



**FEATHER RIVER RECREATION & PARK DISTRICT**  
Special Board Meeting  
August 7, 2024

**ACTIVITY CENTER**  
1875 Feather River Blvd.  
Oroville, CA 95965

**OUR MISSION:** We will provide and maintain quality parks, recreation experiences, and related facilities and programs for all residents of the District in a fiscally sustainable manner that compliments the natural resources and cultural heritage of our community.

**AGENDA**

**OPEN SESSION 9:00 AM**

*Written comments must be sent to [KendyleA@frpd.com](mailto:KendyleA@frpd.com) 1-hour prior to the meeting to be presented to the Board. If you need a special accommodation to participate in this meeting, please contact (530) 533-2011.*

**CALL MEETING TO ORDER**

**ROLL CALL**

Chairperson Scott "Kent" Fowler  
Vice-Chairperson Greg Passmore  
Director Devin Thomas  
Director Clarence "Sonny" Brandt  
Director Shannon DeLong

**PLEDGE OF ALLEGIANCE**

**MISSION STATEMENT**

**PUBLIC COMMENT**

The Board will invite anyone in the audience wishing to address the Board, on a matter not listed on the agenda, to state your name for the record and make your presentation. You are limited to three (3) minutes. *The Board cannot take any action except for a brief response by the Board or staff to a statement or question relating to a non-agenda item.*

**ACTION ITEMS**

- 1. Lease/Operating agreement for the Oroville Convention Center between the City of Oroville and the Feather River Recreation and Park District. (Appendix A)**  
The Board may consider a lease/operating agreement with the City of Oroville for the lease and operation of the Convention Center.  
Motion:  
Vote:
- 2. Bid for Riverbend Asphalt Project (Appendix B)**  
Staff requests the Board select and approve a bid for the Riverbend Asphalt Project.  
Motion:  
Vote:
- 3. Revised Full-Time Pay Scale (Appendix C)**  
Staff requests the Board approve the revised pay scale to include changes to FT Maintenance positions to include current MOU increases.  
Motion:  
Vote:

**4. Resolution No. 2031-24: A Resolution Of The Board Of Directors Of The Feather River Recreation And Park District Ordering The Levy Of Special Taxes For Fiscal Year 2024-25 Within Community Facilities District No. 2022-01 (Park Maintenance) (Appendix D)**

Staff is requesting the Board of Directors approve Resolution 2031-24 so the District can provide Services to Tax Zone No. 1

Motion:

Vote:

**ADJOURNMENT**



## STAFF REPORT

**DATE: August 7, 2024**

**TO: FRRPD Board of Directors**

**FROM: General Manager**

**RE: LEASE / OPERATING AGREEMENT FOR THE OROVILLE CONVENTION CENTER  
BETWEEN THE CITY OF OROVILLE AND FEATHER RIVER RECREATION AND PARK DISTRICT**

### **SUMMARY**

The Board may consider a lease / operating agreement with the City of Oroville for the lease and operation of the Municipal Auditorium.

### **DISCUSSION**

December 8, 2021, the Feather River Recreation and Park District Board of Directors announces the intent to sell the Activity Center property located at 1875 Feather River Boulevard in Oroville. March 28, 2023 the Feather River Recreation and Park District Board of Directors announced the closure of the gymnastics, preschool and recreation programs offered at the Activity Center. November 7, 2023 Oroville City Council directed City staff, to work with the YMCA of Superior California (YMCA) and Feather River Recreation and Park District (FRRPD), on a potential shared use agreement for both of these agencies. Staff have been meeting with representatives from the YMCA and City of Oroville in an effort to find a solution that meets both of their operational needs, and the needs of the community.

This proposed agreement would shift the lease / operating arrangement of the Convention Center to FRRPD, providing a new location to operate services out of, while continuing to provide for a venue for the YMCA to provide their programs out of (currently providing activities for seniors). Facility will allow for FRRPD to provide a variety of indoor recreational programming for youth and adults, public/community events, staff/public meeting spaces, as well as providing space for regular/daily business operations.

The terms of the proposed agreement include the following

- One year term with an option to review for four consecutive one-year terms;
- \$2,500/month initial base rent (to be reviewed annually), all utilities to be paid by FRRPD as well as reimbursement for facility insurance;
- FRRPD shall work with YMCA to lease portions of the facility to the YMCA;
- FRRPD to manage private event rentals;
- FRRPD to be responsible for regular / minor maintenance matters, the City to be responsible for major maintenance items (mechanical systems, roof, major issues that require replacement of infrastructure).

Please refer to lease / operating agreement for additional details.



**FISCAL IMPACT**

Expense

- \$30,000/annual lease agreement
- \$31,000/annual reimbursement to City for property insurance
  - District had been paying approximately \$25,000/annual to CAPRI

Income Sources

- Private event rentals
- Indoor recreational programming
- Utility reimbursement of YMCA programming

**RECOMMENDATION:**

Staff is recommending approval of the agreement for the Oroville Convention Center between the City of Oroville the Feather River Recreation and Park District.

**CITY OF OROVILLE PUBLIC FACILITY  
EXCLUSIVE OPERATING AND LEASE AGREEMENT**

**Agreement #3516**

THIS EXCLUSIVE OPERATING AND LEASE AGREEMENT is made this 6<sup>th</sup> day of August, 2024, between the City of Oroville ("Landlord"), and The Feather River Recreation and Parks District ("Tenant"), effective September 1, 2024.

**BUSINESS TERMS**

Landlord: CITY OF OROVILLE

Tenant: FEATHER RIVER RECREATION AND PARKS DISCTRICT (FRRPD)

Premises: 1200 Myers Street

Permitted Use: Mixed Use Commercial

Current Zoning: CI - Limited Commercial

Term: One year plus an option to renew for four consecutive one-year terms, effective September 1, 2024.

Renewal Option: The renewal option may be subject to a rate adjustment to be determined before the end of the first one-year period. The first year of this amended agreement is a joint effort of the Landlord and the Tenant to determine the viability of this endeavor.

Base Rent: Beginning in year one of the agreement the rent will be \$2,500 / month. Future rent to be reconsidered on an annual basis through a collaboration between Landlord and Tenant staff. Rent will be determined by mutual agreement and based upon net revenue generated as a result of the use of this facility and market conditions. Initial rent review will be conducted in August 2025.

Tenant is to assume cost of all utilities and have accounts put in tenant's name / separate from Lessee, pay for all taxes and insurances required for program activities and general liability for the building and property.

**Security Deposit:** Security Deposit of \$2,500 is held to mitigate damage that may result to the Premise from business operations. Deposit is returned in full with no interest when Premise has been vacated and inspected by the City of Oroville to assess its condition.

**Rent Commencement:** Rent, as subject to Paragraph 4, shall commence on the first date of occupancy, prorated if that date should not be on the first day of the month when first occupied. Payments to be made on the first day of each month through the term of this lease and any extensions.

**Condition of Premises:** The Landlord is to provide Tenant the Premises in its "as is" condition. Tenant is willing to take the Premises in "as is" condition subject to conducting a thorough assessment of the condition of the Premises by Tenant.

**Maintenance** Any improvements by Tenant shall be at Tenant's sole cost and expense. A Tenant Improvement Plan shall be submitted to the City and approved prior to work being performed.

Tenant assumes responsibility for all regular maintenance (such as cleaning, recurring maintenance of mechanical systems, replacement of lightbulbs, clearing drains, minor plumbing repairs, etc.), and Landlord will have the responsibility of replacement of major components that are found to be non-operational or excessively problematic (mechanical systems, roof repairs or replacement, major plumbing issues requiring replacement of system elements, etc.).

**Building Signage:** Signage shall be in conformance with the Zoning Code, sign regulations, and approved by Landlord prior to installation or placement per section 12 of this agreement. All signage shall be at the Tenant's expense.

1. **Granting Clause.** In consideration of the obligation of Tenant to pay rent as herein provided and in consideration of the other Terms, covenants, and conditions hereof, Landlord leases to Tenant, and Tenant takes from Landlord, the Premises, to have and to hold for the Lease Term, subject to the Terms, covenants and conditions of this Lease.

2. **Acceptance of Premises.** Tenant shall accept the Premises in its condition as of the Commencement Date, subject to all applicable laws, ordinances, regulations, covenants, and restrictions. Landlord has made no representation or warranty as to the suitability of the Premises for the conduct of Tenant's business, and Tenant waives any implied warranty that the Premises are suitable for Tenant's intended purposes. In no event shall Landlord have any obligation for any defects in the Premises or any limitation on its use. The taking of possession of the Premises shall be conclusive evidence that Tenant accepts the Premises and that the Premises were in good condition at the time possession was taken except for items that are Landlord's responsibility, including items relating to unrepaired fire damage.

3. **Use.** The Premises shall be used only for the purpose of providing activities consistent with current activities provided by Tenant, and Tenant shall work with YMCA to lease portions of the facility to the YMCA as agreed upon by each party. Such agreement to remain separate from this agreement between Landlord and Tenant. The facility will primarily be used for, but not limited to, physical exercise activities for all ages. The facility will be utilized for all activities that will enhance the quality of life for all the citizens of the City of Oroville. Tenant will use the Premises in a careful, safe, and proper manner and will not commit waste, overload the floor or structure of the Premises, or subject the Premises to use that would damage the Premises. Tenant shall not permit any objectionable or unpleasant odors, smoke, dust, gas, noise, or vibrations to emanate from the Premises, or take any other action that would constitute a nuisance or would disturb, unreasonably interfere with, or endanger Landlord or any tenants of the Premises. Tenant, at its sole expense, shall use and occupy the Premises in compliance with all laws, including, without limitation, the Americans with Disabilities Act, orders, judgments, ordinances, regulations, codes, directives, permits, licenses, covenants and restrictions now or hereafter applicable to the Premises (collectively, "Legal Requirements") unless such Legal Requirements are met due to their "grandfathered" nature. Tenant shall, at its expense, make any alterations or modifications, within or without the Premises, that are required by Legal Requirements related to Tenant's use or occupation of the Premises unless such Legal Requirements are met due to their "grandfathered" nature. Tenant must receive Landlord's written authorization and approval for all alteration or modifications to the Premises. Tenant is responsible for compliance with all Americans with Disabilities requirement related to tenants programing and uses. Landlord is responsible for American with Disabilities requirements related to structural changes as required by law and not met due to a "Grandfathered" exception.

Additionally, the premises will continue to be used for the purposes of private events held by interested parties. Tenant shall act as manager and event

coordinator of all such events and accommodate the public for use of premises to the degree that such events are not in conflict with regularly scheduled programs and activities hosted by Tenant. Tenant shall set costs for facility rentals that will both encourage use of the facility and appropriate insurance, while covering all associated costs of Tenant to provide such services. Tenant shall be responsible for collecting deposits and returning such deposits once satisfactory clean-up or repairs have been confirmed. That relationship between Tenant and event promoter shall be between such parties and Landlord shall not be attached to such agreement in any form, nor shall Landlord bear any responsibility for actions of such events.

4. **Base Rent.** All payments required to be made by Tenant to Landlord hereunder (or to such other party as Landlord may from time to time specify in writing) shall be made by check of immediately available funds before 4:00 p.m., Pacific Time, at City of Oroville, Finance Department, 1735 Montgomery Street, Oroville, California, 95965, or as Landlord may from time to time designate to Tenant in writing. The obligation of Tenant to pay Base Rent and other sums to Landlord and the obligations of Landlord under this Lease are independent obligations. Tenant shall have no right at any time to abate, reduce, or set-off any rent due hereunder except as maybe expressly provide in this lease. If Tenant is delinquent in any monthly installment of Base Rent for more than 15 business days, Tenant shall pay to Landlord on demand a late charge equal to 5 percent of such delinquent sum. The provision for such late charge shall be in addition to all of Landlord's other rights and remedies hereunder or at law and shall not be construed as a penalty.

5. **Security Deposit.** Tenant shall deposit with Landlord the sum of \$2,500. The security deposit shall be held by Landlord as security for the faithful performance by Tenant of all the terms, covenants, and conditions to be performed by Tenant. The security deposit shall not be assigned, transferred, or encumbered by Tenant, and any attempt to do so shall not be binding upon Landlord. If, at any time during the Term of this Lease, any rent or portion of any rent payable by Tenant to Landlord shall not be timely paid, then, Landlord may, at its option (but shall not be required to), appropriate and apply any portion of the security deposit to the payment of such overdue rent. Under no circumstances shall Tenant apply the security deposit as Rent for the final months of the Lease. In the event of the failure of Tenant to keep and perform any of the Terms, covenants and conditions of this Lease to be kept and performed by Tenant, then, at the option of Landlord, Landlord may (but shall not be required to) appropriate and apply the security deposit, or so much so as may be necessary, to compensate Landlord for all loss or damage sustained or suffered by Landlord due to such default on the part of Tenant. Should the entire security deposit, or any portion thereof, be appropriated and applied by Landlord for the purposes set forth herein, or for any other lawful purpose, then Tenant shall, within IO days after written demand by Landlord, deliver to Landlord a sufficient sum in cash to restore the security deposit to the original sum of the security deposit. Landlord shall not be obligated to keep the security deposit in a separate fund but may commingle the security deposit with its own funds. The failure of the Tenant to maintain the security deposit in the initial amount as stated above shall constitute a failure to pay rent and shall carry with it the consequences



set forth in this Lease for failure to pay rent. Upon expiration of the Lease, the security deposit, if not applied toward the payment of Rent in arrears or toward the payment of damages suffered by Landlord by reason of Tenant's breach of this Lease, is to be returned to Tenant without interest, but in no event shall the security deposit be returned until Tenant has vacated the Leased Premises, delivered possession thereof to Landlord, and fully satisfied Tenant's obligations under this Lease.

6. **Utilities.** Tenant has obligation to pay for all utilities at the Convention Center, including but not limited to: electricity, gas, water, sanitation, security, phone, cable, and internet services required for the operations of parks and recreation programs and activities. Tenant shall put all utilities in tenant's name.

7. **Taxes.** If any such tax or excise is levied or assessed directly against Tenant, including but not limited to possessory tax, then Tenant shall be responsible for and shall pay the same at such times and in such manner as the taxing authority shall require. Tenant shall be liable for all taxes levied or assessed against any personal property or fixtures placed in the Premises, whether levied or assessed against Landlord or Tenant.

8. **Insurance.** Landlord shall maintain all risk insurance covering risk property insurance and the full replacement cost of the building and may (insurance premium cost to be reimbursed by Tenant), but is not obligated to, maintain such other insurance and additional coverages as it may deem necessary, including, but not limited to, commercial liability insurance and rent loss insurance. The Premise or Building may be included in a blanket policy (in which case the cost of such insurance allocable to the Premise or Building will be determined by Landlord based upon the insurer's cost calculations). Tenant shall also reimburse Landlord for any increased premiums or additional insurance which Landlord reasonably deems necessary because of Tenant's use of the Premises. Should there be a property claim through the Landlord's property insurance, the Landlord shall pay applicable deductibles, with the exception of matters where the matter was triggered by negligence of the Tenant or matters which arise from private party facility rentals. For those matters, the applicable deductible shall be a responsibility of the Tenant.

Tenant, at its expense, shall maintain during the Lease Term: all risk property insurance covering the full replacement cost of all property and improvements installed or placed in the Premises by Tenant at Tenant's expense; workers' compensation insurance with no less than the minimum limits required by law; employer's liability insurance with such limits as required by law; and commercial liability insurance, with a minimum limit of \$1,000,000 per occurrence and a minimum umbrella limit of \$1,000,000, for a total minimum combined general liability and umbrella limit of \$2,000,000 (together with such additional umbrella coverage as Landlord may reasonably require) for property damage, personal injuries, or deaths of persons occurring in or about the Premises. Landlord may from time to time require reasonable increases in any such limits. The commercial liability policies shall name Landlord as an additional insured, insure on an occurrence and not a claims-made basis, be issued by insurance companies which are reasonably acceptable to Landlord, not be cancelable unless 30 days' prior

written notice shall have been given to Landlord, contain a hostile fire endorsement and a contractual liability endorsement and provide primary coverage to Landlord (any policy issued to Landlord providing duplicate or similar coverage shall be deemed excess over Tenant's policies). SUCH POLICIES OR CERTIFICATES THEREOF SHALL BE DELIVERED TO LANDLORD BY TENANT UPON COMMENCEMENT OF THE LEASE TERM AND UPON EACH RENEWAL OF SAID INSURANCE.

The all-risk property insurance obtained by Landlord and Tenant shall include a waiver of subrogation by the insurers and all rights based upon an assignment from its insured, against Landlord or Tenant, their officers, directors, employees, managers, agents, invitees, and contractors, in connection with any loss or damage thereby insured against. Neither party nor its officers, directors, employees, managers, agents, invitees, or contractors shall be liable to the other for loss or damage caused by any risk coverable by all risk property insurance, and each party waives any claims against the other party, and its officers, directors, employees, managers, agents, invitees and contractors for such loss or damage. The failure of a party to insure its property shall not void this waiver. Landlord and its agents, employees and contractors shall not be liable for, and Tenant hereby waives all claims against such parties for, business interruption and losses occasioned thereby sustained by Tenant or any person claiming through Tenant resulting from any accident or occurrence in or upon the Premises from any cause whatsoever, including without limitation, damage caused in whole or in part, directly or indirectly, by the negligence of Landlord or its agents, employees or contractors.

9. **Construction Allowance.** None.

10. **Landlord's Repairs.** Landlord shall maintain, at its expense, the structural soundness of the roof, foundation, and exterior walls of the building in good repair. Reasonable wear and tear and uninsured losses and damages caused by Tenant, its agents and contractors excluded. The term "walls" as used in this Paragraph shall not include windows, glass or plate glass, doors or overhead doors, special store fronts, or office entries. Tenant shall promptly give Landlord written notice of any repair required by Landlord, after which Landlord shall have a reasonable opportunity to repair.

11. **Tenant-Made Alterations and Trade Fixtures.** Any alterations, additions, or improvements made by or on behalf of the Tenant to the Premises ("Tenant-Made Alterations") shall be subject to Landlord's prior written consent and at the expense of the tenant.

12. **Signs.** Tenant shall not make any changes to the exterior of the Premises, install any exterior lights, decorations, balloons, flags, pennants, banners, or painting, or erect or install any signs, windows or door lettering, placards, decorations, or advertising media of any type which can be viewed from the exterior of the Premises, without Landlord's prior written consent. Upon surrender or vacation of the Premises, Tenant shall have removed all signs and repair, paint, and/or replace the building facia surface to which its signs are attached. Tenant shall

obtain all applicable governmental permits and approvals for sign and exterior treatments. All signs, decorations, advertising media, blinds, draperies and other window treatment or bars or other security installations visible from outside the Premises shall be subject to Landlord's approval and conform in all respects to Landlord's requirements.

13. **Parking.** Off-street parking is provided by Landlord. Public parking is available to Tenant in City owned parking lots located near Premises.

14. **Restoration.** If at any time during the Lease Term the Premises are damaged by a fire or other casualty, Landlord shall notify Tenant within 60 days after such damage as to the amount of time Landlord reasonably estimates it will take to restore the Premises. If the restoration time is estimated to exceed 6 months, either Landlord or Tenant may elect to terminate this Lease upon notice to the other party given no later than 30 days after Landlord's notice. If neither party elects to terminate this Lease or if Landlord estimates that restoration will take 6 months or less, then, subject to receipt of sufficient insurance proceeds, Landlord shall promptly restore the Premises excluding the improvements installed by Tenant or by Landlord and paid by Tenant, subject to delays arising from the collection of insurance proceeds or from Force Majeure events. Tenant at Tenant's expense shall promptly perform, subject to delays arising from the collection of insurance proceeds, or from Force Majeure events, all repairs or restoration not required to be done by Landlord and shall promptly re-enter the Premises and commence doing business in accordance with this Lease. Notwithstanding the foregoing, either party may terminate this Lease if the Premises are damaged during the last year of the Lease Term and Landlord reasonably estimates that it will take more than one month to repair such damage. Base Rent and Operating Expenses shall be abated for the period of repair and restoration in the proportion which the area of the Premises, if any, which is not usable by Tenant bears to the total area of the Premises. Such abatement shall be the sole remedy of Tenant, and except as provided herein, Tenant waives any right to terminate the Lease by reason of damage or casualty loss.

15. **Condemnation.** If any part of the Premises should be taken for any public or quasi- public use under governmental law, ordinance, or regulation, or by right of eminent domain, or by private purchase in lieu thereof (a "Taking" or "Taken"), and the Taking would prevent or materially interfere with Tenant's use of the Premises or in Landlord's judgment would materially interfere with or impair its ownership or operation of the Premise, then upon written notice by Landlord this Lease shall terminate and Base Rent shall be apportioned as of said date. If part of the Premises shall be Taken, and this Lease is not terminated as provided above, the Base Rent payable hereunder during the unexpired Lease Term shall be reduced to such extent as may be fair and reasonable under the circumstances. In the event of any such Taking, Landlord shall be entitled to receive the entire price or award from any such Taking without any payment to Tenant, and Tenant hereby assigns to Landlord Tenant's interest, if any, in such award. Tenant shall have the right, to the extent that same shall not diminish Landlord's award, to make a separate claim against the condemning authority (but not Landlord) for such compensation as may be separately awarded or recoverable by Tenant for moving expenses and damage to Tenant's Trade Fixtures, if a separate award for such items is made to Tenant.

16. **Assignment and Subletting.** Without Landlord's prior written consent, which Landlord shall not unreasonably withhold, Tenant shall not assign this lease or sublease the Premises or any part thereof or mortgage, pledge, or hypothecate *its* leasehold interest or grant any concession or license within the Premises and any attempt to do any of the foregoing shall be void and of no effect. For purposes of this paragraph, a transfer of the ownership interests resulting in a change of control of Tenant shall be deemed an assignment of this Lease. Tenant shall reimburse Landlord for all of Landlord's reasonable out-of-pocket expenses in connection with any assignment or sublease. Upon Landlord's receipt of Tenant's written notice of a desire to assign or sublet the Premises, or any part thereof (other than to a Tenant Affiliate), Landlord may, by giving written notice to Tenant within 15 days after receipt of Tenant's notice, terminate this Lease with respect to the space described in Tenant's notice, as of the date specified in Tenant's notice for the commencement of the proposed assignment or sublease. If Landlord so terminates the Lease, Landlord may enter into a lease directly with the proposed sublessee or assignee. Tenant may withdraw its notice to sublease or assign by notifying Landlord within 10 days after Landlord has given Tenant notice of such termination, in which case the Lease shall not terminate but shall continue.

It shall be reasonable for the Landlord to withhold its consent to any assignment or sublease in any of the following instances: (i) an Event of Default has occurred and is continuing that would not be cured upon the proposed sublease or assignment; (ii) the assignee or sublessee does not have a net worth which is consistent with net worth of other tenant's which Landlord is entering into leases with in the Premise; (iii) the intended use of the Premises by the assignee or sublessee is not consistent with the use provision herein; (iv) occupancy of the Premises by the assignee or sublessee would, in Landlord's opinion, violate an agreement binding upon Landlord with regard to the identity of tenants, usage in the Premise, or similar matters; (v) the identity or business reputation of the assignee or sublessee will, in the good faith judgment of Landlord, tend to damage the goodwill or reputation of the Premise; (vi) the assignment or sublet is to another tenant in the Premises and is at rates which are below those charged by Landlord for comparable space in the Premises and Landlord has space available in the Premises to accommodate the tenant's needs; (vii) in the case of a sublease, the subtenant has not acknowledged that the Lease controls over any inconsistent provision in the sublease; (viii) the proposed assignee or sublessee is a governmental agency; or (ix) there is vacant space in the Premises suitable for lease to the proposed sublessee or assignee. Tenant and Landlord acknowledge that each of the foregoing criteria are reasonable as of the date of execution of this Lease. The foregoing criteria shall not exclude any other reasonable basis for Landlord to refuse its consent to such assignment or sublease. Any approved assignment or sublease shall be expressly subject to the terms and conditions of this Lease. Tenant shall provide to Landlord all information concerning the assignee or sublessee as Landlord may request.

Notwithstanding any assignment or subletting, Tenant shall at all times remain fully responsible and liable for the payment of the rent and for compliance with all of Tenant's other obligations under this Lease (regardless of whether Landlord's approval has been obtained for any such assignments or subletting's). In the event

that the rent due and payable by a sublessee or assignee (or a combination of the rental payable under such sublease or assignment plus any bonus or other consideration therefor or incident thereto) exceeds the rental payable under this Lease, then Tenant shall be bound and obligated to pay Landlord as additional rent hereunder fifty percent (50%) of such excess rental and other excess consideration ("Profit") within 10 days following receipt of each month's Profit thereof by Tenant. Profit shall be further defined to take into consideration all of Tenant's costs in any assignment of subletting including but not limited to real estate commissions, legal fees, marketing costs, any improvement allowance or other economic concession (planning allowance, moving expenses, etc.), paid by Tenant to sublessee or assignee.

If this Lease be assigned or if the Premises be subleased (whether in whole or in part) or in the event of the mortgage, pledge, or hypothecation of Tenant's leasehold interest or grant of any concession or license within the Premises or if the Premises be occupied in whole or in part by anyone other than Tenant, then upon a default by Tenant hereunder Landlord may collect rent from the assignee, sublessee, mortgagee, pledgee, party to whom the leasehold interest was hypothecated, concessionee or licensee or other occupant and, except to the extent set forth in the preceding paragraph, apply the amount collected to the next rent payable hereunder; and all such rentals collected by Tenant shall be held in trust for Landlord and immediately forwarded to Landlord. No such transaction or collection of rent or application thereof by Landlord, however, shall be deemed a waiver of these provisions or a release of Tenant from the further performance by Tenant of its covenants, duties, or obligations hereunder.

17. **Indemnification.** Except for the negligence of Landlord, its agents, employees or contractors, and to the extent permitted by law, Tenant agrees to indemnify, defend and hold harmless Landlord, and Landlord's agents, employees and contractors, from and against any and all losses, liabilities, damages, costs and expenses (including attorneys' fees) resulting from claims by third parties for injuries to any person and damage to or theft or misappropriation or loss of property occurring in or about the Premise and arising from the use and occupancy of the Premises or from any activity, work, or thing done, permitted or suffered by Tenant in or about the Premises or due to any other act or omission of Tenant, its subtenants, assignees, invitees, employees, contractors and agents. The furnishing of insurance required hereunder shall not be deemed to limit Tenant's obligations.

18. **Inspection and Access.** Landlord and its agents, representatives, and contractors may enter the Premises with prior notice at any reasonable time to inspect the Premises and to make such repairs as may be required or permitted pursuant to this Lease and for any other business purpose. Landlord and Landlord's representatives may enter the Premises during business hours for the purpose of showing the Premises to prospective purchasers and, during the last 4 months of the Lease Term, to prospective tenants. Landlord may erect or post a suitable sign on the Premises stating the Premises are available to let. Landlord may grant easements, make public dedications, designate common areas and create

restrictions on or about the premises, provided that no such easement, dedication, designation or restriction materially interferes with Tenant's use or occupancy of the Premises. At Landlord's request, Tenant shall execute such instruments as may be necessary for such easements, dedications or restrictions.

19. **Quiet Enjoyment.** If Tenant shall perform all of the covenants and agreements herein required to be performed by Tenant, Tenant shall, subject to the terms of this Lease, at all times during the Lease Term, have peaceful and quiet enjoyment of the Premises against any person claiming by, through or under Landlord.

20. **Surrender.** Upon termination of the Lease Term or earlier Termination of Tenant's right of possession, Tenant shall surrender the Premises to Landlord in the same condition as received, broom clean, ordinary wear and tear and casualty loss and condemnation. Any Trade Fixtures, Tenant-Made Alterations and property not so removed by Tenant as permitted or required herein shall be deemed abandoned and may be stored, removed, and disposed of by Landlord at Tenant's expense, and Tenant waives all claims against Landlord for any damages resulting from Landlord's retention and disposition of such property. All obligations of Tenant hereunder not fully performed as of the termination of the Lease Term shall survive the termination of the Lease Term, including without limitation, indemnity obligations, payment obligations with respect to Operating Expenses and obligations concerning the condition and repair of the Premises.

21. **Holding Over.** If Tenant retains possession of the Premises after the termination of the Lease Term, unless otherwise agreed in writing, such possession shall be subject to immediate termination by Landlord at any time, and all of the other Terms and provisions of this Lease (excluding any expansion or renewal option or other similar right or option) shall be applicable during such holdover period, except that Tenant shall pay Landlord from time to time, upon demand, as Base Rent for the holdover period, an amount equal to 150 percent the Base Rent in effect on the Termination date, computed on a monthly basis for each month or part thereof during such holding over. All other payments shall continue under the terms of this Lease. In addition, Tenant shall be liable for all damages incurred by Landlord as a result of such holding over. No holding over by Tenant, whether with or without consent of Landlord, shall operate to extend this Lease except as otherwise expressly provided shall not be construed as consent for Tenant to retain possession of the Premises. "Possession of the Premises" shall continue until, among other things, Tenant has delivered all keys to the Premises to Landlord, Landlord has completed and total dominion and control over the Premises, and Tenant has completely fulfilled all obligations required of it upon termination of the Lease as set forth in this Lease, including, without limitation, those concerning the condition and repair of the Premises.

22. **Events of Default.** Each of the following events shall be an event of default ("Event of Default") by Tenant under this Lease:

Tenant shall fail to pay any installment of Base Rent or any other payment required herein when due, and such failure shall continue for a period of 30 business days from the date such payment was due.

Tenant or any guarantor or surety of Tenant's obligations hereunder shall (A) make a general assignment for the benefit of creditors; (B) commence any case, proceeding or other action seeking to have an order for relief entered on its behalf as a debtor or to adjudicate it as bankrupt or insolvent, or seeking reorganization, arrangement, adjustment, liquidation, dissolution or composition of it or its debts or seeking appointment of a receiver, trustee, custodian or other similar official for it or for all or of any substantial part of its property (collectively a "proceeding for relief"); (C) become the subject of any proceeding for relief which is not dismissed within 60 days of its filing or entry; or (D) die or suffer a legal disability (if Tenant, guarantor, or surety is an individual) or be dissolved or otherwise fail to maintain its legal existence (if Tenant, guarantor or surety is a corporation, partnership or other entity).

Any insurance required to be maintained by the Tenant pursuant to this Lease shall be cancelled or terminated or shall expire or shall be reduced or materially changed, except, in each case, as permitted in this Lease.

Tenant shall not occupy or shall vacate the Premises or shall fail to continuously operate its business at the Premises for the permitted use set forth herein, whether or not Tenant is in monetary or other default under this Lease. Tenant's vacating of the Premises shall not constitute an Event of Default if, prior to vacating the Premises, Tenant has made arrangements reasonably acceptable to Landlord to (a) insure that Tenant's insurance for the Premises will not be voided or cancelled with respect to the Premises as a result of such vacancy, (b) insure that the Premises are secured and not subject to vandalism, and (c) insure that the Premises will be properly maintained after such vacation. Tenant shall inspect the Premises at least once each month and report monthly in writing to Landlord on the condition of the Premises.

There shall occur any assignment, subleasing or other transfer of Tenant's interest in or with respect to this Lease except as otherwise permitted in this Lease.

Tenant shall fail to discharge any lien placed upon the Premises in violation of this Lease within 30 days after Tenant's receipt of notice of any such lien or encumbrance is filed against the Premises.

Tenant shall fail to comply with any provision of this Lease other than those specifically referred to in this Paragraph 24, and except as otherwise expressly provided herein, such default shall continue for more than 30 days after Landlord shall have given Tenant written notice of such default.

23. **Landlord's Remedies.** Upon each occurrence of an Event of Default and so long as such Event of Default shall be continuing, Landlord may at any time thereafter at its election: terminate this Lease or Tenant's right of possession, (but Tenant shall remain liable as hereinafter provided) and/or pursue any other remedies at law or in equity not to exceed 90 days after tenant has vacated premises. Upon the Termination of this Lease or termination of Tenant's right of possession, it shall be lawful for Landlord, without formal demand or notice of any kind, to re-enter the Premises by summary dispossession proceedings or any other action or proceeding authorized by law and to remove Tenant and all persons and property therefrom. If Landlord re-enters the Premises, Landlord shall have the right to keep in place and use, or remove and store, all of the furniture, fixtures and equipment at the Premises.

Except as otherwise provided in the next paragraph, if Tenant breaches this Lease and abandons the Premises prior to the end of the term hereof, or if Tenant's right to possession is terminated by Landlord because of an Event of Default by Tenant under this Lease, this Lease shall terminate. Upon such termination, Landlord may recover from Tenant the following, as provided in Section 1951.2 of the Civil Code of California: (i) the worth at the time of award of the unpaid Base Rent and other charges under this Lease that had been earned at the time of termination; (ii) the worth at the time of award of the amount by which the reasonable value of the unpaid Base Rent and other charges under this Lease which would have been earned after termination until the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; (iii) the worth at the time of the award by which the reasonable value of the unpaid Base Rent and other charges under this Lease for the balance of the term of this Lease after the time of award exceeds the amount of such rental loss that Tenant proves could have been reasonably avoided; and (iv) any other amount necessary to compensate Landlord for all the detriment proximately caused by Tenant's failure to perform its obligations under this Lease or that in the ordinary course of things would be likely to result therefrom. As used herein, the following terms are defined: (a) the "worth at the time of award" of the amounts referred to in Sections (i) and (ii) is computed by allowing interest at the lesser of 10 percent per annum or the maximum lawful rate. The "worth at the time of award" of the amount referred to in Section (iii) is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus one percent; (b) the "time of award" as used in clauses (i), (ii), and (iii) above is the date on which judgment is entered by a court of competent jurisdiction; (c) The "reasonable value" of the amount referred to in clause (ii) above is computed by determining the mathematical product of (1) the "reasonable annual rental value" (as defined herein) and (2) the number of years, including fractional parts thereof, between the date of termination and the time of award. The "reasonable value" of the amount referred to in clause (iii) is computed by determining the mathematical product of (1) the annual Base Rent and other charges under this Lease and (2) the number of years including fractional parts thereof remaining in the balance of the term of this Lease after the time of award.



Even though Tenant has breached this Lease and abandoned the Premises, this Lease shall continue in effect for so long as Landlord does not terminate Tenant's right to possession, and Landlord may enforce all its rights and remedies under this Lease, including the right to recover rent as it becomes due. This remedy is intended to be the remedy described in California Civil Code Section 1951.4 and the following provision from such Civil Code Section is hereby repeated: "The Lessor has the remedy described in California Civil Code Section 1951.4 (lessor may continue lease in effect after lessee's breach and abandonment and recover rent as it becomes due, if lessee has right to sublet or assign, subject only to reasonable limitations)." Any such payments due Landlord shall be made upon demand therefor from time to time and Tenant agrees that Landlord may file suit to recover any sums falling due from time to time. Notwithstanding any such reletting without termination, Landlord may at any time thereafter elect in writing to terminate this Lease for such previous breach.

Exercise by Landlord of any one or more remedies hereunder granted or otherwise available shall not be deemed to be an acceptance of surrender of the Premises and/or a termination of this Lease by Landlord, whether by agreement or by operation of law, it being understood that such surrender and/or termination can be affected only by the written agreement of Landlord and Tenant. Any law, usage, or custom to the contrary notwithstanding, Landlord shall have the right at all times to enforce the provisions of this Lease in strict accordance with the terms hereof; and the failure of Landlord at any time to enforce its rights under this Lease strictly in accordance with same shall not be construed as having created a custom in any way or manner contrary to the specific Terms, provisions, and covenants of this Lease or as having modified the same. Tenant and Landlord further agree that forbearance or waiver by Landlord to enforce its rights pursuant to this Lease or at law or in equity, shall not be a waiver of Landlord's right to enforce one or more of its rights in connection with any subsequent default. A receipt by Landlord of rent or other payment with knowledge of the breach of any covenant hereof shall not be deemed a waiver of such breach, and no waiver by Landlord of any provision of this Lease shall be deemed to have been made unless expressed in writing and signed by Landlord. To the greatest extent permitted by law, Tenant waives the service of notice of Landlord's intention to re-enter as provided for in any statute, or to institute legal proceedings to that end, and also waives all right of redemption in case Tenant shall be dispossessed by a judgment or by warrant of any court or judge. The terms "enter," "re-enter," "entry" or "re-entry," as used in this Lease, are not restricted to their technical legal meanings. Any reletting of the Premises shall be on such terms and conditions as Landlord in its sole discretion may determine (including without limitation a term different than the remaining Lease Term, rental concessions, alterations and repair of the Premises, lease of less than the entire Premises to any tenant and leasing any or all other portions of the Premise before reletting the Premises). Landlord shall not be liable, nor shall Tenant's obligations hereunder be diminished because of, Landlord's failure to relet the Premises or collect rent due in respect of such reletting.

24. **Tenant's Remedies/Limitation of Liability.** Landlord shall not be in default hereunder unless Landlord fails to perform any of its obligations hereunder within 15 days after written notice from Tenant specifying such failure (unless such performance will, due to the nature of the obligation, require a period of time in excess of 15 days, then after such period of time as is reasonably necessary). All obligations of Landlord hereunder shall be construed as covenants, not conditions; and, except as may be otherwise expressly provided in this Lease, Tenant may not terminate this Lease for breach of Landlord's obligations hereunder. All obligations of Landlord under this Lease will be binding upon Landlord only during the period of its ownership of the Premises and not thereafter. The Term "Landlord" in this Lease shall mean only the owner, for the time being of the Premises, and in the event of the transfer by such owner of its interest in the Premises, such owner shall thereupon be released and discharged from all obligations of Landlord thereafter accruing, but such obligations shall be binding during the Lease Term upon each new owner for the duration of such owner's ownership. Any liability of Landlord under this Lease shall be limited solely to its interest in the Premise, and in no event shall any personal liability be asserted against Landlord in connection with this Lease nor shall any recourse be had to any other property or assets of Landlord.

25. **Waiver of Jury Trial** TENANT AND LANDLORD WAIVE ANY RIGHT TO TRIAL BY JURY OR TO HAVE A JURY PARTICIPATE IN RESOLVING ANY DISPUTE, WHETHER SOUNDING IN CONTRACT, TORT, OR OTHERWISE, BETWEEN LANDLORD AND TENANT ARISING OUT OF THIS LEASE OR ANY OTHER INSTRUMENT, DOCUMENT, OR AGREEMENT EXECUTED OR DELIVERED IN CONNECTION HERewith OR THE TRANSACTIONS RELATED HERETO.

26. **Subordination.** This Lease and Tenant's interest and rights hereunder are and shall be subject and subordinate at all times to the lien of any mortgage, now existing or hereafter created on or against the Premises, and all amendments, restatements, renewals, modifications, consolidations, refinancing, assignments and extensions thereof, without the necessity of any further instrument or act on the part of Tenant. Tenant agrees, at the election of the holder of any such mortgage, to attorn to any such holder. Tenant agrees upon demand to execute, acknowledge and deliver such instruments, confining such subordination and such instruments of atonement as shall be requested by any such holder. Notwithstanding the foregoing, any such holder may at any time subordinate its mortgage to this Lease, without Tenant's consent, by notice in writing to Tenant, and thereupon this Lease shall be deemed prior to such mortgage without regard to their respective dates of execution, delivery or recording and in that event such holder shall have the same rights with respect to this Lease as though this Lease had been executed prior to the execution, delivery and recording of such mortgage and had been assigned to such holder. The term "mortgage" whenever used in this Lease shall be deemed to include deeds of trust, security assignments and any other encumbrances, and any reference to the "holder" of a mortgage shall be deemed to include the beneficiary under a deed of trust.

27. **Mechanic's Liens.** Tenant has no express or implied authority to create or place any lien or encumbrance of any kind upon, or in any manner to bind the interest of Landlord or Tenant in, the Premises or to charge the rentals payable hereunder for any claim in favor of any person dealing with Tenant, including those who may furnish materials or perform labor for any construction or repairs. Tenant covenants and agrees that it will pay or cause to be paid all sums legally due and payable by it on account of any labor performed or materials furnished in connection with any work performed on the Premises and that it will save and hold Landlord harmless from all loss, cost or expense based on or arising out of asserted claims or liens against the leasehold estate or against the interest of Landlord in the Premises or under this Lease. Tenant shall give Landlord immediate written notice of the placing of any lien or encumbrance against the Premises and cause such lien or encumbrance to be discharged within 30 days of the filing or recording thereof; provided, however, Tenant may contest such liens or encumbrances as long as such contest prevents foreclosure of the lien or encumbrance and Tenant causes such lien or encumbrance to be bonded or insured over in a manner satisfactory to Landlord within such 30-day period. Landlord may require tenant to provide to Landlord all documents to establish payment by Tenant for all work performed by third parties.

28. **Estoppel Certificates.** Tenant agrees, from time to time, within 10 days after request of Landlord, to execute and deliver to Landlord, or Landlord's designee, any estoppel certificate requested by Landlord, stating that this Lease is in full force and effect, the date to which rent has been paid, that Landlord is not in default hereunder (or specifying in detail the nature of Landlord's default), the Termination date of this Lease and such other matters pertaining to this Lease as may be requested by Landlord. Tenant's obligation to furnish each estoppel certificate in a timely fashion is a material inducement for Landlord's execution of this Lease. No cure or grace period provided in this Lease shall apply to Tenant's obligations to timely deliver an estoppel certificate.

29. **Environmental Requirements.** Except for Hazardous Material contained in products used by Tenant in de minimis quantities for ordinary cleaning and office purposes, Tenant shall not permit or cause any party to bring any Hazardous Material upon the Premises or transport, store, use, generate, manufacture or release any Hazardous Material in or about the Premises without Landlord's prior written consent. Tenant, at its sole cost and expense, shall operate its business in the Premises in strict compliance with all Environmental Requirements and shall remediate in a manner satisfactory to Landlord any Hazardous Materials released on or from the Premises by Tenant, its agents, employees, contractors, subtenants or invitees. Tenant shall complete and certify to disclosure statements as requested by Landlord from time to time relating to Tenant's transportation, storage, use, generation, manufacture or release of Hazardous Materials on the Premises. The Term "Environmental Requirements" means all applicable present and future statutes, regulations, ordinances, rules, codes, judgments, orders or other similar enactments of any governmental authority or agency regulating or relating to health, safety, or environmental conditions on, under, or about the Premises or the environment, including without limitation, the following: the Comprehensive

Environmental Response, Compensation and Liability Act; the Resource Conservation and Recovery Act; and all state and local counterparts thereto, and any regulations or policies promulgated or issued thereunder. The term "Hazardous Materials" means and includes any substance, material, waste, pollutant, or contaminant listed or defined as hazardous or toxic, under any Environmental Requirements, asbestos and petroleum, including crude oil or any fraction thereof, natural gas liquids, liquefied natural gas, or synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas). As defined in Environmental Requirements, Tenant is and shall be deemed to be the "operator" of Tenant's "facility" and the "owner" of all Hazardous Materials brought on the Premises by Tenant, its agents, employees, contractors or invitees, and the wastes, byproducts, or residues generated, resulting, or produced therefrom.

Tenant shall indemnify, defend, and hold Landlord harmless from and against any and all losses (including, without limitation, diminution in value of the Premises and loss of rental income from the Premise), claims, demands, actions, suits, damages (including, without limitation, punitive damages), expenses (including, without limitation, remediation, removal, repair, corrective action, or cleanup expenses), and costs (including, without limitation, actual attorneys' fees, consultant fees or expert fees and including, without limitation, removal or management of any asbestos brought into the property or disturbed in breach of the requirements, regardless of whether such removal or management is required by law) which are brought or recoverable against, or suffered or incurred by Landlord as a result of any release of Hazardous Materials for which Tenant is obligated to remediate as provided above or any other breach of the requirements by Tenant, its agents, employees, contractors, subtenants, assignees or invitees, regardless of whether Tenant had knowledge of such noncompliance. The obligations of Tenant shall survive any termination of this Lease.

Landlord shall have access to, and a right to perform inspections and tests of, the Premises to determine Tenant's compliance with Environmental Requirements, its obligations, or the environmental condition of the Premises. Access shall be granted to Landlord upon Landlord's prior notice to Tenant and at such times so as to minimize, so far as may be reasonable under the circumstances, any disturbance to Tenant's operations. Such inspections and tests shall be conducted at Landlord's expense, unless such inspections or tests reveal that Tenant has not complied with any Environmental Requirement, in which case Tenant shall reimburse Landlord for the reasonable cost of such inspection and tests. Landlord's receipt of or satisfaction with any environmental assessment in no way waives any rights that Landlord holds against Tenant.

30. **Rules and Regulations.** Tenant shall, at all times during the Lease Term and any extension thereof, comply with all reasonable rules and regulations at any time or from time to time established by Landlord covering use of the Premises. The current rules and regulations are attached hereto. In the event of any conflict between said rules and regulations and other provisions of this Lease, the other terms and provisions of this Lease shall control. Landlord shall not have any

liability or obligation for the breach of any rules or regulations by other tenants in the Premise.

31. **Security Service.** Tenant acknowledges and agrees that, while Landlord may patrol the Premise, Landlord is not providing any security services with respect to the Premises and that Landlord shall not be liable to Tenant for, and Tenant waives any claim against Landlord with respect to, any loss by theft or any other damage suffered or incurred by Tenant in connection with any unauthorized entry into the Premises or any other breach of security with respect to the Premises.

32. **Force Majeure.** Landlord shall not be held responsible for delays in the performance of its obligations hereunder when caused by strikes, lockouts, labor disputes, acts of God, inability to obtain labor or materials or reasonable substitutes therefor, governmental restrictions, governmental regulations, governmental controls, delay in issuance of permits, enemy or hostile governmental action, civil commotion, fire or other casualty, and other causes beyond the reasonable control of Landlord ("Force Majeure").

33. **Entire Agreement.** This Lease constitutes the complete agreement of Landlord and Tenant with respect to the subject matter hereof. No representations, inducements, promises or agreements, oral or written, have been made by Landlord or Tenant, or anyone acting on behalf of Landlord or Tenant, which are not contained herein, and any prior agreements, promises, negotiations, or representations are superseded by this Lease. This Lease may not be amended except by an instrument in writing signed by both parties hereto.

34. **Severability.** If any clause or provision of this Lease is illegal, invalid or unenforceable under present or future laws, then and in that event, it is the intention of the parties hereto that the remainder of this Lease shall not be affected thereby. It is also the intention of the parties to this Lease that in lieu of each clause or provision of this Lease that is illegal, invalid or unenforceable, there be added, as a part of this Lease, a clause or provision as similar in terms to such illegal, invalid or unenforceable clause or provision as may be possible and be legal, valid and enforceable.

35. **Brokers.** Tenant represents and warrants that it has dealt with no broker, agent or other person in connection with this transaction and that no broker, agent or other person brought about this transaction, other than the broker, if any, set forth on the first page of this Lease, and Tenant agrees to indemnify and hold Landlord harmless from and against any claims by any other broker, agent or other person claiming a commission or other form of compensation by virtue of having dealt with Tenant with regard to this leasing transaction.

36. **Miscellaneous.**

- (a) Any payments or charges due from Tenant to Landlord hereunder shall be considered rent for all purposes of this Lease.
- (b) If and when included within the term "Tenant," as used in this instrument, there is more than one person, firm or corporation, each shall be jointly and severally liable for the obligations of Tenant.
- (c) All notices required or permitted to be given under this Lease shall be in writing and shall be sent by certified mail, return receipt requested, or by hand-delivery addressed to the parties at their addresses below, and with a copy sent to Landlord at City of Oroville, Attn: City Administrator, 1735 Montgomery Street, Oroville, California, 95965. Either party may by notice given aforesaid change its address for all subsequent notices. Except where otherwise expressly provided to the contrary, notice shall be deemed given upon delivery. Any issues regarding the safe use and operation of the facility as a result of a defect or damage to the facility shall be reported immediately to the Landlord or Landlord's representative either in person or by telephone.
- (d) Except as otherwise expressly provided in this Lease or as otherwise required by law, Landlord retains the absolute right to withhold any consent or approval.
- (e) The nominal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Lease or any exhibits or amendments hereto.
- (f) The submission by Landlord to Tenant of this Lease shall have no binding force or effect, shall not constitute an option for the leasing of the Premises, nor confer any right or impose any obligations upon either party until execution of this Lease by both parties.
- (g) Words of any gender used in this Lease shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires. The captions inserted in this Lease are for convenience only and in no way define, limit or otherwise describe the scope or intent of this Lease, or any provision hereof, or in any way affect the interpretation of this Lease.
- (h) Any amount not paid by Tenant within 15 days after its due date in accordance with the terms of this Lease shall bear interest from such due date until paid in full at the lesser of the highest rate permitted by applicable law or IO percent per year. It is expressly the intent of Landlord and Tenant at all times to comply with applicable law governing the maximum rate or amount of any interest payable on or in connection with this Lease.

If applicable law is ever judicially interpreted so as to render usurious any interest called for under this Lease, or contracted for, charged, taken, reserved, or received with respect to this Lease, then it is Landlord's and Tenant's express intent that all excess amounts theretofore collected by Landlord be credited on the applicable obligation (or, if the obligation has been or would thereby be paid in full, refunded to Tenant), and the provisions of this Lease immediately shall be deemed reformed and the amounts thereafter collectible hereunder reduced, without the necessity of the execution of any new document, so as to comply with the applicable law, but so as to permit the recovery of the fullest amount otherwise called for hereunder.

(i) Construction and interpretation of this Lease shall be governed by the laws of the state in which the Premises is located, excluding any principles of conflicts of laws.

G) Time is of the essence as to the performance of Tenant's obligations under this Lease.

(k) All exhibits and addenda attached hereto are hereby incorporated into this Lease and made a part hereof. In the event of any conflict between such exhibits or addenda and the Terms of this Lease, such exhibits or addenda shall control.

(l) In the event either party hereto initiates litigation to enforce the terms and provisions of this Lease, the non-prevailing party in such action shall reimburse the prevailing party for its reasonable attorney's fees, filing fees, and court costs.

(n) In the event the total square footage and/or the footprint of the Leased Premises is modified by Landlord for purposes of practicality in compliance with any state or federal law, including but not limited to the Americans with Disabilities Act, Tenant agrees to accept such modifications without compensation. In the event Tenant reasonably believes such modifications prevent Tenant's Use of the Premises Tenant's sole remedy is to meet and confer with Landlord to seek voluntary modification of the Lease.

(o) Lessee shall have ability to use facility with advance notice to Tenant. Known annual events include Salmon Festival, Arbor Day and during election times. Additional events may include but are not limited: holiday events and/or department events (which would need to be coordinated in advance with Tenant).

### **37. Landlord's Lien/Security Interest.**

If a lessee of real property breaches the lease and abandons the property before the end of the term or if his right to possession is terminated by the lessor because of a breach of the lease, the lease terminates. Upon such termination, the lessor may recover from the lessee:

- (1) The worth at the time of award of the unpaid rent which had been earned at the time of termination;
- (2) 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 amount of such rental loss that the lessee proves could have been reasonably avoided;
- (3) Subject to subdivision (c), 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

(4) Any other amount necessary to compensate the lessor for all the detriment proximately caused by the lessee's failure to perform his obligations under the lease or which in the ordinary course of things would be likely to result therefrom.

(b) The "worth at the time of award" of the amounts referred to in paragraphs (1) and (2) of subdivision (a) is computed by allowing interest at such lawful rate as may be specified in the lease or, if no such rate is specified in the lease, at the legal rate. The worth at the time of award of the amount referred to in paragraph (3) of subdivision (a) is computed by discounting such amount at the discount rate of the Federal Reserve Bank of San Francisco at the time of award plus 1 percent.

(c) The lessor may recover damages under paragraph (3) of subdivision (a) only if:

(1) The lease provides that the damages he may recover include 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, or for any shorter period of time specified in the lease, exceeds the amount of such rental loss for the same period that the lessee proves could be reasonably avoided; or

(2) The lessor relet the property prior to the time of award and proves that in reletting the property he acted reasonably and in a good-faith effort to mitigate the damages, but the recovery of damages under this paragraph is subject to any limitations specified in the lease.

(d) Efforts by the lessor to mitigate the damages caused by the lessee's breach of the lease do not waive the lessor's right to recover damages under this section.

(e) Nothing in this section affects the right of the lessor under a lease of real property to indemnification for liability arising prior to the termination of the lease for personal injuries or property damage where the lease provides for such indemnification.



IN WITNESS WHEREOF, Landlord and Tenant have executed this 6<sup>th</sup> day of August, 2024.

CITY OF OROVILLE

FEATHER RIVER RECREATION AND PARK DISTRICT

By: \_\_\_\_\_  
David Pittman, Mayor

By: \_\_\_\_\_  
Scott Kent Fowler, Chair

By: \_\_\_\_\_  
Robert Brian Wilson, General Manager

APPROVED AS TO FORM:

APPROVED AS TO FORM:

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

By: \_\_\_\_\_

ATTEST:

By: \_\_\_\_\_  
Brian Ring, City Clerk



**STAFF REPORT**

**DATE: August 5, 202**

**TO: BOARD OF DIRECTORS**

**FROM: Joe Velasquez**

**RE: RIVERBEND PARK ASPHALT FOOT PATH REPLACEMENT BID RESULTS AND SELECTION.**

**SUMMARY**

We had a total of two bidders on the Riverbend Park Asphalt Footpath Replacement Project.

**BUDGETARY IMPACT**

1. Franklin Construction: Base bid, \$108,600
  - a. Alternative bid #1: River Pathway, \$190,100
  - b. Alternative bid #2: Interior Pathway, \$106,500
2. Rock Creek Construction: Base bid, \$151,425
  - a. Alternative bid #1: \$224,962
  - b. Alternative bid #2: \$150,643

**RECOMMENDATION**

1. Franklin Construction: Base bid of \$108,600
  - a. Local company
  - b. Has done work for FRRPD in the past. Was the primary contractor for the Riverbend restoration Project after the Spillway incident.
  - c. Has a quality reputation within the community for work provided.
  - d. Lowest bidder

**ALTERNATIVE ACTIONS**

1. Rock Creek Construction: Base bid of \$151,425
  - a. Thorough bid packet
  - b. Good references and job history
  - c. Only other bidder



# FRRPD Full Time Pay Scale 2024-25 Fiscal Year

C1

Job Title	Step 1	Step 2	Step 3	Step 4	Step 5	Merit 1	Merit 2	Merit 3	Merit 4	Merit 5
General Manager	contract									
Executive Administrator	\$ 32.00	\$ 32.96	\$ 33.95	\$ 34.97	\$ 36.02	\$ 37.10	\$ 38.21	\$ 39.36	\$ 40.54	\$ 41.75
Business Manager	\$ 32.00	\$ 32.96	\$ 33.95	\$ 34.97	\$ 36.02	\$ 37.10	\$ 38.21	\$ 39.36	\$ 40.54	\$ 41.75
Customer Service FT	\$ 22.00	\$ 22.66	\$ 23.34	\$ 24.04	\$ 24.76	\$ 25.50	\$ 26.27	\$ 27.06	\$ 27.87	\$ 28.71
Recreation Supervisor	\$ 32.00	\$ 32.96	\$ 33.95	\$ 34.97	\$ 36.02	\$ 37.10	\$ 38.21	\$ 39.36	\$ 40.54	\$ 41.75
Recreation Coordinator	\$ 22.00	\$ 22.66	\$ 23.34	\$ 24.04	\$ 24.76	\$ 25.50	\$ 26.27	\$ 27.06	\$ 27.87	\$ 28.71
Park Supervisor	\$ 32.00	\$ 32.96	\$ 33.95	\$ 34.97	\$ 36.02	\$ 37.10	\$ 38.21	\$ 39.36	\$ 40.54	\$ 41.75
Maintenance Worker III	\$ 23.54	\$ 24.25	\$ 24.97	\$ 25.72	\$ 26.49	\$ 27.29	\$ 28.11	\$ 28.95	\$ 29.82	\$ 30.71
Maintenance Worker II	\$ 20.33	\$ 20.94	\$ 21.57	\$ 22.22	\$ 22.88	\$ 23.57	\$ 24.28	\$ 25.00	\$ 25.75	\$ 26.53
Maintenance Worker I	\$ 18.19	\$ 18.74	\$ 19.30	\$ 19.88	\$ 20.47	\$ 21.09	\$ 21.72	\$ 22.37	\$ 23.04	\$ 23.73

*With projected Min. Wage Increase Jan. 1, 2025*

Job Title	Step 1	Step 2	Step 3	Step 4	Step 5	Merit 1	Merit 2	Merit 3	Merit 4	Merit 5
General Manager	contract									
Executive Administrator	\$ 34.00	\$ 35.02	\$ 36.07	\$ 37.15	\$ 38.27	\$ 39.42	\$ 40.60	\$ 41.82	\$ 43.07	\$ 44.36
Business Manager	\$ 34.00	\$ 35.02	\$ 36.07	\$ 37.15	\$ 38.27	\$ 39.42	\$ 40.60	\$ 41.82	\$ 43.07	\$ 44.36
Customer Service FT	\$ 22.00	\$ 22.66	\$ 23.34	\$ 24.04	\$ 24.76	\$ 25.50	\$ 26.27	\$ 27.06	\$ 27.87	\$ 28.71
Recreation Supervisor	\$ 34.00	\$ 35.02	\$ 36.07	\$ 37.15	\$ 38.27	\$ 39.42	\$ 40.60	\$ 41.82	\$ 43.07	\$ 44.36
Recreation Coordinator	\$ 22.00	\$ 22.66	\$ 23.34	\$ 24.04	\$ 24.76	\$ 25.50	\$ 26.27	\$ 27.06	\$ 27.87	\$ 28.71
Park Supervisor	\$ 34.00	\$ 35.02	\$ 36.07	\$ 37.15	\$ 38.27	\$ 39.42	\$ 40.60	\$ 41.82	\$ 43.07	\$ 44.36
Maintenance Worker III	\$ 23.54	\$ 24.25	\$ 24.97	\$ 25.72	\$ 26.49	\$ 27.29	\$ 28.11	\$ 28.95	\$ 29.82	\$ 30.71
Maintenance Worker II	\$ 20.33	\$ 20.94	\$ 21.57	\$ 22.22	\$ 22.88	\$ 23.57	\$ 24.28	\$ 25.00	\$ 25.75	\$ 26.53
Maintenance Worker I	\$ 18.19	\$ 18.74	\$ 19.30	\$ 19.88	\$ 20.47	\$ 21.09	\$ 21.72	\$ 22.37	\$ 23.04	\$ 23.73



## STAFF REPORT

**DATE: AUGUST 7, 2024**

**TO: BOARD OF DIRECTORS**

**FROM: Robert Brian Wilson, General Manager**

**SUBJECT: Recommendation To Adopt Resolution #2031-24 Ordering The Levy Of Special Taxes For Fiscal Year 2024-25 Within The Community Facilities District No. 2022-01 (Park Maintenance)**

### **RECOMMENDATION:**

That the Board of Directors adopt Resolution #2024-\_\_\_ordering the levy of special taxes within Community Facilities District No. 2022-01 (Park Maintenance) for Fiscal Year 2024-25.

### **BACKGROUND:**

On June 27, 2023, the Board adopted Ordinance No. 2023-01 ("Ordinance") levying special taxes within Community Facilities District No. 2022-01 (Park Maintenance) to the annual operation, maintenance, and servicing, including repair and replacement of parks, trails and recreation facilities, storm drainage facilities, landscape corridors, wetlands, and open space areas; any incidental expenses authorized by the Act. The Ordinance authorizes and directs the District or designee to determine the maximum special tax rates and the specific special tax amounts to be levied each fiscal year for each parcel of real property within the CFD in the manner and as provided in the Rate and Method of Apportionment ("RMA").

### **DISCUSSION:**

**Maximum Special Tax Rates.** The RMA specifies that the maximum special tax rates shall be adjusted each fiscal year by percentage change during the preceding year in the Consumer Price Index for All Urban Consumers in the San Francisco-Oakland-San Jose area ("CPI-U"), as published by the U.S. Department of Labor, Bureau of Labor Statistics, or four percent, whichever is greater.

Since the CPI-U was 2.62%, the annual escalation factor is 4% and the maximum authorized special tax rates for fiscal year 2024-25 are \$447.21 per residential unit for developed residential property and \$2,273.13 per acre for undeveloped property for Tax Zone No. 1.

**Annual Special Tax Rates.** The RMA specifies that for each fiscal year, the Board will determine the special tax requirement and levy the annual special tax on each assessor's parcel of developed residential property at up to one hundred percent of the applicable maximum special tax to fund the special tax requirement. For purposes of the special tax, developed residential property is defined as parcels for which a building permit has been issued before April 1 of the preceding fiscal year for the construction of a residential unit. If additional revenues are needed to provide the 1) Services; 2) pay anticipated Administrative Expenses; 3) pay any amounts required to establish or replenish any reserve funds; and 4) cure any prior or anticipated delinquencies, the Annual Special Tax shall be levied Proportionately on each Assessor's Parcel of Undeveloped Property up to one hundred percent of the Maximum Special Tax for Undeveloped Property.



Tax Zone No. 1. It is anticipated that Services will commence January 1, 2025. Therefore, the special tax revenue requirement for fiscal year 2024-25 for Tax Zone No. 1 will be \$31,772 for six months of services plus administrative expenses. As of April 1, 2024, 0 building permits were issued for the construction of residential units. Therefore, the 49.95 acres of undeveloped property shall be levied the annual special tax of \$636.08 per undeveloped acre yet rounded down to the nearest cent as required by the County Tax Collector.

It is recommended that the Board of Directors approve Resolution #2024-\_\_\_\_ so that the District can provide Services to Tax Zone No. 1 by January 1, 2025.

**ATTACHMENT:** Resolution #2031-24



**RESOLUTION NO. 2031-24**  
**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE FEATHER RIVER RECREATION**  
**AND PARK DISTRICT ORDERING THE LEVY OF SPECIAL TAXES FOR FISCAL YEAR 2024-25**  
**WITHIN COMMUNITY FACILITIES DISTRICT NO. 2022-01 (PARK MAINTENANCE)**

**WHEREAS**, the Board of Directors of the Feather River Recreation and Park District ("District"), previously established Feather River Recreation and Park District Community Facilities District No. 2022-01 (Park Maintenance) ("CFD") pursuant to the terms and provisions of the Mello-Roos Community Facilities Act of 1982, as amended, commencing with Government Code Section 53311 (the "Act"); and

**WHEREAS**, the Board, acting as the legislative body of CFD 2020-01, is authorized pursuant to Resolution No. 2002-22 (the "Resolution of Formation") and Ordinance No. 2023-01 adopted by the District (the "Ordinance") to levy a special tax sufficient to fund the annual operation, maintenance, and servicing of certain services (as defined in the Resolution of Formation); and

**WHEREAS**, it is now necessary and appropriate that this Board order the levy and collection of the special taxes for the Fiscal Year 2024-25 for the purpose specified in the Resolution of Formation and the Ordinance by the adoption of a resolution as specified by the Act and the Ordinance; and

**NOW, THEREFORE, BE IT RESOLVED:**

**Section 1.** The foregoing recitals are true and correct

**Section 2.** The special tax is imposed without regard to property valuation and is levied in compliance with the Act and the Ordinance.

**Section 3.** The maximum special tax rates are adjusted by the annual escalation factor, which is the change in the San Francisco-Oakland-San Jose Area Consumer Price Index ("CPI"), or 4 percent, whichever is greater. The change in the CPI for 2023 was 2.62%; therefore, the annual escalation factor is 4%, and the maximum authorized special tax rates for Fiscal Year 2024-25 are \$447.21 per residential unit for developed residential property and \$2,273.13 per acre for undeveloped property for Tax Zone No. 1.

**Section 3.** In accordance with the Act and the Ordinance, there is hereby levied upon the parcels of real property within the CFD 2022-01, which are not otherwise exempt from taxation under the Act or the Ordinance special taxes for the Fiscal Year 2024-25 at the special tax rate set at \$636.08 per acre of undeveloped property for Tax Zone No. 1, which special tax rates do not exceed the maximum special tax rates set forth in the Ordinance. After the adoption of this Resolution, the CFD Levy Administrator may make any necessary modifications to these special taxes to correct any errors, omissions, or inconsistencies in the listing or categorization of parcels to be taxed or in the amount to be charged to any category of parcels; provided, however, that any such modifications shall not result in an



increase in the special tax applicable to any category of parcels and is made prior to the submission of the tax rolls to the Butte County Tax Collector.

**Section 4.** All of the collections of the special tax shall be used only as provided for in the Act and the Resolution of Formation. The special tax shall be levied only so long as needed to accomplish the purposes described in the Resolution of Formation.

**Section 5.** The special tax shall be collected in the same manner as ordinary ad valorem taxes are collected and shall be subject to the same penalties and the same procedure and sale in cases of delinquency as provided for ad valorem taxes, except as such procedure may be modified by law and by this Board.

**Section 6.** The CFD Administrator is hereby authorized and directed to transmit a certified copy of this Resolution to the Butte County Tax Collector, together with other supporting documentation as may be required to place said special taxes on the secured property tax roll for the Fiscal Year 2024-25, and to perform all other acts which are required by the Act, the Ordinance, or by law in order to accomplish the purpose of this Resolution.

**Section 7.** This Resolution shall take effect immediately upon adoption.

**PASSED AND ADOPTED** by the Board of Directors of the Feather River Recreation and Park District at a regularly scheduled meeting, held on the 7<sup>th</sup> day of August 2024, by the following vote of said Board:

AYES:

NOES:

ABSENT:

ATTEST:

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Scott Kent Fowler, Board Chair

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Robert Brian Wilson, General Manager