



CITY of CLOVIS

Agenda • City Council Meeting

Council Chamber, 1033 Fifth Street, Clovis, CA 93612 (559) 324-2060

www.clovisca.gov

June 15, 2026

6:00 PM

Council Chamber

In compliance with the Americans with Disabilities Act, if you need special assistance to access the City Council Chamber to participate at this meeting, please contact the City Clerk at (559) 324-2060 (TTY – 711). Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to the Council Chamber.

The Clovis City Council meetings are open to the public at the physical address listed above. There are numerous ways to participate in the City Council meetings: you are able to attend in person; you may submit written comments as described below; and you may view the meeting which is webcast and accessed at www.clovisca.gov/agendas.

Written Comments

- Members of the Public are encouraged to submit written comments at: www.clovisca.gov/agendas at least two (2) hours before the meeting (4:00 PM). You will be prompted to provide Council Meeting Date, Item Number, Name, Email, Comment
- Please submit a form for each item you are commenting on.
- A copy of your written comment will be provided to the City Council noting the item number. If you wish to make a verbal comment, please see instructions below.
- Please be aware that any written comments received that do not specify a particular agenda item will be marked for the general public comment portion of the agenda.
- If a written comment is received after 4:00 PM on the day of the meeting, efforts will be made to provide the comment to the City Council during the meeting. However, staff cannot guarantee that written comments received after 4:00 PM will be provided to City Council during the meeting. All written comments received prior to the end of the meeting will be made part of the record of proceedings.

Campaign Contribution Prohibition and Mandatory Disclosure – Pursuant to Government Code section 84308, a Councilmember shall not accept, solicit, or direct a campaign contribution of more than \$500 from any party or their agent, or from any participant or their agent, while a proceeding involving a license, permit, contract, or other entitlement for use is pending before the City or for 12 months after a final decision is rendered in that proceeding. Any Councilmember who has received a campaign contribution of more than \$500 within the preceding 12 months from a party or their agent, or from a participant or their agent, must disclose that fact on the record of the proceeding and shall not make, participate in making, or in any way attempt to use their official position to influence the decision.

Pursuant to Government Code section 84308, subdivision (e), any party to a covered proceeding before the City Council is required to disclose on the record of the proceeding any campaign contribution, including aggregated contributions, of more than \$500 made within the preceding 12 months by the party or their agent to any Councilmember. The disclosure shall be made as required by Government Code Section 84308, subdivision (e)(1) and California Code of Regulations, Title 2, section 18438.8. No party or their agent, and no participant or their agent, shall make a campaign contribution of more than \$500 to any Councilmember during the covered proceeding or for 12 months after a final decision is made in that proceeding. The foregoing statements do not constitute legal advice, and parties and participants are urged to consult with their own legal counsel regarding the applicable requirements of the law.

Call to Order

Flag Salute - Mayor Pro Tem Pearce

Roll Call

Presentations/Proclamations

1. Presentation of Proclamation Honoring Fresno County Pink Heals.

Public Comments

This is an opportunity for the members of the public to address the City Council on any matter within the City Council's jurisdiction that is not listed on the Agenda. In order for everyone to be heard, please limit your comments to 3 minutes or less, or 10 minutes per topic. Anyone wishing to be placed on the Agenda for a specific topic should contact the City Manager's office and submit correspondence at least 10 days before the desired date of appearance.

Consent Calendar

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

2. Administration - Approval - Minutes from the June 8, 2026, City Council Meeting.
3. Administration – Adopt – Ord. 26-04, An Ordinance of the City Council of the City of Clovis, Amending Chapter 6.4 of the Clovis Municipal Code Pertaining to Administration of Sewage Disposal Provisions; and Amending Chapter 6.5 of the Clovis Municipal Code Pertaining to Water Service Rates and Regulations. (Vote: 5-0)
4. Administration - Approval - Res. 26-____, a Resolution Approving a Schedule of Water Rate Increases and Adjustments Effective January 1, 2027, and an Annual Schedule of Adjustments for Future Water Rate Increases Each July 1st Beginning July 1, 2029.
5. General Services - Approval of the Clovis Transit Public Transportation Agency Safety Plan (PTASP).
6. General Services - Approval - Res. 26-____, Approving a Side Letter Agreement with the Clovis Public Safety Employees Association (CPSEA) to Establish a Modified Salary Structure Methodology.

7. Police - Approval - Amendment to the Police Department Military Equipment List Pursuant to Policy 706.
8. Police - Approval - Authorize the City Manager to enter into an agreement with Clovis Industrial Park, Inc., for the lease of 272 N. Minnewawa Ave., for approximately \$138,000 per year.
9. Public Utilities – Approval – Award Non-Exclusive Franchise Agreements for Hauling of Construction and Demolition Debris, and Update the City’s Approved Hauler List.
10. Public Utilities – Approval – Bid Award for PUD 24-03, 2026 Landfill Gas Collection and Control System Improvements at the Clovis Landfill, to BSE General Engineering, Inc., in the Amount of \$392,228.00; and Authorize the City Manager to Execute the Contract on Behalf of the City.

Administrative Items

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

11. Consider Approval - Confirmation of City Manager's Appointment of Fire Chief.
Staff: Andrew Haussler, City Manager
Recommendation: Approve

Public Hearings

A public hearing is an open consideration within a regular or special meeting of the City Council, for which special notice has been given and may be required. When a public hearing is continued, noticing of the adjourned item is required as per Government Code 54955.1.

12. Consider Various Actions - Approval – Res. 26-____, Approving various actions required to conduct the November 3, 2026, General Municipal Election:
 - a. Calling and giving notice of the November 3, 2026, General Municipal Election for the purpose of electing three (3) members of the City Council representing Districts 1, 4, and 5, to serve a four (4) year term through November 2030; and
 - b. Requesting to Consolidate the General Municipal Election with the Statewide General Election; and authorizing the Fresno County Elections Division to conduct the November 3, 2026, Election; and
 - c. Establishing Conditions for the filing of Candidates’ Statements.
Staff: Briana Parra, City Clerk
Recommendation: Approve
13. Consider Introduction – Ord. 26-____, Approve an Ordinance authorizing the City Manager to execute a memorandum of understanding with the County of Fresno to enforce its Infectious Materials Ordinance within the City; and adding Chapter 8.19 to Title 8 of the Clovis Municipal Code to adopt by reference the County’s Ordinance to monitor and inspect privately funded laboratories within the City and to delegate enforcement authority to the County.
Staff: Paul Armendariz, Assistant City Manager, Matt Lear, Deputy City Attorney
Recommendation: Approve

City Manager Comments

Council Comments

Adjournment

Future Meetings

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

July 6, 2026 (Mon.)

July 7 - Aug. 2 Summer Recess

Aug. 3, 2026 (Mon.)

CITY of CLOVIS

Proclamation

Honoring Fresno County Pink Heals

WHEREAS, Fresno County Pink Heals, founded in 2014, is a nonprofit organization dedicated to supporting individuals and families impacted by cancer and other life-altering illnesses throughout Fresno County and surrounding communities; and

WHEREAS, operated entirely by volunteers, Fresno County Pink Heals is part of a national movement rooted in compassion, service, and meaningful community connection; and

WHEREAS, the organization is widely recognized for its iconic pink fire trucks and emergency vehicles, symbols of hope, strength, and solidarity for those facing difficult health challenges; and

WHEREAS, Fresno County Pink Heals provides emotional support, practical assistance, outreach efforts, and acts of service that remind patients and caregivers they are not alone during times of crisis; and

WHEREAS, through partnerships with schools, businesses, first responders, healthcare professionals, and civic organizations, Fresno County Pink Heals fosters unity, awareness, and a spirit of giving throughout the region; and

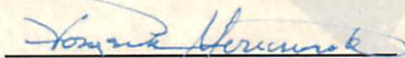
WHEREAS, Fresno County Pink Heals honors survivors, remembers those lost, and continues to inspire hope through its unwavering commitment to compassion, volunteerism, and service to others.

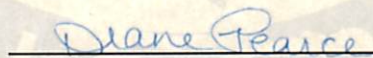
NOW, THEREFORE, BE IT RESOLVED, that the Clovis City Council, on behalf of the citizens of Clovis, does hereby recognize and honor

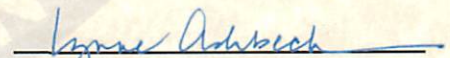
Fresno County Pink Heals

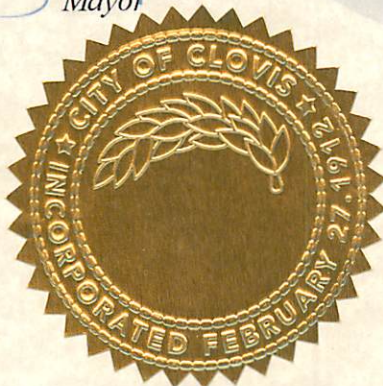
for its extraordinary service, dedication, and positive impact on the lives of countless individuals and families, and extend sincere appreciation for its efforts to bring hope, healing, and compassion to our community.

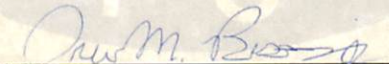
IN WITNESS THEREOF, I hereunto set my hand and cause the official seal of the City of Clovis to be affixed this 15th day of June 2026.

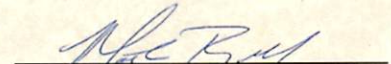

Mayor


Mayor Pro Tem


Councilmember




Councilmember


Councilmember



CITY of CLOVIS

City Council Meeting • Minutes

June 8, 2026

6:00 PM

Council Chamber

Call to Order

The meeting was called to order by Mayor Mouanoutoua at 6:00 PM.

Flag Salute

Flag Salute led by Councilmember Bessinger

Roll Call

Present: Councilmember Ashbeck, Councilmember Basgall, Councilmember Bessinger, Mayor Pro Tem Pearce, and Mayor Mouanoutoua

Presentations/Proclamations

1. Presentation of Proclamation to the Clovis Community College Forensics Team.

Public Comments

Bill Rogers with Veterans of Foreign Wars, thanked the Mayor for recognizing the Honor Guard and announced upcoming events, including the Central Valley Memorial District's 80th anniversary celebration, a Flag Day ceremony, and Women's Veterans Recognition Day.

Steven Trevino and Brian Wilson, residents, spoke and commended the Council for not increasing Council salaries at the previous Council meeting.

Consent Calendar

Upon call, there was no public comment.

Motion by Councilmember Ashbeck, seconded by Councilmember Bessinger, that the items on the Consent Calendar be approved. Motion carried by unanimous vote.

2. Minutes from the June 1, 2026 City Council Meeting.
3. General Services – Approval – **Res. 26-67**, Authorizing Amendments to the City's Classification Plan by Revising and Renaming the Classification of Deputy Building Official/Plan Checker to Deputy Building Official/Code Enforcement Officer in the Planning and Development Services Department.
4. Planning and Development Services – Approval – Bid Award for CIP 24-10 Willow Avenue Street Improvements to Granite Construction Company in the amount of \$1,069,838.90; and Authorize the City Manager to execute the contract on behalf of the City.
5. Planning and Development Services – Approval – **Res. 26-68**, Annexation of Miscellaneous Properties to the Landscape Maintenance District No. 1.

Preliminary - Subject to Approval

Public Hearings

6. Consider Approval – **Res. 26-69**, a Resolution Confirming the Diagram and Assessments for the Fiscal Year 2026-2027 Annual Levy for Landscape Maintenance District No. 1.

The public hearing was opened at 6:22 p.m. The following member of the public addressed the Council regarding the item: Brian Wilson. The public hearing was closed at 6:24 p.m.

Motion for approval by Councilmember Ashbeck, seconded by Councilmember Bessinger. Motion carried by unanimous vote.

Administrative Items

7. Consider Introduction - **Ord. 26-04**, an Ordinance of the City Council of the City of Clovis Amending Various Provisions of Chapter 6.4 of Title 6 of the Clovis Municipal Code Relating to Sewage Disposal Administration and Regulations, and Amending Various Provisions of Chapter 6.5 of Title 6 of the Clovis Municipal Code Relating to Water Service Rates and Regulations.

The following member of the public addressed the Council on the above item: Ed Stark.

Motion for approval by Councilmember Ashbeck, seconded by Councilmember Basgall. Motion carried by unanimous vote.

8. Consider Approval - Approve the City Council Meeting Telephonic or Internet Service Disruption Policy Pursuant to Government Code Section 54953.4 (SB 707).

The following members of the public addressed the Council on the above item: Steven Trevino, Dr. Jeni-Ann Kren, and Bill Rogers.

Motion for approval by Councilmember Bessinger, seconded by Councilmember Basgall. Motion carried by unanimous vote.

City Manager Comments

City Manager Haussler announced the June schedule for the Clovis Mobile Recreation Park Tour, which begins at Letterman Park on June 10, 2026. He also shared that the Clovis Youth Commission is accepting applications from students entering grades 10 through , and announced that the Flag Day Celebration will be held on June 14, 2026.

Council Comments

There was no formal Council direction for staff.

Closed Session

9. Government Code Section 54957
PUBLIC EMPLOYEE PERFORMANCE EVALUATION
Title: City Manager

Upon call, there was no public comment.

No Reportable Action.

Preliminary - Subject to Approval

Reconvene into Open Session and Report from Closed Session

Adjournment

Mayor Mouanoutoua adjourned the meeting at 7:35 P.M. and the next regularly scheduled meeting is June 15, 2026.

Mayor

City Clerk



CITY *of* CLOVIS

Report to the City Council

To: City Council

From: Administration

Date: June 15, 2026

Staff: Briana Parra, City Clerk

Subject: Administration – Adopt – Ord. 26-04, An Ordinance of the City Council of the City of Clovis, Amending Chapter 6.4 of the Clovis Municipal Code Pertaining to Administration of Sewage Disposal Provisions; and Amending Chapter 6.5 of the Clovis Municipal Code Pertaining to Water Service Rates and Regulations. (Vote: 5-0)

Recommendation: Adopt

Attachments: None



CITY of CLOVIS

Report to the City Council

To: City Council
From: Administration
Date: June 15, 2026
Staff: Scott Cross, City Attorney
Subject: Administration - Approval - Res. 26-____, a Resolution Approving a Schedule of Water Rate Increases and Adjustments Effective January 1, 2027, and an Annual Schedule of Adjustments for Future Water Rate Increases Each July 1st Beginning July 1, 2029.

Recommendation: Approve

Attachments:

1. Water Rate Increase ATT 1 Res. 26-
2. Water Rate Increase ATT 2 Draft Ord. 26-04

Recommendation:

For the City Council to approve the resolution approving a schedule of water rate increases and adjustments effective January 1, 2027 and an annual schedule of adjustments for future water rate increases each July 1st beginning July 1, 2029.

Executive Summary:

Council approved a water rate increase on April 20th, 2026, with the increased rates and fees to be effective beginning January 1, 2027. Historically, water rate increases have been codified in the Municipal Code, and annual adjustments have been approved through the Budget process. With the adoption of Ordinance 26-04, amending Clovis Municipal Code section 6.5.103, the updated water rates and fees may now be approved by resolution. The attached Resolution and attached Rate Table document the updated water rates and fees approved following the public hearing and Proposition 218 proceeding on April 20, 2026, with the approved rate and fee increases effective beginning on January 1, 2027.

Background:

The City Council approved the Water Rates and Fees Study on April 20, 2026, which set the new rates and fees to be collected for the water utility beginning on January 1, 2027. This included the required mailed notice to all parcel owners in Clovis subject to the proposed water rates and fees and a public hearing as required by Proposition 218 (CA Constitution, Art. XIII D, Sec. 6). Written protests regarding the proposed rate and fee increases were not submitted by a majority of owners of parcels to which the increased fees were proposed to be imposed, and the City Council duly approved the

proposed rate and fee increases. With past water rate increases, a comprehensive update to the Municipal Code would codify the new rates and fees. However, those rates and fees codified in the Code become outdated in the following years, and a review of subsequent authorized rate/fee adjustments and Council actions coupled with a series of calculations is needed to determine the current rates and fees in later years.

Ord. 26-04 simplified the water rates and service fees for the public and City staff by authorizing the rates and fees to be set by Council resolution. This Resolution follows the Ordinance with a schedule showing the approved rate and fee increases beginning January 1, 2027 and the authorized 3.0% annual increase beginning July 1, 2029. The Resolution and rate/fee attachment will be available for the public and City staff to see the applicable rates and fees at any given time in future years rather than referring to lengthy text in the Municipal Code and performing a series of calculations to determine the applicable rates/fees.

Fiscal Impact:

Approval of the Resolution allows for the water rates and fees approved following the public hearing and Proposition 218 proceeding on April 20, 2026 and the approved schedule of rate and fee increases to become effective beginning on January 1, 2027. As presented during the public hearing on April 20, 2026, the approved rate and fee structure will provide for long-term financial sustainability of the Water Enterprise account.

Reason for Recommendation:

This Resolution follows the adoption of Ord. 26-04 this evening. If approved, the Resolution and attached Rate Table will document the new water rates and fees beginning on January 1, 2027, and in subsequent years in accordance with the water rates and fees increase approved on April 20, 2026.

Actions Following Approval:

The approved water rates and fees as reflected in the Resolution and attached Rate Table will be implemented.

Conflict of Interest:

None.

RESOLUTION 26-___

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLOVIS APPROVING WATER RATE AND SERVICE CHARGE INCREASES AND ADJUSTMENTS EFFECTIVE ON JANUARY 1, 2027

WHEREAS, Government Code Section 54344 authorizes the City to prescribe, revise, and collect charges for the services, facilities, and water furnished by the City as part of the municipal water system and water enterprise; and

WHEREAS, Section 6.5.103 of the Clovis Municipal Code, as amended, provides for water service rates and charges to be set by City Council resolution; and

WHEREAS, the City retained Raftelis Financial Consultants Inc. (“Raftelis”) as a consultant to review the City’s municipal water system and water enterprise, perform a cost of service analysis and develop a proposed rate model, and prepare a comprehensive Water Rate Study (“Rate Study”) for the City to consider implementing to meet the City’s costs of providing water service; and

WHEREAS, the City Council conducted public workshops and meetings on the Rate Study during City Council meetings on November 3, 2025, and January 20, 2026, during which the proposed water rate and service charge increases identified in the Rate Study were reviewed and discussed, and comments were received from the City Council and the public; and on January 20, 2026, the City Council approved the Rate Study and provided direction on the proposed increased water rates and service charges, and directed staff to proceed with the required public hearing on April 20, 2026, and majority protest proceeding in accordance with Proposition 218 for the City Council to consider approval of the proposed increased rates and charges; and

WHEREAS, written notice of the proposed increased water rates and service charges was duly mailed to the record owners of each parcel in the City in accordance with the requirements of Proposition 218 and Government Code section 53755; and

WHEREAS, a public hearing to consider the proposed water rates and service charges and any protests to the proposed rates and charges was duly held and conducted at the City Council meeting on April 20, 2026, which meeting and hearing was more than 45 days after written notice was duly mailed to property owners and water customers in accordance with the requirements of Proposition 218 and Government Code section 53755; and

WHEREAS, written protests to the proposed increased water rates and service charges were not presented by a majority of the owners of the identified parcels in the City of Clovis before the close of the public hearing, and therefore a majority protest to the proposed increased water rates and service charges did not exist, and the City Council was authorized and did approve the proposed increased water rates and service charges as presented in the Rate Study, the written notice to record owners of each parcel in the City, and in the materials for the City Council meeting on April 20, 2026; and

WHEREAS, the City Council deems it in the public interest to document the approval of the scheduled water rate and service charge increases as authorized by applicable law in a resolution rather than a comprehensive municipal code amendment; and

WHEREAS, Exhibit "A" attached hereto, including an annual authorized 3.0% rate increase beginning July 1, 2029, and each July 1 thereafter, accurately reflects the scheduled water rates and service charges approved by the City Council on April 20, 2026, following a duly conducted majority protest proceeding in accordance with Proposition 218.

NOW, THEREFORE, BE IT RESOLVED, that the City of Clovis shall proceed as follows:

1. The water rates and service charges set forth in Exhibit "A" attached hereto are hereby approved and adopted as the scheduled new water rates and service charges effective beginning on January 1, 2027, and all customers receiving City water service shall be billed accordingly as set forth in Exhibit "A".

2. Beginning July 1, 2029, and annually each July 1st thereafter, the water rates and service charges are approved to be increased by up to 3.0% as approved by City Council resolution, including the annual City budget resolution, based on an annual recommendation by the Public Utilities Director. The Public Utilities Director's recommendation shall be based on a review and evaluation of the water fund balance annually before June 1st, and the recommendation in any given year may be for the authorized 3.0% rate increase, an increase less than the authorized 3.0%, no rate change, or a rate reduction, and any increase not exceeding the authorized 3.0% in any given year shall not constitute an "increase" pursuant to Proposition 218 or the Proposition 218 Omnibus Implementation Act.

3. The approved increased water rates and service charges are required to cover the cost of providing such services to the users thereof and the rates and charges are non-discriminatory and do not exceed the estimated proportional cost of providing water services for which the rates and charges are imposed.

* * * * *

The foregoing resolution was introduced and adopted at a regular meeting of the City Council of the City of Clovis held on June 15, 2026, by the following vote, to wit:

AYES:
NOES:
ABSENT:
ABSTAIN

DATED:

Mayor

City Clerk

Exhibit A

**City of Clovis
Water Utility
Current and Proposed Rates and Service Charges**

Description	Existing		Proposed			
	FY26	FY27	FY28	FY29	FY30	FY31
BIMONTHLY SERVICE CHARGE, \$ PER BILL						
Residential						
Single Family [1]	\$27.71			Note [1]		
Multifamily [1]	27.71			Note [1]		
Mobile Home [1]	27.71			Note [1]		
Tarpey Metered Residential [1,2]	27.71			Note [1,2]		
Tarpey - Non-Metered Res Large Lot [1,2]	6.67			Note [1,2]		
Tarpey - Non-Metered [1,2]	139.05			Note [1,2]		
Residential [3], Commercial, and Landscape (Retail Potable Water Users)						
Meter Size						
<i>Inches</i>						
5/8	\$22.30	\$33.46	\$40.49	\$47.78	\$49.21	\$50.69
3/4	22.30	33.46	40.49	47.78	49.21	50.69
1	22.30	33.46	40.49	47.78	49.21	50.69
1 1/2	29.66	55.36	66.99	79.05	81.42	83.86
2	40.97	81.64	98.78	116.56	120.06	123.66
3	81.13	151.72	183.58	216.62	223.12	229.81
4	204.08	230.57	278.99	329.21	339.09	349.26
6	814.05	449.58	543.99	641.91	661.17	681.01
8	1,443.03	800.00	968.00	1,142.24	1,176.51	1,211.81
10	2,260.71	1,062.81	1,286.00	1,517.48	1,563.00	1,609.89
Recycled						
Meter Size						
<i>inches</i>						
5/8	\$22.30	\$25.87	\$31.30	\$36.93	\$38.04	\$39.18
3/4	22.30	25.87	31.30	36.93	38.04	39.18
1	22.30	25.87	31.30	36.93	38.04	39.18
1 1/2	29.66	40.18	48.62	57.37	59.09	60.86
2	40.97	57.35	69.39	81.88	84.34	86.87
3	81.13	103.14	124.80	147.26	151.68	156.23
4	204.08	154.66	187.14	220.83	227.45	234.27
6	814.05	297.76	360.29	425.14	437.89	451.03
8	1,443.03	526.71	637.32	752.04	774.60	797.84
10	2,260.71	698.43	845.10	997.22	1,027.14	1,057.95
Private Fireline						
Line Size						
<i>inches</i>						
4 and less	\$204.08	\$20.15	\$24.38	\$28.77	\$29.63	\$30.52
6	204.08	36.52	44.18	52.13	53.69	55.30
8	204.08	64.74	78.34	92.44	95.21	98.07
10	204.08	107.20	129.72	153.07	157.66	162.39
12	204.08	166.05	200.92	237.09	244.20	251.53
Construction Water	\$139.05	\$154.66	\$186.89	\$220.58	\$227.41	\$234.29
Hydrant Meter Water, \$ per bill per month	\$40.57	\$40.82	\$49.39	\$58.28	\$60.03	\$61.83

[1] The proposed service charge by meter size applies to all customer classes.
Under existing rate structure, residential customers were charged a fixed, per dwelling charge.
[2] Tarpey are billed the same as inside City residential.
[3] Service charge applies to all Residential classes in FY27.
[4] Current construction water charges are based on Tarpey Non-Metered charges.
Proposed construction water charges are based on the 1" meter charge plus 60,000 of water usage at the proposed volume rates for each year.

Description	Existing		Proposed			
	FY26	FY27	FY28	FY29	FY30	FY31
VOLUME RATES, \$ PER 1,000 GALLONS						
Residential - Single Family, Multifamily, Mobile Home [1]						
Tier 1: (0 - 23,000 gal)	\$1.13	\$2.02	\$2.44	\$2.88	\$2.97	\$3.06
Tier 2: (23,000 - 40,000 gal)	1.88	2.02	2.44	2.88	2.97	3.06
Tier 3: (Over 40,000 gal)	2.33	2.02	2.44	2.88	2.97	3.06
Commercial and Landscape						
Tier 1: (0 - 23,000 gal)	\$1.13	\$2.02	\$2.44	\$2.88	\$2.97	\$3.06
Tier 2: (Over 23,000 gal)	1.53	2.02	2.44	2.88	2.97	3.06
Recycled						
Pressurized	\$0.71	\$0.87	\$1.05	\$1.24	\$1.28	\$1.32
Non-Pressurized	0.076	0.072	0.090	0.110	0.110	0.110
Hydrant Meter Water \$ per 1,000 gallons [2]	Note [2]	\$2.02	\$2.44	\$2.88	\$2.97	\$3.06

[1] Tarpey are billed the same as inside City residential
[2] Existing hydrant meter volume rate based on Commercial and Landscape volume rates.

Line No.	Description	Existing	FY27	FY28	FY29	FY30	FY31
		Current	Proposed	Proposed	Proposed	Proposed	Proposed
1	Months Increase is Effective in First Year		January 1, 2027	January 1, 2028	January 1, 2029	July 1, 2029	July 1, 2030
2	Annualized Percentage Increase	0.0%	21.0%	21.0%	18.0%	3.0%	3.0%
3	Cumulative Increase	0.0%	21.0%	46.4%	72.8%	77.9%	83.3%

Rate Structure: Potable Water					
Drought Response Surcharge (\$/1,000 gal)					
Conservation Goal	FY 2027	FY 2028	FY 2029	FY 2030	FY 2031
< 10%	\$0.00	\$0.00	\$0.00	\$0.00	\$0.00
Up to 20%	\$0.23	\$0.27	\$0.32	\$0.33	\$0.34
Up to 30%	\$0.51	\$0.61	\$0.72	\$0.74	\$0.77
Up to 40%	\$0.87	\$1.05	\$1.23	\$1.27	\$1.31
Up to 50%	\$1.35	\$1.63	\$1.92	\$1.98	\$2.04
> 50%	\$2.02	\$2.44	\$2.88	\$2.97	\$3.06

ORDINANCE 26-04

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLOVIS AMENDING VARIOUS PROVISIONS OF CHAPTER 6.4 OF TITLE 6 OF THE CLOVIS MUNICIPAL CODE RELATING TO SEWAGE DISPOSAL ADMINISTRATION AND REGULATIONS, AND CHAPTER 6.5 OF TITLE 6 OF THE CLOVIS MUNICIPAL CODE RELATING TO WATER SERVICE RATES AND REGULATIONS

The City Council of the City of Clovis does ordain as follows:

Section 1. Section 6.4.01.1 is hereby added to Chapter 6.4 of Title 6 of the Clovis Municipal Code to read as follows:

6.4.01.1 Administration.

The Public Utilities Director shall administer, implement, and enforce the provisions of this chapter, except insofar as another officer or employee of the City shall be charged with the administration or regulation of a specific provision of this chapter. The Public Utilities Director shall be responsible for preparing a sewer master plan, which includes an evaluation of the City's existing sewer capacity, infrastructure, and sewage treatment and plans for future sewer capacity, sewage treatment, and infrastructure needs to assist in community planning and ensuring a safe, reliable, and cost-effective sewage disposal and treatment while protecting public health and the environment.

Section 2. Sections 6.4.03.1, 6.4.06, 6.4.15, 6.4.18, and 6.4.20 of Chapter 6.4 of Title 6 of the Clovis Municipal Code are hereby amended to read as follows:

6.4.03.1 Sewer lift station reimbursement fees.

(a) Purpose. The Council hereby finds and declares that the cost of constructing and furnishing sewer lift stations in certain areas to provide interim service for development is in excess of the sanitary sewer facilities that are generally applicable to other territory in the City and that, in order to protect the public health and welfare and install sewer lift stations, the fees provided for in this section are reasonable and necessary.

(b) Service areas. When it is determined by the City Engineer and Public Utilities Director that a lift station will be constructed to provide interim service for an area within the City, the City Engineer and Public Utilities Director shall determine the identified service area and shall allocate the cost of the lift station and appurtenances to all parcels within the service area according to each parcel's potential flow generation as determined

by the sewer master plan. The costs allocated to each of the parcels within the service area shall be payable upon development of each parcel. If permanent, master planned sewage conveyance that eliminates the need for the interim lift station facilities is provided prior to or in conjunction with the development of a parcel or parcels within the identified service area, the requirement for the remaining parcels in the service area to participate in the cost of the lift station facilities will be terminated.

(c) Payment of fees. The fees imposed pursuant to this section shall be payable as follows:

(1) Such fees shall be paid for each lot or parcel delineated on a subdivision map or parcel map prior to the recording of such map.

(2) In any case where such fee has not previously been paid for a lot or parcel for development on which a building permit involving a connection to the sewer system is required, such fee shall be paid prior to the issuance of a building permit.

(d) Use of fees. The fees collected as provided in this section shall be used toward the cost of the construction, or for the reimbursement of the cost of the construction, of sewer lift stations, sewer pump facilities, and associated force mains within the service area for which the fee was collected.

(e) All fees shall include an administrative charge not to exceed the percentage shown in the Master Development Fee Schedule to cover the cost of the City's record keeping and handling, except that if sufficient fees are held in the particular fund and general interest sufficient to cover such costs, the administrative charge will be taken from such interest.

6.4.06 Sewer service: Conditions.

(a) All persons using the sewer system of the City shall pay for such service and for the privilege of connecting to the sewer at the rates, at the times, and under the conditions set forth in this chapter and shall comply with all the regulations set forth in this chapter relating to the use of such sewer system.

(b) All sewer service laterals connecting a user, whether a single-family residence, commercial building, or other structure, to a City-owned sewer main located in the public right-of-way or easement shall be owned, maintained and repaired by the owner of the property being served, from and including the lateral's connection point at the City sewer main to the building or other point of use on the property. This includes both the portion on private property and the portion located beneath the sidewalk and

street or any other public right-of-way or easement areas such as alleys, trails and landscape areas, up to and including the point where the lateral connects to the City sewer main.

(c) Sewer main and service shut offs. The City may shut off sewer mains or at any service at any time for the purpose of making repairs to mains, installing services or extensions, or for other reasons as determined necessary by the Public Utilities Director for the protection of the City sewer system or the public health or welfare.

6.4.15 Discharge prohibitions and industrial reporting requirements.

For the purpose of defining the prohibitions of discharges into the City sewer system and the reporting of requirements of industrial users, Sections 6-327 and 6-336 of Article 3 of Chapter 6 of the City of Fresno Municipal Code, as may be amended, is hereby adopted by reference, except that:

- (a) "City" means the City of Clovis.
- (b) "Finance Department" means City of Clovis Finance Department.
- (c) "Public Works Director" means City of Clovis Public Utilities Director.
- (d) "City Manager" means City of Clovis City Manager.
- (e) "Council" means Clovis City Council.
- (f) "Director" means City of Clovis Public Utilities Director.
- (g) "City Clerk" means Clovis City Clerk.

6.4.18 Duty of enforcement.

For the purpose of defining the duty of enforcement and enforcement provisions and procedures, Section 6-323 of Article 3 of Chapter 6 of the City of Fresno Municipal Code, as may be amended, is hereby adopted by reference, except that:

- (a) "City" means City of Clovis.
- (b) "Chapter 2 Article 11" shall mean Chapter 6.5, Section 6.5.110(b) of the Clovis Municipal Code.

6.4.20 Wastewater Discharge Permits.

For the purposes of controlling and monitoring discharges from nondomestic users and for implementing pertinent industrial wastewater discharge control and pretreatment requirements, Section 6-335 of Article 3 of Chapter 6 of the City of Fresno Municipal Code is hereby adopted by reference.

Section 3. Sections 6.5.101 through 6.5.105 and Sections 6.5.110 through 6.5.112 of Chapter 6.5 of Title 6 of the Clovis Municipal Code are hereby amended to read as follows:

6.5.101 Administration.

The Public Utilities Director shall administer, implement, and enforce the provisions of this chapter, except insofar as another officer or employee of the City shall be charged with the administration or regulation of a specific provision of this chapter. The Public Utilities Director shall be responsible for preparing a water master plan, which includes an evaluation of the City's existing water supply and infrastructure, and plans for future water supply and infrastructure needs to assist in community planning and ensuring a clean, reliable, and cost-effective water supply while protecting public health and the environment.

6.5.102 Applications for Water Service.

Before water shall be supplied to any premises, the owner or occupant of the property shall make a written application to the City for water service on a form provided by and containing such information as may be required by the City, including but not limited to presentation of a form of government-issued identification. Thereupon, a service connection shall be made at the nearest distribution main after the charges provided for in this section have been paid. Industrial developments for nonfood processing functions shall, as a first choice, use nonpotable water from the City's infrastructure, subject to availability to the site and as approved by the Public Utilities Director.

The applicant, on making such application, shall pay a fee of ten and no/100ths dollars (\$10.00) for opening a water service account, which fee shall not be refunded.

(a) Deposits. The City shall require an applicant for water service to guarantee the payment of water and other utility user charges with a cash deposit in the sum of one hundred fifty and no/100ths dollars (\$150.00) or, for commercial customers and multifamily customers, a deposit of an amount equal to the sum of the minimum water, sewer, street sweeping, recycling, greenwaste and refuse service as requested by the customer for one billing period. If such customer has previously been a water service customer of the City (within the corporate limits of the City) for at least two (2) years and does not currently carry a delinquent balance, they will not be required to pay the deposit.

(b) Return of deposits. Deposits shall be held by the City for a minimum period of two (2) years. The deposit shall be returned to the customer after two (2) years, but not sooner than six (6) months after any one delinquency, if more than one.

(c) Purchaser's responsibility. An owner or purchaser of a premises maintaining water or sewer connections shall assume responsibility for financial obligations of such service effective the date possession of the property is taken.

6.5.103 Water Rates and Service Charges for City service area customers.

(a) Basic Rates and Service Charges. Unless otherwise provided in an extraterritorial service agreement as provided in Section 6.5.104, each customer in the City's service area connected to the City's water system shall pay, as a condition of water service, applicable rates and service charges as established by City Council resolution.

(b) Drought Response Rates During Declared Water Emergency. Notwithstanding subsection (a) above, during any declared state of emergency by the State or City related to potable water conditions that mandate water conservation in the City, when State or Federal regulations that mandate water conservation in the City are in effect, or during local water shortages, a drought response surcharge as approved by City Council resolution shall be applicable and added to the basic volume rates for water.

(c) For any standby service, including fire sprinkler systems, the availability charge to each customer shall be an amount established by City Council resolution.

(d) As a condition of and prior to the issuance of any building permit for the construction of a building where water service is to be utilized, but where no water meter has been installed, the person to whom such permit is issued shall pay an on-site construction water charge for each service in an amount established by City Council resolution for a period of time not to exceed twelve (12) months provided the permittee installs, at his cost, an approved spacer. At the conclusion of said twelve (12) months, water service will only be provided after the installation of a water meter in accordance with the regulations set forth in this article. The spacer shall become the property of the City.

(e) Any person receiving a permit to take water from a fire hydrant shall pay a hydrant meter fee in an amount established by City Council resolution and the applicable water volume rate for water used as established by City Council resolution.

6.5.104 Extraterritorial Water Service Agreements for Water Service Outside City Service Area.

(a) Notwithstanding any other provision of this chapter, City water service may be provided outside the City service area pursuant to an extraterritorial service agreement which may include requirements, payments, rates, or charges than otherwise imposed on customers within the City service area and connected to the City's water system.

6.5.105 Utility Bills.

Regular utility bills shall be issued on a bimonthly basis according to the billing dates established by the Director of Finance. Utility bills shall include charges for all city utility services.

(a) Payment. All charges for water shall be due and payable on the billing date. All unpaid water charges shall become delinquent at 12:01 a.m. on the day after the due date indicated on the utility bill.

(b) Proration. The charges for water shall be prorated to the nearest ten percent (10%) of the billing period as determined by the date of the starting and ending of service as recorded by the Finance Department upon notification to the Finance Department by the owner or occupant.

(c) Meter failures. If a meter fails to register during any billing period or is known to register inaccurately, the consumer shall be charged on the basis of the consumption as shown by the meter when in use and registering accurately over a period of one year or, in the event the consumer has not received water for a period of one full year, then over such lesser period.

(d) Consumers' dissatisfaction with meters. In case of a consumer's dissatisfaction with the registration of any meter, the consumer shall make a written complaint to the Director of Finance, together with a deposit of eighty-four and no/100ths dollars (\$84.00), which sum will be returned and the water bill equitably adjusted for a period of not to exceed the prior twelve (12) months in any case where the meter shall be found to register over three percent (3%) more than the amount of water which actually passes through the meter. The eighty-four and no/100ths dollar (\$84.00) deposit shall be retained by the City and the water bill paid as rendered; if the meter is found to register less than three percent (3%) more than the amount of water which actually passes through the meter, the deposit shall be forfeited and the bill equitably adjusted for a period of not to exceed the prior twelve (12) months.

(e) Billing errors. In the event a clerical error or other circumstance occurs which creates an inaccurate billing for service charges, an adjustment shall be made in the customer's bill for a period not to exceed the maximum period as provided in the Code of Civil Procedure, either in the customer's favor or the City's favor.

6.5.110 Other Regulations.

(a) Only City may turn water on. No person shall tap, open, or connect any water service, and no person shall cause, permit, or allow any water main to be turned on or connected after the water service has been turned off by the City.

In the event any person turns on or connects water service after it has been turned off or disconnected by the City, the City shall again turn off or disconnect the water service, and lock or remove the water meter from the premises, and charge and collect one hundred seventy-five and no/100ths (\$175.00) dollars, in addition to all other charges and penalties, before water service is restored. If, as a result of tampering, the meter or service is damaged, an additional fee of five hundred and no/100ths (\$500.00) dollars shall be charged and collected in addition to all other charges and penalties, before water is restored.

(b) Water service penalties for waste or violations. For any water supplied by the City which is wasted by a customer a fee shall be charged to the customer and added to the customer's account. For the first violation, a written warning will be given to the customer. For the second violation within a one-year period, a fee of thirty and no/100ths dollars (\$30.00) shall be charged. For the third violation within a one-year period, a fee of sixty and no/100ths dollars (\$60.00) shall be charged. For the fourth and subsequent violations within a one-year period, a fee of ninety and no/100ths dollars (\$90.00) shall be charged. For any customer who incurs within a one-year period four (4) or more water waste violations or does not comply with the water efficient landscape requirements, the City may implement any or all of the following measures:

- (1) Require a customer to get a landscape evaluation, lawn water audit, and water budget, as appropriate, in order to learn efficient water use. This work would be completed at customer expense;
- (2) Require a customer to repair any defects in the watering system of such customer within fourteen (14) days' notice by the City to repair;
- (3) Require installation by the City of flow restrictors or termination of water service for exterior use;
- (4) Termination of all water service to a customer.

In addition to the foregoing, during any declared state of emergency by the State or City related to drought or potable water conditions that mandate water conservation in the City, State or Federal regulations that mandate water conservation in the City, or during local water shortages, the City Council may by resolution adopt mandatory water usage limits and impose penalties on the customer for violations of those usage limits. The penalties shall be added to the customer's account. A violation of the usage limits shall also be deemed a violation of the Municipal Code.

Water service shall be turned off and discontinued to any premises on or from which water supplied by the City is being disposed or used in violation of any law of the City other than wasting or noncompliance with water efficient landscape requirements. Water service shall not be restored to any premises until the owner and the occupant thereof terminate any violation and agree not to continue to repeat such violation. Such agreement shall be guaranteed by a cash deposit in such sum as the Director of Finance shall fix, not to exceed one hundred and no/100ths dollars (\$100.00).

(c) Meters City property. All services and all water meters installed by the City shall remain the property of the City. The expense of the maintenance, repair, and removal of such meters, due to the wear of normal service, shall be borne by the City; provided, however, any expense occasioned by any act, careless or otherwise, on the part of the consumer, or any member of his family, or any person in his employ, shall be charged to such consumer.

(d) City not responsible for water damages. The City shall not maintain or repair any water pipe from the meter to the premises served, and the City shall in no case be liable for damages occasioned by water running free from open or faulty fixtures or from broken or damaged pipes.

(e) Unlawful to connect other water. No person shall allow a connection to be made or exist between the City's water system and another source of water supply or water system unless such connection is fitted with a suitable backflow prevention device approved by the City and the County Health Office preventing water from such other source of supply entering the City's water system.

(f) Unlawful furnishing or receiving of water. No person receiving City water shall furnish such water to any premises other than that to which the City bills or meters such water, and no person shall furnish or receive City water to any premises for which the water rates prescribed by the City are not being paid.

(g) Bypass connections unlawful. Any bypass or connection around the meter between the service and the main shall be prohibited unless specifically authorized by the Director of Public Utilities for a limited period of time because of emergency work. All water used on any premises shall pass through the water meter.

(h) Unlawful entries on water facilities. No person shall climb on or upon any water tower or water tank to enter on or upon any pump house or pit without a permit from the Public Utilities Department.

(i) Unlawful to cover meter boxes. No person shall cover meter boxes with trash, rubbish, dirt, or other foreign matter, or permit ivy or other shrubbery to grow over meter boxes, or park automobiles or other vehicles over meter boxes. Direct access to the water meter shall be maintained by the property owner.

(j) Unlawful to tamper with meters, related service equipment, or break seals. No person shall tamper with or remove any water meter or related service equipment which is attached to or accompanies any service or break any meter seal or related service equipment. No person shall make any water connection or connect to any pipe or meter box, except for a single house connection.

(k) Unlawful to water waste. No person shall willfully or negligently waste water or unreasonably flood any premises. Wasting water shall include noncompliance with any water conservation program which the City enacts for the public safety or welfare.

(l) Inspections. The Director of Finance, the Director of Public Utilities, City Engineer, or any other authorized officer of the City shall be admitted during normal working hours to all parts of any premises provided with a City water service for the purpose of inspection to ensure that applicable laws and regulations of the City and State pertaining to water and water services are complied with.

6.5.111 Water restrictions.

The use of water supplied by the City may be restricted or prohibited by the City when water conservation is required for the public safety or welfare.

(a) Water to be shut off in case of fire. When a fire occurs in the City, all standpipes, fireplugs, hose connections, faucets, and other outlets to the City water system shall be subject to the direction of the Chief of the Fire Department and shall be promptly closed, except such as may be used in quenching the fire and preventing the spread of the fire, and shall be kept closed until such fire is extinguished.

(b) Water main and service turnoffs. The City may shut off water in the mains or at any service at any time for the purpose of making repairs to mains, installing services or extensions, or for other reasons as determined necessary by the Director of Public Utilities for the protection of the City water system, water supply, or public safety or welfare.

6.5.112 Backflow prevention devices required.

No person shall install or maintain any water-operated equipment or mechanism or use any water-treating chemical or substance, or install or maintain any water consumption facilities capable of polluting the City water supply ("cross-connection"), unless the water service to the premises upon which such equipment, mechanism, chemical, substance, or water consumption facilities are utilized is equipped with a City approved backflow prevention device.

Such approved backflow prevention device(s) shall be installed on any new facilities where the Public Utilities Department or Building Division makes such a requirement as a condition of approval of any building entitlement for the premises, or, in

the case of an existing facility, immediately upon notice by the Public Utilities Department or Building Division that a cross-connection condition exists, or within thirty (30) days of notice of a potential cross-connection condition. Failure to install such devices or to take such actions as necessary to eliminate existing or potential cross-connection conditions will be cause to discontinue water service to the affected premises.

Any such installation shall be at the owner's expense and at a location between the water meter and the premises served and at such point of connection as may be designated or approved by the Public Utilities Department or Building Division.

The owner shall be responsible to keep all such devices in a good state of repair. Repairs, adjustments, and tests shall be performed only by persons who have been certified for such work by an agency approved by the City. No less than once each year the owner at his expense shall cause a certified test report(s) be submitted to the Public Utilities Department indicating all such devices on or serving owner's premises are in good operating condition. In the case of a new installation, a certified test report shall be submitted within five (5) working days of the date of installation. Failure to provide such annual or other test report(s) upon notice by the City shall be cause to discontinue water service to owner's premises until such time as the required test report(s) is received by the Public Utilities Department.

Section 4. Sections 6.5.303 of Article 3 of Chapter 6.5 of Title 6 of the Clovis Municipal Code is hereby amended to read as follows:

6.5.303 Standby fire service lines.

Any person who desires standby fire service lines shall install and maintain in their entirety such lines at his own cost and expense only after receiving a permit therefore issued by the City, and all such lines shall be installed in such a manner and in such specifications as the City may require.

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Section 5. This Ordinance shall go into effect and be in full force from and after thirty (30) days after its final passage and adoption.

APPROVED: June 8, 2026

Mayor

City Clerk

* * * * *

The foregoing Ordinance was introduced at a regular meeting of the City Council held on June 8, 2026, and was adopted at a regular meeting of said Council held on June 15, 2026, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

DATED:

City Clerk



CITY of CLOVIS

Report to the City Council

To: City Council

From: General Services Department

Date: June 15, 2026

Staff: Bethany Berube, Deputy General Services Director

Subject: General Services - Approval of the Clovis Transit Public Transportation Agency Safety Plan (PTASP).

Recommendation: Approve

Attachments: 1. Clovis Transit PTASP ATT 1 Policy

Recommendation:

For the City Council to approve the Clovis Transit Public Transportation Agency Safety Plan (PTASP).

Executive Summary:

On July 19, 2018, the Federal Transit Administration (FTA) published the PTASP Final Rule (49 CFR Part 673) requiring operators of public transportation systems that are recipients or subrecipients of FTA funds to develop an Agency Safety Plan (ASP). As a new FTA funding recipient, Clovis Transit's PTASP was first approved by Clovis City Council on June 16, 2025. The regulation requires that Clovis Transit conduct an annual review, update, and recertification to ensure compliance and effectiveness.

Background:

As a recipient of FTA funding, Clovis Transit must follow the PTASP Final Rule (49 CFR Part 673). This includes an annual review by the Safety Committee, the Chief Safety Officer, and the Deputy General Services Director, who serves as the Accountable Executive, before submitting it to the City Council for approval. The PTASP has been updated in accordance with FTA guidance and was reviewed and approved by the Safety Committee, Chief Safety Officer, and Accountable Executive on May 27, 2026.

The PTASP includes processes and procedures to implement a Safety Management System (SMS). This is a comprehensive, collaborative, and systemic approach to managing safety. The PTASP must also include performance targets for the performance measures established by the FTA in the National Public Transportation Safety Plan (published on January 28, 2017). Transit agencies are required to make their safety performance targets available to the State and Metropolitan Planning

Organization (MPO), i.e., Fresno Council of Governments (Fresno COG), for inclusion in their planning processes.

Fiscal Impact:

None.

Reason for Recommendation:

City Council approval of the PTASP is required in order for Clovis Transit to maintain its status as a recipient of FTA funding. FTA funding is a critical funding source for transit operating assistance, the purchase of vehicles, and the advancement of several projects.

Actions Following Approval:

Policy will be forwarded to the FTA for final approval of this year's annual policy renewal.

Conflict of Interest:

None.



Clovis Transit

Public Transportation Agency Safety Plan (PTASP)

**Approved by Clovis City Council
MMDDYY**

Attachment 1

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I. TRANSIT AGENCY INFORMATION

Transit Agency Name	Clovis Transit		
Transit Agency Address	785 3 rd Street, Clovis, CA 93612		
Name and Title of Accountable Executive	Bethany R. Berube, Deputy General Services Director		
Name of Chief Safety Officer	Byron Bolton, Transit Supervisor and Chief Safety Officer		
Mode(s) of Service Covered by this Plan	Fixed Route Bus (Stageline) Paratransit (Round Up)		
Mode(s) of Service Provided by the Transit Agency (directly operated or contracted service)	Fixed Route Bus, Paratransit	List All FTA Funding Types (e.g., 5307, 5337, 5339)	5307, 5310, 5339
Does the Agency Provide Transit Services on Behalf of Another Transit Agency or Entity?	No	Description of Arrangement(s)	Not Applicable
Name and Address of Transit Agency(ies) or Entity(ies) for which Services is Provided	Not applicable		
The transit agency serves a large urbanized area.	Clovis Transit is a small urban transit agency that provides service to portions of a large urbanized area, including Tarpey Village and parts of the City of Fresno		

II. PLAN DEVELOPMENT, APPROVAL, AND UPDATES

This PTASP (or “Plan”) addresses all requirements as outlined in the Federal Transit Administration (“FTA”) Public Transportation Safety Program and the National Public Transportation Safety Plan. The PTASP has been prepared in accordance with the PTASP Safety Rule published by the FTA on April 11, 2024. The PTASP may be revised following established standards by the FTA through the public notice and comment process.

This PTASP is adopted in compliance with 49 CFR Part 673.

Name of Person(s) Who Drafted this plan	Bethany Berube, Deputy General Services Director	
Signature by the Accountable Executive	Signature of Accountable Executive	Date of Signature
	Deputy General Services Director	
Approval by the Clovis City Council	Date of Approval	
	Relevant Documentation	
	<ul style="list-style-type: none"> - A copy of the City Council Resolution approving the Plan and related staff report is maintained on file by the Transit Manager and Transit Chief Safety Officer 	
The Plan or Plan update was developed in cooperation with frontline transit worker representatives.	<ul style="list-style-type: none"> - The Plan was developed in cooperation with the transit worker representatives. This cooperation was achieved through the following methods: <ul style="list-style-type: none"> • Employee Feedback Surveys • Review and Feedback from Union Representatives 	
Approval by the Safety Committee	<ul style="list-style-type: none"> - Date of Approval: _____ - Meeting Minutes with Chief Safety Officer 	

Version Number and Updates			
Version Number	Section/ Pages Affected	Reason for Change	Date Issued
1		New Document	
2		Annual Renewal, 2026	

Annual Review and Update of the Public Transportation Agency Safety Plan
<p>This Plan will be jointly reviewed and updated by the Safety Committee, the Chief Safety Officer and Deputy General Services Director by July 1 of each year. The Accountable Executive will review and approve any changes, sign the new Plan, then forward to the City Council for review and approval.</p>

III. ANNUAL SAFETY PERFORMANCE TARGETS

Safety Performance Targets
<p>Safety Performance Management (Safety PM) is part of the overall Transportation Performance Management (TPM) program, which Federal Highway Administration (FHWA) defines as a strategic approach and uses system information to make investment and policy decisions, to achieve national performance goals. The following are performance targets based on the safety performance measures established under the National Public Transportation Safety Plan.</p> <p>All performance measures will be evaluated over a fiscal year period and compared to a three-year average of data reported to the National Transit Database (NTD). Since Clovis Transit is a new federal grant recipient and will begin drawing funds in 2025, the performance targets for the first year are based on the Clovis Transit’s voluntary NTD reporting for FY 2024–2025.</p>

Safety Targets		
Measure	Paratransit	Fixed Route
Major Safety Events	0.00	0.00
Rate of Major Safety Events	0.00	0.00
Collisions	0	0
Rate of Collisions	0.00	0.00
Rate of Pedestrian Collisions	0.00	0.00
Rate of Vehicular Collisions	0.00	0.00
Fatalities	0	0
Rate of Fatalities	0.00	0.00
Rate of Transit Worker Fatalities	0.00	0.00
Injuries	0	0
Rate of Injuries	0.00	0.00
Rate of Transit Worker Injuries	0.00	0.00
Assaults on Transit Workers	0	2
Rate of Assaults on Transit Workers	0.00	0.68
System Reliability	13,800 mi	13,900 mi

IV. COORDINATION WITH METROPOLITAN, STATEWIDE, AND NON-METROPOLITAN PLANNING PROCESSES

The Accountable Executive will share the Plan, including safety performance targets, with the Metropolitan Planning Organization (MPO) in the service area, the Fresno Council of County Governments (FCOG), each year after its formal adoption by the City Council. The Accountable Executive will also provide a copy of the formally adopted plan for the California Department of Transportation. Clovis Transit personnel are available to coordinate with Caltrans and the MPO in the selection of Caltrans and FCOG safety performance and targets upon request.

	Fiscal Year of Performance	Date Targets Transmitted
Targets Transmitted to the State/MPO	2025	Upon plan approval
	2026	Upon plan approval

V. SAFETY RISK REDUCTION PROGRAM

Risk mitigation is primarily achieved through Clovis Transit's safety committee structure, which consists of the bimonthly Safety Committee meetings. These efforts are designed to address and reduce assaults on transit workers, ensuring compliance with 49 CFR 673.25(d)(4) and 673.11(a)(7)(ii). In addition, the committees address the reduction and mitigation of vehicular and pedestrian safety events involving transit vehicles, implementing safety risk mitigations consistent with 49 CFR 673.25(d)(3) and 673.11(a)(7)(i). The safety risk mitigations identified and recommended by the Safety Committee, based on a safety risk assessment for the safety risk reduction program, are included or incorporated by reference in the Plan, in accordance with 49 CFR 673.11(a)(7)(iv) and 673.25(d)(5).

VI. SAFETY COMMITTEE ESTABLISHMENT, MEMBERSHIP, AND PROCEDURES

Clovis Transit has established a Safety Committee through a joint labor-management process that is appropriately scaled to its size, scope, and complexity. The committee serves as a tool to develop and promote a safe, healthy, and secure environment for Clovis Transit employees and passengers.

The Safety Committee consists of an equal number of frontline transit worker representatives and management representatives. To the extent possible, the Safety Committee includes frontline transit worker representatives from major transit service functions across the transit system, such as operations and maintenance.

The labor organization that represents the plurality of Clovis Transit's frontline transit workers, including employees, contractors, or volunteers working on behalf of the agency—selected the frontline transit worker representatives for the Safety Committee.

Committee members include representatives from the following roles: Management Analysts, Transit Supervisors, Transit Managers, Deputy General Services Directors, Lead Bus Drivers, Bus Drivers, Van Drivers, Dispatchers, Vehicle Washers, Maintenance Managers, Maintenance Lead Workers, and TEBU union representatives.

Organizational Structure, Size, and Composition of the Safety Committee

The Safety Committee is structured to ensure equal representation from both management and frontline workers. The committee will be chaired, or co-chaired, by the Chief Safety Officer from management. The size of the committee is balanced to reflect both operational and safety needs, with representatives from all major transit service functions.

Meeting Agendas, Notices, and Minutes

Meeting agendas and notices will be developed by the committee chair and shared with all members at least 48 hours before scheduled meetings. Meeting minutes will be recorded and maintained by a designated committee member or secretary, ensuring that all discussions and decisions are documented in a timely manner and accessible for future reference. The minutes will be distributed to all committee members and made available to employees upon request.

Training for Safety Committee Members

Committee members will receive required training related to the agency's Plan, including training on the processes, activities, and tools used to support Clovis Transit's Safety Management System (SMS). This ensures that all members are equipped with the knowledge and skills necessary to participate effectively in safety-related decision-making.

Compensation Policy for Participation

Clovis Transit compensates Safety Committee members for their participation in Safety Committee meetings in accordance with the following terms and conditions:

Employees will be compensated at their regular hourly rate for time spent in Safety Committee meetings, unless they qualify for overtime under the terms of their Memorandum of Understanding (MOU).

This policy ensures that committee members' time and contributions are appropriately recognized and compensated, following applicable guidelines and agreements.

Accessing Technical Experts and Advisory Support

The Safety Committee will have access to technical experts, including other transit workers, who may serve in an advisory capacity as needed to support the committee's deliberations. These experts may be consulted on specific safety issues and provide additional insight into operational or technical matters.

Access to Information, Resources, and Tools

The Safety Committee will have access to Clovis Transit information, resources, and tools necessary to support its deliberations. This includes data, reports, and other materials relevant to safety concerns and the development of solutions.

Access to Submissions from the Transit Worker Safety Reporting Program

The Safety Committee will have access to submissions from the transit worker safety reporting program. This will allow the committee to review incidents, concerns, and suggestions submitted by employees regarding safety issues and use this information to inform their decisions.

Reaching and Recording Decisions

The Safety Committee will reach and record decisions through a majority vote during meetings, with meeting minutes reflecting the outcome of those decisions. All decisions made by the committee will be documented, and the reasoning behind each decision will be included in the minutes.

Coordination and Communication with the Management and Accountable Executive

The Safety Committee will coordinate and communicate regularly with Clovis Transit's

Management Team and the Accountable Executive to ensure alignment between safety initiatives and organizational goals. The committee will provide regular updates and recommendations to these entities as part of its ongoing safety efforts.

Managing Disputes

The Safety Committee will implement a process for managing disputes to ensure that operations continue smoothly. If conflicts arise, they will be addressed through a formal dispute resolution process, involving all parties, and ensuring that disagreements are resolved in a manner that allows the committee to carry out its responsibilities without disruption.

Carrying Out Responsibilities

The Safety Committee will carry out its responsibilities as outlined in this policy by following established procedures, collaborating with all relevant stakeholders, and making decisions based on the committee's collective expertise and available resources. The committee will focus on promoting safety, identifying potential hazards, and recommending corrective actions in alignment with the agency's safety goals.

The activities and decisions of the committee are documented through meeting agendas and minutes.

VII. SAFETY MANAGEMENT SYSTEM ("SMS")

Clovis Transit is committed to establishing and implementing an SMS in accordance with 49 CFR 673.21, scaled to the size, scope, and complexity of Clovis Transit. Clovis Transit's SMS includes the following key components: a Safety Management Policy to outline safety objectives and responsibilities, Safety Risk Management ("SRM") to identify and mitigate risks, Safety Assurance to monitor and evaluate safety performance, and Safety Promotion to foster a safety culture through training and communication. This system ensures that Clovis Transit meets safety standards, reduces risks, and continuously improves safety practices across all operations.

VIII. SAFETY MANAGEMENT POLICY

Safety is a core value at Clovis Transit, and managing safety is a core business function. Clovis Transit will develop, implement, maintain, and continuously improve processes to ensure the safety of its customers, employees, and the public. Clovis Transit is committed to the following safety objectives:

- Communicating the purpose and benefits of the SMS to all staff, managers, supervisors, and employees.
- Providing a culture of open reporting of all safety concerns, ensuring that no action will be taken against any employee who discloses a safety concern through Clovis Transit's Employee Safety Reporting Program (ESRP), unless such disclosure indicates, beyond any reasonable doubt, an illegal act, gross negligence, or a deliberate or willful disregard of regulations or procedures.

- Providing appropriate management involvement and the necessary resources to establish an effective ESRP that will encourage employees to communicate and report any unsafe work conditions, hazards, or at-risk behavior to the management team.
- Identifying hazardous and unsafe work conditions and analyzing data from the ESRP. After thoroughly analyzing the data provided, Clovis Transit's Management Team will develop processes and procedures to mitigate safety risk to an acceptable level.
- Establishing safety performance targets that are realistic, measurable, and data driven. Continually improving our safety performance through management processes that ensure appropriate safety management action is taken and is effective.

Safety Committee Overview

The Safety Committee is a critical component of Clovis Transit's approach to safety. *The committee is comprised of both management and frontline transit worker representatives*, ensuring that safety concerns from both perspectives are considered. It is structured to encourage collaboration and the development of safety solutions across all areas of transit service operations, including maintenance, operations, and management.

Signed

Bethany R. Berube, Deputy General Services Director and Accountable Executive

Safety Management Policy Communication

The Chief Safety Officer, who leads Clovis Transit's SMS activities, will introduce staff to SMS principles through a series of staff meetings designed to engage all employees. Clovis Transit's Safety Management Policy Statement will also be distributed to each employee in the form of a handout during these meetings and will be accessible through Clovis Transit's online employee communication portal. Clovis Transit will also post copies of the Safety Management Policy Statement on bulletin boards in the operations and maintenance break areas. Clovis Transit will incorporate review and distribution of the Safety Management Policy Statement into new-hire training and all-staff annual refresher training.

<p>Accountable Executive</p>	<p>The Deputy General Services Director serves as Clovis Transit's Accountable Executive with the following authorities, accountabilities, and responsibilities under this plan:</p> <ul style="list-style-type: none"> • Controls and directs human and capital resources needed to develop and maintain the Plan and SMS. • Designates an adequately trained Chief Safety Officer who is a direct report. • Ensures that Clovis Transit's SMS is effectively implemented. • Ensures action is taken to address substandard performance in Clovis Transit's SMS. • Assumes ultimate responsibility for carrying out Clovis Transit's Plan and SMS. • Maintains responsibility for carrying out the agency's Transit Asset Management Plan. • Receives and considers all other safety risk mitigations recommended by the Safety Committee.
<p>Chief Safety Officer or Accountable Executive</p>	<p>The Accountable Executive designates the Transit Manager of Clovis Transit as the Chief Safety Officer. The Chief Safety Officer has the following authorities, accountabilities, and responsibilities under this plan:</p> <ul style="list-style-type: none"> • Develops Clovis Transit's Plan and SMS policies and procedures. • Ensures and oversees day-to-day implementation and operation of Clovis Transit's SMS. • Manages Clovis Transit's ESRP. • Chairs the Clovis Transit Safety Committee and <ul style="list-style-type: none"> ○ Coordinates the activities of the committee; ○ Establishes and maintains Clovis Transit's Safety Risk Register and Safety Event Log to monitor and analyze trends in hazards, occurrences, incidents, and accidents; and ○ Maintains and distributes minutes of committee meetings. • Advises the Accountable Executive on SMS

	<p>progress and status.</p> <ul style="list-style-type: none"> • Identifies substandard performance in Clovis Transit's SMS and develops action plans for approval by the Accountable Executive. • Ensures Clovis Transit policies are consistent with Clovis Transit's safety objectives. • Provides SRM expertise and support for other Clovis Transit personnel who conduct and oversee Safety Assurance activities.
<p>Safety Committee</p>	<p>The Safety Committee is a critical component of Clovis Transit's approach to safety. The committee is comprised of both management and frontline transit worker representatives, ensuring that safety concerns from both perspectives are considered. It is structured to encourage collaboration and the development of safety solutions across all areas of transit service operations, including maintenance, operations, and management. The Safety Committee has the following authorities, accountabilities, and responsibilities under this plan:</p> <ul style="list-style-type: none"> • Reviews and approves the Plan and any updates before approval of City Council • Set annual safety performance targets for the safety risk reduction program. • Identifies and recommends safety risk mitigations necessary to reduce the likelihood and severity of potential consequences identified through the safety risk assessment, including safety risk mitigations associated with any instance where Clovis Transit did not meet an annual safety performance target in the safety risk reduction program. • Identifies safety risk mitigations that may be ineffective, inappropriate, or were not implemented as intended • Identifies safety deficiencies for purposes of continuous improvement, including any instance where Clovis Transit did not meet an annual safety performance target in the safety risk reduction program.

<p>Agency Leadership and Management</p>	<p>Agency Leadership and Management also have authorities and responsibilities for day-to-day SMS implementation and operation of Clovis Transit’s SMS under this plan. Clovis Transit Leadership and Management include:</p> <ul style="list-style-type: none"> • Deputy General Services Director • Transit Manager • Transit Supervisor • Lead Bus Driver • Dispatcher • Maintenance Manager • Management Analyst • Staff Analyst • Compliance Officer <p>Clovis Transit Leadership and Management personnel have the following authorities, accountabilities, and responsibilities:</p> <ul style="list-style-type: none"> • Participate as members of Clovis Transit’s Safety Committee. • Complete training on SMS and Clovis Transit’s Plan elements. • Oversee day-to-day operations of the SMS in their departments. • Modify policies in their departments consistent with the implementation of the SMS, as necessary. • Provide subject matter expertise to support implementation of the SMS as requested by the Accountable Executive or the Chief Safety Officer, including SRM activities, investigation of safety events, development of safety risk mitigations, and monitoring of mitigation effectiveness.
<p>Key Staff and Activities</p>	<p>Key Staff are critical to the successful implementation of the Clovis Transit SMS. Key Staff are employees who directly oversee the operation. Clovis Transit uses the monthly Drivers’ Meeting and All Staff Notifications to support its SMS and safety programs:</p> <ul style="list-style-type: none"> • Drivers’ Meetings: A permanent agenda in all monthly Drivers’ Meetings is dedicated to safety. Safety issues are discussed and documented. • Monthly All-Staff Notifications: Hazard

	reports and mitigations will be shared, safety topics will be brought up for open discussion, further feedback solicited, and hazard self-reporting further encouraged. Information discussed in these meetings will be documented.
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The ESRP encourages employees who identify safety hazards in their day-to-day duties to report them to senior management in good faith, without concerns of consequences.

The three ways employees can report on safety conditions are:

1. Reporting directly to a dispatcher, who will add them to the daily Operations Log.
2. Reporting by filling out a Clovis Transit Safety Concern/Suggestion Reporting Form using their name or anonymously.
This form can be filled out physically or online and submitted via email to ClovisTransitSafety@clovisca.gov or dropped in one of the drop boxes located in the Transit Center located at 785 3rd Street Clovis, CA 93612 or Corp Yard building located at 155 N. Sunnyside Avenue Clovis, CA 93612.
3. Reporting conditions directly to the Chief Safety & Security Officer, any lead bus driver, supervisor, manager, or deputy director.

Examples of information typically reported include:

- Safety concerns in the operating environment (for example, road conditions or the condition of facilities or vehicles);
- Policies and procedures that are not working as intended (for example, insufficient time to complete pre-trip inspection);
- Events that senior managers might not otherwise know about (for example, near misses and assaults on transit workers and unsafe acts and conditions); and
- Information about why a safety event occurred (for example, radio communication challenges).

Clovis Transit encourages participation in the ESRP by protecting employees who report safety conditions in good faith. However, Clovis Transit may take disciplinary action if the report involves any of the following:

- Willful participation in illegal activity, such as assault or theft;
- Gross negligence, such as knowingly utilizing heavy equipment for purposes other than intended such that people or property are put risk; or
- Deliberate or willful disregard of regulations.

IX. SAFETY RISK MANAGEMENT

Clovis Transit uses the SRM process as a primary method to ensure the safety of Clovis Transit operations, passengers, employees, vehicles, and facilities. It is a process whereby hazards and their consequences are identified, assessed for potential safety risk, and resolved in a manner acceptable to Clovis Transit’s leadership. The SRM process allows

Clovis Transit to carefully examine what could cause harm and determine whether Clovis Transit has taken sufficient precautions to minimize the harm, or if further mitigations are necessary.

The Chief Safety Officer leads Clovis Transit's SRM process, working with the Safety Committee to identify hazards and consequences, assess safety risk of potential consequences, and mitigate safety risk. The results of Clovis Transit's SRM process are documented and available for review.

The SRM process applies to all elements of Clovis Transit's system including operations and maintenance; facilities and vehicles; and personnel recruitment, training, and supervision.

In carrying out the SRM process, Clovis Transit uses the following terms:

- Event – Any accident, incident, or occurrence.
- Hazard – Any real or potential condition that can cause injury, illness, or death; damage to or loss of the facilities, equipment, rolling stock, or infrastructure belonging to Clovis Transit; or damage to the environment.
- Risk – Composite of predicted severity and likelihood of the potential effect of a hazard.
- Risk Mitigation – Method(s) to eliminate or reduce the effects of hazards.
- Consequence – An effect of a hazard involving injury, illness, death, or damage to Clovis Transit property or the environment.

Safety Hazard Identification

The safety hazard identification process offers Clovis Transit the ability to identify hazards and potential consequences in the operation and maintenance of Clovis Transit's system.

Hazards can be identified through a variety of sources, including but not limited to:

- ESRP submissions
- Review of vehicle camera footage
- Safety reporting
- Formal and informal observations of the operation
- Scheduled and unannounced inspections
- Internal safety investigations
- Collision and incident reports
- Committee reviews
- Industry data
- Governmental sources including the FTA, Centers for Disease Control and Prevention and state and local health authorities
- Customer and public feedback or complaints
- Concerns identified through its Safety Assurance activities.

When a safety concern is observed by Clovis Transit's management or supervisory personnel, whatever the source, it is reported to the Chief Safety Officer. Procedures for reporting hazards to the Chief Safety Officer are reviewed during **Monthly Staff Meetings** and in the Safety Committee. The Chief Safety Officer also receives employee reports from the ESRP,

Driver Incident Reports, Passenger Comments/Complaints related to safety, and the dispatch daily report out. The Chief Safety Officer reviews these sources for hazards and documents them in the Safety Log.

The Chief Safety Officer may conduct further analyses of hazards and consequences entered into the Safety Log to collect information and identify additional consequences and to inform which hazards should be prioritized for safety risk assessment. In following up on identified hazards, the Chief Safety Officer may:

- Reach out to the reporting party, if available, to gather all known information about the reported hazard;
- Conduct a walkthrough of the affected area, assessing the possible hazardous condition, generating visual documentation (photographs and/or video), and taking any measurements deemed necessary;
- Conduct interviews with employees in the area to gather potentially relevant information on the reported hazard;
- Review any documentation associated with the hazard (records, reports, procedures, inspections, video, technical documents, etc.);
- Contact other departments that may have association with or technical knowledge relevant to the reported hazard;
- Review any past reported hazards of a similar nature; and
- Evaluate tasks and/or processes associated with the reported hazard.

The Chief Safety Officer will then **prepare an agenda** to discuss identified hazards and consequences with the Safety Committee during **bimonthly meetings**. This agenda may include additional background on the hazards and consequences, such as the results of trend analyses, vehicle camera footage, vendor documentation, reports and observations, or information supplied by FTA or other oversight authorities.

Any identified hazard that poses a real and immediate threat to life, property, or the environment must immediately be brought to the attention of the Accountable Executive and addressed through the process (with or without the full Safety Committee) for safety risk assessment and mitigation. This means that if the Chief Safety Officer believes immediate intervention is necessary to preserve life, prevent major property destruction, or avoid harm to the environment that would constitute a violation of Environmental Protection Agency or any State environmental protection standards. Otherwise, the Safety Committee will prioritize hazards for further SRM activity.

Safety Risk Assessment

Clovis Transit assesses the safety risk associated with identified safety hazards using its safety risk assessment process. This includes an assessment of the likelihood and severity of the consequences of hazards, including existing mitigations, and prioritizing hazards based on safety risk.

The Chief Safety Officer and Safety Committee assess prioritized hazards using Clovis Transit's Safety Risk Matrix. This matrix expresses assessed risk as a combination of one severity category and one likelihood level, also referred to as a hazard rating.

Likelihood		
Description	Level	Criteria
Frequent	A	Likely to occur often in the life of an item. Continuously experienced in the fleet/inventory
Probable	B	Will occur several times in the life of an item, will occur frequently in the fleet
Occasional	C	Likely to occur sometime in the life of an item. Will occur several times in fleet/inventory
Remote	D	Unlikely, but possible, to occur in the life of an item. Unlikely but can reasonably be expected to occur in the fleet/inventory
Improbable	E	So unlikely, it can be assumed an occurrence may be experienced. Unlikely to occur, but possible in fleet/inventory
Eliminated	F	Incapable of occurrence

Severity Categories		
Description	Level	Criteria
Catastrophic	1	Could result in a fatality, permanent disability, or major property damage (exceeding \$500,000). Could cause major service disruption or significant violation of law or environmental regulations.
Critical	2	Could result in serious injury or temporary disability, or significant property damage (\$50,000–\$500,000). Could impact service operations or involve a reportable environmental incident.
Marginal	3	Could result in minor injury or property damage (\$5,000–\$50,000). Limited impact on operations, with minimal or no regulatory implications.
Negligible	4	Could result in first-aid level injury or minor property damage (less than \$5,000). No significant impact on service or compliance.

Risk Assessment Matrix				
Hazard Categories				
Likelihood	Catastrophic (1)	Critical (2)	Marginal (3)	Negligible (4)
(A) Frequent	High (A1)	High (A2)	Medium (A3)	Medium (A4)
(B) Probable	High (B1)	High (B2)	Medium (B3)	Low (B4)
(C) Occasional	High (C1)	High (C2)	Medium (C3)	Low (C4)
(D) Remote	Medium (D1)	Medium (D2)	Low (D3)	Low (D4)
(E) Improbable	Low (E1)	Low (E2)	Low (E3)	Low (E4)
(F) Eliminated	Low (F1)	Low (F2)	Low (F3)	Low (F4)

The Chief Safety Officer schedules safety risk assessment activities on the Safety Committee agenda and prepares a Safety Risk Assessment Packet. **This packet is distributed at least one week in advance of the Safety Committee meeting.** During the meeting, the Chief

Safety Officer reviews the hazard and its consequence(s) and reviews available information distributed in the **Safety Risk Assessment Packet** on severity and likelihood. The Chief Safety Officer may request support from members of the Safety Committee in obtaining additional information to support the safety risk assessment.

Once sufficient information has been obtained, the Chief Safety Officer will document the Safety Committee's safety risk assessment, including hazard rating and mitigation options for each assessed safety hazard in the Safety Risk Register. The Chief Safety Officer will maintain on file Safety Committee agendas, Safety Risk Assessment Packets, additional information collection, and completed Safety Risk Register sections for a period of three years from the date of generation.

Safety Risk Mitigation

The Accountable Executive, Chief Safety Officer and other key staff will review current methods of safety risk mitigation and establish methods or procedures to mitigate or eliminate safety risks associated with specific hazards based on recommendations from the Safety Committee.

Clovis Transit can reduce safety risk by reducing the likelihood and/or severity of potential consequences of hazards. This includes reducing and mitigating vehicular and pedestrian safety events involving transit vehicles, consistent with 42 CFR 673.25(d)(3), as well as reducing and mitigating assaults on transit workers, in alignment with 42 CFR 673.25(d)(4). Clovis Transit also addresses safety risks related to vehicle operator fatigue through scheduling practices and monitoring to minimize fatigue-related incidents. Clovis Transit will consider guidance provided by an oversight authority, FTA, CDC and other State health authorities to mitigate or eliminate safety risks.

When identifying safety risk mitigations under the Safety Risk Reduction Program related to both vehicular and pedestrian safety events and assaults on transit workers—including in response to a missed safety performance target established by the Safety Committee—Clovis Transit and its Safety Committee consider a range of targeted strategies including but not limited to:

- For incidents involving vehicular and pedestrian safety, the agency evaluates mitigations aimed at reducing visibility impairments for transit vehicle operators. These may include retrofits to vehicles currently in revenue service and incorporating improved visibility specifications into future vehicle procurements, with the goal of minimizing operator blind spots and reducing accident risk.
- For assaults on transit workers, Clovis Transit and the Safety Committee assess the potential deployment of mitigation infrastructure and technology on transit vehicles and within transit facilities. This includes installing barriers to prevent the unauthorized entry of individuals or objects into bus operator workstations, thereby enhancing operator safety and deterring physical assaults.

Clovis Transit will include or incorporate by reference in the Plan the safety risk mitigations identified and recommended by the Safety Committee based on a safety risk assessment, as part of the safety risk reduction program. This includes mitigations related to vehicular and pedestrian safety events involving transit vehicles or assaults on transit workers, as required

by 42 CFR 673.11(a)(7)(iv) and 673.25(d)(5).

*d

Prioritization of safety risk mitigations is based on the results of safety risk assessments. The Chief Safety Officer tracks and updates safety risk mitigation information in the Safety Risk Register and makes the Register available to the Safety Committee during bimonthly meetings and to Clovis Transit staff upon request. Clovis maintains mechanisms for frontline employees to report hazards and unsafe conditions without fear of retaliation, reinforcing a positive safety culture and supporting continuous safety improvement.

Safety Risk Priority	Criteria
Priority #1 (A1, B1, C1, A2, B2, or C2)	Unacceptable – Action Required Safety risk must be immediately mitigated or eliminated
Priority #2 (D1, D2, A3, B3, C3, or A4)	Undesirable – Management Decision: Executive Management must decide whether to accept safety risk with monitoring or require additional controls
Priority #3 (E1, F1, E2, F2, D3, E3, F3, B4, C4, D4, E4, or F4)	Acceptable with review Safety risk is acceptable pending management review

In the Safety Risk Register, Chief Safety Officer will also document any specific measures or activities, such as reviews, observations, or audits, that will be conducted to monitor the effectiveness of mitigations once implemented.

When the Safety Committee recommends a safety risk mitigation unrelated to the safety risk reduction program and the Accountable Executive decides not to implement the safety risk mitigation, the Accountable Executive will prepare a written statement explaining their decision. This statement will be submitted and presented to the Clovis Transit’s Safety Committee and City Council in accordance with 42 CFR 673.25(d)(6).

Activities to monitor the system for compliance with and sufficiency of Clovis Transit’s procedures for operations and maintenance will be conducted in accordance with 42 CFR 673.27(b)(1).

Additionally, activities will be undertaken to monitor Clovis Transit’s operations to identify any safety risk mitigations that may be ineffective, inappropriate, or were not implemented as intended, as specified in 42 CFR 673.27(b)(2).

X. SAFETY ASSURANCE

Through its Safety Assurance process, Clovis Transit:

1. Evaluates its compliance with operations and maintenance procedures to determine whether existing rules and procedures are sufficient to control the safety risk;
2. Assesses the effectiveness of safety risk mitigations to make sure the mitigations are appropriate and are implemented as intended;

3. Investigates safety events to identify causal factors; and
4. Analyzes information from safety reporting, including data about safety failures, defects, or conditions.
5. The Safety Committee will also play an active role in monitoring the effectiveness of safety risk mitigations, as outlined in §§ 673.19(d)(3)(ii) and 673.27(b)(2).

XI. MANAGEMENT OF CHANGE

Safety Performance Monitoring and Measurement

Clovis Transit has many processes in place to monitor its entire transit system for compliance with operations and maintenance procedures, including:

- Safety audits,
- Informal inspections,
- Regular review of onboard camera footage to assess drivers and specific incidents,
- Safety surveys,
 - ESRP,
 - Investigation of safety occurrences,
 - Safety review prior to the launch or modification of any facet of service,
 - Daily data gathering and monitoring of data related to the delivery of service, and
 - Regular vehicle inspections and preventative maintenance.

Results from the above processes are compared against recent performance trends quarterly and annually by the Chief Safety Officer to determine where action needs to be taken. The Chief Safety Officer enters any identified non-compliant or ineffective activities, including mitigations, back into the SRM process for reevaluation by the Safety Committee. Strategies for assessing safety performance and the effectiveness of activities include, but are not limited to the following:

1. Identifying deficiencies in Clovis Transit's SMS and deficiencies in Clovis Transit's performance against its safety performance targets required under 49 CFR 673.11(a)(7).
2. Monitoring safety performance against annual safety performance targets set by the Safety Committee under for the safety risk reduction program in.
3. If Clovis Transit does not meet an established annual safety performance set by the Safety Committee for the safety risk reduction program, Clovis Transit must:
 - a. Assess associated safety risks through its safety risk assessment process.
 - b. Mitigate the associated safety risk based on the results of a safety risk assessment using its safety risk mitigation process. The mitigation are then included or incorporated by reference in this Plan.
 - c. Clovis Transit allocates its safety set-aside in the following fiscal year to safety-related projects eligible under 49 U.S.C. 5307 that are reasonably likely to help it meet missed safety performance target(s) for the safety risk reduction

program in the future.

Clovis Transit monitors safety risk mitigations to determine if they have been implemented and are effective, appropriate, and working as intended. The Chief Safety Officer maintains a list of safety risk mitigations in the Safety Risk Register. The mechanism for monitoring safety risk mitigations varies depending on the mitigation.

The Chief Safety Officer establishes one or more mechanisms for monitoring safety risk mitigations as part of the mitigation implementation process and assigns monitoring activities to the appropriate director, manager, or supervisor. These monitoring mechanisms may include tracking a specific metric on daily, weekly, or monthly logs or reports; conducting job performance observations; or other activities. The Chief Safety Officer will endeavor to make use of existing Clovis Transit processes and activities before assigning new information collection activities.

The Chief Safety Officer and Safety Committee review the performance of individual safety risk mitigations during bimonthly Safety Committee meetings, based on the reporting schedule determined for each mitigation, and determine if a specific safety risk mitigation is not implemented or performing as intended. If the mitigation is not implemented or performing as intended, the Safety Committee will propose a course of action to modify the mitigation or take other action to manage the safety risk. The Chief Safety Officer will approve or modify this proposed course of action and oversee its execution.

The Chief Safety Officer and Safety Committee also monitor Clovis Transit's operations on a large scale to identify mitigations that may be ineffective, inappropriate, or not implemented as intended by:

- Reviewing results from accident, incident, and occurrence investigations; •
- Monitoring employee safety reporting;
- Reviewing results of internal safety audits and inspections; and
- Analyzing operational and safety data to identify emerging safety concerns.

The Chief Safety Officer works with the Safety Committee and Accountable Executive to carry out and document all monitoring activities.

The Chief Safety Officer and Safety Committee routinely review safety data captured in employee safety reports, safety meeting minutes, customer complaints, and other safety communication channels. When necessary, the Chief Safety Officer and Safety Committee ensure that the concerns are investigated or analyzed through Clovis Transit's SRM process.

The Chief Safety Officer and Safety Committee also review internal and external reviews, including audits and assessments, with findings concerning Clovis Transit's safety performance, compliance with operations and maintenance procedures, or the effectiveness of safety risk mitigations.

XII. SAFETY PROMOTION

Competencies and Training

The comprehensive safety training program applies to all Clovis Transit employees directly

responsible for safety, including, but not limited to:

- Bus vehicle operators (drivers),
- Dispatchers,
- Van Drivers,
- General office staff,
- Maintenance technicians
- Managers and supervisors,
- Agency Leadership and Executive Management,
- Chief Safety Officer, and
- Accountable Executive

Clovis Transit dedicates resources to conduct a comprehensive safety training program, as well as training on the SMS roles and responsibilities. The scope of the safety training, including annual refresher training, is appropriate to each employee's individual safety-related job responsibilities and his or her role in the SMS.

Basic training requirements for Clovis Transit employees, including frequencies and refresher training, are documented in the Safety Training Matrix and the Employee Handbook. The training program will include de-escalation training and safety concern identification and reporting training.

Operations safety-related skill training includes the following:

- New-hire bus vehicle operator classroom and hands-on skill training,
- Bus vehicle operator refresher training,
- Bus vehicle operator retraining (recertification or return to work),
- Classroom and on-the-job training for dispatchers,
- Classroom and on-the-job training for operations supervisors and managers, and
- Accident investigation training for operations supervisors and managers.

Vehicle maintenance safety-related skill training includes the following:

- Ongoing vehicle maintenance technician skill training,
- Ongoing skill training for vehicle maintenance supervisors,
- Accident investigation training for vehicle maintenance supervisors,
- Ongoing hazardous material training for vehicle maintenance technicians and supervisors, and
- Training provided by vendors.

Safety Communication

The Chief Safety and Administrative Manager coordinate safety communication activities for the SMS. Clovis Transit activities focus on the three categories of communication activity established in 49 CFR Part 673:

- A. Communicating safety and safety performance information throughout the agency:** Clovis Transit communicates information on safety and safety performance in its monthly newsletter and during staff meetings. Clovis Transit also has a permanent agenda item on all Safety Committee Meetings dedicated to safety.

Information typically conveyed during these meetings includes safety performance statistics, lessons learned from recent occurrences, upcoming events that may impact Clovis Transit service or safety performance, and updates regarding SMS implementation. Clovis Transit also requests information from drivers during these meetings, which is recorded in meeting minutes. Finally, the Administrative Division posts safety bulletins and flyers on the bulletin boards located in all bus operator and maintenance break rooms, advertising safety messages and promoting awareness of safety issues.

B. Communicating information on hazards and safety risks relevant to employees' roles and responsibilities throughout the agency: As part of new-hire training, Clovis Transit distributes safety policies and procedures, included in the Employee Handbook, to all employees. Clovis Transit provides training on these policies and procedures and discusses them during safety talks between supervisors and bus operators and vehicle technicians. For newly-emerging issues or safety events at the agency, the Chief Safety & Security Officer issues bulletins or messages to employees that are reinforced by supervisors in one-on-one or group discussions with employees.

C. Informing employees of safety actions taken in response to reports submitted through the ESRP and Safety Committee Activities: Clovis Transit provides targeted communications to inform employees of safety actions taken in response to reports submitted through the ESRP, including announcements, messages, safety talks, trainings, and one-on-one discussions between employees and supervisors.

XIII. ADDITIONAL INFORMATION

Supporting Documentation
Clovis Transit will maintain documentation related to the implementation of its SMS; the programs, policies, and procedures used to carry out this Plan; and the results from its SMS processes and activities for three years after creation. They will be available to the FTA or other Federal or oversight entity upon request.



CITY of CLOVIS

Report to the City Council

To: City Council

From: General Services Department

Date: June 15, 2026

Staff: Amy Hance, General Services Director

Subject: General Services - Approval - Res. 26-____, Approving a Side Letter Agreement with the Clovis Public Safety Employees Association (CPSEA) to Establish a Modified Salary Structure Methodology.

Recommendation: Approve

Attachments: 1. CPSEA Side Letter Agreement Salary Structure ATT 1 Res. 26-____

Recommendation:

For the City Council to approve a resolution approving a side letter agreement with the Clovis Public Safety Employees Association (CPSEA) to establish a modified salary structure methodology.

Executive Summary:

In 2025, the City conducted a comprehensive salary structure analysis to determine the current position structure, internal relationships inside departments, and share position relationships between different departments. The goal was to support standardization of the structure to enhance succession planning and employee retention. The City has identified Lead Community Services Officer as a position represented by CPSEA in need of salary adjustment. The position of Lead Community Services Officer will receive a base salary increase of 0.70%. In addition, the City has established a salary structure for all positions represented in the bargaining unit.

Background:

In 2025, the City conducted a comprehensive salary structure analysis to determine the current position, structure, internal relationships inside departments, and shared position relationships between different departments. This analysis revealed a wide disparity between classification series, also known as job families.

To provide consistent structure throughout the organization, staff developed a general structure standard using a strategy known as benchmarking, which is simply identifying position within a classification series that has been proven to be consistently compared to similar positions in comparison cities during Clovis' triennial salary survey. Once a position has been designated as a benchmark, other positions within the same job family are assigned a goal percentage difference in

salary. This difference in salary can be above the benchmark position, or it may be below the benchmark position, depending on the structure of the job family. The position also may be set to be the same as a similar position with similar duties in another department or bargaining unit.

There are several advantages to the benchmark strategy, including consistency across roles and departments, along with budget control and predictability. Additionally, this change will allow a higher degree of workforce planning, which is paramount as roles within the City continue to change, and additional jobs are added. And finally, and most importantly, salary transparency builds trust with employees.

Fiscal Impact:

The cost associated with the Side Letter Agreement for FY 2026-2027 is approximately \$2,700. Sufficient funding is available within the current Police Department budget to cover these costs.

Reason for Recommendation:

A resolution by the City Council is required to authorize the execution of a Side Letter Agreement between the City and CPSEA.

Actions Following Approval:

The Side Letter Agreement between the City and CPSEA will be executed.

Conflict of Interest:

None.

RESOLUTION 26-

**RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLOVIS
APPROVING A SIDE LETTER AGREEMENT WITH THE CLOVIS PUBLIC
SAFETY EMPLOYEES ASSOCIATION (CPSEA)**

WHEREAS, the City conducted a comprehensive salary structure analysis to determine the current position structure; and

WHEREAS, goal was to support standardization of the structure to enhance succession planning and employee retention; and

WHEREAS, the City has established a salary structure for all positions represented in CPSEA; and

WHEREAS, one position represented by CPSEA has been identified as in need of salary adjustment which is Lead Community Service Officer with a base salary increase of 0.70%; and

WHEREAS, CPSEA and the City representatives met and conferred on the side letter and are in agreement.

NOW, THEREFORE, BE IT RESOLVED, that the City of Clovis approves the Side Letter Agreement with CPSEA (Attachment A) and authorizes the City Manager to sign the agreement.

* * * * *

The foregoing Resolution was introduced and adopted at a regular meeting of the City Council of the City of Clovis held on June 15, 2026, by the following vote to wit:

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

DATED: June 15, 2026

Mayor

City Clerk

ATTACHMENT 1

Side Letter Agreement to the 2025-2028 Memorandum of Understanding Between the City of Clovis and the Clovis Public Safety Employees Association (CPSEA)

The City of Clovis (“The City”) and CPSEA mutually agree to this Side Letter Agreement. This Side Letter Agreement will be incorporated into the Memorandum of Understanding between the City of Clovis and CPSEA (“MOU”). Except as amended herein, each and every term and condition of the MOU shall remain in full force and effect.

The City has conducted a salary structure analysis of all job classifications throughout the city, including those located within the bargaining unit represented by CPSEA. The City has identified the Lead Community Service Officer job description as a position represented by the CPSEA in need of salary adjustment. The position of Lead Community Service Officer will receive a base salary increase of 0.7%. The new salary schedule is found in the updated “CPSEA – Monthly Salary Schedule – Effective July 1, 2026”, which is attached to this document as Exhibit A.

In addition, CPSEA agrees to the adoption of the salary structure for all positions represented in the bargaining unit as found in Exhibit B, attached.

This Side Letter Agreement will become effective July 1, 2026, when approved by the City Council and fully executed by the parties.

For the CITY:

For the ASSOCIATION:

Andrew Haussler, City Manager

Ty Wood, CPSEA President

Scott G. Cross, City Attorney

Shawn Knapp, CFFA Vice President

ATTEST: _____
Briana Parra, City Clerk

ATTACHMENT A

EXHIBIT A

CITY OF CLOVIS						
CPSEA Salary Structure Modification - Effective July 1, 2026						
Code	Position	Step 1	Step 2	Step 3	Step 4	Step 5
5655	Lead Community Services Officer	6,529	6,855	7,198	7,558	7,936

EXHIBIT B

Position Title	Position Relationship
Senior Animal Control Officer	10% Above Animal Control Officer
Animal Control Officer	Benchmark
Animal Services Aide	Same as Custodian
Lead Public Safety Dispatcher	10% Above Public Safety Dispatcher
Public Safety Dispatcher	Benchmark
Digital Forensic Analyst	15% Above Crime Specialist
Crime Specialist	Benchmark
Real Time Analyst	Same as Public Safety Dispatcher
Senior Systems Video Technician	10% Below Information Technology Analyst
Systems Video Technician	Same as Information Technology Technician
Senior Police Records Specialist	15% Above Police Records Specialist II
Police Records Specialist II	Benchmark
Police Records Specialist I	10% Below Police Records Specialist II
Police Services Officer	Same as Public Safety Dispatcher
Senior Property/Evidence Technician	10% Above Property and Evidence Technician
Property and Evidence Technician	Benchmark
Lead Community Services Officer	12.5% Above Community Services Officer
Community Services Officer	Benchmark
Fire Inspector I	10% Below Fire Inspector II

Fire Inspector II	Benchmark
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CITY of CLOVIS

Report to the City Council

To: City Council
From: Police Department
Date: June 15, 2026
Staff: Dave Roseno, Police Lieutenant
Subject: Police - Approval - Amendment to the Police Department Military Equipment List Pursuant to Policy 706.
Recommendation: Approve
Attachments: 1. Military Equipment Amendment ATT 1 - Policy 706

Recommendation:

For the City Council to approve the following amendments to the Police Department's Military Equipment list:

1. Defense Technology, 40MM Single Shot Launcher: Quantity changed from 2 to 18
2. Remington 870 Less Lethal Shotgun: Quantity change from 20 to 0 (phased out over time)
3. Unmanned Aircraft Systems (UAS): Addition of 3 DJI Matrice 4T and 3 DJI Avata 360 drones

Executive Summary:

The Police Department has researched and assessed recent training updates, practices, and liability related to the use of less lethal shotguns. As a result, staff recommends the expanded use of the 40mm single shot launcher as the primary less lethal impact device and the phasing out of the less lethal shotguns currently deployed.

The Police Department is also committed to providing adequate Unmanned Aircraft System (UAS) coverage for the patrol environment. While attempting to purchase additional DJI Mavic 3T and DJI Avata 2 systems (already on the current Military Equipment List), staff was advised by vendors to acquire the latest version for warranty and longevity. The latest versions are the DJI Matrice 4T and DJI Avata 360.

Background:

The proposed 40mm less-lethal system provides several advantages over the department's current 12-gauge beanbag platform. The 40mm eXact iMPact Sponge Round can be safely deployed from as close as 5 feet, compared to the 20-foot minimum standoff distance required for the current round. It

also has a significantly greater effective range, allowing officers to maintain a safer distance from potentially dangerous situations while reducing risks to officers, subjects, and bystanders. These improvements can also help reduce departmental liability by providing officers with a safer and more effective less-lethal option.

The 40mm system offers improved accuracy and consistency through the use of rifled launchers, modern optics, and spin-stabilized munitions. These features provide more predictable performance and better shot placement, increasing the likelihood of successful impacts within approved less-lethal target areas. By improving accuracy and reducing the chance of unintended injuries, the system helps enhance public safety and further reduces potential liability for the department.

Staff also recommends expanding the department's Unmanned Aircraft Systems (UAS) program through the purchase of three DJI Matrice 4T drones and three DJI Avata drones. As existing aircraft age, replacement and expansion are necessary to maintain safe and reliable operations. These additions will enhance officer safety, improve operational capabilities, and help ensure the department can continue providing effective service to the community while remaining fiscally responsible.

Fiscal Impact:

All direct and associated costs related to the above change in inventory are included in the Police Department's budget and are within City of Clovis guidelines for purchase.

Reason for Recommendation:

Approval will allow the Department to increase officer and public safety while reducing the potential for liability.

Actions Following Approval:

The Police Department will research and purchase the above quantity of items and amend the Military Equipment List to reflect the changes.

Conflict of Interest:

None.

Military Equipment

706.1 PURPOSE AND SCOPE

The purpose of this policy is to provide guidelines for the approval, acquisition, and reporting requirements of military equipment (Government Code § 7070; Government Code § 7071; Government Code § 7072).

706.1.1 DEFINITIONS

Definitions related to this policy include (Government Code § 7070):

Governing body – The elected or appointed body that oversees the Department.

Military equipment – Includes but is not limited to the following:

- Unmanned, remotely piloted, powered aerial or ground vehicles.
- Mine-resistant ambush-protected (MRAP) vehicles or armored personnel carriers.
- High mobility multipurpose wheeled vehicles (HMMWV), two-and-one-half-ton trucks, five-ton trucks, or wheeled vehicles that have a breaching or entry apparatus attached, excluding unarmored all-terrain vehicles and dirt bikes.
- Tracked armored vehicles that provide ballistic protection to their occupants and utilize a tracked system instead of wheels for forward motion.
- Command and control vehicles that are either built or modified to facilitate the operational control and direction of public safety units.
- Weaponized aircraft, vessels, or vehicles of any kind.
- Battering rams, slugs, and breaching apparatuses that are explosive in nature. This does not include a handheld ram designed to be operated by one person.
- Firearms and ammunition of fifty (.50) caliber or greater, excluding standard-issue shotguns and standard-issue shotgun ammunition.
- Specialized firearms and ammunition of less than fifty (.50) caliber, including firearms and accessories identified as assault weapons pursuant to Penal Code section 30510 and Penal Code section 30515, with exception of standard department issued firearms.
- Any firearm or firearm accessory that is designed to launch explosive projectiles.
- Noise-flash diversionary devices and explosive breaching tools, including, but not limited to, grenades.
- Munitions containing tear gas or oleoresin capsicum (OC), excluding standard, Department-issued handheld pepper spray.
- TASER® Shockwave, microwave weapons, water cannons, and Long-Range Acoustic Devices (LRADs).
- Kinetic energy weapons and munitions, including, but not limited to, projectile launchers, bean bag rounds, and rubber bullets.

ATTACHMENT 1

Clovis Police Department
Clovis Police Department Policy Manual

Military Equipment

- Any other equipment as determined by a governing body or a state agency to require additional oversight.

706.2 POLICY

It is the policy of the Clovis Police Department that members of this department comply with the provisions of Government Code § 7071.

706.3 MILITARY EQUIPMENT COORDINATOR

The Chief of Police should designate a member of this department to act as the military equipment coordinator. The responsibilities of the military equipment coordinator include but are not limited to:

- (a) Acting as liaison to the governing body for matters related to the requirements of this policy.
- (b) Identifying department equipment that qualifies as military equipment in the current possession of the Department, or the equipment the Department intends to acquire that requires approval by the governing body.
- (c) Conducting an inventory of all military equipment at least annually.
- (d) Collaborating with any allied agency that may use military equipment within the jurisdiction of Clovis Police Department (Government Code § 7071).
- (e) Preparing for, scheduling, and coordinating the annual community engagement meeting to include:
 1. Publicizing the details of the meeting.
 2. Preparing for public questions regarding the department's funding, acquisition, and use of equipment.
- (f) Preparing the annual military equipment report for submission to the Chief of Police and ensuring that the report is made available on the department website (Government Code § 7072).
- (g) Establishing the procedure for a person to register a complaint or concern, or how that person may submit a question about the use of a type of military equipment, and how the Department will respond in a timely manner.

706.4 MILITARY EQUIPMENT INVENTORY

The following constitutes a list of qualifying military equipment for the Department:

[See attachment: Military Equipment List.pdf](#)

706.5 APPROVAL

The Chief of Police or the authorized designee shall obtain approval from the governing body by way of an ordinance adopting this military equipment policy. As part of the approval process, the Chief of Police or the authorized designee shall ensure the proposed military equipment policy is submitted to the governing body and is available on the department website at least thirty (30) days prior to any public hearing concerning the military equipment at issue (Government Code §

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Military Equipment

7071). The military equipment policy must be approved by the governing body prior to engaging in any of the following (Government Code § 7071):

- (a) Requesting military equipment made available pursuant to Title 10 of the United States Code section 2576a.
- (b) Seeking funds for military equipment, including but not limited to applying for a grant, soliciting or accepting private, local, state, or federal funds, in-kind donations, or other donations or transfers.
- (c) Acquiring military equipment either permanently or temporarily, including by borrowing or leasing.
- (d) Collaborating with another law enforcement agency in the deployment or other use of military equipment within the jurisdiction of this department.
- (e) Using any new or existing military equipment for a purpose, in a manner, or by a person not previously approved by the governing body.
- (f) Soliciting or responding to a proposal for, or entering into an agreement with, any other person or entity to seek funds for, apply to receive, acquire, use, or collaborate in the use of military equipment.
- (g) Acquiring military equipment through any means not provided above.

706.6 COORDINATION WITH OTHER JURISDICTIONS

Military equipment maybe used by any other law enforcement agencies or members in this jurisdiction if such military equipment has been approved for use in accordance with this policy. Military equipment used by other law enforcement agencies that are providing mutual aid or assistance to this jurisdiction shall comply with their respective military use policies in rendering mutual aid or assistance.

706.7 ANNUAL REPORT

Upon approval of a military equipment policy, the Chief of Police or the authorized designee should submit a military equipment report to the governing body for each type of military equipment approved within one year of approval, and annually thereafter for as long as the military equipment is available for use (Government Code § 7072).

The Chief of Police or the authorized designee should also make each annual military equipment report publicly available on the department website for as long as the military equipment is available for Department use. The report shall include all information required by Government Code section 7072 for the preceding calendar year for each type of military equipment in department inventory.

706.8 COMMUNITY ENGAGEMENT

Within thirty (30) days of submitting and publicly releasing the annual report, the Department shall hold at least one well-publicized and conveniently located community engagement meeting, at which the Department should discuss the report and respond to public questions regarding Department funding, acquisition, or use of military equipment.

Clovis Police Department

Clovis Police Department Policy Manual

Military Equipment

In accordance with Section 706.3(g) of this policy and Government Code section 7070(d)(7), members of the public may register complaints or concerns or submit questions about the use of each specific type of military equipment in this policy. The Department will monitor all complaints, concerns, and questions to ensure timely responses are completed. Complaints, concerns, or questions may be submitted by any of the following means:

1. Via email to: militaryequipmentquestions@cityofclovis.com
2. Via phone call to: (559) 324-2406
3. Via postal mail to: Clovis Police Department, Attn: Chief of Police, 1233 Fifth Street, Clovis, CA 93612



CITY of CLOVIS

Report to the City Council

To: City Council
From: Police Department
Date: June 15, 2026
Staff: Jared Binford, Lieutenant
Subject: Police - Approval - Authorize the City Manager to enter into an agreement with Clovis Industrial Park, Inc., for the lease of 272 N. Minnewawa Ave., for approximately \$138,000 per year.

Recommendation: Approve

Attachments: 1. Storage Facility Lease Agreement ATT 1 - Lease Agreement

Recommendation:

For the City Council to authorize the City Manager to enter into an agreement with Clovis Industrial Park, Inc., for the lease of 272 N. Minnewawa Ave.

Executive Summary:

With recent growth in the City and at the Police Department, parking has reached capacity. While exploring options to mitigate our parking issues, staff identified a newly constructed indoor warehouse that would allow all police specialty vehicles and trailers to be stored at one location, in close proximity to the Police Department Headquarters. Moving these vehicles would allow their former parking location to be reconfigured to accommodate additional parking within the Police Department's secured area as we continue to grow with Measure Y.

The warehouse also includes office and storage space, which would allow for expansion of the City's camera technicians' office space to accommodate the additional growth throughout the City.

Background:

In the early 2000's, the Police Department Headquarters was constructed to include secure parking for City-owned and employee vehicles. At that time, the Police Department only had very few specialty vehicles with ample parking for these vehicles. Since then, the department has grown substantially, including the size of the fleet.

Leasing this space would allow for secure parking and storage of specialty vehicles, while still keeping them in close proximity to the Police Department Headquarters for rapid deployment if needed. Relocating these vehicles to the leased site will free up valuable space at the Police

Department Headquarters, helping to alleviate parking constraints for employees' personal vehicles and providing additional capacity for other department fleet vehicles.

The facility also includes office and storage space that will be utilized by the City's camera technicians. The City's camera network has expanded considerably in recent years and continues to grow as new public safety and municipal technology projects are implemented. This growth has increased the need for a larger dedicated workspace, and secure storage for cameras and equipment. The additional office and storage space will allow the camera technicians to operate more efficiently, and will improve organization of equipment.

A competitive lease has been negotiated for the entire building for a five-year term, with options to extend for up to an additional five years. Staff is recommending that Council authorize the City Manager to enter into the lease agreement for this building and to sign any amendments to the agreement following completion of the lessor's improvements for the office space and warehouse storage at 272 N. Minnewawa Ave., Clovis, CA.

Fiscal Impact:

The cost to lease this facility for vehicle storage and office space is approximately \$138,000 per year, plus an annual increase of 2.5% starting upon completion of the building, expected in August 2026.

Reason for Recommendation:

The new leased building will provide the Police Department with indoor storage for all larger specialty vehicles and office space for our City's camera technicians. Moving the larger vehicles will allow for additional parking in the Police Department Headquarters parking lot, which is currently at maximum capacity.

Actions Following Approval:

The lease agreement with Clovis Industrial Park, Inc., will be executed, and staff and vehicles will be moved upon completion of the building, expected in August 2026.

Conflict of Interest:

None.

**STANDARD INDUSTRIAL/COMMERCIAL SINGLE-TENANT LEASE - GROSS
(DO NOT USE THIS FORM FOR MULTI-TENANT BUILDINGS)**

1. Basic Provisions ("Basic Provisions").

1.1 **Parties.** This Lease ("Lease"), dated for reference purposes only May 31, 2026, is made by and between Clovis Industrial Park, Inc. ("Lessor") and City of Clovis ("Lessee"), (collectively the "Parties," or individually a "Party").

1.2 **Premises:** That certain real property, including all improvements therein or to be provided by Lessor under the terms of this Lease, commonly known as (street address, city, state, zip): 272 N. Minnewawa Ave., Clovis, CA, 93612 ("Premises"). The Premises are located in the County of Fresno, and are generally described as (describe briefly the nature of the property and, if applicable, the "Project," if the property is located within a Project): approx. 9,900 square foot industrial building on an approx. .708 acre lot with approx. 2,068 square feet of improved reception, office and restroom space, the balance of 7,832 square feet being improved warehouse space as shown on Exhibit A, part of the Clovis Industrial Park. (See also Paragraph 2)

1.3 **Term:** Five (5) years and zero (0) months ("Original Term") commencing (TBD) ("Commencement Date") and ending five (5) years later ("Expiration Date"). (See also Paragraph 3)

1.4 **Early Possession:** If the Premises are available Lessee may have non-exclusive possession of the Premises commencing upon full execution of lease and proof of Lessee's required insurance ("Early Possession Date"). (See also Paragraphs 3.2 and 3.3)

1.5 **Base Rent:** \$11,385.00 per month ("Base Rent"), payable on the first day of each month commencing upon Lease commencement. (See also Paragraph 4)

If this box is checked, there are provisions in this Lease for the Base Rent to be adjusted. See Paragraph 51.

1.6 Base Rent and Other Monies Paid Upon Execution:

(a) **Base Rent:** \$11,385.00 for the period month one of the Lease.

(b) **Security Deposit:** n/a ("Security Deposit"). (See also Paragraph 5)

(c) **Association Fees:** n/a for the period _____.

(d) **Other:** \$138.00 for one month's estimates of - fire system alarm monitoring (\$35), annual and 5-year fire system inspections (\$49), and HVAC maintenance (\$54).

(e) **Total Due Upon Execution of this Lease:** \$11,523.00.

1.7 **Agreed Use:** Police Dept. equipment storage and office support operations. (See also Paragraph 6)

1.8 **Insuring Party.** Lessor is the "Insuring Party". The annual "Base Premium" is TBD. (See also Paragraph 8)

1.9 **Real Estate Brokers.** (See also Paragraph 15 and 25)

(a) **Representation:** Each Party acknowledges receiving a Disclosure Regarding Real Estate Agency Relationship, confirms and consents to the following agency relationships in this Lease with the following real estate brokers ("Broker(s)") and/or their agents ("Agent(s)"):

Lessor's Brokerage Firm David S Siegel & Co., Inc. License No. 01391246 Is the broker of (check one): the Lessor; or both the Lessee and Lessor (dual agent).

Lessor's Agent Douglas M. Holton License No. 00966937 is (check one): the Lessor's Agent (salesperson or broker associate); or both the Lessee's Agent and the Lessor's Agent (dual agent).

Lessee's Brokerage Firm n/a License No. n/a Is the broker of (check one): the Lessee; or both the Lessee and Lessor (dual agent).

Lessee's Agent n/a License No. _____ is (check one): the Lessee's Agent (salesperson or broker associate); or both the Lessee's Agent and the Lessor's Agent (dual agent).

(b) **Payment to Brokers.** Upon execution and delivery of this Lease by both Parties, Lessor shall pay to the Brokers the brokerage fee agreed to in a separate written agreement (or if there is no such agreement, the sum of _____ or _____ % of the total Base Rent) for the brokerage services rendered by the Brokers.

1.10 **Guarantor.** The obligations of the Lessee under this Lease are to be guaranteed by n/a ("Guarantor"). (See also Paragraph 37)

1.11 **Attachments.** Attached hereto are the following, all of which constitute a part of this Lease:

an Addendum consisting of Paragraphs _____ through _____;

a plot plan depicting the Premises, **Exhibit A**;

a current set of the Rules and Regulations;

a Work Letter;

other (specify): _____.

INITIALS

INITIALS

2. Premises.

2.1 Letting. Lessor hereby leases to Lessee, and Lessee hereby leases from Lessor, the Premises, for the term, at the rental, and upon all of the terms, covenants and conditions set forth in this Lease. While the approximate square footage of the Premises may have been used in the marketing of the Premises for purposes of comparison, the Base Rent stated herein is NOT tied to square footage and is not subject to adjustment should the actual size be determined to be different. **NOTE: Lessee is advised to verify the actual size prior to executing this Lease.**

2.2 Condition. Lessor shall deliver the Premises to Lessee broom clean and free of debris on the Commencement Date or the Early Possession Date, whichever first occurs ("**Start Date**"), and, so long as the required service contracts described in Paragraph 7.1(b) below are obtained by Lessee and in effect within thirty days following the Start Date, warrants that the existing electrical, plumbing, fire sprinkler, lighting, heating, ventilating and air conditioning systems ("**HVAC**"), loading doors, sump pumps, if any, and all other such elements in the Premises, other than those constructed by Lessee, shall be in good operating condition on said date, that the surface and structural elements of the roof, bearing walls and foundation of any buildings on the Premises (the "**Building**") shall be free of material defects, and that the Unit does not contain hazardous levels of any mold or fungi defined as toxic under applicable state or federal law. If a non-compliance with said warranty exists as of the Start Date, or if one of such systems or elements should malfunction or fail within the appropriate warranty period, Lessor shall, as Lessor's sole obligation with respect to such matter, except as otherwise provided in this Lease, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, malfunction or failure, rectify same at Lessor's expense. The warranty periods shall be as follows: (i) 6 months as to the HVAC systems, and (ii) 30 days as to the remaining systems and other elements of the Building. If Lessee does not give Lessor the required notice within the appropriate warranty period, correction of any such non-compliance, malfunction or failure shall be the obligation of Lessee at Lessee's sole cost and expense, except for the roof, foundations, and bearing walls which are handled as provided in paragraph 7. Lessor also warrants, that unless otherwise specified in writing, Lessor is unaware of (i) any recorded Notices of Default affecting the Premise; (ii) any delinquent amounts due under any loan secured by the Premises; and (iii) any bankruptcy proceeding affecting the Premises.

2.3 Compliance. Lessor warrants that to the best of its knowledge the improvements on the Premises comply with the building codes, applicable laws, covenants or restrictions of record, regulations, and ordinances ("**Applicable Requirements**") that were in effect at the time that each improvement, or portion thereof, was constructed. Said warranty does not apply to the use to which Lessee will put the Premises, modifications which may be required by the Americans with Disabilities Act or any similar laws as a result of Lessee's use (see Paragraph 50), or to any Alterations or Utility Installations (as defined in Paragraph 7.3(a)) made or to be made by Lessee. **NOTE: Lessee is responsible for determining whether or not the Applicable Requirements, and especially the zoning, are appropriate for Lessee's intended use, and acknowledges that past uses of the Premises may no longer be allowed.** If the Premises do not comply with said warranty, Lessor shall, except as otherwise provided, promptly after receipt of written notice from Lessee setting forth with specificity the nature and extent of such non-compliance, rectify the same at Lessor's expense. If Lessee does not give Lessor written notice of a non-compliance with this warranty within 6 months following the Start Date, correction of that non-compliance shall be the obligation of Lessee at Lessee's sole cost and expense. If the Applicable Requirements are hereafter changed so as to require during the term of this Lease the construction of an addition to or an alteration of the Premises and/or Building, the remediation of any Hazardous Substance, or the reinforcement or other physical modification of the Unit, Premises and/or Building ("**Capital Expenditure**"), Lessor and Lessee shall allocate the cost of such work as follows:

(a) Subject to Paragraph 2.3(c) below, if such Capital Expenditures are required as a result of the specific and unique use of the Premises by Lessee as compared with uses by tenants in general, Lessee shall be fully responsible for the cost thereof, provided, however, that if such Capital Expenditure is required during the last 2 years of this Lease and the cost thereof exceeds 6 months' Base Rent, Lessee may instead terminate this Lease unless Lessor notifies Lessee, in writing, within 10 days after receipt of Lessee's termination notice that Lessor has elected to pay the difference between the actual cost thereof and an amount equal to 6 months' Base Rent. If Lessee elects termination, Lessee shall immediately cease the use of the Premises which requires such Capital Expenditure and deliver to Lessor written notice specifying a termination date at least 90 days thereafter. Such termination date shall, however, in no event be earlier than the last day that Lessee could legally utilize the Premises without commencing such Capital Expenditure.

(b) If such Capital Expenditure is not the result of the specific and unique use of the Premises by Lessee (such as, governmentally mandated seismic modifications), then Lessor shall pay for such Capital Expenditure and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease or any extension thereof, on the date that on which the Base Rent is due, an amount equal to 1/144th of the portion of such costs reasonably attributable to the Premises. Lessee shall pay interest on the balance but may prepay its obligation at any time. If, however, such Capital Expenditure is required during the last 2 years of this Lease or if Lessor reasonably determines that it is not economically feasible to pay its share thereof, Lessor shall have the option to terminate this Lease upon 90 days prior written notice to Lessee unless Lessee notifies Lessor, in writing, within 10 days after receipt of Lessor's termination notice that Lessee will pay for such Capital Expenditure. If Lessor does not elect to terminate, and fails to tender its share of any such Capital Expenditure, Lessee may advance such funds and deduct same, with interest, from Rent until Lessor's share of such costs have been fully paid. If Lessee is unable to finance Lessor's share, or if the balance of the Rent due and payable for the remainder of this Lease is not sufficient to fully reimburse Lessee on an offset basis, Lessee shall have the right to terminate this Lease upon 30 days written notice to Lessor.

(c) Notwithstanding the above, the provisions concerning Capital Expenditures are intended to apply only to non-voluntary, unexpected, and new Applicable Requirements. If the Capital Expenditures are instead triggered by Lessee as a result of an actual or proposed change in use, change in intensity of use, or modification to the Premises then, and in that event, Lessee shall either: (i) immediately cease such changed use or intensity of use and/or take such other steps as may be necessary to eliminate the requirement for such Capital Expenditure, or (ii) complete such Capital Expenditure at its own expense. Lessee shall not, however, have any right to terminate this Lease.

2.4 Acknowledgements. Lessee acknowledges that: (a) it has been given an opportunity to inspect and measure the Premises, (b) it has been advised by Lessor and/or Brokers to satisfy itself with respect to the size and condition of the Premises (including but not limited to the electrical, HVAC and fire sprinkler systems, security, environmental aspects, and compliance with Applicable Requirements and the Americans with Disabilities Act), and their suitability for Lessee's intended use, (c) Lessee has made such investigation as it deems necessary with reference to such matters and assumes all responsibility therefor as the same relate to its occupancy of the Premises, (d) it is not relying on any representation as to the size of the Premises made by Brokers or Lessor, (e) the square footage of the Premises was not material to Lessee's decision to lease the Premises and pay the Rent stated herein, and (f) neither Lessor, Lessor's agents, nor Brokers have made any oral or written representations or warranties with respect to said matters other than as set forth in this Lease. In addition, Lessor acknowledges that: (i) Brokers have made no representations, promises or warranties concerning Lessee's ability to honor the Lease or suitability to occupy the Premises, and (ii) it is Lessor's sole responsibility to investigate the financial capability and/or suitability of all proposed tenants.

2.5 Lessee as Prior Owner/Occupant. The warranties made by Lessor in Paragraph 2 shall be of no force or effect if immediately prior to the Start Date Lessee was the owner or occupant of the Premises. In such event, Lessee shall be responsible for any necessary corrective work.

3. Term.

3.1 Term. The Commencement Date, Expiration Date and Original Term of this Lease are as specified in Paragraph 1.3.

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3.2 **Early Possession.** Any provision herein granting Lessee Early Possession of the Premises is subject to and conditioned upon the Premises being available for such possession prior to the Commencement Date. Any grant of Early Possession only conveys a non-exclusive right to ~~occupy~~ **access** the Premises **to install Lessee-supplied equipment by vendors who are fully licensed and insured.** If Lessee totally or partially occupies the Premises prior to the Commencement Date, the obligation to pay Base Rent shall be abated for the period of such Early Possession. All other terms of this Lease (including but not limited to the obligations ~~to pay Real Property Taxes and insurance premiums and~~ to maintain the Premises) shall be in effect during such period. Any such Early Possession shall not affect the Expiration Date.

3.3 **Delay In Possession.** Lessor agrees to use commercially reasonable efforts to deliver exclusive possession of the Premises to Lessee by the Commencement Date. If, despite said efforts, Lessor is unable to deliver possession by such date, Lessor shall not be subject to any liability therefor, nor shall such failure affect the validity of this Lease or change the Expiration Date. Lessee shall not, however, be obligated to pay Rent or perform its other obligations until Lessor delivers possession of the Premises and any period of rent abatement that Lessee would otherwise have enjoyed shall run from the date of delivery of possession and continue for a period equal to what Lessee would otherwise have enjoyed under the terms hereof, but minus any days of delay caused by the acts or omissions of Lessee. If possession is not delivered within 60 days after the Commencement Date, as the same may be extended under the terms of any Work Letter executed by Parties, Lessee may, at its option, by notice in writing within 10 days after the end of such 60 day period, cancel this Lease, in which event the Parties shall be discharged from all obligations hereunder. If such written notice is not received by Lessor within said 10 day period, Lessee's right to cancel shall terminate. If possession of the Premises is not delivered within 120 days after the Commencement Date, this Lease shall terminate unless other agreements are reached between Lessor and Lessee, in writing.

3.4 **Lessee Compliance.** Lessor shall not be required to tender possession of the Premises to Lessee until Lessee complies with its obligation to provide evidence of insurance (Paragraph 8.5). Pending delivery of such evidence, Lessee shall be required to perform all of its obligations under this Lease from and after the Start Date, including the payment of Rent, notwithstanding Lessor's election to withhold possession pending receipt of such evidence of insurance. Further, if Lessee is required to perform any other conditions prior to or concurrent with the Start Date, the Start Date shall occur but Lessor may elect to withhold possession until such conditions are satisfied.

4. Rent.

4.1 **Rent Defined.** All monetary obligations of Lessee to Lessor under the terms of this Lease (except for the Security Deposit) are deemed to be rent ("**Rent**").

4.2 **Payment.** Lessee shall cause payment of Rent to be received by Lessor in lawful money of the United States, without offset or deduction (except as specifically permitted in this Lease), on or before the day on which it is due. All monetary amounts shall be rounded to the nearest whole dollar. In the event that any invoice prepared by Lessor is inaccurate such inaccuracy shall not constitute a waiver and Lessee shall be obligated to pay the amount set forth in this Lease. Rent for any period during the term hereof which is for less than one full calendar month shall be prorated based upon the actual number of days of said month. Payment of Rent shall be made to Lessor at its address stated herein or to such other persons or place as Lessor may from time to time designate in writing. Acceptance of a payment which is less than the amount then due shall not be a waiver of Lessor's rights to the balance of such Rent, regardless of Lessor's endorsement of any check so stating. In the event that any check, draft, or other instrument of payment given by Lessee to Lessor is dishonored for any reason, Lessee agrees to pay to Lessor the sum of \$25 in addition to any Late Charge and Lessor, at its option, may require all future payments to be made by Lessee to be by cashier's check. Payments will be applied first to accrued late charges and attorney's fees, second to accrued interest, then to Base Rent, Insurance and Real Property Taxes, and any remaining amount to any other outstanding charges or costs.

~~4.3 **Association Fees.** In addition to the Base Rent, Lessee shall pay to Lessor each month an amount equal to any owner's association or condominium fees levied or assessed against the Premises. Said monies shall be paid at the same time and in the same manner as the Base Rent.~~

5. **Security Deposit.** ~~Lessee shall deposit with Lessor upon execution hereof the Security Deposit as security for Lessee's faithful performance of its obligations under this Lease.~~ If Lessee fails to pay Rent, or otherwise Defaults under this Lease, Lessor may use, apply or retain all or any portion of said Security Deposit for the payment of any amount already due Lessor, for Rents which will be due in the future, and/ or to reimburse or compensate Lessor for any liability, expense, loss or damage which Lessor may suffer or incur by reason thereof. If Lessor uses or applies all or any portion of the Security Deposit, Lessee shall within 10 days after written request therefor deposit monies with Lessor sufficient to restore said Security Deposit to the full amount required by this Lease. If the Base Rent increases during the term of this Lease, Lessee shall, upon written request from Lessor, deposit additional monies with Lessor so that the total amount of the Security Deposit shall at all times bear the same proportion to the increased Base Rent as the initial Security Deposit bore to the initial Base Rent. Should the Agreed Use be amended to accommodate a material change in the business of Lessee or to accommodate a sublessee or assignee, Lessor shall have the right to increase the Security Deposit to the extent necessary, in Lessor's reasonable judgment, to account for any increased wear and tear that the Premises may suffer as a result thereof. If a change in control of Lessee occurs during this Lease and following such change the financial condition of Lessee is, in Lessor's reasonable judgment, significantly reduced, Lessee shall deposit such additional monies with Lessor as shall be sufficient to cause the Security Deposit to be at a commercially reasonable level based on such change in financial condition. Lessor shall not be required to keep the Security Deposit separate from its general accounts. Within 90 days after the expiration or termination of this Lease, Lessor shall return that portion of the Security Deposit not used or applied by Lessor. Lessor shall upon written request provide Lessee with an accounting showing how that portion of the Security Deposit that was not returned was applied. No part of the Security Deposit shall be considered to be held in trust, to bear interest or to be prepayment for any monies to be paid by Lessee under this Lease. **THE SECURITY DEPOSIT SHALL NOT BE USED BY LESSEE IN LIEU OF PAYMENT OF THE LAST MONTH'S RENT.**

6. Use.

6.1 **Use.** Lessee shall use and occupy the Premises only for the Agreed Use, or any other legal use which is reasonably comparable thereto, and for no other purpose. Lessee shall not use or permit the use of the Premises in a manner that is unlawful, creates damage, waste or a nuisance, or that disturbs occupants of or causes damage to neighboring premises or properties. Other than guide, signal and seeing eye dogs, Lessee shall not keep or allow in the Premises any pets, animals, birds, fish, or reptiles. Lessor shall not unreasonably withhold or delay its consent to any written request for a modification of the Agreed Use, so long as the same will not impair the structural integrity of the improvements on the Premises or the mechanical or electrical systems therein, and/or is not significantly more burdensome to the Premises. If Lessor elects to withhold consent, Lessor shall within 7 days after such request give written notification of same, which notice shall include an explanation of Lessor's objections to the change in the Agreed Use.

6.2 Hazardous Substances.

(a) **Reportable Uses Require Consent.** The term "**Hazardous Substance**" as used in this Lease shall mean any product, substance, or waste whose presence, use, manufacture, disposal, transportation, or release, either by itself or in combination with other materials expected to be on the Premises, is either: (i) potentially injurious to the public health, safety or welfare, the environment or the Premises, (ii) regulated or monitored by any governmental authority, or (iii) a basis for potential liability of Lessor to any governmental agency or third party under any applicable statute or common law theory. Hazardous Substances shall include, but not be limited to, hydrocarbons, petroleum, gasoline, and/or crude oil or any products, byproducts or fractions thereof. Lessee shall not engage in any activity in or on

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the Premises which constitutes a Reportable Use of Hazardous Substances without the express prior written consent of Lessor and timely compliance (at Lessee's expense) with all Applicable Requirements. "Reportable Use" shall mean (i) the installation or use of any above or below ground storage tank, (ii) the generation, possession, storage, use, transportation, or disposal of a Hazardous Substance that requires a permit from, or with respect to which a report, notice, registration or business plan is required to be filed with, any governmental authority, and/or (iii) the presence at the Premises of a Hazardous Substance with respect to which any Applicable Requirements requires that a notice be given to persons entering or occupying the Premises or neighboring properties. Notwithstanding the foregoing, Lessee may use any ordinary and customary materials reasonably required to be used in the normal course of the Agreed Use, ordinary office supplies (copier toner, liquid paper, glue, etc.) and common household cleaning materials, so long as such use is in compliance with all Applicable Requirements, is not a Reportable Use, and does not expose the Premises or neighboring property to any meaningful risk of contamination or damage or expose Lessor to any liability therefor. In addition, Lessor may condition its consent to any Reportable Use upon receiving such additional assurances as Lessor reasonably deems necessary to protect itself, the public, the Premises and/or the environment against damage, contamination, injury and/or liability, including, but not limited to, the installation (and removal on or before Lease expiration or termination) of protective modifications (such as concrete encasements) and/or increasing the Security Deposit.

(b) **Duty to Inform Lessor.** If Lessee knows, or has reasonable cause to believe, that a Hazardous Substance has come to be located in, on, under or about the Premises, other than as previously consented to by Lessor, Lessee shall immediately give written notice of such fact to Lessor, and provide Lessor with a copy of any report, notice, claim or other documentation which it has concerning the presence of such Hazardous Substance.

(c) **Lessee Remediation.** Lessee shall not cause or permit any Hazardous Substance to be spilled or released in, on, under, or about the Premises (including through the plumbing or sanitary sewer system) and shall promptly, at Lessee's expense, comply with all Applicable Requirements and take all investigatory and/or remedial action reasonably recommended, whether or not formally ordered or required, for the cleanup of any contamination of, and for the maintenance, security and/or monitoring of the Premises or neighboring properties, that was caused or materially contributed to by Lessee, or pertaining to or involving any Hazardous Substance brought onto the Premises during the term of this Lease, by or for Lessee, or any third party.

(d) **Lessee Indemnification.** Lessee shall indemnify, defend and hold Lessor, its agents, employees, lenders and ground lessor, if any, harmless from and against any and all loss of rents and/or damages, liabilities, judgments, claims, expenses, penalties, and attorneys' and consultants' fees arising out of or involving any Hazardous Substance brought onto the Premises by or for Lessee, or any third party (provided, however, that Lessee shall have no liability under this Lease with respect to underground migration of any Hazardous Substance under the Premises from adjacent properties not caused or contributed to by Lessee). Lessee's obligations shall include, but not be limited to, the effects of any contamination or injury to person, property or the environment created or suffered by Lessee, and the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease. **No termination, cancellation or release agreement entered into by Lessor and Lessee shall release Lessee from its obligations under this Lease with respect to Hazardous Substances, unless specifically so agreed by Lessor in writing at the time of such agreement.**

(e) **Lessor Indemnification.** Except as otherwise provided in paragraph 8.7, Lessor and its successors and assigns shall indemnify, defend, reimburse and hold Lessee, its employees and lenders, harmless from and against any and all environmental damages, including the cost of remediation, which result from Hazardous Substances which existed on the Premises prior to Lessee's occupancy or which are caused by the gross negligence or willful misconduct of Lessor, its agents or employees. Lessor's obligations, as and when required by the Applicable Requirements, shall include, but not be limited to, the cost of investigation, removal, remediation, restoration and/or abatement, and shall survive the expiration or termination of this Lease.

(f) **Investigations and Remediations.** Lessor shall retain the responsibility and pay for any investigations or remediation measures required by governmental entities having jurisdiction with respect to the existence of Hazardous Substances on the Premises prior to Lessee's occupancy, unless such remediation measure is required as a result of Lessee's use (including "Alterations", as defined in paragraph 7.3(a) below) of the Premises, in which event Lessee shall be responsible for such payment. Lessee shall cooperate fully in any such activities at the request of Lessor, including allowing Lessor and Lessor's agents to have reasonable access to the Premises at reasonable times in order to carry out Lessor's investigative and remedial responsibilities.

(g) **Lessor Termination Option.** If a Hazardous Substance Condition (see Paragraph 9.1(e)) occurs during the term of this Lease, unless Lessee is legally responsible therefor (in which case Lessee shall make the investigation and remediation thereof required by the Applicable Requirements and this Lease shall continue in full force and effect, but subject to Lessor's rights under Paragraph 6.2(d) and Paragraph 13), Lessor may, at Lessor's option, either (i) investigate and remediate such Hazardous Substance Condition, if required, as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) if the estimated cost to remediate such condition exceeds 12 times the then monthly Base Rent or \$100,000, whichever is greater, give written notice to Lessee, within 30 days after receipt by Lessor of knowledge of the occurrence of such Hazardous Substance Condition, of Lessor's desire to terminate this Lease as of the date 60 days following the date of such notice. In the event Lessor elects to give a termination notice, Lessee may, within 10 days thereafter, give written notice to Lessor of Lessee's commitment to pay the amount by which the cost of the remediation of such Hazardous Substance Condition exceeds an amount equal to 12 times the then monthly Base Rent or \$100,000, whichever is greater. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days following such commitment. In such event, this Lease shall continue in full force and effect, and Lessor shall proceed to make such remediation as soon as reasonably possible after the required funds are available. If Lessee does not give such notice and provide the required funds or assurance thereof within the time provided, this Lease shall terminate as of the date specified in Lessor's notice of termination.

6.3 Lessee's Compliance with Applicable Requirements. Except as otherwise provided in this Lease, Lessee shall, at Lessee's sole expense, fully, diligently and in a timely manner, materially comply with all Applicable Requirements, the requirements of any applicable fire insurance underwriter or rating bureau, and the recommendations of Lessor's engineers and/or consultants which relate in any manner to the Premises, without regard to whether said Applicable Requirements are now in effect or become effective after the Start Date. Lessee shall, within 10 days after receipt of Lessor's written request, provide Lessor with copies of all permits and other documents, and other information evidencing Lessee's compliance with any Applicable Requirements specified by Lessor, and shall immediately upon receipt, notify Lessor in writing (with copies of any documents involved) of any threatened or actual claim, notice, citation, warning, complaint or report pertaining to or involving the failure of Lessee or the Premises to comply with any Applicable Requirements. Likewise, Lessee shall immediately give written notice to Lessor of: (i) any water damage to the Premises and any suspected seepage, pooling, dampness or other condition conducive to the production of mold; or (ii) any mustiness or other odors that might indicate the presence of mold in the Premises. In addition, Lessee shall provide Lessor with copies of its business license, certificate of occupancy and/or any similar document within 10 days of the receipt of a written request therefor.

6.4 Inspection; Compliance. Lessor and Lessor's "Lender" (as defined in Paragraph 30) and consultants authorized by Lessor shall have the right to enter into Premises at any time in the case of an emergency, and otherwise at reasonable times after reasonable notice, for the purpose of inspecting and/or testing the condition of the Premises and/or for verifying compliance by Lessee with this Lease. The cost of any such inspections shall be paid by Lessor, unless a violation of Applicable Requirements, or a Hazardous Substance Condition (see Paragraph 9.1(e)) is found to exist or be imminent, or the inspection is requested or ordered by a governmental authority. In such case, Lessee shall upon request reimburse Lessor for the cost of such inspection, so long as such inspection is reasonably related to the violation or contamination. In addition, Lessee shall provide copies of all relevant material safety data sheets (MSDS) to Lessor within 10 days of the receipt of a written request therefor. Lessee acknowledges that any failure on its part to allow such inspections or testing will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, should the Lessee fail to allow such inspections

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and/or testing in a timely fashion the Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or \$100, whichever is greater for the remainder to the Lease. The Parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to allow such inspection and/or testing. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to such failure nor prevent the exercise of any of the other rights and remedies granted hereunder.

7. Maintenance; Repairs; Utility Installations; Trade Fixtures and Alterations.

7.1 Lessee's Obligations.

(a) **In General.** Subject to the provisions of Paragraph 2.2 (Condition), 2.3 (Compliance), 6.3 (Lessee's Compliance with Applicable Requirements), 7.2 (Lessor's Obligations), 9 (Damage or Destruction), and 14 (Condemnation), Lessee shall, at Lessee's sole expense, keep the Premises, Utility Installations (intended for Lessee's exclusive use, no matter where located), and Alterations in good order, condition and repair (whether or not the portion of the Premises requiring repairs, or the means of repairing the same, are reasonably or readily accessible to Lessee, and whether or not the need for such repairs occurs as a result of Lessee's use, any prior use, the elements or the age of such portion of the Premises), including, but not limited to, all equipment or facilities, such as plumbing, HVAC equipment, electrical, lighting facilities, boilers, pressure vessels, fire protection system, fixtures, walls (interior and exterior), ceilings, floors, stairs, windows, doors, plate glass, skylights, landscaping, driveways, parking lots, fences, retaining walls, signs, sidewalks and parkways located in, on, or adjacent to the Premises. Lessee is also responsible for keeping the roof and roof drainage clean and free of debris. Lessor shall keep the surface and structural elements of the roof, foundations, and bearing walls in good repair (see paragraph 7.2). Lessee, in keeping the Premises in good order, condition and repair, shall exercise and perform good maintenance practices, specifically including the procurement and maintenance of the service contracts required by Paragraph 7.1(b) below. Lessee's obligations shall include restorations, replacements or renewals when necessary to keep the Premises and all improvements thereon or a part thereof in good order, condition and state of repair. Lessee shall, during the term of this Lease, keep the exterior appearance of the Building in a first-class condition (including, e.g. graffiti removal) consistent with the exterior appearance of other similar facilities of comparable age and size in the vicinity, including, when necessary, the exterior repainting of the Building.

(b) **Service Contracts.** Lessee shall, at Lessee's sole expense, procure and maintain contracts, with copies to Lessor, in customary form and substance for, and with contractors specializing and experienced in the maintenance of the following equipment and improvements, if any, and when installed on the Premises: ~~(i) HVAC equipment, (ii) boiler, and pressure vessels, (iii) fire extinguishing systems, including fire alarm and/or smoke detection, (iv) landscaping and irrigation systems, and (v) clarifiers.~~ However, Lessor reserves the right, upon notice to Lessee, to procure and maintain any or all of such service contracts, and Lessee shall reimburse Lessor, upon demand, for the cost thereof. **Lessor shall procure and maintain service contracts for the HVAC equipment, fire systems and the monitoring of the fire sprinkler systems that were originally installed by Lessor serving the Premises and Lessee shall reimburse Lessor for the costs thereof, including necessary repairs, with estimates toward those costs due in addition to the other scheduled rental amounts.**

(c) **Failure to Perform.** If Lessee fails to perform Lessee's obligations under this Paragraph 7.1, Lessor may enter upon the Premises after 10 days' prior written notice to Lessee (except in the case of an emergency, in which case no notice shall be required), perform such obligations on Lessee's behalf, and put the Premises in good order, condition and repair, and Lessee shall promptly pay to Lessor a sum equal to 115% of the cost thereof.

(d) **Replacement.** Subject to Lessee's indemnification of Lessor as set forth in Paragraph 8.7 below, and without relieving Lessee of liability resulting from Lessee's failure to exercise and perform good maintenance practices, if an item described in Paragraph 7.1(b) cannot be repaired other than at a cost which is in excess of 50% of the cost of replacing such item, then such item shall be replaced by Lessor, and the cost thereof shall be prorated between the Parties and Lessee shall only be obligated to pay, each month during the remainder of the term of this Lease or any extension thereof, on the date on which Base Rent is due, an amount equal to the product of multiplying the cost of such replacement by a fraction, the numerator of which is one, and the denominator of which is 144 (i.e. 1/144th of the cost per month). Lessee shall pay interest on the unamortized balance but may prepay its obligation at any time.

7.2 **Lessor's Obligations.** Subject to the provisions of Paragraphs 2.2 (Condition), 2.3 (Compliance), 9 (Damage or Destruction) and 14 (Condemnation), it is intended by the Parties hereto that Lessor have no obligation, in any manner whatsoever, to repair and maintain the Premises, or the equipment therein, all of which obligations are intended to be that of the Lessee, except for the surface and structural elements of the roof, foundations and bearing walls, the repair of which shall be the responsibility of Lessor upon receipt of written notice that such a repair is necessary. It is the intention of the Parties that the terms of this Lease govern the respective obligations of the Parties as to maintenance and repair of the Premises.

7.3 Utility Installations; Trade Fixtures; Alterations.

(a) **Definitions.** The term "Utility Installations" refers to all floor and window coverings, air and/or vacuum lines, power panels, electrical distribution, security and fire protection systems, communication cabling, lighting fixtures, HVAC equipment, plumbing, and fencing in or on the Premises. The term "Trade Fixtures" shall mean Lessee's machinery and equipment that can be removed without doing material damage to the Premises. The term "Alterations" shall mean any modification of the improvements, other than Utility Installations or Trade Fixtures, whether by addition or deletion. "Lessee Owned Alterations and/or Utility Installations" are defined as Alterations and/or Utility Installations made by Lessee that are not yet owned by Lessor pursuant to Paragraph 7.4(a).

(b) **Consent.** Lessee shall not make any Alterations or Utility Installations to the Premises without Lessor's prior written consent. Lessee may, however, make non-structural Alterations or Utility Installations to the interior of the Premises (excluding the roof) without such consent but upon notice to Lessor, as long as they are not visible from the outside, do not involve puncturing, relocating or removing the roof or any existing walls, will not affect the electrical, plumbing, HVAC, and/or life safety systems, do not trigger the requirement for additional modifications and/or improvements to the Premises resulting from Applicable Requirements, such as compliance with Title 24, and the cumulative cost thereof during this Lease as extended does not exceed a sum equal to 3 month's Base Rent in the aggregate or a sum equal to one month's Base Rent in any one year. Notwithstanding the foregoing, Lessee shall not make or permit any roof penetrations and/or install anything on the roof without the prior written approval of Lessor. Lessor may, as a precondition to granting such approval, require Lessee to utilize a contractor chosen and/or approved by Lessor. Any Alterations or Utility Installations that Lessee shall desire to make and which require the consent of the Lessor shall be presented to Lessor in written form with detailed plans. Consent shall be deemed conditioned upon Lessee's: (i) acquiring all applicable governmental permits, (ii) furnishing Lessor with copies of both the permits and the plans and specifications prior to commencement of the work, and (iii) compliance with all conditions of said permits and other Applicable Requirements in a prompt and expeditious manner. Any Alterations or Utility Installations shall be performed in a workmanlike manner with good and sufficient materials **by appropriately licensed and insured contractors and vendors.** Lessee shall promptly upon completion furnish Lessor with as-built plans and specifications. For work which costs an amount in excess of one month's Base Rent, Lessor may condition its consent upon Lessee providing a lien and completion bond in an amount equal to 150% of the estimated cost of such Alteration or Utility Installation and/or upon Lessee's posting an additional Security Deposit with Lessor.

(c) **Liens; Bonds.** Lessee shall pay, when due, all claims for labor or materials furnished or alleged to have been furnished to or for Lessee at or for use on the Premises, which claims are or may be secured by any mechanic's or materialmen's lien against the Premises or any interest therein. Lessee shall give Lessor not less than 10 days notice prior to the commencement of any work in, on or about the Premises, and Lessor shall have the right to post notices of non-responsibility. If

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Lessee shall contest the validity of any such lien, claim or demand, then Lessee shall, at its sole expense defend and protect itself, Lessor and the Premises against the same and shall pay and satisfy any such adverse judgment that may be rendered thereon before the enforcement thereof. If Lessor shall require, Lessee shall furnish a surety bond in an amount equal to 150% of the amount of such contested lien, claim or demand, indemnifying Lessor against liability for the same. If Lessor elects to participate in any such action, Lessee shall pay Lessor's attorneys' fees and costs.

7.4 Ownership; Removal; Surrender; and Restoration.

(a) **Ownership.** Subject to Lessor's right to require removal or elect ownership as hereinafter provided, all Alterations and Utility Installations made by Lessee shall be the property of Lessee, but considered a part of the Premises. Lessor may, at any time, elect in writing to be the owner of all or any specified part of the Lessee Owned Alterations and Utility Installations. Unless otherwise instructed per paragraph 7.4(b) hereof, all Lessee Owned Alterations and Utility Installations shall, at the expiration or termination of this Lease, become the property of Lessor and be surrendered by Lessee with the Premises.

(b) **Removal.** By delivery to Lessee of written notice from Lessor not earlier than 90 and not later than 30 days prior to the end of the term of this Lease, Lessor may require that any or all Lessee Owned Alterations or Utility Installations be removed by the expiration or termination of this Lease. Lessor may require the removal at any time of all or any part of any Lessee Owned Alterations or Utility Installations made without the required consent.

(c) **Surrender; Restoration.** Lessee shall surrender the Premises by the Expiration Date or any earlier termination date, with all of the improvements, parts and surfaces thereof broom clean and free of debris, and in good operating order, condition and state of repair, ordinary wear and tear excepted. "Ordinary wear and tear" shall not include any damage or deterioration that would have been prevented by good maintenance practice. Notwithstanding the foregoing and the provisions of Paragraph 7.1(a), if the Lessee occupies the Premises for 12 months or less, then Lessee shall surrender the Premises in the same condition as delivered to Lessee on the Start Date with NO allowance for ordinary wear and tear. Lessee shall repair any damage occasioned by the installation, maintenance or removal of Trade Fixtures, Lessee owned Alterations and/or Utility Installations, furnishings, and equipment as well as the removal of any storage tank installed by or for Lessee. Lessee shall also completely remove from the Premises any and all Hazardous Substances brought onto the Premises by or for Lessee, or any third party (except Hazardous Substances which were deposited via underground migration from areas outside of the Premises) to the level specified in Applicable Requirements. Trade Fixtures shall remain the property of Lessee and shall be removed by Lessee. Any personal property of Lessee not removed on or before the Expiration Date or any earlier termination date shall be deemed to have been abandoned by Lessee and may be disposed of or retained by Lessor as Lessor may desire. The failure by Lessee to timely vacate the Premises pursuant to this Paragraph 7.4(c) without the express written consent of Lessor shall constitute a holdover under the provisions of Paragraph 26 below.

8. Insurance; Indemnity.

8.1 Payment of Premium Increases.

(a) Lessee shall pay to Lessor any insurance cost increase ("**Insurance Cost Increase**") occurring during the term of this Lease. Insurance Cost Increase is defined as any increase in the actual cost of the insurance required under Paragraph 8.2(b), 8.3(a) and 8.3(b), over and above the Base Premium as hereinafter defined calculated on an annual basis. Insurance Cost Increase shall include but not be limited to increases resulting from the nature of Lessee's occupancy, any act or omission of Lessee, requirements of the holder of mortgage or deed of trust covering the Premises, increased valuation of the Premises and/or a premium rate increase. The parties are encouraged to fill in the Base Premium in Paragraph 1.8 with a reasonable premium for the Required Insurance based on the Agreed Use of the Premises. If the parties fail to insert a dollar amount in Paragraph 1.8, then the Base Premium shall be the lowest annual premium reasonably obtainable for the Required Insurance as of the commencement of the Original Term for the Agreed Use of the Premises. In no event, however, shall Lessee be responsible for any portion of the increase in the premium cost attributable to liability insurance carried by Lessor under Paragraph 8.2(b) in excess of \$2,000,000 per occurrence.

(b) Lessee shall pay any such Insurance Cost Increase to Lessor within 30 days after receipt by Lessee of a copy of the premium statement or other reasonable evidence of the amount due. If the insurance policies maintained hereunder cover other property besides the Premises, Lessor shall also deliver to Lessee a statement of the amount of such Insurance Cost Increase attributable only to the Premises showing in reasonable detail the manner in which such amount was computed. Premiums for policy periods commencing prior to, or extending beyond the term of this Lease, shall be prorated to correspond to the term of this Lease.

8.2 Liability Insurance.

(a) **Carried by Lessee.** Lessee shall obtain and keep in force a Commercial General Liability policy of insurance protecting Lessee and Lessor as an additional insured against claims for bodily injury, personal injury and property damage based upon or arising out of the ownership, use, occupancy or maintenance of the Premises and all areas appurtenant thereto. Such insurance shall be on an occurrence basis providing single limit coverage in an amount not less than \$1,000,000 per occurrence with an annual aggregate of not less than \$2,000,000. Lessee shall add Lessor as an additional insured by means of an endorsement at least as broad as the Insurance Service Organization's "Additional Insured-Managers or Lessors of Premises" Endorsement. The policy shall not contain any intra-insured exclusions as between insured persons or organizations, but shall include coverage for liability assumed under this Lease as an "**insured contract**" for the performance of Lessee's indemnity obligations under this Lease. The limits of said insurance shall not, however, limit the liability of Lessee nor relieve Lessee of any obligation hereunder. Lessee shall provide an endorsement on its liability policy(ies) which provides that its insurance shall be primary to and not contributory with any similar insurance carried by Lessor, whose insurance shall be considered excess insurance only.

(b) **Carried by Lessor.** Lessor shall maintain liability insurance as described in Paragraph 8.2(a), in addition to, and not in lieu of, the insurance required to be maintained by Lessee. Lessee shall not be named as an additional insured therein.

8.3 Property Insurance - Building, Improvements and Rental Value.

(a) **Building and Improvements.** The Insuring Party shall obtain and keep in force a policy or policies in the name of Lessor, with loss payable to Lessor, any ground-lessor, and to any Lender insuring loss or damage to the Premises. The amount of such insurance shall be equal to the full insurable replacement cost of the Premises, as the same shall exist from time to time, or the amount required by any Lender, but in no event more than the commercially reasonable and available insurable value thereof. Lessee Owned Alterations and Utility Installations, Trade Fixtures, and Lessee's personal property shall be insured by Lessee not by Lessor. If the coverage is available and commercially appropriate, such policy or policies shall insure against all risks of direct physical loss or damage (except the perils of flood and/or earthquake unless required by a Lender or included in the Base Premium), including coverage for debris removal and the enforcement of any Applicable Requirements requiring the upgrading, demolition, reconstruction or replacement of any portion of the Premises as the result of a covered loss. Said policy or policies shall also contain an agreed valuation provision in lieu of any coinsurance clause, waiver of subrogation, and inflation guard protection causing an increase in the annual property insurance coverage amount by a factor of not less than the adjusted U.S. Department of Labor Consumer Price Index for All Urban Consumers for the city nearest to where the Premises are located. If such insurance coverage has a deductible clause, the deductible amount shall not exceed \$5,000 per occurrence, and Lessee shall be liable for such deductible amount in the event of an Insured Loss.

(b) **Rental Value.** The Insuring Party shall obtain and keep in force a policy or policies in the name of Lessor with loss payable to Lessor and any Lender, insuring the loss of the full Rent for one year with an extended period of indemnity for an additional 180 days ("**Rental Value insurance**"). Said insurance shall contain an agreed valuation provision in lieu of any coinsurance clause, and the amount of coverage shall be adjusted annually to reflect the projected Rent otherwise payable by Lessee, for the next 12 month period. Lessee shall be liable for any deductible amount in the event of such loss.

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(c) **Adjacent Premises.** If the Premises are part of a larger building, or of a group of buildings owned by Lessor which are adjacent to the Premises, the Lessee shall pay for any increase in the premiums for the property insurance of such building or buildings if said increase is caused by Lessee's acts, omissions, use or occupancy of the Premises.

8.4 Lessee's Property; Business Interruption Insurance; Worker's Compensation Insurance.

(a) **Property Damage.** Lessee shall obtain and maintain insurance coverage on all of Lessee's personal property, Trade Fixtures, and Lessee Owned Alterations and Utility Installations. Such insurance shall be full replacement cost coverage with a deductible of not to exceed \$1,000 per occurrence. The proceeds from any such insurance shall be used by Lessee for the replacement of personal property, Trade Fixtures and Lessee Owned Alterations and Utility Installations.

(b) **Business Interruption.** Lessee shall obtain and maintain loss of income and extra expense insurance in amounts as will reimburse Lessee for direct or indirect loss of earnings attributable to all perils commonly insured against by prudent lessees in the business of Lessee or attributable to prevention of access to the Premises as a result of such perils.

(c) **Worker's Compensation Insurance.** Lessee shall obtain and maintain Worker's Compensation Insurance in such amount as may be required by Applicable Requirements. Such policy shall include a 'Waiver of Subrogation' endorsement. Lessee shall provide Lessor with a copy of such endorsement along with the certificate of insurance or copy of the policy required by paragraph 8.5.

(d) **No Representation of Adequate Coverage.** Lessor makes no representation that the limits or forms of coverage of insurance specified herein are adequate to cover Lessee's property, business operations or obligations under this Lease.

8.5 Insurance Policies. Insurance required herein shall be by companies maintaining during the policy term a "General Policyholders Rating" of at least A-, VII, as set forth in the most current issue of "Best's Insurance Guide", or such other rating as may be required by a Lender. Lessee shall not do or permit to be done anything which invalidates the required insurance policies. Lessee shall, prior to the Start Date, deliver to Lessor certified copies of policies of such insurance or certificates with copies of the required endorsements evidencing the existence and amounts of the required insurance. No such policy shall be cancelable or subject to modification except after 30 days prior written notice to Lessor. Lessee shall, at least 10 days prior to the expiration of such policies, furnish Lessor with evidence of renewals or "insurance binders" evidencing renewal thereof, or Lessor may increase his liability insurance coverage and charge the cost thereof to Lessee, which amount shall be payable by Lessee to Lessor upon demand. Such policies shall be for a term of at least one year, or the length of the remaining term of this Lease, whichever is less. If either Party shall fail to procure and maintain the insurance required to be carried by it, the other Party may, but shall not be required to, procure and maintain the same.

8.6 Waiver of Subrogation. Without affecting any other rights or remedies, Lessee and Lessor each hereby release and relieve the other, and waive their entire right to recover damages against the other, for loss of or damage to its property arising out of or incident to the perils required to be insured against herein. The effect of such releases and waivers is not limited by the amount of insurance carried or required, or by any deductibles applicable hereto. The Parties agree to have their respective property damage insurance carriers waive any right to subrogation that such companies may have against Lessor or Lessee, as the case may be, so long as the insurance is not invalidated thereby.

8.7 Indemnity. Except for Lessor's gross negligence or willful misconduct, Lessee shall indemnify, protect, defend and hold harmless the Premises, Lessor and its agents, Lessor's master or ground lessor, partners and Lenders, from and against any and all claims, loss of rents and/or damages, liens, judgments, penalties, attorneys' and consultants' fees, expenses and/or liabilities arising out of, involving, or in connection with, a Breach of the Lease by Lessee and/or the use and/or occupancy of the Premises and/or Project by Lessee and/or by Lessee's employees, contractors or invitees. If any action or proceeding is brought against Lessor by reason of any of the foregoing matters, Lessee shall upon notice defend the same at Lessee's expense by counsel reasonably satisfactory to Lessor and Lessor shall cooperate with Lessee in such defense. Lessor need not have first paid any such claim in order to be defended or indemnified.

8.8 Exemption of Lessor and its Agents from Liability. Notwithstanding the negligence or breach of this Lease by Lessor or its agents, neither Lessor nor its agents shall be liable under any circumstances for: (i) injury or damage to the person or goods, wares, merchandise or other property of Lessee, Lessee's employees, contractors, invitees, customers, or any other person in or about the Premises, whether such damage or injury is caused by or results from fire, steam, electricity, gas, water or rain, indoor air quality, the presence of mold or from the breakage, leakage, obstruction or other defects of pipes, fire sprinklers, wires, appliances, plumbing, HVAC or lighting fixtures, or from any other cause, whether the said injury or damage results from conditions arising upon the Premises or upon other portions of the building of which the Premises are a part, or from other sources or places, (ii) any damages arising from any act or neglect of any other tenant of Lessor or from the failure of Lessor or its agents to enforce the provisions of any other lease in the Project, or (iii) injury to Lessee's business or for any loss of income or profit therefrom. Instead, it is intended that Lessee's sole recourse in the event of such damages or injury be to file a claim on the insurance policy(ies) that Lessee is required to maintain pursuant to the provisions of paragraph 8.

8.9 Failure to Provide Insurance. Lessee acknowledges that any failure on its part to obtain or maintain the insurance required herein will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, for any month or portion thereof that Lessee does not maintain the required insurance and/or does not provide Lessor with the required binders or certificates evidencing the existence of the required insurance, the Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or \$100, whichever is greater. The parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to maintain the required insurance. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to maintain such insurance, prevent the exercise of any of the other rights and remedies granted hereunder, nor relieve Lessee of its obligation to maintain the insurance specified in this Lease.

9. Damage or Destruction.

9.1 Definitions.

(a) **"Premises Partial Damage"** shall mean damage or destruction to the improvements on the Premises, other than Lessee Owned Alterations and Utility Installations, which can reasonably be repaired in 6 months or less from the date of the damage or destruction. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(b) **"Premises Total Destruction"** shall mean damage or destruction to the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which cannot reasonably be repaired in 6 months or less from the date of the damage or destruction. Lessor shall notify Lessee in writing within 30 days from the date of the damage or destruction as to whether or not the damage is Partial or Total.

(c) **"Insured Loss"** shall mean damage or destruction to improvements on the Premises, other than Lessee Owned Alterations and Utility Installations and Trade Fixtures, which was caused by an event required to be covered by the insurance described in Paragraph 8.3(a), irrespective of any deductible amounts or coverage limits involved.

(d) **"Replacement Cost"** shall mean the cost to repair or rebuild the improvements owned by Lessor at the time of the occurrence to their condition existing immediately prior thereto, including demolition, debris removal and upgrading required by the operation of Applicable Requirements, and without deduction for depreciation.

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(e) "**Hazardous Substance Condition**" shall mean the occurrence or discovery of a condition involving the presence of, or a contamination by, a Hazardous Substance, in, on, or under the Premises which requires restoration.

9.2 **Partial Damage - Insured Loss.** If a Premises Partial Damage that is an Insured Loss occurs, then Lessor shall, at Lessor's expense, repair such damage (but not Lessee's Trade Fixtures or Lessee Owned Alterations and Utility Installations) as soon as reasonably possible and this Lease shall continue in full force and effect; provided, however, that Lessee shall, at Lessor's election, make the repair of any damage or destruction the total cost to repair of which is \$10,000 or less, and, in such event, Lessor shall make any applicable insurance proceeds available to Lessee on a reasonable basis for that purpose. Notwithstanding the foregoing, if the required insurance was not in force or the insurance proceeds are not sufficient to effect such repair, the Insuring Party shall promptly contribute the shortage in proceeds (except as to the deductible which is Lessee's responsibility) as and when required to complete said repairs. In the event, however, such shortage was due to the fact that, by reason of the unique nature of the improvements, full replacement cost insurance coverage was not commercially reasonable and available, Lessor shall have no obligation to pay for the shortage in insurance proceeds or to fully restore the unique aspects of the Premises unless Lessee provides Lessor with the funds to cover same, or adequate assurance thereof, within 10 days following receipt of written notice of such shortage and request therefor. If Lessor receives said funds or adequate assurance thereof within said 10 day period, the party responsible for making the repairs shall complete them as soon as reasonably possible and this Lease shall remain in full force and effect. If such funds or assurance are not received, Lessor may nevertheless elect by written notice to Lessee within 10 days thereafter to: (i) make such restoration and repair as is commercially reasonable with Lessor paying any shortage in proceeds, in which case this Lease shall remain in full force and effect, or (ii) have this Lease terminate 30 days thereafter. Lessee shall not be entitled to reimbursement of any funds contributed by Lessee to repair any such damage or destruction. Premises Partial Damage due to flood or earthquake shall be subject to Paragraph 9.3, notwithstanding that there may be some insurance coverage, but the net proceeds of any such insurance shall be made available for the repairs if made by either Party.

9.3 **Partial Damage - Uninsured Loss.** If a Premises Partial Damage that is not an Insured Loss occurs, unless caused by a negligent or willful act of Lessee (in which event Lessee shall make the repairs at Lessee's expense), Lessor may either: (i) repair such damage as soon as reasonably possible at Lessor's expense, in which event this Lease shall continue in full force and effect, or (ii) terminate this Lease by giving written notice to Lessee within 30 days after receipt by Lessor of knowledge of the occurrence of such damage. Such termination shall be effective 60 days following the date of such notice. In the event Lessor elects to terminate this Lease, Lessee shall have the right within 10 days after receipt of the termination notice to give written notice to Lessor of Lessee's commitment to pay for the repair of such damage without reimbursement from Lessor. Lessee shall provide Lessor with said funds or satisfactory assurance thereof within 30 days after making such commitment. In such event this Lease shall continue in full force and effect, and Lessor shall proceed to make such repairs as soon as reasonably possible after the required funds are available. If Lessee does not make the required commitment, this Lease shall terminate as of the date specified in the termination notice.

9.4 **Total Destruction.** Notwithstanding any other provision hereof, if a Premises Total Destruction occurs, this Lease shall terminate 60 days following such Destruction. If the damage or destruction was caused by the gross negligence or willful misconduct of Lessee, Lessor shall have the right to recover Lessor's damages from Lessee, except as provided in Paragraph 8.6.

9.5 **Damage Near End of Term.** If at any time during the last 6 months of this Lease there is damage for which the cost to repair exceeds one month's Base Rent, whether or not an Insured Loss, Lessor may terminate this Lease effective 60 days following the date of occurrence of such damage by giving a written termination notice to Lessee within 30 days after the date of occurrence of such damage. Notwithstanding the foregoing, if Lessee at that time has an exercisable option to extend this Lease or to purchase the Premises, then Lessee may preserve this Lease by, (a) exercising such option and (b) providing Lessor with any shortage in insurance proceeds (or adequate assurance thereof) needed to make the repairs on or before the earlier of (i) the date which is 10 days after Lessee's receipt of Lessor's written notice purporting to terminate this Lease, or (ii) the day prior to the date upon which such option expires. If Lessee duly exercises such option during such period and provides Lessor with funds (or adequate assurance thereof) to cover any shortage in insurance proceeds, Lessor shall, at Lessor's commercially reasonable expense, repair such damage as soon as reasonably possible and this Lease shall continue in full force and effect. If Lessee fails to exercise such option and provide such funds or assurance during such period, then this Lease shall terminate on the date specified in the termination notice and Lessee's option shall be extinguished.

9.6 **Abatement of Rent; Lessee's Remedies.**

(a) **Abatement.** In the event of Premises Partial Damage or Premises Total Destruction or a Hazardous Substance Condition for which Lessee is not responsible under this Lease, the Rent payable by Lessee for the period required for the repair, remediation or restoration of such damage shall be abated in proportion to the degree to which Lessee's use of the Premises is impaired, but not to exceed the proceeds received from the Rental Value insurance. All other obligations of Lessee hereunder shall be performed by Lessee, and Lessor shall have no liability for any such damage, destruction, remediation, repair or restoration except as provided herein.

(b) **Remedies.** If Lessor is obligated to repair or restore the Premises and does not commence, in a substantial and meaningful way, such repair or restoration within 90 days after such obligation shall accrue, Lessee may, at any time prior to the commencement of such repair or restoration, give written notice to Lessor and to any Lenders of which Lessee has actual notice, of Lessee's election to terminate this Lease on a date not less than 60 days following the giving of such notice. If Lessee gives such notice and such repair or restoration is not commenced within 30 days thereafter, this Lease shall terminate as of the date specified in said notice. If the repair or restoration is commenced within such 30 days, this Lease shall continue in full force and effect. "Commence" shall mean either the unconditional authorization of the preparation of the required plans, or the beginning of the actual work on the Premises, whichever first occurs.

9.7 **Termination; Advance Payments.** Upon termination of this Lease pursuant to Paragraph 6.2(g) or Paragraph 9, an equitable adjustment shall be made concerning advance Base Rent and any other advance payments made by Lessee to Lessor. Lessor shall, in addition, return to Lessee so much of Lessee's Security Deposit as has not been, or is not then required to be, used by Lessor.

10. **Real Property Taxes.**

10.1 **Definition.** As used herein, the term "**Real Property Taxes**" shall include any form of assessment; real estate, general, special, ordinary or extraordinary, or rental levy or tax (other than inheritance, personal income or estate taxes); improvement bond; and/or license fee imposed upon or levied against any legal or equitable interest of Lessor in the Premises or the Project, Lessor's right to other income therefrom, and/or Lessor's business of leasing, by any authority having the direct or indirect power to tax and where the funds are generated with reference to the Building address. Real Property Taxes shall also include any tax, fee, levy, assessment or charge, or any increase therein: (i) imposed by reason of events occurring during the term of this Lease, including but not limited to, a change in the ownership of the Premises, and (ii) levied or assessed on machinery or equipment provided by Lessor to Lessee pursuant to this Lease.

10.2 **Payment of Taxes.** Lessor shall pay the Real Property Taxes applicable to the Premises provided, however, that Lessee shall pay to Lessor the amount, if any, by which Real Property Taxes applicable to the Premises increase over the fiscal tax year during which the ~~Commencement Date Occurs~~ **Premises is fully assessed** ("Tax Increase"). Payment of any such Tax Increase shall be made by Lessee to Lessor within 30 days after receipt of Lessor's written statement setting forth the amount due and computation thereof. If any such taxes shall cover any period of time prior to or after the expiration or termination of this Lease, Lessee's share of such taxes shall be prorated to cover only that portion of the tax bill applicable to the period that this Lease is in effect. In the event Lessee incurs a late charge on any Rent payment, Lessor may estimate the current Real Property Taxes, and require that the Tax Increase be paid in advance to Lessor by Lessee monthly in

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advance with the payment of the Base Rent. Such monthly payment shall be an amount equal to the amount of the estimated installment of the Tax Increase divided by the number of months remaining before the month in which said installment becomes delinquent. When the actual amount of the applicable Tax Increase is known, the amount of such equal monthly advance payments shall be adjusted as required to provide the funds needed to pay the applicable Tax Increase. If the amount collected by Lessor is insufficient to pay the Tax Increase when due, Lessee shall pay Lessor, upon demand, such additional sums as are necessary to pay such obligations. Advance payments may be intermingled with other moneys of Lessor and shall not bear interest. In the event of a Breach by Lessee in the performance of its obligations under this Lease, then any such advance payments may be treated by Lessor as an additional Security Deposit.

10.3 Additional Improvements. Notwithstanding anything to the contrary in this Paragraph 10.2, Lessee shall pay to Lessor upon demand therefor the entirety of any increase in Real Property Taxes assessed by reason of Alterations or Utility Installations placed upon the Premises by Lessee or at Lessee's request or by reason of any alterations or improvements to the Premises made by Lessor subsequent to the execution of this Lease by the Parties.

10.4 Joint Assessment. If the Premises are not separately assessed, Lessee's liability shall be an equitable proportion of the Tax Increase for all of the land and improvements included within the tax parcel assessed, such proportion to be conclusively determined by Lessor from the respective valuations assigned in the assessor's work sheets or such other information as may be reasonably available.

10.5 Personal Property Taxes. Lessee shall pay, prior to delinquency, all taxes assessed against and levied upon Lessee Owned Alterations, Utility Installations, Trade Fixtures, furnishings, equipment and all personal property of Lessee. When possible, Lessee shall cause its Lessee Owned Alterations and Utility Installations, Trade Fixtures, furnishings, equipment and all other personal property to be assessed and billed separately from the real property of Lessor. If any of Lessee's said property shall be assessed with Lessor's real property, Lessee shall pay Lessor the taxes attributable to Lessee's property within 10 days after receipt of a written statement setting forth the taxes applicable to Lessee's property.

11. Utilities and Services.

11.1 Lessee shall pay for all water, gas, heat, light, power, telephone, trash disposal and other utilities and services supplied to the Premises, together with any taxes thereon. If any such services are not separately metered or billed to Lessee, Lessee shall pay a reasonable proportion, to be determined by Lessor, of all charges jointly metered or billed. There shall be no abatement of rent and Lessor shall not be liable in any respect whatsoever for the inadequacy, stoppage, interruption or discontinuance of any utility or service due to riot, strike, labor dispute, breakdown, accident, repair or other cause beyond Lessor's reasonable control or in cooperation with governmental request or directions.

11.2 Within fifteen days of Lessor's written request, Lessee agrees to deliver to Lessor such information, documents and/or authorization as Lessor needs in order for Lessor to comply with new or existing Applicable Requirements relating to commercial building energy usage, ratings, and/or the reporting thereof.

12. Assignment and Subletting.

12.1 Lessor's Consent Required.

(a) Lessee shall not voluntarily or by operation of law assign, transfer, mortgage or encumber (collectively, "assign or assignment") or sublet all or any part of Lessee's interest in this Lease or in the Premises without Lessor's prior written consent.

(b) Unless Lessee is a corporation and its stock is publicly traded on a national stock exchange, a change in the control of Lessee shall constitute an assignment requiring consent. The transfer, on a cumulative basis, of 25% or more of the voting control of Lessee shall constitute a change in control for this purpose.

(c) The involvement of Lessee or its assets in any transaction, or series of transactions (by way of merger, sale, acquisition, financing, transfer, leveraged buyout or otherwise), whether or not a formal assignment or hypothecation of this Lease or Lessee's assets occurs, which results or will result in a reduction of the Net Worth of Lessee by an amount greater than 25% of such Net Worth as it was represented at the time of the execution of this Lease or at the time of the most recent assignment to which Lessor has consented, or as it exists immediately prior to said transaction or transactions constituting such reduction, whichever was or is greater, shall be considered an assignment of this Lease to which Lessor may withhold its consent. "Net Worth of Lessee" shall mean the net worth of Lessee (excluding any guarantors) established under generally accepted accounting principles.

(d) An assignment or subletting without consent shall, at Lessor's option, be a Default curable after notice per Paragraph 13.1(d), or a non-curable Breach without the necessity of any notice and grace period. If Lessor elects to treat such unapproved assignment or subletting as a non-curable Breach, Lessor may either: (i) terminate this Lease, or (ii) upon 30 days written notice, increase the monthly Base Rent to 110% of the Base Rent then in effect. Further, in the event of such Breach and rental adjustment, (i) the purchase price of any option to purchase the Premises held by Lessee shall be subject to similar adjustment to 110% of the price previously in effect, and (ii) all fixed and non-fixed rental adjustments scheduled during the remainder of the Lease term shall be increased to 110% of the scheduled adjusted rent.

(e) Lessee's remedy for any breach of Paragraph 12.1 by Lessor shall be limited to compensatory damages and/or injunctive relief.

(f) Lessor may reasonably withhold consent to a proposed assignment or subletting if Lessee is in Default at the time consent is requested.

(g) Notwithstanding the foregoing, allowing a de minimis portion of the Premises, i.e. 20 square feet or less, to be used by a third party vendor in connection with the installation of a vending machine or payphone shall not constitute a subletting.

12.2 Terms and Conditions Applicable to Assignment and Subletting.

(a) Regardless of Lessor's consent, no assignment or subletting shall: (i) be effective without the express written assumption by such assignee or sublessee of the obligations of Lessee under this Lease, (ii) release Lessee of any obligations hereunder, or (iii) alter the primary liability of Lessee for the payment of Rent or for the performance of any other obligations to be performed by Lessee.

(b) Lessor may accept Rent or performance of Lessee's obligations from any person other than Lessee pending approval or disapproval of an assignment. Neither a delay in the approval or disapproval of such assignment nor the acceptance of Rent or performance shall constitute a waiver or estoppel of Lessor's right to exercise its remedies for Lessee's Default or Breach.

(c) Lessor's consent to any assignment or subletting shall not constitute a consent to any subsequent assignment or subletting.

(d) In the event of any Default or Breach by Lessee, Lessor may proceed directly against Lessee, any Guarantors or anyone else responsible for the performance of Lessee's obligations under this Lease, including any assignee or sublessee, without first exhausting Lessor's remedies against any other person or entity responsible therefor to Lessor, or any security held by Lessor.

(e) Each request for consent to an assignment or subletting shall be in writing, accompanied by information relevant to Lessor's determination as to the financial and operational responsibility and appropriateness of the proposed assignee or sublessee, including but not limited to the intended use and/or required modification of the Premises, if any, together with a fee of \$500 as consideration for Lessor's considering and processing said request. Lessee agrees to provide Lessor with such other or additional information and/or documentation as may be reasonably requested. (See also Paragraph 36)

(f) Any assignee of, or sublessee under, this Lease shall, by reason of accepting such assignment, entering into such sublease, or entering into possession of the Premises or any portion thereof, be deemed to have assumed and agreed to conform and comply with each and every term, covenant, condition and obligation herein to be observed or performed by Lessee during the term of said assignment or sublease, other than such obligations as are contrary to or inconsistent with provisions of an assignment or sublease to which Lessor has specifically consented to in writing.

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(g) Lessor's consent to any assignment or subletting shall not transfer to the assignee or sublessee any Option granted to the original Lessee by this Lease unless such transfer is specifically consented to by Lessor in writing. (See Paragraph 39.2)

12.3 **Additional Terms and Conditions Applicable to Subletting.** The following terms and conditions shall apply to any subletting by Lessee of all or any part of the Premises and shall be deemed included in all subleases under this Lease whether or not expressly incorporated therein:

(a) Lessee hereby assigns and transfers to Lessor all of Lessee's interest in all Rent payable on any sublease, and Lessor may collect such Rent and apply same toward Lessee's obligations under this Lease; provided, however, that until a Breach shall occur in the performance of Lessee's obligations, Lessee may collect said Rent. In the event that the amount collected by Lessor exceeds Lessee's then outstanding obligations any such excess shall be refunded to Lessee. Lessor shall not, by reason of the foregoing or any assignment of such sublease, nor by reason of the collection of Rent, be deemed liable to the sublessee for any failure of Lessee to perform and comply with any of Lessee's obligations to such sublessee. Lessee hereby irrevocably authorizes and directs any such sublessee, upon receipt of a written notice from Lessor stating that a Breach exists in the performance of Lessee's obligations under this Lease, to pay to Lessor all Rent due and to become due under the sublease. Sublessee shall rely upon any such notice from Lessor and shall pay all Rents to Lessor without any obligation or right to inquire as to whether such Breach exists, notwithstanding any claim from Lessee to the contrary.

(b) In the event of a Breach by Lessee, Lessor may, at its option, require sublessee to attorn to Lessor, in which event Lessor shall undertake the obligations of the sublessor under such sublease from the time of the exercise of said option to the expiration of such sublease; provided, however, Lessor shall not be liable for any prepaid rents or security deposit paid by such sublessee to such sublessor or for any prior Defaults or Breaches of such sublessor.

(c) Any matter requiring the consent of the sublessor under a sublease shall also require the consent of Lessor.

(d) No sublessee shall further assign or sublet all or any part of the Premises without Lessor's prior written consent.

(e) Lessor shall deliver a copy of any notice of Default or Breach by Lessee to the sublessee, who shall have the right to cure the Default of Lessee within the grace period, if any, specified in such notice. The sublessee shall have a right of reimbursement and offset from and against Lessee for any such Defaults cured by the sublessee.

13. Default; Breach; Remedies.

13.1 **Default; Breach.** A "Default" is defined as a failure by the Lessee to comply with or perform any of the terms, covenants, conditions or Rules and Regulations under this Lease. A "Breach" is defined as the occurrence of one or more of the following Defaults, and the failure of Lessee to cure such Default within any applicable grace period:

(a) The abandonment of the Premises; the vacating of the Premises prior to the expiration or termination of this Lease without providing a commercially reasonable level of security, or where the coverage of the property insurance described in Paragraph 8.3 is jeopardized as a result thereof, or without providing reasonable assurances to minimize potential vandalism; or failure to deliver to Lessor exclusive possession of the entire Premises in accordance herewith prior to the expiration or termination of this Lease.

(b) The failure of Lessee to make any payment of Rent or any Security Deposit required to be made by Lessee hereunder, whether to Lessor or to a third party, when due, to provide reasonable evidence of insurance or surety bond, or to fulfill any obligation under this Lease which endangers or threatens life or property, where such failure continues for a period of 3 business days following written notice to Lessee. THE ACCEPTANCE BY LESSOR OF A PARTIAL PAYMENT OF RENT OR SECURITY DEPOSIT SHALL NOT CONSTITUTE A WAIVER OF ANY OF LESSOR'S RIGHTS, INCLUDING LESSOR'S RIGHT TO RECOVER POSSESSION OF THE PREMISES.

(c) The failure of Lessee to allow Lessor and/or its agents access to the Premises or the commission of waste, act or acts constituting public or private nuisance, and/or an illegal activity on the Premises by Lessee, where such actions continue for a period of 3 business days following written notice to Lessee. In the event that Lessee commits waste, a nuisance or an illegal activity a second time then, the Lessor may elect to treat such conduct as a non-curable Breach rather than a Default.

(d) The failure by Lessee to provide (i) reasonable written evidence of compliance with Applicable Requirements, (ii) the service contracts, (iii) the rescission of an unauthorized assignment or subletting, (iv) an Estoppel Certificate or financial statements, (v) a requested subordination, (vi) evidence concerning any guaranty and/or Guarantor, (vii) any document requested under Paragraph 42, (viii) material safety data sheets (MSDS), or (ix) any other documentation or information which Lessor may reasonably require of Lessee under the terms of this Lease, where any such failure continues for a period of 10 days following written notice to Lessee.

(e) A Default by Lessee as to the terms, covenants, conditions or provisions of this Lease, or of the rules adopted under Paragraph 40 hereof, other than those described in subparagraphs 13.1(a), (b), (c) or (d), above, where such Default continues for a period of 30 days after written notice; provided, however, that if the nature of Lessee's Default is such that more than 30 days are reasonably required for its cure, then it shall not be deemed to be a Breach if Lessee commences such cure within said 30 day period and thereafter diligently prosecutes such cure to completion.

(f) The occurrence of any of the following events: (i) the making of any general arrangement or assignment for the benefit of creditors; (ii) becoming a "debtor" as defined in 11 U.S.C. § 101 or any successor statute thereto (unless, in the case of a petition filed against Lessee, the same is dismissed within 60 days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where possession is not restored to Lessee within 30 days; or (iv) the attachment, execution or other judicial seizure of substantially all of Lessee's assets located at the Premises or of Lessee's interest in this Lease, where such seizure is not discharged within 30 days; provided, however, in the event that any provision of this subparagraph is contrary to any applicable law, such provision shall be of no force or effect, and not affect the validity of the remaining provisions.

(g) The discovery that any financial statement of Lessee or of any Guarantor given to Lessor was materially false.

(h) If the performance of Lessee's obligations under this Lease is guaranteed: (i) the death of a Guarantor, (ii) the termination of a Guarantor's liability with respect to this Lease other than in accordance with the terms of such guaranty, (iii) a Guarantor's becoming insolvent or the subject of a bankruptcy filing, (iv) a Guarantor's refusal to honor the guaranty, or (v) a Guarantor's breach of its guaranty obligation on an anticipatory basis, and Lessee's failure, within 60 days following written notice of any such event, to provide written alternative assurance or security, which, when coupled with the then existing resources of Lessee, equals or exceeds the combined financial resources of Lessee and the Guarantors that existed at the time of execution of this Lease.

13.2 **Remedies.** If Lessee fails to perform any of its affirmative duties or obligations, within 10 days after written notice (or in case of an emergency, without notice), Lessor may, at its option, perform such duty or obligation on Lessee's behalf, including but not limited to the obtaining of reasonably required bonds, insurance policies, or governmental licenses, permits or approvals. Lessee shall pay to Lessor an amount equal to 115% of the costs and expenses incurred by Lessor in such performance upon receipt of an invoice therefor. In the event of a Breach, Lessor may, with or without further notice or demand, and without limiting Lessor in the exercise of any right or remedy which Lessor may have by reason of such Breach:

(a) Terminate Lessee's right to possession of the Premises by any lawful means, in which case this Lease shall terminate and Lessee shall immediately surrender possession to Lessor. In such event Lessor shall be entitled to recover from Lessee: (i) the unpaid Rent which had been earned at the time of termination; (ii) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of award exceeds the

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amount of such rental loss that the Lessee proves could have been reasonably avoided; (iii) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that the Lessee proves could be reasonably avoided; and (iv) any other amount necessary to compensate Lessor for all the detriment proximately caused by the Lessee's failure to perform its obligations under this Lease or which in the ordinary course of things would be likely to result therefrom, including but not limited to the cost of recovering possession of the Premises, expenses of reletting, including necessary renovation and alteration of the Premises, reasonable attorneys' fees, and that portion of any leasing commission paid by Lessor in connection with this Lease applicable to the unexpired term of this Lease. The worth at the time of award of the amount referred to in provision (iii) of the immediately preceding sentence shall be computed by discounting such amount at the discount rate of the Federal Reserve Bank of the District within which the Premises are located at the time of award plus one percent. Efforts by Lessor to mitigate damages caused by Lessee's Breach of this Lease shall not waive Lessor's right to recover any damages to which Lessor is otherwise entitled. If termination of this Lease is obtained through the provisional remedy of unlawful detainer, Lessor shall have the right to recover in such proceeding any unpaid Rent and damages as are recoverable therein, or Lessor may reserve the right to recover all or any part thereof in a separate suit. If a notice and grace period required under Paragraph 13.1 was not previously given, a notice to pay rent or quit, or to perform or quit given to Lessee under the unlawful detainer statute shall also constitute the notice required by Paragraph 13.1. In such case, the applicable grace period required by Paragraph 13.1 and the unlawful detainer statute shall run concurrently, and the failure of Lessee to cure the Default within the greater of the two such grace periods shall constitute both an unlawful detainer and a Breach of this Lease entitling Lessor to the remedies provided for in this Lease and/or by said statute.

(b) Continue the Lease and Lessee's right to possession and recover the Rent as it becomes due, in which event Lessee may sublet or assign, subject only to reasonable limitations. Acts of maintenance, efforts to relet, and/or the appointment of a receiver to protect the Lessor's interests, shall not constitute a termination of the Lessee's right to possession.

(c) Pursue any other remedy now or hereafter available under the laws or judicial decisions of the state wherein the Premises are located. The expiration or termination of this Lease and/or the termination of Lessee's right to possession shall not relieve Lessee from liability under any indemnity provisions of this Lease as to matters occurring or accruing during the term hereof or by reason of Lessee's occupancy of the Premises.

13.3 Inducement Recapture. Any agreement for free or abated rent or other charges, the cost of tenant improvements for Lessee paid for or performed by Lessor, or for the giving or paying by Lessor to or for Lessee of any cash or other bonus, inducement or consideration for Lessee's entering into this Lease, all of which concessions are hereinafter referred to as "**Inducement Provisions**," shall be deemed conditioned upon Lessee's full and faithful performance of all of the terms, covenants and conditions of this Lease. Upon Breach of this Lease by Lessee, any such Inducement Provision shall automatically be deemed deleted from this Lease and of no further force or effect, and any rent, other charge, bonus, inducement or consideration theretofore abated, given or paid by Lessor under such an Inducement Provision shall be immediately due and payable by Lessee to Lessor, notwithstanding any subsequent cure of said Breach by Lessee. The acceptance by Lessor of rent or the cure of the Breach which initiated the operation of this paragraph shall not be deemed a waiver by Lessor of the provisions of this paragraph unless specifically so stated in writing by Lessor at the time of such acceptance.

13.4 Late Charges. Lessee hereby acknowledges that late payment by Lessee of Rent will cause Lessor to incur costs not contemplated by this Lease, the exact amount of which will be extremely difficult to ascertain. Such costs include, but are not limited to, processing and accounting charges, and late charges which may be imposed upon Lessor by any Lender. Accordingly, if any Rent shall not be received by Lessor within 5 days after such amount shall be due, then, without any requirement for notice to Lessee, Lessee shall immediately pay to Lessor a one-time late charge equal to 10% of each such overdue amount or \$100, whichever is greater. The Parties hereby agree that such late charge represents a fair and reasonable estimate of the costs Lessor will incur by reason of such late payment. Acceptance of such late charge by Lessor shall in no event constitute a waiver of Lessee's Default or Breach with respect to such overdue amount, nor prevent the exercise of any of the other rights and remedies granted hereunder. In the event that a late charge is payable hereunder, whether or not collected, for 3 consecutive installments of Base Rent, then notwithstanding any provision of this Lease to the contrary, Base Rent shall, at Lessor's option, become due and payable quarterly in advance.

13.5 Interest. Any monetary payment due Lessor hereunder, other than late charges, not received by Lessor, when due shall bear interest from the 31st day after it was due. The interest ("**Interest**") charged shall be computed at the rate of 10% per annum but shall not exceed the maximum rate allowed by law. Interest is payable in addition to the potential late charge provided for in Paragraph 13.4.

13.6 Breach by Lessor.

(a) **Notice of Breach.** Lessor shall not be deemed in breach of this Lease unless Lessor fails within a reasonable time to perform an obligation required to be performed by Lessor. For purposes of this Paragraph, a reasonable time shall in no event be less than 30 days after receipt by Lessor, and any Lender whose name and address shall have been furnished to Lessee in writing for such purpose, of written notice specifying wherein such obligation of Lessor has not been performed; provided, however, that if the nature of Lessor's obligation is such that more than 30 days are reasonably required for its performance, then Lessor shall not be in breach if performance is commenced within such 30 day period and thereafter diligently pursued to completion.

(b) **Performance by Lessee on Behalf of Lessor.** In the event that neither Lessor nor Lender cures said breach within 30 days after receipt of said notice, or if having commenced said cure they do not diligently pursue it to completion, then Lessee may elect to cure said breach at Lessee's expense and offset from Rent the actual and reasonable cost to perform such cure, provided however, that such offset shall not exceed an amount equal to the greater of one month's Base Rent or the Security Deposit, reserving Lessee's right to seek reimbursement from Lessor for any such expense in excess of such offset. Lessee shall document the cost of said cure and supply said documentation to Lessor.

14. Condemnation. If the Premises or any portion thereof are taken under the power of eminent domain or sold under the threat of the exercise of said power (collectively "**Condemnation**"), this Lease shall terminate as to the part taken as of the date the condemning authority takes title or possession, whichever first occurs. If more than 10% of the Building, or more than 25% of that portion of the Premises not occupied by any building, is taken by Condemnation, Lessee may, at Lessee's option, to be exercised in writing within 10 days after Lessor shall have given Lessee written notice of such taking (or in the absence of such notice, within 10 days after the condemning authority shall have taken possession) terminate this Lease as of the date the condemning authority takes such possession. If Lessee does not terminate this Lease in accordance with the foregoing, this Lease shall remain in full force and effect as to the portion of the Premises remaining, except that the Base Rent shall be reduced in proportion to the reduction in utility of the Premises caused by such Condemnation. Condemnation awards and/or payments shall be the property of Lessor, whether such award shall be made as compensation for diminution in value of the leasehold, the value of the part taken, or for severance damages; provided, however, that Lessee shall be entitled to any compensation paid by the condemnor for Lessee's relocation expenses, loss of business goodwill and/or Trade Fixtures, without regard to whether or not this Lease is terminated pursuant to the provisions of this Paragraph. All Alterations and Utility Installations made to the Premises by Lessee, for purposes of Condemnation only, shall be considered the property of the Lessee and Lessee shall be entitled to any and all compensation which is payable therefor. In the event that this Lease is not terminated by reason of the Condemnation, Lessor shall repair any damage to the Premises caused by such Condemnation.

15. Brokerage Fees.

~~15.1 Additional Commission.~~ In addition to the payments owed pursuant to Paragraph 1.9 above, Lessor agrees that: (a) if Lessee exercises any Option, (b) if

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~~Lessee or anyone affiliated with Lessee acquires any rights to the Premises or other premises owned by Lessor and located within the same Project, if any, within which the Premises is located, (c) if Lessee remains in possession of the Premises, with the consent of Lessor, after the expiration of this Lease, or (d) if Base Rent is increased, whether by agreement or operation of an escalation clause herein, then, Lessor shall pay Brokers a fee in accordance with the fee schedule of the Brokers in effect at the time the Lease was executed. The provisions of this paragraph are intended to supersede the provisions of any earlier agreement to the contrary.~~

15.2 Assumption of Obligations. Any buyer or transferee of Lessor's interest in this Lease shall be deemed to have assumed Lessor's obligation hereunder. Brokers shall be third party beneficiaries of the provisions of Paragraphs 1.9, 15, 22 and 31. If Lessor fails to pay to Brokers any amounts due as and for brokerage fees pertaining to this Lease when due, then such amounts shall accrue Interest. In addition, if Lessor fails to pay any amounts to Lessee's Broker when due, Lessee's Broker may send written notice to Lessor and Lessee of such failure and if Lessor fails to pay such amounts within 10 days after said notice, Lessee shall pay said monies to its Broker and offset such amounts against Rent. In addition, Lessee's Broker shall be deemed to be a third party beneficiary of any commission agreement entered into by and/or between Lessor and Lessor's Broker for the limited purpose of collecting any brokerage fee owed.

15.3 Representations and Indemnities of Broker Relationships. Lessee and Lessor each represent and warrant to the other that it has had no dealings with any person, firm, broker, agent or finder (other than the Brokers and Agents, if any) in connection with this Lease, and that no one other than said named Brokers and Agents is entitled to any commission or finder's fee in connection herewith. Lessee and Lessor do each hereby agree to indemnify, protect, defend and hold the other harmless from and against liability for compensation or charges which may be claimed by any such unnamed broker, finder or other similar party by reason of any dealings or actions of the indemnifying Party, including any costs, expenses, attorneys' fees reasonably incurred with respect thereto.

16. Estoppel Certificates.

(a) Each Party (as "**Responding Party**") shall within 10 days after written notice from the other Party (the "**Requesting Party**") execute, acknowledge and deliver to the Requesting Party a statement in writing in form similar to the then most current "**Estoppel Certificate**" form published by AIR CRE, plus such additional information, confirmation and/or statements as may be reasonably requested by the Requesting Party.

(b) If the Responding Party shall fail to execute or deliver the Estoppel Certificate within such 10 day period, the Requesting Party may execute an Estoppel Certificate stating that: (i) the Lease is in full force and effect without modification except as may be represented by the Requesting Party, (ii) there are no uncured defaults in the Requesting Party's performance, and (iii) if Lessor is the Requesting Party, not more than one month's rent has been paid in advance. Prospective purchasers and encumbrancers may rely upon the Requesting Party's Estoppel Certificate, and the Responding Party shall be estopped from denying the truth of the facts contained in said Certificate. In addition, Lessee acknowledges that any failure on its part to provide such an Estoppel Certificate will expose Lessor to risks and potentially cause Lessor to incur costs not contemplated by this Lease, the extent of which will be extremely difficult to ascertain. Accordingly, should the Lessee fail to execute and/or deliver a requested Estoppel Certificate in a timely fashion the monthly Base Rent shall be automatically increased, without any requirement for notice to Lessee, by an amount equal to 10% of the then existing Base Rent or \$100, whichever is greater for remainder of the Lease. The Parties agree that such increase in Base Rent represents fair and reasonable compensation for the additional risk/costs that Lessor will incur by reason of Lessee's failure to provide the Estoppel Certificate. Such increase in Base Rent shall in no event constitute a waiver of Lessee's Default or Breach with respect to the failure to provide the Estoppel Certificate nor prevent the exercise of any of the other rights and remedies granted hereunder.

(c) If Lessor desires to finance, refinance, or sell the Premises, or any part thereof, Lessee and all Guarantors shall within 10 days after written notice from Lessor deliver to any potential lender or purchaser designated by Lessor such financial statements as may be reasonably required by such lender or purchaser, including but not limited to Lessee's financial statements for the past 3 years. All such financial statements shall be received by Lessor and such lender or purchaser in confidence and shall be used only for the purposes herein set forth.

17. Definition of Lessor. The term "**Lessor**" as used herein shall mean the owner or owners at the time in question of the fee title to the Premises, or, if this is a sublease, of the Lessee's interest in the prior lease. In the event of a transfer of Lessor's title or interest in the Premises or this Lease, Lessor shall deliver to the transferee or assignee (in cash or by credit) any unused Security Deposit held by Lessor. Upon such transfer or assignment and delivery of the Security Deposit, as aforesaid, the prior Lessor shall be relieved of all liability with respect to the obligations and/or covenants under this Lease thereafter to be performed by the Lessor. Subject to the foregoing, the obligations and/or covenants in this Lease to be performed by the Lessor shall be binding only upon the Lessor as hereinabove defined.

18. Severability. The invalidity of any provision of this Lease, as determined by a court of competent jurisdiction, shall in no way affect the validity of any other provision hereof.

19. Days. Unless otherwise specifically indicated to the contrary, the word "**days**" as used in this Lease shall mean and refer to calendar days.

20. Limitation on Liability. The obligations of Lessor under this Lease shall not constitute personal obligations of Lessor, or its partners, members, directors, officers or shareholders, and Lessee shall look to the Premises, and to no other assets of Lessor, for the satisfaction of any liability of Lessor with respect to this Lease, and shall not seek recourse against Lessor's partners, members, directors, officers or shareholders, or any of their personal assets for such satisfaction.

21. Time of Essence. Time is of the essence with respect to the performance of all obligations to be performed or observed by the Parties under this Lease.

22. No Prior or Other Agreements; Broker Disclaimer. This Lease contains all agreements between the Parties with respect to any matter mentioned herein, and no other prior or contemporaneous agreement or understanding shall be effective. Lessor and Lessee each represents and warrants to the Brokers that it has made, and is relying solely upon, its own investigation as to the nature, quality, character and financial responsibility of the other Party to this Lease and as to the use, nature, quality and character of the Premises. Brokers have no responsibility with respect thereto or with respect to any default or breach hereof by either Party.

23. Notices.

23.1 Notice Requirements. All notices required or permitted by this Lease or applicable law shall be in writing and may be delivered in person (by hand or by courier) or may be sent by regular, certified or registered mail or U.S. Postal Service Express Mail, with postage prepaid, or by facsimile transmission, or by email, and shall be deemed sufficiently given if served in a manner specified in this Paragraph 23. The addresses noted adjacent to a Party's signature on this Lease shall be that Party's address for delivery or mailing of notices. Either Party may by written notice to the other specify a different address for notice, except that upon Lessee's taking possession of the Premises, the Premises shall constitute Lessee's address for notice. A copy of all notices to Lessor shall be concurrently transmitted to such party or parties at such addresses as Lessor may from time to time hereafter designate in writing.

23.2 Date of Notice. Any notice sent by registered or certified mail, return receipt requested, shall be deemed given on the date of delivery shown on the receipt card, or if no delivery date is shown, the postmark thereon. If sent by regular mail the notice shall be deemed given 72 hours after the same is addressed as required herein and mailed with postage prepaid. Notices delivered by United States Express Mail or overnight courier that guarantees next day delivery shall be deemed given 24 hours after delivery of the same to the Postal Service or courier. Notices delivered by hand, or transmitted by facsimile transmission or by email shall be deemed delivered upon actual receipt. If notice is received on a Saturday, Sunday or legal holiday, it shall be deemed received on the next business day.

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23.3 **Options.** Notwithstanding the foregoing, in order to exercise any Options (see paragraph 39), the Notice must be sent by Certified Mail (return receipt requested), Express Mail (signature required), courier (signature required) or some other methodology that provides a receipt establishing the date the notice was received by the Lessor.

24. Waivers.

(a) No waiver by Lessor of the Default or Breach of any term, covenant or condition hereof by Lessee, shall be deemed a waiver of any other term, covenant or condition hereof, or of any subsequent Default or Breach by Lessee of the same or of any other term, covenant or condition hereof. Lessor's consent to, or approval of, any act shall not be deemed to render unnecessary the obtaining of Lessor's consent to, or approval of, any subsequent or similar act by Lessee, or be construed as the basis of an estoppel to enforce the provision or provisions of this Lease requiring such consent.

(b) The acceptance of Rent by Lessor shall not be a waiver of any Default or Breach by Lessee. Any payment by Lessee may be accepted by Lessor on account of monies or damages due Lessor, notwithstanding any qualifying statements or conditions made by Lessee in connection therewith, which such statements and/or conditions shall be of no force or effect whatsoever unless specifically agreed to in writing by Lessor at or before the time of deposit of such payment.

(c) THE PARTIES AGREE THAT THE TERMS OF THIS LEASE SHALL GOVERN WITH REGARD TO ALL MATTERS RELATED THERETO AND HEREBY WAIVE THE PROVISIONS OF ANY PRESENT OR FUTURE STATUTE TO THE EXTENT THAT SUCH STATUTE IS INCONSISTENT WITH THIS LEASE.

25. Disclosures Regarding the Nature of a Real Estate Agency Relationship.

(a) When entering into a discussion with a real estate agent regarding a real estate transaction, a Lessor or Lessee should from the outset understand what type of agency relationship or representation it has with the agent or agents in the transaction. Lessor and Lessee acknowledge being advised by the Brokers in this transaction, as follows:

(i) Lessor's Agent. A Lessor's agent under a listing agreement with the Lessor acts as the agent for the Lessor only. A Lessor's agent or subagent has the following affirmative obligations: To the Lessor: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessor. To the Lessee and the Lessor: (a) Diligent exercise of reasonable skills and care in performance of the agent's duties. (b) A duty of honest and fair dealing and good faith. (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(ii) Lessee's Agent. An agent can agree to act as agent for the Lessee only. In these situations, the agent is not the Lessor's agent, even if by agreement the agent may receive compensation for services rendered, either in full or in part from the Lessor. An agent acting only for a Lessee has the following affirmative obligations. To the Lessee: A fiduciary duty of utmost care, integrity, honesty, and loyalty in dealings with the Lessee. To the Lessee and the Lessor: (a) Diligent exercise of reasonable skills and care in performance of the agent's duties. (b) A duty of honest and fair dealing and good faith. (c) A duty to disclose all facts known to the agent materially affecting the value or desirability of the property that are not known to, or within the diligent attention and observation of, the Parties. An agent is not obligated to reveal to either Party any confidential information obtained from the other Party which does not involve the affirmative duties set forth above.

(iii) Agent Representing Both Lessor and Lessee. A real estate agent, either acting directly or through one or more associate licensees, can legally be the agent of both the Lessor and the Lessee in a transaction, but only with the knowledge and consent of both the Lessor and the Lessee. In a dual agency situation, the agent has the following affirmative obligations to both the Lessor and the Lessee: (a) A fiduciary duty of utmost care, integrity, honesty and loyalty in the dealings with either Lessor or the Lessee. (b) Other duties to the Lessor and the Lessee as stated above in subparagraphs (i) or (ii). In representing both Lessor and Lessee, the agent may not, without the express permission of the respective Party, disclose to the other Party confidential information, including, but not limited to, facts relating to either Lessee's or Lessor's financial position, motivations, bargaining position, or other personal information that may impact rent, including Lessor's willingness to accept a rent less than the listing rent or Lessee's willingness to pay rent greater than the rent offered. The above duties of the agent in a real estate transaction do not relieve a Lessor or Lessee from the responsibility to protect their own interests. Lessor and Lessee should carefully read all agreements to assure that they adequately express their understanding of the transaction. A real estate agent is a person qualified to advise about real estate. If legal or tax advice is desired, consult a competent professional. Both Lessor and Lessee should strongly consider obtaining tax advice from a competent professional because the federal and state tax consequences of a transaction can be complex and subject to change.

(b) Brokers have no responsibility with respect to any default or breach hereof by either Party. The Parties agree that no lawsuit or other legal proceeding involving any breach of duty, error or omission relating to this Lease may be brought against Broker more than one year after the Start Date and that the liability (including court costs and attorneys' fees), of any Broker with respect to any such lawsuit and/or legal proceeding shall not exceed the fee received by such Broker pursuant to this Lease; provided, however, that the foregoing limitation on each Broker's liability shall not be applicable to any gross negligence or willful misconduct of such Broker.

(c) Lessor and Lessee agree to identify to Brokers as "Confidential" any communication or information given Brokers that is considered by such Party to be confidential.

26. No Right To Holdover. Lessee has no right to retain possession of the Premises or any part thereof beyond the expiration or termination of this Lease. At or prior to the expiration or termination of this Lease Lessee shall deliver exclusive possession of the Premises to Lessor. For purposes of this provision and Paragraph 13.1(a), exclusive possession shall mean that Lessee shall have vacated the Premises, removed all of its personal property therefrom and that the Premises have been returned in the condition specified in this Lease. In the event that Lessee does not deliver exclusive possession to Lessor as specified above, then Lessor's damages during any holdover period shall be computed at the amount of the Rent (as defined in Paragraph 4.1) due during the last full month before the expiration or termination of this Lease (disregarding any temporary abatement of Rent that may have been in effect), but with Base Rent being 150% of the Base Rent payable during such last full month. Nothing contained herein shall be construed as consent by Lessor to any holding over by Lessee.

27. Cumulative Remedies. No remedy or election hereunder shall be deemed exclusive but shall, wherever possible, be cumulative with all other remedies at law or in equity.

28. Covenants and Conditions; Construction of Agreement. All provisions of this Lease to be observed or performed by Lessee are both covenants and conditions. In construing this Lease, all headings and titles are for the convenience of the Parties only and shall not be considered a part of this Lease. Whenever required by the context, the singular shall include the plural and vice versa. This Lease shall not be construed as if prepared by one of the Parties, but rather according to its fair meaning as a whole, as if both Parties had prepared it.

29. Binding Effect; Choice of Law. This Lease shall be binding upon the Parties, their personal representatives, successors and assigns and be governed by the laws of the State in which the Premises are located. Any litigation between the Parties hereto concerning this Lease shall be initiated in the county in which the Premises are located. Signatures to this Lease accomplished by means of electronic signature or similar technology shall be legal and binding.

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30. Subordination; Attornment; Non-Disturbance.

30.1 Subordination. This Lease and any Option granted hereby shall be subject and subordinate to any ground lease, mortgage, deed of trust, or other hypothecation or security device (collectively, "**Security Device**"), now or hereafter placed upon the Premises, to any and all advances made on the security thereof, and to all renewals, modifications, and extensions thereof. Lessee agrees that the holders of any such Security Devices (in this Lease together referred to as "**Lender**") shall have no liability or obligation to perform any of the obligations of Lessor under this Lease. Any Lender may elect to have this Lease and/or any Option granted hereby superior to the lien of its Security Device by giving written notice thereof to Lessee, whereupon this Lease and such Options shall be deemed prior to such Security Device, notwithstanding the relative dates of the documentation or recordation thereof.

30.2 Attornment. In the event that Lessor transfers title to the Premises, or the Premises are acquired by another upon the foreclosure or termination of a Security Device to which this Lease is subordinated (i) Lessee shall, subject to the non-disturbance provisions of Paragraph 30.3, attorn to such new owner, and upon request, enter into a new lease, containing all of the terms and provisions of this Lease, with such new owner for the remainder of the term hereof, or, at the election of the new owner, this Lease will automatically become a new lease between Lessee and such new owner, and (ii) Lessor shall thereafter be relieved of any further obligations hereunder and such new owner shall assume all of Lessor's obligations, except that such new owner shall not: (a) be liable for any act or omission of any prior lessor or with respect to events occurring prior to acquisition of ownership; (b) be subject to any offsets or defenses which Lessee might have against any prior lessor, (c) be bound by prepayment of more than one month's rent, or (d) be liable for the return of any security deposit paid to any prior lessor which was not paid or credited to such new owner.

30.3 Non-Disturbance. With respect to Security Devices entered into by Lessor after the execution of this Lease, Lessee's subordination of this Lease shall be subject to receiving a commercially reasonable non-disturbance agreement (a "**Non-Disturbance Agreement**") from the Lender which Non-Disturbance Agreement provides that Lessee's possession of the Premises, and this Lease, including any options to extend the term hereof, will not be disturbed so long as Lessee is not in Breach hereof and attorns to the record owner of the Premises. Further, within 60 days after the execution of this Lease, Lessor shall, if requested by Lessee, use its commercially reasonable efforts to obtain a Non-Disturbance Agreement from the holder of any pre-existing Security Device which is secured by the Premises. In the event that Lessor is unable to provide the Non-Disturbance Agreement within said 60 days, then Lessee may, at Lessee's option, directly contact Lender and attempt to negotiate for the execution and delivery of a Non-Disturbance Agreement.

30.4 Self-Executing. The agreements contained in this Paragraph 30 shall be effective without the execution of any further documents; provided, however, that, upon written request from Lessor or a Lender in connection with a sale, financing or refinancing of the Premises, Lessee and Lessor shall execute such further writings as may be reasonably required to separately document any subordination, attornment and/or Non-Disturbance Agreement provided for herein.

31. Attorneys' Fees. If any Party or Broker brings an action or proceeding involving the Premises whether founded in tort, contract or equity, or to declare rights hereunder, the Prevailing Party (as hereafter defined) in any such proceeding, action, or appeal thereon, shall be entitled to reasonable attorneys' fees. Such fees may be awarded in the same suit or recovered in a separate suit, whether or not such action or proceeding is pursued to decision or judgment. The term, "**Prevailing Party**" shall include, without limitation, a Party or Broker who substantially obtains or defeats the relief sought, as the case may be, whether by compromise, settlement, judgment, or the abandonment by the other Party or Broker of its claim or defense. The attorneys' fees award shall not be computed in accordance with any court fee schedule, but shall be such as to fully reimburse all attorneys' fees reasonably incurred. In addition, Lessor shall be entitled to attorneys' fees, costs and expenses incurred in the preparation and service of notices of Default and consultations in connection therewith, whether or not a legal action is subsequently commenced in connection with such Default or resulting Breach (\$200 is a reasonable minimum per occurrence for such services and consultation).

32. Lessor's Access; Showing Premises; Repairs. Lessor and Lessor's agents shall have the right to enter the Premises at any time, in the case of an emergency, and otherwise at reasonable times after reasonable prior notice for the purpose of showing the same to prospective purchasers, lenders, or tenants, and making such alterations, repairs, improvements or additions to the Premises as Lessor may deem necessary or desirable and the erecting, using and maintaining of utilities, services, pipes and conduits through the Premises and/or other premises as long as there is no material adverse effect on Lessee's use of the Premises. All such activities shall be without abatement of rent or liability to Lessee.

33. Auctions. Lessee shall not conduct, nor permit to be conducted, any auction upon the Premises without Lessor's prior written consent. Lessor shall not be obligated to exercise any standard of reasonableness in determining whether to permit an auction.

34. Signs. Lessor may place on the Premises ordinary "For Sale" signs at any time and ordinary "For Lease" signs during the last 6 months of the term hereof. Except for ordinary "for sublease" signs, Lessee shall not place any sign upon the Premises without Lessor's prior written consent. All signs must comply with all Applicable Requirements.

35. Termination; Merger. Unless specifically stated otherwise in writing by Lessor, the voluntary or other surrender of this Lease by Lessee, the mutual termination or cancellation hereof, or a termination hereof by Lessor for Breach by Lessee, shall automatically terminate any sublease or lesser estate in the Premises; provided, however, that Lessor may elect to continue any one or all existing subtenancies. Lessor's failure within 10 days following any such event to elect to the contrary by written notice to the holder of any such lesser interest, shall constitute Lessor's election to have such event constitute the termination of such interest.

36. Consents. All requests for consent shall be in writing. Except as otherwise provided herein, wherever in this Lease the consent of a Party is required to an act by or for the other Party, such consent shall not be unreasonably withheld or delayed. Lessor's actual reasonable costs and expenses (including but not limited to architects', attorneys', engineers' and other consultants' fees) incurred in the consideration of, or response to, a request by Lessee for any Lessor consent, including but not limited to consents to an assignment, a subletting or the presence or use of a Hazardous Substance, shall be paid by Lessee upon receipt of an invoice and supporting documentation therefor. Lessor's consent to any act, assignment or subletting shall not constitute an acknowledgment that no Default or Breach by Lessee of this Lease exists, nor shall such consent be deemed a waiver of any then existing Default or Breach, except as may be otherwise specifically stated in writing by Lessor at the time of such consent. The failure to specify herein any particular condition to Lessor's consent shall not preclude the imposition by Lessor at the time of consent of such further or other conditions as are then reasonable with reference to the particular matter for which consent is being given. In the event that either Party disagrees with any determination made by the other hereunder and reasonably requests the reasons for such determination, the determining party shall furnish its reasons in writing and in reasonable detail within 10 business days following such request.

37. Guarantor.

37.1 Execution. The Guarantors, if any, shall each execute a guaranty in the form most recently published by AIR CRE.

37.2 Default. It shall constitute a Default of the Lessee if any Guarantor fails or refuses, upon request to provide: (a) evidence of the execution of the guaranty, including the authority of the party signing on Guarantor's behalf to obligate Guarantor, and in the case of a corporate Guarantor, a certified copy of a resolution of its board of directors authorizing the making of such guaranty, (b) current financial statements, (c) an Estoppel Certificate, or (d) written confirmation that the guaranty is still in effect.

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38. Quiet Possession. Subject to payment by Lessee of the Rent and performance of all of the covenants, conditions and provisions on Lessee's part to be observed and performed under this Lease, Lessee shall have quiet possession and quiet enjoyment of the Premises during the term hereof.

39. Options. If Lessee is granted any Option, as defined below, then the following provisions shall apply.

39.1 Definition. "Option" shall mean: (a) the right to extend or reduce the term of or renew this Lease or to extend or reduce the term of or renew any lease that Lessee has on other property of Lessor; (b) the right of first refusal or first offer to lease either the Premises or other property of Lessor; (c) the right to purchase, the right of first offer to purchase or the right of first refusal to purchase the Premises or other property of Lessor.

39.2 Options Personal To Original Lessee. Any Option granted to Lessee in this Lease is personal to the original Lessee, and cannot be assigned or exercised by anyone other than said original Lessee and only while the original Lessee is in full possession of the Premises and, if requested by Lessor, with Lessee certifying that Lessee has no intention of thereafter assigning or subletting.

39.3 Multiple Options. In the event that Lessee has any multiple Options to extend or renew this Lease, a later Option cannot be exercised unless the prior Options have been validly exercised.

39.4 Effect of Default on Options.

(a) Lessee shall have no right to exercise an Option: (i) during the period commencing with the giving of any notice of Default and continuing until said Default is cured, (ii) during the period of time any Rent is unpaid (without regard to whether notice thereof is given Lessee), (iii) during the time Lessee is in Breach of this Lease, or (iv) in the event that Lessee has been given 3 or more notices of separate Default, whether or not the Defaults are cured, during the 12 month period immediately preceding the exercise of the Option.

(b) The period of time within which an Option may be exercised shall not be extended or enlarged by reason of Lessee's inability to exercise an Option because of the provisions of Paragraph 39.4(a).

(c) An Option shall terminate and be of no further force or effect, notwithstanding Lessee's due and timely exercise of the Option, if, after such exercise and prior to the commencement of the extended term or completion of the purchase, (i) Lessee fails to pay Rent for a period of 30 days after such Rent becomes due (without any necessity of Lessor to give notice thereof), or (ii) if Lessee commits a Breach of this Lease.

40. Multiple Buildings. If the Premises are a part of a group of buildings controlled by Lessor, Lessee agrees that it will abide by and conform to all reasonable rules and regulations which Lessor may make from time to time for the management, safety, and care of said properties, including the care and cleanliness of the grounds and including the parking, loading and unloading of vehicles, and to cause its employees, suppliers, shippers, customers, contractors and invitees to so abide and conform. Lessee also agrees to pay its fair share of common expenses incurred in connection with such rules and regulations.

41. Security Measures. Lessee hereby acknowledges that the Rent payable to Lessor hereunder does not include the cost of guard service or other security measures, and that Lessor shall have no obligation whatsoever to provide same. Lessee assumes all responsibility for the protection of the Premises, Lessee, its agents and invitees and their property from the acts of third parties.

42. Reservations. Lessor reserves to itself the right, from time to time, to grant, without the consent or joinder of Lessee, such easements, rights and dedications that Lessor deems necessary, and to cause the recordation of parcel maps and restrictions, so long as such easements, rights, dedications, maps and restrictions do not unreasonably interfere with the use of the Premises by Lessee. Lessee agrees to sign any documents reasonably requested by Lessor to effectuate any such easement rights, dedication, map or restrictions.

43. Performance Under Protest. If at any time a dispute shall arise as to any amount or sum of money to be paid by one Party to the other under the provisions hereof, the Party against whom the obligation to pay the money is asserted shall have the right to make payment "under protest" and such payment shall not be regarded as a voluntary payment and there shall survive the right on the part of said Party to institute suit for recovery of such sum. If it shall be adjudged that there was no legal obligation on the part of said Party to pay such sum or any part thereof, said Party shall be entitled to recover such sum or so much thereof as it was not legally required to pay. A Party who does not initiate suit for the recovery of sums paid "under protest" within 6 months shall be deemed to have waived its right to protest such payment.

44. Authority; Multiple Parties; Execution.

(a) If either Party hereto is a corporation, trust, limited liability company, partnership, or similar entity, each individual executing this Lease on behalf of such entity represents and warrants that he or she is duly authorized to execute and deliver this Lease on its behalf. Each Party shall, within 30 days after request, deliver to the other Party satisfactory evidence of such authority.

(b) If this Lease is executed by more than one person or entity as "Lessee", each such person or entity shall be jointly and severally liable hereunder. It is agreed that any one of the named Lessees shall be empowered to execute any amendment to this Lease, or other document ancillary thereto and bind all of the named Lessees, and Lessor may rely on the same as if all of the named Lessees had executed such document.

(c) This Lease may be executed by the Parties in counterparts, each of which shall be deemed an original and all of which together shall constitute one and the same instrument.

45. Conflict. Any conflict between the printed provisions of this Lease and the typewritten or handwritten provisions shall be controlled by the typewritten or handwritten provisions.

46. Offer. Preparation of this Lease by either Party or their agent and submission of same to the other Party shall not be deemed an offer to lease to the other Party. This Lease is not intended to be binding until executed and delivered by all Parties hereto.

47. Amendments. This Lease may be modified only in writing, signed by the Parties in interest at the time of the modification. As long as they do not materially change Lessee's obligations hereunder, Lessee agrees to make such reasonable non-monetary modifications to this Lease as may be reasonably required by a Lender in connection with the obtaining of normal financing or refinancing of the Premises.

48. Waiver of Jury Trial. THE PARTIES HEREBY WAIVE THEIR RESPECTIVE RIGHTS TO TRIAL BY JURY IN ANY ACTION OR PROCEEDING INVOLVING THE PROPERTY OR ARISING OUT OF THIS LEASE.

49. Arbitration of Disputes. An Addendum requiring the Arbitration of all disputes between the Parties and/or Brokers arising out of this Lease is is not attached to this Lease.

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50. Accessibility; Americans with Disabilities Act.

(a) The Premises:

have not undergone an inspection by a Certified Access Specialist (CASp). Note: A Certified Access Specialist (CASp) can inspect the subject premises and determine whether the subject premises comply with all of the applicable construction-related accessibility standards under state law. Although state law does not require a CASp inspection of the subject premises, the commercial property owner or lessor may not prohibit the lessee or tenant from obtaining a CASp inspection of the subject premises for the occupancy or potential occupancy of the lessee or tenant, if requested by the lessee or tenant. The parties shall mutually agree on the arrangements for the time and manner of the CASp inspection, the payment of the fee for the CASp inspection, and the cost of making any repairs necessary to correct violations of construction-related accessibility standards within the premises.

have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises met all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq. Lessee acknowledges that it received a copy of the inspection report at least 48 hours prior to executing this Lease and agrees to keep such report confidential.

have undergone an inspection by a Certified Access Specialist (CASp) and it was determined that the Premises did not meet all applicable construction-related accessibility standards pursuant to California Civil Code §55.51 et seq. Lessee acknowledges that it received a copy of the inspection report at least 48 hours prior to executing this Lease and agrees to keep such report confidential except as necessary to complete repairs and corrections of violations of construction related accessibility standards.

In the event that the Premises have been issued an inspection report by a CASp the Lessor shall provide a copy of the disability access inspection certificate to Lessee within 7 days of the execution of this Lease.

(b) Since compliance with the Americans with Disabilities Act (ADA) and other state and local accessibility statutes are dependent upon Lessee's specific use of the Premises, Lessor makes no warranty or representation as to whether or not the Premises comply with ADA or any similar legislation. In the event that Lessee's use of the Premises requires modifications or additions to the Premises in order to be in compliance with ADA or other accessibility statutes, Lessee agrees to make any such necessary modifications and/or additions at Lessee's expense.-

51. Rent Schedule. Monthly Base Rent shall be due and paid per the following schedule:

Year 1	\$11,385.00
Year 2	\$11,669.68
Year 3	\$11,961.37
Year 4	\$12,260.40
Year 5	\$12,566.91

52. Term Options. Provided Lessee is not then in default and is still in possession of the Premises, Lessee shall have one (1) Option to Extend the term for an additional five (5) years, commencing immediately after the end of the initial Term. All terms and conditions of the Lease would remain the same during the extended term, except for the schedule of Monthly Base Rent, which would be subject to negotiation between the parties. In order to exercise an Option, Lessee shall be required to give Lessor written notice of such intention on or before One Hundred Eighty (180) days before the expiration of the current term, or else the Option shall thereafter be deemed null and void. Once Lessee has given Lessor the required notice to exercise the Option, the schedule of Monthly Base Rent shall be agreed upon in writing no later than One Hundred Twenty (120) days before the expiration of the current term, or else the Option shall thereafter be deemed null and void.

53. Electronic Signatures. Each party agrees that this Agreement and any other documents to be delivered in connection herewith may be delivered electronically, or electronically signed, and that any electronic signatures appearing on this Agreement, other related documents, or any amendment thereto, shall be binding to the same extent as an original signature, for the purposes of validity, enforceability, and admissibility.

54. Additional Lessor Work. In addition to the Monthly Base Rent quoted in the Rent Schedule in paragraph 51 of this Lease, Lessee shall pay an additional amount every month of the initial Term of the Lease which represents the amortization over the initial Term, with interest, of the following listed upgraded or additional tenant improvements installed by Lessor to the Premises: two electronically and remotely controlled vehicle gates, additional electric drops in the warehouse, four electronically and remotely controlled roll-up doors to the warehouse, an HVAC supply to the designated IT closet. This additional work and their costs are to be approved by Lessee prior to installation and Lessor's actual costs will be confirmed with paid invoices plus a 10% supervision fee and then an additional Rent calculation documented in a Lease Amendment for signature by the parties.

55. Building Completion. Lessor shall deliver possession of the leased Premises to Lessee within five (5) business days of the approved Final construction inspection by the City of Clovis. That date of possession shall commence the Original Term of this Lease and shall be documented by a Commencement Date

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Memorandum signed by both Lessor and Lessee. If the Commencement Date is not the first day of the month, the period between that Date and the first of the day of the next full month shall be prorated and the beginning of that next month shall commence the Original Term. As of the date of this Lease the estimated completion date for the Premises is September 1, 2026.

LESSOR AND LESSEE HAVE CAREFULLY READ AND REVIEWED THIS LEASE AND EACH TERM AND PROVISION CONTAINED HEREIN, AND BY THE EXECUTION OF THIS LEASE SHOW THEIR INFORMED AND VOLUNTARY CONSENT THERETO. THE PARTIES HEREBY AGREE THAT, AT THE TIME THIS LEASE IS EXECUTED, THE TERMS OF THIS LEASE ARE COMMERCIALY REASONABLE AND EFFECTUATE THE INTENT AND PURPOSE OF LESSOR AND LESSEE WITH RESPECT TO THE PREMISES.

ATTENTION: NO REPRESENTATION OR RECOMMENDATION IS MADE BY AIR CRE OR BY ANY BROKER AS TO THE LEGAL SUFFICIENCY, LEGAL EFFECT, OR TAX CONSEQUENCES OF THIS LEASE OR THE TRANSACTION TO WHICH IT RELATES. THE PARTIES ARE URGED TO:

1. SEEK ADVICE OF COUNSEL AS TO THE LEGAL AND TAX CONSEQUENCES OF THIS LEASE.
2. RETAIN APPROPRIATE CONSULTANTS TO REVIEW AND INVESTIGATE THE CONDITION OF THE PREMISES. SAID INVESTIGATION SHOULD INCLUDE BUT NOT BE LIMITED TO: THE POSSIBLE PRESENCE OF HAZARDOUS SUBSTANCES, THE ZONING OF THE PREMISES, THE STRUCTURAL INTEGRITY, THE CONDITION OF THE ROOF AND OPERATING SYSTEMS, AND THE SUITABILITY OF THE PREMISES FOR LESSEE'S INTENDED USE.

WARNING: IF THE PREMISES ARE LOCATED IN A STATE OTHER THAN CALIFORNIA, CERTAIN PROVISIONS OF THE LEASE MAY NEED TO BE REVISED TO COMPLY WITH THE LAWS OF THE STATE IN WHICH THE PREMISES ARE LOCATED.

The parties hereto have executed this Lease at the place and on the dates specified above their respective signatures.

Executed at: _____

On: _____

By LESSOR:

Clovis Industrial Park, Inc.

By: _____

Name Printed: Shelley Wathen-Cox

Title: President

Phone: _____

Fax: _____

Email: _____

By: _____

Name Printed: Cindy Wathen

Title: Secretary

Phone: _____

Fax: _____

Email: _____

Address: c/o Siegel & Co., 5305 N. Fresno
Street #108, Fresno, CA, 93710

Federal ID No.: _____

BROKER

David S Siegel & Co., Inc.

Attn: Douglas M. Holton

Title: President

Address: 5305 N. Fresno Street #108, Fresno,
CA, 93710

Phone: (559) 438-0733

Fax: (559) 432-0504

Email: dholton@siegelandco.com

Federal ID No.: 58-2671775

Broker DRE License #: 01391246

Agent DRE License #: 00966937

Executed at: _____

On: _____

By LESSEE:

City of Clovis

By: _____

Name Printed: _____

Title: _____

Phone: _____

Fax: _____

Email: _____

By: _____

Name Printed: _____

Title: _____

Phone: _____

Fax: _____

Email: _____

Address: _____

Federal ID No.: _____

BROKER

n/a

Attn: n/a

Title: _____

Address: _____

Phone: _____

Fax: _____

Email: _____

Federal ID No.: _____

Broker DRE License #: _____

Agent DRE License #: _____

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CITY of CLOVIS

Report to the City Council

To: City Council

From: Public Utilities Department

Date: June 15, 2026

Staff: Glenn Eastes, Assistant Public Utilities Director

Subject: Public Utilities – Approval – Award Non-Exclusive Franchise Agreements for Hauling of Construction and Demolition Debris, and Update the City’s Approved Hauler List.

Recommendation: Approve

Attachments: 1. C&D Hauler Agreements ATT 1 Approved Hauler List

Recommendation:

For the City Council to award non-exclusive construction and demolition (C&D) hauling franchise agreements for two (2) years to the following haulers:

1. Clovis Recycling, Inc. (dba: C&W Enterprises)
2. F-N-F Roll-Off Service
3. Accurate Cleaning Systems
4. Hinojosa Cleanup Service (HCS 007)
5. Green Valley Recycling, Inc. (dba: Kochergen Farms Composting, Inc.)

Executive Summary:

On May 6, 2013, the City Council adopted Ordinance 13-12, pertaining to the recycling and diversion of construction and demolition (C&D) debris. One of the requirements of this ordinance is that all entities hauling C&D debris in the City of Clovis must apply for and be awarded a non-exclusive C&D hauling franchise agreement. This year, the City received five applications, all of which are renewing their current agreements that are set to expire on June 30, 2026. Staff have reviewed the applications for completeness and are recommending that all applicants be awarded two-year non-exclusive C&D hauling franchise agreements and be added to the City’s updated list of approved haulers, which goes into effect on July 1, 2026.

Background:

AB 939 – the California Waste Management Act of 1989 (Public Resources Code §§ 40000 et seq.) – along with the California Green Building Standards Code (CCR, Title 24, Part 11), also known as CALGreen – require the City of Clovis to prepare, adopt, and implement source reduction and

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

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

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

The City's C&D policy also establishes and annually updates the "Approved Hauler List" (Attachment 1), which lists every hauler that is currently authorized to haul C&D debris within the City of Clovis. The list separates haulers based on the expiration date of their agreement; therefore, the updated list will include both the haulers that are being added or renewed this year and the haulers whose two-year agreements are in effect until next year.

Fiscal Impact:

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

Reason for Recommendation:

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

Actions Following Approval:

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

Conflict of Interest:

None.

APPROVED CONSTRUCTION AND DEMOLITION DEBRIS (C&D) HAULERS

Approval valid through 07-01-2027

Republic Services of Fresno
5501 N. Golden State Boulevard
Fresno, CA 93722
(559) 275-1551
www.republicservices.com

Nick's Trucking, Inc.
183 W. Indianapolis Ave.
Fresno, CA 93705
(559) 281-2267

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

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

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

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

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

Legacy Construction Debris Service
1968 N. Gateway Boulevard, Ste. 103
Fresno, CA 93727
(559) 251-1605

True Clean Construction Cleanup, Inc.
2505 E. Oakdale Avenue
Tulare, CA 93274
(559) 936-7557

Valley Dumpster Service LLC
1187 N. Willow, Ste.103 #314
Clovis, CA 93611
(559) 999-5797
www.valleydumpsterservice.com

Dumpster Connection, LLC
1865 Herndon Avenue K-300
Clovis, CA 93611
(559) 894-8863
www.dumpsterconnection.org

Approval valid through 07-01-2028

C&W Enterprises, Inc.
1059 Hoblitt Avenue
Clovis, CA 93612
(559) 325-2128
www.cnwenterprises.com

Hinojosa Cleanup Service (HCS 007)
777 Minnewawa Avenue, Suite 2
Clovis, CA 93612
(559) 647-2602
www.hcs007inc.com

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

Green Valley Recycling Inc.
2365 E North Avenue
Fresno, CA 93725
(559) 266-2650
www.greenvalleyrecycling.com

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



CITY of CLOVIS

Report to the City Council

To: City Council
From: Public Utilities Department
Date: June 15, 2026
Staff: Rey Empleo, Supervising Civil Engineer
Subject: Public Utilities – Approval – Bid Award for PUD 24-03, 2026 Landfill Gas Collection and Control System Improvements at the Clovis Landfill, to BSE General Engineering, Inc., in the Amount of \$392,228.00; and Authorize the City Manager to Execute the Contract on Behalf of the City.

Recommendation: Approve

Attachments: None

Recommendation:

For the City Council to award a contract for PUD 24-03, 2026 Landfill Gas Collection and Control System Improvements at the Clovis Landfill, to BSE General Engineering, Inc., in the amount of \$392,228.00; and authorize the City Manager to enter into an agreement on behalf of the City.

Executive Summary:

Staff is recommending that City Council authorize the City Manager to award and execute the contract with BSE General Engineering, Inc., in the amount of \$392,228.00. BSE General Engineering, Inc., was the lowest responsible bidder from the bid opening that took place on May 26, 2026.

The project involves furnishing, installation, and/or construction of landfill gas collection control system and associated components, landfill gas extraction wells and wellheads, horizontal collectors, and all additional work necessary for the 2026 landfill gas collection and control system improvements at the Clovis Landfill.

Background:

The following is a summary of bids received on May 26, 2026.

BIDDERS	BASE BID
BSE General Engineering, Inc.	\$392,228.00
Blue Flame Crew West, LLC	\$525,345.00
Biogas Engineering	\$674,087.27

ENGINEER'S ESTIMATE \$661,530.00

All bids were examined and found to be in order, except for a few arithmetic errors on one bid that did not affect the order of the bid results. For this reason, BSE General Engineering, Inc. is the lowest responsible bidder. Staff has validated the lowest bidder's contractor license status and bid bond.

Fiscal Impact:

This project was budgeted in the 2025-26 annual budget and is fully funded from the Refuse Enterprise funds as listed in the Community Sanitation Improvement section of the Community Investment Program. There are adequate funds in the Refuse Fund to pay for these costs.

Reason for Recommendation:

BSE General Engineering, Inc., is the lowest responsible bidder. There are sufficient funds available for the anticipated cost of this project.

Actions Following Approval:

1. The contract will be prepared and executed, subject to the contractor providing performance security that is satisfactory to the City.
2. Construction will begin approximately two (2) weeks after the contract execution and will be completed in forty-five (45) working days thereafter.

Conflict of Interest:

None.



CITY of CLOVIS

Report to the City Council

To: City Council
From: Administration
Date: June 15, 2026
Staff: Andrew Haussler, City Manager
Subject: Consider Approval - Confirmation of City Manager's Appointment of Fire Chief.
Recommendation: Approve
Attachments: None

Recommendation:

For the City Council to confirm the City Manager's appointment of Jason Ralls as Fire Chief for the City of Clovis, effective August 1, 2026.

Executive Summary:

The City Manager has appointed Jason Ralls as Fire Chief, effective August 1, 2026, subject to confirmation by the City Council, as required by Clovis Municipal Code Chapter 2.2.103. Mr. Ralls served the City of Clovis Fire Department for 30 years in every sworn position, including 17 years as a Chief Officer. This appointment is necessitated by the retirement of current Fire Chief Chris Ekk on July 31, 2026. The City Manager has determined that Mr. Ralls' extensive operational, administrative, and fiscal experience, combined with his advanced academic credentials, make him exceptionally well-qualified to lead the Department. Funding for this position is included in the existing budget.

Background:

Current Fire Chief Ekk will retire on July 31, 2026, after a distinguished career of service to the Clovis community. Under Chief Ekk's leadership, the Clovis Fire Department experienced significant organizational growth, supported in part by resources provided through Measure Y. Chief Ekk leaves behind a strong and capable team, and the City is grateful for his many years of dedicated service.

Following Chief Ekk's announced retirement, the City Manager conducted a review of internal candidates and determined that Jason Ralls is the most qualified individual to assume the role of Fire Chief. Mr. Ralls has served the City of Clovis for 30 years, having held every sworn position within the Department. He has served as a Chief Officer for 17 of those years, accumulating extensive experience in operations management, departmental administration, fiscal oversight, and incident command on complex, large-scale emergency events. Mr. Ralls holds a Bachelor's Degree in Economics and a Master's Degree in Leadership and Organizational Studies, in addition to numerous professional certifications in fire service and emergency management.

Fiscal Impact:

The cost of this position is included within the City's existing adopted budget. No budget amendment is required.

Reason for Recommendation:

Pursuant to Clovis Municipal Code Chapter 2.2.103, the City Council is required to confirm Department Director appointments made by the City Manager. The City Manager has determined that Mr. Ralls' 30 years of service, 17 years of Chief Officer experience, advanced academic credentials, and demonstrated leadership capabilities make him exceptionally well-suited for this role.

Actions Following Approval:

Upon confirmation by the City Council, the City Manager will take all appropriate administrative actions to effectuate Mr. Ralls' appointment as Fire Chief, effective August 1, 2026.

Conflict of Interest:

None.



CITY of CLOVIS

Report to the City Council

To: City Council
From: Administration
Date: June 15, 2026
Staff: Briana Parra, City Clerk
Subject: Consider Various Actions - Approval – Res. 26-____, Approving various actions required to conduct the November 3, 2026, General Municipal Election:

- a. Calling and giving notice of the November 3, 2026, General Municipal Election for the purpose of electing three (3) members of the City Council representing Districts 1, 4, and 5, to serve a four (4) year term through November 2030; and
- b. Requesting to Consolidate the General Municipal Election with the Statewide General Election; and authorizing the Fresno County Elections Division to conduct the November 3, 2026, Election; and
- c. Establishing Conditions for the filing of Candidates' Statements.

Recommendation: Approve

Attachments: 1. Calling Election ATT 1 Res. 26-____

Recommendation:

For the City Council to adopt a Resolution approving various actions required to conduct the November 3, 2026, General Municipal Election for the purpose of electing three (3) members of the City Council representing Districts 1, 4, and 5, to serve a four (4) year term through November 2030.

Executive Summary:

On November 3, 2026, the City of Clovis will conduct an election for three (3) City Council seats. As part of the City's transition from at-large elections to district-based elections, the seats to be filled will represent Districts 1, 4, and 5. Each elected Councilmember will serve a four-year term ending in November 2030.

The California Elections Code requires several actions to be taken in order to conduct a municipal election. Approval of staff's recommendation and the attached resolution will call and direct the City Clerk to publish notice of the election as required by law; request consolidation of the General

Municipal Election with the Statewide General Election to be held on November 3, 2026 as required by Clovis Municipal Code section 1.6.02 and Elections Code section 10403; request the County Board of Supervisors to authorize the Fresno County Elections Official to render services to the City relating to conducting the Clovis Municipal Election on behalf of the City as authorized by Elections Code section 10002; and establish the conditions for filing candidate statements.

Background:

1. Calling and Giving Notice of the Election; Nomination Period

Pursuant to Elections Code section 12101, the 2026 General Municipal Election must be called prior to the opening of the nomination period. The Notice of Election that lists the time and date of the election and the offices to be filled must be published no sooner than July 1, 2026, and no later than July 13, 2026.

In accordance with Elections Code section 10220, the nomination period for the November 3, 2026, Municipal Election will open on July 13, 2026 (113 days before the election), and close on August 7, 2026 (88 days before the election). Although Elections Code section 10225, subd. (a) provides for the nomination period to be extended by five (5) calendar days when an incumbent eligible for re-election does not file nomination papers, that provision is not applicable for this election due to the transition from at-large to district voting. Because the District 1, 4, and 5 Council seats are being filled through the City's initial district-based election process, and all current Council members were previously elected at-large, the three Districts are deemed not to have an incumbent. Thus, Elections Code section 10225, subd.(b) provides that the five-day extended nomination period is not applicable.

2. Requesting to Consolidate the General Municipal Election with the Statewide General Election

Elections Code sections 10400 and 10403 authorize the City Council to call the General Municipal Election and request the County Board of Supervisors to consolidate the City's General Municipal Election with the Statewide General Election on November 3, 2026.

3. Authorizing the Fresno County Elections Division to Conduct the Election

The Fresno County Elections Division is the Registrar of Voters in Fresno County and is well-versed and capable of conducting the election, and has conducted the City's regular municipal elections for decades. Staff recommends Council request the County Board of Supervisors to authorize the Fresno County Elections Division to conduct the municipal election as authorized by Elections Code section 10002.

The Resolution satisfies all requirements needed for the request to consolidate the municipal election with the statewide general election, including the City acknowledging that the election will be conducted by the Fresno County Elections Division in accordance with Elections Code section 10418, and the City agreeing to reimburse the County of Fresno in full for the election services performed by the County upon presentation of a bill to the City as required by Elections Code section 10002.

4. Establishing Conditions for Filing Candidate Statements

Elections Code section 13307 governs the requirements of nonpartisan elective office candidate statements to be included in the county voter information guide, including the limitation that a statement be no more than 200 words. The Council is authorized to increase the candidate statement word limit from 200 to 400 words, but has not previously done so and has maintained the 200-word limit in previous elections. As authorized by Elections Code section 13307, subd. (d), the Council has historically required each candidate filing a candidate statement to make a payment to the County at the time the candidate files their nomination papers (including the candidate statement)

of the estimated pro rata share of the cost of printing, handling, translating, and mailing the candidate's statement as part of the County's voter information guide. Staff recommend maintaining the 200-word candidate statement limit and the requirement for any candidate wishing to submit a candidate statement for the County's voter information guide to pay the cost as required by Elections Code section 13307. These conditions will help limit the size of the voter information guide and reduce the election costs in which the City will have to repay the County.

Fiscal Impact:

The City incurs a cost every other year to conduct an election. The estimated cost to conduct the regularly scheduled election has been budgeted and accounted for in the 2026-27 budget. Staff estimates the total cost for the November Election to be approximately thirty-five thousand dollars (\$35,000.00).

Reason for Recommendation:

To conduct the 2026 General Municipal Election, the City Clerk's Office must act in accordance with applicable provisions of law relating to general law cities in the State of California.

Actions Following Approval:

After Council approves the Resolution, the City Clerk will cooperate with, and provide the Resolution and any other necessary materials, to the Fresno County Elections Division to conduct the General Municipal Election in accordance with state law.

Conflict of Interest:

None.

RESOLUTION 26-___

RESOLUTION OF THE CITY COUNCIL OF THE CITY OF CLOVIS CALLING AND GIVING NOTICE OF THE HOLDING OF A GENERAL MUNICIPAL ELECTION TO BE HELD IN THE CITY OF CLOVIS ON TUESDAY, NOVEMBER 3, 2026, FOR THE ELECTION OF CERTAIN OFFICERS IN THE CITY OF CLOVIS AND REQUESTING THE BOARD OF SUPERVISORS OF THE COUNTY OF FRESNO TO CONSOLIDATE AND CANVASS THE GENERAL MUNICIPAL ELECTION TO BE HELD ON NOVEMBER 3, 2026, WITH THE STATEWIDE GENERAL ELECTION TO BE HELD ON THAT DATE PURSUANT TO CALIFORNIA ELECTIONS CODE SECTION 10400 ET SEQ.; TO PERMIT THE COUNTY CLERK/REGISTRAR OF VOTERS OF THE COUNTY OF FRESNO TO RENDER SPECIFIED SERVICES TO THE CITY OF CLOVIS RELATING TO THE CONDUCT OF SAID GENERAL MUNICIPAL ELECTION PURSUANT TO CALIFORNIA ELECTIONS CODE SECTION 10002; AND AUTHORIZING REIMBURSEMENT FUNDS TO PAY FOR SAID SERVICES

WHEREAS, Clovis Municipal Code section 1.6.02 requires the City's general municipal elections to be held on the date of the Statewide general election; and

WHEREAS, the next Statewide General Election will be held in the County of Fresno will take place on November 3, 2026; and

WHEREAS, in accordance with Clovis Municipal Code section 1.6.02 the City intends to call and order a General Municipal Election on Tuesday, November 3, 2026, for the election of three (3) members of the City Council representing Districts 1, 4, and 5 as part of the City's transition from at-large elections to district-based elections, each to serve a four (4) year term ending in November 2030; and

WHEREAS, in accordance with California Elections Code section 10400 et seq., the City Council desires to have the City's General Municipal Election consolidated with the Statewide General Election, and to request the Board of Supervisors of the County of Fresno to consolidate said election with the Statewide General Election pursuant to California Elections Code section 10403 to be held on the same date and that, within the City of Clovis, the precincts, vote center locations, ballot drop box locations, and election officers of the two (2) elections be the same; the County Clerk/Registrar of Voters canvass the returns of the General Municipal Election; and the election be held in all respects as if there were only one (1) election; and

WHEREAS, in accordance with California Elections Code section 10002 the City Council desires to request the Board of Supervisors of the County of Fresno to permit and direct the county elections official to render specified services to the City of Clovis relating to the conduct of the City's General Municipal Election; and

WHEREAS, Section 10002 of the Elections Code of the State of California requires the City of Clovis to reimburse the County of Fresno in full for the services performed upon presentation of a bill to the City of Clovis; and

WHEREAS, The City Council of the City of Clovis has determined that each candidate for elective office who submits a statement to be sent to the voters with the sample ballot in the voter information guide shall be charged a sum not greater than the actual prorated cost of printing, handling, and translating the candidate's statement, if any, incurred by the City as a result of providing this service.

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

SECTION 1. A General Municipal Election is called and ordered for the City of Clovis to be held on Tuesday, November 3, 2026, for the purpose of the election three (3) members of the City Council in a transition from at-large to district seats representing Districts 1, 4, and 5, each to serve a four (4) year term ending in November 2030.

SECTION 2. Pursuant to the requirements of Section 10403 of the California Elections Code, the Board of Supervisors of the County of Fresno is hereby requested to consent and agree to the consolidation of the City's General Municipal Election and the Statewide General Election to be held on November 3, 2026.

SECTION 3. In accordance with the provisions of Section 10403 of the California Elections Code, the City Council acknowledges that the consolidated election will be held and conducted in accordance with the provisions of law regulating the Statewide General Election pursuant to Section 10418 of the California Elections Code.

SECTION 4. In accordance with California Elections Code section 10002, the Board of Supervisors of the County of Fresno is requested to permit and direct the County Clerk/Registrar of Voters to render specified services to City of Clovis relating to the conduct of the City's General Municipal Election and take any and all steps necessary for and related to the holding of the consolidated election in a manner consistent with law, including, without limitation: the provision of all election materials and equipment; publication of notices; the hiring, training and supervision of election officers and other election personnel; the printing and distribution of ballot materials; the translation of ballot materials; the collection of submitted ballots; the tallying and canvassing of votes; and the certification of election results.

SECTION 5. Pursuant to Section 10002 of the Elections Code of the State of California, the City Council of the City of Clovis authorizes reimbursement to the County of Fresno in full for the services to be performed as herein requested and that said sum be paid to the County of Fresno upon demand and presentation of a bill to the City of Clovis.

SECTION 6. The candidate shall, if he/she elects to submit a statement, not exceeding 200 words, to be included with the sample ballot and sent to the registered voters, pay all costs associated with said candidate statement in accordance with California Elections Code Section 13307, the candidate is required to make an estimated pre-payment to the County at the time the candidate files the nomination papers.

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The foregoing Resolution was introduced and adopted at a regular meeting of the City Council of the City of Clovis at a regular meeting of the City Council held on June 15, 2026, by the following vote, to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

Dated: June 15, 2026

Mayor

City Clerk



CITY of CLOVIS

Report to the City Council

To: City Council
From: Administration
Date: June 15, 2026
Staff: Paul Armendariz, Assistant City Manager, Matt Lear, Deputy City Attorney
Subject: Consider Introduction – Ord. 26-___, Approve an Ordinance authorizing the City Manager to execute a memorandum of understanding with the County of Fresno to enforce its Infectious Materials Ordinance within the City; and adding Chapter 8.19 to Title 8 of the Clovis Municipal Code to adopt by reference the County’s Ordinance to monitor and inspect privately funded laboratories within the City and to delegate enforcement authority to the County.

Recommendation: Approve

Attachments:

1. Fresno County Infectious Material ATT 1 Ord. 26
2. Fresno County Infectious Material ATT 2 Fresno County Ord 24-002

Recommendation:

For the City Council to approve the introduction of an Ordinance authorizing the City Manager to execute a memorandum of understanding with the County of Fresno (“County”) to enforce its infectious materials ordinance within the City of Clovis (“City”); and adding Chapter 8.19 to Title 8 of the Clovis Municipal Code to adopt by reference the County’s ordinance to monitor and inspect privately funded laboratories within the City and to delegate enforcement authority to the County.

Executive Summary:

Following abatement actions coordinated between the City of Reedley and the County of Fresno to address violations of an unpermitted and unlicensed laboratory in 2023, the County created and adopted its Infectious Materials Ordinance (the “Ordinance”) permitting it to monitor, inspect, and evaluate whether laboratories are being operated in accordance with applicable federal regulations within unincorporated portions of the County. The County also drafted a Memorandum of Understanding (MOU), included as Exhibit A to Attachment 1, to extend its jurisdiction to enforce the Ordinance in those cities that choose to participate by entering into the MOU and adopting the Ordinance.

The purpose of the Ordinance is to fill a gap in federal legislation regarding the regulation of "non-CLIA" laboratories. That is, laboratories that fall outside the definition of a "laboratory" under the Clinical Laboratory Improvement Amendments (CLIA), which are regulated by the Centers for

Medicare & Medicaid Services (CMS), the Food and Drug Administration (FDA), and the Centers for Disease Control (CDC). In the Reedley situation, the offending lab was privately funded, not properly licensed for the chemicals and pathogens it was using, and was primarily conducting research and manufacturing work. This meant that no single federal agency had clear jurisdiction to regulate or shut the laboratory down.

This Ordinance will not apply to CLIA operated laboratories which include commercial laboratories (e.g. Quest, LabCorp), doctor's offices that obtain a CLIA license or waiver from CLIA, and/or clinics operating under a CLIA license or waiver from CLIA. The Fresno County Public Health Department would create a team from its Hazardous Materials program and its Public Health Laboratory. This team would conduct annual on-site visits to confirm compliance with hazardous materials and laboratory operations.

City staff supports the City entering into the MOU and adopting the County's Ordinance.

Background:

The Reedley incident involved a non-CLIA laboratory operating within a warehouse in violation of the City's zoning ordinance and handling infectious agents and pathogens without proper oversight or licensing. However, the charges against the individual operating the lab (Jia Bei Zhu) were based on violations of FDA regulations for distributing misbranded COVID-19 test kits and several counts of wire fraud. Absent from his federal charges were any violations relating to his possession of certain pathogens or the nature of the research being conducted at the lab.

The federal oversight gap exists because certain agencies' jurisdiction is triggered only by specific chemical agents or pathogens within their purview, and other agencies' oversight is tied to the source of funding for the research being conducted. Because the Reedley lab was privately funded and many of the chemical agents and pathogens were unlabeled, it was unclear which federal agency, if any, had jurisdiction to regulate the facility.

The County's Ordinance addresses this gap by requiring all non-CLIA laboratories to obtain a permit from the County before operating and making it a violation of the County Municipal Code to operate without such a permit (County Municipal Code § 8.52.050). Non-CLIA laboratories are also required to receive an annual certificate of inspection from the County, for which the County may charge a fee (County Municipal Code § 8.52.060). These inspections are designed to evaluate compliance with the Hazardous Materials CUPA, the State's Medical Waste Management Program, the State's Animal Use Permit Program, and Cal/OSHA guidelines relating to the management of biological agents, and to take inventory of all chemicals and biologicals onsite (County Municipal Code § 8.52.070).

Fiscal Impact:

The fiscal impact to the City is expected to be minimal. The MOU provides that the City and County will establish appropriate reimbursement methods to support activities in responding to the County's Ordinance, and that each party will be responsible for reimbursing its own costs (MOU, §§ 3.1 & 3.2). The reimbursement provisions do not contain any requirement for the City to directly reimburse the County for services performed in accordance with the Ordinance or any potential County code enforcement activities. The County will be responsible for recovering its own costs for services performed within the City, including through fees charged to laboratories for inspections. Accordingly, the financial burden on the City is expected to be low, and the MOU does not obligate the City to fund County enforcement operations.

Reason for Recommendation:

Staff recommends approval of the MOU and adoption of the Ordinance for the following reasons:

- The Ordinance specifically targets regulation of non-CLIA laboratories, which fall into a gray area of federal oversight and are not consistently regulated by CMS, FDA, or CDC.
- It resolves jurisdictional ambiguity regarding enforcement between the City and the County and provides an expedited pathway for entering the City's jurisdiction to inspect and enforce violations.
- It creates a system to monitor privately funded laboratories that handle infectious agents that would otherwise go unmonitored.
- It utilizes County Public Health staff who have technical expertise regarding biohazard issues and laboratory inspections — expertise that City staff currently lacks.
- It provides proactive public health regulation to support nuisance abatement, emergency response authority, and cost recovery. The burden on the City to adopt and implement the Ordinance is low.

Actions Following Approval:

If introduction of this Ordinance is approved, the Ordinance will return for adoption on July 6, 2026. If the Ordinance is adopted, the City Manager will execute the MOU with the County of Fresno, formally delegating authority to the County to inspect, monitor, and enforce the Ordinance against non-CLIA laboratories operating within the City.

Additionally, later this year City Planning Staff intends on bringing an ordinance amendment to the City's Development Code that would require all projects that meet the definition of a "laboratory" to obtain a conditional use permit (CUP) with an included condition of approval requiring the laboratory to comply with the County Ordinance. This would provide an additional level of oversight for any new laboratory projects that come into the City. This would be presented to Council when Planning Staff bring the general Development Code update later this year.

Conflict of Interest:

None.

ORDINANCE 26-__

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CLOVIS AUTHORIZING THE CITY MANAGER TO EXECUTE A MEMORANDUM OF UNDERSTANDING WITH THE COUNTY OF FRESNO TO ENFORCE ITS INFECTIOUS MATERIALS ORDINANCE WITHIN THE CITY; AND ADDING CHAPTER 8.19 TO TITLE 8 OF THE CLOVIS MUNICIPAL CODE TO ADOPT BY REFERENCE THE COUNTY'S ORDINANCE TO MONITOR AND INSPECT PRIVATELY FUNDED LABORATORIES WITHIN THE CITY AND DELEGATE ENFORCEMENT AUTHORITY TO THE COUNTY

WHEREAS, the City of Clovis ("City") is authorized to enact and enforce regulations to protect the public health, safety, and welfare pursuant to Article XI, Section 7 of the California Constitution and Government Code section 37100; and

WHEREAS, the discovery of an unauthorized biological laboratory in the City of Reedley in 2023 highlighted potential gaps in the regulatory oversight of certain privately funded laboratories handling infectious materials and demonstrated the need for local monitoring and inspection of such facilities; and

WHEREAS, in response to those concerns, the County of Fresno adopted Ordinance Number 24-002, otherwise known as the "Fresno County Infectious Materials Ordinance" to establish a permitting, monitoring, and inspection program for certain laboratories and research facilities handling infectious agents that are not otherwise subject to comprehensive oversight under the Clinical Laboratory Improvement Amendments ("CLIA"); and

WHEREAS, the Fresno County Infectious Materials Ordinance is intended to provide reasonable safeguards for the protection of public health and safety through annual inspections, permitting requirements, and enforcement mechanisms applicable to covered laboratories and research facilities; and

WHEREAS, Fresno County has established a Memorandum of Understanding process through which incorporated cities may authorize the Fresno County Department of Public Health to administer and enforce the Fresno County Infectious Materials Ordinance within their respective municipal boundaries; and

WHEREAS, utilizing the expertise, personnel, and resources of the Fresno County Department of Public Health to administer and enforce the Fresno County Infectious Materials Ordinance within the City will promote uniform regulation throughout Fresno County and avoid unnecessary duplication of governmental services; and

WHEREAS, adoption of the Fresno County Infectious Materials Ordinance by reference and delegation of enforcement authority to Fresno County pursuant to a Memorandum of Understanding is in the best interests of the public health, safety, and welfare of the residents of the City; and

WHEREAS, Government Code sections 51301 through 51304 authorize cities and counties to enter into agreements for the performance of municipal functions by county officers and employees, including regulatory and enforcement services.

NOW, THEREFORE, BE IT RESOLVED, that the City of Clovis does ordain as follows:

SECTION 1. The City hereby approves the Memorandum of Understanding between the County of Fresno and the City of Clovis, attached hereto as Exhibit “A” and incorporated by this reference herein.

SECTION 2. The City Manager is hereby authorized to execute the Memorandum of Understanding between the City of Clovis and the County of Fresno.

SECTION 3. Chapter 8.19 is hereby added to Title 8 of the Clovis Municipal Code to read as follows:

CHAPTER 8.19

ENFORCEMENT OF THE COUNTY OF FRESNO’S INFECTIOUS MATERIALS ORDINANCE WITHIN THE CITY OF CLOVIS

Section	8.19.01	Purpose.
	8.19.02	Adoption of the County of Fresno’s Infectious Materials Ordinance.
	8.19.03	Public Nuisance.

SECTION 8.19.01 – Purpose.

The purpose of this Chapter is to adopt Chapter 8.52 of the Fresno County Ordinance Code otherwise known as the “Fresno County Infectious Materials Ordinance” to establish a system for monitoring and inspection of privately funded laboratories and research facilities that handle infectious agents and materials that are not otherwise subject to comprehensive oversight under existing state or federal regulations. This Chapter is intended to protect the public health, safety, and welfare by ensuring appropriate local oversight of such facilities by authorizing the County of Fresno to administer and enforce the provisions of the Fresno County Infectious Materials Ordinance within the City pursuant to the memorandum of understanding entered into between the City and County of Fresno, as approved by the City Council.

SECTION 8.19.02 – Adoption of the County of Fresno’s Infectious Materials Ordinance.

Chapter 8.52 of the Fresno County Ordinance Code [Fresno County Infectious Materials Ordinance], as may be amended from time to time, is hereby adopted by reference hereto as if fully set forth in this Chapter. The Fresno County Department of Public Health is hereby

authorized to administer and enforce this Chapter in accordance with memorandum of understanding between the City of Clovis and the County of Fresno, as approved by the City Council.

SECTION 8.19.03 – Public Nuisance.

A violation of this Chapter is hereby found and declared to be a public nuisance.

SECTION 4. Effective Date.

This Ordinance shall go into effect and be in full force from and after thirty (30) days after its final passage and adoption.

APPROVED: _____, 2026

Mayor

City Clerk

* * * * *

The foregoing Ordinance was introduced and read at a regular meeting of the City Council held on June 15, 2026, and was adopted at a regular meeting of said Council held on _____, 2026, by the following vote, to wit:

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

DATED: _____, 2026

City Clerk

Exhibit A

MEMORANDUM OF UNDERSTANDING BETWEEN THE COUNTY OF FRESNO AND THE CITY OF CLOVIS

This Memorandum of Understanding (“MOU”) is dated _____ and is between the City of Clovis, a municipal corporation of the State of California (“City”), and the County of Fresno, a political subdivision of the State of California (“County”). County and City are each a “Party” to this MOU and are collectively “the Parties.”

Recitals

A. The Parties wish to establish a monitoring and inspection system to oversee privately funded laboratories that handle infectious agents without oversight from an existing permitting public agency.

B. The joint response between the County of Fresno and the City of Reedley in 2023, dealing with an unlicensed laboratory resulted in a successful management of a potential public health issue and provided both entities the ability to retain their local control while being able to consistently advocate for additional state and federal resources. This incident has led the County to pursue a negotiated agreement with municipalities based on the successful 2023 model.

C. The County adopted Ordinance No. 24-002, adding Chapter 8.52 to the Ordinance Code of Fresno County, entitled “FRESNO COUNTY INFECTIOUS MATERIALS ORDINANCE,” that applies to all non-Clinical Laboratory Improvement Amendments (“non-CLIA”) regulated laboratories and research and development businesses (as that term is defined in 42 USC §263a) located or operating within the geographic area in which the health department enforces state and local statutes, orders, quarantines, rules, regulations and ordinances relating to public health in the unincorporated area of Fresno County or within the incorporated area of any city within the county, to which cities have signed a memorandum of understanding that authorizes the County to conduct oversight of the laboratories.

The Parties therefore agree as follows:

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Article 1

City’s Responsibilities

1.1 In order to authorize the County to enforce the provisions of this public safety “FRESNO COUNTY INFECTIOUS MATERIALS ORDINANCE” in the incorporated area of the City, the City must adopt the provisions of this ordinance delegating enforcement authority to the County and must enter into this MOU with the County.

1.2 The City will retain all jurisdictional authority not pertaining to items contained in the “FRESNO COUNTY INFECTIOUS MATERIALS ORDINANCE.”

1.3 The City will provide the County a list of non-CLIA sites in their jurisdiction that the County will need to follow up on.

1.4 The City will report suspected non-CLIA sites to assess applicability to “FRESNO COUNTY INFECTIOUS MATERIALS ORDINANCE.”

Article 2

County’s Responsibilities

2.1 Under the provisions of the ordinance, the County will evaluate if appropriate certifications, permits, environmental controls, safety protocols and licenses are in place for the handling of infectious materials and hazardous materials located at the non-CLIA site.

2.2 Any concerns observed by County staff will be communicated to designated City staff and a joint response would be coordinated with the business owner and property owner.

Article 3

Cost Reimbursement

3.1 The Parties will establish appropriate cost reimbursement methods to support activities in responding to the “FRESNO COUNTY INFECTIOUS MATERIALS ORDINANCE”. City will be responsible to obtain reimbursement of all costs incurred by the City and not recouped by the fees developed by the City, other funding resources or other recovery actions. County will be responsible to obtain reimbursement of all costs incurred by the County and not

1 recouped by the fees developed by the County, other funding resources or other recovery
2 actions.

3 3.2 **Incidental Expenses.** The Parties are solely responsible for all of its costs and
4 expenses that are not specified as reimbursable under this MOU.

5 **Article 4**

6 **Term of MOU**

7 4.1 **Term.** This MOU is effective on the date that the Parties sign this MOU and shall
8 remain in effect, except as provided in Article 6, "Termination and Suspension," below.

9 **Article 5**

10 **Notices**

11 5.1 **Contact Information.** The persons and their addresses having authority to give and
12 receive notices provided for or permitted under this MOU include the following:

13 **For the County:**
14 County Administrative Officer
15 County of Fresno
Hall of Records, Room 300
2281 Tulare St
Fresno, CA 93775

16 **For the City:**
17 City Manager
City of Clovis
1033 5th Street
18 Clovis, CA 93612

19 5.2 **Change of Contact Information.** Either party may change the information in section
20 5.1 by giving notice as provided in section 5.3.

21 5.3 **Method of Delivery.** Each notice between the County and the City provided for or
22 permitted under this MOU must be in writing, state that it is a notice provided under this MOU,
23 and be delivered either by personal service, by first-class United States mail, by an overnight
24 commercial courier service, or by telephonic facsimile transmission.

25 (A) A notice delivered by personal service is effective upon service to the recipient.

26 (B) A notice delivered by first-class United States mail is effective three County
27 business days after deposit in the United States mail, postage prepaid, addressed to the
recipient.

1 (C) A notice delivered by an overnight commercial courier service is effective one
2 County business day after deposit with the overnight commercial courier service,
3 delivery fees prepaid, with delivery instructions given for next-day delivery, addressed to
4 the recipient.

5 (D) A notice delivered by telephonic facsimile transmission or by PDF document
6 attached to an email is effective when transmission to the recipient is completed (but, if
7 such transmission is completed outside of County business hours, then such delivery is
8 deemed to be effective at the beginning of the next County business day), provided that
9 the sender maintains a machine record of the completed transmission.

10 5.4 **Claims Presentation.** For all claims arising from or related to this MOU, nothing in
11 this MOU establishes, waives, or modifies any claims presentation requirements or procedures
12 provided by law, including the Government Claims Act (Government Code, section 810 et seq.).

13 **Article 6**

14 **Termination and Suspension**

15 6.1 **Termination without Cause.** The Parties may terminate this MOU by giving at least
16 thirty (30) days advance written notice to the other Party.

17 6.2 **No Penalty or Further Obligation.** Any termination of this MOU by the County or
18 City under this Article 6 is without penalty to or further obligation of the County or City.

19 6.3 **Termination Due to Additional Federal or State Legislation.** Upon approval of
20 Federal or State legislation that regulates non-CLIA laboratories, this MOU would immediately
21 terminate.

22 **Article 7**

23 **Indemnity and Defense**

24 7.1 **Mutual Indemnity.** The City shall indemnify and hold harmless and defend the
25 County (including its officers, agents, employees, and volunteers) against all claims, demands,
26 injuries, damages, costs, expenses (including attorney fees and costs), fines, penalties, and
27 liabilities of any kind to the County, the City, or any third party that arise from or relate to the

1 performance or failure to perform by the City (or any of its officers, agents, subcontractors, or
2 employees) under this MOU. The County may conduct or participate in its own defense without
3 affecting the City's obligation to indemnify and hold harmless or defend the County. The County
4 shall indemnify and hold harmless and defend the City (including its officers, agents,
5 employees, and volunteers) against all claims, demands, injuries, damages, costs, expenses
6 (including attorney fees and costs), fines, penalties, and liabilities of any kind to the County, the
7 City, or any third party that arise from or relate to the performance or failure to perform by the
8 County (or any of its officers, agents, subcontractors, or employees) under this MOU. The City
9 may conduct or participate in its own defense without affecting the County's obligation to
10 indemnify and hold harmless or defend the City.

11 7.2 **Survival.** This Article 7 survives the termination of this MOU.

12 **Article 8**

13 **Public Records**

14 8.1 **Public Records.** The County is not limited in any manner with respect to its public
15 disclosure of this MOU or any record or data that the City may provide to the County. The
16 County's public disclosure of this MOU or any record or data that the City may provide to the
17 County may include but is not limited to the following:

18 (A) The County may voluntarily, or upon request by any member of the public or
19 governmental agency, disclose this MOU to the public or such governmental agency.

20 (B) The County may voluntarily, or upon request by any member of the public or
21 governmental agency, disclose to the public or such governmental agency any record or
22 data that the City may provide to the County, unless such disclosure is prohibited by
23 court order.

24 (C) This MOU, and any record or data that the City may provide to the County, is
25 subject to public disclosure under the Ralph M. Brown Act (California Government Code,
26 section 54950).

27

1 (D) This MOU, and any record or data that the City may provide to the County, is
2 subject to public disclosure as a public record under the California Public Records Act
3 (California Government Code, section 7920.000 et seq.) (“CPRA”).

4 (E) This MOU, and any record or data that the City may provide to the County, is
5 subject to public disclosure as information concerning the conduct of the people’s
6 business of the State of California under California Constitution, Article 1, section 3,
7 subdivision (b).

8 (F) Any marking of confidentiality or restricted access upon or otherwise made with
9 respect to any record or data that the City may provide to the County shall be
10 disregarded and have no effect on the County’s right or duty to disclose to the public or
11 governmental agency any such record or data.

12 **8.2 Public Records Act Requests.** If the County receives a written or oral request
13 under the CPRA to publicly disclose any record that is in the City’s possession or control, and
14 which the County has a right, under any provision of this MOU or applicable law, to possess or
15 control, then the County may demand, in writing, that the City deliver to the County, for
16 purposes of public disclosure, the requested records that may be in the possession or control of
17 the City. Within five business days after the County’s demand, the City shall (a) deliver to the
18 County all of the requested records that are in the City’s possession or control, together with a
19 written statement that the City, after conducting a diligent search, has produced all requested
20 records that are in the City’s possession or control, or (b) provide to the County a written
21 statement that the City, after conducting a diligent search, does not possess or control any of
22 the requested records. The City shall cooperate with the County with respect to any County
23 demand for such records. If the City wishes to assert that any specific record or data is exempt
24 from disclosure under the CPRA or other applicable law, it must deliver the record or data to the
25 County and assert the exemption by citation to specific legal authority within the written
26 statement that it provides to the County under this section. The City’s assertion of any
27 exemption from disclosure is not binding on the County, but the County will give at least 10

1 days' advance written notice to the City before disclosing any record subject to the City's
2 assertion of exemption from disclosure. The City shall indemnify the County for any court-
3 ordered award of costs or attorney's fees under the CPRA that results from the City's delay,
4 claim of exemption, failure to produce any such records, or failure to cooperate with the County
5 with respect to any County demand for any such records.

6 **Article 9**

7 **General Terms**

8 9.1 **Modification.** Except as provided in Article 6, "Termination and Suspension," this
9 MOU may not be modified, and no waiver is effective, except by written agreement signed by
10 both Parties. The City acknowledges that County employees have no authority to modify this
11 MOU except as expressly provided in this MOU.

12 9.2 **Non-Assignment.** Neither Party may assign its rights or delegate its obligations
13 under this MOU without the prior written consent of the other Party.

14 9.3 **Governing Law.** The laws of the State of California govern all matters arising from
15 or related to this MOU.

16 9.4 **Jurisdiction and Venue.** This MOU is signed and performed in Fresno County,
17 California. City consents to California jurisdiction for actions arising from or related to this MOU,
18 and, subject to the Government Claims Act, all such actions must be brought and maintained in
19 Fresno County.

20 9.5 **Construction.** The final form of this MOU is the result of the Parties' combined
21 efforts. If anything in this MOU is found by a court of competent jurisdiction to be ambiguous,
22 that ambiguity shall not be resolved by construing the terms of this MOU against either Party.

23 9.6 **Days.** Unless otherwise specified, "days" means calendar days.

24 9.7 **Headings.** The headings and section titles in this MOU are for convenience only and
25 are not part of this MOU.

26 9.8 **Severability.** If anything in this MOU is found by a court of competent jurisdiction to
27 be unlawful or otherwise unenforceable, the balance of this MOU remains in effect, and the

1 Parties shall make best efforts to replace the unlawful or unenforceable part of this MOU with
2 lawful and enforceable terms intended to accomplish the Parties' original intent.

3 9.9 **No Waiver.** Payment, waiver, or discharge by the County of any liability or obligation
4 of the City under this MOU on any one or more occasions is not a waiver of performance of any
5 continuing or other obligation of the City and does not prohibit enforcement by the County of any
6 obligation on any other occasion.

7 9.10 **Entire MOU.** This MOU is the entire agreement between the Parties with respect to
8 the subject matter of this MOU, and it supersedes all previous negotiations, proposals,
9 commitments, writings, advertisements, publications, and understandings of any nature unless
10 those things are expressly included in this MOU.

11 9.11 **No Third-Party Beneficiaries.** This MOU does not and is not intended to create any
12 rights or obligations for any person or entity except for the Parties.

13 9.12 **Authorized Signature.** The City represents and warrants to the County that:

14 (A) The City is duly authorized and empowered to sign and perform its obligations
15 under this MOU.

16 (B) The individual signing this MOU on behalf of the City is duly authorized to do so
17 and his or her signature on this MOU legally binds the City to the terms of this MOU.

18 9.13 **Electronic Signatures.** The Parties agree that this MOU may be executed by
19 electronic signature as provided in this section.

20 (A) An "electronic signature" means any symbol or process intended by an individual
21 signing this MOU to represent their signature, including but not limited to (1) a digital
22 signature; (2) a faxed version of an original handwritten signature; or (3) an electronically
23 scanned and transmitted (for example by PDF document) version of an original
24 handwritten signature.

25 (B) Each electronic signature affixed or attached to this MOU is: (1) deemed
26 equivalent to a valid original handwritten signature of the person signing this MOU for all
27 purposes, including but not limited to evidentiary proof in any administrative or judicial

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proceeding, and (2) has the same force and effect as the valid original handwritten signature of that person.

(C) The provisions of this section satisfy the requirements of Civil Code section 1633.5, subdivision (b), in the Uniform Electronic Transaction Act (Civ. Code, § 1633.1, et seq.).

(D) Each Party using a digital signature represents that it has undertaken and satisfied the requirements of Government Code section 16.5, subdivision (a), paragraphs (1) through (5), and agrees that each other Party may rely upon that representation.

(E) This MOU is not conditioned upon the Parties conducting the transactions under it by electronic means and either Party may sign this MOU with an original handwritten signature.

9.14 **Counterparts.** This MOU may be signed in counterparts, each of which is an original, and all of which together constitute this MOU.

[SIGNATURE PAGE FOLLOWS]

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The Parties are signing this MOU on the date stated in the introductory clause.

CITY OF CLOVIS

COUNTY OF FRESNO

Andrew Haussler, City Manager
1033 5th Street
Clovis, CA 93612

Paul Nerland, County Administrative Officer or
designee

Attest:

Attest:
Bernice E. Seidel
Clerk of the Board of Supervisors
County of Fresno, State of California

By: _____
Briana Parra
Clovis City Clerk

By: _____
Deputy

1 BEFORE THE BOARD OF SUPERVISORS
2 OF THE COUNTY OF FRESNO
3 STATE OF CALIFORNIA
4 ORDINANCE NO. 24-002

5
6 AN ORDINANCE ADOPTING CHAPTER 8.52 OF THE ORDINANCE CODE OF FRESNO
7 COUNTY, "Fresno County Infectious Materials Ordinance."

8 The Board of Supervisors of the County of Fresno ordains as follows:

9 **Section 1:** Chapter 8.52 of the Ordinance Code of Fresno County, entitled "FRESNO COUNTY
10 INFECTIOUS MATERIALS ORDINANCE," is adopted, as follows:

11 **8.52.010 - Declaration of findings.**

12 **8.52.020 - Purpose.**

13 The purpose of this chapter is to establish a monitoring and inspection system to oversee
14 privately funded laboratories that handle infectious agents without oversight from an existing
15 permitting public agency. This ordinance is to address an existing absence of federal and
16 state legislative oversight over these businesses and activities specified herein.

17 **8.52.030 - Area of application.**

- 18 A. This ordinance shall apply to all non-Clinical Laboratory Improvement Amendments (CLIA)
19 regulated laboratories and research and development businesses (as that term is defined in
20 42 USC §263a) located or operating within the geographic area in which the health
21 department enforces state and local statutes, orders, quarantines, rules, regulations and
22 ordinances relating to public health in the unincorporated area of Fresno County or within the
23 incorporated area of any city within the county, to which cities have signed a memorandum of
24 understanding that authorizes the County to conduct oversight of the laboratories.
- 25 B. In order to authorize the County of Fresno to enforce the provisions of this public safety
26 ordinance in Incorporated cities within the County of Fresno, said cities must adopt the
27 provisions of this ordinance delegating enforcement authority to the County of Fresno and
28 must enter into a memorandum of understanding with the County of Fresno. Said

1 memorandum of understanding shall include terms providing for the reimbursement of all
2 costs incurred by the County of Fresno and not recouped by the fees developed by the
3 County or other recovery actions, the assistance by city law enforcement, fire and emergency
4 personnel when necessary, the prosecution when appropriate of violations of this Chapter by
5 city attorneys in the relevant jurisdictions, and other matters as may be deemed necessary or
6 appropriate by the parties.

7 **8.52.040 - Definitions.**

8 As used in this chapter:

9 A. "Clinical Laboratory Improvement Amendments (CLIA)" means language found in 42 USC
10 263a.

11 B. "CLIA Regulations" means language found at 42 CFR 493.

12 C. "Laboratory" means a facility for the biological, microbiological, serological, chemical,
13 immunopharmacological, hematological, biophysical, cytological, pathological, or other
14 examination of materials derived from the human body or other type of materials from
15 research and development processes for the purpose of providing information for the
16 diagnosis, prevention, or treatment of any disease or impairment of, or the assessment of the
17 health of, human beings. These examinations also include a procedure to determine,
18 measure, or otherwise describe the presence or absence of various substances or organisms
19 in the body.

20 D. "Research Laboratories" means facilities performing research testing on human specimens
21 that do not report patient-specific results, as described at 42 C.F.R. § 493.3(b)(2).

22 E. "Infectious Agents" means a microorganism (including, but not limited to, bacteria (including
23 rickettsiae), viruses, fungi, or protozoa) or prion, whether naturally occurring, bioengineered,
24 or artificial, or a component of such microorganism or prion that is capable of causing
25 communicable disease in a human. 42 CFR 71.54.

26 F. "Hazardous Materials Certified Unified Program Agency (CUPA)" means a local agency
27 certified by CalEPA to implement and enforce six state hazardous waste and hazardous
28 materials regulatory management programs. See California Health and Safety Code Division

1 20, Chapter 6.11, Sections 25404-25404.9; California Code of Regulations Title 27, Division 1,
2 Subdivision 4, Chapter 1, Sections 15100-15620; and California Code of Regulations Title 27,
3 Division 3, Subdivision 1.

4 G. "Medical Waste Permit" means a permit issued by the California Department of Public Health;
5 Medical Waste Program under the Medical Waste Management Program as found in
6 California Health & Safety Code 117915-117946.

7 H. "California Animal Use Permit Program" means the language found in The California Health
8 and Safety Code Division 2, Chapter 5, commencing with Section 1650 and the California Code
9 of Regulations Title 17, Chapter 2, Subchapter I, Group 5.

10 I. Cal/OSHA Guidelines means the language found in Title 8 of the California Code of
11 Regulations section 5199, Aerosol Transmissible Diseases.

12 J. "Person" means any individual, association, partnership, firm or corporation.

13 **8.52.050 - Permit for Operation Required.**

14 A. All facilities meeting the definition of a laboratory or research laboratory not subject to CLIA law
15 and regulations, shall be required to obtain a permit in the County of Fresno and any
16 incorporated cities within the County having a memorandum of understanding with the County
17 that authorizes the County to conduct oversight of the unregulated laboratories or research
18 laboratories. The permit will allow the operation of the laboratory or research laboratory not
19 subject to CLIA law and regulations and the handling, storage, testing or use of Infectious
20 Agents as defined in this Ordinance. The County shall determine a reasonable fee to be
21 charged to applicants and permittees to cover the cost of the issuance of the permit and the
22 administrative costs of overseeing the monitoring and enforcement of this Chapter.

23 B. It is unlawful for any person, without first having obtained a permit from the health department,
24 to engage in the businesses and activities of a laboratory or research laboratory not subject to
25 CLIA law and regulations, in the County or any city that has signed a memorandum of
26 understanding with the County.

27 C. It is unlawful for any person, currently engaging in the businesses and activities of a laboratory
28 or research laboratory not subject to CLIA law and regulations on the effective date of this

1 Ordinance in the County or any city that has signed a memorandum of understanding with the
2 County to continue to engage in said business and activities without obtaining a permit from the
3 health department, to engage in the businesses and activities of a laboratory or research
4 laboratory not subject to CLIA law and regulations within ninety (90) days of the effective date of
5 this Ordinance.

6 D. It is unlawful for any person, to engage in the businesses and activities of a laboratory or
7 research laboratory not subject to CLIA law and regulations, in the County or any city that has
8 signed a memorandum of understanding with the County under an expired, revoked or
9 suspended permit issued by the County Department of Public Health pursuant to this Chapter,
10 except that no person shall be guilty of a misdemeanor for violation of this Chapter for engaging
11 in the businesses and activities of a laboratory or research laboratory not subject to CLIA law
12 and regulations, in the County or any city that has signed a memorandum of understanding with
13 the County under a revoked or suspended permit so long as the person is actively engaged in
14 the appeal process set out in Section 8.52.065 of this Ordinance Code and has complied with all
15 provisions of that section, including but not limited to ceasing operations in the case of a
16 revoked permit, and compliance with any directions or order of the public health director or
17 designee to immediately abate or correct any immediate danger to the public health or safety.

18 **8.52.060 – Certificate of Inspection required.**

19 A. All facilities meeting the definition of a laboratory or research laboratory not subject to
20 CLIA law and regulations, shall be required to have an annual site visit by the County. The
21 County shall determine a reasonable fee to be paid by permittees to cover the costs of the
22 annual inspection, which must be paid within ten days of the date of the annual inspection.

23 B. It is unlawful for any person, without first having obtained a written certificate of
24 inspection from the health department, to engage in the businesses and activities of a laboratory
25 or research laboratory in the County or any city that has signed a memorandum of
26 understanding with the County or to continue to engage in said business and activities without
27 allowing a reasonable opportunity for the County Health Department to conduct the required
28 inspections on an annual basis.

- 1 C. The County shall evaluate applicability to Hazardous Materials CUPA, participation in
2 the State's Medical Waste Management Program, participation in the State's Animal Use Permit
3 Program, receive an inventory of chemicals and biological agents onsite, receive an inventory
4 of safety protocols in management of biological agents including but not limited to testing
5 methodologies, environmental controls, and safety equipment applicable annual certification.
6 Safety protocols in management of biological agents shall be consistent with Cal/OSHA
7 Guidelines.
- 8 D. All facilities meeting the definition of a laboratory or research laboratory not subject to
9 CLIA law and regulations must report to the County their operational plan and compliance with
10 applicable federal, state, and local regulations.
- 11 E. County staff will assess and coordinate with and refer appropriate matters to any
12 federal, state, or local agency to ensure compliance with existing federal, state, and local
13 regulations.

14 **8.52.065 - Permit suspension or revocation.**

- 15 A. A permit or interim permit (90 days) may be suspended or revoked for a violation of the
16 Fresno County Ordinance Code or state statutes, orders, quarantines, rules, and regulations.
17 Any business or activity for which a permit has been suspended shall cease operation and
18 remain out of operation until the permit has been reinstated. Any business or activity for which
19 a permit has been revoked shall cease operation and remain out of operation until a new
20 permit has been issued.
- 21 B. 1. Whenever an enforcement officer finds that an applicant or a permitted business or activity
22 is not in compliance, a written notice to comply shall be issued to the permittee or applicant.
23 2. If the permittee or applicant fails to comply, the enforcement officer shall issue to the
24 permittee or applicant a notice setting forth the acts or omissions with which the permittee or
25 applicant is charged and informing him or her of a right to a hearing, if requested, to show
26 cause why the permit should not be denied, suspended, or revoked. A written request for a
27 hearing shall be made by the permittee or applicant within fifteen calendar days after receipt
28 of the notice. Failure to request a hearing within fifteen calendar days after receipt of the

1 notice shall be deemed a waiver of the right to a hearing. When circumstances warrant, the
2 public health director or designee may order a hearing at any reasonable time within this
3 fifteen-day period to expedite the permit denial, suspension or revocation process.

4 3. The hearing shall be held before the public health director or designee within fifteen
5 calendar days of the receipt of a request for a hearing. Upon written request of the permittee
6 or applicant, the public health director or designee may postpone any hearing date, if
7 warranted.

8 C. The public health director or designee shall issue a written notice of decision to the permittee
9 or applicant within five working days following the hearing. In the event of a denial,
10 suspension or revocation, the notice shall specify the acts or omissions with which the
11 permittee or applicant is charged, and shall state the terms of the denial or suspension or that
12 the permit has been revoked.

13 D. 1. If any immediate danger to the public health or safety is found, unless the danger is
14 immediately corrected, the public health director or designee may temporarily suspend the
15 permit and order the business closed or activity to cease. Immediate danger to the public
16 health and safety means any condition, based upon inspection findings or other evidence, that
17 can cause infection, poisoning, disease transmission, or hazardous condition.

18 2. Whenever a permit is suspended as the result of an immediate danger to the public health
19 or safety, the public health director or designee shall issue to the permittee a notice setting
20 forth the acts or omissions with which the permittee is charged, specifying the pertinent code
21 section, and informing the permittee of the right to a hearing.

22 3. At any time within fifteen calendar days after service of a notice pursuant to subdivision (2)
23 of this subsection, the permittee may request in writing a hearing before the public health
24 director or designee to show cause why the permit suspension is not warranted. The hearing
25 shall be held within fifteen calendar days of the receipt of a request for a hearing. A failure to
26 request a hearing within fifteen calendar days shall be deemed a waiver of the right to such
27 hearing.

28 E. The public health director or designee may, after providing opportunity for a hearing,

1 modify, suspend or revoke a permit for serious or repeated violations of any state and local
2 requirements or for interference in the performance of the duty of the enforcement officer.

3 F. A permit may be reinstated or a new permit issued if the public health director determines that
4 conditions which prompted the suspension or revocation no longer exist. Applicable fees must
5 be paid upon issuance of a new permit.

6 G. Permit modification, denial, suspension, or revocation may be appealed to the County
7 Hearing Officer. A written request for an appeal hearing shall be made by the permittee or
8 applicant within fifteen days of receipt of the notice of decision from the public health director.

9 H. Failure to request a hearing before the County Hearing Officer pursuant to subsection G of this
10 section shall be deemed a waiver of the right to such hearing. If a hearing is timely requested,
11 the County Hearing Officer may sustain, modify or reverse the decision of the public health
12 director.

13 I. Any interested party, including the health officer, may appeal the decision of the County Hearing
14 Officer to the board of supervisors by filing an appeal in writing with the clerk of the board of
15 supervisors within fifteen days of the decision. Failure to request a hearing within fifteen
16 calendar days shall be deemed a waiver of the right to such hearing. The board of supervisors
17 may sustain, modify or reverse the decision of the County Hearing Officer. The board of
18 supervisors' decision shall be final.

19 **8.52.070 - Enforcement.**

20 A. Any person authorized by the public health department to conduct inspections or to collect
21 fees for any business or activity subject to this chapter shall have the authority and immunities
22 of a public officer and employee as provided in Section 836.5 of the California Penal Code, to
23 make arrests without a warrant whenever the officer or employee has reasonable cause to
24 believe that the person to be arrested has committed an act in the officer's or employee's
25 presence which is a violation of this chapter.

26 B. Violation of this Chapter is a misdemeanor, subject to a penalty of up to six months in jail and
27 a fine of up to \$1,000.00.

28 C. Violation of this Chapter is declared to be a public nuisance.

1 D. Notwithstanding any other provision of this Ordinance Code, this Chapter may be enforced by
2 levying a civil penalty of up to \$1,000.00 per violation, each day that such violation exists
3 constituting a separate violation.

4 E. Notwithstanding any other provision of this Ordinance Code this Chapter may be enforced by a
5 civil action seeking injunctive relief, civil penalties, costs of abatement of non-compliant facilities,
6 and/or costs of enforcement.

7 F. Notwithstanding any other provision of this Ordinance Code any costs of abatement of
8 dangerous or non-compliant conditions that violate this Chapter may be recovered by the
9 County through any procedure provided under this Ordinance Code or state law.

10 G. The remedies provided in this Section are not exclusive to other remedies or procedures
11 that the County have authority under its ordinances or state law to pursue.

12 **Section 2:** This Ordinance shall take effect thirty (30) days after final passage.

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1 THE FOREGOING was passed and adopted by the following vote for the Board of Supervisors
2 of the County of Fresno this 9th day of January, 2024, to-wit:

3 AYES: Supervisors Brandau, Magsig, Mendes, Pacheco, Quintero

4 NOES: None

5 ABSENT: None


6 ABSTAINED: None



7
8 Nathan Magsig, Chairman of the Board of Supervisors of
the County of Fresno

9 **ATTEST:**

10 Bernice E. Seidel
11 Clerk of the Board of Supervisors
County of Fresno, State of California

12 By: 
13 Deputy

14 FILE # 23-1234

15 AGENDA # 41

16 ORDINANCE # 24-002

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