p> <p>2.2.3. Meeting a National Objective: Clarification of Urgent Need national objective.</p> <p>2.2.4 Eligible Applicants: Update of requirements for Eligible Applicants and secondary subrecipients.</p> <p>2.2.5 Infrastructure and Multifamily Housing Program Coordination: Clarification of allowable use of DR-MHP and DR-Infrastructure funds for infrastructure activities on approved DR-MHP projects by qualified developers / contractors. DR-MHP funds can be used but DR-Infrastructure may not be used for activities that are the responsibility of the developer/contractor.</p> <p>2.3.17 Procurement Policy: Clarification regarding HCD review of subrecipient's procured contracts. HCD will not review each contract but will confirm compliance through monitoring.</p> <p>2.3.20 Environmental Review Procedures: Clarification of requirements for subrecipients to use activity delivery funds for the environmental review process.</p> <p>2.7 Determining the Non-Federal Share Amount: Section was moved from original location in 2.3 CDBG-DR and Cross-Cutting Federal Requirements to Section 2.7.</p> <p>2.8.2 Ineligible Uses of Funds: Added private infrastructure as an ineligible use of program funds.</p> <p>3.1.1 NOI Process: Clarification of purpose of NOI and NOI Review.</p> <p>3.1.1 NOI Process: Update to NOI process and policy regarding consideration of eligible projects. Only eligible Projects submitted during the NOI process will be considered for an award during the application phase. Projects <i>not</i> submitted as part of the NOI/unmet need assessment and determined to be eligible by HCD during the application phase <i>will not</i> be considered for an award.</p> <p>3.1.2 NOI Requirements: Clarification of tieback documentation required for NOI applications.</p>
--	---

	<p>3.1.3 NOI Review: Clarification of NOI review criteria. Priority Level 1 is LMI; Priority Level 2 is Urgent Need.</p> <p>3.1.4 NOI Approval: Clarification of HCD staff roles and order of review for NOI approval.</p> <p>3.1.7 Project Application Process: Clarification of the timing of the Application deadline based on the execution of an MSA. The application due date for Subrecipients is now 90 days from execution from the MSA.</p> <p>3.1.7 Project Application Process: Clarification of authorizing resolution, MSA, and application processes and requirements. An MSA must be executed by a Subrecipient prior to submitting an application to HCD.</p> <p>3.1.9 Application Review: Clarification on criteria and process for application denial, and clarification of HCD's application review and NTP issuance process.</p> <p>3.1.11 Notice to Proceed: Clarification of steps, submissions, and approvals required before HCD may issue an NTP. Clarification that NTP enables subrecipient to formally proceed with projects and expect to be reimbursed for eligible activity costs incurred after NTP execution date. Clarification that FEMA match projects that commenced construction prior to the NOI are excluded from restrictions on incurring pre-NTP activity costs.</p> <p>3.4 Activity Delivery Costs: Clarification of when ADCs can be incurred by a Subrecipient prior to an MSA.</p> <p>4. Program Operations: Changed section title from Program Operations and Implementation.</p> <p>Appendix 1: Removed the 2018 Mitigation Resilient Infrastructure Program (MIT-RIP) Policies and Procedures section. The 2018 MIT-RIP Policies and Procedures will be produced as its own stand-alone document.</p>
--	---

Table of Contents

Table of Contents	vi
General	1
1.1. Purpose and Scope	1
1.2. Terms and Definitions	2
Program Requirements.....	7
1.3. Infrastructure Program Activities.....	7
2.1.1 FEMA PA Match	7
2.1.2 FEMA HMGP Match	8
2.1.3 Other Non-Federal Match	8
2.1.4 Stand-Alone Infrastructure.....	8
2.2 Infrastructure Program Requirements	8
2.2.1 Tie-back to the Disasters	8
2.2.2 Overall Housing Recovery	10
2.2.3 Meeting a National Objective	10
2.2.4 Eligible Applicants.....	11
2.2.5 Infrastructure and Multifamily Housing Program Coordination	13
2.2.6 Duplication of Benefits	13
2.2.7 Recapture of Funds	14
2.3 CDBG-DR and Cross-Cutting Federal Requirements	14
2.3.1 Americans with Disabilities Act.....	15
2.3.2 Copeland Act’s Anti-Kickback Provision	15
2.3.3 Contract Work Hours and Safety Standards Act	15
2.3.4 Force Account Labor	15
2.3.5 Equal Employment Opportunity Act.....	16
2.3.6 Minority- and/or Women-Owned Business Enterprises.....	16
2.3.7 Fair Labor Standards Act of 1983, As Amended	17
2.3.8 Davis-Bacon Labor Standards.....	18
2.3.9 Limited English Proficiency.....	19
2.3.10 Section 3 of the HUD Act of 1968.....	19
2.3.11 Fair Housing.....	21
2.3.12 Residential Anti-Displacement.....	22
2.3.13 Uniform Relocation Act and Real Property Acquisition	22
2.3.14 Financial Management	22
2.3.15 Insurance and Property Management	23
2.3.16 Recordkeeping, Retention, and File Management	23
2.3.17 Procurement Policy.....	25
2.3.18 Audit Trail.....	25
2.3.19 Conflicts of Interest and Confidentiality	26
2.3.20 Environmental Review	26
2.4 FEMA PA Match	29

2.4.1	FEMA PA Categories	29
2.4.2	Eligible Activities	29
2.4.3	Eligible Projects	29
2.4.4	Eligible Use of Funds	30
2.4.5	Ineligible Uses of Funds	30
2.4.6	Labor Compliance.....	30
2.5	FEMA HMGP Match	30
2.5.1	Eligible Uses of Funds	30
2.5.2	Ineligible Uses of Funds	31
2.6	Other Non-Federal Share Match	31
2.6.1	Eligible Uses of Funds	31
2.6.2	Ineligible Uses of Funds	31
2.7	Determining the Non-Federal Share Amount	32
2.8	Stand-Alone Infrastructure	32
2.8.1	Eligible Uses of Funds	32
2.8.2	Ineligible Uses of Funds	33
3	Implementation Policies	33
3.1	Project Selection	33
3.1.1	NOI Process.....	33
3.1.2	NOI Requirements	34
3.1.3	NOI Review.....	36
3.1.4	NOI Approval	37
3.1.5	Allocations from NOI	38
3.1.6	Authorizing Resolution & MSA.....	38
3.1.7	Project Application Process	39
3.1.8	Application Requirements.....	39
3.1.9	Application Review.....	40
3.1.10	Application Award Methodology	40
3.1.11	Notice to Proceed	41
3.1.12	Appeals Process	41
3.2	Subrecipient Due Diligence	41
3.3	Technical Assistance to Subrecipients	41
3.4	Activity Delivery Costs	42
3.4.1	Allowable Costs After MSA and Before NTP.....	42
3.4.2	Authorization to Incur Costs Before an Executed MSA.....	42
3.4.3	Subrecipient ADCs with Incomplete Projects	43
4	Program Operations.....	43
4.1	Subrecipient Agreements	43
4.2	Agreements with Contractors or Other Parties.....	44
4.3	Document Retrieval Process	44
4.4	Disbursement of Funds.....	45

4.5 Reporting Requirements 45

4.6 Monitoring and Compliance 45

 HCD's Monitoring of Subrecipients 46

 Subrecipient Monitoring Responsibilities 47

4.7 Record Keeping 48

4.8 Grant Closeout..... 49

 Closeout of an Individual Activity 49

 Closeout of an Agreement 50

Community Development Block Grant - Disaster Recovery 2018 Infrastructure Program Policies and Procedures Manual

General

1.1. Purpose and Scope

This document is designed to address program policies and provide general guidance for the use of Community Development Block Grant – Disaster Recovery (CDBG-DR) supplemental funds appropriated under Public Laws 115-254 and 116-20, Catalog of Federal Domestic Assistance Numbers 14.228 for State CDBG grantees and 14.218 for Entitlement CDBG Grantees.

On January 27, 2020, United States Department of Housing and Urban Development (HUD) published Federal Register Notice 85 FR 4681 allocating \$1,017,399,000 in CDBG-DR funding, related to the Federal Emergency Management Agency (FEMA) Major Disaster Declarations DR-4382 from July to September 2018 and DR-4407 in November 2018. The California Department of Housing and Community Development (HCD) is the grantee responsible for administering the CDBG-DR funds allocated to the State of California. CDBG-DR supports the State of California's unmet recovery needs related to the Federal Emergency Management Agency (FEMA) Major Disaster Declarations DR-4382 from July to September 2018 and DR-4407 in November 2018.

Recognizing unmet infrastructure recovery needs, related to DR-4382 from July to September 2018 and DR-4407 in November 2018, HCD allocated \$317,428,488 of the CDBG-DR funding to the Disaster Recovery Infrastructure Program (DR-Infrastructure). DR-Infrastructure projects are funded to assist with meeting the unmet infrastructure needs of local communities. This program provides funding for FEMA Public Assistance (PA) match projects, FEMA Hazard Mitigation Grant Program (HMGP) match projects, other non-FEMA match projects, and stand-alone projects identified by local communities impacted by DR-4382 or DR-4407. HUD requires that 70% of the total grant-wide funds are spent on activities that meet the low- and moderate-income (LMI) national objective and 80% of grant funds are expended in the HUD-identified most impacted and distressed (MID) areas. The MID areas for the 2018 DR-Infrastructure Program include the entire counties of Butte, Shasta, Los Angeles and Lake.

Additionally, for CDBG-DR funds to be used as the non-federal cost share local match, the project must be a HUD eligible activity and must meet a HUD national objective, per CDBG-DR rules and regulations. Similarly, the project must fully comply with all applicable federal rules and regulations, to include Davis Bacon and related acts, Section 3, Section 504, procurement, environmental review and all other CDBG-DR, cross-cutting, state and local applicable statutes, rules and regulations.

This document describes program policy and provides guidance for the DR-Infrastructure Program. Subrecipients should review all applicable Federal regulations, disaster specific

Federal Register Notices and HCD's CDBG-DR Action Plan and Grant Administration Manual for detailed discussions of CDBG-DR procedures and requirements.

1.2. Terms and Definitions

Agreement: HCD utilizes multiple agreement templates as contracts with Subrecipients, including, but not limited to, Standard Agreements and Master Standard Agreements. The type of Subrecipient agreement used depends on the type and number of projects, among other factors. HCD determines the type(s) of Agreement used on a case-by-case basis in the reasonable exercise of HCD's discretion. "Agreement" is used throughout this manual as a general term when either a Standard Agreement or Master Standard Agreement, or any other agreement template, may be appropriate given the context of the section.

Activity Delivery Costs (ADC): ADCs are allowable costs incurred for implementing and carrying out eligible CDBG activities. ADCs cover the costs of staff directly carrying out the activity in addition to engineering, design, architecture, and environmental services that are necessary for successful completion of the activity. ADCs must be allocable to a CDBG-assisted activity, meet a national objective, and meet all other CDBG program requirements.

Application: A formal document used to assess viability of an individual project and includes final construction design plans, identify and document all funding sources, and provide additional documentation to show compliance with state and federal regulations.

Area Median Income (AMI): means the median family income for specific geographic areas, adjusted for household size, as calculated by HUD, and published annually by HCD for the CDBG program at <https://www.hcd.ca.gov/grants-and-funding/income-limits>

Authorization to Use Grant Funds (AUGF): is the written notification from HCD to the subrecipient, indicating that a specific project has met HCD's prerequisites and authorizing the subrecipient to expend CDBG-DR funds on that specific project.

Authorizing Resolution: is a formal resolution of the subrecipient's highest authority, usually the city council or county board of supervisors, authorizing the subrecipient to accept CDBG-DR funding and the responsibilities that attach, thereto, in general and authorizing people performing specific roles to act on its behalf, including, but not limited to, signing the Agreement with HCD.

CALGreen: is California's first green building code and first in the nation state mandated green building code. It is formally known as the California Green Building Standards Code, Title 24, Part 11, of the California Code of Regulations. For more information, visit <https://www.dgs.ca.gov/BSC/Codes>

California Environmental Quality Act (CEQA): is a statute that requires state and local agencies to identify the significant environmental impacts of their actions and to avoid or mitigate those impacts, if feasible.

Code of Federal Regulations (CFR): is the acronym used for the Code of Federal Regulations.

Contractor: a properly licensed person or company that Subrecipients or developers hire to undertake a contract to provide materials or labor to perform a service or do a job.

Community Development Block Grant Program - Disaster Recovery (CDBG-DR): Assistance from the U.S. Department of Housing and Urban Development (HUD) to help the state recover from presidentially declared disasters, especially in low-income areas, subject to availability of supplemental appropriations.

Cross-Cutting Requirements: Regulations outside of CDBG-DR that apply to CDBG-DR programs. These requirements pertain to financial management, procurement, environmental, labor, acquisition, relocation, fair housing, and non-discrimination.

Davis-Bacon Wage Requirements: The Davis Bacon and Related Acts (DBRA) requires all contractors and subcontractors performing work on federal or District of Columbia contracts or federally assisted contracts in excess of \$2,000 for construction, alteration, or repair (including painting and decorating) to pay their laborers and mechanics not less than the prevailing wage rates and fringe benefits for corresponding classes of laborers and mechanics employed on similar projects in the area. The prevailing wage rates and fringe benefits are determined by the Secretary of Labor for inclusion in covered contracts. Contractors and subcontractors on Davis-Bacon Act prime contracts in excess of \$150,000, or related Act contracts in excess of \$100,000, are also required, pursuant to the Contract Work Hours and Safety Standards Act, to pay laborers and mechanics one and one-half times their basic rates of pay for all hours over 40 worked on a covered contract in a workweek.

Eligible Applicant: means any city or county governments that applies for funds pursuant to applicant eligibility section. (See Also: Subrecipient)

Duplication of Benefits (DOB): Financial assistance received from another source that is provided for the same purpose as the CDBG-DR funds. The Robert T. Stafford Disaster Assistance and Emergency Relief Act (Stafford Act) prohibits any person, business concern or other entity from receiving financial assistance from CDBG Disaster Recovery funding with respect to any part of the loss resulting from a major disaster as to which he/she has already received financial assistance under any other program or from insurance or any other sources. It is an amount determined by the program that may result in the reduction of an award value.

Environmental Review Record (ERR): A permanent set of files containing all documentation pertaining to the environmental review compliance procedures conducted and environmental clearance documents as required by CEQA and NEPA regulations. (See California Environmental Quality Act and National Environmental Policy Act).

Federal Emergency Management Agency (FEMA): An agency of the United States Department of Homeland Security. The agency's primary purpose is to coordinate the

response to a disaster that has occurred in the United States and that overwhelms the resources of local and state authorities.

FEMA Hazard Mitigation Grant Program (HMGP): FEMA HMGP projects are those that result in protection to public or private property, have a beneficial impact upon the designated disaster area, whether or not located in the designated area, and meet the minimum project criteria in [44 CFR Section 206.434\(b\)](#).

FEMA Public Assistance (FEMA PA): Provides grants to state, tribal, territorial, and local governments, and certain types of private non-profit organizations so that communities can quickly respond to and recover from major disasters or emergencies. Through the program, FEMA provides supplemental federal disaster grant assistance for debris removal, life-saving emergency protective measures, and the repair, replacement, or restoration of disaster-damaged publicly owned facilities, and the facilities of certain private non-profit organizations.

Grantee: The term “grantee” refers to HCD.

Grants Network: The Department’s electronic grant management system and application portal.

HUD Public Facilities Activity and Match Activity:

- **HCDA Section 105(a)(2) – Public Facilities and Improvements:** the acquisition, construction, reconstruction, or installation (including design features and improvements with respect to such construction, reconstruction, or installation that promote energy efficiency) of public works, facilities (except for buildings for the general conduct of government), and site or other improvements.
- **HCDA Section 105(a)(9) – Payment of Non-Federal Share:** payment of the non-Federal share required in connection with a Federal grant-in-aid program undertaken as part of activities assisted under this title.

Low- and Moderate-Income (LMI): Low- and moderate-income people are those having incomes not more than the “moderate-income” level (80% Area Median Family Income) set by the federal government for the HUD-assisted Housing Programs. This income standard changes from year to year and varies by household size, county and the metropolitan statistical area.

Master Standard Agreement (MSA): The contractual arrangement between HCD and the Subrecipient which sets forth the terms and conditions by which CDBG-DR funds are utilized. The MSA allows for multiple projects to be completed under one agreement.

Minority- and/or Women-Owned Business Enterprise (M/WBE): A business that is owned and controlled (minimum of 51% ownership) by a member of a minority group, or women.

Most Impacted and Distressed (MID): An area that meets the definition of Most Impacted and Distressed set by HUD in the Federal Register Notice. For purposes of the unmet needs allocation, HUD has defined Most Impacted and Distressed as an area (county or zip code) that meets the following criteria:

Individual Assistance/Individual and Households Program (IHP) designation. HUD has limited allocations to those disasters where FEMA had determined the damage was sufficient to declare the disaster as eligible to receive IHP funding.

Concentrated damage. HUD has limited its estimate of serious unmet housing need to counties and zip codes with high levels of damage, collectively referred to as “most impacted areas”. For this allocation, HUD is defining most impacted areas as either most impacted counties—counties exceeding \$10 million in serious unmet housing needs—and most impacted zip codes—zip codes with \$2 million or more of serious unmet housing needs. The calculation of serious unmet housing needs is described below.

Disasters meeting the most impacted threshold. Only 2018 disasters within the threshold are funded: a. One or more most impacted county, and/or b. An aggregate of most impacted zip codes of \$10 million or greater than was declared by the President to be a major disaster area under the Stafford Act for a disaster event occurring in 2018.

National Environmental Policy Act (NEPA): Establishes a broad national framework for protecting the environment. NEPA's basic policy is to assure that all branches of government consider the environment prior to undertaking any major federal action that could significantly affect the environment.

National Flood Insurance Program (NFIP): Created by Congress in 1968 to reduce future flood damage through floodplain management and to provide people with flood insurance through individual agents and insurance companies. FEMA manages the NFIP.

Notice of Intent (NOI): Process by which Eligible Applicants submit their eligible DR-Infrastructure Program projects and project Priority Level through Grants Network for Program eligibility and funding allocation.

Notice to Proceed (NTP): The NTP is a binding document, approved as to form a component of the Agreement between the Subrecipient and HCD by committing funds to a specific project and gives official notice to the subrecipient that they can begin work on the project.

Permanent work: FEMA’s Public Assistance program designation for “recovery work” which restores or rebuilds a damaged asset and is comprised of five categories: roads and bridges (Category C), water control facilities (Category D), buildings and equipment (Category E), utilities (Category F), and parks, recreation facilities, and other facilities (Category G).

Program Portal: A web-based portal via Grants Network to the DR-Infrastructure overview and program-specific documents, NOI, and Project Application.

Project: Per 49 CFR 24.2 a (22), project means any activity or series of activities undertaken by a Federal Agency or with Federal financial assistance received or anticipated in any phase of an undertaking in accordance with the Federal funding Agency guidelines.

Project Worksheet (PW): FEMA form used to document the scope of work and cost estimate for a FEMA Public Assistance project. This form supplies FEMA with the information necessary to approve the scope of work and itemized cost estimate prior to funding. The PW may include mitigation measures up to 100% of the eligible PW value.

Request for Proposal (RFP): A procurement document designed to solicit proposals for services where cost is considered as a factor.

Request for Release of Funds (RROF): An environmental review term for a process used by Responsible Entities (the state) when requesting the release of funds and the authority to use such funds for HUD programs identified by statutes that provide for the assumption of the environmental review responsibility by units of local government and states. The approval of the RROF is required before environmental clearance may be provided to a recipient of CDBG-DR funds.

Responsible Entity (RE): Under the ERR requirements at 24 CFR Part 58, the term “responsible entity” (RE) means the agency receiving CDBG assistance. The responsible entity must complete the environmental review process. The RE is responsible for ensuring compliance with NEPA and the Federal laws and authorities, for issuing the public notification, for submitting the request for release of funds and certification, when required, and for ensuring the Environmental Review Record (ERR) is complete.

Section 3: is a provision of the Housing and Urban Development (HUD) Act of 1968 that helps foster local economic development, neighborhood economic improvement, and individual self-sufficiency. The Section 3 program requires that recipients of certain HUD financial assistance, to the greatest extent feasible, provide job training, employment, and contracting opportunities for low- or very-low income residents in connection with projects and activities in their neighborhoods.

Stand-Alone Project: Non-match, stand-alone projects are those eligible infrastructure projects critical to address identified unmet disaster recovery needs and increase the resilience of cities and counties and are not funded by other federal recovery programs.

Standard Agreement: The contractual arrangement between HCD and the Subrecipient which sets forth the terms and conditions by which CDBG-DR funds are utilized. The Standard Agreement allows for one project to be completed under the agreement.

Subrecipient: The term “Subrecipient” refers to a unit of local government receiving a direct award from HCD and providing grant awards to developers. Public or private

nonprofit agency, authority or organization, or community-based development organization receiving CDBG-DR funds from the recipient or another subrecipient to undertake CDBG-DR eligible activities (see 24 CFR 570.500(c)).

A non-Federal entity that receives a subaward from a pass-through entity to carry out part of a Federal program (see 2 CFR 200.93). A subrecipient is a grantee's partner in disaster recovery.

Uniform Relocation Act (URA): A federal law that establishes minimum standards for federally funded programs and projects that require the acquisition of real property (real estate) or the displacement of persons from their homes, businesses, or farms.

Urgent Need Resolution: A formal resolution of the subrecipient's highest authority, usually the city council or county board of supervisors, establishing and asserting as true and sufficient justification the reasons stated in the resolution for undertaking one or more of subrecipient's projects under the Urgent Need National Objective.

U.S. Department of Housing and Urban Development (HUD): Federal department through which the CDBG-DR funds are provided to HCD.

Program Requirements

1.3. Infrastructure Program Activities

The DR-Infrastructure Program utilizes CDBG-DR funds to address two needs of Eligible Applicants: 1.) providing support to disaster-impacted units of local government and other eligible entities with payment of their non-federal local cost share (FEMA PA Match, FEMA HMGP Match, and other federal grants) requirement so that they can access other disaster recovery resources without incurring an unexpected financial burden to address recovery needs; and 2.) providing funds to units of local government to develop "Stand-Alone" infrastructure projects, which can be funded with up to 100% CDBG-DR funding, that are necessary to address unmet disaster recovery needs from impacts tied to DR-4382 or DR-4407. To address the needs of Eligible Applicants described in this paragraph, the DR-Infrastructure Program funds are used for the following project types:

- The non-federal local cost share match on disaster-related federal grants (FEMA and other federal grants); and
- Non-match, Stand-Alone Infrastructure projects that address identified unmet 2018 disaster recovery needs and increase the resilience of cities and counties.

2.1.1 FEMA PA Match

The FEMA Public Assistance (PA) Grant Program supports communities' recovery from major disasters by providing them with grant assistance for debris removal, life-saving emergency protective measures, and restoring public infrastructure. FEMA provides grants to the State and its sub-applicants (cities, counties, school districts, etc.) to address the long-term rebuilding, recovery, and resilience needs of the communities. Projects that are approved for FEMA PA Match in FEMA Categories C through G are eligible for non-

federal share, local match funding under the DR-Infrastructure Program. See Section 2.4 for a full description of eligible FEMA PA Match projects, activities, and compliance.

2.1.2 FEMA HMGP Match

FEMA Hazard Mitigation Grant Program (HMGP) activities are designed to help communities implement hazard mitigation measures following a Presidential Major Disaster Declaration in the areas of the state, tribe, or territory requested by the Governor or Tribal Executive. The key purpose of HMGP is to enact mitigation measures that reduce the risk of loss of life and property from future disasters. Projects that are approved for FEMA HMGP Match are eligible for non-federal, local match funding under DR-Infrastructure. See Section 2.5 for a full description of eligible FEMA HMGP Match projects, activities, and compliance.

2.1.3 Other Non-Federal Match

HCD may fund the local portion of the non-federal share for other federally grant-funded infrastructure projects with a tie-back to the DR-4382 or DR-4407 disaster events. Grants include, but are not limited to, projects funded by the Federal Highway Administration (FHWA) and the United States Department of Agriculture (USDA).

2.1.4 Stand-Alone Infrastructure

Non-match, Stand-Alone CDBG-DR eligible infrastructure projects with a tie-back to the 2018 disasters that can be funded with up to 100 percent of CDBG-DR funding are eligible for the DR-Infrastructure Program. These non-match, Stand-Alone Infrastructure projects are critical to address identified unmet disaster recovery needs and increase the resilience of cities and counties that are not funded by other federal recovery programs. Stand-Alone Infrastructure projects can include FEMA PA or FEMA HMGP projects that were determined ineligible by FEMA, but all projects are subject to review for a tie-back to the 2018 disasters to confirm that they support or expand community resilience and that they are consistent with CDBG-DR requirements and HCD's policies and procedures. All Stand-Alone Infrastructure projects require an environmental review be completed by the Subrecipient. See Section 2.6 for a full description of eligible Stand-Alone Infrastructure projects, activities, and compliance.

2.2 Infrastructure Program Requirements

2.2.1 Tie-back to the Disasters

All projects funded through the DR Infrastructure Program must in some way respond to a direct impact from the following federally declared disasters:

- DR-4382 California Wildfires and High Winds (July 23, 2018 – September 19, 2018)
- DR-4407 California Wildfires (November 08, 2018 – November 25, 2018)

The FEMA PA program requires clear documentation showing a direct disaster-related impact as a prerequisite for entry into the program. Only after an impact threshold has been met does FEMA consider making disaster funds available to applicants. It is

assumed that if the potential applicant received funding through the FEMA PA program for the same project for which a DR-application is submitted, that same project has a tie to one of the declared disasters. For FEMA PA Match projects, the tie to the 2018 disasters is documented by FEMA's approval of the Project Worksheet and need not be separately established for purposes of establishing eligibility for CDBG-DR funding.

For Stand-Alone projects, HMGP Match projects, and other Federal match projects, the tie-back to the 2018 disasters is documented as part of the NOI and application processes and stored in the program file of Grants Network. Documentation that shows a tie to the disaster can include, but is not limited to, a damage estimate prepared by city/county staff or contractor, reconstruction estimates for physical losses by engineers or other similar professionals, insurance claims, or photographic evidence of the physical impact of the disaster, or disaster-related activities, on the project with clear dates and timeline.

Tie-Back - Road Repair Project

For DR-Infrastructure to fund road repair projects, showing a tie-back to the disasters justified by the damage or a decreased lifespan of a road, is required. For example, if road repair is due to damage from disaster related debris removal, the applicant must demonstrate a tie-back to the disaster(s) by submitting both of the following:

1. Documentation of location: Shows that the debris removal occurred on the roads being submitted for funding to repair/rehabilitate/replace, such as:
 - A debris removal plan showing the respective road as the primary debris removal route and/or,
 - Confirmation from city or county officials, independent inspectors, U.S. Army Corps, Cal OES, FEMA, CalRecycle, or other governmental entity that the respective road was used as a debris removal route.
2. Documentation of damage: Shows the impact of the damage on the road lifespan. At least one of the following shall be provided to document damage:
 - Before and after photos of the impacted roads, including a date stamp on each photo,
 - A dated inspection report following the disaster/debris removal identifying damage to the roads,
 - A dated inspection report providing evidence that the lifespan of the road has been decreased due to debris removal operations and the replacement or repair of the road is now necessary for the safety and security of drivers of the road,
 - Dated inspection reports that describes the damage from during or after the disaster event,
 - History of Pavement Condition Index (PCI), or other road condition index, for the roads being submitted, and/or
 - Other documentation supporting the project's tie-back to the disasters as permitted by the Department.

Indirect Tie-Back – Population Shifts

Eligible Applicants may submit indirect tie backs to the disaster that are a result of population shifts due to DR-4382 and DR-4407. For such indirect tie backs, Eligible Applicants are required to use one of two options as outlined below:

1. Option one: Use publicly available data from a government entity or research center acceptable to HCD to determine whether the jurisdiction experienced a sustained population increase, of at least 24 months, reasonably attributable to an influx of 2018 disaster survivors.
2. Option two: Eligible Applicants provide alternative data documenting a sustained population increase, of at least 24 months, reasonably attributable to an influx of 2018 disaster survivors, using a survey methodology acceptable to HCD (i.e., reasonably designed to produce an accurate estimate).

2.2.2 Overall Housing Recovery

For all projects, HCD reviews how each project supports the overall housing recovery from DR-4382 or DR-4407. Projects that support overall housing recovery are infrastructure projects that enable the recovery of residential areas by meeting transportation needs, restoring essential utilities, and addressing other public infrastructure and facility needs. Examples of infrastructure projects that support overall housing recovery include, but are not limited to public roads, school facilities, stormwater drainage improvements, potable water, sanitary sewer, electric and gas utilities, wastewater treatment facilities, parks, and other public facilities that are important publicly owned assets.

2.2.3 Meeting a National Objective

In accordance with 24 CFR 570.208, all CDBG-DR funded activities must meet a national objective as required under 24 CFR 570.200(a)(2). Under section 101(c) of the authorizing Act (42 U.S.C. 5301) the CDBG program must ensure that the funded activity meets one of the named national objectives. The two qualifying national objectives are:

- Benefiting low- and moderate-income persons; and
- Meeting a need having a particular urgency (referred to as Urgent Need).

National Objective Category	Subcategory	Required Documentation
LMI Benefit	LMI Area Benefit	1) Boundaries of service area of activity/project 2) Census data including the persons and percentage LMI 3) Evidence area is primarily residential 4) Survey documentation (if applicable)
LMI Benefit	LMI Limited Clientele	Documentation that the beneficiaries are or are presumed to be LMI by category (e.g. senior housing, homeless shelters, etc.).

LMI Benefit	LMI Housing	If applicable, income documented for all household members 18 years of age and older.
Urgent Need	Urgent Need	Resolution from Subrecipient’s city council, county board, or similar governing body stating that no other funds are available for the proposed project.

The DR-Infrastructure Program must demonstrate that funded activities meet one of the two National Objectives. The types of records to be maintained for each CDBG-DR funded project depends on the National Objective category for which it qualifies. For all DR-Infrastructure Program projects, the final determination of the National Objective is completed during the application process based on HUD guidance. Eligible Applicants also need to provide preliminary National Objective documentation as part of the NOI process to support the Priority Level of the project.

Determining the service area of an activity involves consideration of the nature, location, and accessibility of each activity, and the information contained within the project’s description and scope of work (contained in the Project Worksheet for FEMA PA projects). Service areas are based on the beneficiaries of recovery activities and/or types of facilities (e.g., work on roads and bridges, repair/replacement of public utilities, etc.); geographic features (e.g., locations of highway, rivers, hillsides, etc.); and local population characteristics (e.g., population size and density). Wherever possible, HCD leverages pre-defined service areas mapped by a government agency or utility service providers.

HCD anticipates that projects that qualify under the Low- and Moderate-Income (LMI) National Objective are primarily using the Low- and Moderate-Income Area Benefit (LMA) category. Once a project’s service area is identified, HUD Low- and Moderate-Income Summary Data is used to determine if at least 51 percent of the residents are low- and moderate-income persons.

The Urgent Need National Objective requires that the project is designed to meet community development needs having a particular urgency. In the absence of substantial evidence to the contrary, a project is considered to address this National Objective if the design of the project is certified to alleviate existing conditions which pose a serious and immediate threat to the health or welfare of the community which are of recent origin or which recently became urgent, that the Subrecipient is unable to finance the activity on its own, and that other sources of funding are not available. A condition is generally considered to be of recent origin if it developed or became critical within 18 months preceding the certification by the Subrecipient.

2.2.4 Eligible Applicants

The eligible applicants for 2018 Infrastructure Recovery Program funds are municipal and county governments that received FEMA Public Assistance funds for permanent infrastructure projects (Categories C through G) related to the DR-4382 or DR-4407 disaster events and/or are listed below and as a subrecipient

jurisdiction under the 2018 CDBG Disaster Recovery Multifamily Housing Program.¹

Eligible Applicants

1. Butte County
2. Lake County
3. Los Angeles County
4. Shasta County
5. Ventura County
6. City of Agoura Hills
7. City of Anderson
8. City of Calabasas
9. City of Chico
10. City of Gridley
11. City of Lakeport
12. City of Los Angeles
13. City of Malibu
14. City of Oroville
15. City of Redding
16. City of Shasta Lake
17. City of Thousand Oaks
18. City of Westlake Village
19. Town of Paradise

Following the NOI process and allocations being announced, Eligible Applicants that receive an allocation sign an Agreement with HCD to become Subrecipients. HCD will solicit project applications from Subrecipients in accordance with the application requirements outlined in Section 3.1.8. Only Subrecipients are eligible to submit project applications to HCD.

Subrecipients of HCD may submit applications with a local government, special district, or other similar entity as a secondary subrecipient for a project that meets the eligibility criteria outlined for FEMA PA Match projects (see Section 2.4), FEMA HMGP Match projects (see Section 2.5), Other Federal Non-Federal Share Match projects (See Section 2.6), and Stand-Alone Infrastructure projects (see Section 2.8). HCD in its full discretion will determine whether a proposed entity is an eligible secondary subrecipient. If the application is approved by HCD, the Subrecipient may enter into an agreement with the secondary subrecipient for implementing the project.

Subrecipients of HCD cannot receive an NTP for a project with a secondary subrecipient unless the Subrecipient meets the following two (2) conditions:

1. The Subrecipient provides a written monitoring plan of the secondary subrecipient for the proposed project(s). The monitoring plan must demonstrate

¹ Multifamily Housing Program subrecipient list can be found on pages 133 and 134 of the State of California 2018 CDBG-DR Action Plan: https://hcd.ca.gov/community-development/disaster-recovery-programs/cdbg-dr/cdbg-dr-2018/docs/hcd-cdbg-dr-2018_ap-final-ada-english.pdf

that the Subrecipient has sufficient understanding of the program requirements, the applicable federal and state regulations, and the capacity to monitor the work of its subrecipients.

2. Subrecipient provides the written agreement between the Subrecipient and the secondary subrecipient. If a Subrecipient is a CDBG entitlement community and has a subrecipient agreement in place, they may use the agreement as a template or amend an existing agreement to include CDBG-DR funds.

If the preceding two (2) conditions are met, the Subrecipient can make the units of local government, special districts, or other similar entities a secondary subrecipient and can use funds from the Subrecipient's DR-Infrastructure allocation for individual projects approved by HCD during the project application process and for which HCD issues a Notice to Proceed. For all cases in accordance with 83 FR 5844 Section 51(k), HCD must also assess the Subrecipient's capacity to execute and monitor the proposed project(s) as a factor in the project review.

2.2.5 Infrastructure and Multifamily Housing Program Coordination

DR-Infrastructure funds are provided to units of local government for:

- 1) The non-federal local cost share match on disaster-related federal grants (FEMA and other federal grants); and
- 2) Non-match, Stand-Alone infrastructure projects that address identified unmet 2018 disaster recovery needs and increase the resilience of cities and counties.

DR-MHP funds are provided to assist with meeting the unmet rental housing need, including the needs of individuals displaced from rental homes and individuals who became homeless as the result of the disasters.

For infrastructure activities on approved DR-MHP projects, the subrecipient (i.e., the unit of local government that is the eligible applicant allocated and/or awarded funds) determines the responsibility of the infrastructure activity implementation as part of the DR-MHP project's scope of work. For infrastructure activities that are the responsibility of the unit of local government, DR-Infrastructure funds can be used if the project meets the DR-Infrastructure program eligibility requirements and criteria. For infrastructure activities that are the responsibility of the qualified developer and contractor as part of the approved DR-MHP project scope of work, DR-MHP funds can be used but DR-Infrastructure may not be used for activities that are the responsibility of the developer/contractor.

2.2.6 Duplication of Benefits

In accordance with the Stafford Act requirements, all activities funded with CDBG-DR must undergo a Duplication of Benefits (DOB) review and a calculation must be completed prior to funding awards and again prior to close out. DOB occurs when a program beneficiary receives assistance from multiple sources for a cumulative amount that exceeds the total need for a particular recovery purpose. This includes all benefits available to a person or entity, including cash and other resources such as insurance proceeds, grants, FEMA, other local, state, or Federal programs, and private or nonprofit charity organizations (see Federal Register notice published November 16, 2011 (76 FR

71066) and Federal Register notice published June 20, 2019 (84 FR 28848)) to be identified and considered to prevent a duplication of benefit. The amount of the duplication is the amount of assistance provided in excess of the need. It is HCD's responsibility to ensure that the DR-Infrastructure Program provides assistance only to the extent that the disaster recovery need has not been fully met by funds that have already been paid, or will be paid, from another source.

The application must document all funds obtained for the same purpose as the DR-Infrastructure Program project from the date of the disaster until the date of the application. Additionally, HCD, in coordination with the Eligible Applicant, performs a DOB review prior to issuing funding and again prior to project closeout to ensure that duplicative assistance is not provided for the DR-Infrastructure project in subsequent phases. HCD also reserves the right to require that the Subrecipient perform additional DOB checks throughout the course of the project's period/performance to ensure there is no duplicative assistance during the course of the project. To address any potential duplication, the agreement includes provisions requiring repayment equal to any assistance later received for the same purpose as the CDBG-DR funds.

2.2.7 Recapture of Funds

A Subrecipient may be required to repay all or a portion of the funds received. The reasons for recapture include, but are not limited to, the following:

- Subrecipient does not comply with the terms of the Agreement;
- A Subrecipient withdraws from the Program prior to completion of the project and/or fails to meet a National Objective;
- A project does not meet the requirements specified in this section, Section 2 Program Requirements;
- A Subrecipient is found to have used program funds for an ineligible activity or cost;
- A Subrecipient receives assistance for the same purpose as the funded DR-Infrastructure Program project including but not limited to insurance settlement funds, FEMA assistance, nonprofit assistance (a DOB); and
- Funds are remaining after the project is completed, the expenditure deadline has passed, or the agreement has expired.

The method of recapturing funds and the timeframe for doing so are determined on an individual project basis. However, the recapture method and timeframe are consistent with 2 CFR part 200 and other applicable cost principles. Complete recapture provisions are included in the Agreement with the Subrecipient and must also be included in any agreements between the Subrecipient and other parties.

2.3 CDBG-DR and Cross-Cutting Federal Requirements

HCD and its Subrecipients must comply with all applicable federal regulations and laws, including but not limited to the identified cross-cutting federal requirements below. Further, all DR-Infrastructure Program projects must comply with any and all applicable State of California, and locally adopted codes, regulations, and ordinances. This section provides

a summary of the significant and applicable cross-cutting federal requirements for all DR-Infrastructure Program activities.

2.3.1 Americans with Disabilities Act

The Americans with Disabilities Act of 1990 (ADA) modifies and expands the Rehabilitation Act of 1973 to prohibit discrimination against "a qualified individual with a Disability" in employment and public accommodations. The ADA requires that an individual with a physical or mental impairment who is otherwise qualified to perform the essential functions of a job, with or without reasonable accommodation, be afforded equal employment opportunity in all phases of employment. HCD ensures that reasonable modifications or changes to policies and procedures are made in order to guarantee people with disabilities equal access to services and programs. Additionally, all activities are accessible, both structurally and administratively, to persons with disabilities. The requirement of ADA applies to all HCD, the Subrecipients, and vendors.

2.3.2 Copeland Act's Anti-Kickback Provision

The "Anti-Kickback" provision of the Copeland Act (40 USC, Chapter 3, Section 276c and 18 USC, Part 1, Chapter 41, Section 874; and 29 CFR Part 3) requires that workers be paid weekly, that deductions from workers' pay be permissible, and that contractors maintain and submit weekly payrolls.

The U.S. Department of Labor describes the Copeland Act's Anti-Kickback as prohibiting contractors and subcontractors performing work on covered contracts from in any way inducing an employee to give up any part of the compensation to which he or she is entitled. The Copeland Act and implementing regulations also require contractors and subcontractors performing on covered contracts to pay their employees on a weekly basis and in cash or a negotiable instrument payable on demand and to submit weekly payroll reports of the wages paid to their laborers and mechanics during the preceding payroll period. Additionally, the Act's regulations at 29 CFR §§ 3.5 and 3.6 list payroll deductions that are permissible without the approval of DOL and those deductions that require consent of DOL and prohibit all other payroll deductions.²

2.3.3 Contract Work Hours and Safety Standards Act

The Contract Work Hours and Safety Standards Act (40 USC, Chapter 5, Sections 326-332; and 29 CFR Part 4, 5, 6 and 8; 29 CFR Part 70 to 240) applies to contracts over \$100,000 and requires that workers receive overtime compensation (time and one-half pay) for hours they have worked in excess of 40 hours in one week. Violations under this Act carry a liquidated damages penalty (\$10 per day per violation).

2.3.4 Force Account Labor

Force account labor occurs when a unit of local government is a CDBG-DR subrecipient or PA Match applicant uses their own workforce to complete construction of an infrastructure project. For DR-Infrastructure Program projects, the use of force account labor requires advance review and approval by HCD. This may be documented by

² <https://webapps.dol.gov/elaws/elg/kickback.htm>

approval of a project budget that includes force account labor as a line item. Subrecipients that proceed without prior approval risk disallowance of all incurred costs. The force account labor approval process is used for all DR-Infrastructure Program activities.

2.3.5 Equal Employment Opportunity Act

Executive Order 11246, Equal Employment Opportunity, as amended, prohibits federal contractors and federally assisted contractors and subcontractors, who do over \$10,000 in government business in one year from discriminating in employment decisions on the basis of race, color, religion, sex, sexual orientation, gender identity or national origin. The Executive Order also requires government contractors to take affirmative action to ensure that equal opportunity is provided in all aspects of their employment.³

2.3.6 Minority- and/or Women-Owned Business Enterprises

Minority owned businesses (Section 8(a)) must be at least 51 percent unconditionally and directly owned by one or more socially and economically disadvantaged individuals who are citizens of the United States (CFR Title 13 Part 124). Women-owned businesses must be at least 51 percent owned and controlled by women who are U.S. citizens (CFR Title 13 Part 127 Subpart B).

The Minimum Acceptable Outreach Standards Section 281 of the National Affordable Housing Act requires each participating jurisdiction (i.e., Subrecipient) to prescribe procedures acceptable to the HUD Secretary to establish and oversee a minority outreach program. The program shall include minority and woman-owned businesses in all contracting activities entered into by the Subrecipient. Therefore, minimum HUD standards require that each Subrecipient's outreach effort to minority and women-owned businesses be:

- A good faith, comprehensive and continuing endeavor;
- Supported by a statement of public policy and commitment published in the print media of widest local circulation;
- Supported by an office and/or a key, ranking staff person with oversight responsibilities and access to the chief elected official; and
- Designed to utilize all available and appropriate public and private sector local resources.

Under the minimum HUD standards cited above, the following guidelines are provided for use by Subrecipients implementing outreach programs to ensure the inclusion, to the maximum extent possible, of entities owned by minorities and women. Each Subrecipients should:

- Develop a systematic method for identifying and maintaining an inventory of certified minority and women's business enterprises (MBEs and WBEs), their capabilities, services, supplies and/or products;

³ 41 CFR Part 60

- Utilize the local media, electronic and print, to market and promote contract and business opportunities for MBEs and WBEs;
- Develop informational and documentary materials (fact sheets, program guides, procurement forecasts, etc.) on contract/subcontract opportunities for MBEs and WBEs;
- Develop procurement procedures that facilitate opportunities for MBEs and WBEs to participate as vendors and supplies of goods and services;
- Sponsor business opportunity-related meetings, conferences, seminars, etc., with minority and women business organizations; and
- Maintain centralized records with statistical data on the utilization and participation of MBEs and WBEs as contractors/subcontractors in all HUD-assisted program contracting activities.

Each Subrecipient, utilizing the standards and guidelines listed above, shall prescribe procedures and actions it undertakes in implementing a minority and women's business enterprise outreach program. The above items represent basic outreach-related activities and are not all-inclusive actions a Subrecipient may undertake.

2.3.7 Fair Labor Standards Act of 1938, As Amended

The Fair Labor Standards Act of 1938, as amended (FLSA), establishes the basic minimum wage levels for all work and requires the payment of overtime at the rate of at least one and one-half times the basic hourly rate of pay for hours worked in excess of 40 per week. These labor standards are applicable to the entire construction contract whether or not CDBG-DR funds finance only a portion of the project. Excluding the exceptions listed below, all workers employed by contractors or subcontractors in the performance of construction work financed in whole or in part with assistance received under HCD's DR-Infrastructure Program must be paid wages at rates not less than those prevailing on similar construction in the locality as determined by the Secretary of Labor in accordance with the Davis-Bacon Act, as amended.

In some cases, the State of California prevailing wage rate and the Davis-Bacon prevailing wage rates both apply. In such instances, the higher of the two wage rates prevails. Exceptions to the FLSA include:

- Construction contracts of \$2,000;
- Real property acquisition;
- Architectural and engineering fees;
- Other services (such a legal, accounting, construction management);
- Other non-construction items (such a furniture, business licenses, real estate taxes);
- Rehabilitation of residential property designed for fewer than eight families; and
- Debris removal demolition, and/or clearance activities, unless related to construction (demolition and clearance as independent functions are not considered construction).

2.3.8 Davis-Bacon Labor Standards

The Davis Bacon and Related Acts (DBRA) requires all contractors and subcontractors performing work on federal contracts or federally assisted contracts in excess of \$2,000 for construction, alteration, or repair (including painting and decorating) to pay their laborers and mechanics not less than the prevailing wage rates and fringe benefits for corresponding classes of laborers and mechanics employed on similar projects in the area. The prevailing wage rates and fringe benefits are determined by the Secretary of Labor for inclusion in covered contracts. Prime contractors and subcontractors on Davis-Bacon Act contracts in excess of \$150,000, or related Act contracts in excess of \$100,000, are also required, pursuant to the Contract Work Hours and Safety Standards Act, to pay laborers and mechanics one and one-half times their basic rates of pay for all hours over 40 worked on a covered contract in a workweek.

Subrecipients are responsible for ensuring that applicable projects and services are in compliance with DBRA through the submission of certified payroll records and interviews of prime and subcontractor laborers. Supporting compliance documentation shall be uploaded to Grants Network. HCD ensures compliance through the review of DBRA documentation uploaded to Grants Network by the Subrecipients.

On September 15, 2015, HUD's Office of Community Planning and Development (CPD) issued Notice CPD-15-07⁴ on September 15, 2015 that provides guidance on pre-application costs and clarifies how cross-cutting requirements apply to CDBG-DR activities. Notice CPD-15-07 includes clarification on the applicability of DBRA and states: *"the Davis-Bacon wage rates will not apply when:*

- *The grantee was not a party to the construction contract; and*
- *The construction work is fully complete before the owner applies for CDBG-DR assistance.*

If construction work is ongoing when an application for reimbursement or financing of construction costs is submitted, then Davis-Bacon prevailing wage rates are applicable. Under regulations of the Department of Labor (DOL) at 29 CFR 1.6(g), where Federal assistance is not approved prior to contract award (or the beginning of construction if there is no contractor award), Davis-Bacon wage rates apply retroactively to the beginning of construction and must be incorporated retroactively in the contract specifications (pg. 7)."

Subrecipients shall follow HUD's guidance for all FEMA PA Match and HMGP Match projects. For construction projects that were completed prior to December 1, 2020, the date HCD and HUD executed its grant agreement, Davis-Bacon prevailing wage rates are not applicable. For all projects with construction that is on-going or completed after December 1, 2020, Davis-Bacon prevailing wage rates apply retroactively to the beginning of construction and the Subrecipient must collect documentation to ensure that the prevailing wage rate has been provided to laborers since the beginning of the project.

⁴ <https://www.hud.gov/sites/documents/15-07CPDN.PDF>

2.3.9 Limited English Proficiency

HCD follows the Safe Harbor rule, contained in HUD's final guidance⁵, to determine when to provide translation of vital documents. The Safe Harbor rule for written translation of vital documents is based on the number and percentages of the market area-eligible population or current beneficiaries and applicants that are Limited English Proficiency (LEP). HCD ensures that all citizens have equal access to information about the programs, including persons with disabilities (vision and hearing impairments) and Limited English Proficiency persons.

2.3.10 Section 3 of the HUD Act of 1968

Section 3 of the Housing and Urban Development Act of 1968 (Section 3), as amended, requires that economic opportunities generated by CDBG-DR funds be targeted toward Section 3 residents. Section 3 eligible residents are low- and very low-income persons, particularly those who live or reside in public or government assisted housing.

In accordance with Section 3, recipients using CDBG-DR funding for housing or other public construction are required, to the greatest extent feasible, to provide training and employment opportunities to lower income residents and contract opportunities to businesses in the project area.

Projects assisted with DR-Infrastructure funds in excess of \$200,000 trigger Section 3 requirements. When triggered, best efforts must be made to extend Section 3 opportunities to verified Section 3 residents and business concerns to meet these minimum numeric goals: (1) Twenty-five percent (25%) of the total hours worked on a Section 3 project must be worked by Section 3 workers; and (2) Five percent (5%) of the total hours worked on a Section 3 project must be worked by Targeted Section 3 workers.

The Subrecipient and Subrecipient's Contractors shall comply with Section 3 and implementing regulation at 24 CFR Part 75. The responsibilities outlined in 24 CFR Part 75.19 include:

Implementing procedures designed to notify Section 3 workers about training and employment opportunities generated by Section 3 covered assistance and Section 3 business concerns about contracting opportunities generated by Section 3 covered assistance.

Notifying potential Contractors for Section 3 covered projects of the requirement of Part 75, Subpart C and incorporating the Section 3 Clause set forth below in all solicitations and contracts.

Section 3 Clause

The work to be performed under this contract is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C. 1701u (Section 3). The purpose of Section 3 is to ensure that employment

⁵ <https://portal.hud.gov/hudportal/documents/huddoc?id=finallep2007.pdf>

and other economic opportunities generated by HUD assistance or HUD-assisted projects covered by Section 3, shall, to the greatest extent feasible, be directed to low- and very low-income persons, particularly persons who are recipients of HUD assistance for housing.

The parties to this contract agree to comply with HUD's regulations in 24 CFR. Part 75, which implement Section 3. As evidenced by their execution of this contract, the parties to this contract certify that they are under no contractual or other impediment that would prevent them from complying with the Part 75 regulations.

The contractor agrees to send to each labor organization or representative of workers with which the contractor has a collective bargaining agreement or other understanding, if any, a notice advising the labor organization or workers' representative of the contractor's commitments under this Section 3 clause and will post copies of the notice in conspicuous places at the work site where both employees and applicants for training and employment positions can see the notice. The notice shall describe the Section 3 preference, shall set forth minimum number and job titles subject to hire, availability of apprenticeship and training positions, the qualifications for each; the name and location of the person(s) taking applications for each of the positions; and the anticipated date the work shall begin.

The contractor agrees to include this Section 3 clause in every subcontract subject to compliance with regulations in 24 CFR Part 75 and agrees to take appropriate action, as provided in an applicable provision of the subcontract or in this Section 3 clause, upon a finding that the subcontractor is in violation of the regulations in 24 CFR Part 75. The contractor will not subcontract with any subcontractor where the contractor has notice or knowledge that the subcontractor has been found in violation of the regulations in 24 CFR Part 75.

The contractor acknowledges that subrecipients, contractors, and subcontractors are required to meet the employment, training, and contraction requirements of 24 CFR 75.19, regardless of whether Section 3 language is included in recipient or subrecipient agreements, program regulatory agreements, or contracts.

The contractor will certify that any vacant employment positions, including training positions, that are filled (1) after the contractor is selected but before the contract is executed, and (2) with persons other than those to whom the regulations of 24 CFR Part 75 require employment opportunities to be directed, were not filled to circumvent the contractor's obligations under 24 CFR Part 75.

Noncompliance with HUD's regulations in 24 CFR Part 75 may result in sanctions, termination of this contract for default, and debarment or suspension from future HUD assisted contracts.

The contractor agrees to submit, and shall require its subcontractors to submit to them, annual reports detailing the total number of labor hours worked on the Section 3 Project, the total number of labor hours worked by Section 3 Workers,

and the total number of hours worked by Targeted Section 3 Workers, and any affirmative efforts made during the quarter to direct hiring efforts to low- and very low-income persons, particularly persons who are Section 3 workers and Targeted Section 3 workers.

The Project Completion Report shall also include a Section 3 Summary Report of the total number of labor hours worked by all contractors and subcontractors, the total number of labor hours worked by Section 3 workers, and the total number of labor hours worked by Targeted Section 3 workers, as required pursuant to 24 CFR 75.25(a). In the event that the number of Section 3 worker labor hours divided by the total labor hours worked by all workers on a Section 3 project does not meet or exceed HUD's Twenty-five percent (25%) standard, and/or that the number of Section 3 targeted worker labor hours divided by the total labor hours worked by all workers on a Section 3 project does not meet or exceed HUD's Five percent (5%) standard, Subrecipient shall provide additional reporting on the qualitative nature of its activities and those its contractors and subcontractors pursued, as defined at 24 CFR 75.25(b). The standards for hours worked by Section 3 Workers and Targeted Section 3 Workers are subject to change by HUD as published in the Federal Register.

DR-Infrastructure Program projects are required to meet Section 3 requirements as shown above. Section 3 goals and objectives are set depending on the date of completion of each project and project bid dates. HCD staff ensures that Section 3 objectives are addressed through direct technical assistance with subrecipients and file reviews of projects.

HCD requires the following actions of all Subrecipients to ensure compliance with Section 3:

- Prepare and utilize a Section 3 Plan;
- Designate a Section 3 Coordinator;
- Take affirmative steps to follow the Section 3 Plan and document those efforts; and
- Include the Section 3 Clause and the Contractor Certification of Efforts to Fully Comply with Employment and Training Provision of Section 3 in any bid packets for contracts on DR projects. Notify all bidders that adherence to the Recipient's Section 3 Plan is required for contracts and sub-contracts in excess of \$200,000.

2.3.11 Fair Housing

The Fair Housing Act requirements are adhered to when applicable, the Fair Housing Act requires all Grantees, Subrecipients, and/or Developers funded in whole or part with HUD financial assistance for housing related activities to certify that no person was excluded from participation in, denied the benefit of, or subjected to discrimination in any housing program or activity because of their age, race, color, creed, religion, familial status, national origin, sexual orientation, military status, sex, disability or marital status. HCD enforces the Fair Housing Act by ensuring that all grantees, subrecipients, and/or developers meet the applicable Fair Housing and Affirmative Marketing requirements, provide a marketing plan, and report on compliance in accordance with the Fair Housing

Act and the associated forms on HCD's website, where applicable⁶. The Affirmative Marketing Plan must be in compliance with applicable Fair Housing Laws and demonstrate how the Applicant affirmatively furthers fair housing throughout applicable HCD disaster recovery programs.

2.3.12 Residential Anti-Displacement

When applicable, HCD and its Subrecipients shall make every effort to minimize displacement of families from their homes and/or neighborhood, according to the State of California's Residential Anti-displacement and Relocation Assistance Plan.⁷

2.3.13 Uniform Relocation Act and Real Property Acquisition

When applicable, HCD and its subrecipients must comply with the Uniform Relocation Assistance and Real Property Acquisition Policies Act of 1970, as amended by the Uniform Relocation Act Amendments of 1987 (URA or Uniform Act). The URA contains requirements for carrying out real property acquisition or the displacement of a person, regardless of income status, for a project or program in which HUD financial assistance is provided. The implementing regulations, 49 CFR Part 24, include steps which must be taken with tenant occupants, including those who are not impacted by the HUD assisted activity. URA was amended by Public Law 105-117.

Real Property

If DR-Infrastructure Program funds are used to acquire real property, HCD ensures that the property is acquired voluntarily and continues to be used for its intended (and approved) purpose, proper records are maintained to keep track of it, steps are taken to protect and maintain it, and that if the property is sold, HCD is reimbursed for the CDBG-DR share of the property's value.

This approach to the ownership, use, management, and disposition of property is complicated by two facts. First, the rules about property management and disposition differ slightly depending on whether a grantee is a public-sector grantee (the rules are generally more explicit for governmental grantees). Second, the rules depend on the nature of the property. Real property (e.g., land, buildings) is treated differently than personal property (e.g., equipment, supplies, intangible property like copyrights) (Property Management and Disposition Regulations 24 CFR 570.503; all subrecipients (subs) 24 CFR 85.32; 85.34, govt. subs 24 CFR 84.32; 84.34, nonprofit subs) (as amended by 2 CFR 200 as needed).

2.3.14 Financial Management

HCD ensures that its grant management as well as those administering DR-Infrastructure Program funds demonstrate conformity with financial management requirements shown in 2 CFR 200 and applicable Federal Registers. These requirements include, but are not

⁶ <https://www.hcd.ca.gov/planning-and-community-development/affirmatively-furthering-fair-housing>

⁷ https://www.hcd.ca.gov/policy-research/plans-reports/docs/Appendix_D-Relocation_and_Anti-Displacement_Plan.docx
2018 CDBG-DR Infrastructure Program Policies and Procedures

limited to, areas covering Financial Management; Advances; Internal Controls; Accuracy of Report Information; Program Income; Salaries and Wages; Indirect Costs; Lump Sum Drawdowns; and Single Audit provisions pursuant to 2 CFR 200 Subpart F. HCD's financial management system is consistent with and in compliance with 24 CFR Parts 84, 85, and 570 (as applicable), which ensures that DR-Infrastructure Program funds are managed with high levels of accountability and transparency.

HCD's Monitoring and Compliance team ensures that Subrecipient's financial management practices adhere to the following:

- Internal controls are in place and adequate;
- Documentation is available to support accounting record entries;
- Financial reports and statements are complete, current and reviewed periodically; and
- Audits are conducted in a timely manner and in accordance with applicable standards.

2.3.15 Insurance and Property Management

For all projects in the DR-Infrastructure Program, all Subrecipients, with the exception of those in the PA Match Program, must procure and maintain insurance for the duration of the subrecipient agreement to protect all contract assets from loss due to any cause, such as theft, fraud and physical damage. If CDBG-DR funds are used to acquire real property or personal property, the Subrecipient is responsible for ensuring that:

The property continues to be used for its intended (and approved) purpose;
The Subrecipient keeps track of, and takes care of, the property; and
If the Subrecipient sells or disposes of the property within 5 years after the expiration of the subrecipient agreement or a longer period as HCD deems appropriate, the Subrecipient reimburses HCD for the share of the property's value according to the Agreement.

2.3.16 Recordkeeping, Retention, and File Management

Record retention is a requirement of the DR-Infrastructure Program. Records are maintained to document compliance with Program requirements and Federal, State, and local regulations and to facilitate a review or monitored by HUD.

HCD adheres to State of California record retention requirements, which require all records to be maintained for a period of five years after the CDBG-DR grant closeout with HUD. This requirement is in line with 24 CFR part 570.490, or as required by applicable laws and regulations under 24 CFR parts 570.487, 570.488 and 570.502(a)(7). Exemptions to the five-year period are provided in the applicable laws and regulations under 24 CFR parts 570.487, 570.488 and 570.502(a)(7). Exceptions include, but are not limited to:

- If any litigation, claim, or audit, is started before the expiration of the five-year period, records must be retained until all litigation, claims, or audit findings involving the records have been resolved and final action taken;
- When HCD is notified by HUD, or another federal agency, that the record retention period requirement has been extended;
- Records for real property and equipment acquired with CDBG-DR funds must be retained for three years after disposition; or
- When records are transferred or maintained by HUD, the retention requirements no longer apply to HCD.

HCD Subrecipients shall retain all records, such as financial records, supporting documents, statistical records, and all other records pertinent to the MSA for a period of not less than five years after the fiscal year of their grant in accordance with CDBG-DR record retention requirements. HCD notifies Subrecipients when the HUD grant has been closed. Notwithstanding the above, if there is litigation, claims, audits, negotiations, or other actions that involve any of the records cited and that have started before the retention period, then all such records must be retained until completion of the actions and solution of all issues, or the retention period, whichever occurs later.

Every Subrecipient is required to establish and maintain at least three major categories of records: Administrative, Financial Management, and Project Files.

Administrative Records

These are files and records that apply to the overall administrative of the Subrecipient's CDBG-DR activities. They include the following:

- Personnel files;
- Property management files;
- General program files: files relating to the Subrecipient's or contractor's project information, grant agreement(s), program policies and procedures, and correspondence with grantees, and reports; and
- Legal files: articles of incorporation, bylaws of the organization, tax status, board or council minutes, contractors, and other agreements.

Financial Records

These include records such as the chart of accounts, cash receipts and disbursement journal, payroll journal, general ledger, and any applicable accounting policies and procedures. Source documentation (purchase order/change, paid invoices, payroll records, timesheets and attendance records, canceled checks, etc.), procurement files, bank account records, audit files, and/or another mechanism approved by HCD in writing for the specific grant, etc.

Project Files

These files document the activities undertaken with respect to specific individual beneficiaries, property owners, and/or properties.

2.3.17 Procurement Policy

Subrecipients must follow Federal, State, and local procurement rules when purchasing services, supplies, materials, and/or equipment. Subrecipients are required to adopt procurement procedures in 2 CFR 200.318 - 326. All procurement transactions funded in whole or in part with CDBG-DR funds, regardless of dollar amount, must be conducted to provide “maximum open and free competition.” 2 CFR 200.318(i) requires that Subrecipients maintain records sufficient to detail the significant history of each procurement.

Subrecipient procurement transactions shall also follow best practices of cost reasonableness and must meet the critical tests below. The costs must be:

- **Necessary:** The expenditures fill a necessary gap to address an unmet need that cannot be filled by another funding source, as demonstrated by completed DOB analysis for each project/activity.
- **Reasonable:** This term is generally defined as what a prudent business would pay in a competitive marketplace. A cost can be allowable and allocable, and still not be what a prudent businessperson would pay.
- **Allowable:** The costs must be allowable under the eligibility requirements of CDGB-DR funds.
- **Allocable:** The costs are logically related to or required in the performance of the project contract. Many costs may be allowable but not related to the work required under the contract.

The Subrecipient is responsible for procuring contractors and ensuring compliance with local, state and federal regulations. For active previously procured contract that the subrecipient would like to apply towards a DR-Infrastructure project, the Subrecipient must provide the procurement file to HCD for review. HCD program staff are responsible for identifying any concerns regarding conforming to the minimum procurement requirements found at 2 CFR 200.318 – 326. Compliance with all applicable local, state, and federal regulations will be certified by subrecipients when financial reports are submitted to HCD and reviewed by HCD during subrecipient monitoring visits.

2.3.18 Audit Trail

All records defined by the organization as important are captured in HCD’s three record management systems: HUD’s Disaster Recovery Grant Reporting System (DRGR), the State’s Financial Information System for California (FI\$Cal), and the system of record, Grants Network. Together, these three systems are used to account for DR-Infrastructure Program funds, with Grants Network serving as the primary system of records. Grants Network contains both Subrecipient and project level files including, but not limited to, NOI documentation, Application and project documentation, Subrecipient expenditure tracking, applicable procurement documentation, available funding, Subrecipient agreements and other agreements, financial management, labor compliance (Section 3 and Davis-Bacon), and citizen participation data. Grants Network ensures data security and oversight creating a clear audit trail of the DR-Infrastructure Program.

All Subrecipient and project data is secured in HCD's System of Record, Grants Network, in accordance with the State of California's CDBG-DR Grant Administration Manual's retention policy.

Recordkeeping, including scanning and uploading to Grants Network, and filing of pertinent DR-Infrastructure Program documentation retention policies are to provide both a physical and an electronic record of activities so that documentation is available for audit purposes.

To protect personally identifiable information (PII), data security measures are in place. HCD, its Subrecipients, and contractors take the following steps to protect PII:

- Limit collection of PII;
- Maintain hard copies of PII records in locked cabinets; and
- Password protect access to electronic files containing PII.

Filing cabinet keys and electronic passwords are shared with program staff only. HCD releases records containing PII upon request, after verification, by federal and state auditor and other federal or state agencies for duplication of benefits (DOB) analyses.

2.3.19 Conflicts of Interest and Confidentiality

Conflicts of interest between covered persons (e.g., Eligible Applicants, recipients, program administrator, contractors, or program staff) and other parties are strictly prohibited by Federal law. A "covered person" is an employee, agent, consultant, officer, or elected official or appointed official of the State, or of a unit of general local government, or any designated public agencies, or recipients that are receiving CDBG-DR funds. Generally, no person who is a covered person, and who exercises or has exercised any functions or responsibilities with respect to CDBG-DR activities and who are in a position to participate in a decision making process or gain inside information with regard to such activities, may obtain a financial interest or benefit from the activity, or have an interest in any contract, subcontract or agreement with respect thereto, or the proceeds thereunder, either for themselves or those with whom they have family or business ties, during their tenure or for one year thereafter.

The conflict of interest regulations contained in the contract between the recipient and HCD prohibit locally elected officials, State staff, recipient employees, and consultants who exercise functions with respect to CDBG-DR activities or who are in a position to participate in a decision-making process or gain inside information with regard to such activities, from receiving any benefit from the activity either for themselves or for those with whom they have family or business ties, during their tenure or for one year thereafter.

2.3.20 Environmental Review

An environmental review must be performed on the project prior to federal funds being committed or disbursed by HCD and Subrecipients. The environmental review shall document compliance with 24 CFR Part 58, NEPA, and all related laws, authorities, and executive orders. For DR-Infrastructure, each Subrecipient receiving DR-Infrastructure

funds becomes the Responsible Entity for completing environmental reviews of all projects and must submit complete Environmental Review Records and a Request for Release of Funds to HCD to grant the authority to use grant funds. Pursuant to 83 FRN 40314, HCD may accept another federal agency's environmental review. Subrecipients are also responsible for ensuring compliance with CEQA, including the submission or designation of applicable waivers to the CEQA Clearinghouse with a copy to HCD. No work may start on a proposed project, or proposed site acquisition, if applicable, before both the federal and state environmental review processes are completed, even if that work/acquisition is being done using non-federal funds. The DR-Infrastructure Program does not reimburse projects that have been determined to have a Finding of Significant Impact (FOSI).

Subsequent to submission of an application by a Subrecipient for the use of DR-Infrastructure funds, there can be no **choice-limiting actions** on the part of the Subrecipient until environmental clearance is received in the form of an Authority to Use Grant Funds (ATUGF) or environmental clearance letter issued by the Department. The concept of prohibiting **choice-limiting** actions is to prevent the Subrecipient from investing in a project before all necessary environmental clearances are obtained. Market studies, environmental studies, plan development, engineering or design costs, inspections and tests are not considered "choice-limiting" actions. **Choice-limiting actions** are defined as any activity that would have an adverse environmental impact or limit the choice of reasonable alternatives, such as acquisition by the Subrecipient, construction, demolition of buildings or infrastructure, or rehabilitation or reconstruction of buildings or infrastructure. Per 24 CFR Part 58.22, failure to comply with the prohibition against committing funds or taking physical action (using either HUD funds or non-HUD funds) before the completion of the environmental review process could result in loss of HUD assistance, cancellation of the project, reimbursement by Subrecipient to HCD for the amount expended, or suspension of the disbursement of funds for the affected activity.

Environmental Review Procedures

An environmental review that complies with the National Environmental Policy Act (NEPA) must be completed before CDBG-DR funds are expended. However, HUD grantees are permitted to adopt FEMA's environmental review if that Federal agency has previously performed an environmental review for assistance under the Robert T. Stafford Disaster Relief and Emergency Assistance Act. In those cases, the work performed by FEMA and HUD must be exactly the same work.

For FEMA PA Match, HMGP Match, and other federally funded match projects, eligible projects are able to adopt FEMA's completed environmental review. If a project's scope changes beyond what was approved in the project worksheet, an additional HUD environmental review must be completed. When adopting FEMA's environmental review, the Subrecipient must obtain a completed copy of FEMA's environmental review record and keep the copy in its project file. If the environmental review documentation is not available, verification from FEMA or the California Governor's Office of Emergency Services (Cal OES) is necessary.

For Stand-Alone projects, each Subrecipient is required to perform a NEPA environmental review on the Project prior to any choice-limiting actions. The Subrecipient is allowed to use DR-Infrastructure Program Activity Delivery funds to complete environmental reviews. Activity Delivery expenses for environmental compliance work for intended Project Applications may be incurred prior to the execution of the NTP provided that such expenses are eligible and are supported by documentation satisfactory to the Department. The environmental review shall document compliance with 24 CFR Part 58, NEPA, and all related laws, authorities, and executive orders. To process the environmental review for each Stand-Alone project, use the steps below as a guide:

- 1) Once a Subrecipient enters into an Agreement with HCD and is ready to submit an Application, the Subrecipient must submit all Environmental Review Records (ERRs) and request for release of funds (RROF), if applicable, to HCD for review. If the Subrecipient is using DR-Infrastructure Program activity delivery funds to complete the environmental review prior to issuance of the related NTP, the Subrecipient must notify HCD of their intentions in writing prior to expending any funds. If activity delivery funds will not be expended until after the NTP is issued, a written request is not necessary.
- 2) Upon receipt, review, and approval of a completed ERR, HCD provides Subrecipient with an Authority to Use Grant Funds (ATUGF), if applicable, or environmental clearance letter.
- 3) Upon receipt of the ATUGF or environmental clearance letter and Notice to Proceed, Subrecipient may incur Project costs and draw down funds.

For all projects, Subrecipients are responsible for ensuring that DR-Infrastructure Program projects are in compliance with the California Environmental Quality Act (CEQA) and obtain all necessary local and state permits.

Flood Insurance and Floodplain Elevation Requirements

The Subrecipient shall comply with the requirements of the Flood Disaster Protection Act of 1973 (42 U.S.C. 4001). The Subrecipient shall assure that for activities located in an area identified by FEMA as having special flood hazards, that flood insurance under the National Flood Insurance Program is obtained and maintained as a condition of financial assistance for acquisition or construction purposes (including rehabilitation).

Subrecipients must comply with the national floodplain elevation standards for new construction, repair of substantially damaged structures, or substantial improvements to public facilities in flood hazard areas. All structures designed for public facilities use within a special flood hazard area (SFHA), or one percent annual chance, floodplain will be elevated with the lowest floor at least two feet above the base flood elevation level and comply with the requirements of 83 FR 5850 and 83 FR 5861.

2.4 FEMA PA Match

2.4.1 FEMA PA Categories

The FEMA Public Assistance (PA) program is designed to provide assistance to the impacted jurisdictions for emergency work (under FEMA Sections 403 and 407) and permanent work (Sections 406 and 428) on infrastructure and community facilities. Emergency work takes place immediately after an event and permanent work restores or rebuilds a damaged asset or facility.

FEMA PA projects fall under the following categories:

Emergency Protective Work
Category A – Debris Removal
Category B – Emergency Protective Measures

Permanent Work
Category C – Roads and Bridges
Category D – Water Control Facilities
Category E – Public Buildings and Equipment
Category F – Public Utilities
Category G – Parks, Recreational, and Other Facilities

2.4.2 Eligible Activities

HUD allows Grantees to use CDBG-DR funds to address the non-federal cost share, as noted in the authorizing Federal Register Notice, but requires that the funded project meet at least one additional HUD eligible activity and a National Objective. Infrastructure repair is an eligible activity according to 42 USC 5305(a)(2), which authorizes the acquisition, construction, reconstruction, or installation (including design features and improvements with respect to such construction, reconstruction, or installation that promote energy efficiency) of public works, facilities (except for buildings for the general conduct of government), and site or other improvements.

2.4.3 Eligible Projects

Proposed projects are assessed by HCD. Eligibility criteria include:

- The proposed project must be located in a city or county impacted by DR-4382 or DR-4407;
- The proposed project must be approved for FEMA PA funds under Categories C through G only;
- All sources of funding required to complete the project must be identified and secured or readily accessible; and
- The proposed project must relate to infrastructure and tie back to the 2018 disaster.

2.4.4 Eligible Use of Funds

FEMA PA projects eligible for PA Match funding under the DR-Infrastructure Program fall under Title I of the Housing and Community Development Act of 1974 or those activities specified by waiver in 83 FR 5844 published February 9, 2018; 83 FR 40314 published August 14, 2018; 84 FR 97 published January 9, 2019; and 84 FR 6813 published February 28, 2019.

CDBG-DR funds may fund required FEMA PA local non-federal share (match) funding for approved projects under the following FEMA PA permanent work categories:

- Category C (Road and bridges);
- Category D (Water control facilities);
- Category E (Public buildings and equipment);
- Category F (Public utilities); and
- Category G (Parks, recreational, and other facilities).

All projects must meet a National Objective as detailed in Section 2.2.2.

2.4.5 Ineligible Uses of Funds

Ineligible FEMA PA Match costs include required FEMA PA Match funding for approved projects under Categories A (Debris Removal) and Category B (Emergency Protective Measures). Any increase in scope or modification of a FEMA PA project is also ineligible for funding. Further ineligible costs include those costs that are covered by another party as detailed in Section 2.2.4. in order to preclude Duplication of Benefits.

2.4.6 Labor Compliance

FEMA PA Match projects completed prior to December 1, 2020, that were not Davis Bacon or Section 3 compliant are eligible for non-federal match funding under the DR-Infrastructure Program. Eligibility of FEMA PA Match projects that were completed after December 1, 2020 or are in progress at the time of the application requires that the Eligible Applicant must show project compliance with federal regulations and federal labor regulations (i.e., Davis-Bacon Compliance and Section 3).

2.5 FEMA HMGP Match

2.5.1 Eligible Uses of Funds

Eligible FEMA HMGP costs are those activities eligible under Title I of the Housing and Community Development Act of 1974 or those activities specified by waiver in 83 FR 5844 published February 9, 2018; 83 FR 40314 published August 14, 2018; 84 FR 97 published January 9, 2019; and 84 FR 6813 published February 28, 2019. As such, CDBG-DR funds may fund required FEMA HMGP local non-federal share (match) for approved projects that meet the CDBG-DR requirements, including a tie-back to the DR-4382 or DR-4407 disaster events. All projects must meet a National Objective as detailed in Section 2.2.2. To be eligible for FEMA HMGP Match, the project must be a project obligated by FEMA have a service location in an area impacted by DR-4382 or DR-4407, and tie to disasters DR-4382 or DR-4407.

Examples of eligible HMGP Match project types include:

- Acquisition
- Defensible Space
- Flood Control (wildfire soil stabilization, debris catchment, etc.)
- Generators (fixed in place, clear disaster tie-back, and usage is CDBG-eligible)
- Planning (wildfire mitigation plans, hazard mitigation plan updates)

FEMA HMGP infrastructure projects that are approved by Cal OES are eligible for funding under the DR-Infrastructure Program. Eligible projects must tie back to the DR-4382 or DR-4407 disasters. Eligible Applicants are responsible for providing documentation on the tie-back to the DR-4382 or DR-4407 disaster events. Projects that are complete or in progress at the time of application must show compliance with federal regulations and federal labor regulations (i.e., Davis Bacon and Section 3) to be eligible.

2.5.2 Ineligible Uses of Funds

FEMA HMGP projects that are not related to infrastructure and/or without a tie-back to the 2018 disaster events are ineligible for funding. FEMA HMGP costs covered by another funding source and are a Duplication of Benefits as detailed in Section 2.2.4. are ineligible for funding. Ineligible projects include:

- Seismic-related projects
- Portable generators

2.6 Other Non-Federal Share Match

2.6.1 Eligible Uses of Funds

HCD may fund the local portion of the non-federal share for other federally grant-funded infrastructure projects with a tie-back to the DR-4382 or DR-4407 disaster events.

From the unmet needs analysis conducted during the 2018 Action Plan Amendment 1 process, Eligible Applicants indicated that there was an unmet need for the local share on Federal Highway Administration (FHWA) and United States Department of Agriculture (USDA) grants for disaster-related projects. If Subrecipients submit applications for non-federal share match for other federal programs that otherwise meet HCD's eligibility requirement, HCD will evaluate the eligibility of match on a case-by-case basis. HCD may provide a non-federal share up to 25% of the total cost of the project.

If the non-federal share of U.S. Army Corps of Engineers projects is being funded, Eligible Applicants cannot exceed \$250,000 for the non-federal share of the project.

2.6.2 Ineligible Uses of Funds

Projects that have a local share requirement that are not federally funded, are not related to infrastructure, and do not have a tie-back to the 2018 disaster events are ineligible for funding.

2.7 Determining the Non-Federal Share Amount

The non-federal share match is that portion of the project funding that is not covered by the federal government. FEMA administers its grants according to Federal cost sharing requirements as outlined in Title 2 of the Code of Federal Regulations, Sections 200.29, 200.306, and 200.434 and consistent with Title 44 of the CFR, the Robert T. Stafford Disaster Relief and Emergency Assistance Act, as amended, and the National Flood Insurance Act, as amended. In general, FEMA funds may be used to pay up to 75 percent of eligible activity costs.

The non-federal share for FEMA PA Match and HMGP Match project totals 25% of the overall project cost. For FEMA PA projects, of the 25% non-federal share, the State of California’s National Disaster Assistance Act (NDAA)⁸ funds 75% of the remaining non-federal share (18.75% of the total). The DR-Infrastructure Program provides the remaining 25% of a project’s non-federal local share (i.e., 6.25% of the total).

For HMGP Match projects, the DR-Infrastructure Program is available for up to 25% of the overall project cost. There is no State cost share for HMGP projects.

Federal Agency	Federal Programs	Federal Cost Share	Non-Federal, State Cost Share	Non-Federal, Local, Share	Disasters
FEMA	Public Assistance (PA)	75%	18.75%	6.25%	DR-4382, DR-4407
FEMA	Hazard Mitigation Grant Program (HMGP)	75%	None	25%	DR-4382, DR-4407

2.8 Stand-Alone Infrastructure

2.8.1 Eligible Uses of Funds

Eligibility of Stand-Alone Infrastructure Projects requires that the projects are non-match, stand-alone infrastructure projects that have a tie-back to the DR-4382 or DR-4407 disaster events and address identified unmet disaster recovery needs. Further, Stand-Alone Infrastructure Projects must be those activities eligible under Title I of the Housing and Community Development Act of 1974 or those activities specified by waiver in 83 FR 5844 published February 9, 2018; 83 FR 40314 published August 14, 2018; 84 FR 97 published January 9, 2019; and 84 FR 6813 published February 28, 2019. All projects must meet a National Objective as detailed in Section 2.2.2. Examples of Stand-Alone Infrastructure Project activities that potentially tie back to the 2018 disasters include, but are not limited to:

⁸ <https://www.caloes.ca.gov/cal-oes-divisions/recovery/public-assistance/california-disaster-assistance-act>

- Soil stabilization in impacted areas following the fires;
- Generators that are affixed to the structure (i.e., not mobile) with a specific disaster tie-back;
- Undergrounding power lines that were damaged by the disaster event;
- Acquisition of land for fire mitigation and/or to make the community more resilient; and
- Hillside or streambank stabilization due to mud/rockslides related to the disaster event.

2.8.2 Ineligible Uses of Funds

Projects not related to infrastructure, increased code compliance, direct support of housing recovery, or DR-4382 or DR-4407 disaster events are ineligible for funding. Further, any costs for non-match, stand-alone projects that are funded by another source as detailed in Section 2.2.4. are ineligible for funding.

Private infrastructure activities are ineligible for program funding. Private infrastructure activities include but are not limited to funding the construction, repair, or replacement of private roads, bridges, and private utilities.

3 Implementation Policies

3.1 Project Selection

3.1.1 NOI Process

The purpose of the NOI is to facilitate the completion of an unmet need assessment that HCD uses to allocate funds based on the NOI review (Section 3.1.3) and NOI allocation methodology (Section 3.1.5) described below. Eligible Applicants submit eligible DR-Infrastructure Program Projects identifying an unmet need through a Notice of Intent (NOI) via Grants Network. Only eligible Projects submitted during the NOI process will be considered for an award during the application phase (see Section 3.1.7). Even if the Project is otherwise eligible, if it is not submitted as part of the NOI/unmet need assessment and determined to be eligible by HCD during the application phase, it will not be considered for an award.

For the 2018 DR-Infrastructure Program, there are two rounds of NOIs that align with HCD's unmet needs Priority Levels. The Priority Levels are as follows:

- Priority 1: Projects addressing an unmet need that meet the LMI national objective
- Priority 2: Projects addressing an unmet need that do not meet the LMI national objective

Round 1 of the NOI accepts Priority 1 projects only and Round 2 accepts both Priority 1 and Priority 2 projects. The LMI national objective does not need to be verified at the NOI stage, but the expectation is that the Eligible Applicant can provide service area or area benefit data to support the project Priority Level.

Following the release of each NOI round, Eligible Applicants must complete and submit the NOI fields in the Grants Network Program Portal detailing eligible DR-Infrastructure Program projects within four (4) weeks for Round 1 and eight (8) weeks for Round 2. If HCD has questions or feedback regarding potential project unmet needs, Eligible Applicants are allowed to provide clarifications. HCD determines program allocations following a final review and evaluation of all submitted NOIs.

If LMI and most impacted and distressed (MID) funding targets, see Section 3.1.10, are not able to be met by the potential projects submitted through the NOI process, HCD reserves the right to pause the NOI process and reevaluate the DR-Infrastructure Program as a whole. HCD could reopen the NOI release period for as long as it deems necessary to meet LMI and MID funding targets.

3.1.2 NOI Requirements

Eligible Applicants are required to submit the information below for projects during the NOI phase, unless otherwise noted as optional. Failure to submit the required information may disqualify the project from being included in the allocation calculation. The submission of optional information does not impact the eligibility of projects, nor the Eligible Applicant's allocation. The required information is as follows:

- Declaration of project type (Stand-Alone, FEMA PA Match, FEMA HMGP Match, or Other Non-Federal Share Match)
- Project Details:
 - Identify which of the 2018 declared disasters the submitted project is related to.
 - Identity of the Eligible Applicant.
 - Indication if the project is on behalf of another government entity or special district other than the Eligible Applicant
 - If yes, name of other government entity or special district
 - Project Title
 - Project Description / Scope of Work
 - A description or scope of work for infrastructure projects is required.
 - Project Location Description, including address, as applicable
 - Project City
 - Project Zip Code
 - Does the Project service area benefit LMI population or area?
 - If yes, describe how the project service area benefits and LMI population or area
 - What is the percentage of LMI persons that benefit from this project?
 - Upload documentation that supports the LMI service area (optional)
 - Does the Project service area benefit the MID area?
 - Include MID service area Map (optional)
 - Provide a map of the service area showing MID and LMI benefit (optional)
 - FEMA PA Project Number – PA Match Only
 - FEMA PW Number – PA Match Only
 - FEMA PA Category – PA Match Only
 - Category C: Roads and Bridges

- Category D: Water Control Facilities
- Category E: Public Buildings and Equipment
- Category F: Public Utilities
- Category G: Parks, Recreational, and Other Facilities
- OES Number – HMGP Match Only
- FEMA HMGP Status
- Other Federal Match Project Number
- Affirmation and documentation of project compliance from the start of construction with Davis-Bacon Act and Section 3 if in-progress or completed after December 1, 2020
 - If project is complete, date of the completion
- Provide the current status of the project
- Total Project Cost (\$ amount), The Total Project Cost (\$ amount) is the total amount of the cost of the project. This includes any matching funds, the unmet need, Activity Delivery Costs and/or administrative costs, and the amount being requested from the 2018 CDBG-DR Infrastructure program)
- Federal Funding Identified/Committed (\$ amount)
- Federal share of the total project cost
- State Matching Funds (\$ amount)
- Local Match (\$ amount) Anticipated CDBG-DR funding request (\$ amount)
- (This is the total amount of unmet need funding being requested from HCD for the DR-Infrastructure Program allocation. This includes hard project costs and Activity Delivery Costs).
- Is there a gap between total project unmet need and CDBG-DR funding request?
 - If yes, please explain how the gap is anticipated to be funded and provide estimated dollar amounts.
- Have you applied for other sources of funds for this project?
 - If yes, please explain the source, how much and the status of application or award
- Provide cost estimate documentation from a qualified professional (Optional) (If provided, the documentation should clearly demonstrate the reasoning of the cost estimate and support the description of the cost estimate and/or unmet need)
- Was the project denied by FEMA for PA or HMGP funds?
 - If yes, provide a descriptive reason why the project was denied by FEMA. Additional documentation may be requested.
- What eligible CDBG activity does this fall under?
- Has a NEPA Environmental Review been started?
- Has a NEPA Environmental Review been completed?
 - If yes, upload completed NEPA Environmental Review (Optional)
- Has a CEQA Environmental Review been started?
- Has a CEQA Environmental Review been completed?
 - If yes, upload completed CEQA Environmental Review (Optional)
- Explain how the proposed project ties back to DR-4382 or DR-4407 and how it will address an unmet need.
- Explain how the proposed project supports housing recovery

Optional Uploads (Note: these are required fields for the application)

- Tieback Documentation: The documentation should demonstrate a clear tie back to the 2018 disasters. See Section 3.2.1 on types of documentation
- Documentation demonstrating the project supports housing recovery
- Project Timeline

3.1.3 NOI Review

To ensure that the unmet need of each Eligible Applicant is calculated correctly, HCD reviews projects submitted in NOIs based on the following criteria:

- Project Eligibility
- National Objective
- Total Unmet Need
- Overall Housing Recovery
- Priority Level 1 (LMI) or 2 (Urgent Need)

Project Eligibility

HCD reviews projects to determine evidence of eligible disaster tie-back to DR-4382 or DR-4407. Disaster tie-back for FEMA PA Match are assumed to have a tie-back due to the eligibility requirements of the FEMA PA program. All FEMA HMGP Match, Stand-Alone, and other Non-Federal Share Match projects shall include a description in the NOI describing how the project ties to DR-4382 or DR-4407. If the NOI submission does not provide sufficient explanation or evidence of disaster tie-back, HCD may inform the Eligible Applicant of the need to clarify tie-back. If HCD asks for clarifications, the Eligible Applicant is given two weeks to provide clarification of the disaster tie-back. If the tie-back explanation is insufficient to establish tie-back, the project is not considered an unmet need and not included in the allocation determination.

FEMA HMGP Match, Stand-Alone, and Non-Federal Share Match infrastructure projects must be an eligible CDBG activity and eligible use of the funds (see Sections 2.4.4, 2.5.1, 2.6.1, and 2.7.1). If HCD staff identifies a project that does not meet these requirements, HCD allows one (1) week for the Eligible Applicant to provide sufficient documentation showing that it is an CDBG activity and eligible use of the funds. If the Eligible Applicant is unable to provide sufficient evidence for the project to qualify as an eligible CDBG activity and is an eligible use of the funds, the project is not considered an unmet need and is not included in the allocation determination.

National Objective

HCD staff evaluates all projects for meeting a national objective (see Section 3.2.2). Projects must either benefiting Low- and Moderate-Income (LMI) persons or meet a need with a particular urgency (urgent need). The information provided by the Eligible Applicant will be used to determine the project's national objective and its placement as a Priority Level, 1 or 2.

Total Unmet Need

For all projects, HCD reviews the current unmet need presented by the Eligible Applicants related to total project cost and other sources of funding. No formal budget analysis is

completed at the NOI stage, but further clarification may be asked of the Eligible Applicant if unmet need calculations are incorrect or if total project costs appear to be unreasonable.

Overall Housing Recovery

As stated previously in Section 3.2.1, for all projects, HCD reviews how each project supports the overall housing recovery from DR-4382 or DR-4407. Projects that support overall housing recovery are infrastructure projects that enable the recovery of residential areas by meeting transportation needs, restoring essential utilities, and addressing other public infrastructure and facility needs. Examples of infrastructure projects that support overall housing recovery include, but are not limited to: public roads, school facilities, stormwater drainage improvements, potable water, sanitary sewer, electric and gas utilities, fire protection measures, wastewater treatment facilities, parks, and other public facilities that are important publicly owned assets.

Priority Level

There are two rounds of NOIs that align with HCD's unmet needs Priority Levels. The Priority Levels are as follows:

- Priority 1: Projects addressing an unmet need that meet the LMI national objective
- Priority 2: Projects addressing an unmet need that do not meet the LMI national objective

Round 1 of the NOI accepts Priority 1 projects only and Round 2 accepts both Priority 1 and Priority 2 projects. The LMI national objective does not need to be verified at the NOI stage, but the expectation is that the Eligible Applicant can provide service area or area benefit data to support the project's Priority Level.

3.1.4 NOI Approval

The DR-Infrastructure Program Review Board evaluates Infrastructure Program allocations and provides concurrence of the allocations calculated by HCD staff. The Review Board consists of three to five HCD staff members and is assisted by additional staff or subject matter experts, as needed. The DR-Infrastructure Program Manager chairs the Review Board. If the DR-Infrastructure Program Manager position is vacant, the Acting DR-Infrastructure Program Manager shall serve as the Review Board chair. Review Board decisions are unanimous. If consensus cannot be reached in favor or against allocations, an Issue(s) Memo is developed by the dissenting Board Members and submitted to the CDBG-DR Section Chief for consideration and further discussion until consensus is achieved. Once consensus is achieved, the allocation amount for Eligible Applicants based on their submitted projects is submitted to the CDBG-DR Section Chief, Branch Chief, and Deputy Director for final approval. Upon approval, the decision shall be documented in a letter to the Subrecipient and HCD's Internal Loan Committee (ILC) will be notified.

3.1.5 Allocations from NOI

Allocations are provided to Eligible Applicants based on the unmet infrastructure need established during the two NOI rounds. Of the total project funds available for DR-Infrastructure, 55% (\$174,585,668) of the program budget is reserved for Priority 1, LMI project unmet needs, and 45% (\$142,842,820) is reserved for Priority 2, non-LMI project unmet needs.

To ensure that the DR-Infrastructure meets the HUD requirement that 80% of the grant-wide funds spent in MID areas, the total dollars allocated to non-MID areas shall not exceed \$63,485,698, or 20% of the overall Infrastructure Program budget, whichever is less.

Allocations are calculated based on the total dollar amount for unmet infrastructure needs, with 55% of the total funds reserved for eligible Priority 1 unmet infrastructure needs and 45% reserved for eligible Priority 2 unmet infrastructure needs. If the requested amount from Eligible Applicants is less than the total funding for each Priority (\$174,585,668 for Priority 1 and \$142,842,820 for Priority 2) and all project unmet needs are determined to be eligible and assigned the correct Priority Levels, Eligible Applicants are allocated 100% of their requested unmet needs. If at any point the total project unmet needs exceed the funds available for each Priority, the funds are proportionally reduced by each Priority round so the percent requested equals the percent allocated.

HCD reserves the right to provide partial funding to Eligible Applicants, increase select Eligible Applicant allocations to ensure project feasibility, open another NOI round, and/or reprogram Infrastructure Program funds. Allocations cannot exceed the unmet need amount submitted under the NOI.

3.1.6 Authorizing Resolution & MSA

The Authorizing Resolution is necessary for completion of an executed MSA. Subrecipients must submit an executed authorizing resolution on the template provided by HCD. Jurisdictions that already have a resolution template are requested to embed the HCD template language inside of the jurisdiction's approved template. Any deviation from the HCD authorizing resolution template language may delay implementation of the Eligible Applicant's project(s). The authorizing resolution documents each applicant's authority to submit applications and enter into an agreement between the Eligible Applicant and HCD for the DR-Infrastructure Program. No agreement between HCD and a jurisdiction will be valid until the respective jurisdiction's authorizing resolution is submitted and accepted by HCD. If allowed by local policies, HCD can accept a resolution from the governing board authorizing specific Eligible Applicant staff to enter into an agreement and submit a project application on the Eligible Applicant's behalf.

The MSA is the contractual arrangement between the Department and the Subrecipient which sets forth the terms and conditions by which CDBG-DR funds must be utilized with regards to Approved Projects. Following an allocation to the Eligible Applicant by HCD and an executed authorizing resolution, HCD routes the Subrecipient's MSA for approval, and when ready, will be delivered to the Subrecipient for execution via Grants Network.

3.1.7 Project Application Process

HCD opens the Grants Network Portal to Subrecipients to complete project applications for a period of 90 days following the execution of an MSA. If the Subrecipient cannot meet the application deadline, an extension request must be made by the Subrecipient prior to the deadline and are made on a case-by-case basis. The HCD DR-Infrastructure Manager or Section Chief can approve the extension request. Eligible Applicants must use the Grants Network Portal to submit project applications.

Eligible Applicants are limited to submitting project applications that align with the projects submitted in Round 1 or Round 2 of the NOI process and projects must meet the HCD Priority Level LMI/Urgent Need breakdown of the allocation. HCD reviews application submissions and provides a follow-up response to subrecipients including, but not limited to, request for Due Diligence items, if not already requested, feedback, questions, and comments within 60 calendar days of receiving a completed application. The HCD review process ensures compliance with regulatory requirements and confirms the project is consistent with broader recovery goals.

3.1.8 Application Requirements

The purpose of the application is to establish the final eligibility and budget of submitted projects, demonstrate that the project adheres to program policies and grant conditions, submit final construction design plans, identify and document all funding sources, and provide additional documentation to show compliance with state and federal regulations. The required information is as follows:

- Authorizing Resolution
 - HCD provides a template that must be used
 - Due Diligence (See Section 3.2)
- Overall Project Description/Scope of Work
 - The overall project description and scope of work provides a complete summary of the project with supporting documentation that ties the project to the 2018 disasters and demonstrates support of housing recovery. The project description includes the ownership of the project and who benefits from the project. The scope of work includes a full description of construction activities.
- National Objective/MID Documentation
 - Ensure that the final proposed project service area hasn't changed from the NOI. If the project benefits MID areas, the service area must show the MID area benefit.
 - For LMI projects, the Subrecipient must complete a beneficiary form detailing demographic calculations and supporting maps/figures.
 - Urgent Need documentation – resolution from the city council or county board stating that no other funding is available for this project.
- Complete Cost Estimate/Budget
 - Complete list of all project funds and sources of funds (CDBG, local, private, other state funds, federal funds, other).
 - Final budget (eligible activity costs and project delivery costs)

- Design and construction cost estimates with description of materials needed, quantities, unit prices, and an itemized amount (if possible).
- Provide justification of any additional testing, investigations, or other engineering fees (soil boring tests, environmental site assessments, etc.).
- Duplication of Benefits
 - Complete list and supporting documentation of potentially duplicative funds for the same purpose (insurance, utility settlements, state and local grants, etc.).
 - Final duplication of benefits is calculated by the Subrecipient.
- Project Maps
 - Detailed maps of the existing infrastructure and proposed infrastructure improvements (can be combined, if needed).
 - Service area of the project.
 - Census tract/block groups related to the service area of the project.
- Project Timeline
 - List of project milestones (design, preconstruction, phases of construction, and completion).

3.1.9 Application Review

The DR-Infrastructure Review Board reviews all aspects of the project application, including scope, budget, eligibility, environmental review, legal/policy issues, procurement, and compliance. Concerns noted from the NOI review are also reviewed prior to voting on the project. Projects that receive approval must be unanimous by the Review Board. Applications that need clarification or further information may be amended and resubmitted to the Review Board in accordance with the Review Board's requests and deadline for response. If all options have been explored and the project cannot meet the program requirements, a notice of denial is issued. The notice of denial includes guidance on actions the Eligible Applicant can take for application reconsideration.

Once consensus is achieved among the Review Board members for projects that meet all eligibility requirements, the projects are submitted to HCD's Disaster Recovery Branch Chief for final approval. Once an application has been approved, applicants are notified of the decision via email and an acceptance letter is uploaded to Grants Network.

Following the application approval, HCD will work with the Subrecipient to issue an NTP. The NTP will outline the details regarding the use of funds (see Section 4.1.10).

3.1.10 Application Award Methodology

HCD evaluates projects based on the eligibility requirements as outlined in Section 3 and the required project information detailed in Section 4.1.2.

For eligible project applications, HCD reviews special conditions in the Agreement, if applicable and requests any outstanding items to satisfy the special conditions. HCD completes a review of the Eligible Applicant's allocation and determines whether each Eligible Applicant's application amount across its projects fall within its allocation amount. HCD notifies jurisdictions if they have exceeded the allocation amount and request

application resubmission. Eligible Applicants with submitted applications at or below the allocation amount proceed to award recommendation.

If an evaluation of submitted applications by HCD determines that the proposed projects do not result in HCD meeting its grant-wide 70% LMI requirement and program-specific 80% MID requirement funding levels, HCD reserves the right to reevaluate the program and weigh options for ensuring that DR-Infrastructure Program meets HUD requirements.

3.1.11 Notice to Proceed

Once the Project's award recommendation is approved, the Project may not proceed to construction, with the exception of FEMA match projects that have already started construction prior to the NOI release, until HCD provides a Notice to Proceed (NTP) for the project. The NTP specifies the award amount, project milestones, LMI and MID targets, and other related details. To receive an NTP, the Subrecipient must have a complete and approved Environmental Review, all special conditions in the Agreement must be cleared via a letter of clearance issued by HCD. The NTP enables the Subrecipient to proceed to the project's construction and expect to be reimbursed for eligible costs incurred after the NTP exaction date.

3.1.12 Appeals Process

Subrecipients have the right to appeal the DR-Infrastructure Program Review Board's determination regarding the issuance of an NTP.

The Subrecipient must submit their appeal in written form, within 60 days from the date the award decision was issued via Grants Network.

An authorized person of HCD Leadership shall review the appeal and then discuss the merits of the appeal with the CDBG-DR Section Chief and the DR-Infrastructure Program Review Board before rendering an independent decision concerning the appeal. The decision of the authorized person of HCD Leadership shall be final.

3.2 Subrecipient Due Diligence

For HCD's Subrecipient capacity assessment, as required in Federal Register Notice 83 FR 5867, Eligible Applicants are required to provide documents and information as part of the Due Diligence process. As Subrecipients, Eligible Applicants are required to comply with the requirements, requests, and results of HCD's capacity assessment and maintain the capacity to carry out disaster recovery activities in a timely manner. The Due Diligence process may result in special conditions in the Agreement to ensure the capacity to carry out disaster recovery activities in a timely manner. As such, the completion of the Due Diligence is a necessary prerequisite to entering into an NTP.

3.3 Technical Assistance to Subrecipients

HCD provides various types of technical assistance (TA) to Subrecipients and vendors throughout the program from the release of the NOI to agreement closeout. The objectives of technical assistance are to initially aid the Subrecipient and vendors to

clearly understand the program requirements and appropriately submit the project application. Also, HCD, through the provision of TA, supports Subrecipients to maintain their day-to-day compliance with federal and state regulations and program requirements. In addition, HCD performs a risk assessment to determine a Subrecipient's capacity and to identify deficiencies in complying with applicable grant and program requirements. According to the risk assessment results, HCD provides technical assistance and guidance to Subrecipients to improve their performance, develop or increase capacity, and augment management and technical skills. Some examples of technical assistance include:

- Verbal or written advice
- Formal training and workshops
- Documentation and guidance

3.4 Activity Delivery Costs

3.4.1 Allowable Costs After MSA and Before NTP

Subrecipient may begin to perform project related activities and to incur Activity Delivery Costs (ADCs) once its MSA is executed, and prior to a Notice to Proceed, so long as such activities would not be considered a choice-limiting action (see 2.3.20 for more details on choice-limiting actions). ADCs incurred do not have to be tied to a specific project.

ADCs are allowable costs incurred for implementing and carrying out eligible CDBG activities. ADCs cover the costs of staff directly carrying out the activity in addition to engineering, design, architecture, and environmental services that are necessary for successful completion of the activity. ADCs must be allocable to a CDBG-assisted activity or an activity that is CDBG-eligible, meet a national objective, and meet all other CDBG program requirements. There is no maximum cap on ADCs, but Subrecipients must show that ADCs are reasonable for the CDBG-eligible activity being carried out, as authorized under [24 CFR 570.201-570.204](#). If the proposed ADCs exceed 20% of the total project cost, additional justification and documentation are required to justify the need for ADCs that exceed 20% of the total project cost.

3.4.2 Authorization to Incur Costs Before an Executed MSA

There are two circumstances when ADCs may be incurred prior to the execution of an MSA. First, with Program Manager or Section Chief written approval, ADC expenses for environmental compliance work for intended Project Applications may be incurred prior to execution of an MSA between the Subrecipient and HCD provided that such expenses are eligible and are supported by documentation satisfactory to the Department. Second, with Program Manager or Section Chief written approval, other costs may also be incurred prior to the execution of an MSA, such as the cost of procuring consultants and architectural, engineering, and other professional services required to prepare plans, drawings, specification, or work write-ups not more than 24 months prior to the Approved Project being set up in DRGR, provided the Subrecipient procured contracts are conducted in a manner consistent with 2 CFR 200,317 – 200.326, "Procurement

Standards.” In no event shall the Subrecipient’s activities authorized under these two exceptions be considered choice-limiting actions.

3.4.3 Subrecipient ADCs with Incomplete Projects

If the initial project(s) are unable to be completed, a review of the causes of the project failure is performed. The Subrecipient needs to provide documentation demonstrating the cause of the project’s failure for HCD to review. Depending on the specifics of the situation, HCD may require more evidence of the causes of failure during the review process. If, after the review, the evidence demonstrates that the project was put forth and preceded in good faith on the part of the Subrecipient, then HCD would consider a new eligible project from the subrecipient, as long as the initial ADCs can be shown to have contributed to the new project. Prior to any funding of the new project, a new capacity assessment, project evaluation, and amended agreement with stricter grant conditions is required.

If it is shown that the project failed due to egregious behavior or actions, including but not limited to conflicts of interest, fraud, waste, abuse, and similar types of issues or actions, on the part of the Subrecipient, then any funding payments made toward the project are required to be repaid and the Subrecipient is allowed to put forth a new project submission. If the review shows that the Subrecipient acted in a reasonable manner, then the Subrecipient is allowed to put forth a project proposal. If the project put forth by the Subrecipient does not meet the eligibility requirements, Priority Level requirements for a new project, or does not sufficiently demonstrate that the initial project’s ADCs have contributed to the new project, HCD shall open the outstanding funding for other Eligible Applicants in order to meet the Eligibility and Priority Level requirements of the DR-Infrastructure Program.

4 Program Operations

4.1 Subrecipient Agreements

- A. HCD shall enter into one or more funding Agreement with Subrecipients, which will specify the terms and requirements of Subrecipients’ receipt of funding. HCD utilizes multiple agreement templates, including, but not limited to, standard agreements and master standard agreements. The type of Subrecipient agreement used depends on the type and number of projects, among other factors. HCD determines the type(s) of agreement used on a case-by-case basis in the reasonable exercise of HCD’s discretion.
- B. Upon HCD approval of individual projects and clearance of any special conditions (if applicable), HCD issues a Notice to Proceed (NTP), if applicable, to the Subrecipient. The NTP is a binding document, approved as to form a component of the Agreement between the Subrecipient and HCD by committing funds to a specific project and gives official notice to the subrecipient that they can begin work on the project. The NTP includes project details, including but not limited to:
 - A description of the approved project and the permitted uses of program funds;

- The approved project development budget and sources and uses of funds and financing;
- The approved schedule of the project, including design, if any, commencement and completion of construction work;
- Performance milestones; and
- Performance penalties.

4.2 Agreements with Contractors or Other Parties

Per 2 CFR 200.213, Subrecipient shall not enter into any agreement, written or oral, with any contractor, vendor, or other party without the prior determination that the contractor, vendor, or other party is eligible to receive federal funds and is not listed on the Federal Consolidated List of Debarred, Suspended, and Ineligible Contractors.

The term “other party” is defined as public or private non-profit agencies or organizations and certain (limited) private for-profit entities who receive Grant Funds from a Subrecipient to undertake eligible projects.

Requirements of an agreement between the Subrecipient and any Contractor, or other party shall contain, but not be limited to the following:

- Compliance with all State and federal requirements including those that pertain to labor standards, nondiscrimination, Americans with Disabilities Act, Equal Employment Opportunity, and Drug-Free Workplace Act
- Maintenance of at least the minimum State-required Workers’ Compensation Insurance
- Maintenance of unemployment insurance, disability insurance and liability insurance which is reasonable to compensate any person, firm or corporation who may be injured or damaged during the performance of project activities
- Contractors shall:
 - Comply with the applicable provisions of the California Labor Code;
 - Perform the project activities in accordance with federal, state and local housing and building codes, as applicable; and
 - Provide security to assure completion of the project(s) by furnishing the borrower and construction lenders with proof of sufficient insurance and performance and payment bonds, or other security approved in advance in writing by the Department, as determined by the particulars of each individual project are required.

4.3 Document Retrieval Process

All documentation at each step of the process of the project’s life, from NOI to grant closeout, must be submitted through the Grants Network Program Portal. This ensures that all the required documents are available for review and retrieval in one location. To submit or retrieve a document, the Subrecipient needs to enter their project Workspace through the Grants Network Program Portal and upload the document into the proper location.

4.4 Disbursement of Funds

Payments are made directly to Subrecipients as reimbursements based on the documented completion of agreed upon project milestones, as outlined in the agreement. Reimbursement-based means that Activity Delivery and project costs must be incurred by the Subrecipient and documented as required by the terms of the agreement for payment of invoices. HCD retains a total of 5% of the overall project cost until the project is fully closed out and all federal and state requirements are met. Please see the state's CDBG-DR Grant Administration Manual, Section V for additional financial management procedures and requirements.

4.5 Reporting Requirements

Subrecipients are required to submit reports at times indicated in the agreement, in accordance with HCD and HUD reporting requirements, and via Grants Network. At a minimum, during the term of the agreement, on a monthly basis the Subrecipient shall submit to HCD a progress report which addresses the following topics:

- A description of the current status of the project activity;
- A description of activities to be undertaken in the next reporting period;
- A description of problems or delays encountered in project implementation and course of action taken to address them;
- Any questions that have arisen during implementation or a request for technical assistance;
- A description of actions taken to achieve project expenditure deadlines; and
- A summary of project fiscal status, including:
 - Award amount;
 - Funds drawn; and
 - Remaining balance.

At any time during the term of the agreement, HCD may perform or cause to be performed an independent financial audit of any and all phases of the Subrecipient's project(s). At HCD's request, the Subrecipient shall provide, at its own expense, a financial audit prepared by a certified public accountant. As stated in the State of California's CDBG-DR Grant Administration Manual, Section VJ1 on internal audits, all non-federal entities that expend \$750,000 or more in federal awards in a fiscal year are required to have a single audit for that year in accordance with the Single Audit Act of 1984, Single Audit Act Amendments of 1996, and 2 CFR §200 Subpart F-Audit Requirements.

4.6 Monitoring and Compliance

HUD describes monitoring as an integral management control standard and requires any entity receiving HUD funding to monitor and evaluate program performance and compliance, see CDBG Regulation 24 CFR 570.501(b). HCD staff monitors all CDBG-DR programs and activities. HCD is required to ensure that its Subrecipients comply with:

- The requirements of the DR program;
- FRN requirements applicable to the DR program and any applicable waivers;

- Other federal regulatory guidance, such as Uniform Administrative Requirements, cost principles, and audit requirements outlined in 2 CFR 200;
- Specific conditions as stated in 2 CFR 200.205 and 200.207 respectively to mitigate the risk of the grant;
- The Agreement with HCD, including amendments if applicable; and
- The annual monitoring assessment and strategy.

Monitoring provides information about program participants, assesses quality of performance over time and is critical for making informed judgements about program effectiveness and management efficiency. It also identifies instances of fraud, waste, and abuse.

HCD's Monitoring of Subrecipients

HCD monitors its subrecipients and contractors/vendors, when applicable, based upon an assessment of risk posed by the jurisdiction or contractor/vendor and according to specific monitoring criteria per 2 CFR 200.331. HCD conducts a Risk Assessment on all subrecipients and contractors/vendors on an annual basis. In accordance with 2 CFR 200.221, 24 CFR 570.492 and 42.U.S.C Section 5304(e)(2), the risk assessment seeks to gauge subrecipients capacity to implement program or project, its compliance with the Agreement, performance objective and assess operational risk. The goal of this process is to determine the highest risk areas across all CDBG-DR activities and inform HCD with the programs, subrecipients, and/or contractors/vendors who require the greatest administrative oversight. The results of the risk assessment advise HCD of those high risk subrecipients, contractors/vendors for technical assistance, capacity training, scheduling frequency, and type of monitoring activities.

The Monitoring Plan provides HCD's responsibilities and procedures for monitoring its subrecipients, as well as the Annual Monitoring Strategy. Two types of monitoring will be employed by HCD: desk monitoring and onsite monitoring. Both desk monitoring and on-site monitoring follow the same process as follows:

- HCD sends notification letter the subrecipient;
- Document collection and pre-monitoring work begins for the next 30 days after issuance of the notification letter;
- Entrance Conference via teleconference for desk monitoring and in person for onsite monitoring;
- Review of documents, interview of subrecipients, and requests for additional documents;
- Exit conference via teleconference for desk monitoring and in person for on-site monitoring. Review of findings and concerns including next step discussion; and
- Monitoring is concluded with a Monitoring Report which is issued to the subrecipient within 30 days of the Exit conference.

Desk Monitoring

Desk monitoring is conducted at the HCD office regardless of the location of the subrecipient's office. It commences 30 days after the subrecipient is notified via the

notification letter. During the 30-day notification period, the subrecipient will provide HCD with any documentation requested in the notification letter. A desk monitoring can either be area specific (e.g., Procurement and Contract, Environmental, Section 3, Financial Management) or a comprehensive review of the project. Typically, desk monitoring is only conducted for low risk to medium risk subrecipients and on some cases may trigger an onsite monitoring based on the findings of the HCD monitor. The outcome of the desk monitoring is communicated to the subrecipient via an Exit conference and in writing via a Monitoring Report.

Onsite Monitoring

During the onsite visit, HCD representative reviews files for compliance with applicable federal and program requirements. This review is similar to the desk monitoring process. To prepare for onsite visits, the HCD monitor uses information contained within Grants Network, the Agreement, and Program Application. These may include items such as employee timecards, financial statements, project file documents, draw requests, and policies and procedures provided by the Subrecipient. Typically, on-site monitoring is reserved for medium-high to high risk subrecipients. This group of subrecipients present the greatest risk to HCD's compliance with HUD's grant requirements. On-site monitoring is intended to be a more comprehensive assessment of the subrecipients' management of the DR program in compliance with applicable Federal, state and local regulations and requirements. This level of monitoring is performed at the subrecipient's location and is more formal than a desk monitoring.

Generally, HCD does not monitor a Subrecipient's construction contractor. Rather, HCD monitors the Subrecipient's monitoring of the contractor since monitoring the contractors is the responsibility of the Subrecipient. However, if HCD determines that a Subrecipient has not performed adequate monitoring of its Subrecipients or contractors, HCD may directly monitor the Subrecipient or contractor to confirm that applicable regulatory compliance is being provided. When necessary, the HCD representative arranges onsite project inspections with the Subrecipient and its contractors to confirm eligible CDBG-DR activities are being conducted, eligible costs are being charged and that the required national objective is being met.

Subrecipient Monitoring Responsibilities

HCD requires the Subrecipients to develop their own monitoring plan for their projects and contractors that complete construction on DR-Infrastructure funded projects. Therefore, Subrecipients are responsible for carrying out their projects to meet these compliance requirements. HCD monitoring plan is available for guidance to the subrecipient to develop their own monitoring plan.

For construction projects, it is the responsibility of the Subrecipient to monitor projects to ensure compliance with terms of the Agreement and applicable regulations. Subrecipient monitoring should include:

- Ensuring project scopes of work are consistent with the scope of work described in the Project Applications;

- Physical inspection should include the inspection of all construction projects to ensure the project;
- Monitoring construction contractors for equal opportunity, federal and state labor standards and Section 3 requirements;
- Following procurement processes in accordance with 2 CFR §200 or local standards if higher;
- Project milestones are being met;
- Environmental reviews are completed and documented properly;
- Complying with the terms and conditions of the Agreement with HCD, especially anti-fraud and abuse;
- Monitoring contractors/vendors for federal compliance standards;
- Financial Management: internal controls, accounting, program income and record keeping are in compliance with 2 CFR 200 and CDBG-DR costs are eligible, allowable, reasonable, and allocable; and
- Documenting national objective compliance for all activities.

Please see the State of California's CDBG-DR Grant Administration Manual, Section XVI for additional monitoring and compliance procedures and requirements.

4.7 Record Keeping

HCD's Agreement with the Subrecipient is the contractual document that details the financial and recordkeeping requirements and standards for Subrecipients allocated funds to carry out specific eligible DR-Infrastructure activities. Such reports and recordkeeping requirements, defining the specific reports and the reporting dates, along with the particular record and the timeline for maintaining them are to assist HCD in meeting HUD's recordkeeping and reporting requirements per Section 104(e); (a)(2)(D) and (a)(3)(b), §570.506 (records to be maintained), and §570.508 (public access to records). Further record keeping requirements as detailed in 85 FR 4681 and per HCD's agreement with HUD include, but are not limited to:

- Executed agreement(s)
- Description, geographic location and budget of each activity
- Eligibility and national objective determinations for each activity
- Evidence of having met a national objective
- Evidence of having met the MID criteria
- Evidence of having met the LMI criteria
- Subrecipient agreement
- Any bids or contracts
- Characteristics and location of the beneficiaries
- Compliance with special program requirements
- Personnel files
- HUD monitoring correspondence
- Citizen participation compliance documentation
- Fair Housing and Equal Opportunity records
- Environmental review records

- Documentation of compliance with crosscutting requirements (e.g., Davis-Bacon, Uniform Relocation Act, and Lead-Based Paint, etc.)
- Budget and expenditure information
- Chart of accounts
- Accounting procedures
- Accounting journals and ledgers
- Source documentation (purchase orders, invoices, canceled checks)
- Procurement files (including bids, contracts, etc.)
- Real property inventory
- Draw down requests
- Payroll records and reports
- Financial reports
- Audit files
- Relevant financial correspondence
- The status of the project and/or activity

Further, Subrecipients are required to maintain financial records and submit the financial reports sufficient to ensure compliance with all recordkeeping and reporting requirements. Per the Standards for Financial Management Systems, accounting records must be supported by source documentation such as canceled checks, invoices and demands, payrolls, time and attendance records, contract and sub-grant award documents, etc.

4.8 Grant Closeout

The closeout of a grant is a process through which HUD determines that all applicable administrative and program requirements of the grant were completed. In general, a grant is ready for closeout when the following conditions are met:

- All individual activities were completed, met a national objective, and closed out in DRGR;
- All contracts have completed closeout;
- All grant funds were expended in full or all remaining funds are planned to be returned to HUD;
- All reporting requirements were completed and submitted (except for the final report that is submitted during the closeout process, if applicable);
- Any special conditions of the grant were met; and
- All audit and monitoring issues affecting the grant were resolved.

Closeout of an Individual Activity

Individual elements of the CDBG-DR grant may be closed out as a course of grant closeout. Closeout of individual activities are coordinated between HCD and the Subrecipients. Upon completion of the activity, DRGR must be updated with the project status.

As individual activities of the grant are preparing to closeout, HCD reviews and updates the following in DRGR:

- The total amount of funds drawn down for the activity

- A final check for DOB
- The activity type
- The national objective
- The grant activity accomplishments

Individual activity completion should also be reflected in the QPR.

Closeout of an Agreement

CDBG-DR Subrecipients are required to submit the following to HCD for each contract to complete closeout:

- The final request for funds;
- Evidence of a public hearing reporting the grant accomplishments and expenditures of each project to the residents of the jurisdiction; and
- If applicable, the final projects of the grant funding (planning studies, environmental review records, etc.).

HCD reviews the documentation and processes the final funds requests if all provided documentation and the circumstances of the project warrant contract closeout. HCD disencumbers any remaining funds, if applicable, and enters all needed information in DRGR to show the activities and projects are “completed.”

Once all documentation has been processed and DRGR has been updated, HCD sends a Closeout Letter to the Subrecipient, outlining all closeout requirements. Subrecipients are required to retain CDBG-DR records for a period of not less than five years after the fiscal year of their grant in accordance with CDBG-DR record retention requirements. HCD notifies Subrecipients when the HUD grant has been closed.

Once these items have been completed, HCD completes the Subrecipient Closeout Certification Form (HUD Form 40175) along with the Grant Closeout Checklist (HUD Form 40183) and submits these forms to HUD.

Within 90 days of the execution date of the Closeout Certification, HCD submits to HUD a copy of the final performance and evaluation report described in 24 CFR part 91 as well as Federal Financial Report SF-425 or a financial report that meets the criteria in 24 CFR part 570.489(d). These requirements must:

- Be sufficiently specific to ensure that funds received under this subpart are used in compliance with all applicable statutory and regulatory provisions and the terms and conditions of the award;
- Ensure that funds received under this subpart are only spent for reasonable and necessary costs of operating programs under this subpart; and
- Ensure that funds received under this subpart are not used for general expenses required to carry out other responsibilities of state and local governments.

HCD may satisfy this requirement by:

- Using fiscal and administrative requirements applicable to the use of its own funds;
- Adopting new fiscal and administrative requirements; and/or

- Applying the provisions in 2 CFR part 200.

If opting to satisfy this requirement for fiscal controls and administrative procedures by applying the provisions of 2 CFR part 200, HCD must comply with all requirements therein. Additionally, HCD must ensure that recipients of the state's CDBG-DR funds comply with 2 CFR part 200.

Concurrent with the financial report is a final QPR as well as an update of all transactional data in DRGR. If an acceptable report is not submitted, an audit of the grant activities may be conducted by HUD.

Once a review has been completed by HUD, the HUD field office prepares a closeout agreement. The grant is considered closed on the date that the appropriate HUD official executes the closeout agreement. Any unused grant funds are recaptured by HUD as a course of the closeout process.

Note that grants cannot be closed out if there are open monitoring reports associated with the contract; all monitoring findings, concerns and requirements must be received and approved by HCD, and HCD must also receive a Clearance Letter stating the monitoring has been complete.

EXHIBIT "D" – SCOPE OF WORK

Water treatment Plant Solar project	\$	500,000.00
PID Main Office and Corporation Yard Solar Panel Project	\$	1,118,100.00
PID storage Tank Upgrades and Relining Project	\$	1,000,000.00
PID Storage Tank Cathodic Protection System Evaluation Project	\$	300,000.00
Paradise Lake Level Monitor and Ball Valve Replacement Project	\$	300,000.00
PID Water Treatment Plant Gabion Wall Project	\$	300,000.00
	Total	\$ 3,518,100.00



Paradise Irrigation District

6332 Clark Rd, Paradise, CA 95969 · 530-877-4971 · Fax: 530-876-0483 · www.pidwater.com

Project Name:

Water Treatment Plant Solar Panel Project

Project Scope:

The Water Treatment Plant Solar Panel Project will provide supplemental power to the current usage.

Project Description:

The proposed project will provide and install solar panels to supplement the current power usage of the Water Treatment Plant and increase resiliency to frequent outage conditions. In an effort to upgrade building energy efficiency, reduce the significant utility cost burden and conserve energy using alternative methods of power supply. Also this will provide shaded parking for employees and fleet vehicles.

Funding:

Total Cost: \$500,000(est.)

Pre-Construction Cost: \$50,000

Construction Cost: \$450,000

Existing Funding Resource: None

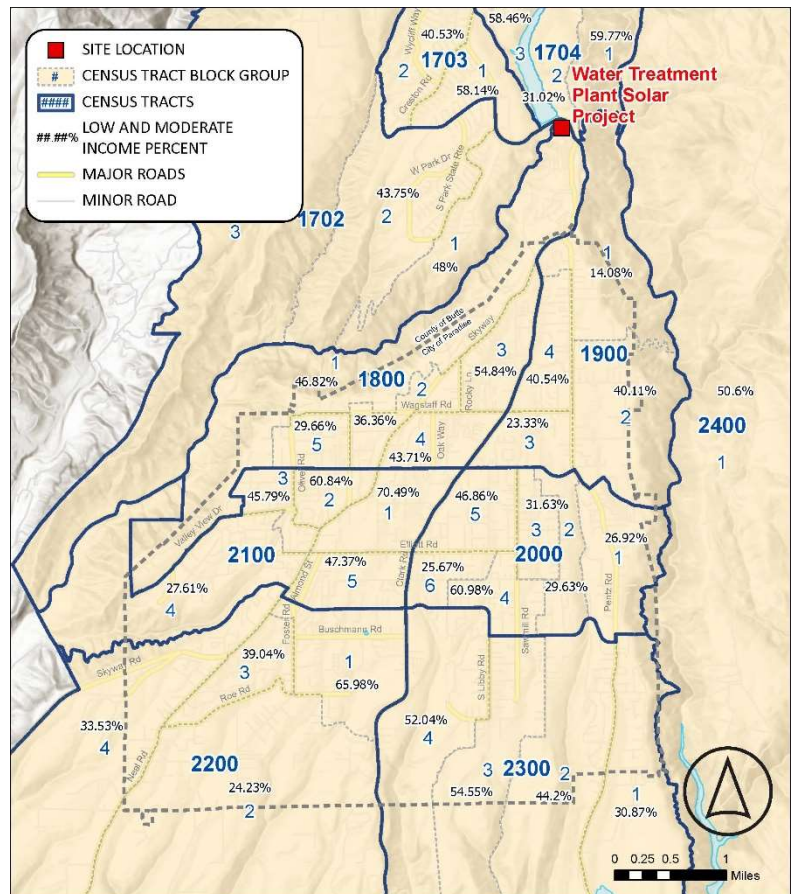
Unmet Need Pre-Construction: \$50,000

Unmet Need Construction: \$450,000

Long Term Recovery Plan

Tier and Project:

1 – PID Water System





Paradise Irrigation District

6332 Clark Rd, Paradise, CA 95969 · 530-877-4971 · Fax: 530-876-0483 · www.pidwater.com

Project Name:

Paradise Irrigation District Main Office and Corporation Yard Solar Panel Project

Project Scope:

The Main Office and Corporation Yard Solar Panel Project will provide supplemental power to the current usage.

Project Description:

The proposed project will provide and install solar panels to supplement the current power usage of the Paradise Irrigation District Main Office and Corporation Yard and increase resiliency to frequent outage conditions. In an effort to upgrade building energy efficiency, reduce the significant utility cost burden, and conserve energy using alternative methods of power supply. Also, this will provide shaded parking for employees, fleet vehicles and customers.

Funding:

Total Cost: \$1,000,000(est.)

Pre-Construction Cost: \$100,000

Construction Cost: \$900,000

Existing Funding Resource: None

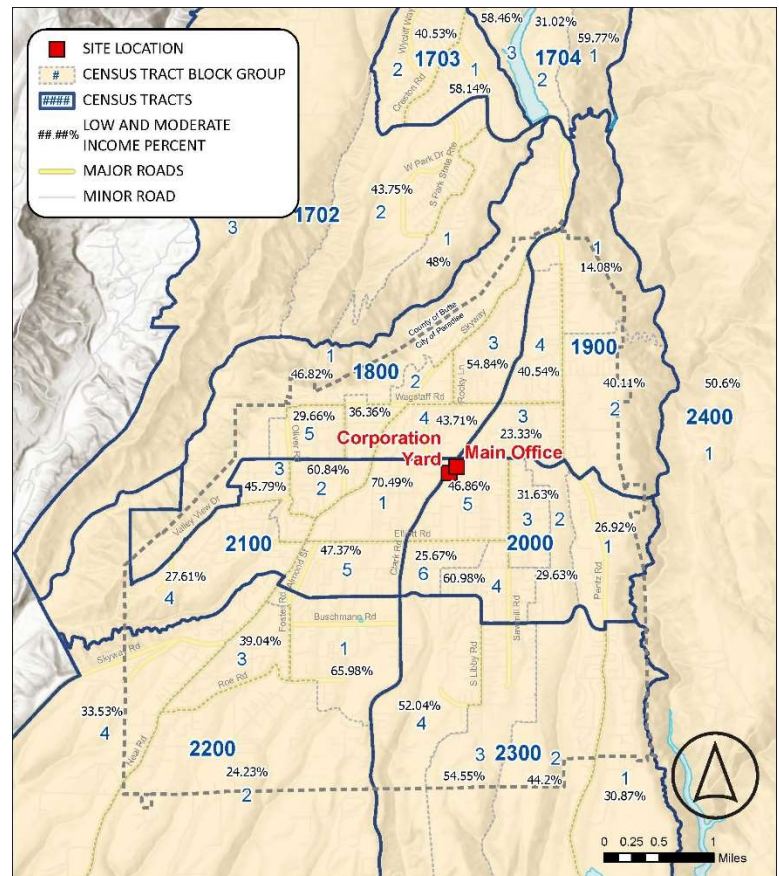
Unmet Need Pre-Construction: \$100,000

Unmet Need Construction: \$900,000

Long Term Recovery Plan

Tier and Project:

1 – PID Water System





Paradise Irrigation District

6332 Clark Rd, Paradise, CA 95969 · 530-877-4971 · Fax: 530-876-0483 · www.pidwater.com

Project Name:

Paradise Irrigation District Storage Tank Upgrades and Relining Project

Project Scope:

The Storage Tank Upgrades and Relining Project will reline the storage tank interior and paint the exterior.

Project Description:

The proposed project will provide a full inspection of Storage Tanks C, D and E to repair and recoat the interior lining and repaint the exterior surfaces. There is possible smoke and ember damage to the exterior coatings, to be determined at the time of the inspection. These tanks have the original coatings installed during installation and will ensure clean and safe drinking water storage.

Funding:

Total Cost: \$1,000,000(est.)

Pre-Construction Cost: \$50,000

Construction Cost: \$950,000

Existing Funding Resource: None

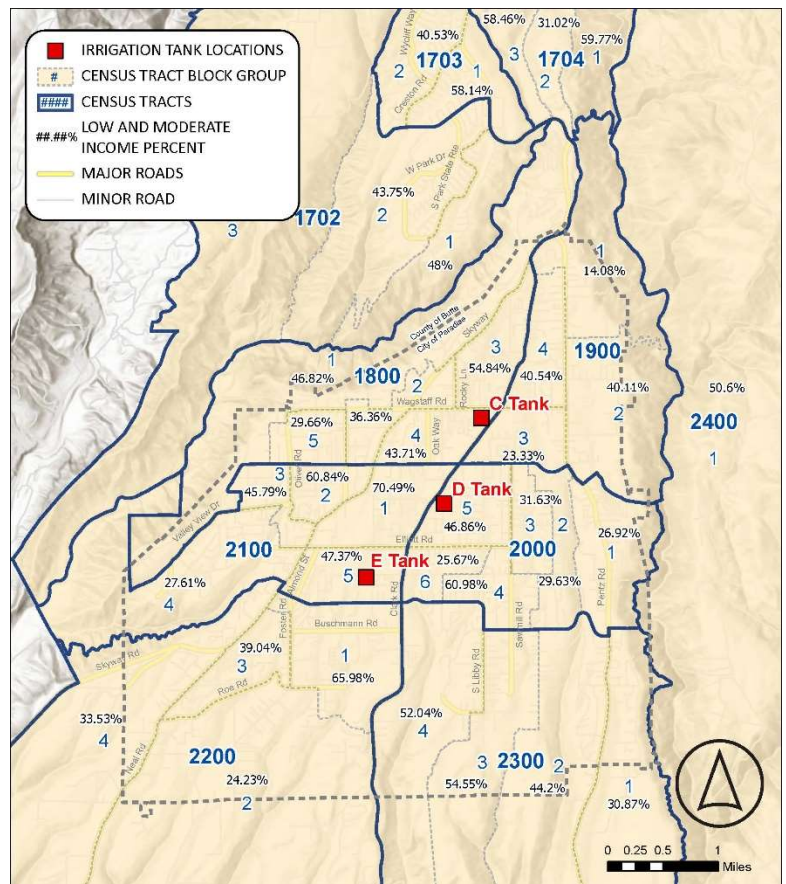
Unmet Need Pre-Construction: \$50,000

Unmet Need Construction: \$950,000

Long Term Recovery Plan

Tier and Project:

1 – PID Water System





Paradise Irrigation District

6332 Clark Rd, Paradise, CA 95969 · 530-877-4971 · Fax: 530-876-0483 · www.pidwater.com

Project Name:

Paradise Irrigation District Storage Tank Cathodic Protection System Evaluation Project

Project Scope:

The Storage Tank Cathodic Protection System Evaluation Project will evaluate the current cathodic protection system for status and vulnerabilities.

Project Description:

The proposed project will provide full inspection of Storage Tanks C, D and E Cathodic Protection System. Inspect and test sacrificial anode CP system and verifying they meet the criteria. The continuity test must show the protected structure is isolated from the other protected and non-protected structures.

Funding:

Total Cost: \$300,000(est.)

Pre-Construction Cost: \$15,000

Construction Cost: \$285,000

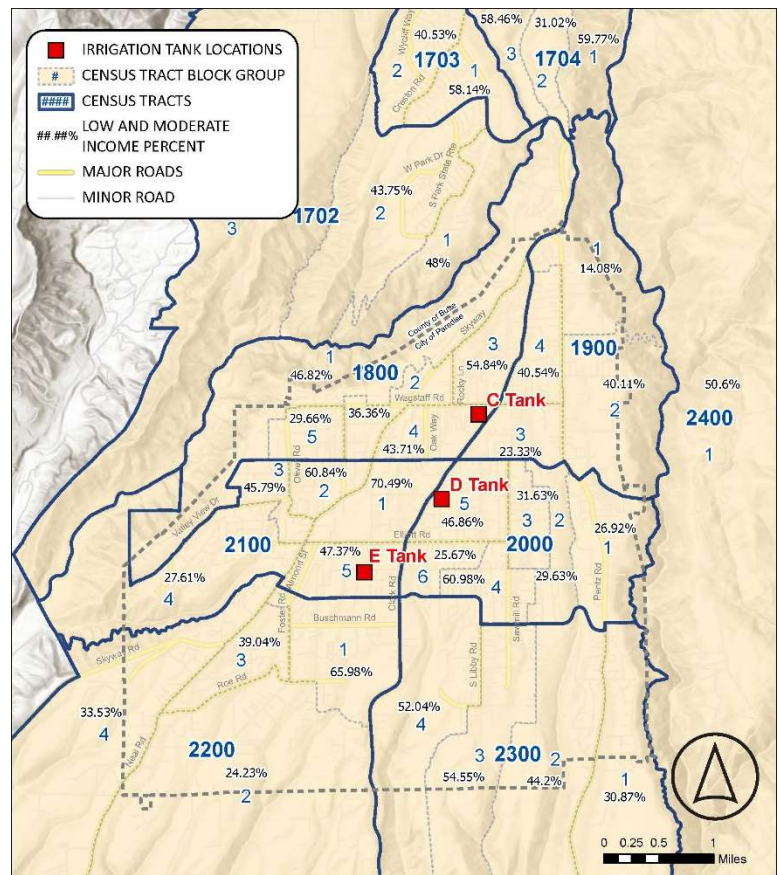
Existing Funding Resource: None

Unmet Need Pre-Construction: \$15,000

Unmet Need Construction: \$285,000

Long Term Recovery Plan Tier and Project:

1 – PID Water System





Paradise Irrigation District

6332 Clark Rd, Paradise, CA 95969 · 530-877-4971 · Fax: 530-876-0483 · www.pidwater.com

Project Name:

Paradise Lake Level Monitor and Ball Valve Replacement Project

Project Scope:

The Paradise Lake Level Monitor and Ball Valve Replacement Project will enable Paradise Irrigation District to remotely monitor lake levels and replace a leaking ball valve.

Project Description:

The proposed project will replace the damaged leaking ball valve that controls outflow into the creek and installation of a new lake level monitor in Paradise Lake. This will allow Paradise Irrigation District to monitor and report water supply conditions to the level of accuracy needed during increasingly common drought conditions and in conformance with changing state regulations.

Funding:

Total Cost: \$300,000(est.)

Pre-Construction Cost: \$25,000

Construction Cost: \$275,000

Existing Funding Resource: None

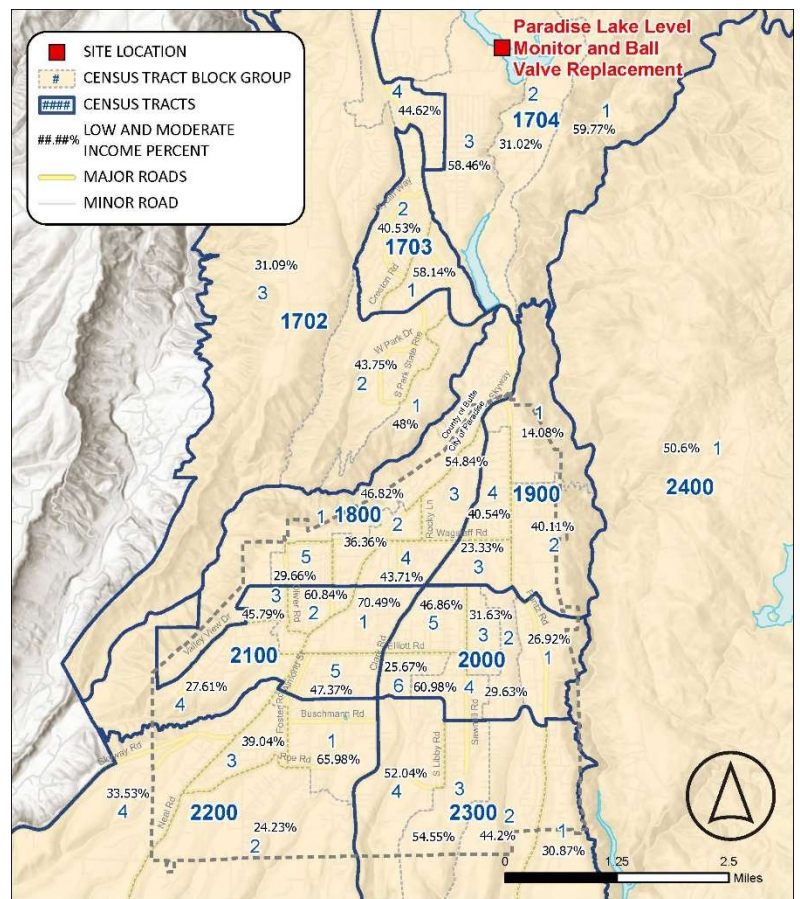
Unmet Need Pre-Construction: \$25,000

Unmet Need Construction: \$275,000

Long Term Recovery Plan

Tier and Project:

1 – PID Water System





Paradise Irrigation District

6332 Clark Rd, Paradise, CA 95969 · 530-877-4971 · Fax: 530-876-0483 · www.pidwater.com

Project Name:

Paradise Irrigation District Water Treatment Plant Gabion Wall Project

Project Scope:

The Water Treatment Plant Solar Gabion Wall Project will provide reinforcement to the current side wall of the Magalia Dam spillway.

Project Description:

The proposed project is in response to the Division of Safety of Dams required Spillway Risk Assessment performed by Paradise Irrigation District. The determination of this risk assessment identified the need to reinforce the spillway wall. A gabion basket wall structure was identified by the District's consultant as the most cost effective solution.

Funding:

Total Cost: \$200,000(est.)

Pre-Construction Cost: \$20,000

Construction Cost: \$180,000

Existing Funding Resource: None

Unmet Need Pre-Construction: \$20,000

Unmet Need Construction: \$180,000

Long Term Recovery Plan

Tier and Project:

1 – PID Water System

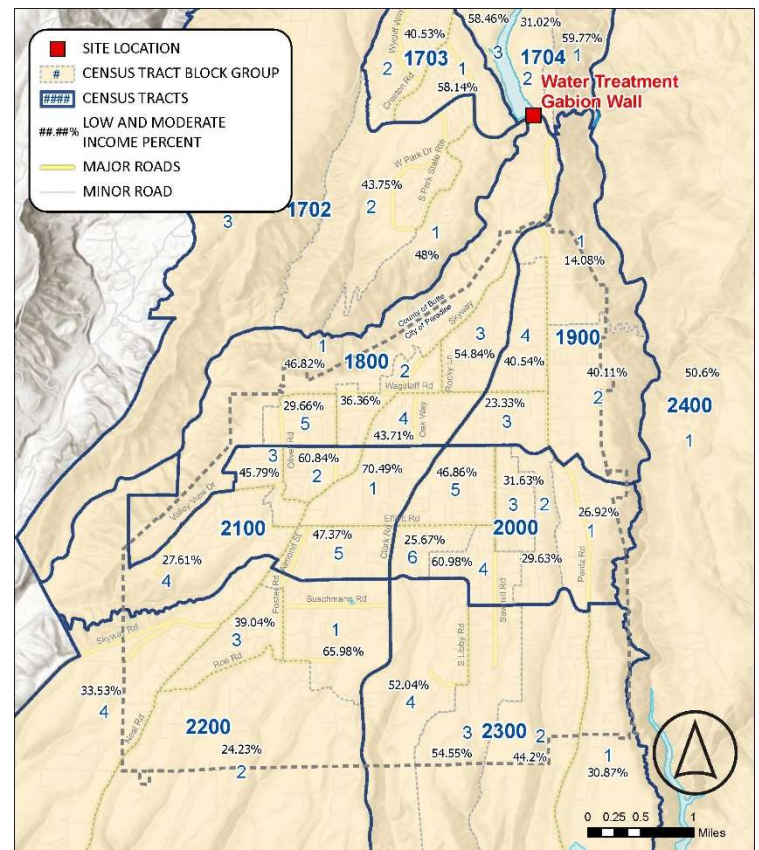


EXHIBIT "E"

The following are links to information about the Infrastructure Program. The Subrecipient is responsible for referencing and adhering to the most recent version of each document:

HCD CDBG-DR (CDBG-DR) 2018 Disasters Website

<https://www.hcd.ca.gov/grants-and-funding/programs-archived/community-development-block-grant-program-disaster-recovery>

State of California 2018 CDBG-DR Action Plan for Disaster Recovery

https://www.hcd.ca.gov/community-development/disaster-recovery-programs/cdbg-dr/cdbg-dr-2018/docs/hcd-cdbg-dr-2018_ap-final-ada-english.pdf

CDBG-DR Grant Administration Manual for 2017 and 2018 Disasters

<https://www.hcd.ca.gov/sites/default/files/docs/grants-and-funding/dr/cdbg-dr-grant-administration-v9-march-2022-update.pdf>

CDBG-Mitigation Addendum to the CDBG-DR Grant Administration Manual for 2017 and 2018 Disasters

https://www.hcd.ca.gov/community-development/disaster-recovery-programs/cdbg-dr/cdbg-mit-2017/docs/MIT-AddendumV2-to-DR%20GAM_ADA.pdf

CDBG-DR Monitoring Plan

https://www.hcd.ca.gov/community-development/disaster-recovery-programs/cdbg-dr/cdbg-dr-2017/docs/DR_MAC_Monitoring_Plan_Final.pdf

2018 CDBG DR-Infrastructure and MIT-RIP Policies and Procedures Manual V2.0

<https://www.hcd.ca.gov/community-development/disaster-recovery-programs/cdbg-dr/cdbg-dr-2018/docs/18DRINF18MITRIPPoliciesandProceduresv2.pdf>

2018 DR-INFRA NOI Preparation July 2021

<https://www.hcd.ca.gov/community-development/disaster-recovery-programs/cdbg-dr/cdbg-dr-2018/docs/18DR-INFRA-NOI-Preparation.pdf>

2018 DR-INFRA Round 2 NOI Preparation January 2022

<https://www.hcd.ca.gov/community-development/disaster-recovery-programs/cdbg-dr/cdbg-dr-2018/docs/18DR-Infra-101-Round-2.pdf>

2018 CDBG-DR Infrastructure Program Notice of Intent Allocations Summary

<https://www.hcd.ca.gov/sites/default/files/docs/grants-and-funding/18-DR-Infrastructure-Allocations.pdf>

EXHIBIT "F" – COMPLIANCE REQUIREMENTS
ALL CONTRACTS AND SUBCONTRACTS

1. **NONDISCRIMINATION CLAUSE:**

a. During the performance of this Agreement, SUBRECIPIENT and its subcontractors shall not unlawfully discriminate, harass or allow harassment, against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, disability (including HIV and AIDS), medical condition (cancer), age, marital status, denial of family and medical care leave and denial of pregnancy disability leave. SUBRECIPIENT and its subcontractors shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. SUBRECIPIENT and its subcontractors shall comply with the provisions of the Fair Employment and Housing Act (Government Code, Section 12900 et seq.) and the applicable regulations promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code, Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations are incorporated into this Agreement by reference and made a part hereof as if set forth in full. SUBRECIPIENT and its subcontractors shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other agreement.

b. SUBRECIPIENT shall include the nondiscrimination and compliance provisions of this clause in all subcontracts to perform work under the agreement.

2. **EQUAL OPPORTUNITY:**

a. The Civil Rights, Housing and Community Development, and Age Discrimination Acts Assurances: During the performance of this Agreement, SUBRECIPIENT assures that no otherwise qualified person shall be excluded from participation or employment, denied program benefits, or be subjected to discrimination based on race, color, national origin, sex, age, handicap, religion, familial status, or religious preference, under any grant activity funded by this Agreement, as required by Title VI of the Civil Rights Act of 1964, Title I of the Housing and Community Development Act of 1974, as amended, the Age Discrimination Act of 1975, the Fair Housing Amendment Act of 1988, and all implementing regulations.

b. The Training, Employment and Contracting Opportunities for Business and Lower Income Persons Assurance of Compliance:

i. The work to be performed under this Agreement is on a project assisted under a program providing direct federal financial assistance from the Department of Housing and Urban Development and is subject to the requirements of Section 3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C 1701u. Section 3 requires that to the greatest extent

feasible, opportunities for training and employment be given lower income residents of the project area and contracts for work in connection with the project be awarded to business concerns which are located in, or owned in substantial part by persons residing in the area of the project. The order of priority provided by Section 3 is defined in 24 CFR 135.34(a)(2).

ii. The parties to this Agreement will comply with the provisions of said Section 3 and the regulations issued pursuant thereto by the Secretary of Housing and Urban Development set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of this contract. The parties to this contract certify and agree that they are under no contractual or other disability which would prevent them from complying with these requirements.

iii. SUBRECIPIENT will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or worker's representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

iv. SUBRECIPIENT will include these Section 3 clauses in every contract and subcontract for work in connection with the project and will, at the direction of the State, take appropriate action pursuant to the contract upon a finding that SUBRECIPIENT or any contractor or subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135 and, will not let any contract unless SUBRECIPIENT or contractor or subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

v. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the Agreement shall be a condition of the federal financial assistance provided to the project, binding upon SUBRECIPIENT, its successors and assigns. Failure to fulfill these requirements shall subject SUBRECIPIENT, its contractors and subcontractors, its successors and assigns to those sanctions specified by the grant or contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

c. Americans with Disabilities Act (ADA) of 1990: By signing this Agreement, SUBRECIPIENT assures GRANTEE that it complies with the Americans with Disabilities Act (ADA) of 1990, (42 U.S.C. 12101 et seq.), which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issues pursuant to the ADA.

3. ANTI-LOBBYING CERTIFICATION:

- a. The undersigned certifies, to the best of his or her knowledge or belief, that:
 - i. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any SUBRECIPIENT, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;
 - ii. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any SUBRECIPIENT, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- b. SUBRECIPIENT shall require that the language of this certification be included in all contracts or subcontracts entered into in connection with this grant activity and that all subrecipients shall certify and disclose accordingly.
- c. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and no more than \$100,000 for such failure.

4. CONFLICT OF INTEREST OF MEMBERS, OFFICERS, OR EMPLOYEES OF SUBRECIPIENT, MEMBERS OF LOCAL GOVERNING BODY, OR OTHER PUBLIC OFFICIALS: No member, officer, or employee of SUBRECIPIENT, or its designees or agents, no member of the governing body of the locality in which the programs are situated, and no other public official of such locality or localities who exercise any functions or responsibilities with respect to the programs during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for grant activities to be performed in connection with the programs assisted under this Agreement. SUBRECIPIENT shall incorporate, or cause to be incorporated, in all such contracts or subcontracts a provision prohibiting such interest pursuant to the purposes of this section.

5. CONFLICT OF INTEREST OF CERTAIN FEDERAL OFFICIALS: No member of or delegate to the Congress of the United States, and no resident commissioner, shall be admitted to any share or part of this Agreement or to any benefit to arise from the same.

6. SUBRECIPIENT AND SUBCONTRACTS:

a. SUBRECIPIENT shall not enter into any agreement, written or oral, with any contractor without the prior determination by the State of the contractor's eligibility. A contractor or subcontractor is not eligible to receive grant funds if the contractor is not licensed in a good standing in California, or is listed on the Federal Consolidated List of Debarred, Suspended, and Ineligible Contractors.

b. This Agreement between GRANTEE and SUBRECIPIENT shall require SUBRECIPIENT and its subcontractors, if any, to:

i. Comply with the applicable State and Federal requirements described in Exhibit E which pertain to, among other things, labor standards, non-discrimination, Americans with Disabilities Act, Equal Employment Opportunity, and Drug-Free Workplace.

ii. Maintain at least the minimum State-required Worker's Compensation Insurance for those employees who will perform the grant activity or any part of it.

iii. Maintain, if so required by law, unemployment insurance, disability insurance and liability insurance in an amount to be determined by the State which is reasonable to compensate any person, firm, or corporation who may be injured or damaged by SUBRECIPIENT or any subcontractor in performing the grant activity or any part of it.

iv. Retain all books, records, accounts, documentation, and all other materials relevant to this Agreement for a period of five (5) years from the date of termination of this Agreement, or five (5) years from the conclusion or resolution of any and all audits or litigation relevant to this Agreement or the STANDARD AGREEMENT and any amendments, whichever is later.

v. Permit the State, Federal government, the Bureau of State Audits, the Department of Housing and Community Development and/or their representatives, upon reasonable notice, unrestricted access to any or all books, records, accounts, documentation, and all other materials relevant to this Agreement for the purpose of monitoring, auditing, or otherwise examining said materials.

7. COMPLIANCE WITH APPLICABLE LAWS AND REGULATIONS: Where required, SUBRECIPIENT shall comply with, and require contractors and subcontractors to comply with, each of the following:

- a. Federal, State and local regulations that pertain to construction, health and safety, labor, fair employment practices, equal opportunity, or any other matters applicable to this Agreement.
- b. Sections 103 and 107 of the contract Work Hours and Safety Standards Act (40 U.S.C. 327-220) as supplemented by DOL Regulations (29 C.F.R., Part 5);
- c. Executive Order 11246 and all implementing regulations of the DOL;
- d. Rehabilitation Act of 1973, (24C.F.R., Part 8);
- e. Drug-Free Workplace Act of 1990, (Calif. Govt. Code Sec. 8350 et seq.).
- f. Mandatory standards and policies relating to energy efficiency which are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Pub. L. 94-163, 89 Stat. 871)

8. UNIFORM ADMINISTRATIVE REQUIREMENTS: SUBRECIPIENT shall comply with all applicable uniform administrative requirements in accordance with 24 CFR Part 85, "Administrative Requirements for Grants and Cooperative Agreements to State, Local and Federally Recognized Indian Tribal Governments," as modified by 24 CFR 570.502(a). SUBRECIPIENT is also required to adhere to all requirements of OMB Circular A-87, "Cost Principles for State and Local Governments", and OMB Circular A-133, "Audits of State and Local Governments and non-Profit Organizations."

9. PROCUREMENT: SUBRECIPIENT shall comply with CalHome Program policy concerning the purchase of equipment and shall maintain inventory records of all non-expandable personal property as defined by such policy as may be procured with CalHome funds provided herein.

10. REVERSION OF ASSETS: Upon expiration of the STANDARD AGREEMENT, if SUBRECIPIENT has any CalHome funds on hand as well as any accounts receivables attributable to CalHome funds, must be transferred to GRANTEE. Any real property acquired with CalHome funds must be transferred to GRANTEE upon expiration of this Agreement.

11. GRANTOR RECOGNITION: SUBRECIPIENT shall ensure recognition of the role of the State CalHome Program in providing services through this Agreement. All activities, facilities and items utilized pursuant to this Agreement shall be prominently labeled as to the funding source. In addition, SUBRECIPIENT will include a reference to the support provided herein in all publications made possible with funds made available under this Agreement.

12. CLIENT DATA: SUBRECIPIENT shall maintain client data demonstrating client eligibility for services provided. Such data shall include, but not be limited to, client name, address, income level or other basis for determining eligibility, and description of service provided. Such information shall be made available to GRANTEE monitors or their designees for review upon request.

13. DISCLOSURE: SUBRECIPIENT understands that client information collected under this Agreement is private and the use or disclosure of such information, when not directly connected with the administration of GRANTEE'S or SUBRECIPIENT'S responsibilities, with respect to services provided under this Agreement is prohibited unless written consent is obtained from such person receiving service and, in the case of a minor, that of a responsible parent/guardian

EXHIBIT "G" – INSURANCE REQUIREMENTS

SUBRECIPIENT shall provide and maintain insurance for the duration of this Agreement against claims for injuries to persons and damage to property, which may arise from, or in connection with, performance under the Agreement by SUBRECIPIENT, its agents, representatives, employees or subcontractors, if applicable.

A. Minimum Scope & Limits of Insurance

1. Coverage at least as broad as Commercial General Liability Insurance of \$1,000,000 combined single limit per occurrence. If the annual aggregate applies it must be no less than \$2,000,000.
2. Comprehensive Automobile Liability Insurance (if applicable) of \$1,000,000 per occurrence.
3. Workers' Compensation and Employer's Liability Insurance as required by the State of California with Statutory Limits and Employer's Liability Insurance with limits of no less than \$1,000,000 per accident for bodily injury and disease.

B. Specific Provisions of the Certificate

1. The Certificate of Insurance for General Liability and Comprehensive Automobile Liability Insurance must meet the following requirements:
 - a. *Name the GRANTEE, its officers, agents, employees and volunteers, individually and collectively, as additional insureds.*
 - b. *State that such Insurance for additional insureds shall apply as primary insurance and any other insurance maintained by GRANTEE shall be excess.*
 - c. *Provide that coverage shall not be suspended, voided, canceled, reduced in coverage, or otherwise materially changed except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to GRANTEE.*
2. The Certificate of Insurance for Workers' Compensation must include the following waiver of subrogation:
 - a. *Waiver of Subrogation. SUBRECIPIENT waives all rights against GRANTEE and its agents, officers, and employees for recovery of damages to the extent these damages are covered by the workers compensation and employers liability.*

C. Deductibles and Self-Insured Retentions

The GRANTEE Risk Manager must approve any deductible or self-insured retention that exceeds \$100,000.

D. Acceptability of Insurance

Insurance must be placed with insurers with a current rating given by A.M. Best and Company of no less than A (-) from a company admitted to do business in California. Any waiver of these standards is subject to approval by GRANTEE Risk Manager or GRANTEE Risk Manager's designee.

E. Verification of Coverage

Prior to approval of this Agreement by GRANTEE, SUBRECIPIENT shall file with the submitting department, certificates of insurance with original endorsements effecting coverage in a form acceptable to GRANTEE. GRANTEE reserves the right to require certified copies of all required insurance policies at any time.

Association of California Water Agencies Joint Powers Insurance Authority

P.O. Box 619082, Roseville, CA 95661-9082

CERTIFICATE OF COVERAGE

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER OTHER THAN THOSE PROVIDED IN THE COVERAGE DOCUMENT. THIS CERTIFICATE DOES NOT AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE COVERAGE DOCUMENTS LISTED HEREIN.

MEMBER

Paradise Irrigation District
6332 Clark Road
Paradise, CA 95969

COVERAGE INFORMATION				
This is to certify that coverage documents listed herein have been issued to the Member Agency herein for the Coverage period indicated. Notwithstanding any requirement, term or condition of any contract or other document with respect to which the certificate may be issued or may pertain, the coverage afforded by the coverage documents listed herein is subject to all the terms, conditions and exclusions of such coverage documents.				
Type of Coverage	Form #	Effective Date	Expiration Date	Limits
General Liability Commercial General Liability Contractual Liability Products/Completed Operations Occurrence	MOLC-100123	10/01/2023	10/01/2024	Per Occurrence \$1,000,000 Aggregate \$2,000,000
Auto Liability Owned Autos Hired Autos Non-Owned Autos	MOLC-100123	10/01/2023	10/01/2024	Per Occurrence \$1,000,000
Property Buildings, Fixed Equipment Personal Property Auto Physical Damage Mobile Equipment Crime				
Workers' Compensation Part 1 - Workers' Compensation Part 2 - Employer's Liability	MOWC&EL-070123	07/01/2023	07/01/2024	Part 1 Statutory Limits Part 2 Each Accident \$2,000,000 Disease - each employee \$2,000,000 Disease - coverage limit \$2,000,000
Other				
DESCRIPTION Regarding: Intergovernmental Subrecipient Agreement Between The Town Of Paradise And The Paradise Irrigation District For Grant Administration And Project Set-Up Services Additional Covered Party(ies), as required by written contract or permit: Town of Paradise, its officers, agents, employees and volunteers, per attached Addendum. Request ID: 0000017516				

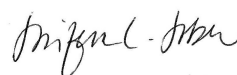
CERTIFICATE HOLDER

Town of Paradise
Colin Nelson Capital Projects Manager Public Works,
Engineering Department
555 Skyway
Paradise, CA 95969

CANCELLATION

SHOULD ANY OF THE ABOVE DESCRIBED COVERAGES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE TERMS OF THE MEMORANDUMS OF COVERAGE.

AUTHORIZED REPRESENTATIVE DATE



1/11/2024

ADDENDUM
to the
Memorandum of Liability Coverage

for the
Association of California Water Agencies
Joint Powers Insurance Authority

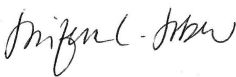
FORM NUMBER: MOLC-100123
MEMBER: Paradise Irrigation District
COVERAGE PERIOD: 10/01/2023 - 10/01/2024
ADDENDUM DATE: 10/01/2023
REQUEST ID: 0000017516

Change in the following Sections

Section IV. WHO IS COVERED is amended to include the following entity(ies) as an Additional Covered Party(ies):

Town of Paradise, its officers, agents, employees and volunteers, as required by written contract or permit. Additional Covered Party(ies) is(are) covered only if the liability is caused in whole or in part by the acts or omissions of the **Member Agency** and excludes coverage for the sole negligence of the Additional Covered Party(ies), and subject to a \$1,000,000 per occurrence and \$2,000,000 annual aggregate limit of liability.

Regarding: Intergovernmental Subrecipient Agreement Between The Town Of Paradise And The Paradise Irrigation District For Grant Administration And Project Set-Up Services

Signed By:  Date: 1/11/2024
(Authorized Representative)

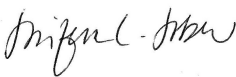
ADDENDUM
to the
**Memorandum of Workers' Compensation &
Employer's Liability Coverage**

for the
**Association of California Water Agencies
Joint Powers Insurance Authority**

FORM NUMBER: MOWC&EL-070123
MEMBER: Paradise Irrigation District
COVERAGE PERIOD: 07/01/2023 - 07/01/2024
ADDENDUM DATE: 07/01/2023
REQUEST ID: 0000017516

The following are added to Part Six-CONDITIONS:

Regarding: Intergovernmental Subrecipient Agreement Between The Town Of Paradise And The Paradise Irrigation District For Grant Administration And Project Set-Up Services

Signed By:  Date: 1/11/2024
(Authorized Representative)



Town of Paradise
Council Agenda Summary
Date: March 12, 2024

Agenda Item: 6(d)

ORIGINATED BY: Marc Mattox, Public Works Director
REVIEWED BY: Jim Goodwin, Town Manager
Scott E. Huber, Town Attorney
SUBJECT: Introduce Ordinance Amending Town Code, Chapter 2, Article V, Section 2.45.105 Concerning Informal Bid Procedures on Public Works Projects
LONG TERM RECOVERY PLAN: Yes, Tiers 1-3, Numerous
COUNCIL ACTION REQUESTED:

1. Consider adopting Resolution No. 2024-____, "A Resolution of the Town Council of the Town of Paradise Adopting the California Uniform Public Construction Cost Accounting Act Policy and Procedure" and,
2. Consider waiving the first reading of the Town of Paradise Ordinance No. 634 and read by title only; and,
3. Introduce Town Ordinance No. 634 "An Ordinance Adding Section 2.45.105 to the Paradise Municipal Code Relating to an Informal Bid Process for Public Works Projects of \$200,000 or Less."

Background:

The Town of Paradise is currently subject to the provisions of Sections 20160-20175 of the Public Contract Code which governs how and when contracts for a public project by a local agency are to be advertised, bid and awarded. The Town of Paradise can elect to have more restrictive provisions, but not any less restrictive than what is in the state law. One of the restrictions in the State Code under which the Town of Paradise must currently operate is the requirement that all public projects with a value of \$5,000 or more must be publicly bid. This restriction has the effect, on certain projects, of keeping the Town of Paradise from utilizing its contractor's forces, or less expensive temporary hires, to optimum efficiency as well as necessitating the use of procedures for smaller projects that are out of proportion to the value of the work being contracted.

The Public Contract Code provides a method to both raise the ceiling on the value of work that the Town of Paradise can perform with its own forces to \$60,000 as well as simplifying the procedures for bidding contracts of \$200,000 or less in value. In order to be able to use this method, the Town of Paradise is required to adopt an accounting procedure that would be applicable to all public projects. This procedure is called the UCCAP and the corresponding resolution for adoption is attached.

An Ordinance that outlines the agency's informal bidding procedure needs to be adopted before the agency can informally bid any work that has a value of no more than \$200,000. Attached is a draft Ordinance as recommended by the California Uniform Public Construction Cost Accounting Commission. After the informal bidding procedure Ordinance is adopted, the Town would establish its own list of qualified contractors and contractor clearinghouses that would receive notices of informal bid solicitations.

Analysis:

By voluntarily subjecting the Town of Paradise to the provisions of the Uniform Construction Cost Accounting Act would open up options relative to either performing, bidding or negotiating public project work that would ultimately lead to more cost-effective use of public funds. The staff, therefore, recommends that the Town of Paradise adopt a Resolution of intention to become subject to the provisions of the Act and introduce the Ordinance to implement the policies and procedures.

Financial Impact:

No direct fiscal impact from approving this ordinance and resolution.

**TOWN OF PARADISE
RESOLUTION NO. 2024-_____**

A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PARADISE ADOPTING THE CALIFORNIA UNIFORM PUBLIC CONSTRUCTION COST ACCOUNTING ACT POLICY AND PROCEDURES

WHEREAS, the Town of Paradise is currently governed by Sections 20160 – 20162 of the Public Contract Code, which require all Public Projects with expenditures over \$5,000 be subject to formal bid procedures; and

WHEREAS, Public Contract Code Sections 22000 et seq., the Uniform Public Construction Cost Accounting Act (“UCCAP”), establishes a uniform cost accounting standard that permits cities to use its own personnel by force account, negotiated contracts or purchase orders for public projects of \$60,000 or less, and to use less formal bidding procedures for public projects costing \$200,000 or less; and

WHEREAS, more than 180 cities throughout California have adopted the UCCAP; and

WHEREAS, the California Uniform Construction Cost Accounting Commission, established under the UCCAP, has developed uniform public construction cost accounting procedures for implementation by local public agencies in the performance of or in the contracting for construction of public projects; and

WHEREAS, adoption of the UCCAP would benefit the Town of Paradise by raising the force account limit, using informal bidding procedures at higher limits if the Town so desires, giving Public Works staff more leeway in the execution of public works projects, speeding up the process of award and completing projects, and simplifying administration of projects.

NOW, THEREFORE, BE IT RESOLVED that the Town Council of the Town of Paradise hereby elects under Public Contract Code Section 22030 to become subject to the uniform public construction cost accounting procedures set forth in the Act and to the Commission’s policies and procedures manual and cost accounting review procedures, as they may each from time to time be amended, and directs that the Town Clerk notify the State Controller forthwith of this election

PASSED AND ADOPTED by the Town Council of the Town of Paradise on this 12th day of March 2024, by the following vote:

AYES:
NOES:
ABSENT:
ABSTAIN:

Ronald Lassonde, Mayor

ATTEST:

APPROVED AS TO FORM:

Dina Volenski, CMC, Town Clerk

Scott E. Huber, Town Attorney

**TOWN OF PARADISE
ORDINANCE NO. 634**

**AN ORDINANCE ADDING SECTION 2.45.105 TO THE PARADISE MUNICIPAL
RELATING TO AN INFORMAL BID PROCESS FOR PUBLIC WORKS PROJECTS
OF \$200,000 OR LESS**

Chapter 2.45.105

2.45.105.010 Purpose.

This section is enacted under the authority of the California Public Contract Code Section [22034](#) which requires a Town which elects to become subject to the uniform construction cost accounting procedures as set forth in Public Contract Code Sections [22000](#) through [22044](#) to enact an ordinance governing informal bidding procedures for the selection of contractors to perform public works projects.

2.45.105.020 Definitions.

In this section, unless the context otherwise requires:

A. "Commission" means the California Uniform Construction Cost Accounting Commission under Public Contract Code Section [22010](#), et seq.

B. "Public project" means a project defined in Section [20161](#) of the Public Contract Code which reads as follows:

1. A project for the erection, improvement, painting or repair of public buildings and works.
2. Work in or about streams, bays, waterfronts, embankments, or other work for protection against overflow.
3. Street or sewer work except maintenance or repair.
4. Furnishing supplies or materials for any such project, including maintenance or repair of streets or sewers.

2.45.105.030 Informal bidding procedures.

A public project of \$175,000 or less may be let to contract by the informal procedure as set forth in Section [22032](#) et seq. of the Public Contract Code.

2.45.105.040 Contractors list.

The Town Manager or designee(s) shall develop and maintain a list of qualified contractors identified according to categories which comply with Section [22034](#) of the Public Contract Code and criteria adopted by the Commission. During November of each year the Town manager or his/her designee(s) shall develop the contractors list by mailing a written notice to construction trade journals designated by the Commission under Section [22036](#) of the Public Contract Code inviting all licensed contractors to submit the name of their firm to the Town for inclusion on the contractors list of qualified bidders for the following calendar year.

2.45.105.050 Size of project – Methods for bidding.

A. Where a public project of \$60,000 or less is to be performed, the Town may perform the project by Town employees, by force account, by negotiated contract or by purchase order, or the Town may elect to follow the informal bidding procedure prescribed in subsection (B) of this section and as amended in Cal. Pub. Cont. Code §§ [22032](#) and [22034](#).

B. Where a public project of \$200,000 or less is to be performed, not less than 10 days before the bids are due, the Town manager or his/her designee shall mail a written notice inviting informal bids to (1) all contractors for the category of work to be bid as shown on the contractors list developed in accordance with PMC [2.86.040](#) and/or (2) all construction trade journals

designated by the Commission under Cal. Pub. Cont. Code § [22036](#). Additional contractors and construction trade journals may be notified at the discretion of the Town manager or designee. C. If there is no list of qualified contractors for the particular category of work to be performed, the notice inviting bids shall be sent only to the construction trade journals specified by the commission. No notice inviting informal bids is required to be sent to a contractor that does not provide the necessary product or service, such as a proprietary product.

2.45.105.060 Award of contracts.

A. The Town Manager or his/her designee(s) is authorized to award informal contracts under this chapter in accordance with Town council policy.

B. If all bids received on a public project under this procedure set forth in this section are in excess of \$200,000, the Town council may award the contract at \$212,500 or less to the lowest responsible bidder if the council determines by adopting a resolution by at least four-fifths vote that the Town's original cost estimate was reasonable.

2.45.105.070 Alternate bidding procedure.

The procedure set forth in this chapter is an alternate to the procedure set forth in Public Contract Code Sections [20160](#) through [20174](#).

PASSED AND ADOPTED by the Town Council for the Town of Paradise, of Butte County, State of California on this 12th day of March, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

Ronald Lassonde, Mayor

ATTEST:

Dina Volenski, CMC, Town Clerk

APPROVED AS TO FORM:

Scott E. Huber, Town Attorney



Town of Paradise
Council Agenda Summary
Date: March 12, 2024

Agenda Item: 6(e)

ORIGINATED BY: Marc Mattox, Public Works Director/Town Engineer
REVIEWED BY: Jim Goodwin, Town Manager
SUBJECT: Award Construction Contract - Fire Station 82 Re-Roof Project
LONG TERM RECOVERY PLAN: No

COUNCIL ACTION REQUESTED:

1. Consider adopting Resolution No. 2024-_____, “A resolution of the Town Council of the Town of Paradise Awarding Contract No. 9435, Fire Station 82 Re-Roofing Project to Four Seasons Roofing of Chico in the Amount of Their Base Bid Plus Additive Bid Number One” and,
2. Authorize the Town Manager to execute an agreement with Four Seasons Roofing in the amount of their base plus additive bid number one and to approve contingency expenditures not exceeding 10%. (ROLL CALL VOTE)

Background:

Following completion of the 2018 Facilities Inventory, Fire Station 82, located at 5585 South Libby Road, was flagged as in need of a complete roof replacement. The last roof replacement interval was in 1999 and was expected to last 20 years. At the conclusion of the 2017/2018 Fiscal Year Budget, \$32,500 in Cal Fire Contract savings was transferred to Asset Replacement for the purposes of replacing the roof during the 2018/2019 fiscal year.

This scope of work was originally scheduled for award in 2018 briefly before the Camp Fire but due to the unforeseen circumstances the contract was abandoned.

Analysis:

On January 25, 2024, Town of Paradise Public Works issued a Notice to Contractors for the Fire Station 82 Re-Roof Project. The project advertisement was published in the Paradise Post on January 31, 2024, in compliance with public contract codes. Plans and Specifications were provided to 11 local, regional, and national construction exchanges.

On February 21, seven bids were received by the Town Clerk and publicly opened. A list of bids received are shown below:

Bid	Contractor	Base Bid	Additive Bid No. 1	Total Bid Amount
1	C Wright & Wright Enterprises	\$39,640.00	\$15,000.00	\$54,640.00
2	MCM Roofing Company	\$48,500.00	\$3,000.00	\$51,500.00

3	Pacific Polymers, Inc. DBA American Foam Experts	\$46,718.00	\$7,400.00	\$54,118.00
4	Barth Roofing Company	\$40,018.00	\$11,982.00	\$52,000.00
5	United Building Contractors	\$44,180.00	\$8,250.00	\$52,430.00
6	George Roofing	\$52,753.00	\$11,620.00	\$64,373.00
7	Four Seasons Roofing	\$28,241.00	\$8,847.00	\$37,088.00

Additive Bid No. 1 relates to potential work involving replacement of roof sheathing, if necessary.

Per the contract specifications, the award of the contract, if it be awarded, will be to the lowest responsible, responsive bidder based upon the base bid plus additive bid whose bid complies with all the requirements prescribed.

Following review of bid results, staff recommends awarding Contract No. 9435 to Four Seasons Roofing of Chico, CA in the amount of their base bid plus additive bid #1 of \$37,088.00. It is expected, if awarded, Four Seasons Roofing will proceed with project work following contract execution and coordination with weather conditions.

Financial Impact:

The total construction cost is \$37,088.00 and a \$3,708.80 construction contingency is recommended – providing a total project cost of \$40,796.80. Roof sheathing (\$8,847) will only be replaced if necessary. Funding for the project was included in the Measure V FY23/24 Budget at \$45,000.00

Attachments:

- A. Resolution

**TOWN OF PARADISE
RESOLUTION NO. 2024-___**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF
PARADISE AWARING CONSTRUCTION CONTRACT NO. 9435 FIRE
STATION 82 RE-ROOFING PROJECT TO FOUR SEASONS ROOFING
OF CHICO IN THE AMOUNT OF THEIR BASE BID PLUS ADDITIVE
BID NUMBER ONE.**

WHEREAS, Fire Station 82 roof was assessed and determined to be in need of a new roof; and,

WHEREAS, the Town of Paradise Fiscal Year 23/24 Budget included \$45,000 for the replacement of the roof.

NOW, THEREFORE, BE IT RESOLVED by the Town Council of the Town of Paradise as follows:

Section 1. The Town Manager is authorized to award and execute the construction contract to Four Seasons Roofing in the amount of their base bid plus additive bid number one for the Station 82 Roof Replacement and approve contingency expenditures not exceeding 10% of the total amount.

PASSED AND ADOPTED by the Town Council of the Town of Paradise on this 12th day of March 2024, by the following vote:

**AYES:
NOES:
ABSENT:
ABSTAIN:**

By: _____
Ron Lassonde, Mayor

ATTEST:

Dina Volenski, CMC, Town Clerk

APPROVED AS TO FORM:

Scott E. Huber, Town Attorney

AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement is made and entered into on _____ by and between the Town of Paradise, a municipal corporation (“Town”) and Four Seasons Roofing (“Contractor”).

RECITALS

- A. Contractor is specially trained, experienced and competent to procure and complete a building re-roofing which will be required by this Agreement; and
- B. Contractor possesses the skill, experience, ability, background, certification, and knowledge to provide the services described in this Agreement on the terms and conditions described herein.
- C. Town desires to retain Contractor to render services as set forth in this Agreement.

AGREEMENT

1 SCOPE OF SERVICES.

Except as specified in this Agreement, Contractor shall furnish all technical and professional services, including labor, material, equipment, transportation, supervision and expertise (collectively referred to as “Services”) to satisfactorily complete the work required by Town at his/her own risk and expense. Services to be provided to Town are more fully described in Exhibit A entitled “SCOPE OF SERVICES.” All of the exhibits referenced in this Agreement are attached and are incorporated by this reference.

1.1 Town Obligations

All data applicable to the project and in possession of the Town are to be made available to the Contractor.

2 TIME OF PERFORMANCE.

The services of Contractor shall commence immediately, and shall terminate upon full

project completion.

3 COMPENSATION.

Contractor's compensation for all services under this Agreement shall not exceed \$37,088.00 (\$28,241.00 Base Bid and \$8,847.00 Additive Bid) and shall be in accordance with the charges set forth in Exhibit "B". In no event shall Contractor's compensation exceed Costs and Fees set forth in Exhibit "B" without the prior approval of the Town Manager.

4 METHOD OF PAYMENT.

Contractor shall submit monthly billings, or progress invoices to Town describing the work performed during the preceding month. Contractor's bills shall include a brief description of the services performed, the date the services were performed, the number of hours spent and by whom, and a description of any reimbursable expenditures and segregated by test methods or by specific tasks. Town shall pay Contractor progress payments no later than 30 days after approval of the monthly invoice by Town staff. Approval of the monthly invoice requires the submittal of certified payrolls when prevailing wages rates are in effect for work done during applicable month. Certified payrolls are to be submitted on a weekly basis and within ten days after the week in question.

4.1 Retention of Payment

When payments made by Town equal 95% of the maximum fee provided for in this Agreement, no further payments shall be made until the final work under this Agreement, or for each individual project relating to the Contractor's services has been accepted by the Town.

4.2 Cost Principles

The Contractor agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal

Acquisition Regulations System, Chapter 1, Part 31 et seq., shall be used to determine the allowability of individual items of cost.

The Contractor also agrees to comply with Federal procedures in accordance with 49 CFR, part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.

Any costs for which payment has been made to Contractor that are determined by subsequent audit to be unallowable under 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31 et seq., OR 49 CFR, Part 18, Uniform Administrative requirements for Grants and Cooperative Agreements to State and Local Governments, are subject to repayment by the Contractor to State.

Any subcontract in excess of \$25,000, entered into as a result of this Agreement, shall contain all the provisions of this Section.

4.3 Contingent Fee

The Contractor warrants, by execution of this Agreement, that no person or selling agency has been employed or retained to solicit or secure this Agreement upon an agreement or understanding for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees or bona fide established commercial or selling agencies maintained by the Contractor for the purpose of securing business. For breach or violation of this warranty, the State has the right to annul this Agreement without liability, pay on the value of the work actually performed, or in its discretion, to deduct from the agreement price or consideration, or otherwise recover, the full amount of such commission, percentage, brokerage, or contingent fee.

4.4 Retention Of Records/Audit

4.4.a For the purpose of determining compliance with Public Contract Code Section 10115, et seq. And Title 21, California Code of Regulations, Chapter 21, Section 2500 et. seq., when applicable, and other matters connected with the performance of the Agreement pursuant to Government Code Section 8546.7, the Contractor, subContractors, and the State shall maintain all books, documents, papers, accounting records, and other evidence pertaining to the performance of the Agreement, including but not limited to, the costs of administering the agreement. All parties shall make such materials available at their respective offices at all reasonable times during the Agreement period and for three years from the date of final payment under the Agreement. The State, the State Auditor, FHWA, or any duly authorized representative of the Federal government having jurisdiction under Federal laws or regulations (including the basis of Federal funding in whole or in part) shall have access to any books, records, and documents of the Contractor that are pertinent to the Agreement from audits, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested.

Any subcontract in excess of \$25,000, entered into as a result of this Agreement, shall contain all the provisions of this Section.

5 LABOR COMPLIANCE

The Contractor shall agree through the contract to comply with the provisions of the California Labor Code. For the purpose of this project, eight hours shall constitute a legal day's work.

The Contractor's attention is directed to section 1815 of the labor code regarding overtime

pay and the requirement that a \$25 penalty will be levied for each workman for each calendar day during which the overtime pay provision is not met. The Contractor's attention is also directed to the requirements for travel and subsistence payments to all workers needed to execute the Contract.

Subject to the limitations stated in said section, the Contractor shall comply with the apprenticeship provisions of Section 1777.5 of the Labor Code, including the training and hiring of apprentices.

Attention is directed to Section 7-1.02K(2), "Wages" of the Standard Specifications.

Pursuant to Labor Code Section 1770 et seq, the general prevailing wage rates in the county in which the project work is to be done have been determined by the Director of the California Department of Industrial Relations. These wages are set forth in the General Prevailing Wage Rates for this project, available at Town of Paradise and available from the California Department of Industrial Relations' Internet web site at <http://www.dir.ca.gov/DLSR/PWD>. Future effective general prevailing wage rates, which have been predetermined and are on file with the California Department of Industrial Relations are referenced but not printed in the general prevailing wage rates.

6 EXTRA WORK.

At any time during the term of this Agreement, Town may request that Contractor perform Extra Work. As used herein, "Extra Work" means any work which is determined by Town to be necessary for the proper completion of Contractor's services, but which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Contractor shall not perform, nor be compensated for, Extra Work without prior written authorization from Town.

7 TERMINATION.

This Agreement may be terminated by the Town immediately for cause or by either party without cause upon fifteen (15) days written notice of termination. Upon termination, Contractor shall be entitled to compensation for services properly performed up to the effective date of termination.

8 OWNERSHIP OF DOCUMENTS.

All reports, plans, studies, documents, and other writings prepared by and for Contractor, in the course of implementing this Agreement, except working notes and internal documents, shall become the property of the Town upon payment to Contractor for such work, and the Town shall have the sole right to use such materials in its discretion without further compensation to Contractor or to any other party. Contractor shall, at Contractor's expense, provide such reports, plans, studies, documents, and other writings to Town within three (3) days after written request. Contractor shall not be responsible for liabilities, losses, or claims resulting from unauthorized modifications, or reuse other than original intended purpose.

9 LICENSING OF INTELLECTUAL PROPERTY.

This Agreement creates a nonexclusive and perpetual license for Town to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in documents or works of authorship fixed in any tangible medium of expression, including, but not limited to, data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Contractor under this Agreement ("Documents and Data"). Contractor represents and warrants that Contractor has the legal right to license any and all Documents and Data. Contractor makes no such representation and warranty in regard to Documents and Data which may be provided to Contractor by

Town. Town shall not be limited in any way in its use of the Documents and Data at any time.

9.1 Confidentiality.

All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents and Data either created by or provided to Contractor in connection with the performance of this Agreement shall be held confidential by Contractor. Such materials shall not, without the prior written consent of Town, be used by Contractor for any purposes other than the performance of the services under this Agreement. Nor shall such materials be disclosed to any person or entity not connected with the performance of the services under this Agreement. Nothing furnished to Contractor, which is otherwise known to Contractor or is generally known, or has become known, to the related industry shall be deemed confidential. Contractor shall not use Town's name, seal, or photographs relating to project for which Contractor's services are rendered, or participate in any publicity pertaining to the Contractor's services under this Agreement in any magazine, trade paper, newspaper, television or radio production or other similar medium without the prior written consent of Town.

9.2 Contractor's Books and Records.

9.2.a Contractor shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services, expenditures and disbursements charged to Town for a minimum period of two (2) years, or for any longer period required by law, from the date of final payment to Contractor to this Agreement.

Contractor shall maintain all documents and records which demonstrate performance under this

Agreement for a minimum of **three (3) years**, or for any longer period required by law, from the date of termination or completion of this Agreement.

Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit, at any time during regular business hours, upon written request by the Town Manager, Town Attorney, Town Finance Director, or a designated representative of these officers. Copies of such documents shall be provided to the Town for inspection at Town Hall when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at Contractor's address indicated for receipt of notices in this Agreement.

Where Town has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment or termination of Contractor's business, Town may, by written request by any of the above named officers, require that custody of the records be given to the Town and that the records and documents be maintained by Town Hall.

10 INDEPENDENT CONTRACTOR.

It is understood that Contractor, in the performance of the work and services agreed to be performed, shall act as and be an independent contractor and shall not act as an agent or employee of the Town. Contractor shall obtain no rights to retirement benefits or other benefits which accrue to Town's employees, and Contractor hereby expressly waives any claim it may have to any such rights.

11 INTEREST OF CONTRACTOR.

Contractor (including principals, associates, and professional employees and subcontractors) covenants and represents that it does not now have any investment or interest in real property and shall not acquire any interest, direct or indirect, in the area covered by this Agreement or any other source of income, interest in real property or

investment which would be affected in any manner or degree by the performance of Contractor's services hereunder. Contractor further covenants and represents that in the performance of its duties hereunder no person having any such interest shall perform any services under this Agreement.

Contractor is not a designated employee within the meaning of the Political Reform Act because

Contractor:

- a. will conduct research and arrive at conclusions with respect to its rendition of information, advice, recommendation, or counsel independent of the control and direction of the Town or any Town official, other than normal agreement monitoring; and
- b. possesses no authority with respect to any Town decision beyond rendition of information, advice, recommendation or counsel. (FPPC Reg. 18700(a)(2).)

12 PROFESSIONAL ABILITY OF CONTRACTOR.

Town has relied upon the professional training and ability of Contractor to perform the services hereunder as a material inducement to enter into this Agreement. Contractor shall have Skip Whaley manage and approve the work of all persons performing professional services under this Agreement. All work performed by Contractor under this Agreement shall be in accordance with applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in Contractor's field of expertise.

13 COMPLIANCE WITH LAWS.

Contractor shall use the standard of care in its profession to comply with all applicable federal, state and local laws, codes, ordinances and regulations.

14 LICENSES.

Contractor represents and warrants to Town that it has all licenses, permits, qualifications, insurance, and approvals of whatsoever nature, which are legally required of Contractor to practice its profession. Contractor represents and warrants to Town that Contractor shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement, any licenses, permits, certifications, insurance and approvals which are required by the Town for its business.

15 INDEMNITY.

Contractor agrees to defend, indemnify and hold harmless the Town, its officers, officials, employees and volunteers from and against any and all claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all costs and expenses in connection therein), arising from its negligent performance, misconduct or omissions relating to the services under this Agreement or its failure to comply with any of its obligations contained in this Agreement, except for any such claim arising from the sole negligence or willful misconduct of the Town, its officers, agents, employees or volunteers.

16 INSURANCE REQUIREMENTS.

Contractor, at Town's own cost and expense, shall procure and maintain, for the duration of the Agreement, the insurance coverage and policies as set forth in Exhibit "C" attached hereto.

17 NOTICES.

Any notice required to be given under this Agreement shall be in writing and will either be served personally or sent prepaid, first class mail. Any such notice shall be addressed to the other party at the address set forth below. Notice shall be deemed communicated within 48 hours from the time of mailing if mailed as provided in this section.

If to Town: Marc Mattox
 Public Works Director
 Town of Paradise
 5555 Skyway
 Paradise, CA 95969

If to Contractor: Four Seasons Roofing
 11 Commerce Ct. Suite #1
 Chico, CA 95928

18 ENTIRE AGREEMENT.

This Agreement constitutes the complete and exclusive statement of Agreement between the Town and Contractor. All prior written and oral communications, including correspondence, drafts, memoranda, and representations are superseded in total by this Agreement.

19 AMENDMENTS.

This Agreement may be modified or amended only by a written document executed by both Contractor and Town and approved as to form by the Town Attorney.

20 ASSIGNMENT AND SUBCONTRACTING.

The parties recognize that a substantial inducement to Town for entering into this Agreement is the professional reputation, experience, and competence of Contractor. Assignments of any or all rights, duties, or obligations of the Contractor under this Agreement will be permitted only with the express prior written consent of the Town. No subcontractors (other than those listed on Exhibit "A") shall work under this Agreement without the prior written authorization of the Town. If Town consents to such subcontract, Contractor shall be fully responsible to Town for all acts or omissions of the subcontractor. Nothing in this Agreement shall create any contractual relationship between Town and a subcontractor of the Contractor nor shall it create any obligation on the part of the Town

to pay or to see to the payment of any monies due to any such subcontractor other than as otherwise required by law. Subcontracts shall physically contain the provisions contained in Federal Form 1273.

21 WAIVER.

Waiver of a breach or default under this Agreement shall not constitute a continuing waiver of a subsequent breach of the same or any other provision under this Agreement.

22 SEVERABILITY.

If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.

23 CONTROLLING LAW VENUE.

This Agreement and all matters relating to it shall be governed by the laws of the State of California and any action brought relating to this Agreement shall be held exclusively in a state court in the County of Butte.

24 LITIGATION EXPENSES AND ATTORNEY'S FEES.

If either party to this Agreement commences any legal action against the other part arising out of this Agreement, the prevailing party shall be entitled to recover its reasonable litigation expenses, including court costs, expert witness fees, discovery expenses, and attorneys' fees.

25 MEDIATION.

The parties agree to make a good faith attempt to resolve any disputes arising out of this Agreement through mediation prior to commencing litigation. The parties shall mutually agree upon the mediator and shall divide the costs of mediation equally. If the parties are unable to agree upon a mediator, the dispute shall be submitted to American Arbitration

Association (AAA) or its successor in interest. AAA shall provide the parties with the names of five qualified

26 MEDIATORS.

The Town and Contractor shall meet to select a mediator by each striking the names of two different proposed mediators and thereafter the mediator remaining shall hear the dispute. If the dispute remains unresolved after mediation, either party may commence litigation.

27 EXECUTION.

This Agreement may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one copy hereof shall have been signed by both parties hereto. In approving this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

28 AUTHORITY TO ENTER AGREEMENT.

Contractor has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each party warrants that the individuals who have signed this Agreement have the legal power, right, and authority to make this Agreement and to bind each respective party.

29 PROHIBITED INTERESTS.

Contractor maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Contractor, to solicit or secure this Agreement. Further, Contractor warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Contractor, any fee, commission, percentage, brokerage fee, gift or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, Town shall have the right to rescind this Agreement without liability. For the

term of this Agreement, no member, officer or employee of Town, during the term of his or her service with Town, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising there from.

30 EQUAL OPPORTUNITY EMPLOYMENT.

Contractor represents that it is an equal opportunity employer and it shall not discriminate against any subcontractor, employee or applicant for employment because of race, religion, color, national origin, disability, ancestry, sex or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff or termination. IN WITNESS WHEREOF the parties have cause this Agreement to be executed on the date first written above.

TOWN OF PARADISE

“CONTRACTOR”

By: _____

By: _____

Jim Goodwin, Town Manager

Title: _____

APPROVED AS TO FORM:

ATTEST:

By: _____

By: _____

Scott Huber, Town Attorney

Dina Volenski, Town Clerk

///

///

///

///

///

///

///

///

///



Town of Paradise
Council Agenda Summary
Date: March 12, 2024

Agenda Item: 6(f)

ORIGINATED BY: Marc Mattox, Public Works Director
Eric Reinbold, Police Chief
REVIEWED BY: Jim Goodwin, Town Manager
SUBJECT: Red Light Cameras
LONG TERM RECOVERY PLAN: No

COUNCIL ACTION REQUESTED:

1. Hear an update on the potential applicability of Red-Light Enforcement Cameras in Paradise.

Background:

In California, red-light enforcement cameras have become a significant tool in traffic management and law enforcement strategies. These cameras are installed at intersections to capture images and videos of vehicles that run red lights, with the aim of deterring dangerous driving behavior and improving road safety.

Implementation of Red Light Cameras is generally best suited for intersections which chronic traffic violations in addition to certain types of collision data, mainly broadside collisions.

Benefits of utilizing Red Light Cameras include:

- **Increased Compliance:** The presence of red-light cameras encourages drivers to adhere to traffic signals, thereby reducing the likelihood of accidents caused by red light running.
- **24/7 Monitoring:** Red light cameras operate continuously, providing round-the-clock monitoring of intersections and enforcement of traffic laws, even when law enforcement personnel are not present.
- **Evidence for Prosecution:** The photographic and video evidence captured by red light cameras can serve as valuable evidence in prosecuting traffic violations, facilitating legal proceedings.
- **Objective Enforcement:** Red light cameras enforce traffic laws impartially, without bias or human error, ensuring consistent application of regulations.
- **Public Awareness:** The visibility of red-light cameras raises awareness about traffic safety and encourages safer driving behaviors among motorists.

Some potential drawbacks of Red-Light Cameras include:

- **Privacy Concerns:** Critics argue that red light cameras infringe upon privacy rights by capturing images and videos of individuals without their consent, raising concerns about surveillance and civil liberties.
- **Questionable Effectiveness:** Some studies suggest that the effectiveness of red light cameras in reducing accidents is debatable, with concerns raised about their impact on overall road safety.
- **Potential for Inaccuracies:** Red light cameras may occasionally produce false positives or inaccurately capture violations, leading to unjust fines and disputes over ticket validity.

Analysis:

On January 9, 2024, Paradise Town Council requested staff provide an analysis of the potential use of Red-Light Cameras Enforcement in Paradise. The Town of Paradise owns and operates fifteen signalized intersections, primarily along the Clark Road and Skyway corridors. It should be noted that the intersection of Clark Road and Pearson Road is owned and operated by the California Department of Transportation as State Route 191.

Red light cameras are highly regulated by the State of California through the Vehicle Code. (Vehicle Code sections 21455.5 through 21455.7). For example, annual reports are required to be filed with the State of California to disclose particular data, such as

1. The number of alleged violations captured by the red light system;
2. The number of citations issued by a law enforcement agency based on information collected from the automated traffic enforcement system;
3. The number of violations that involved traveling straight through the intersection, turning right, and turning left;
4. The number and percentage of citations that are dismissed by the court; and
5. The number of traffic collisions at each intersection that occurred prior to, and after the installation of, the automated traffic enforcement system.

Further, the legislature has by statute placed significant restrictions on who can operate red light cameras and which portions of the work may be performed pursuant to a written agreement with a third party. In addition, red light cameras were the subject of litigation before the California Supreme Court. In 2014, a driver challenged the evidentiary value of the photographs taken by red light cameras because the peace officer reviewing the photos was not present at the time of the incident and the peace officer did not witness the alleged violation. The California Supreme Court upheld the photos as evidence despite the fact that the peace officer was not immediately present to witness the incident. The legislature has modified the statutes regulating red light cameras to comply with the mandates of the California Supreme Court.

Between January 2020 and December 2022, the Town of Paradise had only four total broadside injury collisions at signalized intersections, listed below:

- Skyway at Pearson Road
- Skyway at Elliott Road
- Clark Road at Wagstaff Road
- Clark Road at Pearson Road (Caltrans)

Varying research relating to Red-Light Cameras for reducing broadside collisions has also indicated that an increase in rear-end collisions can be expected, reducing the net benefit of the program.

In review of available collision data, costs and benefits, staff recommends Council consider enhanced enforcement activities at specific intersections, partnered with public outreach campaigns to increase motorist compliance.

Financial Impact:

The cost for red-light camera enforcement, typically installed and maintained by private vendors, ranges between \$25,000 and \$35,000 annually per camera installed on specific intersection approaches. There are no recommended actions/financial impacts at this time.



Town of Paradise
Council Agenda Summary
Date: March 12, 2024

Agenda Item: 6(g)

ORIGINATED BY: Eric Reinbold, Police Chief
REVIEWED BY: Jim Goodwin, Town Manager
SUBJECT: E-Citation and Collision Reporting Software - Sole-Source
LONG TERM RECOVERY PLAN: No

COUNCIL ACTION REQUESTED:

1. Discuss and consider adopting Resolution No. 2024-___, a Resolution of The Town Council of The Town of Paradise Making Findings Concerning Sole Vendor For The Purchase of E-Citation and Collision reporting software, by Crossroads Software Inc. Pursuant To Paradise Municipal Code Sections 2.45.070B, 245.070C, and 245.070G; and,
2. Authorize the Town Manager to enter into an agreement to purchase the Crossroads software and to pay Sun Ridge Systems (RIMS) for the integration of the software into the Police Department's CAD system. ROLL CALL VOTE

Background:

The Paradise Police Department is committed to providing timely and efficient service to our citizens and guests to our community. This includes the issuance and submission of traffic citations, as well as investigating and writing reports for traffic collisions. The current process for citations involves an officer identifying a violation (generally a Vehicle Code infraction), initiating a traffic stop, obtaining the required documentation from the driver, drafting a paper citation, obtaining a signature from the driver, and submitting the citation for submission to the courthouse.

There are several delays which could be eliminated through the use of electronic citations. The average time for an officer to complete the drafting of a paper citation, depending on the experience of the officer, is between 5-10 minutes. The processing of the citation by the Paradise Police Department Records division takes up to 15 minutes depending on if/how many errors are located on the citation. Inputting information into the Paradise Police Department's records system currently takes approximately 7 minutes. The citation is then sent to the courthouse. If the courthouse locates any errors on the citation, it is returned to the Paradise Police Department, processed as a return, and provided to the officer for amendment. Once the amendment is completed, the processing through the Records Department and to the courthouse is re-initiated.

For traffic collision reports we do not currently have the ability to electronically transfer collision data directly to the Statewide Integrated Traffic Records System (SWITRS). Our current process is to print off all traffic collision reports and mail a hard copy with the sketch to SWITRS. An

electronic traffic collision reporting system will save valuable time for both sworn and professional staff at the Paradise Police Department. Having the electronic traffic collision reporting system will also allow for much more accurate data.

Paradise Municipal Code Chapter 2.45 Purchasing System requires the Town to undertake certain purchasing procedures. Paradise Municipal Code Section 2.45.070 allows for exemptions to the Town's formal bidding process under the following three applicable provisions:

- B. When the commodity can be obtained from only one vendor. A commodity shall be considered obtainable only from one vendor when only one vendor offers it for sale, lease or rental, or when only one vendor is able to do so within the time frame and/or under the terms and conditions which reasonably meet the needs of the town, or when there is a sole distributor or manufacturer of a product or service such that there is no acceptable substitute within a specific geographical area
- C. When the professional services are unique and not appropriate for competitive bidding
- G. When computer software is required for a specific town service or activity and its selection is evaluated and determined by the purchasing officer based on the software being the most effective solution for the service or activity.

Analysis:

Staff proposes to use a sole-source justification to purchase and deploy the Crossroads E-Citation and Collision Reporting Software. The E-Citation and Collision Reporting market offers varying degrees of solutions addressing the circumstances we face. Over the past 12 months, your police department contacted, evaluated, and considered several vendors. This included on site demonstrations and hands on testing and evaluations.

When considering the best solution for the Paradise Police Department, and the community it serves, we analyzed the following components:

- Costs – In attempts to compare apples to apples, we received initial quotes ranging from \$37,000 - \$49,300.
 - Crossroads Software provided the most comprehensive proposal.
- Error Reduction – Creating fewer chances for mistakes leads to more accurate reporting throughout the system. Possible errors in handwritten paper tickets include illegible writing, incomplete information, misplacing tickets, and vehicle code violations not being written down correctly. A full 10% to 15% of handwritten tickets are dismissed due to illegibility. In contrast, a mere 1% to 2% of e-citations suffer from errors, which translates to an impressive 98% citation accuracy for e-citation.
 - Crossroads Software provides better technology to achieve this.
- Increases Efficiency – It takes an officer 10 to 15 minutes to manually issue a citation. In contrast, e-citations take two to three minutes and eliminate up to 200 keystrokes. Officers

can spend less time on paperwork and more time out on patrol. On the administrative side of e-citation, ticket processing time is significantly reduced. In the past, it could take 12 days for the information from the carbon copy of a handwritten ticket to get to the courts and be officially entered into the system. Now, that information collected by the officer on the scene of a traffic stop travels electronically into the system in just seconds. This also means that once the information is entered it can be used to provide more complete information about traffic violations and accident data.

- Crossroads Software provided a combined package to improve both citation reporting and collision data reporting.
- Makes Ticketing Safer – According to the National Law Enforcement Officers Memorial Fund, traffic-related fatalities accounted for over 36% of officer deaths in the first half of 2018. Of those traffic-related fatalities, over 25% were due to roadside deaths. Since e-citation systems can reduce ticketing time by more than 50%, their use makes officers inherently safer.
 - Crossroads Software utilizes GPS and GIS technologies to provide data that is automatically applied to the citation or collision report.
- Requires Certain Technology – One of the barriers to implementing e-citation is the necessary technology. To access software or other information from the cloud and to transmit the data collected when issuing a citation on a traffic stop, officers need reliable wireless connectivity out in the field. And all of the hardware and software being used must work together. The specifics will be different for every department based on what technology they already have in use and their individual needs.
 - Crossroads Software works with already used hardware that officers are familiar with.

Based on Paradise Municipal Code Section 2.45.070 B, C and G, staff proposes to proceed with a direct purchase from this vendor without competitive bids. After researching available products and services, staff is completely satisfied there are no other vendors who could provide such a robust system at this price. Secondly, this purchase is wholly necessitated by an inefficient reporting process which is directly related to protect public health, safety, and welfare.

Financial Impact:

The total cost for implementing this project is \$65,600.

- The purchase price for the Crossroads Software system is \$49,300.
 - Funds for this project will be drawn from an Office of Traffic Safety (OTS) Grant acquired specifically for this program.
- The Records Management System integration costs of \$7,300.
 - Funded by the Department's Traffic Safety Fund account.
- The purchase of mobile printers, at the approximate costs of \$9,000.
 - Funded partially by the Paradise Rotary Club donation of \$5,000 and the Department's Traffic Safety Account.
- Annual service costs of \$5,900 will be accounted for in future department budget needs.

**TOWN OF PARADISE
RESOLUTION NO. 2024-__**

**A RESOLUTION OF THE TOWN COUNCIL OF THE TOWN OF PARADISE MAKING
FINDINGS CONCERNING SOLE VENDOR FOR THE PURCHASE OF
CROSSROADS TRAFFIC CITATION AND COLLISION REPORTING SOFTWARE
AND SERVICES FROM CROSSROADS SOFTWARE.**

WHEREAS, the Town of Paradise recognizes that Crossroads Software is offering a unique solution that qualifies under Paradise Municipal Code Chapter 2.45.070 (B), (C), and (G) for sole source vendor purchase.

WHEREAS, the Town of Paradise to enter into contract with Crossroads Software and services.

NOW, THEREFORE, BE IT RESOLVED BY THE TOWN COUNCIL OF THE TOWN OF PARADISE AS FOLLOWS:

Section 1. The Town Manager of the Town of Paradise, or their designee, is hereby authorized to enter into contract with Crossroads Software for the software and services outlined in Exhibit "A".

PASSED AND ADOPTED by the Town Council of the Town of Paradise on this 12th day of March, 2024, by the following vote:

AYES:

NOES:

ABSENT:

ABSTAIN:

By: _____
Ronald Lassonde, Mayor

ATTEST:

Dina Volenski, CMC, Town Clerk

APPROVED AS TO FORM:

Scott E. Huber, Town Attorney

**TOWN OF PARADISE
RESOLUTION 24-__
RESOLUTION TO ADOPT THE SOLE-SOURCED PROPOSAL TO IMPLIMENT THE
CROSSROADS SOFTWARE AND SERVICES
EXHIBIT "A"**

Services Pricing Proposal:

The total cost for implementing this project is \$65,600.

- The purchase price for the Crossroads Software system is \$49,300.
 - Funds for this project will be drawn from an Office of Traffic Safety (OTS) Grant acquired specifically for this program.
- The Records Management System integration costs of \$7,300.
 - Funded by the Department's Traffic Safety account.
- The purchase of mobile printers, at the approximate costs of \$9,000.
 - Funded partially by the Paradise Rotary Club donation of \$5,000 and the Department's Traffic Safety Account.
- Annual service costs of \$5,900 will be accounted for in future department budget needs.

Unmanned Aerial System

610.1 PURPOSE AND SCOPE

The purpose of this policy is to establish guidelines for the use of an unmanned aerial system (UAS) and for the storage, retrieval and dissemination of images and data captured by the UAS.

610.1.1 DEFINITIONS

Definitions related to this policy include:

Unmanned aerial system (UAS) - An unmanned aircraft of any type that is capable of sustaining directed flight, whether preprogrammed or remotely controlled (commonly referred to as an unmanned aerial vehicle (UAV)), and all of the supporting or attached systems designed for gathering information through imaging, recording or any other means.

610.2 POLICY

Unmanned aerial systems may be utilized to enhance the department's mission of protecting lives and property when other means and resources are not available or are less effective. Any use of a UAS will be in strict accordance with constitutional and privacy rights and Federal Aviation Administration (FAA) regulations.

610.3 PRIVACY

The use of the UAS potentially involves privacy considerations. Absent a warrant or exigent circumstances, operators and observers shall not intentionally record or transmit images of any location where a person would have a reasonable expectation of privacy (e.g., residence, yard, enclosure). Operators and observers shall take reasonable precautions to avoid inadvertently recording or transmitting images of areas where there is a reasonable expectation of privacy. Reasonable precautions can include, for example, deactivating or turning imaging devices away from such areas or persons during UAS operations.

610.4 PROGRAM COORDINATOR

The Chief of Police will appoint a program coordinator who will be responsible for the management of the UAS program. The program coordinator will ensure that policies and procedures conform to current laws, regulations, and best practices and will have the following additional responsibilities:

- Coordinating the FAA Certificate of Waiver or Authorization (COA) application process and ensuring that the COA is current, and/or coordinating compliance with FAA Part 107 Remote Pilot Certificate, as appropriate for department operations.
- Ensuring that all authorized operators and required observers have completed all required FAA and department-approved training in the operation, applicable laws, policies, and procedures regarding use of the UAS.
- Developing uniform protocol for submission and evaluation of requests to deploy a UAS, including urgent requests made during ongoing or emerging incidents. Deployment of a UAS shall require written authorization of the Chief of Police or the authorized designee, depending on the type of mission.

Paradise Police Department

Law Enforcement Manual

Law Enforcement Manual

Unmanned Aerial System

- Coordinating the completion of the FAA Emergency Operation Request Form in emergency situations, as applicable (e.g., natural disasters, search and rescue, emergency situations to safeguard human life).
- Developing protocol for conducting criminal investigations involving a UAS, including documentation of time spent monitoring a subject.
- Implementing a system for public notification of UAS deployment.
- Developing an operational protocol governing the deployment and operation of a UAS including but not limited to safety oversight, use of visual observers, establishment of lost link procedures, and secure communication with air traffic control facilities.
- Developing a protocol for fully documenting all missions.
- Developing a UAS inspection, maintenance, and record-keeping protocol to ensure continuing airworthiness of a UAS, up to and including its overhaul or life limits.
- Developing protocols to ensure that all data intended to be used as evidence are accessed, maintained, stored, and retrieved in a manner that ensures its integrity as evidence, including strict adherence to chain of custody requirements. Electronic trails, including encryption, authenticity certificates, and date and time stamping, shall be used as appropriate to preserve individual rights and to ensure the authenticity and maintenance of a secure evidentiary chain of custody.
- Developing protocols that ensure retention and purge periods are maintained in accordance with established records retention schedules.
- Facilitating law enforcement access to images and data captured by the UAS.
- Recommending program enhancements, particularly regarding safety and information security.
- Ensuring that established protocols are followed by monitoring and providing periodic reports on the program to the Chief of Police.
- Maintaining familiarity with FAA regulatory standards, state laws and regulations, and local ordinances regarding the operations of a UAS.

610.5 USE OF UAS

Only authorized operators who have completed the required training shall be permitted to operate the UAS.

Use of vision enhancement technology (e.g., thermal and other imaging equipment not generally available to the public) is permissible in viewing areas only where there is no protectable privacy interest or when in compliance with a search warrant or court order. In all other instances, legal counsel should be consulted.

UAS operations should only be conducted consistent with FAA regulations.

610.6 PROHIBITED USE

The UAS video surveillance equipment shall not be used:

- To conduct random surveillance activities.

Paradise Police Department

Law Enforcement Manual

Law Enforcement Manual

Unmanned Aerial System

- To target a person based solely on actual or perceived characteristics, such as race, ethnicity, national origin, religion, sex, sexual orientation, gender identity or expression, economic status, age, cultural group, or disability.
- To harass, intimidate, or discriminate against any individual or group.
- To conduct personal business of any type.

The UAS shall not be weaponized.

610.7 RETENTION OF UAS DATA

Data collected by the UAS shall be retained as provided in the established records retention schedule.



Town of Paradise
Council Agenda Summary
Date: March 12, 2024

Agenda Item: 6(i)

ORIGINATED BY: Marc Mattox, Public Works Director/Town Engineer
REVIEWED BY: Jim Goodwin, Town Manager
SUBJECT: CDBG-DR Mitigation and Planning Authorizing Resolutions
LONG TERM RECOVERY PLAN: Yes

COUNCIL ACTION REQUESTED:

1. Discuss and consider adopting the following:
2. Adopt Resolution No. 2024-__ , “A Resolution of the Town Council of the Town of Paradise Approving an application for funding and the execution of a grant agreement and any amendments thereto from the 2023-2024 funding year of the State CDBG Mitigation Resilience Infrastructure (MIT-RIP) program.” and,
3. Adopt Resolution No. 2024-__ , “A Resolution of the Town Council of the Town of Paradise Approving an application for funding and the execution of a grant agreement and any amendments thereto from the 2023-2024 funding year of the State CDBG Resilient Planning and Public Services (MIT-PPS) Program.” (ROLL CALL VOTE)

Background:

The California Department of Housing and Community Development (HCD) announced the release of its Notice of Funding Availability (NOFA) in the total amount of approximately \$60 million which includes:

- \$40,131,868 in 2018 CDBG-MIT funding for the Resilient Infrastructure Program (MITRIP).
- \$10,010,917 in 2018 CDBG-MIT funding for MIT-PPS; and

For the CDBG MIT-RIP program allocation, the Town of Paradise is eligible for a direct allocation of \$10.2M pursuant to the Program guidelines, shown below:

Jurisdiction	Allocation
Butte County	\$6,109,510.13
Lake County	\$2,346,659.90
Los Angeles County	\$3,998,793.56
City of Malibu	\$588,934.12
Town of Paradise	\$10,273,223.81
City of Redding	\$357,150.53
Shasta County	\$8,431,222.35
20% Set Aside	\$8,026,373.60
TOTAL	\$40,131,868.00

Eligible projects under CDBG MIT-RIP are defined as “activities that increase resilience to disasters and reduce or eliminate the long-term risk of loss of life, injury, damage to and loss of property, and suffering and hardship by lessening the impact of future disasters.”

CDBG MIT-PPS funds are competitively awarded amongst eligible applicants for projects which meet the following criteria:

Activities necessary to develop a comprehensive community development plan, and develop a policy planning-management capacity so that the recipient of assistance under this title may more rationally and effectively:

- (i) determine its needs,
- (ii) set long-term goals and short-term objectives,
- (iii) devise programs and activities to meet these goals and objectives,
- (iv) evaluate the progress of such programs in accomplishing these goals and objectives, and
- (v) carry out management, coordination, and monitoring of activities necessary for effective planning implementation.

Applications for both the MIT-RIP and MIT-PPS programs are due March 29, 2024.

Analysis:

As a component of the application process for both MIT-RIP and MIT-PPS programs, an authorizing resolution designating authority to submit applications and sign agreements is required, similar to the Town’s efforts through CDBG-DR Infrastructure programs in 2022.

Engineering staff has been preparing applications for three projects under the MIT-RIP program, including:

1. Evacuation Route Permanent Changeable Message Signs – This project would install roadside message signs (smaller scale versions of State highway signs) which could be activated in the event of an emergency. A primary objective would be the installation of two signs per evacuation route (Skyway, Neal, Clark and Pentz). These signs could read “ONE-WAY EVACUATION ACTIVE, USE ALL LANES” for outgoing traffic, while at the same time reading “ROAD CLOSED AHEAD, EVACATION TRAFFIC ONLY” for the ending control point along the same routes.

2. Private Road Identification Safety Project – This project would inventory and standardize private road street name signs which intersect public roads. The intent would be to increase uniformity for daily emergency first responders.
3. Storm Drain Resiliency Project – This grouping of projects includes the implementation of recommendations from the Town's 2022 Storm Drain Master Plan. Projects include new storm drain systems and upsizing of existing storm drain infrastructure to meet the new demands and increased flows observed

At the time of the consideration of this Agenda item, cost estimates will be presented in relation to the Town's \$10.2M allocation under the MIT-RIP program.

Scoping work for the MIT-PPS Program is still underway. Some example project types that can be funded in the program include:

- Evacuation plans
- Community Wildlife Protection Plan
- Fire-Hazard Abatement Plan
- General Plan Safety Element Integration of the Multi Hazard Plan
- Hazard Mitigation Plan Update
- Disaster Recovery Plan
- Community Resilience Centers Needs Assessment
- High Visibly Striping and Pull-out Study

At the time of the consideration of this Agenda item, recommendations for projects and costs will be presented.

For both CDBG MIT-RIP and PPS programs, an authorizing resolution is required to be adopted by Paradise Town Council. These resolutions are attached to this Agenda Summary for considerations. Final modifications to the resolutions will be made pursuant to Council direction.

Financial Impact:

There are no new financial impacts associated with this action item. These grant programs fund projects at 100% including project development costs.

**TOWN OF PARADISE
RESOLUTION NO.2024-_____**

**A RESOLUTION APPROVING AN APPLICATION FOR FUNDING AND THE
EXECUTION OF A GRANT AGREEMENT AND ANY AMENDMENTS THERETO
FROM THE 2023-2024 FUNDING YEAR OF THE STATE CDBG MITIGATION
RESILIENCE INFRASTRUCTURE (MIT-RIP) PROGRAM**

WHEREAS, The Town of Paradise has significant infrastructure capital projects that need attention and funding; and

WHEREAS, The Town of Paradise would like to apply for various grants to obtain funding for some of those infrastructure projects.

NOW THEREFORE BE IT RESOLVED by the Town Council of the Town of Paradise as follows:

SECTION 1:

The Town Council has reviewed and hereby approves the submission to the State of California of one or more application(s) in the aggregate amount, not to exceed, of \$10,273,223.87 for the following CDBG-MIT activities, pursuant to the 2017/2018 CDBG MIT-PPS, and MIT-RIP NOFA:

Activity (Infrastructure Project)	Dollar Amount Being Requested for the Activity
	\$
	\$
	\$

SECTION 2:

The Town Council acknowledges compliance with all state and federal public participation requirements in the development of its application(s).

SECTION 3:

The Town Council hereby authorizes and directs the Town Manager or designee Public Works Director/Town Engineer, to execute and deliver all applications and act on its behalf in all matters pertaining to all such applications.

SECTION 4:

If an application is approved, Town Manager or designee Public Works Director/Town Engineer, is authorized to enter into, execute and deliver the grant agreement (i.e., Standard Agreement) and any and all subsequent amendments thereto with the State of California for the purposes of the grant.

SECTION 5:

If an application is approved, Town Manager or designee Public Works Director/Town Engineer, is authorized to sign and submit Funds Requests and all required reporting forms and other documentation as may be required by the State of California from time to time in connection with the grant.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Paradise held on March 12, 2024 by the following vote:

AYES:

NOES:

ABSENT:

NOT VOTING:

Ronald Lassonde, Mayor

ATTEST:

Dina Volenski, CMC, Town Clerk

APPROVED AS TO FORM:

Scott E. Huber, Town Attorney

STATE OF CALIFORNIA
Town of Paradise

I, Dina Volenski, Town Clerk of the Town of Paradise, State of California, hereby certify the above and foregoing to be a full, true and correct copy of a resolution adopted at a duly noticed and convened meeting of said Town Council on March 12, 2024, and that such resolution has not been amended, modified, repealed or rescinded since its date of adoption and is in full force and effect as of the date hereof.

Dina Volenski, Town Clerk of the Town of Paradise,
State of California

By: _____
Name and Title*

**TOWN OF PARADISE
RESOLUTION NO.2024-_____**

**A RESOLUTION APPROVING AN APPLICATION FOR FUNDING AND THE EXECUTION
OF A GRANT AGREEMENT AND ANY AMENDMENTS THERETO FROM THE 2023-
2024 FUNDING YEAR OF THE STATE CDBG MITIGATION RESILIENT PLANNING AND
PUBLIC SERVICES (MIT-PPS) PROGRAM**

WHEREAS, The Town of Paradise has significant infrastructure capital projects that need attention and funding; and

WHEREAS, The Town of Paradise would like to apply for various grants to obtain funding for some of those infrastructure projects.

NOW THEREFORE BE IT RESOLVED by the Town Council of the Town of Paradise as follows:

SECTION 1:

The Town Council has reviewed and hereby approves the submission to the State of California of one or more application(s) in the aggregate amount, not to exceed, of \$_____ for the following CDBG-MIT activities, pursuant to the 2017/2018 CDBG MIT-PPS, and MIT-RIP NOFA:

Activity (Infrastructure Project)	Dollar Amount Being Requested for the Activity
	\$
	\$
	\$

SECTION 2:

The Town Council acknowledges compliance with all state and federal public participation requirements in the development of its application(s).

SECTION 3:

The Town Council hereby authorizes and directs the Town Manager or designee Public Works Director/Town Engineer, to execute and deliver all applications and act on its behalf in all matters pertaining to all such applications.

SECTION 4:

If an application is approved, Town Manager or designee Public Works Director/Town Engineer, is authorized to enter into, execute and deliver the grant agreement (i.e., Standard Agreement) and any and all subsequent amendments thereto with the State of California for the purposes of the grant.

SECTION 5:

If an application is approved, Town Manager or designee Public Works Director/Town Engineer, is authorized to sign and submit Funds Requests and all required reporting forms and other documentation as may be required by the State of California from time to time in connection with the grant.

PASSED AND ADOPTED at a regular meeting of the Town Council of the Town of Paradise held on March 12, 2024 by the following vote:

AYES:

NOES:

ABSENT:

NOT VOTING:

Ronald Lassonde, Mayor

ATTEST:

Dina Volenski, CMC, Town Clerk

APPROVED AS TO FORM:

Scott E. Huber, Town Attorney

STATE OF CALIFORNIA

Town of Paradise

I, Dina Volenski, Town Clerk of the Town of Paradise, State of California, hereby certify the above and foregoing to be a full, true and correct copy of a resolution adopted at a duly noticed and convened meeting of said Town Council on March 12, 2024, and that such resolution has not been amended, modified, repealed or rescinded since its date of adoption and is in full force and effect as of the date hereof.

Dina Volenski, Town Clerk of the Town of Paradise,
State of California

By: _____
Name and Title*

**TOWN OF PARADISE
URGENCY ORDINANCE NO. 632**

**AN URGENCY ORDINANCE OF THE TOWN COUNCIL OF THE
TOWN OF PARADISE AMENDING URGENCY ORDINANCE NO. 612 AND 624
RELATING TO INTERIM HOUSING, ACCESSORY BUILDING(S) AND
UNOCCUPIED RECREATIONAL VEHICLES INSIDE THE CAMP FIRE AREA**

The Town Council of the Town of Paradise does ordain as follows:

Section 1. Emergency Findings.

This Urgency Ordinance is adopted pursuant to California Government Code Section 36934 and shall take effect immediately upon its approval by at least a four-fifths vote of the Town Council. The Council finds that this Ordinance is necessary for the immediate preservation of the public peace, health and safety, based upon facts set forth in this Ordinance. The Council also finds that there is a significant need for Town residents who are currently in compliance with the Town code to have additional time to rebuild their primary residences.

Section 2. Occupied Dwellings with Utility Hookups

Section 8.61.050 is hereby amended to read as follows, "Residential use and occupancy by displaced persons of one temporary dwelling on an eligible property shall be allowed subject to a temporary use permit issued prior to May 12, 2021, or by the town council, under the authority of this chapter and subject to the applicable requirements set forth in Section 8.61.070. The continued occupancy of a temporary dwelling, as authorized with a temporary use permit, utilizing hook-ups for water, sewage disposal, and/or electricity on an eligible property shall be allowed only until April 30, 2025 if there are no open code enforcement violations on

1 the site as of September 30, 2021. To demonstrate continued
2 eligibility pursuant to Section 8.61.070, permit holders must
3 present to the Town upon request, and at least annually, a current
4 water, solid waste and electric company invoice demonstrating that
5 those utility services are currently existing and in place on the
6 property that is the subject of the temporary use permit. The
7 temporary use permit shall be in effect only for the effective
8 period of this section unless a building permit for the
9 construction of a permanent dwelling has been issued. If a building
10 permit has been issued, the temporary use permit shall be in effect
11 for the same length of time as the building permit for the
12 permanent dwelling.

13 **Section 3. Unoccupied Temporary Dwellings**

14 Section 8.61.055 of the Paradise Municipal Code is hereby created
15 to read as follows, "All temporary use permits for a temporary
16 dwelling issued prior to May 12, 2021, under the authority of this
17 chapter and subject to the applicable requirements set forth in
18 Section 8.61.070, which do not have a temporary dwelling situated
19 on the property are hereby revoked effective January 9, 2024 and
20 are of no further force and effect.

21 **Section 4. Temporary Recreational Vehicle Storage**

22 Section 8.61.070 - The temporary storage of up to two (2)
23 unoccupied recreational vehicles on an eligible property shall be
24 allowed only until April 30, 2024, subject to the issuance of a
25 temporary use permit and the applicable requirements set forth in
26 Section 8.61.070, standards. No fee shall be charged for this

1 temporary use permit. All temporary use permits for the temporary
2 storage of unoccupied recreational vehicles under the authority of
3 this chapter and subject to the applicable requirements set forth
4 in Section 8.61.070, which do not have an unoccupied recreational
5 vehicle situated on the property are hereby revoked effective
6 January 9, 2024, and are of no further force and effect."

7 **Section 5. Extension of Urgency Ordinance**

8 Section 8.61.180 of the Paradise Municipal Code is hereby amended
9 to read as follows, "This Ordinance shall expire on April 30,
10 2025."

11 **Section 3. CEQA Exemption.**

12 Adoption of this Ordinance is exempt from the provisions of the
13 California Environmental Quality Act (CEQA) pursuant to California
14 Public Resources Code Section 21080(b)(3) regarding projects to
15 maintain, repair, restore, or replace property or facilities
16 damaged or destroyed as a result of a declared disaster and Section
17 21080(b)(4) regarding actions to mitigate or prevent an emergency,
18 and CEQA Guidelines Section 15269(a) regarding maintaining,
19 repairing, restoring, demolishing, or replacing property or
20 facilities damaged or destroyed as a result of a disaster stricken
21 area in which a state of emergency has been proclaimed by the
22 Governor pursuant to the California Emergency Services Act,
23 commencing with Section 8550 of the California Government Code.

24 **Section 4. Severability.**

25 If any section, subsection, sentence, clause, or phrase of this
26 Ordinance is for any reason held to be unconstitutional or invalid,

1 such decision shall not affect the validity of the remaining
2 portion of this Ordinance. The Town Council hereby declares that
3 it would have passed this Ordinance and every section, subsection,
4 sentence, clause or phrase thereof irrespective of the fact that
5 any one or more sections, subsections, sentences, clauses or
6 phrases be declared unconstitutional or invalid.

7 **Section 5. Effective Date and Publication.**

8 This Ordinance shall be and the same is hereby declared to be in
9 full force and effect immediately upon its passage by a four-
10 fifths (4/5) or greater vote. The Town Clerk of the Town of
11 Paradise is authorized and directed to publish a summary of this
12 Ordinance before the expiration of fifteen (15) days after its
13 passage. This Ordinance shall be published once, with the names
14 of the members of the Town Council Members voting for and against
15 it, in the Paradise Post, a newspaper of general circulation
16 published in the Town of Paradise, State of California. A complete
17 copy of this Ordinance is on file with the Town Clerk of the Town
18 Council and is available for public inspection and copying during
19 regular business hours in the office of the Town Clerk.

20

21 **PASSED AND ADOPTED** by the Town Council of the Town of Paradise,
22 County of Butte, State of California, on this 9th day of January,
23 2024 by the following vote:

24

25

26

TOWN OF PARADISE
ORDINANCE NO. 632

1 **AYES:** Greg Bolin, Steve "Woody" Culleton, Rose Tryon and
Ronald Lassonde, Mayor

2 **NOES:** None

3 **ABSENT:** Steve Crowder

4 **ABSTAIN:** None

5 _____
Ronald Lassonde, Mayor

6 **ATTEST:** *January 10, 2024*

APPROVED AS TO FORM:

7 _____
Dina Volenski, CMC,
Town Clerk

8 _____
Scott E. Huber
Town Attorney

- 9
- 10
- 11
- 12
- 13
- 14
- 15
- 16
- 17
- 18
- 19
- 20
- 21
- 22
- 23
- 24
- 25
- 26