



## OROVILLE CITY COUNCIL

Council Chambers  
1735 Montgomery Street  
Oroville, CA. 95965

### JUNE 21, 2016 REGULAR MEETING CLOSED SESSION 5:00 P.M. OPEN SESSION 6:00 P.M. AGENDA

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#### CLOSED SESSION (5:00 P.M.)

#### ROLL CALL

Council Members Berry, Del Rosario, Hatley, Pittman, Simpson, Vice Mayor Wilcox, Mayor Dahlmeier

#### CONVENE TO CLOSED SESSION (ITEMS LISTED ON PAGE NO. 3)

#### RECONVENE TO OPEN SESSION

#### OPEN SESSION (6:00 P.M.)

#### PLEDGE OF ALLEGIANCE

#### PROCLAMATION / PRESENTATION – None

#### CONSENT CALENDAR

1. **APPROVAL OF THE MINUTES OF MAY 27, 2016 SPECIAL MEETING, JUNE 7, 2016 REGULAR MEETING OF THE OROVILLE CITY COUNCIL** – minutes attached

#### Finance Department

2. **MONTHLY FINANCIAL REPORT AND REPORT OF INVESTMENTS FOR MAY 2016** – report attached

The Council will receive a copy of the Monthly Financial Report and Report of Investments for May 2016.  
**(Ruth Wright, Director of Finance)**

Council Action Requested: **Acknowledge receipt of the May 2016 Monthly Financial Report and Report of Investments.**

**PUBLIC HEARINGS** – None

**REGULAR BUSINESS**

**Community Development Department**

3. **OROVILLE ALLEY REVITALIZATION PROGRAM: VISION PLAN AND PRELIMINARY FEASIBILITY STUDY** – staff report

The Council may hear a presentation regarding the Oroville Alley Revitalization Program (“Program”) and may consider adopting the Program. **(Donald Rust, Director of Community Development Department)**

Council Action Requested: **Provide direction, as necessary.**

4. **PROJECT CONTRACT WITH JASON ABEL CONSTRUCTION, INC.** – staff report

The Council may consider a Project Contract with the lowest responsible bidder, Jason Abel Construction, Inc., in the amount of \$1,383,931, for the Table Mountain Boulevard Roundabout Project. **(Rick Walls, Interim City Engineer and Donald Rust, Director of Community Development Department)**

Council Action Requested:

1. **Adopt Resolution No. 8514 – A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE A PROJECT CONTRACT WITH THE LOWEST RESPONSIBLE BIDDER, JASON ABEL CONSTRUCTION, INC., IN THE AMOUNT OF \$1,383,931, FOR THE TABLE MOUNTAIN BOULEVARD PROJECT – (Agreement No. 3183); and**
2. **Authorize a 7% contingency, not to exceed \$96,875 for the Table Mountain Boulevard Roundabout Project, contingent upon all change orders being reviewed and approved by City Council.**

5. **JAMBOREE HOUSING CORPORATION FAMILY HOUSING PROJECT: NATIONAL ENVIRONMENTAL POLICY ACT COMPLIANCE UPDATE** – staff report

The Council will receive information regarding expenditure for full compliance with the National Environmental Policy Act of the Affordable Family Housing Project currently being pursued with the assistance of Jamboree Housing Corporation. **(Donald Rust, Director of Community Development Department)**

Council Action Requested: **None.**

6. **PROFESSIONAL SERVICES AGREEMENT WITH GARY HAWKINS ARCHITECT** – staff report

The Council may consider a Professional Services Agreement with Gary Hawkins Architect, in the amount of \$77,225, for the Westside Public Safety and Aircraft Facility Project. **(Rick Walls, Interim City Engineer and Donald Rust, Director of Community Development Department)**

Council Action Requested: **Adopt Resolution No. 8515 – A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH GARY HAWKINS ARCHITECT, IN THE AMOUNT OF \$77,225, FOR THE PREPARATION OF PLANS AND SPECIFICATIONS FOR THE WESTSIDE PUBLIC SAFETY AND AIRCRAFT FACILITY PROJECT AT OROVILLE MUNICIPAL AIRPORT – (Agreement No. 3184).**

**Administration Department**

7. **AMENDMENT AND ADDITION OF CHAPTER 3.18 TO THE OROVILLE MUNICIPAL CODE REGARDING A TRANSACTION AND USE TAX TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION** – staff report

The Council may consider an amendment and addition of Municipal Code section 3.18 Transaction and Use Tax, and ballot language relating to a 1% local sales tax for municipal services. **(Bill LaGrone, Director of Public Safety and Scott E. Huber, City Attorney)**

Council Action Requested: **Waive the third reading and adopt by title only, Ordinance No. 1816 – AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OROVILLE AMENDING AND ADDING CHAPTER 3.18 TO THE OROVILLE MUNICIPAL CODE REGARDING A TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION.**

8. **NOVEMBER 8, 2016 GENERAL MUNICIPAL ELECTION RESOLUTIONS** – staff report

The Council may consider adopting resolutions relating to the calling and consolidation of the 2016 General Municipal Election. **(Scott E. Huber, City Attorney, Jamie Hayes, Assistant City Clerk)**

Council Action Requested:

1. **Adopt Resolution No. 8516 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OROVILLE, CALIFORNIA, CALLING FOR THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2016, FOR THE ELECTION OF CERTAIN OFFICERS AS REQUIRED BY THE PROVISIONS OF THE OROVILLE CITY MUNICIPAL CHARTER AND FOR THE SUBMISSION TO THE VOTERS A QUESTION RELATING TO THE APPROVAL OF ORDINANCE NO. 1816, AN ORDINANCE ADDING CHAPTER 3.18 TO THE OROVILLE MUNICIPAL CODE REGARDING A TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION; AND**
2. **Adopt Resolution No. 8517 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OROVILLE, CALIFORNIA, ADOPTING REGULATIONS FOR CANDIDATES FOR ELECTIVE OFFICE PERTAINING TO CANDIDATE STATEMENTS SUBMITTED TO THE VOTERS AT A GENERAL MUNICIPAL ELECTION.**

**COUNCIL ANNOUNCEMENTS/COMMITTEE REPORTS** (A verbal report may be given regarding any committee meetings attended)

**CITY ADMINISTRATOR/ ADMINISTRATION REPORTS**

- Department of Public Safety – activity report

**CORRESPONDENCE** -None

**HEARING OF INDIVIDUALS ON NON-AGENDA ITEMS**

## **CLOSED SESSION**

The Council will hold a Closed Session on the following:

1. Pursuant to Government Code section 54957.6, the Council will meet with Labor Negotiators and City Attorney to discuss labor negotiations for the following represented groups: Oroville City Employees Association, Oroville Police Officers' Association – Sworn and Non-Sworn, Oroville Firefighters' Association, and Oroville Management and Confidential Association.
2. Pursuant to Government Code section 54956.9(a), the Council will meet with Acting City Administrator and the City Attorney relating to existing litigation: Diane MacMillan v. City of Oroville et al., Butte County Superior Court, Case No. 163806.
3. Pursuant to Government Code section 54956.9(d), the Council will meet with the Acting City Administrator and the City Attorney regarding potential litigation – one case.
4. Pursuant to Government Code section 54956.95, the Council will meet with the Acting City Administrator, Personnel Officer and City Attorney relating to Worker's Compensation Claim No. ADJ 7598333.

## **ADJOURNMENT**

The meeting will be adjourned. A special meeting of the Oroville City Council will be held on Tuesday, July 5, 2016, at 5:00 p.m.

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

**OROVILLE CITY COUNCIL SPECIAL MEETING MINUTES  
MAY 27, 2016 – 11:00 A.M.**

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The agenda for the May 27, 2016 special meeting of the Oroville City Council was posted on the bulletin board at the front of City Hall, and on the City of Oroville's website located at [www.cityoforoville.org](http://www.cityoforoville.org) on Wednesday, May 25, 2016 at 4:25 p.m.

The May 27, 2016 special meeting of the Oroville City Council was called to order by Mayor Dahlmeier at 11:01 a.m.

**ROLL CALL**

Present: Council Members Berry, Del Rosario, Hatley, Pittman, Simpson, Vice Mayor Wilcox,  
Mayor Dahlmeier  
Absent: None

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**SPECIAL BUSINESS**

**1. AIRPORT GROUND LEASE WITH NLC CA, DBA NORTHWEST LINEMAN COLLEGE – staff report**

The Council considered an Airport Ground Lease Agreement with NLC CA dba Northwest Lineman College. **(Scott E. Huber, City Attorney and Donald Rust, Director of Community Development Department)**

Following discussion, a motion was made by Council Member Hatley, seconded by Vice Mayor Wilcox, to:

**Adopt Resolution No. 8504 – A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AN AIRPORT GROUND LEASE AGREEMENT WITH NLC CA, INC DBA NORTHWEST LINEMAN COLLEGE – (Agreement No. 1983-2).**

The motion was passed by the following vote:

Ayes: Council Members Berry, Del Rosario, Hatley, Pittman, Simpson, Vice Mayor Wilcox, Mayor Dahlmeier  
Noes: None  
Abstain: None  
Absent: None

**RECOGNITION OF INDIVIDUALS WHO WISH TO SPEAK ON NON-AGENDA ITEMS**

Allen Young made comments relating to a planned senior community in Durham, California.

Donald Rust, Director of Community Development Department, advised the Council of the need for a special meeting to be held on June 14, 2016 at 1:00 p.m. to discuss the 2016/2017 Budget and Jamboree Housing Project.

**ADJOURNMENT**

The meeting was adjourned at 11:25 a.m. to a regular meeting of the Oroville City Council to be held on Tuesday, June 7, 2016, at 5:00 p.m.

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Donald Rust, Acting City Clerk

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Linda L. Dahlmeier, Mayor

**CITY COUNCIL MEETING MINUTES  
JUNE 7, 2016 – 5:00 P.M.**

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The agenda for the June 7, 2016, regular meeting of the Oroville City Council was posted on the bulletin board at the front of City Hall and on the City of Oroville's website located at [www.cityoforoville.org](http://www.cityoforoville.org) on Thursday, June 2, 2016, at 4:40 p.m.

The June 7, 2016 regular meeting of the Oroville City Council was called to order by Vice Mayor Wilcox at 5:00 p.m.

**ROLL CALL**

Present: Council Members Berry, Hatley, Pittman, Simpson, Vice Mayor Wilcox  
Absent: Council Member Del Rosario (excused), Mayor Dahlmeier (excused)

**Staff Present:**

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Donald Rust, Director of Community Development  
Jamie Hayes, Assistant City Clerk  
Allen Byers, Assistant Police Chief  
Ruth Wright, Director of Finance  
Rick Walls, Interim City Engineer  
Liz Ehrenstrom, Human Resource Manager  
Amy Bergstrand, Management Analyst III

Bill LaGrone, Director of Public Safety  
Scott Huber, City Attorney  
Karolyn Fairbanks, City Treasurer  
Dean Hill, Assistant Fire Chief  
Gary Layman, Building Official  
Rick Farley, RDA Coordinator  
Gil Zarate, Police Lieutenant

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**PLEDGE OF ALLEGIANCE**

The Pledge of Allegiance was led by Vice Mayor Wilcox.

**PROCLAMATION / PRESENTATION**

Council Member Pittman presented students from St. Thomas the Apostle School with a Proclamation in recognition of their Accelerated Reader Program.

Council Member Pittman also presented Jane Starling with a Certificate of Appreciation for serving on the City of Oroville's Housing and Economic Development Loan Advisory Committees, and her dedication to serving community of Oroville.

**RECOGNITION OF INDIVIDUALS WHO WISH TO SPEAK ON AGENDA ITEMS**

Machelle Conn – Item No. 12

Gary Norwood – Item No. 17

**CONSENT CALENDAR**

A motion was made by Council Member Pittman, seconded by Council Member Berry, to approve the following Consent Calendar, with exception to Item No. 5:

1. **APPROVAL OF THE MINUTES OF MAY 17, 2016 SPECIAL MEETING AND REGULAR MEETING OF THE OROVILLE CITY COUNCIL** – minutes attached

**Community Development Department**

2. **NEW DONATIONS TO THE C.F. LOTT HOME** - staff report

The Council considered acknowledging the receipt of bonnets, toddler wool clothing, linens and lace doilies to be donated to the C.F. Lott Home. **(Donald Rust, Director of Community Development Department)**

Council Action Requested: **Acknowledge receipt of the donations for the C.F. Lott Home.**

3. **RESOLUTION OF SUPPORT FOR A CYCLE 3 ACTIVE TRANSPORTATION PROGRAM GRANT APPLICATION FOR ORO DAM BOULEVARD PEDESTRIAN AND SAFETY IMPROVEMENTS PROJECT** – staff report

The Council considered a Resolution of Support for an Active Transportation Program Grant Application for the Oro Dam Boulevard Sidewalk Infill Project. **(Rick Walls, Interim City Engineer and Donald Rust, Director of Community Development)**

Council Action Requested: **Adopt Resolution No. 8505 – A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND SUPPORTING THE PREPARATION OF A CYCLE 3 ACTIVE TRANSPORTATION GRANT APPLICATION FOR THE ORO DAM BOULEVARD PEDESTRIAN AND SAFETY IMPROVEMENTS PROJECT.**

**Business Assistance and Housing Development Department**

4. **SALE OF CITY-OWNED PROPERTY LOCATED AT 770 ROBINSON STREET** – staff report

The Council considered the sale of a former Redevelopment Agency (RDA) property that is now City-owned property located at 770 Robinson Street. **(Rick Farley, RDA Coordinator and Donald Rust, Director of Community Development Department)**

Council Action Requested: **Adopt Resolution No. 8506 – A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR OR ACTING CITY ADMINISTRATOR TO EXECUTE ALL DOCUMENTS RELATING TO THE SALE OF THE CITY-OWNED PROPERTY IDENTIFIED AS 770 ROBINSON STREET, OROVILLE (APN: 012-121-009) TO NORMAN AND DIANE ARMSTRONG FOR THE AMOUNT OF \$132,500.**

5. **THIS ITEM WAS REMOVED FROM THE CONSENT CALENDAR (SEE BELOW)**
6. **2015 HOME INVESTMENT PARTNERSHIP PROGRAM GRANT BUDGET** – staff report

The Council considered accepting the 2015 Home Investment Partnerships Program Grant, in the amount of \$1,000,000, and the establishment of a budget for program activities. **(Amy Bergstrand, Management Analyst III and Donald Rust, Director of Community**

**Development Department)**

Council Action Requested: **Accept the 2015 Home Investment Partnerships Program Grant Agreement No. 15-HOME-10631 in the amount of \$1,000,000.**

**Administration Department**

**7. RE-APPOINTMENT TO THE SOUTHSIDE OROVILLE COMMUNITY CENTER ADVISORY COMMITTEE – staff report**

The Council considered re-appointing Dr. John Rivers, as a community based organization representative, to continue serving on the Southside Oroville Community Center Advisory Committee. **(Donald Rust, Director of Community Development Department)**

Council Action Requested: **Re-appoint Dr. John Rivers, as a community based organization representative, to continue serving on the Southside Oroville Community Center Advisory Committee for a four year term, ending June 30, 2020.**

**8. RE-APPOINTMENTS TO CITY OF OROVILLE PLANNING COMMISSION – staff report**

The Council considered re-appointing City residents, Damon Robison, Randy Chapman, Adonna Brand and Michael Britton, to the City of Oroville Planning Commission. **(Donald Rust, Director of Community Development Department)**

Council Action Requested: **Re-appoint City residents, Damon Robison, Randy Chapman, Adonna Brand and Michael Britton to continue serving on the City of Oroville Planning Commission for four year terms, ending June 30, 2020.**

The motion to approve the Consent Calendar was passed by the following vote:

Ayes: Council Members Berry, Hatley, Pittman, Simpson, Vice Mayor Wilcox  
Noes: None  
Abstain: None  
Absent: Council Member Del Rosario, Mayor Dahlmeier

**ITEMS REMOVED FROM THE CONSENT CALENDAR**

**5. SALE OF CITY-OWNED PROPERTY LOCATED AT 3054 SPENCER AVENUE – staff report**

The Council considered the sale of a former Redevelopment Agency (RDA) property that is now City-owned property located at 3054 Spencer Avenue. **(Rick Farley, RDA Coordinator and Donald Rust, Director of Community Development Department)**

This item was removed from the Consent Calendar at the request of Council Member Berry, for questions, which were answered by staff. In addition, Council Member Berry requested staff to provide written information regarding the authorization to purchase properties.

Following discussion, a motion was made by Council Member Berry, seconded by Council Member Pittman, to:

**Adopt Resolution No. 8507 – A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR OR ACTING CITY ADMINISTRATOR TO EXECUTE ALL DOCUMENTS RELATING TO THE SALE OF THE CITY-OWNED PROPERTY INDENTIFIED AS 3054 SPENCER AVENUE, OROVILLE (APN: 013-223-006) TO ABISAI ZEPEDA FOR THE AMOUNT OF \$35,000.**

The motion was passed by the following vote:

Ayes: Council Members Berry, Hatley, Pittman, Simpson, Vice Mayor Wilcox  
Noes: None  
Abstain: None  
Absent: Council Member Del Rosario, Mayor Dahlmeier

## **PUBLIC HEARINGS**

### **Finance Department**

#### **9. FISCAL YEAR 2016-2017 APPROPRIATIONS LIMIT – staff report**

The Council conducted a public hearing and considered the adoption of the Fiscal year 2016-2017 Appropriations Limit. **(Ruth Wright, Director of Finance Department)**

Vice Mayor Wilcox opened the Public Hearing for questions and comments from the public. Hearing no comments or questions, Vice Wilcox closed the public hearing.

A motion was made by Council Member Pittman, seconded by Council Member Berry, to:

**Adopt Resolution No. 8508 – A RESOLUTION OF THE OROVILLE CITY COUNCIL SETTING THE APPROPRIATIONS LIMIT (PROPOSITION 4) FOR FISCAL YEAR 2016-2017.**

The motion was passed by the following vote:

Ayes: Council Members Berry, Hatley, Pittman, Simpson, Vice Mayor Wilcox  
Noes: None  
Abstain: None  
Absent: Council Member Del Rosario, Mayor Dahlmeier

#### **10. 2016/2017 PRELIMINARY ANNUAL BUDGET – staff report**

The Council conducted a public hearing relating to the 2016-2017 Preliminary Annual Budget. **(Ruth Wright, Director of Finance Department)**

Vice Mayor Wilcox opened the Public Hearing for questions and comments from the public. Hearing no comments or questions, Vice Wilcox closed the public hearing.

A motion was made by Council Member Pittman, seconded by Council Member Simpson, to:

**Approve the City's 2016-2017 Preliminary Annual Budget.**

The motion was passed by the following vote:

Ayes: Council Members Berry, Hatley, Pittman, Simpson, Vice Mayor Wilcox  
Noes: None  
Abstain: None  
Absent: Council Member Del Rosario, Mayor Dahlmeier

## **REGULAR BUSINESS**

### **Public Safety Department**

11. **AMENDMENT AND ADDITION OF CHAPTER 3.18 TO THE OROVILLE MUNICIPAL CODE REGARDING A TRANSACTION AND USE TAX TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION** – staff report

The Council considered an amendment and addition of Municipal Code 3.18 Transaction and Use Tax, and ballot language relating to a 1% local sales tax for municipal services. **(Bill LaGrone, Director of Public Safety)**

Following discussion, a motion was made by Council Member Pittman, seconded by Council Member Berry, to:

**Waive the second reading and adopt by title only, Ordinance No. 1816 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OROVILLE AMENDING AND ADDING CHAPTER 3.18 TO THE OROVILLE MUNICIPAL CODE REGARDING A TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION, WITH THE WORDS “BUT NOT LIMITED TO” REMOVED FROM THE BALLOT LANGUAGE.**

The motion was passed by the following vote:

Ayes: Council Members Berry, Hatley, Pittman, Simpson, Vice Mayor Wilcox  
Noes: None  
Abstain: None  
Absent: Council Member Del Rosario, Mayor Dahlmeier

### **Community Development Department**

12. **LOAN AGREEMENT WITH LEE DUMMEL** – staff report

The Council considered a Loan Agreement with Lee Dummel for use of the “Wells Fargo Strongbox”, an artifact of the Pioneer Museum. **(Donald Rust, Director of Community Development Department)**

Machelle Conn spoke in support of loaning the “Wells Fargo Strongbox” artifact to Lee Dummel.

Following discussion, a motion was made by Council Member Hatley, seconded by Council Member Simpson, to:

**Approve a Loan Agreement between Mr. Lee Dummel and the Oroville Park Commission for the loaning of the “Wells Fargo Strongbox” artifact in full compliance with the City’s Museums and Cultural Facilities Policy and Procedure Number 36, “Artifact Loans to other Institutions”.**

The motion was passed by the following vote:

Ayes: Council Members Berry, Hatley, Pittman, Simpson, Vice Mayor Wilcox  
Noes: None  
Abstain: None  
Absent: Council Member Del Rosario, Mayor Dahlmeier

**13. REQUEST TO UPDATE THE COMMUNITY DEVELOPMENT DEPARTMENT’S MASTER FEE SCHEDULE - CONSUMER PRICE INDEX ANNUAL ADJUSTMENTS – staff report**

The Council considered updating the Community Development Department’s Master Fee Schedule to adjust for inflation using the annual percentage change in Consumer Price Index as published by the Bureau of Labor Statistics. **(Donald Rust, Director of Community Development Department)**

Following discussion, a motion was made by Council Member Pittman, seconded by Council Member Berry, to:

- 1. Remove the cost for Appeal to City Council from the proposed Community Development Department’s Master Fee Schedule; and**
- 2. Waive the second reading, and adopt by title only, Ordinance No. 1815 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OROVILLE UPDATING THE COMMUNITY DEVELOPMENT DEPARTMENT’S MASTER FEE SCHEDULE; CONSUMER PRICE INDEX ANNUAL ADJUSTMENTS.**

The motion was passed by the following vote:

Ayes: Council Members Berry, Hatley, Pittman, Simpson, Vice Mayor Wilcox  
Noes: None  
Abstain: None  
Absent: Council Member Del Rosario, Mayor Dahlmeier

**14. REQUEST TO FUND TWO BUDGETARY ITEMS WITH PARK DEVELOPMENT IMPACT FEES – staff report**

The Council considered a 2016/2017 fiscal year budget request from the Parks and Trees Department for a used water truck and a new wood chipper to be funded with Park Development Impact Fees. **(Rick Walls, Interim City Engineer and Donald Rust, Director of Community Development Department)**

Following discussion, the Council directed staff to purchase a used water truck and a new wood chipper, to be funded with Park Development Impact Fees.

**15. DEVELOPMENT AGREEMENT WITH THE ORO DAM AUTO CENTER- staff report**

The Council considered entering into a Development Agreement with Benny Brown's Oro Dam Auto Center for the renovation and expansion of Oroville Toyota, located at 1250 East Oro Dam Boulevard. **(Donald Rust, Director of Community Development Department)**

Following discussion, a motion was made by Council Member Pittman, seconded by Council Member Simpson, to:

**Adopt Resolution No. 8509 - A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE A DEVELOPMENT AGREEMENT WITH BENNY BROWN'S ORO DAM AUTO CENTER FOR THE RENOVATION AND EXPANSION OF OROVILLE TOYOTA LOCATED AT 1250 EAST ORO DAM BOULEVARD, OROVILLE - (Agreement No. 3180).**

The motion was passed by the following vote:

Ayes: Council Members Hatley, Pittman, Simpson, Vice Mayor Wilcox  
Noes: Council Member Berry  
Abstain: None  
Absent: Council Member Del Rosario, Mayor Dahlmeier

**Administration Department**

**16. ATTENDANCE TO CALIFORNIA CITY CLERK'S ASSOCIATION – TECHNICAL TRAINING FOR CLERKS, SERIES 400 – staff report**

The Council considered authorizing staff to attend the California City Clerk's Association – Technical Training for Clerks, Series 400 Election Seminar. **(Donald Rust, Director of Community Development)**

Following discussion, a motion was made by Council Member Pittman, seconded by Council Member Hatley, to:

**Authorize staff to attend the California City Clerk's Association – Technical Training for Clerks, Series 400 Election Seminar.**

The motion was passed by the following vote:

Ayes: Council Members Hatley, Pittman, Simpson, Vice Mayor Wilcox  
Noes: Council Member Berry  
Abstain: None  
Absent: Council Member Del Rosario, Mayor Dahlmeier

**17. REQUEST FROM THE SALMON FESTIVAL COMMITTEE FOR FUNDING PARTICIPATION IN THE 2016 OROVILLE SALMON FESTIVAL – staff report**

The Council considered a funding request for shuttle buses, in the amount of \$2,500, from the Oroville Salmon Festival Committee for the 2016 Annual Salmon Festival, to be held on September 24, 2016. **(Donald Rust, Director of Community Development)**

Gary Norwood, made a proposal for alternate funding for the shuttle buses for the 2016 Annual Salmon Festival.

Following discussion, the Council directed staff to explore funding alternatives and to continue this item to the July 19, 2016 regular meeting of the Oroville City Council for further consideration.

**18. RESCISSION OF AGREEMENT WITH BUTTE COUNTY FOR COLLECTION OF DEVELOPMENT IMPACT FEES FOR JAIL FACILITIES – staff report**

The Council considered the rescission of an Agreement with Butte County for collection of the County's Jail Facility Development Impact Fee on behalf of the County for new residential construction within the City limits. **(Scott E. Huber, City Attorney)**

A motion was made by Council Member Berry, seconded by Council Member Pittman, to:

**Adopt Resolution No. 8510 – A RESOLUTION OF THE OROVILLE CITY COUNCIL RESCINDING THE AGREEMENT WITH THE COUNTY OF BUTTE FOR THE COLLECTION OF DEVELOPMENT IMPACT FEES WITHIN THE INCORPORATED AREA OF THE CITY OF OROVILLE FOR JAIL FACILITIES. AS WELL AS RESCINDING RESOLUTION NO. 8328 AND 8329 RELATED THERETO – (Agreement No. 3104).**

The motion was passed by the following vote:

Ayes:	Council Members Berry, Hatley, Pittman, Simpson, Vice Mayor Wilcox
Noes:	None
Abstain:	None
Absent:	Council Member Del Rosario, Mayor Dahlmeier

**19. REQUEST FOR JANITORIAL SERVICES AT CITY HALL – staff report**

The Council considered a request from staff for contracting janitorial services at City Hall. **(Donald Rust, Director of Community Development)**

The Council tabled this item to a future meeting of the Oroville City Council for further consideration.

**MAYOR/ COUNCIL REPORTS**

Council Member Pittman gave a brief report regarding the 2016 Oroville Airport Fly-in event, held at the Oroville Municipal Airport as well as the Forebay Aquatic Center.

Council Member Pittman also reported that the Annual July 4<sup>th</sup> Fireworks event was scheduled to take place on Monday, July 4, 2016 at the Oroville Dam.

Vice Mayor Wilcox and Council Member Berry reported their attendance to the Oroville Veteran's Day Celebration events held at the Oroville Veteran's Memorial Building and on the Table Mountain Bridge.

## **CITY ADMINISTRATOR/ ADMINISTRATION REPORTS**

- Various City Committees – activity report
- Supplemental Benefits Fund – activity report

Bill LaGrone, Director of Public Safety, reported patrols would begin policing newly annexed areas located near Wyandotte Avenue through C Street as of July 1, 2016.

Donald Rust, Director of Community Development, reported on the following:

- Oroville Hospital Expansion Project (“Project”)– requested to use contract planning firm to process plans and permits through full cost recovery in order to expedite the Project
- Update on Public Safety Building development at the Oroville Municipal Airport
- Attendance of Council Member to the 2016 League of California Cities Conference
- Employee’s Dollar and Sense Committee engaged to provide suggestions for cost savings relating to the 2016/2017 budget deficit
- Hiring of a temporary employee, utilizing Congestion Mitigation and Air Quality Program funds, to assist with implementation of traffic control equipment. (The Council confirmed this request)

## **CORRESPONDENCE**

- Butte County Association of Governments
- Oroville Area Chamber of Commerce
- Oroville Area Chamber of Commerce
- California Water Company
- John Bidwell Parlor No. 21, Native Sons of the Golden West
  - Gary Norwood and Ethan Phillips discussed the Parlor’s desire to re-obtain the Pioneer Museum from the City of Oroville in order to expand and implement improvements to the Museum

## **RECOGNITION OF INDIVIDUALS WHO WISH TO SPEAK ON NON-AGENDA ITEMS**

Hellen Dennis expressed concerns over community issues.

Alan Jones, Oroville Downtown Business Association, expressed concerns regarding the future development in and around Parking Lot A in downtown Oroville.

Celia Hirshman discussed the development of Historic Downtown Oroville.

**CLOSED SESSION**

The Council held a Closed Session on the following:

1. Pursuant to Government Code section 54957.6, the Council met with Labor Negotiators and City Attorney to discuss labor negotiations for the following represented groups: Oroville City Employees Association, Oroville Police Officers' Association – Sworn and Non-Sworn, Oroville Firefighters' Association, and Oroville Management and Confidential Association.

Following Closed Session, Vice Mayor Wilcox announced that there were no reportable actions taken in Closed Session and direction had been given to staff.

**ADJOURNMENT**

The meeting was adjourned at 8:20 p.m. A special meeting of the Oroville City Council will be held on Tuesday, June 14, 2016, at 1:00 p.m.

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Donald Rust, Acting City Clerk

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Linda L. Dahlmeier, Mayor

**REPORT OF  
INVESTMENTS**

**MAY 2016**

**CITY OF OROVILLE/OROVILLE SUCCESSOR AGENCY**

**MONTHLY SUMMARY OF INVESTMENTS**

**May 2016**

**CERTIFICATION:**

I certify that the information provided above is correct to the best of my knowledge and that (1) all investments are made in accordance with the investment policy and the laws of the State of California and (2) that sufficient funds are available to meet the anticipated expenditures for the next six months.



Ruth Wright, Director of Finance

6/13/16

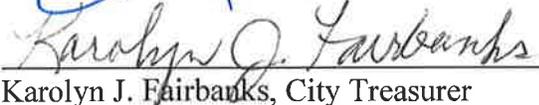
Date



Don Rust, Assistant City Administrator

06.13.16

Date



Karolyn J. Fairbanks, City Treasurer

06-14-16

Date



June 21, 2016

City of Oroville Investment Portfolio Report				
Summary of Investments				
	Yield	Apr-16	Yield	May-16
Local Agency Investment Fund (LAIF)	0.525%	22,495,950	0.552%	24,795,950
Bank of the West Operating Account	0.00%	1,546,402	0.00%	1,432,560
<b>Total Pooled Investments</b>		<b>23,429,334</b>		<b>26,228,510</b>
City Investment Portfolio - Investments Held in Trust				
	Yield to Maturity			Market Value
Series 2015 A & B 2004 B Escrow Account				
Blackrock T-Fund	0.20%			16,061
US Treasury	0.870%			293,010
Bank of the West Certificates of Deposit (BMWG)	1.050%			201,070
Bank of the West Certificates of Deposit (GS)	1.050%			200,490
Bank of the West Certificates of Deposit (GMATBK)	1.050%			200,484
Bank of the West Certificates of Deposit (KEY 1)	1.000%			200,512
Bank of the West Certificates of Deposit (MOCIBK)	1.050%			200,930
<b>Total Investments Held in Trust</b>				<b>1,312,557</b>

**MONTHLY FINANCIAL  
REPORT**

**MAY 2016**

**REPORT OF  
BUDGETED APPROPRIATIONS  
VS.  
ACTUAL EXPENDITURES  
AND  
ACTUAL REVENUES**

**MAY 2016**



**CITY OF OROVILLE, CALIFORNIA**  
**FINANCIAL SUMMARY**  
**FOR THE PERIOD ENDED**  
**May 31, 2016**

	REVENUES					EXPENDITURES				
	Actual May 2016	YTD	Budget Total Year 2015-2016	Remaining Budget	% of year Remaining 8%	Actual May 2016	YTD	Budget Total Year 2015-2016	Remaining Budget	% of year Remaining 8%
<b>CITY DEPARTMENTS</b>										
<b>GENERAL FUND</b>										
City Council	-	-	-	-	-	10,066	115,640	132,880	17,240	13%
Mayor	-	-	-	-	-	2,725	29,798	37,282	7,484	20%
City Attorney	-	-	-	-	-	17,750	233,808	242,000	8,192	3%
City Clerk	37	60	-	-	-	7,404	151,064	169,167	18,103	11%
Human Resources	-	-	-	-	-	11,350	120,507	141,270	20,763	15%
Personnel	-	-	-	-	-	1,616	2,160	50,000	47,840	96%
City Admin.	-	-	-	-	-	-	7,822	7,822	-	-
Economic Develop./Comm. Enh.	-	61,614	-	-	-	2,897	43,195	51,792	8,597	17%
Information Technology	-	-	-	-	-	20,503	307,569	408,681	101,112	25%
Finance	568	2,810	1,600	(1,210)	-	48,383	488,486	592,291	103,805	18%
Post Employment Costs	2,108	6,277	5,500	(777)	-	6,724	61,803	80,711	18,908	23%
City Treasurer	-	-	-	-	-	2,941	29,850	33,576	3,726	11%
Planning	2,107	155,702	171,761	16,059	9%	23,587	201,328	254,978	53,650	21%
City Hall	1,762	11,810	8,300	(3,510)	-	7,533	104,742	119,329	14,587	12%
Arline Rhyne	815	7,195	6,650	(545)	-	489	7,736	9,495	1,759	19%
Fire Department	3,685	111,497	112,780	1,283	1%	208,359	2,291,631	2,512,259	220,628	9%
Police Department	17,733	1,086,534	1,168,238	81,704	7%	449,728	5,156,444	5,780,564	624,120	11%
Building/Code Enforcement	48,891	554,344	548,979	(5,365)	-	26,060	423,920	463,940	40,020	9%
Public Works Admin.	5,361	260,123	275,961	15,838	6%	9,733	160,239	178,229	17,990	10%
Streets/Storm	60,668	798,926	692,119	(106,807)	-	47,155	784,141	914,228	130,087	14%
Parks & Trees	774	13,943	45,581	31,638	69%	48,857	505,856	632,297	126,441	20%
Pioneer Museum	108	1,065	1,512	448	30%	1,450	3,997	5,435	1,438	26%
Bolt's Museum	419	5,065	4,500	(565)	-	580	7,966	9,900	1,934	20%
Chinese Temple	1,157	6,888	7,750	862	11%	2,975	57,396	68,359	10,963	16%
Lott Home	2,356	12,131	9,450	(2,681)	-	5,274	48,717	55,046	6,329	11%
State Theater	1,704	16,331	15,300	(1,031)	-	420	42,482	47,871	5,389	11%
Liability/Property Insurance	-	-	-	-	-	-	239,120	268,945	29,825	11%
Non Departmental*	1,275,347	8,300,759	10,341,058	2,040,299	20%	5,695	191,673	198,692	7,019	4%
<b>Totals</b>	<b>1,425,599</b>	<b>11,413,072</b>	<b>13,417,039</b>	<b>2,003,967</b>	<b>15%</b>	<b>970,252</b>	<b>11,819,090</b>	<b>13,467,039</b>	<b>1,647,948</b>	<b>12%</b>

\* Revenues include Property Tax, Utility Users, Transient Occupancy, Motor Vehicle, and Proceeds of Property Sales. Expenditures include salary expenses, capital projects and charges for Butte County Services.

## CITY OF OROVILLE

## EXPENSE REPORT ALL BUDGETED FUNDS MAY 2016

FUND Description	Actual May 2016	Year To Date Actual	Budget Total Year 2015-2016	Remaining Budget	8% of year Remaining Actual to Budget
001 General Fund	970,252	11,819,090	13,467,039	1,647,948	12%
101 Sewer Fund	73,809	3,233,559	4,043,438	809,879	20%
104 SWRCON/FEE FUND	-	2,716	100	(2,616)	-
105 Drainage Fees	-	2,716	175,000	172,285	98%
106 Park Dev Fees	-	56,144	40,500	(15,644)	-
108 Traffic Impact	-	433,002	10,000	(423,002)	-
109 DRAINAGE/CTYWDE	-	2,716	156,000	153,284	98%
111 LOCAL TRANSP	-	138,118	138,026	(92)	-
112 GAXTX RSTP FUND	-	-	566,501	566,501	100%
113 CANINE FUND	2,229	16,458	5,700	(10,758)	-
116 TECH FEE FUND	1,285	53,180	27,000	(26,180)	-
118 SB1186 C/FUND	-	7	40	33	83%
119 RECYCLING FUND	2,805	80,797	76,555	(4,242)	-
120 GTx 2107/2107.5	10,545	100,903	100,000	(903)	-
125 GTx 2106 Fund	-	52,106	60,000	7,894	13%
127 Gas Tax 2105	19,264	152,507	250,600	98,093	39%
130 Spec. Aviation	54,952	507,520	576,924	69,404	12%
140 Housing Admin	48,778	432,204	-	(432,204)	-
141 HSG PRG FUND	187,610	293,816	-	(293,816)	-
149 HOME FUND	-	292,236	-	(292,236)	-
150 CDBG Fund	241,558	1,680,994	5,163,503	3,482,509	67%
151 EDBG FUND	-	269,002	300,000	30,998	10%
155 Asset Seizure	-	22,000	-	(22,000)	-
156 Pub Sfty Aug	-	105,000	105,000	-	-
157 SUPPLAWENFORCMT	-	105,000	105,000	-	-
158 L.L.E.BLOCK GRT	-	42,194	184,100	141,906	77%
159 LAW ENF.IMP.FEE	-	2,716	2,500	(216)	-
160 MISC FUND	23,412	124,507	100,250	(24,257)	-
163 FIRE SUP IMPFEE	-	8,368	4,500	(3,868)	-
165 CONTINGENCY FD	-	272,568	-	(272,568)	-
166 GRANT-FIRE FUND	12,550	290,132	191,805	(98,327)	-
168 PEG FEE FUND	-	7,525	-	(7,525)	-
169 GEN GOVT DEVIMP	-	2,715	2,000	(715)	-
184 LLMD ALL ZONES	1,893	25,359	43,712	18,353	42%
185 BAD ALL ZONES	86	4,099	11,806	7,707	65%
186 WESTSIDE PUB/S/F	20	201	800	599	75%
187 PUB/SAFETY SERV	20	201	400	199	50%
190 SUPPBENEFITFUND	10,107	245,942	378,454	132,512	35%
198 SUCCESSOR	6,746	1,988,701	1,966,986	(21,715)	-
230 CITY DEBT SERV	-	749,971	726,806	(23,165)	-
276 OAD93-1 Dbt Ser	-	36,328	-	(36,328)	-
305 Equip Replcmnt	-	160	123,115	122,955	100%
307 CAPITAL PROJ	603	604,668	-	(604,668)	-
410 Local Transit	1,255	538,872	566,501	27,629	5%
440 BUSINESS DEVCTR	958	13,184	17,000	3,816	22%
450 CTY/HOUSG EDRLF	-	51,612	130,000	78,388	60%
451 CDBG EcoDev RLF	-	8,175	687	(7,488)	-
453 MICRO-ENP RLF	28,660	772,307	5,868,558	5,096,251	87%
454 CAL-HOME RLF	-	-	52,000	52,000	100%
455 HOME Hsg RLF	-	101,029	-	(101,029)	-
458 RBEG	-	-	7,980	7,980	100%
460 City RLF	-	5,754	-	(5,754)	-
520 Stores Revolv.	4,282	42,254	49,000	6,746	14%
540 Veh Maint Fund	29,822	427,741	490,403	62,662	13%
550 Wrkrs Comp.	450	354,971	486,767	131,796	27%
552 UNEMP-SELF INS	2,036	38,946	45,000	6,054	13%
555 SELF INS VISION	1,269	35,311	45,500	10,189	22%
<b>Total All Funds</b>	<b>1,737,260</b>	<b>26,648,299</b>	<b>36,863,556</b>	<b>10,215,256</b>	<b>28%</b>

## CITY OF OROVILLE

## REVENUE REPORT ALL BUDGETED FUNDS MAY 2016

FUND Description	Actual May 2016	Year To Date Actual	Budget Total Year 2015-2016	Remaining Budget	8% of year Remaining Actual to Budget
001 General Fund	1,425,599	11,413,072	13,417,039	2,003,967	15%
101 Sewer Fund	1,283,281	3,256,212	3,595,127	338,915	9%
104 SWRCON/FEE FUND	331	50,773	50,188	(585)	-
105 Drainage Fees	-	6,592	4,350	(2,242)	-
106 Park Dev Fees	-	57,880	45,112	(12,768)	-
108 Traffic Impact	-	1,009,852	73,831	(936,021)	-
109 DRAINAGE/CTYWDE	-	120,839	75,350	(45,489)	-
111 LOCAL TRANSP	-	68	50	(18)	-
112 GAXTX RSTP FUND	-	170,086	547,711	377,625	69%
113 CANINE FUND	50	9,880	8,523	(1,357)	-
116 TECH FEE FUND	2,469	118,607	25,071	(93,536)	-
118 SB1186 C/FUND	36	1,063	1,203	140	12%
119 RECYCLING FUND	222	10,142	58,182	48,040	83%
120 GTx 2107/2107.5	-	100,903	100,000	(903)	-
125 GTx 2106 Fund	-	57,958	60,030	2,072	3%
127 Gas Tax 2105	-	146,656	250,641	103,985	41%
130 Spec. Aviation	70,853	547,472	485,561	(61,911)	-
140 Housing Admin	16,123	709,701	-	(709,701)	-
141 HSG PRG FUND	18,310	470,392	-	(470,392)	-
149 HOME FUND	-	328,043	-	(328,043)	-
150 CDBG Fund	-	1,371,299	5,161,201	3,789,902	73%
151 EDBG FUND	-	269,002	300,000	30,998	10%
155 Asset Seizure	-	44	40	(4)	-
156 Pub Sfty Aug	-	84,225	100,000	15,775	16%
157 SUPPLAWENFORCMT	11,679	117,354	95,024	(22,330)	-
158 L.L.E.BLOCK GRT	12,611	33,452	176,000	142,548	81%
159 LAW ENF.IMP.FEE	-	17,440	5,050	(12,390)	-
160 MISC FUND	25,004	149,869	100,000	(49,869)	-
163 FIRE SUP IMPFEE	-	12,414	2,550	(9,864)	-
166 GRANT-FIRE FUND	-	317,405	191,805	(125,600)	-
168 PEG FEE FUND	-	14,656	18,130	3,474	19%
169 GEN GOVT DEVIMP	-	26,183	6,515	(19,668)	-
184 LLM D ALL ZONES	7,090	15,229	15,513	284	2%
185 BAD ALL ZONES	-	133	77	(56)	-
186 WESTSIDEPUB/S/F	26,595	71,979	58,280	(13,699)	-
187 PUB/SAFETY SERV	26,595	71,979	58,150	(13,829)	-
190 SUPPBENEFITFUND	-	100,987	297,021	196,034	66%
198 SUCCESSOR	946,254	2,597,483	1,351,200	(1,246,283)	-
230 CITY DEBT SERV	67,742	840,862	851,874	11,012	1%
305 Equip Replcmnt	-	3,526	-	(3,526)	-
307 CAPITAL PROJ	-	-	300	300	100%
395 2004 CONST.BOND	-	404,113	-	(404,113)	-
396 BOND FUND 2002	-	-	3,167	3,167	100%
410 Local Transit	-	-	416	416	100%
440 BUSINESS DEVCTR	37,137	648,052	686,904	38,852	6%
450 CTY/HOUSG EDRLF	998	8,546	-	(8,546)	-
451 CDBG EcoDev RLF	-	26,189	130,047	103,858	80%
453 MICRO-ENP RLF	-	8,175	-	(8,175)	-
454 CAL-HOME RLF	-	570,467	577,000	6,533	1%
455 HOME Hsg RLF	-	85,956	52,200	(33,756)	-
458 RBEG	-	48,052	400	(47,652)	-
460 City RLF	-	4,297	-	(4,297)	-
520 Stores Revolv.	-	99	80	(19)	-
540 Veh Maint Fund	-	22,871	29,000	6,129	21%
550 Wrkrs Comp.	36,627	446,744	493,948	47,204	10%
552 UNEMP-SELF INS	25,526	316,481	421,961	105,480	25%
555 SELF INS VISION	3,063	65,630	30,100	(35,530)	-
620 Special Deposit	3,784	40,611	40,000	(611)	-
<b>Total All Funds</b>	<b>4,047,979</b>	<b>27,397,992</b>	<b>30,051,922</b>	<b>2,653,930</b>	<b>9%</b>

**CITY OF OROVILLE  
STAFF REPORT**

**TO: MAYOR AND CITY COUNCIL MEMBERS**

**FROM: DONALD RUST, DIRECTOR (530) 538-2433  
COMMUNITY DEVELOPMENT DEPARTMENT**

**RE: OROVILLE ALLEY REVITALIZATION PROGRAM: VISION PLAN AND  
PRELIMINARY FEASIBILITY STUDY**

**DATE: JUNE 21, 2016**

**SUMMARY**

The Council may hear a presentation regarding the Oroville Alley Revitalization Program (“Program”) and may consider adopting the Program.

**DISCUSSION**

On May 9, 2016, a special joint meeting of the Oroville Arts Commission and Oroville Park Commission was held and the Commissioners heard a presentation from a group of students regarding the **proposed** Oroville Alley Revitalization Program. The Oroville Alley Revitalization Program focuses on Miners Alley & Walking loop; South Oroville Alleys (prepared for the City of Oroville by the Site Planning and Environmental Impact Analysis Classes ((GEOG428/427)) at California State University, Chico – Geography and Planning Department). The Arts Commission and Park Commission unanimously agreed the Oroville Alley Revitalization Program would benefit the neighboring businesses and homes by beautifying the alleyways and creating a safer path of travel for pedestrians.

**FISCAL IMPACT**

None at this time.

**RECOMMENDATIONS**

Provide direction, as necessary.

**ATTACHMENT**

Oroville Alley Revitalization Program

**THE OROVILLE ALLEY  
REVITALIZATION PROGRAM  
PRESENTATION WILL BE  
PROVIDED UNDER SEPARATE  
COVER**

**OROVILLE CITY COUNCIL  
STAFF REPORT**

**TO: MAYOR AND CITY COUNCIL MEMBERS**

**FROM: RICK WALLS, INTERIM CITY ENGINEER  
DONALD RUST, DIRECTOR (530) 538-2433  
COMMUNITY DEVELOPMENT DEPARTMENT**

**RE: PROJECT CONTRACT WITH JASON ABEL CONSTRUCTION, INC.**

**DATE: JUNE 21, 2016**

**SUMMARY**

The Council may consider a Project Contract with the lowest responsive bidder, Jason Abel Construction, Inc., in the amount of \$1,383,931, for the Table Mountain Boulevard Roundabout Project (Project).

**BACKGROUND**

In October 2012, the City received a Congestion Mitigation Air Quality (CMAQ) Grant from Caltrans for the design and construction of a modern roundabout at the intersection Table Mountain Boulevard, Nelson Avenue and Cherokee Road. The construction and construction engineering portion of the grant is \$1,215,023. A supplemental CMAQ apportionment of \$170,000 was committed by the Butte County Association of Governments in August 2015, for total of \$1,385,023 in funding for construction of the Project. There is no local match required for the Project grant. The preparation of plans and specifications for the Project were completed in June 2015, and a federal construction funding authorization was received on June 25, 2015.

Staff advertised the Project for Bid on April 15th and 22nd, 2016, and held a pre-bid meeting on May 4, 2016, with a bid due date of May 25, 2016. Four bids were received by the bid closing date, with the bid results summarized as follows:

<b>TABLE MOUNTAIN BOULEVARD ROUNDABOUT BID SUMMARY</b>			
<b>Bidder Name</b>	<b>Base Bid</b>	<b>ALT 1 – 3(1)</b>	<b>Total Bid</b>
Jason Abel Construction	\$1,359,931	\$24,000	\$1,383,931
R&R Horn	\$1,700,659	\$25,500	\$1,726,159
Franklin Construction	\$1,847,302	\$28,800	\$1,876,102
Knife River Construction	\$2,364,654	\$32,300	\$2,396,954

*(1) ALT 1 – 3 = Decorative concrete and solar powered speed indication signs.*

The low bidder for the Project is Jason Abel Construction, Inc., Corning, CA. Staff has reviewed the prices in the bid schedule and determined that the bid prices are reasonable and competitive.

The Project plans and construction budget include the replacement of all Thermalito Water and Sewer District (TWSD) water mains and City sewer mains beneath the Project footprint. Pacific Gas and Electric replaced all gas mains beneath the Project last year. The costs for the new water and sewer mains are not eligible for grant reimbursement, and are considered non-participating costs. The \$121,099 cost for the water mains will be reimbursed to the City by TWSD through a Reimbursement Agreement executed on March 11, 2015. Final approval of the \$121,099 bid cost to replace the water mains was approved by the TWSD Board of Directors on June 3, 2016. The \$131,099 cost for the new sewer mains will be paid for by the Sewer Fund. The new sewer mains will be increased in size in accordance with the Capital Project No. 1F specifications for the City's Sanitary Sewer Master Plan. A summary of the grant and project costs are as follows:

Total Project Low Bid Cost =	\$1,383,931
Add Construction Engineering Materials Testing = (This participating work is per a separate agreement with Holdredge & Kuhl)	\$ 25,000
Total Project Construction Cost =	\$1,408,931
Grant Non-Participating Costs Paid by TWSD and Sewer Fund =	\$ 252,198
Participating Costs to be Reimbursed by Grant =	\$1,156,733
Available Grant Funds =	\$1,385,023

Because \$252,198 of the construction cost will be paid for through non-grant reimbursements to the General Fund, available grant funding exceeds the remainder of the Project costs by \$228,290. Staff recommends that the excess available grant funding be allocated toward a 7% Project construction contingency.

Staff's funding recommendations for this project are as follows:

- Award a contract for the Project to Jason Able Construction in the amount of \$1,383,931.
- Authorize a 7% contract contingency of \$96,875 to only be used for unanticipated and legitimate change orders, contingent upon all change orders being reviewed and approved by City Council.

## **FISCAL IMPACT**

There is \$1,385,023 of reimbursable CMAQ grant funding available to pay for the \$1,156,733 portion of the Project that is grant participating. The grant non-participating remainder of the Project costs will be paid for through reimbursements from TWSD and the Sewer Fund. There will be no impact to the General Fund for the construction of the Project.

Staff recommends all revenues and expenditures be recorded in the City's Capital Projects Fund: 303-8000-7320.

## **RECOMMENDATIONS**

1. Adopt Resolution No. 8514 – A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE A PROJECT CONTRACT WITH THE LOWEST RESPONSIVE BIDDER, JASON ABEL CONSTRUCTION, INC., IN THE AMOUNT OF \$1,383,931, FOR THE TABLE MOUNTAIN BOULEVARD ROUNDABOUT PROJECT – (Agreement No. 3183).
2. Authorize a 7% contingency, not to exceed \$96,875 for the Table Mountain Boulevard Roundabout Project, contingent upon all change orders being reviewed and approved by City Council.

## **ATTACHMENTS**

Resolution No. 8514  
Agreement No. 3183

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**CITY OF OROVILLE  
RESOLUTION NO. 8514**

**A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE A PROJECT CONTRACT WITH THE LOWEST RESPONSIVE BIDDER, JASON ABEL CONSTRUCTION, INC., INC., IN THE AMOUNT OF \$1,383,931, FOR THE TABLE MOUNTAIN BOULEVARD ROUNDABOUT PROJECT**

**(Agreement No. 3183)**

**WHEREAS**, the City of Oroville has received formal bids for the Table Mountain Boulevard Roundabout Project (Project); and

**WHEREAS**, Jason Abel Construction, Inc. was the lowest responsive bidder for the Project.

**NOW THEREFORE**, be it hereby resolved by the Oroville City Council as follows:

1. Jason Abel Construction, Inc. is awarded the contract for the Project in the amount of \$1,383,931.
2. The Mayor is hereby authorized and directed to execute a Project Contract with Jason Abel Construction, Inc. for the Project. A copy of the Project Contract is attached to this Resolution.
3. The City Clerk shall attest to the adoption of this Resolution.

**PASSED AND ADOPTED** by the Oroville City Council at a regular meeting on June 21, 2016, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
Linda L. Dahlmeier, Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
Scott E. Huber, City Attorney

\_\_\_\_\_  
Donald Rust, Acting City Clerk

## **PROJECT CONTRACT**

**THIS PROJECT CONTRACT** (the "contract" or "Contract"), is made and entered into this 21st day of June, 2016, by and between City of Oroville (referred to herein as the "Owner" or the "City") and Jason Abel Construction, Inc. (the "Contractor").

**WITNESSETH:** That the parties hereto have mutually covenanted and agreed, and by these presents do covenant and agree with each other as follows:

### **1. THE CONTRACT DOCUMENTS.**

The complete contract is comprised of and may or may not include: Invitation for Bids; Information for Bidders; Bid Schedule; Proposal Form; Bidder's Bond; Contract; General Conditions; Special Provisions; Technical Provisions; Payment Bond; Performance Bond; Notice of Award; Notice to Proceed; Change Orders; Supplemental Drawings Issued; Drawings; Specifications and Contract Documents; All addenda or bulletins issued during the time of bidding or forming a part of the documents loaned to the bidder for preparation of the bid; The complete plans and provisions, regulations, ordinances, codes, and laws incorporated therein or herein by reference or otherwise applicable to the Project.

All of the above documents are intended to cooperate so that any work called for in one and not mentioned in the other, or vice versa, is to be executed the same as if mentioned in all said documents. The documents comprising the complete contract are hereinafter referred to collectively as the Contract Documents.

### **2. THE WORK.**

Contractor agrees to furnish all tools, apparatus, facilities, equipment, labor and materials (except that specifically mentioned as being furnished by others) necessary to perform and complete the work in a "good and workmanlike manner" as called for, and in the manner designated in, and in strict conformity with the Plans, Detail Specifications, and other Contract Documents which are identified by the signatures of the parties to this Contract and are, collectively, entitled:

#### **PLANS AND SPECIFICATIONS TABLE MOUNTAIN BOULEVARD ROUNDABOUT PROJECT**

### **3. CONTRACT PRICE.**

The City agrees to pay and the Contractor agrees to accept, in full payment for the work above to be completed, the following compensation: \$1,383,931. In no event shall Consultant's compensation exceed the amount of \$1,383,931 without additional written authorization from the City. Payment by City under this Agreement shall not be deemed a waiver of defects in Consultant's services, even if such defects were known to the City at the time of payment

For the purpose of fixing the amount of bonds referred to in the Instructions to Bidders, it is estimated by both Parties that the total contract price shall be based on the Contractor's Base Bid amount.

### **4. DISPUTES PERTAINING TO PAYMENT FOR WORK.**

Should any dispute arise respecting the true value of any work done or any work omitted, or of any extra work which the Contractor may be required to do, or respecting the size of any payment to the Contractor during the performance of this Contract, the dispute shall be informally mediated between the parties. Following such mediation, either party may file an

action exclusively in the Butte County Superior Court or in the United States District Court, Eastern District of California. Under no condition shall there be a cessation of work by the Contractor during any such dispute. This article does not exclude recovery of damages by either party for delays.

**5. PAYMENT.**

Not later than the 20th day of each calendar month, the Contractor shall make a partial payment request to the City on the basis of an estimate approved by the Engineer of the work performed since the last partial payment request during the preceding month by the Contractor with five percent (5%) of the amount of each such estimate retained by the City, until completion of the Project and the recordation of a Notice of Completion of all work covered by this Contract. The City shall make any partial payments provided for in this contract to the Contractor within 30 days of the City's receipt of an undisputed and properly executed partial payment request from the Contractor. The City shall pay the Contractor interest on the amount of any portion of a partial payment, excluding retention amounts, not made to the Contractor within 30 days of the City's receipt of an undisputed and properly executed partial payment request from the Contractor at the legal rate set forth in California Code of Civil Procedure Section 685.010. Upon receipt of a partial payment request from the Contractor, the City shall review the partial payment request for the purpose of determining whether or not the partial payment request is a proper partial payment request. Any partial payment request determined by the City not to be a proper partial payment request suitable for payment shall be returned to the Contractor by the City within 14 days of the City's receipt of such partial payment request. A partial payment request returned to the Contractor by the City under the provisions of this section shall be accompanied by a written document setting forth the reason(s) why the partial payment request is not proper. The number of days for the City to make a certain partial payment provided for in this Contract, without incurring interest pursuant to this section, shall be reduced by the number of days by which the City exceeds the 14 day return period for such partial payment request, if determined to be improper, as set forth in this section. For the purposes of this section, a "partial payment" means all payments due to the Contractor under this contract, exclusive of that portion of the final payment designated as retention earnings. Also, for the purposes of this section, a partial payment request shall be considered properly executed by the City, if funds are available to pay the partial payment request and payment is not delayed due to an audit inquiry by the City's financial officer. The City will release Contractor's retention earnings within 45 days after recordation of Notice of Completion, as defined in California Civil Code Section 3093. Recordation of a Notice of Completion for the Project by the City shall constitute the City's acceptance of the Project work.

**6. TIME FOR COMPLETION.**

All work under this contract shall be completed within a period of 95 working days from the date of the Contractor's receipt of a Notice to Proceed from the City.

**7. EXTENSION OF TIME.**

If the Contractor is delayed by acts of negligence of the City, or its employees or those under it by contract or otherwise, or by changes ordered in the work, or by strikes, lockouts, fire, unavoidable casualties, or any causes beyond the Contractor's control, or by delay authorized by the City, or by any justifiable cause which the Engineer shall authorize, then the Contractor shall make out a written claim addressed to the City setting forth the reason for the delay and the extension of the time requested and forward a copy of the claim to the Engineer for approval. The Engineer will evaluate the claim and if the claim is justifiable, will request the City's approval. No such extension will be allowed unless written claim therefore has been made within 3 days after the delay became apparent.

If the Contractor fails or refuses to complete the work within the time specified, including authorized extensions, there shall be deducted from monies due the Contractor, not as a penalty, but as liquidated damages the sum of One Hundred Dollars (\$100.00) for each working day subsequent to the time specified for each project and the time the work is actually completed and accepted. Delays caused by adverse weather conditions or conditions for which the Owner is clearly responsible will be added to the contract time.

## **8. LABOR PROVISIONS.**

The project is subject to State prevailing wages. The contractor and all subcontractors on the project shall complete electronic reporting of prevailing wage rate reports through the Department of Industrial Relations, with copies of such reports to be provided to the City.

## **9. CONTRACT WORK HOURS AND SAFETY STANDARDS REQUIREMENTS.**

As used in the following provision, the term "laborers" and "mechanics" include watchmen and guards.

a. Overtime Requirements. Neither the Contractor nor any subcontractor contracting for any part of the Project which may require or involve the employment of laborers or mechanics shall require or permit any such laborer or mechanic in any workweek in which he or she is employed on such work to work in excess of forty hours in such workweek unless such laborer or mechanic receives compensation at a rate not less than one and one-half times the basic rate of pay for all hours worked in excess of forty hours in such workweek, whichever is greater.

b. Violation; Liability for Unpaid Wages; Liquidated Damages. In the event of any violation of the clause set forth in paragraph a. above, the Contractor and any subcontractor responsible therefore shall be liable for the unpaid wages. In addition, the Contractor and subcontractor shall be liable to the City for liquidated damages. Such liquidated damages shall be computed with respect to each individual laborer or mechanic, including watchmen and guards, employed in violation of the clause set forth in paragraph a. above, in the sum of \$10 for each calendar day on which such individual was required or permitted to work in excess of the standard workweek of forty hours without payment of the overtime wages required by the clause set forth in paragraph a. above.

c. Withholding for Unpaid Wages and Liquidated Damages. The City shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any monies payable on account of work performed by the Contractor or subcontractor under any such contract or any other Federal contract with the same Contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same Contractor, such sums as may be determined to be necessary to satisfy any liabilities of such Contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph b. above.

d. Working conditions. Neither the Contractor nor any subcontractor may require any laborer or mechanic employed in the performance of any contract to work in surroundings or under working conditions that are unsanitary, hazardous or dangerous to his health or safety as determined under construction safety and health standards (29 CFR Part 1926) issued by the Department of Labor.

e. Subcontracts. The Contractor and any subcontractor shall insert in any subcontracts the clauses set forth in paragraphs a. through d. and also a clause requiring the subcontractor to include these clauses in any lower tier subcontracts. The Contractor shall be responsible for compliance by any subcontractor or lower tier subcontractor with the clauses set forth in paragraphs a. through d.

## **10. NONDISCRIMINATION.**

The Contractor, with regard to the work performed by it during the contract, shall not discriminate on the grounds of race, color, or national origin in the selection and retention of subcontractors, including procurements of materials and leases of equipment. The Contractor

shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the contract covers a program set forth in Appendix B of the Regulations.

**11. DISADVANTAGED BUSINESS ENTERPRISE PROGRAM PROVISIONS.**

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

The Contractor agrees to pay each subcontractor under this contract for satisfactory performance of its contract no later than 10 days from the receipt of each payment the Contractor receives from City. The Contractor agrees further to return retainage payments to each subcontractor within 30 days after the subcontractor's work is satisfactorily completed. Any delay or postponement of payment from the above referenced time frame may occur only for good cause following written approval of the City. This clause applies to both DBE and non-DBE subcontractors.

**12. CIVIL RIGHTS.**

The Contractor assures that it will comply with pertinent statutes, Executive Orders and such rules as are promulgated to assure that no person shall, on the grounds of race, creed, color, national origin, sex, age or handicap be excluded from participating in any activity conducted with or benefiting from Federal assistance. This Provision binds the Contractor from the bid solicitation period through the completion of the contract. This provision shall be inserted in all subcontracts, subleases and other agreements at all tiers.

**13. SOLICITATIONS FOR SUBCONTRACTS, INCLUDING PROCUREMENTS OF MATERIALS AND EQUIPMENT.**

In all solicitations either by competitive bidding or negotiation made by the Contractor for work to be performed under a subcontract, including procurements of materials or leases of equipment, each potential subcontractor or supplier shall be notified by the Contractor of the Contractor's obligations under this contract and the Regulations relative to nondiscrimination on the grounds of race, color or national origin.

**14. SANCTIONS FOR NONCOMPLIANCE.**

In the event of the Contractor's noncompliance with the nondiscrimination provisions of this contract, the City shall impose such contract sanctions as it may determine to be appropriate, including but not limited to:

- a. Withholding of payments to the Contractor under the contract until the Contractor complies, and/or
- b. Cancellation, termination or suspension of the contract, in whole or in part.

**15. INSPECTION OF RECORDS.**

The Contractor shall maintain an acceptable cost accounting system. The City, the Federal Aviation Administration, the Comptroller General of the United States or any of their duly authorized representatives shall have access to any books, documents, paper, and records of the Contractor which are directly pertinent to this Contract or the Project for the purposes of making an audit, examination, excerpts, and transcriptions. The Contractor shall maintain all required records for 3 years after the City makes final payment and all other pending matters are closed.

**16. RIGHTS IN INVENTIONS.**

All rights to inventions and materials, if any, generated under this contract are subject to regulations issued by the City. Information regarding these rights is available from the City.

**17. BREACH OF CONTRACT TERMS.**

Any violation or breach of terms of this Contract on the part of the Contractor or its subcontractors may result in the suspension or termination of this Contract or such other action that may be necessary to enforce the rights of the City under this Contract. The duties and obligations imposed by the Contract Documents and the rights and remedies available thereunder shall be in addition to and not a limitation of any duties, obligations, rights and remedies otherwise imposed or available by law.

**18. TERMINATION OF CONTRACT BY CITY**

a. The City may, by written notice, terminate this Contract in whole or in part at any time, either for the City's convenience or because of the Contractor's failure to fulfill its contract obligations. Upon receipt of such notice, services shall be immediately discontinued (unless the notice directs otherwise) and all materials as may have been accumulated in performing this Contract, whether completed or in process, delivered to the City.

b. If the termination is for the convenience of the City, an equitable adjustment in the contract price shall be made, but no amount shall be allowed for anticipated profit on unperformed services.

c. If the termination is due to failure to fulfill the Contractor's obligations, the City may take over the work and prosecute the same to completion by contract or otherwise. In such case, the Contractor shall be liable to the City for any additional cost occasioned to the City thereby.

d. If, after notice of termination for failure to fulfill contract obligations, it is determined that the Contractor had not so failed, the termination shall be deemed to have been effected for the convenience of the City. In such event, adjustment in the contract price shall be made as provided in the second paragraph of this clause.

e. The rights and remedies of the City provided in this clause are in addition to any other rights and remedies provided by law or under this contract.

**19. INCORPORATION OF PROVISIONS.**

The Contractor shall include the provisions of this contract in every subcontract, including procurements of materials and leases of equipment, unless exempt by the Regulations of directives issued pursuant thereto. The Contractor shall take such action with respect to any subcontract or procurement as the City may direct as a means of enforcing such provisions including sanctions for noncompliance. Provided, however, that in the event the Contractor becomes involved in, or is threatened with, litigation with a subcontractor or supplier as a result of such direction, the Contractor may request the City to enter into such litigation to protect the interests of the City and, in addition, the Contractor may request the United States to enter into such litigation to protect the interests of the United States.

**20. CONTRACTOR CLAIMS OF \$375,000 OR LESS.**

Claims by the Contractor relating to the Project for (a) a time extension, (b) money or damages arising from work done by, or on behalf of, the Contractor on the Project for which payment is not expressly provided for or to which the Contractor is not otherwise entitled, or (c) an amount that is disputed by the City, with a value of \$375,000 or less, are subject to the claims procedures set forth in California Public Contract Code Sections 20104, et seq., except as otherwise provided in this Contract and the incorporated documents, conditions and specifications.

**21. LOBBYING AND INFLUENCING FEDERAL EMPLOYEES.**

a. No Federal appropriated funds shall be paid, by or on behalf of the Contractor or its subcontractors, 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 making of any Federal grant or the amendment or modification of any Federal grant.

a. If any funds other than Federal appropriated funds have been paid or will be paid by the Contractor or its subcontractors to any person for influencing or attempting to influence an officer or employee of the City, any Federal agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any Federal grant, the contractor shall complete and submit Standard Form-LLL, "Disclosure of Lobby Activities," in accordance with its instructions.

**22. ASSIGNMENT OF CERTAIN RIGHTS TO THE CITY.**

In entering into this Contract or a subcontract to supply goods, services, or materials pursuant to this Contract, the Contractor and/or subcontractor offers and agrees to assign to the City all rights, title, and interest in and to all causes of action it may have under Section 4 of the Clayton Act (15 U.S.C. Sec. 15) or under the Cartwright Act (Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code), arising from purchases of goods, services, or materials pursuant to this Contract or the subcontract. This assignment shall be made and become effective at the time the City tenders final payment to the Contractor, without further acknowledgement by the parties.

**23. ENERGY CONSERVATION REQUIREMENTS**

The contractor agrees to comply with mandatory standards and policies relating to energy efficiency that are contained in the state energy conservation plan issued in compliance with the Energy Policy and Conservation Act (Public Law 94-163)

**IN WITNESS WHEREOF**, two identical counterparts of this Contract, each of which shall for all purposes be deemed an original thereof, have been duly executed by the parties hereinabove named, on the day and year first herein written.

AGENCY: City of Oroville (First Party)

By: \_\_\_\_\_  
(Linda L. Dahlmeier)

\_\_\_\_\_  
Mayor  
(Official Title)

CONTRACTOR: Jason Abel Construction, Inc. (Second Party)

By: \_\_\_\_\_  
(Authorized Representative)

\_\_\_\_\_  
(Official Title)

Attachment: Federal Special Provisions

# ATTACHMENT TO JASON ABEL CONTRACT - TABLE MOUNTAIN ROUNDABOUT

## 1. *DISADVANTAGED BUSINESS ENTERPRISES (DBE)*

Under 49 CFR 26.13(b):

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

Take necessary and reasonable steps to ensure that DBEs have opportunity to participate in the contract (49 CFR 26).

To ensure equal participation of DBEs provided in 49 CFR 26.5, the Agency shows a goal for DBEs.

Make work available to DBEs and select work parts consistent with available DBE subcontractors and suppliers.

Meet the DBE goal shown elsewhere in these special provisions or demonstrate that you made adequate good faith efforts to meet this goal.

It is your responsibility to verify that the DBE firm is certified as DBE at date of bid opening. For a list of DBEs certified by the California Unified Certification Program, go to:

[http://www.dot.ca.gov/hq/bep/find\\_certified.htm](http://www.dot.ca.gov/hq/bep/find_certified.htm).

All DBE participation will count toward the California Department of Transportation's federally mandated statewide overall DBE goal.

Credit for materials or supplies you purchase from DBEs counts towards the goal in the following manner:

- 100 percent counts if the materials or supplies are obtained from a DBE manufacturer.
- 60 percent counts if the materials or supplies are obtained from a DBE regular dealer.
- Only fees, commissions, and charges for assistance in the procurement and delivery of materials or supplies count if obtained from a DBE that is neither a manufacturer nor regular dealer. 49 CFR 26.55 defines "manufacturer" and "regular dealer."

You receive credit towards the goal if you employ a DBE trucking company that performs a commercially useful function as defined in 49 CFR 26.55(d)(1) through (4) and (6).

### *a. DBE Commitment Submittal*

Submit the Exhibit 15-G *Local Agency Bidder DBE Commitment (Construction Contracts)* form, included in the Bid book. If the form is not submitted with the bid, remove the form from the Bid book before submitting your bid. **The City has established a DBE participation goal of 20% for this project.**

If the DBE Commitment form is not submitted with the bid, the apparent low bidder, the 2nd low bidder, and the 3rd low bidder must complete and submit the DBE Commitment form to the Agency. DBE Commitment form must be received by the Agency no later than 4:00 p.m. on the 4th business day after bid opening.

Other bidders do not need to submit the DBE Commitment form unless the Agency requests it. If the Agency requests you to submit a DBE Commitment form, submit the completed form within 4 business days of the request.

Submit written confirmation from each DBE stating that it is participating in the contract. Include confirmation with the DBE Commitment form. A copy of a DBE's quote will serve as written confirmation that the DBE is participating in the contract.

If you do not submit the DBE Commitment form within the specified time, the Agency will find your bid nonresponsive.

### *b. Good Faith Efforts Submittal*

If you have not met the DBE goal, complete and submit the DBE Information - Good Faith Efforts, Exhibit 15-H, form with the bid showing that you made adequate good faith efforts to meet the goal. Only good faith efforts directed towards obtaining participation by DBEs will be considered. If good faith efforts

documentation is not submitted with the bid, it must be received by the Agency no later than 4:00 p.m. on the 4th business day after bid opening.

If your DBE Commitment form shows that you have met the DBE goal or if you are required to submit the DBE Commitment form, you must also submit good faith efforts documentation within the specified time to protect your eligibility for award of the contract in the event the Agency finds that the DBE goal has not been met.

Good faith efforts documentation must include the following information and supporting documents, as necessary:

1. Items of work you have made available to DBE firms. Identify those items of work you might otherwise perform with your own forces and those items that have been broken down into economically feasible units to facilitate DBE participation. For each item listed, show the dollar value and percentage of the total contract. It is your responsibility to demonstrate that sufficient work to meet the goal was made available to DBE firms.
2. Names of certified DBEs and dates on which they were solicited to bid on the project. Include the items of work offered. Describe the methods used for following up initial solicitations to determine with certainty if the DBEs were interested, and the dates of the follow-up. Attach supporting documents such as copies of letters, memos, facsimiles sent, telephone logs, telephone billing statements, and other evidence of solicitation. You are reminded to solicit certified DBEs through all reasonable and available means and provide sufficient time to allow DBEs to respond.
3. Name of selected firm and its status as a DBE for each item of work made available. Include name, address, and telephone number of each DBE that provided a quote and their price quote. If the firm selected for the item is not a DBE, provide the reasons for the selection.
4. Name and date of each publication in which you requested DBE participation for the project. Attach copies of the published advertisements.
5. Names of agencies and dates on which they were contacted to provide assistance in contacting, recruiting, and using DBE firms. If the agencies were contacted in writing, provide copies of supporting documents.
6. List of efforts made to provide interested DBEs with adequate information about the plans, specifications, and requirements of the contract to assist them in responding to a solicitation. If you have provided information, identify the name of the DBE assisted, the nature of the information provided, and date of contact. Provide copies of supporting documents, as appropriate.
7. List of efforts made to assist interested DBEs in obtaining bonding, lines of credit, insurance, necessary equipment, supplies, and materials, excluding supplies and equipment that the DBE subcontractor purchases or leases from the prime contractor or its affiliate. If such assistance is provided by you, identify the name of the DBE assisted, nature of the assistance offered, and date assistance was provided. Provide copies of supporting documents, as appropriate.
8. Any additional data to support demonstration of good faith efforts.

The Agency may consider DBE commitments of the 2nd and 3rd bidders when determining whether the low bidder made good faith efforts to meet the DBE goal.

***c. Exhibit 15-G - Local Agency Bidder DBE Information (Construction Contracts)***

Complete and sign Exhibit 15-G *Local Agency Bidder DBE Commitment (Construction Contracts)* included in the contract documents regardless of whether DBE participation is reported.

Provide written confirmation from each DBE that the DBE is participating in the Contract. A copy of a DBE's quote serves as written confirmation. If a DBE is participating as a joint venture partner, the Agency encourages you to submit a copy of the joint venture agreement.)

***d. Subcontractor and Disadvantaged Business Enterprise Records***

Use each DBE subcontractor as listed on Exhibit 12-B *Bidder's List of Subcontractors (DBE and Non-DBE)* and Exhibit 15-G *Local Agency Bidder DBE Commitment (Construction Contracts)* form unless you receive authorization for a substitution.

The Agency requests the Contractor to:

1. Notify the Engineer of any changes to its anticipated DBE participation
2. Provide this notification before starting the affected work
3. Maintain records including:
  - Name and business address of each 1<sup>st</sup>-tier subcontractor
  - Name and business address of each DBE subcontractor, DBE vendor, and DBE trucking company, regardless of tier
  - Date of payment and total amount paid to each business

If you are a DBE contractor, include the date of work performed by your own forces and the corresponding value of the work.

Before the 15th of each month, submit a Monthly DBE Trucking Verification form.

If a DBE is decertified before completing its work, the DBE must notify you in writing of the decertification date. If a business becomes a certified DBE before completing its work, the business must notify you in writing of the certification date. Submit the notifications. On work completion, complete a Disadvantaged Business Enterprises (DBE) Certification Status Change, Exhibit 17-O, form. Submit the form within 30 days of contract acceptance.

Upon work completion, complete Exhibit 17-F *Final Report – Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subcontractors*. Submit it within 90 days of contract acceptance. The Agency will withhold \$10,000 until the form is submitted. The Agency releases the withhold upon submission of the completed form.

***e. Performance of Disadvantaged Business Enterprises***

DBEs must perform work or supply materials as listed in the Exhibit 15-G *Local Agency Bidder DBE Commitment (Construction Contracts)* form, included in the Bid.

Do not terminate or substitute a listed DBE for convenience and perform the work with your own forces or obtain materials from other sources without authorization from the Agency.

The Agency authorizes a request to use other forces or sources of materials if it shows any of the following justifications:

1. Listed DBE fails or refuses to execute a written contract based on plans and specifications for the project.
2. You stipulated that a bond is a condition of executing the subcontract and the listed DBE fails to meet your bond requirements.
3. Work requires a contractor's license and listed DBE does not have a valid license under Contractors License Law.
4. Listed DBE fails or refuses to perform the work or furnish the listed materials.
5. Listed DBE's work is unsatisfactory and not in compliance with the contract.
6. Listed DBE is ineligible to work on the project because of suspension or debarment.
7. Listed DBE becomes bankrupt or insolvent.
8. Listed DBE voluntarily withdraws with written notice from the Contract
9. Listed DBE is ineligible to receive credit for the type of work required.
10. Listed DBE owner dies or becomes disabled resulting in the inability to perform the work on the Contract.
11. Agency determines other documented good cause.

Notify the original DBE of your intent to use other forces or material sources and provide the reasons. Provide the DBE with 5 days to respond to your notice and advise you and the Agency of the reasons why the use of other forces or sources of materials should not occur. Your request to use other forces or material sources must include:

1. One or more of the reasons listed in the preceding paragraph
2. Notices from you to the DBE regarding the request
3. Notices from the DBEs to you regarding the request

If a listed DBE is terminated or substituted, you must make good faith efforts to find another DBE to substitute for the original DBE. The substitute DBE must perform at least the same amount of work as the original DBE under the contract to the extent needed to meet the DBE goal.

The substitute DBE must be certified as a DBE at the time of request for substitution.

Unless the Agency authorizes (1) a request to use other forces or sources of materials or (2) a good faith effort for a substitution of a terminated DBE, the Agency does not pay for work listed on the Exhibit 15-G *Local Agency Bidder DBE Commitment (Construction Contracts)* form unless it is performed or supplied by the listed DBE or an authorized substitute.

## **2. BID OPENING**

The Agency publicly opens and reads bids at the time and place shown on the *Notice to Bidders*.

## **3. BID RIGGING**

The U.S. Department of Transportation (DOT) provides a toll-free hotline to report bid rigging activities. Use the hotline to report bid rigging, bidder collusion, and other fraudulent activities. The hotline number is (800) 424-9071. The service is available 24 hours 7 days a week and is confidential and anonymous.. The hotline is part of the DOT's effort to identify and investigate highway construction contract fraud and abuse and is operated under the direction of the DOT Inspector General.

## **4. CONTRACT AWARD**

If the Agency awards the contract, the award is made to the lowest responsible bidder.

## **5. CONTRACTOR LICENSE**

The Contractor must be properly licensed as a contractor from contract award through Contract acceptance (Public Contract Code § 10164).

## **6. DIFFERING SITE CONDITIONS**

### ***a. Contractor's Notification***

Promptly notify the Agency's Engineer if you find either of the following conditions:

1. Physical conditions differing materially from either of the following:
  - Contract documents
  - Job site examination
2. Physical conditions of an unusual nature, differing materially from those ordinarily encountered and generally recognized as inherent in the work provided for in the Contract

Include details explaining the information you relied on and the material differences you discovered.

If you fail to promptly notify the Engineer, you waive the differing site condition claim for the period between your discovery of the differing site condition and your notification to the Engineer.

If you disturb the site after discovery and before the Engineer's investigation, you waive the differing site condition claim.

### ***b. Engineer's Investigation and Decision***

Upon your notification, the Engineer investigates job site conditions and:

1. Notifies you whether to resume affected work
2. Decides whether the condition differs materially and is cause for an adjustment of time, payment, or both

**7. BEGINNING OF WORK, TIME OF COMPLETION AND LIQUIDATED DAMAGES**

The Contractor shall begin work within 10 calendar days after the Notice to Proceed contract has been issued by the City of Oroville.

This work shall be diligently prosecuted to completion before the expiration of 95 WORKING DAYS beginning on the fifteenth calendar day after approval of the contract.

The Contractor shall pay to the City of Oroville the sum of \$100 per day, for each and every calendar day's delay in finishing the work in excess of the number of working days prescribed above.

**8. BUY AMERICA**

Furnish steel and iron materials to be incorporated into the work with certificates of compliance. Steel and iron materials must be produced in the U.S. except:

1. Foreign pig iron and processed, pelletized, and reduced iron ore may be used in the domestic production of the steel and iron materials [60 Fed Reg 15478 (03/24/1995)];
2. If the total combined cost of the materials does not exceed the greater of 0.1 percent of the total bid or \$2,500, materials produced outside the U.S. may be used.

Production includes:

1. Processing steel and iron materials, including smelting or other processes that alter the physical form or shape (such as rolling, extruding, machining, bending, grinding, and drilling) or chemical composition;
2. Coating application, including epoxy coating, galvanizing, and painting, that protects or enhances the value of steel and iron materials.

**9. QUALITY ASSURANCE**

The Agency uses a Quality Assurance Program (QAP) to ensure a material is produced to comply with the Contract.

You may examine the records and reports of tests the Agency performs if they are available at the job site.

Schedule work to allow time for QAP.

**10. PROMPT PAYMENT OF FUNDS WITHHELD TO SUBCONTRACTORS**

The agency shall hold 5% retainage from the prime contractor and shall make prompt and regular incremental acceptances of portions, as determined by the agency, of the contract work, and pay retainage to the prime contractor based on these acceptances. The prime contractor, or subcontractor, shall return all monies withheld in retention from a subcontractor within 30 days after receiving payment for work satisfactorily completed and accepted including incremental acceptances of portions of the contract work by the agency. Federal law (49CFR26.29) requires that any delay or postponement of payment over 30 days may take place only for good cause and with the agency's prior written approval. Any violation of this provision shall subject the violating prime contractor or subcontractor to the penalties, sanctions and other remedies specified in Section 7108.5 of the Business and Professions Code. These requirements shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise available to the prime contractor or subcontractor in the event of a dispute involving late payment or nonpayment by the prime contractor, deficient subcontract performance, or noncompliance by a subcontractor.

**11. FORM FHWA-1273 REQUIRED CONTRACT PROVISIONS FEDERAL-AID CONTRACTS (Excluding ATTACHMENT A - EMPLOYMENT AND MATERIALS PREFERENCE FOR APPALACHIAN DEVELOPMENT HIGHWAY SYSTEM OR APPALACHIAN LOCAL ACCESS ROAD CONTRACTS)**

FHWA-1273 -- Revised May 1, 2012

**REQUIRED CONTRACT PROVISIONS  
FEDERAL-AID CONSTRUCTION CONTRACTS**

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

**ATTACHMENTS**

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

**I. GENERAL**

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

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

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

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

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

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

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

**II. NONDISCRIMINATION**

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

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

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

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

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

**1. Equal Employment Opportunity:** Equal employment opportunity (EEO) requirements not to discriminate and to take affirmative action to assure equal opportunity as set forth under laws, executive orders, rules, regulations (28 CFR 35, 29 CFR 1630, 29 CFR 1625-1627, 41 CFR 60 and 49 CFR

27) and orders of the Secretary of Labor as modified by the provisions prescribed herein, and imposed pursuant to 23 U.S.C. 140 shall constitute the EEO and specific affirmative action standards for the contractor's project activities under this contract. The provisions of the Americans with Disabilities Act of 1990 (42 U.S.C. 12101 et seq.) set forth under 28 CFR 35 and 29 CFR 1630 are incorporated by reference in this contract. In the execution of this contract, the contractor agrees to comply with the following minimum specific requirement activities of EEO:

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

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

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

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

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

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

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

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

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

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

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

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

b. In the event the contractor has a valid bargaining agreement providing for exclusive hiring hall referrals, the contractor is expected to observe the provisions of that agreement to the extent that the system meets the contractor's compliance with EEO contract provisions. Where implementation of such an agreement has the effect of discriminating against minorities or women, or obligates the contractor to do the same, such implementation violates Federal nondiscrimination provisions.

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

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

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

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

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

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

**6. Training and Promotion:**

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

b. Consistent with the contractor's work force requirements and as permissible under Federal and State regulations, the contractor shall make full use of training programs, i.e., apprenticeship, and on-the-job training programs for the geographical area of contract performance. In the event a special provision for training is provided under this contract, this subparagraph will be superseded as indicated in the special provision. The contracting agency may reserve training positions for persons who receive welfare assistance in accordance with 23 U.S.C. 140(a).

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

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

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

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

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

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

d. In the event the union is unable to provide the contractor with a reasonable flow of referrals within the time limit set forth in the collective bargaining agreement, the contractor will, through independent recruitment efforts, fill the employment vacancies without regard to race, color, religion, sex, national origin, age or disability; making full efforts to obtain qualified and/or qualifiable minorities and women. The failure of a union to provide sufficient referrals (even though it is obligated to provide exclusive referrals under the terms of a collective bargaining agreement) does not relieve the contractor from the requirements of this paragraph. In the event the union referral practice prevents the contractor from meeting the obligations pursuant to Executive Order 11246, as amended, and these special provisions, such contractor shall immediately notify the contracting agency.

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

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

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

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

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

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

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

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

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

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

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

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

b. The contractors and subcontractors will submit an annual report to the contracting agency each July for the duration of the project, indicating the number of minority, women, and non-minority group employees currently engaged in each work classification required by the contract work. This information is to be reported on [Form FHWA-1391](#). The staffing data should represent the project work force on board in

all or any part of the last payroll period preceding the end of July. If on-the-job training is being required by special provision, the contractor will be required to collect and report training data. The employment data should reflect the work force on board during all or any part of the last payroll period preceding the end of July.

### III. NONSEGREGATED FACILITIES

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

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

### IV. DAVIS-BACON AND RELATED ACT PROVISIONS

This section is applicable to all Federal-aid construction projects exceeding \$2,000 and to all related subcontracts and lower-tier subcontracts (regardless of subcontract size). The requirements apply to all projects located within the right-of-way of a roadway that is functionally classified as Federal-aid highway. This excludes roadways functionally classified as local roads or rural minor collectors, which are exempt. Contracting agencies may elect to apply these requirements to other projects. Contractors shall comply with the federal wage rate requirements when preparing bids for this project. Federal wage rate determinations can be found at the following Internet web site address:

[www.wdol.gov](http://www.wdol.gov) (Wage Determinations Online)

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

#### 1. Minimum wages

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

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

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

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

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

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

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

(3) In the event the contractor, the laborers or mechanics to be employed in the classification or their representatives, and the contracting officer do not agree on the proposed classification and wage rate (including the amount designated for fringe benefits, where appropriate), the contracting officer shall refer the questions, including the views of all interested parties and the recommendation of the contracting

officer, to the Wage and Hour Administrator for determination. The Wage and Hour Administrator, or an authorized representative, will issue a determination within 30 days of receipt and so advise the contracting officer or will notify the contracting officer within the 30-day period that additional time is necessary.

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

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

d. If the contractor does not make payments to a trustee or other third person, the contractor may consider as part of the wages of any laborer or mechanic the amount of any costs reasonably anticipated in providing bona fide fringe benefits under a plan or program, Provided, That the Secretary of Labor has found, upon the written request of the contractor, that the applicable standards of the Davis-Bacon Act have been met. The Secretary of Labor may require the contractor to set aside in a separate account assets for the meeting of obligations under the plan or program.

## **2. Withholding**

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

## **3. Payrolls and basic records**

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

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

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

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

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

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

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

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

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

#### **4. Apprentices and trainees**

a. Apprentices (programs of the USDOL).

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

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

Every apprentice must be paid at not less than the rate specified in the registered program for the apprentice's level of progress, expressed as a percentage of the journeymen hourly rate specified in the applicable wage determination. Apprentices shall be paid fringe benefits in accordance with the provisions of the apprenticeship program. If the apprenticeship program does not specify fringe benefits, apprentices must be paid the full amount of fringe benefits listed on the wage determination for the applicable classification. If the Administrator determines that a different practice prevails for the applicable apprentice classification, fringes shall be paid in accordance with that determination.

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

b. Trainees (programs of the USDOL).

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

The ratio of trainees to journeymen on the job site shall not be greater than permitted under the plan approved by the Employment and Training Administration.

Every trainee must be paid at not less than the rate specified in the approved program for the trainee's level of progress, expressed as a percentage of the journeyman hourly rate specified in the applicable wage determination. Trainees shall be paid fringe benefits in accordance with the provisions of the trainee program. If the trainee program does not mention fringe benefits, trainees shall be paid the full amount of fringe benefits listed on the wage determination unless the Administrator of the Wage and Hour Division determines that there is an apprenticeship program associated with the corresponding journeyman wage rate on the wage determination which provides for less than full fringe benefits for apprentices. Any employee listed on the payroll at a trainee rate who is not registered and participating in a training plan approved by the Employment and Training Administration shall be paid not less than the applicable wage rate on the wage determination for the classification of work actually performed. In addition, any trainee performing work on the job site in excess of the ratio permitted under the registered program shall be paid not less than the applicable wage rate on the wage determination for the work actually performed.

In the event the Employment and Training Administration withdraws approval of a training program, the contractor will no longer be permitted to utilize trainees at less than the applicable predetermined rate for the work performed until an acceptable program is approved.

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

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

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

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

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

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

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

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

#### **10. Certification of eligibility.**

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

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

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

#### **V. CONTRACT WORK HOURS AND SAFETY STANDARDS ACT**

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

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

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

**3. Withholding for unpaid wages and liquidated damages.** The FHWA or the contracting agency shall upon its own action or upon written request of an authorized representative of the Department of Labor withhold or cause to be withheld, from any moneys payable on account of work performed by the contractor or subcontractor under any such contract or any other Federal contract with the same prime contractor, or any other federally-assisted contract subject to the Contract Work Hours and Safety Standards Act, which is held by the same prime contractor, such sums as may be determined to be necessary to satisfy any liabilities of such contractor or subcontractor for unpaid wages and liquidated damages as provided in the clause set forth in paragraph (2.) of this section.

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

#### **VI. SUBLETTING OR ASSIGNING THE CONTRACT**

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

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

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

- (1) the prime contractor maintains control over the supervision of the day-to-day activities of the leased employees;
- (2) the prime contractor remains responsible for the quality of the work of the leased employees;
- (3) the prime contractor retains all power to accept or exclude individual employees from work on the project; and
- (4) the prime contractor remains ultimately responsible for the payment of predetermined minimum wages, the submission of payrolls, statements of compliance and all other Federal regulatory requirements.

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

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

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

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

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

## **VII. SAFETY: ACCIDENT PREVENTION**

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

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

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

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

## **VIII. FALSE STATEMENTS CONCERNING HIGHWAY PROJECTS**

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

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

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

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

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

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

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

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

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

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

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

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

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

### **1. Instructions for Certification – First Tier Participants:**

- a. By signing and submitting this proposal, the prospective first tier participant is providing the certification set out below.
- b. The inability of a person to provide the certification set out below will not necessarily result in denial of participation in this covered transaction. The prospective first tier participant shall submit an explanation of why it cannot provide the certification set out below. The certification or explanation will be considered in connection with the department or agency's determination whether to enter into this transaction. However, failure of the prospective first tier participant to furnish a certification or an explanation shall disqualify such a person from participation in this transaction.
- c. The certification in this clause is a material representation of fact upon which reliance was placed when the contracting agency determined to enter into this transaction. If it is later determined that the prospective participant knowingly rendered an erroneous certification, in addition to other remedies available to the Federal Government, the contracting agency may terminate this transaction for cause of default.
- d. The prospective first tier participant shall provide immediate written notice to the contracting agency to whom this proposal is submitted if any time the prospective first tier participant learns that its certification was erroneous when submitted or has become erroneous by reason of changed circumstances.
- e. The terms "covered transaction," "debarred," "suspended," "ineligible," "participant," "person," "principal," and "voluntarily excluded," as used in this clause, are defined in 2 CFR Parts 180 and 1200. "First Tier Covered Transactions" refers to any covered transaction between a grantee or subgrantee of Federal funds and a participant (such as the prime or general contract). "Lower Tier Covered Transactions" refers to any covered transaction under a First Tier Covered Transaction (such as subcontracts). "First Tier Participant" refers to the participant who has entered into a covered transaction with a grantee or subgrantee of Federal funds (such as the prime or general contractor). "Lower Tier Participant" refers any participant who has entered into a covered transaction with a First Tier Participant or other Lower Tier Participants (such as subcontractors and suppliers).
- f. The prospective first tier participant agrees by submitting this proposal that, should the proposed covered transaction be entered into, it shall not knowingly enter into any lower tier covered transaction with a person who is debarred, suspended, declared ineligible, or voluntarily excluded from participation in this covered transaction, unless authorized by the department or agency entering into this transaction.
- g. The prospective first tier participant further agrees by submitting this proposal that it will include the clause titled "Certification Regarding Debarment, Suspension, Ineligibility and Voluntary Exclusion-Lower Tier Covered Transactions," provided by the department or contracting agency, entering into this covered transaction, without modification, in all lower tier covered transactions and in all solicitations for lower tier covered transactions exceeding the \$25,000 threshold.
- h. A participant in a covered transaction may rely upon a certification of a prospective participant in a lower tier covered transaction that is not debarred, suspended, ineligible, or voluntarily excluded from the covered transaction, unless it knows that the certification is erroneous. A participant is responsible for ensuring that its principals are not suspended, debarred, or otherwise ineligible to participate in covered transactions. To verify the eligibility of its principals, as well as the eligibility of any lower tier prospective participants, each participant may, but is not required to, check the Excluded Parties List System website (<https://www.epls.gov/>), which is compiled by the General Services Administration.
- i. Nothing contained in the foregoing shall be construed to require the establishment of a system of records in order to render in good faith the certification required by this clause. The knowledge and information of the prospective participant is not required to exceed that which is normally possessed by a prudent person in the ordinary course of business dealings.
- j. Except for transactions authorized under paragraph (f) of these instructions, if a participant in a covered transaction knowingly enters into a lower tier covered transaction with a person who is suspended, debarred, ineligible, or voluntarily excluded from participation in this transaction, in addition to other remedies available to the Federal Government, the department or agency may terminate this transaction for cause or default.

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

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

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

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

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

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

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

### **2. Instructions for Certification - Lower Tier Participants:**

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

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

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

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

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

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

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

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

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

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

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

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

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

#### **XI. CERTIFICATION REGARDING USE OF CONTRACT FUNDS FOR LOBBYING**

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

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

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

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

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

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

**12. FEMALE AND MINORITY GOALS**

To comply with Section II, "Nondiscrimination," of "Required Contract Provisions Federal-Aid Construction Contracts," the following are goals for female and minority utilization goals for Federal-aid construction contracts and subcontracts that exceed \$10,000:

The nationwide goal for female utilization is 6.9 percent.

The goals for minority utilization [45 Fed Reg 65984 (10/3/1980)] are as follows:

**MINORITY UTILIZATION GOALS**

Economic Area		Goal (Percent )
174	Redding CA: Non-SMSA (Standard Metropolitan Statistical Area) Counties: CA Lassen; CA Modoc; CA Plumas; CA Shasta; CA Siskiyou; CA Tehama	6.8
175	Eureka, CA Non-SMSA Counties: CA Del Norte; CA Humboldt; CA Trinity	6.6
176	San Francisco-Oakland-San Jose, CA: SMSA Counties: 7120 Salinas-Seaside-Monterey, CA CA Monterey	28.9
	7360 San Francisco-Oakland CA Alameda; CA Contra Costa; CA Marin; CA San Francisco; CA San Mateo	25.6
	7400 San Jose, CA CA Santa Clara, CA	19.6
	7485 Santa Cruz, CA CA Santa Cruz	14.9
	7500 Santa Rosa CA Sonoma	9.1
	8720 Vallejo-Fairfield-Napa, CA CA Napa; CA Solano	17.1
	Non-SMSA Counties: CA Lake; CA Mendocino; CA San Benito	23.2
177	Sacramento, CA: SMSA Counties: 6920 Sacramento, CA CA Placer; CA Sacramento; CA Yolo	16.1
	Non-SMSA Counties CA Butte; CA Colusa; CA El Dorado; CA Glenn; CA Nevada; CA Sierra; CA Sutter; CA Yuba	14.3
178	Stockton-Modesto, CA: SMSA Counties: 5170 Modesto, CA CA Stanislaus	12.3
	8120 Stockton, CA CA San Joaquin	24.3
	Non-SMSA Counties	19.8
	CA Alpine; CA Amador; CA Calaveras; CA Mariposa; CA Merced; CA Tuolumne	
179	Fresno-Bakersfield, CA SMSA Counties: 0680 Bakersfield, CA CA Kern	19.1

	2840 Fresno, CA CA Fresno Non-SMSA Counties: CA Kings; CA Madera; CA Tulare	26.1 23.6
180	Los Angeles, CA: SMSA Counties: 0360 Anaheim-Santa Ana-Garden Grove, CA CA Orange 4480 Los Angeles-Long Beach, CA CA Los Angeles 6000 Oxnard-Simi Valley-Ventura, CA CA Ventura 6780 Riverside-San Bernardino-Ontario, CA CA Riverside; CA San Bernardino 7480 Santa Barbara-Santa Maria-Lompoc, CA CA Santa Barbara Non-SMSA Counties CA Inyo; CA Mono; CA San Luis Obispo	11.9 28.3 21.5 19.0 19.7 24.6
181	San Diego, CA: SMSA Counties 7320 San Diego, CA CA San Diego Non-SMSA Counties CA Imperial	16.9 18.2

For each July during which work is performed under the contract, you and each non material-supplier subcontractor with a subcontract of \$10,000 or more must complete Form FHWA PR-1391 (Appendix C to 23 CFR 230). Submit the forms by August 15.

### 13. FEDERAL TRAINEE PROGRAM

For the Federal training program, the number of trainees or apprentices is \_\_\_\_\_.

This section applies if a number of trainees or apprentices is specified in the special provisions.

As part of your equal opportunity affirmative action program, provide on-the-job training to develop full journeymen in the types of trades or job classifications involved.

You have primary responsibility for meeting this training requirement.

If you subcontract a contract part, determine how many trainees or apprentices are to be trained by the subcontractor.

Include these training requirements in your subcontract.

Where feasible, 25 percent of apprentices or trainees in each occupation must be in their 1st year of apprenticeship or training.

Distribute the number of apprentices or trainees among the work classifications on the basis of your needs and the availability of journeymen in the various classifications within a reasonable recruitment area.

Before starting work, submit to the City/County of \_\_\_\_\_:

1. Number of apprentices or trainees to be trained for each classification
2. Training program to be used
3. Training starting date for each classification

Obtain the City/County's of \_\_\_\_\_ approval for this submitted information before you start work. The City/County of \_\_\_\_\_ credits you for each apprentice or trainee you employ on the work who is currently enrolled or becomes enrolled in an approved program.

The primary objective of this section is to train and upgrade minorities and women toward journeymen status. Make every effort to enroll minority and women apprentices or trainees, such as conducting systematic and direct recruitment through public and private sources likely to yield minority and women apprentices or trainees, to the extent they are available within a reasonable recruitment area. Show that you have made the efforts. In making these efforts, do not discriminate against any applicant for training.

Do not employ as an apprentice or trainee an employee:

1. In any classification in which the employee has successfully completed a training course leading to journeyman status or in which the employee has been employed as a journeyman
2. Who is not registered in a program approved by the US Department of Labor, Bureau of Apprenticeship and Training

Ask the employee if the employee has successfully completed a training course leading to journeyman status or has been employed as a journeyman. Your records must show the employee's answers to the questions.

In your training program, establish the minimum length and training type for each classification. The City/County of \_\_\_\_\_ and FHWA approves a program if one of the following is met:

1. It is calculated to:
  - Meet the your equal employment opportunity responsibilities
  - Qualify the average apprentice or trainee for journeyman status in the classification involved by the end of the training period
2. It is registered with the U.S. Department of Labor, Bureau of Apprenticeship and Training, and it is administered in a way consistent with the equal employment responsibilities of Federal-aid highway construction contracts

Obtain the State's approval for your training program before you start work involving the classification covered by the program.

Provide training in the construction crafts, not in clerk-typist or secretarial-type positions. Training is allowed in lower level management positions such as office engineers, estimators, and timekeepers if the training is oriented toward construction applications. Training is allowed in the laborer classification if significant and meaningful training is provided and approved by the division office. Off-site training is allowed if the training is an integral part of an approved training program and does not make up a significant part of the overall training.

The City/County of \_\_\_\_\_ reimburses you 80 cents per hour of training given an employee on this contract under an approved training program:

1. For on-site training
2. For off-site training if the apprentice or trainee is currently employed on a Federal-aid project and you do at least one of the following:
  - Contribute to the cost of the training
  - Provide the instruction to the apprentice or trainee
  - Pay the apprentice's or trainee's wages during the off-site training period
3. If you comply this section.

Each apprentice or trainee must:

1. Begin training on the project as soon as feasible after the start of work involving the apprentice's or trainee's skill
2. Remain on the project as long as training opportunities exist in the apprentice's or trainee's work classification or until the apprentice or trainee has completed the training program

Furnish the apprentice or trainee:

1. Copy of the program you will comply with in providing the training
2. Certification showing the type and length of training satisfactorily completed

#### **14. TITLE VI ASSURANCES**

During the performance of this Agreement, the contractor, for itself, its assignees and successors in interest (hereinafter collectively referred to as CONTRACTOR) agrees as follows:

- (1) Compliance with Regulations: CONTRACTOR shall comply with the regulations relative to nondiscrimination in federally assisted programs of the Department of Transportation, Title 49, Code of Federal Regulations, Part 21, as they may be amended from time to time, (hereinafter referred to as the REGULATIONS), which are herein incorporated by reference and made a part of this agreement.
- (2) Nondiscrimination: CONTRACTOR, with regard to the work performed by it during the AGREEMENT, shall not discriminate on the grounds of race, color, sex, national origin, religion, age, or disability in the selection and retention of sub-applicants, including procurements of materials and leases of equipment. CONTRACTOR shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the Regulations, including employment practices when the agreement covers a program set forth in Appendix B of the Regulations.
- (3) Solicitations for Sub-agreements, Including Procurements of Materials and Equipment: In all solicitations either by competitive bidding or negotiation made by CONTRACTOR for work to be performed under a Sub-agreement, including procurements of materials or leases of equipment, each potential sub-applicant or supplier shall be notified by CONTRACTOR of the CONTRACTOR'S obligations under this Agreement and the Regulations relative to nondiscrimination on the grounds of race, color, or national origin.
- (4) Information and Reports: CONTRACTOR shall provide all information and reports required by the Regulations, or directives issued pursuant thereto, and shall permit access to its books, records, accounts, other sources of information, and its facilities as may be determined by the California Department of Transportation or FHWA to be pertinent to ascertain compliance with such Regulations or directives. Where any information required of CONTRACTOR is in the exclusive possession of another who fails or refuses to furnish this information, CONTRACTOR shall so certify to the California Department of Transportation or the FHWA as appropriate, and shall set forth what efforts CONTRACTOR has made to obtain the information.
- (5) Sanctions for Noncompliance: In the event of CONTRACTOR'S noncompliance with the nondiscrimination provisions of this agreement, the California Department of Transportation shall impose such agreement sanctions as it or the FHWA may determine to be appropriate, including, but not limited to:
  - (a) withholding of payments to CONTRACTOR under the Agreement within a reasonable period of time, not to exceed 90 days; and/or
  - (b) cancellation, termination or suspension of the Agreement, in whole or in part.
- (6) Incorporation of Provisions: CONTRACTOR shall include the provisions of paragraphs (1) through (6) in every sub-agreement, including procurements of materials and leases of equipment, unless exempt by the Regulations, or directives issued pursuant thereto.

CONTRACTOR shall take such action with respect to any sub-agreement or procurement as the California Department of Transportation or FHWA may direct as a means of enforcing such provisions including sanctions for noncompliance, provided, however, that, in the event CONTRACTOR becomes involved in, or is threatened with, litigation with a sub-applicant or supplier as a result of such direction, CONTRACTOR may request the California Department of Transportation enter into such litigation to protect the interests of the State, and, in addition, CONTRACTOR may request the United States to enter into such litigation to protect the interests of the United States.

**OROVILLE CITY COUNCIL  
STAFF REPORT**

**TO: MAYOR AND CITY COUNCIL MEMBERS**

**FROM: DONALD RUST, DIRECTOR (530) 538-2433  
COMMUNITY DEVELOPMENT DEPARTMENT**

**RE: JAMBOREE HOUSING CORPORATION FAMILY HOUSING PROJECT:  
NATIONAL ENVIRONMENTAL POLICY ACT COMPLIANCE UPDATE**

**DATE: JUNE 21, 2016**

**SUMMARY**

The Council will receive information regarding expenditure for full compliance with the National Environmental Policy Act (NEPA) of the Affordable Family Housing Project currently being pursued with the assistance of Jamboree Housing Corporation.

**DISCUSSION**

As part of the Affordable Family Housing Project financing package, the City is currently pursuing federal funds with the assistance of Jamboree Housing Corporation. As a result, compliance with NEPA is warranted. The Council on Environmental Quality Regulations (40 C.F.R. Parts 1500-1508) set the standard for compliance with NEPA, for the purpose of determining if an action has the potential to affect the quality of the human environment. This process results in one of three levels of NEPA analysis. Agencies may, apply a Categorical Exclusion; prepare an Environmental Assessment (EA); or prepare an Environmental Impact Statement (EIS). Staff has determined that the appropriate level of environmental review is an EA, as required by the U.S. Department of Housing and Urban Development.

The City has submitted a concept proposal for the Affordable Housing and Sustainable Communities (ASHC) Program which was due on March 16<sup>th</sup>. Notifications of invite to submit a full application took place the week of April 25<sup>th</sup>, with full applications due on June 20, 2016. As a result of all NEPA requirements, including noticing, reports, consultation requests, lapse of review and commenting periods, etc., that need to be met for full NEPA compliance if the City were selected for submittal of a full application, R.L. Hastings & Associates have been working on the NEPA environmental review in preparation for submittal of a full AHSC application. The estimated fees for the full environmental review, as indicated by the consultant, were approximately \$9,000. However, because the pre-application was accepted and an invitation to submit an application was received, a Phase I ESA, Biological Resources Evaluation and a Cultural Study were also required to receive the highest readiness points with the application submittal. This increased the cost by \$4,599.60.

## FISCAL IMPACT

General Fund expenditure of an additional amount \$4,599.60, paid to R.L. Hastings & Associates, LLC, for compliance with the National Environmental Policy Act.

Item	Acct. No.	Dept.	Description	Amount
*Preparation of NEPA EA	001-7000-1600 001-7000-2900	Planning Building & Code	Outside Services (Labor)	\$4,500.00 \$4,000.00
*CHRIS Report	001-7000-2900	Building & Code	Outside Services	\$ 499.60
Phase I ESA	001-7000-1600	Planning	Outside Services	\$2,500.00
Biological Resources evaluation	001-7000-1600	Planning	Outside Services	\$1,200.00
Cultural Resource Study	001-7000-1600	Planning	Outside Services	\$ 900.00

\*items included in the original \$9,000.

Planning                      001-7000-1600                      \$4,599.60                      (Outside Services – Labor)

## RECOMMENDATIONS

For informational purposes only.

## ATTACHMENTS

None.

**OROVILLE CITY COUNCIL  
STAFF REPORT**

**TO: MAYOR AND CITY COUNCIL MEMBERS**

**FROM: RICK WALLS, INTERIM CITY ENGINEER  
DONALD RUST, DIRECTOR (530) 538-2433  
COMMUNITY DEVELOPMENT DEPARTMENT**

**RE: PROFESSIONAL SERVICES AGREEMENT WITH GARY HAWKINS  
ARCHITECT**

**DATE: JUNE 21, 2016**

**SUMMARY**

The Council may consider a Professional Services Agreement (PSA) with Gary Hawkins Architect, in the amount of \$77,225, for the Westside Public Safety and Aircraft Facility Project (Project).

**BACKGROUND**

During budget discussions for the FY 2016 – 2017 budget, the Council set as a goal the construction of a fire and police facility with an aircraft hangar at Oroville Municipal Airport. Since 2008, the City has been assessing and receiving special tax revenue from Community Facilities Districts (CFD) No. 2006-1 and 2006-2 for the purpose of constructing the Project to reduce the response time for service calls to the area. Until recently, funding was inadequate to move the Project forward into design and construction. The Council has now authorized staff to advance the Project using \$1.0 million in excess bond proceeds from the former redevelopment agency and \$300,000 of CFD fund balance, with a goal of constructing the Project by the end of 2016.

Over the last two weeks, staff worked with John Star of Better Builders Construction (BBC) to develop a floor plan for the Project that can be bid and constructed for \$1.3 million (less design fees). A copy of the floor plan prepared by staff and BBC is attached to this staff report. BBC further coordinated with Gary Hawkins Architect (GHA) from Chico, CA to obtain a proposal to prepare building plans suitable for permitting and public bidding for the Project. The proposed location for the Project is at the airport main gate entrance at Chuck Yeager Way. The developed floor plan depicts the following attributes for the Project:

- 3,800 square feet of fire and police office conditioned space including ADA compliant restrooms, sleeping quarters, meeting and office space, kitchen and gear storage.
- A 1,500 square foot apparatus bay sized for two fire trucks
- A 3,000 square foot aircraft hangar.

The proposal received from GHA provides for the design and development of building plans of sufficient detail to satisfy all City codes for issuance of a building permit and allow for public bidding to include the following:

Architecture design elements (Hawkins)

Structural design elements (Hawkins)

Mechanical and HVAC design elements (Subconsultant - Peters Engineering)

Electrical design elements (Subconsultant - Peters Engineering)

Plumbing design elements (Subconsultant - Peters Engineering)

The limited civil design elements (exterior paving, sewer and utility connections) will be completed by City engineering staff.

The design fee of \$77,225 represents 6% of the total Project budget, which is on the low range of architectural and engineering fees for a commercial building project. Time is of the essence if the Project is to be completed by the end of 2016. If approved by the Council, detailed design work will start immediately with a goal of advertising the Project for bid in late August or early September 2016.

## **FISCAL IMPACT**

Funding for the Project design is available in Fund 200-8000-6300.

## **RECOMMENDATIONS**

Adopt Resolution No. 8515 – A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH GARY HAWKINS ARCHITECT, IN THE AMOUNT OF \$77,225, FOR THE PREPARATION OF PLANS AND SPECIFICATIONS FOR THE WESTSIDE PUBLIC SAFETY AND AIRCRAFT FACILITY PROJECT AT OROVILLE MUNICIPAL AIRPORT – (Agreement No. 3184).

## **ATTACHMENTS**

Resolution No. 8515

Agreement No. 3184

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**CITY OF OROVILLE  
RESOLUTION NO. 8515**

**A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH GARY HAWKINS ARCHITECT, IN THE AMOUNT OF \$77,225, FOR THE PREPARATION OF PLANS AND SPECIFICATIONS FOR THE WESTSIDE PUBLIC SAFETY AND AIRCRAFT FACILITY PROJECT AT OROVILLE MUNICIPAL AIRPORT**

**(Agreement No. 3184)**

**NOW THEREFORE**, be it hereby resolved by the Oroville City Council as follows:

1. The Mayor is hereby authorized and directed to execute a Professional Services Agreement with Gary Hawkins Architect for the Westside Public Safety and Aircraft Facility Project. A copy of the Agreement is attached to this Resolution.
2. The City Clerk shall attest to the adoption of this Resolution.

**PASSED AND ADOPTED** by the Oroville City Council at a regular meeting on June 21, 2016, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

APPROVED AS TO FORM:

\_\_\_\_\_  
Linda L. Dahlmeier, Mayor

ATTEST:

\_\_\_\_\_  
Scott E. Huber, City Attorney

\_\_\_\_\_  
Donald Rust, Acting City Clerk

## **AGREEMENT FOR PROFESSIONAL SERVICES**

This Agreement is made and entered into as of June 21, 2016 by and between the City of Oroville ("City") and Gary Hawkins Architect ("Consultant").

### **RECITALS**

- A. The Consultant is licensed, trained, experienced and competent to provide design and construction documents for the Westside Public Safety and Aircraft Facility Project (Project) as required by this Agreement; and
- B. The Consultant possesses the skill, experience, ability, background, license, certification, and knowledge to provide the services described in this Agreement on the terms and conditions described herein.
- C. City desires to retain Consultant to render professional services as set forth in this Agreement.

### **AGREEMENT**

- 1. Scope of Services. The Consultant shall complete all services in a professional manner. Consultant shall complete the services described in the Gary Hawkins Architect proposal attached as Exhibit "A" which is incorporated herein by reference.
- 2. Time of Performance. The services of Consultant shall commence upon execution of this Agreement and shall be completed at the end of Project close out.
- 3. Compensation. Compensation to be paid to Consultant shall be in

accordance with the fee budget set forth in Exhibit "A," which is attached hereto and incorporated herein by reference. **In no event shall Consultant's compensation exceed the amount of \$77,225 without additional written authorization from the City.** Payment by City under this Agreement shall not be deemed a waiver of defects in Consultant's services, even if such defects were known to the City at the time of payment.

4. Method of Payment. Consultant shall submit monthly billings to City describing the work performed during the preceding month. Consultant'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. City shall pay Consultant no later than 30 days after approval of the monthly invoice by City staff.
5. Extra Work. At any time during the term of this Agreement, City may request that Consultant perform Extra Work. As used herein, "Extra Work" means any work which is determined by City to be necessary for the proper completion of Consultant's services, but which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Consultant shall not perform, nor be compensated for, Extra Work without prior written authorization from City.
6. Termination. This Agreement may be terminated by the City immediately for cause or by either party without cause upon fifteen days' written notice

of termination. Upon termination, Consultant shall be entitled to compensation for services properly performed up to the effective date of termination.

7. Ownership of Documents. All plans, studies, documents and other writings prepared by and for Consultant, its officers, employees and agents and subcontractors in the course of implementing this Agreement, except working notes and internal documents, shall become the property of the City upon payment to Consultant for such work, and the City shall have the sole right to use such materials in its discretion without further compensation to Consultant or to any other party. Consultant shall, at Consultant's expense, provide such reports, plans, studies, documents, and other writings to City within three (3) days after written request.
8. Licensing of Intellectual Property. This Agreement creates a nonexclusive and perpetual license for City 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 Consultant under this Agreement ("Documents and Data"). Consultant shall require all subcontractors to agree in writing that City is granted a nonexclusive and perpetual license for any Documents and Data the subcontractor prepares under this Agreement. Consultant represents and warrants that Consultant has the legal right to license any

and all Documents and Data. Consultant makes no such representation and warranty in regard to Documents and Data which may be provided to Consultant by City. City shall not be limited in any way in its use of the Documents and Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at City's sole risk.

9. 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 Consultant in connection with the performance of this Agreement shall be held confidential by Consultant. Such materials shall not, without the prior written consent of City, be used by Consultant 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 Consultant which is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use City's name or insignia, photographs relating to project for which Consultant's services are rendered, or any publicity pertaining to the Consultant'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 City.

10. Consultant's Books and Records.
- a. Consultant 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 City for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to Consultant to this Agreement.
  - b. Consultant 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.
  - c. 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 City Administrator, City Attorney, City Finance Director, or a designated representative of these officers. Copies of such documents shall be provided to the City for inspection at City Hall when it's practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at Consultant's address indicated for receipt of notices in this Agreement.
  - d. Where City has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment or

termination of Consultant's business, City may, by written request by any of the above named officers, require that custody of the records be given to the City and that the records and documents be maintained by City Hall.

11. Independent Contractor. It is understood that Consultant, 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 City. Consultant shall obtain no rights to retirement benefits or other benefits which accrue to City's employees, and Consultant hereby expressly waives any claim it may have to any such rights.

12. Interest of Consultant. Consultant (including principals, associates, and professional employees) 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 Consultant's services hereunder. Consultant 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. Consultant is not a designated employee within the meaning of the Political Reform Act because Consultant:

- 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 City or any City

official, other than normal agreement monitoring; and

- b. possesses no authority with respect to any City decision beyond rendition of information, advice, recommendation or counsel.

(FPPC Reg. 18700(a)(2).)

13. Professional Ability of Consultant. City has relied upon the professional training and ability of Consultant to perform the services hereunder as a material inducement to enter into this Agreement. All work performed by Consultant 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 Consultant's field of expertise.
14. Compliance with Laws. Consultant shall use the standard of care in its profession to comply with all applicable federal, state and local laws, codes, ordinances and regulations.
15. Licenses. Consultant represents and warrants to City that it has all licenses, permits, qualifications, insurance and approvals of whatsoever nature which are legally required of Consultant to practice its profession. Consultant represents and warrants to City that Consultant shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement, any licenses, permits, insurance and approvals which are required by the City for its business.
16. Indemnity. Consultant agrees to indemnify and hold harmless the City, its officers, officials, employees and volunteers from and against any and all claims, demands, actions, losses, damages, injuries, and liability, direct or

indirect (including reimbursement of reasonable costs and expenses in connection therein), arising from its negligent performance of this Agreement or its failure to comply with any of its obligations contained in this Agreement, except for any such claim arising from the negligence or willful misconduct of the City, its officers, agents, employees or volunteers. With regard to any claim alleging Consultant's negligent performance of professional services, Consultant's defense obligation under this indemnity paragraph means only the reimbursement of reasonable defense costs to the proportionate extent of its actual indemnity obligation hereunder.

17. Insurance Requirements. Consultant, at Consultant'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 "B" attached hereto.
18. Notices. Any notice required to be given under this Agreement shall be in writing and either 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 City:

**Rick Walls, Interim City Engineer  
City of Oroville  
1735 Montgomery Street  
Oroville, CA 95965-4897**

If to Consultant: **Gary Hawkins Architect**  
**3045 Ceres Avenue, Suite 135**  
**Chico, California 95973**  
**Attn: Gary Hawkins**

19. Entire Agreement. This Agreement constitutes the complete and exclusive statement of Agreement between the City and Consultant. All prior written and oral communications, including correspondence, drafts, memoranda, and representations are superseded in total by this Agreement.
20. Amendments. This Agreement may be modified or amended only by a written document executed by both Consultant and City and approved as to form by the City Attorney.
21. Assignment and Subcontracting. The parties recognize that a substantial inducement to City for entering into this Agreement is the professional reputation, experience and competence of Consultant. Assignments of any or all rights, duties or obligations of the Consultant under this Agreement will be permitted only with the express prior written consent of the City. Consultant shall not subcontract any portion of the work to be performed under this Agreement without the prior written authorization of the City. If City consents to such subcontract, Consultant shall be fully responsible to City for all acts or omissions of the subcontractor. Nothing in this Agreement shall create any contractual relationship between City and subcontractor nor shall it create any obligation on the part of the City to pay or to see to the payment of any monies due to any such subcontractor other than as otherwise required by law.

22. 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.
23. 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.
24. 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 Butte County Superior Court or the United States District Court, Eastern District of California.
25. 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.
26. 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.

27. Authority to Enter Agreement. Consultant 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.
28. Prohibited Interests. Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant 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 Consultant, 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, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.
29. Equal Opportunity Employment. Consultant 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 caused this Agreement to be executed on the date first written above.

CITY OF OROVILLE

By: \_\_\_\_\_  
Linda L. Dahlmeier, Mayor

By: \_\_\_\_\_  
Gary Hawkins, Architect

APPROVED AS TO FORM:

ATTEST:

By: \_\_\_\_\_  
Scott E. Huber, City Attorney

By: \_\_\_\_\_  
Donald Rust, Acting City Clerk

Attachments: Exhibit A - Consultant Proposal  
Exhibit B - Insurance Requirements

# EXHIBIT A



**GARY HAWKINS  
ARCHITECT**

3045 Ceres Avenue, Suite 135  
Chico, CA 95973

(530) 892-2700  
info@ghachico.com

June 15, 2016

Job#: TBD

City of Oroville

~~Better Builders Construction, Inc.  
Attn: John Starr  
5263 Royal Oaks Drive  
Oroville, CA 95966~~

Re: Oroville Fire Facility  
West Side Public Safety  
225 Chuck Yeager Way  
Oroville, CA 95969

This agreement is between Better Builders Construction, Inc., the Client and Gary Hawkins Architect, the Architect, for the project referred to herein as the Project.

## I. PROJECT DESCRIPTION

The Project is described as follows: as the Architect, we propose to provide design and construction documents for a +/- 9,050 square foot commercial building located at 225 Chuck Yeager Way in Oroville, California.

Our services will include necessary consultation and meetings to complete the Project & coordinations with consultants. Upon acceptance of the preliminary drawings as evidenced by the authorization by the Client, the Architect will prepare the construction documents, which will consist of the following:

- Architecture: Site plan, floor plan, elevations, sections, interior elevations, details, and a reflective ceiling plan.
- Structural: General design, curtain wall design, foundation design, and miscellaneous structural elements. The primary structural frame to be provided by others.
- Mechanical: Designed by Peter's Engineering. See attached proposal.
- Electrical: Designed by Peter's Engineering. See attached proposal.
- Plumbing: Designed by Peter's Engineering. See attached proposal.
- Civil: Not included in contract.

Items specifically excluded from services to be performed by the Architect under this agreement, include: production of any drawings normally included in the work of a consulting landscape architect, civil engineer services, interior design or decoration, renderings, job supervision, environmental impact reports, general specifications, manufactured roof truss engineering, fire sprinkler design, or any work other than as specified herein. Professional services for soil testing are not a part of this contract and shall be paid directly to those consultants.

Architect will expeditiously respond to the building department's status of plan check and make all necessary corrections or revisions.

Initial Page 1 of 3 \_\_\_\_\_ Client

\_\_\_\_\_ Architect

**II. THE FEE:**

Architectural Drawings:	\$36,200.00
Structural Engineering:	\$12,000.00
Mechanical/Electrical/Plumbing	See attached \$29,025
<b>TOTAL = \$77,225</b>	

*\*Changes or revisions made after submittal, other than for plan check, will be billed out hourly. Compensation for reproduction work is additional.*

The final square footage shall be determined from the approved preliminary drawing. Additional services and/or revisions to the Project requested by the Client after approval of preliminary drawings, shall be billed out in accordance with the following hourly fee schedule, or will be negotiated before additional services are rendered.

**III. SCHEDULE OF HOURLY FEES:**

Architect	\$150.00/hr.
Staff Architect	\$108.00/hr.
Staff	\$ 80.00/hr.

Payments to the Architect for the services specifically listed under "Project Description" will be in accordance with the following schedule:

**IV. PAYMENT SCHEDULE:**

Retainer	20%
Approval of Preliminary Drawings	20%
50% Completion of Working Drawings	30%
100% Completion of Working Drawings	30%

**All payments shall be due upon receipt of Invoice at time of services rendered.** A monthly service charge of 1.5% compounded monthly, will be assessed for accounts unpaid or overdue beyond thirty (30) days of the billing date. **All requested retainers and contracts must be signed and returned to secure the start of your project. No work will be done until both have been received. All progress and percentage billings must be current or projects will be placed on hold until such payments have been made. All projects completed within the original scope of work, regardless of submittal for permit or additional work expanding the scope, must be paid in full before plans will be released. No wet-signed or final drawings will be released on accounts with outstanding balances.**

Initial Page 2 of 3

\_\_\_\_\_ Client

\_\_\_\_\_ Architect





consulting  
mechanical  
and  
electrical  
engineers

2411 Alhambra Blvd, Ste. 100  
Sacramento, CA 95817

Tel (916) 447-2841  
Fax (916) 447-4106

[www.peterseng.com](http://www.peterseng.com)

June 2, 2016

**GARY HAWKINS ARCHITECT**

Attn: Gary Hawkins, Architect

Re: Oroville Fire Facility - Mechanical and Electrical Proposal

We propose to provide mechanical and electrical engineering services for fixed fees, unless shown otherwise, as follows:

**Mechanical**

Construction Documents:	\$7,025.00
Plan Check:	\$ 800.00
Construction Administration:	\$ 800.00
Reimbursable Expenses:	(billed at direct cost x 1.10)
<b>Total</b>	<b>\$8,625.00</b>

**Electrical**

Construction Documents:	\$7,100.00
Plan Check:	\$ 800.00
Construction Administration:	\$ 900.00
Reimbursable Expenses:	(billed at direct cost x 1.10)
<b>Total</b>	<b>\$8,800.00</b>

**Additional Scope Fee:**

Electrical/Telephone Utility Coordination:	\$3,500.00
Generator Design:	\$1,500.00
Vehicle Exhaust System:	\$3,400.00
Fire Alarm Design:	\$3,200.00

**Scope of Work:**

- Building HVAC for the main office areas.
- Building Plumbing
- Site Gas (if required)
- Building Power & Lighting
- Telephone Data pathway only
- Security pathway only
- Specifications type-written in book form
- Backgrounds and base drawings are to be provided to us in AutoCAD format.
- We have excluded any phasing of the project.
- One site visit during design.
- Plans shall be drawn and built in REVIT.

June 2, 2016

**GARY HAWKINS ARCHITECT**

Re: Oroville Fire Facility – Mechanical and Electrical Proposal

Page 2 of 3

- Budget estimating is not included in our scope. We shall review and comment on the estimate provided by the estimator.
- LEED documentation & PG&E Savings By Design work is not included in our scope.
- I.T. staff to provide the requirements.
- As-built plans for the existing administration building and site utilities shall be provided to us.
- We shall provide (1) set of documents at each milestone. Printing of multiple sets is not included in our fee.
- We have not included structural drawings, analysis and/or details for HVAC and plumbing equipment and pipe support and attachment to structure. These shall be by others.
- Existing site plumbing utilities are assumed of adequate size and no analysis of the existing capacities is included.
- Invoices shall be due and payable monthly.
- We cannot be held to all provisions and obligations Architect has agreed to with the Owner in a prime agreement prior to our review and acceptance of said agreement. Therefore, all provisions of this proposal are by and between Gary Hawkins and Peters Engineering only. Any other agreement Architect has with the Owner has no impact on this proposal, as agreed.

**Basis of Proposal:**

- Electrical scope includes power, lighting, fire alarm and signal. Site power includes secondary service from transformer to building; and coordination with utility company for site transformer location and service.
- Site lighting is excluded.
- Coordination with utility companies and/or providing contractors for telephone and cable TV is included. The engineering and design of these systems are excluded as they shall be design build by owner through contractor.
- Scope for fire sprinkler is limited to performance specifications and does not include the design or engineering of the systems, which is to be deferred to the contractor.
- We do not include solar hot water heating of water.
- We have excluded any fire suppression system or special systems for the aircraft hangar.
- Proposal based on adequate pressures and flow for site water service so domestic booster pumps shall not be required. Domestic booster pumps are not included in the scope of work.
- Proposal does not include a water softening system.
- T24 compliance shall include envelope, mechanical and electrical compliance.
- Value engineering input must occur prior to or concurrent to design of systems to provide the value item without redesign; otherwise it will require additional services.
- One phase and/or bid package has been included. Services requested for additional phasing directed after design and document preparation shall be additional service.
- Work provided for the project after twelve (12) months from the date this proposal is signed and received by our office shall be payable at our standard hourly rates at the time the work is provided.

**Construction Support:**

The minimum non-discretionary proposed construction support tasks shall consist of material submittal review, RFI response and two (2) construction site meetings/visits for each of mechanical and electrical disciplines. Any subsequent additional construction support shall be at the discretion and request of the architect and billed at our standard hourly rates. This proposal does not include commissioning.

June 2, 2016

**GARY HAWKINS ARCHITECT**

Re: Oroville Fire Facility – Mechanical and Electrical Proposal

Page 3 of 3

**Deliverables:**

One original plot; electronic files; 1 hard copy specifications; 2 progress milestones during CD preparation for which one plot will be prepared at each. Progress milestones shall be 75%; and 95%. Then one final plot at 100%

**Exclusions:**

Commissioning; energy studies; LEED; photo voltaics; printing of construction documents or plan review sets; structural details and calculations for the support and attachment of equipment to the structure; site plumbing; weekly meetings; overnight and/or express deliveries; printing and copying; Payment request review from contractor; Revit Model, Construction supervision; Fire protection; Security System Design; Permit Fees; ADA upgrades for the building or site; Life Cycle Cost Analysis; Site surveying; Geotechnical engineering; Landscape and irrigation design; Environmental engineering; Cost estimating; Design of off-site facilities; Preparation of As-built Drawings or Record Drawings does not include field confirmation of the actual construction work in place or the Contractor's markups. The work in this agreement may be terminated at any time by written notice by either party. Services completed at time of termination shall be due and paid at termination Any other services not specifically described in this proposal.

**Additional Services:**

Increases in the scope of the project and/or revisions after our submission of substantially completed plans, which results in additional information and engineering having to be performed by our firm, will require negotiating additional fees based on our then current normal hourly rates.

Shall be requested in writing and authorized in writing prior to commencement of work. Additional services shall be any services or scope of work not listed in scope of work and scope of services paragraph. Additional services shall be paid based on our hourly rates as follows:

Principal	\$175.00/hr.
Senior Engineer	\$150.00/hr.
Project Engineer/ Mgr.	\$125.00/hr.
Senior Designer	\$95.00/hr.
Designer	\$85.00/hr.
CADD	\$75.00/hr.
Clerical	\$60.00/hr.

If the above is acceptable, please sign and return a copy of this letter as our authorization to proceed.

Sincerely,

Accepted by,

**PETERS ENGINEERING**

**GARY HAWKINS**

**Sean R. Tichenor, PE**  
**Principal/Owner**

\_\_\_\_\_  
Authorized Representative

\_\_\_\_\_  
Date

**City of Oroville**  
**Westside Public Safety Facility**  
**Design and Engineering Proposal**

**Cost Breakdown**

Gary Hawkins Architect

Architectural Drawings      \$36,200.00

Structural Engineering      \$12,000.00

Peters Engineering

Mechanical      \$ 8,625.00

Electrical      \$ 8,800.00

\*Additional      \$11,600.00

Total Cost for Project      \$77,225.00

\*(Electrical/Telephone Utility coordination, generator design, vehicle exhaust system and fire alarm design.)

## EXHIBIT A

### INSURANCE REQUIREMENTS FOR CONSULTANTS

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, his agents, representatives, or employees.

#### ***Minimum Scope of Insurance***

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence Form CG 0001).
2. Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto).
3. Workers' Compensation insurance as required by the State of California and Employee's Liability Insurance.
4. Errors and Omissions Liability insurance appropriate to the consultant's profession.

#### ***Minimum Limits of Insurance***

Consultant shall maintain limits no less than:

1. General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
3. Employer's Liability: \$1,000,000 per claim for bodily injury or disease.
4. Errors and Omissions Liability: \$1,000,000 per occurrence.

#### ***Deductibles and Self-Insured Retentions***

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or the Consultant shall provide a financial guarantee

satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

### ***Other Insurance Provisions***

The commercial general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City, its officers, officials, employees and volunteers are to be covered as additional insured's as respects: liability arising out of work or operations performed by or on behalf of the Consultant; or automobiles owned, leased, hired or borrowed by the Consultant.
2. For any claims related to this project, the Consultant's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.
3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days' prior written notice by first class mail has been given to the City.
4. Coverage shall not extend to any indemnity coverage for the negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

### ***Acceptability of Insurers***

Insurance is to be placed with insurers with a current A. M. Best's rating of no less than A:VII, unless otherwise acceptable to the City.

### ***Verification of Coverage***

Consultant shall furnish the City with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on forms provided by the City or on other than the City's forms provided those endorsements conform to City requirements. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

**CITY OF OROVILLE  
STAFF REPORT**

**TO: MAYOR AND CITY COUNCIL MEMBERS**

**FROM: BILL LAGRONE, DIRECTOR  
PUBLIC SAFETY DEPARTMENT  
SCOTT E. HUBER, CITY ATTORNEY**

**RE: AMENDMENT AND ADDITION OF CHAPTER 3.18 TO THE  
OROVILLE MUNICIPAL CODE REGARDING A TRANSACTION  
AND USE TAX TO BE ADMINISTERED BY THE STATE BOARD  
OF EQUALIZATION – *(Third Reading)***

**DATE: JUNE 21, 2016**

**SUMMARY**

The Council may consider an amendment and addition of Municipal Code section 3.18 Transaction and Use Tax, and ballot language relating to a 1% local sales tax for municipal services.

**DISCUSSION**

The proposed sales tax measure, passed by the Council at its June 6, 2016 Council Meeting, was presented to the Board of Equalization for review to ensure that the proposed measure is valid and enforceable. Last week, staff from the Board of Equalization sent some suggested revisions, which are attached.

The proposed revisions are technical in nature. They can generally be classified as very minor (ex. changing the title of a State department, changing “of” to “or”, deleting duplicative language, etc.) The most significant modification is related to the date of enforcement of the tax. If the measure passes, the Board of Equalization will not be able to get the tax in place as of January 1, 2017. The earliest date that the sales tax can be enforced is April 1, 2017.

Staff has prepared a revised Ordinance that includes the proposed modifications by the Board of Equalization.

**FISCAL IMPACT**

No impact at this time.

## **RECOMMENDATION**

Waive the third reading and adopt by title only, Ordinance No. 1816 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OROVILLE AMENDING AND ADDING CHAPTER 3.18 TO THE OROVILLE MUNICIPAL CODE REGARDING A TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION.

## **ATTACHMENTS**

Ordinance No. 1816

**CITY OF OROVILLE**  
**ORDINANCE NO. ~~XXXX~~1816**

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OROVILLE AMENDING  
AND ADDING CHAPTER 3.18 TO THE OROVILLE MUNICIPAL CODE REGARDING  
A TRANSCATIONS AND USE TAX TO BE ADMINISTERED BY THE STATE BOARD  
OF EQUALIZATION**

The People of the City of Oroville, State of California do **ordain as follows:**

**SECTION 1:** Chapter 3.18 is hereby added to the Oroville Municipal Code to read as follows:

CHAPTER 3.18  
Temporary Transactions and Use Tax

Sections:

- 3.18.010 Title
- 3.18.020 Operative Date
- 3.18.030 Purpose
- 3.18.040 Contract with State
- 3.18.050 Transaction Tax Rate
- 3.18.060 Place of Sale
- 3.18.070 Use Tax Rate
- 3.18.075 Citizens Oversight Committee
- 3.18.080 Adoption of Provisions of State Law
- 3.18.090 Limitations on Adoption of State Law and Collection of Use Taxes
- 3.18.100 Permit Not Required
- 3.18.110 Exemptions and Exclusions
- 3.18.120 Amendments
- 3.18.130 Enjoining Collection Prohibited

**3.18.010 Title**

This ordinance shall be known as the Temporary Transactions and Use Tax Ordinance. The City of Oroville hereinafter shall be called "City". This ordinance shall be applicable in the incorporated area of the City.

**3.18.020 Operative Date**

"Operative Date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this ordinance, the date of such adoption being as set forth below.

**3.18.030 Purpose**

This ordinance is adopted to achieve the following, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

A. To maintain and preserve City of Oroville public services, including police protection, fire suppression, vehicle repair and maintenance, finance analyst and human resources services with the City.

B. To impose a retail transactions and use tax in accordance with the provision of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.9 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if a majority of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

C. To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of division 2 of the Revenue and Taxation Code.

D. To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefor that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practicable to, and requires the least possible deviation from the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Sales and Use Taxes.

E. To adopt a retail transactions and use tax ordinance that can be administered in a manner that will be, to the greatest degree possible, consistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code, minimize the cost of collecting the transactions and use taxes, and at the same time minimize the burden of record keeping upon persons subject to taxation under the provisions of this ordinance.

#### **3.18.040 Contract with State**

Prior to the operative date, the City shall contract with the State Board of Equalization to perform all functions incident to the administration and operation of this transactions and use tax ordinance; provided, that if the City shall not have contracted with the State board of Equalization prior to the operative date it shall nevertheless so contract and in such case the operative date shall be the first day of the first calendar quarter following the execution of such contract.

#### **3.18.050 Transactions Rate Tax**

For the privilege of selling tangible personal property at retail a tax is hereby imposed upon all retailers in the incorporated area of the City at the rate of one percent (1%) of the gross receipts of any retailer from the sale of all tangible personal property sold at retail in said area for six (6) years from the operative date of this ordinance.

#### **3.18.060 Place of Sale**

For the purposes of this ordinance all retail sales are consummated at the place of business of the retailer unless the tangible personal property sold is delivered by the

retailer or his /her or its agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges when such charges are subject to the state sales and use tax regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State of California or has more than one place of business the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the State Board of Equalization.

### **3.18.070 Use Tax Rate**

A complementary tax is hereby imposed on the storage, use, or other consumption in the incorporated area of the City of tangible personal property purchased from any retailer for six (6) years after the operative date of this ordinance for storage, use, or other consumption in such area at the rate of one percent (1%) of the sales price of the property.

The sales price shall include delivery charges when such charges are subject to state sales or use tax regardless of the place to which delivery is made.

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### **3.18.075 Citizens Oversight Committee**

A. The City Council shall establish and appoint a Citizens Oversight Committee.

B. The Citizens Oversight Committee shall consist of a nine-member board of residents and/or business owners and two elected City Council members of the City of Oroville.

C. The purpose of the Citizens Oversight Committee shall be to meet with the City's Department Heads during the preparation of each fiscal year budget until the ordinance sunsets, to make recommendations to the City Council regarding how the proceeds from the implementation of the ordinance will be allocated for the ensuing budget year. The committee shall make recommendations to the Council to provide for local public services, including but not limited to police protection, fire suppression, vehicle repair and maintenance, finance analyst and human resources services that will improve the quality of life for residents and businesses within the City of Oroville. The committee shall meet at least quarterly during the fiscal year to ensure that the revenue generated by the ordinance is allocated and disbursed in accordance with the City budget. All quarterly and annual budget reports from the committee shall be published on the City of Oroville website prior to Council adoption of the budget and will be available for public review.

### **3.18.080 Adoption of Provisions of State Law**

Except as otherwise provided in this ordinance and except insofar as they are inconsistent with the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code are hereby adopted and made a part of this ordinance as though fully set forth herein.

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### **3.18.090 Limitations of Adoption of State Law and Collection of Use Taxes**

In adopting the provisions of Part 1 Division 2 of the Revenue and Taxation Code:

A. Wherever the State of California is named or referred to as the taxing agency the name of this City shall be substituted therefor. However, the substitution shall not be made when:

1. The word "State" is used as a part of the title of the State Controller, State Treasurer, ~~State board of Control~~ Victim Compensation and Government Control Board, State board of Equalization, State Treasury or the Constitution of the State of California;

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2. The result of that substitution would require action to be taken by or against this City or any agency, officer or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this ordinance.

3. In those sections, including but not necessarily limited to sections referring to the exterior boundaries of the State of California where the result of the substitution would be to:

a. Provide an exemption from this tax with respect to certain sales, storage, use ~~of~~ other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code or ;

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b. Impose this tax with respect to certain sales, storage use or other consumption of tangible personal property which would not be subject to tax by the state under the provision of that code.

4. In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

B. The word "City" shall be substituted for the word "State" in the phrase "retainer engaged in business in this State" in Section 6203 and in the definition of that phrase in Section 6203.

### **3.18.100 Permit not Required**

If a seller's permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code an additional transaction's permit shall not be required by this ordinance.

### **3.18.110 Exemptions and Exclusions**

A. There shall be excluded from the measure of the transactions tax and the use tax in the amount of any sales tax or use tax imposed by the State of California or by any City, City and county or county pursuant to the Bradley-Bums Uniform Local Sales and Use Tax Law or the amount of any state administered transactions or use tax.

B. There shall be exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products to operators of aircraft to be used or consumed principally outside the County in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State the United States or any foreign government.

2. Sales of property to be used outside the City which is shipped to a point outside City pursuant to the contract of sale by delivery to such point by the retailer or his/her or its agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purpose of this paragraph, delivery to a point the City shall be satisfied.

a. With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code and undocumented vessels registered under Chapter 2 of Division 3.5 commencing with Section 9840) if the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is in fact, his or her principal place of residence; and

b. With respect to commercial vehicles, by registration to a place of business out-of-city and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

3. The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. A lease of tangible personal property which is a continuing sale of such property for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of the ordinance.

5. For the purposes of subsections (3) and (4) of this section the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract **et** **or** lease for any period of time for which any party to the contract **or** lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

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C. There are exempted from the use tax imposed by this ordinance, the storage use or other consumption in this City of tangible personal property:

1. The gross receipts from the sale of which have been subject to a transactions tax under any State-administered transactions and use tax ordinance.

2. Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State the United States or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and taxation Code of the State of California.

3. If the purchase is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this ordinance.

4. If the possession of or the exercise of any right or power over the tangible personal property arises under a lease which is a continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for any amount fixed by a lease prior to the operative date of this ordinance.

5. For the purposes of subsections (3) and (4) of this sub-section, storage, use, or other consumption or possession of or exercise of any right or power over tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

6. Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property in the City of participates within the City in making the sale of the property including, but not limited to soliciting or receiving the order, either directly or indirectly at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor subsidiary, or person in the City under the authority of the retailer.

7. "A retailer engaged in business in the City" shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Chapter 2 of Division 3.5 (commencing with section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

D. Any person subject to use tax under this ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to part 1.6 of Division 2 of the Revenue and Taxation code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

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### 3.18.130 Amendments

All amendments subsequent to the effective date of the ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not consistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, ~~and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code~~ shall automatically become a part of this ordinance provided however that no such amendment shall operate so as to affect the rate of tax imposed by this ordinance.

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### **3.18.140 Enjoining Collection Forbidden**

No injunction or writ of mandate or other legal or equitable process shall issue in any suit action or proceeding in any court against the State or the City or against any officer of the State ~~or~~ the City to prevent or enjoin the collection under this ordinance, or Part 1.6 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

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**SECTION 2. SEVERABILITY.** If any section, subsection, sentence, clause, phrase portion of the application thereof to any person or circumstance of this ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate distinct and independent provision of such ordinance and shall not affect the validity of the remaining portions thereof.

**SECTION 3. CEQA COMPLIANCE.** The City Council finds and determines that the enactment of this Ordinance is not a "project" as that term is used in the California Environmental Quality Act ("CEQA;" Cal Pub. Resources Code Section 21000 et seq.) or the State CEQA Guidelines (Cal.Code of Regs. Title 14, Section 15000 et seq.) Therefore no environmental assessment is required or necessary.

**SECTION 4. EFFECTIVE DATE.** This ordinance relates to the levying and collecting of the City transactions and use taxes and shall take effect immediately upon its approval by voters of the City.

**SECTION 5. TERMINATION DATE.** The tax levied by this ordinance shall continue at the rate of 1% from ~~January-April~~ 01, 2017 until December 31, 2022. The authority to levy the tax imposed by this ordinance shall expire six (6) years from the operative date of this ordinance.

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**SECTION 6. DECLARATION.** The proceeds of the taxes imposed by this ordinance may be used for any lawful purpose of the City, as authorized by ordinance, resolution or action of the City Council. These taxes are not special taxes within the meaning of Section 1(d) of Article XIII C of the California Constitution, but are general taxes imposed for general government purposes.

**SECTION 7. EXECUTION.** The Mayor and City Council are authorized to subscribe this ordinance where indicated below to evidence its approval by the voters of the City.

**PASSED AND ADOPTED** by the Oroville City Council of the City of Oroville, County of Butte, State of California, on this ~~day 21<sup>st</sup>~~ day of ~~month June, year 2016~~, by the following two-thirds vote:

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Ayes:

Noes:

Abstain:

Absent:

\_\_\_\_\_  
Linda L. Dahlmeier, Mayor

APPROVED AS TO FORM: \_\_\_\_\_ ATTEST:

\_\_\_\_\_  
Scott E. Huber, City Attorney

\_\_\_\_\_  
Donald Rust, Acting City Clerk

**OROVILLE CITY COUNCIL  
STAFF REPORT**

**TO: MAYOR AND CITY COUNCIL MEMBERS**

**FROM: SCOTT E. HUBER, CITY ATTORNEY  
JAMIE HAYES, ASSISTANT CITY CLERK (530) 538-2535**

**RE: NOVEMBER 8, 2016 GENERAL MUNICIPAL ELECTION  
RESOLUTIONS**

**DATE: JUNE 21, 2016**

**SUMMARY**

The Council may consider adopting resolutions relating to the calling and consolidation of the 2016 General Municipal Election.

**DISCUSSION**

The General Municipal Election for the City of Oroville is to be held in consolidation with the General Statewide Election on November 8, 2016, for the election of three (3) Council Members for four-year terms of office pursuant to the provisions of the Oroville Municipal Charter, Article VII, section 1.

***Call & Consolidation***

It is required that the City Clerk officially set the election date and request the Board of Supervisors to issue instructions to the Butte County Election Department regarding consolidation with the Statewide General Election and to authorize certain procedures for the conduct of said election.

***Notice of Election***

The Notice of Election must be published not earlier than the 127<sup>th</sup> day (July 4) and not later than the 113<sup>th</sup> day (July 18) before the municipal election. The Notice of Election must contain the date of the election, the offices for which candidates may file, the qualification required, the candidate filing period (July 18<sup>th</sup> – August 12<sup>th</sup>), and where the candidate shall file their nomination papers. It also must also contain notification of any ballot measures, a synopsis of the measure, and the deadline set for arguments, if the measure is placed on the ballot before the Notice of Election is published.

***Candidate Statement***

A candidate may file a Candidate Statement of Qualifications to be printed in the sample ballot, not to exceed 200 words. A local agency may estimate the total cost of printing the statement and require each candidate filing a statement to pay in advance their

estimated pro rate share as a condition of having a statement included in the voter's pamphlet.

The cost of the candidate statements are estimated based upon information from the Butte County Elections Department which oversees the typesetting of the voters pamphlet. The cost for a candidate statement for the 2016 General municipal Election has been set at \$300 per candidate statement.

***Ballot Measures – Impartial Analysis/Arguments For & Against***

The City of Oroville has prepared a measure to place onto the November 8, 2016 ballot relating to a proposed sales tax. The deadline for the submission of a measure resolution to the County Elections Department in June 30, 2016.

When any city measure qualifies for a place on the ballot, the governing body may direct the City Attorney who shall prepare an impartial analysis of the measure showing the effect of the measure on the existing law and the operation of the measure. The impartial analysis shall not exceed 500 words in length. For measures placed on the ballot by the legislative body, the legislative body, or any member or members of the legislative body authorized by that body or any individual voter who is eligible to vote on the measure, or bona fide association of citizens, or any combination of voters and associations, may file a written argument for or against any city measure. Arguments shall not exceed 300 words.

The California Election Code provides the form and procedure for submitting arguments and rebuttals, the setting of the deadlines, and the selection procedure if more than one arguments for or against is received within the time prescribed. If arguments for and against a measure are received, the Elections Official shall send a copy of the argument in favor of the author of the argument against the measure; and a copy of the arguments against to the author of the argument in favor of the measure. Rebuttals are not to exceed 250 words and are due no later than 10 days after the primary argument deadline.

**FISCAL IMPACT**

Based upon the costs of prior elections, a total of \$30,000 has been budgeted for the 2016 General Municipal Election costs.

**RECOMMENDATIONS**

1. Adopt Resolution No. 8516 - A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OROVILLE, CALIFORNIA, CALLING FOR THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2016, FOR THE ELECTION OF CERTAIN OFFICERS AS REQUIRED BY THE PROVISIONS OF THE OROVILLE CITY MUNICIPAL CHARTER AND FOR THE SUBMISSION TO THE VOTERS A QUESTION RELATING TO THE APPROVAL OF ORDINANCE NO. 1816, AN ORDINANCE ADDING

CHAPTER 3.18 TO THE OROVILLE MUNICIPAL CODE REGARDING A  
TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE STATE  
BOARD OF EQUALIZATION; AND

2. Adopt Resolution No. 8517 - A RESOLUTION OF THE CITY COUNCIL OF THE  
CITY OF OROVILLE, CALIFORNIA, ADOPTING REGULATIONS FOR  
CANDIDATES FOR ELECTIVE OFFICE PERTAINING TO CANDIDATE  
STATEMENTS SUBMITTED TO THE VOTERS AT A GENERAL MUNICIPAL  
ELECTION.

## **ATTACHMENTS**

Resolution No. 8516

Resolution No. 8517

**CITY OF OROVILLE  
RESOLUTION NO. 8516**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OROVILLE, CALIFORNIA, CALLING FOR THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD ON TUESDAY, NOVEMBER 8, 2016, FOR THE ELECTION OF CERTAIN OFFICERS AS REQUIRED BY THE PROVISIONS OF THE OROVILLE CITY MUNICIPAL CHARTER AND FOR THE SUBMISSION TO THE VOTERS A QUESTION RELATING TO THE APPROVAL OF ORDINANCE NO. 1816, AN ORDINANCE ADDING CHAPTER 3.18 TO THE OROVILLE MUNICIPAL CODE REGARDING A TRANSACTIONS AND USE TAX TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION**

**WHEREAS**, under the provisions of the City of Oroville Municipal Charter, a General Municipal Election shall be held on Tuesday, November 8, 2016, for the election of Municipal Officers; and

**WHEREAS**, the City Council also desires to submit to the voters at the election a question relating to approval of Ordinance No. 1816, an Ordinance adding Chapter 3.18 to the Oroville Municipal Code Regarding a Transactions and Use Tax to be Administered by the State Board of Equalization; and

**NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF OROVILLE, CALIFORNIA, DOES RESOLVE, DECLARE, DETERMINE AND ORDER AS FOLLOWS:**

**Section 1.** That pursuant to the requirements of the City of Oroville Municipal Charter, there is called and ordered to be held in the City of Oroville, California, on Tuesday, November 8, 2016, a General Municipal Election for the purpose of electing three (3) Members of the City Council for the full term of four (4) years, and that pursuant to the requirements of §10403 of the California Elections Code, the Board of Supervisors of the County of Butte is hereby requested to consent and agree to the consolidation of the General Municipal Election with the Statewide General Election on Tuesday, November 8, 2016.

**Section 2.** That the City Council, pursuant to its right and authority, does order submitted to the voters at the General Municipal Election the following question:

Shall Ordinance No. 1816, a temporary sales tax increase of one percent (1%) that automatically expires in six years, and that establishes a citizen oversight committee to ensure that the funds are used to preserve public services such as police protection, fire suppression, vehicle repair and maintenance, finance analyst and human resources services for the City of Oroville, be adopted?	<input type="radio"/> YES  <input type="radio"/> NO
--------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------	-----------------------------------------------------------

1           **Section 3.** That the proposed complete text of the measure (Ordinance No. 1816)  
2 submitted to the voters is attached as Exhibit A and shall be printed in full text.

3           **Section 4.** That the vote requirement of the measure to pass is a simple majority of  
4 the votes cast.

5           **Section 5.** That the City Council authorizes \_\_\_\_\_ to prepare ballot  
6 arguments (in favor of the ballot measure set forth in section 2, and in rebuttal to any ballot  
7 argument filed against the ballot measure set forth in section 2), and the City Council  
8 hereby authorizes \_\_\_\_\_ to sign these ballot arguments and use their titles in  
9 accordance with Article 4, Chapter 3, Division 9 of the Elections Code of the State of  
10 California.

11           Written argument(s) in favor of or against the City measure shall not exceed 300  
12 words, must be accompanied by the printed name(s) and signature(s) of the author(s)  
13 submitting it, and shall be accompanied by the "Form of Statement To Be Filed By  
14 Author(s) of Argument" in accordance with Article 4, Chapter 3, Division 9 of the Elections  
15 Code of the State of California. The arguments may be changed or withdrawn until and  
16 including the date fixed by the City Clerk after which no arguments for or against the City  
17 measure may be submitted to the City Clerk.

18           **Section 6.** That the City Council directs the City Clerk to transmit a copy of the  
19 measure to the City Attorney. The City Attorney is directed to prepare an impartial analysis  
20 of the measure not exceeding 500 words showing the effect of the measure on the existing  
21 law and the operation of the measure. The impartial analysis shall be filed by the date set  
22 by the City Clerk for the filing of primary arguments.

23           **Section 7.** That the City Council adopts the provisions of Elections Code 9285(a)  
24 relating to rebuttal arguments on the measure.

25           **Section 8.** That the ballots to be used at the election shall be in form and content  
26 as required by law.

27           **Section 9.** That the City Clerk is authorized, instructed and directed to coordinate  
28 with the County of Butte Registrar-Recorder/County Clerk to procure and furnish any and  
all official ballots, notices, printed matter and all supplies, equipment and paraphernalia  
that may be necessary in order to properly and lawfully conduct the election.

**Section 10.** That the polls for the election shall be open at seven o'clock a.m. of  
the day of the election and shall remain open continuously from that time until eight o'clock  
p.m. of the same day when the polls shall be closed, pursuant to Elections Code §10242,  
except as provided in §14401 of the Elections Code of the State of California.

**Section 11.** That in all particulars not recited in this Resolution, the election shall  
be held and conducted as provided by law for holding municipal elections.

**Section 12.** That notice of the time and place of holding the election is given and

1 the City Clerk is authorized, instructed and directed to give further or additional notice of  
the election, in time, form and manner as required by law.

2 **Section 13.** That the City Clerk shall certify to the passage and adoption of this  
3 Resolution and enter it into the book of original Resolutions.

4 **Section 14.** The City Council authorizes the City Clerk to administer said election  
5 and all reasonable and actual election expenses shall be paid by the City upon  
presentation of a properly submitted bill.

6 **PASSED AND ADOPTED** by the Oroville City Council at a regular meeting on  
7 June 21, 2016, by the following vote:

8 AYES:

9 NOES:

10 ABSTAIN:

11 ABSENT:

12  
13  
14 Linda L. Dahlmeier, Mayor

15 APPROVED AS TO FORM:

16 ATTEST:

17  
18 Scott E. Huber, City Attorney

19 Donald Rust, Acting City Clerk

**OROVILLE CITY COUNCIL  
RESOLUTION NO. 8517**

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**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF OROVILLE, CALIFORNIA,  
ADOPTING REGULATIONS FOR CANDIDATES FOR ELECTIVE OFFICE PERTAINING  
TO CANDIDATE STATEMENTS SUBMITTED TO THE VOTERS AT A GENERAL  
MUNICIPAL ELECTION**

**WHEREAS**, Section 13307(c) of the Elections Code of the State of California provides that the governing body of any local agency adopt regulations pertaining to materials prepared by any candidate for a municipal election, including costs of the candidate's statement;

**NOW, THEREFORE**, be it hereby resolved by the Oroville City Council as follows:

**SECTION 1.** That pursuant to Section 13307(a) of the Elections Code of the State of California, each candidate for elective office to be voted for at any General Municipal Election, to be held in the City of Oroville, may prepare a candidate's statement on an appropriate form provided by the City Clerk. The statement may include the name, age and occupation of the candidate and a brief description of no more than two hundred (200) words of the candidate's education and qualifications expressed by the candidate himself or herself. The statement shall not include party affiliation of the candidate, nor membership or activity in partisan political organizations. The statement shall be filed in the office of the City Clerk at the same time that the candidate's nomination papers are filed. The statement may be withdrawn, but not changed, during the period for filing nomination papers and until 5:00 p.m. of the next working day after the close of the nomination period.

**SECTION 2.** No candidate will be permitted to include additional materials in the sample ballot package.

**SECTION 3.** The City Council hereby determines that a charge shall be levied against each candidate for that candidate's statement sent to each voters pursuant to Elections Code Section 13307.

**SECTION 4.** The City Council hereby estimates that each candidate's pro rata share of the total cost of printing, handling, translating, and mailing said candidate statements to be the sum of Three Hundred (\$300.00) Dollars.

**SECTION 5.** The City Council hereby requires each candidate running for office in a City of Oroville municipal or special election to pay in advance to the City his/her estimated pro rata share as a condition of having his/her candidate's statement included in the voters' pamphlet. In the event of under payment, the City Clerk shall require the candidate to pay the balance of the cost incurred. In the event of overpayment, the City Clerk shall pro rate the excess amount among the candidates and refund the excess amount paid within thirty (30) days of the date receipt of the election bill from County of Butte.

**SECTION 6.** The City Clerk shall attest to the adoption of this Resolution.

**PASSED AND ADOPTED** by the Oroville City Council at a regular meeting held on June 21, 2016, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

\_\_\_\_\_  
Linda L. Dahlmeier, Mayor

APPROVED AS TO FORM:

ATTEST:

\_\_\_\_\_  
Scott E. Huber, City Attorney

\_\_\_\_\_  
Donald Rust, Acting City Clerk

**OROVILLE CITY COUNCIL  
MONTHLY REPORT**

**TO: MAYOR AND CITY COUNCIL MEMBERS**

**FROM: BILL LAGRONE, DIRECTOR OF PUBLIC SAFETY**

**RE: POLICE DEPARTMENT MONTHLY REPORT FOR MAY, 2016  
FIRE DEPARTMENT MONTHLY REPORT FOR MAY, 2016**

**DATE: JUNE 21, 2016**

**SUMMARY**

The Council will receive a monthly report regarding the activities, revenues, and general information for the Police and Fire Departments.

**Staffing:**

<b>Positions</b>	<b>Total staffed</b>	<b>Total Authorized</b>	<b>Total Vacant/Frozen</b>
Police Officer	25.5	24.5	0/1
Dispatcher	9	9	0/0
Community Service Officers / Evidence	10	9	0/1
Administrative Personnel	2	4	0/2

<b>Positions</b>	<b>Total staffed</b>	<b>Total Authorized</b>	<b>Total Vacant/Frozen</b>
Firefighters	4	4	0/0
Fire Engineer	9	9	0/0
Fire Captain	3	3	0/0
Administrative Personnel	3	3	0/0

**Police Overtime YTD:**

Overtime Budgeted	Overtime Expended YTD	Percentage Expended
\$ 261,097.00	\$ 387,277.00	<b>148%</b>

**Fire Overtime YTD:**

Overtime Budgeted	Overtime Expended YTD	Percentage Expended
\$255,000.00	\$199,545.00	<b>78%</b>

**Department Activity:**

Events Year to Date 2016	Average Response Time for Crimes against persons <small>*Priority 1 crimes</small>	Average Response Time for all types of calls for Service	National Average Response Time
15,254	6:58	5:58 minutes	8 - 11 minutes

**Downtown Foot and Park Patrols:**

	Park Patrols	Downtown Patrols
MAY 2016	244	18
Year to Date	768	113

**Parking Enforcement Citations Issued:**

MAY 2016*	Year to Date 2016*	MAY 2015	Year to date 2015
36	75	14	51

\*2016 = Leap Year (29 days)

**Police Activity:**

	<b>MAY 2015</b>	<b>MAY 2016*</b>	<b>Year to date 2015</b>	<b>Year to date 2016*</b>
<b>Arrest</b>				
<b>Misdemeanor</b>	243	258	948	1372
<b>Felony</b>	47	65	211	335

	<b>MAY 2015</b>	<b>MAY 2016*</b>	<b>Year to date 2015</b>	<b>Year to date 2016*</b>
<b>Citations</b>				
	147	147	659	858

**Uniform Crime Reporting:**

<b>Crimes of Violence</b>	<b>MAY 2016</b>	<b>Year to Date MAY – MAY</b>
Homicide	0	0
Rape	0	0
Robbery	3	16
Aggravated Assault	0	0

Population per 2010 Census 15,000  
 Violent Crimes YTD 16  
 Violent Crime Rate 0.0010

**Fire Department Activity:**

<b>Incidents</b>	<b>MAY 2016</b>
Outside Assist	2
Fallen no injury / Medical Alarm	12
Dumpster Fire/Unoccupied Vehicle	2
Vegetation Fire	11
1, 2, or 3 Family Homes	6
Downtown/Apartments/Commercial/Hospitals, etc.	4
Hydrant Sheard off/Water Line Break Outside	1
Gas Odor/Power Lines Down	2
Alarm Sounding/Smoke/Fireworks	21
Medical Aid/Non CPR	218
Traffic Collision	21
<b>Total Incidents</b>	<b>300</b>

<b>Events Year to Date 2016</b>	<b>Average Response Time (Dispatch to Arrival)</b>
1491	5:09 minutes

**Fire Marshall Inspections:**

	<b>MAY 2016</b>	<b>2016 Year to Date</b>	<b>MAY 2015</b>	<b>2015 Year to Date</b>
Plan Checks	21	107	14	63
Occupancy	14	66	11	75
Fire Inspections	41	175	25	52

**SPCA Statics:****Service Calls by Priority:**

<b>Priority Level</b>	<b>Number of Calls</b>	<b>Total Minutes per call type</b>	<b>Average response times</b>
Urgent	6	32	5.29
Priority	50	273	5.46
At Officer Convenience	53	252	4.75
After Hours	34	286	8.40

**Animal Intake and Outcome Stats:**

Total Animals taken in from City	Total Animals outgoing	Cats	Dogs	Other	Bird	Livestock
197	176	101	76	16	4	0

\*The remaining difference from intakes to outcome total represents animals that have not yet had an outcome and are still in the facility.

**Animal Outcomes:**

<b>Outcome Type</b>	<b>Outcome Total</b>
Adoption	17 - (14 Dogs) (3 Cats)
Clinic RTO	1 - (1 Dog)
Died	8 - (8 Cats)
Disposal	17 - (4 Dog) (6 Cats) (7 Other)
Euthanasia	85 - (20 Dogs) (59 Cats) (6 Other)
Foster	9 - (2 Dogs) (7 Cats)
Lost Exp	1 - (1 Dog)
Relocate	2 - (1 Bird) (1 Other)
RTO	36 - (31 Dogs) (5 Cats)

\*Others are wild animals such as bats, skunks, snakes, possums, etc....

**SPCA After-hours call outs:**

<b>MAY 2016</b>	<b>Fiscal Year to Date</b>
44	58

**Shoes for Kids:**

<b>Shoes Provided</b>	<b>Socks Provided</b>
7	7 (pkgs)

This program provides shoes and socks for children of our Community. This program is funded by Department member donations and community donations.

**Volunteers:**

**Total Number of V.I.P.S. Volunteer Hours for 2016:**

**Volunteer Hours converted to dollar amount:**

Value of Volunteer hour in California \$26.87

$$949.7 \times 26.87 = \mathbf{\$25,518.44}$$

**Total Number of Staff Volunteer Hours for 2016:**

**Volunteer Hours converted to dollar amount:**

Value of Volunteer hour in California \$26.87

$$612.1 \times \$26.87 = \mathbf{\$16,447.12}$$

**FISCAL IMPACT**

No impact to the General Fund.

**RECOMMENDATIONS**

Receive and file the May, 2016, monthly report regarding the activities, revenues, and other general information of the Public Safety Department.