

LICENSE AGREEMENT

THIS LICENSE AGREEMENT ("License") is made and entered into September 1, 2020 ("**Effective Date**"), by and between [CITY OF EXETER], (hereinafter referred to as "**Licensors**") and the COUNTY OF TULARE, a political subdivision of the State of California, through its REGISTRAR OF VOTERS (hereinafter referred to as "**County**"), without regard to number and gender. County and Licensors may sometimes hereinafter be referred to individually as "**Party**" or jointly as "**Parties.**"

1. **LICENSE AREA.** Licensors grants to County, and its agents and contractors, the right to access and use a portion of that/those certain property(ies), described on Exhibit A (hereinafter referred to as the "License Area(s)"), which exhibit is attached hereto and by reference made a part hereof, together with nonexclusive, in common use of driveways for vehicle ingress and egress, pedestrian walkways, other facilities, and common areas appurtenant to the License Area. Licensors represents and warrants that the License Area is free and clear of easements, including utility easements that would impede the County's use of the License Area, as set forth below. The Parties agree that the License Area may be modified by mutual agreement pursuant to the terms herein.

2. **COUNTY AND PUBLIC USE.**
 - a. County's use of the License Area shall be limited to installing, operating, and maintaining an Official Ballot Drop Box on the License Area. County shall not use the License Area or any portion thereof for any illegal or unlawful purpose and will not cause or permit a nuisance to be created or maintained therein.
 - b. The Parties further acknowledge and agree that the County's use of the License Area is for the operation of an Official Ballot Drop Box consistent with the California Voter's Choice Act. Licensors grants to voters, and other County invitees, the right of access to the License Area, described in Clause 1 (License Area), above, for purposes consistent with the conduct of, and participation in, an election. Licensors acknowledges that the Official Ballot Drop Box shall be open 24 hours a day for the 30 days prior to an election ("Election Period"). County shall endeavor to notify Licensors with an election schedule no later than 30 days before the Election Period pursuant to Clause 27 (NOTICES).
 - c. Consistent with the uses outlined in this Clause 2, Licensors shall notify the County within 24 hours of any change to the License Area or surrounding property that would make the Official Ballot Drop Box inaccessible during the Election Period and frustrate the intent of this License.

3. **PARKING.** Licensor, throughout the Term, as set forth below, shall provide County, and its invitees, with the nonexclusive use of parking spaces. The location and any rules or instructions for use of these parking spaces shall be determined by the Licensor and provided to the County no later than the commencement of the first Election Period after the Effective Date.

In addition to said parking spaces, Licensor shall also provide parking for disabled persons ("ADA Spaces") in accordance with the Americans with Disabilities Act, the California Uniform Building Code and the applicable codes and/or ordinances relating to parking for disabled persons as established by the local jurisdiction in which the License Area is located where the provisions of such local codes and/or ordinances exceed or supersede the State requirements.

4. **TERM.** This license shall commence on the Effective Date written above and shall continue in effect for five (5) years ("Term") or as otherwise terminated in accordance with Clause 5 (TERMINATION) of this License.
5. **TERMINATION.** This License shall be revocable by either Party at any time; however, as a courtesy, the terminating Party will attempt to give ninety (90) days written notice to the other Party prior to the termination date. In the event the County modifies the License Area pursuant to Section 19 (Amendments) – for example, by removing property or properties from the License Area – said modification shall not terminate the License for the remaining property or properties that comprise the License Area.
6. **LICENSE FEE.** In consideration for the valuable public services provided to the citizens of the County of Tulare performed by County consistent with Clause 2 (USE) above and pursuant to this License, the license fee shall be waived for County's use of the Licensed Area.
7. **UTILITIES, MAINTENANCE, AND JANITORIAL SERVICES.** Licensor shall be responsible for all janitorial, maintenance and repairs outside of the License Area, (including but not limited to: fire alarm, fire extinguisher, HVAC system, elevator maintenance, landscaping, pest control, and trash) unless such maintenance and repairs arise out of County's negligence or intentional acts not in accordance with the uses permitted herein, per Clause 2 (USE), above and not including normal wear and tear.
8. **ALTERATIONS.** County may make improvements and changes, at the County's expense, in and to the License Area as deemed necessary or appropriate by the County in its discretion, subject to advance written permission from Licensor. It is agreed that any such improvements attached to or placed upon the License Area by

carrying out and complying with any terms of this License, is not acting as an agent, officer, or employee of Licensor.

15. **SIGNS.** Licensor agrees to allow County to install and maintain a sign or display upon or in front of the License Area and/or property. Such signage shall comply with all applicable laws and zoning and site plan requirements and be consistent with Licensor signage on the property upon which the License Area is located.
16. **ELECTIONEERING.** No electioneering, is permitted within 100 feet of the Official Ballot Drop Box during the Election Period. Licensor agrees that County and its staff may take steps they deem reasonably necessary to stop or prevent such electioneering. Licensor, its officers, agents, and employees will refrain from erecting or authorizing a permit for any sign, display, or other demonstration that may have the effect of influencing or intimidating voters during the Election Period. County may take the steps they deem reasonably necessary to obscure or remove any such sign, display, or other demonstration. For purposes of this section, “**electioneering**” means the visible display or audible dissemination of information that advocates for or against any candidate or measure on the ballot within 100 feet of the Official Ballot Drop Box. Such electioneering information includes but is not limited to,
 - i. Display of a candidate’s name, likeness, or logo;
 - ii. DA display of a ballot measure’s number, title, subject, or logo;
 - iii. Buttons, hats, pencils, pens, shirts, signs, or stickers containing electioneering information;
 - iv. Dissemination of audible electioneering information; and/or
 - v. Loitering near or disseminating visible or audible electioneering information.
17. **AUTHORITY.** The persons executing the License below on behalf of County or Licensor warrant that they have the power and authority to bind County or Licensor to this License.
18. **HEADINGS.** The various headings and numbers herein, the grouping of provisions of this License into separate clauses and paragraphs, and the organization hereof, are for the purpose of convenience only and shall not be considered otherwise.
19. **AMENDMENTS.** This License is the sole and only agreement between the Parties regarding the subject matter hereof; other agreements, either oral or written, are void. Any changes to this License shall be in writing and shall be properly executed by both Parties; however, County may modify the License Area, in its discretion and upon approval of Licensor, upon written notification from the Chief Real Estate Officer informing Licensor of the modification and the date the modification will

become effective. Based on such written notice the Parties agree to thereafter amend this License to reflect the revised License Area if so desired by either Party.

20. **SEVERABILITY.** If any term, covenant, condition, or provision of this License is held by a court of competent jurisdiction to be invalid, void, or unenforceable, the remainder of the provisions hereof shall remain in full force and effect and shall in no way be affected, impaired, or invalidated thereby.
21. **NO WAIVER.** The failure of Licensor or County to insist upon strict performance of any of the terms, conditions, and covenants in this Lease shall not be deemed a waiver of any right or remedy that Licensor or County may have, and shall not be deemed a waiver of any right or remedy for a subsequent breach or default of the terms, conditions, and covenants herein contained.
22. **GOVERNING LAW.** This License has been negotiated and executed in the State of California and shall be governed by and construed under the laws of the State of California. In the event of any legal action to enforce or interpret this License, the sole and exclusive venue shall be a court of competent jurisdiction located in Tulare County, California, and the Parties hereto agree to and do hereby submit to the jurisdiction of such court, notwithstanding Code of Civil Procedure section 394.

The Parties expressly understand and agree that this License constitutes a license for use of the License Area. This License is not intended by the Parties, nor shall it be legally construed, to convey a leasehold, easement, or other interest in real property. County acknowledges that a license is a valid form of agreement and shall not contest the validity of the form of this License in any action or proceeding brought by County against the Licensor, or by the Licensor against County. Should either Party be compelled to institute arbitration, legal, or other proceedings against the other for or on account of the other Party's failure or refusal to perform or fulfill any of the covenants or conditions of this License on its part to be performed or fulfilled, the Parties agree that the rules and principles applicable to licenses shall govern such actions or proceedings.

23. **ATTORNEYS' FEES.** In the event of a dispute between Licensor and County concerning claims arising out of this License, or in any action or proceeding brought to enforce or interpret any provision of this License or where any provision hereof is validly asserted as a defense, each Party shall bear its own attorney fees and costs.
24. **TIME OF THE ESSENCE.** Time is of the essence of this License. Failure to comply with any time requirements of this License shall constitute a material breach of this License.

- 25. CONDITION OF LICENSE AREA UPON TERMINATION.** Except as otherwise agreed to herein, upon termination of this License, County shall redeliver possession of said License Area to Licensor in substantially the same condition that existed immediately prior to County's entry thereon, reasonable wear and tear, flood, earthquakes, war, and any act of war excepted.
- 26. RELATIONSHIP OF PARTIES.** The relationship of the parties hereto is that of Licensor and County, and it is expressly understood and agreed that Licensor does not in any way or for any purpose become a partner of or a joint venture with County in the conduct of County's business or otherwise.
- 27. NOTICES.** All written notices pursuant to this License shall be addressed as set forth below or as either Party may hereafter designate by written notice and shall be deemed delivered upon personal delivery, delivery by facsimile machine, electronic mail, or seventy-two (72) hours after deposit in the United States Mail.

To: COUNTY

County of Tulare
Registrar of Voters
5951 S. Mooney Blvd
Visalia, CA 93277
Attention: Suzette Machado
SMachado@co.tulare.ca.us
(559) 624-7301

To: LICENSOR

City of Exeter
137 N F St
Exeter, CA 93221
Attention: Adam Ennis, City Administrator
adam@exetercityhall.com (559) 592-9244

- 28. ATTACHMENTS TO LICENSE.** The License includes the following, which are attached hereto and made a part hereof: Exhibit A – License Area Description and Map and Exhibit B—Official ballot Drop Box Specifications.

The remainder of this page intentionally left blank.

IN WITNESS WHEREOF, the Parties have executed this license the day and year first above written.

LICENSOR

By 

Adam Ennis, City Administrator

Approved as to form:

By: _____

Julia Lew, City Attorney

COUNTY

COUNTY OF TULARE

By _____

Chair, Board of Supervisors

ATTEST: JASON T. BRITT

County Administrative Officer/Clerk of the Board of Supervisors

By _____

Approved as to form:

County Counsel

By: _____

Deputy County Counsel

Matter No. 2020665

EXHIBIT A



Tulare County Registrar of Voters
[CITY OF EXETER]
Rent Free Acquisition License



EXHIBIT B



Outside Dimensions: (inches)	12' x 12' x 38' high
Anti-tamper chute dimensions: (inches)	6.5' x 5'
Capacity:	250+ Ballots
Material Type:	Brushed Stainless Steel
Part ID:	3107

Installed box at the Auditor's office rose garden in Visalia.



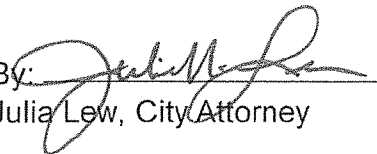
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County Administrative Officer/Clerk of the Board of Supervisors

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County Counsel

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Deputy County Counsel