November 17, 2026

Board of Supervisors
Kern County Administrative Center
1115 Truxtun Avenue
Bakersfield, CA 93301

PROPOSED RETROACTIVE AGREEMENT WITH THE CITY OF DELANO FOR THE LEASE OF DELANO FIRE STATIONS 34 AND 37 FOR USE BY THE KERN COUNTY FIRE DEPARTMENT; S.D. #4
(Fiscal Impact: None)

The purpose of this item is to request your Board's retroactive approval of a lease agreement with the City of Delano (City) for the continued use of two City-owned fire stations by the Kern County Fire Department (Fire). The proposed agreement establishes the parties' respective rights and responsibilities for Fire Station 34, located at 1001 12th Avenue, and Fire Station 37, located at 132 West 11th Avenue, in Delano.

Background:

On October 12, 2021, your Board approved Agreement No. 600-2021 with the City for Fire to provide fire protection services and enforcement of State Fire Marshal regulations. That agreement commenced July 1, 2022, and remains in effect through June 30, 2028, unless otherwise terminated. Fire has occupied and operated the City-owned stations in connection with its provision of these services.

The proposed lease formalizes Fire's continued occupancy of both stations and addresses the parties' responsibilities for use of the premises, repairs and maintenance, utilities, alterations, insurance, and related matters. Its stated retroactive commencement date is July 1, 2024, and its term coincides with the expiration of the Fire Services Agreement on June 30, 2028, unless sooner terminated or extended as provided in the lease. If the Fire Services Agreement is renewed, the lease may be extended to coincide with that term by written acknowledgment from the County to the City.

The Delano City Council approved the lease agreement on November 2, 2026, and the agreement has been signed on behalf of the City. The agreement is now being presented to your Board for approval and authorization for the Chairman to sign.

Fiscal Impact:

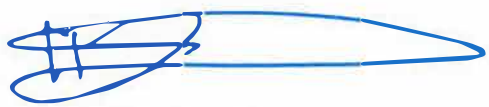
No separate monetary rent is payable under the proposed lease. The fire protection services provided by Fire for the benefit of the City and its residents, businesses, and visitors constitute consideration. The agreement allocates responsibility for utilities, routine maintenance, and major maintenance between the parties. Any associated County operating costs will be managed through the Fire Department's applicable budget.

The attached Agreement has been approved as to content by the General Services Division, the Fire Department and City, and has been approved as to form by the Office of County Counsel.

In consultation with the Planning and Natural Resources Department, the General Services Division's review of possible environmental effects has determined that this Agreement involves negligible or no expansion of use beyond that previously existing and is declared to be categorically exempt from the requirement to prepare environmental documents pursuant to Section 15301 of the California Environmental Quality Act (CEQA) Guidelines. Furthermore, pursuant to Section 15061(b)(3) it can be seen with certainty that there is no possibility the activity may have a significant effect on the environment.

Therefore, IT IS RECOMMENDED that your Board: 1) find the project to be exempt from further CEQA review per sections 15061(b)(3) and 15301 of State CEQA Guidelines; 2) approve the retroactive Lease Agreement with the City of Delano for Fire Stations 34 and 37 for continued use and operation by the Fire Department for a term ending June 30, 2028; and 3) authorize the Chairman to sign.

Sincerely,



Michelle Burns-Lusich
Chief General Services Officer

MBL:KAS:ajg:yz
Attachments:
cc: County Counsel
Kern County Fire Department

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City of Delano
Agreement No.
2026-70

AGREEMENT FOR LEASE OF 1001 12th AVENUE AND 132 WEST 11th STREET DELANO, CA

(County of Kern – City of Delano)

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AGREEMENT FOR LEASE OF 1001 12th AVENUE AND 132 WEST 11th AVENUE DELANO, CA

(County of Kern – City of Delano)

THIS AGREEMENT ("**Agreement**") is executed at Bakersfield, California, on _____, 2026 ("**Execution Date**") by and between the **COUNTY OF KERN**, a political subdivision of the State of California ("**County**"), and the **CITY OF DELANO**, a municipal corporation with the County of Kern ("**City**"). County and City are referred to individually as a "**Party**" and collectively as the "**Parties**."

RECITALS:

A. City owns real property located at 1001 12th Avenue and 132 West 11th Avenue in Delano, County of Kern, State of California, which are commonly known as Fire Stations #34 and #37 respectively ("**Fire Stations**").

B. Under the services agreement between the Parties dated October 12, 2021 (City Agreement No. 2021-47; Kern County Agreement No. 600-2021; "**Services Agreement**"), the Kern County Fire Department ("**Fire**") provides fire protection duties and the enforcement of State Fire Marshal regulations for the City.

C. City and County desire to enter into this Agreement to formally address County's continued use of the Fire Stations under lease terms and conditions.

D. Pursuant to Government Code Section 25353, County may lease property for use as County offices.

AGREEMENT:

1. Premises: For and in consideration of the terms, covenants, and conditions contained in this Agreement, City leases to County, and County leases from City, exclusive use of Fire Station #34 which is located at 1001 12th Avenue in Delano, California, and depicted on the map attached as **Exhibit** "**A-1**"; and Fire Station #37 which is located at 132 West 11th Avenue in Delano, California, and depicted on the map attached as **Exhibit** "**A-2**" (collectively, "**Premises**"). County agrees that all rights, title and interest in the Premises shall remain with the City.

2. Term:

a. Initial Term – The initial term of this Agreement ("**Term**") shall commence on the July 1, 2024 ("**Commencement Date**") and shall coincide with the termination of the Services Agreement on June 30, 2028, unless sooner terminated as provided in this Agreement or the Services Agreement, or unless extended pursuant **Section 2.b**.

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throughout the Term and any extensions thereof, its Workers' Compensation and Employer's Liability under which it shall have a retention and such excess insurance in an amount not less than $1,250,000. All exposures, including contract liability, arising out of County's operations on the Premises or use and maintenance of the Premises are covered by County's self-insurance program undertaken pursuant to California Government Code Section 990. Upon request, County shall provide a letter of self-insurance from County's Risk Manager evidencing the same.

Notwithstanding anything to the contrary, City acknowledges that County's self-insurance program is deemed to satisfy all of County's insurance obligations set forth in **Section 18.1** above.

18.2 City Maintenance of Insurance:

a. Liability Insurance Requirements:

1) In General – City shall maintain in full force and effect, at all times during the Term, the following insurance:

i. Commercial General Liability Insurance, including without limitation Contractual Liability Insurance (specifically concerning the indemnity provisions of this Agreement with the County), Products-Completed Operations Hazard, Personal Injury (including bodily injury and death), and Property Damage for liability arising out of City's performance of work under this Agreement. The Commercial General Liability insurance shall contain no exclusions or limitation for independent contractors working on the behalf of the named insured. City shall maintain the Products-Completed Operations Hazard coverage for the longest period allowed by law following termination of this Agreement. The amount of said insurance coverage required by this Agreement shall be the policy limits, which shall be at least $1,000,000 each occurrence and $2,000,000 aggregate.

2) Additional Insureds – The Commercial General Liability required in this sub-paragraph b. shall include an endorsement naming the County and County's board members, officials, officers, agents and employees as additional insureds for liability arising out of this Agreement and any operations related thereto. Said endorsement shall be provided using one of the following three options: **(i)** on ISO form CG 20 10 11 85; or **(ii)** on ISO form CG 20 37 10 01 plus either ISO form CG 20 10 10 01 or CG 20 33 10 01; or **(iii)** on such other forms which provide coverage at least equal to or better than form CG 20 10 11 85.

3) Self-Insurance Retention – Any self-insured retentions in excess of $100,000 must be declared on the Certificate of Insurance or other documentation provided to County.

4) Claims-Made – If any of the insurance coverages required under this Agreement is written on a claims-made basis, City, at City's option, shall either **(i)** maintain said coverage for at least three years following the termination of this Agreement with coverage extending back to the Commencement Date; **(ii)** purchase an extended reporting period of not less than three years following the termination of this Agreement; or **(iii)** acquire a full prior acts provision on any

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b. **Extensions** – Should the Services Agreement be renewed, this Agreement may be extended to coincide with the term of the Services Agreement by written acknowledgement by County to City.

3. **Hold Over:** If County holds over after the expiration of the Term with the express or implied consent of City, such holding over shall be a tenancy only from month to month and shall be governed by the terms, covenants, and conditions contained in this Agreement.

4. **Consideration:** The services provided by Fire for the benefit of the City of Delano and its residents, businesses and visitors in the operation and services provided at the Premises shall be sufficient consideration for purposes of this Agreement. The Parties shall account for the value of this Agreement when negotiating future Services Agreements.

5. **Purpose:**

a. **General** – The Premises shall be used for the purpose of conducting business of the County that is set forth in the Services Agreement. County shall not use or permit the Premises to be used for any other purpose without the prior written consent of City.

b. **No Nuisance –** Neither Party shall do or permit any act or thing to be done upon the Premises that will obstruct or interfere with the rights of the other Party or any other lessee or injure or annoy the other Party or others. Neither Party shall cause, maintain, or permit any nuisance or waste on or about or adjacent the Premises, or allow the Premises to be used for any unlawful purpose. The Parties further agree, within seventy-two (72) hours from receiving written notice by a Party that a nuisance exists, to abate or otherwise cause the nuisance to be cured. If the noticed Party has not taken corrective action within seventy-two (72) hours, then the noticing Party may enter and abate the nuisance at the sole cost of the noticed Party.

6. **Access:** County shall have reasonable right of way for pedestrian and vehicular traffic over property owned and controlled by the City for the purposes of ingress to and egress from the Premises, 24 hours a day, 7 days a week.

7. **Condition of Premises:** County has occupied the Premises for many years, knows the extent and condition thereof, has had the opportunity to thoroughly inspect the Premises and accepts same in its "where is/as is" present condition for its current operations. County acknowledges that the Premises has not undergone inspection by a Certified Access Specialist, and County accepts the Premises in its present condition. Pursuant to **Section 9**, the Parties shall work together to address future issues that may arise with regard to the condition of the Premises.

8. **Alterations:** Throughout the Term, County shall have the right to install and modify the Premises for radios, station alerting equipment, wiring/cabling for telephones, networks and computers. Except as provided in the preceding sentence, County shall not perform any exterior, interior or structural alterations without the prior written consent of City. All such modifications shall be done at County's expense and County shall ensure that all contractors doing work on the Premises indemnify, defend and hold harmless the City and name the City as an additional insured in the same manner that such are provided to County for work being done on

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the Premises.

9. Repair and Maintenance:

a. Initial Walk Through – Within thirty (30) days of the Execution Date, the Parties shall meet at the Premises and perform an initial walk through of the Premises ("**Initial Walk Through**") in an effort to establish a baseline condition of the Premises, address any maintenance or repair issues within the County's or City's Responsibilities as defined in **Section 9.c and 9.d**, and itemize County's FF&E as described in **Section 12**.

b. Annual Conference – Prior to January 1st of each calendar year, the Parties shall meet and confer over any structural, major maintenance, or capital improvement projects that are either forthcoming or outstanding. The necessity, priority, and funding of such projects shall be considered between the Parties pursuant the responsibilities delineated in this **Section 9**.

c. City Responsibilities – City shall be responsible for any repairs necessary to assure the structural integrity and to maintain the Premises in compliance with applicable building and health safety codes, except to the extent the County's negligent or intentional wrongful acts cause the Premises to not be in compliance with building and safety codes. Subject to the exceptions set forth in this **Section 9**, City shall maintain all structural portions of the Premises, exterior and interior, including roof, common areas, interior plumbing systems, air conditioning and heating systems, electrical systems, building and parking lot lighting fixtures (including ballast replacement), exterior painting, pest control, sprinklers, parking lot maintenance and upkeep. Capital improvements to the Premises shall be the obligation of City, unless otherwise agreed upon pursuant **Section 9.b**. City shall specifically be responsible for the engine house doors, motors, fencing, gates, and gate openers around the Premises. In addition, City shall maintain site security components of the Premises at a level equivalent to that of other City properties used for first-responders (ie: police department), including backup power. All items mentioned in this **Section 9.c** shall be considered "**Major Maintenance**" for purposes of this Agreement, except that any Major Maintenance necessitated by the acts or omissions of County or its invitees shall be the sole responsibility of County.

d. County Responsibilities – County shall be responsible for all maintenance and repairs not identified as "Major Maintenance" in **Section 9.c**, including routine, minor maintenance including the periodic changing of air conditioning filters, light bulb replacement, annual servicing of fire extinguishers, glass replacement, landscaping, and washer/dryer repairs/replacements. County shall be responsible for its own janitorial services on the Premises. County shall also be responsible for maintaining its own FF&E, as described in **Section 12**. To the extent that County or its invitees cause damage to the Premises, County shall be responsible for such damage.

e. Response Time Line – Unless otherwise agreed upon by the Parties, all maintenance and repairs shall be responded to in writing by the responsible party within seventy-two (72) hours of notice. If a Party has not commenced to perform maintenance and replacement obligations to the Premises of a specific condition needing correction, that does not require public bidding or qualifies as an emergency not subject to public bidding, within five (5) working days, or if such maintenance or replacement obligations can reasonably but are not completed within thirty (30) working days, and the responsible

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Party is not diligently pursuing such completion, then the other Party may, but shall not be required to, undertake such obligations, and all costs and expenses incurred as a result thereof shall be billed to the responsible Party. Work that will reasonably take longer than thirty (30) working days to complete shall be subject to this same option of being completed by the other Party if the work is not diligently pursued. If work required to be completed by City is performed by County, County shall bill the City for reimbursement; or if work to be completed by County is performed by City, City will be given credit toward fire service contract annual payments unless there is no such payment due, which in such event City shall bill County for such services performed.

f. **Emergency** – If there is an emergency condition, such three (3)-calendar day notice provision shall not apply to emergency items which constitute an imminent and serious hazard to the health or safety of County's employees, Premises or invitees, as reasonably determined by the Party aggrieved by the emergency, the Party responsible for mitigating the condition creating the emergency shall have the right to correct same and if such Party does not act promptly and work to complete the work in a timely manner, then the remedies set for in **Section 9.e** shall be available to the Parties.

g. **Repair and Maintenance Standards** – Repair and maintenance shall be completed in a responsible manner, meet building and safety code standards, and be consistent with the current repair and maintenance standards of the Premises.

10. **Utilities and Services; Modification of Utilities:** County shall pay, during the Term, and during any extension or holdover, for all utilities used by County in connection with its operations on the Premises. The term "utilities" for the purposes of this Agreement shall include, without limitation, gas, electricity, water, sewer, telephone and internet service, and trash and refuse disposal services. County may not modify the utilities without prior written consent from City.

11. **Taxes and Assessments:** County shall pay all applicable taxes, fees, charges, and assessments levied by any governmental agency upon any interest acquired by County under this Agreement.

12. **County's Furniture, Fixtures and Equipment:** County may install its own furniture, fixtures and equipment ("**FF&E**") on the Premises at its sole cost and expense. FF&E include but not limited to Information Technology equipment, refrigerators, ice machines, SCBA air compressor, and any other items deemed necessary for the support of a fire station. Any such fixtures, partitions, counters, shelving, equipment, or other alterations or improvements attached to or placed on the Premises by County shall be considered personal property of County, which may be removed by County upon termination of this Agreement. In addition to County's obligations under **Section 27**, at the expiration or termination of this Agreement, County shall remove its FF&E, and repair any damage to the Premises as a result of removal, at County's sole cost and expense.

13. **Signs:** County, at its sole cost, shall have the right to install signs to identify the Premises, and such signs shall comply with all Applicable Laws, including those of County, and any installation of signage shall be approved by City in writing prior to installation. Any damage to the Premises occasioned by the installation and maintenance of any such sign, and the cost of removal or

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obliteration thereof upon the expiration or termination of this Agreement, shall be paid by County.

14. Damage and Destruction: If the Premises is damaged or destroyed by fire or casualty, not the fault of County or any person in or about the Premises with the express or implied consent of the County, the damaged Premises shall be repaired by City at its sole cost, with the use of available insurance proceeds required under **Section 18.b**, or City or County may, at its option, terminate this Agreement. In the event that City elects to repair the damaged Premises, this Agreement shall continue in full force and effect except that certain obligations of County may be subject to Force Majeure as provided in **Section 22**. The provisions of California Civil Code sections 1932(2) and 1933(4) shall not apply to this Agreement, and County hereby waives the benefits thereof.

15. Condemnation: If all or a portion of either building on the Premises is condemned for public use by eminent domain proceedings, or if by reason of law, ordinance, regulation, or court judgment, County's use of the Premises leased for the specific purpose specified in **Section 5** is prohibited, then County shall have the right to terminate this Agreement by written notice to City. In the event of condemnation of only part of the Premises which does not materially and adversely affect County's ability to conduct business, County shall continue in possession of that part of the Premises not so appropriated or condemned under the same terms, covenants and conditions of this Agreement. Notwithstanding the above, County does not waive any right it may have to recover from the condemnation authority for such damage as it may suffer by reason of such condemnation which would be limited to its FF&E rights and obligations.

16. Right of Inspection: City, and such agents as City may designate, may enter upon the Premises at all reasonable times for the purpose of inspecting, maintaining, repairing, and altering the Premises in a manner consistent with the purpose of this Agreement and in accordance with reasonable commercial practices in the management of property. However, such access may only be obtained upon reasonable notice and accompaniment by an authorized County employee if entry is during non-business hours. County shall provide emergency contact numbers to City for this purpose.

17. Indemnification:

a. Mutual – Each Party agrees to defend, hold harmless, and indemnify the other Party (and the other Party's officers, employees, trustees, agents, successors, assigns, and invitees, collectively referred to as the "**Indemnified Parties**") against all claims, suits, expenses (including reasonable attorney's fees), losses, penalties, fines, costs, and liability whether in contract, tort, or strict liability (including but not limited to personal injury, death at any time, and property damage) arising out of or made necessary by **i)** the indemnifying Party's breach of the terms of this Agreement; **ii)** the act or omission of the indemnifying Party and its Indemnified Parties in connection with performance of this Agreement; and **iii)** the presence of the indemnifying Party and its Indemnified Parties on the other Party's premises. In the event that any action or proceeding is brought against a Party by reason of any claim or demand discussed in this **Section 17**, upon reasonable notice from the other Party, the indemnifying Party shall defend the action or proceeding at the other Party's expense through counsel reasonably satisfactory to the other Party. The obligations to indemnify set forth in this **Section 17** shall include reasonable attorney's fees, investigation costs, and all other reasonable costs, expenses, and property and

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personal injury damages and liabilities. The indemnifying Party's obligations under this **Section 17** shall apply regardless of whether the other Party or its Indemnified Parties are actively or passively negligent, but shall not apply to the extent any loss, liability, fine, penalty, forfeiture, cost, or damage determined by an arbitrator or court of competent jurisdiction to be caused solely by the active negligence or willful misconduct of the other Party and its Indemnified Parties.

b. **Environmental** – In addition, City shall indemnify and defend, upon request of County, County and the Indemnified Parties against any and all Claims arising out of or in any way connected with any pre-existing deposit, spill, discharge, or other release of any Hazardous Materials that were on the Premises prior to the time County first rendered services under a Services Agreement, or as a result of City's failure to provide any or all information, make any or all of its submissions, and take any or all steps required by any governmental authority or court which has jurisdiction or by any Environmental Requirements. "**Environmental Requirements**" and "**Hazardous Materials**," as used in this Agreement, shall have the meaning provided in **Exhibit** "**B**." In addition, County shall indemnify and defend, upon request of City, City and the Indemnified Parties against any and all Claims arising out of or in any way connected with any post-existing deposit, spill, discharge, or other release of any Hazardous Materials that were released on the Premises after the time the County first rendered services under a Services Agreement, or as a result of County's failure to provide any or all information, make any or all of its submissions, and take any or all steps required by any governmental authority or court which has jurisdiction or by any Environmental Requirements. "**Environmental Requirements**" and "**Hazardous Materials**," as used in this Agreement, shall have the meaning provided in **Exhibit** "**B**."

c. **Survival of Indemnification Obligations** – The Parties' obligations under this **Section 17** shall survive the expiration or termination of this Agreement.

18. **Maintenance of Insurance:** City and County shall secure and maintain all insurance or self-insurance as required under this **Section 18** and shall file a letter of self-insurance or certificates of insurance, and all required endorsements, with the Party's authorized insurance representative. Receipt of evidence of insurance that does not comply with all applicable insurance requirements shall not constitute a waiver of these insurance requirements. The required documents must be signed by the authorized representative of the insurance company shown on the certificate. City and County shall promptly deliver a letter of self-insurance or a certificate of insurance, and all required endorsements, with respect to each renewal policy, as necessary to demonstrate the maintenance of the required insurance coverage for the Term, or as otherwise specified herein. Such letter of self-insurance or certificates and endorsements shall be delivered to the Party's authorized insurance representative prior to the expiration date of any policy and bear a notation evidencing payment of the premium thereof if so requested. City and County shall immediately pay any deductibles and self-insured retentions under all required insurance policies upon the submission of any claim by City or County as an additional insured.

18.1 **County Maintenance of Insurance:** County shall maintain in effect throughout the Term and any extensions thereof, its General Liability Program under which it shall have a retention and such excess insurance in an amount not less than $2,000,000 in the aggregate with combined liability for personal injury and property damage. County shall maintain in effect

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renewal or replacement policy.

b. Fire and Casualty Insurance – City shall, at its sole cost, maintain on the Premises a policy of standard fire and extended coverage insurance, with vandalism and malicious mischief endorsements, to the extent of at least 100% of full replacement value. The insurance policy shall be issued in the names of City, and any lender, as their interests appear. The insurance policy shall provide that any proceeds shall be made payable to City, and City shall apply and use such proceeds as required by **Section 14**, subject to the priority rights of any lender. Such insurance shall satisfy the requirements of this **Section 18.b** and shall be issued by a company or companies satisfying the requirements of **Section 18.d**. On or before the Commencement Date, City shall deliver to County certificates of insurance indicating that City has complied with the provisions of this **Section 18.b**.

c. Cancellation of Insurance – The above-stated insurance coverages required to be maintained by City shall be maintained until the completion of all of City's obligations under this Agreement. Each insurance policy supplied by City must be endorsed to provide that the coverage shall not be suspended, voided, cancelled, or reduced in coverage or in limits except after ten (10) days written notice in the case of non-payment of premiums, or thirty (30) days written notice in all other cases. Such notice shall be by certified mail, return receipt requested. This notice requirement does not waive the insurance requirements stated herein. City shall immediately obtain replacement coverage for any insurance policy that is terminated, canceled, non-renewed, or whose policy limits have been exhausted or upon insolvency of the insurer that issued the policy.

d. Insurance Company Rating – All insurance shall be issued by a company or companies admitted to do business in California and listed in the current "Best's Key Rating Guide" publication with a minimum rating of A-; VII. Any exception to these requirements must be approved in writing by the County Risk Manager, which may be granted or withheld at the County Risk Manager's sole discretion.

e. City Self-Insured – If City is, or becomes during the term of this Agreement, self-insured or a member of a self-insurance pool, City shall provide coverage equivalent to the insurance coverages and endorsements required above. County will not accept such coverage unless the County Risk Manager determines, in his/her sole discretion and by written acceptance, that the coverage proposed to be provided by City is equivalent to the above-required coverages.

f. Primary Insurance – All insurance or self-insurance afforded by each Party pursuant to this Agreement shall be primary to and not contributing to any insurance or self-insurance maintained by the other Party for any claims arising out of this Agreement. The City shall provide a formal endorsement on all policies evidencing this waiver. The County shall satisfy this requirement through its self-insurance program and letter of self-insurance referenced in **Section 18.1**.

g. No Limitations by Policy Limits – Insurance coverages in the minimum amounts set forth herein shall not be construed to relieve City for any liability, whether within, outside, or in excess of such coverage, and regardless of solvency or insolvency of the insurer that issues the coverage, or to preclude County from taking such other actions as are available to it under any other provision of this Agreement or otherwise under Applicable Laws.

h. Failure to Maintain Insurance – Failure by City to maintain all such insurance in effect at all times required by this Agreement shall be a material breach of this Agreement by City. County, at its sole option, may terminate this Agreement and obtain damages from City

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resulting from said breach. Alternatively, County may purchase such required insurance coverage, and without further notice to City, County shall deduct from sums due to City any premiums and associated costs advanced or paid by County for such insurance. If the balance of monies obligated to City pursuant to this Agreement is insufficient to reimburse County for the premiums and any associated costs, City shall reimburse County for the premiums and pay for all costs associated with the purchase of said insurance within ten (10) days of demand by County. Any failure by County to take this alternative action shall not relieve City of its obligation to obtain and maintain the insurance coverages required by this Agreement.

19. Breach by City: In the event of a breach by City of any term, covenant, or condition of this Agreement, City shall have forty-five (45) days after written notice has been given to City by County to cure, unless it would reasonably take longer to cure such breach in which event City shall have such time as is necessary to cure so long as City is diligently curing the breach. If City fails to cure within the stated time periods, County may terminate this Agreement. However, in the event of an emergency, County may require a shorter period in which to cure. In the event of City's breach of this Agreement, County shall have the right to recover from City damages suffered, including without limitation moving and relocation expenses by reason of City's breach.

20. Breach by County: In the event of a breach by County of any term, covenant or condition of this Agreement, County shall have forty-five (45) days after written notice has been given to County by City to cure unless it would reasonably take longer to cure such breach, in which event the County shall have such time as is necessary to cure so long as County is diligently curing the breach. If County fails to cure within the stated time periods, City may terminate this Agreement. However, in the event of an emergency, City may require a shorter period in which to cure. In the event County's breach of this Agreement, City shall have the right to recover from County damages suffered, including without limitation moving and relocation expenses by reason of County's breach.

21. No Waiver of Breach: The waiver by one Party of any term, covenant, or condition contained in this Agreement must be in writing and shall not be deemed to be a waiver of any subsequent breach of the term, covenant or condition contained in this Agreement, and no custom or practice that may arise between the Parties during the course of this Agreement shall be construed to waive or lessen the right of a Party to the performance by the other Party in strict accordance with the terms of this Agreement.

22. Force Majeure:

a. Definition – Neither Party shall be held responsible or be deemed to be in default under this Agreement for any delay in performance or failure to perform any of its obligations, if such delay or failure is the result of causes beyond the control and without negligence of the Party. Such causes include, without limitation, acts of nature, strikes, lockouts, riots, insurrections, civil disturbances or uprisings, sabotage, embargoes, blockages, acts of war or terrorism, acts or failure to act by any governmental or regulatory body (whether civil or military, domestic or foreign), governmental regulations superimposed after the fact, communication line failures, power failures, fires, explosions, floods, accidents, epidemics, earthquakes, tsunamis, or other natural or man-made disasters

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("**Force Majeure**"). Lack of funds shall not be a Force Majeure event.

b. **Consequences** – The Party affected by a Force Majeure event, upon giving prompt notice to the other Party, shall be excused from performance to the extent of such prevention, restriction, or interference, on a day-to-day basis until the Force Majeure event is removed, and the other Party shall likewise be excused from performance of its obligations which relate to the performance so prevented, restricted, or interfered with. The affected Party shall use its best efforts to avoid or remove the causes of nonperformance and to minimize the consequences thereof, and both Parties shall resume performance when the Force Majeure event is removed.

23. **Quiet Possession:** County, in keeping and performing the terms, covenants and conditions herein contained on the part of County to be kept and performed, shall at all times during the term of this Agreement peaceably and quietly have, hold, and enjoy the Premises.

24. **Assignment and Subletting:**

a. **No Assignment or Subletting** – County shall not sublease, assign, transfer, mortgage, or otherwise convey this Agreement, or any of its rights and interests hereunder, including its leasehold rights and interests granted by this Agreement without the prior written consent of City Council, which may be withheld in the City's sole and absolute discretion.

b. **No Waiver or Limitation on Consent** – Any consent to any different or subsequent sublease, assignment, transfer, mortgage, or conveyance shall not be deemed or construed as consent to any different or subsequent sublease, assignment, transfer, mortgage, or conveyance. This clause shall not be construed to limit any right or remedy which City may become entitled to as a matter of law or become entitled to by reason of County's actions or failures to act.

25. **Surrender of Premises:** On the last day of the Term, or sooner termination of this Agreement, County shall peaceably and quietly leave, surrender, and yield up to City the Premises in as good a condition and state of repair as it existed on the Commencement Date, subject to damage by Force Majeure and pre-existing conditions pursuant the Initial Walk Through detailed in **Section 9**, and shall comply with **Section 12** relating to County's FF&E. By the expiration or termination date, County shall have paid all utility bills and contacted the appropriate utility companies to have the utility services properly discontinued or transferred**.**

26. **Notices:** All notices herein provided to be given, or which may be given, by either Party to the other shall be deemed to have been fully given when made in writing and deposited with the United States Postal Service, certified mail, return receipt requested, postage prepaid, and addressed as follows:

To City: City of Delano
City Manager's Office
1015 11th Avenue
Delano, CA 93215

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To County: County of Kern
General Services Division
1115 Truxtun Avenue 3rd Floor/Property Management
Bakersfield, CA 93301

The address to which the notices shall be mailed to either Party may be changed by written notice given by such Party to the other, but nothing shall preclude the giving of any such notice by personal service.

27. Authorized Agent of County: The Chief General Services Officer is the duly authorized agent of County for purposes of this Agreement. The City Manager is the duly authorized agent of City for purposes of this Agreement.

28. Miscellaneous Provisions:

a. Negation of Partnership – County and City shall not become or be deemed partners or joint venturer with each other or associate in any relationship with each other, than that of landlord and tenant by reason of the provisions of this Agreement. City and County shall not for any purpose be considered an agent, officer, or employee of each other.

b. Conflict of Interest – The Parties have read and are aware of the provisions of Section 1090 et seq. and Section 87100 et seq. of the Government Code relating to conflict of interest of public officers and employees. All Parties agree that they are unaware of any financial or economic interest of any public officer or employee of County relating to this Agreement. It is further understood and agreed that if such a financial interest does exist as of the Execution Date, County may immediately terminate this Agreement by giving written notice to City. The Parties shall comply with the requirements of Government Code Section 87100 et seq. during the term of this Agreement.

c. Incorporation of Prior Agreements – This Agreement contains all agreements of the Parties with respect to any matter mentioned herein. No prior oral or written agreement or understanding pertaining to any such matter shall be effective. This Agreement reflects the sole understanding of the Parties and can only be amended by a written instrument approved by the elected boards of the Parties.

d. Remedies Not Exclusive – The use by either Party of any remedy specified herein for the enforcement of this Agreement is not exclusive and shall not deprive such Party of, or limit the application of, any other remedy provided by law, at equity, or otherwise.

e. Severability – If any part, term, portion, or provision of this Agreement is decided finally to be in conflict with any law of the United States or the State of California, or otherwise be unenforceable or ineffectual, the validity of the remaining parts, terms, portions, or provisions shall be deemed severable and shall not be affected thereby, provided such remaining portions or provisions can be construed in substance to constitute the agreement which the Parties intended to enter into in the first instance.

f. Governing Law; Venue – The Parties agree that the provisions of this Agreement shall be construed pursuant to the laws of the State of California. If either City or County initiates an action to enforce the terms of this Agreement or declare rights hereunder, including actions on any bonds and/or surety agreements, the venue thereof shall be the County of Kern, State of California, it being understood that this Agreement is entered into, and will be performed, within the County of Kern.

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g. **Construed in Accordance with California Constitution** – The Parties agree that the provisions of this Agreement shall be construed pursuant to the laws of the State of California. It is the Parties' intent that, notwithstanding any other provisions of this Agreement, this Agreement shall be interpreted so as not to be in conflict with, or in violation of, the provisions of Article XVI, section 18 of the California Constitution (Debt Limitation).

h. **Compliance with Laws** – Each Party shall, at its sole cost, promptly comply with all Applicable Laws, including Environmental Requirements, which may in any way apply to the use, operation, repair, maintenance, occupation of, or operations or construction on, the Premises.

i. **Successors** – Subject to **Section 24**, all terms, covenants, and conditions of this Agreement shall extend to, be binding upon, and inure to the benefit of the heirs, executors, administrators, successors, and assigns of the respective Parties.

j. **No Third Party Beneficiaries** – This Agreement is made for the sole benefit of the Parties and their respective heirs, executors, administrators, successors, and assigns, and no other persons shall have any right of action hereon.

k. **Covenants and Conditions** – Each provision of this Agreement performable by City shall be deemed both a covenant and a condition.

l. **Modification** – This Agreement may be modified or amended only by a written document signed by both Parties and approved by their respective elected boards.

m. **Authorization** – Each individual executing this Agreement on behalf of either Party represents and warrants that he/she is duly authorized to execute and deliver this Agreement on behalf of that Party, and that this Agreement is binding upon both Parties in accordance with its terms.

n. **Construction** – The Parties acknowledge that each Party and its counsel have jointly drafted, reviewed and revised this Agreement, and that the normal 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 Agreement or any amendments or exhibits to this Agreement.

o. **Recitals** – Each of the recitals is incorporated in this Agreement by reference as if fully set forth in this Agreement at length, is deemed to be the agreement and a reflection of the intent of the Parties and is relied upon by the Parties in agreeing to the provisions of this Agreement and in interpreting its provisions.

p. **Captions** – Paragraph headings in this Agreement are used solely for convenience and shall be wholly disregarded in the construction of this Agreement.

q. **Exhibits** – All exhibits attached to this Agreement are incorporated into this Agreement by reference.

r. **Time of Essence** – Time is hereby expressly declared to be of the essence of this Agreement and of each and every provision thereof, and each such provision is hereby made and declared to be a material, necessary, and essential part of this Agreement.

The remainder of this page has been intentionally left blank.

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The Parties have executed this Agreement on the Execution Date.

APPROVED AS TO CONTENT:
Fire Department

By Aaron Duncan
Aaron Duncan, Fire Chief

County Administrative Office

By Michelle Burns-Lusich
Michelle Burns-Lusich
Chief General Services Officer

APPROVED AS TO FORM:
Office of County Counsel

By Joshua H. Rudnick
Joshua H. Rudnick, Deputy

COUNTY OF KERN

By _____
Chairman, Board of Supervisors
"County"

CITY OF DELANO, a municipal corporation within the County of Kern

By _____
Maribel Reyna, City Manager
"City"

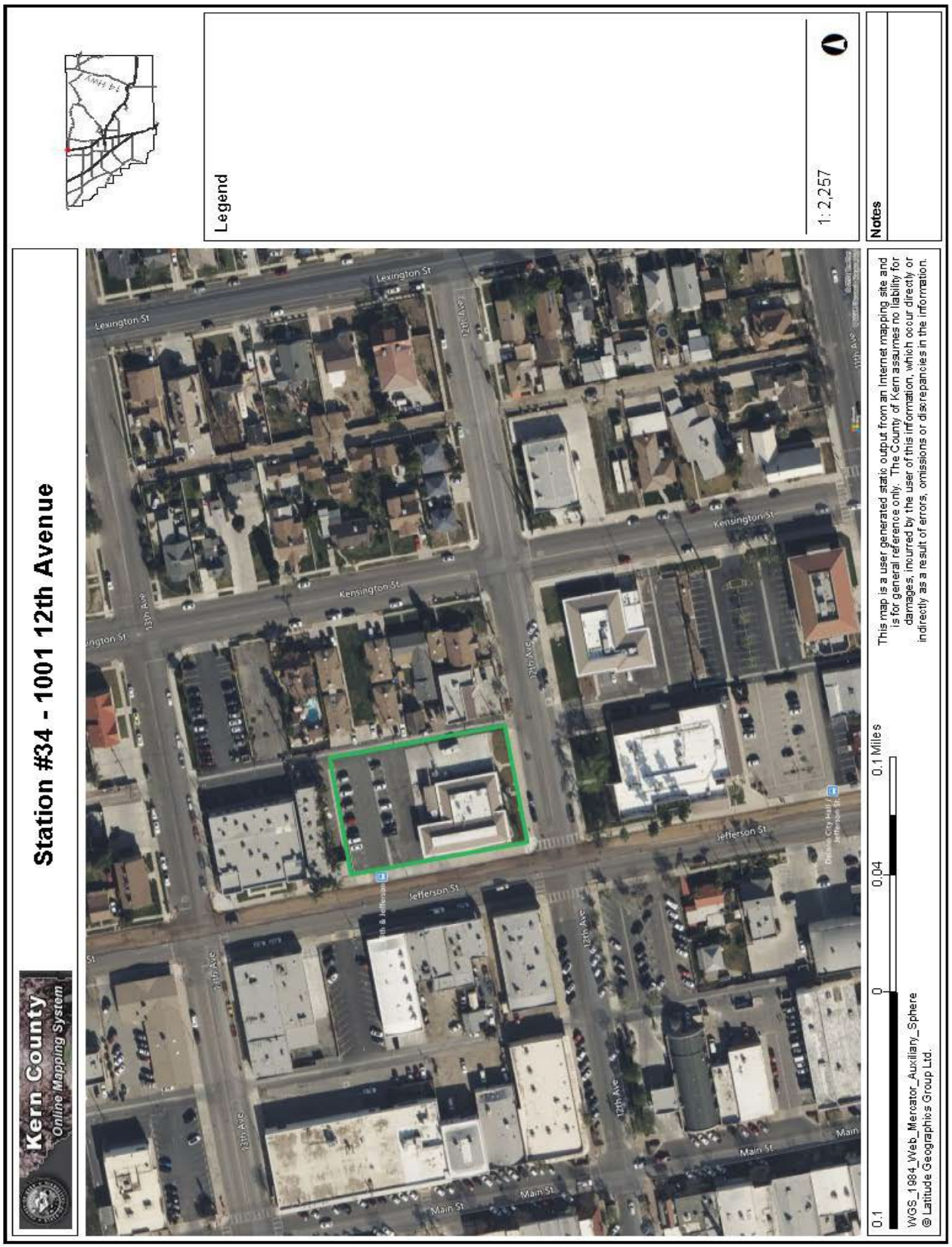
APPROVED AS TO FORM:
City Attorney

By _____
Mark Hensley, City Attorney

H-3a.4

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EXHIBIT "A-1" - Premises



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EXHIBIT "A-2" - Premises



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Definition of Environmental Terms

For the purpose of this Agreement, the following terms and words shall have the meaning given below:

1. **Environmental Requirements**. All applicable present and future statutes, regulations, rules, ordinances, codes, licenses, permits, orders, approvals, plans, authorizations, and similar items of any governmental agency, department, commission, board, bureau, or instrumentality of the United States of America, California, or its political or municipal subdivisions, and all applicable judicial, administrative, and regulatory decrees, judgments, and orders relating to the protection of human life or the environment.

2. **Hazardous Materials**. All flammables, explosives, radioactive materials, asbestos, polychlorinated biphenyls (PCBs), chemicals known to cause cancer or reproductive toxicity, pollutants, contaminates, hazardous waste, toxic substances or related materials, petroleum products, and any substances declared to be hazardous or toxic under any present or future Environmental Requirements or which requires investigation or remediation under any present or future federal, state, or local law, statute, regulation, environmental requirement, order, or rule.