



**REGULAR BOARD MEETING AGENDA**  
**BOARD OF DIRECTORS MEETING**  
**MALAGA COUNTY WATER DISTRICT**  
**3580 SOUTH FRANK STREET**  
**FRESNO, CALIFORNIA 93725**  
**Tuesday, April 25, 2023, at 6:00PM**

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in a District Board Meeting, please contact the District Office at 559-485-7353 at least 48 hours prior to the meeting, to ensure that reasonable arrangements can be made to provide accessibility to the meeting.

- ❖ Please submit all written correspondence for the Board of Directors by 12:00 pm the Friday prior to the meeting. Please deliver or mail to the District Clerk.
- ❖ Public comments are limited to three (3) minutes or less per individual per item, with a fifteen (15) minute maximum per group per item and will be heard during the communication portion of the agenda.

**1. Call to Order:**

**2. Roll Call:** President Charles Garabedian, Jr.; Vice President Salvador Cerrillo; Director Irma Castaneda; Director Frank Cerrillo, Jr.; Director Carlos Tovar, Jr.

**3. Certification:** Certification was made that the Board Meeting Agenda was posted 72 hours in advance of the meeting.

**4. Consent Agenda.** The items listed below in the Consent Agenda are routine in nature and are usually approved by a single vote. Prior to any action by the Board of Directors, any Board member may remove an item from the consent agenda for further discussion. Items removed from the Consent Agenda may be heard immediately following approval of the Consent Agenda or set aside for discussion and action after Regular Business.

a. Minutes of the Regular Board Meeting of April 13, 2023.

Recommended action: To approve the Consent Agenda as presented or amended.

**Motion by:** \_\_\_\_\_; **Second by:** \_\_\_\_\_

**5. Old Business:** none for this meeting.

**6. New Business:**

a. **Public Hearing.** To consider an ordinance adding Chapter 5.02 to Title V of the Malaga County Water District Code ("Malaga Code") pertaining to sanitation and recycling services to comply with the requirements of SB 1383. The proposed Amendment will allow the District to better regulate sanitation and recycling service within the District and comply with the diversion requirements of SB 1383.

Recommended action: To hold a public hearing to adopt the proposed ordinance 2023-1.

**Motion by:** \_\_\_\_\_; **Second by:** \_\_\_\_\_

- b. **Resolution 4-25-2023.** A resolution approving a third amendment to the solid waste and recycling franchise agreement between the Malaga County Water District and Industrial Waste and Salvage for solid waste collection, green waste collection, recycling services.

Recommended action: to approve resolution 4-25-2023 as presented or amended.

**Motion by:** \_\_\_\_\_; **Second by:** \_\_\_\_\_

**7. Incorporation Reports:**

**8. Recreation Reports:**

**9. Engineer Reports:**

- a. District Engineer Report. None.
- b. CDBG Engineer Report: None.

**10. General Manager's Report:**

- a. Solar Project: Funded!
- b. District Development Charges: Updated.

**11. President's Report:**

**12. Vice President's Report:**

**13. Director's Reports:**

**14. Legal Counsel Report:**

**15. Communications:**

- a. Written Communications:
  - 1. Fresno County Planning Commission public hearing on unclassified conditional use permit application No. 3748 and Initial Study No. 8274 filed by Malaga BESS, LLC Thursday, April 27 at 8:15a.m.
- b. Public Comment: *The Public may address the Malaga County Water District Board on item(s) of interest within the jurisdiction of the Board, not appearing on the agenda. The Board will listen to comments presented; however, in compliance with the Brown Act, the Board cannot take action on items that are not on the agenda. The public should address the Board on agenda items at the time they are addressed by the Board. All speakers are requested to wait until recognized by the Board President. All Comments will be limited to three **(3)** minutes or less per individual/group per item per meeting, with a fifteen **(15)** minutes maximum.*

**16. Closed Session:**

- a. Potential Litigation (Gov't Code 54956.9(d)(2).) One case.

**17. Adjournment:**

**Motion by:** \_\_\_\_\_, **Second by:** \_\_\_\_\_

### **Certification of Posting**

I, Norma Melendez, District Clerk of the Malaga County Water District, do hereby certify that the foregoing agenda for the Regular Meeting of the Board of Directors of April 25, 2023 was posted for public view on the front window of the MCWD office at 3580 S. Frank Street, Fresno Ca 93725, at 5:00P.M. On 04/21/2023.

**Norma Melendez**

Norma Melendez, District Clerk



**REGULAR BOARD MEETING MINUTES**  
**BOARD OF DIRECTORS MEETING**  
**MALAGA COUNTY WATER DISTRICT**  
**3580 SOUTH FRANK STREET**  
**FRESNO, CALIFORNIA 93725**  
**Tuesday, April 13, 2023 at 6:00PM**

**item 4.a.**

In compliance with the Americans with Disabilities Act, if you need special assistance to participate in a District Board Meeting, please contact the District Office at 559-485-7353 at least 48 hours prior to the meeting, to ensure that reasonable arrangements can be made to provide accessibility to the meeting.

- ❖ Please submit all written correspondence for the Board of Directors by 12:00 pm the Friday prior to the meeting. Please deliver or mail to the District Clerk.
- ❖ Public comments are limited to three (3) minutes or less per individual per item, with a fifteen (15) minute maximum per group per item and will be heard during the communication portion of the agenda.

**1. Call to Order: 6:00pm**

- 2. Roll Call:** President Charles Garabedian, Jr.; Vice President Salvador Cerrillo; Director Irma Castaneda; Director Frank Cerrillo, Jr.; Director Carlos Tovar, Jr.

**All present.**

**Also present: Norma Melendez, Moises Ortiz & Michael Slater.**

- 3. Certification:** Certification was made that the Board Meeting Agenda was posted 72 hours in advance of the meeting.

**4. Old Business:**

- a. **Parking lot project.** A discussion and review of Community Center Parking Lot Project.

Recommended action: for consideration of alternatives and direct staff.

**The Board unanimously directed the general manager to terminate the existing agreement and to have the parking lot project to go out for bid again in order to have the project that the directors envision within the project budget.**

**5. New Business:**

- a. **Public Hearing.** A notice has been prepared to hold a public hearing on April 25, 2023. The purpose of the public hearing will be to consider an ordinance adding Chapter 5.02 to Title V of the Malaga County Water District Code ("Malaga Code") pertaining to sanitation and recycling services to comply with the requirements of SB 1383. The proposed Amendment will allow the District to better regulate sanitation and recycling service within the District and comply with the diversion requirements of SB 1383.

Recommended action: To authorize publication of the public hearing notice.

**Motion by Director Castaneda; Second by Vice President Cerrillo, and by a 5-0 vote to authorize publication of the public hearing notice.**

6. **Sheriff Report.** Community Service Officer, Elaine Montoya, to present crime report in the community of Malaga and surrounding areas.  
**CSO, Elaine Montoya, reported less catalytic converter thefts, but more car vandalism with burglaries.**
7. **Incorporation Reports: none for this meeting.**
8. **Recreation Reports:** Director Castaneda reported the recreation committee are already planning the next bingo night and Mother & Father's Day program. She stated the district is to donate drinks for the program. The recreation committee are also planning to hold a community yard sale event within the community over the summer.
9. **Engineer Reports:**
  - a. District Engineer Report. None.
  - b. CDBG Engineer Report: None.
10. **General Manager's Report:**
  - a. SDRMA 2023-24 Workers' Compensation Experience Modification Factor.
  - b. FID meeting.  
**The General Manager, along with the board President and legal counsel, met with Bill Stretch and Kassie Chauhan from FID to discuss FID's Prop 218. The district could potentially enter into an agreement with FID next month.**
11. **President's Report:**  
**President Garabedian, Jr. let his fellow board members know there is a CSDA board member conference in August, which can be up for consideration. He also requested to have the July 11 board meeting changed to July 13.**
12. **Vice President's Report:**  
**Vice President Cerrillo left the meeting at 6:52p.m.**
13. **Director's Reports:**  
**Director Cerrillo, Jr. requested business cards to use at the ACWA conference.**
14. **Legal Counsel Report: None for this meeting.**
15. **Communications:**
  - a. Written Communications: none.
  - b. Public Comment: *The Public may address the Malaga County Water District Board on item(s) of interest within the jurisdiction of the Board, not appearing on the agenda. The Board will listen to comments presented; however, in compliance with the Brown Act, the Board cannot take action on items that are not on the agenda. The public should address the Board on agenda items at the time they are addressed by the Board. All speakers are requested to wait until recognized by the Board President. All Comments will be limited to three **(3)** minutes or less per individual/group per item per meeting, with a fifteen **(15)** minutes maximum.*
16. **Consent Agenda.** The items listed below in the Consent Agenda are routine in nature and are usually approved by a single vote. Prior to any action by the Board of Directors, any Board

member may remove an item from the consent agenda for further discussion. Items removed from the Consent Agenda may be heard immediately following approval of the Consent Agenda or set aside for discussion and action after Regular Business.

- a. Minutes of the Regular Board Meeting of March 28, 2023.
- b. Financial statements and accounts payable reports.

Recommended action: To approve the Consent Agenda as presented or amended.

**Motion by Director Castaneda; Second by Director Tovar, Jr. and by a 4-0 vote to approve the consent agenda as presented.**

**17. Closed Session: None for this meeting.**

**18. Adjournment:**

**Motion by Director Tovar, Jr., Second by Director Cerrillo, Jr. and by a 4-0 vote to adjourn the meeting at 7:18pm.**

#### **Certification of Posting**

I, Norma Melendez, District Clerk of the Malaga County Water District, do hereby certify that the foregoing minutes for the Regular Meeting of the Board of Directors of April 13, 2023, was posted for public view on the front window of the MCWD office at 3580 S. Frank Street, Fresno Ca 93725, on 04/26/2023.

**Norma Melendez,** *District Clerk*

**RESOLUTION NO. 4-25-2023**

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**A RESOLUTION OF THE BOARD OF DIRECTORS OF THE MALAGA COUNTY  
WATER DISTRICT APPROVING A THIRD AMENDMENT TO THE SOLID WASTE  
AND RECYCLING FRANCHISE AGREEMENT BETWEEN THE MALAGA COUNTY  
WATER DISTRICT AND INDUSTRIAL WASTE AND SALVAGE FOR SOLID WASTE  
COLLECTION, GREEN WASTE COLLECTION, RECYCLING SERVICES  
EFFECTIVE AUGUST 1, 2016**

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**WHEREAS**, on August 23, 2016, the Board of Directors of the Malaga County Water District approved an Agreement between the Malaga County Water District (“District”) and Orange Avenue Disposal, Inc. dba, Industrial Waste and Salvage (“IWS”) making IWS the exclusive solid waste enterprise to provide Residential and Commercial solid waste collection and disposal services within the District’s boundaries (the “Franchise Agreement”); and

**WHEREAS**, the District is required by law, SB 1383, to adopt regulations relating to organic and other waste deemed by the Legislature to be short-lived climate pollution sources; and

**WHEREAS** on April 25, 2023, following a public hearing, the District adopted an Ordinance amending the Malaga Ordinance Code as required by SB 1383; and

**WHEREAS**, the changes to the Malaga Ordinance Code required by SB 1383 also requires certain amendments to the District franchise agreement with IWS (the “Third Amendment”); and

**WHEREAS**, the District desires to and hereby does amend the Franchise Agreement as attached hereto as Attachment 1.

**NOW THEREFORE, BE IT RESOLVED**, by the Board of Directors of the Malaga County Water District as follows:

1. That the foregoing recitals are true and correct and are incorporated by this reference herein as though fully set forth at this point.
2. The Board of Directors of the Malaga County Water District hereby approves the Third Amendment to the Franchise Agreement, a true and correct copy of which is attached hereto and incorporated herein by this reference as Attachment 1 to this Resolution.
3. The Board of Directors hereby authorizes the President of the Board to sign the Third Amendment as attached hereto on behalf of the District.

\* \* \* \* \*

Passed and adopted by the Board of Directors of the Malaga County Water District at their meeting held on this 25<sup>th</sup> day of April 2023, by the following vote:

AYES:

NOES:

ABSENT:

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Charles Garabedian, Jr., President  
Malaga County Water District

ATTEST:

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Moises Ortiz, M.P.A., General Manager-  
Secretary of the Board of Directors  
Malaga County Water District



## item 6.b.

### THIRD AMENDMENT TO THE SOLID WASTE AND RECYCLING FRANCHISE AGREEMENT BETWEEN THE MALAGA COUNTY WATER DISTRICT AND INDUSTRIAL WASTE AND SALVAGE FOR SOLID WASTE COLLECTION, GREEN WASTE COLLECTION, AND RECYCLING SERVICES EFFECTIVE AUGUST 1, 2016.

This Third Amendment to Solid Waste Collection, Transportation, and Franchise Agreement For Disposal Services ("Third Amendment") is made and entered on \_\_\_\_\_, 2023, by and between the Malaga County Water District ("District") and Orange Avenue Disposal dba Industrial Waste and Salvage (Contractor) and collectively "Parties."

**WHEREAS**, the Malaga County Water District ("District") and Orange Avenue Disposal Company, a California Corporation, dba Industrial Waste and Salvage (the "Contractor") (the "Parties") entered into a Franchise Agreement for solid waste collection, green waste collection and recycling services on or about the 23<sup>rd</sup> day of August, 2016, with an effective date of August 1, 2016 (the "Agreement"); and

**WHEREAS**, in 2016, Governor Brown signed into law SB1383 that establishes regulatory requirements for Cities, Generators, Solid Waste facilities, and other entities to support achievement of State-wide reduction in short lived climate pollutants; and

**WHEREAS**, District has requested and Contractor has agreed to implement new programs and services related to SB1383 requirements.

**WHEREAS**, modifications to the Agreement are necessary as a result of the State's passage of SB 1383.

**NOW, THEREFOR, THE PARTIES AGREE** as follows:

1. That the forgoing recitals are true and correct are true and correct and incorporated herein by this reference as though fully set forth at this point.
2. The Agreement is amended to add Section 1.73 to read as follows:

"1.73. "SB 1383" means Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016, which establishes methane emissions reduction targets in a statewide effort to reduce emissions of short-lived climate pollutants as amended, supplemented, superseded, and replaced from time to time."

3. Section 4.10 is hereby added to read as follows:

#### **"4.10 SB1383 COMPLIANCE PROGRAMS**

To support the District in complying with regulations under SB1383, Contractor shall implement the programs identified in this Section. These programs are designed to meet the implementation

and education requirements of SB1383 and help the District achieve annual diversion requirements set by CalRecycle. The District's actual annual diversion rate depends on participation of businesses and residents, their respective adherence to program requirements and local code, the District's enforcement of applicable codes, and the District's implementation of other programs. Accordingly, District shall, as necessary, amend or update the District code to incorporate requirements necessary for the implementation of these programs. This Section is intended to supplement, not supplant, all other regulatory requirements of the Agreement.

#### **A. Collection Requirements and Container Labeling**

Contractor shall provide a 3-container collection program for Solid Waste, Recyclable Materials, and Organic Waste. Collection containers shall be Grey (Solid Waste), Blue (Recyclable Materials), and Green (Organic Waste). Hardware such as hinges and wheels may be different colors.

New containers or lids placed by Contractor shall meet the requirements of 14 CCR Section 18984.8 and include language or graphic images, or both, that indicate the primary materials accepted and the primary materials prohibited in that container. Labels shall clearly indicate items that are Prohibited Container Contaminants for each container.

#### **B. Education and Outreach**

To promote public education about recycling requirements, Contractor shall create public education materials and conduct education programs and activities described in this Section.

Annual Notice: Contractor shall prepare and distribute to each Generator in the District a mailer that includes information specified in 14 CCR Section 18985.1(a). Such mailer shall be distributed by Contractor to all Residential and Commercial mailing addresses including individual Multi-Family Dwelling Units for the accounts it services. Contractor shall also make this notice available in an electronic format through the Contractor's website.

Instructional Service Guide: Contractor shall prepare a service guide that describes available services, including how to place Containers for Collection, which materials should be placed in each Container and prohibited materials, and provides Collection holidays.

Property Owners and Businesses: Contractor shall annually provide Property Owners and Commercial Business owners with public education materials in electronic format for their distribution to all employees, Contractors, tenants, and Customers of the properties and businesses that Contractor services. The Contractor's public education materials shall include, at a minimum, information about Organic Waste recovery requirements and proper sorting of Discarded Materials. A Commercial Business or Multi-Family Property Owner may request these materials more frequently than the standard annual provision if needed to comply with the requirement of 14 CCR Section 18984.10 for Commercial Businesses and Multi-Family Property Owners to provide educational information to new tenants and employees before or within fourteen (14) days of occupation of the Premises. In this case,

the Commercial Business or Multi-Family Property Owner may request delivery of materials by contacting the Contractor's customer service department not later than two (2) weeks in advance of the date that the materials are needed.

Technical Assistance Program: Contractor shall provide ongoing technical assistance for Commercial and Multi-family generators in its service area that are required to participate in source separated recycling under applicable laws including AB 341, AB 1826, and SB 1383 and corresponding regulations. Technical assistance may include on-site training, instructional guides, printed or electronic materials and other resources that satisfy regulation requirements.

### **C. Waste Evaluations**

Contamination Monitoring: Contractor shall perform contamination inspections by utilizing on-board monitoring systems or physical container inspections. For physical container inspections, Contractor's personnel shall lift the Container lid and observe the contents. For Collection vehicles equipped with a video camera and monitoring system, Contractor's personnel shall observe, via the hopper video camera and monitoring system, the contents of the Containers as the materials are emptied into the vehicle. Upon finding Prohibited Container Contaminants in a Container, Contractor shall follow the contamination noticing procedures set forth below.

Waste Characterizations: Contractor shall, at its sole expense, conduct waste evaluations that meet the requirements of 14 CCR Section 18984.5(c). The Contractor shall conduct waste evaluations for contaminants at least twice per year and the studies shall occur in two distinct seasons of the year. Contractor shall provide adequate notice to District of when waste evaluations will occur, and District reserves the right to observe waste evaluations.

Contamination Notifications: If the sampled weight of Prohibited Container Contaminants exceeds twenty-five percent (25%) of the measured sample for any material stream, the Contractor shall notify District within fifteen (15) working days. Contractor may perform targeted waste audits to determine the source of contaminants and provide technical assistance to those generators or notify all generators of their obligation to properly source separate materials. The Contractor may provide this information by placing a written notice on the Generators' Containers or the gate or door of the Premises; and/or by mail, e-mail, or electronic message to the applicable Generators.

Contractor will coordinate with District to develop procedures regarding alleged violations of these recycling programs.

### **D. Waivers**

The District shall be responsible for granting waivers to commercial or multi-family generators that meet the de minimis requirements subject to the requirements under

SB1383, pursuant to 14 CCR Section 1898411, or other requirements that may be specified by District. This includes physical space waivers where services may be impacted.

Contractor shall provide District with required generator information on services and activity that is needed as part of the waiver application. Contractor may also assist generators with waiver applications or submit on their behalf.

#### **E. Edible Food Recovery**

Contractor shall provide District with necessary data and reporting to determine Tier 1 and Tier 2 commercial edible food generators within the District.

At least annually, the Contractor shall ensure Commercial Edible Food Generators receive the following information:

- Information about the District's Edible Food Recovery program;
- Information about the Commercial Edible Food Generator requirements under 14 CCR, Division 7, Chapter 12, Article 10;
- Information about Food Recovery Organizations and Food Recovery Services operating within the District, and where a list of those Food Recovery Organizations and Food Recovery Services can be found; and,
- Information about actions that Commercial Edible Food Generators can take to prevent the creation of Food Waste.

#### **F. Reporting**

Contractor will provide the data or prepare reports required to meet quarterly and annual SB1383 requirements which includes:

- i. The number of generators that receive organic waste collection service.
- ii. The number of route reviews conducted for prohibited container contaminants.
- iii. The number of times notices, violations, or targeted education materials were issued to generators for prohibited container contaminants.
- iv. The results of waste evaluations performed to meet the container contamination minimization requirements and the number of resulting targeted route reviews.
- v. The number of commercial edible food generators located within the jurisdiction.

#### **G. Terms and Definitions**

Definitions of terms and phrases set forth in this section shall have the same meaning as those set forth in the Agreement, Chapter 5.02 of the Malaga Ordinance Code or applicable state or federal statute as currently defined or as may be changed or amended in the future.

#### **H. Jurisdiction**

The Parties hereto agree and understand that performance of this Agreement is limited to those areas where Malaga has jurisdiction which currently includes residential service and roll-off service as defined in Section 1.69 of this Agreement. Any areas or services within the boundaries of the District where the District does not exercise jurisdiction, implementation of the requirements of SB1383 shall be under the jurisdiction of the County of Fresno, City of Fresno, or any other agency having such jurisdiction.”

4. Except as amended by this Third Amendment, all terms and conditions of the Agreement continue in full force and effect.
5. This Amendment shall be effective on the date of its adoption by the Malaga County Water District Board of Directors.
6. Authority to execute. The signatories to this Third Amendment represent that they have the proper authority to execute this Agreement on behalf of the party they represent.

**IN WITNESS WHEREOF**, the Parties have executed this Third Amendment to the Solid Waste and Recycling Franchise Agreement between the Malaga County Water District and Orange Avenue Disposal dba Industrial Waste and Salvage for solid waste collection, green waste collection, and recycling services.

Date:

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Charles Garabedian, President of the  
Malaga County Water District

Date:

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Orange Avenue Disposal dba Industrial  
Waste and Salvage

**ORDINANCE NO. 2023-1**

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**AN ORDINANCE OF THE BOARD OF DIRECTORS OF THE MALAGA COUNTY  
WATER DISTRICT ADDING CHAPTER 5.02 TO THE MALAGA ORDINANCE  
CODE TO SATISFY THE SHORT-LIVED CLIMATE POLLUTION REDUCTION  
ACT OF 2016, KNOWN AS THE ORGANIC WASTE ORDINANCE**

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**WHEREAS**, the District is required by law, SB 1383, to adopt regulations relating to organic and other waste deemed by the Legislature to be short-lived climate pollution sources.

**NOW, THEREFORE**, the Board of Directors of the Malaga County Water District does hereby ordain as follows:

**Section 1.** Chapter 5.02 of Title 6 of the Parlier Municipal Code is hereby added to read as follows:

**Chapter 5.02, Title 6**

**ORGANIC WASTE**

Sections:

- 5.02.010 Purpose and Findings.
- 5.02.020 Definitions.
- 5.02.030 Requirements for Single Family Generators
- 5.02.040 Requirements for Commercial Businesses
- 5.02.050 Waivers for Generators
- 5.02.060 Requirements for Commercial Edible Food Generators
- 5.02.070 Self-Hauler Requirements
- 5.02.080 Inspections by Jurisdiction
- 5.02.090 Enforcement
- 5.02.100 Compliance with CALGreen Requirements
- 5.02.110 Model Water Efficient Landscaping Ordinance

**5.02.010 Purpose and Findings.**

SB 1383, the Short-lived Climate Pollutant Reduction Act of 2016, requires to adopt and enforce an ordinance or enforceable mechanism to implement relevant provisions of SB 1383 Regulations.

**5.02.020 Definitions.**

For purposes of this Chapter, the following definitions shall apply:

- (a) “Blue Container” has the same meaning as in 14 CCR Section 18982.2(a)(5) and shall be used for the purpose of storage and collection of Source Separated Recyclable Materials.

- (b) “CalRecycle” means California's Department of Resources Recycling and Recovery.
- (c) “California Code of Regulations” or “CCR” means the State of California Code of Regulations. CCR references in this ordinance are preceded with a number that refers to the relevant Title of the CCR (e.g., “14 CCR” refers to Title 14 of CCR).
- (d) “District” means the Malaga County Water District. The word “District” shall include the entity or person holding a franchise agreement with the District for collecting and disposal of solid waste and recycling services.
- (e) “Commercial Business” or “Commercial” means a firm, partnership, proprietorship, joint-stock company, corporation, or association, whether for-profit or nonprofit, strip mall, industrial facility, or a multifamily residential dwelling, or as otherwise defined in 14 CCR Section 18982(a)(6). A Multi-Family Residential Dwelling that consists of fewer than five (5) units is not a Commercial Business for purposes of implementing this ordinance.
- (f) “Commercial Edible Food Generator” includes a Tier One or a Tier Two Commercial Edible Food Generator as defined in Sections 3(ss) and 3(tt) of this ordinance or as otherwise defined in 14 CCR Section 18982(a)(73) and (a)(74). For the purposes of this definition, Food Recovery Organizations and Food Recovery Services are not Commercial Edible Food Generators pursuant to 14 CCR Section 18982(a)(7).
- (g) “Container Contamination” or “Contaminated Container” means a container, regardless of color, that contains Prohibited Container Contaminants.
- (h) “C&D” means construction and demolition debris.
- (i) “Designee” means an entity that a Jurisdiction contracts with or otherwise arranges to carry out any of the Jurisdiction’s responsibilities of this ordinance as authorized in 14 CCR Section 18981.2. A Designee may be a government entity, a hauler, a private entity, or a combination of those entities.
- (j) “Edible Food” means food intended for human consumption, or as otherwise defined in 14 CCR Section 18982(a)(18). For the purposes of this ordinance or as otherwise defined in 14 CCR Section 18982(a)(18), “Edible Food” is not Solid Waste if it is recovered and not discarded. Nothing in this ordinance or in 14 CCR, Division 7, Chapter 12 requires or authorizes the Recovery of Edible Food that does not meet the food safety requirements of the California Retail Food Code.
- (k) “Enforcement Action” means an action of the Jurisdiction to address non-compliance with this ordinance including, but not limited to, issuing administrative citations, fines, penalties, or using other remedies.
- (l) “Excluded Waste” means hazardous substance, hazardous waste, infectious waste, designated waste, volatile, corrosive, medical waste, infectious, regulated radioactive waste, and toxic substances or material that facility operator(s), which receive materials from the Jurisdiction and its generators, reasonably believe(s) would, as a result of or upon acceptance, transfer, processing, or disposal, be a violation of local, State, or Federal law, regulation, or ordinance, including: land use restrictions or conditions, waste that cannot be disposed of in

Class III landfills or accepted at the facility by permit conditions, waste that in Jurisdictions, or its Designee's reasonable opinion would present a significant risk to human health or the environment, cause a nuisance or otherwise create or expose Jurisdiction, or its Designee, to potential liability; but not including de minimis volumes or concentrations of waste of a type and amount normally found in Single-Family or Multi-Family Solid Waste after implementation of programs for the safe collection, processing, recycling, treatment, and disposal of batteries and paint in compliance with Sections 41500 and 41802 of the California Public Resources Code.

(m) "Food Recovery" means actions to collect and distribute food for human consumption that otherwise would be disposed, or as otherwise defined in 14 CCR Section 18982(a)(24).

(n) "Food Recovery Organization" means an entity that engages in the collection or receipt of Edible Food from Commercial Edible Food Generators and distributes that Edible Food to the public for Food Recovery either directly or through other entities or as otherwise defined in 14 CCR Section 18982(a)(25), including, but not limited to:

(1) A food bank as defined in Section 113783 of the Health and Safety Code;

(2) A nonprofit charitable organization as defined in Section 113841 of the Health and Safety code; and,

(3) A nonprofit charitable temporary food facility as defined in Section 113842 of the Health and Safety Code.

A Food Recovery Organization is not a Commercial Edible Food Generator for the purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

If the definition in 14 CCR Section 18982(a)(25) for Food Recovery Organization differs from this definition, the definition in 14 CCR Section 18982(a)(25) shall apply to this ordinance.

(o) "Food Recovery Service" means a person or entity that collects and transports Edible Food from a Commercial Edible Food Generator to a Food Recovery Organization or other entities for Food Recovery, or as otherwise defined in 14 CCR Section 18982(a)(26). A Food Recovery Service is not a Commercial Edible Food Generator for the purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12 pursuant to 14 CCR Section 18982(a)(7).

(p) "Food Scraps" means all food such as, but not limited to, fruits, vegetables, meat, poultry, seafood, shellfish, rice, beans, pasta, bread, cheese, and eggshells. Food Scraps excludes fats, oils, and grease when such materials are Source Separated from other Food Scraps.

(q) "Food Service Provider" means an entity primarily engaged in providing food services to institutional, governmental, Commercial, or industrial locations of others based on contractual arrangements with these types of organizations, or as otherwise defined in 14 CCR Section 18982(a)(27).

(r) "Food-Soiled Paper" is compostable paper material that has come in contact with food or liquid, such as, but not limited to, compostable paper plates, paper coffee cups, napkins, and pizza boxes.



(s) “Food Waste” means Food Scraps and Food-Soiled Paper.

“Green waste” means leaves, grass clippings, brush, branches and other forms of organic matter generated from landscapes and gardens, separated from other forms of solid waste.

(t) “Gray Container” has the same meaning as in 14 CCR Section 18982.2(a)(28) and shall be used for the purpose of storage and collection of Gray Container Waste.

(u) “Gray Container Waste” means Solid Waste that is collected in a Gray Container that is not acceptable for placement in a Blue or Green Container as part of a three-container collection service.

(v) “Green Container” has the same meaning as in 14 CCR Section 18982.2(a)(29) and shall be used for the purpose of storage and collection of Source Separated Green Container Organic Waste.

(w) “Grocery Store” means a store primarily engaged in the retail sale of canned food; dry goods; fresh fruits and vegetables; fresh meats, fish, and poultry; and any area that is not separately owned within the store where the food is prepared and served, including a bakery, deli, and meat and seafood departments, or as otherwise defined in 14 CCR Section 18982(a)(30).

(x) “Inspection” means a site visit where a Jurisdiction reviews records, containers, and an entity’s collection, handling, recycling, or landfill disposal of Organic Waste or Edible Food handling to determine if the entity is complying with requirements set forth in this ordinance, or as otherwise defined in 14 CCR Section 18982(a)(35).

(y) “Large Event” means an event, including, but not limited to, a sporting event or a flea market, that charges an admission price, or is operated by a local agency, and serves an average of more than 2,000 individuals per day of operation of the event, at a location that includes, but is not limited to, a public, nonprofit, or privately owned park, parking lot, golf course, street system, or other open space when being used for an event. If the definition in 14 CCR Section 18982(a)(38) differs from this definition, the definition in 14 CCR Section 18982(a)(38) shall apply to this ordinance.

(z) “Large Venue” means a permanent venue facility that annually seats or serves an average of more than 2,000 individuals within the grounds of the facility per day of operation of the venue facility. For purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12, a venue facility includes, but is not limited to, a public, nonprofit, or privately owned or operated stadium, amphitheater, arena, hall, amusement park, conference or civic center, zoo, aquarium, airport, racetrack, horse track, performing arts center, fairground, museum, theater, or other public attraction facility. For purposes of this ordinance and implementation of 14 CCR, Division 7, Chapter 12, a site under common ownership or control that includes more than one Large Venue that is contiguous with other Large Venues in the site, is a single Large Venue. If the definition in 14 CCR Section 18982(a)(39) differs from this definition, the definition in 14 CCR Section 18982(a)(39) shall apply to this ordinance.

(aa) “Local Education Agency” means a school district, charter school, or county office of education that is not subject to the control of District or county regulations related to Solid Waste, or as otherwise defined in 14 CCR Section 18982(a)(40).

(bb) “Multi-Family Residential Dwelling” or “Multi-Family” means of, from, or pertaining to residential premises with five (5) or more dwelling units. Multi-Family premises do not include hotels, motels, or other transient occupancy facilities, which are considered Commercial Businesses.

(cc) “Non-Compostable Paper” includes but is not limited to paper that is coated in a plastic material that will not breakdown in the composting process, or as otherwise defined in 14 CCR Section 18982(a)(41).

(dd) “Notice of Violation (NOV)” means a notice that a violation has occurred that includes a compliance date to avoid an action to seek penalties, or as otherwise defined in 14 CCR Section 18982(a)(45) or further explained in 14 CCR Section 18995.4.

(ee) “Organic Waste” includes Greenwaste and Food Waste.

(ff) “Organic Waste Generator” means a person or entity that is responsible for the initial creation of Organic Waste, or as otherwise defined in 14 CCR Section 18982(a)(48).

(gg) “Prohibited Container Contaminants” means the following: (i) discarded materials placed in the Blue Container that are not identified as acceptable Source Separated Recyclable Materials for the Jurisdiction’s Blue Container; (ii) discarded materials placed in the Green Container that are not identified as acceptable Source Separated Green Container Organic Waste for the Jurisdiction’s Green Container; (iii) discarded materials placed in the Gray Container that are acceptable Source Separated Recyclable Materials and/or Source Separated Green Container Organic Wastes to be placed in Jurisdiction’s Green Container and/or Blue Container; and, (iv) Excluded Waste placed in any container.

(hh) “Recovery” means any activity or process described in 14 CCR Section 18983.1(b), or as otherwise defined in 14 CCR Section 18982(a)(49).

(ii) "Recyclables" means those materials that by way of collecting, sorting, cleansing, treating, and reconstituting materials would otherwise become solid waste, and by processing can be returned to the economic mainstream in the form of raw materials for new, reused, or reconstituted products. Recyclables include, but are not limited to, newsprint, mixed paper, aluminum, plastics, glass, metal, cardboard, chip board, junk mail, magazines, newspaper, books, computer paper, and the like.

(jj) “Remote Monitoring” means the use of the internet of things (IoT) and/or wireless electronic devices to visualize the contents of Blue Containers, Green Containers, and Gray Containers for purposes of identifying the quantity of materials in containers (level of fill) and/or presence of Prohibited Container Contaminants.

(kk) “Restaurant” means an establishment primarily engaged in the retail sale of food and drinks for on-premises or immediate consumption, or as otherwise defined in 14 CCR Section 18982(a)(64).

(ll) “Route Review” means a visual Inspection of containers along a Hauler Route for the purpose of determining Container Contamination and may include mechanical Inspection methods such as the use of cameras, or as otherwise defined in 14 CCR Section 18982(a)(65).

(mm) “SB 1383” means Senate Bill 1383 of 2016 approved by the Governor on September 19, 2016, which added Sections 39730.5, 39730.6, 39730.7, and 39730.8 to the Health and Safety Code, and added Chapter 13.1 (commencing with Section 42652) to Part 3 of Division 30 of the Public Resources Code, establishing methane emissions reduction targets in a Statewide effort to reduce emissions of short-lived climate pollutants as amended, supplemented, superseded, and replaced from time to time.

(nn) “SB 1383 Regulations” or “SB 1383 Regulatory” means or refers to, for the purposes of this ordinance, the Short-Lived Climate Pollutants: Organic Waste Reduction regulations developed by CalRecycle and adopted in 2020 that created 14 CCR, Division 7, Chapter 12 and amended portions of regulations of 14 CCR and 27 CCR.

(oo) “Self-Hauler” means a person, who hauls Solid Waste, he or she has generated using the generator’s own equipment.

(pp) “Solid Waste” has the same meaning as defined in State Public Resources Code Section 40191, which defines Solid Waste as all putrescible and nonputrescible solid, semisolid, and liquid wastes, including garbage, trash, refuse, paper, rubbish, ashes, industrial wastes, demolition and construction wastes, abandoned vehicles and parts thereof, discarded home and industrial appliances, dewatered, treated, or chemically fixed sewage sludge which is not hazardous waste, manure, vegetable or animal solid and semi-solid wastes, and other discarded solid and semisolid wastes, with the exception that Solid Waste does not include any of the following wastes:

(1) Hazardous waste, as defined in the State Public Resources Code Section 40141.

(2) Radioactive waste regulated pursuant to the State Radiation Control Law (Chapter 8 (commencing with Section 114960) of Part 9 of Division 104 of the State Health and Safety Code).

(3) Medical waste regulated pursuant to the State Medical Waste Management Act (Part 14 (commencing with Section 117600) of Division 104 of the State Health and Safety Code). Untreated medical waste shall not be disposed of in a Solid Waste landfill, as defined in State Public Resources Code Section 40195.1. Medical waste that has been treated and deemed to be Solid Waste shall be regulated pursuant to Division 30 of the State Public Resources Code.

(qq) “Source Separated” means the segregation, by the generator, of materials designated for separate collection for some form of recycling, processing, recovery, or reuse.

(rr) “State” means the State of California.

(ss) “Supermarket” means a full-line, self-service retail store with gross annual sales of two million dollars (\$2,000,000), or more, and which sells a line of dry grocery, canned goods, or

nonfood items and some perishable items, or as otherwise defined in 14 CCR Section 18982(a)(71).

(tt) “Tier One Commercial Edible Food Generator” means a Commercial Edible Food Generator that is one of the following:

- (1) Supermarket.
- (2) Grocery Store with a total facility size equal to or greater than 10,000 square feet.
- (3) Food Service Provider.
- (4) Food Distributor.
- (5) Wholesale Food Vendor.

If the definition in 14 CCR Section 18982(a)(73) of Tier One Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(73) shall apply to this ordinance.

(uu) “Tier Two Commercial Edible Food Generator” means a Commercial Edible Food Generator that is one of the following:

- (1) Restaurant with 250 or more seats, or a total facility size equal to or greater than 5,000 square feet.
- (2) Hotel with an on-site Food Facility and 200 or more rooms.
- (3) Health facility with an on-site Food Facility and 100 or more beds.
- (4) Large Venue.
- (5) Large Event.
- (6) A State agency with a cafeteria with 250 or more seats or total cafeteria facility size equal to or greater than 5,000 square feet.
- (7) A Local Education Agency facility with an on-site Food Facility.

If the definition in 14 CCR Section 18982(a)(74) of Tier Two Commercial Edible Food Generator differs from this definition, the definition in 14 CCR Section 18982(a)(74) shall apply to this ordinance.

#### **5.02.030 Requirements for Single Family Generators.**

Every person owning or occupying a residence or commercial establishment shall subscribe to solid waste, organic waste, and segregated recyclable collection. District shall have the right to review the number and size of a generator’s containers to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, Single-Family generators shall adjust its service level for its collection services as requested by the Jurisdiction.

#### **Requirements for Source Separating Solid Waste.**

A. All residential and commercial generators of Solid Waste shall be required to source separate materials into Grey, Blue, and Green containers.

B. Generators shall place Source Separated Organic Waste, including Food Waste, in the Green Container; Segregated Recyclable Materials in the Blue Container; and Gray Container Waste in the Gray Container. Generators shall not place materials designated for the Gray Container into the Green Container or Blue Container.

C. Generators shall not place Prohibited Container Contaminants in any container. District and District's authorized recycling agent reserve the right to inspect containers to determine if Prohibited Container Contaminants are present and issue a warning or assess penalties and fines under this chapter.

**5.02.040 Requirements for Commercial Businesses.**

Generators that are Commercial Businesses, including Multi-Family Residential Dwellings, shall:

(a) Subscribe to District's three-container collection services. District shall have the right to review the number and size of a generator's containers and frequency of collection to evaluate adequacy of capacity provided for each type of collection service for proper separation of materials and containment of materials; and, Commercial Businesses shall adjust their service level for their collection services as requested by the Jurisdiction.

(b) Supply and allow access to adequate number, size and location of collection containers with sufficient labels or colors for employees, contractors, tenants, and customers, consistent with Jurisdiction's Blue Container, Green Container, and Gray Container collection service.

(c) Excluding Multi-Family Residential Dwellings, provide containers for the collection of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials in all indoor and outdoor areas where disposal containers are provided for customers, for materials generated by that business. Such containers do not need to be provided in restrooms. If a Commercial Business does not generate any of the materials that would be collected in one type of container, then the business does not have to provide that particular container in all areas where disposal containers are provided for customers. Pursuant to 14 CCR Section 18984.9(b), the containers provided by the business shall have either:

(1) A body or lid that conforms with the container colors provided through the collection service provided by Jurisdiction, with either lids conforming to the color requirements or bodies conforming to the color requirements or both lids and bodies conforming to color requirements. A Commercial Business is not required to replace functional containers, including containers purchased prior to January 1, 2022, that do not comply with the requirements of the subsection prior to the end of the useful life of those containers, or prior to January 1, 2036, whichever comes first.

(2) Container labels that include language or graphic images, or both, indicating the primary material accepted and the primary materials prohibited in that container, or containers with imprinted text or graphic images that indicate the primary materials accepted and primary materials prohibited in the container. Pursuant 14 CCR Section 18984.8, the container labeling requirements are required on new containers commencing January 1, 2022.

(d) Multi-Family Residential Dwellings are not required to comply with container placement requirements or labeling requirements pursuant to 14 CCR Section 18984.9(b).

(e) To the extent practical through education, training, Inspection, and/or other measures, excluding Multi-Family Residential Dwellings, prohibit employees from placing materials in a

container not designated for those materials per the Jurisdiction's Blue Container, Green Container, and Gray Container collection service.

(f) Excluding Multi-Family Residential Dwellings, periodically inspect Blue Containers, Green Containers, and Gray Containers for contamination and inform employees if containers are contaminated and of the requirements to keep contaminants out of those containers pursuant to 14 CCR Section 18984.9(b)(3).

(g) Annually provide information to employees, contractors, tenants, and customers about Organic Waste Recovery requirements and about proper sorting of Source Separated Green Container Organic Waste and Source Separated Recyclable Materials.

(h) Provide education information before or within fourteen (14) days of occupation of the premises to new tenants that describes requirements to keep Source Separated Green Container Organic Waste and Source Separated Recyclable Materials separate from Gray Container Waste (when applicable) and the location of containers and the rules governing their use at each property.

(i) Provide or arrange access for Jurisdiction or its agent to their properties during all Inspections conducted in accordance with this ordinance to confirm compliance with the requirements of this ordinance.

(j) Accommodate and cooperate with Jurisdiction's Remote Monitoring program for Inspection of the contents of containers for Prohibited Container Contaminants, which may be implemented at a later date, to evaluate generator's compliance with this ordinance.

(k) Nothing in this Section prohibits a generator from preventing or reducing waste generation, managing Organic Waste on site, or using a Community Composting site pursuant to 14 CCR Section 18984.9(c).

(l) Commercial Businesses that are Tier One or Tier Two Commercial Edible Food Generators shall comply with Food Recovery requirements in this ordinance.

#### **5.02.050 Waivers for Generators.**

(a) De Minimis Waiver: District may waive a Commercial Business' obligation (including Multi-Family Residential Dwellings) to comply with some or all of the Organic Waste requirements of this ordinance if the Commercial Business provides documentation that the business generates below a certain amount of Organic Waste material as described below.

Commercial Businesses requesting a de minimis waiver shall:

(1) Submit an application specifying the services that they are requesting a waiver from and provide documentation as noted in Section (a)(2) below.

(2) Provide documentation that either:

(A) The Commercial Business' total Solid Waste collection service is two cubic yards or more per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than 20 gallons per week per applicable container of the business' total waste; or,

(B) The Commercial Business' total Solid Waste collection service is less than two cubic yards per week and Organic Waste subject to collection in a Blue Container or Green Container comprises less than 10 gallons per week per applicable container of the business' total waste.

(3) Notify Jurisdiction if circumstances change such that Commercial Business's Organic Waste exceeds threshold required for waiver, in which case waiver will be rescinded.

(4) Provide written verification of eligibility for de minimis waiver every 5 years, if Jurisdiction has approved de minimis waiver.

(b) Physical Space Waiver: District may waive a Commercial Business' or property owner's obligations (including Multi-Family Residential Dwellings) to comply with some or all of the recyclable materials and/or Organic Waste collection service requirements if the Jurisdiction has evidence from its own staff, a hauler, licensed architect, or licensed engineer demonstrating that the premises lacks adequate space for the collection containers required for compliance with the Organic Waste collection requirements of this ordinance.

A Commercial Business or property owner may request a physical space waiver through the following process:

(1) Submit an application form specifying the type(s) of collection services for which they are requesting a compliance waiver.

(2) Provide documentation that the premises lacks adequate space for Blue Containers and/or Green Containers including documentation from its hauler, licensed architect, or licensed engineer.

(3) Provide written verification to Jurisdiction that it is still eligible for physical space waiver every five years, if Jurisdiction has approved application for a physical space waiver.

#### **5.02.060 Requirements for Commercial Edible Food Generators.**

(a) Tier One Commercial Edible Food Generators must comply with the requirements of this Section 9 commencing January 1, 2022, and Tier Two Commercial Edible Food Generators must comply commencing January 1, 2024, pursuant to 14 CCR Section 18991.3.

(b) Large Venue or Large Event operators not providing food services, but allowing for food to be provided by others, shall require Food Facilities operating at the Large Venue or Large Event to comply with the requirements of this Section, commencing January 1, 2024.

(c) Commercial Edible Food Generators shall comply with the following requirements:

(1) Arrange to recover the maximum amount of Edible Food that would otherwise be disposed.

(2) Contract with, or enter into a written agreement with Food Recovery Organizations or Food Recovery Services for: (i) the collection of Edible Food for Food

Recovery; or, (ii) acceptance of the Edible Food that the Commercial Edible Food Generator self-hauls to the Food Recovery Organization for Food Recovery.

(3) Shall not intentionally spoil Edible Food that is capable of being recovered by a Food Recovery Organization or a Food Recovery Service.

(4) Allow Jurisdiction's designated enforcement entity or designated third party enforcement entity to access the premises and review records pursuant to 14 CCR Section 18991.4.

(5) Keep records that include the following information, or as otherwise specified in 14 CCR Section 18991.4:

(A) A list of each Food Recovery Service or organization that collects or receives its Edible Food pursuant to a contract or written agreement established under 14 CCR Section 18991.3(b).

(B) A copy of all contracts or written agreements established under 14 CCR Section 18991.3(b).

(C) A record of the following information for each of those Food Recovery Services or Food Recovery Organizations:

(i) The name, address and contact information of the Food Recovery Service or Food Recovery Organization.

(ii) The types of food that will be collected by or self-hauled to the Food Recovery Service or Food Recovery Organization.

(iii) The established frequency that food will be collected or self-hauled.

(iv) The quantity of food, measured in pounds recovered per month, collected or self-hauled to a Food Recovery Service or Food Recovery Organization for Food Recovery.

(d) Nothing in this ordinance shall be construed to limit or conflict with the protections provided by the California Good Samaritan Food Donation Act of 2017, the Federal Good Samaritan Act, or share table and school food donation guidance pursuant to Senate Bill 557 of 2017 (approved by the Governor of the State of California on September 25, 2017, which added Article 13 [commencing with Section 49580] to Chapter 9 of Part 27 of Division 4 of Title 2 of the Education Code, and to amend Section 114079 of the Health and Safety Code, relating to food safety, as amended, supplemented, superseded and replaced from time to time).

#### **5.02.070 Self-Hauler Requirements.**

(a) Self-Haulers shall source separate all recyclable materials and Organic Waste (materials that Jurisdiction otherwise requires generators to separate for collection in the Jurisdiction's organics and recycling collection program) generated on-site from Solid Waste in a manner consistent with 14 CCR Sections 18984.1 and 18984.2.



(b) Self-Haulers that are Commercial Businesses (including Multi-Family Residential Dwellings) shall keep a record of the amount of Solid Waste delivered to each Solid Waste facility, operation, activity, or property that processes or recovers Organic Waste; this record shall be subject to Inspection by the Jurisdiction. The records shall include the following information:

- (1) Delivery receipts and weight tickets from the entity accepting the waste.
- (2) The amount of material in cubic yards or tons transported by the generator to each entity.
- (3) If the material is transported to an entity that does not have scales on-site or employs scales incapable of weighing the Self-Hauler's vehicle in a manner that allows it to determine the weight of materials received, the Self-Hauler is not required to record the weight of material but shall keep a record of the entities that received the Organic Waste.

(d) Self-Haulers that are Commercial Businesses (including Multi-Family Self-Haulers) shall provide information collected in Section 12(c) to Jurisdiction if requested.

(e) A residential Organic Waste Generator that self-hauls Organic Waste is not required to record or report information in Section 12(c) and (d).

#### **5.02.080 Inspections by District.**

(a) District representatives and/or its designated entity, including Designees are authorized to conduct Inspections and investigations, at random or otherwise, of any collection container, collection vehicle loads, or transfer, processing, or disposal facility for materials collected from generators, or Source Separated materials to confirm compliance with this ordinance by Organic Waste Generators, Commercial Businesses (including Multi-Family Residential Dwellings), property owners, Commercial Edible Food Generators, haulers, Self-Haulers, Food Recovery Services, and Food Recovery Organizations, subject to applicable laws. This Section does not allow Jurisdiction to enter the interior of a private residential property for Inspection.

(b) Regulated entity shall provide or arrange for access during all Inspections (with the exception of residential property interiors) and shall cooperate with the District's employee or its designated entity/Designee during such Inspections and investigations. Such Inspections and investigations may include confirmation of proper placement of materials in containers, Edible Food Recovery activities, records, or any other requirement of this ordinance described herein. Failure to provide or arrange for: (i) access to an entity's premises; (ii) installation and operation of Remote Monitoring equipment (optional); or (ii) access to records for any Inspection or investigation is a violation of this ordinance and may result in penalties described.

(1) Any records obtained by a Jurisdiction during its Inspections, Remote Monitoring, and other reviews shall be subject to the requirements and applicable disclosure exemptions of the Public Records Act as set forth in Government Code Section 6250 et seq.

(2) District representatives, its designated entity, and/or Designee are authorized to conduct any Inspections, Remote Monitoring, or other investigations as reasonably necessary to further the goals of this ordinance, subject to applicable laws.

(3) District shall receive written complaints from persons regarding an entity that may be potentially non-compliant with SB 1383 Regulations, including receipt of anonymous complaints.

**5.02.090 Enforcement.**

(a) Violation of any provision of this ordinance shall constitute grounds for issuance of a Notice of Violation and assessment of a fine by a District Enforcement Official or representative. Enforcement Actions under this ordinance are issuance of an administrative citation and assessment of a fine. The District's procedures on imposition of administrative fines are hereby incorporated in their entirety, as modified from time to time, and shall govern the imposition, enforcement, collection, and review of administrative citations issued to enforce this ordinance and any rule or regulation adopted pursuant to this ordinance, except as otherwise indicated in this ordinance.

(b) Other remedies allowed by law may be used, including civil action or prosecution as misdemeanor or infraction. Jurisdiction may pursue civil actions in the California courts to seek recovery of unpaid administrative citations. Jurisdiction may choose to delay court action until such time as a sufficiently large number of violations, or cumulative size of violations exist such that court action is a reasonable use of Jurisdiction staff and resources.

(c) Responsible Entity for Enforcement.

(1) Enforcement pursuant to this ordinance may be undertaken by the District Enforcement Official, which may be the District general manager, District environmental compliance inspector, or their designated entity, legal counsel, or combination thereof.

(2) Enforcement may also be undertaken by a Regional or County Agency Enforcement Official, designated by the Jurisdiction, in consultation with District Enforcement Official.

(A) District Enforcement Official(s) (and Regional or County Agency Enforcement Official, if using) will interpret ordinance; determine the applicability of waivers, if violation(s) have occurred; implement Enforcement Actions; and, determine if compliance standards are met.

(B) District Enforcement Official(s) (and Regional or County Agency Enforcement Official, if using) may issue Notices of Violation(s).

(d) Process for Enforcement.

(1) District Enforcement Officials or Regional or County Enforcement Officials and/or their Designee will monitor compliance with the ordinance randomly and through Compliance Reviews, Route Reviews, investigation of complaints, and an Inspection program (that may include Remote Monitoring). Section 5.02.080 establishes Jurisdiction's right to conduct Inspections and investigations.

(2) District may issue an official notification to notify regulated entities of its obligations under the ordinance.

(3) For incidences of Prohibited Container Contaminants found in containers, District will issue a Notice of Violation to any generator found to have Prohibited Container Contaminants in a container. Such notice will be provided via a cart tag or other communication immediately upon identification of the Prohibited Container Contaminants or within five (5) days after determining that a violation has occurred. If the Jurisdiction observes Prohibited Container Contaminants in a generator's containers on more than three (3) consecutive occasion(s), the Jurisdiction may assess contamination processing fees or contamination penalties on the generator.

(4) With the exception of violations of generator contamination of container contents addressed under Section 5.02.090(d)(3), Jurisdiction shall issue a Notice of Violation requiring compliance within 60 days of issuance of the notice.

(5) Absent compliance by the respondent within the deadline set forth in the Notice of Violation, Jurisdiction shall commence an action to impose penalties, via an administrative citation and fine, pursuant to this ordinance. Notices shall be sent to "owner" at the official address of the owner maintained by the tax collector for the Jurisdiction or if no such address is available, to the owner at the address of the dwelling or Commercial property or to the party responsible for paying for the collection services, depending upon available information.

(e) Penalty Amounts for Types of Violations.

The penalty levels are as follows:

(1) For a first violation, the amount of the base penalty shall be \$50 to \$100 per violation.

(2) For a second violation, the amount of the base penalty shall be \$100 to \$200 per violation.

(3) For a third or subsequent violation, the amount of the base penalty shall be \$250 to \$500 per violation.

(f) Factors Considered in Determining Penalty Amount.

The following factors shall be used to determine the amount of the penalty for each violation within the appropriate penalty amount range:

- (1) The nature, circumstances, and severity of the violation(s).
- (2) The violator's ability to pay.
- (3) The willfulness of the violator's misconduct.
- (4) Whether the violator took measures to avoid or mitigate violations of this chapter.
- (5) Evidence of any economic benefit resulting from the violation(s).
- (6) The deterrent effect of the penalty on the violator.

(7) Whether the violation(s) were due to conditions outside the control of the violator.

(g) Compliance Deadline Extension Considerations.

The District may extend the compliance deadlines set forth in a Notice of Violation issued in accordance with Section 5.02.090 if it finds that there are extenuating circumstances beyond the control of the respondent that make compliance within the deadlines impracticable, including the following:

(1) Acts of God such as earthquakes, wildfires, flooding, and other emergencies or natural disasters;

(2) Delays in obtaining discretionary permits or other government agency approvals;  
or,

(3) Deficiencies in Organic Waste recycling infrastructure or Edible Food Recovery capacity and the Jurisdiction is under a corrective action plan with CalRecycle pursuant to 14 CCR Section 18996.2 due to those deficiencies.

(h) Appeals Process.

Persons receiving an administrative citation containing a penalty for an uncorrected violation may request a hearing to appeal the citation. A hearing will be held only if it is requested within the time prescribed and consistent with Jurisdiction's procedures in the Jurisdiction's codes for appeals of administrative citations. Evidence may be presented at the hearing. The Jurisdiction will appoint a hearing officer who shall conduct the hearing and issue a final written order.

(i) Education Period for Non-Compliance.

Beginning January 1, 2022 and through December 31, 2023, Jurisdiction will conduct Inspections, Remote Monitoring, Route Reviews or waste evaluations, and Compliance Reviews, depending upon the type of regulated entity, to determine compliance, and if Jurisdiction determines that Organic Waste Generator, Self-Hauler, hauler, Tier One Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance, it shall provide educational materials to the entity describing its obligations under this ordinance and a notice that compliance is required by January 1, 2022, and that violations may be subject to administrative civil penalties starting on January 1, 2024.

(j) Civil Penalties for Non-Compliance.

Beginning January 1, 2024, if the Jurisdiction determines that an Organic Waste Generator, Self-Hauler, hauler, Tier One or Tier Two Commercial Edible Food Generator, Food Recovery Organization, Food Recovery Service, or other entity is not in compliance with this ordinance, it shall document the noncompliance or violation, issue a Notice of Violation, and take Enforcement Action pursuant to Section 5.02.090, as needed.

#### **5.02.100 Compliance with CALGreen Requirements.**

(a) Persons applying for a permit from the Jurisdiction for new construction and building additions and alternations shall comply with the requirements of this Section and all required components of the California Green Building Standards Code, 24 CCR, Part 11, known as CALGreen, as amended, if its project is covered by the scope of CALGreen or more stringent requirements of the Jurisdiction. If the requirements of CALGreen are more stringent then the requirements of this Section, the CALGreen requirements shall apply.

Project applicants shall refer to Jurisdiction's building and/or planning code for complete CALGreen requirements.

(b) For projects covered by CALGreen or more stringent requirements of the Jurisdiction, the applicants must, as a condition of the Jurisdiction's permit approval, comply with the following:

(1) Where five (5) or more Multi-Family dwelling units are constructed on a building site, provide readily accessible areas that serve occupants of all buildings on the site and are identified for the storage and collection of Blue Container and Green Container materials, consistent with the three-, three-plus, or two-container collection program offered by the Jurisdiction, or comply with provision of adequate space for recycling for Multi-Family and Commercial premises pursuant to Sections 4.408.1, 4.410.2, 5.408.1, and 5.410.1 of the California Green Building Standards Code, 24 CCR, Part 11 as amended provided amended requirements are more stringent than the CALGreen requirements for adequate recycling space effective January 1, 2020.

(2) New Commercial construction or additions resulting in more than 30% of the floor area shall provide readily accessible areas identified for the storage and collection of Blue Container and Green Container materials, consistent with the three-, three-plus, or two-container collection program offered by the Jurisdiction, or shall comply with provision of adequate space for recycling for Multi-Family and Commercial premises pursuant to Sections 4.408.1, 4.410.2, 5.408.1, and 5.410.1 of the California Green Building Standards Code, 24 CCR, Part 11 as amended provided amended requirements are more stringent than the CALGreen requirements for adequate recycling space effective January 1, 2020.

(3) Comply with CALGreen requirements and applicable law related to management of C&D, including diversion of Organic Waste in C&D from disposal. Comply with District's C&D ordinance and all written and published District policies and/or administrative guidelines regarding the collection, recycling, diversion, tracking, and/or reporting of C&D.

**Section 2.** California Environmental Quality Act: The Directors having considered the Staff Report and all public comments, has determined that the amendment is not a project under the California Environmental Quality Act because the amendment has no potential for resulting in a physical change in the environment. Since the amendment is not a project, no environmental documentation is required.

**Section 3.** Severability: If any section, subsection, sentence, clause or phrase of this Code is for any reason held to be invalid or unconstitutional, the decision shall not affect the validity of the remaining portions of the Ordinance. The Directors hereby declare that it would have passed this Ordinance, and each section, subsection, sentence, clause or phrase thereof, irrespective of the fact that any one or more sections, subsections, sentences, clauses or phrases have been declared invalid or unconstitutional.

**Section 4.** Effective Date and Posting of Ordinance: This Ordinance shall be effective immediately upon adoption. The District's Secretary shall publish a summary of the Ordinance within fifteen (15) days after adoption with the names of the Directors voting for and against this Ordinance. Additionally, the Secretary shall post a certified copy of the full text of this Ordinance with the names of the Directors voting for and against this Ordinance in the office of the District. (Water Code Sections 31027, 31105, and 31141.)

WHEREFORE, this Ordinance was passed and adopted by the Board of Directors of the Malaga County Water District this \_\_\_\_\_ day of 2023, by the following vote:

AYES:

NOES:

ABSENT:

#### CERTIFICATION

I, Moises Ortiz, duly qualified, appointed, and acting Secretary of the Malaga County Water District do hereby certify that the foregoing is a true statement of the action taken by the Board of Directors of the District at a regular meeting of the Board held on \_\_\_\_\_, 2023.

#### MALAGA COUNTY WATER DISTRICT

Dated: \_\_\_\_\_, 2023

By: \_\_\_\_\_  
Moises Ortiz, Secretary of the  
Malaga County Water District

# item 10.b.

## Malaga County Water District Charges

1/18/2023

Invoice Date	Invoice Number	Charges to Developments																								
		Misc. Private Development	SCCD Campus Site North and Willow	Peach Ave miscellaneous	Chestnut Ave miscellaneous	Maple and Malaga (NW corner)	Malaga Power BESS 2611 E. North	CUP 3748 BEES	EIR 7524 Assemi Group	Skyrun SPR 8088 3107/3109 E. Malaga	SPR 8104 Custom Ag	Penske/Bldg Addition SPR 8117-R 3080 E. Malaga	SPR 8180 Utility Review Fowler Packing	SPR 8181 Leland/Fowler Packing Central/Minnewawa	SPR 8201 Enterprise Truck Rental	SPR 8219 Proposed Trk Parking S. Maple	SPR 8226 Proposed Trk Maint Facility-4780 Maple	SPR 8241 Stravinski Development Minnewawa Ave	SPR 8244 GreenLaw Partners Central/Peach Ave	SPR 8247-Palmetto 1240 LLC Muscat Ave.	SPR 8257 Proposed Fueling Facility/Trk. Parking 4642 S. Chestnut	SPR 8268 Proposed Trk Wash 3697/3741 S. Golden State	SPR 8286/8296 Proposed Warehouse-Peach Ave.	SPR 8289/8299 Proposed Grocery Store 3035 Chestnut	Bryan O'Brien 3237 E. Malaga	
2/17/2021	83497														\$627.40											
3/15/2021	84001	\$194.20																								
4/26/2021	84282	\$1,529.60																								
5/14/2021	85054	\$437.20																								
6/23/2021	85897	\$44.00																								
7/20/2021	86273		\$1,406.00	\$88.00							\$264.00															
8/20/2021	86917															\$699.60										
9/22/2021	87712															\$2,133.90										
10/14/2021	87957				\$550.00											\$825.40										
11/12/2021	88643	\$550.60														\$176.00										
12/28/2021	89306	\$1,236.60																								
1/14/2021	89619																									
2/11/2022	90231	\$517.50																	\$457.00	\$677.00						
3/18/2022	90978																									
4/13/2022	91450	\$530.00													\$270.00					\$90.00	\$112.50					
5/23/2022	92363	\$2,030.60													\$1,452.20				\$405.00		\$225.00					
6/13/2022	92842	\$292.50																\$360.00	\$2,807.02	\$609.10						
7/19/2022	93476												\$1,368.50					\$45.00	\$135.00							
8/15/2022	94235												\$646.00							\$969.90			\$247.50			
9/8/2022	94757	\$450.00																		\$315.00		\$125.00				
10/13/2022	95545	\$180.00																		\$225.00						
11/16/2022	96515	\$779.80										\$157.50	\$517.50				\$374.60	\$157.50			\$67.50			\$437.00		
12/20/2022	97157													\$960.50												
1/16/2023	97669	\$387.10				\$180.00	\$90.00			\$117.60	\$225.00								\$67.50	\$45.00			\$315.00	\$180.00	\$180.00	
2/22/2023	98599							\$47.60	\$666.40						\$238.00					\$547.40	\$528.60		\$320.80	\$214.20		
3/14/2023	99026							\$190.40															\$142.80	\$963.00		
4/12/2023	99665													\$1,034.20											\$850.40	

# item 10.b.

455 W. Fir Avenue  
Clovis, CA 93611  
(559) 449-2700  
Fax (559) 449-2715

EST. 1968  
**PROVOST &  
PRITCHARD**  
CONSULTING GROUP  
*An Employee Owned Company*

Malaga County Water District  
3580 S. Frank Street  
Malaga, CA 93725

April 12, 2023  
Project: No: 01057-23-001  
Invoice No: 99665

**Project Name: Malaga Co. WD - 2023 On Going**

**Client Project #:**

Description: General District Services

101 - Ongoing open items, District engineering, review, billing, meetings, workload, charges to developments, team organization, agenda, developments needing to be connected, rate discussion with Bartle Wells.

200 - January results, correspondence, water supply records.

400 - Annual Pretreatment report, updates, One Drive link, NAICS units for dischargers, FOG and Non Residential Permits with Jody, meetings, groundwater gradient templates, Nitrogen report to KR, discussion and review.

600 - correspondence, workload, input on potential temporary water from Malaga to test a City of Fresno main in North Ave.

SPR 8286 - review of environmental documents (\$850.40)

SPR 8180 - review of plans (\$1,034.20)

**Professional Services from March 1, 2023 to March 31, 2023**

Phase: 101 Consult w Dist Manager

**Labor**

	Hours	Rate	Amount	
Senior Engineer	.80	178.00	142.40	
Senior Engineer	2.10	195.00	409.50	
Associate Engineer	.80	156.00	124.80	
Principal Engineer	4.30	238.00	1,023.40	
Project Administrator	1.10	101.00	111.10	
Totals	9.10		1,811.20	
<b>Total Labor</b>				<b>1,811.20</b>
		<b>Total this Phase:</b>		<b>\$1,811.20</b>

Phase: 200 Water Operations

**Labor**

	Hours	Rate	Amount	
Principal Engineer	.30	238.00	71.40	
Project Administrator	.80	101.00	80.80	
Totals	1.10		152.20	
<b>Total Labor</b>				<b>152.20</b>
		<b>Total this Phase:</b>		<b>\$152.20</b>

Phase: 400 Wastewater Treatment Operation

\*\*\* Please make checks payable to Provost & Pritchard Consulting Group \*\*\*  
For billing inquiries, please email BillingInquiries@ppeng.com.



Project	01057-23-001	Malaga Co. WD - 2023 On Going	Invoice	99665
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**Labor**

	Hours	Rate	Amount	
Senior Engineer	6.50	195.00	1,267.50	
Principal Engineer	2.40	238.00	571.20	
Project Administrator	.70	101.00	70.70	
Totals	9.60		1,909.40	
<b>Total Labor</b>				<b>1,909.40</b>
		<b>Total this Phase:</b>		<b>\$1,909.40</b>

Phase: 600 Misc Private Development

**Labor**

	Hours	Rate	Amount	
Senior Engineer	3.10	178.00	551.80	
Principal Engineer	6.70	238.00	1,594.60	
Project Administrator	.20	101.00	20.20	
Totals	10.00		2,166.60	
<b>Total Labor</b>				<b>2,166.60</b>
		<b>Total this Phase:</b>		<b>\$2,166.60</b>
		<b>Total this Invoice</b>		<b><u>\$6,039.40</u></b>



RECEIVED

APR 19 2023

BT:

**item 15.a.1.**

## County of Fresno

DEPARTMENT OF PUBLIC WORKS AND PLANNING  
STEVEN E. WHITE, DIRECTOR

### NOTICE OF PUBLIC HEARING FRESNO COUNTY PLANNING COMMISSION

A public hearing will be held on **UNCLASSIFIED CONDITIONAL USE PERMIT APPLICATION NO. 3748** and **INITIAL STUDY NO. 8274** filed by **MALAGA BESS, LLC.**, proposing to:

Allow the construction and operation of a modular battery energy storage system along with appurtenant equipment including inverters, a switchyard, and an approximately 250-foot-long overhead or underground electrical connection to the existing Peaker plant switch yard, with an estimated storage capacity of 140 Megawatts, on an approximately 4.5-acre portion of a 19-acre parcel, and a temporary 4.2-acre construction laydown storage yard, in the M-3 (Heavy Industrial) Zone District. The subject parcel is located on the south side of North Avenue between S. Maple and S Chestnut Avenues, approximately 740 feet west of its intersection with S Chestnut Avenue, and approximately 1,300 feet east of the nearest city limits of the City of Fresno. (APN: 330-050-27SU) (2611 E. North Avenue) (Sup. Dist. 3).

The Planning Commission hearing will be at **8:45 a.m.** on **April 27, 2023** (or as soon thereafter as possible) in Room 301, Hall of Records, 2281 Tulare Street (Tulare & "M" Streets), Fresno, CA.

The Agenda and Staff Reports will be on the Fresno County web site  
<http://www.co.fresno.ca.us/PlanningCommission>  
by Saturday, April 22, 2023, 6:00 a.m.

**PROGRAM ACCESSIBILITY AND ACCOMMODATIONS:** The Americans with Disabilities Act (ADA) Title II covers the programs, services, activities, and facilities owned or operated by state and local governments like the County of Fresno ("County"). Further, the County promotes equality of opportunity and full participation by all persons, including persons with disabilities. Towards this end, the County works to ensure that it provides meaningful access to people with disabilities to every program, service, benefit, and activity, when viewed in its entirety. Similarly, the County also works to ensure that its operated or owned facilities that are open to the public provide meaningful access to people with disabilities.

To help ensure this meaningful access, the County will reasonably modify policies/ procedures and provide auxiliary aids/services to persons with disabilities. If, as an attendee or participant at the meeting, you need additional accommodations such as an American Sign Language (ASL) interpreter, an assistive listening device, large print material, electronic materials, Braille materials, or taped materials, please contact the Current Planning staff as soon as possible during office hours at (559) 600-4230 or at [jpotthast@fresnocountyca.gov](mailto:jpotthast@fresnocountyca.gov). Reasonable requests made at least 48 hours in advance of the meeting will help to ensure accessibility to this meeting. Later requests will be accommodated to the extent reasonably feasible.

For more information contact **Jeremy Shaw**, Department of Public Works and Planning, 2220 Tulare Street (corner of Tulare & "M" Streets, Suite A), Fresno, CA 93721, telephone **(559) 600-4207**, email [jshaw@fresnocountyca.gov](mailto:jshaw@fresnocountyca.gov).

STEVEN E. WHITE, DIRECTOR  
Department of Public Works and Planning

DEVELOPMENT SERVICES AND CAPITAL PROJECTS DIVISION  
2220 Tulare Street, Sixth Floor / Fresno, California 93721 / Phone (559) 600-4497 / 600-4022 / 600-4540 / FAX 600-4200  
The County of Fresno is an Equal Employment Opportunity Employer

Secretary-Fresno County Planning Commission

**NOTES:**

- Anyone may testify; please share this notice with your neighbors or anyone you feel may be interested.
- The Planning Commission will also accept written testimony such as letters, petitions, and statements. In order to provide adequate review time for the Planning Commission, please submit these documents to the Department prior to the hearing date.
- If at some later date you challenge the final action on this matter in court, you may be limited to raising only those issues you or someone else raised at the public hearing described in this notice or in written correspondence delivered to the Planning Commission at, or prior to, the public hearing.

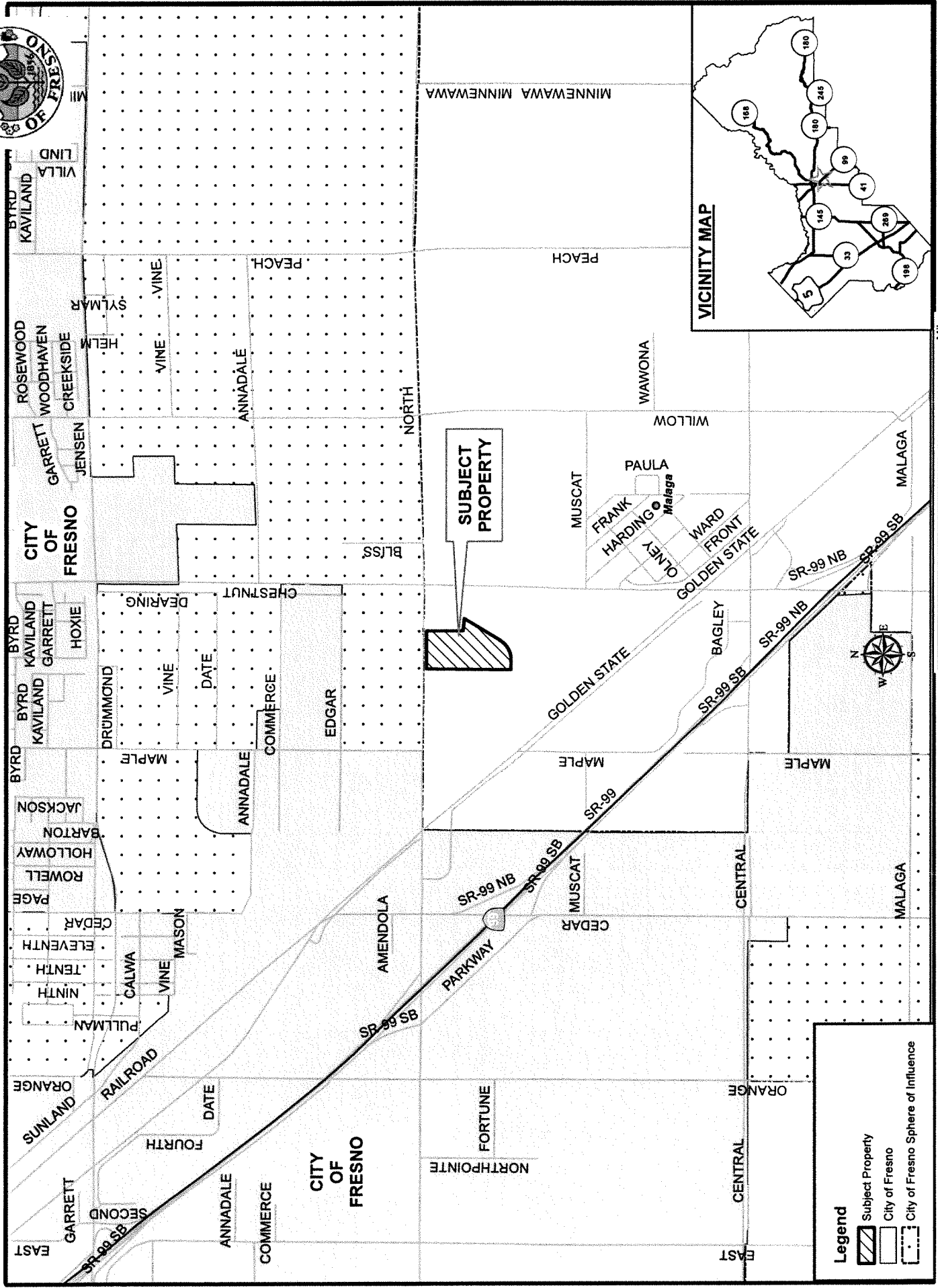
**SEE MAP ON REVERSE SIDE**

JS:jp

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# LOCATION MAP

CUP 3748



**Legend**

- Subject Property
- City of Fresno
- City of Fresno Sphere of Influence