



**CITY COUNCIL AGENDA
CITY HALL, 291 N. MAIN STREET
PORTERVILLE, CALIFORNIA
OCTOBER 15, 2019, 5:30 PM**

Call to Order

Roll Call

ORAL COMMUNICATIONS

This is the opportunity to address the City Council on any matter scheduled for Closed Session. Unless additional time is authorized by the Council, all commentary shall be limited to three minutes.

CITY COUNCIL CLOSED SESSION:

A. Closed Session Pursuant to:

- 1 - Government Code Section 54956.8 – Conference with Real Property**
Negotiators/Property: APN: 247-250-074 and 247-260-003. Agency Negotiator: John Lollis. Negotiating Parties: City of Porterville and Jose M. Gonzalez Bedolla, Andrea Saravia Gonzalez, James Cemo and Carol Cemo. Under Negotiation: Terms and Price.
- 2 -- Government Code Section 54956.8 – Conference with Real Property**
Negotiators/Property: APN: 302--110--054 and 302--110--074. Agency Negotiator: John Lollis. Negotiating Parties: City of Porterville and Tule River Economic Development Corporation. Under Negotiation: Terms and Price.
- 3 - Government Code Section 54956.8 – Conference with Real Property**
Negotiators/Property: 140 S. C Street. Agency Negotiator: John Lollis. Negotiating Parties: City of Porterville and Porterville Unified School District. Under Negotiation: Terms and Price.
- 4 - Government Code Section 54956.8 – Conference with Real Property**
Negotiators/Property: 256 East Orange Avenue, Porterville, CA. Agency Negotiator: John Lollis. Negotiating Parties: City of Porterville and Porterville Unified School District. Under Negotiation: Terms and Price.
- 5 - Government Code Section 54956.8 – Conference with Real Property**
Negotiators/Property: 645 N. Prospect Street. Agency Negotiator: John Lollis. Negotiating Parties: City of Porterville and Porterville Unified School District. Under Negotiation: Terms and Price.
- 6 - Government Code Section 54956.95 – Liability Claim - Application to Present Late Claims:** Claimants: Paula Carrasco Orosco and Henry Orosco. Agency claimed against: City of Porterville.
- 7 - Government Code Section 54956.9(d)(1) – Conference with Legal Counsel – Existing Litigation:** Maria Ventura v. Jennifer Rutledge, et al., United States District Court, Eastern Dist., Case No. 1:18-cv-01580-DAD-SAB.
- 8 - Government Code Section 54956.9(d)(1) – Conference with Legal Counsel –**

Existing Litigation: Cramer v. Hwang et al., Tulare County Superior Court Case No. 280499.

9 - Government Code Section 54956.9(d)(3) – Conference with Legal Counsel – Anticipated Litigation – Significant Exposure to Litigation: Two (2) cases in which facts are not yet known to potential plaintiffs.

10 - Government Code Section 54956.9(d)(4) – Conference with Legal Counsel – Anticipated Litigation – Initiation of Litigation: One (1) case.

6:30 P.M. RECONVENE OPEN SESSION AND REPORT ON REPORTABLE ACTION TAKEN IN CLOSED SESSION

Pledge of Allegiance Led by Council Member Gurrola.

Invocation

PROCLAMATIONS

National Friends of Libraries Week - October 15-21, 2019

Zonta International Centennial Anniversary Recognition Week - October 20-26, 2019

PRESENTATIONS

Employee of The Month - Kevin Kennedy

Chamber of Commerce Quarterly Report

REPORTS

This is the time for all committee/commission/board reports; subcommittee reports; and staff informational items.

- I. City Commission and Committee Meetings
 1. Parks & Leisure Services Commission
 2. Library & Literacy Commission
 3. Arts Commission
 4. Animal Control Commission
 5. Youth Commission
 6. Transactions and Use Tax Oversight Committee (TUTOC)
- II. Staff Informational Reports
 1. Water Conservation Phase III Status Update
 2. Fall Community Clean-Up Event
 3. Vietnam Veterans Memorial at Veterans Park

AB 1234 REPORTS

This is the time for all AB 1234 reports required pursuant to Government Code § 53232.3.

1. Local Agency Formation Commission (LAFCO) - October 2, 2019
2. Porterville Complete Count 2020 Census Committee Meeting - October 3, 2019
3. Eastern Tule Groundwater Sustainability Agency - October 3, 2019

ORAL COMMUNICATIONS

This is the opportunity to address the Council on any matter of interest, whether on the agenda or not. Please address all items not scheduled for public hearing at this time. Unless additional time is authorized by the Council, all commentary shall be limited to three minutes.

CONSENT CALENDAR

All Consent Calendar Items are considered routine and will be enacted in one motion. There will be no separate discussion of these matters unless a request is made, in which event the item will be removed from the Consent Calendar. All items removed from the Consent Calendar for further discussion will be heard at the end of Scheduled Matters.

1. **Authorization to Purchase Replacement Rotating Pump Assembly for Veterans Park Booster Pump Station**
Re: Consideration to authorize the purchase of a replacement rotating pump assembly from Munique LLC, in an amount not to exceed \$14,763.
2. **Authorization to Purchase Replacement Pump and Motor for City Well No. 27**
Re: Considering approval to purchase repair parts for City Well No. 27, initiation of a Purchase Order and payment to Valley Pump & Dairy in an amount not to exceed \$14,057.
3. **Authorization to Purchase Netgear Prosafe M4300 24X24F Fiber Switches**
Re: Consideration to approve the purchase of two (2) Netgear ProSafe M4300 24X24F switches from SCW for \$9,297.71.
4. **Authorization to Purchase GIS Monitor for Police Department Communications Center**
Re: Considering approval of the purchase of a GIS Dell Touch Interactive Monitor from Dell for \$6,956.99 plus applicable sales tax and shipping costs.
5. **Authorization to Renew Agreement with CSET for Senior Services at the Santa Fe Depot**
Re: Consideration to authorize the renewal of the Agreement with CSET for an additional five (5) years.
6. **Authorization to Renew Contract with CivicPlus for Recreation Management System**
Re: Consideration to approve a contract renewal with CivicPlus for the web-based recreation management system at an annual rate of \$6,425.27, with a 5% annual increase beginning in the third year.
7. **Authorization to Negotiate Consultant Agreement - Engineering Services for Pavement Management Update Implementation & Asset Management Development**
Re: Consideration to authorize the Engineering and Project Manager Director to negotiate with IMS consultant for the development of a Pavement Management Program and Right of Way Asset Database; and authorize to negotiate with Dynatest firm, if necessary.
8. **Amendment No.1 to the Porterville Chamber of Commerce Agreement**
Re: Consideration of approval of Amendment No.1 to the Porterville Chamber of Commerce Agreement to allow quarterly reports and payments, minor clarifications and updates, and indemnification and insurance requirements.

9. **Award of Contract - On-Call Right-of-Way and Appraisal Consulting Services**
Re: Considering authorization to negotiate on-call contracts with Hamner Jewell & Associates, Overland Pacific & Cutler, and Hopper Company for right-of-way and appraisal services, respectively.
10. **2018 Assistance to Firefighters Grant Award**
Re: Consideration to accept the grant for the self-contained breathing apparatus and face masks.
11. **Resolution Authorizing Application For and Receipt of SB2 Planning Grant Program Funds**
Re: Consideration to adopt draft Resolution in support of the City of Porterville's SB2 Grant Application.
12. **Approval of a Notice of Determination for the Akin Well Project**
Re: Consideration to approve staff to file a Notice of Determination with the State Clearinghouse and with the Tulare County Clerk.
13. **Approval for Community Civic Event - Dia De Los Muertos Car Show Toy Drive - U.S. Marines Reserves Toys for Tots Foundation - October 26, 2019**
Re: Considering approval of an event to take place on Saturday, October 26, 2019, from 8:00 a.m. to 3:00 p.m., at downtown Main Street, between Morton Avenue and Olive Avenue.
14. **Request for Proclamation - America Recycles Week - November 10-16, 2019**
Re: Considering approval of a request to proclaim November 10-16, 2019, as "America Recycles Week" in the city of Porterville.
15. **Request for Proclamation - National Coming Out Day- October 11, 2019**
Re: Considering approval of a request to proclaim October 11, 2019, as "National Coming Out Day."
16. **City Council Member Requested Agenda Item - Consider Allowing Members of Council to Contribute Funds from Member Budgets to the United States Marine Corps Reserve "Toys for Tots" Program**
Re: Consideration of a request to consider allowing City Council Members to contribute funds from Member budgets to the "Toys for Tots" Program.
17. **Status and Review of Declaration of Local Emergency**
Re: Considering approval of the continuance of the Declaration of Local Emergency.

A Council Meeting Recess Will Occur at 8:30 p.m., or as Close to That Time as Possible

PUBLIC HEARINGS

18. **Consideration of a Conditional Use Permit for Randy's Restaurant (PRC 2019-032-C)**
Re: Consideration of a draft Resolution to allow the sale of beer and wine under a Type 41 on-sale license in conjunction with the serving of meals at 1549 West Olive Avenue; and authorizing execution of a Letter of Public Convenience or Necessity.
19. **Consideration of Approval of the Aria Subdivision Project**

Re: Consideration to approve draft Resolution approving the Negative Declaration for the Aria Subdivision; and adopt draft Resolution approving the Aria Tentative Subdivision Map (PRC 2017-055-S)

20. Consideration of an Annexation for Burton School District (PRC 2013-020)

Re: Accepting public comment for the proposed annexation of the property bounded generally by Redwood Street to the west, Olive Avenue to the south, Westwood Street to the east, and Thurman Avenue to the north.

21. Adoption of the 2019 California Building Codes

Re: Consideration of Ordinances adopting the 2019 Editions of the California Administrative, Building, Residential, Electrical, Mechanical, Plumbing, Energy, Green Building Standards, Historical Buildings, Existing Buildings, and Referenced Standards Codes.

22. Budget Adjustment/Citizens' Option for Public Safety (COPS) Funding

Re: Considering acceptance of grant funds in the amount of \$100,000 to offset costs for personnel assigned to the Police Department's Patrol Division, including necessary training, equipment, and overtime costs.

23. Consideration of Various Fees Related to Application to Open and Operate Cannabis Dispensaries, and Consideration of Request for Proposals Process and Draft Development Agreement Template

Re: Consideration of a Resolution establishing the Phase I and II Application Fees and the Initial Permit and Annual Renewal fees.

SECOND READINGS

24. Second Reading - Ordinance No. 1859 - Approving Zone Change (PRC 2018-022-Z) from RM-3 (High Density Residential) to CR (Retail Centers)

Re: Giving second reading of Ordinance 1859 approving a zone change of approximately 1.82 acres from high density residential to retail centers, just north of Henderson Avenue, east of Prospect Street in Phase II of Porter's Crossing Commercial Center.

SCHEDULED MATTERS

25. Continued Deliberation of a Conditional Use Permit for Alcohol Sales at The Vault No.2

Re: Consideration of a Resolution approving a Conditional Use Permit at 917C West North Grand Avenue; and authorizing execution of a Letter of Public Convenience or Necessity.

26. Appointment to the Arts Commission

Re: Considering the appointment of an individual to serve on the City's Arts Commission for a term to expire in July 2022.

27. Appointment of Council Member to a Grievance Appeals Board

Re: Appoint a Member and Alternate from the City Council to serve on an appeals board for an employee grievance.

28. Consideration of City Council's Procedural Handbook

Re: Consideration of the City Council's Procedural Handbook as adopted by the Council on August 20, 2019.

ORAL COMMUNICATIONS

OTHER MATTERS

CLOSED SESSION

Any Closed Session Items not completed prior to 6:30 p.m. will be considered at this time.

ADJOURNMENT - to the meeting of November 5th, 2019.

In compliance with the Americans with Disabilities Act and the California Ralph M. Brown Act, if you need special assistance to participate in this meeting, or to be able to access this agenda and documents in the agenda packet, please contact the Office of City Clerk at (559) 782-7464. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting and/or provision of an appropriate alternative format of the agenda and documents in the agenda packet.

Materials related to an item on this Agenda submitted to the City Council after distribution of the Agenda packet are available for public inspection during normal business hours at the Office of City Clerk, 291 North Main Street, Porterville, CA 93257, and on the City's website at www.ci.porterville.ca.us.



CITY COUNCIL AGENDA – OCTOBER 15, 2019

SUBJECT: 1. Water Conservation Phase III Status Update

SOURCE: Public Works

COMMENT: The City of Porterville has continued to implement an active water conservation approach, both conserving and providing flexibility to the community. The City has transitioned from Phase IV to Phase III of the City's Water Conservation Plan as of June 1, 2019. The Water Conservation Plan applies to all municipal water users within or outside city limits. As part of the Phase III plan, the City has provided additional outdoor watering days on a two (2) day per week watering schedule based on address. If an address ends with an "odd" number, the watering days are Tuesday and Saturday; if an address ends with an "even" number, the watering days are Wednesday and Sunday. Outdoor watering is prohibited between the hours of 5 a.m. to 10 a.m. and 5 p.m. to 10 p.m., with no watering allowed Monday, Thursday, or Friday. Watering of outdoor landscaping is prohibited during, and within 48 hours after, measurable rainfall which is now defined as greater than 0.01 of an inch.

Violations of prohibited activities are considered infractions and are punishable by fines of up to \$500 for each day in which the violation occurs. Any peace officer or employee of a public agency charged with enforcing laws and authorized to do so by Ordinance may issue a citation to the violator. The City of Porterville will be responding to enforcement by issuing a Notice of Violation for all witnessed occurrences and staff will be processing all reported issues. Enforcement statistics for the month of September 2019 show that a total of 100 Notice of Violations were issued for water wasting, and 1 Administrative Citation was issued.

Water production for September 2019 shows a 5% increase from the 5-year average. The production for the month of September 2019 was 385 million gallons, which when compared to the production for the month of September 2013 of 521 million gallons, equates to a 33.5% reduction. Residential consumption for September 2019 was 139.88 gallons per capita per day (GPCD).

Compliance with individual water supplier conservation requirements is based on cumulative savings. Cumulative tracking means that conservation savings will be added together from one month to the next and compared to the amount of water used during the same months in 2013. City Staff will be evaluating conservation totals in two formats: 1. Calculate the cumulative conservation totals for production as compared to production in 2013; and 2. Calculate cumulative conservation totals in relation to GPCD, in efforts to evaluate population growth impacts on production as compared to 2013. The cumulative total of production for the City of Porterville's conservation efforts will reflect

June 2015 through September 2019. Porterville's cumulative total production conservation through September 2019 is 23.14%. The cumulative total of GPCD for the City of Porterville's conservation efforts will reflect June 2015 through September 2019. Porterville's cumulative total GPCD conservation through September 2019 is 26.2%.

Under the February 2, 2016, emergency regulation, the City of Porterville received a revised conservation standard of 28% with an additional 2% reduction for climate adjustment, making the City's conservation standard 26%. After reviewing the Water Board's Self-Certification criteria for drought impacts to water supplies, the City of Porterville Council approved maintaining a self-imposed standard of 26%. The continuation of the current conservation goals keep a standardized message that the City has worked to develop in public outreach, provides resiliency and capacity to ensure three years of supply under drought conditions, meets the minimum 20% conservation standard defined in the City's Urban Water Management Plan, and assists the City toward meeting the requirements of the Sustainable Groundwater Management Act (SGMA).

The State Water Board continues to require monthly reporting to track what agencies are doing and how they perform throughout the year. Proposed permanent regulations, will require agency reporting to continue monitoring the performance of urban water conservation, with a preparedness to return back to a conservation standard if necessary.

RECOMMENDATION: Informational Only.

ATTACHMENTS:

1. Monthly Production Status September 2019
2. Monthly Production Status GPCD September 2019
3. Drought Response Phase III Flyer

Appropriated/Funded:

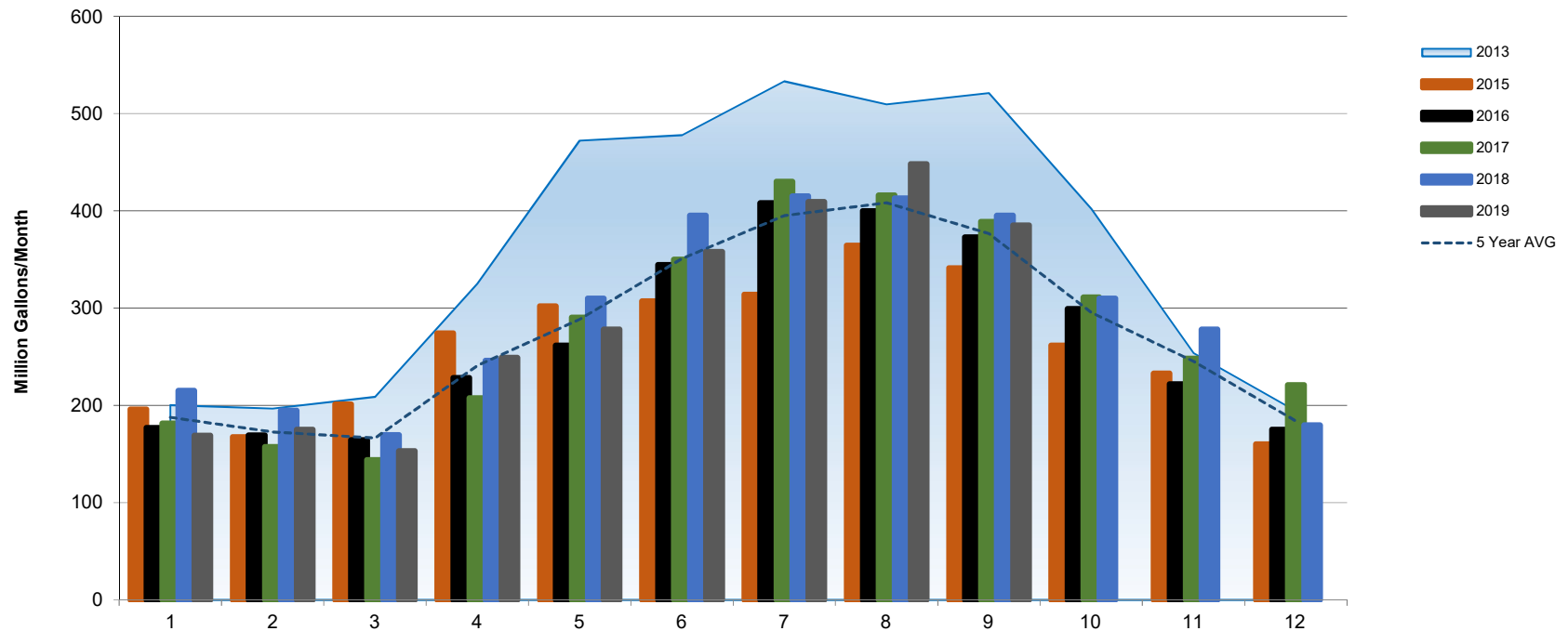
Review By:

Department Director:

Michael Knight, Deputy Public Works Director/Field Services Manager

Final Approver: John Lollis, City Manager

**Monthly Production Status & Cumulative Total June 2015 Through
September 2019 Production Comparison to 2013 & 5 Year Average**

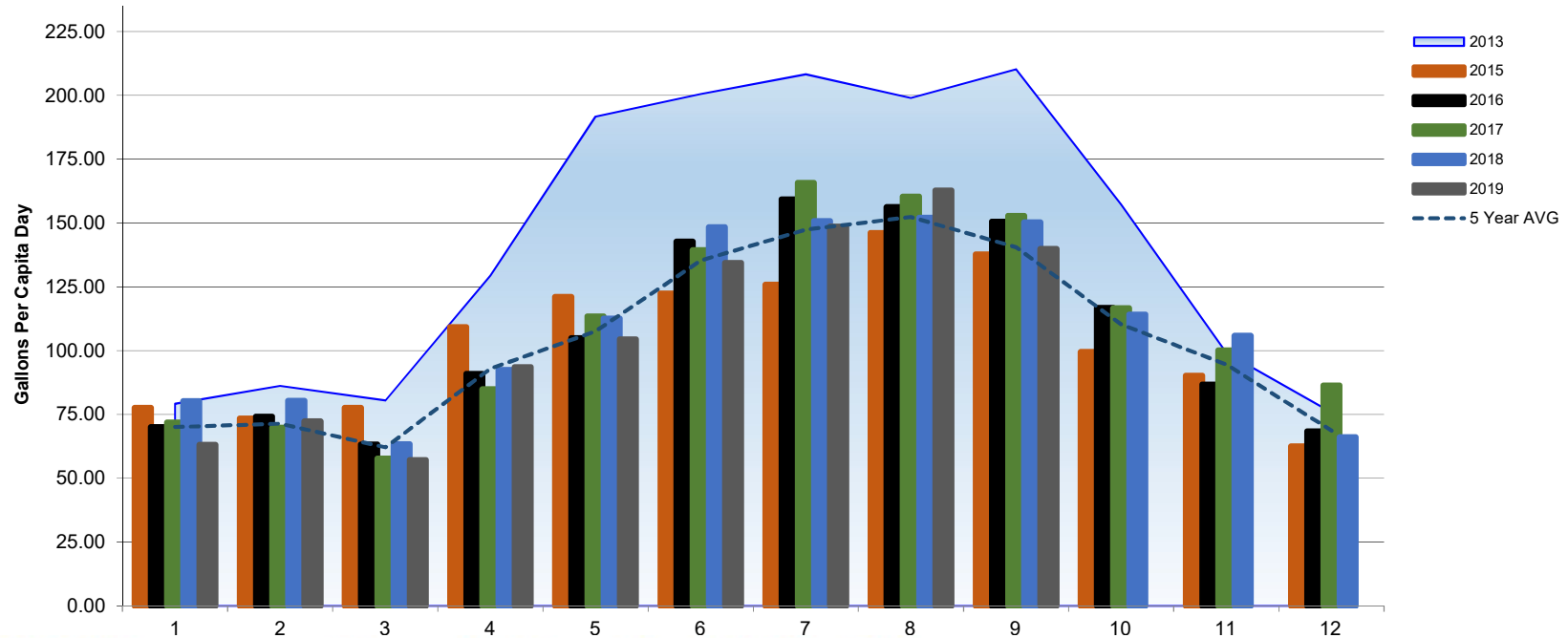


Production Cumulative Total 23.1%

2015	-2%	-15%	-4%	-16%	-36%	-36%	-41%	-28%	-35%	-35%	-8%	-18%
2016	-12%	-14%	-21%	-30%	-45%	-28%	-24%	-21%	-28%	-26%	-13%	-10%
2017	-9%	-20%	-31%	-36%	-38%	-27%	-19%	-18%	-25%	-23%	-2%	14%
2018	1%	-7%	-13%	-29%	-39%	-26%	-25%	-24%	-29%	-27%	7%	-13%
2019	-16%	-11%	-27%	-23%	-41%	-25%	-23%	-12%	-26%			

Percent Comparison to 2013 Production

**Monthly Production Status & Cumulative Total June 2015 Through
September 2019 Gallon Per Capita Day Comparison to 2013 & 5 Year Average**



GPCD

Cumulative Total 26.2%

	2015	-2%	-15%	-4%	-16%	-37%	-39%	-40%	-27%	-35%	-37%	-9%	-18%
	2016	-12%	-14%	-21%	-30%	-45%	-29%	-24%	-21%	-28%	-26%	-13%	-10%
	2017	-9%	-19%	-28%	-34%	-41%	-30%	-20%	-19%	-27%	-26%	1%	14%
	2018	1%	-7%	-21%	-29%	-41%	-26%	-28%	-24%	-29%	-27%	7%	-13%
	2019	-20%	-16%	-29%	-28%	-46%	-33%	-29%	-18%	-33%			

Percent Comparison to 2013 Production



DROUGHT RESPONSE Phase III

Mandatory Odd/Even Watering Schedule, based on address.
Residents will be allowed **TWO** days a week to water lawns and landscapes. No watering allowed on Mondays, Thursdays, and Fridays.

Watering is prohibited between the hours of **5:00 AM to 10:00 AM** and **5:00 PM to 10:00 PM**.

No watering outdoor landscapes during and within **48** hours after measurable rainfall.

Excessive water runoff is prohibited.

The washing of sidewalks and driveways is prohibited.

Vehicles shall only be washed on designated watering days and with a hose equipped with a shut-off nozzle.

The operation of ornamental water features is prohibited unless the fountain uses a recycling system.

Non-compliance with Phase III water conservation regulations could result in citations with fines up to **\$500**.

DROUGHT RESPONSE PHASE III

The City of Porterville has adopted Phase III of its Drought Response Plan. As part of the Phase III plan, the City has restricted watering days to two days per week, based on address.

Mandatory Odd/Even Watering Schedule

MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY	SUNDAY
DO NOT WATER	OK TO WATER	OK TO WATER	DO NOT WATER	DO NOT WATER	OK TO WATER	OK TO WATER
---	ODD	EVEN	---	---	ODD	EVEN

Odd Address
 Even Address

ODD NUMBER ADDRESSES

If your address ends with an “odd” number, 1, 3, 5, 7, or 9, your watering days are Tuesday and Saturday *only*.

OR

EVEN NUMBER ADDRESSES

If your address ends with an “even” number, 0, 2, 4, 6, or 8, your watering days are Wednesday and Sunday *only*.

Violation Level	Citation Amount
First Violation	Warning Only
Second Violation	\$100 Fine
Third Violation	\$200 Fine
Fourth Violation	\$500 Fine

**Mandatory
Odd/Even Watering
Schedule**

**Excessive water
runoff prohibited**

**The washing of
sidewalks and driveways
is prohibited**

**Vehicles shall only be
washed on designated
watering days and with
hoses equipped with a
shut-off nozzle**

**Ornamental water
features are prohibited
unless the fountain uses
a recycling system**

**WATERING PROHIBITED
BETWEEN THE HOURS OF
5:00 – 10:00 AM
5:00 – 10:00 PM**

**NO WATERING ON
MONDAYS, THURSDAYS,
AND FRIDAYS.**



CITY COUNCIL AGENDA – OCTOBER 15, 2019

SUBJECT: 2. Fall Community Clean-Up Event

SOURCE: Public Works

COMMENT: To encourage local property maintenance and beautification, the City sponsors two (2) clean-up events every year; one (1) in the Spring and one (1) in the Fall. These events offer City residential refuse customers free disposal of general trash, bulky items, woodwaste, yard clippings, and e-waste at the City's Corporation Yard. City residents are required to bring a current City of Porterville refuse bill as proof of residency. Business or commercial waste is not allowed. Trailers will be limited to no longer than ten (10) feet and participants will be required to unload their own vehicle. Items not accepted will include: mattress and box springs, tires, refrigerators, and any type of hazardous waste.

The next clean-up event is scheduled for October 19, 2019, as approved by Council at its meeting of February 5, 2019. This event will occur from 8:00 a.m. until 2:00 p.m. As in the past, the events are open to all residents receiving City residential refuse service. Cost for this event is funded through the Solid Waste Operating Budget.

RECOMMENDATION: Information Only

ATTACHMENTS: 1. Fall 2019 Clean-Up Flyer

Appropriated/Funded: MB

Review By:

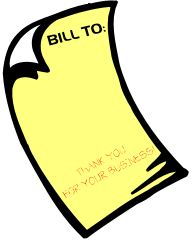
Department Director:

Michael Knight, Deputy Public Works Director/Field Services Manager

Final Approver: John Lollis, City Manager

Fall Clean-Up Free Disposal Event

Clean-Up Event Guidelines:



- A current City of Porterville water/refuse bill will be required as proof of residency. NO EXCEPTIONS
- Residential customers only. No business or commercial waste allowed.
- All metal and wood should be separated for faster unloading.
- Trailers will be limited to no longer than 10 feet.
- Participants will be required to unload their own vehicle.

NOT ACCEPTED: Mattress/Box Springs

Tires

Refrigerators

Paint, oil, batteries or any type of hazardous waste (see below)

When: Saturday, October 19, 2019 from 8:00 am till 2:00 pm
Where: City Corporation Yard - 555 N. Prospect Street
Who: Residents located within the City limits of Porterville
Accepted: Household trash, furniture, yard waste, scrap metal, E-waste

For more information, contact the City's Refuse Division at 782-7513.

Hazardous Waste



Tulare County Environmental Health will be holding a Household Hazardous Waste collection event on Sat. October 19th, at the County Fire Station located at 22315 Ave. 152 (West Olive Ave.) from 8am - 12pm.



Evento de Limpieza Otoñal y Disposición Gratis



Reglas del evento de limpieza otoñal gratis:

- Una factura actual de agua/basura de la Ciudad de Porterville será requerida como prueba de residencia.
- Solamente clientes residenciales. No se permite basura de negocios o de comercios.
- Todo metal y madera deben estar separados para acelerar la descarga.
- Los remolques se limitaran a no más de 10 pies.
- Los participantes deberán descargar su propio vehículo.

No Aceptado:

Colchon/y somier

Llantas

Refrigeradores

pintura, aceite, pilas/baterías o cualquier tipo de desechos peligrosos

Cuando: Sábado, 19 de octubre a partir de las 8:00 de la mañana hasta las 2:00 de la tarde
Donde: Yarda de Corporation de la Ciudad, 555 N. Prospect (al lado del Centro de Reciclaje)
Quien: Residentes ubicados dentro de los límites de la Ciudad de Porterville
Aceptado: Basura del hogar, muebles, artículos grandes, basura de yarda, chatarra

Para más información, llame a la división de basura de la Ciudad al 782-7513.

Desechos Peligrosos



El departamento de Salud Ambiental del Condado de Tulare llevara a cabo un evento de colección de desechos peligrosos del hogar el sábado, 20 de octubre en la estación de bomberos del Condado, ubicada en la 22315 Avenida 152 (West Olive Ave.) de 8:00 de la mañana hasta la 12:00 de la tarde.



CITY COUNCIL AGENDA – OCTOBER 15, 2019

SUBJECT: 3. Vietnam Veterans Memorial at Veterans Park

SOURCE: Parks and Leisure Services

COMMENT: On October 6, 2019, the Vietnam Veterans Memorial at Veterans Park was heavily vandalized with a significant amount of damaging graffiti. The graffiti is so damaging, that despite a significant amount of effort from both City and local monument works staff toward repairing it, the monument's integrity is permanently marred. One future safeguard that would come with a new monument is a glossy coating covering the names. Future graffiti could be removed with greater ease with the applied glossy coating than with the current porous surface. Staff has obtained an estimate of \$2,113.99 for a replacement monument from Porterville Monument Works, the only local masonry contractor possessing a City of Porterville business license. Staff estimates the replacement of the monument will take approximately ninety (90) days to complete.

Ground was broken on Veterans Park on November 12, 1988, and opened to the community in 1989. A Vietnam era medivac helicopter, along with a memorial for 40 Porterville area residents who died in the Vietnam war was dedicated to the City in 1989. Porterville Monument Works produced and installed the existing monument. Sponsors of the memorial included Porterville Area American Legion Post 20, V.F.W. Post 2001, Sequoia National Forest, Leonard Federico and the City of Porterville.

RECOMMENDATION: Information Only

ATTACHMENTS:

Appropriated/Funded:

Review By:

Department Director:

Donnie Moore, Parks and Leisure Services Director

Final Approver: John Lollis, City Manager



CITY COUNCIL AGENDA – OCTOBER 15, 2019

SUBJECT: Authorization to Purchase Replacement Rotating Pump Assembly for Veterans Park Booster Pump Station

SOURCE: Public Works

COMMENT: The City of Porterville's Veterans Park Booster Pump, located on the east side of Newcomb Street north of Morton Avenue, has experienced operational failure that requires the replacement of pump #2's impeller assembly. The Veterans Park Booster Pump Station performs a vital operation to the City's Water Distribution System, allowing the system to move water from the West to the Central Pressure zones during peak hour demands. The demands on the water system depend on each of the three (3) pumps being operational, so it is imperative to restore unrestricted operations to the Veterans Park Booster Pump Station.

The Veterans Park Booster Pump Station consists of three (3) 40-horsepower electric motors that drive three (3) individual Peerless Centrifugal Split-case pumps. Staff contacted the pump manufacturer for a replacement impeller assembly and were directed to their local sole source distributor MuniQuip LLC, which indicated that the cost of a replacement assembly is \$6,128 (price is for part only). Due to extensive lead times, and the fact that this is a noticeable wear item, it is staff recommendation to purchase two (2) assembly's for a not to exceed amount of \$14,763, which would be inclusive of all freight, taxes, and 10% contingency. The funding source would be the Water Operating Fund.

RECOMMENDATION: That City Council:

1. Direct the Finance Director to initiate a Purchase Order to Muniquip LLC, in an amount not to exceed \$14,763 (inclusive of all parts, taxes and a 10% contingency for shipping) for the Peerless Rotating Pump Assembly; and
2. Direct the Finance Director to make payment to Muniquip LLC, upon receipt of invoice approved by the Public Works Director.

ATTACHMENTS:

1. MQ19-1511- City of Porterville- Peerless Split- Rotating Assembly Rebuild Kit
2. Veterans Park Locator Map

Appropriated/Funded: MB

Review By:
Department Director:

Michael Knight, Deputy Public Works Director/Field Services Manager

Final Approver: John Lollis, City Manager



MUNIQUIP, LLC

Your Source For Water & Wastewater Equipment



DATE: 09-30-2019
TO: City of Porterville
ATTN: David Payne
RE: Split case rebuild kit

QUOTE #MQ19-1511

Dear David

We are pleased to offer the following items per the requested rebuild kit for your consideration:

Rebuild Kit

Equipment Tag #'s

One (1) Peerless Rotating Assembly Rebuild Kit: Model 6AE11, Nickel Aluminum Bronze Impeller with Integral Rings, Bronze Casing Rings, Outboard/Inboard Std Lip Seals, 304 SS Shaft Sleeves (set of 2), Crane Type 21 Mech Seal -Ceramic Seat (Set of 2), Casing Gasket, Impeller Key, Coupling Key, Casing Ring Dowel Pin, freight included, **as manufactured by Peerless.**

For further details please see below information from Peerless

Items 1 as described above for the price of.....\$6,128.00

NOTES:

Expected lead time 13 weeks. Lead times to be confirmed by factory for an expedited time frame.

Sales tax is not included in above pricing.

Startup NOT included

Freight is F.O.B. factory with freight to the jobsite included.

Quotation is valid for 60 days.

This proposal is subject to the attached MuniQuip Terms & Conditions and/or the Terms and Conditions of the individual companies MuniQuip has quoted.

Best Regards,

Luke Breshears

Sales Engineer

MuniQuip, LLC

Specializing in Pumps, Process Equipment, & Instrumentation

2024 Opportunity Drive, Suite 130

Roseville, CA 95678

559-859-1566 cell

916-787-5641 office



Customer :

Project : 6AE11 Rotating Assy City of Porterville
Quote No. : LQ093017A Page No : 1

Contact :
Phone :
Date : Monday, September 30, 2019
Fax :

Item: 1
Model : Peerless - 6AE11

Flow (US gpm)	Head (ft)	Eff. (%)	Power (hp)	Speed (RPM)
1000	85	80.1	27.6	1750
Liquid	Temp. (°F)	Sp. Gravity	Visc. (cSt)	Dia. (inch)
Water	68	1.000	1.007	9.83

Summary Quotation:

Item No	Description	Weight (lb)	Qty
1	6AE11 - Br FitRotElemPurchw/oPump, Mechanical Seal	62	1
2	Nickel Alum Br Impeller with Integral Rings	0	1
3	Br Casing Rings	0	2
4	Standard Grease Lube Bearings	0	1
5	LH Steel Shaft Single Row Outboard Bearing	0	1
6	Single Row Outboard/Inboard Brgs with Std Lip Seals	0	1
7	304 SS Shaft Sleeves (set of 2)	0	1
8	Crane Type 21 Mech Seal 225° F Max BF501O101 Ceramic Seat (Set of 2)	0	1
9	Casing Gasket	0	1
10	Gland Bolts & Nuts Are Included in Brg Spec	0	0
11	Impeller Key	0	1
12	Coupling Key	0	1
13	Casing Ring Dowel Pin	0	2
14	30Hp 1800Rpm 286TS Frame, Horiz Foot Mtd Elect Motor, Customer Furnished	0	0
15	ADD: NAB Impeller with Integral Rings (lo)	0	1

Terms of Payment:

Shipment Terms (INCOTERM)

Estimated Schedule (week[s]): 13

Net Weight Total (lb): 62

Payment Terms:

Prices quoted subject to acceptance of the Company's
Terms, Conditions, Warranty and our acceptance within 30 days
from the date quoted herein.





Customer :

Project : 6AE11 Rotating Assy City of Porterville

Quote No. : LQ093017A

Page No : 3

Contact :

Phone :

Fax :

Date : Monday, September 30, 2019

Terms of Payment:

Shipment Terms (INCOTERM)

Estimated Schedule (week[s]): 13

Net Weight Total (lb): 62

Payment Terms:

Prices quoted subject to acceptance of the Company's
Terms, Conditions, Warranty and our acceptance within 30 days
from the date quoted herein.





Customer :

Project : 6AE11 Rotating Assy City of Porterville
Quote No. : LQ093017A

Page No : 4

Contact :

Phone :

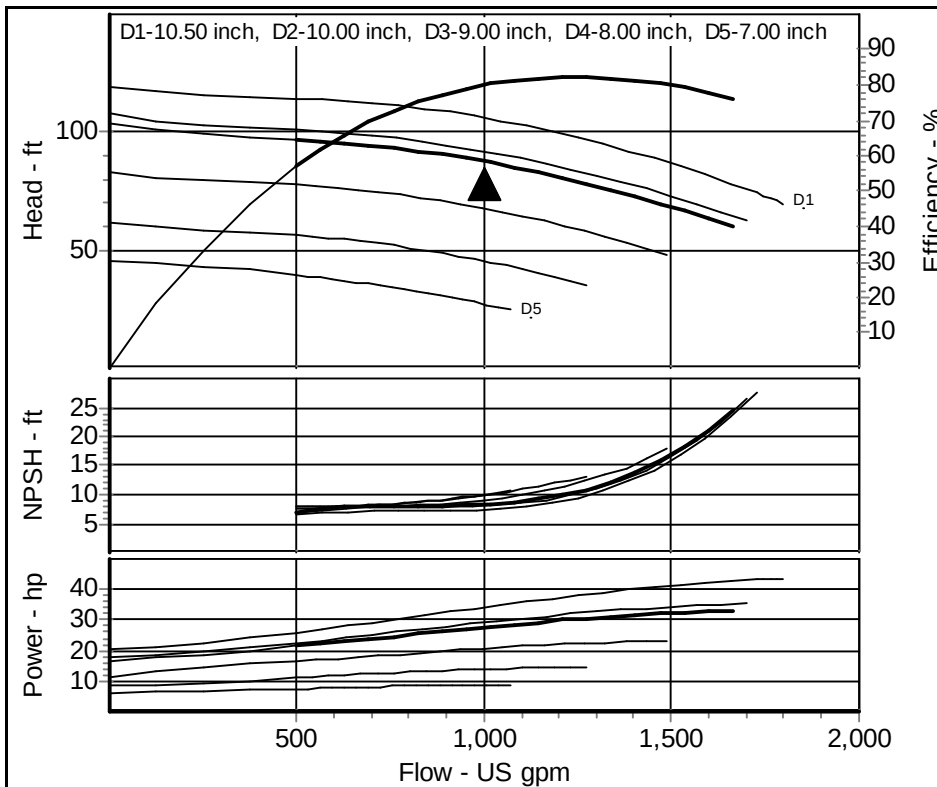
Fax :

Date :

Monday, September 30, 2019

Type: AE Horiz Mtg - Horizontal Split Case Single Stage
Pump Model: Peerless - 6AE11
Nom. Speed: 1750 RPM, 60 Hz Electric
Impeller Dia.: 9.83 inch
Curve No.: 3112032
Market : Water

Item : 1
Impeller No.: 2692848
Fluid: Water
Temperature: 68 °F
Viscosity: 1.007 cSt
Sp. Gravity: 1.000
Your Ref. :



Duty Flow 1000 US gpm
Duty Head 85 ft
Imp. Dia. 9.83 inch
Power Required 27.6 hp
NPSH Required 8.3 ft
Efficiency 80.1 %
Peak Power 33.1 hp
Closed Valve Head 103.7 ft
Tolerance Hyd Ins 14.6 Unilateral

Comments

Performance curve represents typical performance. See Hydraulic Performance document in RAPID for performance test acceptance grades/tolerances & contractual

Flow (US gpm)	Head (ft)	Efficiency (%)	Power Required (hp)	NPSH Required (ft)
498.4	96.8	57.0	21.4	
643.8	95.1	66.8	23.1	7.8
789.3	92.7	73.9	25.0	8.0
934.8	89.3	78.7	26.8	8.1
1080.3	85.1	81.3	28.5	8.7
1225.8	80.0	82.3	30.1	10.1
1371.3	74.1	81.7	31.4	12.9
1516.7	67.4	79.7	32.4	17.6
1662.2	59.8	75.8	33.1	24.6





TERMS AND CONDITIONS

1. Acceptance of this Order is final only upon written approval by MuniQuip, L.L.C. ("MQ").
2. The total sale price, as set forth on the first page hereof, including all tax, is payable by Purchaser as follows: One-Hundred percent (100%) within 30 days of notice of availability for shipment by the manufacturer. Any amount not paid when due shall bear interest at the rate of 18% *per annum*. Purchaser agrees to pay reasonable attorney's fees and all collection costs incurred by MQ if payment is not timely received. All payments by Purchaser shall be made without offset or deduction.
3. All prices are FOB source shipping point. MQ is not responsible for any loss during transit. Breakage or shortage claims arising from shipments shall be made by the Purchaser directly against the carrier. Purchaser will accept shipment within five (5) days of notice of availability from MQ.
4. Purchaser understands and acknowledges that the Equipment is not manufactured by MQ, and that MQ offers no representations or warranties of any kind or nature with respect to the Equipment. **SPECIFICALLY, MQ DOES NOT OFFER ANY EXPRESS OR IMPLIED WARRANTY OF DESCRIPTION, TITLE, OR CONDITION OF LIEN OR SECURITY INTERESTS, MERCHANTABILITY, OR FITNESS FOR A PARTICULAR PURPOSE.** The only warranties with respect to the Equipment shall be those offered by the manufacturer, if any. The sole obligation of MQ shall be to assist Purchaser in connection with the presentation of any warranty claim to the Manufacturer. If applicable, MQ will assign all manufacturers' warranties to Purchaser or end user. Purchaser shall be responsible for all costs and labor for installation and start-up assistance of the Equipment.
5. MQ shall not be responsible for any loss, claim or damages resulting from any force majeure, including but not limited to strikes, accidents, unavailability of labor or materials, acts of God, weather conditions, inability of carrier to deliver, legislative, administrative, or executive law, order or requisition of any governmental entity, or any event not under the direct control of MQ. Any delay in delivery from the Manufacturer caused by a force majeure or action or inaction of the Manufacturer or carrier shall not be the responsibility of MQ.
6. In no event shall MQ be responsible for any liquidated, consequential or special damages arising from breach of this Agreement, any delay of delivery or any other cause.
7. Purchaser shall pay any sales, excise, or other government charge payable by MQ to federal, state or local authorities. Any such taxes now or hereafter imposed upon sales or shipments will be added to the purchase price. Purchaser agrees to reimburse MQ for any such tax or to provide MQ acceptable tax exemption certificates.
8. Purchaser may not cancel this Order without the prior written consent of MQ, and in any event Purchaser shall be responsible for all costs, charges and fees caused by such cancellation, including labor expended, material procured, and reasonable overhead expenses applicable thereto.



MUNIQUEIP, LLC

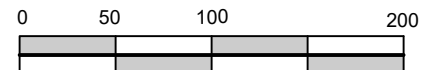
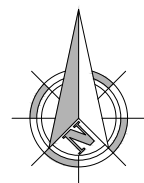
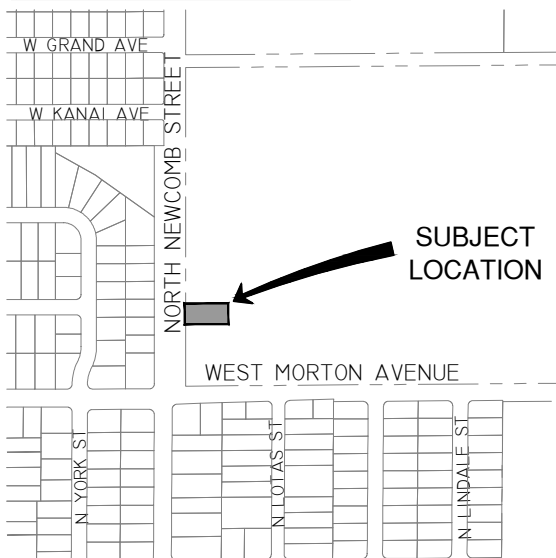
Your Source For Water & Wastewater Equipment



9. Any failure of MQ to insist upon the performance of any term or condition of this Agreement or any prior quotations, agreements, orders, and acceptances or orders related thereto shall not be deemed to be a waiver of such term, condition, or any other right in the future.
10. The provisions hereof shall apply to all addendums or changes hereto although not specifically set forth therein, all of these terms and conditions being considered to be additional terms and conditions to any such addendum or change.
11. Purchaser agrees to inspect the Equipment immediately upon delivery. Any claim for shortages must be made to MQ within ten (10) days after shipment or shall be deemed waived. Any other claim by Purchaser, other than warranty claims against the manufacturer, shall be made within thirty (30) days after receipt of shipment, and if not made, shall be waived.
12. Purchaser agrees to provide and maintain adequate insurance against loss of or damage to the Equipment until the purchase price to MQ has been fully paid. Any loss or damage to the Equipment after transfer of possession shall not relieve the Purchaser from obligations under this Agreement.
13. This Agreement represents the final and complete understanding of the parties with respect to all terms and conditions of the sale of Equipment as contemplated hereby, and there are no other representations, promises or agreements, whether written or oral, made in connection herewith. Purchaser specifically understands and acknowledges that no agent, employee or representative of MQ has the authority to or has made any other representation, promise or agreement except as specifically set forth in this Agreement. No amendment to this Agreement shall be effective unless it is in writing and executed by both parties.
14. This Agreement shall be construed under the laws of the State of California, and any action arising hereunder shall be commenced in that state.



VICINITY MAP



SCALE: 1"=100'



CITY OF PORTERVILLE
ENGINEERING DIVISION

291 NORTH MAIN STREET
PORTERVILLE, CA 93257
(559) 782-7462

**VETERANS PARK BOOSTER PUMP
LOCATOR MAP**

DRAWN BY	CAL
CHECKED BY	
SCALE	1" = 100'
DATE	10/1/2019

SHEET
1
OF
1



CITY COUNCIL AGENDA – OCTOBER 15, 2019

SUBJECT: Authorization to Purchase Replacement Pump and Motor for City Well No. 27

SOURCE: Public Works

COMMENT : The City of Porterville's Well No. 27, located on the west side of S. Jaye Street between State Route 190 and Gibbons Avenue, has experienced an operational failure. City staff has used the City-owned well rig to pull and assess the repairs needed to restore operation to this well.

Demands on the City's Water Distribution System depend on all wells being operational, so it is imperative that the well's operation is restored. Failure to correct this issue would affect the City's overall water system pressure and production capabilities.

Three (3) well pump repair companies were contacted requesting quotes for the replacement pump, motor and electrical wire that is needed to restore the operation of this well. However, three (3) bids were requested and only two (2) bids were received from these local pump repair companies:

<u>Company</u>	<u>Totals</u>
1. Valley Pump & Dairy Systems	\$12,778.91
2. Carver Pump Service	\$15,463.33
3. Flowserve Pump Co.	Unresponsive

Valley Pump & Dairy Systems was the lowest bidder to respond, and in addition, is immediately available to order the replacement parts. Upon receipt, City staff can install and correct all issues at City Well No. 27, at a cost not to exceed \$14,057 (inclusive of all parts, taxes, and labor and a 10% contingency). The total repair cost will be funded by the Water Operating Fund.

RECOMMENDATION: That City Council:

1. Direct the Finance Director to initiate a Purchase Order to Valley Pump & Dairy Systems in an amount not to exceed \$14,057 for the repair parts needed for City Well #27; and
2. Direct the Finance Director to make payment to Valley Pump & Dairy Systems upon receipt of invoice approved by the Public Works Director.

ATTACHMENTS:

1. Valley Pump Quote - Well 27
2. Carver Quote - Well 27
3. Well 27 locator Map

Appropriated/Funded: MB

Review By:

Department Director:

Michael Knight, Deputy Public Works Director/Field Services Manager

Final Approver: John Lollis, City Manager

Valley Pump & Dairy Systems

2280 S."K" Street Tulare CA. 93274

Tel. 559.686.2000 Fax# 559.686.4180

Quote

Customer: City of Porterville -

Description: Quote on 40 hp Submersible motor, 6chc 7 stg. Pump end, 1,000'
roll of #4/3 flat jacket submersible cable. 300 gpm @ 400' tdh

Need by: _____

Amount	Description	Each	Cost
1	40 hp 480v Submersible motor		\$4,165.00
1	6 chc 7 Stg. Pump End		\$3,540.00
1000	#4/3 Flat Jacket Sub Cable	\$4.10	\$4,100.00

Sub Total	\$11,805.00
Tax 8.25%	973.91
Labor	\$0
Total	\$12,778.91

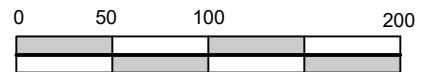
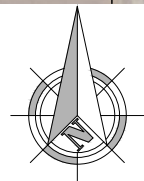
Presented By: Nick Wilson

This Quote is good for 15 Days

Accepted By _____

Company: _____

Address



SCALE: 1"=100'

CITY OF PORTERVILLE
ENGINEERING DIVISION
291 NORTH MAIN STREET
PORTERVILLE, CA 93257
(559) 782-7462

CITY WELL # 27

DRAWN BY	CAL
CHECKED BY	
SCALE	1" = 100'
DATE	10/1/2019

SHEET
1
OF
1



CITY COUNCIL AGENDA – OCTOBER 15, 2019

SUBJECT: Authorization to Purchase Netgear Prosafe M4300 24X24F Fiber Switches

SOURCE: Finance

COMMENT: The Finance Department - Information Technology (IT) Division requests approval to purchase two (2) Netgear Prosafe M4300 24X24F 10-gigabit fiber switches to be located in the City's Server Room. The current core switch, the Netgear Prosafe XSM7224S switch, which was purchased in February 2014, has reached the end of its useful life.

Following is the list of vendors and quotes received:

SCW: \$9,297.71

GovConnection: \$9,781.54

SHI: \$9,802.88

Acquiring the two (2) new Netgear Prosafe M4300 24X24F will ensure compliance with industry and government regulations, and allow the stacking of switches to increase the aggregate communication ports and to easily implement and integrate with the existing network infrastructure. Additionally, the stack configuration will double as a fail-safe if one unit were to fail.

Funds for the purchase of the fiber switches is available in the Finance Department - IT Division fiscal year 2019-2020 General Fund operating budget.

RECOMMENDATION: That the City Council approve the purchase of two (2) Netgear ProSafe M4300 24X24F switches from SCW.

ATTACHMENTS:

1. SCW Quote 100205960
2. GovConnection Quote 24898169_01-W1
3. SHI Quote 17558970

Appropriated/Funded: MB

Review By:
Department Director:

Final Approver: John Lollis, City Manager



Southern Computer Warehouse
 1395 S. Marietta Parkway | Building 300-106
 Marietta, GA 30067
 (P) 877-468-6729
 (F) 770-579-8937
 SCW.com

Quote # 100205960 - Netgear M4300 24x24F
 Cust # CO36053 (City of Porterville CA)
 Quote Date Sep 30, 2019

Sold to:	Ship to:
Accounts Payable City of Porterville CA 291 N Main St Porterville, California, 93257 T: 000-000-0000 twilliams@ci.porterville.ca.us	Accounts Payable City of Porterville CA 291 N Main St Porterville, California, 93257 T: 000-000-0000 twilliams@ci.porterville.ca.us
Payment Method	Shipping Method:Free Shipping
No Payment Information Required	Free Shipping (Total Shipping Charges \$0.00)

Notes: Thank you, Ted!

#	Products	SKU	Price	Qty	Subtotal
1	Netgear Stackable Managed Switch with 48x10G including 24x10GBASE-T and 24xSFP+ Layer 3 - 24 Network, 24 Expansion Slot - Manageable - Twisted Pair, Optical Fiber - Modular - 3 Layer Supported - 1U High - Rack-mountable XSM4348S-100NES	NET-XSM4348S-100N ES	\$4,086.10	2	\$8,172.20
2	Netgear ProSupport OnCall - 1 Year - Service - 24 x 7 Next Business Day - Replacement - Electronic and Physical Service	NET-PMB0313-10000 S	\$184.79	2	\$369.58

Subtotal: \$8,541.78
 9.25 Tax: \$0.00 755.93
 Grand Total (Incl. Tax): ~~\$8,541.78~~

Thank you for your order. We value your business and will continue to provide you excellent service in addition to our comprehensive product line. All returns must be authorized and clearly marked with a valid RMA number. Returns are subject to restock fees when applicable.

Quotes are valid for 30-days unless otherwise noted.

Thank you very much for giving me the opportunity to work with you on this. Due to the volatile trade conditions between the US and China, prices are fluctuating daily as

9297.71



ORDERING INFORMATION
GovConnection, Inc. DBA Connection

Please contact your account manager with any questions.

Ordering Address

GovConnection, Inc.
732 Milford Road
Merrimack, NH 03054

Remittance Address

GovConnection, Inc.
Box 536477
Pittsburgh, PA 15253-5906

Please reference the Contract # on all purchase orders.

TERMS & CONDITIONS

Payment Terms:	NET 30 (subject to approved credit)
FOB Point:	DESTINATION (within Continental US)
Maximum Order Limitation:	NONE
FEIN:	52-1837891
DUNS Number:	80-967-8782
CEC:	80-068888K
Cage Code:	OGTJ3
Business Size:	LARGE
Erate Spin Number:	143026005

WARRANTY: Manufacturer's Standard Commercial Warranty

NOTE: It is the end user's responsibility to review, understand and agree to the terms of any End User License Agreement (EULA).

Important Notice: --- THIS QUOTATION IS SUBJECT TO THE FOLLOWING Terms of Sale: All purchases from GovConnection, Inc. are subject to the Company's Standard Terms of Sale, which describe important legal rights and obligations. You may review the Company's Standard Terms of Sale on the Company's website: www.govconnection.com or you may request a copy via fax, e-mail, or mail by calling your account representative. The only exception to this policy is if your order is being placed under any one of our many national, state, educational or cooperative Agreements, in which case the Terms and Conditions of your Purchase Order are already pre-negotiated and stated in that Agreement. No other Terms and Conditions shall apply and any other terms and conditions referenced or appearing in your Purchase Order are considered null and void. Please refer to our Quote Number in your order.

If you require a hard copy invoice for your credit card order, please visit the link below and click on the Proof of Purchase/Invoice link on the left side of the page to print one: <https://www.govconnection.com/web/Shopping/ProofOfPurchase.htm>

Please forward your Contract or Purchase Order to:

SLEDOPS@connection.com

QUESTIONS: Call 800-800-0019

FAX: 603.683.0374

SALES QUOTE

GovConnection, Inc.
732 Milford Road
Merrimack, NH 03054

Account Executive: Daphne Hawkins
Phone:
Fax:
Email: daphne.hawkins@connection.com

Account Manager:
Phone:
Fax:
Email:

24898169.01-W1

PLEASE REFER TO THE ABOVE
QUOTE # WHEN ORDERING

Date: 9/30/2019
Valid Through: 10/30/2019
Account #: Tulare

Customer Contact: Ted Williams
Email: twilliams@ci.porterville.ca.us

Phone: (559) 782-7439
Fax:

QUOTE PROVIDED TO:	SHIP TO:
City of Porterville Ted Williams 291 N Main St Porterville, CA 93257-3737 (559) 782-7439	City of Porterville Ted Williams 291 N Main St Porterville, CA 93257-3737 (559) 782-7439

DELIVERY	FOB	SHIP VIA	SHIP WEIGHT	TERMS	CONTRACT ID#
5-30 Days A/R/O	Destination	Small Pkg Ground Service Level	36.00 lbs	NET 30	

Important Notice: --- THIS QUOTATION IS SUBJECT TO THE FOLLOWING Terms of Sale: All purchases from GovConnection, Inc. are subject to the Company's Standard Terms of Sale, which describe important legal rights and obligations. You may review the Company's Standard Terms of Sale on the Company's website: www.govconnection.com, or you may request a copy via fax, e-mail, or mail by calling your account representative. The only exception to this policy is if your order is being placed under any one of our many national, state, educational or cooperative Agreements, in which case the Terms and Conditions of your Purchase Order are already pre-negotiated and stated in that Agreement. No other Terms and Conditions shall apply and any other terms and conditions referenced or appearing in your Purchase Order are considered null and void. Please refer to our Quote Number in your order.

* Line #	Qty	Item #	Mfg. Part #	Description	Mfg.	Price	Ext
1	2	31435904	XSM4348S-100NES	M4300-24X24F 1U RM L3 Managed Switch (1x)CPU 800MHz / 1GB RAM / 256MB Flash / 24x10GbE / 24x10GbE SFP+ / 250W NETGEAR	NETGEAR	\$ 4,300.54	\$ 8,601.08
2	2	13843429	PMB0313-10000S	1-year ProSupport OnCall 24x7 Category 3 Netgear Inc-service	Netgear Inc-service	\$ 192.43	\$ 384.86
						Subtotal	\$ 8,985.94
						Fee	\$ 0.00
						Shipping and Handling	\$ 0.00
						Tax	\$ 795.60
						Total	\$ 9,781.54



Pricing Proposal
Quotation #: 17558970
Created On: 8/8/2019
Valid Until: 8/30/2019

City of Porterville

Nino Renzi

291 North Main Street
Porterville, CA 93257
United States
Phone: (559) 782-7434
Fax:
Email: nrenzi@ci.porterville.ca.us

Inside Account Executive

Michael Klotz

300 Davidson Ave
Somerset, NJ 08873
Phone: 732-652-7670
Fax: 732-652-3099
Email: Michael_Klotz@shi.com

All Prices are in US Dollar (USD)

Product	Qty	Your Price	Total
1 NETGEAR M4300-24X24F - Switch - L3 - managed - 24 x 10/100/1000/10000 + 24 x 10 Gigabit SFP+ - rack-mountable NETGEAR - Part#: XSM4348S-100NES	2	\$4,100.63	\$8,201.26
2 NETGEAR ProSupport OnCall 24x7 Category 4 - Technical support - phone consulting - 1 year - 24x7 NETGEAR - Part#: PMB0314-10000S Coverage Term: 8/8/2019 – 8/7/2020	2	\$421.50	\$843.00

Subtotal	\$9,044.26
Shipping	\$0.00
*Tax	\$758.62
Total	\$9,802.88

*Tax is estimated. Invoice will include the full and final tax due.

Additional Comments

Thank you for choosing SHI International Corp! The pricing offered on this quote proposal is valid through the expiration date set above. To ensure the best level of service, please provide End User Name, Phone Number, Email Address and applicable Contract Number when submitting a Purchase Order.

SHI International Corp. is 100% Minority Owned, Woman Owned Business.
TAX ID# 22-3009648; DUNS# 61-1429481; CCR# 61-243957G; CAGE 1HTF0

The Products offered under this proposal are resold in accordance with the [SHI Online Customer Resale Terms and Conditions](#), unless a separate resale agreement exists between SHI and the Customer.



CITY COUNCIL AGENDA – OCTOBER 15, 2019

SUBJECT: Authorization to Purchase GIS Monitor for Police Department Communications Center

SOURCE: Police

COMMENT: With the renovation and upgrade of the Porterville Police Communications Center, the new Computer Automated Dispatch software allows integration with a Geographic Information System (GIS). Prior to this upgrade, the Emergency Communications Dispatchers utilized a paper map on the wall of the Communications Center for jurisdictional information regarding locations in the city.

With the new software, the GIS computer and monitor can be used to see where emergency responders are traveling for a more expeditious response, as well as setting perimeters or staging units during critical incidents. The system will also allow access to parcel information, building floorplans, 9-1-1 call originations, and other critical information regarding locations throughout the city. This information will make the Communications Center more efficient and improve emergency responder safety.

Staff obtained bids from three (3) companies for the purchase of a GIS monitor, which are as follow:

CDWG

Amount: \$8,195.84

Dell

Amount: \$6,956.99

Strictly Tech

Amount: \$6,594.90

Staff is recommending the purchase of the Dell Interactive Touchscreen Monitor. Although it is slightly more expensive than the Strictly Tech ViewSonic Monitor, it is a higher quality product with an enhanced warranty. Additionally, Dell is a preferred vendor for the City of Porterville.

As noted above, the cost of the Dell monitor is \$6,956.99 plus applicable sales tax and shipping costs. Funding is available for this purchase in the Police Department's Asset Forfeiture account.

RECOMMENDATION: That the City Council:
1. Authorize staff to negotiate the purchase of the Dell GIS Monitor: and,
3. Authorize staff to complete all documents necessary for this purchase.

ATTACHMENTS: 1. GIS Touchscreen Quote (SCW)
2. GIS Touchscreen Quote (Dell)
3. GIS Touchscreen Quote (CDWG)

Appropriated/Funded: MB

Review By:

Department Director:

Eric Kroutil, Police Chief

Final Approver: John Lollis, City Manager



5381 NW 33rd Avenue, Suite 101
Fort Lauderdale, FL 33309
strictlytech.com · (954)606-5440

Customer

City of Porterville CA (13-750)
Ted , Williams
291 North Main Street
Porterville, CA 93257
United States
(P) 559-782-7777

Bill To

City of Porterville CA
Payable, Accounts
291 North Main Street
Porterville, CA 93257
United States
(P) 559-782-7777

Ship To

City of Porterville CA
Nino, Renzi
291 North Main Street
Porterville, CA 93257
United States
(P) 559-782-7777

Quotation (Open)

Date

Sep 18, 2019 08:35 AM
EDT

Modified Date

Sep 18, 2019 09:20 PM
EDT

Doc

65270 - rev 1 of 1

Description

86" 4K Ultra HD IFP Display

SalesRep

McLeod, Ethan
(P) 954.541.8559
(F) 954.606.5441

Customer Contact

Ted , Williams
(P) (559) 782-7439
twilliams@ci.porterville.ca.us

Payment Method

Terms: Undefined

Shipping Info

Delivery Method: FedEx Ground
Carrier Account:
Shipping Instructions:

#	Image	Description	Part #	Tax	Qty	Unit Price	Total
1		ViewSonic - 86" 4K Ultra HD IFP Display 86" Display, 3840 x 2160 Resolution, 350 cd/m2 Brightness	VIEWIFP8650	Yes	1	\$5,497.36	\$5,497.36
2		Viewsonic Slot in PC Intel i5-8400 2.8GHz - 256GB SSD - Windows 10 Pro - 8GB	VPC15-WP-4	Yes	1	\$998.67	\$998.67
3		Manhattan Universal LCD Full-Motion Large-Screen Wall Mount Wall mount for curved LCD TV / plasma panel - steel - black - screen size: 37"-90"	461290	Yes	1	\$98.87	\$98.87

FREE GROUND SHIPPING

The Strictly Difference

CAGE: 70BA0
DUNS: 078817964
FEIN: 46-2619818
Woman-Owned Small Business (WOSB)
Primary NAICS: 423430

Subtotal: \$6,594.90
Tax (0.000%): \$0.00
Shipping: \$0.00
Total: \$6,594.90





A quote for your consideration.

Based on your business needs, we put the following quote together to help with your purchase decision. Below is a detailed summary of the quote we've created to help you with your purchase decision.

To proceed with this quote, you may respond to this email, order online through your [Premier page](#), or, if you do not have Premier, use this [Quote to Order](#).

Quote No. 3000046579613.1
Total \$6,956.99
Customer # 4023319
Quoted On Sep. 18, 2019
Expires by Oct. 18, 2019

Sales Rep Christian Chacon
Phone (800) 456-3355, 7250654
Email Christian_Chacon@Dell.com
Billing To ACCOUNTS PAYABLE
CITY OF PORTERVILLE
291 N MAIN ST
PORTERVILLE, CA 93257-3737

Message from your Sales Rep

Please contact your Dell sales representative if you have any questions or when you're ready to place an order. Thank you for shopping with Dell!

Regards,
Christian Chacon

Shipping Group

Shipping To	Shipping Method
TED WILLIAMS CITY OF PORTERVILLE 291 N MAIN ST PORTERVILLE, CA 93257-3737 (559) 782-7439	Standard Delivery

Product	Unit Price	Qty	Subtotal
Dell 86 Touch Interactive Monitor - C8618QT	\$6,949.99	1	\$6,949.99

Subtotal:	\$6,949.99
Shipping:	\$0.00
Environmental Fee:	\$7.00
Non-Taxable Amount:	\$6,956.99
Taxable Amount:	\$0.00
Estimated Tax:	\$0.00

Total:	\$6,956.99
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Special lease pricing may be available for qualified customers and offers. Please contact your DFS Sales Representative for details.

Shipping Group Details

Shipping To	Shipping Method
TED WILLIAMS CITY OF PORTERVILLE 291 N MAIN ST PORTERVILLE, CA 93257-3737 (559) 782-7439	Standard Delivery

Dell 86 Touch Interactive Monitor - C8618QT		\$6,949.99	Qty 1	Subtotal \$6,949.99
Estimated delivery if purchased today: Sep. 30, 2019 Contract # C000000181156 Customer Agreement # MNWNC-108/7157034003				
Description	SKU	Unit Price	Qty	Subtotal
Dell 86 Interactive Touch Monitor: C8618QT	210-ALWX	-	1	-
Dell Limited Hardware Warranty	813-1590	-	1	-
Advanced Exchange Service, 3 Years	813-1591	-	1	-
				Subtotal: \$6,949.99
				Shipping: \$0.00
				Environmental Fee: \$7.00
				Estimated Tax: \$0.00
				Total: \$6,956.99

Important Notes

Terms of Sale

Unless you have a separate written agreement that specifically applies to this order, your order will be subject to and governed by the following agreements, each of which are incorporated herein by reference and available in hardcopy from Dell at your request: [Dell's Terms of Sale](#), which include a binding consumer arbitration provision and incorporate Dell's U.S. [Return Policy](#) and Warranty (for [Consumer warranties](#); for [Commercial warranties](#)).

If this purchase includes software: in addition to the foregoing applicable terms, your use of the software is subject to the license terms accompanying the software, and in the absence of such terms, then use of the Dell-branded application software is subject to the Dell End User License Agreement - [Type A](#) and use of the Dell-branded system software is subject to the Dell End User License Agreement - [Type S](#).

If your purchase is for Mozy, in addition to the foregoing applicable terms, your use of the Mozy service is subject to the terms and conditions located at <https://mozy.com/about/legal/terms>.

If your purchase is for Boomi services or support, your use of the Boomi Services (and related professional service) is subject to the terms and conditions located at <https://boomi.com/msa>.

If your purchase is for Secureworks services or support, your use of the Secureworks services (and related professional service) is subject to the terms and conditions located at <https://www.secureworks.com/eula/eula-us>.

If this purchase is for (a) a storage product identified in the DELL EMC Satisfaction Guarantee Terms and Conditions located at (["Satisfaction Guarantee"](#)) and (ii) three (3) years of a ProSupport Service for such storage product, in addition to the foregoing applicable terms, such storage product is subject to the Satisfaction Guarantee.

You acknowledge having read and agree to be bound by the foregoing applicable terms in their entirety. Any terms and conditions set forth in your purchase order or any other correspondence that are in addition to, inconsistent or in conflict with, the foregoing applicable online terms will be of no force or effect unless specifically agreed to in a writing signed by Dell that expressly references such terms.

Pricing, Taxes, and Additional Information

All product, pricing, and other information is valid for U.S. customers and U.S. addresses only, and is based on the latest information available and may be subject to change. Dell reserves the right to cancel quotes and orders arising from pricing or other errors. Please indicate any tax-exempt status on your PO, and fax your exemption certificate, including your Customer Number, to the Dell Tax Department at 800-433-9023. Please ensure that your tax-exemption certificate reflects the correct Dell entity name: **Dell Marketing L.P.**

Note: All tax quoted above is an estimate; final taxes will be listed on the invoice.

If you have any questions regarding tax please send an e-mail to Tax_Department@dell.com.

For certain products shipped to end-users in California, a State Environmental Fee will be applied to your invoice. Dell encourages customers to dispose of electronic equipment properly.

QUOTE CONFIRMATION



DEAR TED WILLIAMS,

Thank you for considering CDW•G for your computing needs. The details of your quote are below. [Click here](#) to convert your quote to an order.

QUOTE #	QUOTE DATE	QUOTE REFERENCE	CUSTOMER #	GRAND TOTAL
KWWB956	9/19/2019	DELL 86IN DISPLAY	0657199	\$8,953.31

IMPORTANT - PLEASE READ

Fees applied to item(s): 4550732

QUOTE DETAILS

ITEM	QTY	CDW#	UNIT PRICE	EXT. PRICE
Dell C8618QT 86" Class (85.6" viewable) LED display Mfg. Part#: DELL-C8618QT UNSPSC: 43211902 Contract: Sourcewell Formerly NJPA 100614#CDW Tech Catalog (100614#CDW)	1	4550732	\$8,188.84	\$8,188.84

RECYCLING FEE DETAILS

ITEM	QTY	CDW#	UNIT PRICE	EXT. PRICE
RECYCLING FEE 35" AND OVER Fee Applied to Item: 4550732	1	654813	\$7.00	\$7.00

PURCHASER BILLING INFO

Billing Address:

CITY OF PORTERVILLE
PURCHASING DIV.
291 N MAIN ST
PORTERVILLE, CA 93257-3737
Phone: (559) 782-7451

Payment Terms: Net 30 Days-Govt State/Local

DELIVER TO

Shipping Address:

CITY OF PORTERVILLE
PURCHASING DIV.
291 N MAIN ST
PORTERVILLE, CA 93257-3737
Phone: (559) 782-7451

Shipping Method: DROP SHIP-COMMON CARRIER

SUBTOTAL

\$8,188.84

SHIPPING

\$0.00

RECYCLING FEE

\$7.00

SALES TAX

\$757.47

GRAND TOTAL

\$8,953.31

Please remit payments to:

CDW Government
75 Remittance Drive
Suite 1515
Chicago, IL 60675-1515

Need Assistance? CDW•G SALES CONTACT INFORMATION



David Fiester

(877) 898-4582

davifie@cdwg.com

This quote is subject to CDW's Terms and Conditions of Sales and Service Projects at <http://www.cdwg.com/content/terms-conditions/product-sales.aspx>
For more information, contact a CDW account manager

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CITY COUNCIL AGENDA – OCTOBER 15, 2019

SUBJECT: Authorization to Renew Agreement with CSET for Senior Services at the Santa Fe Depot

SOURCE: Parks and Leisure Services

COMMENT: On December 16, 2014, City Council authorized the City to enter into an Agreement with Community Services Employment Training (CSET) to provide senior programs and services at the Santa Fe Depot Senior Center. CSET remains separately under contract with Kings/Tulare Area Agency on Aging (K/T AAA) to provide the regular senior citizen meal program, as well as senior services commensurate with services provided elsewhere in the K/T AAA service area.

CSET has contacted City staff requesting the current Agreement be renewed for an additional five (5) years. The Santa Fe Depot continues to be highly utilized by seniors through CSET-related programs. City staff and the Parks and Leisure Services Commission recommends the Agreement between the City and CSET be renewed for an additional five (5) years.

RECOMMENDATION: That the City Council authorize renewal of the Agreement with CSET for an additional five (5) years, and authorize and direct the Mayor to execute the same.

ATTACHMENTS: 1. CSET Senior Services Renewal Agreement

Appropriated/Funded:

Review By:

Department Director:

Donnie Moore, Parks and Leisure Services Director

Final Approver: John Lollis, City Manager

**PROPERTY LICENSE AGREEMENT
AND
AGREEMENT CONCERNING RIGHTS AND OBLIGATIONS
OF THE PARTIES**

Parties

1. This license agreement is entered into by and between Community Services Employment Training (“CSET”), licensee, and the City of Porterville (“CITY”), licensor.

Description of Property

2. CITY is the lessee of certain real property situated in the City of Porterville, and more particularly described as the Porterville Santa Fe Depot (“Depot”) located at 280 N. 4th Street, Porterville, California.

Grant of License

3. In consideration for and in accordance with the terms and conditions of this agreement, CITY grants CSET a license to perform the following acts on the Property:
 - a. CSET shall have exclusive use of the Santa Fe Depot Monday-Friday of each week between the hours of 8:00 a.m. and 5:00 p.m. for food services and programs.
 - b. CSET shall provide regular senior citizen meal programs, in compliance with California Department of Aging food service guidelines, and services commensurate with services provided elsewhere in the Kings/Tulare Area Agency on Aging (KTAAA) service area. This is based on KTAAA’s annual contract renewal with CSET.
 - c. CSET shall be responsible for the cleanliness of all areas utilized including the restrooms, and for stocking the restroom with paper products during and after use.
 - d. CITY shall have exclusive use of the Santa Fe Depot when not in use by CSET.
 - e. CITY shall schedule all activities in the Santa Fe Depot aside from CSET’s programs. CSET and CITY shall submit a monthly usage calendar to each other by the end of the month for usage in the upcoming month.

Other Rights and Obligations

4. The following incidental rights and obligations accompany the License and the use of the property:
 - a. CITY currently leases said property from Tulare County Housing Authority for the annual sum of Two Thousand Dollars (\$2,000.00) payable in advance annually to the Housing Authority of the County of Tulare; provided that each

year said rent shall be increased by three percent (3%). The Tulare County Housing Authority is not a party to this Agreement.

- b. CSET shall pay CITY the cost of utilities, refuse service, and pest control incurred by CSET usage. This amount will be reviewed and billed by the City and paid by CSET on a monthly basis, or as otherwise agreed by the parties.
- c. CSET shall have full and exclusive management authority over the program areas during the times of program use, and shall assume full responsibility for the timely cleaning of all areas used after all Licensee activities.
- d. CSET shall provide an insurance certificate naming the City, and the Tulare County Housing Authority as additional insureds. CSET agrees to procure and maintain in force throughout the term of this Agreement at insurance policies insuring Licensee and the City against public liability and property damage in the following minimum amounts, to wit:

- 1. Comprehensive form of general liability insurance, personal injury liability and property damage, and naming the City of Porterville, its officers, employees, agents and assigns, as additional insured, in at the following amounts:

- a. Bodily insurance, including death to one or more persons, each occurrence: \$1,000,000.00 per occurrence. Prior to commencement of the term of this Agreement, Licensee shall provide Licensor with an original Certificate of Insurance, together with a signed endorsement naming the Licensor as Additional Insured and acknowledging that thirty (30) days written notice of cancellation or material change shall be given Licensor.

All insurance shall be carried with insurance companies having a Best rating of not less than A:VII, and which are admitted and authorized to do business in the State of California by the Insurance commissioner of California. A renewal policy shall be procured not less than ten (10) days prior to the expiration of any such policy. The policies of insurance as above provided, or certificates of the insurers evidencing insurance carried, shall be deposited with the City Clerk of the City immediately upon the execution of this Agreement. Should the required insurance coverage, for any reason whatsoever, be canceled, the insurer is required to provide the City with thirty (30) days notice of such cancellation.

- e. CSET shall be responsible for interior modifications to accommodate their programs, but said modifications shall not be made without the prior written consent of the City.
- f. CSET shall be responsible for repair of any damages incurred during CSET usage of the building, including CITY owned items.
- g. CITY shall provide facility management oversight, routine building and grounds maintenance, utility services, and schedule use of the building.
- h. CITY and CSET shall meet annually to address any concerns and coordinate schedules.

- i. CITY shall facilitate, with Housing Authority of the County of Tulare, major building and property repairs, including repair and replacement of building equipment and fixtures, and repairs to the roof, plumbing, heating, ventilation, electrical and air conditioning systems.

In exercising these rights and obligations, CSET must use reasonable care and may not unreasonably increase the burden on the Property.

License Non-assignable

5. This License is personal to the licensees and shall not be assigned. Any attempt to assign the License shall automatically terminate it. No legal title or leasehold interest in the Property is created or vested in licensees by the grant of this License.

Term of License

6. This License shall commence January 22, 2020, and terminate January 22, 2025. The parties may agree to extend this Agreement, with the terms of said Agreement to be reviewed and adjusted as the parties deem to be appropriate prior to renewal.

Termination of License

7. Notwithstanding the above-referenced term, either party may terminate this Agreement with at least 90 days prior written notice. On or before the termination date for this License, CSET shall remove all of their personal property from the Property and shall leave the Property to CITY in good order and repair to the reasonable satisfaction of CITY, normal wear and tear excepted.

Default

8. In the event CSET fails to comply with any of the material terms of this Agreement, in addition to any and all other remedies available under the law, this License may be revoked by CITY, upon CSET's receipt of written notice of the violation and its failure to cure within ten (10) days. More time may be granted for the cure of any violations if agreed to in writing by the parties.

Termination

9. CSET understands that CITY has leased the premises from Tulare County Housing Authority, and said sublease is not scheduled to expire during the term of this Agreement. However, in the event the property is no longer available to CITY, the License herein granted shall cease to be in effect, and the parties' obligations to each other under this Agreement also cease.

Indemnification

10. To the fullest extent permitted by law, CSET shall hold harmless, defend and indemnify CITY and its officers, employees, agents and volunteers ("City

Indemnites”), from and against any and all causes of action, claims, liabilities, obligations, judgments, or damages, including reasonable legal counsels’ fees and costs of litigation (“claims”), arising out of CSET’s performance of its obligations under this agreement or out of the operations conducted by CSET, including the CITY’s active or passive negligence, except for such loss or damage arising from the sole negligence or willful misconduct of the CITY. In the event the City indemnitees are made a party to any action, lawsuit, or other adversarial proceeding arising from CSET’s performance of this agreement, CSET shall provide a defense to the City indemnitees, or at the CITY’s option, reimburse the City indemnitees their costs of defense, including reasonable legal counsel’s fees, incurred in defense of such claims. The provisions of this section survive completion of the services or the termination of this Agreement. The provisions of this section are not limited by the provisions of this Agreement relating to insurance.

Entire Agreement

11. This agreement constitutes the entire Agreement between CITY and CSET relating to the License. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect. Any amendment to this Agreement shall be of no force and effect unless it is in writing and signed by all parties named above.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the _____ of _____, 2019.

COMMUNITY SERVICES EMPLOYMENT TRAINING

CITY OF PORTERVILLE

Martha A. Flores, Mayor

ATTEST:

John D. Lollis, City Clerk

APPROVED AS TO FORM

Julia M. Lew, City Attorney



CITY COUNCIL AGENDA – OCTOBER 15, 2019

SUBJECT: Authorization to Renew Contract with CivicPlus for Recreation Management System

SOURCE: Parks and Leisure Services

COMMENT: On November 17, 2015, the City Council authorized entering into a contract with Rec1 to provide online program registration and facility reservation recreation management software to serve Parks and Leisure Services Department patrons. At the time, the Department was using Class as its vendor; however, Class subsequently merged with another company and became obsolete.

In December 2016, CivicPlus acquired Rec1, and all of its customers, contracts and obligations transferred to CivicPlus, who has since provided all services under the Agreement. The transition has been seamless from Rec1 to CivicPlus. CivicPlus has kept the same basic look and features to its system, in addition to making some enhancements.

The cost of the City's original contract with Rec1 was to pay a 1% transaction fee for each transaction, along with customers paying a 3% merchant fee. CivicPlus now proposes to renew the contract at the rate of \$6,425.27 to replace the 1% transaction fee, with the 3% merchant fees remaining in place. The new rate will be a \$2,262 increase from the previous year, and will be covered in the Department's General Fund operating budget. The annual fee is subject to a five percent (5%) annual increase beginning in the third year. The Parks and Leisure Services Commission has reviewed the proposed renewal, and along with staff, recommends its approval by the Council.

RECOMMENDATION: That the City Council approve the proposed contract renewal with CivicPlus at an annual rate of \$6,425.27, with a 5% annual increase beginning in the third year with automatic renewals, for the web-based recreation management system.

ATTACHMENTS: 1. CivicPlus Renewal Agreement

Appropriated/Funded: MB

Review By:

Department Director:

Donnie Moore, Parks and Leisure Services Director

Final Approver: John Lollis, City Manager



AMENDMENT TO THE AGREEMENT

THIS AGREEMENT AMENDMENT (this "Amendment") is agreed to this ____ day of _____, 2019 ("Effective Date") by and between CivicPlus, LLC, d/b/a CivicPlus ("CivicPlus") and City of Porterville, CA ("Client") (jointly, "Parties") and shall be effective as of the date set forth above.

RECITALS

WHEREAS, Client entered into the Online Registration and Servicing Agreement dated November 2015 for the use of the software registration system, with Cirillian, Inc. dba Rec1 (the "Agreement");

WHEREAS, CivicPlus acquired Rec1 and all customers, contracts and obligations on December 30, 2016, and has since been providing all services under the Agreement to Client;

WHEREAS, thus far CivicPlus has maintained the Agreement's original payment terms, yet the cost of providing the services, maintenance, upgrades and service providers associated with the software has increased; and

WHEREAS, CivicPlus and Client have agreed to alter certain terms as set forth in the Agreement by this written instrument duly executed by the Parties, the modification of terms as specified in this Amendment.

NOW, THEREFORE, the Parties hereto mutually agree for good and valuable consideration, the receipt and adequacy of which is hereby agreed as follows:

1. "CivicPlus" shall hereby replace any mention of "Rec1" throughout the Agreement.
2. CivicPlus is shifting Client from a monthly billing cycle to an annual licensing subscription fee, to be paid once annually, on each anniversary of the Agreement signing date, as set forth in this Amendment.
3. Client's Annual Service Fee shall be in the amount of \$6,425, to be billed on the Agreement's next renewal term following the Effective Date of this Amendment.
4. The Annual Service Fee, which includes without limitation hosting, support and maintenance services, shall be subject to a 5% annual increase beginning in the third year of service following this Amendment.
5. CivicPlus reserves the right (but not the obligation) to audit Client once every 12 months to determine Client's actual transaction processing volume ("Actual Processing Volume"). In the event Client's Actual Processing Volume increases from prior year's Actual Processing Volume, CivicPlus will notify client within 30 days of the audit of the Actual Processing Volume and the applicable increase in the Annual Fees resulting from such Actual Processing Volume. The increase in the Annual Fees shall be implemented the first of the month following the notice.
6. All other terms and conditions of the Agreement, not modified herein, shall remain in full force and effect.

Acceptance

We, the undersigned, agreeing to the conditions specified in this Amendment, understand and authorize the provision of services outlined in this Amendment.

Client

CivicPlus

By: _____

By: _____

Name: _____

Name: _____

Title: _____

Title: _____

Date: _____

Date: _____



CITY COUNCIL AGENDA – OCTOBER 15, 2019

SUBJECT: Authorization to Negotiate Consultant Agreement - Engineering Services for Pavement Management Update Implementation & Asset Management Development

SOURCE: Public Works

COMMENT: Staff recently circulated a Request for Qualifications for Pavement Management Program Update Implementation & Asset Management Development and received five (5) Statements of Qualifications for review. The consultant will be responsible for recommending an appropriate software system, evaluating the condition of all City-maintained streets through data collection and pavement evaluation, compiling collected data into the software system, establishing the Pavement Management Program, and integrating the data with the City's Geographical Information System program, as defined in the attached Scope of Services. The consultant will also be tasked with the development of a right-of-way asset database that will compile information for traffic signs, pavement markings, signals, sidewalks, curb ramps, curb & gutter, etc.

The proposals were ranked in accordance with the "Policy for Selecting Consultants to Provide Architectural, Engineering and Similar Services" adopted by City Council (Resolution #16-2001). Staff reviewed and rated each firm according to policy.

The firms and ranking were as follows:

<u>FIRM</u>	<u>RANK</u>
IMS	1
Dynatest	2
Quality Engineering Solutions	3
Streetscan	4
Dewalt	5

Staff is expecting consultant fees to range between \$350,000 - \$400,000 for the update of the Pavement Management Program and creation of the Right-of-Way Asset Database. This work will be funded by Measure I and TCAG Grant funds as programmed in the FY2019-2020 capital improvements budget. Measure I will fund the pavement management and asset inventory surveys, while the TCAG Grant (\$100,000) will fund the curb ramp and sidewalk surveys as part of the field data collection for the City's ADA Self-Evaluation Plan. An appropriation of an additional \$150,000 of Measure I funds will be necessary to cover all of the consultant costs as only \$150,000 is currently allocated.

Item No. 7.

RECOMMENDATION:

That City Council:

1. Authorize the Engineering and Project Management Director to negotiate with the No. 1 ranked consultant for the development of a Pavement Management Program and Right of Way Asset Database;
2. Authorize the Director to negotiate with the No. 2 ranked firm, if necessary; and
3. Appropriate an additional \$150,000 of Local Measure I funds to cover all consultant costs.

ATTACHMENTS:

1. Pavement Management Program Scope of Services

Appropriated/Funded: MB

Review By:

Department Director:

Javier Sanchez, Engineering & Project Management Director

Final Approver: John Lollis, City Manager

**PAVEMENT MANAGEMENT PROGRAM UPDATE IMPLEMENTATION
& ASSET MANAGEMENT DEVELOPMENT
SCOPE OF SERVICES**

BACKGROUND INFORMATION

The City of Porterville has a population of just over 60,000. It is located in the Central Valley between the larger metropolitan cities of Fresno and Bakersfield. The City maintains approximately 211 miles of streets within its jurisdictional limits. A breakdown of the centerline street miles for each street type (arterial, collector, local, and alley) is summarized in Table 1 at the end of this section.

The City is soliciting proposals from qualified Consultants to develop a complete Pavement Management Program (PMP) for its entire street system (see Table 1). The Consultant will be responsible for recommending an appropriate software system, evaluating the condition of all the streets maintained by the City through data collection and pavement evaluation processes, compiling all of the data collected into the software system, establishing a PMP, and integrating the data with the City's Geographical Information System (GIS) program. The PMP shall identify the needs of the City's pavement network, establish cost-effective priorities for making improvements, and develop a maintenance implementation program.

In addition to the Pavement Management Program (PMP), the City would like the Consultant to provide information for right of way asset data collection, sidewalk inventory and database development, sign inventory and database development, curb ramp inventory, compliance survey, and database development. The City may elect to have the Consultant provide data collection and processing services for these items as well pending cost and the City budget for this project. See Task 4 for a full list of optional items and further details.

The purpose of this RFQ is to give the Consultant a clear idea of the City's goals and objectives in the development of its PMP. The Consultant is strongly encouraged to propose the best means and methods to accomplish these goals. The Consultant shall clearly indicate the levels of participation expected from City Staff in the fulfillment of their proposal. All proposals will be judged on the qualifications of the Consultant and the means and methods that are being proposed to meet the City's goals in accordance with the evaluation criteria listed in the RFQ.

While it is believed the study requirements set forth in this RFQ are in a logical sequence and include all elements essential for a comprehensive system evaluation and development plan, those submitting proposals are advised to include any subject or procedure which they believe has been overlooked. They may also note requirements and items that they believe to be excessive or extraneous to the scope of any effective study.

Table 1 - Porterville Street Mileage

Street Classification	Approx. Centerline Miles
Arterial	42.41
Collector	14.61

Local	153.26
Alley	8.5

A. TASK 1 - EVALUATION OF SOFTWARE SYSTEM OPTIONS

The City of Porterville's current Pavement Management Program software system being utilized is MicroPaver. However, the City would like to explore available pavement management/asset management software. The selected Consultant will evaluate and compare the available pavement management/asset management software packages and determine which program will best meet the needs of the City. The Consultant will prepare a technical memorandum summarizing the findings for this item. At this time the main focus of the system will be pavement management. However, the City will require that the proposed software program be expandable to inventory/maintain a range of other right of way asset items as discussed in this section.

a. City Software Information/Methods

The Current city software systems in use are as follows: Server Operating System is Microsoft Server 2016 (x64) and the Relational Database Management System is Microsoft SQL Server 2016 (x64). The City of Porterville is currently using both ArcGIS Desktop 10.7 and ArcGIS Pro 2.3 by ESRI to manage its GIS data. The GIS program is currently managed using geodatabase files and the software system utilized must integrate with GIS using geodatabase file although shape files are an acceptable deliverable format. See Task 3 for additional requirements related to integration of the PMP into the GIS system. Additionally, the software for the PMP shall be designed to operate on City staffs' personal computers, PC's, running on Windows 10, 64-bit. It is expected that the selected software system will be upgradable and maintain functionality with upgrades to higher versions of any of the servers, database systems, and software programs listed in this section.

b. Software Program Capabilities/Requirements

The software must be compatible with all of the existing city software systems, database systems, and servers. This will include close collaboration between the Consultant and selected City staff members. It is expected that meetings with software company representatives and demo presentations of the programs will be set up by the consultant and provided for the most suitable 2-3 software programs. All demos must be detailed and thorough enough to allow City staff to evaluate and confirm that the program will meet the appropriate needs/requirements of the City. Upon completion of the selection process the Consultant shall provide the city with a brief technical memorandum summarizing the findings of this task. The following portions of this section will discuss the requirements of the selected software.

Software General Requirements/Pavement Management System Specific Requirements

1. The system must be as user friendly as possible and capable of being operated/maintained by City staff. City staff must be able to operate the program from their own personal computers.
2. Pavement Management System should be a module as part of a suite of enterprise wide tools.
3. The program must be capable of storing and analyzing many forms of pavement distress survey data including but not limited to: International Roughness Index (IRI), rutting, and structural condition.
4. The software must allow for the inclusion of roadway strength in the pavement performance curves and rehabilitation selection.
5. An appropriate prediction philosophy and prediction basis must be used.
6. Pavement Condition Index shall be based on a modified version of ASTM D6433-09 as proposed by the Consultant.
7. Program must be capable of assessing the current condition of the pavement, creating a pavement inventory, and analyzing pavement improvement strategies.
8. The Need Year Determination should be based on the intersection of performance curves with minimum acceptable levels of service.
9. Program should be capable of utilizing a number of optimization techniques including: effectiveness optimization, cost minimization, and maintaining specified levels of service.
10. Data Collection: system must be capable of utilizing automated data information from equipment like Laser RST's while still allowing city crews to have the ability to manually input surface distress information and testing results.
11. Program must provide standardized and customizable reporting methods along with creating a variety of graphic representations of the surface conditions. It must also have the ability to export data to different file formats including .txt files.
12. Must be highly compatible with the City's GIS system. City must be able to generate color-coded maps based upon existing pavement conditions, street rehabilitation plans, and other criteria.
13. Must allow the user to re-label buttons and features
14. Must be capable of managing a mix and match of surfaces types and Pavement Condition Indices (PCI).
15. Flexible enough to accommodate user definable prioritization.
16. Ability to tie digital images to the system.
17. The software company should have some kind of technical support staff available to the city during normal business hours to address questions/issues that arise.

18. The consultant must demonstrate an expert knowledge of 3rd party software applications. While the consultant will perform an evaluation, the selected vendor will have completed in excess of 10 data collection assignments for each software evaluated. Experience with the 3rd party PMP's must include implementation, pavement data collection, right of way asset inventories, and pavement analysis.

Additional Software Management Functionality

In addition to pavement management, the City of Porterville is interested in the following functionality within the management system:

1. Growth potential to add other municipal infrastructure management modules such as:
 - a. Sidewalk & curb ramp inventory with condition rating
 - b. Underground Utility inventory and rating to include sanitary sewers and storm sewers
 - c. Sign Inventory Database
 - d. Signal Database
 - e. Streetlight Database
 - f. Pavement Striping/Marking Database
 - g. Full right of way inventory
 - h. Accommodation of some type of work order system
2. The capability to run budget scenarios for all modules.
3. The ability to store record maintenance data within each of the modules.
4. Full data query and export capabilities, with ability to map queried data.

c. Training Requirements

The City requires that select staff be trained in using the selected pavement management software so that staff can perform routine pavement database updates, add new road segments, enter road condition surveys, create pavement condition maps, and run various pavement management funding scenarios. The Consultant will provide training at City Hall on the City's completed Pavement Management System Software program for a small group so that City staff can utilize the selected pavement management software. The Consultant will provide a user manual for the selected pavement management software which will explain in detail how to perform the tasks mentioned above. The Consultant will be responsible for proposing an appropriate training program for city staff which shall be described in detail in their proposal.

B. TASK 2 - CITY-WIDE PAVEMENT CONDITION ASSESSMENT AND DATA COLLECTION

The selected Consultant will perform an automated, repeatable, City-wide pavement condition assessment of all the streets listed in Table 1 (100% of the City Streets listed in

this table). The City would like to adhere to a modified version of ASTM D6433-09 for data collection and pavement assessment procedures. The Consultant will be responsible for determining which items of ASTM D6433-09 are the most important and need to be collected and analyzed for a functional and cost efficient PMP. All pavement condition data shall be accurate and reproducible. The Consultant should have sufficient experience and staff availability to perform the City-wide pavement condition assessment in a timely manner. The Consultant will provide a technical memorandum documenting the methodology for performing the assessment, and presenting the data collection forms to be used for the assessment. After review by the City and written approval of the methodology, the Consultant will be authorized to proceed with the assessment.

Minimum Criteria for data collection are as follows:

1. Using a laser enhanced road surface tester, the data collection vehicle must contain a minimum of 9 lasers, deliver continuous laser-measured roadway cracking and distress data, ride quality data (expressed in terms of International Roughness Index – IRI), and rutting data (on asphalt concrete arterials and collectors), summarized on a per segment basis as an overall segment Pavement Condition Index (PCI) rating. PCI ratings shall be a combination of pavement distress data and ride quality data. Conditions survey shall be continuous on the pavement segment being evaluated, not a sampling of the segment. Consultant will be responsible for clearly delineating proposed data collection methods and rating systems in his proposal.
2. Dual wheel path IRI collected using high-speed lasers.
3. Minimum of 3 digital video cameras capturing a forward pavement view, forward right of way view, and rear camera capturing the adjacent right of way view.
4. Windshield surveys are deemed unacceptable unless certified by an approved agency such as the Metropolitan Transportation Commission (MTC) or the Orange County Transportation Authority (OCTA).
5. Equipment used for rut measurement shall be capable of measuring both wheel track ruts simultaneously.
6. Must be able to collect roadside attributes on the fly as an event.
7. Create and deliver a database and ESRI shape file(s) of the centerlines, pavement condition, and ride quality data in the NAD83 State Plane Coordinate system.
8. Dynaflect Deflection Testing, Falling Weight Deflectometer, or other non-destructive methods shall be used to determine pavement strength for Arterials and Collectors.

The Consultant's proposal shall clearly define how they plan to collect the pavement surface distress data and the types of surface distress data collected. The Consultant will be responsible for entering all of the City-wide pavement condition assessment data into the City's new pavement management system software.

C. TASK 3 - PAVEMENT MANAGEMENT PLAN (PMP)

a. PMP General Requirements

The PMP should include as a minimum the following attributes and reports:

1. A pavement inventory including street name, length, width, area, test limits, number of lanes, street classification, and type of pavement.
2. Pavement condition information that identifies the present conditions of the pavement and the projected future performance for the next five years. It shall identify the condition of the base and subgrade. The overall pavement condition report shall fully integrate and incorporate into its analysis surface condition, deflection information, and other factors as recommended by the Consultant.
3. Pavement improvement information shall be based upon the rehabilitation strategies necessary to achieve the desired level of serviceability. Rehabilitation strategies shall not be limited to overlays. The improvement analysis shall make provision for simultaneously analyzing the effectiveness of not less than ten strategies as determined by the Consultant and the City and shall have the capability of including pavement recycling alternatives, surface treatments, and base reconstruction. The City shall be able to select the strategies and apply them to groups of streets based upon their traffic usage, pavement type, and surface type.
4. Priority information indicating the pavement condition in order of best-to-worst. In addition, a priority listing of pavement condition to establish user-benefit.
5. Investment benefit information that indicates the cost per square foot of benefit for each maintenance strategy when applied to each street section based on both current maintenance and rehabilitation costs and costs estimated to be in effect for each of the next five years (inflation factor).
6. The PMP shall make recommendations as to the streets, rehabilitation strategies, and cost of rehabilitation that would be included in the City's yearly rehabilitation program for each of the next five years. These recommendations shall include the cost necessary to achieve several levels of serviceability as well as the improvements necessary to obtain the greatest benefit from several alternative-funding levels.
7. The PMP is to be owned by the City with no additional user fees to the Consultant or any other party.
8. The PMP shall be compatible with and capable of processing information gathered through both automated and manual methods.
9. The PMP software shall be designed to allow the user to compile and store construction/history related information and retrieve this information as selected by the user. It shall also be designed to allow the user to input the actual implementation or maintenance strategies, which will update the PMP and project the performance for retesting.

b. Integration of Pavement Management System with Geographic Information Systems

The PMP shall integrate with the City's geographical information system (GIS). The City will make available a street centerline GIS file, which includes street names and the Consultant shall provide a linkage between their data and the City's GIS file. The Consultant shall establish linkages that provide for pavement management data by a test section basis and avoid averaging pavement management data. Efforts should be made in the pavement management system data collecting process to help in this linking by attempting wherever possible to collect pavement data on an intersection to intersection basis. The PMP shall provide utilities to update the pavement management data in a "seamless" fashion and allow for adjustments to the linkage as necessary. The linkage shall allow the City to display and query pavement management data on a minimum of three levels (inventory and test data, history data, and budgetary plan data). The Consultant's status as an ESRI Business partner and Software Developer is highly desirable.

The desired PMP must be capable of a 2-way GIS integration with the City's existing GIS interface.

The proposal shall also contain such other information that the Consultant feels vital to the development of a comprehensive PMP, and its integration with the City's GIS System.

The final result of the work shall be a PMP to assist the City in planning, implementation, and coordination of its street maintenance and rehabilitation programs.

D. TASK 4 - OPTIONAL SERVICE ITEMS

In addition to the Pavement Management Program (PMP), the City of Porterville would like the Consultant to provide a detailed scope of services to develop a number of other inventory/management systems, which will be called optional items under this section. Due to budget restraints, these optional items may or may not be incorporated into the scope of work under this proposal. These items should include services for data collection and processing for incorporating these items into the City's software management program. These optional items are listed below:

1. Right of Way Asset data collection (GPS and images)
2. Curb, Gutter, and Sidewalk Inventory and Database Development
3. Sign Database Development
4. Curb Ramp Inventory, Compliance Survey, and Database Development
5. Power Poles/Utility Poles

Under this optional service items task, the Consultant is encouraged to include any additional items that they believe could be beneficial for use in developing a Pavement Management Plan that have not already been addressed in other sections.



CITY COUNCIL AGENDA – OCTOBER 15, 2019

SUBJECT: Amendment No.1 to the Porterville Chamber of Commerce Agreement

SOURCE: City Manager's Office

COMMENT: At its meeting on October 1, 2019, the City Council directed staff to proceed with the drafting of an Amendment to the current Agreement between the City and the Porterville Chamber of Commerce in the provision of community promotion activities. The draft Amendment modifies the Agreement to include quarterly reporting and payments, as well as makes minor clarifications and updates which are highlighted in the draft modified agreement. In consideration of the draft Amendment, the City Attorney has recommended the inclusion of required indemnification and insurance requirements as prescribed by the City's liability insurance authority, which the Chamber's legal counsel is currently reviewing.

RECOMMENDATION: That the City Council approve the proposed Amendment #1 to the Porterville Chamber of Commerce Agreement.

ATTACHMENTS:

1. Chamber of Commerce Agreement Amendment
2. Chamber of Commerce Agreement Amendment - Redline

Appropriated/Funded:

Review By:

Department Director:

Final Approver: John Lollis, City Manager

**AMENDMENT NO. 1 TO THE AGREEMENT BETWEEN
THE CITY OF PORTERVILLE AND
THE PORTERVILLE CHAMBER OF COMMERCE**

Pursuant to “Article VI. Amendment” of the Agreement between the CITY OF PORTERVILLE, hereinafter referred to as “City”, and the PORTERVILLE CHAMBER OF COMMERCE, hereinafter referred to as “Chamber,” both of whom understand and agree to amend its Agreement as follows:

I. Chamber Responsibilities. The Chamber shall:

- A. Continue to carry on programs and promotional activities that include:
 - 1. Mail solicitations, information pool, referral services, and the visitor information bureau.
 - 2. Holiday advertising campaigns, and the business showcase.
 - 3. Printing and distribution of informational pamphlets and brochures.
- B. Assume all duties and responsibilities relating to the following:
 - 1. Locating, scheduling, coordinating, and programming for Centennial Park’s Friday night activities for September, October, April, May, and June except for the Fridays coinciding with the Porterville Fair, local high school and college graduations, and weeks coinciding with KJUG free concert series events. Events will include music venues at the Centennial Gazebo, and special themes (e.g. Farmer’s Market, Art in the Park, Halloween Movie in the Park, Arts & Crafts Booths, and Community Focus). The City will provide logistical support, including attendee seating, promotional signage, and park reservation.
 - 2. Providing any other assistance as may be mutually agreed upon from time to time during the period of this Agreement.

- C. At the first City Council meeting of each quarter (July, October, January, and April), furnish an activity report to the City covering the prior quarter's promotional programs and activities, with specific emphasis on sufficient relevant information to satisfy the terms and intent of this Agreement as heretofore enumerated. The Chamber shall also furnish the City with copies of its annual financial reports within thirty (30) days after they are prepared.

II. Payment by City. As consideration for the above-mentioned responsibilities, the City shall, during the term of this Agreement, pay the Chamber the sum of Thirty-Five Thousand Dollars (\$35,000) per year, which quarterly payments of Eight Thousand Seven Hundred and Fifty Dollars (\$8,750) shall be made on or before the first of the month following the furnishing of the quarterly activity report to the City Council, commencing in 2019.

III. Insurance Requirements. Chamber shall procure and maintain for the duration of this agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the services provided under this agreement. Coverage shall be as broad as required below.

- A. Commercial General Liability (CGL) insurance on an "occurrence" basis, including property damage, bodily injury and personal injury with limits no less than \$1,000,000 per occurrence, and an aggregate limit of \$2,000,000. This CGL coverage is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the City.
- B. Workers Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limits of no less than \$1,000,000 per accident for bodily injury or disease.

The City, its officers, officials, employees, and volunteers are to be covered as insureds with respect to liability arising out of or in connection with the services provided by Chamber under this agreement.

Each insurance policy required above shall contain, or be endorsed to contain, a waiver of all rights of subrogation against the City. Further, the policies required above shall be endorsed to state that coverage shall not be canceled except after thirty (30) days' prior written notice (10 days for non-payment) has been given to the City.

Chamber shall furnish the City with certificates of coverage and amendatory endorsements or copies of the applicable policy language.

IV. Indemnification. To the fullest extent permitted by law, the Chamber shall hold harmless, defend and indemnify the City, its agents, officers, employees and volunteers ("City Indemnitees"), from and against any and all causes of action, claims, liabilities, obligations, judgments, or damages, including reasonable legal counsels' fees and costs of litigation ("claims"), arising out of the Chamber's performance of obligations under this Agreement and Amendment or out of the operations conducted by the Chamber, including the City's active or passive negligence, except for such loss or damages arising from the sole negligence or willful misconduct of the City. In the event the City Indemnitees are made a party to any action, lawsuit, or other adversarial proceeding arising from the Chamber's performance of this Agreement and Amendment, the Chamber shall provide a defense to the City's Indemnitees, or at the City's option, reimburse the City Indemnitees their costs of defense, including reasonable legal counsels' fees, incurred in defense of such claims. This indemnification obligation shall continue beyond the term of this Agreement and Amendment as to any acts or omissions occurring under this Agreement and Amendment or any extension of this Agreement.

V. Effective Date. This Amendment shall be in effect as the latest execution date indicated below.

VI. Prior Agreement. All other terms and conditions of the Agreement between the City and the Chamber, not inconsistent with this Amendment, shall remain in full force and effect.

CITY:

DATE:

Martha A. Flores, Mayor

ATTEST

John Lollis

By:_____

John Lollis, City Clerk

CHAMBER:

DATE:

Monte Reyes
President/CEO

Jason Pommier, Chair
Chamber Board of Directors

APPROVED AS TO FORM:

Julia Lew, City Attorney

**AMENDMENT #1 TO THE AGREEMENT BETWEEN
THE CITY OF PORTERVILLE AND
THE PORTERVILLE CHAMBER OF COMMERCE**

Pursuant to “Article VI. Amendment” of the Agreement between the CITY OF PORTERVILLE, hereinafter referred to as “City”, and the PORTERVILLE CHAMBER OF COMMERCE, hereinafter referred to as “Chamber,” both of whom understand and agree to amend its Agreement as follows:

I. Chamber Responsibilities. The Chamber shall:

- A. Continue to carry on programs and promotional activities that include:
 - 1. Mail solicitations, information pool, referral services, and the visitor information bureau.
 - 2. Holiday advertising campaigns, and the ~~design and construction of the Porterville booth for the Tulare County Fair~~ business showcase.
 - 3. Printing and distribution of informational pamphlets and brochures.

- B. Assume all duties and responsibilities relating to the following:
 - 1. Locating, scheduling, coordinating, and programming for Centennial Park’s Friday night activities for September, October, April, May, and June except for the ~~two~~ Fridays coinciding with the Porterville Fair, and local high school and college graduations, and weeks coinciding with KJUG free concert series events. Events will include music venues at the Centennial Gazebo, and special themes (i.e. e.g. Farmer’s Market, Art in the Park, Halloween Movie in the Park, Arts & Crafts Booths, and Community Focus). The City will provide logistical support, including attendee seating, promotional signage, and park reservation.
 - 2. Providing any other assistance as may be mutually agreed upon from time to time during the period of this Agreement.

- C. ~~By May 15 of each year~~ At the first City Council meeting of each quarter (July, October, January, and April), furnish an ~~annual~~ activity report to the City covering the prior year's quarter's promotional programs and activities for the reporting period from May 1 through April 30, with specific emphasis on sufficient relevant information to satisfy the terms and intent of this Agreement as heretofore enumerated. The Chamber shall also furnish the City with copies of its annual financial reports within thirty (30) days after they are prepared.

II. Payment by City. As consideration for the above-mentioned responsibilities, the City shall, during the term of this Agreement, pay the Chamber the sum of Thirty-Five Thousand Dollars (\$35,000) per year. ~~Such annual, which quarterly payments of Eight Thousand Seven Hundred and Fifty Dollars (\$8,750) shall be made on or before September 1 of each year~~ the first of the month following the furnishing of the quarterly activity report to the City Council, commencing in 2006 2019. However, such annual payments shall not be made until the City receives and reviews the annual activity report referred to in paragraph I(C) for the proceeding reporting period (May 1 through April 30).

III. Insurance Requirements. Chamber shall procure and maintain for the duration of this agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the services provided under this agreement. Coverage shall be as broad as required below.

- A. Commercial General Liability (CGL) insurance on an "occurrence" basis, including property damage, bodily injury and personal injury with limits no less than \$1,000,000 per occurrence, and an aggregate limit of \$2,000,000. This CGL coverage is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the City.
- B. Workers Compensation insurance as required by the State of California, with Statutory Limits, and Employer's Liability Insurance with limits of no less than \$1,000,000 per accident for bodily injury or disease.

The City, its officers, officials, employees, and volunteers are to be covered as insureds with respect to liability arising out of or in connection with the services provided by Chamber under this agreement.

Each insurance policy required above shall contain, or be endorsed to contain, a waiver of all rights of subrogation against the City. Further, the policies required above shall be endorsed to state that coverage shall not be canceled except after thirty (30) days' prior written notice (10 days for non-payment) has been given to the City.

Chamber shall furnish the City with certificates of coverage and amendatory endorsements or copies of the applicable policy language.

IV. Indemnification. To the fullest extent permitted by law, the Chamber shall hold harmless, defend and indemnify the City, its agents, officers, employees and volunteers ("City Indemnitees"), from and against any and all causes of action, claims, liabilities, obligations, judgments, or damages, including reasonable legal counsels' fees and costs of litigation ("claims"), arising out of the Chamber's performance of obligations under this Agreement and Amendment or out of the operations conducted by the Chamber, including the City's active or passive negligence, except for such loss or damages arising from the sole negligence or willful misconduct of the City. In the event the City Indemnitees are made a party to any action, lawsuit, or other adversarial proceeding arising from the Chamber's performance of this Agreement and Amendment, the Chamber shall provide a defense to the City's Indemnitees, or at the City's option, reimburse the City Indemnitees their costs of defense, including reasonable legal counsels' fees, incurred in defense of such claims. This indemnification obligation shall continue beyond the term of this Agreement and Amendment as to any acts or omissions occurring under this Agreement and Amendment or any extension of this Agreement.

V. Effective Date. This Amendment shall be in effect as the latest execution date indicated below.

VI. Prior Agreement. All other terms and conditions of the Agreement between the City and the Chamber, not inconsistent with this Amendment, shall remain in full force and effect.

CITY:

DATE:

Martha A. Flores, Mayor

ATTEST

John Lollis

By:_____

John Lollis, City Clerk

CHAMBER:

DATE:

Monte Reyes
President/CEO

Jason Pommier, Chair
Chamber Board of Directors

APPROVED AS TO FORM:

Julia Lew, City Attorney



CITY COUNCIL AGENDA – OCTOBER 15, 2019

SUBJECT: Award of Contract - On-Call Right-of-Way and Appraisal Consulting Services

SOURCE: Community Development

COMMENT: On August 6, 2019, City Council authorized staff to distribute a Request for Qualifications (RFQ) for on-call consulting for right-of-way and appraisal services. The right-of-way services to be rendered would consist of, but not be limited to, the preparation of appraisal and acquisition documents and other related items as necessary to comply with the Uniform Act, and would be utilized on a number of projects identified in the City's Capital Improvement Program that require specialization outside of the scope that the Community Development Department is able to perform with its own staff.

The RFQ was advertised in the Porterville Recorder, and online via the City's website and Public Purchase. The City received a total of eight (8) responses. The eight (8) responsive firms were: Associated Right of Way Services, Inc., Clark Land Resources, Inc., Colliers International, Hamner Jewell & Associates, Hopper Company, Paragon Partners, Ltd., Universal Field Services, Inc., and Overland Pacific & Cutler, LLC.

At this time, staff is proposing to enter consultant service agreements with three (3) firms: Hamner Jewell & Associates, Overland Pacific & Cutler, LLC, and Hopper Company (Appraisal Services only). When a project need arises, staff will solicit proposals for specific task orders from those three (3) firms, rank them appropriately, and execute task orders as needed. This will allow for even greater flexibility and expedited response time for the City's consulting needs.

Staff is recommending the use of Hopper Company as the sole appraiser and Hamner Jewell & Associates, and Overland Pacific & Cutler, for review of appraisals, property acquisition and relocation services. Should Hopper Company be unable to complete a task, the other two (2) firms have qualified staff to complete appraisal services.

The proposed contract has a term of three (3) years, with a one (1) year extension.

RECOMMENDATION: That the City Council:

1. Authorize staff to negotiate on-call contracts with Hopper Company, Hamner Jewell & Associates, and Overland Pacific & Cutler;

2. Authorize the Mayor to sign contract documents;
3. Authorize the Community Development Director to sign task orders; and
4. Authorize staff to make payments up to 100% upon satisfactory completion of tasks.

ATTACHMENTS: 1. August 6, 2019 Staff Report

Appropriated/Funded:

Review By:

Department Director:

Jenni Byers, Community Development Director

Final Approver: John Lollis, City Manager



CITY COUNCIL AGENDA – AUGUST 6, 2019

SUBJECT: Authorization to Distribute Request for Qualifications (RFQ) for On-Call Right-of-Way and Appraisal Consulting Services

SOURCE: Community Development

COMMENT: Pursuant to City Council Resolution No. 13-2018, the City utilizes the selection and contracting procedures detailed in Chapter 10 of the Caltrans Local Assistance Procedures Manual to procure consultant contracts in the event a project involves State or Federal funds. Professional services are contracted through demonstration of competency and qualifications-based standards to ensure compliance with the Brooks Act and Government Code governing professional standards. Since 2014, the City of Porterville has maintained on-call consulting services contracts with three (3) consulting firms to provide right-of-way and appraisal services. On-call consulting services contracts must be circulated on an on-going basis, not to exceed five (5) years, to provide fair and open competition. Staff is seeking authorization to distribute a Request for Qualifications (RFQ) for said services.

The services to be rendered would consist of, but not be limited to, the preparation of appraisal and acquisition documents and other related items as necessary to comply with the Uniform Act, and would be utilized on a number of projects identified in the City's Capital Improvement Plan that require specialization outside of the scope that the Department is able to perform with its own staff. Although the Community Development Director or designee will review the consultant's work, the selected consultant must have a substantial working knowledge on the Uniform Relocation and Real Property Acquisition Policies Act and state eminent domain law, and possess appropriate appraisal licenses in accordance to the degree, complexity and value of the appraisal required. Lastly, in response to increased regulatory guidance from Caltrans for state and federally funded transportation projects, consultants must possess the ability to prepare all documents in a manner compliant with Caltrans' Local Agency Procedures and Right of Way Manuals.

RECOMMENDATION: That City Council authorize staff to distribute a Request for Qualifications for on-call right-of-way and appraisal consulting services.

ATTACHMENTS: 1. Request for Qualifications

Appropriated/Funded:

Review By:

Department Director:

Jenni Byers, Community Development Director

Final Approver: John Lollis, City Manager



CITY COUNCIL AGENDA – OCTOBER 15, 2019

SUBJECT: 2018 Assistance to Firefighters Grant Award

SOURCE: Fire

COMMENT: In 2017, the Fire Department conducted a needs analysis to determine what types of equipment were in need of replacement for operational readiness. After reviewing the results of this comprehensive study, staff determined there was an immediate need for new hose, radios, and personnel protective equipment (PPE), all of which was subsequently purchased. The study further identified a need to replace the entire cache of self-contained breathing apparatus (SCBA). Unfortunately, due to the high cost of SCBAs, it was evident that the only way to afford this equipment would be through a grant application.

In 2018, the Department applied for the federal "Assistance to Firefighters" Grant in the amount of \$180,211.81, based on estimated cost of the equipment. This highly-competitive grant requires a 10 percent (10%) match and associated sales tax, which would be paid by the Department. On September 23, 2019, the Department received an award letter from the Federal Emergency Management Agency (FEMA) approving \$180,211.81 in Federal funding. As a condition of the grant, the Department is required to contribute non-Federal funds equal to or greater than 10 percent (10%) of the Federal funds awarded, or \$18,021.19, for a total approved budget of \$198,233.00. The required funding match and associated sales tax for the purchase of the SCBAs will come from the Department's Equipment Replacement Account.

RECOMMENDATION: That the City Council accept the Assistance to Firefighters grant for the self-contained breathing apparatus and face masks.

ATTACHMENTS: 1. Assistance to Firefighters Grant Award Letter

Appropriated/Funded:

Review By:

Department Director:

Final Approver: John Lollis, City Manager

Award Letter

U.S. Department of Homeland Security
Washington, D.C. 20472

Chris Pisani
PORTERVILLE, CITY OF
291 NORTH MAIN STREET
PORTERVILLE, CA 93257



FEMA

EMW-2018-FO-02171

Dear Chris Pisani,

Congratulations on behalf of the Department of Homeland Security. Your application submitted for the Fiscal Year (FY) 2018 Assistance to Firefighters Grant (AFG) funding opportunity has been approved in the amount of \$180,211.81 in Federal funding. As a condition of this grant, you are required to contribute non-Federal funds equal to or greater than 10.00 percent of the Federal funds awarded, or \$ 18,021.19 for a total approved budget of \$ 198,233.00 . Please see the FY 2018 AFG Notice of Funding Opportunity for information on how to meet this cost share requirement.

Before you request and receive any of the Federal funds awarded to you, you must establish acceptance of the award through the FEMA Grants Outcomes (FEMA GO) system. By accepting this award, you acknowledge that the terms of the following documents are incorporated into the terms of your award:

- Summary Award Memo - included in this document
- Agreement Articles - included in this document
- Obligating Document - included in this document
- 2018 AFG Notice of Funding Opportunity (NOFO) - incorporated by reference

Please make sure you read, understand, and maintain a copy of these documents in your official file for this award.

Sincerely,

A handwritten signature in cursive script, appearing to read "Bridget Bean".

Bridget Bean
Acting Assistant Administrator
Grant Programs Directorate

Summary Award Memo

Program: Fiscal Year 2018 Assistance to Firefighters Grant

Recipient: PORTERVILLE, CITY OF

DUNS number: 030969406

Award number: EMW-2018-FO-02171

Summary description of award

The purpose of the Assistance to Firefighters Grant program is to protect the health and safety of the public and firefighting personnel against fire and fire-related hazards. After careful consideration, FEMA has determined that the recipient's project or projects submitted as part of the recipient's application and detailed in the project narrative as well as the request details section of the application - including budget information - was consistent with the Assistance to Firefighters Grant Program's purpose and was worthy of award.

Except as otherwise approved as noted in this award, the information you provided in your application for FY2018 Assistance to Firefighters Grants funding is incorporated into the terms and conditions of this award. This includes any documents submitted as part of the application.

Amount awarded

The amount of the award is detailed in the attached Obligating Document for Award. The following are the budgeted estimates for object classes for this award (including Federal share plus your cost share, if applicable):

Object Class	Total
Personnel	\$0.00
Fringe Benefits	\$0.00
Travel	\$0.00
Equipment	\$183,125.00
Supplies	\$0.00
Contractual	\$0.00
Construction	\$0.00
Other	\$15,108.00
Federal	\$180,211.81
Non-Federal	\$18,021.19
Total	\$198,233.00

Approved scope of work

After review of your application, FEMA has approved the below scope of work. Justifications are provided for any differences between the scope of work in the original application and the approved scope of work under this award. You must submit scope or budget revision requests for FEMA's prior approval, via an amendment request, as appropriate per 2 C.F.R. § 200.308 and the FY2018 AFG NOFO.

Approved request details:

Personal Protective Equipment

SCBA: SCBA Unit includes: Harness/Backpack, Face Piece and 2 cylinders

DESCRIPTION

SCBA unit including, 2 cylinders and face piece

QUANTITY	UNIT PRICE	TOTAL
25	\$6,800.00	\$170,000.00

BUDGET CLASS

Equipment

Face Pieces (not associated with SCBA requests)

DESCRIPTION

face pieces

QUANTITY	UNIT PRICE	TOTAL
35	\$375.00	\$13,125.00

BUDGET CLASS

Equipment

Additional Funding

DESCRIPTION

State Tax: \$15108 California required 8.25% state sales tax

Amount
\$15,108.00

BUDGET CLASS

Other

Agreement Articles

Program: Fiscal Year 2018 Assistance to Firefighters Grant

Recipient: PORTERVILLE, CITY OF

DUNS number: 030969406

Award number: EMW-2018-FO-02171

Table of contents

Article 1	Assurances, Administrative Requirements, Cost Principles, Representations and Certifications
Article 2	DHS Specific Acknowledgements and Assurances
Article 3	Acknowledgement of Federal Funding from DHS
Article 4	Activities Conducted Abroad
Article 5	Age Discrimination Act of 1975
Article 6	Americans with Disabilities Act of 1990
Article 7	Best Practices for Collection and Use of Personally Identifiable Information (PII)
Article 8	Civil Rights Act of 1964 – Title VI
Article 9	Civil Rights Act of 1968
Article 10	Copyright
Article 11	Debarment and Suspension
Article 12	Drug-Free Workplace Regulations
Article 13	Duplication of Benefits
Article 14	Education Amendments of 1972 (Equal Opportunity in Education Act) – Title IX
Article 15	Energy Policy and Conservation Act
Article 16	False Claims Act and Program Fraud Civil Remedies
Article 17	Federal Debt Status
Article 18	Federal Leadership on Reducing Text Messaging while Driving
Article 19	Fly America Act of 1974
Article 20	Hotel and Motel Fire Safety Act of 1990
Article 21	Limited English Proficiency (Civil Rights Act of 1964, Title VI)
Article 22	Lobbying Prohibitions
Article 23	National Environmental Policy Act
Article 24	Nondiscrimination in Matters Pertaining to Faith-Based Organizations

Article	Non-supplanting Requirement	25
Article	Notice of Funding Opportunity Requirements	26
Article	Patents and Intellectual Property Rights	27
Article	Procurement of Recovered Materials	28
Article	Rehabilitation Act of 1973	29
Article	Reporting of Matters Related to Recipient Integrity and Performance	30
Article	Reporting Subawards and Executive Compensation	31
Article	SAFECOM	32
Article	Terrorist Financing	33
Article	Trafficking Victims Protection Act of 2000	34
Article	Universal Identifier and System of Award Management (SAM)	35
Article	USA Patriot Act of 2001	36
Article	Use of DHS Seal, Logo and Flags	37
Article	Whistleblower Protection Act	38
Article	Acceptance of Post Award Changes	39
Article	Prior Approval for Modification of Approved Budget	40
Article	Disposition of Equipment Acquired Under the Federal Award	41
Article	Environmental Planning and Historic Preservation	42

Article 1 Assurances, Administrative Requirements, Cost Principles, Representations and Certifications

DHS financial assistance recipients must complete either the Office of Management and Budget(OMB) Standard Form 424B Assurances - Non-Construction Programs, or OMB Standard Form 424D Assurances -Construction Programs as applicable. Certain assurances in these documents may not be applicable to your program, and the DHS financial assistance office (DHS FAO) may require applicants to certify additional assurances. Applicants are required to fill out the assurances applicable to their program as instructed by the awarding agency. Please contact the DHS FAO if you have any questions. DHS financial assistance recipients are required to follow the applicable provisions of the Uniform Administrative Requirements, Cost Principles, and Audit Requirements for Federal Awards located at Title 2, Code of Federal Regulations(C.F.R) Part 200, and adopted by DHS at 2 C.F.R. Part 3002.

Article 2 DHS Specific Acknowledgements and Assurances

All recipients, subrecipients, successors, transferees, and assignees must acknowledge and agree to comply with applicable provisions governing DHS access to records, accounts, documents, information, facilities, and staff. 1. Recipients must cooperate with any compliance reviews or compliance investigations conducted by DHS. 2. Recipients must give DHS access to, and the right to examine and copy, records, accounts, and other documents and sources of information related to the federal financial assistance award and permit access to facilities, personnel, and other individuals and information as may be necessary, as required by DHS regulations and other applicable laws or program guidance. 3. Recipients must submit timely, complete, and accurate reports to the appropriate DHS officials and maintain appropriate backup documentation to support the reports. 4. Recipients must comply with all other special reporting, data collection, and evaluation requirements, as prescribed by law or detailed in program guidance. 5. Recipients of federal financial assistance from DHS must complete the DHS Civil Rights Evaluation Tool within thirty (30) days of receipt of the Notice of Award or, for State Administering Agencies, thirty (30) days from receipt of the DHS Civil Rights Evaluation Tool from DHS or its awarding component agency. Recipients are required to provide this information once every two (2) years, not every time an award is made. After the initial submission for the first award under which this term applies, recipients are only required to submit updates every two years, not every time a grant is awarded. Recipients should submit the completed tool, including supporting materials to CivilRightsEvaluation@hq.dhs.gov. This tool clarifies the civil rights obligations and related reporting requirements contained in the DHS Standard Terms and Conditions. Subrecipients are not required to complete and submit this tool to DHS. The evaluation tool can be found at <https://www.dhs.gov/publication/dhs-civil-rights-evaluation-tool>.

Article 3 Acknowledgement of Federal Funding from DHS

Recipients must acknowledge their use of federal funding when issuing statements, press releases, requests for proposals, bid invitations, and other documents describing projects or programs funded in whole or in part with federal funds.

Article 4 Activities Conducted Abroad

Recipients must ensure that project activities carried on outside the United States are coordinated as necessary with appropriate government authorities and that appropriate licenses, permits, or approvals are obtained.

Article 5 Age Discrimination Act of 1975

Recipients must comply with the requirements of the Age Discrimination Act of 1975, Pub. L. No. 94-135 (1975) (codified as amended at Title 42, U.S. Code, § 6101 et seq.), which prohibits discrimination on the basis of age in any program or activity receiving federal financial assistance.

Article 6 Americans with Disabilities Act of 1990

Recipients must comply with the requirements of Titles I, II, and III of the Americans with Disabilities Act, Pub. L. No. 101-336 (1990) (codified as amended at 42 U.S.C. §§ 12101–12213), which prohibits recipients from discriminating on the basis of disability in the operation of public entities, public and private transportation systems, places of public accommodation, and certain testing entities.

Article 7 Best Practices for Collection and Use of Personally Identifiable Information (PII)

Recipients who collect PII are required to have a publically-available privacy policy that describes standards on the usage and maintenance of PII they collect. DHS defines personally identifiable information (PII) as any information that permits the identity of an individual to be directly or indirectly inferred, including any information that is linked or linkable to that individual. Recipients may also find the DHS Privacy Impact Assessments: Privacy Guidance and Privacy template as useful resources respectively.

Article 8 Civil Rights Act of 1964 – Title VI

Recipients must comply with the requirements of Title VI of the Civil Rights Act of 1964 (codified as amended at 42 U.S.C. § 2000d et seq.), which provides that no person in the United States will, on the grounds of race, color, or national origin, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance. DHS implementing regulations for the Act are found at 6 C.F.R. Part 21 and 44 C.F.R. Part 7.

Article 9 Civil Rights Act of 1968

Recipients must comply with Title VIII of the Civil Rights Act of 1968, Pub. L. No. 90-284, as amended through Pub. L. 113-4, which prohibits recipients from discriminating in the sale, rental, financing, and advertising of dwellings, or in the provision of services in connection therewith, on the basis of race, color, national origin, religion, disability, familial status, and sex (See 42 U.S.C. § 3601 et seq.), as implemented by the Department of Housing and Urban Development at 24 C.F.R. Part 100. The prohibition on disability discrimination includes the requirement that new multifamily housing with four or more dwelling units—i.e., the public and common use areas and individual apartment units (all units in buildings with elevators and ground-floor units in buildings without elevators)—be designed and constructed with certain accessible features. (See 24 C.F.R. Part 100, Subpart D)

Article 10 Copyright

Recipients must affix the applicable copyright notices of 17 U.S.C. §§ 401 or 402 and an acknowledgement of U.S. Government sponsorship (including the award number) to any work first produced under federal financial assistance awards.

Article 11 Debarment and Suspension

Recipients are subject to the non-procurement debarment and suspension regulations implementing Executive Orders (E.O.) 12549 and 12689, and 2 C.F.R. Part 180 as adopted by DHS at 2 C.F.R. Part 3000. These regulations restrict federal financial assistance awards, subawards, and contracts with certain parties that are debarred, suspended, or otherwise excluded from or ineligible for participation in federal assistance programs or activities.

Article 12 Drug-Free Workplace Regulations

Recipients must comply with drug-free workplace requirements in Subpart B (or Subpart C, if the recipient is an individual) of 2 C.F.R. Part 3001, which adopts the Government-wide implementation (2 C.F.R. Part 182) of sec. 5152-5158 of the Drug-Free Workplace Act of 1988 (41 U.S.C. 8101).

Article 13 Duplication of Benefits

Any cost allocable to a particular federal financial assistance award provided for in 2 C.F.R. Part 200, Subpart E may not be charged to other federal financial assistance awards to overcome fund deficiencies, to avoid restrictions imposed by federal statutes, regulations, or federal financial assistance award terms and conditions, or for other reasons. However, these prohibitions would not preclude recipients from shifting costs that are allowable under two or more awards in accordance with existing federal statutes, regulations, or the federal financial assistance award terms and conditions.

Article 14 Education Amendments of 1972 (Equal Opportunity in Education Act) – Title IX

Recipients must comply with the requirements of Title IX of the Education Amendments of 1972 Pub. L. No. 92-318 (1972) (codified as amended at 20 U.S.C. § 1681 et seq.), which provide that no person in the United States will, on the basis of sex, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any educational program or activity receiving federal financial assistance. DHS implementing regulations are codified at 6 C.F.R. Part 17 and 44 C.F.R. Part 19.

Article 15 Energy Policy and Conservation Act

Recipients must comply with the requirements of The Energy Policy and Conservation Act Pub. L. No. 94- 163 (1975) (codified as amended at 42 U.S.C. § 6201 et seq.), which contain policies relating to energy efficiency that are defined in the state energy conservation plan issued in compliance with this Act.

Article 16 False Claims Act and Program Fraud Civil Remedies

Recipients must comply with the requirements of The False Claims Act, 31 U.S.C. § 3729-3733, which prohibits the submission of false or fraudulent claims for payment to the federal government. (See 31 U.S.C. § 3801-3812 which details the administrative remedies for false claims and statements made.

Article 17 Federal Debt Status

All recipients are required to be non-delinquent in their repayment of any federal debt. Examples of relevant debt include delinquent payroll and other taxes, audit disallowances, and benefit overpayments. (See OMB Circular A-129.)

Article 18 Federal Leadership on Reducing Text Messaging while Driving

Recipients are encouraged to adopt and enforce policies that ban text messaging while driving as described in E.O. 13513, including conducting initiatives described in Section 3(a) of the Order when on official government business or when performing any work for or on behalf of the federal government.

Article 19 Fly America Act of 1974

Recipients must comply with Preference for U.S. Flag Air Carriers (air carriers holding certificates under 49 U.S.C. § 41102) for international air transportation of people and property to the extent that such service is available, in accordance with the International Air Transportation Fair Competitive Practices Act of 1974, 49 U.S.C. § 40118, and the interpretative guidelines issued by the Comptroller General of the United States in the March 31, 1981, amendment to Comptroller General Decision B-138942.

Article 20 Hotel and Motel Fire Safety Act of 1990

In accordance with Section 6 of the Hotel and Motel Fire Safety Act of 1990, 15 U.S.C. § 2225a, recipients must ensure that all conference, meeting, convention, or training space funded in whole or in part with federal funds complies with the fire prevention and control guidelines of the Federal Fire Prevention and Control Act of 1974, codified as amended at 15 U.S.C. § 2225.

- Article 21 Limited English Proficiency (Civil Rights Act of 1964, Title VI)**
Recipients must comply with the Title VI of the Civil Rights Act of 1964 (42 U.S.C. § 2000d et seq.) prohibition against discrimination on the basis of national origin, which requires that recipients of federal financial assistance take reasonable steps to provide meaningful access to persons with limited English proficiency (LEP) to their programs and services. For additional assistance and information regarding language access obligations, please refer to the DHS Recipient Guidance <https://www.dhs.gov/guidancepublished-help-department-supported-organizations-provide-meaningfulaccess-people-limited> and additional resources on <http://www.lep.gov>.
- Article 22 Lobbying Prohibitions**
Recipients must comply with 31 U.S.C. § 1352, which provides that none of the funds provided under a federal financial assistance award may be expended by the recipient to pay any person to influence, or attempt to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with any federal action related to a federal award or contract, including any extension, continuation, renewal, amendment, or modification.
- Article 23 National Environmental Policy Act**
Recipients must comply with the requirements of the National Environmental Policy Act of 1969, Pub. L. No. 91-190 (1970) (codified as amended at 42 U.S.C. § 4321 et seq.) (NEPA) and the Council on Environmental Quality (CEQ) Regulations for Implementing the Procedural Provisions of NEPA, which requires recipients to use all practicable means within their authority, and consistent with other essential considerations of national policy, to create and maintain conditions under which people and nature can exist in productive harmony and fulfill the social, economic, and other needs of present and future generations of Americans.
- Article 24 Nondiscrimination in Matters Pertaining to Faith-Based Organizations**
It is DHS policy to ensure the equal treatment of faith-based organizations in social service programs administered or supported by DHS or its component agencies, enabling those organizations to participate in providing important social services to beneficiaries. Recipients must comply with the equal treatment policies and requirements contained in 6 C.F.R. Part 19 and other applicable statutes, regulations, and guidance governing the participations of faith-based organizations in individual DHS programs.
- Article 25 Non-supplanting Requirement**
Recipients receiving federal financial assistance awards made under programs that prohibit supplanting by law must ensure that federal funds do not replace (supplant) funds that have been budgeted for the same purpose through non-federal sources.
- Article 26 Notice of Funding Opportunity Requirements**
All of the instructions, guidance, limitations, and other conditions set forth in the Notice of Funding Opportunity (NOFO) for this program are incorporated hereby reference in the award terms and conditions. All recipients must comply with any such requirements set forth in the program NOFO.

Article 27 Patents and Intellectual Property Rights

Unless otherwise provided by law, recipients are subject to the Bayh-Dole Act, 35 U.S.C. § 200 et seq. Recipients are subject to the specific requirements governing the development, reporting, and disposition of rights to inventions and patents resulting from federal financial assistance awards located at 37 C.F.R. Part 401 and the standard patent rights clause located at 37 C.F.R. § 401.14.

Article 28 Procurement of Recovered Materials

States, political subdivisions of states, and their contractors must comply with Section 6002 of the Solid Waste Disposal Act, Pub. L. No. 89-272 (1965) (codified as amended by the Resource Conservation and Recovery Act, 42 U.S.C. § 6962. The requirements of Section 6002 include procuring only items designated in guidelines of the Environmental Protection Agency (EPA) at 40 C.F.R. Part 247 that contain the highest percentage of recovered materials practicable, consistent with maintaining a satisfactory level of competition.

Article 29 Rehabilitation Act of 1973

Recipients must comply with the requirements of Section 504 of the Rehabilitation Act of 1973, Pub. L. No. 93-112 (1973) (codified as amended at 29 U.S.C. § 794), which provides that no otherwise qualified handicapped individuals in the United States will, solely by reason of the handicap, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving federal financial assistance.

Article 30 Reporting of Matters Related to Recipient Integrity and Performance

If the total value of the recipient's currently active grants, cooperative agreements, and procurement contracts from all federal assistance offices exceeds \$10,000,000 for any period of time during the period of performance of this federal financial assistance award, the recipient must comply with the requirements set forth in the government-wide Award Term and Condition for Recipient Integrity and Performance Matters located at 2 C.F.R. Part 200, Appendix XII, the full text of which is incorporated here by reference in the award terms and conditions.

Article 31 Reporting Subawards and Executive Compensation

Recipients are required to comply with the requirements set forth in the government-wide Award Term on Reporting Subawards and Executive Compensation located at 2 C.F.R. Part 170, Appendix A, the full text of which is incorporated here by reference in the award terms and conditions.

Article 32 SAFECOM

Recipients receiving federal financial assistance awards made under programs that provide emergency communication equipment and its related activities must comply with the SAFECOM Guidance for Emergency Communication Grants, including provisions on technical standards that ensure and enhance interoperable communications.

Article 33 Terrorist Financing

Recipients must comply with E.O. 13224 and U.S. laws that prohibit transactions with, and the provisions of resources and support to, individuals and organizations associated with terrorism. Recipients are legally responsible to ensure compliance with the Order and laws.

Article 34 Trafficking Victims Protection Act of 2000

Recipients must comply with the requirements of the government-wide financial assistance award term which implements Section 106(g) of the Trafficking Victims Protection Act of 2000, (TVPA) codified as amended by 22 U.S.C. § 7104. The award term is located at 2 C.F.R. § 175.15, the full text of which is incorporated here by reference.

Article 35 Universal Identifier and System of Award Management (SAM)

Recipients are required to comply with the requirements set forth in the government-wide financial assistance award term regarding the System for Award Management and Universal Identifier Requirements located at 2 C.F.R. Part 25, Appendix A, the full text of which is incorporated here by reference.

Article 36 USA Patriot Act of 2001

Recipients must comply with requirements of Section 817 of the Uniting and Strengthening America by Providing Appropriate Tools Required to Intercept and Obstruct Terrorism Act of 2001 (USA PATRIOT Act), which amends 18 U.S.C. §§ 175–175c.

Article 37 Use of DHS Seal, Logo and Flags

Recipients must obtain permission from their DHS FAO prior to using the DHS seal(s), logos, crests or reproductions of flags or likenesses of DHS agency officials, including use of the United States Coast Guard seal, logo, crests or reproductions of flags or likenesses of Coast Guard officials.

Article 38 Whistleblower Protection Act

Recipients must comply with the statutory requirements for whistleblower protections (if applicable) at 10 U.S.C § 2409, 41 U.S.C. 4712, and 10 U.S.C. § 2324, 41 U.S.C. §§ 4304 and 4310.

Article 39 Acceptance of Post Award Changes

In the event FEMA determines that changes are necessary to the award document after an award has been made, including changes to period of performance or terms and conditions, recipients will be notified of the changes in writing. Once notification has been made, any subsequent request for funds will indicate recipient acceptance of the changes to the award. Please call the FEMA/GMD Call Center at (866) 927-5646 or via e-mail to ASK-GMD@dhs.gov if you have any questions.

Article 40 Prior Approval for Modification of Approved Budget

Before making any change to the DHS/FEMA approved budget for this award, you must request prior written approval from DHS/FEMA where required by 2 C.F.R. § 200.308. DHS/FEMA is also utilizing its discretion to impose an additional restriction under 2 C.F.R. § 200.308(e) regarding the transfer of funds among direct cost categories, programs, functions, or activities. Therefore, for awards with an approved budget where the Federal share is greater than the simplified acquisition threshold (currently \$250,000), you may not transfer funds among direct cost categories, programs, functions, or activities without prior written approval from DHS/FEMA where the cumulative amount of such transfers exceeds or is expected to exceed ten percent (10%) of the total budget DHS/FEMA last approved. You must report any deviations from your DHS/FEMA approved budget in the first Federal Financial Report (SF-425) you submit following any budget deviation, regardless of whether the budget deviation requires prior written approval.

Article 41 Disposition of Equipment Acquired Under the Federal Award

When original or replacement equipment acquired under this award by the recipient or its subrecipients is no longer needed for the original project or program or for other activities currently or previously supported by DHS/FEMA, you must request instructions from DHS/FEMA to make proper disposition of the equipment pursuant to 2 C.F.R. § 200.313.

Article 42 Environmental Planning and Historic Preservation

DHS/FEMA funded activities that may require an EHP review are subject to FEMA's Environmental Planning and Historic Preservation (EHP) review process. This review does not address all Federal, state, and local requirements. Acceptance of Federal funding requires recipient to comply with all Federal, state and local laws. Failure to obtain all appropriate federal, state and local environmental permits and clearances may jeopardize Federal funding. DHS/FEMA is required to consider the potential impacts to natural and cultural resources of all projects funded by DHS/FEMA grant funds, through its EHP Review process, as mandated by the National Environmental Policy Act; National Historic Preservation Act of 1966, as amended; National Flood Insurance Program regulations; and, any other applicable laws and Executive Orders. To access the FEMA's Environmental and Historic Preservation (EHP) screening form and instructions go to the DHS/FEMA website at: <https://www.fema.gov/media-library/assets/documents/90195>. In order to initiate EHP review of your project(s), you must complete all relevant sections of this form and submit it to the Grant Programs Directorate (GPD) along with all other pertinent project information. Failure to provide requisite information could result in delays in the release of grant funds. If ground disturbing activities occur during construction, applicant will monitor ground disturbance, and if any potential archeological resources are discovered, applicant will immediately cease work in that area and notify the pass-through entity, if applicable, and DHS/FEMA.

Obligating document

1. Agreement No. EMW-2018-FO-02171	2. Amendment No. N/A	3. Recipient No. 94-6000398	4. Type of Action AWARD	5. Control No. WX02674N2019T		
6. Recipient Name and Address PORTERVILLE, CITY OF 291 N MAIN ST PORTERVILLE, CA 93257		7. Issuing FEMA Office and Address Grant Programs Directorate 500 C Street, S.W. Washington DC, 20528-7000 1-866-927-5646		8. Payment Office and Address FEMA, Financial Services Branch 500 C Street, S.W., Room 723 Washington DC, 20742		
9. Name of Recipient Project Officer Dave LaPere		9a. Phone No. 559-782-7527	10. Name of FEMA Project Coordinator Assistance to Firefighters Grant Program	10a. Phone No. 1-866-274-0960		
11. Effective Date of This Action 09/16/2019	12. Method of Payment OTHER - FEMA GO	13. Assistance Arrangement COST SHARING		14. Performance Period 09/23/2019 to 09/22/2020 Budget Period 09/23/2019 to 09/22/2020		
15. Description of Action a. (Indicate funding data for awards or financial changes)						
Program Name Abbreviation	Assistance Listings No.	Accounting Data (ACCS Code)	Prior Total Award	Amount Awarded This Action + or (-)	Current Total Award	Cumulative Non-Federal Commitment
AFG	97.044	2019-F8-GB01 - P431-xxxx-4101-D	\$0.00	\$180,211.81	\$180,211.81	\$18,021.19
Totals			\$0.00	\$180,211.81	\$180,211.81	\$18,021.19
b. To describe changes other than funding data or financial changes, attach schedule and check here: N/A						
16. FOR NON-DISASTER PROGRAMS: RECIPIENT IS REQUIRED TO SIGN AND RETURN THREE (3) COPIES OF THIS DOCUMENT TO FEMA (See Block 7 for address) This field is not applicable for digitally signed grant agreements						

17. RECIPIENT SIGNATORY OFFICIAL (Name and Title)	DATE
18. FEMA SIGNATORY OFFICAL (Name and Title)	DATE
Bridget Bean, Acting Assistant Administrator Grant Programs Directorate	09/16/2019



CITY COUNCIL AGENDA – OCTOBER 15, 2019

SUBJECT: Resolution Authorizing Application For and Receipt of SB2 Planning Grant Program Funds

SOURCE: Community Development

COMMENT: At the meeting of October 1, 2019, the City Council authorized staff to prepare grant application materials to pursue SB2 Grant Funds. A Resolution of support is a required element of this grant package. The draft Resolution presented in this report is, effectively, the model resolution prepared by the State for use by grant applicants.

The option Council directed staff to pursue was "Option 1", which focuses on PPA #2 – Objective Design and #4 – Innovative Building Strategies, as well as State Planning Priorities #1 – Use Land Efficiently, and # 4 – served by adequate transportation and other essential utilities and services. It would serve to immediately make available pre-approved plans to fit on standard sized lots that are common in some of the older neighborhoods of the city where staff often see property owners looking for ways to redevelop for rental purposes. These pre-approved multi-family residential and accessory dwelling unit site plans can assist developers and property owners lower costs of replacing aging structures by eliminating the need for draftsmen and architects, and also enable non-professional developers to update properties. A property owner could simply select their preferred plan, pay permit fees, and hire a contractor to begin construction.

The deadline to submit the grant application to HCD for consideration and approval is November 30, 2019.

RECOMMENDATION: That the City Council adopt the Resolution in support of the City of Porterville's SB2 Grant Application for housing related planning efforts.

ATTACHMENTS: 1. Draft Resolution

Appropriated/Funded:

Review By:

Department Director:

Final Approver: John Lollis, City Manager

RESOLUTION NO. ____-2019

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
AUTHORIZING APPLICATION FOR, AND RECEIPT OF, SENATE BILL 2 PLANNING
GRANTS PROGRAM FUNDS

WHEREAS: the State of California, Department of Housing and Community Development (Department) issued a Notice of Funding Availability (NOFA) date March 28, 2019, for its Planning Grants Program (PGP); and

WHEREAS: The City Council of the City of Porterville desires to submit a project application for the PGP program to accelerate the production of housing and will submit a 2019 PGP grant application described in the Planning Grants Program NOFA and Senate Bill 2 (SB 2) Planning Grants Program Guidelines by the Department for the PGP Program; and

WHEREAS: The Department is authorized to provide up to \$123 million under the SB 2 Planning Grants Program from the Building Homes and Jobs Trust Fund for assistance to Counties (as described in Health and Safety Code section 50470 et seq. (Chapter 364, Statutes of 2017 (SB 2)) related to the PGP program.

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

1. That the City Council of the City of Porterville is hereby authorized and directed to apply for and submit to the Department the 2019 Planning Grants Application released March 28, 2019 in the amount of \$310,000.
2. In connection with the PGP grant, if the application is approved by the Department, the Director of the Community Development Department is authorized to enter into, execute, and deliver, a State of California Agreement (Standard Agreement) for the amount of \$310,000, and any and all other documents required or deemed necessary or appropriate to evidence and secure the PGP grant, the City's obligations related thereto, and all amendments thereto (collectively, the "PGP Grant Documents").
3. The City shall be subject to the terms and conditions as specified in the Standard Agreement, the SB 2 Planning Grants Program Guidelines, and any applicable PGP guidelines published by the Department. Funds are to be used for allowable expenditures as specifically identified in the Standard Agreement. The application in full is incorporated as part of the Standard Agreement. Any and all activities funded, information provided, and timelines represented in the application will be enforceable through the executed Standard Agreement. The City Council hereby agrees to the use of the funds for eligible uses in the manner presented in the application as approved by the Department and in accordance with the Planning Grants NOFA, the Planning Grants Program Guidelines, and 2019 Planning Grants Program Application.
4. The Director of the Community Development Department is authorized to execute the City of Porterville Planning Grants Program application, the PGP Grant Documents, and any

amendments thereto, on behalf of the City as required by the Department for receipt of the PGP Grant.

PASSED, APPROVED AND ADOPTED this 15th day of October, 2019.

Martha A. Flores, Mayor

ATTEST:
John D. Lollis, City Clerk

By _____
Patrice Hildreth, Chief Deputy City Clerk



CITY COUNCIL AGENDA – OCTOBER 15, 2019

SUBJECT: Approval of a Notice of Determination for the Akin Well Project

SOURCE: Community Development

COMMENT: At its meeting of May 21, 2019, the City Council directed the Public Works Director and staff to cooperatively work with State Water Resources Control Board's (Water Boards) staff to modify the Akin Water Company Consolidation funding application. This effort was the result of re-negotiations between the City and Water Boards regarding the provision of water supply related to the Akin consolidation, whereby the City ultimately requested amended terms, coordinating the consolidation and satisfying the remaining capacity needs of the East Porterville Water Supply Project.

As staff progresses given Council's direction, the construction of the well is subject to the California Environmental Quality Act (CEQA). In 2016, the Water Boards had prepared an environmental analysis pursuant to CEQA as part of the previous Akin consolidation application. Pursuant to Section 15096 of the California Code of Regulations pertaining to CEQA Guidelines, the City's responsibility, as a Responsible Agency, is to file a Notice of Determination in the same manner as the lead agency. The next steps will be for the Water Boards to identify the funding source and secure a funding agreement with the City.

RECOMMENDATION: That the City Council direct staff to file a Notice of Determination with the State Clearinghouse and with the Tulare County Clerk, to achieve CEQA compliance required in association with the Akin Well project.

ATTACHMENTS:

1. Notice of Determination
2. Locator Map - Well #34

Appropriated/Funded:

Review By:
Department Director:

Final Approver: John Lollis, City Manager



Notice of Determination

To:

- ☒ Office of Planning and Research
P.O. Box 3044
Sacramento, CA 95812-3044

- ☒ Tulare County Clerk
County Civic Center
221 South Mooney Blvd, Room #105
Visalia, CA 93291

From:

Lead Agency: City of Porterville
Address: 291 N Main Street
Porterville, CA 93257
Contact: Jennifer Byers
Phone: (559) 782-7460
Email: planning@ci.porterville.ca.us

Applicant: WaterBoards
Address: 1001 I Street
Sacramento, CA 95814
Contact: Carol Atkins
Phone: (916) 341-5460

SUBJECT: Filing of Notice of Determination in compliance with Section 21108 or 21152 of the Public Resource Code.

State Clearinghouse Number (if submitted to State Clearinghouse) 2016031045

Project Title: Akin Water Company Water Supply Project (Akin Well)

Project Applicant: State Water Resources Control Board (WaterBoards)

Project Location: City of Porterville, Tulare County

Project Description: The proposed project includes the construction of a new well to serve the City of Porterville, the construction of new distribution pipelines, the abandonment of two new existing wells, and the consolidation of the Akin Water Company into the City of Porterville Water System. The new well, located on city-owned property, will be 16 inches in diameter, 710 feet deep, and provide up to 2,000 gallons per minute (gpm) capacity. The proposed distribution pipelines will connect into the existing City of Porterville Water system in various locations within the city limits of Porterville.

This is to advise that the City of Porterville, as Responsible Agency has approved the above described project on ____ and has made the following determinations regarding the above described project:

1. The Project [☐ will ☒ will not] have a significant effect on the environment.
2. ☐ An Environmental Impact Report was prepared for this project pursuant to the provisions of CEQA
☒ A Negative Declaration was prepared for this project pursuant to the provisions of CEQA.
3. Mitigation measures [☒ were ☐ were not] made a condition of the approval of the project.
4. A mitigation reporting or monitoring plan [☒ was ☐ was not] adopted for this project.
5. A statement of Overriding Considerations [☐ was ☒ was not] adopted for this project.
6. Findings [☒ were ☐ were not] made pursuant to the provisions of CEQA.

This is to certify that the final MND with comments and responses and record of project approval, or the Negative Declaration, is available to the General Public at: Porterville City Hall, 291 N. Main Street, Porterville, CA 93257.

Signature: _____

Title: Community Development Director

Date: _____

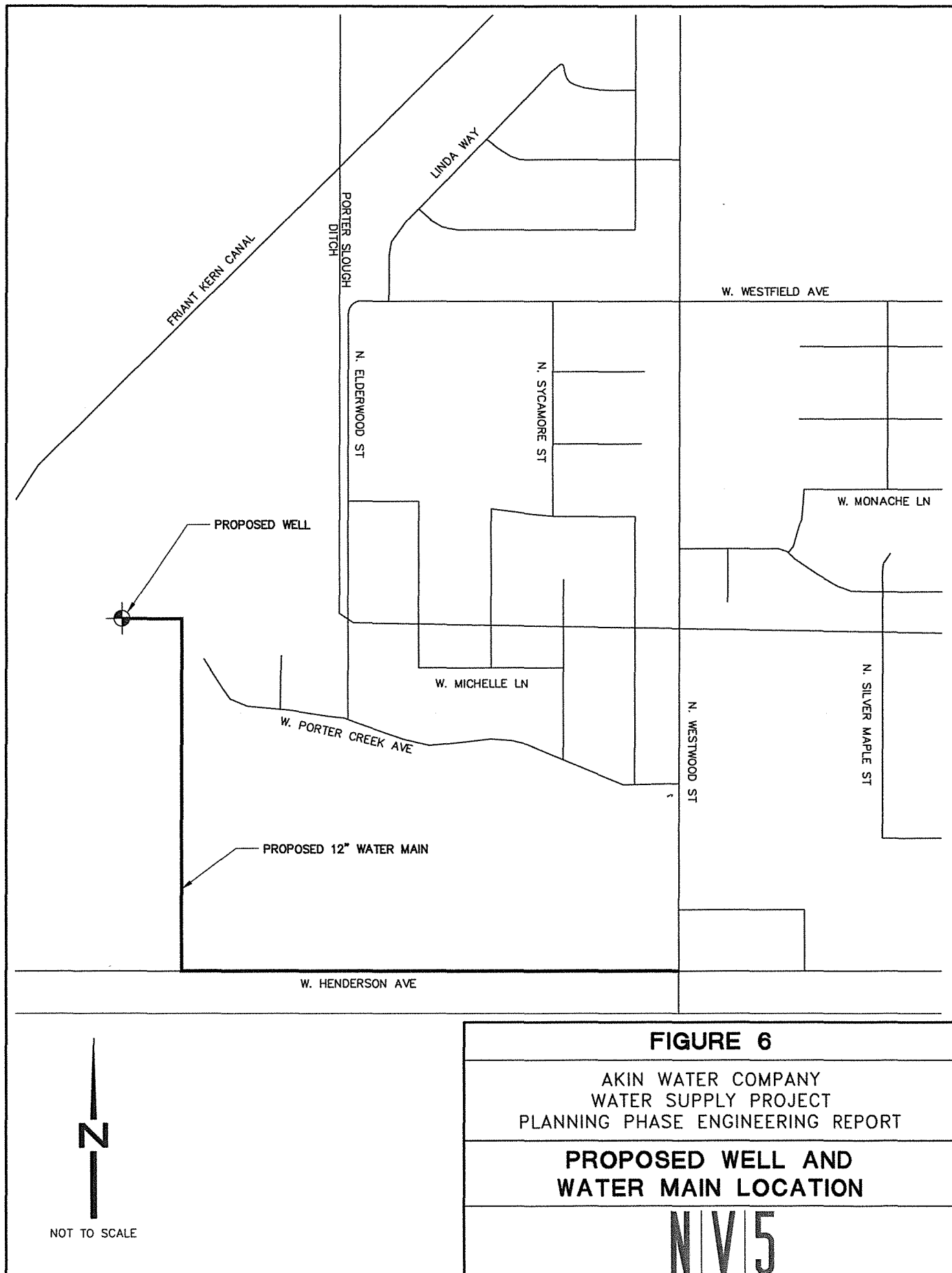


FIGURE 6

AKIN WATER COMPANY
WATER SUPPLY PROJECT
PLANNING PHASE ENGINEERING REPORT

**PROPOSED WELL AND
WATER MAIN LOCATION**

N/V/5



CITY COUNCIL AGENDA – OCTOBER 15, 2019

SUBJECT: Approval for Community Civic Event - Dia De Los Muertos Car Show Toy Drive - U.S. Marines Reserves Toys for Tots Foundation - October 26, 2019

SOURCE: Finance

COMMENT: The U.S. Marines Reserve Toys for Tots Foundation is requesting approval to hold a car show and toy drive on Saturday, October 26, 2019, from 8:00 a.m. to 3:00 p.m., on downtown Main Street, between Morton Avenue and Olive Avenue. A map has been provided for the requested street closures.

This request is made under the Community Civic Events Ordinance No. 1326, as amended. The application has been routed according to the ordinance regulations and reviewed by all departments involved. The requirements are listed on the attached copy of the application and agreement, Exhibit A and Exhibit B.

RECOMMENDATION: That the City Council approve the attached Community Civic Event Application and Agreement submitted by the U.S. Marines Reserve Toys for Tots Foundation, subject to the stated requirements contained in the Application and Agreement, Exhibit A and Exhibit B.

ATTACHMENTS:

1. Community Civic Event Application and Agreement, Exhibit A, Exhibit B, Maps, Outside Amplifier Permit and Certificate of Liability Insurance

Appropriated/Funded:

Review By:

Department Director:

Maria Bemis, Finance Director

Final Approver: John Lollis, City Manager

CITY OF PORTERVILLE

291 N. Main Street, Porterville, CA 93257
559-782-7451 Fax: 784-4569 www.ci.porterville.ca.us



(Incomplete applications can delay permit process)

APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

DO YOU HAVE? Event Flyer? E-mail address? ☒ Website? ☒
Application date: 10/4/19 Event date: 10/26/19
Event time: 8AM - 3PM

Name of Event: Dia De los Muertos Car Show Toy Drive
10/4/19

Sponsoring organization: U.S. Marines Reserve Phone # 559-544-1715

Address: 345 W. Bellevue Ave., Porterville 93257

Authorized representative: Grace Munoz-Rios Phone # 559-289-9381

Address: 345 W. Bellevue Ave., Porterville, CA 93257

Event chairperson: Grace Munoz-Rios Phone # 559-289-9381

setularecounty.toysfortots@gmail.com

Location of event Downtown Main Street

(Location map must be attached)

Type of event: Car Show, Toy Drive

Non-profit organization status: 501c3 BL# 004432

(IRS Determination)

City services requested (fees associated with these services will be billed separately):

Barricades (quantity): 36 Street sweeping Yes ☒ No ☐

Police protection Yes ☐ No ☐ Refuse pickup Yes ☒ No ☐

Other: _____

Parks facility application required: Yes ☒ No ☐ Attached ☒

Assembly permit required: Yes ☒ No ☐ Attached ☐

STAFF COMMENTS (list special requirements or conditions for event):

Appr. Deny

_____	_____	Bus. Lic. Spvr.	_____
_____	_____	Pub. Works Dir	_____
_____	_____	Comm. Dev. Dir.	_____
_____	_____	Field Svcs. Mgr.	_____
_____	_____	Fire Chief	_____
_____	_____	Parks Dir.	_____
_____	_____	Police Chief	_____
_____	_____	Admin. Svcs. Dir.	_____

CITY OF PORTERVILLE

APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

What constitutes a Community Civic Event?

A non-profit organization wishes to sponsor an event that is open to the community at large and will utilize public property. Most of the time, Community Civic Events require street or sidewalk closures. This application must be submitted NO LESS THAN 30 DAYS PRIOR to the date of the event in order to obtain City Council approval.

All City Code requirements are described in ordinance 15-20 (e) 1-23 and as amended in ordinance 1613. For a full description please visit our City of Porterville website at www.ci.porterville.ca.us/govt/CityClerk/, Porterville Municipal Codes. For questions or concerns please call 559-782-7451 or 559-782-7457. Any person who violates the provisions in this code, shall be deemed guilty of either a misdemeanor or an infraction, with penalties of one hundred (\$100) for the first violation.

Liability insurance: The sponsoring organization/applicant agrees to provide and keep in force during the term of this permit a policy of liability and property damage insurance against liability for personal injury, including accidental death, as well as liability for property damage which may arise in any way during the term of this permit. **The City of Porterville and Successor Agency to the Porterville Redevelopment Agency shall be named as additional insured.** A Certificate of Liability Insurance and Additional Insured Endorsement sample forms are enclosed for your convenience. **This original certificate and endorsement shall be submitted to the Finance Department prior to the City of Porterville Council's approval.** *The council shall condition the granting of a CCE permit upon the sponsoring entity's filing with the council a policy of public liability insurance in which the city has been named as insured or coinsured with the permittee. The policy of insurance shall insure the city, its officers, and its employees against all claims arising out of, or in connection with, the issuance of the CCE permit or the operation of the permittee or its agents or representatives, pursuant to the permit. The policy of insurance shall provide coverage of no less than one million dollars (\$1,000,000.00) per occurrence of bodily injury and property damage, combined single limit. (Ordinance 15-20(e) 18)*

 Authorized Representative Initial

Alcohol liability insurance: Organization/Applicant will obtain an alcohol permit if any alcoholic beverages are to be served. The insurance policy shall be endorsed to include **full liquor liability** in an amount not less than one million dollars (\$1,000,000) per occurrence. The City of Porterville shall be named as additional insured against all claims arising out of or in connection with the issuance of this permit or the operation of the permitted, his/her agents or representatives pursuant the permit. **Claims-made policies are not acceptable.**

 Authorized Representative Initials

Health permit: Organization/Applicant will obtain or ensure that all participants obtain a 'Temporary Food Facilities' permit(s) from the Tulare County Public Health Department, if any food is to be served in connection with this Community Civic Event. To contact the Tulare County Environmental Health Department located at 5957 S. Mooney Blvd., Visalia, CA, 93277, call 559-733-6441, or fax information to 559-733-6932; or visit their website: www.tularehhsa.org.

First aid station: Organization/Applicant will establish a first aid station, with clearly posted signs, to provide basic emergency care, such as ice/hot packs, bandages, and compresses.

 Authorized Representative Initials

 Authorized Representative Initials

Toilet rental service: Applicant shall have care, custody and control of the equipment and shall bear responsibility and liability for all loss and damage to the equipment and for its contents while at the City's location. Applicant shall not overload, move or alter the equipment and shall use the equipment for its intended purpose. Applicant shall be responsible for any damages to City's property resulting from company's provision of services hereunder. Applicant shall confirm with the service company the number of portable toilets, standard and handicap, and wash sinks needed for the number of expected attendees.

 Authorized Representative Initials

Agreement: The sponsoring organization/applicant agrees to comply with all provisions of the Community Civic Event Ordinance 15-20(e), as amended, and the terms and conditions set forth by City Council and stated in Exhibit 'A.' The sponsoring organization/applicant agrees, during the term of this permit, to secure and hold the City free and harmless from all loss, liability, and claims for damages, costs and charges of any kind or character arising out of, relating to, or in any way connected with his/her performance of this permit. Said agreement to hold harmless shall include and extend to any injury to any person or persons, or property of any kind whatsoever and to whomever belonging, including, but not limited to, said organization/applicant, and shall not be liable to the City for any injury to persons or property which may result solely or primarily from the action or non-action of the City or its directors, officers, or employees. Approval of the Community Civic Events Permit by the Porterville City Council pertains only to authorized activities conducted at designated locations within the incorporated area of the City of Porterville, and such approval shall not be construed or interpreted to authorize sponsor utilization of public right-of-ways outside of the jurisdiction of the City of Porterville.

US Marines Reserve Toys for Tots		10/4/19
(Name of Organization)	(Signature)	(Date)

~~TO BE HELD ON PUBLIC PROPERTY~~

TO BE HELD ON PUBLIC PROPERTY

All vendors are required to complete the business license permit form. List all firms, individuals, organizations, etc., that will engage in selling at or participate in the above-named event. **NO PERMIT WILL BE ISSUED WITHOUT THIS INFORMATION.** Vendors with no valid City of Porterville business license are required to pay \$1 per day to the City, with the exceptions of non-profit organizations per *City of Porterville Municipal Code 15-20(E) Community Civic Events (16). This form should be completed at the time of application, but must be submitted **NO LESS THAN ONE WEEK PRIOR TO THE EVENT.**

[illegible]

The nonprofit sponsor shall collect said fee and remit the fee to the city within five (5) working days following the CCE. Said remittance shall be accompanied by a complete list of participants and consecutively numbered receipts written in triplicate, containing the name, address and telephone number of the licensee, and the licensee's California seller's permit number. Said receipts shall be furnished by the city. One copy of the receipt shall be furnished to the licensee, one copy filed with the finance department of the city, and one copy retained by the CCE sponsor for a period of three (3) years for audit purposes.

CITY OF PORTERVILLE

REQUEST FOR STREET CLOSURES AND PUBLIC PROPERTY USAGE IN CONNECTION WITH THE APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

Name of event: Dia De los Muertos Car Show Toy Drive

Sponsoring organization: US Marines Reserve Toys for Tots

Event date: 10/26/19 Hours: 8-3 PM

ATTACH MAP MARKING AREAS TO BE CLOSED OR USED:

Closed

<u>Street Name</u>	<u>From</u>	<u>To</u>	<u>Activity</u>
<u>Morton Main</u>	<u>Morton</u>	<u>Olive</u>	
<u>Harrison</u>	<u>Division</u>	<u>2nd</u>	
<u>Thurman</u>	<u>Division</u>	<u>2nd</u>	
<u>Cleveland</u>	<u>Division</u>	<u>2nd</u>	
<u>Putnam</u>	<u>Division</u>	<u>2nd</u>	
<u>Mill</u>	<u>Division</u>	<u>2nd</u>	
<u>Oak</u>	<u>Division</u>	<u>2nd</u>	
<u>Garden</u>	<u>Main</u>	<u>2nd</u>	
<u>Olive</u>	<u>Hockett</u>	<u>2nd</u>	
<u>Sidewalks</u>	<u>From</u>	<u>To</u>	<u>Activity</u>
<u>Parking lots and spaces</u>	<u>Location</u>	<u>Activity</u>	

Requirements for Community Civic Event

U.S. Marines Reserve Toys for Tots
Dia De Los Muertos Car Show Toy Drive
October 26, 2019

Finance Director:
M. Bemis

City Engineer:
D. Cervantez

Community Development Manager:
J. Phillips

Please note, arrange event as not to impede any construction activities at Main and Olive Street.

Public Works Director:
M. Knight

Fire Marshal:
C. Dignam

No requirements.

Parks and Leisure Services Director:
D. Moore

Vehicles to remain off grass. Please coordinate with City Electrician, at least 48 hours prior to event, for electrical outlet request.

Police Lieutenant:
J. Maniss

Please see Conditions/Requirements in Exhibit B.

Administrative Services Director:
P. Hildreth

Please see Exhibit A, page 2. Additional Insured Endorsement is required.

Requirements for Community Civic Event

Sponsor: U.S. Marines Reserve Toys for Tots
Event: Dia De Los Muertos Car Show Toy Drive
Event Chairman: Grace Munoz-Rios
Location: Downtown Porterville
Date of Event: October 26, 2019

RISK MANAGEMENT: Conditions of Approval

That the U.S Marines Reserve Toys for Tots provide a Certificate of Commercial General Liability Insurance Coverage evidencing coverage of not less than \$1,000,000 per occurrence, and having the appropriate Endorsement naming the City of Porterville and Successor Agency to the Porterville Redevelopment Agency, its Officers, Employees, Agents and Volunteers as 'Additional Insured' against all claims arising from, or in connection with, the Permitted operation and sponsorship of the aforementioned Community Civic Event. If the event is located in the City of Porterville's Redevelopment Agency area, the same conditions apply.

- A. Said Certificate of Insurance shall be an original (fax and xerographic copies not acceptable), the Certificate shall be signed by an agent authorized to bind insurance coverage with the carrier, and the deductible, if any, shall not be greater than \$1,000.
- A. Said insurance shall be primary to the insurance held by the City of Porterville, be with a company having an A.M. Best Rating of no less than A: VII, and the insurance company must be an 'admitted' insurer in the State of California.
- B. The sponsoring organization/applicant's insurance coverage shall apply primary to, and on a non-contributory basis with, any other available coverage of the City.

CITY OF PORTERVILLE

APPLICATION FOR COMMUNITY CIVIC EVENT

Proposed Event:

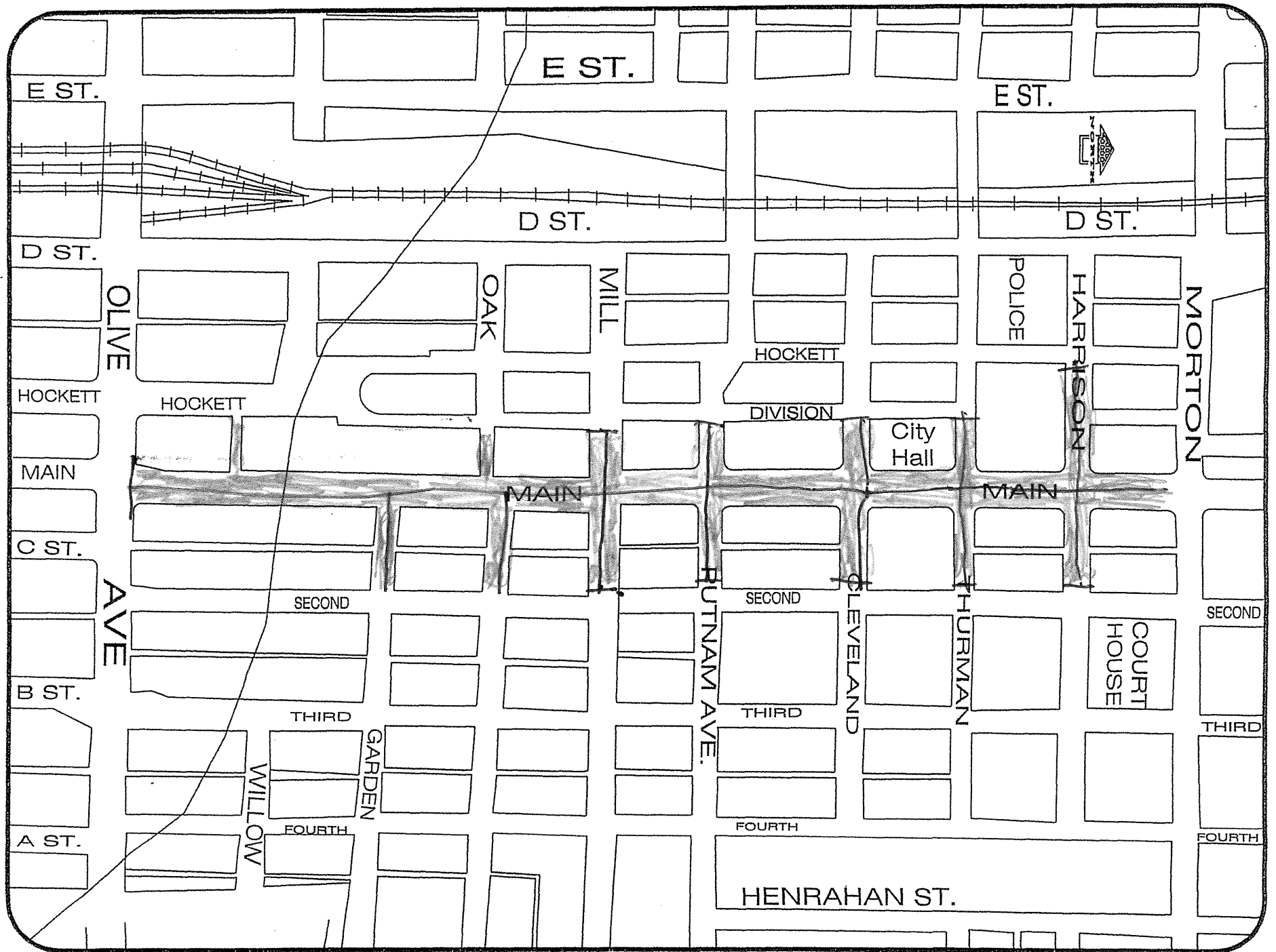
Dia De Los Muertos Car Show Toy Drive, Toys for Tots
Centennial Park
October 26, 2019 from 8:00am – 3:00pm

Staff Comments: Conditions/Requirements by Police Department

- All street closures require City Council approval well in advance of the event.
- No procession has been mentioned, but participants in any procession on city roadways must comply with all traffic laws and rules of the road. Additionally, they shall not impede vehicular or pedestrian traffic or generally interfere with the normal flow of traffic.
- There shall be no sales, possession or consumption of alcoholic beverages in the park during the event.
- Food vendors should provide inspection certificates from the Tulare County Health Department to event organizers to ensure safe food products.
- An Outside Amplifier Permit has been requested and granted. However, event organizers shall not allow music or other amplifications to be played so loud as to unreasonably disturb the peace and good order of the business establishments or neighborhoods in the area.

Josh Maniss / Lieutenant
Porterville Police Department

Exhibit B



CITY OF PORTERVILLE
OUTSIDE AMPLIFIER PERMIT
(City Ordinances #18-9 & 18-14)



This application must be submitted ten (10) days prior to the date of the event. A copy of this permit must be at the operating premises of the amplifying equipment for which this registration is issued.

- 1 Name and home address of the applicant: US Marines Reserve Toys for Tots
Grace Muñoz-Rios, 345 W. Bellevue Ave, Porterville, CA 93257
- 2 Address where amplification equipment is to be used: Centennial Park
- 3 Names and addresses of all persons who will use or operate the amplification equipment: DT - Grace
Munoz-Rios, 345 W. Bellevue Ave, Porterville, CA 93257
- 4 Type of event for which amplification equipment will be used: DT equipment: Speakers, Microphones, PC
- 5 Dates and hours of operation of amplification equipment: 10/26/19 8-3 PM
- 6 A general description of the sound amplifying equipment to be used: Car Show Toy Drive on Main Street

Section 18-9

It shall be unlawful for any person within the city to use or operate or cause to be operated or to play any radio, phonograph, jukebox, record player, loudspeaker, musical instrument, mechanical device, machine, apparatus, or instrument for intensification or amplification of the human voice or any sound or noise in a manner so loud as to be calculated to disturb the peace and good order of the neighborhood or sleep of ordinary persons in nearby residences or so loud as to unreasonably disturb and interfere with the peace and comfort of the occupants of nearby residences.

The operation of any such instrument, phonograph, jukebox, machine or device in such manner as to be plainly audible at a distance of one hundred feet (100') from the building, structure, vehicle, or place in which, or on which it is situated or located shall be prima facie evidence of a violation of this section. (Ord. Code § 6311)

Section 18-14

It shall be unlawful for any person to maintain, operate, connect, or suffer or permit to be maintained, operated, or operated, or connected any or sound amplifier in such a manner as to cause any sound to be projected outside of any building or out of doors in any part of the city, except as may be necessary to amplify sound for the proper presentation of moving picture shows, or exhibiting for the convenient hearing of patrons within the building or enclosure in which the show or or exhibition is given, without having first procured a permit from the chief of police, which permit shall be granted at the will of the chief of police upon application in writing therefore, but which permit, when granted, shall be revocable by the city council whenever any such loudspeaker or sound amplifier shall by the council be deemed objectionable, and any such permit may be so revoked with or without notice, or with or without a formal hearing, at the option of the council, and in the event of the revocation of any such permit, the same shall not be renewed, except upon application as the first instance. (Ord. Code § 6312)

Penal Code Section 415 (2)

Any of the following persons shall be punished by imprisonment in the county jail for a period of not more than 90 days, a fine of not more than four hundred dollars (\$400), or both such imprisonment and fine: (2) Any person who maliciously and willfully disturbs another person by loud and unreasonable noise.

I hereby certify that I have read and answered all statements on this registration form and that they are true and correct.

Grace Muñoz-Rios
Signature of Applicant

10/4/19
Date

THIS OUTSIDE AMPLIFIER PERMIT HAS BEEN APPROVED. HOWEVER, WE URGE YOU TO REMAIN CONSIDERATE OF THE GENERAL PEACE AND ORDER OF THE NEIGHBORS IN THE AREA. FAILURE TO ABIDE BY THESE REGULATIONS CAN RESULT IN REVOCATION OF THE PERMIT.

A. Munoz # 4121
City of Porterville, Chief of Police/Designee

10-8-19
Date



MARITON-01

JDUNNAGAN

CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

10/7/2019

THIS CERTIFICATE IS ISSUED AS A MATTER OF INFORMATION ONLY AND CONFERS NO RIGHTS UPON THE CERTIFICATE HOLDER. THIS CERTIFICATE DOES NOT AFFIRMATIVELY OR NEGATIVELY AMEND, EXTEND OR ALTER THE COVERAGE AFFORDED BY THE POLICIES BELOW. THIS CERTIFICATE OF INSURANCE DOES NOT CONSTITUTE A CONTRACT BETWEEN THE ISSUING INSURER(S), AUTHORIZED REPRESENTATIVE OR PRODUCER, AND THE CERTIFICATE HOLDER.

IMPORTANT: If the certificate holder is an ADDITIONAL INSURED, the policy(ies) must have ADDITIONAL INSURED provisions or be endorsed. If SUBROGATION IS WAIVED, subject to the terms and conditions of the policy, certain policies may require an endorsement. A statement on this certificate does not confer rights to the certificate holder in lieu of such endorsement(s).

PRODUCER COVA Insurance 900 Stanhope Gardens Suite 100 Chesapeake, VA 23320	CONTACT NAME:		
	PHONE (A/C, No, Ext): (757) 410-5800	FAX (A/C, No): (757) 282-7788	
INSURED Marine Toys For Tots Foundation Lt. Gen. Pete Osman 18251 Quantico Gateway Drive Triangle, VA 22172	E-MAIL ADDRESS:	jdunnagan@covains.com	
	INSURER(S) AFFORDING COVERAGE		NAIC #
	INSURER A : Selective Insurance Co of SC		19259
	INSURER B : Hartford Casualty Insurance Company		29424
	INSURER C :		
	INSURER D :		
INSURER E :			
INSURER F :			

COVERAGES

CERTIFICATE NUMBER:

REVISION NUMBER:

THIS IS TO CERTIFY THAT THE POLICIES OF INSURANCE LISTED BELOW HAVE BEEN ISSUED TO THE INSURED NAMED ABOVE FOR THE POLICY PERIOD INDICATED. NOTWITHSTANDING ANY REQUIREMENT, TERM OR CONDITION OF ANY CONTRACT OR OTHER DOCUMENT WITH RESPECT TO WHICH THIS CERTIFICATE MAY BE ISSUED OR MAY PERTAIN, THE INSURANCE AFFORDED BY THE POLICIES DESCRIBED HEREIN IS SUBJECT TO ALL THE TERMS, EXCLUSIONS AND CONDITIONS OF SUCH POLICIES. LIMITS SHOWN MAY HAVE BEEN REDUCED BY PAID CLAIMS.

INSR LTR	TYPE OF INSURANCE	ADDL SUBR INSD WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	☒ COMMERCIAL GENERAL LIABILITY ☐ CLAIMS-MADE ☒ OCCUR GEN'L AGGREGATE LIMIT APPLIES PER: ☐ POLICY ☐ PRO-JECT ☐ LOC OTHER:	X	S 2256862	4/22/2019	4/22/2020	EACH OCCURRENCE \$ 1,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 1,000,000 MED EXP (Any one person) \$ 20,000 PERSONAL & ADV INJURY \$ 1,000,000 GENERAL AGGREGATE \$ 2,000,000 PRODUCTS - COMP/OP AGG \$ 2,000,000
A	AUTOMOBILE LIABILITY ☐ ANY AUTO OWNED AUTOS ONLY ☐ SCHEDULED AUTOS ☒ HIRED AUTOS ONLY ☒ NON-OWNED AUTOS ONLY		S 2256862	4/22/2019	4/22/2020	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
A	UMBRELLA LIAB ☒ OCCUR EXCESS LIAB ☐ CLAIMS-MADE DED ☐ RETENTION \$		S 2256862	4/22/2019	4/22/2020	EACH OCCURRENCE \$ 10,000,000 AGGREGATE \$ 10,000,000
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) ☐ If yes, describe under DESCRIPTION OF OPERATIONS below	Y/N N/A	14WECVT2839	4/22/2019	4/22/2020	PER STATUTE ☒ OTHER E.L. EACH ACCIDENT \$ 500,000 E.L. DISEASE - EA EMPLOYEE \$ 500,000 E.L. DISEASE - POLICY LIMIT \$ 500,000

DESCRIPTION OF OPERATIONS / LOCATIONS / VEHICLES (ACORD 101, Additional Remarks Schedule, may be attached if more space is required)

Re: Centennial Park, Downtown Main Street 291 North Main Street, Porterville, CA 93257

Successor Agency to the Porterville Redevelopment Agency is an additional insured with respects to General Liability as required by written contract.

CERTIFICATE HOLDER

CANCELLATION

City of Porterville
291 North Main Street
Porterville, CA 93257

SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS.

AUTHORIZED REPRESENTATIVE

Jaqueline Dunnagan

ElitePac®
General Liability Extension Endorsement

COMMERCIAL GENERAL LIABILITY
CG 73 00 01 19

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

This endorsement modifies the insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART

The **SECTIONS** of the Commercial General Liability Coverage Form identified in this endorsement will be amended as shown below. However, if **(a) two or more Coverage Parts of this policy, or (b) two or more forms or endorsements within the same Coverage Part apply to a loss**, coverage provision(s) with the broadest language will apply, unless specifically stated otherwise within the particular amendment covering that loss.

With respect to coverage provided by this endorsement, the provisions of the Coverage Form apply unless modified by the endorsement.

COVERAGES - Amendments

SECTION I - COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY

EXCLUSIONS

Employer's Liability Amendment

(This provision is not applicable in the State of New York).

The following is added to Exclusion **e. Employer's Liability** under **COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions**:

This exclusion also does not apply to any "temporary worker".

Non-Owned Aircraft, Auto or Watercraft

A. Paragraph **(2)** of Exclusion **g. Aircraft, Auto Or Watercraft** under **COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions** is deleted in its entirety and replaced with the following:

(2) A watercraft you do not own that is:

- (a)** Less than 26 feet long and not being used to carry persons or property for a charge; or
- (b)** At least 26 feet, but less than 60 feet long, and not being used to carry persons or property for a charge. Any person is an insured who uses or is responsible for the use of such watercraft with your expressed or implied consent. However, if the insured has any other valid and collectible insurance for "bodily injury" or "property damage" that would be covered under this provision, or on any other basis, this coverage is then excess, and subject to Condition **4. Other Insurance, b. Excess Insurance** under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS**.

B. The following is added to Exclusion **g. Aircraft, Auto Or Watercraft** under **COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions**:

This exclusion does not apply to:

- (6)** Any aircraft, not owned or operated by any insured, which is hired, chartered or loaned with a paid crew. However, if the insured has any other valid and collectible insurance for "bodily injury" or "property damage" that would be covered under this provision, or on any other basis, this coverage is then excess, and subject to Condition **4. Other Insurance, b. Excess Insurance** under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS**.

Damage To Premises Rented to You

A. The last paragraph of Paragraph **2. Exclusions** under **COVERAGE A BODILY INJURY AND PROPERTY DAMAGE** is deleted in its entirety and replaced with the following:

Exclusions **c. through n.** do not apply to damage by fire, lightning or explosion to premises rented to you or temporarily occupied by you with the permission of the owner. A separate limit of insurance applies to this coverage as described in **SECTION III - LIMITS OF INSURANCE**.

B. Paragraph 6. under **SECTION III - LIMITS OF INSURANCE** is deleted in its entirety and replaced with the following:

6. Subject to Paragraph 5. above, the most we will pay under **COVERAGE A** for damages because of "property damage" to any one premises, while rented to you, or in the case of damage caused by fire, lightning or explosion, while rented to you or temporarily occupied by you with permission of the owner, for all such damage caused by fire, lightning or explosion proximately caused by the same event, whether such damage results from fire, lightning or explosion or any combination of the three, is the amount shown in the Declarations for the Damage To Premises Rented To You Limit.

C. Paragraph a. of Definition 9. "Insured contract" under **SECTION V - DEFINITIONS** is deleted in its entirety and replaced with the following:

a. A contract for a lease of premises. However, that portion of the contract for a lease of premises that indemnifies any person or organization for damage by fire, lightning or explosion to premises while rented to you or temporarily occupied by you with the permission of the owner is not an "insured contract";

Electronic Data Liability

A. Exclusion p. **Access or Disclosure Of Confidential Or Personal Information And Data-related Liability** under **COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY, 2. Exclusions** is deleted in its entirety and replaced by the following:

p. **Access or Disclosure Of Confidential Or Personal Information And Data-related Liability**

Damages arising out of:

- (1) Any access to or disclosure of any person's or organization's confidential or personal information, including patents, trade secrets, processing methods, customer lists, financial information, credit card information or any other type of nonpublic information; or
- (2) The loss of, loss of use of, damage to, corruption of, inability to access, or inability to manipulate "electronic data" that does not result from physical injury to tangible property.

This exclusion applies even if damages are claimed for notification costs, credit monitoring expenses, forensic expenses, public relations expenses or any other loss, cost or expense incurred by you or others arising out of that which is described in Paragraph (1) or (2) above.

B. The following paragraph is added to **SECTION III - LIMITS OF INSURANCE**:

Subject to 5. above, the most we will pay under **COVERAGE A** for "property damage" because of all loss of "electronic data" arising out of any one "occurrence" is a sub-limit of \$100,000.

SECTION I - COVERAGE C MEDICAL PAYMENTS EXCLUSIONS

Any Insured Amendment

Exclusion a. **Any Insured** under **COVERAGE C MEDICAL PAYMENTS, 2. Exclusions** is deleted in its entirety and replaced with the following:

a. **Any Insured**

To any insured.

This exclusion does not apply to:

- (1) "Not-for-profit members";
- (2) "Golfing facility" members who are not paid a fee, salary, or other compensation; or
- (3) "Volunteer workers".

This exclusion exception does not apply if **COVERAGE C MEDICAL PAYMENTS** is excluded by another endorsement to this Coverage Part.

Product Amendment

Exclusion f. **Products-Completed Operations Hazard** under **COVERAGE C MEDICAL PAYMENTS, 2. Exclusions** is deleted in its entirety and replaced with the following:

f. **Products-Completed Operations Hazard**

Included within the "products-completed operations hazard".

This exclusion does not apply to "your products" sold for use or consumption on your premises, while such products are still on your premises.

This exclusion exception, does not apply if **COVERAGE C MEDICAL PAYMENTS** is excluded by another endorsement to this Coverage Part.

SECTION I - SUPPLEMENTARY PAYMENTS - COVERAGES A AND B

Expenses For Bail Bonds And Loss Of Earnings

A. Subparagraph 1.b. under **SUPPLEMENTARY PAYMENTS - COVERAGES A AND B** is deleted in its entirety and replaced with the following:

b. Up to \$5,000 for cost of bail bonds required because of accidents or traffic law violations arising out of the use of any vehicle to which Bodily Injury Liability Coverage applies. We do not have to furnish these bonds.

B. Subparagraph 1.d. under **SUPPLEMENTARY PAYMENTS - COVERAGES A AND B** is deleted in its entirety and replaced with the following:

- d. All reasonable expenses incurred by the insured at our request to assist us in the investigation or defense of the claim or "suit", including actual loss of earnings up to \$1,000 a day because of time off from work.

SECTION II - WHO IS AN INSURED - Amendments

Not-for-Profit Organization Members

The following paragraph is added to **SECTION II - WHO IS AN INSURED**:

If you are an organization other than a partnership, joint venture, or a limited liability company, and you are a not-for-profit organization, the following are included as additional insureds:

1. Your officials;
2. Your trustees;
3. Your members;
4. Your board members;
5. Your commission members;
6. Your agency members;
7. Your insurance managers;
8. Your elective or appointed officers; and
9. Your "not-for-profit members".

However only with respect to their liability for your activities or activities they perform on your behalf.

Employees As Insureds Modified

- A. Subparagraph 2.a.(1)(a) under **SECTION II - WHO IS AN INSURED** does not apply to "bodily injury" to a "temporary worker" caused by a co-"employee" who is not a "temporary worker".
- B. Subparagraph 2.a.(2) under **SECTION II - WHO IS AN INSURED** does not apply to "property damage" to the property of a "temporary worker" or "volunteer worker" caused by a co-"employee" who is not a "temporary worker" or "volunteer worker".
- C. Subparagraph 2.a.(1)(d) under **SECTION II - WHO IS AN INSURED** does not apply to "bodily injury" caused by cardio-pulmonary resuscitation or first aid services administered by a co-"employee".

With respect to this provision only, Subparagraph (1) of Exclusion 2. e. **Employer's Liability** under **SECTION I - COVERAGES, COVERAGE A BODILY INJURY AND PROPERTY DAMAGE LIABILITY** does not apply.

Newly Formed Or Acquired Organizations

- A. Subparagraph 3.a. under **SECTION II - WHO IS AN INSURED** is deleted in its entirety and replaced with the following:

- a. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier. However, **COVERAGE A** does not apply to "bodily injury" or "property damage" that occurred before you acquired or formed the organization.

- B. The following paragraph is added to **SECTION II - WHO IS AN INSURED**, Paragraph 3:

If you are engaged in the business of construction of dwellings three stories or less in height, or other buildings three stories or less in height and less than 25,000 square feet in area, you will also be an insured with respect to "your work" only, for the period of time described above, for your liability arising out of the conduct of any partnership or joint venture of which you are or were a member, even if that partnership or joint venture is not shown as a Named Insured. However, this provision only applies if you maintain or maintained an interest of at least fifty percent in that partnership or joint venture for the period of that partnership or joint venture.

This provision does not apply to any partnership or joint venture that has been dissolved or otherwise ceased to function for more than thirty-six months.

With respect to the insurance provided by this provision, **Newly Formed or Acquired Organizations**, the following is added to **SECTION IV - COMMERCIAL GENERAL LIABILITY**, Paragraph 4. **Other Insurance**, Subparagraph b. **Excess Insurance**:

The insurance provided by this provision, **Newly Formed or Acquired Organizations**, is excess over any other insurance available to the insured, whether primary, excess, contingent or on any other basis.

(All other provisions of this section remain unchanged)

Blanket Additional Insureds - As Required By Contract

Subject to the **Primary and Non-Contributory** provision set forth in this endorsement, **SECTION II - WHO IS AN INSURED** is amended to include as an additional insured:

- A. **Owners, Lessees or Contractors/Architects, Engineers and Surveyors**

1. Any person or organization for whom you are performing operations when you and such person or organization have agreed in a written contract, written agreement or written permit that such person or organization be added as an additional insured on your commercial general liability policy; and

2. Any other person or organization, including any architects, engineers or surveyors not engaged by you, whom you are required to add as an additional insured under your policy in the contract or agreement in Paragraph 1. above:

Such person or organization is an additional insured only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by:

- a. Your acts or omissions; or
- b. The acts of omissions of those acting on your behalf;

in the performance of your ongoing operations performed for the additional insured in Paragraph 1., above.

However, this insurance does not apply to:

"Bodily injury", "property damage" or "personal and advertising injury" arising out of the rendering of, or the failure to render, any professional architectural, engineering or surveying services by or for you, including:

- a. The preparing, approving, or failing to prepare or approve, maps, shop drawings, opinions, reports, surveys, field orders, change orders or drawings and specifications; and
- b. Supervisory, inspection, architectural or engineering activities.

Professional services do not include services within construction means, methods, techniques, sequences and procedures employed by you in connection with your operations in your capacity as a construction contractor.

A person or organization's status as an additional insured under this endorsement ends when your operations for the person or organization described in Paragraph 1. above are completed.

B. Other Additional Insureds

Any of the following persons or organizations with whom you have agreed in a written contract, written agreement or written permit that such persons or organizations be added as an additional insured on your commercial general liability policy:

1. Lessors of Leased Equipment

Any person or organization from whom you lease equipment, but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your maintenance, operation or use of equipment leased to you by such person or organization.

With respect to the insurance afforded to these additional insureds, this insurance does not apply to any "occurrence" which takes place after the equipment lease expires.

2. Managers or Lessors of Premises

Any person or organization from whom you lease premises, but only with respect to liability arising out of the ownership, maintenance or use of that part of the premises leased to you.

This insurance does not apply to any "occurrence" which takes place after you cease to be a tenant of that premises.

3. Mortgagees, Assignees or Receivers

Any person or organization with respect to their liability as mortgagee, assignee or receiver and arising out of the ownership, maintenance or use of your premises.

This insurance does not apply to any "occurrence" which takes place after the mortgage is satisfied, or the assignment or receivership ends.

4. Any Person or Organization Other Than A Joint Venture

Any person or organization (other than a joint venture of which you are a member), but only with respect to liability for "bodily injury", "property damage" or "personal and advertising injury" caused, in whole or in part, by your acts or omissions or the acts of omissions of those acting on your behalf in the performance of your ongoing operations or in connection with property owned by you.

5. State or Governmental Agency or Political Subdivision - Permits or Authorizations

Any state or governmental agency or subdivision or political subdivision, but only with respect to:

- a. Operations performed by you or on your behalf for which the state or governmental agency or subdivision or political subdivision has issued a permit or authorization; or
- b. The following hazards for which the state or governmental agency or subdivision or political subdivision has issued a permit or authorization in connection with premises you own, rent or control and to which this insurance applies:

- (1) The existence, maintenance, repair, construction, erection or removal of advertising signs, awnings, canopies, cellar entrances, coal holes, driveways, manholes, marquees, hoist away openings, sidewalk vaults, street banners or decorations and similar exposures;
- (2) The construction, erection or removal of elevators; or
- (3) The ownership, maintenance or use of any elevators covered by this insurance.

This insurance does not apply to:

- (a) "Bodily injury" or "property damage" arising out of operations performed for the federal government, state or municipality; or
- (b) "Bodily injury" or "property damage" included within the "products-completed operations hazard".

With respect to Paragraphs 2. through 4., this insurance does not apply to structural alterations, new construction or demolition operations performed by or on behalf of such person or organization.

The provisions of this coverage extension do not apply unless the written contract or written agreement has been signed by the Named Insured or written permit issued prior to the "bodily injury" or "property damage" or "personal and advertising injury".

Broad Form Vendors Coverage

Subject to the **Primary and Non-Contributory** provision set forth in this endorsement, **SECTION II - WHO IS AN INSURED** is amended to include as an additional insured any person or organization (referred to below as vendor) for whom you have agreed in a written contract or written agreement to provide coverage as an additional insured under your policy. Such person or organization is an additional insured only with respect to "bodily injury" or "property damage" arising out of "your products" which are distributed or sold in the regular course of the vendor's business. However, the insurance afforded the vendor does not apply to:

- a. "Bodily injury" or "property damage" for which the vendor is obligated to pay damages by reason of the assumption of liability in a contract or agreement; however this exclusion does not apply to liability for damages that the vendor would have in the absence of the contract or agreement;
- b. Any express warranty unauthorized by you;

- c. Any physical or chemical change in the product made intentionally by the vendor;
- d. Repackaging, unless unpacked solely for the purpose of inspection, demonstration, testing, or the substitution of parts under instructions from the manufacturer, and then repackaged in the original container;
- e. Any failure to make such inspections, adjustments, tests or servicing as the vendor has agreed to make or normally undertakes to make in the usual course of business in connection with the sale of the product; or
- f. Products which, after distribution or sale by you, have been labeled or re-labeled or used as a container, part of ingredient of any other thing or substance by or for the vendor; however this insurance does not apply to any insured person or organization, from who you have acquired such products, or any ingredient, part or container, entering into, accompanying or containing such products.

The provisions of this coverage extension do not apply unless the written contract or written agreement has been signed by the Named Insured prior to the "bodily injury" or "property damage".

Incidental Malpractice

Subparagraph 2.a.(1)(d) under **SECTION II - WHO IS AN INSURED** is deleted in its entirety and replaced with the following:

- (d) Arising out of his or her providing or failing to provide professional health care services.

This does not apply to nurses, emergency medical technicians or paramedics if you are not in the business or occupation of providing any such professional services.

This also does not apply to "bodily injury" caused by cardio-pulmonary resuscitation or first aid services administered by a co-"employee".

This provision does not apply if you are a Social Service or Senior Living risk.

SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS - Amendments

Knowledge Of Occurrence, Claim, Suit Or Loss

The following is added to Paragraph 2. **Duties in the Event of Occurrence, Offense, Claim or Suit** under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS**:

The requirements under this paragraph do not apply until after the "occurrence" or offense is known to:

1. You, if you are an individual;
2. A partner, if you are a partnership;

3. An "executive officer" or insurance manager, if you are a corporation;
4. Your members, managers or insurance manager, if you are a limited liability company; or
5. Your elected or appointed officials, officers, members, trustees, board members, commission members, agency members, or your administrator or your insurance manager if you are an organization other than a partnership, joint venture, or limited liability company.

Primary and Non-Contributory Provision

The following is added to Paragraph 4. **Other Insurance, b. Excess Insurance** under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS:**

This insurance is primary to and we will not seek contribution from any other insurance available to an additional insured under this policy provided that:

- (1) The additional insured is a Named Insured under such other insurance; and
- (2) You have agreed in a written contract, written agreement or written permit that this insurance would be primary and would not seek contribution from any other insurance available to the additional insured.

Unintentional Failure To Disclose Hazards

The following is added to Paragraph 6. **Representations** under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS:**

However, if you should unintentionally fail to disclose any existing hazards in your representations to us at the inception date of the policy, or during the policy period in connection with any additional hazards, we shall not deny coverage under this Coverage Part based upon such failure to disclose hazards.

Waiver Of Transfer Of Rights Of Recovery

The following is added to Paragraph 8. **Transfer of Rights Of Recovery Against Others To Us** under **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS:**

We will waive any right of recovery we may have against a person or organization because of payments we make for "bodily injury" or "property damage" arising out of your ongoing operations or "your work" done under a written contract or written agreement and included in the "products-completed operations hazard", if:

1. You have agreed to waive any right of recovery against that person or organization in a written contract or written agreement;
2. Such person or organization is an additional insured on your policy; or

3. You have assumed the liability of that person or organization in that same contract, and it is an "insured contract".

The section above only applies to that person or organization identified above, and only if the "bodily injury" or "property damage" occurs subsequent to the execution of the written contract or written agreement.

Liberalization

The following condition is added to **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS:**

If we revise this Coverage Part to provide more coverage without additional premium charge, subject to our filed company rules, your policy will automatically provide the additional coverage as of the day the revision is effective in your state.

Two or More Coverage Parts or Policies Issued By Us

(This provision is not Applicable in the state of New York or Wisconsin).

The following condition is added to **SECTION IV - COMMERCIAL GENERAL LIABILITY CONDITIONS:**

It is our intention that the various coverage parts or policies issued to you by us, or any company affiliated with us, do not provide any duplication or overlap of coverage. We have exercised diligence to draft our coverage parts and policies to reflect this intention. However, if the facts and circumstances that will respond to any claim or "suit" give rise to actual or claimed duplication or overlap of coverage between the various coverage parts or policies issued to you by us or any company affiliated with us, the limit of insurance under all such coverage parts or policies combined shall not exceed the highest applicable limit under this coverage, or any one of the other coverage forms or policies.

This condition does not apply to any Excess or Umbrella policy issued by us specifically to apply as excess insurance over this coverage part or policy to which this coverage part is attached.

SECTION V - DEFINITIONS

Discrimination

(This provision does not apply in New York).

- A. The following is added to Definition 14. "Personal and advertising injury":

"Personal and advertising injury" also means "discrimination" that results in injury to the feelings or reputation of a natural person, however only if such "discrimination" or humiliation is:

1. Not done by or at the direction of:
 - a. The insured; or

b. Anyone considered an insured under **SECTION II - WHO IS AN INSURED;**

2. Not done intentionally to cause harm to another person.
3. Not directly or indirectly related to the employment, prospective employment or termination of employment of any person or persons by any insured.
4. Not arising out of any "advertisement" by the insured.

B. The following definition is added to SECTION V - DEFINITIONS:

"Discrimination" means:

- a. Any act or conduct that would be considered discrimination under any applicable federal, state, or local statute, ordinance or law;
- b. Any act or conduct that results in disparate treatment of, or has disparate impact on, a person, because of that person's race, religion, gender, sexual orientation, age, disability or physical impairment; or
- c. Any act or conduct characterized or interpreted as discrimination by a person based on that person's race, religion, gender, sexual orientation, age, disability or physical impairment.

It does not include acts or conduct characterized or interpreted as sexual intimidation or sexual harassment, or intimidation or harassment based on a person's gender.

Electronic Data

The following definition is added to **SECTION V - DEFINITIONS:**

"Electronic data" means information, facts or programs stored as or on, created or used on, or transmitted to or from computer software, including systems and applications software, hard or floppy disks, CD-ROMS, tapes, drives, cell, data processing devices or any other media which are used with electronically controlled equipment. For the purpose of the Electronic Data Liability coverage provided by this endorsement, Definition 17. "Property damage" is deleted in its entirety and replaced by the following:

17. "Property damage" means:

- a. Physical injury to tangible property, including all resulting loss of use of that property. All such loss of use shall be deemed to occur at the time of the physical injury that caused it; or

- b. Loss of, loss of use of, damage to, corruption of, inability to access, or inability to properly manipulate "electronic data", resulting from physical injury to tangible property. All such loss of "electronic data" shall be deemed to occur at the time of the "occurrence" that caused it.

For the purpose of the Electronic Data Liability coverage provided by this endorsement, "electronic data" is not tangible property.

Employee Amendment

Definition 5. "Employee" under **SECTION V - DEFINITIONS** is deleted in its entirety and replaced by the following:

5. "Employee" includes a "leased worker", or a "temporary worker". If you are a School, "Employee" also includes a student teacher.

Golfing Facility

The following definition is added to **SECTION V - DEFINITIONS:**

"Golfing facility" means a golf course, golf club, driving range, or miniature golf course.

Mental Anguish Amendment

(This provision does not apply in New York).

Definition 3. "Bodily injury" under **SECTION V - DEFINITIONS** is deleted in its entirety and replaced with the following:

3. "Bodily injury" means bodily injury, sickness or disease sustained by a person, including death resulting from any of these at any time. This includes mental anguish resulting from any bodily injury, sickness or disease sustained by a person. (In New York, mental anguish has been determined to be "bodily injury").

Not-for-profit Member

The following definition is added to **SECTION V - DEFINITIONS:**

"Not-for-profit member" means a person who is a member of a not-for-profit organization, including clubs and churches, who receives no financial or other compensation.



CITY COUNCIL AGENDA – OCTOBER 15, 2019

SUBJECT: Request for Proclamation - America Recycles Week - November 10-16, 2019

SOURCE: Administrative Services

COMMENT: At its meeting of October 1, 2013, the Council amended the process by which Proclamations are approved, and affirmed the process at its meeting on February 21, 2017. The process requires that all Proclamations must be sponsored by one Council Member, after which the request is then placed on the Council's agenda for consideration and approval by a majority of the Council.

The City of Porterville Public Works Department has requested that the Council consider approval of a Proclamation to proclaim November 10-16, 2019, as "America Recycles Week" in Porterville. Council Member Peñaloza is sponsoring this Proclamation request. If approved, the applicant requests that the Proclamation be presented at the City Council meeting on November 5, 2019.

RECOMMENDATION: That the City Council consider approval of the request to proclaim November 10-16, 2019, as "America Recycles Week" in the city of Porterville.

ATTACHMENTS: 1. Req for Proc_America Recycles Week

Appropriated/Funded: N/A

Review By:

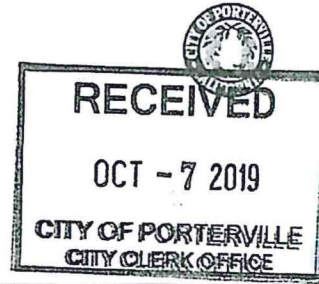
Department Director:

Patrice Hildreth, Deputy City Manager

Final Approver: John Lollis, City Manager



City of Porterville
REQUEST FOR PROCLAMATION



Date of Request: 10/4/19

Name of Event/Individual: America Recycles Week
i.e. "Porterville Tourism Week", "Mr. John Doe"

Name of Sponsoring Organization: COP Public Works - Field Services

Name of Contact Person: Rowena Jose

Address: 555 N. Prospect, Porterville, CA 93257

Phone: (559) 782-7590 FAX: (559) 782-8937

E-mail: rjose@ci.porterville.ca.us

I would like the proclamation: ☒ presented at a Council Mtg. ☐ mailed ☐ call for pick-up

Date(s) of Event: November 10-16, 2019

Date of Council Meeting to be presented, if applicable: November 5, 2019
(Council meets 1st and 3rd Tuesdays of each month.)

Individual or representative attending Council Meeting to receive proclamation:

Please attach a sample of your proclamation, or the pertinent information needed to formulate your proclamation. If assistance is needed, or if you need a sample provided, or to return this form, contact:

Office of City Clerk
291 North Main Street
Porterville, CA 93257
(559) 782-7464 / Fax (559) 782-7452

All requests require a sponsorship by a member of the Council prior to being placed on a City Council Agenda for consideration, and are subject to approval by a majority of the Council. To allow for this process it is recommended that you submit your proclamation request one month in advance. Please see the attached language regarding the process and timelines for submittal.

City Clerk's Section

Request Received: 10/7/19 Sponsored by: PENALOZA Date: 10/7/19

Approved by Council: yes ☐ no ☐ Date: _____

Notification to Contact person done (date): _____ in writing ☐ by phone ☐

Items (s) ☐ mailed _____ ☐ faxed _____ ☐ picked up _____

Comment: _____

[Handwritten signature]

WHEREAS: To focus the Nation's attention on the importance of recycling, businesses, industries, state agencies, nonprofit organizations, and individuals have joined together to celebrate America Recycles Week and are encouraging their employees, staff, customers, membership, and all citizens to pledge to start or enhance recycling programs and buy recycled products during the week of November 10 through November 16, 2019; and

WHEREAS: Participating in America Recycles Week is one way citizens can help raise awareness about the need to reduce waste by reusing, recycling, and buying recycled products; and

WHEREAS: Recycling conserves valuable natural resources, creates jobs, and is recognized as an easy way for everyone to help protect the environment by avoiding unnecessary use of important resources; and

WHEREAS: State and community leaders need to spread the word about the excellent programs they have established, the growth of markets for recyclables, the importance of buying recycled products, and the benefits of investments in recycling by small and large businesses.

NOW THEREFORE, I, MARTHA FLORES, Mayor of the City of Porterville, on behalf of the City Council do hereby proclaim November 10 through 16, 2019, as -

"AMERICA RECYCLES WEEK"

in the City of Porterville and encourage all citizens to join the nationwide effort to make more efficient use of natural resources by maximizing recycling, buying recycled products and preventing waste.

PROCLAIMED this 5th day of November, 2019.



CITY COUNCIL AGENDA – OCTOBER 15, 2019

SUBJECT: Request for Proclamation - National Coming Out Day- October 11, 2019

SOURCE: City Manager's Office

COMMENT: At its meeting on October 1, 2013, the City Council amended the process by which Proclamations are approved, and affirmed the process at its meeting on August 20, 2019. The process requires that all Proclamations must be sponsored by one Council Member, after which the request is then placed on the Council's agenda for consideration and approval by a majority of the Council.

The Tulare County Stonewall Democrats has requested that the Council consider approval of a Proclamation to proclaim October 11, 2019, as "National Coming Out Day" in Porterville. Council Member Peñaloza is sponsoring this Proclamation request. If approved, the Proclamation will be presented following its approval.

RECOMMENDATION: That the City Council consider approval of the request to proclaim October 11, 2019, as "National Coming Out Day."

ATTACHMENTS: 1. Request for Proclamation - National Coming Out Day

Appropriated/Funded:

Review By:

Department Director:

Final Approver: John Lollis, City Manager



City of Porterville
REQUEST FOR PROCLAMATION



RECEIVED

AUG 30 2019

CITY OF PORTERVILLE
CITY CLERK OFFICE

Date of Request: Aug 29, 2019

Name of Event/Individual: National Coming Out Day
i.e. "Porterville Tourism Week", "Mr. John Doe"

Name of Sponsoring Organization: Tulare County Stonewall Democrats

Name of Contact Person: Brock Neeley

Address: 1279 W. Henderson #124 - Porterville CA 93257

Phone: (559) 302-8107 FAX: _____

E-mail: tcstonewalldems@gmail.com

I would like the proclamation: ☒ presented at a Council Mtg. ☐ mailed ☐ call for pick-up

Date(s) of Event: October 11, 2019

Date of Council Meeting to be presented, if applicable: Oct 1, 2019
(Council meets 1st and 3rd Tuesdays of each month.)

Individual or representative attending Council Meeting to receive proclamation:

Brock Neeley

Please attach a sample of your proclamation, or the pertinent information needed to formulate your proclamation. If assistance is needed, or if you need a sample provided, or to return this form, contact:

Office of City Clerk
291 North Main Street
Porterville, CA 93257
(559) 782-7464 / Fax (559) 782-7452

All requests require a sponsorship by a member of the Council prior to being placed on a City Council Agenda for consideration, and are subject to approval by a majority of the Council. Please see the attached language regarding the process and timelines for submittal.

City Clerk's Section

Request Received: 8-30-19 Sponsored by: Peñaloza Date: 9/26/19 @ 2:55pm

Approved by Council: yes ☐ no ☐ Date: _____

Notification to Contact person done (date): _____ in writing ☐ by phone ☐

Items (s) ☐ mailed _____ ☐ faxed _____ ☐ picked up _____

Comment: _____

Excerpt from the CITY COUNCIL PROCEDURAL HANDBOOK

F. Proclamation Approval Process

All Proclamations must be submitted at least 72 hours before noon on the Thursday before the next City Council Meeting to be considered for approval by the City Council. All received proclamations are to be scanned and emailed to all Council Members within one business day of being received. Each Council Member will have until noon on the Thursday before the next Council Meeting to contact the City Manager's Office to sponsor submitted proclamations. Proclamations receiving one sponsor will be placed on the next Council agenda as a Consent Calendar item. Those not receiving a sponsor will be disregarded. If multiple sponsors are received, the first Council Member to respond will be deemed the proclamation's sponsor. (*M.O. 13-100113, October 1, 2013.*)

WHEREAS: National Coming Out Day is recognized internationally as a day of self affirmation and awareness of lesbian, gay, bisexual, transgender, and queer (LGBTQ) issues, observed on October 11 by members of the LGBTQ community, their families, friends, and allies; and

WHEREAS: National Coming Out Day was founded in 1988 to celebrate the second National March on Washington for Lesbian and Gay Rights in 1987, in which 500,000 people marched on our Nation's Capital to raise awareness of and garner support for the LGBTQ community; and

WHEREAS: Coming out, which is the public self-acknowledgement of belonging to the LGBTQ community, is recognized by many as a significant life experience. It is a turning point from the loneliness and self-denial of concealing one's identity to the fulfillment of being true to one's self to claim dignity, empowerment and self respect, as well as the tolerance and support from others that is deserved by all; and

WHEREAS: For students throughout Porterville, coming out can be particularly daunting in light of bullying and harassment occurring in schools and on social media platforms. The 2011 National School Climate Survey conducted by the Gay, Lesbian & Straight Education Network (GLSEN) found that nationally, over 80% of LGBT students ages 13-20 reported being verbally harassed and over 55% experienced electronic harassment; and

WHEREAS: The study found that the inclusion of Gay-Straight Alliances (GSA) and LGBT inclusive curriculum in schools have positive impacts in reducing homophobic remarks and feelings of insecurity among LGBT student by nearly 20%. Organizations working in Porterville and the County of Tulare towards creating accepting and supportive schools and communities for all students including the, Parents, Families & Friends of Lesbians and Gays (PFLAG), the Gay, Lesbian, & Straight Education Network; and

WHEREAS: Porterville affirms its commitment to creating and maintaining an environment in which everyone is respected and valued by championing diversity and inclusion for all it's residents; and

NOW, THEREFORE, I, MARTHA A. FLORES, Mayor of the City of Porterville, on behalf of the Porterville City Council, do hereby proclaim the 11th day of September, 2019, as,

"National Coming Out Day"

PROCLAIMED this 1st day of October, 2019.

The History of Coming Out

In the Beginning, There Was a March

On Oct. 11, 1987, half a million people participated in the March on Washington for Lesbian and Gay Rights. It was the second such demonstration in our nation's capital and resulted in the founding of a number of LGBTQ organizations, including the National Latino/a Gay & Lesbian Organization (LLEGÓ) and AT&T's LGBTQ employee group, LEAGUE. The momentum continued four months after this extraordinary march as more than 100 lesbian, gay, bisexual, transgender, and queer activists from around the country gathered in Warrenton, Va., about 25 miles outside Washington, D.C. Recognizing that the LGBTQ community often reacted defensively to anti-LGBTQ actions, they came up with the idea of a national day to celebrate coming out and chose the anniversary of that second march on Washington to mark it. The originators of the idea were Rob Eichberg, a founder of the personal growth workshop, The Experience, and Jean O'Leary, then head of National Gay Rights Advocates. From this idea the National Coming Out Day was born.

Each year on Oct. 11, National Coming Out Day continues to promote a safe world for LGBTQ individuals to live truthfully and openly.

Themes of NCOD

For 15 years the Human Rights Campaign announced a theme to exemplify the spirit of National Coming Out Day. Here are some of the themes chosen:

2014 - Coming Out Still Matters
2013 - Coming Out Still Matters
2012 - Come Out. Vote.
2011 - Coming Out for Equality
2010 - Coming Out for Equality
2009 - Conversations from the Heart
2007 - Talk About It
2006 - Talk About It
2005 - Talk About It
2004 - Come Out. Speak Out. Vote.
2003 - It's a Family Affair
2002 - Being Out Rocks!
2001- An Out Odyssey
2000 - Think it O-o-ver (Who Will Pick the New Supremes?)
1999 - Come Out to Congress

The People of NCOD

The success of NCOD, which from inception quickly expanded to include participation from all 50 states and foreign countries, is because of the hard work of celebrities, volunteers and activists.

- Rob Eichberg and Jean O'Leary were the originators of the idea of NCOD
- In 1987, Activist Sean Strub got Keith Haring to donate his now-famous image of a person fairly dancing out of a closet
- In 1990, Lynn Shepodd, who later became a member of HRC's Board of Governors, was hired as executive director and obtained tax-exempt status for the organization
- Geraldo Rivera hosted a coming out day TV program in 1991 that featured Dick Sargent, a gay actor famous for playing Darren on Bewitched, openly gay California Assemblywoman Sheila Kuehl and Eichberg.
- Wes Combs in 1994 was named HRCF's project director for National Coming Out Day
- Candace Gingrich, half-sibling of then-House Speaker Newt Gingrich, became a National Coming Out Project spokesperson and full-time activist in 1995
- Dan Butler, who played the character Bulldog on NBC-TV's Frasier, was NCOD spokesperson in 1995
- Rock musician Melissa Etheridge did a radio public service announcement, reminding people that "Labels belong on records, not on people."
- Del. Eleanor Holmes Norton, D-D.C., spoke at the "Come Out Voting" rally in Washington, D.C., Oct. 11, 1996.
- Fashion photographer Don Flood in 1996 shot past spokespeople Bearse, Butler and Gingrich, along with Olympic diver Greg Louganis, actor Mitchell Anderson, newly minted gay activist Chastity Bono and Sean Sasser, who had appeared in MTV's The Real World.
- In 1996, actress Judith Light, pro golfer Muffin Spencer-Devlin and, in her first appearance at a gay rights event, Cher spoke at a Come Out Voting rally in Washington, DC
- In September 1997 the project brought in its first straight spokesperson, Betty DeGeneres, mother of actress/comedian Ellen DeGeneres.
- Patrick Bristow (formerly of the Ellen TV show), Dan Butler, San Francisco Supervisor Mark Leno, longtime activist Donna Red Wing, Betty DeGeneres, Gingrich and SF Mayor Willie Brown were featured in a 1998 NCOD event in San Francisco's Delores Park
- Chicago-native and founding member of the rock group Styx Chuck Panozzo celebrated a special homecoming in 2001 when he came out at the Human Rights Campaign annual Chicago dinner.
- On National Coming Out Day, Oct. 11, 2002, a benefit CD featuring the songs of openly LGBTQ musicians and straight allies was released. Cyndi Lauper, Queen, k.d. lang, Jade Esteban Estrada and Sarah McLachlan are among the artists who donated songs to the album.
- Etheridge's name appears on a poster celebrating the 2002 theme along with 18 other openly LGBTQ artists, including Ani DiFranco, Michael Stipe, the Indigo Girls, RuPaul, Rufus Wainwright and The Butchies

Source: <https://www.hrc.org/resources/the-history-of-coming-out>

Proclamation Request

Tulare County Stonewall Democrats <tcstonewalldems@gmail.com>

Thu 8/29/2019 7:41 PM

To: Fernando Gabriel-Moraga <fgabriel-moraga@ci.porterville.ca.us>

 3 attachments (133 KB)

RequestforProclamation_10_13_000.pdf; Proclamation 2019 Nat Coming Out Day.docx; The History of Coming Out.docx;

Attached you will find our Proclamation Request, Proclamation Wording and a History of National Coming Out Day

Brock Neeley
Chair

--

<https://tularestonewalldem.org/>
facebook.com/TCStonewallDems

Mail Address:

Tulare County Stonewall Democrats
1279 W. Henderson Ave. #124
Porterville CA 93257

"We must destroy the myths once and for all, shatter them....And most important, every gay person must come out....Once they realize that we are their children, that we are everywhere, every myth, every lie, every innuendo will be destroyed."

--Harvey Milk, San Francisco supervisor, 1978

WHEREAS: National Coming Out Day is recognized internationally as a day of self affirmation and awareness of lesbian, gay, bisexual, transgender, and queer (LGBTQ) issues, observed on October 11 by members of the LGBTQ community, their families, friends, and allies; and

WHEREAS: National Coming Out Day was founded in 1988 to celebrate the second National March on Washington for Lesbian and Gay Rights in 1987, in which 500,000 people marched on our Nation's Capital to raise awareness of and garner support for the LGBTQ community; and

WHEREAS: Coming out, which is the public self-acknowledgement of belonging to the LGBTQ community, is recognized by many as a significant life experience. It is a turning point from the loneliness and self-denial of concealing one's identity to the fulfillment of being true to one's self to claim dignity, empowerment and self respect, as well as the tolerance and support from others that is deserved by all; and

WHEREAS: For students throughout Porterville, coming out can be particularly daunting in light of bullying and harassment occurring in schools and on social media platforms. The 2011 National School Climate Survey conducted by the Gay, Lesbian & Straight Education Network (GLSEN) found that nationally, over 80% of LGBT students ages 13-20 reported being verbally harassed and over 55% experienced electronic harassment; and

WHEREAS: The study found that the inclusion of Gay-Straight Alliances (GSA) and LGBT inclusive curriculum in schools have positive impacts in reducing homophobic remarks and feelings of insecurity among LGBT student by nearly 20%. Organizations working in Porterville and the County of Tulare towards creating accepting and supportive schools and communities for all students including the, Parents, Families & Friends of Lesbians and Gays (PFLAG), the Gay, Lesbian, & Straight Education Network; and

WHEREAS: Porterville affirms its commitment to creating and maintaining an environment in which everyone is respected and valued by championing diversity and inclusion for all it's residents; and

NOW, THEREFORE, I, MARTHA A. FLORES, Mayor of the City of Porterville, on behalf of the Porterville City Council, do hereby proclaim the 11th day of October, 2019, as,

"National Coming Out Day"

PROCLAIMED this 1st day of October, 2019.

Corrected Proclamation Text

Tulare County Stonewall Democrats <tcstonewalldems@gmail.com>

Fri 9/6/2019 9:39 AM

To: Fernando Gabriel-Moraga <fgabriel-moraga@ci.porterville.ca.us>

 1 attachments (14 KB)

Proclamation 2019 Nat Coming Out Day.docx;

Here is the Corrected text for the Proclamation

Brock Neeley

--

<https://tularestonewalldem.org/>
facebook.com/TCStonewallDems

Mail Address:

Tulare County Stonewall Democrats
1279 W. Henderson Ave. #124
Porterville CA 93257

"We must destroy the myths once and for all, shatter them....And most important, every gay person must come out....Once they realize that we are their children, that we are everywhere, every myth, every lie, every innuendo will be destroyed."

--Harvey Milk, San Francisco supervisor, 1978



CITY COUNCIL AGENDA – OCTOBER 15, 2019

SUBJECT: City Council Member Requested Agenda Item - Consider Allowing Members of Council to Contribute Funds from Member Budgets to the United States Marine Corps Reserve "Toys for Tots" Program

SOURCE: City Manager's Office

COMMENT: City Council Member Stowe has requested that the City Council consider allowing Members to contribute funds from Member budgets to the United States Marine Corps Reserve "Toys for Tots" Program as a Scheduled Matter at its November 5th meeting.

RECOMMENDATION: That the City Council approve Council Member Stowe's request to consider allowing Members of Council to contribute from their budgets to the United States Marine Corps Reserve "Toys for Tots" Program as a Scheduled Matter at its November 5th meeting.

ATTACHMENTS:

Appropriated/Funded:

Review By:

Department Director:

Final Approver: John Lollis, City Manager



CITY COUNCIL AGENDA – OCTOBER 15, 2019

SUBJECT: Status and Review of Declaration of Local Emergency

SOURCE: City Manager's Office

COMMENT: Governor Brown issued Executive Order B-29-15 on Wednesday, April 1, 2015, which established drought-related mandates and restrictions in addition to those already stipulated in previous Executive Orders B-26-14 and B-28-14. Of significance, the Governor directed the State Water Resources Control Board to impose restrictions to achieve a statewide 25% reduction in potable urban water usage through February 28, 2016, in comparison to the amount used in 2013, and with consideration given to per capita usage as a basis. The Governor further directed the Board to impose additional restrictions on commercial, industrial, and institutional properties with significant landscaping (cemeteries, golf courses, parks, schools, etc.), to also achieve a 25% reduction in potable water usage. Also of significance, the Board was directed to prohibit irrigation with potable water outside of newly constructed homes and buildings that is not delivered by drip or micro-spray systems.

On November 13, 2015, Governor Brown issued Executive Order B-36-15, which extends emergency conservation regulations through October 2016, if drought conditions persist through January 2016. On February 2, 2016, the State Water Resources Control Board adopted extended emergency water conservation regulations, to be in effect March 1 through October 31, 2016. The City of Porterville benefited somewhat from the extended regulations as the City's water conservation rate has been reduced from 32% to 26%, due to new water connections that have been made and population served (4%), as well as a new climate adjustment factor that was considered (2%).

On May 9, 2016, Governor Brown issued Executive Order B-37-16 ("Making Water Conservation a California Way of Life"), which directs the State Water Resources Control Board to establish new regulations making permanent the emergency conservation regulations. On May 18, 2016, the State Water Resources Control Board adopted a statewide water conservation approach that replaces the percentage reduction-based water conservation standard with a localized "stress test" approach that mandates urban water suppliers act immediately to ensure at least a three-year supply of water to their customers under continued drought conditions.

On April 7, 2017, Governor Brown issued Executive Order B-40-17, which ended the drought state of emergency in most of California, with the exception of Fresno, Kings, Tulare and Tuolumne counties where emergency water supply

and reliability projects are continuing toward addressing diminishing groundwater supplies. The Order maintains monthly reporting requirements and prohibitions on wasteful practices. It is anticipated that the Governor will end the drought state of emergency in the four remaining counties in the near future.

On May 31, 2018, Governor Brown signed both AB 1668 (Friedman) and SB 606 (Hertzberg), which set permanent overall targets for indoor and outdoor water consumption. The legislation sets an initial limit for indoor water use of 55 gallons per-person per-day in 2022, reducing to 52.5 gallons per-person per-day in 2025, and finally to 50 gallons per-person per-day in 2030. The amount of residential outdoor use is yet-to-be determined, but will allow for varying regional climates. In addition, a standard for water loss due to leak rates in water system pipes will be established. As an urban water provider, the City of Porterville will need to submit its plan for compliance for approval by the State Water Resources Control Board.

At its last meeting on October 1, 2019, the City Council took action in the continued affirmation of the adoption of a Resolution of Declaration of Local Emergency due to local residences within the city having been identified as having wells that are now dry as a result of the drought. Twenty-six (26) residences within the city were determined to have dry wells, for which City staff submitted a Mutual Aid Request to Tulare County OES to initiate the household tank program for identified properties within the city where wells are dry and challenged for permanent connection. The State has committed funding for non-profit agencies to continue drought-related activities, which Self-Help Enterprises has continued the household tank program locally, through State Cleanup and Abatement Account (CAA) emergency funds.

Representatives for the City, County, State (CalOES, DDW, DWR, and SWB) and non-profit partners have continued to meet in support of the long-term permanent water connection project for the entire East Porterville area and the estimated 1,800 expected future connections. DWR identified 423 residential units in the East Porterville area (381 of which are in the City's Urban Development Boundary), that were served by the County's Household Tank Program and desired by the State to be connected to the City's water distribution system as soon as possible. DWR has completed a significant City waterline extension project to permanently connect those 423 residential units to the City's water system (considered Phase I of the project). To provide initial source water for the DWR extension project, CalOES desired to expeditiously connect the new well on Olive Avenue to the City's water system instead of being first equipped as a filling station. Given the new well has an estimated water production value of 800 gallons per minute, as well as a SWB assumed 1.5 gallons per minute per residence, the new well could effectively serve up to 500 single-family residential units. The City indicated its significant interest that the E. Vandalia Avenue area and its eighty (80) residential units be included in the water connection project, to which the State was agreeable.

Given CalOES has paid for the development of the new well, and its connection to the City's water system, the City will be required under "Drought

Redundancy and Resiliency Provisions" to make available to the State up to three million gallons of water per month without charge for emergency purposes.

To proceed with the connection of the new well to the City's water system and the 500 East Porterville and E. Vandalia Avenue residential units, the City Council approved modifications to the Draft Agreement between the City and County at its meeting on April 5, 2016, which the County Board of Supervisors subsequently approved at their meeting on May 10, 2016.

A Memorandum of Understanding between the State, County, and City on the East Porterville permanent water connection project was approved by the Council during a Special Meeting on Tuesday, June 21, 2016, and approved by the Board of Supervisors on Tuesday, June 28, 2016. With the approval of the MOU, the State began the permanent connection of approximately forty (40) homes that are located along existing City water mains. Subsequently, the State officially requested that the City approve the connection of an additional thirty (30) residences as part of the first immediate connections, for up to a total of seventy (70), which the Council approved at its meeting on August 2, 2016.

In regards to the new well's development and connection to the City's water distribution system, the Board of Supervisors awarded the contract for equipping and connecting the new well at their meeting of Tuesday, August 16, 2016, and construction activities commenced the week of October 10, 2016. County staff had previously indicated that the well would be in service and connected to the City's system no later than December 2016, however, the well was operational and connected to the City's water distribution as of Friday, February 17, 2017. Given the delay in the well's completion and connection, DWR requested that the Council consider allowing the connection of residences as they become prepared for connection, to which the Council was receptive, and a Draft MOU Amendment was approved by the Council at its meeting on December 6, 2016, and subsequently approved by the Board of Supervisors at its meeting on December 20, 2016. City staff continues to work with County staff toward the transfer of the well's ownership from the County to the City.

As of Friday, March 31, 2017, the date the State established as the final day for property owners to complete the registration process to participate in the State-funded connection program opportunity, of the 1,017 eligible developed residential properties identified by the State for connection, 722 completed the required Extra-Territorial Services Agreement, leaving 295 developed residential properties non-responsive to this unique connection program, 23 of which were reported as having either dry or diminishing capacity wells. On February 6, 2018, the final residential connection was made of the approximate eligible 800 residences in East Porterville to the City's water system.

City staff continues to coordinate with Self-Help Enterprises and State representatives toward the extension of water mains to serve all residential properties within City limits and the city's periphery that are currently participating in the County's Household Tank Program. The two main areas of

focus are N. Cobb Street (northwest of State Route 65 and Pioneer Avenue), and S. Cloverleaf Street (southeast of State Route 65 and Olive Avenue). The State has maintained its commitment to grant-fund the necessary infrastructure and connection fees, providing an official funding letter to the City on January 18, 2018, which commits up to \$2.81 million in funding until December 31, 2019. The authorization to advertise for bids for the water connection project was approved by the Council at its July 17th meeting, after which DWR reviewed the bid package for compliance and approved in December the package for advertisement. Council authorized award of the construction contract for approximately \$1.82 million at its meeting on January 15, 2019. City staff conducted a pre-construction public outreach meeting with the affected residents on the status of the project on Thursday, April 4, 2019. Council authorized the agreement with Self-Help Enterprises Inc. to provide the private residential connections at its meeting on July 2, 2019, and construction work began on the project. At its meeting on October 1, 2019, the Council accepted the public works segment of the project in the installation of water mains as complete, with Self-Help and CSET continuing to collaborate on the completion of the individual private connections.

County OES and the State Division of Drinking Water (DDW) have reported to the City that the Central Mutual Water Company, located south of the city and south of Gibbons Avenue, has had its well run dry and desires an immediate emergency connection to the City's water system to serve the 41 connections currently without water. DDW is wishing to support a financial application to upgrade the small water system to City standards (new water lines, meters ,etc.), and to sponsor an Urban Development Boundary (UDB) Amendment application to Tulare County Local Agency Formation Commission (LAFCO), given this area is currently outside the City's UDB but within the City's Urban Area Boundary (UAB). Given several private wells have run dry in this area, DDW is also attempting to sponsor their connection to the City's water system. For source water capacity for the connections, DWR will include these new connections within the East Porterville water connection capacity development projects. At its Special meeting on August 30th, the City Council directed staff to proceed with the immediate emergency connection of the Central water system, with the permanent connection of the system contingent upon an Agreement with DDW to the sponsorship conditions they have offered. At its meeting on October 1, 2019, the Council directed staff to proceed with the amendment of the UDB to facilitate annexation, which a public meeting with the affected residents was conducted on Wednesday, October 9, 2019.

DDW has also reported to the City that the Del Oro East Plano water system, located on Paul Street (southeast of the intersection of Plano Street and Worth Avenue), is experiencing problems with its existing well and have implemented severe water restrictions. The East Plano water system serves fourteen (14) residences and approximately 45 people. DDW is wishing to provide financial support to upgrade the small water system to City standards (new water lines, meters ,etc.), and for source water capacity for the connections, DDW would need to either pay appropriate fees and/or develop a capacity development project. The Council is aware that the Del Oro Grandview Gardens water

system (north of W. North Grand Avenue) is also experiencing significant issues, and DDW may seek their future consolidation with the City's water system as well.

DDW has further reported to the City that the Beverly Grand Mutual Water Company water system, located north of West North Grand Avenue, is experiencing problems with its existing well and water quality issues, and desires its connection to the City's system to serve the 31 residences the system serves. DDW is wishing to provide financial support to upgrade the small water system to City standards (new water lines, meters ,etc.), and for source water capacity for the connections, DDW has agreed to pay appropriate fees toward developing a capacity development project, which at its meeting of October 3, 2017, the Council approved a purchase agreement with Smee Homes, Inc. for the acquisition of property along the Tule River for the development of a new municipal well. At its meeting of October 1, 2019, the Council approved proceeding with the consolidation of the Beverly Grand water system.

RECOMMENDATION: That the City Council receive the report of status and review of the Declaration of Local Emergency and determine the need exists to continue said Declaration.

ATTACHMENTS:

1. Resolution 49-2015 - Declaration of Local Emergency
2. City-County Well Agreement
3. Memorandum of Understanding
4. Memorandum of Understanding Draft Amendment
5. SWRCB Letter Dated November 29, 2017
6. DWR Letter Dated January 18, 2018
7. Governor Brown Executive Order

Appropriated/Funded:

Review By:

Department Director:

Final Approver: John Lollis, City Manager

RESOLUTION NO. 49-2015

A RESOLUTION OF THE CITY COUNCIL OF
THE CITY OF PORTERVILLE DECLARING A DROUGHT EMERGENCY
WITHIN THE CITY OF PORTERVILLE

WHEREAS: in response to the ongoing severe drought, the State Water Resources Control Board approved an emergency regulation to ensure water agencies, their customers, and state residents increase water conservation in urban settings or face possible fines or other enforcement; and

WHEREAS: as we enter the fourth year of severe drought, long-term forecasts indicate no relief of the current drought conditions, and suggest a warmer-than-average summer, resulting in increased domestic demand for water; and

WHEREAS: public and private potable water supplies continue to be threatened due to decreasing supplies of groundwater caused by the precipitation deficit and an extended state of groundwater overdraft; and

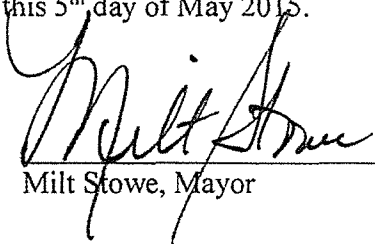
WHEREAS: the long-term ramifications of the current drought will have a significant impact on the city of Porterville and potentially pose a danger to the health and welfare of its residents; and

NOW, THEREFORE, BE IT RESOLVED: that the City Council of the City of Porterville does hereby proclaim that, due to drought conditions, a Local Emergency now exists in the city of Porterville and shall remain in effect for the duration of the emergency; and

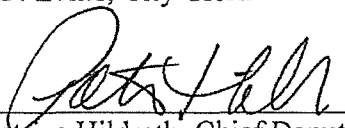
BE IT FURTHER RESOLVED: that the City Council of the City of Porterville requests the Governor and California Department of Water Resources make available California Disaster Assistance Act funding for the State of Local Emergency proclaimed on May 5, 2015, and seek all available forms of Federal assistance, to include a Presidential Declaration of Emergency and Individual Assistance and Public Assistance programs as applicable; and

BE IT FURTHER RESOLVED: that a copy of this resolution be forwarded to the State Director of the Office of Emergency Services.

PASSED, APPROVED, AND ADOPTED this 5th day of May 2015.


Milt Stowe, Mayor

ATTEST:
John D. Lollis, City Clerk


By: Patrice Hildreth, Chief Deputy City Clerk

TULARE COUNTY – CITY OF PORTERVILLE WELL AGREEMENT

THIS AGREEMENT is entered into this day of, May 10, 2016, between the COUNTY OF TULARE, referred to as COUNTY, and the CITY OF PORTERVILLE, referred to as CITY, with reference to the following:

- A. WHEREAS, East Porterville/Doyle Colony area properties within the COUNTY's jurisdiction and within the CITY's Urban Development Boundary are experiencing serious water shortages due to the historical drought conditions. Attached hereto as Exhibit 'A' is a map defining the East Porterville/Doyle Colony and Vandalia areas; and
- B. WHEREAS, CITY and COUNTY have been and are collaborating to jointly develop a new municipal water well; and
- C. WHEREAS, COUNTY shall secure complete funding for a new well to be solely owned, operated and maintained by the CITY for the purpose of providing long-term capacity to enable permanent water connections to properties that comply with CITY'S Annexation and Extension of Municipal Services policy, with certain exceptions for specific properties in excess of the maximum lot size. These procedures are defined by two Resolutions, 74-2014 and 19-2016, which are attached hereto as Exhibit 'B'; and
- D. WHEREAS, the COUNTY owns a parcel at the southeast corner of the Tule River and Olive Avenue (APN 240-120-017), represented in Exhibit 'C', and has drilled a municipal supply well, and will equip said well utilizing CITY standards, after which the COUNTY shall convey the land to CITY at a cost of \$1; and
- E. WHEREAS, CITY operates an existing municipal water system, with limited infrastructure already established in the East Porterville/Doyle Colony and Vandalia areas, and has experience and qualifications necessary to provide such services; and
- F. WHEREAS, CITY and COUNTY mutually agree that a regional, collaborative solution to leverage and expand CITY'S municipal water system into the East Porterville/Doyle Colony and Vandalia areas is the most feasible means to address the area's water needs; and
- G. WHEREAS, CITY is willing to enter into this Agreement with COUNTY upon terms and conditions set forth herein; and
- H. WHEREAS, CITY and COUNTY mutually understand that due to the limited resources of the CITY's municipal water system, all future connections must comply with the CITY's Annexation and Extension of Municipal Services policies, with certain exceptions for specific properties in excess of the maximum lot size, attached hereto and made a part thereof as Exhibit 'B'.

ACCORDINGLY, IT IS AGREED:

- 1. **TERM:** This agreement shall become effective as of the date the agreement is fully executed by both agencies.
- 2. **SERVICES TO BE PERFORMED & PAYMENT FOR SERVICES – EQUIPPING MUNICIPAL WELL FACILITY:** Refer to attached Exhibit 'D'.

TULARE COUNTY AGREEMENT NO. 27596

3. **SERVICE TO BE PERFORMED IN PERPETUITY:** The services described below shall be performed in perpetuity upon completion of all tasks enumerated in Exhibit 'D' and upon COUNTY securing the funds for equipping the well to CITY standards and requirements:
- A. CITY shall provide to STATE and/or COUNTY, upon STATE and COUNTY's request, a maximum of three million (3,000,000) gallons of water per month upon integration of the well provided under this Agreement, for the purposes of meeting emergency water needs in COUNTY's jurisdiction. CITY shall not charge COUNTY or STATE for said water.
 - B. CITY shall utilize water produced by the well provided under this Agreement as source capacity for new service connections and agreements in East Porterville/Doyle Colony and Vandalia areas. CITY agrees to provide source water for up to four hundred twenty-three (423) new connections in the East Porterville/Doyle Colony area subject to the CITY'S Annexation and Extension of Municipal Services policies, with certain exceptions for specific properties in excess of the maximum lot size, and up to 80 new connections in the Vandalia area. The 423 new connections noted above are inclusive of those properties immediately adjacent to an existing water main, estimated at 40 parcels, which can be connected to the City's water system immediately upon execution of this agreement and the Memorandum(a) of Understanding between CITY, COUNTY, and STATE. Upon connection to CITY services, the listed properties will be exempt from payment of CITY water impact fees, but will be subject to standard fees, such as, but not limited to, water service and meter installation, unless otherwise financed by STATE or other funding sources, and associated monthly fees. This section shall not be construed to limit additional connections beyond the above referenced 503 properties provided for herein, where CITY provides consumption documentation that determines additional source capacity is available as a result of the connection of this well to CITY's system.
 - C. CITY expressly agrees to own, operate, maintain, repair and otherwise care for the well provided under this Agreement, in order to maintain it in proper working order and to the highest standard, for the duration of the well's useful life.
 - D. COUNTY shall grant the parcel on which the well is located to the CITY by Grant Deed at a cost of \$1 upon formal acceptance of the project. A 50-foot control zone around the well site is a requirement of the State Water Resources Control Board, Drinking Water Program, therefore establishing the minimum parcel size to be conveyed to the CITY. Existing COUNTY infrastructure may encroach through or conflict with the subject parcel and if so, ownership, maintenance, repair and replacement of these facilities shall transition to the City's responsibility by separate maintenance agreement upon acceptance of the project.
 - E. CITY shall not be entitled to compensation by COUNTY, or any State or Federal agency providing funding for the activities enumerated in Exhibit 'D', for any ongoing costs related to owning, operating, maintaining, repairing, or replacing this well. CITY and COUNTY expressly agree that CITY's ongoing compensation for such ongoing costs shall be the use of the well for CITY's use within its water system, unrestricted except as noted in "A"

above. No part of this paragraph shall be construed to limit or restrict in any way CITY's ability to seek any grant funding or collect rates and fees from users of CITY's water system.

- F. All recipients of water are subject to CITY water policies, such as, but not limited to, water conservation and watering schedules. Connections made as noted in "B" above may be subject to further water conservation thresholds as required by the STATE.

4. This Agreement represents the entire agreement between CITY and COUNTY as to its subject matter and no prior oral or written understanding shall be of any force or effect. No part of this Agreement may be modified without the written consent of both parties.

5. Except as may be otherwise required by law, any notice to be given shall be written and shall be either personally delivered, sent by facsimile transmission or sent by first class mail, postage prepaid and addressed as follows:

COUNTY: County Administrative Officer/Clerk of the Board
of Supervisors of the County of Tulare
Administrative Building
2800 W. Burrel Avenue
Visalia, CA 93291

(Fax No.: (559) 733-6318 / Phone No. (559) 636-5005)

CITY: City Manager
291 N. Main St.
Porterville, CA 93257

(Fax No.: (559) 715-4013/ Phone No. (559) 782-7466)

Notice delivered personally or sent by facsimile transmission is deemed to be received upon receipt. Notice sent by first class mail shall be deemed received on the fourth day after the date of mailing. Either party may change the above address by giving written notice pursuant to this paragraph.

6. This Agreement reflects the contributions of both parties and accordingly the provisions of Civil Code section 1654 shall not apply to address and interpret any uncertainty.
7. Unless specifically set forth, the parties to this Agreement do not intend to provide any other party with any benefit or enforceable legal or equitable right or remedy.
8. This Agreement shall be interpreted and governed under the laws of the State of California without reference to California conflicts of law principles. This Agreement is entered into and shall be performed in Tulare County, California. CITY waives the removal provisions of California Code of Civil Procedure Section 394.
9. The failure of either party to insist on strict compliance with any provision of this Agreement shall not be considered a waiver of any right to do so, whether for that breach or any subsequent breach. The acceptance by either party or either performance or payment shall not be considered to be a waiver of any preceding breach of the Agreement by the other party.
10. The Recitals and the Exhibits to this Agreement are fully incorporated into and are integral parts of this Agreement.

11. This Agreement is subject to all applicable laws and regulations. If any provision of this Agreement is found by any court of other legal authority, or is agreed by the parties, to be in conflict with any code or regulation governing its subject, the conflicting provision shall be considered null and void. If the effect of nullifying any conflicting provision is such that a material benefit of the Agreement to either party is lost, the Agreement may be terminated at the option of the affected party. In all other cases the remainder of the Agreement shall continue in full force and effect.
12. Each party agrees to execute any additional documents and to perform any further acts which may be reasonably required to affect the purposes of this Agreement.
13. CITY expressly agrees that it will not discriminate in employment or in the provision of services on the basis of any characteristic or condition upon which discrimination is prohibited by state or federal law or regulation.
14. Insurance
15. Permit
16. Dispute Resolution: If a dispute arises out of or relating to this Agreement, or the breach thereof, and if said dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by non-binding mediation before resorting to litigation or some other dispute resolution procedure, unless the parties mutually agree otherwise. The mediator shall be mutually selected by the parties, but in case of disagreement, the mediator shall be selected by lot from among two nominations provided by each party. All costs and fees required by the mediator shall be split equally by the parties, otherwise each party shall bear its own costs of mediation. If mediation fails to resolve the dispute within 30 days, either party may pursue litigation to resolve the dispute.
17. Indemnification: CITY shall hold harmless, defend and indemnify COUNTY, its agents, officers and employees from and against any liability, claims, actions, costs, damages or losses of any kind, including death or injury to any person and/or damage to property, including COUNTY property, arising from, or in connection with, the performance by CITY or its agents, officers and employees under this Agreement. This indemnification specifically includes any claims that may be made against COUNTY by any taxing authority asserting that an employer-employee relationship exists by reason of this Agreement, and any claims made against COUNTY alleging civil rights violations by CITY under Government Code sections 12920 et seq. (California Fair Employment and Housing Act), and any fines or penalties imposed on COUNTY for CITY's failure to provide form DE-542, when applicable. This indemnification obligation shall continue beyond the term of this Agreement as to any acts or omissions occurring under this Agreement or any extension of this Agreement.

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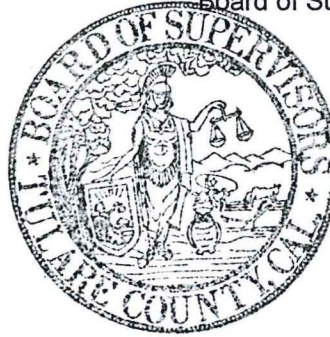
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THE PARTIES, having read and considered the above provisions, indicate their agreement by their authorized signatures below.

COUNTY OF TULARE

BY Mike Ennis
Mike Ennis Chairman,
Board of Supervisors



ATTEST: Michael C. Spata,
County Administrative Officer/Clerk of the Board
of Supervisors of the County of Tulare

By Danisa A. Ybana
Deputy Clerk

Approved as to Form
County Counsel

By M. Guille for LMT
Deputy 20151902

CITY OF PORTERVILLE

BY Milt Stowe
Milt Stowe, Mayor

ATTEST:
City Clerk of the City of Porterville

BY J. L. Lolis
John Lolis, City Manager

Approved as to Form

BY [Signature]
City Attorney

EXHIBIT 'A'

East Porterville Project Boundary



Legend

-  East Porterville Project Boundary
 Parcels Within Project Boundary Area (1,776)
 City Limits
 UDB

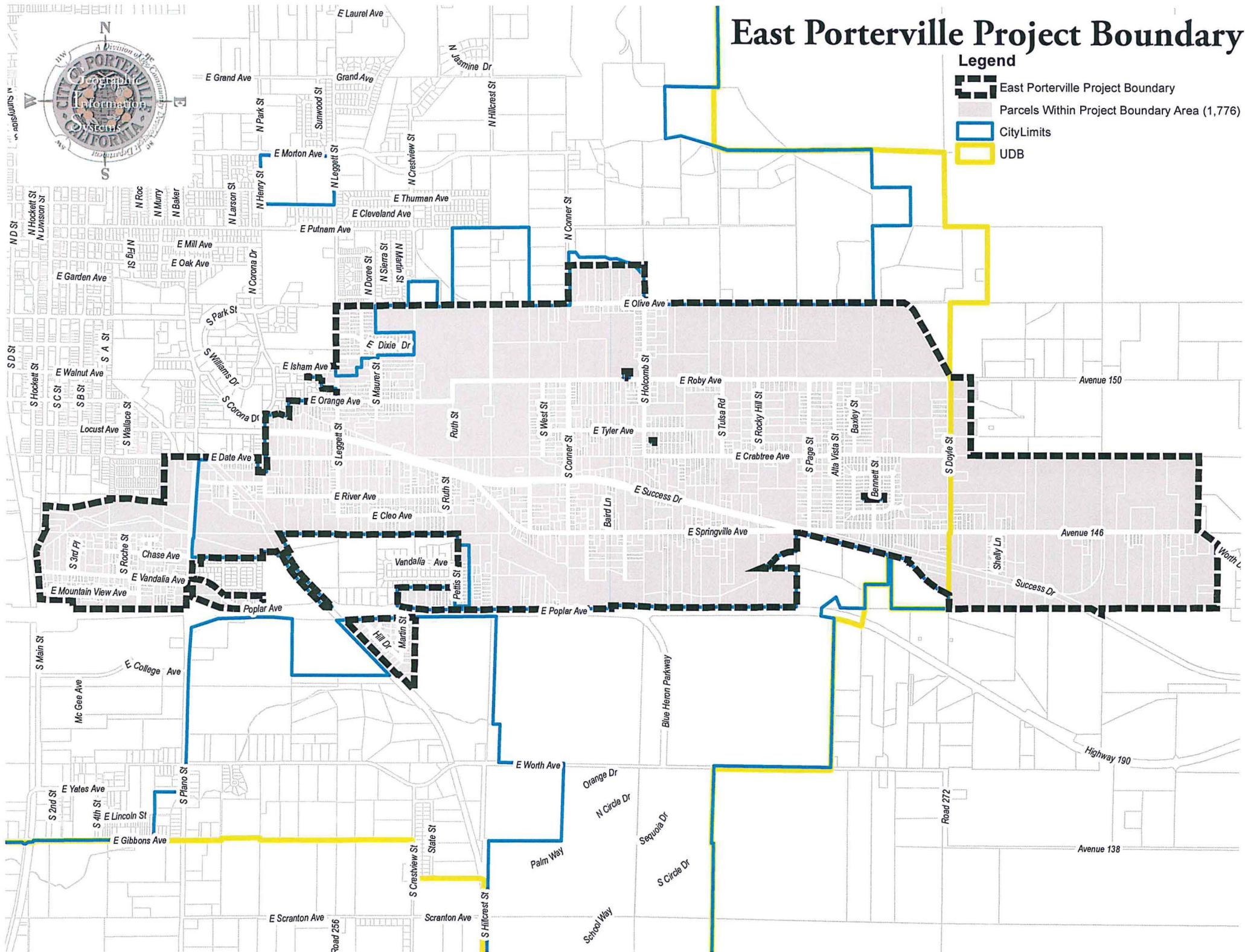


EXHIBIT 'B'

RESOLUTION NO. 74 -2014

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE DEFINING OBJECTIVES AND POLICIES FOR ANNEXATIONS AND MUNICIPAL SERVICES

WHEREAS: The City of Porterville established a policy concerning annexation and provision of municipal services in 1986, noting that “the City, in order to grow for reasons of economies of scale and quality of services must expand its boundaries within reason, generally encourages the owners of properties contiguous to the city of Porterville to annex to said City of Porterville”; and

WHEREAS: Since 1990, the population of the city of Porterville has increased 53% according to the California Department of Finance, and the land area of the city proper has increased by 38% according to City annexation records; and

WHEREAS: The City of Porterville accepts its responsibility to provide municipal services to those residents, businesses, and other land uses within the limits of the city. The City of Porterville has taken the position that the costs of all physical improvements within the city have been paid by property owners, and other taxes derived in the city, and, therefore, these same people should not be required to bear the expense of additional physical improvements needed to serve newly annexed areas.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Porterville does hereby define the following objectives related to annexations and municipal services:

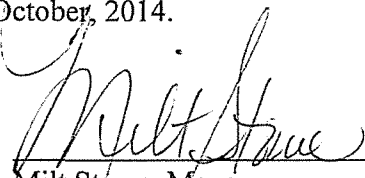
1. To promote orderly development while discouraging urban sprawl, preserving open space and prime agricultural lands, and efficiently extending government services.
2. To honor the City’s fundamental responsibility to provide efficient and sustainable public services to the inhabitants of the city, and where appropriate, to provide those services beyond the limits of the city within the Urban Development Boundary, and only in extreme cases to those properties beyond the Urban Development Boundary within the Urban Area Boundary.
3. To provide for land development and growth in a manner consistent with the General Plan, particularly as it relates to land use and circulation.
4. To consider an application upon its own merits, and identify what benefits would accrue to the City as an agency and service provider, to the residents of the city of Porterville, and to the applicant.
5. To identify the problems involved in any proposal considered for annexation or request for extra-territorial services and resolve them in the manner most beneficial to the properties within the city of Porterville.
6. To develop factual information to permit informed discussion between City representatives and property owners/residents of unincorporated territories.

BE IT FURTHER RESOLVED, that the City Council of the City of Porterville does hereby establish the following policies for consideration of annexations and municipal services:

1. It shall be the policy of the City of Porterville to consider annexation proposals only within the Urban Development Boundary, which is defined as the City of Porterville Annexation Boundary, as adopted by Tulare County Local Area Formation Commission (LAFCo).

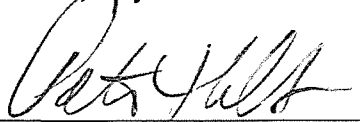
2. It shall be the policy of the City of Porterville to consider extra-territorial service requests primarily within the Urban Development Boundary, which is defined as the City of Porterville Annexation Boundary, as adopted by Tulare County LAFCo.
3. It shall be the policy of the City of Porterville, only where necessary in order to respond to an existing or impending threat to public health or safety of affected residents, to consider extra-territorial service requests within the Urban Area Boundary, as adopted by City Council and identified on the City of Porterville Zoning Map.
4. It shall be the policy of the City of Porterville to consider annexation proposals and extra-territorial service requests in a manner consistent with the policies and regulations adopted by the Tulare County LAFCo and the State of California, as applicable.
5. It shall be the policy of the City of Porterville to discourage single-family one (1) lot annexation proposals that may have an adverse fiscal impact on the City of Porterville.
6. It shall be the policy of the City Council that territory shall not be annexed to the city of Porterville, which as a result of such annexation, unincorporated territory is completely surrounded, or substantially surrounded by the city of Porterville.
7. It shall be the policy of the City of Porterville that annexation proposals shall be in conformance with the Cortese-Knox-Hertzberg Act of 2000, as amended.
8. It shall be the policy of the City Council to consider each petition/consent for annexation upon its relationship to what economic benefits will accrue to the City of Porterville, and to the area residents/property owners.
9. It shall be the policy of the City Council that the costs of all physical improvements will be borne by the property owners/resident or developer.
10. It shall be the policy of the City of Porterville to maintain the viability of agricultural productivity; i.e. protecting and conserving as much agricultural land as possible in the area surrounding the Porterville community.
11. It shall be the policy of the City of Porterville that the applicant for annexation present proposals to the Project Review Committee and explain the particulars of the area under consideration for possible annexation, including a plan for services.
12. It shall be the policy of the City of Porterville to consider any requests for annexation or extra-territorial services in a manner consistent with the procedures adopted by resolution of the City Council.

PASSED, APPROVED AND ADOPTED this 21st day of October, 2014.


Milt Stowe, Mayor

ATTEST:

John D. Lollis, City Clerk

By: 
Patrice Hildreth, Chief Deputy City Clerk

STATE OF CALIFORNIA)
CITY OF PORTERVILLE) SS
COUNTY OF TULARE)

I, JOHN D. LOLLIS, the duly appointed City Clerk of the City of Porterville do hereby certify and declare that the foregoing is a full, true and correct copy of the resolution passed and adopted by the Council of the City of Porterville at regular meeting of the Porterville City Council duly called and held on the 21st day of October, 2014.

THAT said resolution was duly passed, approved, and adopted by the following vote:

Council:	REYES	WARD	STOWE	HAMILTON	GURROLA
AYES:	X		X	X	X
NOES:		X			
ABSTAIN:					
ABSENT:					

JOHN D. LOLLIS, City Clerk


By: Luisa M. Zavala, Deputy City Clerk

RESOLUTION 19-2016

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
ESTABLISHING PROCEDURES FOR ANNEXATIONS AND EXTENSION OF
MUNICIPAL SERVICES

WHEREAS: On October 21, 2014, the City Council of the City of Porterville adopted two resolutions that defined objectives and policies, and established procedures for annexations and municipal services, respectively; and

WHEREAS: The on-going, severe drought of the past few years has created a situation where hundreds of parcels in the East Porterville area are experiencing dry wells, or wells of substandard water quality. State and regional agencies have come together with the City to identify and develop a long-term solution to this crisis, which will involve a significant infrastructure project to allow extension of municipal water services to the area. Not all parcels within the subject area meet the mandatory findings for extra-territorial service agreements as identified in the City's current procedures.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Porterville does hereby amend existing procedures to submit application for municipal services, and to have said application(s) processed as outlined in Exhibit "A", attached. The exemption identified for the East Porterville Feasibility Study Project Area will apply to the area represented in Exhibit "B".

PASSED, APPROVED AND ADOPTED this 19th day of April, 2016.



Milt Stowe, Mayor

ATTEST:

John D. Lollis, City Clerk

BY 

Luisa Zavala, Deputy City Clerk

All properties requesting annexation or extraterritorial services are subject to the procedures established below unless otherwise stated. Compliance with City of Porterville procedures does not guarantee approval by LAFCo of annexations or extra-territorial service agreements. Upon request for an annexation or extraterritorial services request, staff will evaluate whether the applicant's property is within the City's Urban Development Boundary or Urban Area Boundary and explain the process.

ANNEXATION APPLICATION PROCEDURE

1. A complete annexation application packet includes: fees, an Irrevocable Agreement to Annex, information as needed to define a deed restriction specific to land use and zoning, Application for Annexation, and other materials as required with those applications respectively.
2. On receipt of an application as outlined above, all materials will be considered by the Project Review Committee, who will coordinate in a pre-consultation process with LAFCO staff and the County Public Works Department for review and recommendation.
3. During review by the Project Review Committee of the necessary application and data, staff will prepare a report and findings on all aspects of the proposed action(s).
4. An environmental document will be prepared pursuant to the California Environmental Quality Act (CEQA), reviewing the potential environmental effect of the proposed activities. The Zoning Administrator will make an initial determination of the level of environmental review required.
5. After proper noticing, a public hearing will be held for the City Council to hear comments related to the project at a regularly scheduled meeting. The Council will authorize staff to initiate the application with LAFCo. Documents will be filed in accordance with the Cortese-Knox-Hertzberg Act of 2000, as amended, and submitted to the Local Agency Formation Commission for its review, recommendation and action.
6. On consummation by the City Council, the City Clerk shall submit the necessary materials to the State Board of Equalization with the appropriate acreage fees, which are paid by the Applicant.
7. In the event the annexation fails, either by dissenting votes of the City Council or at hearing at LAFCo, the City Council may approve an extraterritorial service agreement within the Urban Development Boundary, subject to conditions identified in the deed restriction.

ANNEXATION EXEMPTION PROCEDURE

Where a certain property meets all of the following criteria, they may proceed with an Extraterritorial Service Agreement for water or storm-water drainage without first attempting annexation, subject to the conditions of Extraterritorial Service Agreements as defined below.

1. Previously developed single family residences on parcels 24,999 square feet or smaller, OR a school developed by a State funded school district.
2. The parcel requesting services must be immediately adjacent to a municipal main providing the requested service, or the property owner shall provide for the extension of the main line to City standards at their expense.

EXTRATERRITORIAL SERVICES APPLICATION PROCEDURE

Extraterritorial Service connections may be made subject to the following conditions. Note specific parameters and the required findings for connections in the Urban Development Boundary and the Urban Area Boundary.

1. Application: A complete extraterritorial services application packet includes: fees, an Irrevocable Agreement to Annex, information as needed to define a deed restriction specific to land use and zoning, and other materials as required with those applications respectively.
2. General Plan Consistency:
 - a. Proposed Uses and Improvements: Service connections are to be withheld from proposed uses and improvements that would not be consistent with the adopted Land Use Element of the Porterville Area General Plan and the City of Porterville General Plan.
 - b. Existing Uses and Improvements: Service connections to existing uses and improvements which are not consistent with the adopted Land Use Element of the Porterville Area General Plan and the City of Porterville General Plan shall be considered at the discretion of the City Council, and may be subject to other restrictions.
3. Agreements and covenants:
 - a. A deed restriction specific to land use and zoning must be approved by the property owner and the City Council, and recorded with the County of Tulare upon the property, at the applicant's cost.
 - b. An irrevocable agreement to annex must be signed by the property owner and recorded with the County of Tulare upon the property, at the applicant's cost.
4. Time limitations: The City Manager or his designee, or the City Council may condition the approval of applications for service connections by establishing a time frame within which connections must be made to avoid re-application.
5. Improvement Plans: Applications for service connections, which necessitate the extension of one or more municipal facilities to property in order to make such connections, shall be conditioned by the City Manager or his designee, or the City Council to require that Construction Drawings of the intended public improvements be submitted to the City Engineer for plan check and approval. Costs incurred for the preparation of improvement plans, and certain off-site construction and/or installation costs related to extending facilities, shall be the responsibility of the applicant.
6. Fees: Prior to the issuance of a Connection Permit, payment must be made to the City of Porterville of all fees pertinent to the respective service connection, or connections, approved by the City Manager or his designee, or the City Council.

Within the Urban Development Boundary:

For connection of water or storm-water facilities, the requesting party must fully fund the extension of infrastructure if it does not already exist in order to connect. The City of Porterville Wastewater Facility is a regional facility and as such, an extraterritorial service request cannot be denied; however, the requesting party must fund a fair share of the extension of infrastructure if it does not already exist in order to connect. Contract services for police, fire, or building inspection services shall be approved by resolution of the City Council.

For connection of water or storm-water facilities, the following findings must be made in order for the Council approve an extraterritorial service connection:

- That the subject property is a previously developed single family residence on a parcel 24,999 square feet or smaller, OR a school developed by a State funded school district.
- That failure to connect to municipal services would result in a threat to public health or safety of affected residents.
- That connection of the subject property would not result in a negative impact to the City of Porterville water and/or storm-water system.
- That the subject property is not within an island as defined by Tulare LAFCo.
- That an attempt to annex the subject site is not realistic given current city limit boundaries. Specifically, the parcel is too far removed from the city limit, and/or the number and valuation of adjacent parcels would result in a failed annexation effort.

Within the Urban Area Boundary:

For connection of water or storm-water facilities, the requesting party must fully fund the extension of infrastructure if it does not already exist in order to connect. The City of Porterville Wastewater Facility is a regional facility and as such, an extraterritorial service request cannot be denied; however, the requesting party must fund a fair share of the extension of infrastructure if it does not already exist in order to connect. Contract services for police, fire, or building inspection services shall be approved by resolution of the City Council.

For connection of water or storm-water facilities, the following findings must be made in order for the Council approve an extraterritorial service connection:

- That the subject property is a previously developed single family residence on a parcel 24,999 square feet or smaller, OR a school developed by a State funded school district.
- That failure to connect to municipal services would result in a threat to public health or safety of affected residents.
- That connection of the subject property would not result in a negative impact to the City of Porterville water and/or storm-water system.

EXEMPTIONS AND EXCEPTIONS

1. PVPUD: Connections to Porterville Regional Sewage Treatment Facilities serving uses and improvements to property within the boundaries and jurisdiction of the Porter Vista Public Utility District (PVPUD) are exempted from application to the City of Porterville. Interested parties should contact the PVPUD for information on connection requirements and fees pertaining

to sewer services. This exemption does not apply to requests for connection to Municipal Water and/or Master Storm Drain Facilities.

2. PRIOR APPROVALS: Porterville City Council approval of requests for connection to Regional Sewage Treatment, Municipal Water and/or Master Storm Drain Facilities as authorized prior to the adoption and effective date of the respective policies set forth herein shall remain valid and in force according to the terms and conditions initially specified at the time of approval, and re-application will not be required.

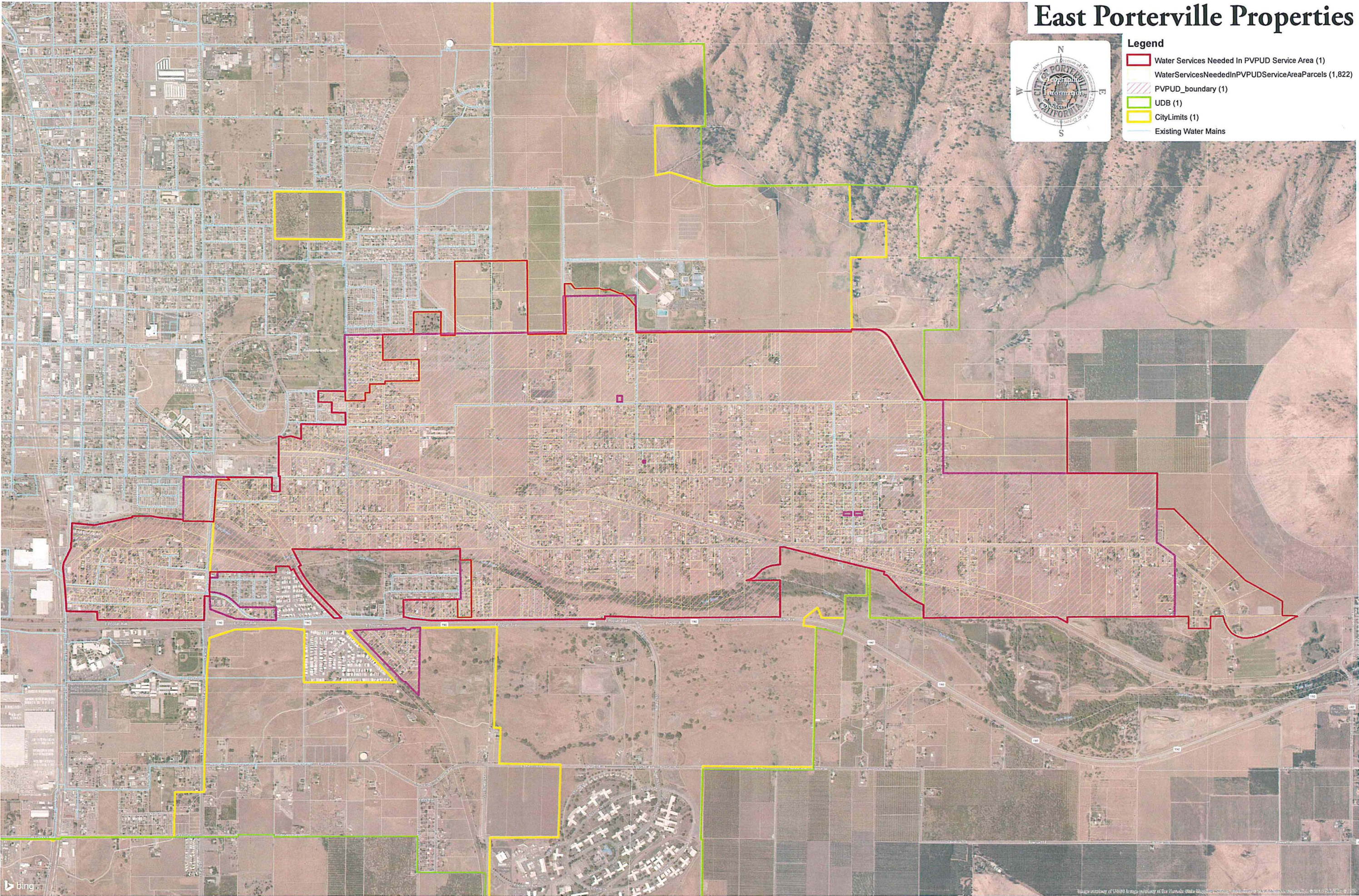
3. PROPERTIES WITHIN THE EAST PORTERVILLE FEASIBILITY STUDY PROJECT AREA: The California State Water Resources Control Board, in coordination with the Department of Water Resources Drought Task Force, is charged with preparing a feasibility study to define a long-term solution to the water related issues in East Porterville. Properties within that boundary would be permitted to apply for connection, whether in association with DWR, SWRCB, or at a later date, on their own. Such connections would be subject to the mandatory findings as outlined in this procedure, with the following exceptions:

- Rather than require that the subject property be a developed single-family residence on a parcel 24,999 square feet or smaller, neither the land use nor the parcel size would be restricted neither the land use nor the parcel size would be restricted for legal and legal non-conforming structures and land uses existing as of April 29, 2016.
- Further, properties within certain islands in the EPFS Project Area would not be required to annex prior to connection. This exception does not limit the City of Porterville's authority to pursue annexation in the future, but rather waives the requirement that annexation must be approved prior to connection.

East Porterville Properties



- Legend**
- Water Services Needed In PVPUD Service Area (1)
 - WaterServicesNeededInPVPUDServiceAreaParcels (1,822)
 - PVPUD_boundary (1)
 - UDB (1)
 - CityLimits (1)
 - Existing Water Mains



STATE OF CALIFORNIA)
CITY OF PORTERVILLE) SS
COUNTY OF TULARE)

I, JOHN D. LOLLIS, the duly appointed City Clerk of the City of Porterville do hereby certify and declare that the foregoing is a full, true and correct copy of the resolution passed and adopted by the Council of the City of Porterville at regular meeting of the Porterville City Council duly called and held on the 19th day of April, 2016.

THAT said resolution was duly passed, approved, and adopted by the following vote:

Council:	REYES	WARD	STOWE	HAMILTON	GURROLA
AYES:	X	X	X	X	
NOES:					
ABSTAIN:					
ABSENT:					X

JOHN D. LOLLIS, City Clerk

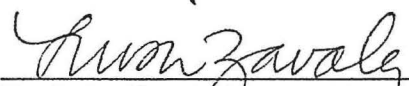

By: Luisa Zavala, Deputy City Clerk

EXHIBIT 'C'



EXHIBIT 'D'

Scope of Work

Task	Description	Cost
1.2	Prepare Well Drilling Plans, Specifications, and Estimates	\$468.00
3.2	Prepare Well Equipping Plans, Specifications, and Estimates	\$1,526.00
5	Ph. 1 Preconstruction Meeting	\$1,357.43
Total:		\$3,351.43

Consulting Engineering work will be reimbursed directly to Dee Jaspar & Associates under Tulare County Agreement No. 1276, including the following Tasks:

Task 4.1	Project Evaluations and Field Surveying	\$58,326.00
Task 4.2	Prepare Well Equipping Plans, Specifications, and Estimates	\$30,000.00
Task 4.3	Prepare and Assist with SCE Application & Telephone Service	\$5,000.00
Task 4.4	SCE Costs	\$15,000.00
Total:		\$108,326.00

Discussion Draft

Subject to Additional Review and Modification by the Parties

Porterville MOU
Draft 2
June 15, 2016
PortervilleEmergencyMOU061516



Memorandum of Understanding (MOU)

Regarding the Provisions of Emergency Water Supplies to East Porterville

by the California Department of Water Resources (DWR), California Office of Emergency

Service (OES), the State Water Resources Control Board (SWRCB),

the County of Tulare (County), and City of Porterville (Porterville),

which are collectively known as the “Parties”

Recitals

Whereas, some residents living in an unincorporated area of Tulare County, commonly known as “East Porterville,” have experienced loss of adequate water supply to their homes and properties as a result of severe drought conditions, which has caused significant hardship for the residents;

Whereas, Governor Edmund G. Brown Junior has directed all State agencies to assist these residents who are in need of water supplies with emergency and long-term assistance;

Whereas, Governor Edmund G. Brown Junior signed Assembly Bill 685 in 2012, adding Water Code section 106.3, which recognizes that every human being has the right to safe, clean, affordable, and accessible water adequate for human consumption, cooking, and sanitary purposes, and which requires all relevant state agencies to consider this right when revising, adopting, or establishing pertinent policies, regulations, and grant criteria;

Whereas, the Parties have provided emergency water supplies to some residents of East Porterville that are without an adequate household water supply;

Whereas, the Parties to this MOU seek an emergency and long-term solution to the lack of adequate household water supply by developing and providing continuous water supplies to these residents;

Whereas, East Porterville is located east and adjacent to Porterville, which has an existing municipal water system that serves residents within the incorporated area of Porterville;

Whereas, some of the residents of East Porterville without an adequate household water supply could be connected to Porterville's municipal water system provided certain arrangements and projects are carried out by the Parties;

Whereas, Vandalia is a neighborhood located within Porterville, and some Vandalia residents lack adequate household water supply and these households could be connected to Porterville's municipal water system;

Whereas, the Parties have met and have discussed alternative plans and projects that would provide an emergency water supply from Porterville to some residents of East Porterville and Vandalia in an expeditious manner;

Whereas, to advance these projects, DWR has provided funding, as reflected in the agreement between DWR and Tulare attached as Exhibit 1, for a municipal well designated as "Well C1" located in Tulare County that ultimately could be used to supply water to these residents of East Porterville;

Whereas, the SWRCB has also provided funding for Well C1, as reflected in the agreement between the SWRCB and the County attached as Exhibit 2;

Whereas, the County and Porterville intend to execute an agreement, a draft of which is attached as Exhibit 3, that will connect Well C1 to Porterville's municipal water system and that will provide for an adequate household water supply for some residents of East Porterville; and

Whereas, the Parties have reached an understanding on how best to implement the project alternative that will provide an adequate household water supply to some residents of East Porterville and Vandalia, and alleviate the hardships in an expeditious, cost-effective manner.

Understanding

A. Description of Emergency Project and Long-Term Plan

1. The purpose of this MOU is to set forth in writing the intentions of the Parties of how best to move forward with plans to complete an emergency water supply project (Project) to some residents in the East Porterville and Vandalia areas, which are represented in Exhibit 4. (Map showing East Porterville and Porterville). The goal of the Project is to provide an adequate household water supply to some of the residents and properties in these areas that do not have one presently, and to end the need of the Parties to provide temporary water supplies to those residents through tanks and bottles.

2. The Parties intend to develop the Project in two phases. Phase 1 will make municipal water connections to the properties in East Porterville that have dry wells and are adjacent to Porterville's existing municipal water distribution system. It is estimated that this phase will serve 40 properties with dry wells that are currently receiving temporary household water supplies.

3. The Parties intend that Phase 2 of the Project will provide municipal water supply to approximately 500 properties in East Porterville and in Vandalia that have dry wells or otherwise lack an adequate source of water and have not been connected by Phase 1. In order to complete Phase 2, the residents of these properties will likewise need to connect to Porterville's municipal water system.

4. As soon as possible, Porterville and DWR will undertake Phase 1 of the Project and connect the properties in East Porterville that are adjacent to Porterville's existing municipal water distribution system. These connections will be accomplished as described in Water Installation Diagram attached as Exhibit 5 and based on the cost estimate, which is attached as Exhibit 6. In order to make these connections, a property owner desiring to receive public water supply will need to execute the Extraterritorial Service Agreement, a sample of which is attached as Exhibit 7, and the SWRCB's Water Connection Agreement, a sample of which is attached as Exhibit 8. Necessary signatures and agreements with property owners will be sought through SWRCB's outreach carried out with the assistance of all Parties to this MOU.

5. The Parties intend that Well C1 will be used to provide the emergency water supply in Phase 2 to about 500 properties without adequate household water supplies. The Parties presently understand that there are about 423 properties in East Porterville and approximately 80 properties in Vandalia where connections may be needed to provide emergency water supplies.

6. The Parties have created a Technical Workgroup consisting of engineers and planners, which work cooperatively on the technical issues described in this MOU. Based on recommendations of the Technical Workgroup, the Parties intend to provide the emergency water supply contemplated by this MOU.

7. The Parties intend to develop a Long-Term Water System Plan (Long-Term Plan) for the East Porterville area, which will serve other residents in the area besides those served by the Project. The Parties intend that the Project will be designed consistent with the Long-Term Plan to ensure that all water facilities constructed as part of the Project will be incorporated into the facilities ultimately developed through the Long-Term Plan. The first work product produced by the Technical Workgroup will be a Feasibility Study for the Long-Term Plan. The outline of the Feasibility Study is attached as Exhibit 9.

8. The Parties intend to use best efforts to complete both phases of the Project by December 31, 2016. The completion date of the Long-Term Plan is dependent on the completion of the Feasibility Study carried out by Technical Workgroup and on Porterville and/or the County applying for and securing sufficient funding from the SWRCB or from other sources. The Parties desire to complete the Long-Term Plan as expeditiously as possible.

B. Project Contributions of the Parties

9. Working in cooperation with the other Parties and the Technical Workgroup, DWR will prepare all environmental compliance for the Project, and design and construct the Project, both Phases 1 and 2. DWR will provide funding for Phases 1 and 2 of the Project through Emergency Drought Funding. DWR intends to serve as California Environmental Quality Act (CEQA) lead agency for the Long-Term Plan and will prepare any necessary CEQA documentation and any other necessary environmental review documents, unless the Feasibility Study recommends another lead agency.

10. SWRCB will provide the community outreach to assist in obtaining necessary property owner acceptance before proceeding with Project. SWRCB will also work with Porterville and/or County to secure funding of the Long-Term Plan. SWRCB will provide certain reviews and approvals for the permitting of the Project and the Long-Term Plan.

11. OES will coordinate all of the State's efforts under the Governor's Drought Task Force in the Project area and will be provided at no cost by Porterville up to 3,000,000 gallons of emergency water per month as needed as a result of this MOU and the agreement that Porterville and the County are in the process of considering for execution, a draft of which is attached as Exhibit 3, with regard to the Well C1.

12. Porterville will provide the needed water service to the residents of East Porterville without an adequate household water supply after they are connected to Porterville's municipal water system as described in the Project. The water service will be accomplished per the Extraterritorial Service Agreement, which requires that property owners served pay the monthly water bill. DWR is funding the residents' connection to the Project, and as a result, some of the normal connection fees will be waived provided that connection is made during Phase 1 or Phase 2. Porterville will install the water meters for each connection, which will be paid for by DWR.

13. The County intends to execute an agreement with Porterville that is consistent with this MOU and Exhibit 3, which will allow Well C1 to serve as a water supply for the Project. The County will inspect the work of the Project and the property connections at no cost to the residents.

14. The Parties to the MOU will cause the removal of all temporary water tanks from the properties upon completion of the Project and the appurtenances necessary for the receipt of municipal water service. The work for removing the water tanks will be carried out by the County under an agreement between the County and OES.

C. General Provisions

15. The Parties intend to use their best efforts to carry out this MOU. This MOU is not a binding agreement, and is not intended to create contractual rights and remedies among the Parties. However, the Parties have entered into and intend to enter into certain binding agreements in the future necessary to develop and complete the Project and the Long-Term Plan.

16. This MOU will become effective upon the signature of the all Parties. The MOU will terminate on December 31, 2016, unless extended by all of the Parties in writing.

[Signatures on following page]

This MOU has been executed by:

California Department of Water Resources

State Water Resources Control Board

California Office of Emergency Services

County of Tulare

City of Porterville

List of Exhibits

1. DWR and Tulare County Executed Well C1 Agreement
2. SWRCB and County Executed Well C1 Agreement (Water Board Grant #D-15-11-902)
3. ~~County and~~County and Porterville Draft Well Agreement
4. Map of East Porterville
5. Household Water Service Installation Diagram
6. Household Water Service Cost Estimate
7. Sample Extraterritorial Service Agreement
8. Sample SWRCB Water Connection Agreement
9. Draft Emergency Project Feasibility Study



Amendment No. 1

To the East Porterville Water Supply Project

Memorandum of Understanding (MOU)

Regarding the Provisions of Emergency Water Supplies to East Porterville
by the California Department of Water Resources (DWR), California Office of
Emergency Service (OES), the State Water Resources Control Board (SWRCB),
the County of Tulare (County), and City of Porterville (Porterville),
which are collectively known as the "Parties"

This Amendment No.1 to the MOU is made this 7th day of November, 2016. As described below, this Amendment No.1 recognizes the MOU is still in effect, modifies certain sections of this MOU, and adds new sections to the MOU.

Recitals

Whereas, some residents living in an unincorporated area of Tulare County, commonly known as "East Porterville," have experienced loss of adequate water supply to their homes and properties as a result of severe drought conditions, which has caused significant hardship for the residents;

Whereas, Governor Edmund G. Brown Junior has directed all State agencies to assist these residents who are in need of water supplies with emergency and long-term assistance;

Whereas, the Parties to this MOU seek an emergency and long-term solution to the lack of adequate household water supply by developing and providing continuous water supplies to these residents;

Whereas, to advance these projects, DWR and the SWRCB have provided funding, as reflected in Exhibits 1 and 2, for a municipal well designated as "Well C1" located in Tulare County that ultimately could be used to supply water to these residents of East Porterville;

Whereas, the Parties have reached an understanding on how best to implement the project alternative that will provide an adequate household water supply to some residents of East Porterville and Vandalia, and alleviate the hardships in an expeditious, cost-effective manner:

Whereas, the purpose of this amendment is to clarify some sections of the MOU and to add several new sections.

NOW THEREFORE, IT IS MUTUALLY AGREED that the following changes are hereby made to the MOU:

1. Section A (2) is amended to read as follows:

The Parties intend to develop the Project in two phases. Phase 1 will make municipal water connections to the properties in East Porterville and Vandalia that have dry wells and/or water tanks. It is estimated that this phase will serve approximately 300 properties.

2. Section A (3) is amended to read as follows:

The Parties intend that Phase 2 of the Project will provide municipal water supply to approximately 800 properties in East Porterville by connecting them to the City of Porterville's water system. The total number of homes eligible for this Project is approximately 1,100.

3. Section A (5) is amended to read as follows:

The Parties intend that Well C1 will be used to provide the initial water supply. The Parties acknowledge the delay in Well C1 completion. To mitigate the effects of this on the residents of East Porterville, the City of Porterville will allow connections of homes as they become prepared for connection. These early connections will be beyond the initial 70 connections (previously 40 connections) agreed to, given the availability of capacity during the winter months. However, these additional connections to the City's water system will cease on March 1, 2017, if Well C1's connection to the City's water system is not completed by then.

4. Sections A (7) b-f shall be added and made part of this MOU:

7 (a). The Parties intend to develop a Long-Term Water System Plan (Long-Term Plan) for the East Porterville area, which will serve other residents in the area besides those served by the Project. The Parties intend that the Project will be designed consistent with the Long-Term Plan to ensure that all water facilities constructed as part of the Project will be incorporated into the facilities ultimately developed through the Long-Term Plan. The first work product produced by the Technical Workgroup will be a Feasibility Study for the Long-Term Plan. The outline of the Feasibility Study is attached as Exhibit 9.

(b). The East Porterville Water Supply Project Hydraulic Analysis Report ("Hydraulic Analysis Report," which is attached as Exhibit 10) determined that the water supply capacity required to serve all eligible residents of East Porterville is 1,435 gallons per minute (gpm). This capacity shall be based on the sustainable yield of the wells which is defined as 75 percent of the initial design capacity. Since Well C1 has a sustainable yield of 600 gpm, the Parties agree that the State will fund the construction and equipping of additional wells to provide the 835 gpm shortfall.

(c). Based on the Hydraulic Analysis, a 700,000 gallon water storage tank is required to serve the residents of East Porterville. However, based on Porterville's master plan recommendations, a 1.2 million-gallon storage tank is required for the City's buildout. The Parties therefore intend to construct a 1.2 million-gallon storage tank with cost sharing between the State and the City. The State will fund the cost of a 700,000 gallon tank required for the Project and the City of Porterville will fund the cost of the additional 500,000 gallons of storage required for the City's future use as contained in its master plan. The cost-sharing shall be proportional to the tank capacity being funded.

(d). The Parties intend to upgrade the existing Henderson-Plano Booster Pump Station and the Granite Hills Intertie which would facilitate water supply to the East Pressure Zone which serves East Porterville. The State will fund the construction of one booster pump rated at 2,100

gpm along with a variable frequency drive and the Granite Hills Intertie. The City will fund the replacement of its two existing pumps along with associated variable frequency drives as part of Phase 2 of the Project. These two pumps are more than 30-years old and their replacement will enable the City's water system to operate more efficiently and in a cost-saving manner.

(e). The Parties further agree that a booster pump station of capacity 1,670 gpm is required to convey water from the West Pressure Zone, where the new wells will be located, to the Central Pressure Zone for onward conveyance to East Porterville. The State will fund the construction of this booster pump station.

(f). Given that Well C1 has an estimated sustainable yield of 600 gpm, as well as a unit demand of 0.833 gpm per home connection based on the Hydraulic Analysis , Well C1 could effectively serve up to 720 households . The Parties agree that home connections for Phase 2 of the Project can begin as soon as Well C1 is connected to the City's water system, and the Henderson-Plano Booster Pump Station upgrade and the Granite Hills Intertie are completed. These home connections shall cease when the capacity of Well C1 is exceeded. Thereafter, additional home connections will be made after the construction of additional wells or if City staff determines that the water system can support additional home connections.

5. Section (C) 16 is amended to read as follows:

16. This MOU will become effective upon the signature of the all Parties. The MOU will terminate on June 30, 2018, unless extended by all Parties in writing.

6. The list of the Exhibits at the end of MOU is amended to read as follows:

1. DWR and Tulare County Executed Well C1 Agreement
2. SWRCB and County Executed Well C1 Agreement (Water Board Grant #D-15-11-902)
3. County and Porterville Draft Well Agreement
4. Map of East Porterville
5. Household Water Service Installation Diagram
6. Household Water Service Cost Estimate
7. Sample Extraterritorial Service Agreement
8. Sample SWRCB Water Connection Agreement
9. Draft Feasibility Study for the Long-Term Plan
10. East Porterville Water Supply Project Hydraulic Analysis Report

This MOU has been executed by:

California Department of Water Resources

State Water Resources Control Board

California Office of Emergency Services

County of Tulare

City of Porterville



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

NOV 29 2017

The Honorable Milt Stowe
Mayor of City of Porterville
291 North Main Street
Porterville, CA 93257

RECEIVED

DEC 04

CITY OF PORTERVILLE
CITY MANAGER

Dear Mayor Stowe:

The Department of Water Resources and the State Water Resources Control Board are requesting an increase to the number of household connections from 720 to 800 to the City of Porterville (City) water system, prior to the completion of the East Porterville Emergency Water Supply Project – Phase 2 (Project). The construction of all facilities is estimated to be completed by June 2019.

According to Section A(7)(f) of Amendment No. 1 to the Project's Memorandum of Understanding (MOU), the estimated sustainable yield of Well C1 is 600 gallons per minute (gpm) and therefore will serve up to 720 households. Our current projections show that approximately 800 households will need to be connected by the end of 2017.

Our current plans are to drill two additional wells which would add more than 835 gpm of sustainable yield to the City's water supply, pending land acquisition by the City. Further, our calculations indicate that Well C1 is currently capable of producing 800 gpm in the interim, which can support a total of 960 households in the short term. It is our hope that the City will complete acquisition of the properties needed to drill the two additional wells in a timely manner to ensure that the City's water supply does not become stressed.

We look forward to hearing favorably from you and thank you for your continued support in providing safe drinking water to the residents of East Porterville.

Sincerely,



James Maughan, Assistant Deputy Director
Division of Financial Assistance

cc: See next page

DEPARTMENT OF WATER RESOURCES

SOUTH CENTRAL REGION OFFICE
3374 EAST SHIELDS AVENUE, ROOM 3
FRESNO, CA 93726-6913



January 18, 2018

Mr. Michael K. Reed
Public Works Director
City of Porterville
291 North Main Street
Porterville, California 93257

RECEIVED

JAN 22 2018

City of Porterville
Public Works Dept

Approval of Funding from Local Assistance Funds to the City of Porterville for the
County Areas Water Supply Project

Dear Mr. Reed:

Your request for funds to accomplish the city of Porterville's scope of work to connect drought-impacted households in seven Tulare County areas bounded by the city has been approved. The approved funding is not to exceed the amount of \$2,812,946.00. The term of the funding is from January 18, 2018, to December 31, 2019.

The purpose of this funding is for the city of Porterville to effectuate the connection of the drought-impacted homes in seven county areas to the city's water distribution system. The project comprises water main extensions, home connections, and well destructions. These homes have been identified as having private residential wells, and the homeowners have voluntarily elected to join the project. As part of their election to participate in the project, the homeowners have consented to having their groundwater wells destroyed.

A grant agreement is being developed and will be sent to you for approval. You are allowed to start incurring costs from January 18, 2018. No reimbursement will be issued until the contract agreement is executed.

If you have any questions or need additional information regarding the agreement, please contact Steve Doe by email at Steve.Doe@water.ca.gov or by phone at (559) 230-3348.

Sincerely,

Kevin Faulkenberry, Chief
South Central Region Office

Executive Department

State of California

EXECUTIVE ORDER B-40-17

WHEREAS California has endured a severe multi-year drought that has threatened the water supplies of communities and residents, devastated agricultural production in many areas, and harmed fish, animals and their environmental habitats; and

WHEREAS Californians responded to the drought by conserving water at unprecedented levels, reducing water use in communities by more than 22% between June 2015 and January 2017; and

WHEREAS the State Water Resources Control Board, the Department of Water Resources, the Department of Fish and Wildlife, the Office of Emergency Services, and many other state agencies worked cooperatively to manage and mitigate the effects of the drought on our communities, businesses, and the environment; and

WHEREAS the State provided 66,344,584 gallons of water to fill water tanks for communities suffering through drought-related water shortages, outages, or contamination, and provided emergency assistance to drill wells and connect communities to more robust water systems; and

WHEREAS the State took a number of important actions to preserve and protect fish and wildlife resources, including stream and species population monitoring, fish rescues and relocations, infrastructure improvements at trout and salmon hatcheries, and infrastructure to provide critical habitat for waterfowl and terrestrial animals; and

WHEREAS the State established a Statewide Water Efficiency and Enhancement Program for agricultural operations that provides financial assistance for the implementation of irrigation systems that save water; and

WHEREAS water content in California's mountain snowpack is 164 percent of the season average; and

WHEREAS Lake Oroville, the State Water Project's principal reservoir, is 101 percent of average, Lake Shasta, the federal Central Valley Project's largest reservoir, is at 110 percent of average, and the great majority of California's other major reservoirs are above normal storage levels; and

WHEREAS despite winter precipitation, the effects of the drought persist in areas of the Central Valley, including groundwater depletion and subsidence; and

WHEREAS our changing climate requires California to continue to adopt and adhere to permanent changes to use water more wisely and to prepare for more frequent and persistent periods of limited water supply; and

WHEREAS increasing long-term water conservation among Californians, improving water use efficiency within the State's communities and agricultural production, and strengthening local and regional drought planning are critical to California's resilience to drought and climate change.

NOW, THEREFORE, I, EDMUND G. BROWN JR., Governor of the State of California, in accordance with the authority vested in me by the Constitution and statutes of the State of California, do hereby **TERMINATE THE JANUARY 17, 2014 DROUGHT STATE OF EMERGENCY** for all counties in California except the Counties of Fresno, Kings, Tulare, and Tuolumne.

I FURTHER ORDER THAT:

1. The orders and provisions contained in my April 25, 2014 Emergency Proclamation, as well as Executive Orders B-26-14, B-28-14, B-29-15, and B-36-15 are rescinded.
2. The orders and provisions contained in Executive Order B-37-16, **Making Water Conservation a California Way of Life**, remain in full force and effect except as modified by this Executive Order.
3. As required by the State Emergency Plan and Government Code section 8607(f), the Office of Emergency Services, in coordination with other state agencies, shall produce an after-action report detailing the State's response to the drought and any lessons learned in carrying out that response.

MAINTAINING CONSERVATION AS A WAY OF LIFE

4. The State Water Resources Control Board (Water Board) shall continue development of permanent prohibitions on wasteful water use and requirements for reporting water use by urban water agencies, and to provide a bridge to those permanent requirements, shall maintain the existing emergency regulations until they expire as provided by the Water Code. Permanent restrictions shall prohibit wasteful practices such as:
 - Hosing off sidewalks, driveways and other hardscapes;
 - Washing automobiles with hoses not equipped with a shut-off nozzle;
 - Using non-recirculated water in a fountain or other decorative water feature;
 - Watering lawns in a manner that causes runoff, or within 48 hours after measurable precipitation; and
 - Irrigating ornamental turf on public street medians.
5. The Water Board shall rescind those portions of its existing emergency regulations that require a water supply stress test or mandatory conservation standard for urban water agencies.

6. The Department of Water Resources (Department) shall continue work with the Water Board to develop standards that urban water suppliers will use to set new urban water use efficiency targets as directed by Executive Order B-37-16. Upon enactment of legislation, the Water Board shall adopt urban water use efficiency standards that include indoor use, outdoor use, and leaks as well as performance measures for commercial, industrial, and institutional water use. The Department shall provide technical assistance and urban landscape area data to urban water suppliers for determining efficient outdoor use.
7. The Water Board and the Department shall continue to direct actions to minimize water system leaks that waste large amounts of water. The Water Board, after funding projects to address health and safety, shall use loans from the Drinking Water State Revolving Fund to prioritize local projects that reduce leaks and other water system losses.
8. The Water Board and the Department shall continue to take actions to direct urban and agricultural water suppliers to accelerate their data collection, improve water system management, and prioritize capital projects to reduce water waste. The California Public Utilities Commission is requested to work with investor-owned water utilities to accelerate work to minimize leaks.
9. The Water Board is further directed to work with state agencies and water suppliers to identify mechanisms that would encourage and facilitate the adoption of rate structures and other pricing mechanisms that promote water conservation.
10. All state agencies shall continue response activities that may be needed to manage the lingering drought impacts to people and wildlife. State agencies shall increase efforts at building drought resiliency for the future, including evaluating lessons learned from this current drought, completing efforts to modernize our infrastructure for drought and water supply reliability, and shall take actions to improve monitoring of native fish and wildlife populations using innovative science and technology.

CONTINUED DROUGHT RESPONSE IN FRESNO, KINGS, TULARE, AND TUOLUMNE COUNTIES

11. The Water Board will continue to prioritize new and amended safe drinking water permits that enhance water supply and reliability for community water systems facing water shortages or that expand service connections to include existing residences facing water shortages.
12. The Department and the Water Board will accelerate funding for local water supply enhancement projects and will continue to explore if any existing unspent funds can be repurposed to enable near-term water conservation projects.
13. The Water Board will continue to work with local agencies to identify communities that may run out of drinking water, and will provide technical and financial assistance to help these communities address drinking water

shortages. It will also identify emergency interconnections that exist among the State's public water systems that can help these threatened communities. The Department, the Water Board, the Office of Emergency Services, and the Office of Planning and Research will work with local agencies in implementing solutions to those water shortages.

14. For actions taken in the Counties of Fresno, Kings, Tulare, and Tuolumne pursuant to directives 11–13, the provisions of the Government Code and the Public Contract Code applicable to state contracts, including, but not limited to, advertising and competitive bidding requirements, as well as Division 13 (commencing with section 21000) of the Public Resources Code and regulations adopted pursuant to that Division, are hereby suspended. These suspensions apply to any actions taken by state agencies, and for actions taken by local agencies where the state agency with primary responsibility for implementing the directive concurs that local action is required, as well as for any necessary permits or approvals required to complete these actions.
15. California Disaster Assistance Act Funding is authorized until June 30, 2017 to provide emergency water to individuals and households who are currently enrolled in the emergency water tank program.
16. State departments shall commence all drought remediation projects in Fresno, Kings, Tulare, and Tuolumne Counties within one year of the date of this Executive Order.

This Executive Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

I FURTHER DIRECT that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 7th day of April 2017.


EDMUND G. BROWN JR.
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State





CITY COUNCIL AGENDA – OCTOBER 15, 2019

SUBJECT: Consideration of a Conditional Use Permit for Randy's Restaurant (PRC 2019-032-C)

SOURCE: Community Development

COMMENT: The applicant is requesting approval of a Conditional Use Permit (CUP) to allow the sale of beer and wine under a Type 41 on-sale license. The sale of alcohol will be in conjunction with the serving of meals in association with a restaurant (Randy's Italian Restaurant), within an existing building at 1549 W. Olive Ave. in the CG (General and Service Commercial) Zone District. Section 301.03 of the Porterville Development Ordinance requires approval of a CUP for any use involving the sale of alcoholic beverages. Under previous ownership, Randy's Italian Restaurant held a Type 41 on-sale license, which the license expired when the restaurant was closed, thus necessitating the request for a new license under new ownership.

The California Department of Alcoholic Beverage Control (ABC) allows for a specific number of licenses per census tract, based on population. Whenever the ratio of on-sale licenses to population in a census tract exceeds the average ratio for the county, an "undue concentration" of licenses is determined to exist. The subject site is located within Census Tract 36.02. This tract contains 17 licenses for alcohol sales; six (6) on-sale and eleven (11) off-sale. In Census tract 36.02, five (5) on-sale and six (6) off-sale are allowed without being deemed over-concentrated. Approval of this on-sale license would be the seventh on-sale license, two (2) above the allowable as determined by ABC. Due to the over-concentration of on-sale licenses, a Letter of Public Convenience or Necessity will be required.

The restaurant will serve lunch and dinner and may be open up to seven (7) days per week, between 11:00 a.m. and 10:00 p.m. Staff has included in the draft Resolution proposed conditions for the facility to operate and be maintained so as not to be detrimental to the public health, safety, or welfare to properties or improvements in the vicinity. Any changes to operation of business would require a modification of the Conditional Use Permit.

The subject site is consistent with the General Plan Land Use Designation and Zoning Standards for CG (General and Service Commercial). The CG designation is intended to provide for retail and service uses that meet local and regional demand. The proposed restaurant with alcohol sales would suit the purpose of the zone designation. The restaurant also supports the general plan economic development guiding policies to retain, improve and promote

businesses in Porterville. The restaurant is a permitted use in the CG Zone, and alcohol sales are permitted in that zone with a Conditional Use Permit.

On October 2, 2019, the Environmental Coordinator made a preliminary determination that the project is exempt from the California Environmental Quality Act pursuant to Section 15061(b), (3) of the California Code of Regulation (CEQA Guidelines), under the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

For City Council's information, staff would like to clarify that this permit in no way addresses, classifies, or permits the change or expansion of the existing residence and accessory structures on the southerly half of the subject site (APNs 259-070-032 and 259-070--033). Any activity associated with those structures would be subject to all applicable codes, specifically Chapter 307 – Non-conforming Uses, of the Porterville Development Ordinance.

RECOMMENDATION: That the City Council:

1. Adopt the draft Resolution approving Conditional Use Permit (PRC 2019-032-C) subject to conditions of approval; and
2. Authorize the Mayor to sign the Letter of Public Convenience or Necessity.

ATTACHMENTS:

1. Project Locator Map
2. Floor Plan
3. Existing ABC Licenses
4. Draft Resolution
5. Letter of Public Convenience and Necessity

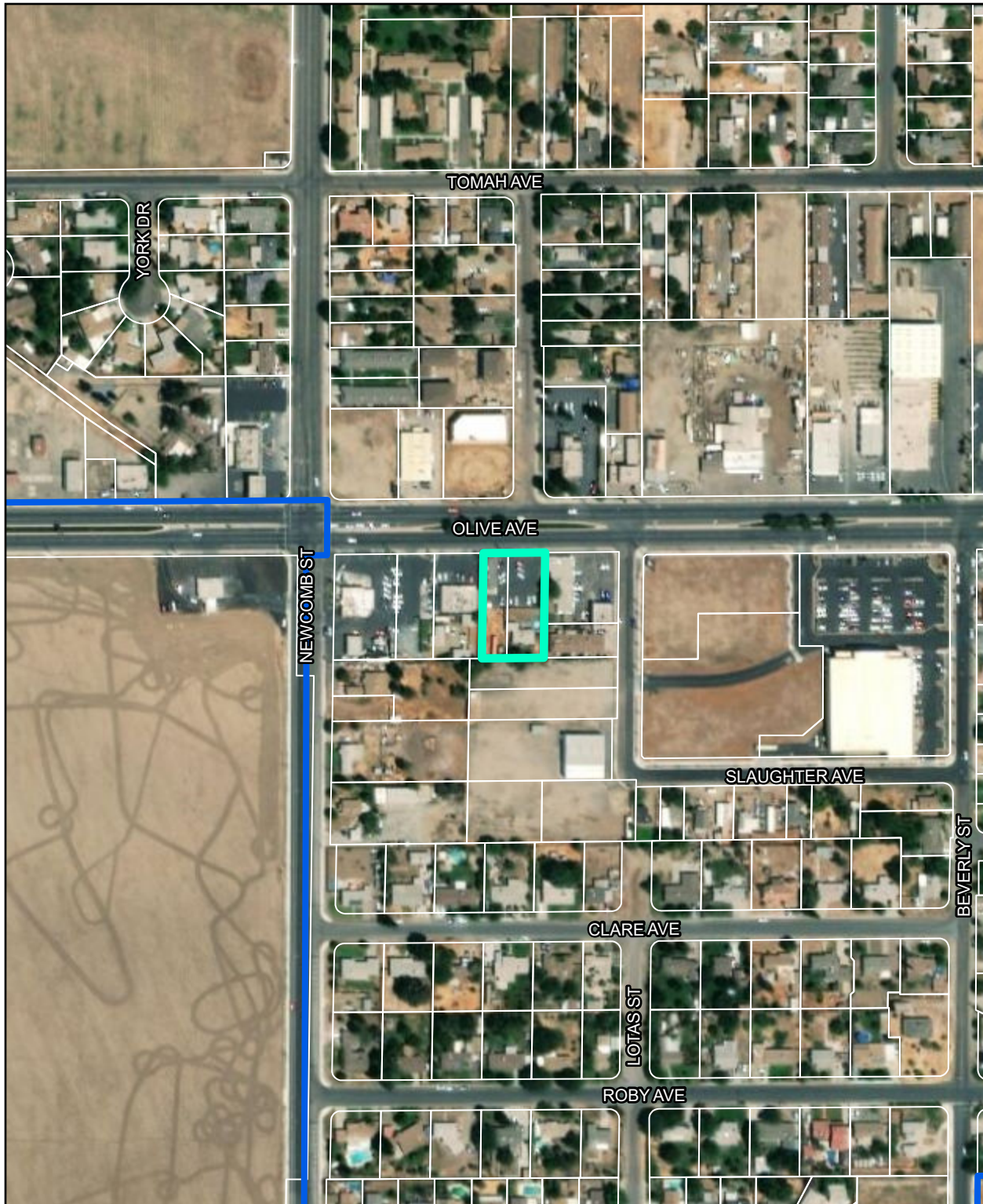
Appropriated/Funded:

Review By:

Department Director:

Final Approver: John Lollis, City Manager

Locator Map PRC 2019-032



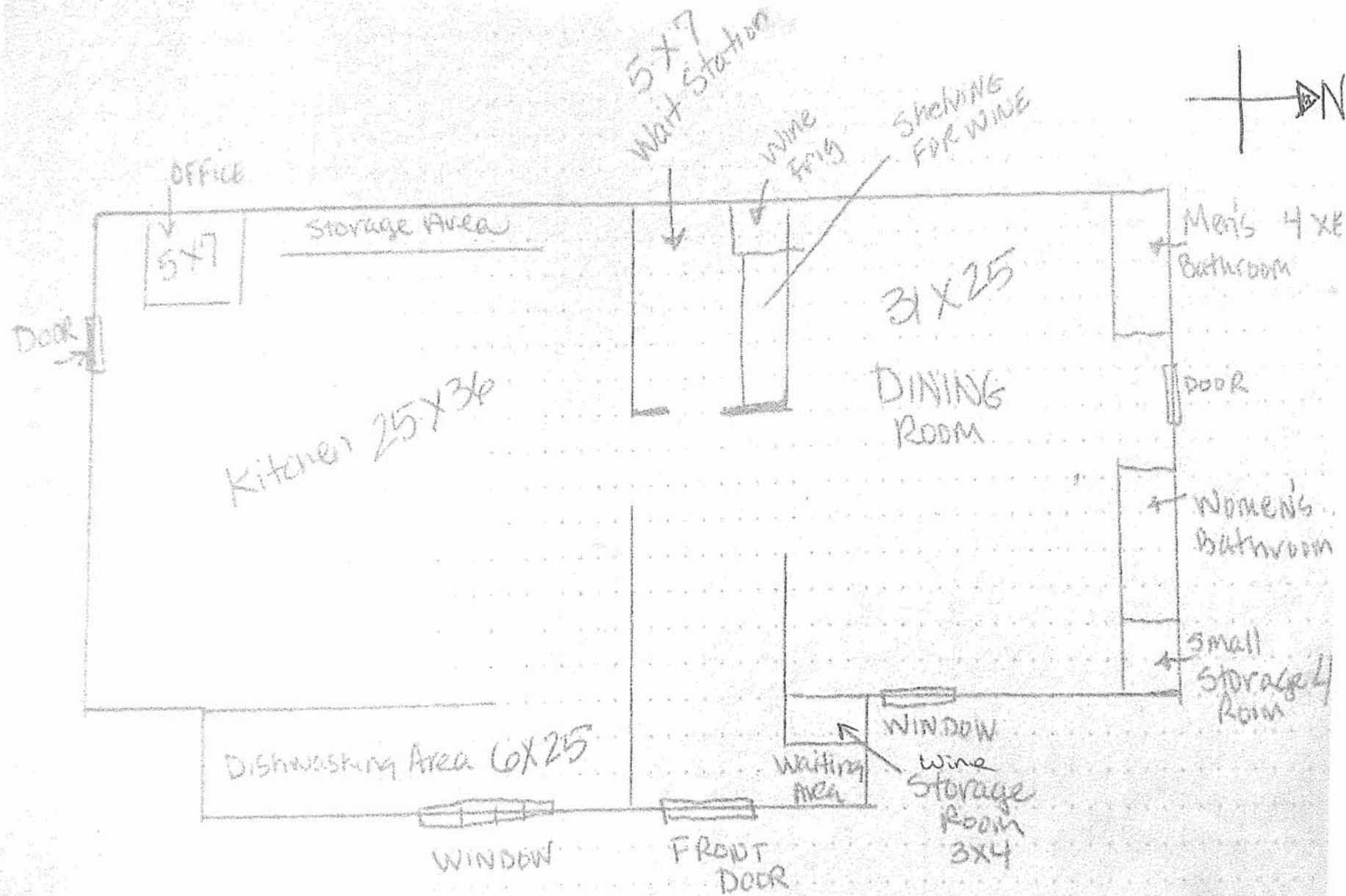
CUP for Randy's Italian Restaurant @1549 W. Olive Ave

1 in = 300 feet

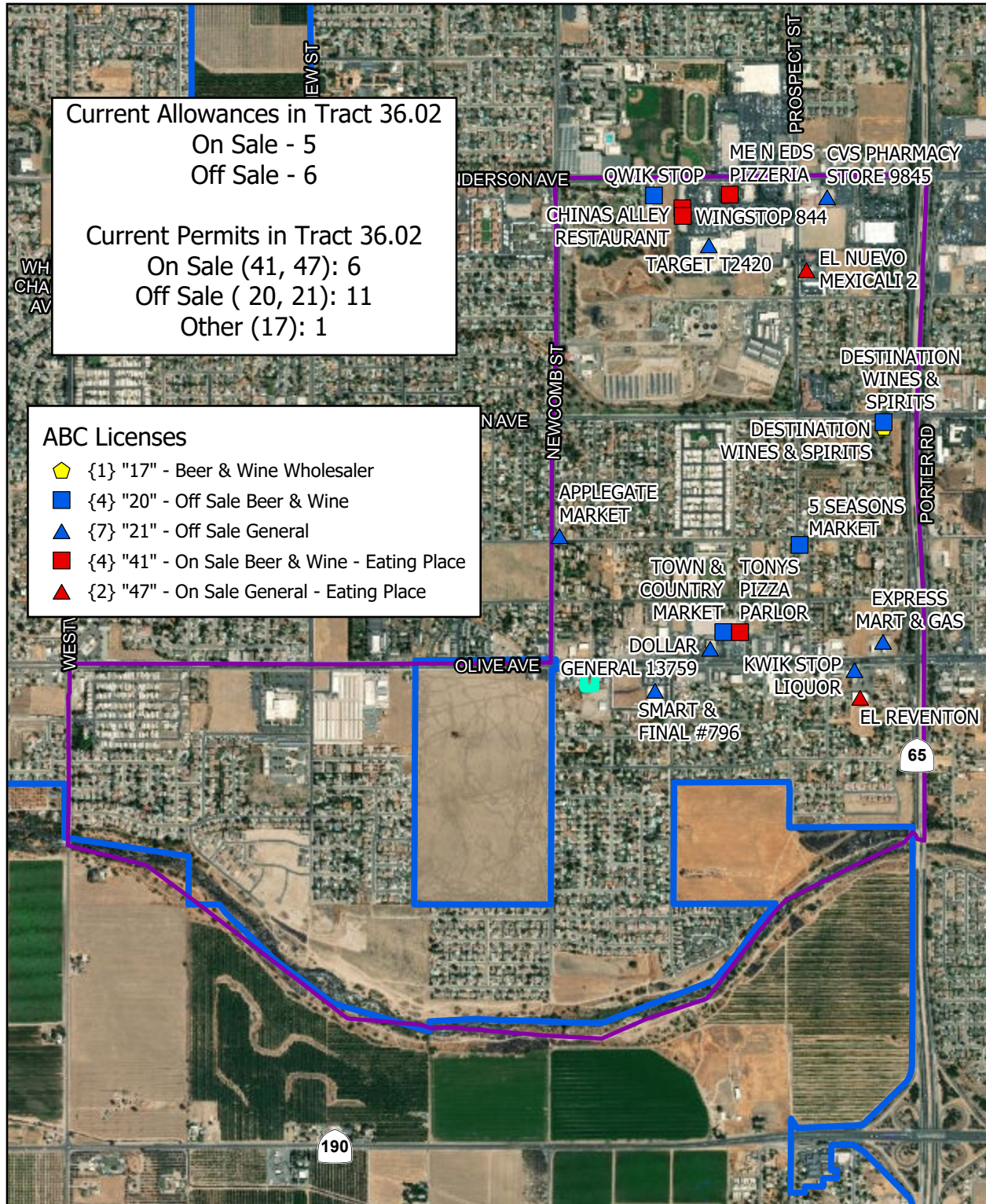
Date Printed: 10/4/2019 by the Community Development Department

-  Project Location
-  City Limits





ABC Map PRC 2019-032



CUP for Randy's Italian Restaurant @1549 W. Olive Ave

1 in = 1,650 feet

Date Printed: 10/4/2019 by the Community Development Department

- ▭ Census Tract 36.02
- ▭ Project Location
- ▭ City Limits



RESOLUTION NO. ____-2019

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
CONTAINING FINDINGS AND CONDITIONS IN SUPPORT OF CONDITIONAL USE
PERMIT (PRC 2019-032-C) TO ALLOW THE SALE OF ALCOHOL UNDER A TYPE 41
ON-SALE (BEER AND WINE) ALCOHOL LICENSE FOR RANDY'S ITALIAN
RESTAURANT, A BONA-FIDE PUBLIC EATING PLACE LOCATED AT 1549 W. OLIVE
AVENUE

WHEREAS: The City Council of the City of Porterville, at its regular scheduled meeting of October 15, 2019, conducted a public hearing to consider Conditional Use Permit (PRC 2019-032-C) to allow the sale of alcohol under a Type 41 On-Sale (Beer and Wine) alcohol license for a restaurant located at 1549 W. Olive Avenue; and

WHEREAS: On October 2, 2019, the Environmental Coordinator made a preliminary determination that the project is exempt from California Environmental Quality Act pursuant to the "General Rule" exemption §15061(b)(3), that CEQA applies only to projects which have the potential for causing a significant effect on the environment; and

WHEREAS: The City Council of the City of Porterville authorized the Mayor to sign the Letter of Public Convenience or Necessity due to the over concentration of alcohol licenses within Census Tract 36.02; and

WHEREAS: The City Council of the City of Porterville received testimony from all interested parties related to said Conditional Use Permit; and

WHEREAS: The City Council made the following findings:

1. That the proposed project will advance the goals and objectives of, and is consistent with, the policies of the General Plan and any other applicable plan that the City has adopted.

The subject site is consistent with the General Plan Land Use Designation and Zoning Standards for CG (General and Service Commercial). The CG designation is intended to provide for retail and service uses that meet local and regional demand. The proposed restaurant with alcohol sales would suit the purpose of the zone designation. The restaurant also supports the general plan economic development guiding policies to retain, improve and promote businesses in Porterville. The restaurant is a permitted use in the CG Zone, and alcohol sales are permitted in that zone with a Conditional Use Permit.

2. That the proposed location of the project and the conditions under which it will be operated or maintained will not be detrimental to the public health, safety, welfare, or materially injurious to properties or improvements in the vicinity.

Conditions of approval are included herein to ensure adequate operational standards are met. The project is located within an existing building with and is conditioned that all

activities associated with the consumption of alcohol on premises, in association with the Type 41 on-sale license shall be exclusively confined to the interior of the building.

Additionally, the project is conditioned to preserve the public safety, health and welfare to prevent the use from becoming a nuisance and operate the business in compliance with all laws, ordinances and regulations regarding the sale of alcohol. In the event that this or any other condition of approval is violated, the City Council may modify or revoke the conditional use permit.

3. This project is exempt from CEQA pursuant to §15061(b)(3) that CEQA only applies to projects which have the potential for causing a significant effect on the environment.
4. The California Department of Alcoholic Beverage Control (ABC) allows for a specific number of licenses per census tract, based on population. Whenever the ratio of on-sale licenses to population in a census tract exceeds the average ratio for the county, an “undue concentration” of licenses is determined to exist. The subject site is located within Census Tract 36.02; this tract contains 17 licenses for alcohol sales; six on-sale and eleven off-sale. In Census tract 36.02, five on-sale and six off-sale are allowed without being deemed over-concentrated. Approval of this on-sale license would be the seventh on-sale license, two above the allowable as determined by ABC. Due to the over-concentration of on-sale licenses, a Letter of Public Convenience or Necessity will be required.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve Conditional Use Permit (PRC 2019-032-C) subject to the following conditions:

1. No alcohol advertising shall be displayed and/or viewed from the outside of the building.
2. Upon approval of the conditional use permit, any future change in operation which substantially alters the conditions or nature of the subject business will require approval by the City Council. Further, any future violations of regulations of the codes relating to the sales or consumption of alcohol, and/or excessive service calls by the Police Department resulting from the sales of alcohol may result in revocation of the Conditional Use Permit.
3. Unless an extension of time is granted by the City Council, the conditional use permit shall expire two years after the date of approval if the on-sale alcohol license is not active or actively pursued. The City Council may approve a one year extension of any permit or approval granted under this ordinance upon receipt of a written application with the required fee before the permit expires.
4. The applicant shall operate the establishment in such a manner as to preserve the public safety, health and welfare, to prevent the use from becoming a nuisance and operate the business in compliance with all laws, ordinances and regulations regarding the sale of alcohol. In the event that this or any other condition of approval is violated, the City Council may modify or revoke the conditional use permit as provided in Section 601.10 of the Porterville Development Ordinance.

5. Pursuant to Section 601.10(d) the City Council may revoke the permit if it makes any of the following findings:
 - That approval was obtained by means of fraud or misrepresentation of a material fact;
 - That the use in question has ceased to exist or has been suspended for one year or more;
 - That there is or has been a violation of or failure to observe the terms or conditions of the permit or variance, or the use has been conducted in violation of the provisions of this ordinance, law or regulation; or
 - That the use to which the permit or variance applies has been conducted in a manner detrimental to the public safety, health and welfare or so as to be a nuisance.
6. The hours of operation during which alcoholic beverages may be sold shall be limited to 11:00 a.m. to 10:00 p.m., seven days a week. Any amendment to business hours that would modify this condition will be subject to a modification of this permit.
7. Live entertainment or dancing is not permitted; if in the future the license holder seeks to pursue such associated activities, a modification to this permit would be considered by the City Council.
8. This permit in no way addresses, classifies, or permits the change or expansion of the existing residence and accessory structures on the southerly half of the subject site (APNs 259-070-032 and -033). Any activity associated with those structures would be subject to all applicable codes, specifically Chapter 307 – Non-conforming Uses, of the Porterville Development Ordinance.

PASSED, APPROVED AND ADOPTED this 15th day of October, 2019.

Martha A. Flores, Mayor

ATTEST:
John D. Lollis, City Clerk

By _____
Patrice Hildreth, Chief Deputy City Clerk

October 16, 2019

California Department of Alcoholic Beverage Control
Fresno District Office
1330 B East Shaw Ave
Fresno, CA 93710
ATTN: Jason Montgomery

RE: Randy's Italian Restaurant, Porterville, CA

Dear Mr. Montgomery:

The City Council of the City of Porterville has elected to approve submittal of this letter regarding the public convenience or necessity to be served through issuance of a Type 41 On-Sale Beer and Wine alcohol license for Randy's Italia Restaurant located at 1549 W. Olive Avenue, in Porterville.

Approval of this letter was based on the following:

1. Per Section 23958.4 of the "Business and Professions Code," the subject site is located within Census Tract 36.02 which allows five (5) on-sale licenses. With the approval of this license, seven (7) on-sale licenses will exist in this tract. Due to the over concentration of on-sale licenses a Letter of Public Convenience or Necessity was required.
2. On October 15, 2019, the City Council conditionally approved Conditional Use Permit (PRC 2019-032-C), through the attached resolution, to allow the on-sale of beer and wine for a bona fide restaurant at 1549 W. Olive Avenue. As a condition of approval, a Letter of Public Convenience or Necessity was required to be approved by the City Council.
3. In consideration of the above, the City Council determined that public convenience or necessity would be served by the issuance of a Type 41 On-Sale Beer and Wine alcohol license.

Further, issuance of an on-sale license allowing beer and wine sales represents a viable economic asset to the community which will contribute tax revenues to the local economy. The subject site is consistent with the General Plan Land Use Designation and Zoning Standards for CG (General and Service Commercial). The CG designation is intended to provide for retail and service uses that meet local and regional demand. The proposed restaurant with alcohol sales would suit the purpose of the zone designation. The restaurant also supports the General Plan Economic Development Element Guiding Policies to retain, improve and promote businesses in Porterville.

For these reasons, the City Council of the City of Porterville supports issuance of a Type 41 On-Sale Beer and Wine license for Randy's Italian Restaurant, located at 1549 West Olive Avenue, Porterville, CA.

Sincerely,

Martha A. Flores, Mayor

Attachment: Resolution



CITY COUNCIL AGENDA – OCTOBER 15, 2019

- SUBJECT:** Consideration of Approval of the Aria Subdivision Project
- SOURCE:** Community Development
- BACKGROUND:** The applicant submitted to the Project Review Committee a tentative subdivision map to develop 6.5± acres as the Aria Subdivision (PRC 2017-055-S). The proposed subdivision would include the development of 26 detached single-family residential units. The Assessor Parcel Numbers associated with the project are 245-060-025 and 245-060-031.
- COMMENT:** The applicant is requesting approval of the Aria Tentative Subdivision Map to divide a 6.5± acre parcel located north of Henderson Avenue and east of Mathew Street in the City of Porterville. The proposed project consists of the development of 26 single-family residences with lots ranging from 7,200 to 12,000 square feet. The site plan is included in this staff report as Attachment 2. Streetlights would be provided throughout the project site. Vehicular access to the site would primarily be provided by Henderson Avenue, Bel Aire Avenue and Mathew Street. Due to the circulation element and the number of access points along Henderson Avenue, the project will have an entry only feature into the subdivision from Henderson, but will not be permitted to exit the development onto Henderson. Additional design features have been incorporated for this transition. An irrigation ditch (Porter Slough Ditch) controlled by the Porterville Irrigation District (“PID”) runs parallel to Mathew Avenue. The project proposes to place a 36” irrigation pipe and structure along the most westerly border of the property and to provide an easement to PID for the continued maintenance and use of the ditch.
- The project would be developed in a single phase. Construction is anticipated to last approximately one (1) year, beginning as soon as entitlements and final map preparations can be completed. Utilities required to serve the proposed project would include: water, sanitary sewer, storm drainage, electricity, and telecommunications infrastructure. Water service, sewage disposal and refuse collection would be provided by the City of Porterville. The project would include the installation of up to 12-inch water lines and 8-inch sewage lines located on Aden Way to connect to existing water and sewer lines located on Henderson and Bel Aire Avenue, connecting with Mathew Street. On-site drainage would be conducted by surface flow and on-site retention.

The proposed project would require gas, telephone, cable, and electrical improvements. Natural gas would be provided by The Gas Company; telephone services would be provided by AT&T; electric power would be provided by Southern California Edison Company; and cable television would be provided by Charter Communications. The extent of work required for utilities and gas would be determined during final project design.

The City's General Plan Land Designation for the project site is Low Density Residential. The Low Density Residential designation represents typical single-family subdivisions. The maximum residential density is 6.0 units per gross acre.

The zoning designation for the project site is RS-2 (Low Density Residential). This zone allows attached or detached single-family homes with a maximum residential density of 7.5 units per net acre. This district also allows for limited uses such as daycare homes, parks, and religious facilities that are appropriate in a low density residential environment. This zone district has a minimum lot area requirement of 6,000 square feet.

ANALYSIS: Development of the site as proposed will provide needed housing in conformance with the City's General Plan Land Use and Housing Elements and requirements of the California Subdivision Map Act and local ordinances.

The proposal to develop the 6.5± acre parcel zoned RS-2 (Low Density Residential) into a 26-lot single family residential subdivision to be developed in a single phase is consistent with the General Plan's Low Density Residential land use designation and RS-2 zoning classification for the site.

North: City – Oak Grove Elementary School
South: City – Kingdom Hall – Jehovah Witness Church
East: City – Henderson Avenue Baptist Church
West: City – Valley Oak Community Church

ENVIRONMENTAL On September 11, 2019, the Environmental Coordinator made a
REVIEW: preliminary determination that a Mitigated Negative Declaration would be appropriate for the proposed project in light of the studies prepared and with implementation of defined mitigation measures related to Biological Resources, Cultural Resources, Greenhouse Gas Emissions, and Noise. The Initial Study and proposed Mitigation Measures have been transmitted to interested agencies, groups, and individuals for a thirty (30) day review period from September 13, 2019 through October 14, 2019. At the time of writing the staff report, no comments had been received.

RECOMMENDATION: That the City Council:
1. Adopt the draft Resolution approving the Negative

Declaration for the Aria Subdivision Project; and
2. Adopt the draft Resolution approving the Aria Tentative Subdivision Map (PRC 2017-055-S).

ATTACHMENTS:

1. Locator Map
2. Aria Tentative Subdivision Map
3. Draft Environmental Resolution
4. Draft Tentative Subdivision Resolution

Appropriated/Funded:

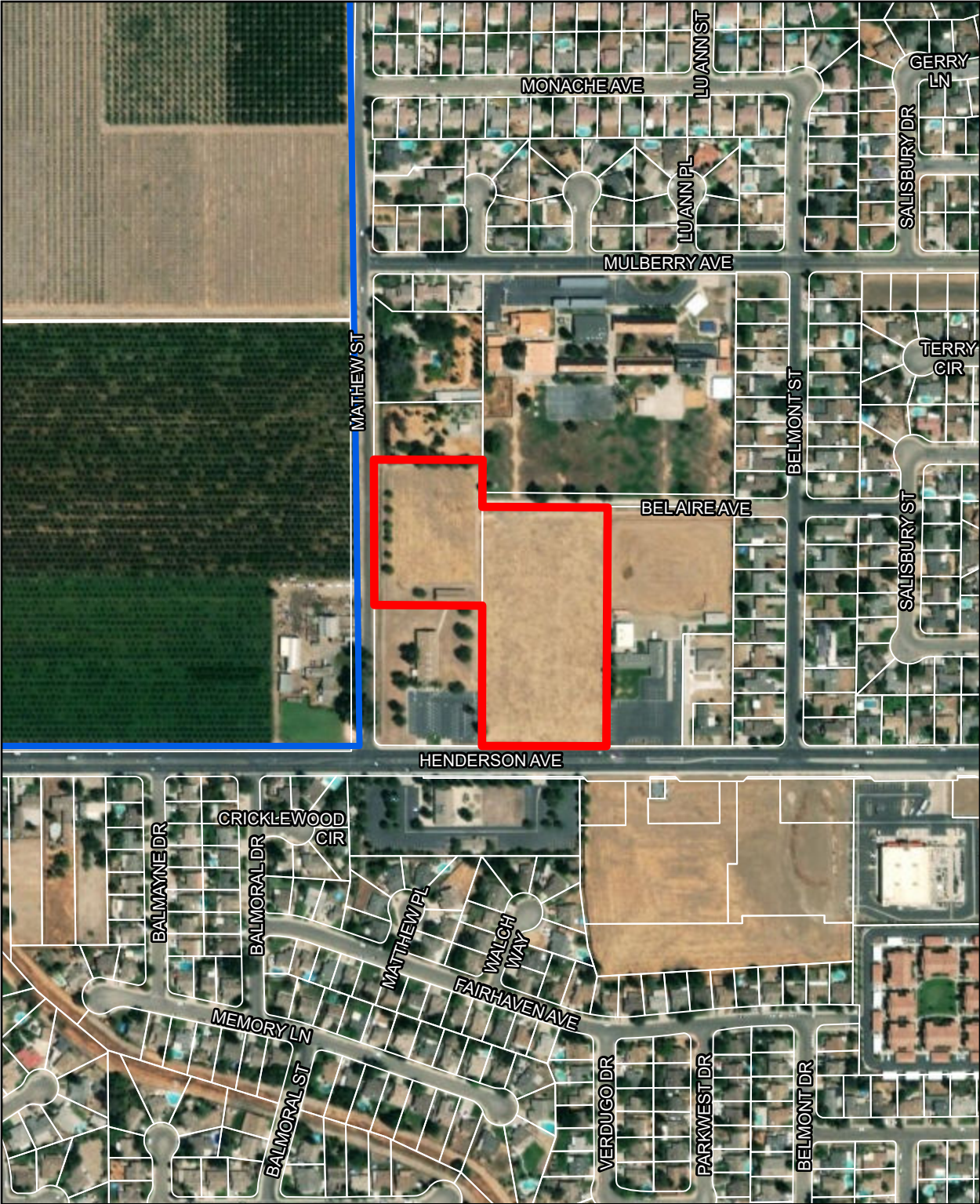
Review By:

Department Director:

Jenni Byers, Community Development Director

Final Approver: John Lollis, City Manager

Locator Map
PRC 2017-055



Aria TSM
@ Henderson Ave
and Mathew St

 Project Location
 City Limits

1 in = 400 feet



TENTATIVE SUBDIVISION MAP ARIA

BEING A SUBDIVISION WITHIN THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 21,
T.21S. R.27E., M.D.B. & M., IN THE CITY OF PORTERVILLE, COUNTY OF TULARE, STATE OF CALIFORNIA.

FOR:
ENNIS BUILDERS, INC.
263 N. 3RD. STREET, SUITE #200
PORTERVILLE, CALIFORNIA 93257
(559) 788-1000

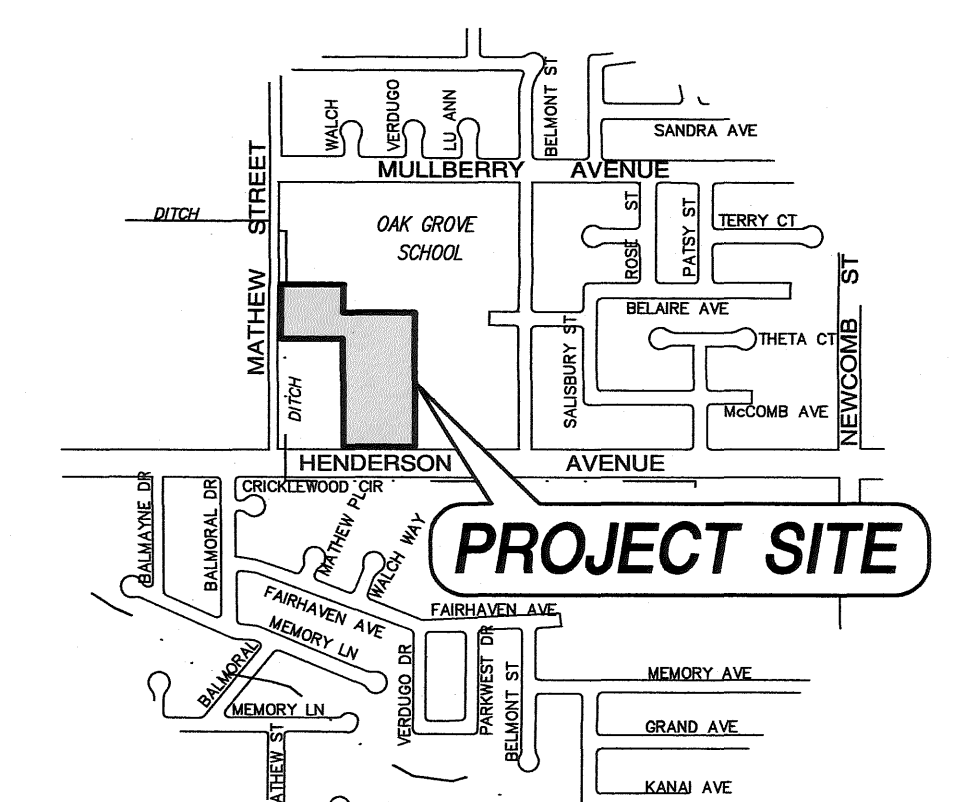
BY:
QK
150 WEST MORTON AVENUE
PORTERVILLE, CA 93257
TEL: (559) 781-2700
WWW.QKINC.COM

NOTES:

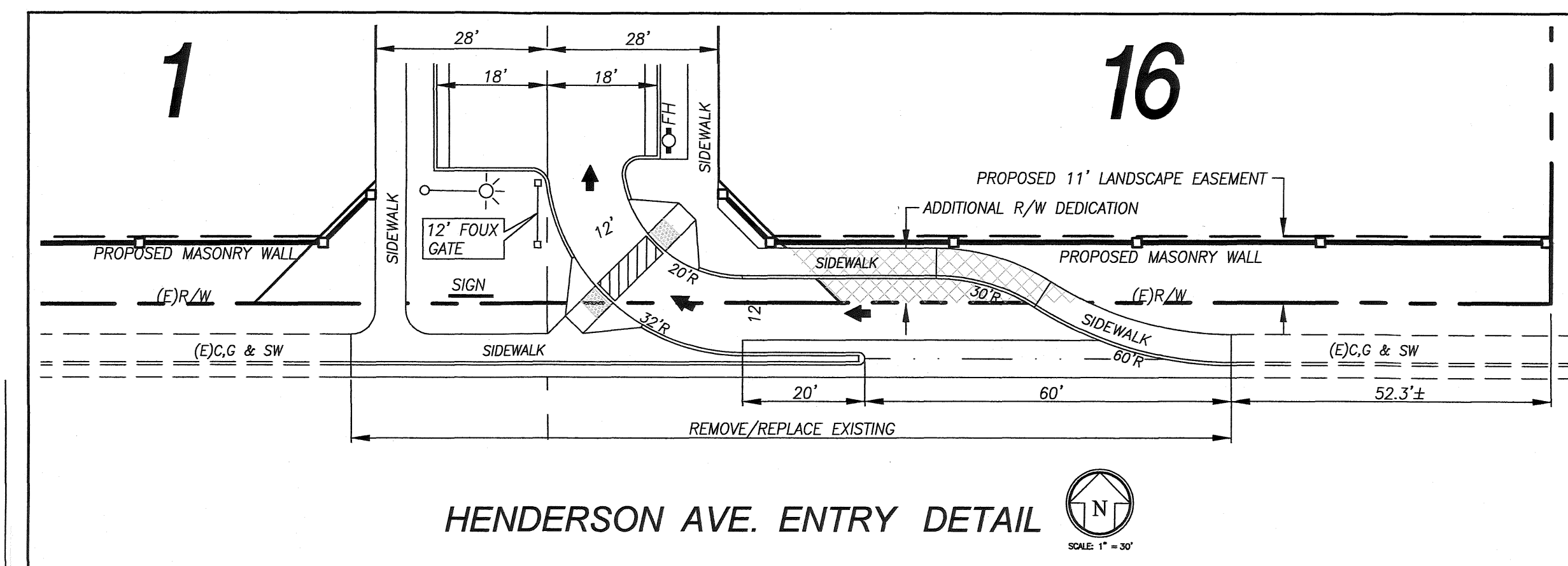
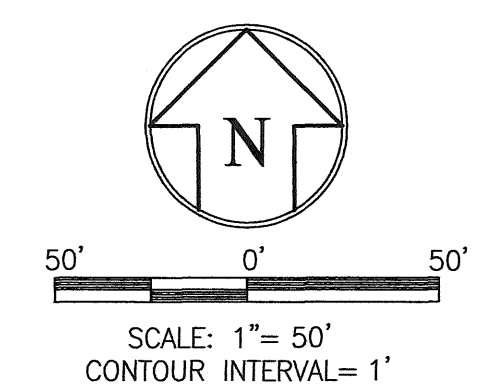
1. DATE OF PREPARATION: MARCH 19, 2019.
2. ZONE: RS-2. GENERAL PLAN: LOW DENSITY RESIDENTIAL.
3. ALL DISTANCES SHOWN ARE IN FEET & DECIMALS THEREOF AND ARE APPROXIMATE.
4. GROSS PARCEL AREA = 6.82 ACRES;
GROSS DENSITY = 3.5 UNIT/ACRES, NET PARCEL AREA = 5.47 ACRES.
5. APN: 245-060-031 AND 245-060-025.
6. EXISTING LAND USE: VACANT / RURAL RESIDENTIAL.
7. PROPOSED LAND USE: SINGLE FAMILY RESIDENTIAL.
8. IMPROVEMENTS TO CONFORM TO APPLICABLE ORDINANCES & STATUTES.
9. EASEMENTS FOR PUBLIC UTILITIES TO BE PROVIDED AS REQUIRED.
10. NOT SUBJECT TO INUNDATION OR OVERFLOW, UNLESS OTHERWISE NOTED.
11. PROPOSED SEWER, WATER, CONCRETE CURBS, GUTTERS, SIDEWALKS, STREETLIGHTS, AND STREET PAVEMENT TO BE INSTALLED PER CITY OF PORTERVILLE STANDARD SPECIFICATIONS.
12. NATURAL GAS BY: SOUTHERN CALIFORNIA GAS CO.
13. TELEPHONE BY: A.T. & T.
14. POWER BY: SOUTHERN CALIFORNIA EDISON CO.
15. DOMESTIC WATER BY: CITY OF PORTERVILLE.
16. SEWAGE DISPOSAL BY: CITY OF PORTERVILLE.
17. REFUSE COLLECTION BY: CITY OF PORTERVILLE.
18. CABLE T.V. BY: CHARTER COMMUNICATIONS.
19. DRAINAGE: SURFACE FLOW AND EXTENSION OF EXISTING STORM DRAIN SYSTEM.
20. WATER QUANTITY: AS PER CITY STANDARDS.

LEGEND:

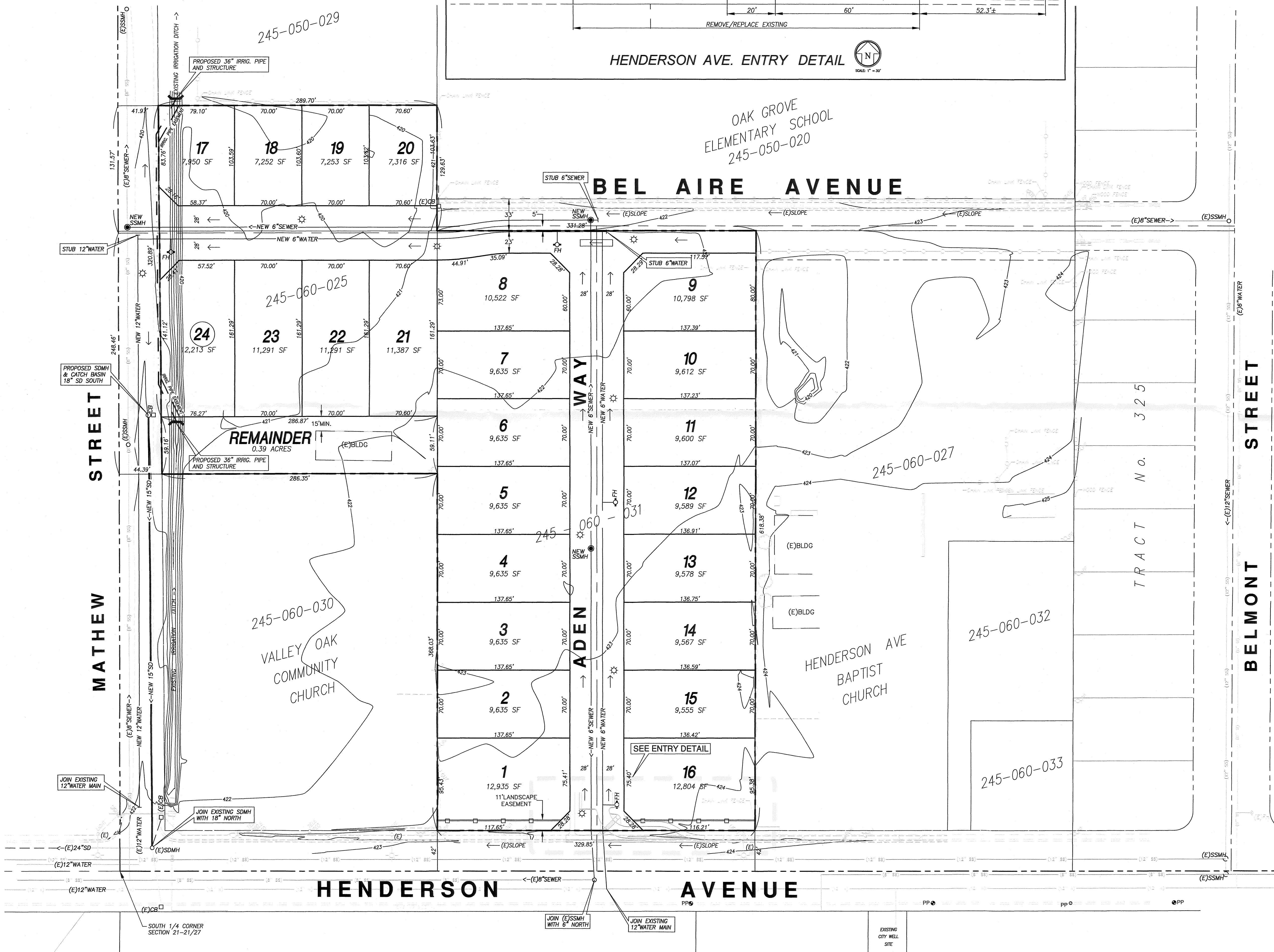
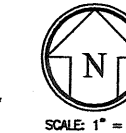
—	SUBDIVISION BOUNDARY
— FH	PROPOSED FIRE HYDRANT
(E)	EXISTING
(P)	PROPOSED
— WATER	PROPOSED WATER LINE
— SEWER	PROPOSED SANITARY SEWER LINE
— STORM	PROPOSED STORM DRAIN LINE
— SSMH	SANITARY SEWER MANHOLE
— SD	STORM DRAIN MANHOLE
— CB	CATCH BASIN
—	CROSS GUTTER
—	SURFACE FLOW
— PP	POWER POLE
— TP	TELEPHONE POLE
—	EXISTING CONTOUR
— (E)	EXISTING STREET LIGHT
—	PROPOSED STREET LIGHT



LOCATION MAP
NO SCALE



HENDERSON AVE. ENTRY DETAIL



RESOLUTION NO. ____-2019

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
CONTAINING FINDINGS IN SUPPORT OF APPROVAL OF A
MITIGATED NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT FOR THE
PROPOSED ARIA DEVELOPMENT PROJECT (PRC 2017-055)

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of October 15, 2019, conducted a public meeting to consider approval of a Mitigated Negative Declaration which evaluates the environmental impacts of a Tentative Subdivision Map, for the 6.5± acres located on the north side of Henderson Avenue, east of Mathew Street (APNs 245-060-025 and 031); and

WHEREAS: Tentative Subdivision Map (PRC 2017-055-S) proposes 26 single family residential parcels with lots ranging from 7,200 to 12,000 square feet parcels; and

WHEREAS: On September 11, 2019, the Environmental Coordinator made a preliminary determination that a Mitigated Negative Declaration would be appropriate for the Tentative Subdivision Map and subsequent development of the Aria Development Project in a manner consistent with City codes and plans; and

WHEREAS: The proposed Project is consistent with the goal, policies and land use designation of the Porterville 2030 General Plan. The General Plan designates the site as Low Density Residential, and is supported by as supported by the RS-2 (Low Density Residential) zoning. The proposed subdivision will be developed within the density allowed by the General Plan.

WHEREAS: The City Council considered the following findings in its review of the environmental circumstances for this project:

1. That a Mitigated Negative Declaration was prepared in accordance with the California Environmental Quality Act.
2. The development of the Tentative Subdivision Map will not create adverse environmental impacts on biological resources or adjacent neighborhoods when mitigation measures are implemented and standards of the Development Ordinance and General Plan are applied to the subsequent development project.
3. That the City Council is the decision making body for the project.
4. On September 11, 2019, the Environmental Coordinator made a preliminary determination that a Mitigated Negative Declaration would be appropriate for the proposed project in light of the studies prepared and with implementation of defined mitigation measures related to Biological Resources, Cultural Resources, Greenhouse Gas Emissions, and Noise. The Initial Study and proposed Mitigation Measures have been transmitted to interested agencies, groups, and individuals for a 30 day review

period from September 13, 2019 through October 14, 2019. No comments were received.

5. That review of the environmental circumstances regarding this project indicates that no adverse impacts would occur to biological resources, cultural resources, greenhouse gas and noise when the mitigation measures are implemented and standards of the Development Ordinance and General Plan are applied. Mitigation measures to reduce impacts to less than significant were defined and have been incorporated in the Mitigation Monitoring Program which is attached as an exhibit to the Mitigated Negative Declaration (Exhibit A). In addition to these mitigation measures, any further mitigation measures recommended by a responsible or trustee agency shall be upheld at the expense of the applicant with the oversight of the City and said responsible or trustee agency.
6. That the environmental assessment and analysis prepared for this project supporting the Mitigation Negative Declaration reflects the independent judgement of the City of Porterville.
7. The developer/applicant shall comply with all mitigation measures adopted as a component of the approval of the Mitigated Negative Declaration for this project. The developer/applicant will be required to sign a document committing to comply with the adopted mitigation measures prior to any construction on the site.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Porterville does hereby approve the Mitigated Negative Declaration prepared for the Tentative Subdivision Map, and the subsequent development of the Aria Development Project in a manner consistent with City codes and plans, and that the mitigation measures defined in Exhibit A shall be implemented by the developer/applicant or his/her partners and successors with project implementation.

PASSED, APPROVED AND ADOPTED this 15th day of October, 2019.

By: _____
Martha A. Flores, Mayor

ATTEST:
John D. Lollis, City Clerk

By: _____
Patrice Hildreth, Chief Deputy City Clerk

MITIGATION MONITORING AND REPORTING PROGRAM

This Mitigation Monitoring and Reporting Program (MMRP) has been formulated based upon the findings of the Initial Study/Mitigated Negative Declaration (IS/MND) for the City of Porterville's Aria TSM Residential Project (proposed Project). The MMRP lists mitigation measures recommended in the IS/MND for the proposed Project and identifies monitoring and reporting requirements as well as conditions recommended by responsible agencies who commented on the project.

The first column of the Table identifies the mitigation measure. The second column, entitled "Party Responsible for Implementing Mitigation," names the party responsible for carrying out the required action. The third column, "Implementation Timing," identifies the time the mitigation measure should be initiated. The fourth column, "Party Responsible for Monitoring," names the party ultimately responsible for ensuring that the mitigation measure is implemented. The last column will be used by the City to ensure that individual mitigation measures have been monitored.

Mitigation Measure	Party responsible for Implementing Mitigation	Implementation Timing	Party responsible for Monitoring	Verification (name/date)
<u>San Joaquin Kit Fox</u> BIO-1: <i>Pre-construction Surveys.</i> Pre-construction surveys shall be conducted no less than 14 days and no more than 30 days prior to the beginning of ground disturbance, construction activities, and/or any Project activity likely to impact the San Joaquin kit fox. These surveys will be conducted in accordance with the USFWS 2011 <i>Standardized Recommendations for Protection of the Endangered San Joaquin Kit Fox Prior to or During Ground Disturbance</i> (see Appendix G). The primary objective is to identify kit fox habitat features (e.g. potential dens and refugia) within the BSA and evaluate their use by kit foxes through use of remote monitoring techniques such as motion-triggered cameras and tracking medium. If an active kit fox den is detected within or immediately adjacent to the area of work, the USFWS and CDFW shall be contacted immediately. BIO-2: <i>Avoidance.</i> Should an active kit fox den be detected within or immediately adjacent to the area of work, a disturbance-free buffer will be established around the den in consultation with the USFWS and CDFW, to	Project Applicant	Prior to and during construction	Project Applicant / City of Porterville	

Mitigation Measure	Party responsible for Implementing Mitigation	Implementation Timing	Party responsible for Monitoring	Verification (name/date)
be maintained until a qualified biologist has determined that the den is no longer occupied. Known kit fox dens may not be destroyed until they have been vacant for a period of at least three days, as demonstrated by use of motion-triggered cameras or tracking medium, and then only after obtaining take authorization from the USFWS. BIO-3: <i>Minimization.</i> Construction activities shall be carried out in a manner that minimizes disturbance to kit foxes. Minimization measures include, but are not limited to: restriction of Project-related vehicle traffic to established roads, construction areas, and other designated areas; inspection and covering of structures (e.g., pipes), as well as installation of escape structures, to prevent the inadvertent entrapment of kit foxes; restriction of rodenticide and herbicide use; and proper disposal of food items and trash. BIO-4: <i>Employee Education Program.</i> Prior to the start of construction, the City will retain a qualified biologist to conduct a tailgate meeting that will include a hand out with all of the training information included in it or				

Mitigation Measure	Party responsible for Implementing Mitigation	Implementation Timing	Party responsible for Monitoring	Verification (name/date)
conduct a Power Point presentation prepared by a qualified biologist to train all construction staff that will be involved with the Project on the San Joaquin kit fox. This training will include a description of the kit fox and its habitat needs; a report of the occurrence of kit fox in the Project area; an explanation of the status of the species and its protection under the Endangered Species Act; and a list of the measures being taken to reduce impacts to the species during Project construction and implementation. The Project manager will use prepared training material to train any additional construction staff that were not in attendance at the first meeting, prior to starting work on the Project. BIO-5: <i>Mortality Reporting.</i> In case of the accidental death or injury of a San Joaquin kit fox during Project-related activities, the City will contact Caltrans and Caltrans will notify The Sacramento Field Office of the USFWS. The City will notify the CDFW, directly. All notifications will be submitted in writing within three working days of incident. Notification must include the date, time, location of the incident or of the finding of a				

Mitigation Measure	Party responsible for Implementing Mitigation	Implementation Timing	Party responsible for Monitoring	Verification (name/date)
dead or injured animal, and any other pertinent information.				
<u>Nesting Birds / Raptors</u>				
BIO-6: <i>Avoidance.</i> If feasible, Project construction will occur outside of the avian nesting season, typically defined as February 1 st through August 31 st . If construction takes place entirely outside of the nesting season, impacts to nesting tricolored blackbirds will be absent and no other action is necessary.				
BIO-7: <i>Pre-construction Surveys.</i> If Project construction must occur during the nesting season, a pre-construction survey shall be conducted by a qualified biologist for nesting tricolored blackbirds within 15 days of the onset of construction. All suitable habitats of the BSA will be covered during this survey.				
BIO-8: <i>Establish Buffers.</i> If active nests are identified within or near construction zones, an appropriate construction-free buffer will be established around the nests (as determined by a qualified biologist) and maintained until the nesting season is over, or until the				

Mitigation Measure	Party responsible for Implementing Mitigation	Implementation Timing	Party responsible for Monitoring	Verification (name/date)
biologist determines the nests are no longer active. BIO-9: <i>Avoidance.</i> In order to avoid impacts to nesting birds, Project construction will take place between September 1 and January 31, outside of the typical avian nesting season. BIO-10: <i>Pre-construction Surveys.</i> If Project construction must occur between February 1 and August 31, a qualified biologist will conduct pre-construction surveys for active bird nests within 15 days of the onset of these activities. BIO-11: <i>Establish Buffers.</i> Should any active nests be discovered in or near proposed construction zones, the biologist will identify a suitable construction-free buffer around the nest. This buffer will be identified on the ground with flagging or fencing, and will be maintained until the biologist has determined that the young have fledged.				
CUL-1 Before initiation of construction or ground-disturbing activities associated with the Project, the Project proponent for all Project phases shall require all construction personnel to be alerted to the possibility	Project Applicant	Prior to and during construction	Project Applicant	

Mitigation Measure	Party responsible for Implementing Mitigation	Implementation Timing	Party responsible for Monitoring	Verification (name/date)
of buried cultural resources, including historic, archeological and paleontological resources; ▪ The general contractor and its supervisory staff shall be responsible for monitoring the construction Project for disturbance of cultural resources; and ▪ If a potentially significant historical, archaeological, or paleontological resource, such as structural features, unusual amounts of bone or shell, artifacts, human remains, or architectural remains or trash deposits are encountered during subsurface construction activities (i.e., trenching, grading), all construction activities within a 100-foot radius of the identified potential resource shall cease until a qualified archaeologist evaluates the item for its significance and records the item on the appropriate State Department of Parks and Recreation (DPR) forms. The archaeologist shall determine whether the item requires further study. If, after the qualified archaeologist conducts appropriate technical analyses, the item is determined to be significant under California Environmental Quality Act, the archaeologist shall recommend feasible mitigation measures, which may include avoidance, preservation in place or other appropriate measure, as outlined in Public Resources Code section 21083.2. The City of Porterville shall implement said measures.				

Mitigation Measure	Party responsible for Implementing Mitigation	Implementation Timing	Party responsible for Monitoring	Verification (name/date)
CUL-2 The Project applicant will incorporate into the construction contract(s) a provision that in the event a fossil or fossil formations are discovered during any subsurface construction activities for the proposed Project (i.e., trenching, grading), all excavations within 100 feet of the find shall be temporarily halted until the find is examined by a qualified paleontologist, in accordance with Society of Vertebrate Paleontology standards. The paleontologist shall notify the appropriate representative at the City of Porterville, who shall coordinate with the paleontologist as to any necessary investigation of the find. If the find is determined to be significant under CEQA, the City shall implement those measures, which may include avoidance, preservation in place, or other appropriate measures, as outlined in Public Resources Code section 21083.2.	Project Applicant	During construction	Project Applicant	
GHG-1 The project applicant shall demonstrate compliance with the applicable BPS strategies to the Planning Division prior to the issuance of a building permit. The following PBS strategies are considered to be applicable, feasible, and effective in reducing greenhouse gas emissions generated by the project: • The project applicant shall provide a pedestrian access network that internally links all	Project Applicant	During project design and construction	Project Applicant	

Mitigation Measure	Party responsible for Implementing Mitigation	Implementation Timing	Party responsible for Monitoring	Verification (name/date)
residential units and connects to the existing surrounding external streets and pedestrian facilities. • The project applicant shall ensure site design and building placement minimize barriers to pedestrian access and interconnectivity. Physical barriers such as wells, berms, landscaping, and slopes between residential uses that impede bicycle or pedestrian circulation shall be eliminated. In addition, barriers to pedestrian access of neighboring facilities and sites shall be minimized. • Any transit stops associated with the project shall be provided with safe and convenient bicycle/pedestrian access and provide essential transit stop improvements (i.e., shelters, route information, benches, and lighting). • The project applicant shall install energy efficient roofing materials. • The project applicant shall incorporate bike lanes and routes into the street system.				

Mitigation Measure	Party responsible for Implementing Mitigation	Implementation Timing	Party responsible for Monitoring	Verification (name/date)
- The project applicant shall plant trees to provide shade. - The project applicant shall install only natural gas or electric stoves in residences. The project applicant shall install energy efficient heating and cooling systems, appliances and equipment, and control systems.				
NO-1 During construction activities, delivery trucks serving the Project shall be limited to between 6:00 A.M. and 9:00 P.M. Monday through Friday and between 7:00 A.M. and 5:00 PM on Saturday or Sunday to avoid noise-sensitive hours of the day.	Project Applicant	During construction and operation	Project Applicant	
NO- 2 Construction activities shall be limited to between 6:00 A.M. and 9:00 P.M. Monday through Friday and between 7:00 A.M. and 5:00 PM on Saturday or Sunday to avoid noise-sensitive hours of the day. Construction activities shall be prohibited on holidays (President's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving, Day after Thanksgiving, Christmas Day, and New Year's Day).	Project Applicant	During construction and operation	Project Applicant	
NO-3 The construction contract shall require the construction contractor to ensure that construction equipment noise is minimized by muffling and shielding intakes and exhaust on construction	Project Applicant	During construction	Project Applicant	

Mitigation Measure	Party responsible for Implementing Mitigation	Implementation Timing	Party responsible for Monitoring	Verification (name/date)
equipment (in accordance with the manufacturer's specifications) and by shrouding or shielding impact tools.				

RESOLUTION NO. ____-2019

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
CONTAINING FINDINGS IN SUPPORT OF APPROVAL FOR THE ARIA TENTATIVE
SUBDIVISION MAP FOR THAT 6.5± ACRE VACANT SITE GENERALLY LOCATED ON
THE NORTH SIDE OF HENDERSON AVENUE, EAST OF MATHEW STREET

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of October 15, 2019, conducted a public meeting to consider approval of a Mitigated Negative Declaration which evaluated the environmental impacts of a Tentative Subdivision Map, for the development of the Aria Development Project (“Exhibit A”), consisting of 26 single family residential parcels with lots ranging from 7,200 to 12,000 square feet, for the 6.5± acre parcels, located on the north side of Henderson Avenue, east of Mathew Street (APNs 245-060-025 and 031); and

WHEREAS: The City Council, at its regular scheduled meeting of October 15, 2019, conducted a public hearing to consider the proposed Tentative Subdivision Map (PRC 2017-055-S), draft resolution and findings for 26 single family residential parcels contingent upon approval of the Mitigated Negative Declaration; and

WHEREAS: The City Council received testimony from all interested parties relative to the proposed tentative subdivision map; and

WHEREAS: The City Council made the following findings:

1. That the proposed Project is consistent with the goal, policies and land use designation of the Porterville 2030 General Plan. The General Plan designates the site as Low Density Residential, and is supported by as supported by the RS-2 (Low Density Residential) zoning. The proposed subdivision will be developed within the density allowed by the General Plan.
2. That the site is physically suitable for the type and density of the proposed development. The vacant site is flat and has medium to coarse textured soils with a high water infiltration rate.
3. That the Negative Declaration prepared for this project is in compliance with the California Environmental Quality Act indicating that such a project will not have an effect on the environment.
4. The Initial Study prepared for this project indicates that all potential impacts will be mitigated to less than significant levels. Through the implementation of the mitigation measures contained in the Mitigation Monitoring Program, the result in impacts addressed will be less than significant.
5. That the proposed location of the project and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or

welfare, or materially injurious to properties or improvements in the area. The General Plan designates the site for Low Density Residential. Conditions of approval are included to ensure adequate development standards are met.

6. The proposed project provides pedestrian connectivity to the neighborhood and schools to the north.
7. That the standards of population density, site area dimensions, site coverage, yard spaces, heights of structures, distance between structures, off-street parking facilities and landscaped areas will produce an environment of stable and desirable character consistent with the objectives of the Development Ordinance. The proposed project complies with all of the requirements of Series 400 Land Divisions, of the Porterville Development Ordinance.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve the Aria Tentative Subdivision Map (PRC 2017-055-S) subject to the following conditions:

1. The developer/applicant shall comply with Section 201.04 residential single-family development standards related to garage frontage and location and architectural articulation. Note that Lots 1, 9, 10, 18, 19 and 26 are corner lots and require a street side setback of 10 feet and have additional requirements for two-story dwellings. Lot 9 will be a reverse corner lot and shall have a minimum street side yard width of 12 feet.
2. Valley Oak Community Church was annexed into City limits in November 1999 and Henderson Ave. Baptist Church was annexed into City limits in 1989. The church structures were established in 1974 and 1975, respectively and did not receive entitlements from Tulare County. Section 300.10(e) requires that Common Property Lines provide six foot high wall be provided on the interior lot lines where any non-residential use abuts a residential district or residential use where there is no alley. Such screening wall shall be provided at the time of new construction or expansion of buildings or changes from one use classification to another non-residential use classification. Please note code section (4) addresses timing: If the residential use develops prior to the non-residential use, a six (6) foot high wood fence may be constructed. If the non-residential use or residential use develops adjacent to existing development the wall shall be constructed with the new development. It further goes on to state that those uses subject to a Conditional Use Permit may be evaluated to determine applicability of the wall requirement.
3. Pursuant to Section 300.10 (g) of the PDO, the Zoning Administrator shall require a block wall based on the site design of the parking and/or service area and/or where other noise, light, and glare are oriented toward a residential use. In this context, a wall would be required along the property lines adjacent to Henderson Avenue and Mathew Street. A 10-foot landscape buffer shall be provided along the block wall on Henderson Avenue and a 5-foot buffer along Mathew Street. The wall design shall be approved as part of the project by the City Engineer to ensure that adequate line of sight distance is provided.

4. The developer/applicant shall comply with City Retaining Wall Standards (adopted by City Council January 3, 1989) at lot lines where such standards are applicable.
5. All new electrical, telephone, cable television, and similar distribution lines providing direct service to a development site shall be installed underground within the site.
6. Landscaping shall comply with Municipal Code Section 25 Article 1, Division 6 Water Conservation.
7. The subdivider shall be required to include:
 - a. **Subdivision Trees.** Subdivision trees and landscaping design shall be approved by the city and shall be planted at a time and in locations approved by the City Director of Parks and Leisure Services, all in general accord with the requirements of the Porterville Municipal Code.
 - At least one tree shall be planted on each residential lot. Five gallon trees shall be installed upon all lots abutting interior, local and collector streets, and fifteen gallon trees shall be planted upon parcels having frontage on arterial thoroughfares.
 - The subdivider shall be required to plant street trees at 35 feet on center along all Parkways identified in the General Plan within and/or bordering the subdivision.
 - b. **Parkway Trees.** Provide for the installation of parkway trees as required by the Director of Parks and Leisure Services in accordance with City standards pertaining to the type, size, spacing and placement of such trees; to the maintenance or extension of street tree themes when applicable; and, to the time of installation when it is determined it would be in the best interest of the City to postpone the placement of trees required pursuant to this section.
8. Prior to approval of the improvement plans, the developer/ applicant shall have completed and approved, landscaping and/or lighting improvement plans. The developer/applicant shall petition, on a form provided by the City, to have said subdivision placed in a Lighting and Landscape Maintenance District, Benefit Assessment District or similar district to include: (1) Lighting; (2) Recreational Open Space, if any; (3) Common Public Landscaping along Henderson Avenue; (4) Public walls/fences, if any; (5) Drainage reservoir, if any; and (6) any other public improvement complying with Series 400, Section 407.03 (i) of the Development Ordinance. The developer/applicant shall submit a processing fee of \$375 with the executed petition form.
9. The City shall prepare an Engineer's Report for the establishment of the assessments in order to provide for ongoing maintenance of the subdivision improvements to be included in the Lighting and Landscape Maintenance District. The Lighting and Landscape Maintenance District shall be established, or annexation into an existing District shall be concluded and landscape and lighting improvements shall be completed and accepted concurrently with the other improvements in the project.
10. Exclusive of assessments for a Lighting and Landscape Maintenance District, the

developer/applicant shall pay all service fees and maintain all new lighting and landscape improvements in a safe and healthy manner for the greater of a minimum 90 day plant establishment period following acceptance of the subdivision improvements, or until assessment begins for the Lighting and Landscape Maintenance District.

11. Unless otherwise noted, the developer/applicant shall comply with the City Master Plans and Standard Drawings, Standard Specifications for Public Works Construction (2018 Edition), and Standard Plans and Specifications (2018 Standards), except where they are in conflict with current access compliance regulations, the current California Building Code, the Tulare County Hazardous Waste Management Plan, the California Manual on Uniform Traffic Control Devices, the Porterville Circulation Element, and the Tulare County Congestion Management Program.
12. The developer/applicant shall pay all applicable fees in accordance with the Municipal Code and State law, prior to approval of the final map by City Council. Fees are subject to change annually. The developer/applicant is hereby notified of the right to pay fees, dedications, reservations or other exactions, under protest, pursuant to Government Code section 66020(a). The developer/applicant has 90 days from the date fees are paid to file a written protest.
13. The developer/applicant shall dedicate right-of-way adequate for a street width that matches the ultimate width in the adopted Land Use and Circulation Element and/or the width established by City Council along Mathew Street. The developer/applicant shall dedicate and completely improve the proposed internal subdivision streets.
14. The developer/applicant shall provide and show all required utility easements on the Final Map.
15. The developer/applicant shall dedicate a one foot limitation of access strip at locations where, in the opinion of the City Engineer, it is undesirable to allow access.
16. The developer/applicant shall cause all unnecessary easements to be vacated prior to or in conjunction with the Final Map processing.
17. The developer/applicant shall comply with Chapter 7, Article XIII of the City Code and Chapter 18 and Appendix J of the California Building Code and provide a Preliminary Soils Report (C.C. Sec. 7-126 & Res. 4997) including results of "R-Value" tests and recommendations regarding construction of public improvements that address City Standard C-13, satisfactory to the City Engineer, prior to the approval of the improvement plans or start of grading, whichever comes first. Additional reporting requirements are as indicated below:
 - a. Final Grading, Drainage and Soils Report, prior to issuance of building permits (C.C. Sec. 7-133);
 - b. Erosion Control Plan in conformance with the California Storm Water Best Management Practice Handbook for Construction Activity, prior to start of grading

(CBC Appendix J). The provisions of the approved Erosion Control Plan shall be incorporated into the Improvement Plans;

- c. Soils Report(s) in accordance with Chapter 18 and Appendix J of the California Building Code.
18. In accordance with Section 407.02(g) of the Development Ordinance, the developer/applicant shall enter into an agreement that provides for completion of improvements within twelve (12) months of the Final Map acceptance.
19. Prior to start of grading on any unit, the developer/applicant shall abandon and cap existing wells that are no longer in service. Prior to approval of the improvement plans, the developer/applicant shall obtain an abandonment permit from the County Department of Environmental Health. Prior to acceptance of improvements, the developer/applicant shall provide the City Engineer with proof of completion in compliance with County regulations. Developer/applicant shall comply with City standard for "backflow" prevention pursuant to Resolution No. 9615 for all wells that will remain in service. Wells that will remain in service for irrigating undeveloped phases, if the development is phased, shall be designated so on the Tentative Subdivision Map.
20. The developer/applicant shall replace or provide surety for replacement of irrigation pipes in the right-of-way, if, in the opinion of the City Engineer, replacement is warranted. The developer/applicant shall provide easements for irrigation pipes across lots created, if pipes are to remain active. The developer/applicant shall also cure leaks in any irrigation pipe that will continue in use.
21. Prior to recording the final map, the developer/applicant shall provide surety for off-site improvements and provide easements, permits, calculations, etc. if, in the opinion of the City Engineer, they are needed for the proper functioning or phasing of the subdivision (e.g. water, sewer, drainage, etc.).
22. The developer/applicant shall coordinate with the U.S. Postal Service regarding the kind of mail facilities that will be utilized. If neighborhood box units (NBUs) are to be used, construct sidewalks in a timely manner to facilitate NBU installation.
23. The developer/applicant shall obtain a City demolition permit prior to approval of the improvement plans and, under City inspection, remove all existing, abandoned, and unnecessary items, to the satisfaction of the City Engineer, prior to acceptance of the improvements (e.g. buildings, foundations, septic tanks, irrigation pipes, etc.).
24. The developer/applicant shall assure compliance with applicable San Joaquin Valley Air Pollution Control District Rules (e.g., Numbers 8010, 8020, and 8030), regarding fugitive dust, as well as Section 7-8, Project Site Maintenance of the Standard Specifications. The developer/applicant shall provide a street sweeper as necessary to comply. During grading operations, the "Supervising Civil Engineer" shall be responsible for enforcing the dust control provisions of Section 7-8 or the developer/applicant shall pay inspection fees on the grading cost to compensate the City for dust control inspection. The improvement plans

shall show a designated washout area for concrete trucks, and a sign designating it as such. The developer/applicant shall remove and properly dispose of waste concrete deposited in this area.

25. The developer/applicant shall connect to abutting streets by constructing curb, gutter, sidewalk, water, sewer, street paving to the center of the street (if necessary), etc. along the full frontage of all proposed subdivision lots, except where they exist to City standards and are in good condition in the opinion of the City Engineer.
26. The developer/applicant shall stub improvements to the property line if, in the opinion of the City Engineer, they will be needed for connection to development on the adjacent property.
27. Building or foundation permits shall not be issued until all of the following items are accepted as complete:
 - a. The storm drain system is functional so that it will accept water from fire hydrant and/or water main flushing;
 - b. The water system, is functional from the source of water past the lots on which permits are being requested (i.e. all services and the sampling station, if required, are installed, valves are functional and accessible, bacteria testing is completed, etc.);
 - c. Street base rock for accessibility by the public safety officials and building inspectors;
 - d. Lots are graded in accordance with the approved grading plan. Prior to receipt of the Final Grading, Drainage and Soils Report a letter from the "Supervising Civil Engineer" is required validating that the grading has been done in accordance with the approved grading plan and in accordance with the recommends contained in the Preliminary Soils Report;
 - e. Lot corners are marked;
 - f. Fire hydrants are accepted by the Fire Department and the Engineering Division.
28. The developer/applicant shall construct all drainage facilities that the City Engineer determines are necessary to comply with the intent of the Storm Drain Master Plan. Dedicate a drainage easement across each lot requiring an easement, unless all lots are graded to drain to the street (C.C. Sec. 21-50). The developer/applicant shall construct concrete drainage swales, approved by the City Engineer, if necessary, to transport storm water across adjacent subdivision lots to reach a City drainage system.
29. The developer/applicant shall direct all storm water to a temporary drainage basin on the development's property or extend piping to connect to a storm drainage system. No additional runoff is allowed to discharge into the Porter Slough. A minimum amount of runoff must be contained onsite on each lot per the State's MS4 post-construction requirements.
30. The developer/applicant is advised that he is obligated to comply with the National

Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002 for discharge of Storm Water Associated with construction activity will be required (except operations that result in disturbance of less than one acres of total land area and which are not a part of a larger common plan of development or sale). Before construction begins, the proponent must submit a Notice of Intent (NOI) to comply with the permit, a site map, and appropriate fee to the State Water Resources Control Board (SWRCB). The proponent must also prepare a Storm Water Pollution Prevention Plan (SWPPP) for the entire project before construction begins. The SWPPP must contain at a minimum all items listed in Section A of the permit, including descriptions of measures to be taken to prevent or eliminate unauthorized non-storm water discharges and both temporary (e.g., fiber rolls, silt fences, etc.) and permanent (e.g., vegetated swales, detention basins, etc.) best management practices that will be implemented to prevent pollutants from discharging with storm water into water of the United States. If portions of the project area are to be sold off before the entire project is completed, the proponent must submit to the California Regional Water Quality Control Board a change of information form identifying the new owners along with a revised site map clearly depicting those portions that were sold and those that are remaining. The proponent is also responsible for informing each new owner of their responsibility to submit their own NOI, site map, and appropriate fee to the SWRCB and to prepare their own SWPPP.

31. The developer/applicant shall construct streets conforming to Section 407.03 of the adopted Development Ordinance. Street cross section standards are summarized below:

Mathew Street: Circulation Element designation is a collector street with parkway strips between the curb and the sidewalk. The right of way width is 60 feet and the curb-to-curb width is 40 feet. Additional width may be required for landscaping along the required block wall. The Mathew Street alignment shall be coordinated with the City prior to final design. The street width shall be wide enough to accommodate a parking lane and two vehicular travel lanes.

Bel Aire Avenue: Circulation Element designation is a local street. The street was improved under the prior code in effect at the time. Construction of these improvements shall tie into the existing improvements along the south side of Oak Grove Elementary School as best as possible. Pavement cuts may be needed to transition the development's design into the existing pavement.

Internal Street: This street is designated as a local street with parkway strips between the curb and sidewalk. The right of way width is 56 feet and the curb-to-curb width is 36 feet. A 10-foot wide public utility easement shall be provided outside of the public right of way on each side of the street.

32. The developer/applicant shall provide street striping and flexible delineators at road alignment transitions and where directed by the City Engineer, as necessary to provide safe vehicular movements.
33. The developer/applicant shall cause all regulatory and street name signs to be installed

prior to occupancy of any house located where its occupants will utilize a street that does not have them.

34. The developer/applicant shall construct two City standard barricades at the end of all dead end streets.
35. To accommodate refuse vehicles and street sweepers, the developer/applicant shall dedicate and improve, to City standards, temporary turnarounds at the ends of dead-end streets. A raised curb or barrier shall be placed around the perimeter of the temporary turnaround.
36. The developer/applicant shall cause the sewer system to be completed, tested, and accepted by the City prior to residential occupancy of any house in the subdivision. A six inch (6") sewer line lateral exists along Henderson Avenue, 162' east of the west property line.
37. The developer/applicant shall move existing utility structures (For example, poles, splice boxes, vaults, etc.) to a position that provides a minimum of four feet (4') of clear space in the sidewalk area and a minimum of two feet (2') of clear space from the curb face to the structure, unless they are below grade (Title 24 DSA) or provide surety in lieu of.
38. Prior to acceptance of improvements, the developer/applicant shall provide 39W LED 3000K streetlights on Marbelite poles along Mathew Street as necessary to meet appropriate spacing and 31W LED 3000K streetlights on Marbelite poles along Bel Aire Avenue and within the subdivision, all in compliance with Southern California Edison Company specifications as required by the City Engineer. Spacing between streetlights shall not exceed 160 feet and shall be staggered.
39. The Porter Slough Ditch traverses through the proposed development and the developer/applicant shall coordinate with Porterville Irrigation Company (PID) and the City of Porterville in piping the ditch. PID shall specify appropriate size and piping material, which shall be in accordance with current City Standards and policies. Porter Slough Ditch piping shall be a component of the subdivision improvement plans and the scheduling of this work shall be approved by PID.
40. The developer/applicant shall:
 - a. Construct all water facilities that the City Engineer determines are necessary to comply with the intent of the Water Master Plan. The master plan requires the installation of a twelve inch water main in Mathew Street.
 - b. Construct the water system in a maximum of two sections for each phase of the subdivision. One section for the model homes and one section for the remainder of the phase. The number of model homes shall not exceed one for each 10 lots in the subdivision or four, whichever is greater. The model homes shall be clustered.
 - c. Design a water system that will provide a fire flow at each fire hydrant of 1,000 g.p.m. with 20 p.s.i. residual pressure for a dwelling less than 3,600 square feet and 1,500 g.p.m. with 20 p.s.i. residual pressure for a dwelling unit greater than 3,600

square feet.

41. A six-inch (6") water line extension exists along Henderson Avenue, 80 feet east of the west property line. An eight-inch (8") water line exists at the corner of Bel Aire Avenue and Belmont Street. The development's water system must be looped with two different connection points.
42. The developer/applicant shall comply with the City Flood Damage Prevention Ordinance No. 1777, and the requirements of the State Reclamation Board where applicable. In all areas of special flood hazards (i.e., Zones A, AE, AH, AR, A99, V and VE), the following conditions are required:
 - a. All preliminary subdivision proposals shall identify the flood hazard area and the elevation of the base flood;
 - b. All final subdivision plans shall provide the elevation of proposed structures and pads. If the site has to be filled to be above the base flood, a registered professional engineer or surveyor shall certify the final pad elevation and said certification shall be provided to the local administrator in the form of an elevation certificate.
43. The developer/applicant is hereby notified that reimbursement for Master Plan facilities is made when funds are available and is contingent upon the work being done by the approved low bidder of at least two bona fide bidders. The bids must be approved by the City prior to construction and reimbursement requests shall be processed in accordance with Section 407.02 (j) of the Development Ordinance.
44. The developer/applicant shall comply with all mitigation measures adopted as a component of the approval of the Mitigated Negative Declaration for this project. Prior to recording the final map, the developer/applicant shall submit a signed document committing to comply with the adopted mitigation measures.
45. The developer/applicant is hereby notified that the property is subject to development fees. The fee is associated with the reconstruction of Henderson Avenue by the City.
46. When fees are paid, a more thorough study will be made. At that time, additional conditions may be found to be necessary or some of the above conditions may be found to be unnecessary.
47. The developer/applicant shall submit three complete sets of plans, signed by a licensed Architect or Engineer, including two sets of energy calculations and structural calculations.
48. Plan submittals shall comply with all current applicable Codes.
49. The developer/applicant shall provide soil compaction test(s) as required by the applicable building code sections.

50. The developer/applicant shall pay all fees according to the Municipal Code and State Law. The developer/applicant shall pay School Development fees and all other City fees at the timetable determined by current City Ordinance. The developer/applicant shall make payment of the required plan check fees at the time of building permit plan submittal.
51. Compliance forms and worksheets are required to be included on all plan submittals as per California Green Code.
52. All construction offices, storage containers, etc. planned and/or intended for temporary use during construction must receive approval from the Chief Building Official through a separate permit process prior to their installation and/or placement on the property and must be removed from the jobsite prior to final occupancy being requested and/or approved.
53. No deferred items. Plans submitted with deferred items will automatically be rejected and are not guaranteed a complete plan review prior to said rejection.
54. The City will test and maintain all fire hydrants in the City whether on private property or not. An “easement” is required from the owner. Fire hydrant spacing within Residential development shall be one hydrant installed at 500-foot interval or as required by Appendix C California Fire Code.
55. The developer/applicant shall comply with all mitigation measures adopted as a component of the approval of the Mitigated Negative Declaration for this project. Prior to recording the final map, the developer/applicant shall submit a signed document committing to comply with the adopted mitigation measures.

PASSED, APPROVED AND ADOPTED this 15th day of October, 2019.

By: _____
Martha A. Flores, Mayor

ATTEST:
John D. Lollis, City Clerk

By: _____
Patrice Hildreth, Chief Deputy City Clerk

BEING A SUBDIVISION WITHIN THE NORTHEAST 1/4 OF THE NORTHWEST 1/4 OF SECTION 21,
T.21S. R.27E., M.D.B. & M., IN THE CITY OF PORTERVILLE, COUNTY OF TULARE, STATE OF CALIFORNIA.

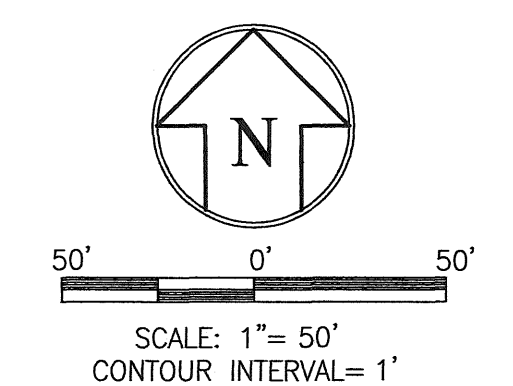
BY: 

150 WEST MORTON AVENUE
PORTERVILLE, CA 93257

TEL: (559) 781-2700
WWW.QKINC.COM

1. DATE OF PREPARATION: MARCH 19, 2019.
2. ZONE: RS-2. GENERAL PLAN: LOW DENSITY RESIDENTIAL.
3. ALL DISTANCES SHOWN ARE IN FEET & DECIMALS THEREOF AND ARE APPROXIMATE.
4. GROSS PARCEL AREA = 6.82 ACRES;
GROSS DENSITY = 3.5 UNIT/ACRES, NET PARCEL AREA = 5.47 ACRES.
5. APN: 245-060-031 AND 245-060-025.
6. EXISTING LAND USE: VACANT / RURAL RESIDENTIAL.
7. PROPOSED LAND USE: SINGLE FAMILY RESIDENTIAL.
8. EASEMENTS TO CONFORM TO APPLICABLE ORDINANCES & STATUTES.
9. EASEMENTS FOR PUBLIC UTILITIES TO BE PROVIDED AS REQUIRED.
10. NOT SUBJECT TO INUNDATION OR OVERFLOW, UNLESS OTHERWISE NOTED.
11. PROPOSED SEWER, WATER, CONCRETE CURBS, GUTTERS, SIDEWALKS, STREETLIGHTS, AND STREET PAVEMENT TO BE INSTALLED PER CITY OF PORTERVILLE STANDARD SPECIFICATIONS.
12. NATURAL GAS BY: SOUTHERN CALIFORNIA GAS CO.
13. TELEPHONE BY: A.T. & T.
14. POWER BY: SOUTHERN CALIFORNIA EDISON CO.
15. DOMESTIC WATER BY: CITY OF PORTERVILLE.
16. SEWAGE DISPOSAL BY: CITY OF PORTERVILLE.
17. REFUSE COLLECTION BY: CITY OF PORTERVILLE.
18. CABLE T.V. BY: CHARTER COMMUNICATIONS.
19. DRAINAGE: SURFACE FLOW AND EXTENSION OF EXISTING STORM DRAIN SYSTEM.
20. WATER QUANTITY: AS PER CITY STANDARDS.

	SUBDIVISION BOUNDARY
	PROPOSED FIRE HYDRANT
(E)	EXISTING
(P)	PROPOSED
	PROPOSED WATER LINE
	PROPOSED SANITARY SEWER LINE
	PROPOSED STORM DRAIN LINE
	SANITARY SEWER MANHOLE
	STORM DRAIN MANHOLE
	CATCH BASIN
	CROSS GUTTER
	SURFACE FLOW
	POWER POLE
	TELEPHONE POLE
	EXISTING CONTOUR
	EXISTING STREET LIGHT
	PROPOSED STREET LIGHT





CITY COUNCIL AGENDA – OCTOBER 15, 2019

SUBJECT: Consideration of an Annexation for Burton School District (PRC 2013-020)

SOURCE: Community Development

COMMENT: In 2013, Burton School District (District) approached the City of Porterville to request water for a new school campus located on Redwood Street, west of the city limits. At that time, due to jurisdictional boundaries, the City accepted that annexation of the school campus was not an option. Instead, an Extraterritorial Services Agreement was established to allow the school to move forward with the needed water connection, with the understanding that at such time in the future that annexation could move forward, the District would complete that process. In 2015, the City Council annexed the neighborhood west of Westwood Street, south of the alignment of Morton Avenue, north of Olive Avenue, and east of Elderwood Street, commonly known as the Dogwood Community, named after one of the streets in the area. With annexation of this area, the District's two campuses are now adjacent to the city limit and able to pursue annexation. Although staff began working with the District on this annexation effort in 2017, the District had to complete acquisition of the campus property before annexation could proceed. Anticipating the eventual annexation of the new school, District officials and their construction team partnered with City staff to assure that City design expectations were included in the design, even though at the time they were still within County jurisdiction.

Unfortunately, in light of new information recently brought to staff's attention, this item cannot be brought forward for consideration at this time. However, as the public hearing has already been published, staff recommends opening the public hearing to accept testimony. This item will be rescheduled for a later date, yet to be determined.

RECOMMENDATION: That the City Council hold the public hearing and accept public testimony, and close the public hearing.

ATTACHMENTS: 1. Locator Map

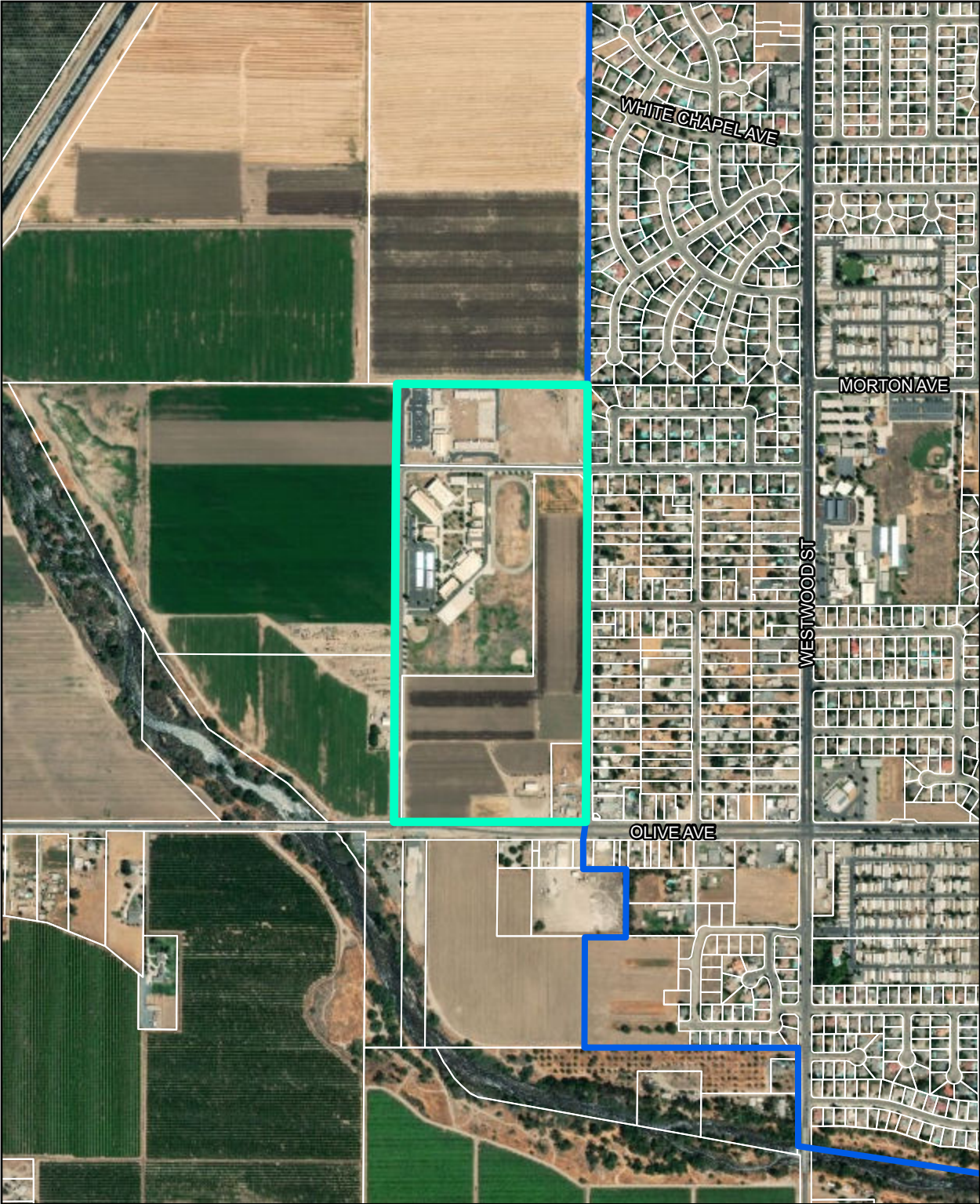
Appropriated/Funded:

Review By:

Department Director:

Final Approver: Patrice Hildreth, Deputy City Manager

Locator Map
PRC 2013-020



BESD New School
@ Redwood & Thurman

-  Project Location
-  City Limits

1 in = 900 feet





CITY COUNCIL AGENDA – OCTOBER 15, 2019

SUBJECT: Adoption of the 2019 California Building Codes

SOURCE: Public Works

COMMENT: The various building codes in use by jurisdictions in California are updated periodically to reflect the latest materials and construction techniques available to the construction industry.

The last published building codes, specifically the California Building Codes, were updated in 2016. The State of California has since adopted the 2019 International Codes as the State Codes for Building, Electrical, Mechanical, Plumbing, and Energy.

In addition to these Codes, the State of California has also mandated the adoption of the 2019 Editions of the Administrative Code, Residential Code, Green Building Standards, Historical Buildings Code, Existing Buildings Code, and Referenced Standards Code. The 2019 Codes will become State mandated as of January 1, 2020.

Each California Code will be adopted by Ordinance, and shall repeal the State Code previously in effect.

RECOMMENDATION: That City Council:

1. Conduct a Public Hearing to receive input regarding the adoption of the 2019 Editions of the California Administrative, Building, Residential, Electrical, Mechanical, Plumbing, Energy, Green Building Standards, Historical Buildings, Existing Buildings, and Referenced Standards Codes;
2. Approve for first reading the draft Ordinances adopting the 2019 Editions of the California Administrative, Building, Residential, Electrical, Mechanical, Plumbing, Energy, Green Building Standards, Historical Buildings, Existing Buildings, and Referenced Standards Codes; and
3. Waive further reading and order the Ordinances to print.

ATTACHMENTS:

1. Draft Ordinance - Amending Chapter 7, Article I - 2019 CA Building Code et al
2. Draft Ordinance - Amending Chapter 7, Article IA - Adoption of 2019 CA Mechanical Code

3. Draft Ordinance - Amending Chapter 7, Article II - Adoption of 2019 CA Plumbing Code
4. Draft Ordinance - Amending Chapter 7, Article III - Adopting 2019 CA Electrical Code
5. Draft Ordinance - Amending Chapter 7, Article IV - Adopting 2019 CA Green Building Standards Code

Appropriated/Funded:

Review By:

Department Director:

Javier Sanchez, Engineering & Project Management Director

Final Approver: John Lollis, City Manager

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING CHAPTER 7, ARTICLE I, OF THE MUNICIPAL CODE OF THE CITY OF PORTERVILLE AND ADOPTING BY REFERENCE THE 2019 EDITIONS OF THE CALIFORNIA ADMINISTRATIVE CODE, THE CALIFORNIA BUILDING CODE ALONG WITH DESIGNATED APPENDICES, THE CALIFORNIA RESIDENTIAL CODE ALONG WITH DESIGNATED APPENDICES, THE CALIFORNIA ENERGY CODE, THE CALIFORNIA HISTORICAL BUILDINGS CODE, THE CALIFORNIA EXISTING BUILDING CODE, AND THE CALIFORNIA REFERENCED STANDARDS CODE AS PUBLISHED BY THE INTERNATIONAL CODE COUNCIL.

THE CITY COUNCIL OF THE CITY OF PORTERVILLE DOES ORDAIN AS FOLLOWS:

A. The following sections of the Municipal Code of the City of Porterville are hereby amended to read as follows:

SECTION 7-1 ADOPTION

Adoption of the 2019 Edition of the California Administrative Code Title 24 Part 1; 2019 California Building Code Part 2, Volumes 1 and 2; the 2019 California Residential Code Title 24 Part 2.5; the 2019 Energy Code Title 24 Part 6; the 2019 Edition of the California Historical Buildings Code Title 24 Part 8; the 2019 Edition of the California Existing Buildings Code Title 24 Part 10; and the 2019 Edition of the California Referenced Standards Code Title 24 Part 12.

That certain codes in book form to which more particular reference is herein made, regulating the construction, erection, alteration, repair, removal, demolition, conversion, equipment, use, height, area and maintenance of buildings in the City of Porterville, together with the amendments thereof, herein specifically set forth, together with the penalty for violation herein set forth to be known as the Building Codes compiled by and adopted by the International Code Council, Inc., together with the following appendixes: J and O of the 2019 California Building Code; H, J, V, and X of the 2019 California Residential Code Part 2.5; thereto are hereby adopted and enacted by the Council of the City of Porterville, to all intents and purposes

and to the same effect as if each and every sentence, paragraph, word and clause in said codes mentioned are referred to herein or therein were fully and specifically set forth herein, with the exception of the penalty provision thereof.

SECTION 7-2 COPIES ON FILE:

Reference is hereby made to one (1) copy of said California Building Code, 2019 Edition, compiled by and adopted by the International Conference of Building Officials, heretofore filed in the office of the Building Official of the City of Porterville and said California Building Code is by reference adopted herein as provided by law.

SECTION 7-3 BUILDING CODE AMENDMENTS

There are no local amendments to the 2019 Codes. The City of Porterville reserves the right to amend the Codes mentioned herein by way of public hearing and Ordinance adoption at a later date if deemed necessary.

SECTION 7-3.4. PENALTY FOR VIOLATION:

It shall be unlawful for any person, firm or corporation to enlarge, alter, repair, move, improve, remove, convert, or equip, use, occupy or maintain any building or structure in the City of Porterville, or cause the same to be done contrary to or in violation of the provisions of this article or of the building code above adopted by reference, together with the amendments thereto; and any person, firm or corporation violating any of the provisions of this article or of said building code, as amended, shall be deemed guilty of a separate offense for each and every day or portion thereof during which any violations of the provisions of this article or of the California Building Code, 2019 Edition, is committed or permitted; and upon conviction of any such violation, such person shall be punished by a fine of not more than five hundred dollars (\$500.00) or by imprisonment in the City or County jail for a period of not exceeding six (6)

months or both such fine and imprisonment.

SECTION 7-3.5. SEVERABILITY:

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision of application, and to this end the provisions of this Ordinance are severable.

B. Ordinance No. 1834 of the Municipal Code of the City of Porterville is hereby repealed.

C. This Ordinance shall be in full force and in effect on January 1, 2020.

PASSED, ADOPTED AND APPROVED this ___ day of _____, 2019.

ATTEST:
John D. Lollis, City Clerk

Martha A. Flores, Mayor

By: _____
Patrice Hildreth, Chief Deputy City Clerk

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
AMENDING CHAPTER 7, ARTICLE 1A, OF THE MUNICIPAL CODE OF
THE CITY OF PORTERVILLE ADOPTING BY REFERENCE
THE 2019 EDITION OF THE CALIFORNIA MECHANICAL CODE
PUBLISHED BY THE INTERNATIONAL ASSOCIATION OF PLUMBING AND
MECHANICAL OFFICIALS.**

THE CITY COUNCIL OF THE CITY OF PORTERVILLE DOES ORDAIN AS
FOLLOWS:

A. The following section of the Municipal Code of the City of Porterville is hereby
amended to read as follows:

SECTION 7-4 ADOPTION

Adoption of the 2019 Edition of the California Mechanical Code, Title 24, Part 4 and
Referenced Standards.

That certain code in book form to which more particular reference is hereinafter made
regulating the installation and maintenance of heating, ventilating, cooling, and refrigeration
systems, to be known and referred to as the California Mechanical Code along with the
Referenced Standards is hereby adopted and enacted by the Council of the City of Porterville as
an ordinance of the City of Porterville, to all intents and purposes and to the same effect as if
each and every sentence, comma, paragraph, word, phrase, and clause in said code mentioned or
referred to therein or herein were and each thereof was fully and specifically set forth herein.

Reference is hereby made to one (1) copy of the 2019 Edition of the California
Mechanical Code published by the International Association of Plumbing and Mechanical
Officials filed with the Building Official of the City of Porterville and said code is by reference
adopted herein as provided by law.

SECTION 7-4.2. SEVERABILITY:

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision of application, and to this end the provisions of this Ordinance are severable.

B. That Ordinance No.1835 of the Municipal Code of the City of Porterville is hereby repealed.

C. This Ordinance shall be in full force and in effect on January 1, 2020.

PASSED, ADOPTED AND APPROVED this __ day of _____, 2019.

Martha A. Flores, Mayor

ATTEST:
John D. Lollis, City Clerk

By: _____
Patrice Hildreth, Chief Deputy City Clerk

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
AMENDING CHAPTER 7, ARTICLE II, OF THE MUNICIPAL CODE OF
THE CITY OF PORTERVILLE ADOPTING BY REFERENCE
THE 2019 EDITION OF THE CALIFORNIA PLUMBING CODE
PUBLISHED BY THE INTERNATIONAL ASSOCIATION OF PLUMBING AND
MECHANICAL OFFICIALS.**

THE CITY COUNCIL OF THE CITY OF PORTERVILLE DOES ORDAIN AS
FOLLOWS:

A. That Chapter 7, Article II, Section 7-6 of the Municipal Code of the City of Porterville
is amended to read as follows:

SECTION 7-6. ADOPTION

Adoption of the 2019 Edition of the California Plumbing Code Title 24 Part 5, the
Referenced Standards, and Appendixes C, H, and M.

That certain code in book form to which more particular reference is hereinafter made,
regulating the business of plumbing, and the installation of plumbing fixtures and appliances, to
be known and referred to as the California Plumbing Code, is hereby adopted and enacted by the
Council of the City of Porterville as an ordinance of the City of Porterville, to all intents and
purposes and to the same effect as if each and every sentence, comma, paragraph, word, phrase,
and clause in said code mentioned or referred to therein or herein were and each thereof was fully
and specifically set forth herein.

Reference is hereby made to (1) copy of the 2019 Edition of the California Plumbing
Code, published by the International Association of Plumbing and Mechanical Officials filed
with the Building Official of the City of Porterville and said code is by reference adopted herein
as provided by law.

SECTION 7-6.1 SEVERABILITY

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision of application, and to this end the provisions of this Ordinance are severable.

B. That Ordinance No. 1836 of the Municipal Code of the City of Porterville is hereby repealed.

C. This Ordinance shall be in full force and in effect on January 1, 2020.

PASSED, ADOPTED AND APPROVED this __ day of _____, 2019.

Martha A. Flores, Mayor

ATTEST:
John D. Lollis, City Clerk

By: _____
Patrice Hildreth, Chief Deputy City Clerk

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
AMENDING CHAPTER 7, ARTICLE III, SECTION 7-9 AND
DELETING SECTION 7-10 OF THE MUNICIPAL CODE OF THE
CITY OF PORTERVILLE AND ADOPTING BY REFERENCE THE
2019 EDITION OF THE CALIFORNIA ELECTRICAL CODE PUBLISHED
BY BNi PUBLICATIONS, INC.**

THE CITY COUNCIL OF THE CITY OF PORTERVILLE DOES ORDAIN AS
FOLLOWS:

A. That Chapter 7, Article III, Section 7-9 of the Municipal Code of the City of
Porterville is hereby amended to read as follows:

SECTION 7-9 ADOPTION

Adoption of the 2019 Edition of the California Electrical Code Title 24 Part 3.

That certain code in book form to which more particular reference is hereinafter made,
regulating the business of electrical, and the installation of electrical fixtures and appliances, to
be known and referred to as the California Electrical Code, is hereby adopted and enacted by the
Council of the City of Porterville as an ordinance of the City of Porterville, to all intents and
purposes and to the same effect as if each and every sentence, comma, paragraph, word, phrase,
and clause in said code mentioned or referred to therein or herein were and each thereof was fully
and specifically set forth herein.

Reference is hereby made to one (1) copy of the 2019 Edition of the California Electrical
Code, published by BNi Publications, Inc. filed in the office of the Building Official of the City
of Porterville, and such code, to wit: the 2019 Edition of the California Electrical Code
published by the BNi Publications, Inc., as aforesaid now on file with the Building Official of the
City of Porterville, is hereby adopted by reference as the Electrical Code of the City.

SECTION 7-9.1 SEVERABILITY

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision of application, and to this end the provisions of this Ordinance are severable.

B. That Ordinance No. 1837 of the Municipal Code of the City of Porterville is hereby repealed.

C. This Ordinance shall be in full force and in effect on January 1, 2020.

PASSED, ADOPTED AND APPROVED this ___ day of _____, 2019.

ATTEST:
John D. Lollis, City Clerk

Martha A. Flores, Mayor

By: _____
Patrice Hildreth, Chief Deputy City Clerk

ORDINANCE NO. _____

**AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
AMENDING CHAPTER 7, ARTICLE IV, OF THE MUNICIPAL CODE OF
THE CITY OF PORTERVILLE ADOPTING BY REFERENCE
THE 2019 EDITION OF THE CALIFORNIA GREEN BUILDING STANDARDS CODE
PUBLISHED BY THE INTERNATIONAL CODE COUNCIL.**

THE CITY COUNCIL OF THE CITY OF PORTERVILLE DOES ORDAIN AS
FOLLOWS:

A. The following section of Chapter 7, Article IV, of the Municipal Code of the City
of Porterville is hereby amended to read as follows:

SECTION 7-12 ADOPTION

Adoption of the 2019 Edition of the California Green Building Standards Code,
Title 24, Part 11 and the mandatory portions of Appendix A4, Appendix A5, and Appendix A6.1
with the voluntary portions of said Appendices remaining voluntary.

That certain code in book form to which more particular reference is hereinafter made
encouraging sustainable construction practices, to be known and referred to as the California
Green Building Standards Code is hereby adopted and enacted by the Council of the City of
Porterville as an ordinance of the City of Porterville, to all intents and purposes and to the same
effect as if each and every sentence, comma, paragraph, word, phrase, and clause in said code
mentioned or referred to therein or herein were and each thereof was fully and specifically set
forth herein.

Reference is hereby made to one (1) copy of the 2019 Edition of the California Green
Building Standards Code published by the International Code Council Commission filed with the
Building Official of the City of Porterville and said code is by reference adopted herein as
provided by law.

SECTION 7-12.1 SEVERABILITY

If any provision of this Ordinance or the application thereof to any person or circumstance is held invalid, that invalidity shall not affect other provisions or applications of this Ordinance that can be given effect without the invalid provision of application, and to this end the provisions of this Ordinance are severable.

B. That Ordinance No. 1838 of the Municipal Code of the City of Porterville is hereby repealed.

C. This Ordinance shall be in full force and in effect on January 1, 2020.

PASSED, ADOPTED AND APPROVED this ___ day of _____, 2019.

Martha A. Flores, Mayor

ATTEST:
John D. Lollis, City Clerk

By: _____
Patrice Hildreth, Chief Deputy City Clerk



CITY COUNCIL AGENDA – OCTOBER 15, 2019

SUBJECT: Budget Adjustment/Citizens' Option for Public Safety (COPS) Funding

SOURCE: Police

COMMENT: For many years, the Porterville Police Department has annually received funding from the State of California through the Citizens' Option for Public Safety (COPS) Grant Program. The Department is again programmed to receive \$100,000 for Fiscal Year 2019/2020, and a Public Hearing on the intent of the expenditures is required.

The Department has historically used these funds in support of personnel assigned to the Patrol Division, including all necessary training, equipment, and overtime costs, and it is the intent to continue. The expenditure of these funds in this manner is in proper adherence to the requirements as specified in Assembly Bill 3229.

RECOMMENDATION: That the City Council:

1. Conduct the Public Hearing to receive public comment;
2. Authorize use of these funds to offset costs for personnel assigned to the Police Department's Patrol Division, including necessary training, equipment, and overtime costs; and
3. Adopt the draft Resolution approving a budget adjustment increasing the Police Department's Special Safety Grants-Citizen's Option for Public Safety (COPS) budget by \$100,000 to support said costs.

ATTACHMENTS: 1. Draft Resolution

Appropriated/Funded:

Review By:

Department Director:

Eric Kroutil, Police Chief

Final Approver: John Lollis, City Manager

RESOLUTION NO. _____-2019

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF PORTERVILLE ACCEPTING CITIZENS' OPTION FOR
PUBLIC SAFETY (COPS) GRANT FUNDS AND APPROVING A BUDGET
ADJUSTMENT TO THE PORTERVILLE POLICE DEPARTMENT BUDGET

BE IT HEREBY RESOLVED by the City Council of the City of Porterville as follows:

1. That the City of Porterville accepts the 2019/2020 Citizens' Option for Public Safety (COPS) Grant Funds; and
2. Police Department's Special Safety Grants - Citizens' Option for Public Safety (COPS) budget is increased by \$100,000 to allow for expenditure of these Grant Funds in support of personnel assigned to the Patrol Division and their operational costs.

PASSED, APPROVED, AND ADOPTED this 15th day of October 2019.

Martha A. Flores, Mayor

ATTEST:

John D. Lollis, City Clerk

By: Patrice Hildreth, Chief Deputy City Clerk



CITY COUNCIL AGENDA – OCTOBER 15, 2019

SUBJECT: Consideration of Various Fees Related to Application to Open and Operate Cannabis Dispensaries, and Consideration of Request for Proposals Process and Draft Development Agreement Template

SOURCE: City Attorney

COMMENT: The City Council Cannabis Ad Hoc Committee and City staff have met several times over the past several months to discuss the development of the pre-application background check, the Request for Proposals (RFP) and Application Process and associated fees, and the draft Development Agreement, as authorized and required per City regulations. The Committee and staff are now requesting that the Council provide input as to the above-described processes, and consider and approve the proposed RFP process and permit fees.

The RFP process is proposed to be in four (4) phases, which applicants responding to the RFP shall be required to:

- Provide required background materials
- Submit a complete application package along with the Phase I required fee. Staff will review the application for completeness, and provide an opportunity for applicants to issue written questions.
- If it is determined the applicant meets the minimum requirements of Phase I review and has paid the Phase II required fee, the completed proposal will proceed forward to Phase II.
- Selected applicants will enter into a Development Agreement between the City and the Business Owner and any other Responsible Parties

It should be noted that the background clearance is required *prior* to the Phase I initial submittal and has not been accounted for in the following timeline. It is anticipated from the date of RFP issuance through the third party independent selection to be approximately twelve (12) weeks. At that time, Council has the option to schedule interviews with the applicants who have received at minimum 75% of the total possible points, which Council will select the top three (3) to enter into a Development Agreement.

DEVELOPMENT AGREEMENT

As set forth by the City's regulations, the successful applicants shall be required to negotiate and enter into a Development Agreement with the City. The Development Agreement will provide the successful applicant with certain vested rights to develop the property and use it for the purposes of a cannabis dispensary for a period of years regardless of intervening changes in land use

regulations, in consideration of the imposition of conditions and the payment of certain fees.

Attached is a draft Development Agreement template. This Agreement covers a wide range of conditions and obligations, including but not limited to the term of the Agreement and any extensions (the term should be for at least 5 years or longer); whether any extension should be permissive or automatic (provided certain conditions are met); the time frame that the owner will be given to establish and commence operation of the business; a prohibition on the transfer of any Cannabis Dispensary Permit awarded and/or a prohibition on the assigning of the Development Agreement; certain physical or operational requirements above and beyond those specified in the City's regulations; provisions covering owner gross receipts reporting and annual audit requirements; insurance and indemnity requirements; defaults, remedies and other enforcement provisions; local recruitment, hiring and training programs; owner funding of and coordination and cooperation with the City in the establishment and operation of public outreach and education and a "Community Benefits Program"; and the payment by the owner of a monthly operating fee.

Community Benefits Program. It is proposed that the successful applicants coordinate and cooperate with the City and each other in the establishment, implementation, and funding of a Community Benefits Program. The Program could include beautification efforts in the general areas where the businesses are located, funding for enforcement against illegal cannabis operations, other/enhanced public safety or code enforcement programs, support of area infrastructure, capital improvements benefiting the community, support of holiday and other special community events, other economic development programs, a facade improvements assistance program, or other beneficial programs. The Ad Hoc Committee has considered two (2) general approaches to this Program - 1) a business-owner defined program, or 2) a City Council - defined program. The Committee's recommendation to the Council is to implement a City Council defined program that outlines the scope of appropriate uses of the Program funding, an application process for receiving such funding and the standards for approval, and consider the creation of an advisory committee that will develop Program recommendations to the City Council.

Operating Fee. As the Council is aware, the City has not established a tax on commercial cannabis activities. However, the Council authorized the establishment of additional operating fees imposed on commercial cannabis dispensary operators via the approval of a Development Agreement. The periodic operating fees will be established in order to enable the City to promote, protect, and enhance the health, safety and welfare of the community and its residents. The Ad Hoc Committee is recommending a monthly (or quarterly) operating fee of at least 5% of each businesses' gross receipts. The Ad Hoc Committee and staff would like input from the City Council on this proposed amount, along with whether the City Council would like to also include a flat minimum periodic amount (e.g. \$10,000 per month, or 5% gross

receipts, whichever is greater). The Committee and staff would also like direction from the Council concerning the use of the funding, and discuss the potential for the funding to be used to support additional law enforcement and/or code enforcement personnel, or to further assist in funding approved uses within the Community Benefits Program. Final approval of the operating fee will occur at the time of the approval of the Development Agreement; however minimum limits can and should be set for the purposes of establishing the RFP requirements.

APPLICATION FEES

The Committee and Staff are recommending the following fees be considered and adopted by the City Council:

a) Phase I Application Fee: \$750.00. This initial fee covers the estimated cost of City staff's initial review of the application for completeness (all requested items have been provided).

b) Phase II Application Fee: \$7,500.00. For the applicants that proceed to this Phase, this fee covers staff time and the estimated costs of the City's third party reviewer, in the review of dispensary applications and the development of recommendations to the City Council.

c) Initial and Annual Permit and Permit Renewal Fee: \$15,000.00. This fee is applicable to the applicants awarded City Cannabis Dispensary Permits. It will be payable at the time of issuance of the permit, and annually at the time of permit renewal. The purpose of this fee is to cover the City's costs in ensuring permit compliance and any enforcement of the City's regulations, including but limited to inspections, records review, and/or activities related to investigations of any complaints.

A Public Hearing for the consideration of these fees has been noticed for this meeting, and attached is a draft Resolution authorizing these fees. In the event the City finds that the fees are not adequate to cover the costs, City staff will propose revisions prior to or at the time that a subsequent RFP process is authorized.

As discussed above, the successful applicants will also be required to enter into a Development Agreement with the City that provides for additional payment by the dispensary of a portion of monthly gross revenues as a an operating fee, and financial support of a Community Benefits Program. These fees and costs will be adopted by the City via the subsequent Development Agreement approval process.

RECOMMENDATION:

That the City Council:

- 1) Conduct the Public Hearing concerning the proposed application and permit fees and consider the public testimony

provided; and

2) Consider and adopt the draft Resolution establishing the Phase I and II Application Fees and the Initial Permit and Annual Renewal fees;

3) Consider the draft Request for Proposals, providing additional direction and/or approval as to the form and the process; and

4) Consider the draft Development Agreement template, providing any additional direction.

ATTACHMENTS:

1. Draft Resolution - Cannabis Dispensary Fees
2. Draft Request For Proposals
3. Draft Development Agreement

Appropriated/Funded:

Review By:

Department Director:

Final Approver: John Lollis, City Manager

RESOLUTION NO. __ -2019

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
PORTERVILLE ADOPTING AND IMPLEMENTING
CANNABIS DISPENSARY PHASE I AND PHASE II
APPLICATION FEES, AND THE INITIAL CANNABIS
DISPENSARY PERMIT AND ANNUAL RENEWAL FEE

WHEREAS, on May 7, 2019, the City Council of the City of Porterville (the "City") approved Ordinance No. 1853, An Ordinance of the City Council of the City of Porterville Amending Chapter 15, Article VII of the Porterville Municipal Code "Medical Marijuana Dispensaries," Renaming the Article "Cannabis Dispensaries," Allowing Cannabis Dispensary Businesses and Establishing Permitting Procedures and Regulations, and Section 2 of said Ordinance added Sections 15-85 through 15-105 to Chapter 15, Article VII of the Porterville Municipal Code;

WHEREAS, Porterville Municipal Code Section 15-87.B.5. authorizes the City Council to set by Resolution all fees and charges associated with conducting a request of proposals process, regulatory fee application process, and the granting, administering, and enforcing of the regulatory permits, and any other City costs related to the operations of a dispensary;

WHEREAS, the fees set forth below represent the estimated costs of the City related to each Phase of the Cannabis Dispensary application process and the costs associated with the granting, administering, and enforcing of each regulatory permit and will be used for that purpose; and

WHEREAS, on Tuesday, October 15, 2019, the City Council held a duly noticed public hearing to take and consider public testimony concerning these proposed fees;

NOW THEREFORE, THE PORTERVILLE CITY COUNCIL OF THE CITY OF PORTERVILLE DOES RESOLVE AS FOLLOWS:

1. The following fees are hereby adopted and established, concerning the submission of Commercial Cannabis Dispensary applications in response to any Request for Proposals authorized and issued by the City Council of the City of Porterville, or other authorized action:

Phase I Application Fee: \$750.00

Phase II Application Fee: \$7,500.00

Initial and Annual Permit/Renewal Fee (Regulatory Permit): \$15,000.00

2. The fees shall go into effect immediately upon adoption of this Resolution.

3. Said fees are required in addition to any other City fees already established and applicable to land use, commercial development, building permits, etc. that are or may become applicable to the property or project.

4. Additional fees and costs that are required via a Development Agreement may be approved by the Ordinance of the City Council approving the Agreement.

ADOPTED this 15th day of October, 2019.

Martha A. Flores, Mayor

ATTEST:
John D. Lollis, City Clerk

By: _____
Patrice Hildreth, Chief Deputy City Clerk



REQUEST FOR PROPOSALS

CANNABIS BUSINESS OPERATING PERMIT FOR RETAIL DISPENSARY

**PREPARED BY:
COMMUNITY DEVELOPMENT DEPARTMENT
October 2019**

APPROVED BY:

JENNIFER M. BYERS
Community Development Director

I. BACKGROUND

On May 7, 2019, City Council adopted by ordinance, local regulations allowing commercial cannabis activities in Porterville, and identifying zoning districts. As part of the commercial cannabis regulatory framework, implementing regulations were approved by Ordinance 1853.

The City of Porterville (hereinafter referred to as "CITY") is issuing this Request for Proposals ("RFP") process for retail dispensary businesses only.

II. SUMMARY OF CANNABIS REQUEST FOR PROPOSALS

A retail dispensary permit is required for all activities for which State law requires a "Type 10," or similar license, for the sale of Cannabis or Cannabis Products at a location open to the public.

Based on Porterville Municipal Code Chapter 15, Article VII, §15-87, the City may issue up to three (3) cannabis retail dispensary permits (with one of the three, at the council's discretion, to be dedicated to medical cannabis only). The RFP may result in selected applicants securing eligibility to apply for a retail dispensary Cannabis Business Operator's Permit ("CBOP").

In order to apply for and be eligible to receive a CBOP, the applicant must have control over a physical location within the approved downtown districts or the Airport Industrial zone and outside of designated cannabis buffer zones for sensitive uses. **Receiving an award to apply for a CBOP does not constitute an entitlement approval. All applicants whose proposals are accepted must thereafter receive a Development Agreement, submit for a CBOP State license, and any other applicable regulatory approvals.**

The RFP process will be in four parts as described herein. Applicants responding to the RFP are required to:

- Provide required background materials
- Submit a complete application package along with the Phase I required fee. Staff will review the application for completeness, and provide an opportunity for applicants to issue written questions.
- If it is determined the applicant meets the minimum requirements of Phase I review and has paid the Phase II required fee, the completed proposal will proceed forward to Phase II.
- Selected applicants will enter into a Development Agreement between the City and the Business Owner and any other Responsible Parties

Applicants who are applying for more than one permit must meet each of the foregoing requirements for *each* proposed location.

III. OVERVIEW OF THE APPLICATION PROCESS AND FEE STRUCTURE

Background

Each applicant, prior to beginning the application process, must be able to show proof of ability to complete the Type 10 State requirements for background investigations (as defined by SB 94 §26057). There are two ways to ensure compliance:

1. Submit to the City background materials which include a completed commercial cannabis employee permit application, a signed indemnification agreement to hold harmless the City of Porterville and a photograph. Each applicant will also be required to submit to a DOJ/FBI criminal fingerprint check utilizing a Live Scan form provided by the City. Upon receiving the form, applicants must schedule and complete the Live Scan with the Porterville Police Department located at 350 N. D Street, Porterville, CA 93257. Applicants are responsible for all fees associated with the Live Scan.

The Chief of Police (or his/her designee) will review each applicant's Live Scan returns for disqualifying information. All Live Scan results will be forwarded to the Community Development Department to be attached to the Phase I application process, if no disqualifying information is found.

2. Alternatively, an applicant that has an existing Type 10 State issued license, and can provide evidence of successfully completing the background investigation required by the state, may provide this documentation to the City. This evidence may be subject to review by the Chief of Police (or his/her designee).

Phase I – Application Review

All applicants that successfully show completion of the criminal background investigation may submit a completed application (Attachment 1) and include the information outlined in this RFP. Submitted proposals must include the \$750 fee. This phase provides the opportunity to submit written questions prior to an official submittal of the application for Phase II. The purpose of this phase is for staff to assist in any questions requiring clarification, to confirm the appropriate zoning, evaluate the site plan and floor plan, and attest to completeness of the application. Staff's review will be limited to objective items.

Phase II – Proposal Phase

Those applications deemed complete, will advance to the second phase of the application process. Submitted proposals must include a \$7,500 Phase II application fee. The applications will be reviewed and ranked according to the scoring rubric provided subsequently in Section VII of this RFP.

Concerning the competitive portion of this RFP process, applicants with evaluation scores of 75% (60 points) or better will proceed to an oral interview with the Porterville City Council (see below). Following the oral interviews, the top-rated

applicants, subject to the number of available permits at the time, will receive notice informing them of the right to apply for a state license CBOP. Such applicants must apply for a CBOP within 120 days of receipt of the notice. Once the number of available permits has been reached, the remaining qualified applicants will be placed on a waiting list that will be valid for two years from the date of the notice. If an applicant that has the right to apply for a CBOP fails to secure all of the required entitlements within the proposed schedule or within one year from the date of the conditional award letter, whichever is sooner, the next applicant on the waiting list will have the opportunity to apply for a CBOP. The City Manager may extend this one-year time deadline for good cause.

Phase III – Development Agreement

The successful applicants shall be required to negotiate and enter into a Development Agreement with the City. The Development Agreement will provide the successful applicant with certain vested rights to develop the property and use it for the purposes of a cannabis dispensary for a period of years regardless of intervening changes in land use regulations, in consideration of the imposition of conditions and the payment of certain fees.

IV. PROPOSED SCHEDULE

All applicants responding to the RFP must timely submit the following (Late submittals will be returned to the applicant unopened). Applicants failing to submit the foregoing items will be eliminated from the RFP process. The City reserves the right to alter the following schedule as necessary:

RFP Issued	Monday, **, 2019
Written Questions from Applicants due	Monday, **, 2019 *2 weeks from RFP issuance
Answers to Written Questions Issued	Friday, **, 2019
Submit Final Application and documentation, and \$750 review fee due	Friday, **, 2019 at 4:00 PM *6 weeks
Letter Issued to Qualified Applicants Moving Forward to Phase II	Friday, **, 2019 *7 weeks
Proposal Application and \$7,500 fee due	Monday, **, 2019 at 4:00 PM *9 weeks
Third Party Independent Review	Week of **, 2019 *12 weeks
Interviews with City Council	TBD
Announcement of Selected Applicants and Letters Issued to Successful Applicants	TBD

V. PROPOSAL REQUIREMENTS

Submitted proposals must include a \$750 Phase I review fee and those subsequently authorized to enter the Phase II application pay the \$7,500 fee. The following information in the ensuing order is required to be deemed a complete submittal. All information submitted to the City must be current. Applicants have a continuing duty to confirm that any requested information submitted previously as part of the submittals remains accurate, and notify the City immediately of any inaccuracies.

- 1 **Provide Evidence of Secured Location for the Cannabis Business.** Evidence of a secured location for a cannabis business includes, but is not limited to: a real estate letter of intent (RELOI) to lease or purchase property from a party authorized to lease or sell such property; a purchase agreement, a lease, an option to purchase, an option to lease or purchase property; or evidence of the applicant's ownership of the property. These terms are defined more specifically below:

Letters of interest of any kind are not acceptable. RELOIs, leases or options to lease or purchase must clearly and specifically state that the RELOI, lease, or option to lease or purchase is for the type of cannabis business listed in the proposal. **The RELOI, lease, or option to lease must reflect that the applicant will have control of the property for a minimum of two years.** A month-to-month lease or rental agreement is not acceptable.

Real Estate Letter of Intent: A signed written term sheet, letter of intent, or exclusive negotiating agreement between two or more parties, including the applicant, to sell, lease, or sublease property, outlining the terms by which the applicant will have control of the property for two or more years. These terms may be further negotiated but must provide the basis for a proposed written agreement.

Purchase Agreement: A signed written agreement that a person will purchase a specific property and the owner cannot sell to anyone else unless the terms of the agreement are not fulfilled.

Lease: A signed written agreement that gives a lessee certain rights to use and occupy specific property for at least two years.

Real Estate Purchase or Lease Option: A signed written agreement for the purchase or lease of specific real property by which the purchaser or lessee has the exclusive right to purchase or lease the property for at least two years.

Proof of Ownership: A written document, such as a deed, that shows that title to the real property is vested in the applicant.

- 2 **Provide a Statement Confirming that the Cannabis Business Location is Outside of Buffer Zone for Sensitive Uses.** State that the location secured for the cannabis business operations is outside of the buffer zone for sensitive uses

as set forth in cannabis ordinances 1853, 1854 and 1855. Furnish evidence supporting the foregoing statement. Any proposal located within the buffer zone for sensitive uses will automatically be disqualified.

3. **Provide a Business Plan Summary and Statement of Qualifications.** Describe the day-to-day operations of the dispensary, including a description of the cannabis-related products and/or services being sold, as well as any additional accessory services or related facilities. Provide a detailed list of all cannabis operations proposed to occur on the premises and their processes including, but not limited to, standard operation procedures, number of employees, training program, inventory and quality control procedures, lists of both recreational and medicinal products anticipated to be available, waste management plan, transportation and distribution of product processes, delivery processes, testing, quality control practices and procedures, visitor and vendor protocols, and the track and trace procedures and policies.

The business plan should also include the statement of qualifications of the Cannabis Business Owner's relative to the proposal, including experience running businesses similar to the one proposed, including cannabis and/or non-cannabis businesses. CV/resumes may be attached as an exhibit to this Section of the proposal.

"Cannabis Business Owner" means "Owner," as defined in State law, including by regulation, in addition to any of the following:

- a. Each person with an aggregate ownership interest of 20 percent or more in a person, as defined herein, who applies for a Permit or is a Cannabis Business Permittee, unless the interest is solely a security interest, lien, or encumbrance. When an entity (not a natural person) has an aggregate ownership interest of 20 percent or more, then the chief executive officer and/or members of the board of directors of each entity shall be considered owners.
- b. The chief executive officer of a person, as defined herein, who applies for a Permit or is a Cannabis Business Permittee.
- c. A member of the board of directors of a nonprofit of a person, as defined herein, who applies for a Permit or is a Cannabis Business Permittee.
- d. The trustee(s) and all persons that have control of the trust and/or a person, as defined herein, who applies for a Permit or is a Cannabis Business Permittee that is held in trust.
- e. Any person, as defined herein, who assumes responsibility for the Permit.
- f. Each person who participates in the direction, control, or management of

person, as defined herein, who applies for a Permit or is a Cannabis Business Permittee. Such an individual includes any of the following:

- i. A general partner of a partnership.
- ii. A non-member manager or managing member of a limited liability company.
- iii. An officer or director of a corporation.

The information required by this Section shall be confidential, and shall not be subject to public inspection or disclosure except as may be required by federal, state or local law. Disclosure of information pursuant to this Section shall not be deemed a waiver of confidentiality by the applicant or any individual named in the application. The City shall incur no liability for the inadvertent or negligent disclosure of such information.

4. **Proposal Implementation.** Provide verifiable, detailed descriptions and other background information for any Cannabis Business Owner. Describe other resources, including financial resources, dedicated to implement this application. (Confidential).
5. **Understanding and Approach.** Provide a statement demonstrating the applicant's understanding and approach to running the proposed cannabis business and how that approach will integrate the business into the community in which it is located.
6. **Security Practices.** Applicants shall describe their approach to operational security including but not limited to:
 - General security policies.
 - Employee-specific policies and training.
 - Discussion of transactional security, visitor security, third-party contractor security, and delivery security.

Applicants should address ingress and egress access, perimeter security, product security (at all hours), internal security measures for limited access areas, types of security systems (alarms, cameras, etc.), and security personnel to be employed. This discussion must also include a description of how cannabis will be tracked and monitored to prevent diversion, such as by verifying the status of recommending physicians, if selling medicinal cannabis, and retaining copies of all written recommendations from recommending physicians when applicable. Applicants are encouraged to provide a sample written policy that has been developed.

Security plans shall not be made public, unless required by court action. Security plan details that could aid persons who wish to commit security violations shall be considered confidential and shall not be released to the public unless ordered by a court of law.

7. **Local Hire Program/Local Ownership/Community Benefit.** Responding to this Section is voluntary. Describe the business plan, if any, to maximize the following:
 - a. Local hire program: Applicants may provide a plan demonstrating how they would hire locally. A local hire plan could address:
 - i. A minimum percentage of the business' employment base hired locally.
 - ii. A recruitment plan for new hires, including outreach methods.
 - iii. The hourly wage of the lowest-paid employee.
 - iv. Estimated number of employees in the first year, second year, third year, fourth year and fifth year.
 - v. Available job pathways.
 - vi. Describe any plans to train employees and promote lower-level employees.
 - vii. Estimated number of full-time and part-time positions in years one through five.
8. **Local ownership:** More than 50% ownership of the business by a three- year resident(s) or business owner(s) constitutes local ownership. Maximum points will be awarded for 100% local ownership. The local owners must provide verifiable information regarding the number of years each owner has lived in, and/or owned a business in, Porterville. If an applicant meets one or both of these standards, specify who each local owner is and how that person meets the criteria. (Names are confidential, the composition of how the ownership meets the criterion is not.) Provide verifiable information such as business license information, property tax bills, business name(s) and address(s), and the number of years each owner has lived in and/ or owned a business(s) in Porterville.
9. **Community benefit:** Describe the applicant's proposed involvement in the City of Porterville and plans to mitigate any nuisance and/or negative impacts.
10. **Proposed schedule.** Provide a schedule for opening the cannabis business. The schedule should include dates for the following:
 - a. Design review, if applicable
 - b. Signage approval, if applicable
 - c. Issuance of State license(s)
 - d. Land Use permit
 - e. Issuance of CBOP
 - f. Issuance of Building permit
 - g. Issuance of other regulatory permits (e.g., discharge permit, etc.)
 - h. Completion of construction
 - i. Opening and commencement of operations

VI. EVALUATION PROCESS

Applications (Proposals) must fully address the proposal requirements in V above and the evaluation criteria and scoring rubric in VIII below, as well as provide complete submittals, references and data to verify qualifications. Proposals without sufficient data to provide a complete evaluation will be considered non-responsive.

All proposals will be reviewed for compliance with requirements including documented capability to operate a cannabis business in a satisfactory manner. Proposals will be evaluated in accordance with the criteria set forth below.

City shall employ a third party independent review to score written proposals.

In the event of a tied score, the slot shall be chosen by a computer-generated random means at the discretion of the City.

The City Council reserves the right to invite those with a passing score to participate in an interview process to be defined at a future date.

The City shall make a conditional award to the applicant or applicants offering the most advantageous proposal after consideration of the evaluation criteria set forth below. The City will not be obligated to accept any given proposal, but will make the conditional award in the best interests of the City after all proposals have been evaluated.

VII. EVALUATION CRITERIA Minimum Requirements

Phase I fee of \$750 was paid and the CBOP complete application was submitted on or before the ** deadline	Pass/Fail
RFP fee of \$7,500 was paid and the response to the RFP was submitted on or before the **, 2020, 4:00pm deadline	Pass/Fail
Evidence of a secured location for the cannabis business	Pass/Fail
Evidence that the location is outside of cannabis buffer zones for sensitive uses	Pass/Fail

Evaluation Criteria

The table below is a scoring rubric to evaluate proposals received in response to the RFP. The responses will be scored on a zero to 75-point scale, excluding the interview. The applicant must receive a minimum of 75% (56 points) of the total possible points to proceed to the interview process. Interviews will be scored on a zero to 25-point scale. The maximum points available, including the interview, is 100 points.

1. Business Operations Plan and Statement of Qualifications		25
Has applicant described how the commercial cannabis business day-to-day operations of the facility will function, including standard operating procedures?	10	
Has the applicant provided a full description of the proposed business, including proposed staffing levels, products, product types, testing protocols, licensing requirements, etc., demonstrating how it will operate its business?	10	
Has the applicant provided resumes/CVs and other relevant materials, for and about primary and significant persons that will be responsible for implementing key portions of the proposed business?	5	
2. Verifiable detailed description of persons and type of resources, including financial resources, committed to implement the proposal		15
Has the applicant submitted a financial statement, balance sheet, and tax returns that attest to its financial health and ability to finance and operate the proposed business?	5	
Has the applicant committed to initial investment amounts and shown how it will reinvest in the business over time?	5	
Does the applicant show that it is investing in equipment, technology and facilities that are appropriate for the nature of the business?	5	
3. Summary of Security Practices		15
Has the applicant provided a full description of security policies including ingress and egress access, perimeter security, product security at all hours, product tracking, security systems and verification of the status of recommending physicians?	5	
Has the applicant described employee-specific policies and training?	5	
Has the applicant adequately described transactional security, visitor security, third-party contractor security and delivery security?	5	
4. Local hire		5
If a local hire program is proposed, does it contain a viable local hire recruitment plan, including outreach methods?	2	
If a local hire program is proposed, does it estimate the number of potential local employees in the first through fifth years?	1	
If a local hire program is proposed, does it describe job pathways for its employees, allowing them to be promoted within the company, such as pay for employee(s) tuition or substantially reduce the cost of tuition, etc.?	2	
5. Local ownership program		5
Is more than 50% of the business owned by a three-year Porterville resident(s) and/or business owner(s)?	3	
Is more than 75% of the business owned by a three-year Porterville resident(s) and/or business owner(s)?	1	
Is 100% of the business owned by a three-year Porterville resident(s) and/or business owner(s)?	1	

6. Community benefits		5
Has the applicant provided a description of how they intend to provide the City of Porterville and its residents with community benefits and mitigate any nuisance and/or negative impacts?	5	
7. Proposed schedule		5
Does the schedule clearly provide realistic milestones for the following items? a. Design review, if applicable b. Signage approval, if applicable c. Issuance of State license(s) d. Issuance of CBOP/Land Use permit e. Issuance of Building permit f. Issuance of other regulatory permits g. Completion of construction h. Opening and commencement of operations	3	
Does the schedule provide a detailed, comprehensive timeline for starting operations of the business?	2	
Total		75

VIII. SUBMITTAL INSTRUCTIONS

The proposal shall be signed by an individual(s) authorized to execute legal documents on behalf of the applicant. Failure to provide all required submittals may result in a proposal being found non-responsive and given no consideration.

Two (2) hard copies of the proposal and one electronic PDF version of the proposal on a flash drive shall be provided in a sealed envelope with a return address, including business name, no later than Monday, **, 2019, 4:00 PM to the following address:

Community Development Department
Porterville City Hall
291 N. Main Street
Porterville, CA 93257
Attention: Julie Phillips

Late proposals will not be considered and will be returned to the applicant unopened. The City assumes no responsibility for delays caused by delivery service. Postmarking by the due date will not substitute for actual timely receipt.

Any proposal received prior to the submittal date may be modified or withdrawn by written request from the applicant to the City up to the submittal deadline.

IX. QUESTIONS

For information concerning RFP procedures and regulations (i.e., submission deadline, required forms, etc.), interested parties may contact:

Julie Phillips
Community Development Manager
291 N. Main Street
Porterville, CA 93257
Email: planning@ci.porterville.ca.us
Phone: 559-782-7460

X. ADDITIONAL TERMS AND CONDITIONS

1. Nondiscrimination

The City will not discriminate against any interested individual, firm or applicant on the grounds of race, religious creed, color, national origin, ancestry, handicap, disability, marital status, pregnancy, sex, age, or sexual orientation.

2. City's Right to Modify the RFP

The City reserves the right at its sole discretion to modify this RFP (including but not limited to the requirements and/or the selection criteria) should the City deem that it is in its best

interests to do so. Any changes to the proposal requirements will be made by written addendum posted on the City's website. The failure of an applicant to read any addenda shall have no effect on the validity of such modification.

3. City's Right to Suspend or Cancel the RFP

The City reserves the right at its sole discretion to suspend or cancel this RFP in part or in its entirety should the City deem that it is in the City's best interests to do so.

4. City's Right to Reject All Proposals

The City reserves the right, in its sole discretion, to reject all proposals and not to award the right to apply for a CBOP to any applicant should the City deem that it is in its best interests to do so.

5. City's Right to Extend RFP Deadlines

The City reserves the right to extend any of the deadlines listed in this RFP by written addenda should the City deem that it is in its best interests to do so.

6. Cost of Proposals

All costs incurred during proposal preparation or in any way associated with the applicant's preparations, submission, presentation or oral interview shall be the sole responsibility of the applicant.

7. Liability for Proposal Errors

Applicants are solely responsible for all errors and omissions contained in their proposals.

8. Permits and Licenses

Applicants, at their sole expense and at the appropriate time, shall obtain and maintain all appropriate permits, certificates and licenses including, but not limited to, a City business license, land use permit and CBOP which will be required in connection with their proposal.

9. Fees and Taxes

Cannabis businesses are responsible for paying all applicable fees and taxes. It is anticipated that City taxes will be assessed on cannabis businesses in the future.

10. Commencement of Operation

All the requisite approvals to begin commencement of operations, including without limitation, obtaining a land use permit, business license, and operator's permit, must be obtained within the applicant's proposed schedule, or one (1) year from the date of the notice of the right to apply for a CBOP, whichever is sooner. The City Manager may extend this one-year time deadline for good cause.

Attachments

1. Commercial Cannabis Business Permit Application – Storefront Dispensary
2. Porterville Live Scan Application
3. Indemnification Agreement
4. Cannabis Ordinances

Attachment 1
Commercial Cannabis Business Permit Application –
Storefront dispensary

CITY OF PORTERVILLE

Community Development Department
291 North Main Street, Porterville CA 93257
(559)782-7460

Commercial Cannabis Business Permit Application – Storefront Dispensary

A. Business Information

Business Name: _____

Property Address: _____

Assessor Parcel Number: _____ Zoning Designation: _____

B. Business Type (Check all that apply)

☐ Retailer Storefront (Adult-use)	☐ Retailer Storefront (Medical)	☐ Retailer Storefront (Adult-use and Medical)
--	--	--

*GR – Gross Receipts

C. Definitions

Applicant - The entity petitioning for the Cannabis Business Operator Permit.

Principal(s) - The individual members of the applicant team.

Primary Principal - An individual who has a 10% or greater ownership stake of the applicant business, which includes partners, officers, directors, and stockholders of every corporation, limited liability company, or general limited partnership that owns at least 10% of the stock, capital, profits, voting rights, or membership interest of the commercial cannabis business or that is one of the partners in the commercial cannabis business; the managers of the commercial cannabis business.

Operator - An applicant that has been licensed and conducts or conducted active cannabis operations.

Majority - A greater number; more than half. An equal number does not constitute a majority.

D. Applicant Information

Name of Primary Responsible Party Completing the Application: _____

Title: _____ DOB: _____

Social Security No: _____

If applicant is a not for profit, corporation, partnership or other business entity, please identify:

Name of Business Entity: _____

Type of Ownership: _____

Federal Tax Id: _____ Start Date: _____

Mailing Address: _____

Primary Phone No: _____ Alt. Phone No: _____

Email Address: _____

Preferred method of contact (check one) ☐ Mail ☐ Phone ☐ Email

E. Additional Responsible Party Information

Name: _____

Title:	DOB:
Social Security No:	
Mailing Address:	
Primary Phone No:	Alt. Phone No:
Email Address:	
Preferred method of contact (check one) ☐ Mail ☐ Phone ☐ Email	

Please attach additional sheets if there are more than 2 Responsible Parties.

F. Information on Property Owner or Landlord

Name:	
Mailing Address:	
Primary Phone No:	Alt. Phone No:
Email Address:	
Preferred method of contact (check one) ☐ Mail ☐ Phone ☐ Email	

If the applicant is not the legal owner of the property, the application must be accompanied by a notarized Owner's Statement of Consent to operate a commercial cannabis business on the property.

G. Related License Information

The applicant and/or responsible parties has been associated with a commercial cannabis business permit in the past 10 years.

☐ Yes ☐ No (If yes, please provide the following information)

Name:		
City or County:	Start Date:	End Date:
Business Name:	Business Type:	

Please attach additional sheets if necessary.

Required Submissions (Please check the box for each attachment)

Please attach all applicable documents listed below as part of your application as they pertain to your business type. For any items that do not apply to your business type, please provide a brief explanation as to why they do not apply.

- ☐ **Business Operations Plan**
- Business Plan:** A plan describing how the commercial cannabis business will operate in accordance with City code, state law, and other applicable regulations. The business plan must include plans for handling cash and transporting cannabis and cannabis products to and from the site. The plan must include a description of the day-to-day operations of the facility including but not limited to standard operating procedures, number of employees, training program, inventory and quality control measures, lists of both recreational and medicinal products anticipated to be available (if applicable), waste management plan, delivery processes, testing, quality

control practices and procedures, visitor and vendor protocols (logs, non-disclosures, etc.), and track and trace procedures and policies.

- **Community Relations Plan:** A plan describing who is designated as being responsible for outreach and communication with the surrounding community, including the neighborhood and businesses, and how the designee can be contacted.
- **State Licenses:** Copies of the state licenses relating to the commercial cannabis business licenses, the applicant holds (when available).
- **Insurance:** The applicant's certificate of commercial general liability insurance and endorsements and certificates of all other insurance related to the operation of the cannabis business.
- **Budget:** A copy of the applicant's most recent annual budget for operations (If available)
- **Financial Capacity/Proof of Capitalization:** Proof demonstrating sufficient capital is in place to pay startup costs and at least three months of operating costs. Proof of capitalization shall be in the form of financial information such as bank statements and balances, available loans and/or other sources of funding the enterprise, and/or documentation of cash or other liquid assets; and a Letter of Credit.
- **Products and Services:** A list/description of the general products and services the business will provide.
- **Management Team:** An organization chart with the name and role of each known member of the management team, including roles that are known but unfilled, resumes for each member of the management team, a discussion of the experience of the management team, and information concerning any special business or professional qualifications or licenses of the management team that would add to the number or quality of services that the facility would provide, especially in areas related to medicinal cannabis, such as scientific or health care fields

☐ **Education Plan:** A plan describing the type of cannabis education and prevention efforts that will be provided by the business to the community.

☐ **Security Plan:** The security plan must be prepared by a qualified professional. A detailed security plan must outline the measures that will be taken to ensure the safety of persons and property on the business site, including general security policies, employee-specific policies and training, discussion of transactional security, visitor security, third-party security, and delivery security. Applicants should address ingress and egress access, perimeter security, lobby and storage area security, product security (at all hours), internal security measures for limited access areas, type of security systems (alarms, cameras, etc.), and security personnel to be employed. Displayed items must be secured behind a counter, and only accessible in the presence of an employee. Video surveillance must be provided at all times in a manner and design approved by the Porterville Police Department, and stored for a period of at least 90 days, and accessible by the Department. Facilities shall have a burglar alarm, to include panic buttons located at the front lobby and retail areas. Alarm services must be provided/monitored by a third party alarm company, with notification to the Porterville Police Department. GPS data for delivery vehicles must be preserved for not less than 90 days and made available to the Porterville Police Department upon request. The discussion must also include a description of how cannabis will be tracked and monitored to prevent diversion, such as by verifying the status of recommending physicians and retaining copies of all written recommendations from recommending physicians when applicable. Applicants are encouraged to provide a sample written policy that has been developed. Security plans shall not be made public, unless required by court action. Security plan details that could aid persons who wish to commit security violations shall be considered to be confidential and shall not be released to the public unless ordered by a court of law.

☐ **Lighting Plan:** A detailed lighting plan showing existing and proposed exterior and interior lights that will provide adequate security lighting for the business site. The lighting plan shall be subject to review, adjustment and approval of all City Departments.

☐ **Site and Floor Plans:** A dimensioned site plan of the business site, including all buildings, structures, driveways, parking lots, landscape areas and boundaries. Also provide dimensioned floor plans for each level of each building that makes up the business site, including the entrances, exits, and walls. The plans shall also include the following information about the site: current zoning, parking requirements, consistency with development standards for the zone and any applicable design guidelines, the new development planned for the site, and any other site development information. Entrances shall be unobstructed by tall landscaping or architectural features, and shall be visible from the public right of way and parking areas. The floor plan must provide for a front lobby that is completely separate and secured from the dispensary, for a separate secured storage room (which is illuminated and ventilated, and constructed of materials not easily compromised such as steel or concrete), and all requirements as required by State law. All facilities shall have a secured room within which all non-display cannabis merchandise is stored. The applicant must provide proof of ability to lease or purchase the property (Property Owner Affidavit). The plans provided must be to scale. The Retail Operation may be a component of a larger development proposal which can be described in this application.

- ☐ **Odor Control Plan:** A detailed plan describing how the applicant will prevent all odors generated from the storage of cannabis from escaping from the buildings on the business site, such that the odor cannot be detected by a reasonable person of normal sensitivity outside the buildings.
- ☐ **Product Safety and Labeling:** The applicant shall provide how the facility will ensure enhanced consumer safety by testing or confirming that testing has been certified for biological and chemical contaminants. The applicant must also submit a discussion regarding the product labeling standard to be employed and how they will be in compliance with state and local laws, regulations, and policies. The applicant must also provide information on product labeling sufficient to ensure that cannabis and edible products containing cannabis clearly identify the percentage level of delta-9 (trans) tetrahydrocannabinol, cannabidiol, and cannabinol, and have adequate warnings.
- ☐ **Community Benefits:** The applicant shall demonstrate to the satisfaction of the City of its intent to local hiring and community support. The applicant must provide a discussion of how it intends to provide the City and its residents with community benefits and mitigate any nuisance and/or negative impacts that the facility's existence may create. Applicants must provide the City a description of how it plans to develop and implement a Community Benefits Program. Examples of benefits could include, but are not limited to, supporting or funding community programs, employment and job training programs, contributing to local substance abuse programs, funding foreclosure prevention programs, or other activities that benefit the local neighborhood as well as the City of Porterville. Such benefits and funding shall be set forth in a Development Agreement with the City.
- ☐ **Hiring and Employment Practices:** The applicant must submit a description of their labor and employment practices. These policies and practices could include, but are not necessarily limited to a discussion of hiring plan, training and continuing education opportunities (introductory and ongoing) that will be provided, the provision of equal benefits and/or the execution of a declaration of non-discrimination, and, for an applicant with 20 or more employees, a statement that the applicant will enter into or demonstrate that it has already entered into and will abide by, a labor peace agreement.

H. City Authorization

- ☐ I, the applicant, provide authorization and consent for the City Manager or his/her designee to seek verification of the information contained on this application.

I. Indemnification

- ☐ I, the applicant, agree to the fullest extent permitted by law, any actions taken by a public officer or employee under the City of Porterville regulations for Commercial Cannabis Businesses, shall not become a personal liability of any public officer or employee of the City. To the maximum extent permitted by law, the permittee shall defend (with counsel acceptable to the City), indemnify and hold harmless the City of Porterville, the Porterville City Council, and its respective officials, officers, employees, representatives, agents and volunteers from any liability, damages, actions, claims, demands, litigations, loss (direct or indirect), causes of action, proceedings, or judgments (including legal costs, attorneys' fees, expert witness or consultant fees, City Attorney or staff time, expenses or costs) against the City to attach, set aside, void or annul, any cannabis-related approvals and actions and strictly comply with the conditions under which such permit is granted, in any. The City may elect, in its sole discretion, to participate in the defense of said action and the permittee shall reimburse the City for its reasonable legal costs and attorneys' fees.

J. Nonrefundable Filing Fee

- ☐ I, the applicant, understand and accept that the nonrefundable filing fee must be submitted with the completed Commercial Cannabis Business Permit Application and will be retained by the City regardless of the outcome of the application review.

K. Background – Request for Live Scan Services

- ☐ I, the applicant, understand that a completed and processed Request for Live Scan Service, State of California Form BCIA 8016, as determined by the City of Porterville, by a duly authorized business must be provided for the applicant and all interested parties. All applicable fees and charges are the responsibility of the applicants and interested parties.

L. Disqualification

- Application was received late
- Application is incomplete or inaccurate
- Facility does not meet City business licensing standards
- More than one application is received for the same cannabis business type on one property (stacking of applications)

M. Applicant's Certification

I agree to abide by and conform to the conditions of the permit and all provisions of the Porterville Municipal Code pertaining to the establishment and operation of the commercial cannabis business. I acknowledge that the approval of the Commercial Cannabis Business Permit shall, in no way, permit any activity contrary to the Porterville Municipal Code, or any activity which is in violation of any applicable law.

The information provided is genuine and not a sham, collusive, or made in the interest or on behalf of any party not therein named, and that the applicant has not directly or indirectly induced or solicited any other applicant to put in a sham proposal, or any other applicant to refrain from presenting information and that the prospective provider has not in any manner sought by collusion to secure an advantage.

The applicant has not paid or agreed to pay any fee of commission, or any other thing of value contingent upon the award of a permit or of any exclusive operating area, to any employee, official, or existing contracting consultant of the City of Porterville.

All costs of preparation or proposals including travel for any interviews scheduled shall be borne by the applicants.

All proposals become the property of the City of Porterville. The City reserves the right to reject any and all submittals; to request clarification of information submitted; to request additional information from competitors; and to waive any irregularity in the submission and review process. None of the materials submitted will be returned to the bidder.

Information or materials submitted in response to this application will be stored of file with the City of Porterville, and may be subject to the requirements of the California Public Records Act, or subject to public disclosure as ordered by a court of law. Proposed security plans shall be considered confidential.

The City reserves the right to request additional information not included in this application from any or all applicants.

The City reserves the right to contact references not provided in the submittals.

The City reserves the right to incorporate its standard agreement language into any contract resulting from this application.

The applicant understands that if selected to receive a permit by the City, applicant will be, in accord with City regulations, required to enter into a Development Agreement with the City containing additional terms and conditions for the development and operation of the business. Due to the unique nature of the subject business, a Development Agreement will be crafted to establish the terms and parameters within which the business may develop. If the applicant and City enter into a Development Agreement, the applicant will have ten (10) years to operate a dispensary subject to the Agreement terms and conditions, the local regulations in effect at the time the Development Agreement was executed, and all applicable State law in effect at the time and as may be amended.

I certify under penalty of perjury under the laws of the State of California, that I have personal knowledge of the information contained in this application, that I am authorized to execute this application and all portions thereof, and that the information contained herein is true and correct.

Signature:

Date:

The information contained on this document is subject to disclosure under the Public Records Act.

Applicants providing false or misleading information in the permitting process will result in rejection of the application and/or nullification or revocation of any issued permit. All commercial cannabis permits must be approved by the City Council. The City may attach conditions to the permit. A commercial cannabis permit may be denied if any of the following findings are made:

- (i) The application does not meet all requirements of the commercial cannabis ordinance; or*
- (ii) Approval would very likely result in harm to public safety, health, or welfare; or*
- (iii) Potential negative impacts of the use cannot be mitigated with conditions or through the ordinance requirements.*

Applicants will be notified regarding application completeness

COMMERCIAL CANNABIS BUSINESS OPERATORS PERMIT APPLICATION

PROPERTY OWNER'S STATEMENT OF CONSENT

If the applicant is not the owner of record of the subject site, the following Statement of Consent must be completed by the owner or the owner's authorized representative, granting the applicant permission to apply for a cannabis business operator permit.

I, the undersigned legal owner of record, hereby grant permission to:

Applicant: _____ Phone: _____

Mailing Address: _____

To operate a commercial cannabis business on the property described below. I agree to abide by and conform to the conditions of the permit and all provisions of the Porterville Municipal Code pertaining to the establishment and operation of the commercial cannabis business. I acknowledge that the approval of the Commercial Cannabis Business Permit shall, in no way, permit any activity contrary to the Porterville Municipal Code, or any activity which is in violation of any applicable law. I further understand that I am responsible for, and also subject to, enforcement actions regarding any violations and/or nuisance activity which may occur at this property if leasing the property to the applicant.

The subject property is located at: _____

Assessor's Parcel Number: _____

Printed Name of Owner of Record: _____

Address of Owner of Record: _____

Phone: _____ Email address: _____

Signature of Owner of Record: _____ Date: _____

Attach:

☐ Proof of possession of the premises and approval of use (deed, lease, lease assignment, agreement showing willingness to sell property if applicant obtains permit)

Notary Use Only:

State of California
County of Tulare

On this, the ____ day of _____, 20____, before me a notary public, the undersigned officer, personally appeared _____, known to me (or satisfactorily proven) to be the person whose name is subscribed to the within instrument, and acknowledged that he/she executed the same for the purpose therein contained.

I witness hereof, I hereunto set my hand and official seal.

Notary Public

**BACKGROUND INVESTIGATION PACKET – BUSINESS OWNERS
(MUST BE COMPLETED BY EACH OWNER)**

Attachment 2

Live Scan Application



REQUEST FOR LIVE SCAN SERVICE

Applicant Submission

CA0540500

ORI (Code assigned by DOJ)

LICENSING

Authorized Applicant Type

Marijuana Dispensary Applicant

Type of License/Certification/Permit OR Working Title (Maximum 30 characters - if assigned by DOJ, use exact title assigned)

Contributing Agency Information:

PORTERVILLE POLICE DEPARTMENT

Agency Authorized to Receive Criminal Record Information

03311

Mail Code (five-digit code assigned by DOJ)

350 N. D STREET

Street Address or P.O. Box

Contact Name (mandatory for all school submissions)

PORTERVILLE

City

CA

State

93257

ZIP Code

(559) 782-7400

Contact Telephone Number

Applicant Information:

Last Name

First Name

Middle Initial

Suffix

Other Name

(AKA or Alias) Last

First

Suffix

Date of Birth

Sex

☐

Male

☐

Female

Driver's License Number

Height

Weight

Eye Color

Hair Color

Billing

Number 120212

(Agency Billing Number)

Place of Birth (State or Country)

Social Security Number

Misc.

Number

(Other Identification Number)

Home

Address Street Address or P.O. Box

City

State

ZIP Code

Your Number:

OCA Number (Agency Identifying Number)

Level of Service: ☒ DOJ ☒ FBI

(If the Level of Service indicates FBI, the fingerprints will be used to check the criminal history record information of the FBI)

If re-submission, list original ATI number:

(Must provide proof of rejection)

Original ATI Number

Employer (Additional response for agencies specified by statute):

Employer Name

Mail Code (five digit code assigned by DOJ)

Street Address or P.O. Box

City

State

ZIP Code

Telephone Number (optional)

Live Scan Transaction Completed By:

Name of Operator

Date

Transmitting Agency

LSID

ATI Number

Amount Collected/Billed



REQUEST FOR LIVE SCAN SERVICE

Privacy Notice

As Required by Civil Code § 1798.17

Collection and Use of Personal Information. The California Justice Information Services (CJIS) Division in the Department of Justice (DOJ) collects the information requested on this form as authorized by Business and Professions Code sections 4600-4621, 7574-7574.16, 26050-26059, 11340-11346, and 22440-22449; Penal Code sections 11100-11112, and 11077.1; Health and Safety Code sections 1522, 1416.20-1416.50, 1569.10-1569.24, 1596.80-1596.879, 1725-1742, and 18050-18055; Family Code sections 8700-87200, 8800-8823, and 8900-8925; Financial Code sections 1300-1301, 22100-22112, 17200-17215, and 28122-28124; Education Code sections 44330-44355; Welfare and Institutions Code sections 9710-9719.5, 14043-14045, 4684-4689.8, and 16500-16523.1; and other various state statutes and regulations. The CJIS Division uses this information to process requests of authorized entities that want to obtain information as to the existence and content of a record of state or federal convictions to help determine suitability for employment, or volunteer work with children, elderly, or disabled; or for adoption or purposes of a license, certification, or permit. In addition, any personal information collected by state agencies is subject to the limitations in the Information Practices Act and state policy. The DOJ's general privacy policy is available at <http://oag.ca.gov/privacy-policy>.

Providing Personal Information. All the personal information requested in the form must be provided. Failure to provide all the necessary information will result in delays and/or the rejection of your request.

Access to Your Information. You may review the records maintained by the CJIS Division in the DOJ that contain your personal information, as permitted by the Information Practices Act. See below for contact information.

Possible Disclosure of Personal Information. In order to process applications pertaining to Live Scan service to help determine the suitability of a person applying for a license, employment, or a volunteer position working with children, the elderly, or the disabled, we may need to share the information you give us with authorized applicant agencies.

The information you provide may also be disclosed in the following circumstances:

- With other persons or agencies where necessary to perform their legal duties, and their use of your information is compatible and complies with state law, such as for investigations or for licensing, certification, or regulatory purposes;
- To another government agency as required by state or federal law.

Contact Information. For questions about this notice or access to your records, you may contact the Associate Governmental Program Analyst at the DOJ's Keeper of Records at (916) 210-3310, by email at keeperofrecords@doj.ca.gov, or by mail at:

Department of Justice
Bureau of Criminal Information & Analysis
Keeper of Records
P.O. Box 903417
Sacramento, CA 94203-4170

Attachment 3

Indemnification Agreement



CITY OF PORTERVILLE INDEMNIFICATION AGREEMENT

Pursuant to Porterville Municipal Code Chapter 21, Section 601.02(b)(4), and to the fullest extent permitted by law, the “Applicant” (owner of the subject property; or an agent representing the owner, duly authorized to do so in writing by the owner, including, but not limited to, a person with a duly executed written contract or exclusive option to purchase the subject property or a lessee in possession of the subject property) hereby agrees to defend, indemnify and hold harmless the City of Porterville, its officers, attorneys, agents, and employees:

1. From any claims, actions, proceedings or liability of any nature (collectively referred to as proceeding) brought against the City or its officers, attorneys, agents or employees, to attack, set aside, void, or annul:
 - a. Any action or decision by City Staff, City Council or any other City entity related to the subject property.
 - b. Any action taken to provide related environmental clearance or decisions under the California Environmental Quality Act (CEQA) by City Staff, City Council or any other City entity concerning the subject property.

The indemnification is intended to include but not be limited to damages, fees, and/or costs awarded against the City, if any, and cost of suit, attorney’s fees, and other costs, liabilities and expenses incurred in connection with such proceeding whether incurred by the Applicant, the City, and/or the parties initiating or bringing such proceeding.

2. The Applicant hereby agrees to indemnify the City for all of the City’s costs, fees, and damages which the City incurs enforcing the indemnification provisions of this Agreement.
3. In the event of a proceeding, the City retains the right to approve counsel to defend the City, all significant decisions concerning the manner in which the defense is conducted, and any and all settlements, which approval shall not be reasonably withheld. The City has the right not to participate in the defense, except that the City agrees to cooperate with the applicant in the defense of the proceeding. If the City chooses its own counsel to defend the City, the fees and expenses of the counsel selected by the City shall be paid by the City. Notwithstanding the above, if the City Attorney’s office participates in the defense, all City Attorney fees and costs shall be paid by the Applicant.
4. The defense and indemnification of the City set forth herein shall remain in full force and effect throughout all stages of litigation including appeals of any lower court judgments rendered in the proceeding.

Print Name and Date

Signature (Owner or Legal Representative)

Print Name and Date

Signature (Zoning Administrator)

PRC Number: _____

Project Title: _____

APN: _____

Project Location: _____

Attachment 4
Ordinances 1853, 1854 and 1855

ORDINANCE NO. 1853

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING CHAPTER 15, ARTICLE VII OF THE PORTERVILLE MUNICIPAL CODE “MEDICAL MARIJUANA DISPENSARIES,” RENAMING THE ARTICLE “CANNABIS DISPENSARIES,” ALLOWING CANNABIS DISPENSARY BUSINESSES AND ESTABLISHING PERMITTING PROCEDURES AND REGULATIONS

WHEREAS, California legislation provides that the City of Porterville has the power to regulate commercial cannabis activities, including the regulations of cannabis dispensaries; and

WHEREAS, the City Council of the City of Porterville finds that it is in the best interest of the community to allow the establishment a limited number of cannabis dispensaries, subject to the regulations set forth below and the location requirements proscribed in Chapter 21 of the Municipal Code (Porterville Development Code);

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PORTERVILLE HEREBY ORDAINS as follows:

SECTION 1. Purpose. The purpose of this ordinance is to permit and regulate legal cannabis businesses in the City of Porterville.

SECTION 2. Article VII of Chapter 15 is hereby renamed “Cannabis Dispensaries,” and Sections 15-85 through 15-105 of Article VII are added as follows:

CHAPTER 15

ARTICLE VII – CANNABIS DISPENSARIES

15-85: Definitions. The following definitions are applicable to the terms when used in Porterville Municipal Code Chapters 15, 18, or 21, concerning regulations pertaining to cannabis uses, activities and operations.

“Applicant” means a person who is required to file an application for a permit under this section.

"Business Owner" means the owner(s) of the Cannabis Business. For publicly traded companies, owner means the chief executive officer or any person or entity with an aggregate ownership interest of 5% or more. For all other businesses, other than publicly traded companies, an owner is an individual that has an aggregate ownership of interest other than a lien or encumbrance, of 20% or more in the commercial cannabis business.

"Cannabis" means all parts of the plant *Cannabis sativa* Linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus *Cannabis* that may exist or hereafter be discovered or developed that has psychoactive or medicinal properties; whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant;

and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds, or resin. "Cannabis" also means the separated resin, whether crude or purified, obtained from cannabis. "Cannabis" does not include the mature stalks of the plant, fiber produced from the stalks, oil or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purposes of this Code, "cannabis" does not mean "industrial hemp" as defined by Section 11018.5 of the Health and Safety Code.

"Cannabis accessories" means any equipment, products, or materials of any kind which is intended for use, or designed for use in planting, propagating, cultivating, growing, harvesting, manufacturing, compounding, converting, producing, processing, preparing, testing, analyzing, packaging, repackaging, storing, smoking, vaporizing, or containing cannabis, or for ingesting, inhaling, or otherwise introducing cannabis or cannabis products into the human body. "Cannabis accessories" also has the same meaning as in Section 11018.2 of the Health and Safety Code.

"Cannabis business" or "cannabis industry" means any business activity in the City relating to cannabis, including but not limited to cultivation (including nurseries), transportation, distribution, manufacture, compounding, conversion, processing, preparation, testing, storage, packaging, delivery and sales (wholesale and/or retail sales) of cannabis or cannabis products, whether or not carried on for gain or profit. A cannabis business does not include any business whose only relationship to cannabis or cannabis products is the production or sale of cannabis accessories.

"Cannabis Dispensary" or "Dispensary" means a facility where cannabis or cannabis products, are offered, either individually or in combination, for retail sale, including an establishment that engages in delivery of cannabis or cannabis products as part of a retail sale. In addition, and without limiting the foregoing, "dispensary" includes "dispensary" as defined in California Business and Professions Code Division 10 and any successor statute(s), as may be adopted or amended from time to time. For the purposes of obtaining a City permit and operating within the City, "Cannabis Dispensary" or "Dispensary" is limited to Storefront Cannabis Retailers.

"Cannabis product" means any product containing cannabis, including, but not limited to, flowers, buds, oils, tinctures, concentrates, extractions, edibles and those products described in Section 11018.1 of the Health and Safety Code.

"City" means the City of Porterville, either the entity or its territorial limits, as the context requires.

"City Council" or "Council" means the City Council of the City of Porterville.

"Collector" means the City's Financial Director or his or her designee.

"Commercial Cannabis Business," "Commercial Cannabis Activity," or "Cannabis Business" or "Cannabis Operation" means any commercial marijuana activity allowed under State Law and the implementing regulations, as State Law and the implementing regulations may be amended from time to time, and all uses permitted under any subsequently enacted State law

pertaining to the same or similar uses for recreational cannabis, including the cultivation, possession, manufacture, distribution, processing, storing, laboratory testing, packaging, labeling, transportation, delivery or sale of cannabis and cannabis product for medical, non-medical, or any other purpose and includes the activities of any business licensed by the State or other government entity under Division 10 of the California Business and Professions Code, or any provision of State law regulating the licensing of cannabis businesses. It also includes cannabis dispensaries, cooperatives or collectives.

"Commercial Cannabis Regulatory Permit" or "Regulatory Permit" means the permit required under this section to have a Cannabis Business.

"Concentrated cannabis" means manufactured cannabis that has undergone a process to concentrate one or more active cannabinoids, thereby increasing the product's potency. Resin from granular trichomes from a cannabis plant is a concentrate.

"Delivery" means the commercial transfer of cannabis or cannabis products to a customer. "Delivery" also includes the use by a retailer of any technology platform owned and controlled by the retailer, or independently licensed under this division that enables customers to arrange for or facilitate the commercial transfer by a licensed retailer of marijuana or marijuana products.

"Delivery employee" means an individual employed by a licensed dispensary who delivers cannabis goods from the licensed dispensary premises to a physical address.

"Development Agreement" means an agreement entered into between the City and the Business Owner and any other Responsible Parties as required by the City, in accordance with Chapter 21, Series 600, Article 609 of the Porterville Municipal Code.

"Distributor" means a person engaged in procuring cannabis from a cultivator, and/or procuring cannabis products from a manufacturer, for sale to a licensed commercial cannabis business. In addition, and without limiting the foregoing, "distributor" includes "distributor" as defined in California Business and Professions Code Division 10 and any successor statute, as may be adopted or amended from time to time.

"Distribution" means the procurement, sale, and transport of cannabis or cannabis products between licensees.

"Employee" means each and every person engaged in the operation or conduct of any cannabis business, whether as owner, member of the owner's family, partner, associate, agent, manager or solicitor, and each and every other person employed or working in such cannabis business for a wage, salary, commission, barter or any other form of compensation.

"Gross Receipts," means the amount a Cannabis Operation received from all sources during its accounting period, without subtracting any costs or expenses.

"Manufacture" means to compound, blend, extract, infuse or otherwise make or prepare a cannabis product.

"MAUCRSA" means the Medicinal and Adult-Use Cannabis Regulation and Safety Act as codified in Division 10 of the California Business and Professions Code, as the same may be amended from time to time.

“Medical Cannabis Dispensary” means a storefront cannabis dispensary with a valid M-Type 10 retailer license in accordance with MAUCRSA.

"Operator" means the Business Owner and any other person designated by the Business Owner as responsible for the day to day Cannabis business operation.

“Premises” means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the applicant or licensee where the commercial cannabis activity will be or is conducted. The premises shall be a contiguous area and shall only be occupied by one licensee.

“Processing” means any method used to prepare cannabis or its byproducts for personal use or commercial retail and/or wholesale, including but not limited to: drying, cleaning, curing, packaging, and extraction of active ingredients to create cannabis related products and concentrates.

"Responsible Party" shall mean the Business Owner, Operator, manager(s), and any employee having significant control over the cannabis businesses operations.

"State" means the State of California.

“State Law” means all regulations and laws pertaining to Cannabis Business in the State of California.

"State license," means a State license issued pursuant to California Business & Professions Code Sections 26000, et seq. or other applicable State law.

“Transport” or “Transportation” means the transfer of cannabis or cannabis products from the permitted business location of one licensee to the permitted business location of another licensee, for the purposes of conducting commercial cannabis activity authorized pursuant to this chapter.

15-86: Cannabis Dispensaries Permitted Uses and Zoning.

Business Owners meeting the requirements of this Article shall be allowed to conduct Storefront Cannabis Dispensary Operations in the zone districts and locations as specified in Chapter 21 of this Code, upon obtaining a Regulatory Permit from the City, obtaining a business license from the City, obtaining the applicable license from the State of California, and entering a Development Agreement with the City as specified further in this Article. Non-storefront cannabis retailers are not permitted within the City.

15-87: Cannabis Dispensaries Requirements and Restrictions.

A. Maximum Number of Permits. The number of regulatory permits for dispensaries is limited to no more than one permit plus an additional permit per every 25,000 residents. Said permits may be issued for medical (Type M) or adult use (Type A) businesses as allowed by the State. However, the City Council is authorized to reserve one of the allowed permits for exclusively a medical cannabis dispensary.

B. Regulatory Permit/Fees.

1. Regulatory Permit. No person or entity shall operate a Cannabis Dispensary within the City of Porterville without first obtaining a Cannabis Regulatory Permit from the City. The Regulatory Permit shall be site specific and shall specifically identify the commercial cannabis activity that will be allowed at that site. No commercial cannabis activity will be allowed unless specifically identified in the Regulatory Permit.

2. Request for Proposals Processes. The City may conduct initial request for proposals processes for regulatory permit applications (commercial and/or medical), once it determines when dispensary regulatory permits shall become available, and thereafter as such permits become available. Nothing in this Chapter or Code shall be construed to create an obligation for the City to conduct a request for proposals process for, or to create an obligation to grant a permit to, any cannabis dispensary.

3. Medical Cannabis Dispensaries.

- a. If, after one full year from the City's first issuance of a Request for Proposals solely for a Medical Cannabis Dispensary, no responses are received within the prescribed time period for such responses, the City Council may opt to allow the permit reserved for a medical dispensary to be utilized for an adult-use dispensary, as otherwise permitted by this Chapter.
- b. Any Medical Cannabis Dispensary established pursuant to this Chapter must be in operation for a full year before it will be eligible to apply for any transition to an adult-use dispensary (Type A), and any medical cannabis dispensary applying for a transition shall be subject to all the requirements of this Chapter, including applying for a new regulatory permit and entering into a new development agreement.

4. Permit Availability at the Discretion of the City Council. The City shall maintain complete discretion over whether any permit approvals are made, and when permits shall be issued, where the uses may be located (subject to Chapter 21), and the manner of permit approvals.

5. Fees. All related fees and charges associated with conducting a request for proposals process, regulatory fee application process, and the granting, administering, and enforcing of the regulatory permits, and any other City costs related to the operations of a dispensary shall be established by Resolution(s) of the City Council, which may be amended from time to time.

- C. Development Agreement. No approval required by this Article shall be given for any permit for a dispensary unless the City Council prior to or concurrently with approves a Development Agreement, setting forth the terms and conditions under which the commercial cannabis activity will operate in addition to the requirements of this Article, all other local ordinances and regulations, state law and such other terms and conditions that will protect and promote the public health, safety and welfare. No use or operation under any permit for a dispensary

shall be allowed to begin until the development agreement is effective.

- D. State Law and Other State Laws. The cannabis dispensary shall at all times be in compliance with State Law and the implementing regulations, as they may be amended from time to time, as well as all required State license(s) under State Law, and any other applicable State law. The Operator shall obtain required licenses under State Law prior to opening for business, or if the State is not ready to issue licenses under State Law prior to the time of opening, within twelve (12) months of the State being ready to issue the required license(s). Provided, however, that the Operator shall at all times be in compliance with all other requirements of State Law and implementing regulations, and any other applicable State law, regardless of the timing of the issuance of a license under State Law. The Operator shall meet or exceed the health and safety requirements of State Law in any operations relating to recreational cannabis.
- E. Register of Employees. The Operator shall maintain a current register of the names of persons required to have Employee Permits. The register shall be available to the Police Chief at all times immediately upon request. All agents, officers, or other persons acting for or employed by a licensee shall display a laminated identification badge issued by the licensee. The identification badge shall, at a minimum, include the licensee's "doing business as" name and license number, the employee's first and last name, and a color photograph of the employee that shows the full front of the employee's face and that is at least 2 inches by 2 inches in size.
- F. Labeling. All cannabis products offered to customers at a retail location must provide testing and labeling at a minimum as required by State law and in compliance with any additional City regulations and as they may be amended.
- G. Signage. All signage shall be subject to approval by the City of Porterville and consistent with the City's Signage Ordinances, and any other policies or guidelines adopted by the City.
- H. Alcoholic Beverages. Alcohol for personal consumption shall not be provided, stored, kept, located, sold, dispensed, or used on the Premises.
- I. Transportation. Transportation shall only be conducted according to activity permitted by State law.
- J. Distribution. There shall be no distributions to the Premises of cannabis or cannabis containing products except from properly licensed and permitted cannabis businesses. City -licensed and permitted cannabis retailers shall not distribute cannabis as a licensed distributor within the City.
- K. Minors. It shall be unlawful for any Operator to employ any person who is not at least twenty-one (21) years of age, or any older age if set by the State.
- L. Hours of Operation. Cannabis Dispensaries shall be allowed to operate per the requirements of the underlying zone district and subject to the City's noise and nuisance ordinances but in no case shall exceed the minimum State standards. Additionally, Cannabis Dispensaries shall not be open before 10 a.m. on weekdays, 9 a.m. on weekends, or remain open after 10 p.m.

on weeknights, or 11 p.m. on weekends, Pacific Standard Time.

- M. Compliance with Building and Related Codes. The Premises in which the Cannabis Dispensary operations occur shall comply with all applicable local, State and federal laws, rules, and regulations including, but not limited to, building codes and the Americans with Disabilities Act, as certified by the Building Official of the City. The Operator shall obtain all required building permits and comply with all applicable City standards.
- N. Secure Building. All Cannabis Dispensary operations shall occur entirely inside of a building that shall be secure, locked, and fully enclosed, with a ceiling, roof or top. The building shall include a burglar alarm monitored by an alarm company or private security company. The building, including all walls, doors, and the roof, shall be of solid construction meeting the minimum building code requirements for commercial structures and include material strong enough to prevent entry except through an open door.
- O. Premises Security. The following security conditions shall apply:
1. Alarm System (both perimeter, fire and panic). A licensee shall maintain an alarm system as defined in Business and Professions Code section 7590.1(n). A licensee shall ensure a licensed alarm company operator or one or more of its registered alarm agents installs, maintains, monitors, and responds to the alarm system.
 2. Remote monitoring of alarm systems.
 3. Exterior lighting systems for after-hours security.
 4. Exterior and interior camera systems approved by the Police Chief. The camera systems shall meet the minimum requirements of State Law, include interior monitoring of all access points of the site from the interior, and be of a minimum 5 mega pixels in resolution. Cameras shall record continuously 24 hours per day and at a minimum of 20 frames per second. Areas monitored are defined by State law.
 5. All security systems at the site are attached to an uninterruptable power supply that provide continuous power.
 6. The Porterville Police Department or Department designee shall have access to all security systems.
 7. Subject to the provisions below regarding the use and handling of Confidential Information, IP access for remote monitoring of security cameras by the Porterville Police Department or Department designee.
 8. Subject to the provisions below regarding the use and handling of Confidential Information, any and all video or audio tape recordings made for security or other purposes shall be marked with the date and time made and shall be kept, in an unaltered state, for a period of thirty (30) days and must be made available to the Porterville Police Department or

Department designee for duplication upon demand. In addition, upon request by the Porterville Police Department the Responsible Party shall duplicate the records for the Porterville Police Department or Department designee.

9. Hardened bullet resistant windows for exterior windows as part of any new or existing construction.
10. Accounting software systems need to be in place to provide audit trails of both product and cash, where applicable.
11. Electronic track and trace systems for cannabis products shall be utilized as approved by the City and as required by State law.
12. Premises may be inspected and records of the Business Owner audited by the City for compliance on a quarterly basis or at any reasonable time at the City's discretion.
13. State of the art network security protocols and equipment need to be in place to protect computer information.
14. The foregoing requirements shall be approved by the Police Chief prior to commencing operations. The Police Chief may supplement these security requirements once operations begin, subject to review by the City Council if requested by the Business Owner.
15. The City, Police Chief, Police Department employees, and any other law enforcement official acting under the direction of the Police Chief who access the Premises and video and/or audio feeds or recordings of the Premises ("Recipients") may receive or be provided with confidential information relating to the Cannabis dispensary, which may include the following: data, records, plans, and matters relating to customers, vendors, tenants, agreements, and business records (collectively "Confidential Information"). To the extent Confidential Information is acquired without a warrant for access to the Premises and video and/or audio feeds or recordings as authorized under this section, the Recipients shall, to the maximum extent possible, keep such Confidential Information confidential and not disclose the Confidential Information to any third parties. Provided, however, that the Recipients may disclose Confidential Information to the State or Federal courts in California in connection with any criminal law enforcement action against the Business Owner or Operator, (including its employees, contractors and agents conducting business within the Premises) arising from or related to the Cannabis dispensary, but only to the extent it is necessary and relevant to such criminal prosecution, and the Recipients shall file any such documents under seal to the extent they contain any Confidential Information. Notwithstanding the foregoing, the City may disclose Confidential Information:
 - a. As may be required by the California Public Records Act or pursuant to a civil subpoena, provided however, the City shall notify the Operator and provide the Operator with a reasonable opportunity to obtain a protective order before disclosing the Confidential Information.

- b. In connection with any City enforcement proceeding relating to compliance with City's Municipal Code and this section, but only to the extent the Confidential Information is relevant to the proceeding.

P. Delivery.

1. All deliveries of cannabis goods must be performed by a delivery employee of a licensed dispensary.
2. Each delivery employee of a licensed dispensary shall be at least 21 years of age.
3. A licensed dispensary shall not use the services of an independent contractor or courier service to deliver cannabis goods.
4. All deliveries of cannabis goods shall be made in person. A delivery of cannabis goods shall not be made through the use of an unmanned vehicle.
5. A delivery employee begins the process of delivering when the delivery employee leaves the dispensary premises with the cannabis goods for delivery. The process of delivering ends when the delivery employee returns to the licensed dispensary premises after delivering the cannabis goods to the cannabis patients or primary caregivers.
6. A delivery employee of a licensed dispensary shall, during deliveries, carry a copy of the dispensary's current license, the employee's government-issued identification, and an employer provided badge containing a picture and the name of the delivery employee.
7. A licensed dispensary shall maintain an accurate list of the dispensary's delivery employees.

Q. Deliveries of Supplies and Transportation of Product. The following rules apply to the deliveries and transportation:

1. Deliveries to the Premises of supplies shall only occur as provided for in the diagram and floor plan on file with the City as part of the application process. Delivery vehicles shall not have any markings indicating that deliveries are being made to a Cannabis Dispensary.
2. The transportation of cannabis samples and product to and from the Premises shall be in unmarked vehicles with no indication that the vehicles are transporting cannabis samples and products. The Responsible Party shall stagger transportation times, vary routes from the facility, and take other security measures as requested by the Police Chief.

R. Premises Maintenance. The Business Owner, Operator, and all Responsible Parties shall continually maintain the Premises and its infrastructure so that it is visually attractive and not dangerous to the health, safety and general welfare of employees, patrons, surrounding properties, and the general public, and in accordance with the conditions and site plan approved with the Development Agreement. The Premises of the Cannabis Dispensary shall not be maintained in a manner that causes a public or private nuisance.

S. In addition to any regulations, policies, or procedures authorized to be adopted by the City in accordance with this Article or this Code, the City Manager, or his or her designee, is authorized to establish any addition rules, regulations, policies and standards governing the: application review and approval process, the issuance, denial or renewal of cannabis dispensary regulatory permits, the ongoing operation of commercial cannabis dispensary businesses and the City's oversight of same; and/or concerning any other subject determined to be necessary to carry out the intent and purposes of this Article. Additional rules, regulations, policies and standards shall be published to the City's website and maintained and available to the public if the Office of the City Clerk.

T. Indemnification and Limitations on City's Liability.

1. To the fullest extent permitted by local, state, and/or federal law, the City shall not assume any liability whatsoever with respect to having issued a regulatory permit or executed a development agreement pursuant to this Article, or otherwise approving the operation of any commercial cannabis business.

2. As a condition to the approval of any regulatory permit and approval of a development agreement, the applicant shall be required to execute an agreement, in a form approved by the City Attorney, agreeing to indemnify, defend at the applicant's sole cost and expense, and hold harmless the City, and its officers, officials, employees, representatives, and agents from any against all claims, losses, damages, injuries, liabilities or losses which arise out of, or which are in any way related to the City's drafting, adoption and passage of regulations, related resolutions, policies, rules and guidelines, allowing cannabis dispensaries or in the future making any regulatory amendments; the City's issuance of the regulatory permit; the City's approval and execution of a development agreement; the City's decision to approve the operation of the dispensary; the process used by the City in making the decision to issue, approve or deny a permit or a development agreement; and/or the alleged violation of any federal, state or local laws by the dispensary or any of its officers, employees or agents.

3. The dispensary shall maintain insurance at coverage limits and with conditions thereon determined necessary and appropriate from time to time by the City.

4. The dispensary shall reimburse the City for all costs and expenses, including but not limited to attorney fees and court costs, which the City may be required to pay as a result of any legal challenge related to the City's approval of the applicant's regulatory permit, or related to the City's approval of the applicant's commercial cannabis activity, or the City's approval of a development agreement. The City may, at its sole discretion, participate at its own expense in the defense of such action, but such participation shall not relieve any of the obligations imposed hereunder.

5. The terms and provisions as enumerated in this section related to indemnification and limitation on the City's liability shall be an explicit term of a regulatory permit and a development agreement that an applicant and permittee shall agree to in order for same to be valid.

15-88: Regulatory Permit Required.

- A. At the time authorized by the City, applications for Regulatory Permits shall be filed by the proposed Business Owner(s) with the City and include the information set forth herein. The City may request such additional information as they deem necessary to determine who the applicant is, and may adopt additional requirements as authorized in Section 15-87.B.

The applicant shall certify under penalty of perjury that all the information contained in the application is true and correct. The application shall contain the following items for the Business Owner, Operator and all Responsible Parties known at the time (if different than the Business Owner), and any other party designated below, to the extent the same shall apply:

1. The full name, present address, and telephone number, including such information to the Premises Owner.
2. Date of birth.
3. Tax identification number.
4. The address to which notices relating to the application is to be mailed.
5. Previous addresses for the five (5) years immediately preceding the present.
6. The height, weight, color of eyes and hair.
7. Photographs for identification purposes (photographs shall be taken by the Police Department).
8. All business, occupation, or employment for the five (5) years immediately preceding the date of submittal of the application form.
9. The Cannabis Operation business history, including whether the Business Owner and Responsible Parties while previously operating in this or another city, county or state has had a cannabis related license revoked or suspended, the reason therefore, and the business or activity or occupation subsequent to such action of suspension or revocation.
10. Complete property ownership and lease details, where applicable. If the Business Owner is not the Premises Owner, the application form must be accompanied with a notarized acknowledgment from the Premises Owner that Cannabis sales will occur on its property.
11. A descriptive business plan for the Cannabis Operation, including a detailed list of all Cannabis Business activities proposed to occur on the Premises.
12. A diagram and floor plan of the entire Premises, denoting all the use of areas proposed for Cannabis production, including, but not necessarily limited to, cultivation,

processing, manufacturing, testing, transportation, deliveries, and storage. For Cannabis Dispensaries, the floor plan should show the layout and design of the building. The diagram and floor plan need not be professionally prepared, but must be drawn to a designated scale or drawn with marked dimensions of the interior of the Premises to an accuracy of plus or minus six (6) inches.

13. The name or names of the Operator. The Operator shall designate one or more Responsible Parties, one of which shall at all times be available as a point of contact for the City, 24 hours per day. The contact information and schedule of the Operator and Responsible Parties shall be provided to the Police Chief and updated within twenty-four(24) hours of any changes.
14. The proposed security arrangements for insuring the safety of persons and to protect the Premises from theft.
15. An accurate straight-line drawing prepared within thirty (30) days prior to the application depicting the building and the portion thereof to be occupied by the Cannabis Operation and the property line of any school or any other sensitive use as set forth in the Operational Requirements.
16. Authorization for the City, its agents and employees to seek verification of the information submitted.

B. Other Permits or Licenses. The fact that an applicant possesses other types of State or City permits or licenses does not exempt the applicant from the requirement of obtaining a Regulatory Permit.

15-89: Employee Permit Required.

- A. Every employee or independent contractor working at a Cannabis Operation or involved in transportation/delivery related services for a Cannabis Business shall obtain an Employee Permit. It shall be the duty of the Operator to ensure that Employee Permits are obtained from the Police Department prior to the employee or independent contractor commencing work. Persons who are listed as a Business Owner on a Regulatory Permit shall not be required to obtain an Employee Permit if such person also serves as an employee or contractor. All Responsible Parties, except the Business Owner, shall be required to obtain an Employee Permit.
- B. Each employee and independent contractor shall be required to provide the following information under penalty of perjury, so that the Police Department can perform a background check:
 1. Name, current resident address, and telephone number.
 2. Date of birth.

3. Tax identification number.
4. Height, weight, color of eyes, and hair.
5. Photographs for identification purposes (photographs shall be taken by the Police Department).
6. Be fingerprinted by the Police Department.
7. Such other identification and information as deemed necessary by the Police Chief and pertinent to the Employee Permit.
8. Authorization for the City, its agents and employees to seek verification of the information contained within the application.
9. The name of the Business Owner holding the Regulatory Permit and the Operator for which such person is proposed to work.

15-90: Application Fees.

Every new application for a Regulatory Permit, Employee Permit, or renewal shall be accompanied by a nonrefundable fee, as established by resolution of City Council. This fee shall be in addition to any other business license, tax, or permit fee imposed by this Code or other governmental agencies. The fee shall include an amount to cover the costs of fingerprinting, photographing, background checks as well as general ongoing monitoring for compliance and processing of the application.

15-91: Investigation.

- A. Upon the filing of a properly completed application and the payment of the fee, the Police Chief is authorized to conduct an investigation of the application, including a background check of the applicant and all employees and independent contractors. All applicants for a Regulatory Permit and Employee Permit shall be required to submit to a fingerprint-based criminal history records check conducted by the Porterville Police Department.
- B. For Employee Permits, after the background checks and investigation are complete, and in no case later than thirty (30) days after receipt of a properly completed application, the Police Chief shall either approve or deny an Employee Permit. At the discretion of the Police Chief, Employee Permits may be conditionally approved pending the background investigation.

15-92: Term of Permits and Renewals. Regulatory Permits issued under this Chapter shall expire on December 31st each year. Applications for renewal shall be made at least forty-five (45) days prior to the expiration date of the permit and shall be accompanied by the nonrefundable fee referenced in this section. When made less than forty-five (45) days before the expiration date, the expiration of the permit will not be stayed. Applications for renewal shall be acted on similar to applications for permits except that the Police Chief shall renew annual permits for additional one

year periods if the circumstances and information provided with the initial application have not materially changed. Regulatory fees may be pro-rated based on the term of the Regulatory Permit.

15-93: Grounds for Denial of Regulatory Permit.

Nothing in this Section shall be construed to require the City to grant a regulatory permit. Notwithstanding this, applications for a Regulatory Permit are required to be denied for one or more of the following:

- A. The business or conduct of the business at a particular location is prohibited by any local or State law, statute, rule or regulation.
- B. The Business Owner or Operator has been issued a local or State permit related to Cannabis operations at any other location in California, or another state, and that permit was suspended or revoked, or the Business Owner or Operator has had disciplinary action relating to the permit.
- C. The Business Owner or Operator has knowingly made a false statement of material fact or has knowingly omitted to state a material fact in the application.
- D. Consistent with State Law or other applicable State law, the Business Owner or Operator, or any Responsible Person, has been:
 - 1. Convicted of a serious or violent offense as listed under California Penal Code sections 667.5 and 1192.7(c); or
 - 2. Convicted of any of the offenses listed in Business and Professions Code section 19323; or
 - 3. Convicted of a misdemeanor involving moral turpitude as defined under State law (generally crimes relating to theft and dishonesty) within the five (5) years preceding the date of the application; or
 - 4. Convicted of a felony involving the illegal use, possession, transportation, distribution or similar activities related to controlled substances, as defined in the Federal Controlled Substances Act, unless the individual has received a Certificate of Rehabilitation as defined in the Act; or
 - 5. Has engaged in misconduct related to the qualifications, functions or duties of a permittee, such as lying on an application, falsifying legal documents, or anything that would otherwise ban the permittee from obtaining a State license under State Law; or
 - 6. Consistent with State Law or other applicable State law, the Business Owner or Operator has engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices; or
 - 7. The Business Owner or Operator is under twenty-one (21) years of age, or any older other

age set by the State; or

8. The Cannabis Operation does not comply with the zoning ordinance standards of the City, the development standards set forth in this Municipal Code, or the terms of the Development Agreement; or
9. The required annual business license fee, annual regulatory fee or fees specified in this Code or the Development Agreement have not been paid.

15-94: Grounds for Denial of Employee Permit.

The grounds for denial of an Employee Permit shall be one or more of the following:

- A. The applicant has been issued a local or State permit related to Cannabis production at any other location in California, or another state, and that permit was suspended or revoked, or the applicant has had disciplinary action relating to the permit.
- B. Consistent with State Law or other applicable State law, the applicant has been:
 1. Convicted of a serious or violent offense as listed under California Penal Code sections 667.5 and 1192.7(c); or
 2. Convicted of any of the offenses listed in Business and Professions Code section 19323; or.
 3. Convicted of a misdemeanor involving moral turpitude as defined under State law (generally crimes relating to theft and dishonesty) within the five (5) years preceding the date of the application; or
 4. Convicted of a felony involving the illegal use, possession, transportation, distribution or similar activities related to controlled substances, as defined in the Federal Controlled Substances Act, unless the individual has received a Certificate of Rehabilitation as defined in State Law; or has engaged in misconduct related to the qualifications, functions or duties of a permittee; or
 5. Consistent with State Law or other applicable State law, the applicant has engaged in unlawful, fraudulent, unfair, or deceptive business acts or practices; or
 6. The applicant has committed any act, which, if done by a permittee, would be grounds for suspension or revocation of a permit; or
 7. An applicant is under eighteen (21) years of age, or any older age set by the State.

15-95: Notice of Decision and Final Action.

A. Regulatory Permit. Action on a properly authorized and submitted application for a Regulatory Permit shall be as follows:

1. The Police Chief shall cause a written notice of his or her recommendation on the issuance or denial of a Regulatory Permit, and the date and time when the City Council will consider action on the Regulatory Permit, to be personally delivered or mailed to the applicant by certified U.S. mail, postage prepaid.
2. Following a public hearing before the City Council, the Council may grant the Regulatory Permit subject to the other requirements of this Article and subject to such conditions as it deems reasonable under the circumstances to protect the public health, safety, and welfare of the community, or it may deny the issuance of the Regulatory Permit for any of the grounds specified in this section. The decision of the Council shall be final, subject to judicial review below.

B. Employee Permit. Action on the Employee Permit shall be as follows: The Police Chief shall cause a written notice of his or her determination on the issuance or denial of an Employee Permit to be personally delivered or mailed to the applicant by certified U.S. mail, postage prepaid. The Police Chiefs decision on an Employee permit shall be final, subject to judicial review.

15-96: Suspension and Revocation of Regulatory Permit or Employee Permit.

A. Regulatory Permit. The City Council may suspend or revoke the Regulatory Permit of a Commercial Cannabis Operation when any of the following occur:

1. The Cannabis Operation is conducted in violation of any provision of this section, the terms of the Development Agreement, State Law, or any other applicable State law.
2. The Cannabis Operation is conducted in such a manner as to create a public or private nuisance.
3. A failure to pay the Regulatory Fee required by this Article or other required fees pursuant to this Code or the Development Agreement.
4. A failure to take reasonable measures to control patron conduct, where applicable, resulting in disturbances, vandalism, or crowd control problems occurring inside of or outside the Premises, traffic control problems, or obstruction of the operation of another business.
5. A failure to comply with the terms and conditions of the Regulatory Permit issued in connection therewith or the terms of the Development Agreement.
6. Any act which would be considered grounds for denial of the Regulatory Permit in the first instance.

- B. Employee Permit. The Police Chief may suspend or revoke an Employee Permit when the permittee or the employee has committed any one or more of the following acts:
1. Any act which would be considered a ground for denial of the permit in the first instance.
 2. Violates any provision of this section, State Law, or any other applicable law relating to the Cannabis Operation.
 3. Violates or fails to comply with the terms and conditions of the Employee Permit.
- C. Procedures for Revoking Regulatory Permits. For Regulatory Permits, the procedures for revoking conditional use permits shall be utilized except that the matter shall be heard by the City Council in the first instance, and shall be subject to the same judicial process as applied to a Conditional Use Permit.
- D. Procedures/or Revoking Employee Permits. Prior to suspension or revocation of an Employee Permit, the Police Chief shall conduct a hearing. Written notice of the time and place of such hearing shall be served upon the permittee at least five (5) calendar days prior to the date set for such hearing. The notice shall contain a brief statement of the grounds to be relied upon for revoking or suspending the permit. Notice may be given either by personal delivery or by certified U.S. mail, postage prepaid. Any permittee aggrieved by the decision of the Police Chief in suspending or revoking an Employee Permit shall have no appeal rights and the Police Chiefs decision shall be final, subject to judicial review as set forth in this section.
- E. Immediate Suspension. The Police Chief may immediately suspend or revoke a Regulatory Permit and an Employee Permit without notice or a hearing, subject to the appeal rights set forth herein, under either of the following circumstances:
1. The Business Owner or Operator is convicted of a public offense in any court for the violation of any law which relates to the Cannabis Operation, or in the case of an Employee Permit, the employee is convicted of a public offense in any court for the violation of any law which relates to the permit.
 2. The Police Chief determines that immediate suspension is necessary to protect the public health, safety, and welfare of the community. The Police Chief shall articulate the grounds for the immediate suspension in writing and the suspension shall only be for as long as necessary to address the circumstances which led to the immediate suspension.

15-97: Effect of Denial or Revocation.

When the City Council shall have denied a Regulatory Permit or revoked a Regulatory Permit, or the Police Chief shall have denied or revoked an Employee Permit, no new application for a Regulatory Permit and no new application for an Employee Permit shall be accepted and no Regulatory Permit or Employee Permit shall be issued to such person or to any corporation in which

he or she shall have any beneficial interest for a period of one (1) year after denying or revoking the Regulatory Permit or Employee Permit.

15-98: Abandonment.

In addition to the suspension or revocation of a Regulatory Permit, a Regulatory Permit shall be deemed abandoned if the Cannabis operation ceases for a period of more than ninety (90) consecutive days. Before restarting operations, a new Regulatory Permit shall be secured. The 90 day period shall be tolled during periods of force majeure, which shall be defined as follows: war; insurrection; strikes; lock-outs; riots; floods; earthquakes; fires; casualties; supernatural causes; acts of the "public enemy"; epidemics; quarantine restrictions; freight embargoes; lack of transportation; unusually severe weather; inability to secure necessary labor, materials or tools; delays of any contractor, subcontractor or supplier; or any other causes beyond the reasonable control of the permittee.

15-99: Other Licenses, Permits, Taxes or Charges.

Except as expressly provided in this Chapter, nothing contained in this Chapter shall be deemed to repeal, amend, be in lieu of, replace or in any way affect any requirements for any permit or license required by, under or by virtue of any provision of any other title or Chapter of this Code or any other ordinance or resolution of the City, nor be deemed to repeal, amend, be in lieu of, replace or in any way affect any tax, fee or other charge imposed, assessed or required by, under or by virtue of any other title or Chapter of this Code or any other ordinance or resolution of the City. Any references made or contained in any other title or Chapter of this Code to any permits, licenses, taxes, fees, or charges, or to any schedule of license fees, shall be deemed to refer to the permits, licenses, taxes, fees or charges, or schedule of license fees, provided for in other titles or Chapters of the Porterville City Code unless otherwise expressly provided.

15-100: Violation Deemed Misdemeanor and other Remedies.

Any person who violates any provision of this Chapter or who other than by a sworn statement, knowingly or intentionally misrepresents to any officer or employee of the City any material fact herein required to be provided is guilty of a misdemeanor punishable as provided in Section 1-9 of this Code. A person who on a sworn statement states as true a material fact that he or she knows to be false is guilty of perjury. Additionally, the City may avail itself of any remedies or enforcement provisions provided for in the Code.

15-101: Actions to Collect.

The amount of any tax, fee, penalty and/or interest imposed pursuant to this Chapter shall be deemed a debt owed to the City. An action may be commenced in the name of the City in any court of competent jurisdiction, for the amount of any delinquent tax, fees, penalties and interest thereon.

15-102: Severability.

If any provision of this Chapter, or its application to any person or circumstance, is determined by

a court of competent jurisdiction to be unlawful, unenforceable or otherwise void, that determination shall have no effect on any other provision of this Chapter or the application of this Chapter to any other person or circumstance and, to that end, the provisions hereof are severable.

15-103: Remedies Cumulative.

All remedies prescribed under this Chapter shall be cumulative and the use of one or more remedies by the City shall not bar the use of any other remedy for the purpose of enforcing the provisions hereof.

15-104: Amendment or Repeal.

This Article may be repealed or amended by ordinance of the Porterville City Council.

15-105: Penalties.

Any entity that fails to pay the taxes and/or fees required by this Code or the Development Agreement within fifteen (15) days after the due date shall pay in addition to those taxes and/or fees a penalty for nonpayment in the sum equal to twenty-five percent (25%) of the total amount due. Additional penalties will be assessed in the following manner: ten percent (10%) shall be added on the first day of each calendar month following the month of the imposition of the twenty-five percent (25%) penalty if the fee remains unpaid – up to a maximum of one hundred percent (100%) of the fee payable on the due date. Receipt of the fee payment by the City shall govern the determination of whether the fee is delinquent. Postmarks will not be accepted as adequate proof of a timely payment.

SECTION 3. CEQA REVIEW. The City Council hereby finds that this ordinance is not subject to review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15061(b)(3) [there is no possibility the activity in question may have a significant affirmative effect on the environment]. In addition to the foregoing general exemption, the City Council further finds that the ordinance is categorically exempt from review under CEQA under the Class 8 categorical exemption [regulatory activity to assure the protection of the environment]. The City Manager is hereby directed to ensure that a *Notice of Exemption* is filed pursuant to CEQA Guidelines section 15062 [14 C.C.R. § 15062].

SECTION 4. NO LIABILITY. The provisions of this ordinance shall not in any way be construed as imposing any duty of care, liability or responsibility for damage to person or property upon the City of Porterville, or any official, employee or agent thereof.

SECTION 5. PENDING ACTIONS. Nothing in this ordinance or in the codes hereby adopted shall be construed to affect any suit or proceeding pending or impending in any court, or any rights acquired, or liability incurred, or any cause or causes of action acquired or existing, under any act or ordinance or code repealed by this ordinance, nor shall any just or legal right or remedy of any character be lost, impaired or affected by this ordinance.

SECTION 6. SEVERABILITY. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, is for

any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this ordinance, or its application to any other person or circumstance. The City Council of the City of Porterville hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

SECTION 7. CONSTRUCTION. The City Council intends this ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this ordinance shall be construed in light of that intent. To the extent the provisions of the Porterville Municipal Code as amended by this ordinance are substantially the same as provisions in the Porterville Municipal Code existing prior to the effectiveness of this ordinance, then those amended provisions shall be construed as continuations of the earlier provisions and not as new enactments.

SECTION 9. EFFECTIVE DATE. The foregoing ordinance shall take effect thirty (30) days from the date of the passage hereof. Prior to the expiration of fifteen (15) days from the enactment hereof a certified copy of this ordinance shall be posted in the office of the City Clerk pursuant to Government Code section 36933(c)(1) and a summary shall be published once in the Porterville Recorder, a newspaper printed and published in the City of Porterville, State of California, together with the names of the Council members voting for and against the same.

PASSED, APPROVED AND ADOPTED this 7th day of May, 2019.



Martha A. Flores, Mayor

ATTEST:

John D. Lollis, City Clerk

By: 

Patrice Hildreth, Chief Deputy City Clerk

STATE OF CALIFORNIA)
CITY OF PORTERVILLE) (SS)
COUNTY OF TULARE)

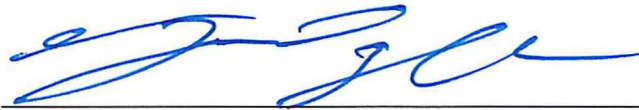
I, JOHN D. LOLLIS, the duly qualified City Clerk of the City of Porterville do hereby certify:

THAT the foregoing ordinance is a true and correct copy of Ordinance No. 1853, passed and adopted by the Council of the City of Porterville at a regular meeting held on the 7th day of May, 2019, that said ordinance has been duly published pursuant to law, and that by the terms and provisions of the Charter of the City of Porterville, said ordinance to become effective on the 6th day of June, 2019, at which time said ordinance is deemed to be in full force and effect.

THAT said ordinance was introduced by Council and the same was duly passed and adopted by the following vote:

COUNCIL:	PEÑALOZA	WARD	FLORES	STOWE	REYES
AYES:	X		X		X
NOES:				X	
ABSTAIN:					
ABSENT:		X			

JOHN D. LOLLIS, City Clerk



By: Fernando Gabriel-Moraga, Acting Deputy City Clerk

ORDINANCE NO. 1854

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING CHAPTER 21 (DEVELOPMENT CODE) OF THE PORTERVILLE MUNICIPAL CODE, CONCERNING CANNABIS LAND USES AND COMMERCIAL CANNABIS ACTIVITIES

WHEREAS, in 1996, the voters of the State of California approved Proposition 215 (codified as Health and Safety Code Section 11362.5 et seq. and entitled “The Compassionate Use Act of 1996” referred to herein as the “CUA”);

WHEREAS, in 2003, the California Legislature adopted SB 420, the Medical Marijuana Program (“MMP”), codified as Health and Safety Code Section 11362.7 et seq., which permits qualified patients and their primary caregivers to associate collectively or cooperatively to cultivate marijuana for medical purposes without being subject to criminal prosecution under the California Penal Code;

WHEREAS, under the Federal Controlled Substances Act, codified in 21 U.S.C. Section 801 et seq., the use, possession, and cultivation of marijuana are unlawful and subject to federal prosecution without regard to a claimed medical need;

WHEREAS, on October 9, 2015, Governor Jerry Brown approved a series of bills commonly referred to as the Medical Cannabis Regulation and Safety Act (“MCRSA”), effective January 1, 2016, which established a comprehensive State licensing and regulatory framework for the cultivation, manufacture, transportation, storage, distribution and sale of medical cannabis, and which recognized the authority of local jurisdictions to either impose additional restrictions or prohibit certain activities related to the cultivation, manufacture, transportation, storage, distribution and sale of medical cannabis;

WHEREAS, on November 8, 2016, California voters approved the Control, Regulate and Tax Adult Use of Marijuana Act (“AUMA”). The AUMA added Division 10 to the California Business and Professions Code, Sections 26000, et seq., which grants State agencies the authority to create, issue, renew, discipline, suspend, or revoke licenses for cannabis businesses. The AUMA provides that the State shall begin issuing licenses to cannabis businesses under Division 10 of the California Business and Professions Code by January 1, 2018. California Business and Professions section 26055(e) provides that a State licensing authority shall not approve an application for a State license for commercial non-medical cannabis activity if approval of the State license will violate the provisions of any local ordinance;

WHEREAS, on June 27, 2017, the Governor signed into law Senate Bill 94 which repealed the MCRSA, included certain provisions of the MCRSA in the licensing provisions of the AUMA, and created a single regulatory scheme for both medical and non-medical cannabis known as the Medicinal and Adult-Use Cannabis Regulation and Safety Act (“MAUCRSA”). The MAUCRSA retains the provisions in the MCRSA and AUMA that granted local jurisdictions control over whether commercial cannabis activity could occur in a particular jurisdiction. Specifically, California Business and Professions Code section 26200 provides that the MAUCRSA shall not

be interpreted to supersede or limit the authority of a local jurisdiction to adopt and enforce local ordinances that completely prohibit the establishment or operation of one or more businesses under the State, within that local jurisdiction. Furthermore, the MAUCRSA provides that a State licensing authority shall not approve an application for a State license for a business to engage in commercial cannabis activity if approval of the State license will violate the provisions of any local ordinance or regulation. The MAUCRSA requires that a State licensing authority begin issuing licenses to marijuana businesses beginning January 1, 2018;

WHEREAS, on April 2, 2019, the City Council of the City of Porterville held a public hearing on the proposed Ordinance, at which time all persons interested in the proposed Ordinance had the opportunity and did address the City Council on these matters. Following receipt of public testimony the City Council closed the public hearing; and

WHEREAS, it is in the interest of the City, its residents, and its lawfully permitted businesses that the City adopts this ordinance to amend its cannabis regulations to permit the limited development and establishment of commercial cannabis dispensaries, and remove the restrictions on personal cultivation and related activities and prohibitions smoking and use in public places or on private business properties (provided that those restrictions and prohibitions are relocated to Chapter 18 of the Municipal Code by an Ordinance adopted by the City Council concurrently herewith);

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PORTERVILLE DOES HEREBY ORDAIN as follows:

SECTION 1. Table 202.02 is hereby amended as follows:

TABLE 202.02: LAND USE REGULATIONS – DOWNTOWN DISTRICTS										
<i>Use Classification</i>	<i>DR-N</i>	<i>DR-S</i>	<i>DR-D</i>	<i>D-MX</i>	<i>DRM-2</i>	<i>DRM-3</i>	<i>D-PO</i>	<i>D-GC</i>	<i>D-PS</i>	<i>Additional Regulations</i>
Residential Use Classifications										
Single Family Dwelling	See sub-classifications below									
<i>Attached</i>	P(1)	-	-	-	P	P	-	-	-	
Multi-family Residential	P(1)	P(2)	-	P	P	P	P(1)	-	-	
Family Day Care Home	See sub-classifications below									
<i>Small</i>	P	P	-	P	P	P	P	-	-	
<i>Large</i>	-	-	-	P	P	P	-	-	-	Section 301.07 Family Day Care Home, Large
Group Residential	-	-	-	P(3)	P	P	-	-	-	
Mixed Use Development				C						Section 203.04 Supplemental Regulations
Residential Care Facilities, Limited	P	P	-	P	P	P	P	-	-	
Single Room Occupancy Hotels	-	-	-	C(1)	-	-	-	-	-	Section 301.18 Single Room Occupancy Hotels
Public and Semi-Public Use Classifications										
Clubs and Lodges	C(4)	P	P	P	-	-	P(5)	P	-	Section 301.02 Alcoholic Beverage Sales
Colleges and Trade Schools, Public or Private	C(5)	C	C	C	-	-	C	C	P	
Community Center	-	-	-	C	-	-	-	-	P	
Cultural Institutions	C(5)	C	C	C	-	-	P	C	P	

TABLE 202.02: LAND USE REGULATIONS – DOWNTOWN DISTRICTS										
<i>Use Classification</i>	<i>DR-N</i>	<i>DR-S</i>	<i>DR-D</i>	<i>D-MX</i>	<i>DRM-2</i>	<i>DRM-3</i>	<i>D-PO</i>	<i>D-GC</i>	<i>D-PS</i>	<i>Additional Regulations</i>
Day Care Centers	C	C	C	C	C	C	P	-	C	
Elderly and Long Term Care	-	-	-	-	P	P	P	-	-	
Government Offices	P	P	P	-	-	-	P	-	P	
Instructional Services	P(5)	P	P	P	-	-	P	P	P	
Park and Recreation Facilities, Public	P	P	P	P	P	P	P	P	P	
Religious Facilities	-	-	-	C	C	C	-	-	-	
Residential Care Facilities, General	-	-	-	-	C	C	-	-	-	Section 301.15 Residential Care Facilities, General
Schools, Public or Private	P(4)	P	P	P	-	-	-	-	P	
Social Service Facilities	-	-	-	C	C	C	-	-	-	Section 301.19 Social Service Facilities
Commercial Use Classifications										
Animal Care, Sales, and Services	See sub-classifications below									
<i>Kennels</i>	-	-	C	-	-	-	-	C	-	
<i>Pet Stores</i>	M(6)	P(6)	P(6)	M(6)	-	-	-	P(6)	-	
<i>Veterinary Services, Small</i>	-	-	C	-	-	-	-	P	-	
Artists' Studios	P	P	P	P	-	-	-	P	-	
Automobile/Vehicle Sales and Services	See sub-classifications below									

TABLE 202.02: LAND USE REGULATIONS – DOWNTOWN DISTRICTS										
<i>Use Classification</i>	<i>DR-N</i>	<i>DR-S</i>	<i>DR-D</i>	<i>D-MX</i>	<i>DRM-2</i>	<i>DRM-3</i>	<i>D-PO</i>	<i>D-GC</i>	<i>D-PS</i>	<i>Additional Regulations</i>
<i>Automobile/Vehicle Rentals.</i>	-	-	-	-	-	-	-	P	-	
<i>Automobile/Vehicle Sales and Leasing.</i>	-	C	C(7)	-	-	-	-	P	-	
<i>Automobile/Vehicle Service and Repair, Major.</i>	-	-	C	-	-	-	-	C	-	Section 301.04 Automobile/Vehicle Service and Repair, Major and Minor
<i>Automobile/Vehicle Service and Repair, Minor.</i>	-	C(7)	C(7)	-	-	-	-	P	-	Section 301.04 Automobile/Vehicle Service and Repair, Major and Minor
<i>Automobile/Vehicle Service and Repair, Washing.</i>	-	-	-	-	-	-	-	C	-	Section 301.05 Auto Service Stations and Car Washing
<i>Service Station</i>	-	-	-	-	-	-	-	C	-	Section 301.05 Auto Service Stations and Car Washing
Banks and Financial Institutions	See sub-classifications below									
<i>Banks and Credit Unions</i>	P(8)	P(8)	P	P(8)	-	-	P(8)	P	-	
Building Materials and Services	-	-	-	-	-	-	-	P(9)	-	
Business Services	P(10)	P(10)	P(10)	P(10)	-	-	P	P	-	
<i>Cannabis Dispensary</i>	<i>P</i>	<i>P</i>	<i>P(16)</i>	<i>P(16)</i>	-	-	-	<i>P(16)</i>	-	<i>Municipal Code Chapter 15, Article VII</i>

TABLE 202.02: LAND USE REGULATIONS – DOWNTOWN DISTRICTS										
<i>Use Classification</i>	<i>DR-N</i>	<i>DR-S</i>	<i>DR-D</i>	<i>D-MX</i>	<i>DRM-2</i>	<i>DRM-3</i>	<i>D-PO</i>	<i>D-GC</i>	<i>D-PS</i>	<i>Additional Regulations</i>
Commercial Entertainment and Recreation	See sub-classifications below									
<i>Cinema/Theaters</i>	C	C	C	C	-	-	-	C	-	Section 301.02 Alcoholic Beverage Sales
<i>Downtown Entertainment</i>	-	-	C	C	-	-	-	C	C	Section 301.02 Alcoholic Beverage Sales
<i>Small-scale</i>	C	C	C	C	-	-	-	C	-	Section 301.02 Alcoholic Beverage Sales
Eating, Drinking, and Smoking Establishments	See sub-classifications below									
<i>Bars/Night Clubs/Lounges</i>	C	C	C	C	-	-	-	C	-	Section 300.08 Outdoor Seating; Section 301.02 Alcoholic Beverage Sales
<i>Coffee Shops/Cafes</i>	P(8)	P(8)	P(8)	P(8)	-	-	P(8)	P(8)	P(8, 13)	Section 300.08 Outdoor Seating
<i>Restaurants</i>	P(8)	P(8)	P(8)	P(8)	-	-	P(8)	P(8)	P(8, 13)	Section 300.08 Outdoor Seating; Section 301.02 Alcoholic Beverage Sales
<i>Tobacco Bars</i>	C	C	C	C	-	-	-	C	-	
Food and Beverage Retail Sales, less than 5,000 square feet	P	P	P	P	-	-	P(11)	P	P(11)	Section 301.02 Alcoholic Beverage Sales

TABLE 202.02: LAND USE REGULATIONS – DOWNTOWN DISTRICTS										
<i>Use Classification</i>	<i>DR-N</i>	<i>DR-S</i>	<i>DR-D</i>	<i>D-MX</i>	<i>DRM-2</i>	<i>DRM-3</i>	<i>D-PO</i>	<i>D-GC</i>	<i>D-PS</i>	<i>Additional Regulations</i>
Food and Beverage Retail Sales, more than 5,000 to 50,000 square feet	P	P	P	P	-	-	-	-	-	Section 301.02 Alcoholic Beverage Sales
Hotels and Motels	C	C	C	C	-	-	-	C	-	
Bed and Breakfasts	-	-	-	P(3)	-	P(3)	P(3)	-	-	
Maintenance and Repair Services less than 1,500 square feet	-	-	-	-	-	-	-	P(12)	-	
Medical Facilities	See sub-classifications below									
<i>Medical Clinic</i>	-	P	P	P	-	-	P	P	P	
<i>Professional/Medical</i>	P(13)	P	P	P	-	-	P	P	P	
Mixed Use Development				C						Section 203.04 Supplemental Regulations
Nurseries and Garden Centers	-	C	C	C	-	-	-	P	-	
Offices	See sub-classifications below									
General Offices	P(13)	P	P	P	-	-	P	P	P	
Walk-In Clientele	P	P	P	P	-	-	P	P	P	
Parking, Public or Private	P	P	P	P	P	P	P	P	P	
Personal Services	P	P	P	P	-	-	P	P	-	
Retail Sales, less than 50,000 square feet	P	P	P	P	-	-	P(11)	P	-	

TABLE 202.02: LAND USE REGULATIONS – DOWNTOWN DISTRICTS										
<i>Use Classification</i>	<i>DR-N</i>	<i>DR-S</i>	<i>DR-D</i>	<i>D-MX</i>	<i>DRM-2</i>	<i>DRM-3</i>	<i>D-PO</i>	<i>D-GC</i>	<i>D-PS</i>	<i>Additional Regulations</i>
Retail Sales, more than 50,000 square feet	C	C	C	C	-	-	-	C	-	
Industrial Use Classifications										
Handicraft/Custom Manufacturing	-	-	-	-	-	-	-	P	-	
Industry, Limited	-	-	-	-	-	-	-	C	-	
Recycling Facilities	See sub-classifications below									
<i>Reverse Vending Machine</i>	-	P	P	P	-	-	-	P	P	Section 301.14 Recycling Facilities
<i>Recycling Collection Facility</i>	-	C	-	-	-	-	-	C	C	Section 301.14 Recycling Facilities
Transportation, Communication, and Utilities Use Classifications										
Communication Facilities	See sub-classifications below									
<i>Antenna and Transmission Towers, camouflage facilities</i>	P	P	P	P	-	-	P	P	P	Section 301.20 Telecommunication Facilities
<i>Antenna and Transmission Towers, non-camouflage facilities</i>	C(14)	C(14)	C(14)	C(14)	-	-	C(14)	C(14)	C(14)	Section 301.20 Telecommunication Facilities
<i>Broadcasting Facility</i>	-	M	M	M	-	-	-	M	-	Section 301.20 Telecommunication Facilities
<i>Call Center</i>	-	-	-	-	-	-	P(5)	P(5)	P	

TABLE 202.02: LAND USE REGULATIONS – DOWNTOWN DISTRICTS										
<i>Use Classification</i>	<i>DR-N</i>	<i>DR-S</i>	<i>DR-D</i>	<i>D-MX</i>	<i>DRM-2</i>	<i>DRM-3</i>	<i>D-PO</i>	<i>D-GC</i>	<i>D-PS</i>	<i>Additional Regulations</i>
<i>Recording Studio</i>	-	-	P(6)	P(6)	-	-	-	P(6)	-	
Transportation Passenger Terminals	P(15)	P(15)	P(15)	-	-	-	-	-	-	
Utilities, Minor	P	P	P	P	P	P	P	P	P	
Other Applicable Types										
Accessory Uses and Structures	P	P	P	P	P	P	P	P	P	Section 301.01 Accessory Uses and Structures
Home Occupations	P	P	P	P	P	P	-	-	-	Section 301.09 Home Occupations
Second Dwelling Unit	-	-	-	-	P	P	-	-	-	Section 301.16 Second Dwelling Unit
Nonconforming Use	Chapter 307 Nonconforming Uses, Structures, and Lots									
Temporary Use	Section 301.21 Temporary Uses									

TABLE 202.02: LAND USE REGULATIONS – DOWNTOWN DISTRICTS

<i>Use Classification</i>	<i>DR-N</i>	<i>DR-S</i>	<i>DR-D</i>	<i>D-MX</i>	<i>DRM- 2</i>	<i>DRM- 3</i>	<i>D-PO</i>	<i>D-GC</i>	<i>D-PS</i>	<i>Additional Regulations</i>
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Specific Limitations:

1. Residential units allowed only on upper floors unless approved with a Conditional Use Permit. Common ancillary areas are allowed on the ground floor except on Main Street.
2. On Main Street, residential units are allowed only on upper floors unless approved with a Conditional Use Permit.
3. Limited to no more than two rooms in a dwelling rented to not more than a total of four persons and meals are not provided to more than four boarders.
4. Allowed only on upper floors and limited to 5,000 square feet in size.
5. Limited to 5,000 square feet in size.
6. Provided that such use shall be completely enclosed in a building of soundproof construction.
7. Limited to uses conducted wholly within a building enclosed on all sides including the display, storage, repair, and reconditioning of vehicles.
8. Drive-through facilities are prohibited.
9. Bulk storage of sand, gravel, or cement is not allowed.
10. Wholesale services are not allowed.
11. Permitted only as accessory to a primary use.
12. No outdoor operations or outdoor storage are allowed.
13. Limited to 25 percent of ground floor area unless additional floor area is approved with a Conditional Use Permit. No square footage limitation on upper floors.
14. Shall not be located within 300 feet of any R district.
15. Not allowed on Main Street. No repair or storage of vehicles is allowed.
- 16. Shall not be located within 500 feet of a sensitive use.**

SECTION 2. Table 204.02 is hereby amended as follows:

TABLE 204.02: LAND USE REGULATIONS—EMPLOYMENT DISTRICTS					
<i>Use Classification</i>	<i>PO</i>	<i>IP</i>	<i>IG</i>	<i>IA</i>	<i>Additional Regulations</i>
Public and Semi-Public Uses					
Colleges and Trade Schools, Public or Private	C	P	-	-	
Correctional Facility	-	P	P	-	
Cultural Institutions	P	-	-	-	
Day Care Centers	P	P(1)	-	-	
Elderly and Long-term Care	P	-	-	-	
Instructional Services	P	P	-	P	
Residential Care Facilities, General	C	-	-	-	Section 301.15 Residential Care Facilities, General
Schools, Public or Private	P	-	-	-	
Commercial Uses					
Aircraft Sales, Services, and Storage	-	-	-	P	
Animal Care, Sales and Services	See sub-classifications below				
<i>Kennels</i>	-	M	M	-	
<i>Veterinary Services</i>	-	P	P	-	
Automobile/Vehicle Sales and Services	See sub-classifications below				
<i>Automobile/Vehicle Repair, Major.</i>	-	P	P	-	Section 301.04 Automobile/Vehicle Service and Repair
<i>Automobile/Vehicle Service and Repair, Minor.</i>	-	P	P	-	Section 301.04 Automobile/Vehicle Service and Repair
<i>Automobile/Vehicle Washing.</i>	-	P	P	-	Section 301.05 Auto Service Stations and Car Washing
<i>Large Vehicle and Equipment Sales, Service, and Rental</i>	-	C	P	-	

TABLE 204.02: LAND USE REGULATIONS—EMPLOYMENT DISTRICTS					
<i>Use Classification</i>	<i>PO</i>	<i>IP</i>	<i>IG</i>	<i>IA</i>	<i>Additional Regulations</i>
<i>Service Station</i>	-	C	C	-	Section 301.05 Auto Service Stations and Car Washing
<i>Towing and Impound.</i>	-	C	P	-	Section 300.09 Outdoor Storage
Banks and Financial Institutions	See sub-classifications below				
<i>Banks and Credit Unions</i>	P	P(1)	P(1)	P(1)	
<i>Check Cashing Businesses</i>	P	-	-	-	
Building Materials and Services	-	P	P	-	
Business Services	P	P(1)	P(1)	-	
<i>Cannabis Dispensary</i>	-	-	-	<i>P</i>	<i>Municipal Code Chapter 15, Article VII</i>
Commercial Entertainment & Recreation	See sub-classifications below				
<i>Large-Scale</i>	-	C	C	C	Section 301.02 Alcoholic Beverage Sales
<i>Small Scale</i>	-	C	-	-	Section 301.02 Alcoholic Beverage Sales
Eating, Drinking, and Smoking Establishments	See sub-classifications below				
<i>Coffee Shops/Cafes</i>	P(2)	P(1)	P(1)	P	Section 300.08 Outdoor Seating
<i>Restaurants</i>	P(2)	P(1)	P(1)	P	Section 300.08 Outdoor Seating; Section 301.02 Alcoholic Beverage Sales
Food and Beverage Retail Sales	P(2)	P(1)	P(1)	-	Section 301.02 Alcoholic Beverage Sales
Funeral Parlors and Mortuaries	-	P	P	-	
Hotels and Motels	-	C	C	-	
Bed and Breakfasts	P(10)	-	-	-	
Light Fleet Based Services	-	P	P	-	
Maintenance and Repair Services	-	P	P	-	

TABLE 204.02: LAND USE REGULATIONS—EMPLOYMENT DISTRICTS					
<i>Use Classification</i>	<i>PO</i>	<i>IP</i>	<i>IG</i>	<i>IA</i>	<i>Additional Regulations</i>
Medical Facilities	See sub-classifications below				
<i>Hospital</i>	P	-	-	-	
<i>Medical Clinic</i>	P	-	-	-	
<i>Professional/Medical</i>	P	-	-	-	
Offices	See sub-classifications below				
<i>General Offices</i>	P	P	P	P	
<i>Walk-In Clientele</i>	P	-	-	-	
Parking, Public or Private	P(3)	P	P	-	
Personal Services	P(2)	P(1)	-	-	
Retail Sales	P(2)	P(2)	P(2)	-	
Salvage and Wrecking	-	C	C	C	Section 300.09 Outdoor Storage
<i>Salvage and Wrecking conducted wholly within a building</i>	-	P	P	P	Section 300.09 Outdoor Storage
Sexually Oriented Business	-	P	P	-	Section 301.17 Sexually Oriented Businesses
Wholesaling and Distribution	-	P	P	P	
Industrial Uses					
Construction and Material Yards	-	P	P	-	Section 300.09 Outdoor Storage
Handicraft/Custom Manufacturing	-	P	P	P	
Industry, General	-	P	P	P	
<i>Alcohol Manufacture</i>	-	C(4)	C	-	
<i>Hazardous Waste Management Facilities</i>	-	C(6)	C	-	
<i>Manufacture, processing, or treatment of materials which may be obnoxious, offensive or hazardous to health and safety of persons and property</i>	-	-	C	-	
Industry, Limited	-	P	P	P	
Recycling Facilities	See sub-classifications below				

TABLE 204.02: LAND USE REGULATIONS—EMPLOYMENT DISTRICTS					
<i>Use Classification</i>	<i>PO</i>	<i>IP</i>	<i>IG</i>	<i>IA</i>	<i>Additional Regulations</i>
<i>Recycling Collection Facility</i>	-	-	P	-	Section 301.14 Recycling Facilities
<i>Recycling Processing Facility</i>	-	-	P	-	Section 301.14 Recycling Facilities
Warehousing and Storage	See sub-classifications below				
<i>Chemical, Mineral, and Explosives Storage</i>	-	C	C	C	
<i>Indoor Warehousing and Storage</i>	-	P	P	P	
<i>Personal Storage</i>	-	P	P	P	Section 301.13 Personal Storage
Transportation, Communication, and Utilities Uses					
Communication Facilities	See sub-classifications below				
<i>Antenna and Transmission Towers, camouflage facilities</i>	P	P	P	P	Section 301.20 Telecommunication Facilities
<i>Antenna and Transmission Towers, non-camouflage facilities</i>	M(7)	M(7)	M(7)	M(7)	Section 301.20 Telecommunication Facilities
<i>Broadcasting Facility</i>	-	P	P	P	Section 301.20 Telecommunication Facility
<i>Call Center</i>	P(2)	P	P	-	
Freight/Truck Terminals and Warehouses	-	P	P	P	
Heliports	-	C	C	C	
Transportation Passenger Terminals	-	P	P	P	
Utilities, Major	-	P	P	P	
<i>Renewable Energy Facility</i>		C	C	C	
<i>Solid Waste Collection, Treatment, and Disposal</i>	-	-	P	C	
Utilities, Minor	P	P	P	P	
Agriculture and Extractive Uses					
Crop Cultivation, Commercial	M	P	P	M	Section 301.06 Crop Cultivation

TABLE 204.02: LAND USE REGULATIONS—EMPLOYMENT DISTRICTS

<i>Use Classification</i>	<i>PO</i>	<i>IP</i>	<i>IG</i>	<i>IA</i>	<i>Additional Regulations</i>
Crop Cultivation, Non-commercial	-	P	P	-	
Mining & Quarrying	-	-	C(6)	-	
Other Applicable Types					
Accessory Uses and Structures	P	P	P	P	Section 301.01 Accessory Uses and Structures
Additional Uses	-	-	-	P(9)	
Caretaker Unit	-	P(8)	P(8)	-	
Nonconforming Use	Chapter 307 Nonconforming Uses, Structures, and Lots				
Temporary Use	Section 301.21 Temporary Uses				
Specific Limitations:					
1. Permitted only as an accessory use that supports industrial uses, business and office parks, and corporate offices. 2. Permitted only as an accessory to a primary office and limited to establishments with a gross floor area less than 5,000 square feet in size. 3. Limited to parking areas for exclusive use of occupants, employees and patrons of the uses, buildings, stores, and businesses located in that zone. 4. Alcohol manufacture must be located more than 500 feet from the nearest residential, or commercial zoning designation as shown on the Official Zoning Map. 5. On-site hazardous waste management facilities must be accessory and incidental to a primary use. 6. In areas designated as Mineral Resource Zones in the General Plan 7. Prohibited within 300 feet of any R district. 8. For agricultural employees, when located on farms or ranches containing more than 10 acres. 9. Additional uses may be allowed with City Council approval of a Conditional Use Permit. 10. Limited to no more than two rooms in a dwelling rented to not more than four persons. Meals may not be provided to more than four boarders.					

SECTION 3. Section 301.23 is hereby amended as follows:

301.23 Cannabis Cultivation, Use, and Commercial Activities

A. Purpose and Intent

1. The City Council, based on evidence presented to it in the proceedings leading to the adoption of this chapter, hereby finds that the cultivation, preparation, and distribution of cannabis in the city has caused and is causing ongoing impacts to the community. These impacts include increases in various types of crime due to outdoor grows, damage to buildings containing indoor grows, including improper and dangerous electrical alterations and use, inadequate ventilation leading to mold and mildew, increased frequency of home-invasion robberies and related crimes. Many of these impacts have fallen disproportionately on residential neighborhoods, but nonetheless also negatively impact properties in the commercial districts. These impacts have also created an increase in response costs, including code enforcement, building, land use, fire, and police staff time and expenses.
2. The City Council finds that the restrictions and/or prohibitions on non-commercial cultivation, commercial marijuana cultivation, marijuana processing, marijuana delivery, and marijuana dispensaries are necessary for the preservation and protection of the public health, safety, and welfare for the City and its community. The City Council's prohibition of such activities is within the authority conferred upon the City Council in its Charter and state law.
3. The purpose of this article is to restrict non-commercial cultivation, and to restrict and/or prohibit the establishment of commercial cannabis uses in the City.

B. Interpretation and Applicability

1. Nothing in this section is intended to, nor shall it be construed to, preclude a landlord from limiting or prohibiting cannabis cultivation, smoking or other related activities by tenants.
2. Nothing in this section is intended to, nor shall it be construed to, burden any defense to criminal prosecution otherwise afforded by California law.
3. Nothing in this section is intended to, nor shall it be construed to, exempt any cannabis related activity from any and all applicable local and state construction, electrical, plumbing, land use, or any other building or land use standards or permitting requirements.
4. Nothing in this section is intended to, nor shall it be construed to, make legal any cultivation, transportation, sale or other use of cannabis that is otherwise prohibited under California law.
5. All cultivation activities within city limits shall be subject to the provisions of this section and other applicable provisions of this Code, regardless of whether the cultivation activities existed or occurred prior to adoption of this section.

C. Definitions: For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning:

1. ***Accessory Structure.*** A residential accessory structure shall include any uses that are customarily related to a residence, including garages, greenhouses, storage sheds, studios, and workshops. Any accessory structure must be compliant with Section 301.01 and any other applicable provisions of the Municipal Code.
2. ***“Cannabis”*** (and/or ***“Marijuana”***) means any or all parts of the plant *Cannabis sativa* linnaeus, *Cannabis indica*, or *Cannabis ruderalis*, or any other strain or varietal of the genus of *Cannabis* that may exist or hereafter be discovered or developed that has psychoactive or medicinal properties, whether growing or not; the seeds thereof; the resin, whether crude or purified, extracted from any part of the plant; and every compound, manufacture, salt, derivative, mixture, or preparation of the plant, its seeds or resin. “Cannabis” also means the separated resin, whether crude or purified, obtained from cannabis. “Cannabis” does not include the mature stalks of the plant, fiber produced from the stalks, oil, or cake made from the seeds of the plant, any other compound, manufacture, salt, derivative, mixture, or preparation of the mature stalks (except the resin extracted therefrom), fiber, oil, or cake, or the sterilized seed of the plant which is incapable of germination. For the purposes of this Code, “cannabis” does not mean “industrial hemp” as defined by Section 11018.5 of the California Health and Safety Code.
3. ***“Cannabis accessories”*** is defined in Chapter 15, Article VII of this Code.
4. ***“Cannabis (or Marijuana) Collective”*** or “cooperative or collective” includes any group that is collectively or cooperatively cultivating and distributing marijuana for medical purposes that is organized in the manner set forth in the August 2008 Guidelines for the Security and Non-Diversion of Marijuana Grown for Medical Use, as may be amended from time to time, that was issued by the office of the Attorney General for the state of California, or for the purposes set forth in California Health and Safety Code Section 11362.5 (Compassionate Use Act) of California Health and Safety Code Sections 11362.7 to 11362.83 (Medical Marijuana Program Act).
5. ***“Cannabis Dispensary”*** is defined in Chapter 15, Article VII of this Code.
6. ***“Cannabis product”*** is defined in Chapter 15, Article VII of this Code.
7. ***“Commercial cannabis activity”*** is defined in Chapter 15, Article VII of this Code.
8. ***“Concentrated cannabis”*** is defined in Chapter 15, Article VII of this Code.
9. ***“Personal (Non-commercial) Cultivation”*** means any activity involving the growing, planting, harvesting, drying, curing, grading, or trimming, and includes processing of cannabis when done for individual (noncommercial) purposes.
10. ***“Delivery”*** is defined in Chapter 15, Article VII of this Code.
11. ***“Distribution”*** is defined in Chapter 15, Article VII of this Code.
12. ***“Manufacture”*** is defined in Chapter 15, Article VII of this Code.
13. ***“MAUCRSA”*** means the Medicinal and Adult-Use Cannabis Regulation and Safety Act as codified in Division 10 of the California Business and Professions Code, as the same may be amended from time to time.

14. ***“Medical cannabis dispensary”*** is defined in Chapter 15, Article VII of this Code.
 15. ***“Processing”*** is defined in Chapter 15, Article VII of this Code.
 16. ***“Sensitive use”*** means any cemetery, religious institution, school, public building regularly frequented by children, public park, or boys’ club, girls’ club or similar organization.
- D. Severability: If any part of Section 301.23 is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining portions of this section.
- E. Personal (Non-commercial) Cultivation and Other Activities: Personal, non-commercial cultivation and other activities including drying, harvesting, processing, smoking, and use are restricted pursuant to this Section and/or Chapter 18, Article XI of this Code. Nothing shall in this Section shall prohibit a person twenty-one (21) years of age or older from engaging in the cultivation of six (6) or fewer live cannabis plants within a single private residence, or inside an accessory structure located upon the grounds of a private residence. Alternatively, the six or fewer plants may be grown outdoors within a locked space that is not visible by normal, unaided vision from a public place or from the surrounding properties. Additionally, the following requirements apply:
1. There shall be no exterior evidence of cannabis cultivation occurring at any property, from the public right of way.
 2. Cannabis cultivation lighting shall not exceed one thousand two hundred (1,200) watts.
 3. If grown in an accessory structure, the structure(s) shall at all times meet the requirements of the latest adopted version of the California Building, Fire, Mechanical, Electrical and Plumbing Codes (collectively California Codes). All required electrical permits must be obtained pursuant to the California Codes and applicable regulations, and proper permits must be obtained from the Building Division prior to performing any work on electrical wiring or rewiring.
 4. If required by the California Codes, the wall(s) adjacent to the cultivation area shall be constructed with five-eighths inch (5/8”) type X moisture-resistant drywall;
 5. Cannabis cultivation areas shall be secured by a functioning audible alarm at all times during growing seasons;
 6. The growing of cannabis outdoors shall comply with setback requirements for the primary residence on the property subject to the zoning classification of the property.
 7. Cannabis plants grown outdoors shall be grown in an area enclosed with a solid view obscuring the fence, secured with self-closing and locking gates; and

8. Areas for cultivation of cannabis shall be secured, locked, and fully enclosed, and rendered inaccessible to minors.

9. All restrictions set forth in Chapter 18, Article XI, applicable to cultivation, shall be complied with.

F. Prohibited Uses and Activities

1. With the exception of Cannabis Dispensaries as set forth further in this Section, and as regulated in Chapter 15, Article VII, Commercial cannabis activity, whether or not for profit, is expressly prohibited in all zones, specific plans areas, and overlay zones of the city. No person shall establish, operate, maintain, conduct, allow or engage in commercial cannabis activity anywhere within the city, unless expressly permitted by this Section or elsewhere in the Porterville Municipal Code.

2. A property owner shall not rent, lease or otherwise permit any person or business that engages in commercial cannabis activity to occupy real property in the city, unless the commercial activity is expressly permitted by this Code, and the activity at that location has been expressly authorized by the City in accordance with applicable City regulations and State laws. A property owner shall not allow any person or business to establish, operate, maintain, conduct, or engage in unauthorized commercial cannabis activity on any real property owned or controlled by that property owner that is located in the city.

3. Unless expressly authorized by this Code, Subsection 1 above shall prohibit all activities for which a State license is required pursuant to MAUCRSA, as the same may be amended from time to time. Accordingly, the city shall not issue any permit, license, or other entitlement for any activity for which a State license is required under the MAUCRSA, as the same may be amended from time to time, except for activities expressly authorized and permitted by the City. The city shall also not issue any local license to a nonprofit entity pursuant to California Business and Professions Code section 26070.5, except as expressly authorized and permitted by the City.

G. Permitted Use

1. Commercial Cannabis Dispensary uses shall be allowed to be established and operated by Business Owners (as defined in Section 15-85 of this Code), that meet all of the requirements specified in this Section and Chapter 15, Article VII of this Code, in the DR-N, DR-S and Airport Industrial zone districts of the City, subject to having a valid State license for the operations, having a Regulatory Permit from the City, obtaining a City Business License, and having entered into a Development Agreement between the Business Owners and the City. Any cannabis dispensary permitted to be established shall at all times be in compliance with this section and Article VII of Chapter 15 of this Code, as it may be amended from time to time or repealed and replaced by another section governing Cannabis Dispensary operation, but subject to the terms and conditions within the applicable Development Agreement.

2. The number of regulatory permits for cannabis dispensaries is limited to no more than one permit, plus an additional permit for every 25,000 residents. The City Council may reserve one of the allowed permits exclusively for a medical cannabis dispensary use, in conformity with the applicable regulations set forth in Chapter 15, Article VII of this Code.
 3. Distance separation from schools. All Cannabis dispensaries shall comply with the distance separation requirements from schools as required by State law. In addition, a Cannabis Dispensary shall not be located within 600 feet from any existing school or proposed school site as identified in the General Plan. Measurements shall be from property boundary to property boundary. For purposes of this section, school means any public or private school providing instruction in kindergarten or grades 1-12, inclusive, but does not include any private school in which education is primarily conducted in private homes. The distance specified in this section shall be measured in the same manner as provided in subdivision (c) of Section 11362.768 of the Health and Safety Code unless otherwise provided by law.
 4. All building property requirements set forth in Article VII, Chapter 15 shall also apply and are hereby incorporated by reference as if set forth fully herein.
 5. Cannabis Dispensary uses are additionally subject to all setback, signage, and other requirements applicable to the zone classifications they are located in, in addition to any applicable requirements set forth in Chapter 21 and this Code, as well as the Downtown Design Guidelines, in applicable zone districts.
- H. Enforcement. Any violation of this chapter is subject to any and all penalties as prescribed in the Porterville Municipal Code, in addition to being subject to other remedies provided by law, including but not limited to, injunctive relief, nuisance abatement action, summary abatement of immediately hazardous conditions, and all other applicable fines, penalties and remedies. This chapter is adopted to address public health and safety issues, and as such, carries with it an express legislative intent to be interpreted strictly, enforced with an emphasis on public and community safety, and enforced rigorously in a manner such as to deter further violations. In any civil action brought pursuant to this article, a court of competent jurisdiction may award reasonable attorneys' fees and costs to the prevailing party. Notwithstanding the penalties set forth in the Porterville Municipal Code, no provision of Section 301.23 or this Code authorizes a criminal prosecution, arrest or penalty inconsistent with or prohibited by Health and Safety Code Section 11362.71 et seq. or Section 11362.1 et seq., as the same may be amended from time to time. In the event of any conflict between the penalties enumerated under this Code and any penalties set forth in State law, the maximum penalties allowable under State law shall govern.

SECTION 4: The Porterville Municipal Code, Section 701.02 is hereby amended as follows:

701.02: LAND USE CLASSIFICATIONS:

Aircraft Sales, Services, and Storage. Uses related to the rental, sales and leasing, storage, repair, and washing of aircraft.

Airports. Facilities for the takeoff and landing of airplanes, including runways, aircraft storage buildings, public terminal buildings and parking, and support activities such as airport operations, crew quarters, and air traffic control.

Animal Care, Sales and Services

Kennels. Facilities for keeping, boarding, training, breeding or maintaining for commercial purposes, four (4) or more dogs, cats, or other household pets not owned by the kennel owner or operator. This classification excludes pet shops and animal hospitals that provide twenty-four (24) hour accommodation of animals receiving medical or grooming services.

Pet Stores. Retail sales of animals and/or services, including grooming, for animals on a commercial basis. This classification excludes dog walking and similar pet care services not carried out at a fixed location, and excludes pet supply stores that do not sell animals or provide on-site animal services.

Veterinary Services, Small. Medical care for small animals on a commercial basis. This classification allows twenty-four (24) hour accommodation of animals receiving medical or grooming services but does not include kennels.

Veterinary Services, Large. Medical care for large animals which generally includes agricultural animals, on a commercial basis. This classification allows twenty-four (24) hour accommodation of animals receiving medical or grooming services.

Animal Raising. The raising, grazing, or feeding of animals for animal products, animal increase, or value increase, and dairying as an accessory use on farms with dairy cattle.

Artists' Studios. Work space for artists and artisans, including individuals practicing one (1) of the fine arts or performing arts, or skilled in an applied art or craft. Incidental retail sales of items produced on the premises is required.

Automobile/Vehicle Sales and Services

Automobile/Vehicle Rentals. Rental of automobiles, including storage and incidental maintenance.

Automobile/Vehicle Sales and Leasing. Sales or leasing of automobiles, boats, motorcycles, trucks, and motor homes, including storage and incidental maintenance.

Automobile/Vehicle Repair, Major. Repair of automobiles, trucks, motorcycles, motor homes, boats and recreational vehicles, including the sale, installation, and servicing of related equipment and parts, generally on an overnight basis. This classification includes auto repair shops, body and fender shops, and transmission shops, but excludes vehicle dismantling or salvaging and tire retreading or recapping.

Automobile/Vehicle Service and Repair, Minor. The service and repair of automobiles, light-duty trucks, boats, and motorcycles, including the sale, installation, and servicing of related equipment and parts. This classification includes quick-service oil, tune-up, wheel and brake shops, auto glass services, tire sales and installation, muffler shops and upholstery shops where repairs are made or service provided in enclosed bays and no vehicles are stored overnight. This classification excludes establishments providing engine repair, body and fender work, vehicle painting, or towing. It also excludes repair of heavy trucks or construction vehicles.

Automobile/Vehicle Washing. Washing, waxing, or cleaning of automobiles or similar light vehicles, including self-serve washing facilities.

Emergency Ambulance Services. The location of emergency ambulance service vehicles.

Large Vehicle and Equipment Sales, Service and Rental. Sales, servicing, rental, fueling, and washing of large trucks, trailers, tractors, and other equipment used for construction, agricultural, or landscape gardening activities. Includes large vehicle operation training facilities. Sales of new or used automobiles or trucks are excluded from this classification.

Service Station. Establishments primarily engaged in retailing automotive fuels or retailing these fuels in combination with activities, such as providing repair services; selling automotive oils, replacement parts, and accessories; and/or providing food services.

Towing and Impound. Establishments primarily engaged in towing light or heavy motor vehicles, both local and long distance. These establishments may provide incidental services, such as vehicle storage and emergency road repair services. (For automobile/dismantling, see Salvage Yards)

Banks and Financial Institutions

Banks and Credit Unions. Financial institutions providing retail banking services. This classification includes only those institutions engaged in the on-site circulation of money, including credit unions, but excluding check-cashing businesses.

Check Cashing Businesses. Establishments that, for compensation, engage in the business of cashing checks, warrants, drafts, money orders, or other commercial paper serving the same purpose. This classification also includes the business of deferred deposits, whereby the check casher refrains from depositing a personal check written by a customer until a specific date pursuant to a written agreement as provided in Civil Code 1789.33. Check Cashing Businesses do not include state or federally chartered banks, savings associations, credit unions, or industrial loan companies. They also do not include retail sellers engaged primarily in the business of selling consumer goods, such as consumables to retail buyers that cash checks or issue money order incidental to their main purpose or business.

Bed and Breakfast. A small lodging establishment that offers overnight accommodation and inclusive breakfast, where the host lives at the establishment.

Building Materials and Services. Retailing, wholesaling, or rental of building supplies or equipment. This classification includes lumber yards, tool and equipment sales or rental

establishments, and includes establishments devoted principally to taxable retail sales to individuals for their own use. This definition does not include Contractors' Yards and hardware stores less than ten thousand (10,000) square feet in floor area (see Retail Sales).

Business Services. Establishments that primarily provide goods and services to other businesses on a fee or contract basis, including printing and copying, blueprint services, advertising and mailing, equipment rental and leasing, office security, custodial services, photo finishing, and model building, but excluding vehicle rentals, bulk items, or print shops.

Cannabis Dispensary. See Section 301.23, and the definition for "Dispensary" and "Medical cannabis dispensary" located in Section 15-85 of the Porterville Municipal Code.

Cemetery. Establishments primarily engaged in operating sites or structures reserved for the interment of human or animal remains, including mausoleums, burial places, and memorial gardens.

Clubs and Lodges. Meeting, recreational, or social facilities of a private or nonprofit organization primarily for use by members or guests. This classification includes union halls and social clubs.

Colleges and Trade Schools, Public or Private. Institutions of higher education providing curricula of a general, religious or professional nature, typically granting recognized degrees, including conference centers and academic retreats associated with such institutions. This classification includes business and computer schools, management training, technical and trade schools, but excludes personal instructional services such as music lessons.

Construction and Material Yards. Storage of construction materials or equipment on a site other than a construction site.

Commercial Entertainment and Recreation. Provision of participant or spectator entertainment to the general public.

Cinema/Theaters. Facilities for indoor display of films, motion pictures, or dramatic, musical, or live performances. This classification may include incidental food and beverage services to patrons.

Downtown Entertainment. This classification includes facilities such as amusement and theme parks, amphitheaters, facilities with more than ten thousand (10,000) square feet in building area, including fitness centers, gymnasiums, handball, racquetball, ice or roller skating rinks, swimming or wave pools, miniature golf courses, bowling alleys, or archery or indoor shooting ranges. This classification may include restaurants, snack bars, and other incidental food and beverage services to patrons.

Large-scale. This classification includes large outdoor facilities such as amusement and theme parks, casinos, sports stadiums and arenas, racetracks, amphitheaters, drive-in theaters, driving ranges, golf courses, and facilities with fifty thousand (50,000) square feet or more in building area, including fitness centers, gymnasiums, handball, racquetball, or

large tennis club facilities; ice or roller skating rinks; swimming or wave pools; miniature golf courses; bowling alleys; archery or indoor shooting ranges; riding stables; campgrounds; stables, etc. This classification may include restaurants, snack bars, and other incidental food and beverage services to patrons.

Small-scale. This classification includes indoor facilities that occupy less than fifty thousand (50,000) square feet of building area, such as billiard parlors, card rooms, health clubs, fitness centers, gymnasiums, handball, racquetball; ice or roller skating rinks; swimming or wave pools; miniature golf courses, bowling alleys, dance halls, small tennis club facilities, poolrooms, indoor shooting ranges, and amusement arcades. This classification may include restaurants, snack bars, and other incidental food and beverage services to patrons.

Community Center. Any noncommercial facility established primarily for the benefit and service of the population of the community in which it is located. Examples include youth centers and senior centers.

Communication Facilities

Antenna and Transmission Towers. Broadcasting and other communication services accomplished through electronic or telephonic mechanisms, as well as structures designed to support one (1) or more reception/transmission systems. Examples of transmission towers include, but shall not be limited to, radio towers, television towers, telephone exchange/microwave relay towers, and cellular telephone transmission/personal communications systems towers.

Broadcasting Facility. Includes radio or television stations. Transmission towers must comply with Series 301.20 Telecommunication Facilities.

Call Centers. Includes customer support, direct sales, order processing, customer service, surveys, research, credit management, help desk, reservations, billing and accounting, sales and telemarketing. These services are either provided internally by the company for its own use or provided externally by an outsourcing agency which provide these services for several companies.

Recording Studio. Facility for sound recording which can consist of a studio or live room and control room, where sound is recorded and manipulated.

Correctional Facility. A building such as a jail or prison used for the confinement of persons held while awaiting trial or for the confinement of persons convicted of offenses.

Crop Cultivation. The cultivation of tree, vine, field, forage, and other plant crops intended to provide food or fibers. The classification excludes wholesale or retail nurseries. (see Nurseries and Garden Centers)

Crop Cultivation, Commercial. Results in quantities of crops greater than what could be reasonably consumed in personal use and/or crops that are produced with the intent to sell commercially.

Crop Cultivation, Non-commercial. Includes orchards and flower and vegetable gardens for personal use.

Cottage Food Operations. A private home food operation where low-risk food products are prepared or packaged for sale to consumers which complies with California Government Code Section 51035.

Cultural Institutions. Public or non-profit institutions engaged primarily in the display or preservation of objects of interest in the arts or sciences that are open to the public on a regular basis. This classification includes performing arts centers for theater, dance, and events; buildings of an educational, charitable or philanthropic nature; libraries; museums; historical sites; aquariums; art galleries; and zoos and botanical gardens.

Day Care Centers. Establishments providing non-medical care for persons on a less than 24-hour basis other than Family Day Care Home. This classification includes nursery schools, preschools, and day care facilities for children or adults, and any other day care facility licensed by the State of California.

Eating, Drinking, and Smoking Establishments. Businesses primarily engaged in serving prepared food, beverages, and/or tobacco for consumption on or off the premises.

Bars/Night Clubs/Lounges. Businesses serving beverages for consumption on the premises as a primary use and including on-sale service of alcohol including beer, wine, and mixed drinks. This classification includes establishments that provide dancing or entertainment.

Coffee Shops/Cafes. Establishments that serve nonalcoholic beverages, such as coffee, juices or sodas for consumption on or near the premises, or a specialty snack, such as ice cream, frozen yogurt, cookies or popcorn.

Restaurants. Establishments where meals are served to customers. This classification includes full-service restaurants with table service as well as establishments providing limited table service, such as fast-food restaurants, carryout sandwich shops, limited service pizza parlors and delivery shops, and delicatessen restaurants. This classification excludes establishments that provide dancing or entertainment (see Bars/Night Clubs/Lounges).

Tobacco Bars. Any business establishment which in whole or in part is dedicated to or includes as part of the business, the smoking of tobacco or other substances. This classification includes cigar lounges, hookah bars/cafes, tobacco cafes/bars, and smoking parlors.

Elderly and Long-term Care. Establishment that provide twenty-four (24) hour medical, convalescent or chronic care to individuals who, by reason of advanced age, chronic illness or infirmity, are unable to care for themselves, and is licensed as a skilled nursing facility by the, including but not limited to, rest homes and convalescent hospitals, but not Residential Care, Hospitals, or Clinics.

Family Day Care Home. A home that regularly provides care, protection, and supervision for fourteen (14) or fewer children, in the provider's own home, for periods of less than twenty-four (24) hours per day, while the parents or guardians are away, and is either a large family day care home or a small family day care home as follows.

Large. A home that provides family day care for seven (7) to fourteen (14) children, including children under the age of 10 years who reside at the home (Health and Safety Code Section 1596.78(b)). A large family day care home may provide care for more than 12 children and up to and including fourteen (14) children, if all of the following conditions are met (Health and Safety Code Section 1597.465):

1. At least one (1) child is enrolled in and attending kindergarten or elementary school and a second child is at least six (6) years of age.
2. No more than three (3) infants are cared for during any time when more than twelve (12) children are being cared for.
3. The licensee notifies a parent that the facility is caring for two (2) additional school-age children and that there may be up to thirteen (13) or fourteen (14) children in the home at one (1) time.
4. The licensee obtains the written consent of the property owner when the family day care home is operated on property that is leased or rented.

Small. A home that provides family day care for eight (8) or fewer children, including children under the age of ten (10) years who reside at the home (Health and Safety Code Section 1596.78(c)). A small family day care home may provide care for more than six (6) and up to eight (8) children, without an additional adult attendant, if all of the following conditions are met (Health and Safety Code Section 1597.44):

1. At least one (1) child is enrolled in and attending kindergarten or elementary school and a second child is at least six (6) years of age.
2. No more than two (2) infants are cared for during any time when more than six (6) children are cared for.
3. The licensee notifies each parent that the facility is caring for two (2) additional school-age children and that there may be up to seven (7) or eight (8) children in the home at one (1) time.
4. The licensee obtains the written consent of the property owner when the family day care home is operated on property that is leased or rented.

Food and Beverage Retail Sales. Retail sales of food and beverages for off-site preparation and consumption. Typical uses include food markets, convenient markets, groceries, liquor stores, and retail bakeries.

Freight/Truck Terminals and Warehouses. Facilities for local or worldwide freight, courier, local messenger, and postal services by truck or rail.

Funeral Parlors and Mortuaries. An establishment primarily engaged in the provision of services involving the care, preparation, or disposition of the human dead and conducting memorial services. Typical uses include a crematory, columbarium, mausoleum, or mortuary.

Government Offices. Administrative, clerical, or public contact offices of a government agency, including postal facilities, together with incidental storage and maintenance of vehicles. This classification excludes corporation yards, equipment service centers, and similar facilities that primarily provide maintenance and repair services and storage facilities for vehicles and equipment (See Utilities, Major).

Group Residential. Shared living quarters without separate kitchen or bathroom facilities for each room or unit, offered for rent for permanent or semi-transient residents on a weekly or longer basis. This classification includes rooming and boarding houses, dormitories, private residential clubs, and residential hotels intended for long-term occupancy (thirty (30) days or more) but excludes Hotels and Motels, Residential Care, Limited or General.

Handicraft/Custom Manufacturing. Manufacture of crafts, art, sculpture, stained glass, jewelry, apparel, and similar items using hand tools and small mechanical devices.

Heliports. Facilities for the takeoff and landing of helicopters, as a primary use. Heliports typically contain one (1) or more helipads and may have limited facilities such as fuel, lighting, a windsock, or even hangars.

Hotels and Motels. Establishments offering lodging to transient patrons. These establishments may provide additional services, such as conference and meeting rooms, restaurants, bars, or recreation facilities available to guests or to the general public. This classification includes motor lodges, motels, hostels, extended-stay hotels, and tourist courts, but does not include rooming houses, boarding houses, or private residential clubs.

Industry, General. Manufacturing of products from extracted or raw materials or recycled or secondary materials, or bulk storage and handling of such products and materials. This classification includes operations such as biomass energy conversion; food and beverage processing; textile mills; production apparel manufacturing; photographic processing plants; leather and allied product manufacturing; wood product manufacturing; paper manufacturing; chemical manufacturing; plastics and rubber products manufacturing; nonmetallic mineral product manufacturing; primary metal manufacturing; fabricated metal product manufacturing; and automotive, ship, aircraft, and heavy equipment manufacturing.

Industry, Limited. Establishments engaged in light industrial activities taking place primarily within enclosed buildings and producing minimal impacts on nearby properties. This classification includes operations such as manufacturing finished parts or products primarily from previously prepared materials; commercial laundries and dry cleaning plants; mobile home manufacturing; monument works; printing, engraving and publishing; computer and electronic product manufacturing; furniture and related product manufacturing; and industrial services.

Instructional Services. Establishments that offer specialized programs in personal growth and development such as music, vocal, fitness and dancing instruction.

Light Fleet-Based Services. Passenger transportation services, local delivery services, medical transport, and other businesses that rely on fleets of three (3) or more vehicles with rated capacities less than ten thousand (10,000) lbs. This classification includes parking, dispatching, and offices for taxicab and limousine operations, non-emergency medical transport, local messenger and document delivery services, home cleaning services, and similar businesses. This classification does not include towing operations (See Automobile/Vehicle Sales and Service, Towing and Impound) or taxi or delivery services with two (2) or fewer fleet vehicles on-site (See Business Services).

Maintenance and Repair Services. The on-site maintenance or repair of office machines, household appliances, furniture, and similar items. This classification excludes maintenance and repair of vehicles or boats (see Automotive Sales and Services) and personal apparel (See Personal Services).

Massage Establishments. Healing arts

Medical Facilities. These classifications exclude veterinary and animal hospitals (see Animal Care, Sales, and Services).

Hospitals. State-licensed facilities providing medical, surgical, psychiatric, or emergency medical services to sick or injured persons.

Medical Clinic. This classification includes facilities for multiple physicians, medical groups, inpatient or outpatient treatment, including substance-abuse programs as well as training, research, and administrative services for patients and employees.

Professional/Medical. This classification is for the single practitioner; to include offices where medical and dental services are provided by physicians, dentists, chiropractors, optometrists, and similar medical professionals, including, where affiliated with a medical practitioner, massage therapy.

Mining and Quarrying. The extraction of nonmetallic minerals, including dredging and sand and gravel pit operations. This classification includes surface mining operations.

Mobile Home Parks. Mobile housing in a planned development with common area amenities. Spaces for mobile homes may be rented, leased or owned through a subdivision, cooperative, condominium or other form of resident ownership.

Multi-Family Residential. Two (2) or more dwelling units on a lot. Types of multiple family dwellings include duplexes, garden apartments, senior housing developments, and multi-story apartment buildings.

Nurseries and Garden Centers. Establishments primarily engaged in retailing nursery and garden products—such as trees, shrubs, plants, seeds, bulbs, and sod— that are

predominantly grown elsewhere. These establishments may sell a limited amount of a product they grow themselves. Fertilizer and soil products are stored and sold in package form only. This classification includes wholesale and retail nurseries offering plants for sale.

Offices

General Offices. Offices of firms or organizations providing professional, executive, management, administrative or design services, such as accounting, architectural, computer software design, engineering, graphic design, interior design, investment, and legal offices, excluding banks, and savings and loan associations (see Banks and Financial Institutions).

Walk-In Clientele. Offices of firms or organizations providing services to the public that rely on heavy pedestrian activity and constant visits by clients, including real estate offices, landlord-tenant services, credit counseling, and financial tax services.

Park and Recreation Facilities, Public. Parks, playgrounds, fairgrounds, recreation facilities, trails, wildlife preserves, and related open spaces, all of which are noncommercial. This classification also includes playing fields, courts, gymnasiums, swimming pools, picnic facilities, tennis courts, and golf courses, botanical gardens, as well as related food concessions or community centers within the facilities.

Parking, Public or Private. Surface lots and structures for use of occupants, employees, or patrons on the subject site or offering parking to the public for a fee when such use is not incidental to another activity.

Personal Services. Provision of recurrently needed services of a personal nature. This classification includes barber and beauty shops, massage therapy, tattoo parlors, seamstresses, tailors, dry cleaning agents (excluding large-scale bulk cleaning plants), shoe repair shops, self-service laundries, photocopying and photo finishing services, and travel agencies.

Public Safety Facilities. Facilities providing public-safety and emergency services, including police and fire protection and emergency medical services, with incidental storage, and maintenance facilities.

Recycling Facility. A facility for receiving, temporarily storing, transferring and/or processing materials for recycling, reuse, or final disposal. A certified recycling facility or certified processor means a recycling facility certified by the California Beverage Container Recycling and Litter Reduction Act. A recycling facility does not include storage containers or processing activity located on the premises of a residential, commercial or manufacturing use and used solely for the recycling of material generated by that residential property, business or manufacturer. This use type does not include waste transfer facilities that operate as materials recovery, recycling, and solid waste transfer operations and are classified as utilities.

Reverse Vending Machine. An automated mechanical device that accepts, sorts and processes recyclable materials and issues a cash refund or a redeemable credit slip.

Recycling Collection Facility. A use that serves as a neighborhood drop off point for the temporary storage of recyclable materials but where the processing and sorting of such items is not conducted on-site.

Recycling Processing Facility. Facilities that receive, sort, store and/or process recyclable materials.

Religious Facilities. A facility for religious worship and incidental religious education and offices, including churches, temples, and other facilities used primarily for religious services or activities. This classification excludes private schools for primary or secondary education, as defined in this section, which also may be available for temporary use by the general public or civic, cultural, or educational organizations.

Residential Care Facilities, General. Facilities that require a State license or are State licensed and provide twenty-four (24) hour primarily non-medical care and supervision, or skilled nursing services, for more than six (6) persons in need of personal services, supervision, protection, or assistance for sustaining the activities of daily living. Living accommodations are shared living quarters with or without separate kitchen or bathroom facilities for each room or unit. This classification includes facilities that are operated for profit as well as those operated by public or not-for-profit institutions, including hospices, nursing homes, skilled nursing facilities, and convalescent facilities. This category excludes transitional housing, foster family homes, community service facilities, and any facilities supervised by or under contract with the State Department of Corrections.

Residential Care Facilities, Limited. Facilities that require a State license or are State licensed and provide twenty-four (24) hour non-medical care and supervision for six (6) or fewer persons in need of personal services, supervision, protection, or assistance for sustaining the activities of daily living, excluding the licensee or members of the licensee's family or persons employed as facility staff. Living accommodations are shared living quarters with or without separate kitchen or bathroom facilities for each room or unit. This classification includes facilities that are operated for profit as well as those operated by public or not-for-profit institutions, including hospices.

Retail Sales. The retail sale or rental of merchandise not specifically listed under another use classification. This classification includes department stores, clothing stores, furniture stores, pet supply stores, small hardware stores (with ten thousand (10,000) square feet or less of floor area), and businesses retailing the following goods: toys, hobby materials, handcrafted items, jewelry, cameras, photographic supplies and services (including portraiture and retail photo processing), medical supplies and equipment, pharmacies, electronic equipment, records, sporting goods, kitchen utensils, hardware, appliances, antiques, art galleries, art supplies and services, paint and wallpaper, carpeting and floor covering, office supplies, bicycles, video rental, and new automotive parts and accessories (excluding vehicle service and installation). Retail sales may be combined with other services such as office machine, computer, electronics, and similar small-item repairs. This classification includes secondhand and wholesale stores.

Swap Meet. Any indoor or outdoor place, in an approved location, or for an approved

activity where new or used goods or secondhand personal property is offered for sale or exchange to the general public by a multitude of individual licensed vendors, usually in compartmentalized spaces. The term swap meet is interchangeable with and applicable to: flea markets, auctions, open air markets, farmers markets, or other similarly named or labeled activities; but the term does not include the usual supermarket or department store retail operations.

Salvage and Wrecking. Storage and dismantling of vehicles and equipment for sale of parts, as well as their collection, storage, exchange or sale of goods including, but not limited to, any used building materials, used containers or steel drums, used tires, and similar or related articles or property.

Schools, Public or Private. Facilities for primary or secondary education, including public schools, charter schools, and private institutions having curricula comparable to that required in the public schools of the State of California.

Sexually Oriented Business. An establishment or concern that, as a regular and substantial course of conduct, offers, sells or distributes adult-oriented merchandise, or that offers to its patrons materials, products, merchandise, services, entertainment or performances that have sexual arousal, sexual gratification, and/or sexual stimulation as their dominant theme, or are characterized by an emphasis on specified sexual activities or specified anatomical areas and are not customarily open to the general public because they exclude minors by virtue of their age. This classification does not include any establishment offering professional services conducted, operated, or supervised by medical practitioners, physical therapists, nurses, chiropractors, psychologist, social workers, marriage and family counselors, osteopaths, and persons holding licenses or certificates under applicable State law or accreditation from recognized programs when performing functions pursuant to the respective license or certificate. Includes Sexually Oriented Businesses defined in Section 301.17(b), Definitions.

Single Family Dwelling. A dwelling unit designed for occupancy by one (1) household, and located on a separate lot from any other unit (except accessory living quarters, where permitted). This classification includes individual manufactured housing units installed on a foundation system pursuant to Section 18551 of the California Health and Safety Code.

Detached. A single-family dwelling unit that is not attached to any other dwelling unit.

Attached. A single-family dwelling unit, located singly on a lot, but attached through common vertical walls to one (1) or more dwellings on abutting lots. An attached single-family dwelling unit is sometimes referred to as a "townhome."

Single Room Occupancy. A residential facility where individual secure rooms, which may or may not include cooking facilities, are rented to one (1) or two (2) person households for a weekly or monthly period of time. This use type is distinct from a Hotel or Motel, which is a commercial use.

Social Service Facilities. Any noncommercial facility, such as homeless shelters, and emergency shelters, that may also provide meals, showers, and/or laundry facilities.

Specialized programs and services related to the needs of the residents may also be provided. This classification excludes transitional housing facilities that provide living accommodations for a longer term.

Transitional and Supportive Housing. As defined in Section 50675.2 and 50675.14, respectively, of the Health and Safety Code

Transportation Passenger Terminals. Facilities for passenger transportation operations. This classification includes rail stations, bus terminals, and scenic and sightseeing facilities, but does not include airports or heliports.

Utilities, Major. Generating plants, electric substations, solid waste collection, including transfer stations and materials recovery (recycling processing) facilities, solid waste treatment and disposal, water or wastewater treatment plants, and similar facilities of public agencies or public utilities.

Utilities, Minor. Facilities accessory to an established use involving only minor structures, such as electrical distribution lines, solar panels and underground water and sewer lines.

Utilities, Renewable Energy Facility. Facilities including solar, wind or other facility utilizing renewable energy.

Warehousing and Storage. Storage and distribution facilities without sales to the public on-site or direct public access.

Chemical, Mineral, and Explosives Storage. Storage of hazardous materials including but not limited to: bottled gas, chemicals, minerals and ores, petroleum or petroleum-based fuels, fireworks, and explosives.

Indoor Warehousing and Storage. The storage of general merchandise or refrigerated goods within enclosed buildings. Establishments in this classification provide facilities to store commercial goods, but do not sell the goods they handle. They may provide a range of services related to the distribution of goods, including labeling, breaking bulk, inventory control and management, order entry and fulfillment, price marking and ticketing, and transportation arrangement. However, they always provide warehousing or storage in addition to any logistics services.

Personal Storage. Facilities offering storage for individual use, including mini-warehouses and mini-storage.

Wholesaling and Distribution. Indoor storage and sale of goods to other firms for resale; storage of goods for transfer to retail outlets of the same firm; or storage and sale of materials and supplies used in production or operation, including janitorial and restaurant supplies. Wholesalers are primarily engaged in business-to-business sales, but may sell to individual consumers through mail or internet orders. They normally operate from a warehouse or office having little or no display of merchandise, and are not designed to solicit walk-in traffic.

SECTION 5: The City Council finds the approval of this ordinance is not subject to the California Environmental Quality Act ("CEQA") pursuant to CEQA Guidelines Sections 15060(c)(2) – the activity will not result in a direct or reasonably foreseeable indirect physical change in the environment, and 15060(c)(3) – the activity is not a project as defined in Section 15378 of the CEQA Guidelines, California Code of Regulations, Title 14, Chapter 3, because it has no potential for resulting in physical change to the environment, directly or indirectly. Alternatively, the City Council finds the approval of this ordinance is not a project under CEQA Regulation Section 15061(b)(3) because it has not potential for causing a significant effect on the environment.

SECTION 6: This ordinance shall be in full force and effect not sooner than thirty (30) days from and after the ordinance's publication and passage.

PASSED, APPROVED AND ADOPTED this 7th day of May, 2019.



Martha A. Flores, Mayor

ATTEST:
John D. Lollis, City Clerk

By: 

Patrice Hildreth, Chief Deputy City Clerk

STATE OF CALIFORNIA)
CITY OF PORTERVILLE) (SS)
COUNTY OF TULARE)

I, JOHN D. LOLLIS, the duly qualified City Clerk of the City of Porterville do hereby certify:

THAT the foregoing ordinance is a true and correct copy of Ordinance No. 1854, passed and adopted by the Council of the City of Porterville at a regular meeting held on the 7th day of May, 2019, that said ordinance has been duly published pursuant to law, and that by the terms and provisions of the Charter of the City of Porterville, said ordinance to become effective on the 6th day of June, 2019, at which time said ordinance is deemed to be in full force and effect.

THAT said ordinance was introduced by Council and the same was duly passed and adopted by the following vote:

COUNCIL:	PEÑALOZA	WARD	FLORES	STOWE	REYES
AYES:	X		X		X
NOES:				X	
ABSTAIN:					
ABSENT:		X			

JOHN D. LOLLIS, City Clerk



By: Fernando Gabriel-Moraga, Acting Deputy City Clerk

ORDINANCE NO. 1855

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ADDING ARTICLE XI TO CHAPTER 18 OF THE PORTERVILLE MUNICIPAL CODE, CONCERNING PERSONAL (NON-COMMERCIAL) CANNABIS ACTIVITIES INCLUDING DRYING, HARVESTING, PROCESSING, SMOKING, AND USE

WHEREAS, California legislation provides that the City of Porterville has the power to regulate certain cannabis activities, personal use and the drying, harvesting, processing and smoking of cannabis and cannabis products;

WHEREAS, Ordinance No. 1843 was adopted on November 7, 2017, providing for certain restrictions concerning such use, said regulations were set forth in Chapter 21 (Development Code) of the Porterville Municipal Code, and the City Attorney has recommended that personal cultivation regulations remain within Chapter 21, and the regulations concerning other activities not related to Development be moved to Chapter 18 of the Municipal Code;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PORTERVILLE HEREBY ORDAINS as follows:

SECTION 1. Article XI, Sections 18-120 through 18-125 are hereby added to Chapter 18 of the Porterville Municipal Code, as follows:

CHAPTER 18

ARTICLE XI – CANNABIS ACTIVITIES AND USE (NON-COMMERCIAL)

18-120: Purpose and Intent.

1. The City Council finds that restrictions on personal cannabis activities including drying, harvesting, processing, smoking and use are necessary for the preservation and protection of the public health, safety, and welfare for the City and its community. The City Council's prohibition of such activities is within the authority conferred upon the Council in its Charter and State law.

2. The purpose of this section is to restrict personal cannabis activities including drying, harvesting, processing, smoking, and use, consistent with permitted local regulation under State law.

3. To the extent not covered in this Article, personal, non-commercial cultivation of cannabis is regulated, consistent with applicable State law, pursuant to Section 301.23 of this Code.

18-121: Definitions.

For the purposes of this Article, "cannabis" and/or "marijuana," "cannabis product," "cannabis accessories," "cultivation," "distribution," "manufacture," "processing," and "transporting" have the same meanings as defined in Section 301.23 and/or Section 15-85 of this

Code.

18-122: Interpretation and Applicability.

1. Nothing in this Article is intended to, nor shall it be construed to, preclude a landlord from limiting or prohibiting cannabis cultivation, smoking or other related activities by tenants.
2. Nothing in this Article is intended to, nor shall it be construed to, burden any defense to criminal prosecution otherwise afforded by California law.
3. Nothing in this section is intended to, nor shall it be construed to, exempt any cannabis related activity from any and all applicable local and State construction, electrical, plumbing, land use or any other building or land use standards or permitting requirements.
4. Nothing in this section is intended to, nor shall it be construed to, make legal any cultivation, transportation, sale or other use of cannabis that is otherwise prohibited under California law.
5. All personal (non-commercial) cultivation activities are also subject to the provisions of Section 301.23 of this Code.
6. Commercial cannabis activities are restricted and regulated under Chapter 15, Article VII, of this Code.

18-123: Severability.

If any part of this Article is held to be invalid or inapplicable to any situation by a court of competent jurisdiction, such decision shall not affect the validity of the remaining sections of this Article.

18-124: Personal Activities/Use Restrictions and Prohibitions.

1. To the extent that the following activities are permitted by State law, nothing in this section shall prohibit a person twenty one (21) years of age or older from:
 - a. Possessing, processing, purchasing, transporting, obtaining or giving away to persons twenty one (21) years of age or older, without compensation whatsoever, not more than 28.5 grams of cannabis not in the form of concentrated cannabis;
 - b. Possessing, processing, purchasing, transporting, obtaining or giving away to person twenty one (21) years of age or older, without compensation whatsoever, up to eight grams (8 g) of cannabis in the form of concentrated cannabis;
 - c. Smoking or ingesting cannabis or cannabis products except as prohibited by California Health and Safety Code section 11362.3 or other State laws (and as restricted by this section);

d. Possessing, transporting, purchasing, obtaining, using, manufacturing, or giving away cannabis accessories to persons twenty one (21) years of age or older without compensation whatsoever; or

e. Engaging in the cultivation of six or fewer live cannabis plants, as set forth in Section 301.23 of this Code.

2. The use of gas products or other volatile solvent (e.g. CO₂, butane, etc.) for cannabis cultivation, processing or manufacture is prohibited.

3. No distribution of cannabis cultivated or processed for personal use shall be allowed other than as authorized by this Code, or required to be allowed by law.

4. A property owner shall not rent, lease or otherwise permit any person or business that engages in commercial cannabis activity to occupy real property in the City, unless the commercial activity is expressly permitted by this Code, and the activity at the location has been expressly authorized by the City in accordance with applicable City regulations and applicable State laws.

5. The smoking, ingesting, or use of cannabis or cannabis products is prohibited in all public places, in all locations where smoking tobacco is prohibited, and on all business properties or within business facilities within the jurisdictional limits of the City, unless otherwise expressly authorized by City regulation, or required to be allowed by State law.

18-125: Enforcement.

Any violation of this Article is subject to any and all penalties as prescribed in the Porterville Municipal Code, in addition to being subject to other remedies provided by law, including but not limited to, injunctive relief, nuisance abatement action, summary abatement of immediately hazardous conditions, and all other applicable fines, penalties and remedies. This section is adopted to address public health and safety issues, and as such, carries with it an express legislative intent to be interpreted strictly, enforced with an emphasis on public and community safety, and enforced rigorously in a manner such as to deter further violations. In any civil action brought pursuant to this Article, a court of competent jurisdiction may award reasonable attorneys' fees and costs to the prevailing party. Notwithstanding the penalties set forth in the Porterville Municipal Code, no provision of this Article authorizes a criminal prosecution, arrest, or penalty inconsistent with or prohibited by Health and Safety Code section 11362.71 et seq., or section 11362.1 et seq., as the same may be amended from time to time. In the event of any conflict between the penalties enumerated under this Code and any penalties set forth in State law, the maximum penalties allowable under State law shall govern.

SECTION 2. CEQA REVIEW. The City Council hereby finds that this ordinance is not subject to review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines Section 15061(b)(3) [there is no possibility the activity in question may have a significant affirmative effect on the environment]. In addition to the foregoing general exemption, the City Council further finds that the ordinance is categorically exempt from review under CEQA under the Class 8 categorical exemption [regulatory activity to assure the protection of the environment]. The City Manager is hereby directed to ensure that a *Notice of Exemption* is filed pursuant to CEQA Guidelines section 15062 [14 C.C.R. § 15062].

SECTION 3. NO LIABILITY. The provisions of this ordinance shall not in any way be construed as imposing any duty of care, liability or responsibility for damage to person or property upon the City of Porterville, or any official, employee or agent thereof.

SECTION 4. SEVERABILITY. If any section, subsection, subdivision, paragraph, sentence, clause or phrase of this ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases of this ordinance, or its application to any other person or circumstance. The City Council of the City of Porterville hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses or phrases hereof be declared invalid or unenforceable.

SECTION 5. CONSTRUCTION. The City Council intends this ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this ordinance shall be construed in light of that intent. To the extent the provisions of the Porterville Municipal Code as amended by this ordinance are substantially the same as provisions in the Porterville Municipal Code existing prior to the effectiveness of this ordinance, then those amended provisions shall be construed as continuations of the earlier provisions and not as new enactments.

SECTION 6. EFFECTIVE DATE. The foregoing ordinance shall take effect thirty (30) days from the date of the passage hereof. Prior to the expiration of fifteen (15) days from the enactment hereof a certified copy of this ordinance shall be posted in the office of the City Clerk pursuant to Government Code section 36933(c)(1) and a summary shall be published once in the Porterville Recorder, a newspaper printed and published in the City of Porterville, State of California, together with the names of the Council members voting for and against the same.

PASSED, APPROVED AND ADOPTED this 16th day of April, 2019.



Martha A. Flores, Mayor

ATTEST:

John D. Lollis, City Clerk

By: 

Patrice Hildreth, Chief Deputy City Clerk

STATE OF CALIFORNIA)
CITY OF PORTERVILLE) (SS)
COUNTY OF TULARE)

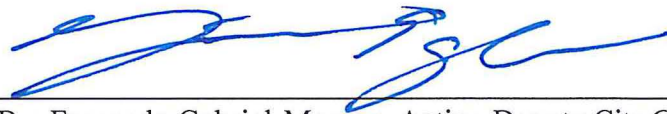
I, JOHN D. LOLLIS, the duly qualified City Clerk of the City of Porterville do hereby certify:

THAT the foregoing ordinance is a true and correct copy of Ordinance No. 1855, passed and adopted by the Council of the City of Porterville at a regular meeting held on the 7th day of May, 2019, that said ordinance has been duly published pursuant to law, and that by the terms and provisions of the Charter of the City of Porterville, said ordinance to become effective on the 6th day of June, 2019, at which time said ordinance is deemed to be in full force and effect.

THAT said ordinance was introduced by Council and the same was duly passed and adopted by the following vote:

COUNCIL:	PEÑALOZA	WARD	FLORES	STOWE	REYES
AYES:	X		X		X
NOES:				X	
ABSTAIN:					
ABSENT:		X			

JOHN D. LOLLIS, City Clerk



By: Fernando Gabriel-Moraga, Acting Deputy City Clerk

RECORDING REQUESTED BY

City of Porterville

AND WHEN RECORDED MAIL TO:

City of Porterville

291 N. Main Street

Porterville, CA 93257

Attention: City Manager

=====

SPACE ABOVE THIS LINE FOR RECORDER'S USE
Recording Fee Exempt per Government Code §6103

**COMMERCIAL CANNABIS DISPENSARY DEVELOPMENT
AGREEMENT BETWEEN THE CITY OF PORTERVILLE AND
[NAME OF OPERATOR/DEVELOPER], [TYPE OF LEGAL ENTITY]**

THIS DEVELOPMENT AGREEMENT (this "Agreement") is made and entered into this _____ day of _____, 2019, (the "Execution Date"), by and between the **CITY OF PORTERVILLE**, a California municipal corporation ("City") and **[NAME OF OPERATOR]**, [Legal Entity] XXX ("Owner"). City and Owner are sometimes referenced together herein as the "Parties." In instances when a provision hereof applies to each of the Parties individually, either may be referenced as a "Party." The Parties hereby jointly render the following statement as to the background facts and circumstances underlying this Agreement:

Comment [J1]: Include all parties who have a legal or equitable interest in the property or the development

RECITALS

WHEREAS, the State of California enacted California Government Code Sections 65864 et seq. ("Development Agreement Statutes") to authorize municipalities to enter into development agreements with those having legal or equitable interests in real property to strengthen the public planning process, encourage private participation in comprehensive planning, and reduce the economic risk of development in connection with the development of real property within their jurisdiction;

WHEREAS, the purpose of the Development Agreement Statutes is to authorize municipalities, in their discretion, to establish certain development rights in real property for a period of years regardless of intervening changes in land use regulations, to vest certain rights in the Owner, and to meet certain public purposes of the local government;

WHEREAS, the City has adopted Municipal Code Article 609, establishing the procedures and requirements for the consideration of development agreements with the City;

WHEREAS, Owner(S) currently holds legal or equitable interest in real property

considered in this Agreement which has a development area approximately _____ square feet located at _____, City of Porterville, State of California (the "Site"). The Site includes Assessor's Parcel Number: XXXX-XXX-XXX, and is more fully described in Exhibit A and shown on the map in Exhibit B. Both exhibits being attached hereto and incorporated herein by this reference;

WHEREAS, presently, Owner has a leased interest in a portion of the Site [or property ownership] for the purpose of commercial cannabis related activities, specifically the development and operation of a commercial cannabis dispensary. Such Commercial Cannabis facilities shall operate in accordance with all applicable provisions of Business and Professions Code §§26000-26231.2; California Health and Safety Code Safety Code §§ 11357-11362.9 and 11362.7- 11362.85; Revenue and Taxation Code §§ 34010-34021.5; Vehicle Code §§ 2429.7 and 23222; Water Code §§ 1831, 1847, and 13276; the City of Porterville Municipal Code as it applies to such facilities (collectively the "Applicable Cannabis Laws"), and all Resolutions and procedures adopted or authorized by the City in accordance with those laws and regulations. Prior to operating a commercial dispensary Owner shall be required to obtain a Commercial Cannabis Permit from the City, and all related permits and licenses prior to the operation of same, pursuant to Chapter 15, Article VII and Chapter 21, Article 609 of the Porterville Municipal Code.

Comment [J2]: Modify re interest in property to describe each owner's property interest. Note: the terms of the agreement will be modified depending on the particular property interests held, and the arrangement between the property owner and any tenant. Property owners may be required to be parties to the agreement, or consent to the agreement, depending on the circumstances.

WHEREAS, ultimately, Owner intends upon obtaining a California State License issued, pursuant to Applicable Cannabis Laws, to operate a commercial storefront dispensary at the Site. The definition of "Owner" hereunder shall mean and refer to the fee simple owner and any authorized tenant of the Site to the extent such party holds or is covered by a Commercial Cannabis Permit.

Comment [J3]: See comment above.

WHEREAS, on _____, 2019 Owner applied to this City for a Commercial Cannabis Permit (*hereinafter* "CCP") to conduct Commercial Cannabis Activities. No such activities are allowed or authorized without a Development Agreement, a Commercial Cannabis Permit, and all requirements pursuant to the above-referenced City regulations.

WHEREAS, Owner presently intends to develop and open a commercial storefront dispensary on the Site consistent with the Applicable Cannabis Laws and Project Approvals (known as the "Project").

WHEREAS, the Project will consist of: one commercial building totaling approximately _____ square feet. The complex will employ approximately _____ employees per shift. The business will utilize the following areas:

[SAMPLE LANGUAGE]: General Business/Store and Offices – The facility will be open from ____ a.m. to ____ p.m., Monday through Friday, with _____ employees per shift.

[SAMPLE LANGUAGE]: Parking/Loading/Access: The proposed project provides _____ parking spaces, including _____ accessible van space(s). Loading will take place on-site within an existing covered loading space accessed on the east side of the structure. In no event will loading occur within the public right-of-way. Vehicular access to the site will be through an existing driveway on _____. Within the site, access to the structures will be through the secured front office entrance. Pedestrian walkways within the structure and on the _____ and _____ sides of the structure allow pedestrian circulation throughout the site. The project complies with the CALGreen Tier 1 by incorporating stormwater pollution prevention measures, installing energy- and water-efficient equipment, and planting native and drought-tolerant landscaping at the front of the property.

[SAMPLE LANGUAGE]: Security: The project will secure the facility against unauthorized entry by installing security lights on the exterior of the building to illuminate the side areas and parking area, installing commercial-grade locks, installing an alarm and video surveillance system, establishing procedures for identifying authorized persons, establish inventory controls, and install a secure surveillance vault to maintain the integrity of records. Further, the project shall have a separately secured, limited access area, where all persons must be at least 21 years of age and have a business reason for entering the area; non-employees with authorized access must be escorted, and an access log must be maintained. In addition, the applicant will engage a licensed security company to provide an operational security plan in compliance with applicable City Regulations and policies.

WHEREAS, On _____, 2019, Ordinance No. _____ came into effect authorizing specified Commercial Cannabis Activities within the City of Porterville, in strict compliance with related State of California laws, regulations and policies, under specified conditions and provisions;

WHEREAS, all procedures of the California Environmental Quality Act ("CEQA"), California Public Resources Code §21000 et seq., and the CEQA guidelines, title 14 of the California Code of Regulations, chapter 3, §15000 et seq. have been satisfied;

WHEREAS, the City has given public notice of its intention to adopt this Agreement and has conducted public hearings thereon pursuant to California Government Code §65867. The City has found that the provisions of this Agreement and its purposes are consistent with the objectives, policies, general land uses and programs specified in City's General Plan, zoning code and municipal ordinances;

WHEREAS, the City, in entering into this Agreement, acknowledges that certain City obligations hereby assumed shall survive beyond the terms of the present Council members, that this Agreement will serve to bind City and future Councils to the obligations hereby undertaken, and that this Agreement shall limit the future exercise of certain governmental and proprietary powers of City. By approving this Agreement, the Council has elected to exercise certain governmental powers at the time of

entering into this Agreement rather than defer its actions to some undetermined future date. The terms and conditions of this Agreement have undergone extensive review by City and the Council and have been found to be fair, just and reasonable. City has concluded that the pursuit of the Project will serve the best interests of its citizens and that the public health, safety and welfare are best served by entering into this obligation. Owner(s) has represented to City that it would not consider or engage in the Project absent City approving this Agreement;

WHEREAS, the City agrees that Owner's land use entitlements for the Project shall vest for the term of this Agreement as described below;

WHEREAS, After conducting a duly noticed hearing on _____, in conjunction with the City's applicable ordinances and resolutions, the Zoning Administrator of the City reviewed, considered and recommended environmental clearance and recommended approval of the execution of this Agreement to the City Council. The Zoning Administrator found the Project: consistent with the objectives, policies, general land uses and programs specified in the general plan; compatible with the uses authorized in the City's zoning laws; in conformity with the public necessity, public convenience, general welfare and good land use practices; will not be detrimental to the health, safety and general welfare of the city; will not adversely affect the orderly development of property or the preservation of property values; and will have a positive fiscal impact on the City;

WHEREAS, after conducting a duly noticed hearing on _____, in conjunction with the City's applicable ordinances and resolutions, and after independent review and consideration, the City Council approved the execution of this Agreement. The City Council found the Project: consistent with the objectives, policies, general land uses and programs specified in the general plan; compatible with the uses authorized in the City's zoning laws; in conformity with good land use practices; will not be detrimental to the health, safety and general welfare of the City; and is in the best interest of the City of Porterville and its residents.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, and other good and valuable consideration, the receipt and legal sufficiency of which are hereby acknowledged, the Parties do hereby agree as follows:

1. Government Code and Municipal Code Required Elements

a. Description of Property. Land situated in the City of Porterville, County of Tulare, State of California; whose street address is _____, City of Porterville, State of California (the "Site"). The Site includes Assessor's Parcel Number: XXXX-XXX-XXX.

b. Owner and Other Person with Legal or Equitable Interest.

Owner: **[NAME OF OPERATOR]**,

Nature of Interest: **[SAMPLE: Lease for 10 years with Option to Renew for an additional 10 years]**.

If Owner is not the fee simple owner of the Site, check box below:

[x] Owner represents and warrants that the property owner has consented in writing to the execution and recordation of this Agreement against the Site. See attached Landlord Consent agreement, incorporated herein by this reference (Exhibit _____).

Comment [J4]: See above comments.

c. Permitted Uses. The subject property may be used for [DESCRIPTION: commercial storefront cannabis dispensary] as presently authorized under City Ordinance No. _____, including Porterville Municipal Code §§ 15-85 through 15-105 and Sections 609.01 through 609.11, and for any other use as authorized under applicable provisions of the Porterville Municipal Code.

d. Zoning. Owner shall guarantee that such activities outlined in Owner's Commercial Cannabis Permit Application ("Application") conducted pursuant to this Agreement and under the Commercial Cannabis Permit shall comply with the City's municipal code, including the above-referenced zoning regulations and any and all development and construction requirements contained therein. Owner shall not conduct any business under this Agreement or under the Commercial Cannabis Permit without having obtained all necessary permits, licenses, and approvals from the City and State of California.

e. Reservation or Dedication of Land for Public Purposes. If needed, sufficient roadway, sidewalk, and utility easements shall be reserved or dedicated to City for such purposes.

2. Term

This Agreement shall commence on the Effective Date and it shall end _____ years from the starting date, and it shall remain in full force and effect so long as the subject property is used for a commercial cannabis facility as authorized under City Ordinance Nos. _____; provided, however, such use is not abandoned for a period of more than ninety (90) days.

This Agreement [SHALL] be extended for one (1) additional _____ year period following the expiration of the initial _____ year term upon the occurrence of all of the following:

(i) The Owner shall give written notice to the City no later than one hundred twenty (120) days before the expiration of the initial _____ year term that the Owner desires to extend this Agreement for an additional _____ year period;

(ii) The Owner shows adequate evidence to the City that it has a legal and/or equitable interest in the Property and/or will have such interests for the duration of the extended term of the Agreement;

(iii) The Owner shall deposit all fees required by the City necessary for processing the extension request and drafting necessary documentation;

(iv) The Owner shall be in compliance with all provisions of Ordinance Nos. _____, and all terms imposed by the City-issued Commercial Cannabis Permit; and

(v) The Owner shall not be in default of any provision of any agreement between City and Owner relative to the development of the Property or of any condition of approval imposed upon any entitlement granted by the City relative to the development of the Property for which Owner has been given a written notice to cure by the City and for which Owner has not cured or commenced to cure such default within thirty (30) days, if and as provided by such agreement or condition of approval.

Comment [J5]: Extension language is optional and can be made permissive instead of automatic

3. Owner's Site and Floor Plans

a Owner's site plan and floor plan for the facility are attached hereto as Exhibit _____ and incorporated into the Application.

b A preliminary landscape plan shall be prepared and reviewed and approved by the City Manager, the Community Development Director, the Engineering and Project Management Director, and/or their respective designees. A final landscape plan shall be prepared and submitted in conjunction with building and site improvement plans prior to issuance of building permits for construction activities.

c An exterior signage plan shall be prepared and reviewed and approved by the appropriate City staff in accordance with the procedures and requirements of the Porterville Municipal Code.

4. Facility Operations

a Standard Operating Procedures. Owner is a lawful entity that will only transact business with other legally permitted persons and entities under the California Cannabis Laws. Prior to operating a dispensary, Owner shall be required to obtain a Commercial Cannabis Permit, and all requirements pursuant to said permit, from the City pursuant to City Ordinance No. _____. Further, and notwithstanding anything to the contrary, Owner may operate such cannabis-related activities as permitted in accordance with California state laws and

regulations, as may be amended, including without limitation, as long as such activity is not inconsistent with Ordinance No. _____, this Development Agreement, the City-issued Commercial Cannabis Permit, and the Porterville Municipal Code.

During the term of its CCP and the term of this Agreement, Owner shall lawfully operate in accordance with all state and local laws. Owner shall employ exemplary operating procedures to comply with state and local laws. Owner's facility shall employ safety and security measures for the safety and security of its employees, visitors, vendors, and neighboring communities and properties.

Owner shall fully comply with the minimum Operating Standards regulating the proposed Commercial Cannabis Activity as set forth in Article Chapter 15, Article 15, Sections 15-85 through 15-105 of the Porterville Municipal Code, and those required by Ordinance No. _____, and such more specific operational requirements set forth in Exhibit ____, "Operational and Business Standards", attached hereto.

b. Security Plan. Owner shall secure approval of its proposed security plan by the City prior to operating. The security plan shall include, at a minimum and as appropriate, provisions for video surveillance, perimeter fencing and/or security, protection of the building(s) from vehicle intrusion, cash handling procedures, internal accounting controls, product handling and storage procedures, and a professionally monitored alarm system. Equipment and systems used for video surveillance and building alarms shall be approved by City. See Porterville Municipal Code Section 15-87, subsections (N) and (O), and _____ for minimum security requirements.

Comment [J6]: additional surveillance/alarm requirements can be added as an exhibit referenced here if needed

Video surveillance shall include, at a minimum, all site and facility entrances and access points, all spaces accessible by the public, all secured areas of the facility with restricted access, all interior spaces and rooms where cannabis products are handled, shipping and receiving areas, cash storage areas, and other areas necessary to protect the safety of employees and the public and to ensure cannabis products are received, handled, stored, and sold in compliance with applicable state and local laws and regulations. The video surveillance system shall be web-based with direct access provided to the City of Porterville Police Department upon request.

The security system shall also include sensors to detect entry and exit from all secure areas, panic buttons in appropriate locations, and a professionally monitored alarm system with glass breakage sensors and motion detectors.

Owner shall employ properly trained and licensed third-party security personnel to protect the welfare and safety of Owner and employees, and to ensure public safety to the neighboring community. Owner shall use security personnel during all hours of business operations. Security personnel may be armed so long as

proper licensing and insurance requirements are followed and met by the third-party operator providing such security services. See Exhibit _____ for the additional minimum security requirements.

Further, the project shall have a separately secured, limited access area, where all persons must be at least 21 years of age and have a business reason for entering the area; non-employees with authorized access must be escorted, and an access log must be maintained. The (nonlimited access) reception area shall be operated _____.

c. Fire Department Approval. Owner shall not operate any facility, and no permit, license, or other approval issued by City shall be valid unless and until the Porterville Fire Department has approved Owner's site plan, floor plan, safety plan, and any other plans that require its approval.

d. Possession of Firearms. Except for licensed and bonded security personnel, no person employed or contracted by Owner shall be in possession of any firearm while on the premises or location without having first obtained a license from the appropriate state or local agency authorizing the person to be in possession of such firearm. Every such person in possession of a firearm while on the premises or location must provide the City Manager and the Porterville Police Department, ten (10) days before bringing the firearm onto the premises, with the following:

- 1) A copy of the license issued to the person by the appropriate state or local agency authorizing him or her to possess such firearm;
- 2) A copy of his or her law enforcement identification (if he or she is employed by a law enforcement agency);
- 3) A copy of his or her California driver's license or California identification card; and
- 4) Any other information reasonably required by the Porterville Police Department to show that the individual is in compliance with the provisions of all laws regarding the possession and use of a firearm.

e. Identification Display. Each owner, manager, employee, and individual member engaged in the operation of the business shall at all times while engaged in the duties of his or her position wear in plain sight, on his or her person and at chest level, a valid identification badge, issued by Owner.

f. Employee Background Checks and Procedures for Inventory Control to Prevent Non-Medical Diversion of Medical Cannabis. Only employees who receive clearance from [] shall be permitted to enter Owner's facility. Each

employee will have to meet a criminal background investigation as required by the City, which at minimum shall include a LiveScan criminal history check, which City shall make a good faith effort to facilitate within a reasonable time following the issuance of a Commercial Cannabis Permit(s) or license(s) to Owner.

Owner shall take all necessary and reasonable steps to prevent the sale or distribution of any of its cannabis products to minors; prevent revenue from the sale or distribution of its cannabis and/or infused products from going to criminal enterprises, gangs and cartels; prevent the diversion of cannabis from California to any other state; prevent state-authorized cannabis activity from being used as a cover or pretext for the trafficking of other illegal drugs or other illegal activity; prevent violence and the use of firearms in the sale of cannabis; discourage and educate against drugged driving and the exacerbation of other adverse public health consequences associated with cannabis use; disavow growing cannabis on public lands that creates attendant public safety and environmental dangers posed by such illegal uses; and discourage and educate against cannabis possession or use on federal property.

g. Point of Sale Tracking System. Owner shall maintain an inventory control and reporting system that accurately documents the cannabis products. The inventory control and reporting system shall comply with the track and trace program required by California Cannabis Law and regulations issued thereunder.

Owner shall employ an electronic point of donation/sale system approved by the State of California for all point of donations/sales tracking from seed or inception to product distribution to other licensed commercial cannabis facilities. Such approved system shall track all commercial cannabis products, each edible, harvested flower, and/or manufactured concentrate, as well as gross sales (by weight and sale). Owner's point of sale system shall have the capacity to produce historical transactional data in accordance with City's requirements.

h. Record Keeping. Owner shall maintain records for all commercial cannabis and/or infused products. Owner shall comply with all record-keeping responsibilities that are set forth in Ordinance No. 1853, Section 15-87(O) of the Porterville Municipal Code, including complete and up-to-date records regarding the amount of commercial cannabis delivered and sold, and applicable State law.

i. Commercial cannabis sales shall not create offensive odors; create excessive dust, heat, noise, smoke, traffic, or other impacts that are disturbing to people of normal sensitivity residing or present on adjacent or nearby property or areas open to the public; or be hazardous due to use or storage of materials, processes, products, or wastes.

Owner shall store its commercial cannabis and/or commercial cannabis products in a locked safe room with T-card identification access for management only. The safe room shall be constructed of fire-rate walls with numerous cameras installed

to view all entries and exits from the safe room, as well as all other activities performed within Owner's facility. Owner will not conduct outdoor operations except as related to lawful delivery and transportation of commercial cannabis and infused products. Owner will not store commercial cannabis or related products in its delivery vehicle outside normal operating hours of the facility.

Any excess or contaminated product will be securely stored on-site until it is properly disposed. Disposal may include composting, incineration, land-fill disposal through the local waste management hauler, or other disposal methodology in accordance with state and county health and safety codes and regulations.

j. Odor Control. All structures shall have ventilation and filtration systems installed that prevent commercial cannabis plant odors from exiting the interior of the structure. The ventilation and filtration system shall be approved by the Building Official and installed prior to commencing sales within the allowable structure. Facility air intake, exhaust, and recirculating system shall be of industrial grade. Activated charcoal, recirculating, and closed loop aeration systems will be utilized as necessary for effective odor control and management. See minimum requirements, pursuant to Exhibit _____ to this Agreement.

k. Description of Banking Plan. Owner shall seek to open a bank account under the name of Owner or its associated management company to provide transparency for funds received, operational costs, including payroll, tax payments to the state and federal governments. Should a bank account not be forthcoming, Owner shall implement other industry standard banking and/or other industry standard transactional mechanisms.

l. Transportation and Delivery Plan. Owner shall comply with all state and local law regarding transportation and delivery, including the rules governing delivery service. Owner shall retain a list of names and cellular contact numbers for all employees engaged in transportation and/or delivery of commercial cannabis products and provide it to the applicable oversight authority, keeping the list current and up to date.

Owner will keep complete and up-to-date records documenting each delivery, including the amount/product(s) provided, the date and time provided, the name of the employee making the delivery, the name and address of the individual corporation to whom delivery is made, and the amount of the related sale/monetary transaction.

5. **Community Relations, Employment, and Wages**

a. Public Outreach and Education Program. The Owner shall coordinate and cooperate with City and any other Owners of commercial cannabis dispensaries

Comment [J7]: The Committee and staff is requesting that the City Council review and provide direction concerning the programs described below.

located within City of Porterville in the establishment and implementation of appropriate public outreach and education programs, including but not limited to those described in Attachment _____. The public outreach and education programs shall be approved by City.

b. Community Benefits Program. The Owner shall coordinate and cooperate with the City and other Owners of commercial cannabis facilities located within the City of Porterville in the establishment, implementation, and funding of a community benefits program which could include such items as senior citizen programs, City beautification efforts, funding for enforcement against illegal cannabis operations, public safety, housing programs, economic development, infrastructure, capital improvements, including expansion and/or improvement to existing facilities or other physical improvements that provide a benefit to the community, support of holiday and special community events, and support of local public service, public safety, and special social and community organizations. This community benefits program may be implemented by the City. The City may invite public participation in the decision-making process for identifying and prioritizing community needs and benefits, and identifying appropriate projects to be funded by the entity implementing this community benefits program. All projects under the community benefits program must be approved by the City.

Owner agrees, as a business expense, to pay the City the yearly sum of \$_____. Unless initialed below by the City Manager, this yearly sum shall be deposited **in full** into a dedicated account set up by the City in order to fund and implement a City-approved community benefits program.

_____ If initialed here by the City Manager, Owner has been approved for the following payment plan: Within thirty days of the Effective Date of this Agreement, the Owner shall deposit into the City's dedicated account, in good funds, twenty percent (20%) of the yearly sum of \$_____ [initial payment calculated at \$_____] and shall pay the balance thereof over a period of ___ (XX) months payable in equal monthly installments of \$_____ per month. Each monthly payment shall be due and payable on the 1st day of each month and shall be deemed late on the 5th day of the month. The amount and schedule of payments may only be modified by the written consent of the City Manager at his sole and complete discretion.

Thereafter, on the anniversary date of the Effective Date of this Agreement, and yearly through-out the entire term of this Agreement and any extension thereof, Owner shall pay to the City, as a business expense, the yearly sum of \$_____ payable in the same manner as set forth above.

c. Designation of Community Relations Liaison. At the time of this Agreement, Owner's day-to-day operations manager, _____, will be responsible for community inquiries and complaints and on-site management during normal business hours.

d. Interface with City of Porterville Police / Inspections. Owner's day-to-day operations manager, and/or the Owner's Community Relations Liaison, _____, will interface with the Porterville Police Department's assigned designee to ensure its operation complies with state and local laws and regulations. The City Manager, or designee, or the Porterville Police Department's assigned designee acting at the City Manager's request and per his specific and limiting instructions, shall have the right to enter all Premises from time to time unannounced during hours of operation for the purpose of making reasonable inspections to observe and enforce compliance with this Agreement and state and local laws and regulations, without the requirement of a search warrant, subpoena, or court order, and subject to appropriate cost recovery fees set forth in this Agreement, or adopted by the City. See, Ordinance No. _____, as well as Porterville Municipal Code Section 15-87, 15-96.

Owner's Initials

e. Local Recruitment, Hiring, and Training Programs. Owner is committed to making a good-faith effort to recruit, hire, and train City residents for employment by Owner. A good-faith effort means Owner shall take the following or similar actions to recruit and employ City residents: 1) Contact local recruitment sources to identify qualified individuals who are City residents, 2) Advertise for qualified City residents in trade papers and newspapers of general circulation in the area, and 3) Develop a written plan to recruit and employ City residents as a part of the its workforce. At a minimum, the Owner commits to a local annual hiring goal of _____% of total operational jobs for permanent and apprentice employees. This goal shall apply horizontally, across all departments and managerial positions. The Owner shall not be penalized or deemed in default under this Agreement if it is unable to achieve such a goal. "Local" is defined as within a 3-mile radius of the boundaries of the City's boundaries. The Owner shall contact and work with a job referral agency assigned by the City Manager to implement a local hiring policy for permanent and apprentice employees. The purpose of the hiring policy is to facilitate the training and employment of local and disadvantaged job applicants for jobs within the City's jurisdiction, and 3-mile radius of City boundaries. Applicants for jobs shall not be disqualified from hiring solely on the basis of an arrest or conviction for a Cannabis-related crime that occurred prior to November 8, 2016, and could have been prosecuted as a misdemeanor or citation under current California law. The Owner shall report on compliance with the local hiring goals as part of its annual audit report.

Comment [J8]: This is an example of a City Council-determined Community Benefits Program. The Committee and staff are requesting input and direction from the City Council, including RFP-related requirements as to this Program.

Comment [J9]: Staff requests that the City Council look at whether, and to what extent the City wants to require this. This requirement should also be tied to any representation the applicant made in its RFP response.

6. Indemnification Agreement by each Cannabis Permittee

Pursuant to Ordinance No. 1853, and including Porterville Municipal Code Section 15-87(T), to the fullest extent permitted by local, state and/or federal law, the City of Porterville shall not assume any liability whatsoever with respect to having issued a Commercial Cannabis Permit or executed a Development Agreement

pursuant Ordinance No. 1853, or otherwise approving the operation of any commercial cannabis business. As a condition to the approval of any Commercial Cannabis Permit and to the execution and approval of a Development Agreement, the Owner shall be required to meet all the conditions enumerated in Porterville Municipal Code Sections 15-85 through 15-105, before this Agreement may be executed, and before they can receive the Commercial Cannabis Permit. The City Manager shall require each Commercial Cannabis Permittee to execute a separate Indemnification Agreement prepared by the City that fully indemnifies the City for all liabilities associated with the Commercial Cannabis Permit, the Commercial Cannabis Permittee's Commercial Cannabis Activities, and any action taken by the Cannabis Permittee. The Indemnification Agreement shall include the defense of the City and reimbursement of all fees, costs and expenses incurred by the City related to any action arising from this Agreement. Attached as Exhibit____, and incorporated herein by this reference, is true and correct copy of a fully executed Indemnification Agreement.

7. Fees, Costs, and Future Taxes

a. Permit Fees. Owner agrees to pay all permit fees and charges referenced in Ordinance No. 1853, all amounts adopted by City Council and as required by applicable laws and regulations, and any fees set forth in this Agreement. Permit application, processing, and renewal fees shall be due and payable at the time application is made or renewed.

b. Operating Fees.

As used herein, “**Premises**” means the designated structure or structures and land specified in the application that is owned, leased, or otherwise held under the control of the Commercial Cannabis Permittee applicant or Commercial Cannabis Permittee where the Commercial Cannabis Activity will be or is conducted.

As used herein, “**Commercial Cannabis Activities**” means all permitted activities related to operating a commercial cannabis storefront dispensary.

As used herein, “**Gross receipts**” shall mean the total amount actually received or receivable in the course of business in a calendar year or calendar month from sales or the performance of acts or services for which charge is made or credit allowed. “**Gross receipts**” include, without limitation, all receipts, cash, credit, property received in lieu of cash, and any other valuable consideration taken in exchange for goods, services or other valuable consideration.

Owner agrees to pay City, in order to enable City to promote, protect, and enhance the health, safety, and welfare of the community and its residents and its quality of life, a monthly operating fee(s) of ____% of **Gross Receipts** for operations from the Cannabis Storefront Retail Permit on the **Premises**, including

(deliveries.

Operating fees shall begin to accrue in the month of the Effective Date of this Agreement. The operating fee shall be due and payable on the 10th day of each calendar month through-out the term of this Agreement. Failure to pay the fee within thirty (30) days after the due date shall result in a penalty for nonpayment in a sum equal to 25% of the total amount due. Additional penalties will be assessed in the following manner: 10% shall be added to the first day of each calendar month following the month of the imposition of the 25% penalty if the fees remain unpaid in whole or in part – up to a maximum of 100% of the fee payable on the due date.)

c. Owner understands and agrees that the fees set forth above shall be paid in a manner and in accordance with a payment schedule set or modified by City.

8. Additional Owner Obligations

a. Reporting of Gross Receipts from Operations

1) Quarterly Receipts. No later than **[For example, July 15, 2020]**, and every three months thereafter (Owner shall deliver to City a report (the “Quarterly Report”) showing (i) Gross Receipts from operations for the immediate prior three months received by Owner, and a cumulative total of all amounts of Gross Receipts from Operations received by Owner for the calendar year, (ii) a calculation of the quarterly payment due to City for the prior three months, and (iii) a calculation of the cumulative total of all quarterly payments for the calendar year.

2) Statement of Receipts/Annual Audit. The Owner shall keep complete, accurate and appropriate books and records of all receipts from operations in accordance with generally accepted accounting principles. For purposes herein, “books and records” shall mean all bookkeeping or accounting documents Owner typically utilizes in managing its business operations relating to the Project. Such books and records, as well as all other relevant documents as the City Manager may reasonably require, shall, upon reasonable written notice, be open for inspection by City, its auditors or other authorized representatives. If at any time during the term such books and records prove inadequate in the reasonable judgment of City to record the Gross Receipts from Operations as herein required, Owner shall, upon the written request of the City, procure and maintain such books and records as shall be of a character and from adequate for such purpose. City shall have the right to audit and examine such books, records and documents and other relevant items in the possession of Owner, on no less than an annual basis, or at any time upon reasonable request by the City, to the extent necessary for a proper determination of Gross Receipts from Operations, and all such books, records, documents and other items shall be held available for such audit and examination. The City's audit shall be performed by a non-contingency fee independent auditor

Comment [J10]: The Committee and city staff are requesting direction from the City Council concerning the amount. The Committee recommends 5% of gross revenues and requests direction as to whether a flat minimum amount should be required (e.g. \$10,000 per month or 5% gross receipts, whichever is greater).

approved in advance by the City. Upon request by City, Owner shall make all such books, records and documents available to the City Manager, his designee, or to the City approved auditor, and provide removable copies thereof, within thirty (30) of the date of City's request. Owner shall pay all costs of such audits. Owner shall preserve such books, records, documents, and other items in Porterville for a period of not less than one (1) years for the purpose of auditing or re-auditing these accounts upon reasonable notice; except that, if an audit is made within the seven-year period and Owner claims that errors or omissions have occurred, the books and records shall be retained and made available until those matters are resolved. City shall keep strictly confidential all statements of revenue furnished by Owner and all other information concerning Owner's operation of the Premises obtained by City as a result of the inspection audit and examination privileges of City hereunder, except as otherwise required by law. If City receives a request for such information pursuant to the Public Records Act (California Government Code Section 6250, et seq.), City shall provide Owner notice of any such request prior to disclosing any such information and afford Owner the opportunity to obtain a protective order. Within seven (7) years after the receipt of any statement of receipts under this Agreement, City at any time shall be entitled to carry out an audit of such revenue either by City or agent to be designated by City. If it shall be determined as a result of such audit that there has been a deficiency in any payment due under this Agreement made on the basis of such statement, then such deficiency shall become immediately due and payable within thirty (30) days of such determination.

1) Copies of Tax Filings. Owner shall provide the City with courtesy copies of each and every report Owner is required to provide to the County of Tulare or the State of California for sales, use, or other tax purposes at the time such filings are made.

b. Future Revenue Mechanisms. During the term of this Agreement, if the City imposes (by Citizen Initiative or otherwise) an alternative revenue mechanism specifically related to cannabis operations (e.g., a cannabis tax), Owner agrees to renegotiate in good faith the terms of this Development Agreement with the City so as to comply with an alternative revenue mechanism. As used in this section, "alternative revenue mechanism" does not include taxes, fees, or assessments levied on or collected from both medicinal cannabis and non-cannabis operations, or other general businesses in the City.

9. Insurance and Indemnity

a. Insurance. Owner shall require all persons doing work on the Project, including its contractors and subcontractors (collectively, "Owner" for purposes of this Article 6 only), to obtain and maintain insurance of the types and in the amounts described in this section and its subsections with carriers reasonably satisfactory to City.

b. General Liability Insurance. Owner shall maintain commercial general liability insurance or equivalent form with a limit of not less than ____ Million Dollars (\$_,000,000) (or as otherwise approved, in writing, by City) per claim and ____ Million Dollars (\$_,000,000) each occurrence. Such insurance shall also:

- 1) Name City, its elected and appointed councils, boards, commissions, officers, agents, employees, and representatives as “Additional Insureds” by endorsement with respect to performance of this Agreement. The coverage shall contain no special limitations on the scope of its protection afforded to the above-listed additional insured.
- 2) Be primary with respect to any insurance of self-insurance programs covering City, its officials, employees, agents, and representatives.
- 3) Contain standard separation of insured provisions.

c. Automotive Liability Insurance. Owner shall maintain business automobile liability insurance or equivalent form with a limit of not less than ____ Million Dollars (\$_,000,000) for each accident for the vehicles Owner operates in connection with its cannabis business. Such insurance shall include coverage for owned, hired, and non-owned automobiles. Such insurance shall also:

- 1) Name City, and work in good faith with the City and the insurers to name additional insureds as deemed reasonably necessary. “Additional Insureds” by endorsement with respect to performance of this Agreement. The coverage shall contain no special limitations on the scope of its protection afforded to the above-listed additional insureds;
- 2) Be primary with respect to any insurance or self-insurance programs covering City, its officials, employees, agents, and representatives;
- 3) Contain standard separation of insured provisions.

d. Workers’ Compensation Insurance. Owner shall take out and maintain during the term of this Agreement, workers’ compensation insurance for all of Owner’s employees employed at or on the Project, and in the event any of the work is subcontracted, Owner shall require any general contractor or subcontractor similarly to provide workers’ compensation insurance for such contractor’s or subcontractor’s employees, unless such employees are covered by the protection afforded by Owner. In case any class of employee engaged in work on the Project is not protected under any workers’ compensation law, Owner shall provide and shall cause each contractor and subcontractor to provide adequate insurance for the protection of employees not otherwise protected. Owner hereby indemnifies City for any damage resulting from failure of Owner, its agents, employees, contractors, or subcontractors to take out or maintain such

insurance. Workers' compensation insurance with statutory limits and employer's liability insurance with limits of not less than ____ Million Dollars (\$_,000,000) each accident shall be maintained.

e. Other Insurance Requirements. Owner shall do all of the following:

1) Prior to taking any actions under this Agreement, furnish City with properly executed certificates of insurance that clearly evidenced all insurance required in this Article, including evidenced that such insurance will not be canceled, allowed to expire, or be materially reduced in coverage without thirty (30) days prior written notice to City.

2) Provide to City, upon request, and within seven (7) calendar days of said request, certified copies of endorsements and policies, and properly executed certificates of insurance evidencing the insurance required herein.

3) Replace or require the replacement of certificates, policies and endorsements for any insurance required herein expiring prior the termination of this Agreement.

4) Maintain all insurance required herein from the Effective Date of this Agreement to the earlier of the expiration of the term or the mutual written termination of this Agreement.

5) Place all insurance required herein with insurers licensed to do business in California with a current Best's Key Rating Guide reasonably acceptable to City.

f. Indemnity. To the fullest extent permitted by law, Owner agrees to indemnify, defend, and hold City, and its elected and appointed council, boards, commissions, officers, agents, employees, contractors, consultants and representatives, harmless from any and all claims costs and liability for any personal injury or property damage which may arise as a result of any actions or negligent omissions by Owner or Owner's contractors, subcontractors, agents, or employees in connection with the construction, improvement, or operation of the Project.

10. Termination

a. Termination Upon End of Term. This Agreement shall terminate upon the expiration of the term, unless it is terminated earlier pursuant to the terms of this Agreement. Upon termination of this Agreement, City shall record a notice of such termination and this Agreement shall be of no further force or effect except as otherwise set forth in this Agreement.

b. Effect of Termination on Owner's Obligations. Termination of this Agreement shall eliminate any further obligation of Owner to comply with this Agreement, or some portion thereof, if such termination relates to only part of the Site or Project. Termination of this Agreement, in whole or in part, shall not, however, eliminate the rights of Owner to seek any applicable and available remedies or damages based upon acts or omissions occurring before termination.

c. Effect of Termination on City's Obligations. Termination of this Agreement shall eliminate any further obligation of City to comply with this Agreement, or some portion thereof. Termination of this Agreement shall not, however, eliminate the rights of City to seek any applicable and available remedies or damages based upon acts or omissions occurring before termination.

d. Survival After Termination. The rights and obligations of the Parties set forth in this Agreement which, by its express terms or nature and context is intended to survive termination of this Agreement, will survive any such termination.

11. Resources Efficiency

Owner shall endeavor to reduce its environmental impact when possible. The design of the facility shall include reasonable water and energy conservation measures in accordance with applicable State regulations.

12. Standard Conditions for Construction

During any on-site construction activities related to development of the project site and any buildings thereon, or renovation or remodeling of existing buildings, Owner shall comply with all applicable terms and conditions of City's Standard Conditions for Construction, attached hereto and incorporated herein by reference as Exhibit _____. The Project shall comply with the applicable parking standards established by the City for these particular cannabis activities.

13. Defaults and Remedies

a. Remedies in general. It is acknowledged by the parties that City would not have entered into this Agreement if it were to be liable in damages under this Agreement, or with respect to this Agreement or the application thereof, except as hereinafter expressly provided. Subject to extensions of time by mutual consent in writing, failure to delay by either party to perform any term or provision of this Agreement beyond a reasonable notice and cure period shall constitute a default. In the event of alleged default or breach of any terms or conditions of this Agreement, the party alleging such default or breach shall give the other party not less than thirty (30) day notice in writing specifying the nature of the alleged default and the manner in which said default may be satisfactorily cured during any such thirty (30) day period, the party charged shall not be considered in default for purposes of termination or institution of legal proceedings.

Notwithstanding the foregoing to the contrary, if the alleged default is of such a nature that it cannot be cured within thirty (30) days, the alleged defaulting party shall not be deemed in default as long as such party commences to cure such default within such thirty (30) day period and thereafter diligently prosecutes such cure to completion.

After notice and expiration of the thirty (30) day period, the other party to this Agreement, at its option, may institute legal proceedings pursuant to this Agreement.

In general, each of the parties hereto may pursue any remedy at law or equity available for the breach of any provision of this Agreement, except that City shall not be liable in monetary damages, unless expressly provided for this Agreement, to Owner, to any mortgagee or lender, or to any successors in interest of Owner or mortgagee or lender, or to any other person, and Owner covenants on behalf of itself and all successors in interest to the Property or any portion thereof, not to sue for damages or claim any damages.

- 1) For any breach of this Agreement or for any cause of action which arises out of this Agreement; or
- 2) For the impairment or restriction of any right or interest conveyed or provided under, with, or pursuant to this Agreement, including, without limitation, any impairment or restriction which Owner characterizes as a regulatory taking or inverse condemnation; or
- 3) Arising out of or connected with any dispute, controversy or issue regarding the application or interpretation or effect of the provisions of this Agreement.

Nothing contained herein shall modify or abridge Owner's rights or remedies (including its rights for damages, if any) resulting from the exercise by City of its power of eminent domain. Nothing contained herein shall modify or abridge Owner's rights or remedies (including its rights for damages, if any) resulting from bad faith intentional acts, the grossly negligent or malicious acts of City and its officials, officers, agents and employees. Nothing herein shall modify or abridge any defenses or immunities available to City and its employees pursuant to the Government Liability Act and all other applicable statutes and decisional law.

Except as set forth in the preceding paragraph relating to eminent domain, Owner's remedies shall be limited to those set forth in this Section.

Notwithstanding anything to the contrary contained herein, City covenants as provided in Civil Code Section 3300 not to sue for or claim any consequential damages or, in the event all or a portion of the Property is not developed, for lost profits or revenues which would have accrued to City as a result of the

development of the Property.

b. **Specific Performance.** The parties acknowledge that money damages and remedies at law are inadequate, and specific performance and other non-monetary relief are particularly appropriate remedies for the enforcement of this Agreement and should be available to all parties for the following reasons:

1) Except as provided in this Agreement, money damages are unavailable against City.

2) Due to the size, nature and scope of the Project, it may not be practical or possible to restore the Property to its natural condition once implementation of this Agreement has begun. After such implementation, Owner may be foreclosed from other choices it may have had to use the Property or portions thereof. Owner has invested significant time and resources and performed extensive planning and processing of the Project in agreeing to the terms of this Agreement and will be investing even more significant time and resources in implementing the Project in reliance upon the terms of this Agreement, and it is not possible to determine the sum of money which would adequately compensate Owner for such efforts; the parties acknowledge and agree that any injunctive relief may be ordered on an expedited, priority basis.

c. **Release.** Except for those remedies set forth in this Agreement, Owner, for itself, its successors and assignees, hereby releases City, its officers, agents and employees from any and all claims, demands, actions, or suits of any kind or nature arising out of any liability, known or unknown, present or future, based or asserted, pursuant to Article 1, Section 19 of the California Constitution, the Fifth Amendment of the United States Constitution, or any other law or ordinance which seeks to impose any other liability or damage, whatsoever, upon City because it entered into this Agreement or because of the terms of this Agreement.

Owner acknowledges that it may have suffered, or may suffer, damages and other injuries that are unknown to it, or unknowable to it, at the time of its execution of this Agreement. Such fact notwithstanding, Owner agrees that the release provided in this Section shall apply to such unknown or unknowable claims and damages. Without limiting the generality of the foregoing, Owner acknowledges the provisions of California Civil Code Section 1542, which provide:

“A general release does not extend to claims which the creditor does not know or suspect to exist in his or her favor at the time of executing the release, which if known by him or her must have materially affected his or her settlement with the debtor.”

Owner hereby waives, to the maximum legal extent, the provisions of California Civil Code Section 1542 and all other statutes and judicial decisions of similar

Comment [J11]: This section is under review by the City Attorney

effect.

Owners' Initials

d. Termination of Agreement for Default of City. Owner may terminate this Agreement in the event of a default by City in the performance of a material term of this Agreement and only after providing written notice to City of default setting forth the nature of the default and the actions, if any, required by City to cure such default and, where the default can be cured, City has failed to take such actions and cure such default within sixty (60) days after the effective date of such notice or, in the event that such default cannot be cured within such sixty (60) day period but can be cured within a longer time, has failed to commence the actions necessary to cure such default within such sixty (60) day period and to diligently proceed to complete such actions and cure such default. Notwithstanding anything to the contrary, in the event that Owner deem it is necessary and/or advisable to cease operations in Porterville, then Owner may terminate this Agreement, and such termination shall be effective upon the date of written notice to the City.

e. Attorneys' Fees and Costs. In any action or proceeding between City and Owner brought to interpret or enforce this Agreement, or which in any way arises out of the existence of this Agreement or is based upon any term or provision contained herein, the "prevailing party" in such action or proceeding shall be entitled to recover from the non-prevailing party, in addition to all other relief to which the prevailing party may be entitled pursuant to this Agreement, the prevailing party's reasonable attorneys' fees and litigation costs, in an amount to be determined by the court. The prevailing party shall be determined by the court in accordance with California Code of Civil Procedure Section 1032. Fees and costs recoverable pursuant to this Section include those incurred during any appeal from an underlying judgment and in the enforcement of any judgment rendered in any such action or proceeding.

f. Owner Default. No building permit shall be issued or building permit application accepted for any structure on the Property after Owner is determined by City to be in default of the terms and conditions of this Agreement until such default thereafter is cured by Owner or is waived by City. If City terminates this Agreement because of Owner's default, then City shall retain any and all benefits, including money or land received by City hereunder.

14. Third Party Litigation

a. General Plan Litigation. City has determined that this Agreement is consistent with its General Plan. Owner has reviewed the General Plan and concurs with City's determination.

City shall have no liability under this Agreement or otherwise for any failure of City to perform under this Agreement, or for the inability of Owner to develop the

Property as contemplated by the **Agreement**, which failure to perform or inability to develop is as the result of a judicial determination that the General Plan, or portions thereof, are invalid or inadequate or not in compliance with law, or that this Agreement or any of City's actions in adopting it were invalid, inadequate, or not in compliance with the law.

b. Hold Harmless Agreement. To the fullest extent permitted by law, Owner hereby agrees to, and shall hold City, its elective and appointive boards, commissions, officers, agents, attorney's, contractors, consultants and employees harmless from any liability for damage or claims for damage for personal injury, including death, as well as from claims for property damage which may arise from Owner or Owner's contractors, subcontractors, agents, or employees' operations under this Agreement, whether such operations be by Owner, or by any of Owner's contractors, subcontractors, agents, or employees operations under this Agreement, whether such operations be by Owner, or by any of Owner's contractors, subcontractors, or by any one or more persons directly or indirectly employed by, or acting as agent for Owner or any of Owner's contractors or subcontractors. Owner agrees to and shall defend City and its elective and appointive boards, commissions, officers, agents and employees from any suits or actions at law or in equity for damage caused, or alleged to have been caused, by reason of any of the aforesaid operations.

c. Indemnification. To the fullest extent permitted by law, Owner shall defend, indemnify, and hold harmless City and its elective and appointive boards, commissions, officers, agents, attorney's, contractors, consultants and employees against and from any and all liabilities, demands, claims, actions or proceedings and costs and expenses incidental thereto (including costs of defense, settlement and reasonable attorneys' fees), which any or all of them may suffer, incur, be responsible for or pay out as a result of or in connection with any challenge to the legality, validity or adequacy of any of the following: (i) this Agreement and the concurrent and subsequent permits, licenses and entitlements approved for the Project or Property; (ii) the environmental impact report, mitigated negative declaration or negative declaration, as the case may be, prepared in connection with the development of the Property; (iii) any claims based on or alleging inverse condemnation by any person or entity with an interest in the Property; and (iv) the proceedings undertaken in connection with the adoption or approval of any of the above. In the event of any legal or equitable action or other proceeding instituted by any third party (including a governmental entity or official) challenging the validity of any provision of this Agreement or any portion thereof as set forth herein, the parties shall mutually cooperate with each other in defense of said action or proceeding. Notwithstanding the above, City, at its sole option, may tender the complete defense of any third-party challenge as described herein. In the event City elects to contract with special counsel to provide for such a defense, City shall meet and confer with Owner regarding the selection of counsel, and Owner shall pay all costs related to retention of such counsel.

d. Environmental Contamination. To the fullest extent permitted by law, Owner shall indemnify and hold City, its elective and appointive boards, commissions, officers, agents, attorney's, contractors, consultants and

employees free and harmless from any liability, based or asserted, upon any act or omission of Owner, its officers, agents, employees, subcontractors, predecessors in interest, successors, assigns and independent contractors, excepting and acts or omissions of City as successor to any portions of the Property dedicated or transferred to City by Owner, for any violation of any federal, state or local law, ordinance or regulation relating to industrial hygiene or to environmental conditions on, under or about the Property, including, but not limited to, soil and groundwater conditions, and Owner shall defend, at its expense, including attorneys' fees, City, its officers, agents and employees in any action based or asserted upon any such alleged act or omission. City may in its discretion participate in the defense of any such claim, action or proceeding.

The provisions of this Section do not apply to environmental conditions that predate Owner's ownership or control of the Property or applicable portion; provided, however, that the foregoing limitation shall not operate to bar, limit or modify any of Owner's statutory or equitable obligations as an owner or seller of the Property.

e. City to Approve Counsel. With respect to this Section, City reserves the right to approve the attorney(s) which Owner selects, hires or otherwise engages to defend City hereunder, which approval shall not be unreasonably withheld.

f. Accept Reasonable Good Faith Settlement. With respect to this Section, City shall not reject any reasonable good faith settlement. If City does reject a reasonable, good faith settlement that is acceptable to Owner, Owner may enter into a settlement of the action, as it relates to Owner, and City shall thereafter defend such action (including appeals) at its own cost and be solely responsible for any judgment rendered in connection with such action. This Section applies exclusively to settlements pertaining to monetary damages or damages which are remedial by the payment of monetary compensation. Owner and City expressly agree that this Section does not apply to any settlement that requires an exercise of City's police powers, limits City's exercise of its police powers, or affects the conduct of City's municipal operations.

g. Survival. The provisions of this Section inclusive, shall survive the termination or expiration of the Agreement.

15. California Environmental Quality Act

Owner shall pay all fees and reimburse City for any and all costs incurred by City related to project review under the California Environmental Quality Act (CEQA), Public Resources Code, §§21000-21189.3, and the Guidelines for California Environmental Quality Act, California Code of Regulations, Title 14, §§15000-15387. If reasonably requested by City, Owner shall conduct and pay for any required CEQA reviews and analyses. The City has found that the proposed Project is Categorically Exempt from California Environmental Quality Act (CEQA) requirements under provisions of CEQA Guidelines **Section 15301** – Existing Facilities. This exemption applies to projects

(characterized as alterations to existing facilities meeting the conditions described in **Section 15301**.)

Comment [J12]: This language is subject to change depending on the specific project/site.

16. Rules, Regulations, and Official Policies

Except as otherwise provided in this Agreement, the rules, regulations, and official policies of City governing permitted uses of the land, governing density, and governing the design, improvements, and construction standards and specifications applicable to the development of the Project subject of this Agreement, shall be those rules, regulations, and official policies of City in force at the time of the execution of this Agreement. This Agreement does not prevent City, in subsequent actions applicable to the property, from applying new rules, regulations, and policies which do not conflict with those rules, regulations, and policies applicable to the property as set forth herein, nor does this Agreement prevent City from denying or conditionally approving any subsequent development project application based on such existing or new rules, regulations, or policies.

17. Commercial Cannabis Permit Conditions of Approval

Owner shall comply with all conditions of approval of the City-issued Commercial Cannabis Permit.

18. Periodic Reviews

This Agreement shall be subject to annual review. Owner and Landlord executing this Agreement, ~~or successor in interest thereto~~, shall demonstrate good faith compliance with the terms of this Agreement. If, as a result of such periodic review, City finds and determines, based on substantial evidence, that Owner or Landlord executing this Agreement, or successor in interest thereto, has not complied in good faith with the terms or conditions of this Agreement, City may terminate or modify this Agreement (except no modification shall increase Owner's liability nor reduce Owner's rights), provided that City shall first provide Owner notice of its intent to terminate, with a detailed explanation as to why, and provide Owner the reasonable right to cure the same.

Comment [J13]: See upcoming comments concerning whether a prohibition or other restrictions on transfer will be in effect. Direction is requested.

a. Periodic Review. City Council shall review this Agreement annually, on or before each anniversary of the Effective Date, in order to ascertain Owner's good faith compliance with this Agreement. During the periodic review Owner shall be required to demonstrate good faith compliance with the terms of the Agreement, through submitting an annual monitoring report, records, or equivalent written materials to the Community Development Department. The Department will schedule a hearing on the periodic review of the Development Agreement on or following the anniversary of the Effective Date, but Owner has no obligation to compel such hearing, and no implication will be made to Owner's detriment if a hearing is not in fact held. Owner shall document any request for an extension of the term due to delays beyond the control of Owner (see Section_____, "Force Majeure").

b. **Conditional Use Permit.** For all intents and purposes, the Commercial Cannabis Permit to be issued under this Agreement shall be treated as if it were a Conditional Use Permit issued to Owner for the establishment and operation of its business. The operation of the business at all times shall be required to comply with the terms of this Agreement.

Comment [J14]: Under review by the City Attorney

c. **Special Review.** City Council may order a special review of compliance with this Agreement at any time. The Community Development Director or his or her designee shall conduct such special review. During a special review, Owner shall be required to demonstrate good faith compliance with the terms of the Agreement. The burden of proof on this issue shall be on Owner.

d. **Review Hearing.** At the time and place set for the review hearing, Owner shall be given an opportunity to be heard. If City Council finds, based upon substantial evidence, that Owner has not complied in good faith with the terms or conditions of this Agreement, City Council may terminate this Agreement notwithstanding any other provision of this Agreement to the contrary, or modify this Agreement and impose such conditions as are reasonably necessary to protect the interests of City. The decision of City Council shall be final, subject only to judicial review pursuant to Code of Civil Procedure Section 1094.5.

e. **Certificate of Agreement Compliance.** If, after a periodic or special review, Owner is found to be in compliance with this Agreement, and if Owner requests it, City shall issue a Certificate of Agreement Compliance ("Certificate") to Owner stating that after the most recent periodic or special review, and based upon the information known or made known to the Planning Director and City Council, that (i) this Agreement remains in effect and (ii) Owner is not in default.

City shall not be bound by a Certificate if a default existed at the time of the periodic or special review, but was concealed from or otherwise not known to the Planning Director and City Council, regardless of whether the Certificate is relied upon by assignees or other transferees or Owner.

f. **Failure to Conduct Review.** City's failure to conduct a periodic review of this Agreement shall not constitute a breach of this Agreement.

19. Assignment

Assignment by Owner. Owner shall not transfer, delegate, sublet or assign its interest, rights, duties, and obligations under this Agreement without the prior written consent of City. Owner shall submit a transfer application to the City Manager or City Manager's designee, for approval by the City Council and pay any applicable transfer fee. The proposed transferee must show proof of lawful transfer of possession of the applicable location as may be acceptable to the City. Owner is aware it make take the City

(approximately six (6) months to process a transfer application. Notwithstanding the above, Owner shall not be permitted to transfer, delegate, sublet or assign its interest, etc. under this Agreement unless the dispensary has opened and been in operation for at least _____ years.

Any assignment, delegation, or subletting without the prior written consent of City shall be null and void. Any transfer, delegation, subletting or assignment by Owner as authorized herein shall be effective only if and upon the party to whom such transfer, delegation, subletting or assignment is made is issued a Commercial Cannabis Permit as required under the Porterville Municipal Code.

20. Operating Commercial Cannabis Facility

Any party to this Agreement, or successor in interest thereto, shall not operate a commercial cannabis facility authorized under the municipal code unless it is the holder of a valid applicable State Cannabis License and a Commercial Cannabis Permit issued by City in accordance with the procedures and requirements of Chapter 15, Article VII of the Porterville Municipal Code.

21. Notice

Any notice or communication required hereunder between City and Owner must be in writing, and may be given either personally, by registered or certified mail (return receipt requested), or by Federal Express, UPS or other similar couriers providing overnight delivery. If personally delivered, a notice shall be deemed to have been given when delivered to the Party to whom it is addressed. If given by registered or certified mail, such notice or communication shall be deemed to have been given and received on the first to occur of (i) actual receipt by any of the addressees designated below as the party to whom notices are to be sent, or (ii) five (5) days after a registered or certified letter containing such notice, properly addressed, with postage prepaid, is deposited in the United States mail. If given by Federal Express or similar courier, a notice or communication shall be deemed to have been given and received on the date delivered, as shown on a receipt issued by the courier. Any Party hereto may at any time, by giving ten (10) days written notice to the other Party hereto, designate any other address in substitution of the address to which such notice or communication shall be given. Such notices or communications shall be given to the Parties at their addresses set forth below:

If to City:

City of Porterville
291 North Main St.
Porterville, CA 93257
Attention: City Manager

and

City Attorney, Porterville
McCormick, Kabot, Jenner & Lew

Comment [J15]: The City Council should consider prohibitions or restrictions on assignment. Other cities have experienced issues with applicants applying for permits but then immediately transferring ownership of the businesses, frequently prior to the development or opening of the business.

4010 S. Demaree Street
Visalia, CA 93277

If to Owner: [NAME AND ADDRESS OF OPERATOR]

If to Landlord:

With a courtesy copy to:

22. Miscellaneous Provisions

a. Amendment or Cancellation. This Agreement may be amended, or canceled in whole or in part, only by the written mutual consent of the parties to this Agreement or their successors in interest.

b. Waiver. Waiver by City of any one or more of the terms or conditions of this Agreement shall not be construed as waiver of any other term or condition under this Agreement.

c. Enforcement/Reserved Powers. Unless amended or canceled pursuant hereto, this Agreement shall be enforceable by any party hereto, or successor in interest thereto, notwithstanding any subsequent change in any applicable general or specific plan, zoning, subdivision or building regulation, or municipal code amendment adopted by City that conflicts with the terms of this Agreement. However, this Agreement is subject to the City's "Reserved Powers." For purposes of this Agreement, "Reserved Powers" means the rights and authority excepted from this Agreement's restrictions on the City's police powers and which are instead reserved to the City. The Reserved Powers include the powers to enact regulations or take future discretionary actions after the Effective Date of this Agreement that: (1) are necessary to protect the public health and safety, and are generally applicable on a City-wide basis (except in the event of natural disasters as found by the City Council such as floods, earthquakes and similar acts of God); (2) are amendments to California Marijuana Laws or California Uniform Codes, as adopted by the City of Porterville, and/or the Porterville Municipal Code, as applicable, regarding the construction, engineering and design standards for private and public improvements to be constructed on the Site; (3) are necessary to comply with state or federal laws and regulations; or (4) involve sign and parking ordinances and guidelines, changes to the City's zoning laws, Specific Plan or the City's General Plan, whether adopted previous or subsequent to the Effective Date of this Agreement).

If any City ordinance, rule or regulation or addition to the Porterville Municipal Code is enacted or imposed by a citizen-sponsored initiative or

referendum after the Effective Date that would conflict with this Agreement or an associated Commercial Cannabis Permit, business license or other authorizations and City approvals, or reduce development rights or assurances provided to the Owner in this Agreement, then such changes, additions or deletions to the Porterville Municipal Code shall not be applied to the Site or Project; provided, however, the parties acknowledge that the City's approval of this Agreement is a legislative action subject to referendum. The parties shall cooperate with each other and undertake such reasonable actions as may be appropriate to ensure this Agreement remains in full force and effect and is implemented in accordance with its terms and to the fullest extent permitted by state or federal law.

Notwithstanding anything to the contrary in this Agreement, site improvements contemplated by this Agreement shall be completed pursuant to the City's development standards and design guidelines.

d. Joint and Several Liability. Owner shall be jointly and severally liable for any amount due under this Agreement, and any breach of this Agreement or failure to pay by one Party shall also constitute a breach of this Agreement by the other Party.

e. Severability. If any part of this Agreement is found to conflict with applicable state laws or regulations, such part shall be inoperative, null, and void insofar as it conflicts with said laws or regulations, or modified or suspended as may be necessary to comply with such state laws or regulations, but the remainder of this Agreement shall continue to be in full force and effect.

f. Counterparts. This Agreement may be executed in one or more counterparts, each of which shall be deemed an original but all of which together shall constitute one and the same instrument. The execution of this Agreement may be by actual, facsimile, or electronic signature.

g. Jurisdiction. The law governing this Agreement shall be that of the State of California. The parties agree that this Agreement is entered into and to be performed in Tulare County, California.

h. Disclaimer. Despite California's commercial cannabis laws and the terms and conditions of this Agreement, or any Commercial Cannabis Permit issued pertaining to Owner or the property specified herein, California commercial cannabis possessors or business operators may still be subject to arrest by state or federal officers and prosecuted under state or federal law. The Federal Controlled Substances Act, 21 USC § 801, prohibits the manufacture, distribution, and possession of cannabis without any exemptions for medical use.

i. Force Majeure. If delays are caused by unforeseen events beyond the control of Owner, such delays will entitle Owner to an extension of time as

provided in this section. Such unforeseen events ("Force Majeure") shall mean war, insurrection, acts of God, local, state or national emergencies, strikes and other labor difficulties beyond the party's control, or any default by City hereunder, which Force Majeure event substantially interferes with the development, construction or operation of the Project.

j. Constructive Notice and Acceptance. Every person who after the Effective Date and recording of this Agreement owns or acquires any right, title, or interest to any portion of the Site, is and shall be conclusively deemed to have consented and agreed to every provision contained herein, whether or not any reference to this Agreement is contained in the instrument by which such person acquired an interest in the Site, and all rights and interests of such person in the Site shall be subject to the terms, requirements, and provisions of this Agreement.

k. Binding Effect of Agreement. The Parties agree that the Recitals above are true and correct and intend to be bound by same. Except as otherwise provided, the burdens of this Agreement are binding upon, and the benefits of this Agreement inure to, all authorized successors-in-interest of the Parties and constitute covenants which run with the Site. In order to provide constructive notice thereof, the City Clerk will record this Agreement with the Tulare County Recorder within the period required by Government Code Section 65868.5.

l. Project as a Private Undertaking. It is specifically understood and agreed by and between the parties hereto that the development of the Project is a private development, that neither party is acting as the agent of the other in any respect hereunder, and that each party is an independent contracting entity with respect to the terms, covenants and conditions contained in this Agreement. No partnership, joint venture or other association of any kind is formed by this Agreement. The only relationship between the City and the Owner is that of a government entity regulating the development of private property and the owner of such property.

m. Changes to Project. The parties acknowledge that changes to the Project or Development Plans and related approvals may be appropriate and mutually desirable to carry out the intent and purpose of this Agreement. This Agreement shall not prevent the City from applying, with the consent or at the request of the Owner, *Subsequent Land Use Regulations* or *Subsequent Development Approvals* that do not directly conflict with the Project, Site or Development Plan authorized under this Agreement. The granting of one such change or request shall not obligate the City to grant other similar changes or requests. As used herein, "*Subsequent Development Approvals*" include, without limitation, all excavation, grading, building, construction, demolition, encroachment or street improvement permits, occupancy certificates, utility connection authorizations, or other non-discretionary permits or approvals necessary, convenient or appropriate for the Project. As used herein, "*Subsequent Land Use Regulations*" means ordinances, resolutions and codes adopted or approved by the City after

the Effective Date of this Agreement governing the development and use of the land, including general plan amendments, zone changes, variances or conditional use permits affecting the permitted use of the land including density or intensity of use, subdivision requirements, the maximum height and size of proposed buildings, the provisions of reservation or Dedication of land for public purposes, and the design, improvement and construction and initial occupancy standards and specifications applicable to the Development of the Property.

n. Conflicting Federal or State Rules. In the event that any conflicting federal or state laws or regulations, enacted after the Effective Date, prevent or preclude compliance with one or more provisions of this Agreement or require changes in plans, maps or permits approved by the City, *this Agreement shall remain in full force and effect as to those provisions not affected*; and

(i) Notice of Conflict. Either party, upon learning of any such matter, will provide the other party with written notice thereof and provide a copy of any such law, regulation or policy together with a statement of how any such matter conflicts with the provisions of this Agreement; and

(ii) Modification Conferences. The parties shall, within thirty (30) days of the notice referenced to in the preceding subsection, meet and confer in good faith and attempt to modify this Agreement to bring it into compliance with any such federal or state law or regulation.

(iii) City Council Hearings. In the event the City believes that an amendment to this Agreement is necessary due to the effect of any federal or state law or regulation, the proposed amendment shall be scheduled for hearing before the City Council. The City Council shall determine the exact nature of the amendment necessitated by such federal or state law or regulation. Owner shall have the right to offer oral and written testimony at the hearing. Any modification ordered by the City Council pursuant to such hearing is subject to judicial review in accordance with California law.

(iv) City Cooperation. The City shall cooperate with Owner in securing any City permits, licenses or other authorizations that may be required as a result of any amendment resulting from actions initiated by the City. As required by this Agreement, Owner shall be responsible to pay all applicable fees in connection with securing of such permits, licenses or other authorizations.

o. Effective Date. "Effective Date" means the date on which all of the following are true: (i) thirty (30) days have elapsed since the second reading of the Ordinance adopting and approving this Development Agreement and (ii) all Exhibits to this Agreement are finalized, executed and notarized by all affected parties (if applicable) and attached hereto; provided, however, that if these conditions have not been fully satisfied by the Owner the Effective Date may not

thereafter occur and this Agreement may not thereafter become effective.
p.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement on the day and year first above written.

CITY OF PORTERVILLE

[NAME OF OPERATOR] OWNER

Mayor

Name: XXXX
Title: XXXX

OTHER PARTY

Name: XXXX
Title: XXXX

APPROVED AS TO FORM:

City Attorney
City of Porterville

EXHIBITS



CITY COUNCIL AGENDA – OCTOBER 15, 2019

SUBJECT: Second Reading - Ordinance No. 1859 - Approving Zone Change (PRC 2018-022-Z) from RM-3 (High Density Residential) to CR (Retail Centers)

SOURCE: Administrative Services

COMMENT: Ordinance No. 1859, An Ordinance of the City Council of the City of Porterville Approving Zone Change (PRC 2018-022-Z) from RM-3 (High Density Residential) to CR (Retail Centers), was given first reading on October 1, 2019, and has been printed.

RECOMMENDATION: That the City Council give Second Reading to Ordinance 1859, waive further reading, and adopt said Ordinance.

ATTACHMENTS: 1. Ordinance 1859

Appropriated/Funded:

Review By:

Department Director:

Patrice Hildreth, Deputy City Manager

Final Approver: John Lollis, City Manager

ORDINANCE NO. 1859

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
APPROVING ZONE CHANGE (PRC 2018-022-Z) FROM RM-3 (HIGH DENSITY
RESIDENTIAL) TO CR (RETAIL CENTERS) FOR THAT 1.82± ACRE SITE LOCATED
GENERALLY AT THE NORTHEAST CORNER OF HENDERSON AVENUE AND
PROSPECT STREET

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of October 1, 2019, conducted a public meeting to approve findings and consider Zone Change (PRC 2018-022-Z) being a change in zone from RM-3 (High Density Residential) to CR (Retail Centers) for three parcels, totaling 1.82± acres, to support the project located on the east side of Prospect Street, north of Henderson Avenue, identified as APNs 246-111-059, -060, and -061; and

WHEREAS: The City Council of the City of Porterville determined that the proposed Zone Change (PRC 2018-022) is consistent with the guiding and implementation policies of the adopted 2030 General Plan; and

WHEREAS: On October 1, 2019, the City Council approved a Mitigated Negative Declaration of environmental impact for the proposed project; and

WHEREAS: The City Council made the following findings that the proposed project will advance the goals and objectives of and is consistent with the policies of the General Plan and any other applicable plan that the City has adopted.

- a. The project supports and complies with the following General Plan guiding policies:
 - LU-G-1: Promote a sustainable, balanced land use pattern that responds to existing needs and future needs of the City.
 - LU-G-3 Promote sustainability in the design and development of public and private development projects.
- b. Development of the site as proposed would be subject to the City's development standards.
- c. The General Plan designation for the subject area was approved by the City Council on October 1, 2019, modifying the General Plan designation from Medium Density Residential to Retail Centers for the subject parcel.
- d. The subject Zone Change will not create adverse environmental impacts on the adjacent neighborhood when standards of the Development Ordinance and General Plan are applied to the subsequent development project.
- e. The subject parcels will be merged prior to building permit submittal. In addition, a reciprocal ingress/egress and parking agreement shall be recorded for parcels to

the south and east which would help ensure that subsequent development will function with the surrounding developed area.

NOW, THEREFORE, BE IT ORDAINED: That the City Council of the City of Porterville does ordain as follows:

Section 1: That the following described property in the City of Porterville, County of Tulare, State of California, known as Zone Change PRC 2018-022-Z, is hereby rezoned from RM-3 (High Density Residential) to CR (Retail Centers), pursuant to Section 3 below, for the parcel described herein as Assessor's Parcel Numbers 246-111-059, -060, and -061 located generally 350± feet north of Henderson Avenue on the east side of Prospect Street; and

Section 2: It is further ordained that all records of the City of Porterville, together with the official zoning map of the City of Porterville, shall be changed to show the above described real property is rezoned from RM-3 (High Density Residential) to CR (Retail Centers) for the parcel described above, more particularly shown on the attached map as Exhibit "A".

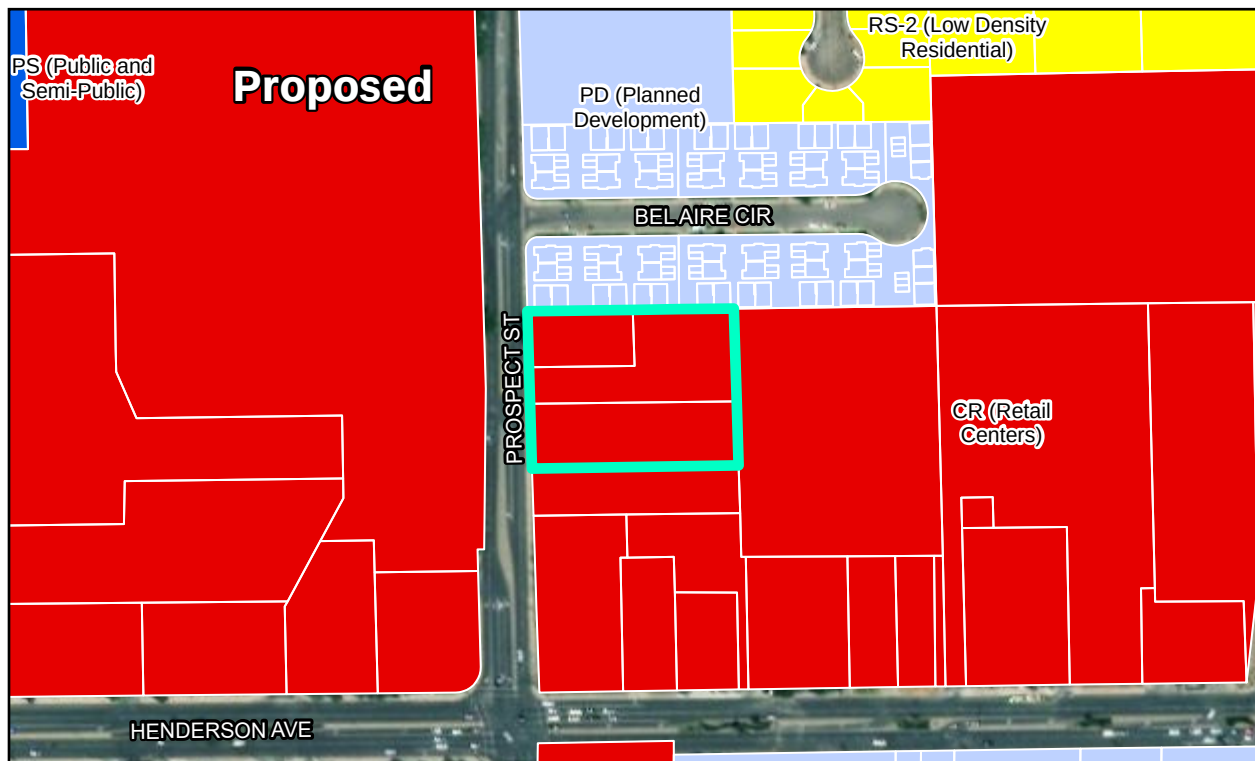
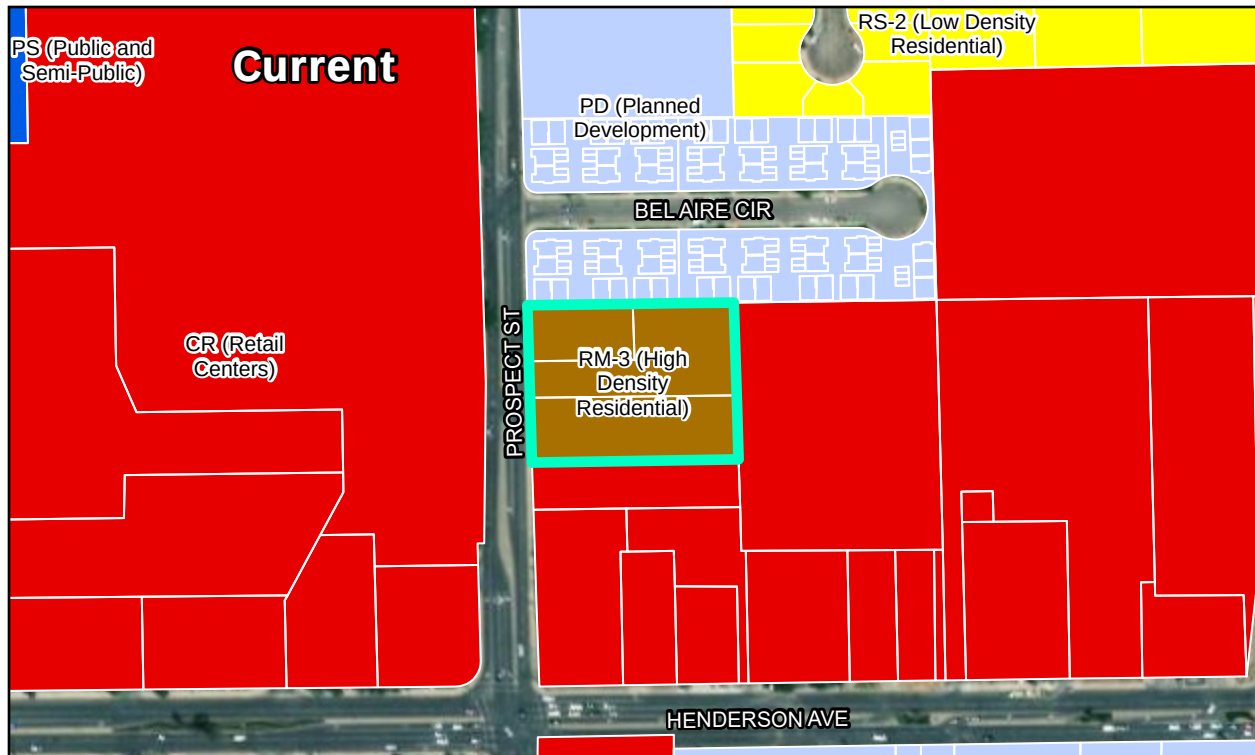
PASSED, APPROVED AND ADOPTED this 15th day of October, 2019.

By: _____
Martha A. Flores, Mayor

ATTEST:
John D. Lollis, City Clerk

By: _____
Patrice Hildreth, Chief Deputy City Clerk

Zoning PRC 2018-022



**Porter's Crossing Phase 2
@ 894 N Prospect**

Project Location

1 in = 300 feet





CITY COUNCIL AGENDA – OCTOBER 15, 2019

SUBJECT: Continued Deliberation of a Conditional Use Permit for Alcohol Sales at The Vault No.2

SOURCE: Community Development

COMMENT: On October 1, 2019, the City Council conducted a Public Hearing to consider approval of a Conditional Use Permit (CUP) for the Vault Bar and Grill No.2, located at 917C West North Grand Avenue. The Public Hearing was conducted and closed, with one individual providing comment in opposition to the requested permit. On that date, the applicant was unable to attend the meeting, and in light of questions related to the proposed business operation plan, the Council continued its consideration to its next meeting to allow the applicant to be present.

The Council's deliberation at the meeting of October 1st focused on potential misuse by patrons of the outdoor seating area, the intended use of the drive-thru, and equitably placed conditions seen in other previously approved permits including outdoor alcohol service. Staff visited the project site with the project applicant on October 8, 2019, in order to take photos of the site and measurements at key locations. Within the existing building, seating from the previous tenant has been removed, but at approximately 250 square feet, 17 people could be seated depending on the seating configuration and design. The primary outdoor seating area is approximately 17 feet by 30 feet (just under 500 square feet). A smaller, secondary outdoor area lies on the east side of the building. Its unusual shape and size would limit the number of tables that could fit in that area, and the applicant is not proposing outdoor seating at that location. Based on Council's concerns with monitoring of outdoor alcohol sales, the applicant has decided that in addition to the fencing and signage surrounding the outdoor seating area, a staffer will be present outdoors to monitor clients during those business hours where alcohol may be consumed outdoors. This requirement is explicitly added as a condition of approval in the draft Resolution.

The Council inquired about requirements placed on other outdoor dining areas that included alcohol sales. One example mentioned was a restaurant on Orange Avenue for which a CUP was approved in 2015. For that CUP, additional lighting was required because the parking lot associated with the restaurant did not meet the City's illumination standards. Additionally, for that location, the Police Department had included a condition for security cameras for the parking lot. Conditions for that restaurant related to noise standards were in response to that applicant's request for outdoor entertainment; this function also resulted in a

limitation for outdoor entertainment hours. Conditional Use Permit 2019-030 does not include outdoor entertainment, the parking lot is adequately lit per City standards, and no additional security measures were requested for this project location. Another more recent example of a Council approved outdoor dining area that could include the sale of alcohol is the Porter's Crossing Commercial Center, at the northeast corner of Henderson Avenue and Prospect Street. In 2017, the Council approved a CUP allowing up to three (3) on-sale licenses (two Type 41 - beer and wine and one Type 47 - general) in association with the six (6) tenant spaces at this location. The permit conditioned that "the on-site consumption of alcoholic beverages shall be limited to the interior of the subject restaurants, or in an enclosed patio accessible through the restaurant as shown in Exhibit A and when approved by the California Department of Alcoholic Beverage Control." For the subject application, the outdoor dining area cannot be accessed from the interior of the restaurant, and so pursuant to ABC regulations, alcohol would be served to the table of the client by staff; this stipulation has been added as a condition of approval.

RECOMMENDATION: That the City Council:

1. Adopt the draft Resolution approving Conditional Use Permit 2019-030-C subject to conditions of approval; and
2. Authorize the Mayor to sign the Letter of Public Convenience or Necessity.

ATTACHMENTS:

1. Project Locator Map
2. Site Plan
3. Draft Resolution
4. Letter of Public Convenience and Necessity
5. Staff Report of October 1, 2019

Appropriated/Funded:

Review By:

Department Director:

Final Approver: John Lollis, City Manager

Locator Map
PRC 2019-030

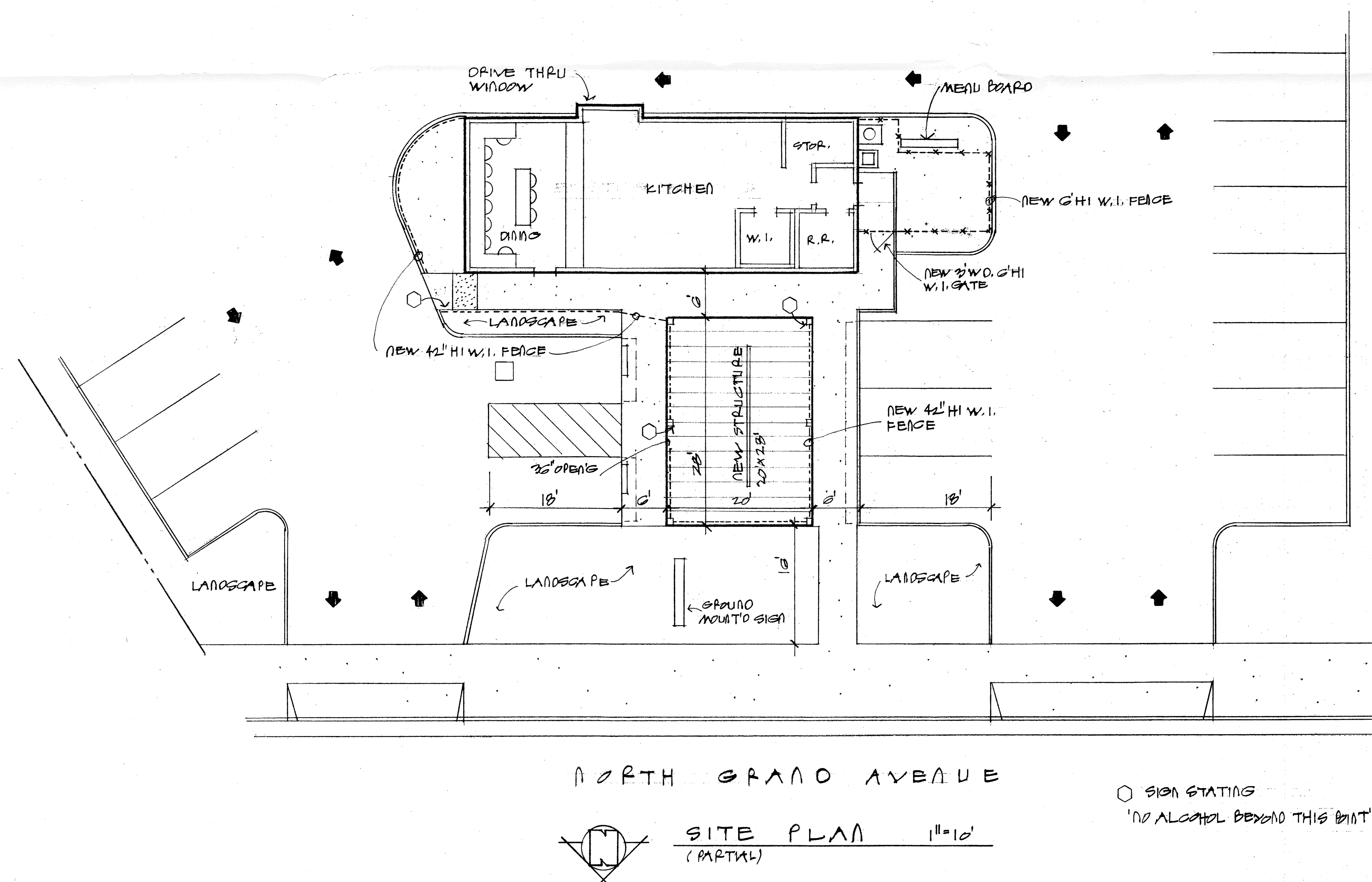
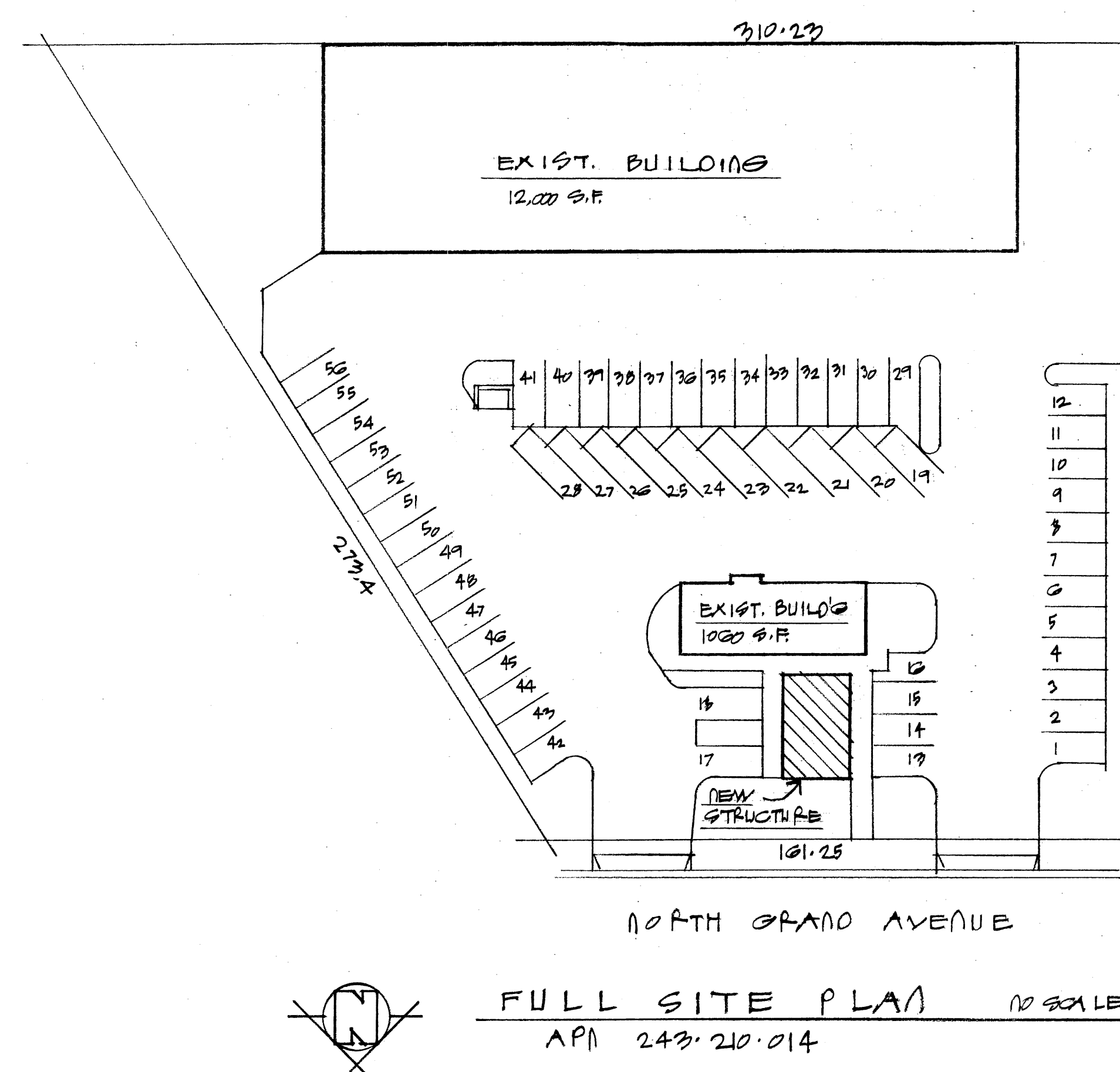
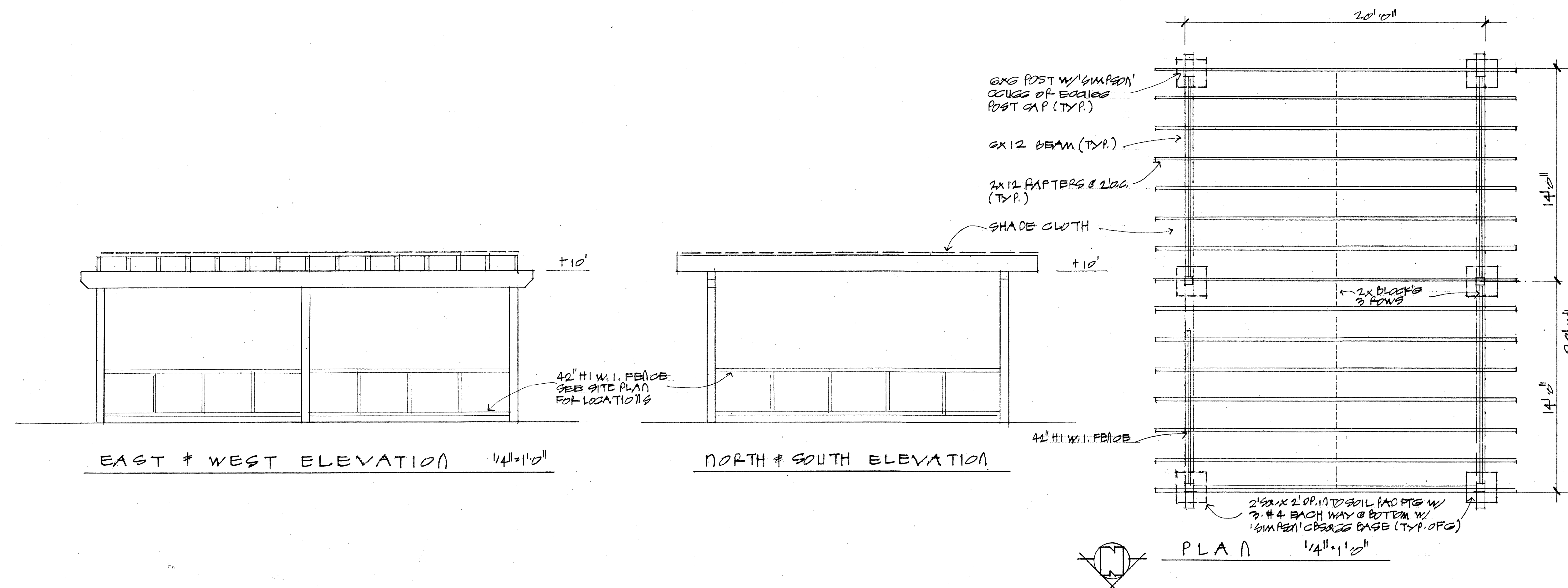


CUP for Vault #2
@ 917C W. Northgrand Ave

 Project Location
 City Limits

1 in = 300 feet





RESOLUTION NO. ____-2019

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
CONTAINING FINDINGS AND CONDITIONS IN SUPPORT OF
CONDITIONAL USE PERMIT (PRC 2019-030-C) TO ALLOW THE SALE OF ALCOHOL
UNDER A TYPE 41 ON-SALE (BEER AND WINE) ALCOHOL LICENSE FOR THE
VAULT BAR & GRILL NO. 2, A BONA-FIDE PUBLIC EATING PLACE LOCATED AT
917C W. NORTH GRAND AVENUE

WHEREAS: The City Council of the City of Porterville, at its regularly scheduled meeting of October 1, 2019, conducted a public hearing to consider Conditional Use Permit (PRC 2019-030-C) to allow the sale of alcohol under a Type 41 On-Sale (Beer and Wine) alcohol license for a restaurant located at 917C W. North Grand Avenue. The public hearing was held, one comment was received in opposition to the project, and the public hearing was closed. The Council discussed and deliberated the project, and voted to continue such deliberations to the next meeting; and

WHEREAS: On October 8, 2019, staff met with the applicant at the proposed business location to obtain additional information, and during that meeting, the applicant identified that he will have staff present outdoors during those times that alcohol can be consumed outdoors; and

WHEREAS: The City Council of the City of Porterville, at its regularly scheduled meeting of October 15, 2019, continued deliberation of CUP 2019-030-C; and

WHEREAS: On September 18, 2019, the Environmental Coordinator made a preliminary determination that the project is exempt from California Environmental Quality Act pursuant to the "General Rule" exemption §15061(b)(3), that CEQA applies only to projects which have the potential for causing a significant effect on the environment; and

WHEREAS: The City Council of the City of Porterville authorized the Mayor to sign the Letter of Public Convenience or Necessity due to the over concentration of alcohol licenses within Census Tract 37; and

WHEREAS: The City Council of the City of Porterville received testimony from all interested parties related to said Conditional Use Permit; and

WHEREAS: The City Council made the following findings:

1. That the proposed project will advance the goals and objectives of, and is consistent with, the policies of the General Plan and any other applicable plan that the City has adopted.

The subject site is consistent with the General Plan Land Use Designation and Zoning Standards for CG (General and Service Commercial). The CG designation is intended to provide for retail and service uses that meet local and regional demand. The proposed restaurant with alcohol sales would suit the purpose of the zone designation. The restaurant also supports the general plan economic development guiding policies to retain, improve and promote businesses in Porterville. The restaurant is a permitted use in the CG Zone, and alcohol sales are permitted in that zone with a Conditional Use Permit.

2. That the proposed location of the project and the conditions under which it will be operated or maintained will not be detrimental to the public health, safety, welfare, or materially injurious to properties or improvements in the vicinity.

Conditions of approval are included herein to ensure adequate operational standards are met. The project is located within an existing building with an outdoor seating area and is conditioned that all activities associated with the consumption of alcohol on premises, in association with the Type 41 on-sale license shall be exclusively confined to the interior of the building, and inside the gated outdoor seating area when monitored by a staffer stationed in that location. Alcohol served outdoors shall be delivered to the client's table by staff.

Additionally, the project is conditioned to preserve the public safety, health and welfare to prevent the use from becoming a nuisance and operate the business in compliance with all laws, ordinances and regulations regarding the sale of alcohol. In the event that this or any other condition of approval is violated, the City Council may modify or revoke the conditional use permit.

3. This project is exempt from CEQA pursuant to §15061(b)(3) that CEQA only applies to projects which have the potential for causing a significant effect on the environment.
4. The California Department of Alcoholic Beverage Control (ABC) allows for a specific number of licenses per census tract, based on population. Whenever the ratio of on-sale licenses to population in a census tract exceeds the average ratio for the county, an "undue concentration" of licenses is determined to exist. The subject site is located within Census Tract 37; this tract contains 19 licenses for alcohol sales; eleven on-sale and eight off-sale. In Census tract 37, four on-sale and five off-sale are allowed without being deemed over-concentrated. Approval of this on-sale license would be the twelfth on-sale license, eight above the allowable as determined by ABC. Due to the over-concentration of on-sale licenses, a Letter of Public Convenience or Necessity will be required.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve Conditional Use Permit (PRC 2019-030-C) subject to the following conditions:

1. No alcohol advertising shall be displayed and/or viewed from the outside of the building.
2. Alcohol may not be sold in conjunction with drive thru sales.
3. The consumption of alcohol on premises, in association with the Type 41 on-sale license shall be exclusively confined to the interior of the building, and inside the gated outdoor seating area when monitored by a staffer stationed in that location. Alcohol served outdoors shall be delivered to the client's table by staff.
4. The hours of operation during which alcoholic beverages may be sold shall be limited to 6:00 a.m. to 2:00 a.m., seven days a week. Any amendment to business hours that would modify this condition will be subject to a modification of this permit.

5. Live entertainment or dancing is not permitted; if in the future the license holder seeks to pursue such associated activities, a modification to this permit would be considered by the City Council.
6. Upon approval of the conditional use permit, any future change in operation which substantially alters the conditions or nature of the subject business will require approval by the City Council. Further, any future violations of regulations of the codes relating to the sales or consumption of alcohol, and/or excessive service calls by the Police Department resulting from the sales of alcohol may result in revocation of the Conditional Use Permit.
7. Unless an extension of time is granted by the City Council, the conditional use permit shall expire two years after the date of approval if the on-sale alcohol license is not active or actively pursued. The City Council may approve a one year extension of any permit or approval granted under this ordinance upon receipt of a written application with the required fee before the permit expires.
8. The applicant shall operate the establishment in such a manner as to preserve the public safety, health and welfare, to prevent the use from becoming a nuisance and operate the business in compliance with all laws, ordinances and regulations regarding the sale of alcohol. In the event that this or any other condition of approval is violated, the City Council may modify or revoke the conditional use permit as provided in Section 601.10 of the Porterville Development Ordinance.
9. Pursuant to Section 601.10(d) the City Council may revoke the permit if it makes any of the following findings:
 - That approval was obtained by means of fraud or misrepresentation of a material fact;
 - That the use in question has ceased to exist or has been suspended for one year or more;
 - That there is or has been a violation of or failure to observe the terms or conditions of the permit or variance, or the use has been conducted in violation of the provisions of this ordinance, law or regulation; or
 - That the use to which the permit or variance applies has been conducted in a manner detrimental to the public safety, health and welfare or so as to be a nuisance.

PASSED, APPROVED AND ADOPTED this 15th day of October, 2019.

Martha A. Flores, Mayor

ATTEST:
John D. Lollis, City Clerk

By _____
Patrice Hildreth, Chief Deputy City Clerk

October 16, 2019

California Department of Alcoholic Beverage Control
Fresno District Office
1330 B East Shaw Ave
Fresno, CA 93710
ATTN: Jason Montgomery

RE: The Vault Bar & Grill #2, 917C W. North Grand Avenue, Porterville, CA

Dear Mr. Montgomery:

The City Council of the City of Porterville has elected to approve submittal of this letter regarding the public convenience or necessity to be served through issuance of a Type 41 On-Sale Beer and Wine alcohol license for The Vault Bar and Grill #2 located at 917C W. North Grand Avenue

Approval of this letter was based on the following:

1. Per Section 23958.4 of the "Business and Professions Code," the subject site is located within Census Tract 7 which allows four (4) on-sale licenses. With the approval of this license, twelve (12) on-sale licenses will exist in this tract. Due to the over concentration of on-sale licenses a Letter of Public Convenience or Necessity was required.
2. On October 15, 2019, the City Council conditionally approved Conditional Use Permit (PRC 2019-030-C), review attached resolution, to allow the on-sale of beer and wine for a bona fide restaurant at 917C W. North Grand Avenue. As a condition of approval, a Letter of Public Convenience or Necessity was required to be approved by the City Council.
3. In consideration of the above, the City Council determined that public convenience or necessity would be served by the issuance of a Type 41 On-Sale Beer and Wine alcohol license.

Further issuance of an on-sale license allowing beer and wine sales represents a viable economic asset to the community which will contribute tax revenues to the local economy. The subject site is consistent with the General Plan Land Use Designation and Zoning Standards for CG (General and Service Commercial). The CG designation is intended to provide for retail and service uses that meet local and regional demand. The proposed restaurant with alcohol sales would suit the purpose of the zone designation. The restaurant also supports the general plan economic development guiding policies to retain, improve and promote businesses in Porterville.

For these reasons, the City Council of the City of Porterville supports issuance of a Type 41 On-Sale Beer and Wine license for The Vault Bar and Grill #2 located at 917C W. North Grand Avenue, Porterville, CA.

Sincerely,

Martha A. Flores, Mayor

Attachment: Resolution



CITY COUNCIL AGENDA – OCTOBER 1, 2019

SUBJECT: Consideration of a Conditional Use Permit for 917C West North Grand Avenue (PRC 2019-030-C)

SOURCE: Community Development

COMMENT: The applicant is requesting approval of a Conditional Use Permit (CUP) to allow the sale of beer and wine under a Type 41 on-sale license. The sale of alcohol will be in conjunction with the serving of meals in association with a new restaurant (The Vault Bar & Grill #2), within an existing tenant space at 917C W. North Grand Ave. in the CG (General and Service Commercial) Zone District. Section 301.03 of the Porterville Development Ordinance requires approval of a CUP for any use involving the sale of alcoholic beverages.

The California Department of Alcoholic Beverage Control (ABC) allows for a specific number of licenses per census tract, based on population. Whenever the ratio of on-sale licenses to population in a census tract exceeds the average ratio for the county, an “undue concentration” of licenses is determined to exist. The subject site is located within Census Tract 37; this tract contains 19 licenses for alcohol sales; eleven (11) on-sale and eight (8) off-sale. In Census tract 37, four (4) on-sale and five (5) off-sale are allowed without being deemed over-concentrated. Approval of this on-sale license would be the twelfth (12) on-sale license, eight (8) above the allowable as determined by ABC. Due to the over-concentration of on-sale licenses, a Letter of Public Convenience or Necessity will be required.

The restaurant will serve lunch and dinner and may be open up to seven (7) days per week, between 11:00 a.m. and 8:00 p.m. Staff has included in the draft Resolution proposed conditions for the facility to operate and be maintained so as not to be detrimental to the public health, safety, or welfare to properties or improvements in the vicinity. No alcohol may be sold in conjunction with drive thru sales. Any changes to operation of business would require a modification of the conditional use permit.

The subject site is consistent with the General Plan Land Use Designation and Zoning Standards for CG (General and Service Commercial). The CG designation is intended to provide for retail and service uses that meet local and regional demand. The proposed restaurant with alcohol sales would suit the purpose of the zone designation. The restaurant also supports the general plan economic development guiding policies to retain, improve and promote businesses in Porterville. The restaurant is a permitted use in the CG Zone, and alcohol sales are permitted in that zone with a Conditional Use Permit.

The subject site has identified an outdoor seating area and shall comply with Section 300.08 (c), Outdoor Seating, of the Porterville Development Ordinance.

Barriers are required for uses involving the sale of alcoholic beverages as approved with a Conditional Use Permit. The barrier around the seating area shall be acceptable to the City and the design shall be approved by the Zoning Administrator at the time of building permit issuance.

On September 18, 2019, the Environmental Coordinator made a preliminary determination that the project is exempt from the California Environmental Quality Act pursuant to Section 15061(b), (3) of the California Code of Regulation (CEQA Guidelines), under the general rule that CEQA applies only to projects which have the potential for causing a significant effect on the environment.

RECOMMENDATION: That the City Council:

1. Adopt the draft Resolution approving Conditional Use Permit (PRC 2019-030-C) subject to conditions of approval; and
2. Authorize the Mayor to sign the Letter of Public Convenience or Necessity.

ATTACHMENTS:

1. Locator Map
2. Site plan
3. ABC Map
4. Draft Resolution
5. Draft Letter of Public Convenience and Necessity

Appropriated/Funded:

Review By:

Department Director:

Jenni Byers, Community Development Director

Final Approver: John Lollis, City Manager

Locator Map
PRC 2019-030

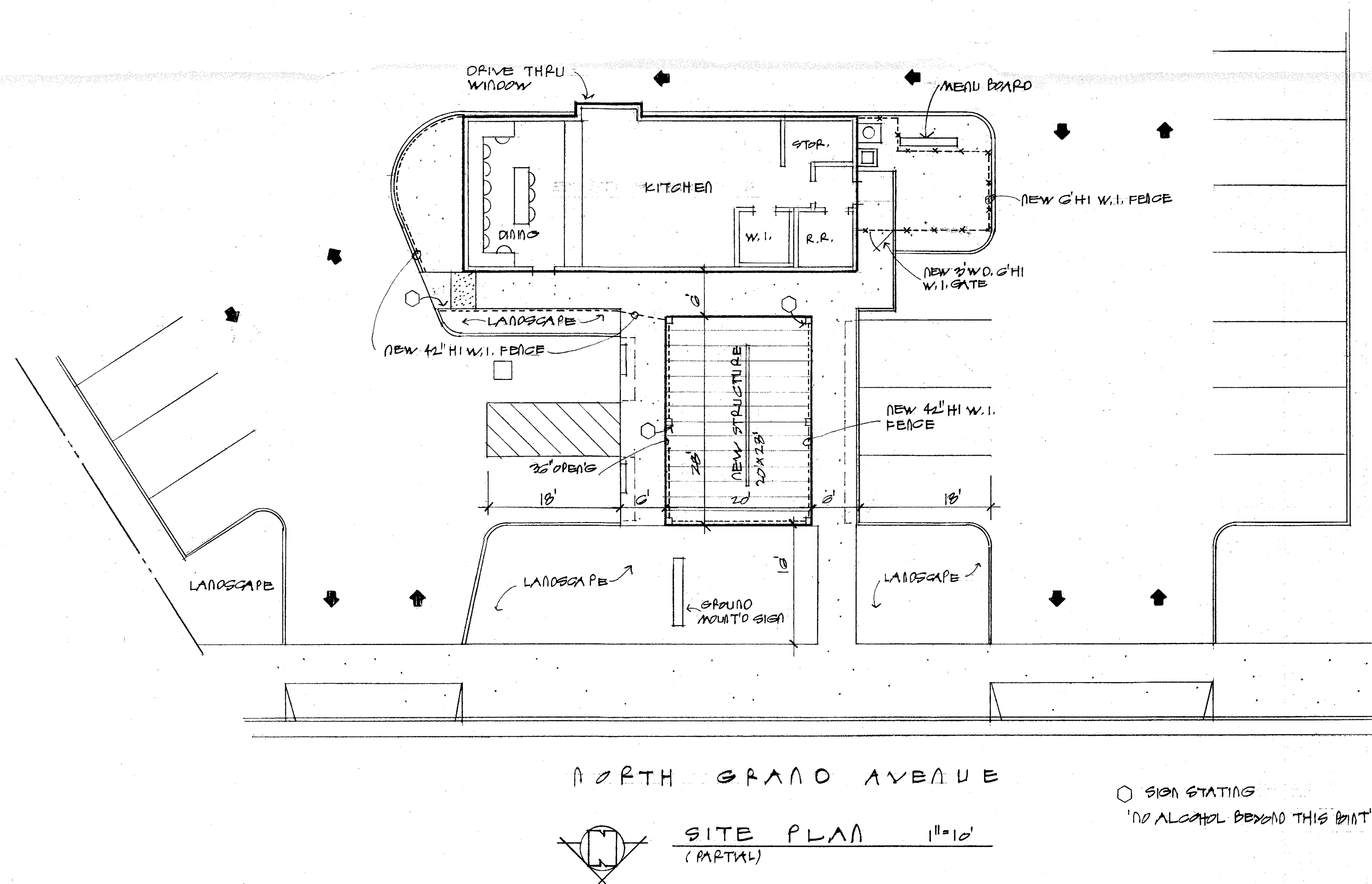
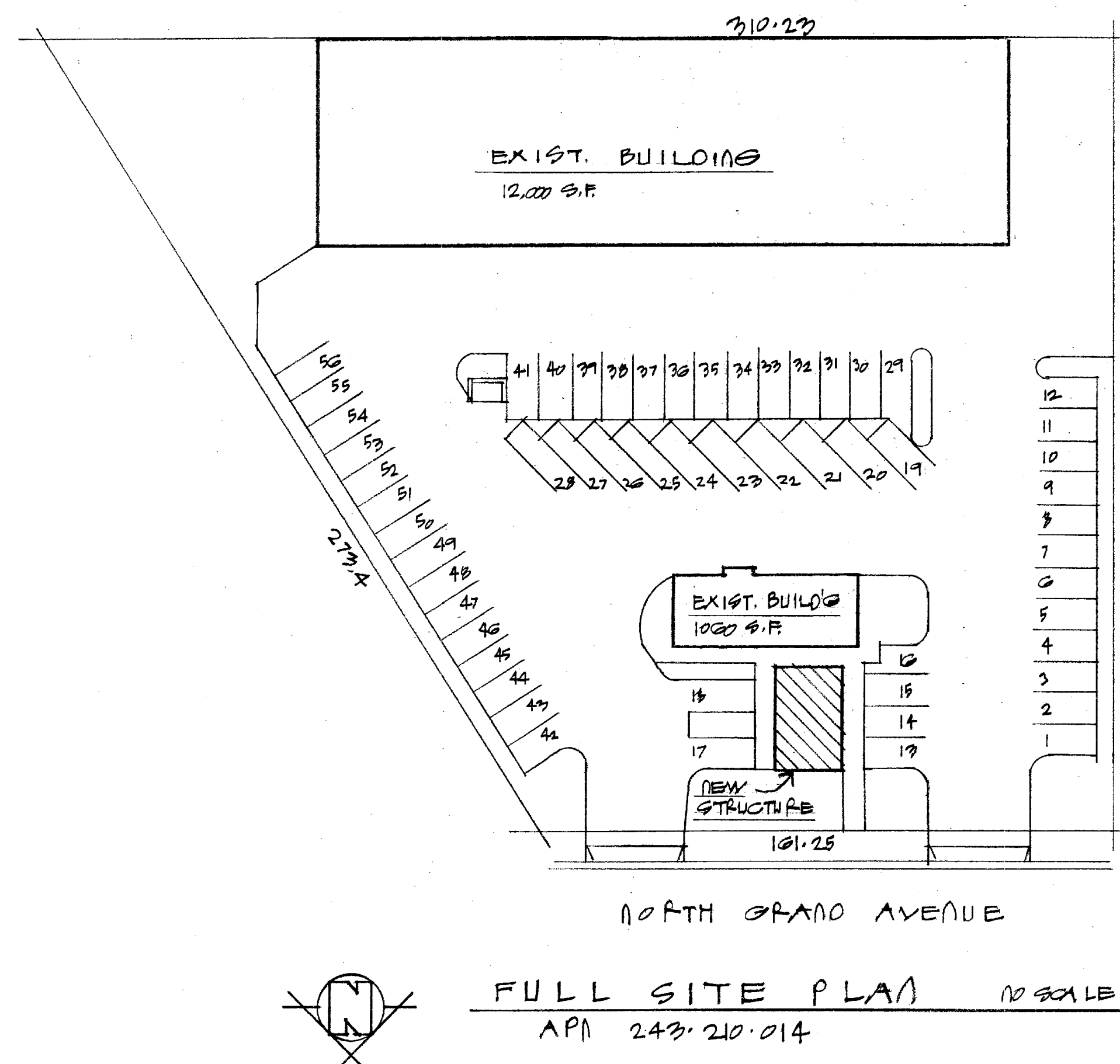


CUP for Vault #2
@ 917C W. Northgrand Ave

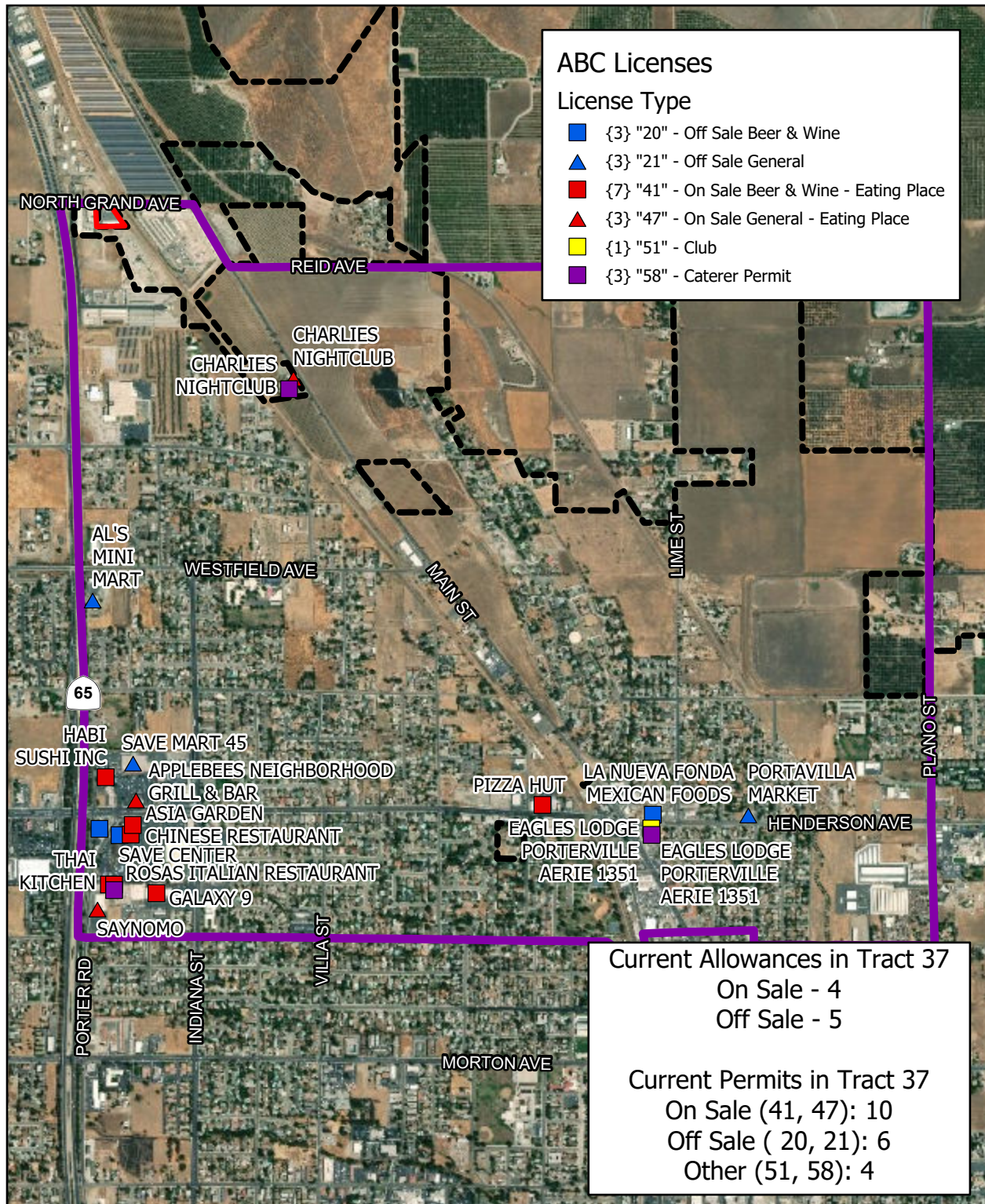
 Project Location
 City Limits

1 in = 300 feet





ABC Map PRC 2019-030



**CUP for Vault #2
@ 917C W. Northgrand Ave**

- Census Tract 37
- Project Location
- City Limits

1 in = 1,600 feet



RESOLUTION NO. ____-2019

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
CONTAINING FINDINGS AND CONDITIONS IN SUPPORT OF CONDITIONAL USE
PERMIT (PRC 2019-030-C) TO ALLOW THE SALE OF ALCOHOL UNDER A TYPE 41
ON-SALE (BEER AND WINE) ALCOHOL LICENSE FOR THE VAULT BAR & GRILL NO.
2, A BONA-FIDE PUBLIC EATING PLACE LOCATED AT 917C W. NORTH GRAND
AVENUE.

WHEREAS: The City Council of the City of Porterville, at its regular scheduled meeting of October 1, 2019, conducted a public hearing to consider Conditional Use Permit (PRC 2019-030-C) to allow the sale of alcohol under a Type 41 On-Sale (Beer and Wine) alcohol license for a restaurant located at 917C W. North Grand Avenue; and

WHEREAS: On September 18, 2019, the Environmental Coordinator made a preliminary determination that the project is exempt from California Environmental Quality Act pursuant to the "General Rule" exemption §15061(b)(3), that CEQA applies only to projects which have the potential for causing a significant effect on the environment; and

WHEREAS: The City Council of the City of Porterville authorized the Mayor to sign the Letter of Public Convenience or Necessity due to the over concentration of alcohol licenses within Census Tract 37; and

WHEREAS: The City Council of the City of Porterville received testimony from all interested parties related to said Conditional Use Permit; and

WHEREAS: The City Council made the following findings:

1. That the proposed project will advance the goals and objectives of, and is consistent with, the policies of the General Plan and any other applicable plan that the City has adopted.

The subject site is consistent with the General Plan Land Use Designation and Zoning Standards for CG (General and Service Commercial). The CG designation is intended to provide for retail and service uses that meet local and regional demand. The proposed restaurant with alcohol sales would suit the purpose of the zone designation. The restaurant also supports the general plan economic development guiding policies to retain, improve and promote businesses in Porterville. The restaurant is a permitted use in the CG Zone, and alcohol sales are permitted in that zone with a Conditional Use Permit.

2. That the proposed location of the project and the conditions under which it will be operated or maintained will not be detrimental to the public health, safety, welfare, or materially injurious to properties or improvements in the vicinity.

Conditions of approval are included herein to ensure adequate operational standards are met. The project is located within an existing building with an outdoor seating area and is conditioned that all activities associated with the consumption of alcohol on premises, in

association with the Type 41 on-sale license shall be exclusively confined to the interior of the building and inside the gated outdoor seating area.

Additionally, the project is conditioned to preserve the public safety, health and welfare to prevent the use from becoming a nuisance and operate the business in compliance with all laws, ordinances and regulations regarding the sale of alcohol. In the event that this or any other condition of approval is violated, the City Council may modify or revoke the conditional use permit.

3. This project is exempt from CEQA pursuant to §15061(b)(3) that CEQA only applies to projects which have the potential for causing a significant effect on the environment.
4. The California Department of Alcoholic Beverage Control (ABC) allows for a specific number of licenses per census tract, based on population. Whenever the ratio of on-sale licenses to population in a census tract exceeds the average ratio for the county, an “undue concentration” of licenses is determined to exist. The subject site is located within Census Tract 37; this tract contains 19 licenses for alcohol sales; eleven on-sale and eight off-sale. In Census tract 37, four on-sale and five off-sale are allowed without being deemed over-concentrated. Approval of this on-sale license would be the twelfth on-sale license, eight above the allowable as determined by ABC. Due to the over-concentration of on-sale licenses, a Letter of Public Convenience or Necessity will be required.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve Conditional Use Permit (PRC 2019-030-C) subject to the following conditions:

1. No alcohol advertising shall be displayed and/or viewed from the outside of the building.
2. Alcohol may not be sold in conjunction with drive thru sales.
3. The consumption of alcohol on premises, in association with the Type 41 on-sale license shall be exclusively confined to the interior of the building and inside the gated outdoor seating area shown on the site plan, incorporated hereto as Exhibit A.
4. The hours of operation during which alcoholic beverages may be sold shall be limited to 6:00 a.m. to 2:00 a.m., seven days a week. Any amendment to business hours that would modify this condition will be subject to a modification of this permit.
5. Live entertainment or dancing is not permitted; if in the future the license holder seeks to pursue such associated activities, a modification to this permit would be considered by the City Council.
6. Upon approval of the conditional use permit, any future change in operation which substantially alters the conditions or nature of the subject business will require approval by the City Council. Further, any future violations of regulations of the codes relating to the sales or consumption of alcohol, and/or excessive service calls by the Police Department

resulting from the sales of alcohol may result in revocation of the Conditional Use Permit.

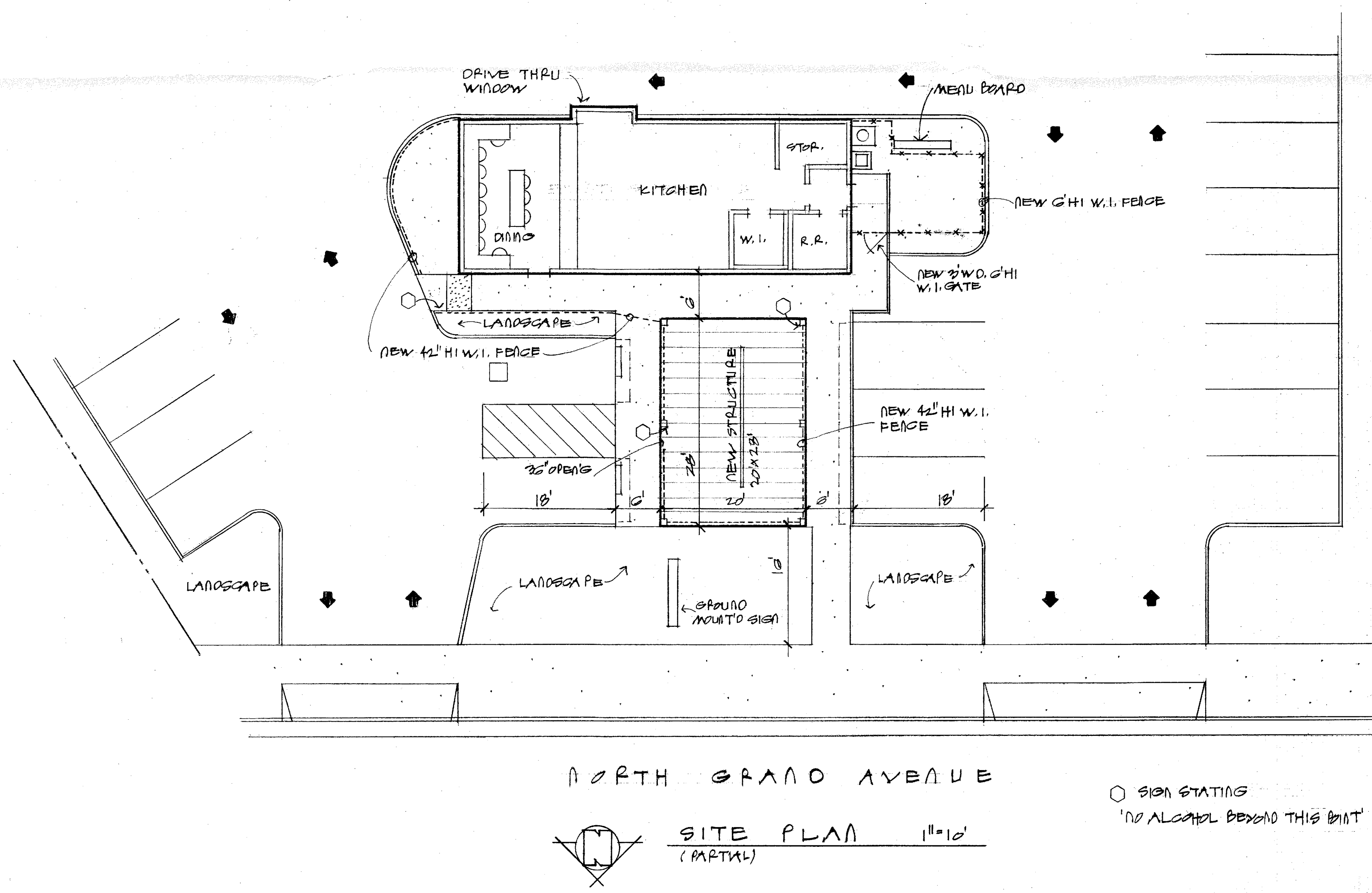
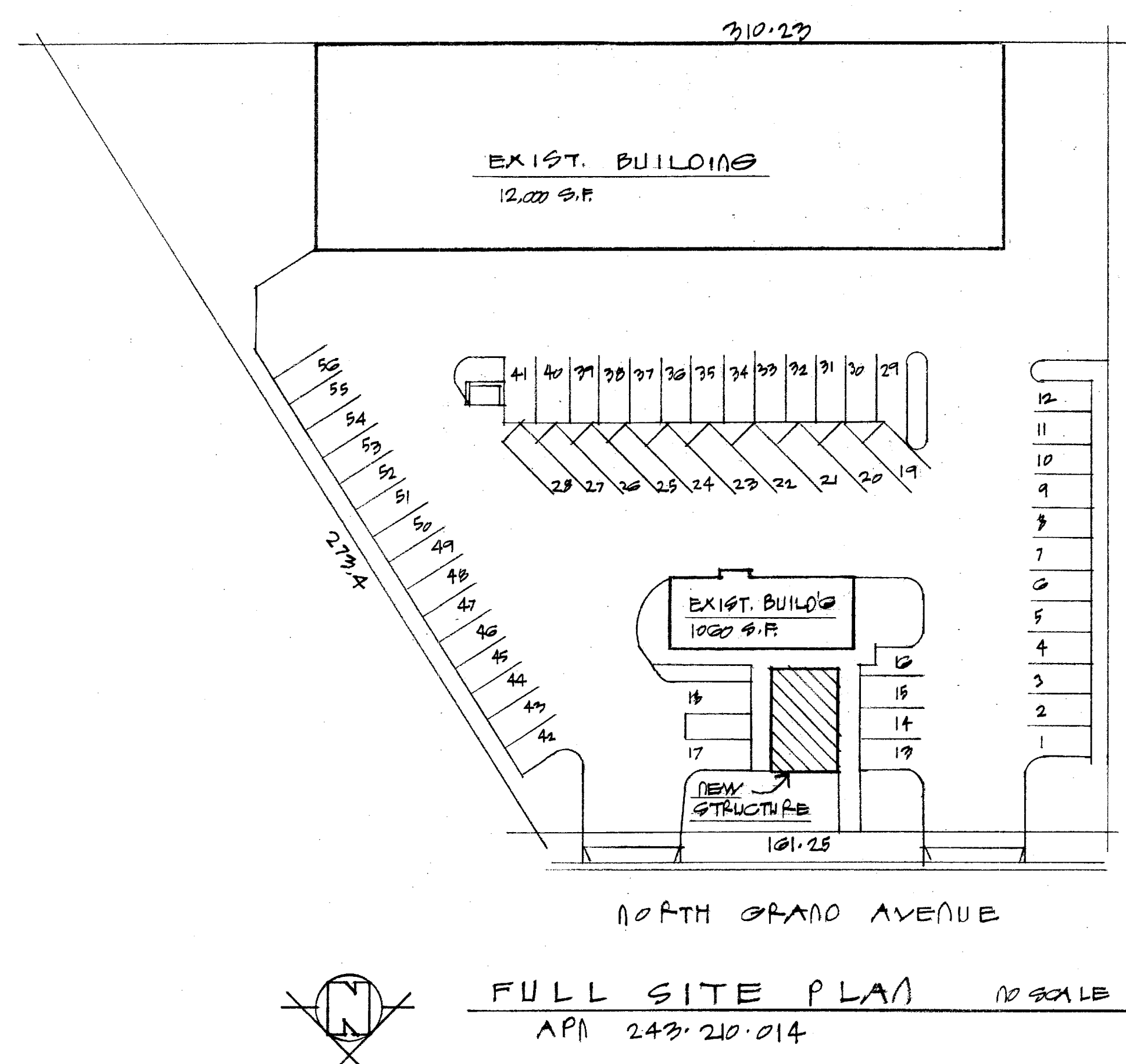
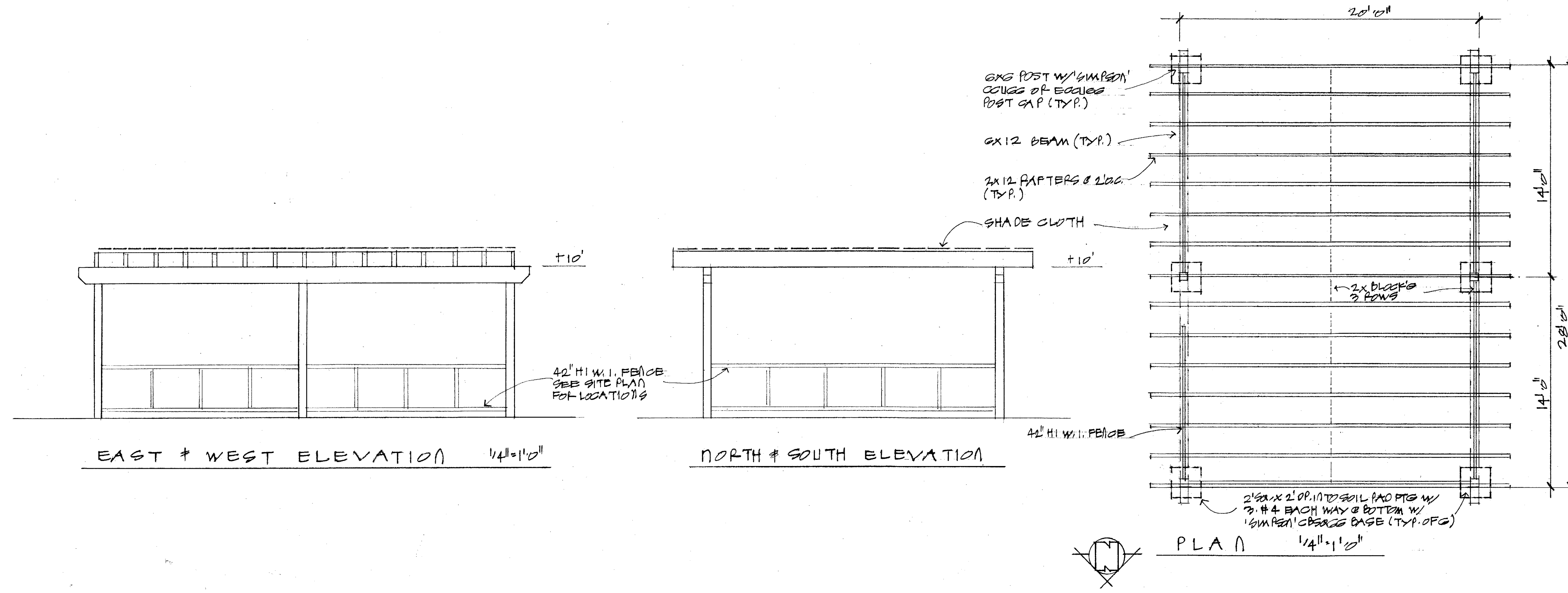
7. Unless an extension of time is granted by the City Council, the conditional use permit shall expire two years after the date of approval if the on-sale alcohol license is not active or actively pursued. The City Council may approve a one year extension of any permit or approval granted under this ordinance upon receipt of a written application with the required fee before the permit expires.
8. The applicant shall operate the establishment in such a manner as to preserve the public safety, health and welfare, to prevent the use from becoming a nuisance and operate the business in compliance with all laws, ordinances and regulations regarding the sale of alcohol. In the event that this or any other condition of approval is violated, the City Council may modify or revoke the conditional use permit as provided in Section 601.10 of the Porterville Development Ordinance.
9. Pursuant to Section 601.10(d) the City Council may revoke the permit if it makes any of the following findings:
 - That approval was obtained by means of fraud or misrepresentation of a material fact;
 - That the use in question has ceased to exist or has been suspended for one year or more;
 - That there is or has been a violation of or failure to observe the terms or conditions of the permit or variance, or the use has been conducted in violation of the provisions of this ordinance, law or regulation; or
 - That the use to which the permit or variance applies has been conducted in a manner detrimental to the public safety, health and welfare or so as to be a nuisance.

PASSED, APPROVED AND ADOPTED this 1st day of October, 2019.

Martha A. Flores, Mayor

ATTEST:
John D. Lollis, City Clerk

By _____
Patrice Hildreth, Chief Deputy City Clerk



October 2, 2019

California Department of Alcoholic Beverage Control
Fresno District Office
1330 B East Shaw Ave
Fresno, CA 93710
ATTN: Jason Montgomery

RE: The Vault Bar & Grill #2, 917C W. North Grand Avenue, Porterville, CA

Dear Mr. Montgomery:

The City Council of the City of Porterville has elected to approve submittal of this letter regarding the public convenience or necessity to be served through issuance of a Type 41 On-Sale Beer and Wine alcohol license for The Vault Bar and Grill #2 located at 917C W. North Grand Avenue

Approval of this letter was based on the following:

1. Per Section 23958.4 of the "Business and Professions Code," the subject site is located within Census Tract 7 which allows four (4) on-sale licenses. With the approval of this license, twelve (12) on-sale licenses will exist in this tract. Due to the over concentration of on-sale licenses a Letter of Public Convenience or Necessity was required.
2. On October 1, 2019, the City Council conditionally approved Conditional Use Permit (PRC 2019-030-C), review attached resolution, to allow the on-sale of beer and wine for a bona fide restaurant at 917C W. North Grand Avenue. As a condition of approval, a Letter of Public Convenience or Necessity was required to be approved by the City Council.
3. In consideration of the above, the City Council determined that public convenience or necessity would be served by the issuance of a Type 41 On-Sale Beer and Wine alcohol license.

Further issuance of an on-sale license allowing beer and wine sales represents a viable economic asset to the community which will contribute tax revenues to the local economy. The subject site is consistent with the General Plan Land Use Designation and Zoning Standards for CG (General and Service Commercial). The CG designation is intended to provide for retail and service uses that meet local and regional demand. The proposed restaurant with alcohol sales would suit the purpose of the zone designation. The restaurant also supports the general plan economic development guiding policies to retain, improve and promote businesses in Porterville.

For these reasons, the City Council of the City of Porterville supports issuance of a Type 41 On-Sale Beer and Wine license for The Vault Bar and Grill #2 located at 917C W. North Grand Avenue, Porterville, CA.

Sincerely,

Martha A. Flores, Mayor

Attachment: Resolution



CITY COUNCIL AGENDA – OCTOBER 15, 2019

SUBJECT: Appointment to the Arts Commission

SOURCE: Administrative Services

COMMENT: There are currently two (2) vacancies on the Arts Commission, one (1) with a term to expire in July of 2022, and the other a student/youth seat with a one-year term. Staff is in receipt of a Request for Appointment from Mr. David Mason, which is provided herein for Council's consideration. Staff has received no additional requests, but will continue efforts with the various school districts to locate a student/youth member.

Pursuant to Ordinance 1841, the Arts Commission is comprised of five (5) members, plus one (1) student youth member. The Commission members represent four (4) areas of the arts: 1) theatrical/performing arts; 2) visual/graphic; 3) music; and 4) youth.

RECOMMENDATION: That the City Council consider the appointment of Mr. David Mason to serve on the Arts Commission for a term to expire in July 2022.

ATTACHMENTS: 1. Request for Appointment - Mason

Appropriated/Funded:

Review By:

Department Director:

Patrice Hildreth, Deputy City Manager

Final Approver: John Lollis, City Manager



7



REQUEST FOR APPOINTMENT

Please complete all blanks.

Name: David Mason
(Please Print)

Appointment to: ART
(Name of Board, Commission, or Committee)

☐ Reappointment; or IF NEW, Please provide:

Street Address: [REDACTED]
[REDACTED]

Mailing Address: _____

Name of Business: N/A

☐ Own ☐ Operate

Business Address: N/A

Telephone: Home [REDACTED]

Work _____

FAX _____

E-mail [REDACTED]

City of Porterville Resident:

☒ Yes

☐ No

Select District:

☒ 1 ☐ 2 ☐ 3

☐ 4 ☐ 5

Registered Voter:

☒ Yes

☐ No

Qualifications: (It is recommended that a resume or letter accompany this form.)

COS ART STUDENT

Please tell us why you are interested in this position.

I'M AN ART STUDENT!

☐ Resume attached

☐ Letter of request attached

Submitted By: Jan

9-23-2019
Date

Received by: _____

Forwarded to: City Clerk

☐ Date: _____

City Council

☐ Date: _____

Staff Liaison

☐ Date: _____

Tentative Council Mtg Date: _____



CITY COUNCIL AGENDA – OCTOBER 15, 2019

SUBJECT: Appointment of Council Member to a Grievance Appeals Board

SOURCE: Administrative Services

COMMENT: The City's Personnel Rules and Regulations sets forth the procedure by which City employees can seek resolution of grievances on matters affecting their employment. The City's procedure is designed to expeditiously resolve employee grievances at the lowest possible administrative level, and also provides for an appeals process in the event the employee/grievant is not satisfied with the outcome.

The Administrative Services Department is currently processing an employee grievance which has reached the final appeal step. The process provides for a review by a three (3) member Grievance Appeals Board, which is comprised of a City Council Member appointed by the Council, an employee appointed by the employee/grievant, and a neutral third member which is mutually agreed upon by the other two (2) members.

Staff hereby requests that the Council appoint a Member to serve on the aforementioned Grievance Appeals Board. Staff further recommends that the Council appoint an alternate to serve in the event the City Council appointee has any potential conflicts. Due to the confidential nature of personnel matters, no further details can be provided with regard to the specific grievance.

RECOMMENDATION: That the City Council appoint a member and an alternate to serve as the City Council representative on the Grievance Appeals Board for the grievance herein referenced.

ATTACHMENTS:

Appropriated/Funded:

Review By:

Department Director:

Final Approver: John Lollis, City Manager



CITY COUNCIL AGENDA – OCTOBER 15, 2019

SUBJECT: Consideration of City Council's Procedural Handbook

SOURCE: City Manager's Office

COMMENT: At its meeting of October 1, 2019, the City Council took action to add the consideration of the City Council's Procedural Handbook as a Scheduled Matter at its meeting of October 15, 2019. The Procedural Handbook is provided as an attachment for the Council's review and consideration of potential revision(s).

RECOMMENDATION: That the City Council consider its Procedural Handbook and provide direction as determined.

ATTACHMENTS: 1. City Council Procedural Handbook

Appropriated/Funded:

Review By:

Department Director:

John Lollis, City Manager

Final Approver: John Lollis, City Manager

CITY COUNCIL PROCEDURAL HANDBOOK



The Office of City Clerk
291 North Main Street
Porterville, CA 93257
Tel: (559) 782-7447
Fax: (559) 782-7452
www.ci.porterville.ca.us

As Authorized by the City Council on August 20, 2019

TABLE OF CONTENTS

I.	PREAMBLE	4
II.	MEETINGS OF COUNCIL	5
	A. Regular Meetings	5
	B. Adjourned Meetings/Study Sessions	5
	C. Special Meetings	6
	D. Order of Business	6
	E. Consent Items	7
III.	MEETING PROCEDURES	8
	A. Presiding Officer	8
	B. Quorum	8
	C. Discussion Rules	8
IV.	COUNCIL REQUESTS FROM THE PUBLIC	10
	A. Response to Letters from the Public	10
	B. Referrals to Council Agenda	10
	C. Telephone Calls	11
	D. Personal Meetings	11
	E. Personal Correspondence	12
	F. Out-of-District Requests	12
	G. Proclamation Approval Process	12
V.	COUNCIL MEMBER REQUESTS TO STAFF	13
	A. General Information	13
	B. Research	13
	C. Items for Inclusion in Council Agenda	13
VI.	COUNCIL AGENDA	15
	A. Preparation	15
	B. Deadlines	15
	C. Delivery	15
VII.	THE BROWN ACT	16
VIII.	TRAVEL, MEETINGS & EXPENSES	17
	A. Requests for Reservations	17
	B. Travel and Expense Form	18
	C. Receipts	18
	D. Eligibility	18
	E. Event Tickets	19
	F. Council Member Meetings with District Constituents	19

IX.	CONFLICT OF INTEREST	20
	A. City Council Members' Filing Requirements	20
	B. Other Agencies	22
	C. Redevelopment Agency Filing Requirements	22
	D. City of Porterville Conflict of Interest Code	22
X.	GENERAL ITEMS	23
	A. Different Hats	23
	B. Compensation	23
	C. Issuance of Laptop Computers to Council Members	23
	D. Directions to Support Staff	23
	E. City Attorney	24
	F. Annual City Manager/City Attorney Evaluations	24
	G. Response to President/Governor Directives	24
	APPENDICES	25
	A. Resolution 31-2019, Order of Business	
	B. Resolution 99-2012, Ticket Policy	
	C. Annual City Manager/City Attorney Evaluation Forms	
	D. Electronic Device, Internet and Email Policy	
	E. Email Retention Policy	



PREAMBLE

The residents and businesses of the City of Porterville are entitled to have fair, ethical, and accountable local government. Such a government requires that:

- Public Officials comply with both the letter and spirit of the laws and policies affecting operations of the government;
- Public Officials be independent, impartial, and fair in their judgment and actions;
- Public office be used for the public good, not for personal gain; and
- Deliberations and processes be conducted openly, unless legally confidential, in an atmosphere of respect and civility.

No part of this Handbook shall be interpreted so as to violate any federal or state law; a Council Member's Oath of Office; a Council Member's moral or ethical responsibilities; or the exercise of a Council Member's individual rights afforded him/her by the U.S. Constitution.

To this end, the City Council of the City of Porterville hereby approves of and affirms the above to encourage public confidence in the integrity of local government and its operations.

(Minute Order 21-070511, July 5, 2011.)



II. MEETINGS OF COUNCIL

The Council shall provide by ordinance the time and place of holding regular meetings and the manner in which special meetings may be called. Public interest and convenience shall be primary consideration when decisions are made as to time, location and frequency.

Except as otherwise provided by law, all meetings of the Council shall be open to the public.

A. REGULAR MEETINGS

1. Pursuant to Section 10 of the City Charter, Regular Meetings of the Porterville City Council shall be held on the first and third Tuesday of each month in the Council Chambers at City Hall, 291 North Main Street, in the City. The Regular Meetings will commence at five thirty o'clock (5:30) P.M., with Closed Sessions commencing at five thirty o'clock (5:30) P.M., and Open Session commencing at six thirty o'clock (6:30) P.M. In the event that a regular meeting of the Council shall fall on a legal holiday, that regular meeting shall be held at the same place and time on the next succeeding working day, or as determined by Council. (*Ordinance 1766, August 17, 2010; M.O. 15-09181, September 18, 2012.*)
2. Following the mid-meeting break (around 9:00 p.m.) the Mayor, with assistance from the City Manager, will review the balance of the agenda with Council to discuss how it can be handled in the allowed time. If it is necessary to continue any items, it will be announced at that time.

B. ADJOURNED MEETINGS/STUDY SESSIONS (Open to the public)

1. The purpose of these meetings shall be for informal discussions between staff, advisory bodies or consultants and the City Council regarding specific programs, projects or policies. If noticed, formal action may be taken at such a meeting.
2. Adjourned Meetings/Study Sessions will be held at a time and place convenient to Council and advantageous for public participation.
3. Participation of the public shall be at the discretion of the Presiding Officer, upon consensus of the Council.

C. SPECIAL MEETINGS

1. Special meetings may be called by the Mayor or three members of the City Council. (*Gov. Code Section 54956*) Written notice of each special meeting must be given not less than twenty-four (24) hours before such meeting to each member of the City Council not joining the call.
2. Written notice must be given to the City Council and to the media 24 hours prior to each meeting. (*Gov. Code Section 54956*)
3. A supplemental telephone call shall be made if necessary to notify each Council Member.
4. No business other than that announced shall be discussed.
5. Any special meeting held at a place other than City Hall shall be open to the public. Notice requirements of the Brown Act shall be complied with for any such meetings; regular minutes shall be taken by the City Clerk and shall be available for public inspection.

D. ORDER OF BUSINESS:

Meeting called to Order
Roll Call
Oral Communications (closed session items only)
Closed Session(s)
Reconvene Open Session
Report on Action taken in Closed Session
Pledge of Allegiance
Invocation
Proclamations/Presentations
Committee and Commission Reports
Staff Informational Reports
AB 1234 Reports
Oral Communications (on any matter of interest)
Consent Calendar – to include:
 Approval of Minutes
 Claims Against the City
 Payment of Bills
 Payments on Public Works Projects
 Authorization to Purchase
 Authorization to Call for Bids
 Award of Bids
 Acceptance of Projects

Acceptance of Dedications/Property
Approval of Final Tract Maps
Annexations
Requests for City Services
Reports
Other Routine Matters
Public Hearings
Second Readings of Ordinances
Scheduled Matters
Oral Communications (on any matter of interest)
Council Comments
Adjournment
(Resolution 31-2019, May 21, 2019, attached as Appendix A.)

E. CONSENT ITEMS

1. Consent items are the first items on the open session portion of the agenda (items that are routine, have been discussed before, relate to implementation of approved budget items, or to City operations or item to be later set for public hearing).
2. Any item removed from the Consent Calendar shall be considered immediately after the last Scheduled Matter on the agenda and immediately before the Second Oral Communications. *(M.O. 16-091812, September 18, 2012.)*



III. MEETING PROCEDURES

A. PRESIDING OFFICER

1. The Mayor is the Presiding Officer and acts as Chair at Council meetings.
2. In the absence or incapacity of the Mayor, the Vice Mayor as Mayor Pro Tempore will serve as Presiding Officer. In the absence of both the Mayor and Vice Mayor, the Council Members present shall select one of their number to serve as Presiding Officer for that meeting. *(Amended via Minute Order 08-071911, July 19, 2011.)*

3. Seating arrangement of the Council:

Seating arrangements shall be at Council discretion with preference being given to health conditions, seniority, individual Council Member preferences, and the Mayor's preference, in that order. *(Amended via Minute Order 08-071911, July 19, 2011.)*

4. Signing of City Documents:

The Mayor, unless unavailable, shall sign all ordinances, resolutions, contracts and other documents which have been adopted by the City Council and require an official signature; except when the City Manager, or his or her designee, has been authorized by Council action to sign documents. In the event the Mayor is unavailable, the Vice Mayor may sign the required documents. *(Amended via Minute Order 08-071911, July 19, 2011.)*

B. QUORUM

A majority of the Council Members shall constitute a quorum for the transaction of business. *(City Charter)*

C. DISCUSSION RULES

1. Obtaining the floor:
 - a. A member of the City Council, staff, or public shall first address the Presiding Officer and gain recognition.

- b. Comments and questions shall be limited to the issue before Council except when members of the public are addressing the Council under Oral Communications.
 - c. Cross-exchange between Council Members, staff or public shall be avoided.
 - d. Any citizen may arise and address the City Council on any business especially concerning them or affecting their interests during Oral Communications, but preference will be given to those who have first presented matters in the form of a written communication or who have personally notified the presiding officer of their desire to speak.
 - e. Any member or other person using profane, vulgar, loud or boisterous language at any meeting, or otherwise interrupting the proceedings, who refuses to be seated or keep quiet when ordered to do so by the Mayor or Mayor Pro Tem of the City Council, shall be guilty of a misdemeanor. It shall be the duty of the Chief of Police, upon order of the presiding officer, to eject any such member or person from the council room.
(Ordinance 1537)
2. Questions to staff:
- A Council Member shall, after recognition by the Presiding Officer, address questions to duly designated staff members through the City Manager.
3. Interruptions:
- a. Once recognized, a Council Member shall not be interrupted while speaking except to make a point of order or personal privilege.
 - b. If a Council Member is called to order while speaking, the individual shall cease speaking until the question of order is determined.
 - c. Upon being recognized by the Presiding Officer, members of staff shall hold the floor until completion of their remarks or until recognition is withdrawn by the Presiding Officer.



IV. COUNCIL REQUESTS FROM THE PUBLIC

A. Response to Letters from the Public

Periodically Council Members receive letters requesting their response. If a Council Member wishes to answer the letter, the matter can be handled in either of three ways:

1. The Council Member can give the letter to the City Manager's Secretary along with direction on how they wish their response to be worded. The City Manager's staff will then prepare the letter on City Council stationery and forward it to the appropriate Council Member for approval and signature. Copies of both letters are kept on file in the City Manager's Office, and copies are available upon request.
2. If the letter requires specific information or details only available from another City Department, the City Manager may refer the letter to the appropriate Department Head for response by them or their designee. Copies of the letters will then be forwarded to the City Manager's Office for filing.
3. If the Council Member wishes to answer their own correspondence, City stationery is available upon request from the City Manager's secretary. Copies of all such letters on City Letterhead shall be provided to all other Council members, and the letter shall include a provision clearly defining that the correspondence represents the views and/or feelings of the specific Council member signing the letter. If the Council Member wishes to have a copy of the letters in their file, they should submit a copy to the City Manager's staff for filing.

If a Council Member receives an informational item and wants a copy to be given to the other Council Members and the City Manager or other Directors, the item should be given to the City Manager's staff and copies will be made and sent out.

B. Referrals to Council agenda

Periodically Council Members receive correspondence or verbal requests for items to be acted upon, or considered, by the City Council. If a Council Member wishes to respond to the request, the matter should be referred to the City Manager. The request can then be handled as follows:

1. The Council Member may request the City Manager to place the item on the Council agenda as a written communication (however, the request must be stated on the agenda face sheet for Council to be able to act on it at the meeting); or
2. Upon research, the request may be determined to be a violation of City, State or Federal law, policy, or previous Council determination, in which case an appropriate response as to why the matter can not be heard will be provided to the requesting party.

Correspondence requesting that an item be acted upon, or considered, by the City Council, which is received directly by the City Manager, is handled in either of two ways:

1. The City Manager shall place any routine and/or legitimate written request under written communications*, or have a staff report prepared if time permits, for the next City Council agenda; or
2. The City Manager shall place any request which has already been acted upon by Council, cannot legally be accomplished, or which has a potential for litigation, in an Administrative Memorandum.

C. Telephone Calls

Citizens attempting to communicate with the City Council often call the offices at City Hall. Such calls are referred to the City Manager's Office. The City Manager's staff will take a message and refer it to the appropriate Council Member, or give the caller the telephone number of the City Council Member so they may call them directly, according to instructions given by the Council Member [see X-D (3)].

D. Personal Meetings

Council Members who wish to meet with their constituents may use various rooms at City Hall. The Council Member should call the City Manager's Secretary as soon as they know a room is needed so that it can be reserved for their use. No more than two Council Members may attend a meeting to discuss City matters without the meeting becoming a public meeting and therefore falling under the requirements of the Brown Act Open Meeting Laws.

E. Personal Correspondence

Council Members who wish to send their own correspondence using City stationery shall include a provision clearly defining that the correspondence represents the views and/or feelings of the specific Council member signing the letter. Copies of all such letters on City Letterhead shall be provided to all other Council members. Letterhead stationery is available upon request from the City Manager's secretary, and if the Council Member wishes to have a copy of their letter in their file, they should submit a copy to the City Manager's staff for filing.

F. Out-of-District Requests

On occasion, Council Members will be contacted by citizens residing outside of their respective districts. When this occurs, City Council Members agree to advise the appropriate Council Member of the contact and matter of concern.

G. Proclamation Approval Process

All Proclamations must be submitted at least 72 hours before noon on the Thursday before the next City Council Meeting to be considered for approval by the City Council. All received proclamations are to be scanned and emailed to all Council Members within one business day of being received. Each Council Member will have until noon on the Thursday before the next Council Meeting to contact the City Manager's Office to sponsor submitted proclamations. Proclamations receiving one sponsor will be placed on the next Council agenda as a Consent Calendar item. Those not receiving a sponsor will be disregarded. If multiple sponsors are received, the first Council Member to respond will be deemed the proclamation's sponsor. (*M.O. 13-100113, October 1, 2013.*)



V. COUNCIL MEMBER REQUESTS TO STAFF

A. General Information

All City Council Member requests for information or documents shall be referred through the City Manager. Any Department Head who receives a direct request from a Council Member shall submit the request, including the name of the requesting Council Member, to the City Manager.

B. Research

All City Council Member requests for information or documents which require extensive research, in the opinion of the City Manager, shall be referred through the City Manager to the Council for direction. The City Manager will discuss the matter with the appropriate department and relay the approximate time table for completion to the City Council for discussion and action at the next available meeting of the City Council. If the request is approved by the Council, upon completion of the research, the information or documents will be forwarded to the City Council Members by the City Manager. *(Amended via Minute Order 08-071911, July 19, 2011.)*

C. Items for inclusion in Council Agenda

The City Manager shall compile the agenda for each meeting and shall include as agenda items, business in the normal course of City affairs, including but not limited to staff proposals to improve services, support the economy and land use, and enhance the efficiency and effectiveness of the City organization, items relating to current, past, and proposed City contracts, leases, franchises, agreements and similar documents, and matters affecting future or proposed City equipment and property, items relating to City employees, agents and contractors, and such other matters as are defined in this handbook or otherwise directed by the City Council.

All City Council Member requests for an item to be placed on the Council agenda shall be made in writing to the City Manager. Such request shall be submitted prior to Wednesday noon of the week before the Council meeting in order to be placed on the next regularly scheduled meeting. *(Amended via M.O. 13-111814, November 18, 2014, and via M.O. 13-052119, May 21, 2019.)*

The City Manager shall place any Council Member request for an agenda item on the next available agenda as a Consent Calendar item for Council approval to be included as a Scheduled Matter on the next available agenda. This does not prevent any Council Member from moving to place an item on the next available agenda during Other Matters of the current agenda. *(Amended via Minute Order 08-071911, July 19, 2011.)*



VI. COUNCIL AGENDA

A. Preparation:

Each Department Head submits their departmental agenda items to the City Manager for approval utilizing the City's electronic agenda management system. (*Amended via M.O. 11-111814, November 18, 2014.*)

The City Council meeting agendas are prepared on the Thursday prior to the Tuesday meeting. Any questions regarding whether items have been scheduled for consideration at a particular meeting may be directed to the Chief Deputy City Clerk and/or Deputy City Clerk.

B. Deadlines:

The deadlines for the agenda are the Monday preceding the Thursday preparation day. Public hearing items, scheduled matter items, Consent calendar items, and written communications must be submitted by the Monday deadline. The deadline for a Council member request for any item shall be Wednesday noon preceding the Thursday preparation day. (*Amended via M.O. 13-111814, November 18, 2014.*)

C. Delivery:

Agendas will be delivered to Council on the Thursday prior to the Tuesday meeting via an emailed link to the electronic agenda packet posted on the City's website. No items, or additional materials, shall be delivered after the initial delivery to Council on Thursday, except in the instance of a designated emergency item.

Once the Agenda is made available to the City Council, it is available to the public. (*Amended via M.O. 11-111814, November 18, 2014.*)



VII. THE RALPH M. BROWN ACT

The Ralph M. Brown Act (California Government Code Section 54950 et seq.) governs meetings conducted by local legislative bodies such as city councils, boards of supervisors, special districts, and school boards. The Act represents the State Legislature's determination of how the balance should be struck between the public access to meetings of multi-member public bodies on one hand, and the need for confidential candor, debate, and information gathering on the other.

The Act contains specific exceptions from the open meeting requirements where government has a demonstrated need for confidentiality. Where matters are not subject to a closed meeting exception, the Act has been interpreted to mean that all of the deliberative processes by legislative bodies, including discussion, debate and the acquisition of information, be open and available for public scrutiny.

Meetings are defined as any gathering of a quorum of a legislative body (which includes newly elected but unsworn members of the body) to discuss or transact business under the body's jurisdiction and serial meetings are prohibited. Exemptions are individual contacts between board members and others which do not constitute serial meetings, attendance at conferences and meetings which are open to the public so long as legislative bodies do not discuss amongst themselves business of a specific nature under the body's jurisdiction, and attendance at social or ceremonial events where no business of the body is discussed.

The Act requires that notices of regular meetings must be posted at least seventy-two (72) hours prior to the meeting, and twenty-four (24) hour notice must be provided to members of the legislative body and media outlets for special meetings.

A user's guide to the Ralph M. Brown Act is provided to Council Members for their information. If a Council Member has a specific question which does not seem to be covered in the guide, the Council Member should contact the City Attorney for a legal opinion.



VIII. TRAVEL, MEETINGS AND EXPENSES

This policy would satisfy the requirements of California Government Code §§ 53232.2 and 53233.3 in the event such requirements could be constitutionally applied to charter cities.

The City Manager, or his staff, will notify the City Council Members about any League of California Cities' Conferences, Committee meetings, and/or local meetings that may be of interest to the Council. If a Council Member is interested in attending any such meeting, the following procedures should be followed:

A. Requests for Reservations:

When a City Council Member wishes to attend a conference or meeting, he/she should contact the City Manager's office and indicate the following:

1. The date(s) of the conference or meeting;
2. If the Council Member will be accompanied by anyone else, i.e. spouse, child;
3. Any personal preferences for hotel reservations, such as smoking or non-smoking, king or double beds, etc.; and
4. Whether special travel arrangements need to be made, i.e. airplane tickets, ride-sharing, etc.

A disbursement will then be prepared and the payment for the conference or meeting will be forwarded, and, if applicable, the hotel will be contacted to make the appropriate reservations. When making hotel reservations to attend a conference or meeting, a request for a room sales tax waiver shall be made on behalf of the applicable Council member. If a prior room reservation request is not made, the Council member shall request a room sales tax waiver prior to payment for a room.

For lodging in connection with a conference, lodging expenses must not exceed the group rate published by the conference sponsor for the meeting in question, if such rates are available at the time of booking. If the group rate is not available, government rates must be used when available. Lodging rates that are equal or less than the government rates are presumed to be reasonable and allowed per this policy. In the event that government rates are not available at a given time or in a given area, lodging rates that do not exceed the IRS per diem rates for a given area are presumed reasonable and hence allowed.

B. Travel and Expense Form:

A Travel and Expense Form will then be prepared for the Council Member which indicates the following:

1. The amount of money to be issued to the traveler as per diem*; and
2. Mileage expense* (if a personal vehicle is used for travel and cost is paid in advance).

** Amount set in Administrative Policy Manual Sec. II-E-1, Travel & Conference Expenses. In regard to the per diem amount, if payments for expenses are made in advance pursuant to the specified per diem amounts, the disbursement shall not be considered to be reimbursable expense under AB 1234.*

The Council Member will then be issued a packet of materials several days prior to the meeting which contains the following:

1. A check for per diem and mileage;
2. Confirmation notification and informational materials regarding the conference;
3. Confirmation notification for any hotel reservations; and
4. A City credit card to pay for the room charges at the end of the meeting.

C. Receipts:

The Council Member shall then bring the receipt for the hotel charges to the City Manager's staff upon his/her return, together with the credit card, and any refund due the City. The Council Member shall sign the original Travel and Expense Form at that time, which shall then be filed with the Finance Department for final processing.

If a refund is due the Council Member, a check will be issued by the Finance Department and then distributed to the Council Member.

D. Eligibility:

The City shall pay for any Council Member to attend any meetings or conferences of their choice. City Council approval shall not be required unless it is required by AB 1234. A Council Member may request mileage and other expenses associated with attending meetings of boards, commissions, committees, or other groups to which the Council Member has been elected, appointed, or designated to attend by the City Council without further approval or ratification. When accompanied by a spouse, significant other, and/or one or more children, the Council Member shall pay for expenses incurred above that which would otherwise have been paid for the Council Member. Any charge placed on a City credit card for someone other than a Council

Member shall also be considered a refund due the City, payable within 10 days of the receipt of the charges. *(Amended via Minute Order 18-091812, September 18, 2012.)*

E. Event Tickets :

1. City and/or City-Sponsored Events:

A Council Member may accept no more than two (2) tickets issued by the City to a City event or a City-sponsored event. Any tickets in excess of two (2) accepted by a Council Member shall be paid for by the Council Member from non-City funds at the time of acceptance of the tickets. *(Resolution 99-2012, October 2, 2012.)*

2. Non-City Sponsored Events:

(Repealed via M.O. 11-111814, November 18, 2014.)

F. Council Member Meetings with District Constituents:

No City funds or resources shall be used to pay for expenses related to meetings held by individual Council Members with their constituents, unless prior approval is received from the Council. This does not pertain to City Council Members holding meetings in designated conference rooms at City Hall. Under no circumstances shall City funds or resources be used for campaign purposes. *(Via M.O. 13-052119, May 21, 2019.)*



IX. CONFLICT OF INTEREST

A. City Council Members Filing Requirements

City Council Members are under the provisions of the Political Reform Act (Gov. Code, Section 81000 et seq. known as "the Act") as enforced by the Fair Political Practices Commission. The Act applies to campaign contributions requirements, as well as matters of conflict of interest while in office.

1. Disclosure of Economic Interests:

City Council Members must file assuming office and leaving office statements, as well as annual statements while in office. The statements basically require the disclosure of the following information:

- Investments or interests in real property and its fair market value;
- Income, and the name and address of each source of income aggregating five hundred dollars (\$500) or more, or fifty (\$50) or more if a gift, and a general description of the business activity, if any of each source;
- Interests in real property held by a business entity or trust;
- Loans, and its annual interest rate and the security, if any, given for the loan;

2. Disqualification of Participation (Conflict of Interest):

A Council Member shall not make, participate in making, or in any way attempt to use his official position to influence a governmental decision in which he knows or has reason to know he has a financial interest. This might include decisions which affect property within up to 500 feet of the subject property in which the Council Member has an interest.

A financial interest in a decision, within the meaning of Section 87100 of the Act, is if it is reasonably foreseeable that the decision will have a material financial effect, distinguishable from its effect on the public generally, on the Council Member or:

- A member of his or her immediate family;

- A business entity in which the Council Member has a direct or indirect investment worth \$2000 or more;
- Any real property in which the Council Member has a direct or indirect interest worth \$2,000 or more;
- Any source of income, other than gifts or commercial lending institutes loans, aggregating \$500 or more received or promised to the City Council Member within twelve months prior to the time when the decision is made;
- Any business entity in which the City Council Member is a director, partner, trustee, employee, or holds any position of management;
- Any donor, or any intermediary or agent for a donor, or a gift or gifts aggregating \$420 or more in value provided to, received by, or promised to the City Council Member within 12 months prior to the time when the decision is made.

Indirect investment or interest means any investments or interest owned by the spouse or dependent child of a City Council Member, by an agent on behalf of a Council Member, or by a business entity or trust in which the Council Member, the Council Member's agents, spouse, and dependent children own directly, indirectly, or beneficially a 10% interest or greater.

Section 87100 of the Act does not prevent any Council Member from making or participating in the making of a governmental decision to the extent his participation is legally required for the action or decision to be made. The fact that a Council Member's vote is needed to break a tie does not make his participation legally required for purposes of this section.

Pursuant to Section 87105 of the Act, a public official who holds an office specified in Section 87200 who has a financial interest in a decision within the meaning of Section 87100 shall, upon identifying a conflict of interest or a potential conflict of interest and immediately prior to the consideration of the matter, do all of the following:

- a. Publicly identify the financial interest that gives rise to the conflict of interest or potential conflict of interest in detail sufficient to be understood by the public, except that disclosure of the exact street address of a residence is not required.

- b. Recuse himself or herself from discussing and voting on the matter, or otherwise acting in violation of Section 87100.
- c. Leave the room until after the discussion, vote, and any other disposition of the matter is concluded, unless the matter has been placed on the portion of the agenda reserved for uncontested matters.
- d. Notwithstanding paragraph (3), a public official may speak on the issue during the time that the general public speaks on the issue.

B. Other Agencies:

Whenever a Council Member is required to file a Statement of Economic Interest for an outside agency, the Deputy City Clerk will provide the correct form, and using the Statement of Economic Interest Form 700 filed in the City Clerk's Office for the City of Porterville, prepare a duplicate statement for signature, and forward the appropriate form to the requesting agency.

D. City of Porterville Conflict of Interest Code:

Certain designated City employees are also required to file conflict of interest forms under the provisions of the Political Reform Act Code, Sections 87100-87500 et seq. The City of Porterville Conflict of Interest Code was adopted by the City Council and is reviewed biennially to make sure it is kept current.

If Council Members have a question on whether an interest they have is sufficient for disqualification, they should contact the Fair Political Practices Commission at (866) 275-3772, or <http://www.fppc.ca.gov>, for a ruling or opinion.



X. GENERAL ITEMS

A. Different Hats

Members of the City Council also serve as the governing bodies for the following local agencies:

1. Successor Agency to the Porterville Redevelopment Agency
2. Industrial Development Authority
3. Public Financing Authority
4. Public Improvement Corporation
5. Planning Commission
6. Conflicts and Disclosure Monitor Agency

B. Compensation

As stated in the City Charter, Section 9, City Council Members shall receive \$20 per Council meeting, \$25 per Council meeting for the Mayor, with a maximum of seven paid Council meetings per month.

C. Issuance of Electronic Devices to Council Members

An Electronic Device, Internet, and Email Policy has been developed as set forth in Minute Order 14-090605. (*See Appendix D*)

D. Direction to Support Staff:

Upon assuming office, Council Members should notify the City Manager's staff regarding the following items:

1. Where to deliver Administrative Reports and Memorandums, i.e. home or business.
2. How to direct citizens who wish to speak to Council Members, i.e. take a message, give out home telephone numbers, give out business telephone numbers, etc.

E. City Attorney

The City Attorney is the legal advisor of the City Council, and all other City officials. The City Attorney shall prosecute all violations of City ordinances and shall draft all contracts and other legal documents and instruments, required by the Council or the

City Manager. The City Attorney shall perform such other legal services as the Council may direct and shall attend all meetings of the Council unless excused therefrom by three members or by the Mayor.

The types of questions referred to the City Attorney are as follows:

1. Generally whether a conflict of interest exists for a Council Member and whether they should abstain from voting on a specific matter.

Please note: Any advice received from the City Attorney relating to Conflicts of Interests is informal only and not binding; the Council Member must seek and obtain a formal written opinion from the FPPC in order to be afforded any statutory immunities.

2. Whether an issue has a legal standing, and what type of action would be appropriate.
3. Legal recommendations for matters of litigation.

F. Annual City Manager/City Attorney Evaluations

The City Council shall provide for annual evaluations for the City Manager and the City Attorney. A standardized evaluation form shall be used which shall address the areas of importance as set forth by the City Council. (*See Appendix C.*)

G. Response to President/Governor Directives

Directives issued by the President of the United States and/or Governor of the State of California shall not be considered a mandatory directive to the City of Porterville except as authorized and/or approved by the City Council. The one exception to this rule is that flags on City buildings shall be flown at half-staff upon orders by the President, Governor and/or Mayor, or by majority approval of the City Council.



APPENDICES

- A. Resolution 31-2019, Order of Business
- B. Resolution 99-2012, Ticket Policy
- C. Annual City Manager/City Attorney Evaluation Forms
- D. Electronic Device, Internet, and Email Policy
- E. Email Retention Policy

RESOLUTION NO. 31-2019

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE RESCINDING RESOLUTION 101-2010 AND ESTABLISHING NEW ORDER OF BUSINESS TO BE FOLLOWED AT REGULAR MEETINGS OF THE CITY COUNCIL

BE IT RESOLVED by the City Council of the City of Porterville that Resolution No. 101-2010 is herein rescinded.

BE IT FURTHER RESOLVED that the following is the order of business to be followed in conducting the regular meetings of the City Council:

- MEETING CALLED TO ORDER
- ROLL CALL
- ORAL COMMUNICATIONS (closed session items only)
- CLOSED SESSION
- RECONVENE OPEN SESSION
- REPORT ON ACTION TAKEN IN CLOSED SESSION
- PLEDGE OF ALLEGIANCE
- INVOCATION
- PROCLAMATIONS/PRESENTATIONS
- COMMITTEE & COMMISSION REPORTS
- STAFF INFORMATIONAL REPORTS
- AB 1234 REPORTS
- ORAL COMMUNICATIONS (on any matter of interest)
- CONSENT CALENDAR – to include:
 - Approval of Minutes
 - Claims Against the City
 - Payment of Bills
 - Payments on Public Works Projects
 - Authorization to Purchase
 - Authorization to Call for Bids
 - Award of Bids
 - Acceptance of Projects
 - Acceptance of Dedications/Property
 - Approval of Final Tract Maps
 - Annexations
 - Requests for City Services
 - Reports
 - Other Routine Matters
- PUBLIC HEARINGS
- SECOND READINGS
- SCHEDULED MATTERS

- ORAL COMMUNICATIONS (on any matter of interest)
- COUNCIL COMMENTS
- ADJOURNMENT

PASSED, APPROVED AND ADOPTED this 21st day of May, 2019.

A handwritten signature in blue ink, appearing to read "Martha A. Flores", written over a horizontal line.

Martha A. Flores, Mayor

ATTEST:

John D. Lollis, City Clerk

A handwritten signature in blue ink, appearing to read "Patrice Hildreth", written over a horizontal line.

By: Patrice Hildreth, Chief Deputy City Clerk

STATE OF CALIFORNIA)
CITY OF PORTERVILLE) SS
COUNTY OF TULARE)

I, JOHN D. LOLLIS, the duly appointed City Clerk of the City of Porterville do hereby certify and declare that the foregoing is a full, true and correct copy of the resolution passed and adopted by the Council of the City of Porterville at a meeting of the Porterville City Council duly called and held on the 21st day of May, 2019.

Said resolution was duly passed, approved, and adopted by the following vote:

Council:	PEÑALOZA	WARD	FLORES	STOWE	REYES
AYES:	X	X	X	X	X
NOES:					
ABSTAIN:					
ABSENT:					

JOHN D. LOLLIS, City Clerk



By: Fernando Gabriel-Moraga, Acting Deputy City Clerk

RESOLUTION NO. 99-2012

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
PORTERVILLE ESTABLISHING A POLICY CONCERNING THE
ACCEPTANCE OF TICKETS BY COUNCIL MEMBERS TO CITY OR
CITY-SPONSORED EVENTS

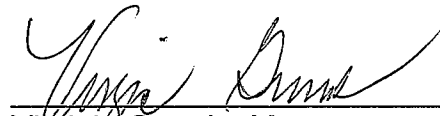
WHEREAS, at its regular meeting of September 18th, 2012, the City Council of the City of Porterville authorized the drafting of a policy limiting the acceptance of tickets by City Council Members to City and City-sponsored events;

NOW THEREFORE, BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF PORTERVILLE:

SECTION 1. The City Council hereby establishes a policy as follows: a Council Member may accept no more than two (2) tickets issued by the City to a City event or a City-sponsored event. Any tickets in excess of two (2) accepted by a Council Member shall be paid for by the Council Member from non-City funds at the time of acceptance of the tickets.

SECTION 2. This resolution establishing the above policy shall be attached as an appendix to the City Council Procedural Handbook.

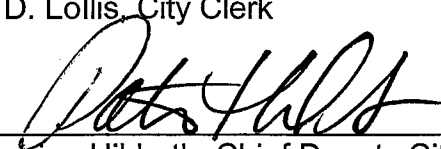
PASSED, APPROVED AND ADOPTED this 2nd day of October, 2012.



Virginia Gurrola, Mayor

ATTEST:

John D. Lollis, City Clerk

By: 

Patrice Hildreth, Chief Deputy City Clerk

STATE OF CALIFORNIA)
CITY OF PORTERVILLE) SS
COUNTY OF TULARE)

I, JOHN D. LOLLIS, the duly appointed City Clerk of the City of Porterville do hereby certify and declare that the foregoing is a full, true and correct copy of the resolution passed and adopted by the Council of the City of Porterville at a regular meeting of the Porterville City Council duly called and held on the 2nd day of October, 2012.

THAT said resolution was duly passed, approved, and adopted by the following vote:

Council:	WARD	McCRACKEN	GURROLA	SHELTON	HAMILTON
AYES:	X	X	X	X	X
NOES:					
ABSTAIN:					
ABSENT:					

JOHN D. LOLLIS, City Clerk


By: Luisa M. Herrera, Deputy City Clerk



CITY MANAGER PERFORMANCE EVALUATION

	<u>WEAK</u>			<u>STRONG</u>	
A. Providing Information					
1. Does the City Manager keep you informed, in a timely manner, of the things you want to know about?	1	2	3	4	5
2. Do you feel that you receive information on an equal basis with other Council members?	1	2	3	4	5
3. Do reports provide adequate information and analysis to help you make sound decisions?	1	2	3	4	5
4. Are agenda items and supporting documents appropriate and brought to Council in sufficient time for deliberations?	1	2	3	4	5
5. Does the City Manager follow established policy concerning the placement of items on the agenda?	1	2	3	4	5
6. Does the City Manager follow up promptly on Council requests for information or action without having to be reminded?	1	2	3	4	5
7. Are Council packets relatively free of errors and omissions?	1	2	3	4	5
Average score					

	<u>WEAK</u>			<u>STRONG</u>	
B. Providing Advice					
1. Does the City Manager have adequate knowledge of municipal affairs?	1	2	3	4	5
2. Does he exercise good judgment?	1	2	3	4	5

3. Do you feel that the City Manager considers alternatives before making recommendations?	1	2	3	4	5
4. Does the City Manager plan ahead, anticipate needs and recognize potential problems?	1	2	3	4	5
5. How do you feel about the quality of analysis that accompanies recommendations?	1	2	3	4	5
6. Does he have a good sense of timing in bringing issues to the Council for action?	1	2	3	4	5

Average score

INTERNAL ADMINISTRATION

	<u>WEAK</u>			<u>STRONG</u>	
A. Financial Management					
1. Are you comfortable with the City Manager's approach to budget preparation and review?	1	2	3	4	5
2. Is the City Manager effective in controlling costs through economical utilization of manpower, materials, and equipment?	1	2	3	4	5
3. Does the City Manager have sufficient knowledge of financial matters?	1	2	3	4	5
4. Does the City Manager provide you with sufficient information on the financial status of the City government?	1	2	3	4	5
5. Is the budget submitted on time?	1	2	3	4	5

Average score

	<u>WEAK</u>			<u>STRONG</u>	
B. Personnel Management					
1. Is the City Manager successful in guiding people so that they work together as a team toward common objectives?	1	2	3	4	5

	<u>WEAK</u>			<u>STRONG</u>	
2. Is the City Manager effective in selection and placing personnel?	1	2	3	4	5
3. Does the City Manager develop and motivate personnel so that they are increasingly effective in performing their duties?	1	2	3	4	5
4. Is the City Manager willing to face up to disciplinary problems and take action when warranted?	1	2	3	4	5
5. Is the City Manager effective in promoting positive employer-employee relations?	1	2	3	4	5
6. Is the City Manager effective on assuring that staff makes a positive impression on citizens?	1	2	3	4	5

Average score

	<u>WEAK</u>			<u>STRONG</u>	
C. Getting the Job Done					
1. Do you have the feeling that things the Council decides or directs get done?	1	2	3	4	5
2. Does the City Manager organize or assign work so that it is performed efficiently and effectively?	1	2	3	4	5
3. Does the City Manager pay sufficient attention to detail to avoid error or things “slipping through the cracks”?	1	2	3	4	5
4. Does the City Manager put in sufficient time and effort to perform to your expectations?	1	2	3	4	5
5. Does the City Manager have a good sense of priorities in the way he spends his time on the job?	1	2	3	4	5
6. Is the City Manager able to analyze problems or issues and identify causes, reasons, and implications?	1	2	3	4	5

- | | | | | | |
|---|---|---|---|---|---|
| 7. Does the City Manager develop and carry out short- and long-term action plans? | 1 | 2 | 3 | 4 | 5 |
|---|---|---|---|---|---|

Average score

EXTERNAL RELATIONS

A. Citizen Relations

- | | <u>WEAK</u> | | | | <u>STRONG</u> |
|--|-------------|---|---|---|---------------|
| 1. Does the City Manager generally make a positive impression on citizens and is he respected in Porterville? | 1 | 2 | 3 | 4 | 5 |
| 2. Is he effective in handling disputes or complaints involving citizens? | 1 | 2 | 3 | 4 | 5 |
| 3. Does the City Manager have appropriate visibility or identity in the community? | 1 | 2 | 3 | 4 | 5 |
| 4. Does the City Manager represent Council positions and policies accurately and effectively? | 1 | 2 | 3 | 4 | 5 |
| 5. Does the City Manager have the insight and knowledge to work with the Council, staff, and citizens to find effective solutions to issues? | 1 | 2 | 3 | 4 | 5 |

Average score

B. Intergovernmental Relations

- | | <u>WEAK</u> | | | | <u>STRONG</u> |
|--|-------------|---|---|---|---------------|
| 1. Is the City Manager effective representing the City's interests in dealing with other agencies? | 1 | 2 | 3 | 4 | 5 |
| 2. Does the City Manager participate in enough intergovernmental activity to have an impact on behalf of the City? | 1 | 2 | 3 | 4 | 5 |

Average score

PERSONAL CHARACTERISTICS

	<u>WEAK</u>			<u>STRONG</u>	
A. Personality					
1. Is the City Manager's personality suited to effective performance of his duties?	1	2	3	4	5

Average score

	<u>WEAK</u>			<u>STRONG</u>	
B. Communications					
1. Is the City Manager easy to talk to?	1	2	3	4	5
2. Do you feel he is a good listener?	1	2	3	4	5
3. Are communications thoughtful, clear, and to the point?	1	2	3	4	5
4. Does the City Manager show sensitivity to the concerns of others?	1	2	3	4	5

Average score

	<u>WEAK</u>			<u>STRONG</u>	
C. Management Style					
1. Does the City Manager demonstrate interest and enthusiasm in performing his duties?	1	2	3	4	5
2. Does he have sufficient leadership characteristics to command respect and good performance from employees?	1	2	3	4	5
3. Does the City Manager show initiative and creativity in dealing with issues, problems, and unusual situations?	1	2	3	4	5
4. Is the City Manager open to new ideas and suggestions for change?	1	2	3	4	5
5. Does the City Manager create an atmosphere in which employees can enjoy working for the City?	1	2	3	4	5

6. Is the City Manager honest and ethical?	1	2	3	4	5
7. Does the City Manager work well under pressure?	1	2	3	4	5
8. Is the City Manager able to change his approach to fit new situations?	1	2	3	4	5
9. Can the City Manager consistently put aside personal views and implement Council policy and direction?	1	2	3	4	5

Average score

ACHIEVEMENTS

List the top three achievements or strong points of the City Manager for the past twelve (12) months:
1.
2.
3.

FUTURE DEVELOPMENT

List three performance objectives for the City Manager that you feel are the most important targets for this year:
1.
2.
3.

Total Overall Score

OVERALL RATING	<u>WEAK</u>				<u>STRONG</u>
	1	2	3	4	5

Date:

Martha A. Flores, Mayor

Monte Reyes, Vice Mayor

Milt Stowe, Council Member

Daniel Peñaloza, Council Member

Virginia Gurrola, Council Member



CITY ATTORNEY PERFORMANCE EVALUATION

	WEAK			STRONG	
A. Providing Information					
1. Does the City Attorney keep you informed, in a timely manner, of the legal issues affecting the City?	1	2	3	4	5
2. Does the City Attorney demonstrate initiative and resourcefulness in identifying legal problems, and advising and recommending resolutions?	1	2	3	4	5
3. Do reports/memoranda from the City Attorney provide adequate information and analysis to help you make sound decisions?	1	2	3	4	5
4. Do the legal solutions that are developed appropriately address the issues to be resolved?	1	2	3	4	5
5. Does the City Attorney follow up promptly on Council requests for information or action without having to be reminded?	1	2	3	4	5

Average score

	WEAK			STRONG	
B. Providing Advice					
1. Does the City Attorney have adequate knowledge of municipal legal affairs?	1	2	3	4	5
2. Does he/she exercise good judgment?	1	2	3	4	5
3. Do you feel that the City Attorney considers alternatives before making recommendations?	1	2	3	4	5
4. Does the City Attorney plan ahead, anticipate needs and recognize potential legal problems?	1	2	3	4	5
5. How do you feel about the quality of analysis that accompanies recommendations?	1	2	3	4	5

Average score

	WEAK			STRONG	
C. Getting the Job Done					
1. Do you have the feeling that things the Council decides or directs get done?	1	2	3	4	5
2. Does the City Attorney pay sufficient attention to detail to avoid error or things “slipping through the cracks”?	1	2	3	4	5
3. Does the City Attorney put in sufficient time and effort to perform to your expectations?	1	2	3	4	5
4. Does the City Attorney have a good sense of priorities in the way he/she spends his/her time on the job?	1	2	3	4	5
5. Is the City Attorney able to analyze problems or issues and identify causes, reasons, and implications?	1	2	3	4	5
6. Does the City Attorney perform well under pressure?	1	2	3	4	5
7. When work is delegated to staff/deputy attorneys, is the project/issue handled appropriately?	1	2	3	4	5
Average score					

EXTERNAL RELATIONS

	WEAK			STRONG	
A. Citizen Relations					
1. Does the City Attorney generally make a positive impression on citizens and is he/she respected in Porterville?	1	2	3	4	5
2. Is he/she effective in handling disputes or complaints involving citizens?	1	2	3	4	5
3. Does the City Attorney have appropriate visibility or identity in the community?	1	2	3	4	5
4. Does the City Attorney think and act in a manner reflecting an attitude that client (Council, staff, or citizens) perceptions and satisfactions are key?	1	2	3	4	5
Average score					

	WEAK			STRONG	
B. Intergovernmental Relations					
1. Is the City Attorney effective representing the City's interests in dealing with other agencies?	1	2	3	4	5
Average score					

PERSONAL CHARACTERISTICS

	WEAK			STRONG	
A. Personality					
1. Is the City Attorney's personality suited to effective performance of his/her duties?	1	2	3	4	5
Average score					

	WEAK			STRONG	
B. Communications					
1. Is the City Attorney easy to talk to?	1	2	3	4	5
2. Do you feel he/she is a good listener?	1	2	3	4	5
3. Are communications thoughtful, clear, and to the point?	1	2	3	4	5
4. Does the City Attorney show sensitivity to the concerns of others?	1	2	3	4	5
Average score					

	WEAK			STRONG	
C. Management Style					
1. Does the City Attorney demonstrate interest and enthusiasm in performing his/her duties?	1	2	3	4	5
2. Does the City Attorney show initiative and creativity in dealing with issues, problems, and unusual situations?	1	2	3	4	5
3. Is the City Attorney honest and ethical?	1	2	3	4	5
4. Does the City Attorney work well under pressure?	1	2	3	4	5

	WEAK			STRONG	
5. Is the City Attorney able to change his/her approach to fit new situations?	1	2	3	4	5
6. Can the City Attorney consistently put aside personal views and implement Council policy and direction?	1	2	3	4	5

Average score

ACHIEVEMENTS

List the top three achievements or strong points of the City Attorney for the past twelve (12) months:
1.
2.
3.

FUTURE DEVELOPMENT

List three performance objectives for the City Attorney that you feel are the most important targets for this year:
1.
2.
3.

TOTAL OVER ALL SCORE

	<u>WEAK</u>				<u>STRONG</u>
OVERALL RATING	1	2	3	4	5
<i>Date:</i>					

Martha A. Flores, Mayor

Brian Ward, Vice Mayor

Milt Stowe, Council Member

Monte Reyes, Council Member

Daniel Peñaloza, Council Member



CITY COUNCIL CITY DEVICE, INTERNET & EMAIL POLICY

Electronic devices are made available to Council Members upon taking office and assuming Council duties. Access to email and the internet is a resource also made available to City Council Members as a means of communicating with City administration and constituents. The City Council recognizes that access to electronic communications contributes to the efficiency of conducting city business. The City Council has adopted this policy to ensure that all City of Porterville computer and network resources are used for purposes appropriate to City business; to inform Council Members of the applicability of laws and policies to computer and network usage; to establish policies on privacy, confidentiality, and security in electronic communications; and to provide guidance concerning rights and responsibilities with respect to the proper use of City of Porterville computer and network resources.

SCOPE

This policy applies to:

1. All City Council Members, as authorized users, whether elected or appointed;
2. All computer and mobile devices and network resources leased, owned, or managed by the City of Porterville; and
3. All electronic communications records in the possession of the City of Porterville.

CONFIDENTIALITY AND SECURITY

1. All materials sent or received over the Internet on electronic devices and/or network resources leased, owned or managed by the City, shall be considered property of the City. An authorized user does not have privacy rights in any matter created, received or sent. The City reserves the right to monitor access or disclose any message created, received or sent via the Internet or e-mail at any time, without advanced notice.
2. All authorized users shall respect the privacy of other users; for example, users shall not intentionally seek information on, obtain copies of, or modify files or data, belonging to other users, unless explicit permission to do so has been obtained.
3. Authorized users are to safeguard their accounts and passwords. Accounts and passwords are normally assigned to a single user, and are not to be shared with others. Users are responsible for their individual computer accounts and shall take

all reasonable precautions to prevent others from using their accounts. All notebooks and/or tablets should be locked or logged off each time they leave the device unattended. Account owners are ultimately responsible for all activity under their account.

4. Authorized users will not connect, attempt to connect or disconnect any computer or peripheral to, from or within the City of Porterville network without prior authorization from the Information Technology Division.
5. Authorized users will not use or attempt to use on the City of Porterville network any of the following items: any computer operating system media; computer or network utilities; network monitors; unlocking utilities or any software used to repair, change or monitor computer operations, network activity or security without preapproval from the Information Technology Division.
6. Authorized users should not attempt to remove the email disclaimers in their emails.
7. Authorized users shall not write down passwords to City of Porterville resources in an unsecured area.
8. Confidential information should not be downloaded or stored on portable resources unless proper encryption and password protection mechanisms are in place.

UNACCEPTABLE USES

1. Violations of the rights of any person or company protected by copyright, trade secret, patent or other intellectual property, or similar laws or regulations, including, but not limited to, unauthorized digitization and distribution of photographs from magazines, books or other copyrighted sources, copyrighted music, and the installation or distribution of "pirated" or other software products that are not appropriately licensed for use by City of Porterville.
2. Accessing or viewing sexually explicit or pornographic material.
3. Exporting software, technical information, public safety information, or encryption software, in violation of international or regional export control laws. Such use is illegal. The Information Technology Division should be consulted prior to export of any material that is in question.

4. Introduction of malicious programs into the network or servers (e.g., viruses, worms, Trojan horses, e-mail bombs, etc.) that may gain unauthorized access to any computer or computing system and cause intentional disruption.
5. Revealing your account password to others or allowing use of your account by others. This includes family and other household members when work is being done at home.
6. Using a City of Porterville device for profit activities (e.g., consulting for pay, sale of goods such as Avon and Amway products, etc.), or to actively engage in procuring or transmitting material that is in violation of discriminatory, sexual harassment or hostile workplace laws. Use of City devices or networks for political campaign purposes is expressly prohibited.
7. Making fraudulent offers of products, items or services originating from any City of Porterville account.
8. Effecting security incidents or disruptions of network communication. Security incidents include, but are not limited to, accessing data of which the authorized user is not an intended recipient or logging into a server or account that the authorized user is not expressly permitted to access, unless these duties are within the scope of regular duties. For purposes of this section, "disruption" includes, but is not limited to, network sniffing, pinged floods, packet spoofing, denial of service, and forged routing information for malicious purposes.
9. Port scanning or security scanning. Such use is expressly prohibited.
10. Executing any form of network monitoring which will intercept data not intended for the authorized user's host, unless this activity is part of the employee's normal job/duty.
11. Circumventing user authentication or security of any host, network or account.
12. Using any program/script/command, or sending messages of any kind, with the intent to interfere with, or disable, a user's terminal session, via any means, locally or via the Internet/Intranet/Extranet.

13. Unless explicitly authorized, providing information about, or lists of, City of Porterville employees or its affiliates to parties outside City of Porterville.
14. Incurring personal charges through the use of these systems. In the event that an authorized user does incur personal charges through the use of these systems, that user will be responsible for reimbursing the City for all expenses incurred.
15. Removing or disabling the security software (i.e. firewalls, anti-virus, anti-spyware, etc.) for any reason, unless done by or with the authority of the Information Technology staff.
16. The connection of portable or desktop computers to the City of Porterville computer network without approval by the Information Technology Division. Visitors or vendors under your care are not allowed to connect their portables directly to the City's network.

CITY'S RESERVATION OF THE RIGHT TO MONITOR

Pursuant to the Electronic Communications Privacy Act of 1986...notice is hereby given that there are NO facilities provided by the City for sending or receiving private confidential electronic communications. System administrators have access to all mail and user data files, and will monitor messages as necessary to assure efficient performance.

PUBLIC RECORDS AND PRIVATE AND PUBLIC DEVICES

Any temporary and permanent files and data prepared or received on a City owned or controlled device are considered a public record, unless an otherwise valid public records exemption applies.

Temporary and permanent files and data prepared or received on a privately-owned device or electronic system by an authorized user containing information relating to the conduct of the public's business are public records subject to control by the City and compliance with the City's record policies. A writing relates to the conduct of the public's business when it serves, or is intended to serve, a City purpose and involves a matter over which the authorized user has work responsibility. This policy is not intended to modify the definition of a public record as defined by the California Public Records Act.

When notified of a public records request, the authorized user must conduct a reasonable search for, locate, and review writings maintained on his or her privately-owned device or electronic systems that are potentially responsive to a public records request and provide the responsive records to the City Clerk. The authorized user must provide an explanation for a decision to exclude certain writings as not being responsive

public records. If required by the City Attorney, the authorized user must execute an affidavit containing a sufficient factual basis for the City or a court to determine whether a record on a privately-owned electronic systems is not a responsive public record.

LOST OR STOLEN

Authorized users must report to City Administration, within one business day, whenever any personal device used pursuant to this policy is suspected or known to be lost or stolen. Upon notification of loss/theft, the System administrators may issue a remote wipe of affected City-owned or controlled devices to ensure that City-related data is safeguarded. The City is not liable for the potential loss of personal (e.g., contacts, apps, photos, etc.) data, including the potential to restore the device to factory default settings.

CITY OF PORTERVILLE ADMINISTRATIVE POLICY	Number <u>V-A-15</u> Date <u>May 2, 2019</u> Revised _____ Authority <u>Administration</u>
SUBJECT: EMAIL RETENTION POLICY	_____ City Manager

PURPOSE:

To provide a procedure for the retention of e-mails consistent with applicable state and/or federal law and to provide for the efficient maintenance of affected infrastructure.

PROCEDURE:

Managing Agency E-mail

Agency officials and employees are responsible for the management of their e-mail folders on a regular basis. It is the responsibility of agency officials and employees to determine if an e-mail is an Official Agency Record ("OAR") which must be retained in accordance with the City's Records Retention Policy. An e-mail message and any attachments regardless of format may be considered an OAR.

Messages that are Generally NOT Considered as Official Agency Records

Examples of e-mail messages that are not generally considered OARs may include: (1) personal messages; (2) "Spam" emails, advertisements, or other "junk" e-mail; (3) messages not related to public business (e.g., employee birthday celebrations in the lunch room); and (4) newsletters or general information from vendors or other public agencies.

Preserving E-mails that are Official Agency Records

Any e-mail message, including any attachments regardless of format that is an OAR should be preserved by one of the following methods:

1. Print the email and consolidate the printed copy in the appropriate file. Generally, the employee who sends the e-mail should be the person responsible for printing and filing the hard copy, but persons responsible for a particular program or project file shall be responsible for retaining all e-mail they send or receive related to that program or project
2. Move the e-mail from your Inbox to the archival folder within your Office 365 account.

E-mail Box Retention Schedule

Days	120	120	30	30
Email Folders	Inbox	Sent	Delete	Junk

Inbox and **Sent** folders retention period is 120 days. Items that reach 120 days will be automatically moved to archive.

Deleted and **Junk** folders retention period is 30 days. Items that reach 30 days will be automatically moved to archive.

This policy does not waive any exemption to disclosure that may apply under the California Public Records Act or other applicable law.