



**CITY COUNCIL AGENDA
CITY HALL, 291 N. MAIN STREET
PORTERVILLE, CALIFORNIA
JULY 19, 2016, 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: APNs 255-220-046, 247-040-034, 247-040-035, 247-090-028, 247-110-019, 247-120-022, 248-050-036, and 248-010-019. Agency Negotiator: John Lollis. Negotiating Parties: City of Porterville and Greg Shelton. Under Negotiation: Terms and Price.
- 2** - Government Code Section 54957.6 – Conference with Labor Negotiator. Agency Negotiator: John Lollis and Steve Kabot. Employee Organizations: Fire Officer Series and Porterville City Firefighters Association.
- 3** - Government Code Section 54956.9(d)(1) – Conference with Legal Counsel - Existing Litigation: California Healthy Communities Network v. City of Porterville, California Court of Appeal, Fifth District, Case No. F067685.
- 4** - Government Code Section 54956.9(d) (3) – Conference with Legal Counsel – Anticipated Litigation – Significant Exposure to Litigation: One case in which facts are not yet known to potential plaintiff.
- 5** - Government Code Section 54956.9(d)(4) – Conference with Legal Counsel – Anticipated Litigation – Initiation of Litigation: Four cases.

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

Pledge of Allegiance Led by Council Member Reyes

Invocation

PRESENTATIONS

Employee of the Month -- Sarah Cardoza
Outstanding Business Award

AB 1234 REPORTS

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

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 - Summer Hiatus
 2. Library & Literacy Commission - Summer Hiatus
 3. Arts Commission - June 22, 2016
 4. Animal Control Commission - July 11, 2016
 5. Youth Commission - Summer Hiatus
 6. Transactions and Use Tax Oversight Committee (TUTOC) - June 30, 2016
- II. Staff Informational Reports
 1. Water Conservation Phase III Status Update

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 Equipment by Negotiation**
Re: Considering approval of the purchase by negotiation of equipment for various departments.
2. **Award of Consultant Service Agreement – Construction Management and Inspection Services for the Jaye Street Bridge Rehabilitation Project**
Re: Considering awarding contracts for Construction Management and Inspection Services to VSCE, Inc., at an amount not to exceed \$606,952.92, and Construction Phase Services to TRC Companies, Inc., at an amount not to exceed \$131,601, for the Jaye Street Bridge Rehabilitation Project.

3. **Authorization to Roll Weed Abatement Balances, Unpaid Utility Accounts and Delinquent Miscellaneous Loan Agreements to the Property Tax Rolls**
Re: Considering approval of a resolution authorizing the County Auditor to place the weed abatement balances, unpaid utility accounts and delinquent miscellaneous loan agreements on the 2016-2017 tax rolls for collection.
4. **Renewal of Airport Lease Agreement - Lot 43**
Re: Considering approval of the Lease Agreement between the City of Porterville and Mr. Leonard Alogna for Lot 43 at the Porterville Municipal Airport.
5. **Renewal of Airport Lease Agreement - Lot 47**
Re: Considering approval of the Lease Agreement between the City of Porterville and Mr. James Costa for Lot 47 at the Porterville Municipal Airport.
6. **Approval of Amendment to the Waste Disposal Agreement between the City of Porterville and the County of Tulare**
Re: Considering approval of the Amendment to the Waste Disposal Agreement with the County of Tulare.
7. **Intent to Vacate Corsair Place**
Re: Considering approval of a resolution of intent to vacate Corsair Place, relinquishment of frontage access and a 20 foot wide storm drain easement encumbering Parcel 3 and the remainder parcel of Parcel Map No. 4823; and setting the Council meeting of August 16, 2016, as the time and place for a public hearing.
8. **Intent to Set a Public Hearing for Reimbursement of Concrete Improvements Constructed by the City - W. North Grand Avenue Reconstruction Project, Newcomb Street to Prospect Street**
Re: Considering approval to schedule of a Public Hearing for August 16, 2016, for establishment of concrete reimbursement fee for concrete improvements installed on W. North Grand Avenue Reconstruction Project.

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

PUBLIC HEARINGS

9. **Conduct Public Hearing to Approve Water Rate Increase**
Re: Consideration of the adoption of increases to the City's rates for water service.

SCHEDULED MATTERS

10. Award of Contract for Banking Services

Re: Considering award of contract for banking services, and authorizing staff to execute an agreement with the selected Bank for a term of five years with an option to negotiate extensions to the contract for additional two-year periods.

11. Consideration of Draft Letter to the Tulare County Board of Supervisors Regarding Alternative Solutions to the Winter Closure of M90

Re: Consideration of a letter to the Board of Supervisors pertaining to alternative solutions to the closure of M90 in winter.

12. Status and Review of Declaration of Local Emergency

Re: Consideration of the continuance of the Declaration of Local Emergency.

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 August 2, 2016

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 – JULY 19, 2016

SUBJECT: 1. Water Conservation Phase III Status Update

SOURCE: Public Works

COMMENT: 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, 2016. The Water Conservation Plan applies to all municipal water users within or not within city limits. As part of the Phase III plan, the City has provided additional watering days, a two 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. 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 landscape 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 June 2016, show that a total of 25 Notice of Violations were issued for water wasting; 5 resulted in an Administrative Citation.

Water production for June 2016 shows a 19% reduction from the 5-year average. The production for the month of June 2016 was 345 million gallons, which when compared to the production for the month of June 2013 of 478 million gallons, equates to a 28% reduction. Residential consumption for June 2016 was 133.5 gallons per capita per day (GPCD). The cumulative total for the City of Porterville will reflect June 2015 through October 2016 with Porterville's cumulative total conservation through June 2016 at 30%.

On May 18, 2016, the State Water Resources Control Board adopted a statewide water conservation approach that replaces the prior percentage reduction-based water conservation standard with a localized self-certification approach which mandates that urban water suppliers act to ensure at least a three-year supply of water to their customers under drought conditions.

Recognizing persistent, yet less severe, drought conditions throughout California, the newly adopted emergency regulation will replace the February 2, 2016, emergency water conservation regulation that set specific water conservation benchmarks at the state level for each urban water supplier. This newly adopted regulation, which will be in effect through January 2017, requires locally developed conservation standards based upon each agency's specific circumstances.

These standards require local water agencies to ensure a three-year supply assuming three more dry years comparable to the years the state experienced from 2012 to 2015. Water agencies that would face shortages under three additional dry years will be required to meet a conservation standard equal to the amount of shortage.

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 Boards Self-Certification criteria for the City of Porterville, Council approved maintaining the current imposed standard of 26%. The continuation of the current standard keeps a standardized message 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 will also continue to require monthly reporting to track what agencies plan to do and how they perform throughout the year. During the extended regulation, agency reporting will continue to monitor performance of urban water conservation, with a preparedness to return back with a 25% state mandate early next year if necessary.

The regulation will require urban water suppliers to continue their monthly conservation reporting. The adopted regulation will also keep specific prohibitions relating to certain water uses. Those prohibitions include:

- Watering down a sidewalk/driveway with a hose instead of using a broom or brush.
- Over watering a landscape resulting in water running off the landscape, over a sidewalk, and into the gutter.
- Prohibitions directed to the hospitality industry also remain in place.
- Prohibitions against homeowners' associations taking action against homeowners during a declared drought remain as well.

The adopted regulation is the result of feedback from urban water suppliers, public workshops on conservation needs through the summer and fall, and lessons learned since the Water Board first adopted drought emergency water conservation regulations.

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. Under the new reporting

structure, water districts will continue to report water use, but their conservation standard will be based on any shortfall in projected supply over three drought years.

RECOMMENDATION: Informational Only

ATTACHMENTS: 1. Monthly Production Status June 2016
 2. Drought Phase III Flyer

Appropriated/Funded:

Review By:

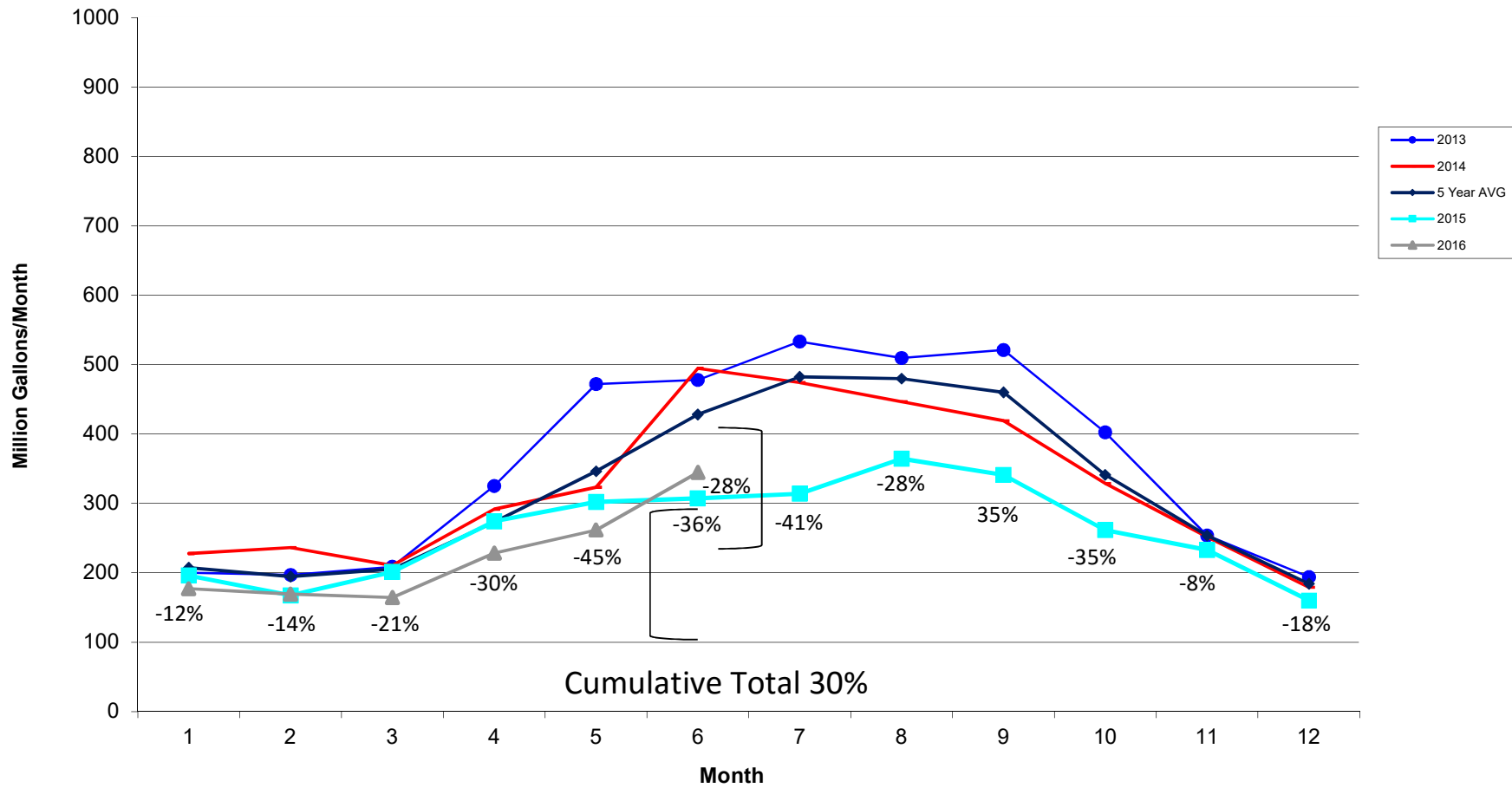
Department Director:

Mike Reed, City Engineer

Final Approver: John Lollis, City Manager

Monthly Production Status

15/16 Production Comparison to 2013 & 5 Year Average





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 – JULY 19, 2016

SUBJECT: Authorization to Purchase Equipment by Negotiation

SOURCE: Finance

COMMENT: In accordance with the City's Purchasing Policy and Procedure Manual, as amended by Resolution No. 122-87 adopted by City Council on October 20, 1987, staff hereby requests approval to begin negotiations for the purchase of the following equipment for the various departments:

<u>Department</u>	<u>Equipment Description</u>	<u>Estimated Cost</u>
Police	Generator	\$60,000
	7 police units	\$362,000
	Animal Control pickup	\$58,000
PW - Engineering	Permit and parcels software upgrade	\$80,000
PW - Streets	Pneumatic roller	\$90,000
Golf Course	Greens mower	\$35,000
	Greens aerator	\$26,000
	Sandpro	\$21,000
Airport	Jet fuel truck	\$150,000
PW - Sewer (Laboratory)	Software upgrade	\$5,000
	Laboratory equipment	\$40,000
PW - Water Distribution	SCADA system upgrade	\$420,000
	Chlorine station upgrades	\$60,000
	Meter reading equipment	\$46,000
PW - Solid Waste	Automated containers	\$250,000
	Commercial bins and rolloff containers	\$100,000
PW - Equipment Maintenance	Hoist upgrade	\$50,000
	Parts washer	\$8,000
	Freon recycler	\$4,500

PW - WWTF

Spray trailer

\$5,000

Funds for the purchase of these equipment items are available in the Equipment Replacement Funds as approved in the FY2016-2017 budget.

RECOMMENDATION: That the City Council authorize the purchase by negotiation of the equipment listed and authorize payment for said equipment upon satisfactory delivery.

ATTACHMENTS:

Appropriated/Funded: MB

Review By:

Department Director:

Final Approver: John Lollis, City Manager



CITY COUNCIL AGENDA – JULY 19, 2016

SUBJECT: Award of Consultant Service Agreement – Construction Management and Inspection Services for the Jaye Street Bridge Rehabilitation Project

SOURCE: Public Works

COMMENT: A Request for Qualifications (RFQ) was issued on April 22, 2016, by way of several advertisements, directing consultants to request an RFQ package from the City to provide construction management and inspection services for the Jaye Street Bridge Rehabilitation Project. Due to the complexity of the construction project, specialty work involved, and extensive documentation required, staff recommends the hiring of specialty consultants to properly certify the project.

On May 24, 2016, staff received a Statement of Qualifications (SOQs) from one (1) consultant, VSCE, Inc.. As VSCE was the sole proposer responding to the RFQ, staff proceeded to negotiate a fee for requested services that is not to exceed \$606,952.92, and as such, the City's "Policy for Selecting Professional Services" directs that City Council must authorize the award of a professional services contract.

VSCE's fee is based on construction being halted for several months due to channel work restrictions from the Central Valley Flood Protection Board (CVFPB) and that the construction schedule is accelerated by the contractor to meet the calendar day duration that was originally committed for the construction crews. In the event that the contractor is not subjected to CVFPB restrictions and/or the entire 330 working days are necessary to complete the project's construction, the construction management contract will require an addendum to cover VSCE's extended presence in the field. The addendum fee is estimated to require up to \$350,000 in additional consultant costs. If this situation occurs, staff will bring before Council the contract addendum item. Additional HBP funds can be requested from Caltrans to cover up to 88.53% of the final addendum costs.

An additional component required for the project is construction support from the design engineer. It is standard practice in the industry to enlist the aid of the engineering design firm to answer design related questions during construction and to assist staff in interpreting the intent of the design documents. The Jaye Street Bridge Rehabilitation Project is a complex project requiring the review of numerous shop drawings and the interpretation of specifications and construction plans. Staff requested a contract addendum from TRC and the fee to provide construction support services is not to exceed \$131,601.

The construction management contracts will be funded from a combination of Highway Bridge Program Funds, Certificate of Participation Bond funds, and Local Transportation Funds. Approximately 85% of the cost will be borne by the HBP federal grant.

RECOMMENDATION: That City Council:

1. Award the consultant service agreement for Construction Management and Inspection Services for the Jaye Street Bridge Rehabilitation Project to VSCE, Inc. at an amount not to exceed \$606,952.92;
2. Award the consultant service agreement amendment for Construction Phase Services for the Jaye Street Bridge Rehabilitation Project to TRC Companies, Inc. at an amount not to exceed \$131,601;
3. Authorize the Mayor to execute all contract documents; and
4. Authorize progress payments that concur with construction progress until proper closeout of the work.

ATTACHMENTS: 1. VSCE CM-INS Contract
 2. TRC Contract Amendment

Appropriated/Funded: MB

Review By:

Department Director:

Mike Reed, City Engineer

Final Approver: John Lollis, City Manager

EXHIBIT 10-R A&E CONTRACT LANGUAGE

TABLE OF CONTENTS
A&E CONTRACT LANGUAGE

<u>Article</u>	<u>Subject</u>	<u>Page</u>
Article I	Introduction.....	2
Article II	Statement of Work	2
Article III	Consultant's Reports or Meetings	3
<i>Mandatory Fiscal and Federal provisions (Verbatim):</i>		
Article IV	Performance Period.....	4
Article V	Allowable Costs and Payments.....	4
Article VI	Termination.....	5
Article VII	Cost Principles and Administrative Requirements	5
Article VIII	Retention of Records/Audit	5
Article IX	Audit Review Procedures	6
Article X	Subcontracting	6
Article XI	Equipment Purchase	7
Article XII	State Prevailing Wage Rates.....	7
Article XIII	Conflict of Interest.....	8
Article XIV	Rebates, Kickbacks or other Unlawful Consideration	8
Article XV	Prohibition of Expending Local Agency State or Federal Funds for Lobbying	8
Article XVI	Statement of Compliance.....	9
Article XVII	Debarment and Suspension Certification.....	10
<i>Miscellaneous provisions:</i>		
Article XVIII	Funding Requirements	10
Article XIX	Change in Terms	10
Article XX	Disadvantaged Business Enterprises (DBE) Participation.....	11
Article XXI	Contingent Fee.....	12
Article XXII	Disputes	12
Article XXIII	Inspection of Work	12
Article XXIV	Safety	12
Article XXV	Insurance.....	13
Article XXVI	Ownership of Data	13
Article XXVII	Claims Filed by LOCAL AGENCY'S Construction Contractor.....	14
Article XXVIII	Confidentiality of Data	14
Article XXIX	National Labor Relations Board Certification	15
Article XXX	Evaluation of Consultant	15
Article XXXI	Retention of Funds.....	15
Article XXXII	Notification	15
Article XXXIII	Contract.....	16
Article XXXIV	Signatures.....	16

ARTICLE I INTRODUCTION

- A. This contract is between the following named, hereinafter referred to as, CONSULTANT and the following named, hereinafter referred to as, LOCAL AGENCY:

The name of the "CONSULTANT" is as follows:

VSCE, Inc.

Incorporated in the State of California

The Project Manager for the "CONSULTANT" will be *Frank Sana, P.E.*

The name of the "LOCAL AGENCY" is as follows:

City of Porterville

The Contract Administrator for LOCAL AGENCY will be *Javier Sanchez, Acting City Engineer*

- B. The work to be performed under this contract is described in Article II entitled Statement of Work and the approved CONSULTANT's Cost Proposal dated *June 23, 2016*. The approved CONSULTANT's Cost Proposal is attached hereto (Attachment 1) and incorporated by reference. If there is any conflict between the approved Cost Proposal and this contract, this contract shall take precedence.
- C. CONSULTANT agrees to indemnify, defend (at LOCAL AGENCY's option), and hold harmless LOCAL AGENCY, its officers, agents, and employees from any and all claims, demands, costs, or liability arising from or connected with the services provided hereunder due to negligent acts, errors, or omissions of CONSULTANT. CONSULTANT will reimburse LOCAL AGENCY for any expenditure, including reasonable attorney fees, incurred by LOCAL AGENCY in defending against claims ultimately determined to be due to negligent acts, errors, or omissions of CONSULTANT.
- D. CONSULTANT and the agents and employees of CONSULTANT, in the performance of this contract, shall act in an independent capacity and not as officers or employees or agents of LOCAL AGENCY.
- E. Without the written consent of LOCAL AGENCY, this contract is not assignable by CONSULTANT either in whole or in part.
- F. No alteration or variation of the terms of this contract shall be valid, unless made in writing and signed by the parties hereto; and no oral understanding or agreement not incorporated herein, shall be binding on any of the parties hereto.
- G. The consideration to be paid to CONSULTANT as provided herein, shall be in compensation for all of CONSULTANT's expenses incurred in the performance hereof, including travel and per diem, unless otherwise expressly so provided.
- H. CONSULTANT certifies and agrees that it is fully familiar with all details of the project required to perform its services. CONSULTANT agrees it will not rely upon any opinions and representations of LOCAL AGENCY unless LOCAL AGENCY is the only available source of said information.

ARTICLE II STATEMENT OF WORK

- A. Consultant Services

The CONSULTANT is providing construction management, inspection, materials testing, construction surveying, environmental mitigation and monitoring, and related construction engineering activities for the recommendation of acceptance of improvements of the proposed construction project to assure consistent and satisfactory quality of such improvements in accordance with the approved construction documents. The work product shall meet the minimum requirements identified in this scope of

services. A detailed Scope of Services is attached hereto (Attachment 2) and incorporated by reference.

B. Surveys

The CONSULTANT shall perform construction surveys as described in Attachment 2.

C. Subsurface Investigations

The CONSULTANT is responsible for ensuring that all required subsurface investigations are performed by the appropriately licensed sub-contractors under their supervision as described in Attachment 2. The CONSULTANT shall provide copies of all testing results to the LOCAL AGENCY.

D. Local Agency Obligations

All data applicable to the project and in possession of LOCAL AGENCY or another agency or government that are to be made available to CONSULTANT are referred to in the contract. Any other assistance or services to be furnished to CONSULTANT are stated in Attachment 2.

E. Conferences, Visits to Site, Inspection of Work

The contract provides for conferences as needed, visits to the site, and inspection of the work by representatives of the state, or FHWA. Costs incurred by CONSULTANT for meetings, subsequent to the initial meeting shall be included in the fee.

F. Checking Shop Drawings

The CONSULTANT shall coordinate the checking of shop drawings with the design engineer and the LOCAL AGENCY. Payment for checking shop drawings by CONSULTANT is included in the contract fee.

G. Consultant Services During Construction

The extent, if any, of CONSULTANT's services during the course of construction such as material testing, construction surveys, etc., are specified in the contract together with the method of payment for such services.

H. Documentation and Schedules

Contracts, where appropriate, shall provide that CONSULTANT document the results of the work to the satisfaction of LOCAL AGENCY, and if applicable, the State and FHWA. This may include preparation of progress and final reports, plans, specifications and estimates, or similar evidence of attainment of the contract objectives.

I. Deliverables and Number of Copies

The number of copies of papers or documents to be furnished, such as reports, brochures, sets of plans, or specifications, is specified in Attachment 2.

ARTICLE III CONSULTANT'S REPORTS OR MEETINGS

- A. CONSULTANT shall submit progress reports on each specific project in accordance with the detailed scope (Attachment 2). These reports shall be submitted weekly and should be sufficiently detailed for LOCAL AGENCY's Contract Administrator or Project Coordinator to determine, if CONSULTANT is performing to expectations, or is on schedule; to provide communication of interim findings, and to sufficiently address any difficulties or special problems encountered, so remedies can be developed.
- B. CONSULTANT's Project Manager shall meet with LOCAL AGENCY's Contract Administrator as described in Attachment 2 to discuss progress on the contract/project.

ARTICLE IV PERFORMANCE PERIOD (Verbatim)

- A. This contract shall go into effect on July 25, 2016, contingent upon approval by LOCAL AGENCY, and CONSULTANT shall commence work after notification to proceed by LOCAL AGENCY'S Contract Administrator. The contract shall end on June 29, 2018, unless extended by contract amendment.
- B. CONSULTANT is advised that any recommendation for contract award is not binding on LOCAL AGENCY until the contract is fully executed and approved by LOCAL AGENCY.

ARTICLE V ALLOWABLE COSTS AND PAYMENTS (Verbatim)

- A. CONSULTANT will be reimbursed for hours worked at the hourly rates specified in CONSULTANTs Cost Proposal (Attachment 1). The specified hourly rates shall include direct salary costs, employee benefits, overhead, and fee. These rates are not adjustable for the performance period set forth in this Contract.
- B. In addition, CONSULTANT will be reimbursed for incurred (actual) direct costs other than salary costs that are in the cost proposal and identified in the cost proposal.
- C. Reimbursement for transportation and subsistence costs shall not exceed the rates as specified in the approved Cost Proposal.
- D. Progress payments will be made monthly in arrears based on services provided and actual costs incurred.
- E. CONSULTANT shall not commence performance of work or services until this contract has been approved by LOCAL AGENCY, and notification to proceed has been issued by LOCAL AGENCY'S Contract Administrator. No payment will be made prior to approval or for any work performed prior to approval of this contract.
- F. CONSULTANT will be reimbursed, as promptly as fiscal procedures will permit upon receipt by LOCAL AGENCY'S Contract Administrator of itemized invoices in triplicate. Invoices shall be submitted no later than 45 calendar days after the performance of work for which CONSULTANT is billing. Invoices shall detail the work performed on each milestone, on each project as applicable. Invoices shall follow the format stipulated for the approved Cost Proposal and shall reference this contract number and project title. Credits due LOCAL AGENCY that include any equipment purchased under the provisions of Article XI Equipment Purchase of this contract, must be reimbursed by CONSULTANT prior to the expiration or termination of this contract. Invoices shall be mailed to LOCAL AGENCY's Contract Administrator at the following address:

City of Porterville
Attn: Javier Sanchez
291 N. Main Street
Porterville, CA 93257

- G. All subcontracts in excess of \$25,000 shall contain the above provisions.

ARTICLE VI TERMINATION (Verbatim)

- A. LOCAL AGENCY reserves the right to terminate this contract upon thirty (30) calendar days written notice to CONSULTANT with the reasons for termination stated in the notice.
- B. LOCAL AGENCY may terminate this contract with CONSULTANT should CONSULTANT fail to perform the covenants herein contained at the time and in the manner herein provided. In the event of such termination, LOCAL AGENCY may proceed with the work in any manner deemed proper by LOCAL AGENCY. If LOCAL AGENCY terminates this contract with CONSULTANT, LOCAL AGENCY shall pay CONSULTANT the sum due to CONSULTANT under this contract prior to termination, unless the cost of completion to LOCAL AGENCY exceeds the funds remaining in the contract. In which case the overage

shall be deducted from any sum due CONSULTANT under this contract and the balance, if any, shall be paid to CONSULTANT upon demand.

- C. The maximum amount for which the Government shall be liable if this contract is terminated is a pro-rata share of the work completed.

ARTICLE VII COST PRINCIPLES AND ADMINISTRATIVE REQUIREMENTS (Verbatim)

- A. CONSULTANT agrees that the Contract Cost Principles and Procedures, 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., shall be used to determine the cost allowability of individual items.
- B. CONSULTANT also agrees to comply with federal procedures in accordance with 49 CFR, Part 18, Uniform Administrative Requirements for Grants and Cooperative Agreements to State and Local Governments.
- C. Any costs for which payment has been made to CONSULTANT that are determined by subsequent audit to be unallowable under 49 CFR, Part 18 and 48 CFR, Federal Acquisition Regulations System, Chapter 1, Part 31.000 et seq., are subject to repayment by CONSULTANT to LOCAL AGENCY.
- D. All subcontracts in excess of \$25,000 shall contain the above provisions.

ARTICLE VIII RETENTION OF RECORDS/AUDIT (Verbatim)

For the purpose of determining compliance with Public Contract Code 10115, et seq. and Title 21, California Code of Regulations, Chapter 21, Section 2500 et seq., when applicable and other matters connected with the performance of the contract pursuant to Government Code 8546.7; CONSULTANT, subconsultants, and LOCAL AGENCY shall maintain and make available for inspection all books, documents, papers, accounting records, and other evidence pertaining to the performance of the contract, including but not limited to, the costs of administering the contract. All parties shall make such materials available at their respective offices at all reasonable times during the contract period and for three years from the date of final payment under the contract. The state, State Auditor, LOCAL AGENCY, FHWA, or any duly authorized representative of the Federal Government shall have access to any books, records, and documents of CONSULTANT and its certified public accountants (CPA) work papers that are pertinent to the contract and indirect cost rates (ICR) for audit, examinations, excerpts, and transactions, and copies thereof shall be furnished if requested. Subcontracts in excess of \$25,000 shall contain this provision.

ARTICLE IX AUDIT REVIEW PROCEDURES (Verbatim)

- A. Any dispute concerning a question of fact arising under an interim or post audit of this contract that is not disposed of by agreement, shall be reviewed by LOCAL AGENCY'S Chief Financial Officer.
- B. Not later than 30 days after issuance of the final audit report, CONSULTANT may request a review by LOCAL AGENCY'S Chief Financial Officer of unresolved audit issues. The request for review will be submitted in writing.
- C. Neither the pendency of a dispute nor its consideration by LOCAL AGENCY will excuse CONSULTANT from full and timely performance, in accordance with the terms of this contract.
- D. CONSULTANT and subconsultant contracts, including cost proposals and ICR, are subject to audits or reviews such as, but not limited to, a contract audit, an incurred cost audit, an ICR Audit, or a CPA ICR audit work paper review. If selected for audit or review, the contract, cost proposal and ICR and related work papers, if applicable, will be reviewed to verify compliance with 48 CFR, Part 31 and other related laws and regulations. In the instances of a CPA ICR audit work paper review it is CONSULTANT's responsibility to ensure federal, state, or local government officials are allowed full access to the CPA's work papers including

making copies as necessary. The contract, cost proposal, and ICR shall be adjusted by CONSULTANT and approved by LOCAL AGENCY contract manager to conform to the audit or review recommendations. CONSULTANT agrees that individual terms of costs identified in the audit report shall be incorporated into the contract by this reference if directed by LOCAL AGENCY at its sole discretion. Refusal by CONSULTANT to incorporate audit or review recommendations, or to ensure that the federal, state or local governments have access to CPA work papers, will be considered a breach of contract terms and cause for termination of the contract and disallowance of prior reimbursed costs.

ARTICLE X SUBCONTRACTING (Verbatim)

- A. Nothing contained in this contract or otherwise, shall create any contractual relation between LOCAL AGENCY and any subconsultant(s), and no subcontract shall relieve CONSULTANT of its responsibilities and obligations hereunder. CONSULTANT agrees to be as fully responsible to LOCAL AGENCY for the acts and omissions of its subconsultant(s) and of persons either directly or indirectly employed by any of them as it is for the acts and omissions of persons directly employed by CONSULTANT. CONSULTANT's obligation to pay its subconsultant(s) is an independent obligation from LOCAL AGENCY'S obligation to make payments to the CONSULTANT.
- B. CONSULTANT shall perform the work contemplated with resources available within its own organization and no portion of the work pertinent to this contract shall be subcontracted without written authorization by LOCAL AGENCY's Contract Administrator, except that, which is expressly identified in the approved Cost Proposal.
- C. CONSULTANT shall pay its subconsultants within ten (10) calendar days from receipt of each payment made to CONSULTANT by LOCAL AGENCY.
- D. Any subcontract in excess of \$25,000 entered into as a result of this contract shall contain all the provisions stipulated in this contract to be applicable to subconsultants.
- E. Any substitution of subconsultant(s) must be approved in writing by LOCAL AGENCY's Contract Administrator prior to the start of work by the subconsultant(s).

ARTICLE XI EQUIPMENT PURCHASE (Verbatim)

- A. Prior authorization in writing, by LOCAL AGENCY's Contract Administrator shall be required before CONSULTANT enters into any unbudgeted purchase order, or subcontract exceeding \$5,000 for supplies, equipment, or CONSULTANT services. CONSULTANT shall provide an evaluation of the necessity or desirability of incurring such costs.
- B. For purchase of any item, service or consulting work not covered in CONSULTANT's Cost Proposal and exceeding \$5,000 prior authorization by LOCAL AGENCY's Contract Administrator; three competitive quotations must be submitted with the request, or the absence of bidding must be adequately justified.
- C. Any equipment purchased as a result of this contract is subject to the following: "CONSULTANT shall maintain an inventory of all nonexpendable property. Nonexpendable property is defined as having a useful life of at least two years and an acquisition cost of \$5,000 or more. If the purchased equipment needs replacement and is sold or traded in, LOCAL AGENCY shall receive a proper refund or credit at the conclusion of the contract, or if the contract is terminated, CONSULTANT may either keep the equipment and credit LOCAL AGENCY in an amount equal to its fair market value, or sell such equipment at the best price obtainable at a public or private sale, in accordance with established LOCAL AGENCY procedures; and credit LOCAL AGENCY in an amount equal to the sales price. If CONSULTANT elects to keep the equipment, fair market value shall be determined at CONSULTANT's expense, on the basis of a competent independent appraisal of such equipment. Appraisals shall be obtained from an appraiser mutually agreeable to by LOCAL AGENCY and CONSULTANT, if it is determined to sell the equipment, the terms and

conditions of such sale must be approved in advance by LOCAL AGENCY.” 49 CFR, Part 18 requires a credit to Federal funds when participating equipment with a fair market value greater than \$5,000 is credited to the project.

- D. All subcontracts in excess \$25,000 shall contain the above provisions.

ARTICLE XII STATE PREVAILING WAGE RATES (Verbatim)

- A. CONSULTANT shall comply with the State of California’s General Prevailing Wage Rate requirements in accordance with California Labor Code, Section 1770, and all Federal, State, and local laws and ordinances applicable to the work.
- B. Any subcontract entered into as a result of this contract, if for more than \$25,000 for public works construction or more than \$15,000 for the alteration, demolition, repair, or maintenance of public works, shall contain all of the provisions of this Article.
- C. When prevailing wages apply to the services described in the scope of work, transportation and subsistence costs shall be reimbursed at the minimum rates set by the Department of Industrial Relations (DIR) as outlined in the applicable Prevailing Wage Determination. See <http://www.dir.ca.gov>.

ARTICLE XIII CONFLICT OF INTEREST (Verbatim)

- A. CONSULTANT shall disclose any financial, business, or other relationship with LOCAL AGENCY that may have an impact upon the outcome of this contract, or any ensuing LOCAL AGENCY construction project. CONSULTANT shall also list current clients who may have a financial interest in the outcome of this contract, or any ensuing LOCAL AGENCY construction project, which will follow.
- B. CONSULTANT hereby certifies that it does not now have, nor shall it acquire any financial or business interest that would conflict with the performance of services under this contract.
- C. Any subcontract in excess of \$25,000 entered into as a result of this contract, shall contain all of the provisions of this Article.
- D. CONSULTANT hereby certifies that neither CONSULTANT, its employees, nor any firm affiliated with CONSULTANT providing services on this project prepared the Plans, Specifications, and Estimate for any construction project included within this contract. An affiliated firm is one, which is subject to the control of the same persons through joint- ownership, or otherwise.
- E. CONSULTANT further certifies that neither CONSULTANT, nor any firm affiliated with CONSULTANT, will bid on any construction subcontracts included within the construction contract. Additionally, CONSULTANT certifies that no person working under this contract is also employed by the construction contractor for any project included within this contract.
- F. Except for subconsultants whose services are limited to materials testing, no subconsultant who is providing service on this contract shall have provided services on the design of any project included within this contract.

ARTICLE XIV REBATES, KICKBACKS OR OTHER UNLAWFUL CONSIDERATION (Verbatim)

CONSULTANT warrants that this contract was not obtained or secured through rebates kickbacks or other unlawful consideration, either promised or paid to any LOCAL AGENCY employee. For breach or violation of this warranty, LOCAL AGENCY shall have the right in its discretion; to terminate the contract without liability; to pay only for the value of the work actually performed; or to deduct from the contract price; or otherwise recover the full amount of such rebate, kickback or other unlawful consideration.

ARTICLE XV PROHIBITION OF EXPENDING LOCAL AGENCY STATE OR FEDERAL FUNDS FOR LOBBYING (Verbatim)

- A. CONSULTANT certifies to the best of his or her knowledge and belief that:
1. No state, federal or local agency appropriated funds have been paid, or will be paid by-or-on behalf of CONSULTANT to any person for influencing or attempting to influence an officer or employee of any state or federal agency; a Member of the State Legislature or United States Congress; an officer or employee of the Legislature or Congress; or any employee of a Member of the Legislature or Congress, in connection with the awarding of any state or federal contract; the making of any state or federal grant; the making of any state or federal loan; the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any state or federal contract, grant, loan, or cooperative agreement.
 2. If any funds other than federal appropriated funds have been paid, or will be paid to any person for influencing or attempting to influence an officer or employee of any federal agency; a Member of Congress; an officer or employee of Congress, or an employee of a Member of Congress; in connection with this federal contract, grant, loan, or cooperative agreement; CONSULTANT shall complete and submit Standard Form-LLL, "Disclosure Form to Report Lobbying", in accordance with its instructions.
- B. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.
- C. CONSULTANT also agrees by signing this document that he or she shall require that the language of this certification be included in all lower-tier subcontracts, which exceed \$100,000 and that all such sub recipients shall certify and disclose accordingly.

ARTICLE XVI STATEMENT OF COMPLIANCE

- A. CONSULTANT's signature affixed herein, and dated, shall constitute a certification under penalty of perjury under the laws of the State of California that CONSULTANT has, unless exempt, complied with, the nondiscrimination program requirements of Government Code Section 12990 and Title 2, California Administrative Code, Section 8103.
- B. During the performance of this Contract, Consultant and its subconsultants shall not unlawfully discriminate, harass, or allow harassment against any employee or applicant for employment because of sex, race, color, ancestry, religious creed, national origin, physical disability (including HIV and AIDS), mental disability, medical condition (e.g., cancer), age (over 40), marital status, and denial of family care leave. Consultant and subconsultants shall insure that the evaluation and treatment of their employees and applicants for employment are free from such discrimination and harassment. Consultant and subconsultants shall comply with the provisions of the Fair Employment and Housing Act (Gov. Code §12990 (a-f) et seq.) and the applicable regulations promulgated there under (California Code of Regulations, Title 2, Section 7285 et seq.). The applicable regulations of the Fair Employment and Housing Commission implementing Government Code Section 12990 (a-f), set forth in Chapter 5 of Division 4 of Title 2 of the California Code of Regulations, are incorporated into this Contract by reference and made a part hereof as if set forth in full. Consultant and its subconsultants shall give written notice of their obligations under this clause to labor organizations with which they have a collective bargaining or other Agreement.
- C. The Consultant shall comply with regulations relative to Title VI (nondiscrimination in federally-assisted programs of the Department of Transportation – Title 49 Code of Federal Regulations, Part 21 - Effectuation of Title VI of the 1964 Civil Rights Act). Title VI provides that the recipients of federal assistance will

implement and maintain a policy of nondiscrimination in which no person in the state of California shall, on the basis of race, color, national origin, religion, sex, age, disability, be excluded from participation in, denied the benefits of or subject to discrimination under any program or activity by the recipients of federal assistance or their assignees and successors in interest.

- D. The Consultant, with regard to the work performed by it during the Agreement shall act in accordance with Title VI. Specifically, the Consultant shall not discriminate on the basis of race, color, national origin, religion, sex, age, or disability in the selection and retention of Subconsultants, including procurement of materials and leases of equipment. The Consultant shall not participate either directly or indirectly in the discrimination prohibited by Section 21.5 of the U.S. DOT's Regulations, including employment practices when the Agreement covers a program whose goal is employment.

ARTICLE XVII DEBARMENT AND SUSPENSION CERTIFICATION

- A. CONSULTANT's signature affixed herein, shall constitute a certification under penalty of perjury under the laws of the State of California, that CONSULTANT has complied with Title 2 CFR, Part 180, "OMB Guidelines to Agencies on Government wide Debarment and Suspension (nonprocurement)", which certifies that he/she or any person associated therewith in the capacity of owner, partner, director, officer, or manager, is not currently under suspension, debarment, voluntary exclusion, or determination of ineligibility by any federal agency; has not been suspended, debarred, voluntarily excluded, or determined ineligible by any federal agency within the past three (3) years; does not have a proposed debarment pending; and has not been indicted, convicted, or had a civil judgment rendered against it by a court of competent jurisdiction in any matter involving fraud or official misconduct within the past three (3) years. Any exceptions to this certification must be disclosed to LOCAL AGENCY.
- B. Exceptions will not necessarily result in denial of recommendation for award, but will be considered in determining CONSULTANT responsibility. Disclosures must indicate to whom exceptions apply, initiating agency, and dates of action.
- C. Exceptions to the Federal Government Excluded Parties List System maintained by the General Services Administration are to be determined by the Federal highway Administration.

ARTICLE XVIII FUNDING REQUIREMENTS

- A. It is mutually understood between the parties that this contract may have been written before ascertaining the availability of funds or appropriation of funds, for the mutual benefit of both parties, in order to avoid program and fiscal delays that would occur if the contract were executed after that determination was made.
- B. This contract is valid and enforceable only, if sufficient funds are made available to LOCAL AGENCY for the purpose of this contract. In addition, this contract is subject to any additional restrictions, limitations, conditions, or any statute enacted by the Congress, State Legislature, or LOCAL AGENCY governing board that may affect the provisions, terms, or funding of this contract in any manner.
- C. It is mutually agreed that if sufficient funds are not appropriated, this contract may be amended to reflect any reduction in funds.
- D. LOCAL AGENCY has the option to void the contract under the 30-day termination clause pursuant to Article VI, or by mutual agreement to amend the contract to reflect any reduction of funds.

ARTICLE XIX CHANGE IN TERMS

- A. This contract may be amended or modified only by mutual written agreement of the parties.

- B. CONSULTANT shall only commence work covered by an amendment after the amendment is executed and notification to proceed has been provided by LOCAL AGENCY's Contract Administrator.
- C. There shall be no change in CONSULTANT's Project Manager or members of the project team, as listed in the approved Cost Proposal, which is a part of this contract without prior written approval by LOCAL AGENCY's Contract Administrator.

ARTICLE XX DISADVANTAGED BUSINESS ENTERPRISES (DBE) PARTICIPATION

- A. This contract is subject to 49 CFR, Part 26 entitled "Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs". Consultants who obtain DBE participation on this contract will assist Caltrans in meeting its federally mandated statewide overall DBE goal.
- B. The goal for DBE participation for this contract is 7.00%. Participation by DBE consultant or subconsultants shall be in accordance with information contained in the Consultant Proposal DBE Commitment (Exhibit 10-O1), or in the Consultant Contract DBE Information (Exhibit 10-O2) attached hereto and incorporated as part of the Contract. If a DBE subconsultant is unable to perform, CONSULTANT must make a good faith effort to replace him/her with another DBE subconsultant, if the goal is not otherwise met.
- C. DBEs and other small businesses, as defined in 49 CFR, Part 26 are encouraged to participate in the performance of contracts financed in whole or in part with federal funds. CONSULTANT or subconsultant shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. CONSULTANT shall carry out applicable requirements of 49 CFR, Part 26 in the award and administration of US DOT-assisted agreements. Failure by CONSULTANT to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as LOCAL AGENCY deems appropriate.
- D. Any subcontract entered into as a result of this contract shall contain all of the provisions of this section.
- E. A DBE firm may be terminated only with prior written approval from LOCAL AGENCY and only for the reasons specified in 49 CFR 26.53(f). Prior to requesting LOCAL AGENCY consent for the termination, CONSULTANT must meet the procedural requirements specified in 49 CFR 26.53(f).
- F. A DBE performs a Commercially Useful Function (CUF) when it is responsible for execution of the work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a CUF, the DBE must also be responsible with respect to materials and supplies used on the contract, for negotiating price, determining quality and quantity, ordering the material, and installing (where applicable) and paying for the material itself. To determine whether a DBE is performing a CUF, evaluate the amount of work subcontracted, industry practices, whether the amount the firm is to be paid under the contract is commensurate with the work it is actually performing, and other relevant factors.
- G. A DBE does not perform a CUF if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of DBE participation. In determining whether a DBE is such an extra participant, examine similar transactions, particularly those in which DBEs do not participate.
- H. If a DBE does not perform or exercise responsibility for at least thirty percent (30%) of the total cost of its contract with its own work force, or the DBE subcontracts a greater portion of the work of the contract than would be expected on the basis of normal industry practice for the type of work involved, it will be presumed that it is not performing a CUF.
- I. CONSULTANT shall maintain records of materials purchased or supplied from all subcontracts entered into with certified DBEs. The records shall show the name and business address of each DBE or vendor and the total dollar amount actually paid each DBE or vendor, regardless of tier. The records shall show the date of payment and the total dollar figure paid to all firms. DBE prime consultants shall also show the date of work performed by their own forces along with the corresponding dollar value of the work.

- J. Upon completion of the Contract, a summary of these records shall be prepared and submitted on the form entitled, "Final Report-Utilization of Disadvantaged Business Enterprise (DBE), First-Tier Subconsultants" CEM-2402F [Exhibit 17-F, of the LAPM], certified correct by CONSULTANT or CONSULTANT's authorized representative and shall be furnished to the Contract Administrator with the final invoice. Failure to provide the summary of DBE payments with the final invoice will result in twenty-five percent (25%) of the dollar value of the invoice being withheld from payment until the form is submitted. The amount will be returned to CONSULTANT when a satisfactory "Final Report-Utilization of Disadvantaged Business Enterprises (DBE), First-Tier Subconsultants" is submitted to the Contract Administrator.
- K. If a DBE subconsultant is decertified during the life of the contract, the decertified subconsultant shall notify CONSULTANT in writing with the date of decertification. If a subconsultant becomes a certified DBE during the life of the Contract, the subconsultant shall notify CONSULTANT in writing with the date of certification. Any changes should be reported to LOCAL AGENCY's Contract Administrator within 30 days.

ARTICLE XXI CONTINGENT FEE

CONSULTANT warrants, by execution of this contract that no person or selling agency has been employed, or retained, to solicit or secure this contract upon an agreement or understanding, for a commission, percentage, brokerage, or contingent fee, excepting bona fide employees, or bona fide established commercial or selling agencies maintained by CONSULTANT for the purpose of securing business. For breach or violation of this warranty, LOCAL AGENCY has the right to annul this contract without liability; pay only for the value of the work actually performed, or in its discretion to deduct from the contract price or consideration, or otherwise recover the full amount of such commission, percentage, brokerage, or contingent fee.

ARTICLE XXII DISPUTES

- A. Any dispute, other than audit, concerning a question of fact arising under this contract that is not disposed of by agreement shall be decided by a committee consisting of LOCAL AGENCY's Contract Administrator and Public Works Director, who may consider written or verbal information submitted by CONSULTANT.
- B. Not later than 30 days after completion of all work under the contract, CONSULTANT may request review by LOCAL AGENCY Governing Board of unresolved claims or disputes, other than audit. The request for review will be submitted in writing.
- C. Neither the pendency of a dispute, nor its consideration by the committee will excuse CONSULTANT from full and timely performance in accordance with the terms of this contract.

ARTICLE XXIII INSPECTION OF WORK

CONSULTANT and any subconsultant shall permit LOCAL AGENCY, the state, and the FHWA if federal participating funds are used in this contract; to review and inspect the project activities and files at all reasonable times during the performance period of this contract including review and inspection on a daily basis.

ARTICLE XXIV SAFETY

- A. CONSULTANT shall comply with OSHA regulations applicable to CONSULTANT regarding necessary safety equipment or procedures. CONSULTANT shall comply with safety instructions issued by LOCAL AGENCY Safety Officer and other LOCAL AGENCY representatives. CONSULTANT personnel shall wear hard hats and safety vests at all times while working on the construction project site.
- B. Pursuant to the authority contained in Section 591 of the Vehicle Code, LOCAL AGENCY has determined that such areas are within the limits of the project and are open to public traffic. CONSULTANT shall

comply with all of the requirements set forth in Divisions 11, 12, 13, 14, and 15 of the Vehicle Code. CONSULTANT shall take all reasonably necessary precautions for safe operation of its vehicles and the protection of the traveling public from injury and damage from such vehicles.

- C. Any subcontract entered into as a result of this contract, shall contain all of the provisions of this Article.
- D. CONSULTANT must have a Division of Occupational Safety and Health (CAL-OSHA) permit(s), as outlined in California Labor Code Sections 6500 and 6705, prior to the initiation of any practices, work, method, operation, or process related to the construction or excavation of trenches which are five feet or deeper.

ARTICLE XXV INSURANCE

- A. Prior to commencement of the work described herein, CONSULTANT shall furnish LOCAL AGENCY a Certificate of Insurance stating that there is general comprehensive liability insurance presently in effect for CONSULTANT with a combined single limit (CSL) of not less than one million dollars (\$1,000,000) per occurrence.
- B. The Certificate of Insurance will provide:
 - 1. That the insurer will not cancel the insured's coverage without 30 days prior written notice to LOCAL AGENCY.
 - 2. That LOCAL AGENCY, its officers, agents, employees, and servants are included as additional insureds, but only insofar as the operations under this contract are concerned.
 - 3. That LOCAL AGENCY will not be responsible for any premiums or assessments on the policy.
- C. CONSULTANT agrees that the bodily injury liability insurance herein provided for, shall be in effect at all times during the term of this contract. In the event said insurance coverage expires at any time or times during the term of this contract, CONSULTANT agrees to provide at least thirty (30) days prior notice to said expiration date; and a new Certificate of Insurance evidencing insurance coverage as provided for herein, for not less than either the remainder of the term of the contract, or for a period of not less than one (1) year. New Certificates of Insurance are subject to the approval of LOCAL AGENCY. In the event CONSULTANT fails to keep in effect at all times insurance coverage as herein provided, LOCAL AGENCY may, in addition to any other remedies it may have, terminate this contract upon occurrence of such event.

ARTICLE XXVI OWNERSHIP OF DATA

- A. Upon completion of all work under this contract, ownership and title to all reports, documents, plans, specifications, and estimates produce as part of this contract will automatically be vested in LOCAL AGENCY; and no further agreement will be necessary to transfer ownership to LOCAL AGENCY. CONSULTANT shall furnish LOCAL AGENCY all necessary copies of data needed to complete the review and approval process.
- B. It is understood and agreed that all calculations, drawings and specifications, whether in hard copy or machine-readable form, are intended for one-time use in the construction of the project for which this contract has been entered into.
- C. CONSULTANT is not liable for claims, liabilities, or losses arising out of, or connected with the modification, or misuse by LOCAL AGENCY of the machine-readable information and data provided by CONSULTANT under this contract; further, CONSULTANT is not liable for claims, liabilities, or losses arising out of, or connected with any use by LOCAL AGENCY of the project documentation on other projects for additions to this project, or for the completion of this project by others, except only such use as may be authorized in writing by CONSULTANT.

- D. Applicable patent rights provisions regarding rights to inventions shall be included in the contracts as appropriate (48 CFR 27, Subpart 27.3 - Patent Rights under Government Contracts for federal-aid contracts).
- E. LOCAL AGENCY may permit copyrighting reports or other agreement products. If copyrights are permitted; the agreement shall provide that the FHWA shall have the royalty-free nonexclusive and irrevocable right to reproduce, publish, or otherwise use; and to authorize others to use, the work for government purposes.
- F. Any subcontract in excess of \$25,000 entered into as a result of this contract, shall contain all of the provisions of this Article.

ARTICLE XXVII CLAIMS FILED BY LOCAL AGENCY'S CONSTRUCTION CONTRACTOR

- A. If claims are filed by LOCAL AGENCY's construction contractor relating to work performed by CONSULTANT's personnel, and additional information or assistance from CONSULTANT's personnel is required in order to evaluate or defend against such claims; CONSULTANT agrees to make its personnel available for consultation with LOCAL AGENCY'S construction contract administration and legal staff and for testimony, if necessary, at depositions and at trial or arbitration proceedings.
- B. CONSULTANT's personnel that LOCAL AGENCY considers essential to assist in defending against construction contractor claims will be made available on reasonable notice from LOCAL AGENCY. Consultation or testimony will be reimbursed at the same rates, including travel costs that are being paid for CONSULTANT's personnel services under this contract.
- C. Services of CONSULTANT's personnel in connection with LOCAL AGENCY's construction contractor claims will be performed pursuant to a written contract amendment, if necessary, extending the termination date of this contract in order to resolve the construction claims.
- D. Any subcontract in excess of \$25,000 entered into as a result of this contract, shall contain all of the provisions of this Article.

ARTICLE XXVIII CONFIDENTIALITY OF DATA

- A. All financial, statistical, personal, technical, or other data and information relative to LOCAL AGENCY's operations, which are designated confidential by LOCAL AGENCY and made available to CONSULTANT in order to carry out this contract, shall be protected by CONSULTANT from unauthorized use and disclosure.
- B. Permission to disclose information on one occasion, or public hearing held by LOCAL AGENCY relating to the contract, shall not authorize CONSULTANT to further disclose such information, or disseminate the same on any other occasion.
- C. CONSULTANT shall not comment publicly to the press or any other media regarding the contract or LOCAL AGENCY's actions on the same, except to LOCAL AGENCY's staff, CONSULTANT's own personnel involved in the performance of this contract, at public hearings or in response to questions from a Legislative committee.
- D. CONSULTANT shall not issue any news release or public relations item of any nature, whatsoever, regarding work performed or to be performed under this contract without prior review of the contents thereof by LOCAL AGENCY, and receipt of LOCAL AGENCY'S written permission.
- E. Any subcontract entered into as a result of this contract shall contain all of the provisions of this Article.

ARTICLE XXIX NATIONAL LABOR RELATIONS BOARD CERTIFICATION

In accordance with Public Contract Code Section 10296, CONSULTANT hereby states under penalty of perjury that no more than one final unappealable finding of contempt of court by a federal court has been issued against CONSULTANT within the immediately preceding two-year period, because of CONSULTANT's failure to comply with an order of a federal court that orders CONSULTANT to comply with an order of the National Labor Relations Board.

ARTICLE XXX EVALUATION OF CONSULTANT

CONSULTANT's performance will be evaluated by LOCAL AGENCY. A copy of the evaluation will be sent to CONSULTANT for comments. The evaluation together with the comments shall be retained as part of the contract record.

ARTICLE XXXI RETENTION OF FUNDS

- A. Any subcontract entered into as a result of this Contract shall contain all of the provisions of this section.
- B. No retainage will be withheld by the Agency from progress payments due the prime consultant. Retainage by the prime consultant or subconsultants is prohibited, and no retainage will be held by the prime consultant from progress due subconsultants. Any violation of this provision shall subject the violating prime consultant or subconsultants to the penalties, sanctions, and other remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies, otherwise available to the prime consultant or subconsultant in the event of a dispute involving late payment or nonpayment by the prime consultant or deficient subconsultant performance, or noncompliance by a subconsultant. This provision applies to both DBE and non-DBE prime consultants and subconsultants.

ARTICLE XXXII NOTIFICATION

All notices hereunder and communications regarding interpretation of the terms of this contract and changes thereto, shall be effected by the mailing thereof by registered or certified mail, return receipt requested, postage prepaid, and addressed as follows:

CONSULTANT:

VSCE, Inc.
Frank Sana, P.E., Project Manager
827 Broadway, Suite 340
Oakland, CA 94607

LOCAL AGENCY:

City of Porterville
Javier Sanchez, Acting City Engineer, Contract Administrator
291 N. Main Street
Porterville, CA 93257

ARTICLE XXXIII CONTRACT

The two parties to this contract, who are the before named CONSULTANT and the before named LOCAL AGENCY, hereby agree that this contract constitutes the entire agreement which is made and concluded in duplicate between the two parties. Both of these parties for and in consideration of the payments to be made, conditions mentioned, and work to be performed; each agree to diligently perform in accordance with the terms and conditions of this contract as evidenced by the signatures below.

ARTICLE XXXIV SIGNATURES

VSCE

City of Porterville

Frank Sana, P.E.

Milt Stowe, Mayor**DATE:**_____

CONSTRUCTION MANAGEMENT AND INSPECTION SCOPE OF SERVICES

PROJECT DESCRIPTION:

This project consists of widening the existing Jaye Street Bridge from two lanes to four lanes to increase its traffic capacity and includes the reconstruction of the street approaches. The proposed project is located in the southcentral portion of the CITY along South Jaye Street, crossing over the Tule River, between West Date Avenue and West Springville Avenue. The construction schedule consists of 330 working days and is to start on September 1, 2016, with construction anticipated to be completed over two construction seasons.

ITEMS OF WORK:

The intent of this scope of services is to set forth the requirements and responsibilities of the CONSULTANT for construction management, inspection, materials testing, construction surveying, environmental mitigation and monitoring, and related construction engineering activities for the recommendation of acceptance of improvements of the proposed construction project to assure consistent and satisfactory quality of such improvements in accordance with the approved construction documents. The work product shall meet the minimum requirements identified in this scope of services.

The CONSULTANT will provide a Construction Manager (CM), Structures Representative, necessary support staff, equipment, and materials to perform construction administration oversight and inspection services during the construction of the Construction Project. All CONSULTANT staff shall work under the supervision of the CM. These services will encompass serving as the CITY'S Resident Engineer (RE) to the Construction Contractor and the public with regard to activities at the construction site, interpretation of the requirements of the Construction Contract Documents, assessing the acceptability of the Contractor's work, and materials testing. All persons in responsible charge of construction management, inspection, materials testing, and construction surveying must be registered in their respective discipline in the State of California.

The CM's services will include review and analysis of construction documentation, documentation of pre-construction site conditions, interpretation of and Contractor's conformance to the project plans, specifications, contract documents, and regulatory permits. The CM will assess the acceptability of the Contractor's work by visual observation, photo and video documentation and all applicable soil and materials testing. When necessary, the CM shall issue Notices of Non-Compliance and/or take other action to ensure correction of deficiencies. If safety violations are observed, the CM shall take appropriate action to ensure correction. The CM shall also manage requests for clarification, coordinate work with the Design Engineer, as required, and manage the project changes, evaluate Contractor's claims, and prepare progress pay estimates.

All construction management, inspection, materials testing, construction surveying, environmental mitigation and monitoring, and related construction engineering activities shall

be completed as described in the Construction Management Plan (CMP) Manual prepared by the CONSULTANT specifically for this project and approved by the CITY. In addition to the approved CMP Manual, the CONSULTANT shall perform its activities in accordance with, but not limited to, the following documents:

- a) Signed Project Plans and Specifications
- b) Regulatory Agency Permits
- c) Caltrans Bridge Construction Records and Procedures Manual
- d) Caltrans Construction Manual
- e) Caltrans Local Agency Procedures Manual
- f) Caltrans Standard Specifications
- g) Caltrans Surveys Manual
- h) Caltrans Test Methods
- i) Public Works Inspectors Manual
- j) Standard Specifications for Public Works Construction
- k) California Manual on Uniform Traffic Control Devices

Time charged by each individual to the contract executed, shall be documented on CITY approved time sheets. Billing shall be on a four week interval as designated by the CITY and shall be of sufficient detail to accurately describe the contract work being performed by each individual.

Time required by the CONSULTANT to reach the designated construction office will not be considered part of the services for which payment will be made. There shall be no reimbursable expenses on this project unless approved in writing, in advance, by the CITY.

CONSTRUCTION STAFFING:

Additional staff and subconsultants are to be brought in on an as-needed basis. The CITY maintains the right to request additional staff if, in its opinion, there is inadequate coverage during any phase of the project. In the event there is a need to substitute key personnel by the CONSULTANT for construction management or inspection responsibility, the CONSULTANT shall only substitute personnel after submitting resumes and obtaining specific written approval by the CITY for the replacement staff in these key positions.

The CITY shall have the authority to reject the Construction Manager and Structure Representative, field inspection personnel, or testing technicians in the event of unsatisfactory performance by said personnel in the opinion of the CITY. The CONSULTANT shall provide qualified replacement staff acceptable to the CITY.

CONSTRUCTION MANAGEMENT TASKS:

Construction management, inspection, materials testing, construction surveying, environmental mitigation and monitoring, and related construction engineering activities will occur throughout three separate phases and shall consist of the following tasks:

Task 1 Construction Management Plan

The CONSULTANT shall prepare a Construction Management Plan for the project for CITY approval. The plan shall indicate the standards and level of effort that the CONSULTANT's staff will adhere to during all phases of this work and describe deliverables to be received by the CITY. At a minimum, the plan shall include the sections listed below:

- a) Project Organization
- b) Meetings
- c) Communications Management
- d) Preparation of Management Reports
- e) Clarifications and Contract Interpretations of Specifications
- f) Submittals/Shop Drawings
- g) Construction Surveying
- h) Design Modifications
- i) Environmental Mitigation and Monitoring
- j) Change Orders
- k) Schedule Management
- l) Claims Management and Resolution
- m) Testing and Testing Documentation
- n) Progress Pay Estimate Preparation
- o) Inspection and Inspection Reporting
- p) Defective Work Correction
- q) Record Drawings
- r) Complaint & Community Relations Procedures
- s) Safety
- t) Photo/Video Documentation
- u) Labor Compliance Review
- v) Special Inspections
- w) Other Tasks

The plan shall describe the level of effort anticipated to be maintained by the CM and inspectors for the various activities during the construction period and project closeout. The plan shall describe all deliverables and timing for periodic reports.

Deliverables:

- Three copies of final Construction Management Plan due two weeks prior to the pre-construction conference

Task 2 Construction Contract Document Review

CM shall perform a quality assurance review of the signed PS&E package, provide written comments in the form of a summary memorandum, and “redline” markups of the plans and specifications, as necessary. This review will be completed within two weeks of the Notice to Proceed to the CONSULTANT.

CM shall review final contract plans, specifications, permits, agreements, easements, environmental documents, Resident Engineer files consisting of Design Engineer memos to Resident Engineer, and technical reports and studies.

CM shall prepare a project schedule, which includes all preconstruction and construction utility relocations, and notification timelines noted on all permits, agreements, and contract documents. Upon receipt of Contractor’s schedule, the RE’s schedule will be updated.

Deliverables:

- Quality Assurance review memorandum and markups
- Schedule(s)

Task 3 Documentation of Pre-Construction Conditions

CONSULTANT shall document pre-construction site conditions using photographs, written notes, and video. Special or sensitive areas shall be noted and extra documentation may be required for these special or sensitive areas. Each photo shall be labeled with date, location, detailed description, and photographer’s name. Copies of all documentation, including photographs, notes, and video, shall be submitted to CITY’s Contract Administrator and become the property of the CITY.

Deliverables:

- Copies of all documentation, including photographs, notes, and video

Task 4 Environmental Mitigation

CONSULTANT shall provide qualified staff to perform necessary pre-construction reports, surveys, and notifications in order to ensure compliance with the environmental mitigation requirements of each regulatory agency permit. Project construction will not be allowed to begin until all reports, surveys, and notifications are completed and approved, and as such, time is of the essence. Environmental mitigation tasks include, but are not limited to, the following:

- a) CA Regional Water Quality Control Board – Section 401 Permit
 - o Measure current natural turbidity level of the Tule River waters (if water is present in the channel)

- b) State Water Resources Control Board – NPDES Permit
 - o Provide a Qualified Storm Water Pollution Prevention Plan (SWPPP) Developer (QSD) to provide oversight on NPDES permit
- c) U.S. Army Corps of Engineers – Section 404 Permit
 - o Ensure compliance with Nationwide Permit Number NWP 14 Linear Transportation Projects and Special Conditions associated with the permit
- d) U.S. Fish and Wildlife Service – Section 7 Biological Opinion
 - o Conduct pre-construction survey for San Joaquin Valley Kit fox and set up exclusion zones around any dens that are identified
- e) CA Department of Fish and Wildlife – Section 1602 Permit
 - o Provide construction schedule prior to commencing work
 - o Perform pre-activity surveys for potential rare, threatened, or endangered species
 - o Perform bat survey and, if necessary, a Bat Exclusion Plan
 - o Perform avian surveys for nesting birds as construction will occur during nesting season
 - o Perform plant survey if non-native grassland habitat is present
- f) Central Valley Flood Protection Board – Encroachment Permit
 - o Schedule pre-construction meeting with CVFPB inspector
- g) San Joaquin Valley Air Pollution Control District – Air Quality Compliance
 - o Verify that Contractor provides:
 - i. Demolition notification per Regulation IV, Rule 4002
 - ii. Complete SJVAPCD Demolition Permit release form
 - iii. Certified Asbestos Consultant (CAC) must test and monitor construction materials prior to construction
 - o Coordinate with Contractor to verify that proposed construction equipment meets “Clean Fleet” (Tier 2 or better) classification prior to being used for construction in order to comply with Indirect Source Review (ISR), Rule 9510

CONSULTANT shall provide a qualified biologist to serve as the responsible person in charge of the biologic related components. Biologist must be present for all fence construction that will encompass environmentally sensitive areas. The biologist shall attend the pre-construction meeting to inform all parties involved to strictly avoid these areas and that no construction activities, materials, or equipment will be permitted within them. The biologist shall also be onsite during the planting of the associated native species.

As there are a number of requirements that must be met to comply with each regulatory agency’s permit and/or conditions, the CONSULTANT shall develop an employee education program and sensitive resource brochure. Every employee of the contractor and

subcontractors, regardless of full-time, part-time, or temporary status, will receive a training/awareness program within three days of working on the construction project. Workers will be advised of the potential impact to the listed and sensitive species/habitats and the potential penalties for taking such species. The brochure will consist of color photos and brief descriptions, to be shown to each employee, and will remain in the construction office for future reference.

Deliverables:

- Reports, surveys, and notifications required by this section
- Employee education program
- Sensitive resource brochure

PHASE II CONSTRUCTION

Task 5 Administration

The CONSULTANT is to provide construction administration of the project to facilitate the ongoing construction efforts and maintain compliance with Federal, State, and Local regulations. At a minimum, the CONSULTANT shall:

- a) Comply with Federal and State regulations for occupational safety and health standards for all construction activities. Conduct and document project safety meetings in accordance with the project requirements.
- b) Provide administrative, management and related services as required to coordinate the work of the Contractor, to complete the project in accordance to contract documents, Federal and State regulations, and within the CITY's objectives for cost, time and quality. Provide weekly status reports to CITY. Weekly status reports shall include summaries of work that is currently being performed, behind schedule, unresolved deficiencies and defective work, outstanding change orders and status of any claims.
- c) Coordinate with the CITY and all other involved agencies to obtain and comply with all required permits.
- d) Recommend necessary or desirable changes in the Contractor's scope of work to the CITY, review and evaluate Contractor's request for changes, assist in negotiating Contractor's proposals, submit recommendations to the CITY supported by field data, and if they are accepted, prepare change orders for signature and the CITY's authorization.
- e) Maintain strict cost accounting records on authorized work performed under unit costs, additional work performed on the basis of actual costs of labor and materials, or other work requiring accounting records.

- f) Develop and implement procedures for the review and processing of applications by Contractor for progress and final payments. Make written recommendations to the CITY for Contractor payments.
- g) Consult with the Design Engineer and the CITY if the Contractor requests interpretations of the meaning and intent of the drawings and specifications, and assist in the resolution of questions, which may arise.
- h) Provide a staffing schedule each month for the following month. This schedule is subject to the CITY's approval.
- i) Manage any utility work to be performed by utility agencies (work not part of Contractor's responsibilities).

Deliverables:

- Weekly Status Reports
- Required permit compliance
- Cost Control Program
- Cost Accounting Records
- Progress Payment Recommendations
- Draft and Final Change Orders
- Staffing Schedules
- Other reports as required

Task 6 Documentation and Record Keeping

The CM shall maintain all documents to provide a detailed account of the construction effort, progress, and contractual obligations. The CM shall provide, at a minimum, the services below:

- a) Verify that all required certificate of bonds and insurance have been received from the Contractor and forwarded to the CITY for approval.
- b) Maintain at the project site, on a current basis and in good order: a record copy of all contracts, drawings, specifications, addenda, change orders and other modifications; shop drawings, product data, samples, submittals, purchases, materials, equipment, applicable handbooks, maintenance and operating manuals and instructions; and other related documents and revisions which are relevant to the contract work. Construction documentation shall be catalogued in accordance with the filing system defined in the Caltrans Construction Manual. An electronic file system shall also be maintained and made available to designated personnel to facilitate on-going coordination and review.

- c) During the course of construction, maintain one set of plans with markings and dimensions in red ink to denote field changes or other corrections.
- d) A detailed photographic history of all phases of the project will be maintained on a daily basis. Each photograph will be labeled as to location, direction of view, date, time, and items of interest. The photographs will be maintained in an album and the photographs will be indexed for ease of retrieval.

Photos will also be taken of the following:

- o Barricade placement
- o Disputed work item
- o Work that has to be duplicated, replaced or removed
- o Completed work
- o Extra work

Deliverables:

- Documents required by this section

Task 7 Meetings

Anticipated meetings include project review meeting with the CITY and Design Engineer, a pre-construction meeting with the Contractor, CITY, Design Engineer, regulatory agencies, and utility companies. Periodic meetings shall include daily discussions between the CM or designated representative and the Contractor; weekly meetings between the CM and CITY; and meetings scheduled as needed with regulatory agencies, other groups, or agencies. CM shall take minutes of the meetings and distribute them to attendees within one day of the meeting. Meetings shall be held at the construction office of the RE or at a mutually agreeable location determined during the pre-construction meeting.

Deliverables:

- Project Review Meeting with CITY and Design Engineer
- Pre-construction meeting with CITY and all applicable parties related to the project
- Weekly meetings with CITY and all applicable parties related to the project
- Any meetings necessary to immediately resolve project issues related to scope, cost, or schedule
- Meeting minutes

Task 8 Environmental Monitoring

CONSULTANT shall provide qualified staff to perform environmental monitoring in order to maintain compliance with the requirements of each regulatory agency. All final reporting must

be completed within four weeks of project completion. Environmental monitoring tasks include, but are not limited to, the following:

- a) CA Regional Water Quality Control Board – Section 401 Permit
 - o Verify if Best Management Practices (BMPs) of NPDES Permit are implemented
 - o Perform surface water sampling, as required
 - o Provide technical and monitoring reports, upon request of the RWQCB
- b) State Water Resources Control Board – NPDES Permit
 - o Maintain a Qualified Storm Water Pollution Prevention Plan (SWPPP) Developer (QSD) in an oversight role on this permit
 - o QSD shall coordinate with Contractor's Qualified SWPPP Practitioner (QSP) to ensure that SWPPP inspections, reporting, and monitoring are implemented at the site per the requirements of Construction General Permit Order 2009-0009-DWQ, as amended by 2010-0014-DWQ and 2012-0006-DWQ
- c) U.S. Army Corps of Engineers – Section 404 Permit
 - o Monitor compliance with Nationwide Permit Number NWP 14 Linear Transportation Projects and Special Conditions associated with the permit
- d) U.S. Fish and Wildlife Service – Section 7 Biological Opinion
 - o Monitor presence of San Joaquin Valley Kit Fox and ensure that any found, including habitats, are not adversely affected by the project's construction
- e) CA Department of Fish and Wildlife – Section 1602 Permit
 - o Ensure pre-construction survey findings are fully implemented and maintained throughout the duration of construction
 - o Monitor environmentally sensitive areas to ensure no disturbances occur through construction activities, materials, or equipment
 - o Comply with administrative, avoidance and minimization, and reporting measures, as required during project construction
 - o Provide a Final Project Report that summarizes project construction and protective measures of this permit
- f) Central Valley Flood Protection Board – Encroachment Permit
 - o Verify that erosion and sediment control BMPs are in place per NPDES permit
 - o Provide periodic reports and records to CVFPB
 - o Submit compaction test results and as-built drawings to CITY to submit to CVFPB upon completion of the project
- g) San Joaquin Valley Air Pollution Control District – Air Quality Compliance
 - o Monitor Contractor's compliance with Fugitive Dust Control per Regulation VIII
 - o Coordinate with Contractor's Certified Asbestos Consultant (CAC) to test and monitor construction materials after construction

- o CM shall document the reporting of the Contractor's "Clean Fleet" construction equipment requirement (Tier 2 or better) throughout the duration of construction, as required to comply with Indirect Source Review (ISR), Rule 9510

CONSULTANT shall provide a qualified biologist to serve as the responsible person in charge of the biologic related components. Biologist must monitor the fencing encompassing environmentally sensitive areas at least once per month to ensure that no encroachment has occurred into the protected areas. The biologist shall attend pre-excavation/grading meetings and be onsite during vegetation removal. Biologist shall have the authority to halt all associated project activities that may be in violation of Section 401, 404, and 1602 Permit requirements.

If cultural materials are discovered during construction, all earth-moving activity within and around the immediate discovery area will be diverted until a qualified archaeologist can assess the nature and significance of the find.

Deliverables:

- Copies of all reporting required by this section

Task 9 Schedule Review

The CM shall review the Contractor's construction schedule, request updates on a weekly basis and track delays or accelerations based on actual Contractor operations as defined in the CMP. Work with the Contractor to maintain the project schedule to show current conditions and suggest revisions that may be required. Coordinate with the Contractor to provide a look-ahead schedule for the following month.

Deliverable:

- Weekly Schedule Review Documentation

Task 10 Cost Control and Monthly Progress Payments

The CM shall implement necessary procedures for an effective system of cost control to track progress payments, contract change orders, claims, and extra work requests. The CM shall review quantities and estimates for submittal of monthly progress payments by the 25th of the month, and recommend approval to the CITY. CM shall maintain cost accounting records (progress payments, CCO status, etc.) in accordance with Caltrans and CITY procedures. The calculations of quantities and documentation shall be in a form approved by the CITY.

Deliverable:

- Cost Control Tracking Documentation

Task 11 Contract Modifications and Extra Work, Contract Change Orders, Claims

The CM shall perform the evaluation and administration of all contract modifications, requests for information, change orders, and claims. The CM shall review all requests for merit, perform an independent estimate, and make recommendations to the CITY for consideration. The procedures listed in Section 5-1.43 “Potential Claims and Dispute Resolution” of the Standard Specifications must be followed. The CITY shall be the approving party for all contract modifications, extra work, and contract change orders. If approved, the CM will complete all required documentation to process the change. If the CM receives a Notice of Claim from the Contractor, the CM shall immediately notify the CITY and work toward a timely resolution of the claim with the Contractor. Status of any outstanding claims will be included with the CM’s weekly report to the CITY. The CONSULTANT shall support the CITY in any post-completion dispute with the Contractor, rendering reasonable assistance and providing access to its records, but is not intended to retain independent experts.

Deliverables:

- Contract Modification & Extra Work Documentation
- Draft CCO’s with Recommendation Memorandum
- Final CCO’s

Task 12 Submittals and Clarifications

The CM shall issue necessary clarifications and interpretations of the Contract Project Documents in response to Requests for Information (RFIs) by the Contractor in a manner as described in the CMP. The CM shall also accept and process submittals, including but not limited to shop drawings, product data, and product samples. The CM shall draft a list of required submittals in accordance with the Project Specifications for the CITY and/or Design Engineer to review. The list shall be submitted to the CITY no later than four weeks after the Notice to Proceed. The CM shall review those submittals that are appropriate. Submittals requiring review by the CITY and/or Design Engineer shall be logged and transmitted for formal review. Updated submittal logs shall be made available to the CITY upon request. The CM shall be responsible for tracking submittals to assure the submittals are reviewed and returned to the Contractor in a timely manner. The CM shall also perform design checks on all falsework, prestressing, and shoring submittals as outlined in relevant Caltrans manuals.

Deliverables:

- Submittal and RFI logs
- Documentation for clarification and interpretation of the Project Plans and Specifications

Task 13 Field Inspection and Quality Assurance

The CM shall review the work of the Contractor, trade and specialty contractors on the project as it is being performed, until completion and acceptance by the CITY, to assure that the work performed and materials furnished are in accordance with the Contract Documents.

The CONSULTANT shall provide experienced and qualified inspectors (who are acceptable to the CITY) to adequately inspect all Contractor's construction work. The CM or inspectors shall provide field inspection of Contractor's construction work on a daily basis. The CM or inspectors will review all construction prior to burial, and provide for observation of all tests required to be performed by the Contractor or referenced in the Contract Documents. The CM and field inspectors shall monitor the Contractor's performance from the perspective of quality, cost, and schedule, and shall enforce the requirements of applicable Specifications. Daily Inspection Reports and diaries of Contractor's construction activities shall be completed daily and be available to the RE at any time. The CM or designated representative shall compare notes with the Contractor's representative at the end of each day to confirm work that was accomplished, describing the limits of work and quantities placed for that day.

The CM shall prepare and submit written weekly reports to the CITY describing updates of project process, percent of work completed, percent of funds expended, listing of change orders, and community relations issues. All outstanding deficiencies and claims shall also be noted in the weekly reports until resolved or settled. The CM shall document any defective work until it is repaired to the CM's satisfaction and in accordance with the Contract Documents' applicable specification. Copies of the daily reports from the previous week will be included with the weekly written report.

Daily inspection reports and diaries of Contractor's construction activities shall be completed daily by each inspector and available to the CITY on the next day. The CM will document special situations by photograph or video. CM shall document any defective work until it is repaired to the CM'S and CITY's satisfaction and quality of work is in accordance with the Contract Documents.

Daily inspection reports shall include, at a minimum, the following information: date of notes, time of activities, list of Contractor's personnel and equipment, weather conditions, discussions with Contractor and any other agencies present, problems and issues dealt with, approved changes, and any other information necessary to create a satisfactory record of the day's activities at the project site in accordance with standard inspection practice.

The CM shall maintain a log of complaints as they are received for the purpose of tracking the effects and impact the project causes on the public. The CITY must be noticed of the complaints the same day they are received.

Deliverables:

- Daily Inspection Reports

- Weekly Reports
- Monthly Complaint Log

Task 14 Testing

CONSULTANT shall coordinate and monitor all field and laboratory testing of soils, backfill, structural backfill, aggregate base, asphalt, concrete, and other testing required by law, or the Contract Specifications. Caltrans certified technicians shall complete all testing work and all laboratory facilities shall be Caltrans certified to perform the respective tests and be approved by the CITY. The CM will review results of tests, forward copies to the CITY as a part of the weekly reports and work with the Contractor to resolve deficiencies or defective work. All test procedures will be in accordance with the Contract Documents and applicable Specifications.

Deliverables:

- Copies of all testing results

Task 15 Construction Surveying and Survey Quality Assurance

CONSULTANT shall provide construction surveying and keep accurate and up-to-date field books and cut sheets. The CONSULTANT shall also implement a survey quality assurance program, to follow the guidelines of the Caltrans Surveys Manual, as described in the approved CMP. At a minimum, the program shall include policies and procedures for the following:

- a) Project station line and control utilizing existing monumentation
- b) Construction staking
- c) Check abutment layouts and elevations
- d) Check foundation layouts and elevations
- e) Check soffit forms
- f) Check deck forms
- g) Check drainage layout
- h) Check subgrade
- i) Check AB Grade
- j) Check final road grades
- k) Establishment and/or replacement of monuments, as necessary
- l) As-built survey

Deliverables:

- Copies of field books and cut sheets
- As-built survey

Task 16 Other Tasks

As part of the construction administration and inspection activities, the CONSULTANT shall include the tasks listed below as part of the overall project activities:

- a) Inspect traffic control and erosion control measures as often as necessary to assure activities meet the approved plans and submittals.
- b) Assist the CITY in community relations outreach efforts by providing information on areas to be under construction to CITY for publication in newspapers and radio and tracking and resolving community complaints.
- c) Inspect landscaping and other improvements within the right of way and public easements for damage.
- d) Any damage identified shall be documented and tracked until the Contractor repairs the damage to pre-project conditions or to plans and specifications.
- e) Perform labor compliance tasks, including verifying weekly-certified payrolls, DBE utilization (including monthly trucking verification), subcontractor utilization, and labor interviews. CM inspectors will conduct labor compliance interviews and monitor DBE and subcontractor utilization in accordance with the Caltrans Construction Manual. Payroll records will be checked against inspector daily reports to ensure Contractor's compliance with labor laws. CONSULTANT will comply with prevailing wage labor laws for all applicable worker classifications and track its subconsultant DBE utilization. CITY will perform a final review of all items listed in order to ensure that each invoice submittal is complete and payment can be released to the Contractor or CONSULTANT.
- f) Notify the CITY of any errors or omissions that are found on the plans or specifications during construction within one working day after such errors are discovered.
- g) Perform routine evaluations of project-related off-road and heavy-duty on-road equipment usage to ensure appropriate emission levels are maintained.
- h) CM shall monitor Contractor's coordination with various utility companies.
- i) CM shall take appropriate action to ensure correction of observed safety violations under Federal and State regulations for occupational safety and health standards.

Deliverable:

- Documentation of activities per CMP

PHASE III POST-CONSTRUCTION

Task 17 Final Completion and Acceptance

After the project is substantially complete, the CM will schedule a walk through with the CITY and shall coordinate preparation of a "punch list" of incomplete or unsatisfactory items, recommending the timeframes within which the Contractor shall complete said items of work. Once all work is complete, the CM will deliver a statement to the CITY indicating that to the best of the CM'S knowledge and belief, after diligent investigation including satisfaction of its

other obligations under the agreement, that the project has been completed in accordance with the Project Construction Contract Documents and CM recommends acceptance. A Proposed Final Estimate signed by the CM and the Contractor shall accompany the recommendation for acceptance.

Deliverables:

- Notice of Substantial Completion
- Punch Lists
- Proposed Final Pay Estimate

Task 18 Project Closeout

The CONSULTANT shall verify that all inspections are complied with and completed and that regulatory agency permits are closed out and final approval is obtained.

The CONSULTANT will submit to the CITY the following closeout items:

- a) All records, maps, and plans maintained by the CONSULTANT during construction.
- b) All approved shop drawings, submittals, and manufacturer's literature maintained by the CM during the construction project.
- c) One complete set of annotated project progress photographs, bound chronologically, and video taken before and during construction.
- d) One set of record drawings of field changes, marked neatly in red. This plan set shall be completed on Mylar film sheets.
- e) The original set of all inspection reports, summaries, testing documents, meeting minutes, clarifications, schedules, correspondence, and other documents related to the construction work as it was being installed.
- f) A set of "redline" Record Drawings documenting any changes and/or substitutions that have been reviewed for accuracy and completeness by the CM and a recommendation for the CITY to accept the Record Drawings.

Deliverables:

- All records, maps and plans maintained during construction
- All shop drawings, submittals, and manufacturer's literature maintained during construction
- Annotated project progress photographs and video taken of construction project
- Record drawings of field changes
- Original inspection reports, summaries, testing documents, meeting minutes, clarifications, schedules, correspondences and other documents of construction
- "Redline" record drawings

LOCAL AGENCY RESPONSIBILITIES

The CONSULTANT will report to the CITY's Contract Administrator who reports to the CITY's Public Works Director. The CONSULTANT shall not proceed with any work until the CITY provides the Notice to Proceed to the CONSULTANT.

The CITY's Contract Administrator will directly handle the project management and monitoring of the CONSULTANT's work to ensure it is complete, accurate, and consistent with the terms and conditions of the CONSULTANT contract. The Contract Administrator and designees will also inspect, review, and discuss project progress, comply with Federal, State and Local policies and regulations, and other requirements to further the prosecution of the contract work with the least delay.

The CITY's Contract Administrator shall be responsible for the following:

- o Serve as the CITY's primary contact person for the CONSULTANT
- o Monitor the CONSULTANT's progress and provide direction
- o Review billings and determines whether costs billed are reasonable in relation to the work performed during billing period
- o Approve the CONSULTANT's progress payments
- o Identify other CITY personnel for CONSULTANT to contact, if needed

All records and documentation produced by the CONSULTANT become property of the CITY.



VSCE
Jaye Street Bridge Widening Project
CM Services Cost Proposal
City of Porterville

DIRECT LABOR

Name	Classification	Base Rate	Fringe Benefit 44%	Indirect Cost 73%	Fee 10% Var	Billable Rate	Hours	Total
Frank Sana, P.E.	RE / Structure Rep Construction	\$ 86.86	\$ 38.22	\$ 63.41	\$ 11.31	\$ 199.80	368	\$ 73,524.70
Santana Jimenez	Inspector	\$ 63.85	\$ 28.09	\$ 46.61	\$ 13.86	\$ 152.41	1317	\$ 200,723.90
Humza Mansoor	OE/Const. Insp.	\$ 43.50	\$ 19.14	\$ 31.76	\$ 9.44	\$ 103.83	930	\$ 96,566.09
Bert Dasmariñas	Scheduler	\$ 60.00	\$ 26.40	\$ 43.80	\$ 13.02	\$ 143.22	84	\$ 12,030.48
TBD	Admin Support	\$ 20.00	\$ 8.80	\$ 14.60	\$ 4.34	\$ 47.74	0	\$ -
Matt Taliaferro, PE	Construction Inspector	\$ 63.65	\$ 28.01	\$ 43.28	\$ 13.49	\$ 148.44	140	\$ 20,781.76

Labor Rates for Expert Resources:

Average Billing Rate	As Needed Personnel	TBD	-	Est.hrs	\$	-
----------------------	---------------------	-----	---	---------	----	---

Total Direct Labor Costs **\$ 403,626.92**

SUBCONSULTANTS

BSK Associates	Materials Testing (See Attached)	\$ 66,933.00
Quad Knopf	Environmental Mitigation (See Attached)	\$ 49,115.00
Quad Knopf	Const. Staking (See Attached)	\$ 79,278.00
Total Subconsultants		\$ 195,326.00

OTHER DIRECT COSTS

	Rate	Unit	
Repographics, photo copying		actual	\$ -
Deliveries, Mail		actual	\$ -
CM / Inspector Vehicles (Included in VSCE's OH Rate)	\$ -	0 Incl	\$ -
CM / Inspector Per Diem	\$ 1,000.00	8 Months	\$ 8,000.00
Vehicle (Included in THG's OH Rate)		0 Months	\$ -
Total ODC			\$ 8,000.00

0% mark up on ODC & Subconsultants

Total \$ 606,952.92

Note: (1) Blueprinting, reproduction, messenger service and other direct expenses will be charged as an additional cost plus 0%.

A Subconsultant Management & Ins. fee of 0% will be added to all subconsultant services to provide for the cost of administration, subconsultant consultation and insurance. (2) Yearly escalation will be applied to the billable rates effective first of the year. Staffing hours are based upon and subject to the Exhibit "C" (VSCE Staffing Schedule)

64%	\$	390,845.17
Sub 36%	\$	216,107.76

Task Schedule (EXHIBIT C)

City of Porterville, Jaye Street Bridge Widening Project

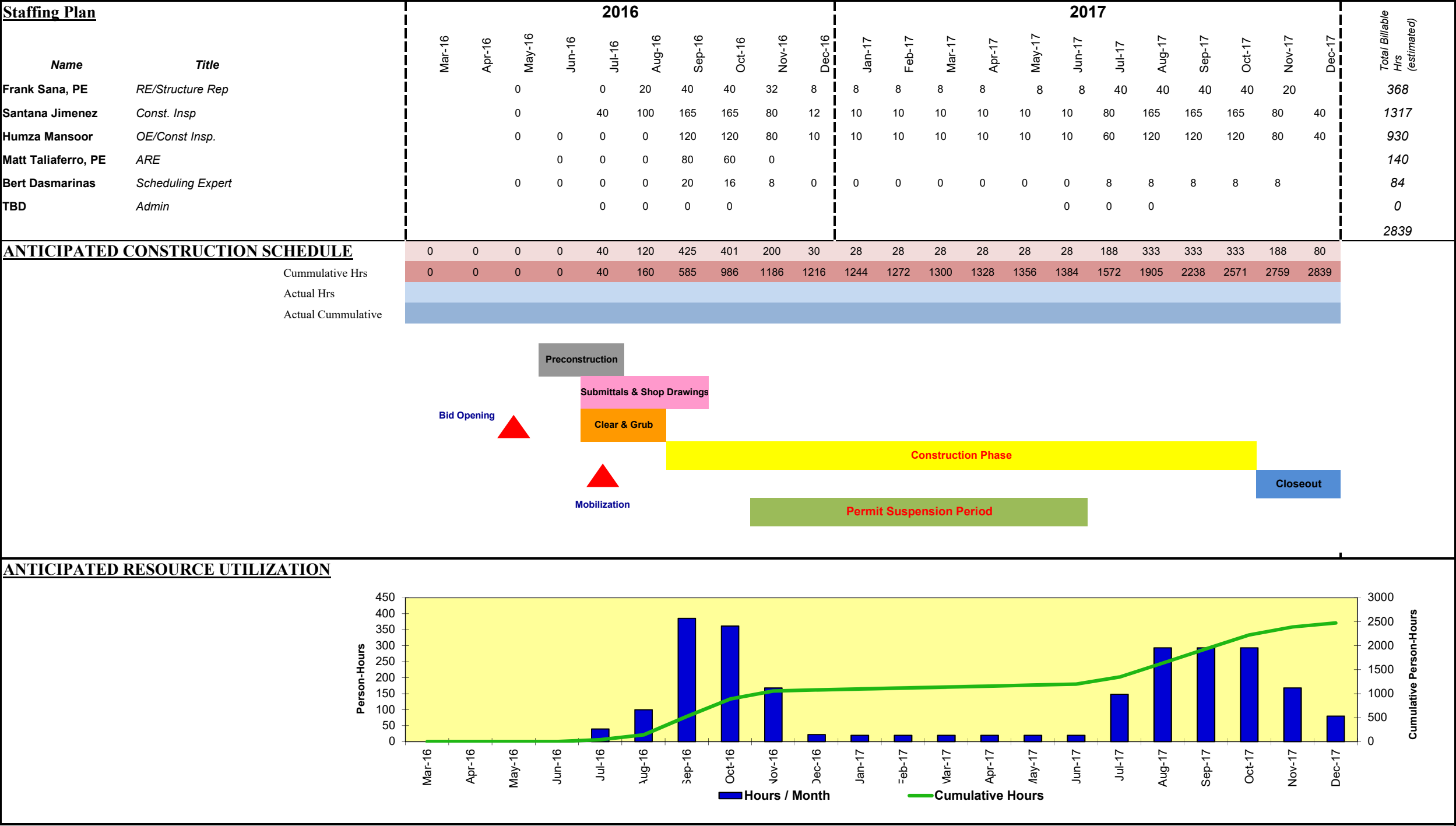


THE HANNA GROUP

A Joint Association

Control of the CM Budget - The VSCE Team will proactively manage and track construction management budget on a monthly basis.

Key Member Staffing Plan - VSCE Team



** Note: This staffing schedule is based upon the understanding that the City has the desire to have construction completed in 15 months (excluding permit suspension period) or less with \$5.4 million construction value. The number of staff and their hours are based upon working with a lowest responsible contractor who performs within the general responsible industry standards. In the absence of Contractor's actual work schedule, assumptions are made for the effort of inspection required to monitor Contractor's activities. Additional inspection & material testing efforts may be necessary to provide control of work if the construction scope or schedule exceeds these assumptions. Or if Contractor's work schedule requires working through permit suspension period.



700 22nd Street
Bakersfield CA 93301
P 661.327.0671
F 661.324.4218
www.bskassociates.com

VIA EMAIL: fsana@vsce.com

June 6, 2016

BSK Proposal CB16-13807

Mr. Frank Sana, P.E.
VSCE 827 Broadway, Suite 340
Oakland, California 94607

**SUBJECT: Proposal for Construction Materials Testing Services
Jaye Street Bridge at Tule River Rehabilitation Project
Porterville, California
Federal Project Number BHLS-5122(036)**

Dear Mr. Sana,

We are pleased to submit this proposal to provide Construction Materials Testing and Inspection Services for the Jaye Street Bridge at Tule River Rehabilitation Project in Porterville, California.

SCOPE OF SERVICES

Our scope of services for this project includes Subgrade and Aggregate Base compaction testing, concrete sampling and testing, concrete batch plant inspection and testing, HMA and HMA aggregate sampling, laboratory testing, report preparation, and meeting attendance.

FEES

We will charge our services on a time-and-materials basis in accordance with the hourly rates listed in our *Cost Estimate* for this prevailing wage project. The hours listed in our *Cost Estimate* are only estimates. We cannot account for delays of which we have no control such as, but not limited to, retests, contractor's schedule, contractor's means and methods, or number of workers on contractor's crew. We will separate retests, reinspections, standby, cancellations, and other delays which increases our time on the project beyond what we estimated. We will bill travel time "portal-to-portal" from our Bakersfield office. We will submit invoices on a monthly basis with work completed during the invoice period. To accommodate the construction schedule, we may need to employ subcontract special inspectors. Should we need to employ subcontract special inspectors, we will bill their time on our invoices and charge their time as if they were BSK employees in accordance with our rates listed in our *Cost Estimate*.

Cost Estimate

FIELD SERVICES	Trips	HRS/Trip	HOURS	RATE	Cost
Earthwork Construction					
Subgrade Soil and Aggregate Base Compaction Testing (ASTM Test Methods)	15	6	90	\$105	\$9,450
Concrete Construction					
Concrete Sampling (Caltrans Test Methods)	20	8	160	\$105	\$16,800
Concrete Sample Pick Up	20	3	60	\$105	\$6,300
Concrete Batch Plant Inspection and Aggregate Sampling	10	8	80	\$105	\$8,400
HMA Pavement Construction					
HMA and HMA Aggregate Sampling	4	12	48	\$105	\$5,040
HMA Coring	2	8	16	\$105	\$1,680
FIELD SERVICES ESTIMATE					\$47,670
LABORATORY TESTING	FREQUENCY		SETS/UNITS	RATE	Cost
Compaction Curves - Site Soils (ASTM D1557-4" Mold)	1 per material		10	\$185	\$1,850
Compaction Curves - Site Soils & Aggregate Base (ASTM D1557-6" Mold)	1 per material		5	\$210	\$1,050
Compressive Strength of Concrete Sample (CT521)	1 set/day, 1set/150cy, or 1 set/structure		50	\$93	\$4,650
Class II Aggregate Base_Sieve Analysis (CT202)	1/project		1	\$140	\$140
Class II Aggregate Base_Sand Equivalent (CT217)	1/project		1	\$108	\$108
Class II Aggregate Base_Durability Index (CT229)	1/project		1	\$216	\$216
Class II Aggregate Base_R-Value (CT301)	1/project		1	\$227	\$227
Concrete Aggregate_Sieve Analysis (CT202)	As requested by RE		2	\$140	\$280
Concrete Aggregate_Sand Equivalent (CT217)	As requested by RE		2	\$108	\$216
Concrete Aggregate_Cleanness Value (CT227)	As requested by RE		2	\$250	\$500
HMA Aggregate Sieve Analysis (CT202)	1/day of paving		4	\$140	\$560
HMA Aggregate Sand Equivalent (CT217)	1/day of paving		4	\$108	\$432
HMA Stabilometer (CT 304 and CT366)	1/day of paving		4	\$250	\$1,000
HMA Briquette Bulk Specific Gravity (CT308)	1/day of paving		4	\$40	\$160
HMA Theoretical Maximum Specific Gravity (CT309)	1/day of paving		4	\$200	\$800
HMA Binder Content (CT382)	1/day of paving		4	\$150	\$600
HMA Ignition Oven Correction Factor (CT382)	1/mix design or 1/source		2	\$300	\$600
HMA Core Bulk Specific Gravity (CT308)	1/every 500ft of pavement		8	\$40	\$320
LABORATORY TESTING ESTIMATE					\$13,709
OFFICE WORK			HOURS	RATE	Cost
Report Preparation by Clerical Staff			25	\$62	\$1,550
Report Review by Project Manager or Engineer			14	\$154	\$2,156
Project Meetings			12	\$154	\$1,848
OFFICE WORK ESTIMATE					\$5,554
TOTAL ESTIMATE					\$66,933

We based our Cost Estimate on the following assumptions:

- field work will occur during "normal" business hours Monday through Friday;
- a standard work day is 8 hours per day, Monday through Friday including travel time (we will charge 1.5 times the standard hourly rate for working from 8 to 12 hours in one day); and
- the contractor, shop, or client will provide safe and adequate access to perform testing and inspection.

We will notify you if it appears that the amount of time we spend working on the project may exceed our total budget estimate. However, due to the timing and nature of our services, this may not always be possible. We will make every effort to respond to your inspection needs on this project. To assure we provide the services you need, we request that you, or your authorized representative schedule inspection and testing services at least 48

hours in advance. To avoid show-up charges, please cancel requests for service at least two working hours in advance of our arrival time.

GENERAL CONDITIONS AND LIMITATIONS

We provide material testing and inspection services to help ensure that the work is in substantial conformance with the project documents and as required by applicable jurisdictions. These services shall not be construed as acceptance of the work or relieve the contractor in any way from its obligations and responsibilities as outlined in the applicable construction documents. We assume no responsibility for the safety of others on the jobsite or the means and methods of construction.

We will perform our services consistent with that level of care and skill ordinarily exercised by other consultants practicing in the same discipline and locale at the time the services are performed. No other warranties, either express or implied are provided. If changes occur in the design of the project, please notify us in writing.

AUTHORIZATION

If our proposal and general conditions are acceptable, issue us a copy of your subconsultant agreement for us to review. If we find your subconsultant agreement acceptable, we will sign and return to you.

We appreciate the opportunity to work with you on this project. If you have questions, please call us at (661) 327-0671.

Sincerely,
BSK Associates


Michael Collins
Construction Services Group Manager


On Man Lau, P.E., G.E.
South Valley Regional Manager

MTC/mtc



June 7, 2016

Mr. Frank Sana
VSCE, Inc.
827 Broadway, Suite 340
Oakland, CA 94607

Subject: **Proposal for Environmental Mitigation and Monitoring for the City of Porterville, Jaye Street Widening Project**

Dear Mr. Sana:

QK is pleased to provide you a Scope of Services and cost estimate for the environmental mitigation and monitoring (Tasks 4 and 5 as described in the City's Request for Proposals) for the Jaye Street Widening Project. The project consists of the widening of the existing Jaye Street Bridge from two lanes to four lanes to increase its traffic capacity, and includes the reconstruction of the street approaches. The proposed project is located in the southcentral portion of the City, along South Jaye Street, crossing the Tule River between West Date Avenue and West Springville Avenue.

Three temporary equipment staging areas may be established within existing paved parking lots that are located at the southern approach to the bridge and/or within a fallow field that is located northeast of the bridge. The widened bridge, staging area, and existing utilities will be located entirely within the existing right-of-way (ROW).

In many ways, our services are similar to those provided for the Plano Street Bridge Widening Project, as both include monitoring and compliance with environmental permitting requirements. The proposed cost for the Plano Street Bridge project was \$38,370 for a project scheduled for 44 weeks. The Jaye Street Widening Project (Jaye Street Project or Project) is expected to require less construction time (33 weeks). However, the agency permit requirements are more stringent on this Project, and the construction schedule start date may require several additional tasks. For example, bats were known to occur under the bridge at Plano Street, but because the Jaye Street bridge could not be examined at the time surveys were conducted, the presence of bats has yet to be determined. Therefore, QK will need to inspect beneath the bridge for bats prior to construction. If bats are observed within the project area, a Bat Exclusion Plan will be prepared, and QK biologists will need to implement exclusion measures before construction begins.

Prior to 2014, agency consultations were brief, and were included as part of the environmental compliance process on the Plano Street Widening Project. However, we have found that consultations with agencies now require much more time, and therefore, agency consultation is included in our cost estimates for Task 4 and Task 8. Two examples of the more extensive need for agency consultations on the Project are described below.

Unlike the Plano Street project, the CDFW 1602 permit for the Jaye Street Widening Project specifically requires that surveys be conducted for Swainson's hawks during the spring months, and then again within 30 days prior to the start of construction. Unless the City has knowledge that the spring surveys were conducted this year for the Jaye Street Project, the City cannot comply with the spring survey requirement. Therefore, we know of only two alternatives that might allow construction to begin prior to September 1st. One alternative is to apply for an Incidental Take Permit (ITP), which is the alternative suggested in the permit conditions. However, fewer than two months remain before the proposed construction start date of August 1 and an ITP typically takes approximately eight months to be approved by the agency. This alternative would be expensive and time consuming. The second alternative is for the City to petition CDFW to change the requirement for the spring surveys. This would require sufficient evidence that there are no Swainson's hawks nesting within one-half mile of the project at this time. This alternative too would require significant resources and time. The CDFW has expressed an interest in working directly with the City, although QK could provide professional assistance. Although QK could conduct the fieldwork and research, prepare a report with conclusions, and provide expert advice to the City, the City would need to consult directly with the agency. There is no set process for this type of request, and we cannot predict whether this request will be approved in a timely manner, or indeed if CDFW will approve the request at all.

Similarly, a start date of August 1 would be within the nesting season for swallows, which construct nests under the bridge. The CDFW 1602 permit requires that a survey be conducted for swallows prior to February 15, and we do not believe this occurred. To remove this requirement, the City would need to consult with CDFW, and ask that the 1602 permit be revised. In this case, QK could conduct a survey soon after the permit is revised (during active nesting season). If swallows were found during this survey, QK would prepare a Swallow Exclusion Plan that would need to be approved by CDFW. The Plan would then need to be implemented with sufficient time to ensure that all young fledged by August 1st. A period of up to 45 days may pass from the time an egg is laid to the time the young leaves the nest, so that measures to discourage nesting would need to be implemented by June 15th. This would require that the Swallow Exclusion Plan be in place by June 14th, which is unlikely to occur.

Our services will include the following tasks:

Task 4: Compliance Measures: Compliance measures are included as mitigation for the 404 and 1602 permits, such as:

- Survey to determine presence of bat species
- Survey to determine presence of Swainson's hawks
- Preconstruction surveys for special status species and nesting birds
- Survey to document the presence of riparian woody-stemmed plants
- Preparation of a Bat Exclusion Plan, if needed
- Preparation of a Swallow Exclusion Plan
- Preparation of a Revegetation and Restoration Plan, if needed
- Workers Environmental Awareness Training
- Preparation of a report of the findings
- Preconstruction meeting with CVFCPB

- A review of all permitting documents, compilation of conditions of approval and mitigation measures, and consultation with agencies as needed

Task 8: Biological monitoring during construction activities, as described in the Scope of Work

Hourly rates for all environmental services were determined using the required cost plus formulas utilized by Caltrans, and reflected on the Exhibit 10-H form. The rates reflected on the Attachment C – Exhibit 10-H are approximately 25 to 30 percent higher than for the Plano Street Widening Project. These rates also vary, considerably in some cases, from those on our standard fee schedule, with rates as much as \$14 per hour more or less than our standard fees.

All tasks are described in detail in Attachment A – Scope of Work. In order to comply with the environmental requirements outlined in the permits, the required tasks may take the same, or in some cases, more time to complete the tasks for the Jaye Street Project than the Plano Street Widening Project. We have broken down the tasks as much as possible to allow the City to review tasks that may be optional, or may have alternatives. The tasks that are not required or are alternatives, are indicated on the Attachment B – Cost Estimate with an asterisk (*).

The above described environmental services, except those that are unknown, will be provided for a fixed fee. These services include Task 4.b – SWPPP and QSD/QSP consultation (**\$1,356**); Environmental Mitigation (**\$17,826**); Task 4.f – CVFCPB preconstruction meeting (**\$602**); and Task 8 – monitoring (**\$31,289**).

Optional tasks and those that may or may not need to be completed are provided on a time and materials basis, with a not-to-exceed amount noted. These services include the Bat Survey and Exclusion Plan (**\$3,575**); Swainson's hawk and swallow surveys (June 2016 – if seeking 1602 permit revisions) (**\$2,627**); Swainson's hawk background research and report (June 2016 – if seeking 1602 permit revisions) (**\$4,278**); Swainson's hawk Incidental Take Permit (ITP) (an alternative to seeking 1602 permit revisions) (**\$10,531.48**); Swallow Exclusion Plan (June 2016 or January 2017) (**\$3,078**); Swallow exclusion activities (June – Aug 1, 2016 if 1602 permit requirement has been revised) (**\$15,001**); and Revegetation and Restoration Plan (**\$3,322**). Note that the cost for the ITP does not include any fees that CDFW may require.

Should project delays or other unforeseen circumstances require secondary preconstruction surveys, additional fieldwork, report preparation, or consultation with agencies, or other services not described above to be performed these too will be performed on a time and materials basis per QK's current rate schedule. These services will not be performed without prior authorization and written approval from VSCE, Inc.

This scope and cost estimate is based on the following assumptions:

1. NTP to Contactor June 2016, with construction activities to begin on or after September 1, 2016, unless CDFW *either* approves an ITP for Swainson's hawks or determines the requirement for spring surveys for Swainson's hawks are not needed, *and* that no active swallow nests will remain within the project area after July 31, 2016, based upon a revision to the 1602 permit. Otherwise, because spring surveys for Swainson's hawk and cliff swallows were not initiated within the time frame described in the official protocols

June 8, 2016

for these species, work is not permitted to begin during the nesting season, which ends on September 1.

2. Permits described elsewhere have been approved by agencies prior to start of work. Note that per the conditions of the U.S. Army Corps of Engineers, work must begin prior to March 18, 2017, and must be completed before March 17, 2018.
3. Preconstruction surveys, reports, surveys, and notifications, and approvals will be completed prior to start of construction.
4. Total working days once construction begins – 231 (33 weeks).
5. Work in the floodplain will only occur within naturally dry conditions, or under the direction of an approved Water Diversion Plan.
6. All work is to be completed in two work seasons, ending by August 31, 2017.
7. Revegetation and Restoration will occur after completion of all construction activities within the floodplain.

Please do not hesitate to contact me at Ginger.White@QKInc.com or (559) 733-0440 if you have questions or comments regarding this proposal. We look forward to working with you again on this bridge project in Porterville.

Sincerely,



Ginger White, AICP
Senior Planner



Ron Wathen, PE
Executive Vice President

Enclosures: Attachment A Scope of Work

Attachment A Scope of Work

TASK 4 – ENVIRONMENTAL MITIGATION

A qualified QK biologist will complete the tasks described below. The biologist will serve as the responsible person in charge of the biologic related components.

a. Section 401 Permit Compliance

Obtaining NPDES General Permit is the responsibility of the Contractor. QK would provide monitoring of current natural turbidity levels of the Tule River, as required by the Storm Water Pollution Prevention Plan (SWPPP), for an additional fee if requested to do so.

b. NPDES Permit and SWPPP

The Qualified Storm Water Pollution Prevention Plan Developer (QSD) will prepare a Storm Water Pollution Prevention Plan (SWPPP), and prepare a Notice of Intent (NOI). QK's QSD will not prepare the SWPPP or NOI, but will provide up to eight (8) hours of QA/QC on this task as directed by VSCE.

c. 404 Permit Compliance

No specific tasks required. Compliance will be achieved through completion of other environmental tasks and monitoring. The Nationwide regulations described in the permit expire in March 2017; however, there is a 12-month grace period for project completion if it has been started by that date.

d. U.S. Fish and Wildlife Service – Section 7 Biological Opinion

QK's biologists will conduct a preconstruction survey for San Joaquin kit fox between 14 and 30 days prior to the start of construction. Exclusion zones will be established for any dens identified. A report will be prepared for USFWS prior to the start of construction. Also see Section e for a description of preconstruction surveys for San Joaquin kit fox under the CDFW 1602 permit.

e. Section 1602 permit compliance - preconstruction surveys, bat, San Joaquin kit fox, and avian surveys

The CDFW has determined that the Project could adversely affect existing fish and wildlife resources and has proposed measures necessary to protect those resources. The Agreement provides measures to provide protection for species that could be impacted by the Project, including but not limited to sensitive species such as, San Joaquin kit fox (*Vulpes macrotis mutica*), the Western mastiff bat (*Eumops perotis*), the American badger (*Taxidea taxus*), as well as non-sensitive birds, mammals, fish, reptiles, amphibians, invertebrates, and plants that comprise the local riparian ecosystem. Additional plans may be required, as discussed below.

The Permittee has not been granted permission for the “incidental take” of any of the above listed species. Under the Fish and Game Code Section 86, the CDFW defines “take” as to hunt, pursue, catch, capture, or kill; or attempt to hunt, pursue, catch, capture, or kill a listed species. In order to avoid the “take” of any listed species, the Permittee will conduct pre-construction surveys to ensure that no listed species will be impacted by the Project. The following tasks comprise the scope of work for the anticipated survey activities for each species potentially occurring within the designated Project work area (Project Area). All areas beyond the Project Area limits shall be considered Environmentally Sensitive Areas (ESA) and shall not be disturbed.

Nesting Bird and Nesting Raptor Surveys

Focused general nesting bird surveys for species covered under the Migratory Bird Treaty Act (MBTA) and California State law will be required during the bird nesting season (February 15 through August 31). The existing CDFW 1602 permit as written requires that preconstruction surveys for migratory nesting birds be conducted within a ½-mile radius of the project site. We think that this is in error and that surveys should instead be conducted only within 250 feet of the project site, which is the standard methodology. The budget provided assumes surveys will be conducted only within 250 feet of the project site, but we will confirm this survey radius with CDFW prior to the start of construction. Focused general nesting bird surveys involve “windshield” and pedestrian surveys in the vicinity of the project site to observe and document bird behavior and the location of suitable nesting sites (e.g., trees, ledges, building, platforms) that might contain a nest. If observed, nest locations will be documented using a GPS device and appropriate buffer zones will be established around the nest. This task is included in the preconstruction surveys for the 1602 permit compliance.

Cliff swallows frequently nest under bridge structures and can congregate in large nesting colonies. Cliff swallow nests have been observed on the underside of the Jaye Street Bridge and will require ongoing management to prevent “take” of cliff swallows during nesting season. A survey of the bridge will be conducted 14 days prior to the commencement of construction activities and the success of nest management will be documented. This task is included in the preconstruction surveys for the 1602 permit compliance. As noted above, if construction must begin on August 1, not September 1 (after the conclusion of nesting season), the City will need to conduct a survey for cliff swallows, prepare a report, consult with CDFW to revise the 1602 permit, and then conduct daily surveys for the presence of nests; any inactive nests must be removed daily to discourage new nesting activity through August 31, or until no active nests remain. See the description for these optional activities below.

Nesting surveys for the Swainson’s hawk and the American bald eagle will be conducted in January 2017 if construction activities extend beyond March 1, 2017. The Swainson’s hawk surveys will consist of one survey conducted between January 1 and March 20 to identify and map all potential Swainson’s hawk nests that are located within ½ mile of the Project site. Repeated monitoring of potential nests will occur in conjunction with construction monitoring and will follow the survey periods and number of surveys that are required by the Swainson’s hawk survey protocols. Surveys will occur until the completion of construction activities or August 31, whichever occurs first. Surveys will focus on determining the presence of active bird

nests in the vicinity of the project site. However, if construction activities need to begin on August 1, prior to the end of nesting season, a survey for active Swainson's hawk nests will be conducted prior to the commencement of construction. A line item for the cost of this task is included in the cost estimate. See the description for this optional task below.

San Joaquin Kit Fox and American Badger Surveys

There are historic records for San Joaquin kit fox (SJKF) and American badger within five miles of the project site and suitable habitat exists in the vicinity of the Project Area. Surveys to determine the presence or absence of dens of these species will be conducted within 250 feet of the project site. All potential dens or sign (e.g., scat, prey remains, tracks) of SJKF or American badger will be documented. In the event of the discovery of a potential den, standard den monitoring will be conducted and the CDFW and USFWS will be notified for guidance. This task is included in the preconstruction surveys for the 1602 permit compliance.

Bat Surveys and Exclusion Plan

Western mastiff bats have been documented within five miles of the project site. No sign of Western mastiff bats was discovered at the Jaye Street Bridge during initial surveys, however; the underside of the bridge could not be inspected at that time. Pre-construction surveys are required, which will consist of inspecting cracks and crevices to determine whether bats are present. This survey should be conducted as soon as possible, so that if bats are detected, there is sufficient time to prepare a Bat Exclusion Plan to be approved by CDFW. If bats are detected to be using the bridge, methods for excluding them will be developed and implemented in consultation with CDFW. If bat exclusion is deemed necessary, a man-lift run by a qualified operator will likely be necessary to access the bridge deck. The man-lift and operator are not included in this scope, cannot be provided by QK, and it is assumed that the contractor will provide this equipment and service.

Riparian ecosystem

No habitat for listed riparian bird species occurs in the vicinity of the project site. Surveys shall be conducted to document the presence of all native riparian woody-stemmed plants in excess of four inches in diameter at breast height (DBH) and heritage trees 24-inches or taller.

Worker Environmental Awareness Training

The qualified biologist will be on site during installation of all exclusionary fencing for environmentally sensitive areas. The biologist will develop a Workers Environmental Awareness Program (WEAP). A brochure will be developed as part of the WEAP training, to include color photos and a brief description of each of the sensitive species that may occur on the project site. The WEAP training will also include any potential impacts that may occur to sensitive species and potential penalties for "taking" such species. The biologist will provide the WEAP training to all workers and others on site during the preconstruction meeting and throughout the project. Every employee of the contractor and subcontractors, regardless of full-time, part-time, or temporary status, will receive WEAP training within three days of working on the construction site.

The biologist will also be on site during implementation of plantings, per the Revegetation and Restoration Plan, which will be scheduled to occur after all construction activities have been completed.

Deliverables include reports, results of surveys, and notifications required by the permits described above, as well as the WEAP brochure, and records of all those who received training.

Additional Plans

Swainson's Hawk

If construction is to begin August 1, 2016, an Incidental Take Permit (ITP) can be prepared with consultation with CDFW as an alternative to Swainson's hawk surveys that were to be conducted in spring 2016. However, this alternative would be costly, and because it typically takes eight months to have an ITP approved by CDFW, it is probably not feasible. It should also be noted that CDFW may charge a fee to process and approve the ITP.

Another alternative, if construction is to begin August 1, would include a field survey and associated background research, and consultation with CDFW to determine whether the 1602 permit requirement for spring surveys could be revised. This alternative is not as costly to prepare as an ITP, and would take less time to prepare. However, neither option is guaranteed to meet CDFW approval prior to August 1.

Cliff Swallows

If construction must begin as of August 1, a survey for cliff swallows must be conducted as soon as possible. Assuming there are active nests beneath the bridge, the Swallow Exclusion Plan must be drafted in order for CDFW to consider revising to the 1602 permit requirements to avoid take of nesting swallows. If there are active swallow nests on site during these surveys, biologists would need to visit the site every day to ensure that no new nests were built and no new egg clutches laid. Monitoring would continue until the last active nest was abandoned, and no new nests were being built.

If construction begins after nesting season ends (August 31), a Swallow Exclusion Plan will be needed only for construction activities that occur after February 15, 2017. Only one Swallow Exclusion Plan must be prepared: it will be necessary for work to be conducted in spring of 2017, regardless of whether construction activities begin August 1 or September 1 of 2016.

Revegetation and Restoration Plan

The 1602 permit requires the preparation of a Revegetation and Restoration Plan, which we do not think has been completed. QK can prepare this plan, and we have included a line item budget for its preparation.

Preparation of a report of findings

Subsequent to the completion of all preconstruction surveys, a report will be compiled containing all observation and results of findings of resources and will be submitted to the Permittee and pertinent agencies. This report must be prepared to comply with the Agreement and to gain

approval from CDFW to begin construction on the project. A draft report shall be prepared and submitted to the City no fewer than 30 days prior to the commencement of construction.

f. Central Valley Flood Control Protection Board – Encroachment Permit

A preconstruction meeting with the CVFCPB inspector will be scheduled, as the project falls within the jurisdiction of this agency.

g. San Joaquin Valley Air Pollution Control District – Air Quality Compliance

Compliance with the requirements of the SJVAPCD is the responsibility of the Contractor.

h. Other responsibilities

Agency consultations and review of various permitting documents

Quad Knopf will review all permitting documents, compile conditions of approval and mitigation measures, and seek clarification, where needed, from permitting agencies prior to construction (September 2016).

Pre-construction Project coordination and project meetings

This task includes attending pre-project coordination meetings with the contractor and the City. It is assumed that two meetings will be held. Costs for these services are included in the Environmental Mitigation and Environmental Monitoring tasks.

TASK 8 – ENVIRONMENTAL MONITORING

On-going environmental monitoring will be required in order to comply with the regulatory permits for the project. Monitoring will be required for the duration of the project. For estimating purposes, it is assumed that a full time monitor will be required during grubbing/clearing and installation of fencing/flagging (40 hours total). Monitoring during construction is likely to require weekly checks on the site and implementation of the bat exclusion and swallow exclusion activities, in order to achieve compliance. A monitor will also be present during excavation/grading meetings (4 hours total). For estimating purposes, the project will be constructed over two seasons starting in September 2016 and ending by July 27, 2017. The cost estimate assumes 33 weeks. Revegetation will occur after completion of construction activities, and a biologist will be present during these activities.

On-going and close-out reporting will also be required and is included in the cost estimate. The biologist shall have the authority to halt all associated project activities that may be in violation of Section 401, 404, and 1602 Permit requirements.

June 8, 2016

Attachment B Cost Estimate

[illegible]

June 8, 2016

Attachment C

Exhibit 10 H

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

COST PROPOSAL

Jaye Street Bridge

ADM 2033 (Rev. 02/09)

Contract No. _____
Subconsultant: Quad Knopf
Date: 6/8/2016
Page 1 of 3

	Fringe Benefit %	Overhead %	General Administration %	Combined %
NORMAL	52.80%	75.60%	87.30%	215.70%
OVERTIME	0.00%	0.00%	0.00%	0.00%
		FEE %	10.00%	

BILLING INFORMATION

CALCULATION INFORMATION

Name/Classification ¹	Loaded Hourly Billing Rates		Effective Date of Hourly Rate		% Escalation Increase	Actual Hourly Rate and/or Average Hourly Rate ²	Hourly Range for Class
	Straight	Overtime	From	To			
Alex Single	\$83.34	\$95.34	1/1/2016	12/31/2016		\$24.00	N/A
Assistant Biologist	\$85.85	\$98.21	1/1/2017	12/31/2017	3.00%	\$24.72	N/A
Non-exempt	\$88.42	\$101.15	1/1/2018	12/31/2018	3.00%	\$25.46	N/A
	\$91.07	\$104.18	1/1/2019	12/31/2019	3.00%	\$26.23	N/A
	\$93.81	\$107.32	1/1/2020	12/31/2020	3.00%	\$27.01	N/A
	\$96.62	\$110.53	1/1/2021	12/31/2021	3.00%	\$27.82	N/A
Lisa Sandoval	\$83.34	\$95.34	1/1/2016	12/31/2016		\$24.00	N/A
Assistant Biologist	\$85.85	\$98.21	1/1/2017	12/31/2017	3.00%	\$24.72	N/A
Non-Exempt	\$88.42	\$101.15	1/1/2018	12/31/2018	3.00%	\$25.46	N/A
	\$91.07	\$104.18	1/1/2019	12/31/2019	3.00%	\$26.23	N/A
	\$93.81	\$107.32	1/1/2020	12/31/2020	3.00%	\$27.01	N/A
	\$96.62	\$110.53	1/1/2021	12/31/2021	3.00%	\$27.82	N/A
Martina Pernicano - Wildlife Biology	\$138.35	\$158.27	1/1/2016	12/31/2016		\$39.84	N/A
Senior Biologist	\$142.50	\$163.02	1/1/2017	12/31/2017	3.00%	\$41.04	N/A
Non-exempt	\$146.78	\$167.91	1/1/2018	12/31/2018	3.00%	\$42.27	N/A
	\$151.18	\$172.95	1/1/2019	12/31/2019	3.00%	\$43.53	N/A
	\$155.72	\$178.14	1/1/2020	12/31/2020	3.00%	\$44.84	N/A
	\$160.39	\$183.48	1/1/2021	12/31/2021	3.00%	\$46.19	N/A
Danielle Temple - Biologist	\$92.03	\$105.28	1/1/2016	12/31/2016		\$26.50	N/A
Associate Biologist	\$94.79	\$108.44	1/1/2017	12/31/2017	3.00%	\$27.30	N/A
Non-exempt	\$97.63	\$111.69	1/1/2018	12/31/2018	3.00%	\$28.11	N/A
	\$100.56	\$115.04	1/1/2019	12/31/2019	3.00%	\$28.96	N/A
	\$103.58	\$118.49	1/1/2020	12/31/2020	3.00%	\$29.83	N/A
	\$106.68	\$122.04	1/1/2021	12/31/2021	3.00%	\$30.72	N/A
Ginger White - Sr. Env. Planner	\$150.44	N/A	1/1/2016	12/31/2016		\$43.32	N/A
Sr. Env. Planner/Sr. Assoc. Biologist	\$154.95	N/A	1/1/2017	12/31/2017	3.00%	\$44.62	N/A
Exempt	\$159.60	N/A	1/1/2018	12/31/2018	3.00%	\$45.96	N/A
	\$164.39	N/A	1/1/2019	12/31/2019	3.00%	\$47.34	N/A
	\$169.32	N/A	1/1/2020	12/31/2020	3.00%	\$48.76	N/A
	\$174.40	N/A	1/1/2021	12/31/2021	3.00%	\$50.22	N/A

June 8, 2016

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

COST PROPOSAL

Jaye Street Bridge

ADM 2033 (Rev. 02/09)

Contract No. _____

Subconsultant: Quad Knopf

Date: 6/8/2016

Page 2 of 3

	Fringe Benefit %	Overhead %	General Administration %	Combined %
NORMAL	52.80%	75.60%	87.30%	215.70%
OVERTIME	0.00%	0.00%	0.00%	0.00%
		FEE %	10.00%	

BILLING INFORMATION

CALCULATION INFORMATION

Name/Classification ¹	Loaded Hourly Billing Rates		Effective Date of Hourly Rate		% Escalation Increase	Actual Hourly Rate and/or Average Hourly Rate ²	Hourly Range for Class
	Straight	Overtime	From	To			
Curtis Uptain - Biologist	\$183.67	N/A	1/1/2016	12/31/2016		\$52.89	N/A
Principal Biologist	\$189.18	N/A	1/1/2017	12/31/2017	3.00%	\$54.48	N/A
Exempt	\$194.86	N/A	1/1/2018	12/31/2018	3.00%	\$56.11	N/A
	\$200.70	N/A	1/1/2019	12/31/2019	3.00%	\$57.79	N/A
	\$206.72	N/A	1/1/2020	12/31/2020	3.00%	\$59.53	N/A
	\$212.93	N/A	1/1/2021	12/31/2021	3.00%	\$61.31	N/A
Tyler Schade	\$83.34	\$95.34	1/1/2016	12/31/2016		\$24.00	N/A
Associate Biologist/GIS	\$85.85	\$98.21	1/1/2017	12/31/2017	3.00%	\$24.72	N/A
Non-exempt	\$88.42	\$101.15	1/1/2018	12/31/2018	3.00%	\$25.46	N/A
	\$91.07	\$104.18	1/1/2019	12/31/2019	3.00%	\$26.23	N/A
	\$93.81	\$107.32	1/1/2020	12/31/2020	3.00%	\$27.01	N/A
	\$96.62	\$110.53	1/1/2021	12/31/2021	3.00%	\$27.82	N/A
Vanessa Williams	\$90.29	\$103.29	1/1/2016	12/31/2016		\$26.00	N/A
Project Support	\$93.00	\$106.39	1/1/2017	12/31/2017	3.00%	\$26.78	N/A
Non-exempt	\$95.79	\$109.58	1/1/2018	12/31/2018	3.00%	\$27.58	N/A
	\$98.66	\$112.87	1/1/2019	12/31/2019	3.00%	\$28.41	N/A
	\$101.62	\$116.25	1/1/2020	12/31/2020	3.00%	\$29.26	N/A
	\$104.67	\$119.74	1/1/2021	12/31/2021	3.00%	\$30.14	N/A
Monique Mello	\$166.97	N/A	1/1/2016	12/31/2016		\$48.08	N/A
Senior Associate Engineer	\$171.98	N/A	1/1/2017	12/31/2017	3.00%	\$49.52	N/A
Exempt	\$177.14	N/A	1/1/2018	12/31/2018	3.00%	\$51.01	N/A
	\$182.45	N/A	1/1/2019	12/31/2019	3.00%	\$52.54	N/A
	\$187.92	N/A	1/1/2020	12/31/2020	3.00%	\$54.11	N/A
	\$193.56	N/A	1/1/2021	12/31/2021	3.00%	\$55.74	N/A

June 8, 2016

STATE OF CALIFORNIA • DEPARTMENT OF TRANSPORTATION

COST PROPOSAL

Jaye Street Bridge

ADM 2033 (Rev. 02/09)

Contract No. _____

Subconsultant: Quad Knopf

Date: 6/8/2016

Page 3 of 3

	Fringe Benefit %	Overhead %	General Administration %	Combined %
NORMAL	52.80%	75.60%	87.30%	215.70%
OVERTIME	0.00%	0.00%	0.00%	0.00%
		FEE %	10.00%	

BILLING INFORMATION

CALCULATION INFORMATION

Name/Classification ¹	Loaded Hourly Billing Rates		Effective Date of Hourly Rate		% Escalation Increase	Actual Hourly Rate and/or Average Hourly Rate ²	Hourly Range for Class
	Straight	Overtime	From	To			

Notes:

1. Key team members are listed above with their corresponding job classification. For all other employees (i.e. support staff/nonprofessional) only the job classification is provided. Team members subject to FLSA are not eligible for overtime. Overtime work for salaried employees will be paid at straight rate.
2. The actual hourly rate is provided for all named employees. For classifications only, an average hourly rate is provided.
3. Contract Manager's pre-approval is required for any addition of staff not listed on the cost proposal. The billing rates for these employees, including those that fall under general classifications, will be calculated and reimbursed based on their actual hourly rate on 10/06/15. Future escalations, if any, will be calculated and reimbursed in accordance with the percentage escalations agreed to in this cost proposal.
4. Hourly rates for new employees hired after the date of this cost proposal will not exceed (or shall be in line with) the rates of similar personnel listed on this cost proposal having similar experience.



June 1, 2016

Frank Sana, PE
VSCE, Inc
827 Broadway, Suite 340
Oakland, California 94607

**Subject: Jaye Street Bridge Widening Project
 Porterville, California**

Dear Frank:

Per your request, Quad Knopf has prepared this proposal to provide Surveying Services to facilitate the construction layout of the Jaye Street Bridge in Porterville, California.

These services are more specifically described as follows:

Construction Surveying:

Provide one set of construction control stakes for the following items associated with the bridge and adjacent roadway improvements:

- Survey Control Verification (horizontal and vertical)
- Survey Monument ties and preparation of Pre-construction Corner Records
- Right of Way and/or Temporary Construction Easement
- Saw Cut for Demolition
- Storm Drain (includes manholes and drop inlets)
- Hubbs Miner Ditch Culvert and associated concrete inlet and outlet tubs
- Access Roads
- Curb and Gutter (rough staking)
- Median Island Curb and Gutter (rough staking)
- Abutments and Wing Walls
- Piers (including pile cut off elevations)
- Retaining Walls
- "Finish" Bridge Median Island Curb and Gutter
- "Finish" Curb and Gutter (includes drive approaches)
- "Finish" Median Island Curb and Gutter
- Miscellaneous Concrete Flatwork (curb return modifications and drive approach ramps)
- Tule River Parkway Trail (under bridge)
- Domestic Water Main and Services
- Street Lights (7 total) and Pull Boxes (4 total). (excludes deco lights on bridge deck)
- Survey Monuments (3 maximum, layout location only, contractor to perform construction)
- Prepare Post-construction Corner Records
- Layout Calculations
- Provide Cut Sheets

Construction Staking Scope of Services and Budget

Jaye Street Bridge (Porterville)

Pre-construction and Post-construction Corner Records \$2160 (9 HR)

Survey Control \$3840 (16 HR)

Curb & Gutter and Median Island (Rough grade) \$5040 (21 HR)

Storm Drain \$2400 (10 HR)

Culvert (includes inlet and outlet tubs) \$5040 (21 HR)

Water Main and Services \$4560 (19 HR)

Abutments, Wing Walls, Piers and Retaining Walls \$10,080 (42 HR)

Access Road and Tule River Parkway Trail \$4080 (17 HR)

Curb & Gutter and Median Island (Finish grade) \$6960 (29 HR)

Bridge Deck Median Island (Finish grade) \$1920 (8 HR)

Miscellaneous Concrete Flatwork \$3120 (13 HR)

Street Monuments \$4080 (17 HR)

Survey Monument Ties \$1440 (6 HR)

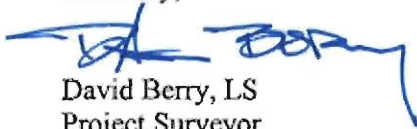
Layout Calculations, Cut Sheets, Checking, Support and Administration \$24,558 (126 HR Tech, 50 HR LS/Admin)

Fee for construction staking, layout calculations and project administration \$79,278

This project is subject to the payment of State of California Prevailing Wages for Tulare County.

Please feel free to contact me if you have any comments or questions regarding this proposal. We look forward to working with you on this project.

Sincerely,



David Berry, LS
Project Surveyor



Janel Freeman
Chief Financial Officer

Cost Proposal

Jaye Street Bridge

EXHIBIT 10-H

Contract No. _____

Subconsultant: Quad Knopf

Date: 6/9/2016

	Fringe Benefit %	Overhead %	General Administration %	Combined %
NORMAL	52.80%	75.60%	87.30%	215.70%
OVERTIME	0.00%	0.00%	0.00%	0.00%
		FEE %	10.00%	

BILLING INFORMATION**CALCULATION INFORMATION**

Name/Classification ¹	Loaded Hourly Billing Rates		Effective Date of Hourly Rate		% Escalation Increase	Actual Hourly Rate and/or Average Hourly Rate ²	Hourly Range for Class
	Straight	Overtime	From	To			
David Berry	\$163.63	N/A	1/1/2016	12/31/2016		\$47.12	N/A
Senior Surveyor	\$168.54	N/A	1/1/2017	12/31/2017	3.00%	\$48.53	N/A
Exempt	\$173.60	N/A	1/1/2018	12/31/2018	3.00%	\$49.99	N/A
	\$178.81	N/A	1/1/2019	12/31/2019	3.00%	\$51.49	N/A
	\$184.17	N/A	1/1/2020	12/31/2020	3.00%	\$53.03	N/A
	\$189.70	N/A	1/1/2021	12/31/2021	3.00%	\$54.62	N/A
Eric Hussey	\$123.56	\$141.35	1/1/2016	12/31/2016		\$35.58	N/A
Senior Associate Surveyor	\$127.27	\$145.59	1/1/2017	12/31/2017	3.00%	\$36.65	N/A
Non-exempt	\$131.08	\$149.95	1/1/2018	12/31/2018	3.00%	\$37.75	N/A
	\$135.02	\$154.46	1/1/2019	12/31/2019	3.00%	\$38.88	N/A
	\$139.07	\$159.09	1/1/2020	12/31/2020	3.00%	\$40.05	N/A
	\$143.24	\$163.86	1/1/2021	12/31/2021	3.00%	\$41.25	N/A
Donald C. Knopf	\$163.63	\$187.19	1/1/2016	12/31/2016		\$47.12	N/A
Senior Surveyor	\$168.54	\$192.81	1/1/2017	12/31/2017	3.00%	\$48.53	N/A
Non-exempt	\$173.60	\$198.59	1/1/2018	12/31/2018	3.00%	\$49.99	N/A
	\$178.81	\$204.55	1/1/2019	12/31/2019	3.00%	\$51.49	N/A
	\$184.17	\$210.69	1/1/2020	12/31/2020	3.00%	\$53.03	N/A
	\$189.70	\$217.01	1/1/2021	12/31/2021	3.00%	\$54.62	N/A
Party Chief *	\$145.78	\$166.77	1/1/2016	12/31/2016		\$41.98	N/A
Surveyor	\$150.16	\$171.78	1/1/2017	12/31/2017	3.00%	\$43.24	N/A
Non-exempt	\$154.66	\$176.93	1/1/2018	12/31/2018	3.00%	\$44.54	N/A
	\$159.30	\$182.24	1/1/2019	12/31/2019	3.00%	\$45.87	N/A
	\$164.08	\$187.70	1/1/2020	12/31/2020	3.00%	\$47.25	N/A
	\$169.00	\$193.33	1/1/2021	12/31/2021	3.00%	\$48.67	N/A
Chainman *	\$141.41	\$161.77	1/1/2016	12/31/2016		\$40.72	N/A
Surveyor	\$145.65	\$166.62	1/1/2017	12/31/2017	3.00%	\$41.94	N/A
Non-exempt	\$150.02	\$171.62	1/1/2018	12/31/2018	3.00%	\$43.20	N/A
	\$154.52	\$176.77	1/1/2019	12/31/2019	3.00%	\$44.50	N/A
	\$159.16	\$182.08	1/1/2020	12/31/2020	3.00%	\$45.83	N/A
	\$163.93	\$187.53	1/1/2021	12/31/2021	3.00%	\$47.21	N/A

Notes:

- Names and classifications of consultant (key staff) team members must be listed. Provide separate sheets for prime and all subconsultant firms.
- Billing rate = actual hourly rate * (1+ICR) * (1+Fee). Agreed upon billing rates are not adjustable for the term of contract.
- For named employees enter the actual hourly rate. For classifications only, enter the Average Hourly Rate for that classification.
Denote all employees subject to prevailing wage with an asterisks (*)

EXHIBIT 10-K CONSULTANT CERTIFICATION OF CONTRACT COSTS AND FINANCIAL MANAGEMENT SYSTEM

(Note: If requesting to utilize the Safe Harbor Indirect Cost Rate submit Attachment 1 of DLA-OB 13-07 - Safe Harbor Indirect Cost Rate for Consultant Contracts found at http://www.dot.ca.gov/hq/LocalPrograms/DLA_OB/DLA_OB.htm in lieu of this form.)

Certification of Final Indirect Costs:Consultant Firm Name: VSCE, Inc.Indirect Cost Rate: 117% * for fiscal period 01/01/2015 to 12/31/2015

*Fiscal period covered for Indirect Cost Rate developed (not the contract period).

Local Government: BHLS-5122(36)Contract Number: _____ Project Number: 85-9703-88

I, the undersigned, certify that I have reviewed the proposal to establish final indirect cost rates for the fiscal period as specified above and to the best of my knowledge and belief:

1. All costs included in this proposal to establish final Indirect Cost Rates are allowable in accordance with the cost principles of the Federal Acquisition Regulations (FAR) of Title 48, Code of Federal Regulations (CFR), Part 31.
2. This proposal does not include any costs which are expressly unallowable under the cost principles of the FAR of 48 CFR, Part 31.

All known material transactions or events that have occurred affecting the firm's ownership, organization, and Indirect Cost Rates have been disclosed as of the date of proposal preparation noted above.

Certification of Financial Management System:

I, the undersigned, certify to the best of my knowledge and belief that our Financial Management System meets the standards for financial reporting, accounting records, internal and budget control as set forth in the FAR of Title 49, CFR, Part 18.20 to the extent applicable to Consultant.

Certification of Dollar Amount for all A&E Contracts:

I, the undersigned, certify that the approximate dollar amount of all A&E contracts awarded by Caltrans or a California local agency to this firm within the last three (3) calendar years for all State DOT and Local Agencies is \$ 8,000,000.00 and the number of states in which the firm does business is CA.

Certification of Direct Costs:

I, the undersigned, certify to the best of my knowledge and belief that all direct costs identified on the cost proposal(s) in this contract are reasonable, allowable and allocable to the contract in accordance with the cost principles of the FAR of Title 48, CFR, Part 31. Allowable direct costs to a Government contract shall be:

1. Compliant with Generally Accepted Accounting Principles (GAAP) and standards promulgated by the Cost Accounting Standards Board (when applicable).
2. Compliant with the terms of the contract and is incurred specifically for the contract.
3. Not prohibited by 23 CFR, Chapter 1, Part 172 – Administration of Engineering and Design Related Service Contracts to the extent requirements are applicable to Consultant.

All costs must be applied consistently and fairly to all contracts. All documentation of compliance must be retained in the project files.

Subconsultants (if applicable)

Proposed Contract Amount (or amount not to exceed if on-call contract): \$ 195,326.00

Prime Consultants (if applicable)

Proposed **Total** Contract Amount (or amount not to exceed if on-call contract): \$ 411,627.00

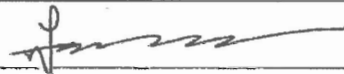
Prime, list all subconsultants and proposed subcontract dollar amounts (attach additional page if necessary):

BSK Associate - Material Testing	\$ 66,933.00
Quad Knopf - Environmental	\$ 49,115.00
Quad Knopf - Staking	\$ 79,278.00
	\$
	\$

Consultant Certifying (Print Name and Title):

Name: Frank Sana

Title: Principal

Consultant Certification Signature **: 

Date of Certification (mm/dd/yyyy): June 29, 2016

Consultant Contact Information:

Email: Fsana@vsceinc.com

Phone number: 510-589-2618

****An individual executive or financial officer of the consultant's organization at a level no lower than a Vice President or Chief Financial Officer, or equivalent, who has authority to represent the financial information utilized to establish the Indirect Cost Rate proposal submitted in conjunction with the contract.**

Note: Per 23 U.S.C. 112(b)(2)(B), Subconsultants must comply with the FAR Cost Principles contained in 48 CFR, Part 31. 23 CFR Part 172.3 Definitions state: Consultant means the individual or firm providing engineering and design related services as a party to the contract. Therefore, subconsultants as parties of a contract must complete a certification and send originals to A&I and keep copies in Local Agency Project Files.

Distribution: 1) Original to Caltrans Audits and Investigations
2) Retained in Local Agency Project Files

EXHIBIT 10-I NOTICE TO PROPOSERS DBE INFORMATION

The Agency has established a DBE goal for this Contract of 7%.

1. TERMS AS USED IN THIS DOCUMENT

- The term “Disadvantaged Business Enterprise” or “DBE” means a for-profit small business concern owned and controlled by a socially and economically disadvantaged person(s) as defined in Title 49, Code of Federal Regulations (CFR), Part 26.5.
- The term “Agreement” also means “Contract.”
- Agency also means the local entity entering into this contract with the Contractor or Consultant.
- The term “Small Business” or “SB” is as defined in 49 CFR 26.65.

2. AUTHORITY AND RESPONSIBILITY

- A. DBEs and other small businesses are strongly encouraged to participate in the performance of Contracts financed in whole or in part with federal funds (See 49 CFR 26, “Participation by Disadvantaged Business Enterprises in Department of Transportation Financial Assistance Programs”). The Consultant must ensure that DBEs and other small businesses have the opportunity to participate in the performance of the work that is the subject of this solicitation and should take all necessary and reasonable steps for this assurance. The proposer must not discriminate on the basis of race, color, national origin, or sex in the award and performance of subcontracts.
- B. Proposers are encouraged to use services offered by financial institutions owned and controlled by DBEs.

3. SUBMISSION OF DBE INFORMATION

If there is a DBE goal on the contract, Exhibit 10-O1 *Consultant Proposal DBE Commitment* must be included in the Request for Proposal. In order for a proposer to be considered responsible and responsive, the proposer must make good faith efforts to meet the goal established for the contract. If the goal is not met, the proposer must document adequate good faith efforts. All DBE participation will be counted towards the contract goal; therefore, all DBE participation shall be collected and reported.

Exhibit 10-O2 *Consultant Contract DBE Information* must be included with the Request for Proposal. Even if no DBE participation will be reported, the successful proposer must execute and return the form.

4. DBE PARTICIPATION GENERAL INFORMATION

It is the proposer’s responsibility to be fully informed regarding the requirements of 49 CFR, Part 26, and the Department’s DBE program developed pursuant to the regulations. Particular attention is directed to the following:

- A. A DBE must be a small business firm defined pursuant to 13 CFR 121 and be certified through the California Unified Certification Program (CUCP).
- B. A certified DBE may participate as a prime consultant, subconsultant, joint venture partner, as a vendor of material or supplies, or as a trucking company.

- C. A DBE proposer not proposing as a joint venture with a non-DBE, will be required to document one or a combination of the following:
 - 1. The proposer is a DBE and will meet the goal by performing work with its own forces.
 - 2. The proposer will meet the goal through work performed by DBE subconsultants, suppliers or trucking companies.
 - 3. The proposer, prior to proposing, made adequate good faith efforts to meet the goal.
- D. A DBE joint venture partner must be responsible for specific contract items of work or clearly defined portions thereof. Responsibility means actually performing, managing, and supervising the work with its own forces. The DBE joint venture partner must share in the capital contribution, control, management, risks and profits of the joint venture commensurate with its ownership interest.
- E. A DBE must perform a commercially useful function pursuant to 49 CFR 26.55, that is, a DBE firm must be responsible for the execution of a distinct element of the work and must carry out its responsibility by actually performing, managing and supervising the work.
- F. The proposer shall list only one subconsultant for each portion of work as defined in their proposal and all DBE subconsultants should be listed in the bid/cost proposal list of subconsultants.
- G. A prime consultant who is a certified DBE is eligible to claim all of the work in the Contract toward the DBE participation except that portion of the work to be performed by non-DBE subconsultants.

5. RESOURCES

- A. The CUCP database includes the certified DBEs from all certifying agencies participating in the CUCP. If you believe a firm is certified that cannot be located on the database, please contact the Caltrans Office of Certification toll free number 1-866-810-6346 for assistance.
- B. Access the CUCP database from the Department of Transportation, Office of Business and Economic Opportunity Web site at: <http://www.dot.ca.gov/hq/bep/>.
 - 1. Click on the link in the left menu titled Disadvantaged Business Enterprise;
 - 2. Click on Search for a DBE Firm link;
 - 3. Click on Access to the DBE Query Form located on the first line in the center of the page.

Searches can be performed by one or more criteria. Follow instructions on the screen.

6. MATERIALS OR SUPPLIES PURCHASED FROM DBES COUNT TOWARDS THE DBE GOAL UNDER THE FOLLOWING CONDITIONS:

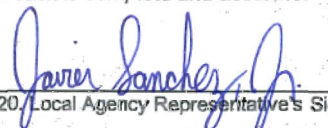
- A. If the materials or supplies are obtained from a DBE manufacturer, count 100 percent of the cost of the materials or supplies. A DBE manufacturer is a firm that operates or maintains a factory, or establishment that produces on the premises the materials, supplies, articles, or equipment required under the Contract and of the general character described by the specifications.
- B. If the materials or supplies purchased from a DBE regular dealer, count 60 percent of the cost of the materials or supplies. A DBE regular dealer is a firm that owns, operates or maintains a store, warehouse, or other establishment in which the materials, supplies, articles or equipment of the general character described by the specifications and required under the Contract are bought, kept in stock, and regularly sold or leased to the public in the usual course of business. To be a DBE regular dealer, the firm must be an established, regular business that engages, as its principal business and under its own name, in the purchase and sale or lease of the products in question. A person may be a DBE regular dealer in such bulk

items as petroleum products, steel, cement, gravel, stone or asphalt without owning, operating or maintaining a place of business provided in this section.

- C. If the person both owns and operates distribution equipment for the products, any supplementing of regular dealers' own distribution equipment shall be, by a long-term lease agreement and not an ad hoc or Agreement-by-Agreement basis. Packagers, brokers, manufacturers' representatives, or other persons who arrange or expedite transactions are not DBE regular dealers within the meaning of this section.
- D. Materials or supplies purchased from a DBE, which is neither a manufacturer nor a regular dealer, will be limited to the entire amount of fees or commissions charged for assistance in the procurement of the materials and supplies, or fees or transportation charges for the delivery of materials or supplies required on the job site, provided the fees are reasonable and not excessive as compared with fees charged for similar services.

EXHIBIT 10-O1 CONSULTANT PROPOSAL DBE COMMITMENT

1. Local Agency: City of Porterville 2. Contract DBE Goal: 7%
 3. Project Description: CM and Inspection Services for Jaye Street Bridge Widening
 4. Project Location: Jaye Street Bridge
 5. Consultant's Name: VSCE, Inc. 6. Prime Certified DBE: ☒

7. Description of Work, Service, or Materials Supplied	8. DBE Certification Number	9. DBE Contact Information	10. DBE %	
Construction Management Inspection Services	34787	VSCE, Inc. 827 Broadway STE 340 Oakland, CA 94607	Estimated 70%	
Local Agency to Complete this Section		11. TOTAL CLAIMED DBE PARTICIPATION	70 %	
17. Local Agency Contract Number: <u>85-9703-88</u>				
18. Federal-Aid Project Number: <u>BHLS-5122(036)</u>		IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required. 		
19. Proposed Contract Execution Date: <u>07/19/2016</u>				
Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.  20. Local Agency Representative's Signature <u>Javier Sanchez, Jr.</u> 22. Local Agency Representative's Name <u>Acting City Engineer</u> 24. Local Agency Representative's Title		06/06/2016 21. Date <u>(559) 782-7462</u> 23. Phone	05/24/2016 13. Date <u>510-835-5001</u> 15. Phone	
		12. Preparer's Signature <u>Frank Sana</u>	14. Preparer's Name <u>Principal</u>	
		16. Preparer's Title		

DISTRIBUTION: Original – Included with consultant's proposal to local agency.

EXHIBIT 10-02 CONSULTANT CONTRACT DBE COMMITMENT

1. Local Agency: City of Porterville 2. Contract DBE Goal: 7%
 3. Project Description: CM and Inspections Services for Jaye Street Bridge Widening
 4. Project Location: Jaye Street Bridge
 5. Consultant's Name: VSCE, Inc. 6. Prime Certified DBE: ☒ 7. Total Contract Award Amount: \$606,953
 8. Total Dollar Amount for ALL Subconsultants: \$195,326 9. Total Number of ALL Subconsultants: 2

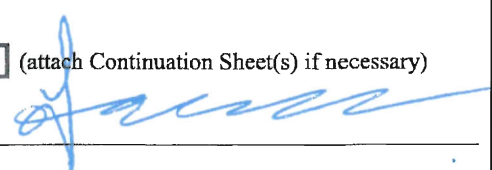
10. Description of Work, Service, or Materials Supplied	11. DBE Certification Number	12. DBE Contact Information	13. DBE Dollar Amount
Construction Management, Inspection Services	34787	VSCE, Inc. 827 Broadway, Ste.340 Oakland, CA 94607	\$411,627
Local Agency to Complete this Section			\$411,627
20. Local Agency Contract Number: <u>85-9703-88</u>	14. TOTAL CLAIMED DBE PARTICIPATION		67.8 %
21. Federal-Aid Project Number: <u>BHLS-5122(036)</u>			
22. Contract Execution Date: <u>07/19/2016</u>			
Local Agency certifies that all DBE certifications are valid and information on this form is complete and accurate.			IMPORTANT: Identify all DBE firms being claimed for credit, regardless of tier. Written confirmation of each listed DBE is required.  <u>June 29, 2016</u>
 23. Local Agency Representative's Signature	24. Date <u>07/07/2016</u>	15. Preparer's Signature <u>Frank Sana</u>	
Javier Sanchez, Jr. 25. Local Agency Representative's Name	(559) 782-7462 26. Phone	17. Preparer's Name <u>Principal</u>	
Acting City Engineer 27. Local Agency Representative's Title		19. Preparer's Title	

DISTRIBUTION: 1. Original – Local Agency
 2. Copy – Caltrans District Local Assistance Engineer (DLAE). Failure to submit to DLAE within 30 days of contract execution may result in de-obligation of federal funds on contract.

ADA Notice: For individuals with sensory disabilities, this document is available in alternate formats. For information call (916) 654-6410 or TDD (916) 654-3880 or write Records and Forms Management, 1120 N Street, MS-89, Sacramento, CA 95814.

EXHIBIT 10-Q DISCLOSURE OF LOBBYING ACTIVITIES

COMPLETE THIS FORM TO DISCLOSE LOBBYING ACTIVITIES PURSUANT TO 31 U.S.C. 1352

1. Type of Federal Action: ☐ a. contract ☐ b. grant ☐ c. cooperative agreement ☐ d. loan ☐ e. loan guarantee ☐ f. loan insurance	2. Status of Federal Action: ☒ a. bid/offer/application ☐ b. initial award ☐ c. post-award	3. Report Type: ☐ a. initial ☐ b. material change For Material Change Only: year _____ quarter _____ date of last report _____
4. Name and Address of Reporting Entity ☒ Prime ☐ Subawardee Tier _____, if known Congressional District, if known _____	5. If Reporting Entity in No. 4 is Subawardee, Enter Name and Address of Prime: VSCE, Inc. 827 Broadway STE. 340 Oakland, CA 94607 Congressional District, if known _____	
6. Federal Department/Agency: 8. Federal Action Number, if known: BHL5-5122(036)	7. Federal Program Name/Description: CFDA Number, if applicable _____ 9. Award Amount, if known: 11. Individuals Performing Services including address if different from No. 10a (If individual, last name, first name, MI) (attach Continuation Sheet(s) if necessary)	
10. Name and Address of Lobby Entity None (attach Continuation Sheet(s) if necessary)	12. Amount of Payment (check all that apply) \$ CM and Inspec ☐ actual ☐ planned 13. Form of Payment (check all that apply): ☐ a. cash ☐ b. in-kind; specify: nature _____ Value _____	
14. Type of Payment (check all that apply) ☐ a. retainer ☐ b. one-time fee ☐ c. commission ☐ d. contingent fee ☐ e. deferred ☐ f. other, specify _____		
15. Brief Description of Services Performed or to be performed and Date(s) of Service, including officer(s), employee(s), or member(s) contacted, for Payment Indicated in Item 11: 		
16. Continuation Sheet(s) attached: Yes ☐ No ☒ (attach Continuation Sheet(s) if necessary)		
17. Information requested through this form is authorized by Title 31 U.S.C. Section 1352. This disclosure of lobbying reliance was placed by the tier above when his transaction was made or entered into. This disclosure is required pursuant to 31 U.S.C. 1352. This information will be reported to Congress semiannually and will be available for public inspection. Any person who fails to file the required disclosure shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.		
Signature:  Print Name: Frank Sana Title: Principal Telephone No.: 510-835-5001 Date: 5/24/2016		Authorized for Local Reproduction Standard Form - LLL

Standard Form LLL Rev. 04-28-06

Distribution: Orig- Local Agency Project Files



6051 North Fresno Street
2nd Floor
Fresno, CA 93710

559.439.2576 PHONE
916.366.1501 FAX

www.TRCSolutions.com

June 2, 2016

#156385

Mr. Javier Sanchez, P.E.
City of Porterville
Public Works Department
291 N. Main St.
Porterville, CA 93257

**Subject: Request for Amendment No. 2 to Service Agreement for
Construction Phase Services for Jaye Street Bridge
Rehabilitation @ Tule River**

Dear Mr. Sanchez:

We are excited that the project has being advertised for construction. We are ready to serve the City during the construction phase. In order to do so we need to be authorized by you to perform supplemental service #8, Construction Phase Services, of our Agreement. As such, we are pleased to submit this proposal for those services. We assume herein an 18-month schedule for construction, and hence our services, given the likelihood of two seasons being required to construct this project. Below is a breakdown of our proposed scope of work and fee for this phase of the project.

PHASE 6: CONSTRUCTION PHASE SERVICES

Task 1 Preconstruction Meeting and Site Visits

One member of TRC's staff will prepare for and attend the pre-bid and preconstruction meetings with the City, Resident Engineer (RE), and the Construction Contractor. TRC will assist the City in the preparation of the agenda. This task also includes site visits to observe critical construction activities or as may be requested by the City. A maximum of five (5) such site visits are assumed for this task. Additional site visits will require additional budget.

Task 2 Phone Consultation and Response to RFIs

TRC will be available for phone consultation to discuss project construction activities and for providing clarifications of the contract documents. This task also includes responding to Requests for Information (RFI) from the Contractor during the course of construction. It is expected that TRC will receive the RFI directly from the CM on behalf of the City. Formal written responses will be prepared for each RFI. 182 labor hours of such work is assumed for this task.

Task 3 Shop Plan Reviews

TRC will review and provide comments on the following list of shop plans when requested by the RE, however it is expected that the RE will perform certain reviews with minimal input from TRC as denoted with an asterisk in the list below. 184 labor hours of such work is assumed for this task.

1. Falsework plans*
2. Shoring plans*
3. Bridge removal work plan*
4. Concrete mix designs
5. Polyester concrete overlay work plan
6. Pile driving submittal/Pile placement plan
7. Review rebar shop drawings (not for approval, but for confirmation)
8. Precast handrailing shop drawings
9. Utility bracket shop drawings

Task 4 Change Order Assistance

This task includes assistance in evaluating or modifying existing plans and specifications for incorporation into change orders prepared by the RE. 116 labor hours of such work is assumed for this task.

Task 5 Prepare As-Built Record Drawings

This task includes taking the RE marked-up plan set and transferring field changes to the original contract drawings to produce the vellum (not mylar) record drawing As-built plans. 46 labor hours of such work is assumed for this task.

Task 6 Project Management

This task includes managing TRC's effort, including quality control of deliverables, documentation, maintaining files, and preparing monthly progress reports and invoices for the City. 40 labor hours of such work is assumed for this task.

Task 7 Civil and Roadway Coordination

This task includes Peters Engineering Group's work in answering questions related to civil, roadway, or traffic control and preparation of as-built record drawings for the civil sheets. TRC will review and provide comments on the Traffic Control Plans when requested by the RE. We have assumed a budget of \$15,000 for this work.

Task 8 Geotechnical Observation & Consultation

This task includes Kleinfelder's work in observing pile installation and pile acceptance, and answering questions related to geotechnical considerations. We have assumed a budget of \$10,000 for this work.



Task 9 Construction Paperwork

This task includes performing a DBE analysis for determining the percentage goal for the project in accordance with section 9 of the Caltrans LAPM. Also includes assistance with other Caltrans LAPM or LAPG forms as may be desired by the City.

Task 10 So. Cal Gas Accommodation & Coordination

This task includes activities such as determining possible locations for the temporary and permanent gas line during construction and coordination of such during construction. TRC will perform a feasibility study to evaluate placement of the gas line on the new and existing bridges, supporting from the falsework, and realignment in assisting to develop a solution acceptable to the City, So Cal Gas, and TRC. Numerous phone calls and emails are anticipated in coordinating this work.

Task 11 P.I.D. and LTRID Retaining Walls and Basin Coordination

Supplemental Task X.4 and Peters Engineering Task A1-4 in Amendment 1 to our Agreement included design of a Caltrans standard box culvert to replace the Hubbs Miner Ditch 48" pipe. However, it now appears that we will need to secure Caltrans approval to fund a number of retaining walls and basins to maintain the existing performance of P.I.D.'s diversion system, and to provide for an access road for P.I.D. to reach their facility for maintenance and debris clearance purposes. Extensive coordination is expected during construction of these facilities. The structural nature of this task requires TRC's work in coordinating these wall types, the barriers atop the walls, joints between the walls and culvert and walls and basins, checking the wall design and layout, preparation of special provisions, quantities and a cost estimate for the facilities, and more extensive coordination with and plan reviews by P.I.D. and the LTRID. In addition to TRC's effort, we have assumed a budget of \$3,000 for our subconsultant PEG's portion of this work.

SCHEDULE

We expect the project, and thus our work, to last through November 2017.

FEE

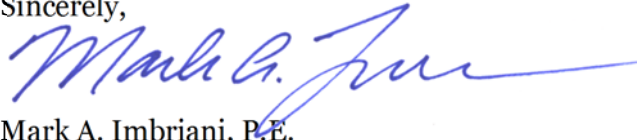
We propose to perform Tasks 1-8 of the above construction phase services on a time and materials basis for a total not to exceed fee of **\$110,226** without prior authorization. We propose to perform Tasks 9-11 of the above construction phase services on a lump sum basis for a total not to exceed fee of **\$21,375** without prior authorization. We propose to perform all of the above construction phase services for a total not to exceed fee of **\$131,601** without prior authorization.

We have been judicious in our allocation of labor hours for such a long project duration so it is possible that additional budget will be required in the future. However this should go a long way to providing the service you need and will hopefully be sufficient. As you will be directing us as to when to perform work and as you will receive our usual detailed progress and budget reports monthly, you will be able to closely monitor the budget status.



We look forward to providing these additional services on the project and to the successful completion of construction! Should you have any questions or comments on this proposal, please don't hesitate to call.

Sincerely,



Mark A. Imbriani, P.E.

Vice President

MAI/re

Attach.

CITY OF PORTERVILLE
 JAYE STREET BRIDGE REHABILITATION AT TULE RIVER
 AMENDMENT #2 FEE

TRC ENGINEERS
 DESIGN FEE ESTIMATE WORKSHEET

Date:

06/02/16

Project:

156385

02-Jun-16

Increase:

0.0%

05:03:16 PM

Sub administration:

0%

Expenses	
Description	Amount
Travel	
Airfare (round trips)	\$0
Mileage	\$432
Lodging	\$0
Per Diem	\$0
Car Rental	\$0
Misc.	\$0
Travel Subtotal	\$432
Other Direct Costs	\$1,094
ODC Subtotal	\$1,094
Total	\$1,526

Subconsultants	
Name	Amount
Peters Engineering Group	\$18,000.00
Kleinfelder	\$10,000.00
Total	\$28,000

Design Fee Estimate	
Phase 6 Labor	\$102,075
Subconsultants	\$28,000
Expenses	\$1,526
Total	\$131,601

CITY OF PORTERVILLE
 JAYE STREET BRIDGE REHABILITATION AT TULE RIVER
 AMENDMENT #2 FEE

TRC ENGINEERS
 DESIGN FEE ESTIMATE WORKSHEET
 2016

Project: 156385
 Increase: 0.0%
 Sub admin: 0%

LABOR																														
Task	Phase Description		Senior Proj Spec		Project Manager		Project Engineer		Senior Engineer		Engineer II		Engineer I		CADD Supervisor		CADD Technician		Desktop Publisher		Administrative Assistant		Total Hours	Total \$	Phase Subtotals		% of			
			Hours		Hours		Hours		Hours		Hours		Hours		Hours		Hours		Hours		Hours				Hrs	\$	Total			
Totals Page 2			Hrs	0	Hrs	0	Hrs	0	Hrs	0	Hrs	0	Hrs	0	Hrs	0	Hrs	0	Hrs	0	Hrs	0	0					0	0	0%
Fee/Classification			Rate	0.0	Rate	225.0	Rate	170.0	Rate	140.0	Rate	120.0	Rate	90.0	Rate	135.0	Rate	85.0	Rate	75.0	Rate	70.0		hours ok						
% of Total Hours/Classification				0%		0%		0%		0%		0%		0%		0%		0%		0%		0%		\$ ok						

TRC ENGINEERS
FEE ESTIMATE WORKSHEET

Travel

From	Fresno	
To	Porterville	
# of people	1	
# of days	1	# of nights 0
# of trips	5	

	Rate		#		#			
Airfare (round trips)		x		trips	x		people	=
Mileage (includes field visits)	\$0.540	x	160	miles	x	5	trips	=
Lodging		x		nights	x		people	=
Per Diem		x		days	x		people	=
Car rental		x		days	x		people	=
Miscellaneous		x		units	x		units	=
Total Travel								\$432.00

ODC's

	Rate		#			
Mail	\$0.49	x	16	pieces	=	\$7.84
Overnight mail	\$11.50	x	16	pieces	=	\$184.00
Copies	\$0.08	x	1000	copies	=	\$80.00
Prints (24x36)	\$2.50	x		prints	=	\$0.00
Vellums (24x36)	\$7.50	x	83	prints	=	\$622.50
Mylars (24x36)	\$15.00	x		prints	=	\$0.00
Miscellaneous	\$100.00	x	2	units	=	\$200.00
Total ODC's						\$1,094.34

Total Travel and ODC's	\$1,526.34
-------------------------------	-------------------



CITY COUNCIL AGENDA – JULY 19, 2016

SUBJECT: Authorization to Roll Weed Abatement Balances, Unpaid Utility Accounts and Delinquent Miscellaneous Loan Agreements to the Property Tax Rolls

SOURCE: Finance

COMMENT: Staff has prepared a draft resolution for Council consideration which will authorize the County Auditor to place uncollected weed abatement charges, unpaid utility accounts, and delinquent loan agreements on the property tax rolls.

City Code Section 12-3.12 provides for weed abatement balances to be rolled to property taxes for collection. Section 25-8 provides that unpaid water bills may be added to the tax statement for said real property and collected in the same manner as real property taxes. And Section 13-14(D) and Section 25-37 of the City Code provide that any unpaid charge for sewer rental or solid waste services, together with interest and penalties, constitutes a lien on the real property involved. The loan agreements for the installation of curb, gutter and sidewalk, sewer lateral and fees, water connection fees and services, and engineering permit fees provide that the unpaid principal and interest will be added to the property tax bill and will be collected in the manner real property taxes are collected.

RECOMMENDATION: That the City Council adopt the attached resolution authorizing the County Auditor to place the weed abatement balances, unpaid utility accounts and delinquent miscellaneous loan agreements on the 2016-2017 tax rolls for collection.

ATTACHMENTS:

1. Draft Resolution
2. Exhibits

Appropriated/Funded: MB

Review By:

Department Director:

Maria Bemis, Finance Director

Final Approver: John Lollis, City Manager

RESOLUTION NO. ____-2016

A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF PORTERVILLE ORDERING THE PLACEMENT OF SPECIAL ASSESSMENT LIENS
ON THE TULARE COUNTY TAX ROLLS FOR FISCAL YEAR 2016-2017

WHEREAS: The City of Porterville Municipal Code Section 12-3.4, Nuisance and Authority to Abate, sets forth the procedure for all weed, nuisance and hazard abatements in the City of Porterville, thereafter setting forth the procedure for placement of delinquent assessments on the Tulare County Tax Rolls; and

WHEREAS: The City of Porterville Municipal Code Section 13-14, Garbage and Refuse – Charges for Collection; Time and Manner of Payment, provides that the amount required to be paid, together with interest and penalty, constitutes a lien on all real property; and

WHEREAS: The City of Porterville Municipal Code Section 25-37, Collection of Sewer Rental; Charges to be Lien, provides that any unpaid charge for sewer rental or sewer rental penalties or interest may be placed as a lien on the real property involved; and

WHEREAS: The City of Porterville Municipal Code Section 25-8, Guarantee of Payment of Water Bills by Property Owners, provides that unpaid water bills may be a lien on said property and the amount of said unpaid water bill may be added to the tax statement for said real property and collected in the same manner as real property taxes; and

WHEREAS: The Agreements for Curb, Gutter and Sidewalk, Sewer Fees and Lateral, Water Meter Fees and Services, and Engineering Permit Fees provide that a lien shall be placed on said real property at the time of said agreement; and the unpaid balance of said principal and interest will be added to the tax bill for said real property and will be collected in the manner real property taxes are collected by the City of Porterville; and

WHEREAS: The Porterville City Council, having duly received and considered evidence and documentation concerning the delinquent accounts proposed to be placed on the Fiscal Year 2016-2017 County Tax Rolls concerning the necessity for the placement of the contemplated tax liens.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve and order the submittal of the following liens, attached hereto as Exhibit “A”, Exhibit “B” and Exhibit “C”, to the Tulare County Auditor for placement on the property tax rolls for collection.

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

Milt Stowe, Mayor

ATTEST:
John D. Lollis, City Clerk

By: _____
Patrice Hildreth, Chief Deputy City Clerk

CITY OF PORTERVILLE
WEED/HAZARD ABATEMENT
FY2016-2017 Tax Roll

Assessee		Parcel Number Address	Amount Per Parcel	Assessment Amount
Doyle McComb account #01-000755	1	245-182-009 Well & pump at Porter/Slaughter	\$ 4,453.18	\$ 4,453.00
Steven Sullivan account #01-000630	2	246-162-016 1095 N Prospect Ave	790.73	791.00
WC & Jewel D Walls account #01-000792	3	253-011-006 495 N Division St	3,574.84	3,575.00
Pamela Givens account #01-000745	4	253-041-019 22 E Laurel Ave	4,135.18	4,135.00
Della Mae O'Dell account #01-000613	5	254-073-044 810 E Putnam Ave	3,436.69	3,437.00
Jose & Mary Rosalez account #01-000547	6	260-102-020 246 S Ohio St	494.41	494.00
Jesus R & Mary Lou Lopez account #01-000478	7	260-184-013 200 S G St	846.82	847.00
Frank Silva account #01-000559	8	260-187-001 347 W Orange Ave	1,043.72	1,044.00
Perris 40 Corp account #01-000481	8	260-310-049 253 W River	376.54	377.00
Perris 40 Corp account #01-000481	9	260-310-050 253 W River	376.54	377.00
Kandra Paulette Ellsworth account #01-000791	11	261-030-039 N Vandalia / W Plano	665.11	665.00
Total amount of assessments				\$ <u><u>20,195.00</u></u>
Total number of assessments				<u><u>11</u></u>

Note: FY2015-2016 A/R balances

CITY OF PORTERVILLE

Exhibit "B"

UNPAID UTILITIES
FY2016-2017 Tax Roll

Assessee	Property Address	Parcel Number	Assessment Amount
Jose A & Rosa Martinez	2433 W Westfield Ave	240-260-030-000	\$ 117.00
Patricia Kiner	1360 N Jennifer Way	240-310-021-000	76.00
Jose & Sylvia Mosqueda	1113 W Baker Ave	243-204-001-000	147.00
Rosa Evelia Mancilla	1490 W Northgrand Ave	243-270-028-000	1,294.00
Keith & Maritess Domingo	1787 N Beverly St	243-280-006-000	218.00
John Salazar	1661 W Bel Aire Ave	245-234-009-000	111.00
*Seth Kellerhals	1141 N Patsy Dr	245-265-013-000	148.00
Robert/Carmen Loya	2308 W Kanai Ave	245-324-007-000	157.00
Silvio/Lorraine Addamo	1583 N Newcomb St	245-450-001-000	195.00
Charanjit Sidhu	1047 N Red Oak St	245-550-053-000	39.00
James Neal	1227 N Atkins Way	246-021-010-000	375.00
*Bernandinno Mejia	1411 W Westfield Ave	246-190-034-000	156.00
*Jason Bratton	841 W San Lucia Ln	246-200-017-000	394.00
Margarito Cercas	895 W Westfield Ave	246-200-028-000	1,780.00
Roberto Suarez	771 W Westfield Ave	247-260-021-000	109.00
*Sourygn Phaneckham	1068 N Lime St	248-050-034-000	60.00
Sergio/Francisca Ceballos	873 W Tomah Ave	251-202-020-000	821.00
Alaxander Schooler	384 N Westside St	251-253-017-000	984.00
Chris/Frances Barajas	1291 W Tomah Ave	251-281-006-000	332.00
*Jamie Miguel	582 N Cottage St	252-022-001-000	33.00
*Andres Fernandez	378 Ruma Rancho Ave	252-120-024-000	113.00
Irma Corona	357 N Kessing St	252-240-004-000	805.00
Rollie/Denise Fugate	672 E Grand Ave	253-060-014-000	175.00
Emelina Martinez	439 N Park St	253-070-027-000	218.00
Salvador/Anita Gutierrez	338 N Murry St	253-135-001-000	729.00
Ligia Sides	396 N 3rd St	253-204-002-000	159.00
Karen/Charles Bledsoe	68 N Corona Dr	253-210-024-000	658.00
Sharon Smith	576 N Sunwood St	253-250-011-000	325.00
Glen Stailey	1400 E Morton Ave	254-140-002-000	351.00
Antonio/Cynthia Martinez	40 S Maston St	259-092-005-000	304.00
Jesus Gradillas	187 S Cloverleaf St	259-121-009-000	558.00
Frank/Margarita Gonzales	259 S Cloverleaf St	259-131-005-000	223.00
Walter/Nadia Kostrikin	188 S Cloverleaf St	259-132-011-000	295.00
*Nicholas/Maria Leon	1682 W River Ave	259-212-018-000	217.00
Robert Sprague	234 S Chess Terrace St	260-104-003-000	164.00
Ted Casio	339 S H St	260-172-006-000	535.00
Don & Nicks Frwy Auto	92 S Main St	261-112-005-000	1,668.00
Lisa Rathfelder	2 W Olive Ave	261-121-003-000	4,173.00
Jesus Zepeda	955 S Wisconsin St	268-080-030-000	1,013.00
Rondi Farmer	733 W Melinda ave	269-140-025-000	119.00
Total amount of assessments			<u>20,348.00</u>
Total number of assessments			<u>40</u>

Note: FY2015-2016 UM balances

CITY OF PORTERVILLE

MISCELLANEOUS AGREEMENTS
FY2016-2017 Tax Roll

<u>Assessee</u>	<u>Parcel Number</u>	<u>Address</u>	<u>Amount Per Parcel</u>	<u>Assessment Amount</u>
Jose & Maria Rodriguez 00CGS006	1	245-083-002 489 N Patsy St	\$ 1,170.89	\$ 1,171.00
Brenda Davidson WATER014	2	246-070-039 871 W Pioneer Ave	3,782.61	3,783.00
Sergio Ceballos SEWER004	3	251-202-020 873 W Tomah Ave	918.69	919.00
Robert Sprague WATER008	4	260-104-003 234 S Chess Terrace	2,881.67	2,882.00
Dora Jimenez ENG00001	5	260-112-002 107 S Cottage St	1,527.13	1,527.00
Total amount of assessments				\$ <u><u>10,282.00</u></u>
Total number of assessments				<u><u>5</u></u>

Note: 6/30/16 balances



CITY COUNCIL AGENDA – JULY 19, 2016

SUBJECT: Renewal of Airport Lease Agreement - Lot 43

SOURCE: Finance

COMMENT: Mr. Leonard Alogna is the current leaseholder of Lot 43 at the Porterville Municipal Airport. The lease expires on July 31, 2016. We have received a request from Mr. Alogna, dated January 4, 2016, to renew his lease for a period of ten (10) years. This lot is approximately 4,200 square feet in area and will rent for a rate of \$0.298 per square foot with an annual adjustment according to the change in the Consumer Price Index. The lease will begin on August 1, 2016 and expire on July 31, 2026.

RECOMMENDATION: That City Council approve the Lease Agreement between the City of Porterville and Mr. Leonard Alogna for Lot 43 at the Porterville Municipal Airport.

ATTACHMENTS:

1. Locator Map
2. Letter from Mr. Alogna requesting renewal
3. Lease Agreement

Appropriated/Funded:

Review By:

Department Director:

Maria Bemis, Finance Director

Final Approver: John Lollis, City Manager

AIRPORT LEASE SITES



44A 44B 44C

40	41	42	43
36	37	38	39

45

46A 46B 46C 46D

35

A B C 34 D E F

33

32A B C

31C

31A 31B

30B

30A1 30A2 30A3

HANGAR ROAD

47

50

TAXIWAY

TAXIWAY

HOPE ROAD

THUNDERBOLT DR.

ADMIN.
BLD.

Jan. 04, 2016

Janie Rodriguez-City of Porterville, Calif.
291 North Main St.
Porterville, Ca 93257

Re: Lot 43, Ptv Airport

Leonard J. Alogna

Dear Ms. Rodriguez

Per our phone conversation today, please renew the 10 year lease on Lot 43 from it's current expiration date of July 31st, 2016 for another ten year period.

I have enclosed a check for \$1,251.60 for a full twelve months. I understand the difference (overpayment) of \$521.50 will be held as credit until the new lease agreement is completed and signed.

Sincerely,



Leonard J. Alogna
(323) 666.1902
leonaalog@aol.com

encl. 1

LEASE AGREEMENT

PORTERVILLE MUNICIPAL AIRPORT

THIS LEASE AGREEMENT ("Lease"), executed at Porterville, California the first day of August, 2016, by and between the CITY OF PORTERVILLE, a charter city and municipal corporation of the State of California, hereinafter referred to as "City" and Leonard J. Alogna, hereinafter referred to as "Lessee."

WHEREAS, City owns and operates an airport in the City of Porterville, State of California, commonly known and described as "Porterville Municipal Airport"; and

WHEREAS, Lessee desires to lease a portion of said airport for the purpose of operating an existing aircraft hangar to be used for the parking and storage of aircraft and other activities incidental thereto; and

WHEREAS, it is the desire of City to utilize said airport for the general public by its development and use in providing aeronautical-related facilities and service.

NOW, THEREFORE, IT IS MUTUALLY AGREED as follows:

1. Premises: City, for and in consideration of the covenants, conditions, agreements, and stipulations herein set forth, does hereby demise and lease to Lessee, and Lessee hereby hires from City, those certain premises situated in the City of Porterville, State of California, described as Lot 43 at the Porterville Municipal Airport, more particularly described in Exhibit A being attached hereto and by this reference made a part hereof.

2. Term: The term of this Lease shall commence on August 1, 2016, both parties having executed the same, and shall terminate on July 31, 2026, provided Lessee is not in default with respect to any of the conditions or covenants of this lease. Notwithstanding the stated term of the Lease, the City may terminate this Lease at its pleasure and repossess the premises therein described upon three months' notice thereof and upon paying to the lessee the market value of any improvements made or put upon said premises by the lessee. The market value of such improvements shall be determined by a board of appraisers consisting of one appraiser appointed by the council, and a lessee appraiser

appointed by the lessee. The parties will follow Charter Section 68 concerning the determination of the value of the improvements.

3. Rental and Business Privilege Consideration: Lessee agrees to pay to City in lawful money of the United States without deductions or offset, to the Finance Director, City of Porterville, 291 N. Main Street, Porterville, California, 93257, or to such person or persons and at such place or places as may be designated from time to time by City, a rental rate of \$0.298 per square foot per year. Inasmuch as the lease site (See Exhibit "A" attached) contains approximately 4,200 square feet of land area, said rental rate will be \$1,251.60 annually, or \$104.30 per month, payable in advance.

Beginning January 1, 2017, and each January 1 thereafter for the term of this Lease, the rate shall be adjusted by a percentage equal to the annual percentage increase or decrease in the Consumer Price Index (CPI). The CPI used shall be a twelve (12) month average of the San Francisco CPI and the Los Angeles CPI as published for October of the prior year. The CPI index will be "All Urban Consumers."

4. Purpose: This Lease is made for the purpose of operating an existing aircraft hangar to be used for the parking and storage of aircraft and other activities incidental thereto. Lessee shall not use the premises or any part thereof or permit them to be used for any purpose or purposes other than stated above. The City reserves the right to conduct on-site inspections for the purpose of compliance with Building Code, Fire Code, and Zoning Ordinance. Lessee shall not do or permit any act or thing to be done upon the premises which constitutes a nuisance or which may disturb the quiet enjoyment of City or any tenant of City on adjacent neighboring property.

Lessee further agrees that, within 72 hours from receiving written notice by the City that a nuisance exists, to abate or otherwise cause said nuisance to be cured.

In the event Lessee has not (a) taken corrective action within 72 hours, or (b) filed an appeal with the City Council, City of Porterville, within 72 hours, then City may enter and abate said nuisance at the expense of Lessee without any liability whatsoever to City for monetary loss or anticipated profits of Lessee or others.

Said appeal to the City Council must be made in writing and be received by the City

Clerk, 291 N. Main Street, Porterville, California, 93257, within 72 hours after Lessee received notice of said nuisance.

5. Right of Ingress and Egress: Lessee shall have the right-of-way to property owned and controlled by City for ingress thereto and egress therefrom for pedestrian, vehicular, and air travel, together with the right to use in common with other Lessee or licensees of City the airplane landing field adjacent to the demised premises. None of these rights are exclusive, but shall be exercised in common with and subject to possible similar rights of other users of said airport. All of the foregoing is subject to such reasonable rules and regulations as the City or its authorized agents may make from time to time. Such rules and regulations, however, shall be reasonable and shall not conflict in any way with similar rules and regulations adopted from time to time by the Federal Aviation Administration or its successor.

6. Condition of Premises: Lessee has inspected the demised premises and knows the extent and condition thereof and accepts same in its present condition, subject to and including all defects, latent and/or patent.

7. Alteration: Lessee shall make no structural modifications to existing structures or make permanent improvements or additions in or on the demised premises without the written consent of the City Airport Manager first being obtained.

8. Maintenance: Lessee agrees to keep the improvements in a good state of repair by periodic maintenance and painting as the same are required and to keep the grounds of Lessee in a good state of maintenance and repair. During the term of this Lease, the City Airport Manager shall have the right to notify Lessee in writing wherein Lessee has failed to maintain said structure and improvements in a good state of repair. Lessee shall make such corrections in the time and manner prescribed by said Airport Manager, or in the event Lessee disagrees, Lessee shall have the right to appeal within fifteen (15) days from date of notice from said Airport Manager to the City Council concerning the request for maintenance made to Lessee by said Airport Manager; it being understood and agreed that the decision of the City Council shall be final.

9. Utilities: Lessee agrees to pay during the term of the Lease, or any holding over, any

and all utilities utilized by it to said demised premises. The term “utilities” as used herein shall include, but is not limited to, telephone, electrical, water, sewer, gas, janitorial, heating, cooling, and trash and refuse disposal service.

10. Utility Extension or Modification: Lessee shall pay any and all expenses that may be incurred in obtaining the extension of public utility services to the demised premises from existing utility facilities or any modifications of same.

11. Taxes and Assessments: Lessee understands that the Lease of the premises creates a possessory interest subject to taxation by the County of Tulare. Lessee agrees to pay all taxes and/or assessments levied by any governmental agency upon any interest acquired by Lessee under the terms of this Lease.

12. Compliance with Law: Lessee shall, at its expense, promptly comply with any and all laws, ordinances, rules, regulations, requirements, and order whatever, present or future, of the national, state, county or city government which may in any way apply to the use, maintenance or occupation of, or operations on the premises.

13. Liens and Encumbrances: Lessee shall keep the premises and all structures and improvements situated thereon free from any liens or encumbrances arising out of any work performed, material furnished, or obligations incurred by Lessee, or from any other cause.

14. Negation of Partnership: City shall not become or be deemed a partner or joint venturer with Lessee or associate in any relationship with Lessee’s operations thereon. City reserves all rights in and with respect to the premises, not inconsistent with Lessee’s use of the premises as in this Lease provided, including (without limiting the generality of the foregoing) the right of City to enter upon the premises for the purpose of installing, using, maintaining, renewing, and replacing such underground oil, gas, water, sewer, and other pipelines, and such underground or aboveground telephone, telegraph, and electric power conduits or lines as City may deem desirable in connection with the development or use of any other property in the neighborhood of the premises. City shall compensate Lessee for any and all damage to Lessee’s improvement and personal property caused by the exercise of the rights reserved in this paragraph.

15. Indemnification: Lessee agrees to indemnify, defend (upon request by the City) and

save harmless the City, its agents, officers, and employees, and each of them, from any and all losses, costs, expenses, claims, liabilities, action, or damages, including liability for injuries to person or persons, or damage to property of third persons arising out of or in any way connected with (a) the conducting or operation of Lessee's business on the demised premises during the term of the Lease or any holding over, or (b) the construction or the removal of any facilities or improvements on the demised premises during the term of this Lease or any holding over.

16. Liability Insurance: Lessee, in order to protect the City, its agents, officers, and employees against all claims and liability for death, injury, loss, and damage as a result of Lessee's (a) use and operations on the demised premises or in connection therewith, or (b) construction or removal of any improvements on the demised premises or in connection therewith, shall name the City as additional insured on Lessee's aircraft insurance policy or policies in the amount of not less than ONE MILLION DOLLARS (\$1,000,000). Coverage shall include General Liability combined Bodily Injury and Property Damage, Single Limits and Aggregate, with a reliable insurance carrier authorized to do such public liability and property damage insurance business in the State of California. Said insurance shall not be subject to cancellation or coverage reduction without thirty (30) days prior written notice to City. Within (10) days from the date of this Lease, Lessee shall file with the City Clerk, City of Porterville, a duly certified Certificate of Insurance evidencing that the herein above mentioned public liability and property damage provisions have been complied with, and setting forth that City, its agents, officers, and employees are named as additional insured. In the event that Lessee shall fail to take out and keep in effect such policy or to furnish evidence thereof to City, City may, at City's option, procure the same, pay the premium thereof and collect same with the next payment of rental due from Lessee or immediately terminate this Lease. The limits of insurance coverage set forth herein may be reviewed by City each January and may be adjusted at such reviews in order to protect the interests of the City.

17. Nondiscrimination: Lessee for itself, its heirs, personal representatives, successors in interest and assigns as part of the consideration hereof does hereby covenant and agree that (1) no person on the grounds of race, color, sex, sexual orientation or national origin shall be excluded from participation, denied the benefits of, or be otherwise subjected to discrimination in the use of said

facilities; (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, sex, sexual orientation or national origin shall be excluded from participation in, denied the benefits of or otherwise be subjected to discrimination; (3) that Lessee shall use the premises in compliance with other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally - Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and/or services on a fair, equal and not unjustly discriminatory basis to all users thereof and it shall charge a fair, reasonable and not unjustly discriminatory price for each unit or service; provided that Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates, or similar type of price reductions to volume purchasers.

In the event of breach of any of the above nondiscriminatory covenants, City shall have the right to terminate this Lease and to re-enter and repossess the demised premises and the facilities thereon and hold the same as if the Lease had never been made or issued.

Lessee agrees that it shall insert the above nondiscrimination provisions in any sublease or other agreement by which Lessee grants a right or privilege to any person, firm, or corporation to render accommodations and/or services to the public on the premises herein leased.

18. Improvement of Land Area: City reserves the right to further develop or improve the landing area of the airport as it sees fit regardless of the desires or views of Lessee and without interference or hindrance.

19. Maintenance of Landing Area: City reserves the right to maintain and keep in repair the landing area of the airport and all publicly-owned facilities of the airport, together with the right to direct and control all activities of the Lessee in this regard; providing further, City shall keep and maintain in a safe and operable condition the taxiways, runways (including the lighting thereof) and roadways on the airport during such hours and to such extent as City may determine is reasonably required for the operation of the airport.

20. Lease Subordinate to Agreements with the United States Government:
This Lease shall be subordinate to the provisions and requirements of any existing or future agreement

between the City and the United States relative to the development, operation or maintenance of the airport.

21. Non-Exclusive Right: It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 (a) of the Federal Aviation Act of 1958. (49 U.S.C. 1349).

22. Rights of United States Government: This Lease and all the provisions hereof shall be subject to whatever right the United States Government now has or in the future may have or acquire, affecting the control, operation, regulation, or taking over of said airport.

23. Notices: All notices herein provided to be given, or which may be given, by either party to the other shall be deemed to have been fully given when made in writing and deposited with the United States Postal Service, Registered or Certified, postage prepaid and addressed as follows:

To the Lessee: Leonard J. Alogna
 P. O. Box 27489
 Los Angeles, CA 90027-0489, B

To the City: Airport Manager
 City of Porterville
 291 N. Main Street
 Porterville, CA 93257

The address to which the notices shall be or may be mailed, as aforesaid, to either party shall or may be changed by written notice given by such party to the other, as hereinbefore provided, but nothing herein contained shall preclude the giving of any such notice by personal service.

24. Authorized Agent of the City: The Airport Manager of the City of Porterville is the duly authorized agent of the City for purposes of this Lease; and as to any obligations assumed herein by Lessee, they shall be performed to the satisfaction of said Airport Manager.

25. Assignment and Subletting: This Lease shall be binding upon and shall inure to the benefit of the heirs, administrators, executors, successors, and assigns of the respective parties hereto. Lessee shall not, and Lessee herewith agrees that it will not, sublet the premises, or any part thereof or assign, transfer, mortgage, or otherwise convey the premises or its rights and interest

hereunder without the prior written consent of the City. In the event the Lessee shall sublet, assign, transfer, mortgage, or otherwise convey the premises or its rights and interest hereunder, or any part thereof, or attempt to do so in violation to the foregoing provision, then in addition to any and all other rights and remedies available to it, the City may, at its option by written notice to Lessee, either declare such sublease, assignment, transfer, mortgage or other conveyance void or terminate this Lease and all rights and interest of Lessee and all other persons hereunder. Any consent by City to any sublease, assignment, transfer, mortgage, or conveyance shall not be deemed or construed as a transfer, mortgage, or conveyance. This clause shall not be construed to limit right or remedy which City may become entitled to by reason of the action(s) or failure(s) to act of Lessee.

26. Hypothecation: Lessee may, with the consent of the City, give, assign, transfer, mortgage, hypothecate, grant control of, or encumber Lessee's interest under this Lease and the leasehold estate so created to a bona-fide lender on the security of the leasehold estate. Any such bona-fide lender shall have the right at any time during the term of the loan and while this Lease is in full force and effect:

(a) To do any act or thing required of Lessee in order to prevent a forfeiture of Lessee's rights hereunder, and all such acts or things so done shall be as effective to prevent a forfeiture of Lessee's rights hereunder by Lessee.

(b) To succeed to the interest of Lessee hereunder and thereafter at such lender's option to convey, assign or sublease the interest or title to said leasehold estate to another person acceptable to City, subject to all the terms, conditions, and covenants of this Lease. Two (2) copies of any and all security devices or instruments shall be filed with City's Airport Manager prior to the effective date thereof, and Lessee shall give Airport Manager prior written notice of any changes or amendments thereto.

Any bona-fide lender shall have the right, if so permitted by the terms and conditions of the concerned instrument of hypothecation between lender and Lessee, to remove any or all of Lessee's improvements under said hypothecation from the demised premises, subject only to the restriction that in the event of such removal, the demised premises herein above described be restored by Lessee to a condition satisfactory to the City's Airport Manager, and that said removal be done in a manner

and at a time satisfactory with said Airport Manager.

27. Breach by Lessee: In the event of the breach by Lessee of any term, condition, or agreement herein contained, and the failure to cure such breach within thirty (30) days after written notice has been given to Lessee by City, this Lease and all privileges herein granted shall be terminated and be of no other force or effect, and Lessee shall immediately surrender possession of the premises hereby granted, and in the event City has to resort to legal action to enforce any provision hereof, or to obtain restitution hereunder, the Lessee shall pay all costs and expenses, including attorney's fees of such action. Providing further, that in the event Lessee breaches this Lease and abandons the demised premises before the end of the term, or if Lessee's right to possession is terminated by City because of a breach of this Lease, City shall have the right to recover from Lessee, as provided in State of California Civil Code Section 1951.2. Damages City may recover shall include the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss for the same period that the Lessee proves could be reasonably avoided. This clause shall not be construed to limit any right or remedy which City may become entitled to by reason of the action(s) or failure(s) to act of Lessee.

28. Waiver of Breach: The waiver by City of any breach by Lessee of any provision contained herein shall not be deemed to be a waiver of such provision, or a waiver of any breach of any other provision contained herein.

29. Bankruptcy: In the event the (a) Lessee shall file a voluntary petition in bankruptcy proceeding; (b) any voluntary or involuntary proceeding for the reorganization of Lessee shall be instituted by anyone other than the City under any of the provisions of the bankruptcy laws of the United States; or (c) a receiver or judicial trustee or custodian shall be appointed for Lessee, or any alien or any writ of attachment, garnishment, execution, or distraint shall be levied upon any of Lessee's rights or interest under this Lease; or (d) there shall be any other assignment of any of Lessee's rights or interest under this Lease by operation of law, then in addition to any and all other rights and remedies available to it, City may, at its option by written notice to Lessee, terminate this Lease and all rights and interest of Lessee and all other persons under this Lease. The term "Lessee," as used in this paragraph, includes any individual, partnership, or corporation who is a Lessee

hereunder, even though several individuals, partnerships, or corporations are such, and includes each partner of any partnership who is a Lessee hereunder. Any consent by City to any sublease, assignment, transfer, mortgage, or conveyance shall not be deemed or construed as a consent to any other different or subsequent sublease, assignment, transfer, mortgage, or conveyance.

30. Quiet Possession: Notwithstanding any other provision in this Lease, City covenants that Lessee, on paying the rent and performing the covenants herein contained, shall and may peaceably and quietly have and enjoy the demised premises for the term hereof.

31. Surrender of Premises: On the last day of said term, or extension thereof, or sooner termination of the Lease, Lessee will peaceably and quietly leave, surrender, and yield up to the City the demised premises in as good condition and repair as at the commencement of Lessee's occupancy, reasonable use and wear thereof, and damage by earthquake, public calamity, by the elements, by acts of God, or by fire or other circumstances over which Lessee has no control, excepted.

32. Removal of Improvement at Termination: Upon the termination of this Lease, or any holding over, for any reason other than Lessee's failure to perform its obligations under the terms and conditions of this Lease, Lessee shall have the right at Lessee's sole cost and expense, to remove all improvements and/or furniture, furnishings, equipment, and fixtures of whatsoever kind or nature placed on the demised premises by Lessee or its contractors so long as they could be removed without damage or disfigurement to the demised premises. Full restoration of the demised premises as it existed prior to the construction of said improvements or the installation of said furniture, furnishings, equipment, and fixtures shall be made by Lessee. If after the termination of this Lease Lessee has not removed said improvements, furniture, furnishings, equipment, and fixtures, the City shall have the option to claim the ownership thereof or to remove same and restore the demised premises as set forth above at the expense of Lessee. Said expense shall also include consideration for the additional time Lessee or its improvements occupy the premises beyond the termination date and disallow the City's total utilization of the premises pursuant to its ownership of the property.

In the event of a termination by City of this Lease because of Lessee's failure to faithfully perform the terms and conditions of this Lease, the City may accept cash or other satisfactory security for the amount of its costs, expense, loss and damage accruing from Lessee's failure to perform and

thereupon the Lessee shall have the right to remove the said improvements.

33. Incorporation of Prior Agreements and Amendments: This Lease contains all agreements of the parties with respect to any matter mentioned herein. No prior agreement or understanding pertaining to any such matter shall be effective. This Lease may be modified in writing only, signed by the parties in interest at the time of modification.

34. Severability: The invalidity of any provision of this Lease as determined by a Court of competent jurisdiction shall in no way affect the validity of any other provision hereof.

35. Construed Pursuant to California Law: The parties hereto agree that the provisions of this Lease will be construed pursuant to the laws of the State of California.

36. Venue: If either Lessee or City initiates an action to enforce the terms hereof or declare rights hereunder, including actions on any bonds and/or surety agreements, the parties agree that the venue thereof shall be the County of Tulare, State of California. Lessee hereby waives any rights he might have to remove any such action pursuant to California Code of Civil Procedure Section 394.

37. Covenants and Conditions: Each provision of this Lease performable by Lessee shall be deemed both a covenant and a condition.

38. Captions: The use of Paragraph headings in this Lease is solely for convenience, and they shall be wholly disregarded in the construction of this Lease.

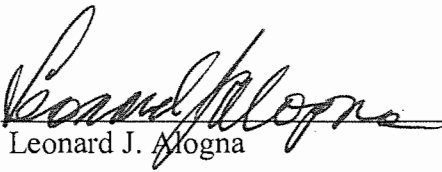
39. Time of Essence: Time is hereby expressly declared to be the essence of this Lease and of each and every provision thereof, and each such provision is hereby made and declared to be a material, necessary, and essential part of this Lease.

IN WITNESS WHEREOF, the parties hereto have executed this Lease on the day and year first herein above written.

CITY OF PORTERVILLE

LESSEE

By: _____
Milt Stowe, Mayor

By:  _____
Leonard J. Alogna

ATTEST:

By: _____
John D. Lollis, City Clerk

APPROVED AS TO FORM:

By: _____
Julia M. Lew, City Attorney



CITY COUNCIL AGENDA – JULY 19, 2016

SUBJECT: Renewal of Airport Lease Agreement - Lot 47

SOURCE: Finance

COMMENT: Mr. James Costa is the current leaseholder of Lot 47 at the Porterville Municipal Airport. The lease expires on July 31, 2016. We have received a request from Mr. Costa, dated June 1, 2016, to renew his lease for a period of ten (10) years. This lot is approximately 6,271.4 square feet in area and will rent for a rate of \$0.305 per square foot with an annual adjustment according to the change in the Consumer Price Index. The Lease will begin on August 1, 2016 and expire on July 31, 2026.

RECOMMENDATION: That City Council approve the Lease Agreement between the City of Porterville and Mr. James Costa for Lot 47 at the Porterville Municipal Airport.

ATTACHMENTS:

1. Locator Map
2. Letter from Mr. Costa requesting renewal
3. Lease Agreement

Appropriated/Funded: MB

Review By:

Department Director:

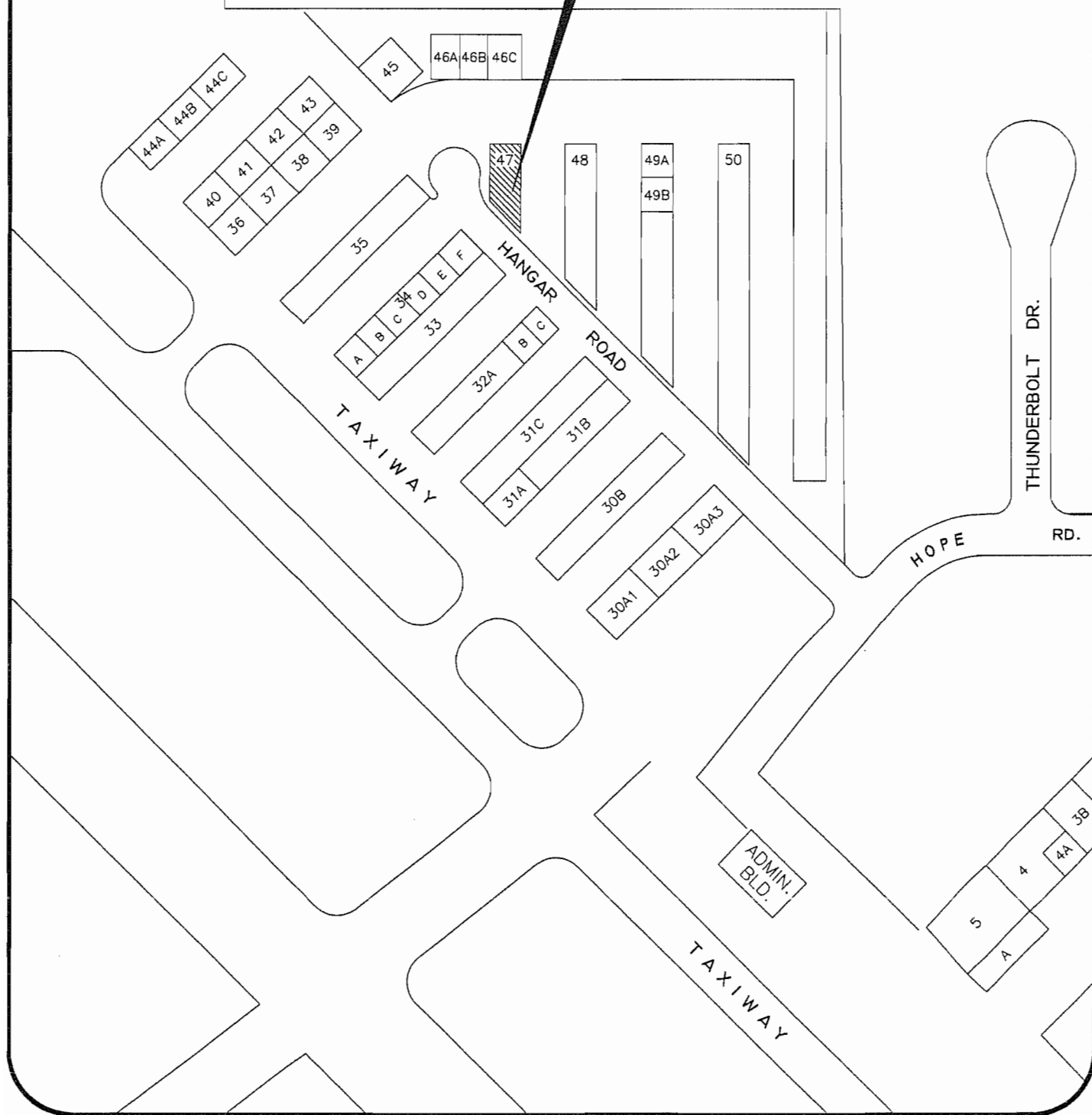
Maria Bemis, Finance Director

Final Approver: John Lollis, City Manager

AIRPORT LEASE SITES



SUBJECT LOCATION



Costa Spraying, Inc.

18250 Road 152

Tulare, CA 93274-9565

Office: (559) 686-3559

Fax: (559) 686-2870

Email: costaspraying@yahoo.com

June 1, 2016

Janie Rodriguez

Accountant

City Of Porterville

291 North Main Street

Porterville, CA 93257

RE: Airport Hangar Lease, Lot 47

Dear Ms. Rodriguez:

I am currently leasing Lot 47 at the Porterville Municipal Airport. The lease is due to expire on July 31, 2016 and I would like to exercise my five-year renewal option at the same price I am now leasing for.

I look forward to hearing from you.

Sincerely,

A handwritten signature in black ink, appearing to read "James Costa", with a long, sweeping horizontal line extending to the right.

James Costa

Exercised 5-yr
renewal option in
2011. Spoke w/ Mr.
Costa and he is
okay w/ standard
lease of 10 years.

LEASE AGREEMENT

PORTERVILLE MUNICIPAL AIRPORT

THIS LEASE AGREEMENT ("Lease"), executed at Porterville, California the first day of August, 2016, by and between the CITY OF PORTERVILLE, a charter city and municipal corporation of the State of California, hereinafter referred to as "City" and James Costa, hereinafter referred to as "Lessee."

WHEREAS, City owns and operates an airport in the City of Porterville, State of California, commonly known and described as "Porterville Municipal Airport"; and

WHEREAS, Lessee desires to lease a portion of said airport for the purpose of operating an existing aircraft hangar to be used for the parking and storage of aircraft and other activities incidental thereto; and

WHEREAS, it is the desire of City to utilize said airport for the general public by its development and use in providing aeronautical-related facilities and service.

NOW, THEREFORE, IT IS MUTUALLY AGREED as follows:

1. Premises: City, for and in consideration of the covenants, conditions, agreements, and stipulations herein set forth, does hereby demise and lease to Lessee, and Lessee hereby hires from City, those certain premises situated in the City of Porterville, State of California, described as Lot 47 at the Porterville Municipal Airport, more particularly described in Exhibit A being attached hereto and by this reference made a part hereof.

2. Term: The term of this Lease shall commence on August 1, 2016, both parties having executed the same, and shall terminate on July 31, 2026, provided Lessee is not in default with respect to any of the conditions or covenants of this lease. Notwithstanding the stated term of the Lease, the City may terminate this Lease at its pleasure and repossess the premises therein described upon three months' notice thereof and upon paying to the lessee the market value of any improvements made or put upon said premises by the lessee. The market value of such improvements shall be determined by a board of appraisers consisting of one appraiser appointed by the council, and a lessee appraiser

appointed by the lessee. The parties will follow Charter Section 68 concerning the determination of the value of the improvements.

3. Rental and Business Privilege Consideration: Lessee agrees to pay to City in lawful money of the United States without deductions or offset, to the Finance Director, City of Porterville, 291 N. Main Street, Porterville, California, 93257, or to such person or persons and at such place or places as may be designated from time to time by City, a rental rate of \$0.305 per square foot per year. Inasmuch as the lease site (See Exhibit "A" attached) contains approximately 6,271.4 square feet of land area, said rental rate will be \$1,912.78 annually, or \$159.40 per month, payable in advance.

Beginning January 1, 2017, and each January 1 thereafter for the term of this Lease, the rate shall be adjusted by a percentage equal to the annual percentage increase or decrease in the Consumer Price Index (CPI). The CPI used shall be a twelve (12) month average of the San Francisco CPI and the Los Angeles CPI as published for October of the prior year. The CPI index will be "All Urban Consumers."

4. Purpose: This Lease is made for the purpose of operating an existing aircraft hangar to be used for the parking and storage of aircraft and other activities incidental thereto. Lessee shall not use the premises or any part thereof or permit them to be used for any purpose or purposes other than stated above. The City reserves the right to conduct on-site inspections for the purpose of compliance with Building Code, Fire Code, and Zoning Ordinance. Lessee shall not do or permit any act or thing to be done upon the premises which constitutes a nuisance or which may disturb the quiet enjoyment of City or any tenant of City on adjacent neighboring property.

Lessee further agrees that, within 72 hours from receiving written notice by the City that a nuisance exists, to abate or otherwise cause said nuisance to be cured.

In the event Lessee has not (a) taken corrective action within 72 hours, or (b) filed an appeal with the City Council, City of Porterville, within 72 hours, then City may enter and abate said nuisance at the expense of Lessee without any liability whatsoever to City for monetary loss or anticipated profits of Lessee or others.

Said appeal to the City Council must be made in writing and be received by the City

Clerk, 291 N. Main Street, Porterville, California, 93257, within 72 hours after Lessee received notice of said nuisance.

5. Right of Ingress and Egress: Lessee shall have the right-of-way to property owned and controlled by City for ingress thereto and egress therefrom for pedestrian, vehicular, and air travel, together with the right to use in common with other Lessee or licensees of City the airplane landing field adjacent to the demised premises. None of these rights are exclusive, but shall be exercised in common with and subject to possible similar rights of other users of said airport. All of the foregoing is subject to such reasonable rules and regulations as the City or its authorized agents may make from time to time. Such rules and regulations, however, shall be reasonable and shall not conflict in any way with similar rules and regulations adopted from time to time by the Federal Aviation Administration or its successor.

6. Condition of Premises: Lessee has inspected the demised premises and knows the extent and condition thereof and accepts same in its present condition, subject to and including all defects, latent and/or patent.

7. Alteration: Lessee shall make no structural modifications to existing structures or make permanent improvements or additions in or on the demised premises without the written consent of the City Airport Manager first being obtained.

8. Maintenance: Lessee agrees to keep the improvements in a good state of repair by periodic maintenance and painting as the same are required and to keep the grounds of Lessee in a good state of maintenance and repair. During the term of this Lease, the City Airport Manager shall have the right to notify Lessee in writing wherein Lessee has failed to maintain said structure and improvements in a good state of repair. Lessee shall make such corrections in the time and manner prescribed by said Airport Manager, or in the event Lessee disagrees, Lessee shall have the right to appeal within fifteen (15) days from date of notice from said Airport Manager to the City Council concerning the request for maintenance made to Lessee by said Airport Manager; it being understood and agreed that the decision of the City Council shall be final.

9. Utilities: Lessee agrees to pay during the term of the Lease, or any holding over, any

and all utilities utilized by it to said demised premises. The term “utilities” as used herein shall include, but is not limited to, telephone, electrical, water, sewer, gas, janitorial, heating, cooling, and trash and refuse disposal service.

10. Utility Extension or Modification: Lessee shall pay any and all expenses that may be incurred in obtaining the extension of public utility services to the demised premises from existing utility facilities or any modifications of same.

11. Taxes and Assessments: Lessee understands that the Lease of the premises creates a possessory interest subject to taxation by the County of Tulare. Lessee agrees to pay all taxes and /or assessments levied by any governmental agency upon any interest acquired by Lessee under the terms of this Lease.

12. Compliance with Law: Lessee shall, at its expense, promptly comply with any and all laws, ordinances, rules, regulations, requirements, and order whatever, present or future, of the national, state, county or city government which may in any way apply to the use, maintenance or occupation of, or operations on the premises.

13. Liens and Encumbrances: Lessee shall keep the premises and all structures and improvements situated thereon free from any liens or encumbrances arising out of any work performed, material furnished, or obligations incurred by Lessee, or from any other cause.

14. Negation of Partnership: City shall not become or be deemed a partner or joint venturer with Lessee or associate in any relationship with Lessee’s operations thereon. City reserves all rights in and with respect to the premises, not inconsistent with Lessee’s use of the premises as in this Lease provided, including (without limiting the generality of the foregoing) the right of City to enter upon the premises for the purpose of installing, using, maintaining, renewing, and replacing such underground oil, gas, water, sewer, and other pipelines, and such underground or aboveground telephone, telegraph, and electric power conduits or lines as City may deem desirable in connection with the development or use of any other property in the neighborhood of the premises. City shall compensate Lessee for any and all damage to Lessee’s improvement and personal property caused by the exercise of the rights reserved in this paragraph.

15. Indemnification: Lessee agrees to indemnify, defend (upon request by the City) and

save harmless the City, its agents, officers, and employees, and each of them, from any and all losses, costs, expenses, claims, liabilities, action, or damages, including liability for injuries to person or persons, or damage to property of third persons arising out of or in any way connected with (a) the conducting or operation of Lessee's business on the demised premises during the term of the Lease or any holding over, or (b) the construction or the removal of any facilities or improvements on the demised premises during the term of this Lease or any holding over.

16. Liability Insurance: Lessee, in order to protect the City, its agents, officers, and employees against all claims and liability for death, injury, loss, and damage as a result of Lessee's (a) use and operations on the demised premises or in connection therewith, or (b) construction or removal of any improvements on the demised premises or in connection therewith, shall name the City as additional insured on Lessee's aircraft insurance policy or policies in the amount of not less than ONE MILLION DOLLARS (\$1,000,000). Coverage shall include General Liability combined Bodily Injury and Property Damage, Single Limits and Aggregate, with a reliable insurance carrier authorized to do such public liability and property damage insurance business in the State of California. Said insurance shall not be subject to cancellation or coverage reduction without thirty (30) days prior written notice to City. Within (10) days from the date of this Lease, Lessee shall file with the City Clerk, City of Porterville, a duly certified Certificate of Insurance evidencing that the herein above mentioned public liability and property damage provisions have been complied with, and setting forth that City, its agents, officers, and employees are named as additional insured. In the event that Lessee shall fail to take out and keep in effect such policy or to furnish evidence thereof to City, City may, at City's option, procure the same, pay the premium thereof and collect same with the next payment of rental due from Lessee or immediately terminate this Lease. The limits of insurance coverage set forth herein may be reviewed by City each January and may be adjusted at such reviews in order to protect the interests of the City.

17. Nondiscrimination: Lessee for itself, its heirs, personal representatives, successors in interest and assigns as part of the consideration hereof does hereby covenant and agree that (1) no person on the grounds of race, color, sex, sexual orientation or national origin shall be excluded from participation, denied the benefits of, or be otherwise subjected to discrimination in the use of said

facilities; (2) that in the construction of any improvements on, over, or under such land and the furnishing of services thereon, no person on the grounds of race, color, sex, sexual orientation or national origin shall be excluded from participation in, denied the benefits of or otherwise be subjected to discrimination; (3) that Lessee shall use the premises in compliance with other requirements imposed by or pursuant to Title 49, Code of Federal Regulations, Department of Transportation, Subtitle A, Office of the Secretary, Part 21, Nondiscrimination in Federally - Assisted Programs of the Department of Transportation - Effectuation of Title VI of the Civil Rights Act of 1964, and as said Regulations and/or services on a fair, equal and not unjustly discriminatory basis to all users thereof and it shall charge a fair, reasonable and not unjustly discriminatory price for each unit or service; provided that Lessee may be allowed to make reasonable and nondiscriminatory discounts, rebates, or similar type of price reductions to volume purchasers.

In the event of breach of any of the above nondiscriminatory covenants, City shall have the right to terminate this Lease and to re-enter and repossess the demised premises and the facilities thereon and hold the same as if the Lease had never been made or issued.

Lessee agrees that it shall insert the above nondiscrimination provisions in any sublease or other agreement by which Lessee grants a right or privilege to any person, firm, or corporation to render accommodations and/or services to the public on the premises herein leased.

18. Improvement of Land Area: City reserves the right to further develop or improve the landing area of the airport as it sees fit regardless of the desires or views of Lessee and without interference or hindrance.

19. Maintenance of Landing Area: City reserves the right to maintain and keep in repair the landing area of the airport and all publicly-owned facilities of the airport, together with the right to direct and control all activities of the Lessee in this regard; providing further, City shall keep and maintain in a safe and operable condition the taxiways, runways (including the lighting thereof) and roadways on the airport during such hours and to such extent as City may determine is reasonably required for the operation of the airport.

20. Lease Subordinate to Agreements with the United States Government:

This Lease shall be subordinate to the provisions and requirements of any existing or future agreement

between the City and the United States relative to the development, operation or maintenance of the airport.

21. Non-Exclusive Right: It is understood and agreed that nothing herein contained shall be construed to grant or authorize the granting of an exclusive right within the meaning of Section 308 (a) of the Federal Aviation Act of 1958. (49 U.S.C. 1349).

22. Rights of United States Government: This Lease and all the provisions hereof shall be subject to whatever right the United States Government now has or in the future may have or acquire, affecting the control, operation, regulation, or taking over of said airport.

23. Notices: All notices herein provided to be given, or which may be given, by either party to the other shall be deemed to have been fully given when made in writing and deposited with the United States Postal Service, Registered or Certified, postage prepaid and addressed as follows:

To the Lessee: James Costa
 18250 Road 152
 Tulare, CA 93274

To the City: Airport Manager
 City of Porterville
 291 N. Main Street
 Porterville, CA 93257

The address to which the notices shall be or may be mailed, as aforesaid, to either party shall or may be changed by written notice given by such party to the other, as hereinbefore provided, but nothing herein contained shall preclude the giving of any such notice by personal service.

24. Authorized Agent of the City: The Airport Manager of the City of Porterville is the duly authorized agent of the City for purposes of this Lease; and as to any obligations assumed herein by Lessee, they shall be performed to the satisfaction of said Airport Manager.

25. Assignment and Subletting: This Lease shall be binding upon and shall inure to the benefit of the heirs, administrators, executors, successors, and assigns of the respective parties hereto. Lessee shall not, and Lessee herewith agrees that it will not, sublet the premises, or any part thereof or assign, transfer, mortgage, or otherwise convey the premises or its rights and interest

hereunder without the prior written consent of the City. In the event the Lessee shall sublet, assign, transfer, mortgage, or otherwise convey the premises or its rights and interest hereunder, or any part thereof, or attempt to do so in violation to the foregoing provision, then in addition to any and all other rights and remedies available to it, the City may, at its option by written notice to Lessee, either declare such sublease, assignment, transfer, mortgage or other conveyance void or terminate this Lease and all rights and interest of Lessee and all other persons hereunder. Any consent by City to any sublease, assignment, transfer, mortgage, or conveyance shall not be deemed or construed as a transfer, mortgage, or conveyance. This clause shall not be construed to limit right or remedy which City may become entitled to by reason of the action(s) or failure(s) to act of Lessee.

26. Hypothecation: Lessee may, with the consent of the City, give, assign, transfer, mortgage, hypothecate, grant control of, or encumber Lessee's interest under this Lease and the leasehold estate so created to a bona-fide lender on the security of the leasehold estate. Any such bona-fide lender shall have the right at any time during the term of the loan and while this Lease is in full force and effect:

(a) To do any act or thing required of Lessee in order to prevent a forfeiture of Lessee's rights hereunder, and all such acts or things so done shall be as effective to prevent a forfeiture of Lessee's rights hereunder by Lessee.

(b) To succeed to the interest of Lessee hereunder and thereafter at such lender's option to convey, assign or sublease the interest or title to said leasehold estate to another person acceptable to City, subject to all the terms, conditions, and covenants of this Lease. Two (2) copies of any and all security devices or instruments shall be filed with City's Airport Manager prior to the effective date thereof, and Lessee shall give Airport Manager prior written notice of any changes or amendments thereto.

Any bona-fide lender shall have the right, if so permitted by the terms and conditions of the concerned instrument of hypothecation between lender and Lessee, to remove any or all of Lessee's improvements under said hypothecation from the demised premises, subject only to the restriction that in the event of such removal, the demised premises herein above described be restored by Lessee to a condition satisfactory to the City's Airport Manager, and that said removal be done in a manner

and at a time satisfactory with said Airport Manager.

27. Breach by Lessee: In the event of the breach by Lessee of any term, condition, or agreement herein contained, and the failure to cure such breach within thirty (30) days after written notice has been given to Lessee by City, this Lease and all privileges herein granted shall be terminated and be of no other force or effect, and Lessee shall immediately surrender possession of the premises hereby granted, and in the event City has to resort to legal action to enforce any provision hereof, or to obtain restitution hereunder, the Lessee shall pay all costs and expenses, including attorney's fees of such action. Providing further, that in the event Lessee breaches this Lease and abandons the demised premises before the end of the term, or if Lessee's right to possession is terminated by City because of a breach of this Lease, City shall have the right to recover from Lessee, as provided in State of California Civil Code Section 1951.2. Damages City may recover shall include the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss for the same period that the Lessee proves could be reasonably avoided. This clause shall not be construed to limit any right or remedy which City may become entitled to by reason of the action(s) or failure(s) to act of Lessee.

28. Waiver of Breach: The waiver by City of any breach by Lessee of any provision contained herein shall not be deemed to be a waiver of such provision, or a waiver of any breach of any other provision contained herein.

29. Bankruptcy: In the event the (a) Lessee shall file a voluntary petition in bankruptcy proceeding; (b) any voluntary or involuntary proceeding for the reorganization of Lessee shall be instituted by anyone other than the City under any of the provisions of the bankruptcy laws of the United States; or (c) a receiver or judicial trustee or custodian shall be appointed for Lessee, or any alien or any writ of attachment, garnishment, execution, or distraint shall be levied upon any of Lessee's rights or interest under this Lease; or (d) there shall be any other assignment of any of Lessee's rights or interest under this Lease by operation of law, then in addition to any and all other rights and remedies available to it, City may, at its option by written notice to Lessee, terminate this Lease and all rights and interest of Lessee and all other persons under this Lease. The term "Lessee," as used in this paragraph, includes any individual, partnership, or corporation who is a Lessee

hereunder, even though several individuals, partnerships, or corporations are such, and includes each partner of any partnership who is a Lessee hereunder. Any consent by City to any sublease, assignment, transfer, mortgage, or conveyance shall not be deemed or construed as a consent to any other different or subsequent sublease, assignment, transfer, mortgage, or conveyance.

30. Quiet Possession: Notwithstanding any other provision in this Lease, City covenants that Lessee, on paying the rent and performing the covenants herein contained, shall and may peaceably and quietly have and enjoy the demised premises for the term hereof.

31. Surrender of Premises: On the last day of said term, or extension thereof, or sooner termination of the Lease, Lessee will peaceably and quietly leave, surrender, and yield up to the City the demised premises in as good condition and repair as at the commencement of Lessee's occupancy, reasonable use and wear thereof, and damage by earthquake, public calamity, by the elements, by acts of God, or by fire or other circumstances over which Lessee has no control, excepted.

32. Removal of Improvement at Termination: Upon the termination of this Lease, or any holding over, for any reason other than Lessee's failure to perform its obligations under the terms and conditions of this Lease, Lessee shall have the right at Lessee's sole cost and expense, to remove all improvements and/or furniture, furnishings, equipment, and fixtures of whatsoever kind or nature placed on the demised premises by Lessee or its contractors so long as they could be removed without damage or disfigurement to the demised premises. Full restoration of the demised premises as it existed prior to the construction of said improvements or the installation of said furniture, furnishings, equipment, and fixtures shall be made by Lessee. If after the termination of this Lease Lessee has not removed said improvements, furniture, furnishings, equipment, and fixtures, the City shall have the option to claim the ownership thereof or to remove same and restore the demised premises as set forth above at the expense of Lessee. Said expense shall also include consideration for the additional time Lessee or its improvements occupy the premises beyond the termination date and disallow the City's total utilization of the premises pursuant to its ownership of the property.

In the event of a termination by City of this Lease because of Lessee's failure to faithfully perform the terms and conditions of this Lease, the City may accept cash or other satisfactory security for the amount of its costs, expense, loss and damage accruing from Lessee's failure to perform and

thereupon the Lessee shall have the right to remove the said improvements.

33. Incorporation of Prior Agreements and Amendments: This Lease contains all agreements of the parties with respect to any matter mentioned herein. No prior agreement or understanding pertaining to any such matter shall be effective. This Lease may be modified in writing only, signed by the parties in interest at the time of modification.

34. Severability: The invalidity of any provision of this Lease as determined by a Court of competent jurisdiction shall in no way affect the validity of any other provision hereof.

35. Construed Pursuant to California Law: The parties hereto agree that the provisions of this Lease will be construed pursuant to the laws of the State of California.

36. Venue: If either Lessee or City initiates an action to enforce the terms hereof or declare rights hereunder, including actions on any bonds and/or surety agreements, the parties agree that the venue thereof shall be the County of Tulare, State of California. Lessee hereby waives any rights he might have to remove any such action pursuant to California Code of Civil Procedure Section 394.

37. Covenants and Conditions: Each provision of this Lease performable by Lessee shall be deemed both a covenant and a condition.

38. Captions: The use of Paragraph headings in this Lease is solely for convenience, and they shall be wholly disregarded in the construction of this Lease.

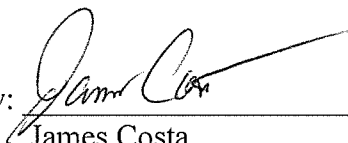
39. Time of Essence: Time is hereby expressly declared to be the essence of this Lease and of each and every provision thereof, and each such provision is hereby made and declared to be a material, necessary, and essential part of this Lease.

IN WITNESS WHEREOF, the parties hereto have executed this Lease on the day and year first herein above written.

CITY OF PORTERVILLE

LESSEE

By: _____
Milt Stowe, Mayor

By:  _____
James Costa

ATTEST:

By: _____
John D. Lollis, City Clerk

APPROVED AS TO FORM:

By: _____
Julia M. Lew, City Attorney



CITY COUNCIL AGENDA – JULY 19, 2016

SUBJECT: Approval of Amendment to the Waste Disposal Agreement between the City of Porterville and the County of Tulare

SOURCE: Public Works

COMMENT: On July 1, 2014, the County of Tulare ceased operations at the Woodville Landfill facility and reopened the Teapot Dome Landfill facility to full operation. The County then negotiated waste disposal agreements with local cities and haulers that included a lower tipping fee.

On March 17, 2015, Council authorized entering into a 2-year agreement, commencing August 1, 2014, with an option of three, 1-year extensions with the County of Tulare for the disposal of solid waste at \$28 per ton. The current agreement is set to expire on July 31, 2016, and the County would like to renew the agreement for another year at the \$28 per ton tipping rate. The expenditure amount budgeted for solid waste disposal for the 2016/2017 fiscal year is \$987,000.

Staff recommends that City Council authorize the Mayor to sign the Amendment to the agreement with the County of Tulare extending the original agreement for one year.

RECOMMENDATION: That the City Council approve and authorize the Mayor to sign the Amendment to the Waste Disposal Agreement with the County of Tulare.

ATTACHMENTS:

1. Amendment to Agreement
2. Waste Disposal Agreement

Appropriated/Funded: MB

Review By:

Department Director:

Mike Reed, City Engineer

Final Approver: John Lollis, City Manager

FIRST AMENDMENT TO AGREEMENT

Tulare County Agreement Number 27048 is amended on _____, between the **COUNTY OF TULARE**, hereinafter referred to as "COUNTY" and City of Porterville, hereinafter referred to as 'CITY' with reference to the following:

A. The COUNTY and CITY entered into Agreement No. 27048, on August 1, 2014, for the purpose of creating a Waste Disposal Agreement to deliver or cause the delivery of Controllable Waste to the Disposal System;

B. The COUNTY and CITY agree to amend Agreement No. 27048 to extend the date of termination to July 31, 2017;

C. This amendment shall become effective August 1, 2016.

ACCORDINGLY, IT IS AGREED:

I. Effective August 1, 2016, section 6.1 EFFECTIVE DATE AND TERM is hereby revised to identify the new termination date of July 31, 2017.

II. Except as provided above, all other terms and conditions of Agreement No. 27048 shall remain in full force and effect.

///

///

///

///

///

///

///

///

///

///



///

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

COUNTY OF TULARE

Date_____

By_____

Chairman, Board of Supervisors

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

By_____

Deputy Clerk

City of Porterville

By_____

Title Mayor

Date_____

By_____

Title Clerk

Date_____



WASTE DISPOSAL AGREEMENT

Between

THE COUNTY OF TULARE, CALIFORNIA

and
the

CITY OF PORTERVILLE, CALIFORNIA

April 7
Dated , 2015

County Authorization Date:

City Authorization Date:

March 17, 2015

County Notice Address:

City Notice Address:

Director
Solid Waste Department
5961 S Mooney Blvd, Visalia, CA
Visalia, CA

City Manager
291 N. Main Street
Porterville, CA 93257

TULARE COUNTY AGREEMENT NO. 27048

TABLE OF CONTENTS

Page

ARTICLE I DEFINITIONS AND INTERPRETATION

Section 1.1	DEFINITIONS.....	3
Section 1.2	INTERPRETATION.....	8

ARTICLE II REPRESENTATIONS AND WARRANTIES

Section 2.1	REPRESENTATIONS AND WARRANTIES OF THE CITY	9
Section 2.2	REPRESENTATIONS AND WARRANTIES OF THE COUNTY	9

ARTICLE III DELIVERY AND ACCEPTANCE OF WASTE AND PROVISION OF DISPOSAL SERVICE

Section 3.1	DELIVERY OF WASTE	9
Section 3.2	PROVISION OF DISPOSAL SERVICES BY THE COUNTY	10
Section 3.3	COUNTY RIGHT TO REFUSE WASTE.	11
Section 3.4	MISCELLANEOUS OPERATIONAL MATTERS.	12
Section 3.5	OTHER USERS OF THE DISPOSAL SYSTEM.....	12

ARTICLE IV CONTRACT RATE

Section 4.1	CHARGING AND SECURING PAYMENT OF CONTRACT RATE	12
Section 4.2	CONTRACT RATE.....	13
Section 4.3	RESPONSIBILITY FOR PAYMENT OF THE CONTRACT RATE.	13
Section 4.4	BILLING OF THE CONTRACT RATE	14

ARTICLE V BREACH, ENFORCEMENT AND TERMINATION

Section 5.1	BREACH	14
Section 5.2	CITY CONVENIENCE TERMINATION.....	14
Section 5.3	TERMINATION.....	14
Section 5.4	NO WAIVERS.....	14
Section 5.5	FORUM FOR DISPUTE RESOLUTION	15

ARTICLE VI TERM

Section 6.1	EFFECTIVE DATE AND TERM.	15
Section 6.2	COMMENCEMENT DATE.....	15

ARTICLE VII GENERAL PROVISIONS

Section 7.1	OPERATION AND MAINTENANCE OF THE DISPOSAL SYSTEM	15
Section 7.2	UNCONTROLLABLE CIRCUMSTANCES GENERALLY.	15
Section 7.3	INDEMNIFICATION.....	16
Section 7.4	LIMITED RECOURSE.....	16

Section 7.5	PRE-EXISTING RIGHTS AND LIABILITIES	17
Section 7.6	NO VESTED RIGHTS	17
Section 7.7	LIABILITY FOR COLLECTION, TRANSPORTATION AND PROCESSING	17
Section 7.8	AMENDMENTS.....	17
Section 7.9	NOTICE OF LITIGATION	17
Section 7.10	FURTHER ASSURANCES.....	17
Section 7.11	ASSIGNMENT OF AGREEMENT.	17
Section 7.12	INTEREST ON OVERDUE OBLIGATIONS	17
Section 7.13	BINDING EFFECT	17
Section 7.14	NOTICES.....	17

WASTE DISPOSAL AGREEMENT

THIS WASTE DISPOSAL AGREEMENT is made and dated as of August 1, 2014, between the County of Tulare, a political subdivision of the State of California (the "County"), and the City of Porterville, A California Municipal Corporation and charter city (the "City").

RECITALS

The County owns, manages and operates a sanitary landfill system for the disposal of municipal solid waste generated by the cities and the unincorporated area within the County (the "Disposal System").

The Disposal System includes two active landfill sites, the Visalia site and the Teapot Dome site.

The Disposal System is used for the disposal of municipal solid waste which is not reused, recycled or otherwise diverted from landfill disposal, pursuant to the California Integrated Waste Management Act of 1989 (Division 30 of the California Public Resources Code) (the "Act").

The City owns, manages and operates a collection system for the disposal of municipal solid waste generated within the City pursuant to the City's charter.

The City and the County desire to enter into this agreement.

The City has determined that the execution of this Agreement by the City will serve the public health, safety and welfare of the City's residents by providing greater disposal rate stability, promote more predictable and reliable long-term disposal service costs, complement and enhance County's efforts with regard to making the County-wide Disposal System more businesslike and sound on a long term basis and promote sound environmental management.

The County has determined that the execution by the County of this Agreement will serve the public health, safety and welfare by providing a more stable, predictable and reliable supply of municipal solid waste and the resulting service payment revenue to the Disposal System, thereby enabling the County to plan, manage, operate and finance improvements to the Disposal System on a more prudent and sound long term, businesslike basis.

It is, therefore, agreed as follows:

ARTICLE I DEFINITIONS AND INTERPRETATION

SECTION 1.1 DEFINITIONS. As used in this Agreement, the following terms shall have the meanings set forth below.

"Acceptable Waste" means all garbage, refuse, rubbish and other materials and substances discarded or rejected as being spent, useless, worthless or in excess to the owners at the time of such discard or rejection and which are normally disposed of by or collected from residential (single family and multi-family), commercial, industrial, governmental and institutional establishments and which are acceptable at Class III landfills under Applicable Law.

"Act" means the California Integrated Waste Management Act of 1989 (Division 30 of the California Public Resources Code), as amended, supplemented, superseded and replaced from time to time.

"Agreement" means this Waste Disposal Agreement between the County and the City as the same may be amended or modified from time to time in accordance herewith.

“Appendix” means an appendix to this Agreement, as the same may be amended or modified from time to time in accordance with the terms hereof

“Applicable Law” means the Act, the Tulare County Code, CERCLA, RCRA, CEQA, any Legal Entitlement and any federal or state rule, regulation, requirement, guideline, permit, action, determination or order of any Governmental Body having jurisdiction, applicable from time to time to the siting, design, permitting, acquisition, construction, equipping, financing, ownership, possession, operation or maintenance of the Disposal System, the transfer, handling, transportation and disposal of Acceptable Waste, Unacceptable Waste, or any other transaction or matter contemplated hereby (including any of the foregoing which concern health, safety, fire, environmental protection, mitigation monitoring plans and building codes).

“CalRecycle” means the California Department of Resources Recycling and Recovery.

“CEQA” means the California Environmental Quality Act, codified at Cal. Pub. Res. Code Section 21000 *et seq.* as amended or superseded, and the regulations promulgated thereunder.

“CERCLA” means the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C.A. Section 9601 *et seq.*, as amended or superseded, and the regulations promulgated thereunder.

“Change in Law” means any of the following events or conditions which has a material and significant effect on the performance by the parties of their respective obligations under this Agreement (except for payment obligations), or on the siting, design, permitting, acquisition, construction, equipping, financing, ownership, possession, operation or maintenance of the Disposal System or other matters to which Applicable Law applies:

(1) enactment, adoption, promulgation, issuance, material modification or written change in administrative or judicial interpretation on or after the Commencement Date of any Applicable Law (other than Applicable Law enacted by the County);

(2) the order or judgment of any Governmental Body (other than the County), on or after the Commencement Date, to the extent such order or judgment is not the result of willful or negligent action, error or omission or lack of reasonable diligence of the County or of the City, whichever is asserting the occurrence of a Change in Law; provided, however, that the contesting in good faith or the failure in good faith to contest any such order or judgment shall not constitute or be construed as such a willful or negligent action, error or omission or lack of reasonable diligence; or

(3) the denial of an application for, delay in the review, issuance or renewal of, or suspension, termination, interruption, imposition of a new or more stringent condition in connection with the issuance, renewal or failure of issuance or renewal on or after the Commencement Date of any Legal Entitlement to the extent that such denial, delay, suspension, termination, interruption, imposition or failure materially and adversely interferes with the performance of this Agreement, if and to the extent that such denial, delay, suspension, termination, interruption, imposition or failure is not the result of willful or negligent action, error or omission or a lack of reasonable diligence of the County or of the City, whichever is asserting the occurrence of a Change in Law; provided, however that the contesting in good faith or the failure in good faith to contest any such denial, delay, suspension, termination, interruption, imposition or failure shall not be construed as such a willful or negligent action, error or omission or lack of reasonable diligence.

(4) any new or revised requirements imposed by Law upon the Department after the Commencement Date of this Agreement relating to the funding or provision of disposal services, including but not limited to any regulations for disposal operations or activities associated with the remediation, closure, funding or monitoring of closed sites with respect to facilities comprising the Disposal System, or facilities which the County previously utilized to provide waste disposal, transfer, recycling, processing or other waste related activities.

“City” means, as applicable, the City of Porterville and party to this Agreement.

“City Acceptable Waste” means all Acceptable Waste which was originally discarded by the first generator thereof within the geographical limits of the City, and Residue from the foregoing wherever produced, whether within or outside the City (or Tonnage equivalencies of such Residues, as and to the extent provided in subsection 3.1(C) hereof).

“Commencement Date” means the date on which the obligations of the parties hereto commence, established as provided in Section 6.2(A) hereof.

“Contract Date” means the first date on which this Agreement has been executed by both parties hereto.

“Contract Rate” has the meaning specified in Section 4.2 hereof.

“Contract Year” means the fiscal year commencing on July 1 in any year and ending on June 30 of the following year.

“Controllable Waste” means all City Acceptable Waste with respect to which the City has the legal or contractual ability to determine the disposal location therefor and which is:

- (1) Non-Recycled City Acceptable Waste;
- (2) not generated from the operations of the Governmental Bodies which, under Applicable Law, have the independent power to arrange for the disposal of the waste they generate.

“County” means the County of Tulare, a political subdivision of the State of California and party to this Agreement.

“County Plan” means the integrated waste management plan of the County approved by the CalRecycle pursuant to the Act as in effect from time to time.

“County Solid Waste Enterprise Fund” means the waste management enterprise fund established and managed by the County pursuant to Section 25261 of the Government Code separate from its other funds and accounts for receipts and disbursements in connection with the Disposal System.

“Department” means Tulare County Solid Waste Department, and any agency, department or other Governmental Body which succeeds to the duties and powers thereof.

“Disposal Services” means the solid waste disposal services to be provided by the County pursuant to the Service Covenant and otherwise hereunder.

“Disposal System” means the Tulare County Waste Disposal System which includes solid waste disposal operations at any of the two landfills (Visalia or Teapot Dome) and any future sites owned by County and which are made active in the County’s discretion.

“Corrective Action Fund” means the fund or funds held by the County to pay unanticipated costs of environmental mitigation, remediation or liability.

“Governmental Body” means any federal, State, county, city or regional legislative, executive, judicial or other governmental board, agency, authority, commission, administration, court or other body, or any officer thereof acting within the scope of his or her authority.

“Hazardous Substance” has the meaning given such term in CERCLA, the Carpenter-Presley-Tanner Hazardous Substance Account Act (California Health and Safety Code Section 25300 *et seq.*), and Titles 22 and 26 of the California Code of Regulations and other regulations promulgated thereunder.

“Hazardous Waste” means (a) any waste which by reason of its quality, concentration, composition or physical, chemical or infectious characteristics may do either of the following: cause, or significantly contribute to, an increase in mortality or an increase in serious irreversible, or incapacitating reversible, illness, or pose a substantial threat or potential hazard to human health or the environment, or any waste which is defined or regulated as a hazardous waste, toxic substance, hazardous chemical substance or mixture, or asbestos under Applicable Law, as amended from time to time including, but not limited to: (1) the Resource Conservation and Recovery Act and the regulations contained in 40 CFR Parts 260-281; (2) the Toxic Substances Control Act (15 U.S.C. Sections 2601 *et seq.*) and the regulations contained in 40 CFR Parts 761-766; (3) the California Health and Safety Code, Section 25117 (West 1992 & Supp. 1996); (4) the California Public Resources Code, Section 40141 (West 1996); and (5) future additional or substitute Applicable Law pertaining to the identification, treatment, storage or disposal of toxic substances or hazardous wastes; or (b) radioactive materials which are source, special nuclear or by-product material as defined by the Atomic Energy Act of 1954 (42 U.S.C. Section 2011 *et seq.*) and the regulations contained in 10 CFR Part 40.

“Initial Term” has the meaning specified in Section 6.1(A) hereof.

“Law” means the statutes adopted by the legislative bodies and signed into law by the President or Governor, respectively, of the United States of America (Federal) or by the State of California (State); Federal and State administrative laws; final decisions by Federal or State Appellate and Supreme Courts.

“Legal Entitlement” means all permits, licenses, approvals, authorizations, consents and entitlements of whatever kind and however described which are required under Applicable Law to be obtained or maintained by any person with respect to the Disposal System or the performance of any obligation under this Agreement or the matters covered hereby.

“Legal Proceeding” means every action, suit, litigation, arbitration, administrative proceeding, and other legal or equitable proceeding having a bearing upon this Agreement.

“Loss-and-Expense” means any and all loss, liability, obligation, damage, delay, penalty, judgment, deposit, cost, expense, claim, demand, charge, tax, or expense, including all fees and costs.

“Non-Recycled City Acceptable Waste” means all City Acceptable Waste other than Recycled City Acceptable Waste.

“Overdue Rate” means the maximum rate of interest permitted by the laws of the State or 1% per month whichever is lower.

“Posted Disposal Rate” means the per ton tipping fee charged by the County for the disposal of solid waste at the Disposal System by parties which are not entitled to disposal service at the Contract Rate pursuant to this Agreement, or any other agreements that may be in place.

“Prohibited Medical Waste” means any medical or infectious waste prohibited or restricted under Applicable Law from being received by or disposed at the Disposal System.

“Qualified Household Hazardous Waste” means waste materials discarded from households as opposed to businesses determined by the Board, the Department of Health Services, the State Water Resources Control Board, or the Air Resources Board to be any of the following:

- (1) Of a nature that they must be listed as hazardous in State statutes and regulations;
- (2) Toxic/ignitable/corrosive/reactive;
- (3) Carcinogenic/mutagenic/teratogenic;

. Qualified Household Hazardous Waste shall not include Unacceptable Waste.

"Recycled City Acceptable Waste" means any otherwise Controllable Waste which is separated from Acceptable Waste by the generator thereof or by processing and which is "recycled" within the meaning of Section 40180 of the Public Resources Code.

"Renewal Term" has the meaning specified in Subsection 6.1(B) hereof.

"Residue" means any material remaining from the processing, by any means and to any extent, of City Acceptable Waste or Recycled City Acceptable Waste; provided, however, that Residue shall not include minimal amounts of material remaining after such processing (which minimal amounts shall in no event exceed 10% of the amount of such City Acceptable Waste or Recycled City Acceptable Waste prior to processing).

"Resource Conservation and Recovery Act" or "RCRA" means the Resource Conservation and Recovery Act, 42 U.S.C.A. Section 6901 *et seq.*, as amended and superseded.

"Self-Hauled Waste" means City Acceptable Waste collected and hauled by Self-Haulers.

"Self-Hauler" means any person not engaged commercially in waste haulage who collects and hauls Acceptable Waste generated from residential or business activities conducted by such person.

"Service Covenant" means the covenants and agreements of the County set forth in Sections 3.2 and 3.3 hereof.

"Source-Separated Household Hazardous Waste" means Qualified Household Hazardous Waste which has been segregated from Acceptable Waste originating or generated within the geographical jurisdiction of the City at the source or location of generation.

"Source-Separated Household Hazardous Waste Disposal System" means the collection centers, facilities, contracts and other arrangements owned or administered by the County for the receipt, handling and disposal of Source-Separated Household Hazardous Waste.

"State" means the State of California.

"Term" shall mean the Term of this Agreement.

"Ton" means 2,000 pounds.

"Transfer Station" means any materials recovery facility, composting facility, intermediate processing facility, recycling center, transfer station or other waste handling or management facility to which solid waste collected for the City is delivered for processing before disposal in the Disposal System.

"Unacceptable Waste" means Hazardous Waste; Hazardous Substances; Prohibited Medical Waste; Qualified Household Hazardous Waste separated from Acceptable Waste; explosives, ordnance, highly flammable substances, and noxious materials and lead-acid batteries (except if delivered in minimal quantities); drums and closed containers; liquid waste, oil, human wastes; machinery and equipment from commercial or industrial sources, such as hardened gears, shafts, motor vehicles or major components thereof, agricultural equipment, trailers, marine vessels and steel cable; hot loads; and any waste which the Disposal System is prohibited from receiving under Applicable Law.

"Uncontrollable Circumstance" means any act, event or condition affecting the Disposal System, the County, the City, or contractors or suppliers to the extent that it materially and adversely affects the ability of either party to perform any obligation under the Agreement (except for payment obligations), if such act, event or condition is beyond the reasonable control of and is not also the result of the willful or negligent act, error or omission or failure to exercise reasonable diligence on the part of the party relying thereon as justification for not performing an obligation or complying with any condition required of such party under the Agreement; provided, however, that the contesting in good faith or the failure in good faith to contest such action or inaction shall not be

construed as willful or negligent action or a lack of reasonable diligence of either party. Examples of Uncontrollable Circumstances are:

(1) landslide, lightning, earthquake, fire, explosion, flood, sabotage or similar occurrence, acts of a public enemy, extortion, war, blockade or insurrection, riot or civil disturbance; and

(2) a Change in Law; and

(3) a strike or labor action taken against either party by a local public employee organization under the provisions of Government Code section 3500, et. Seq (the Meyers-Milias-Brown Act) that effects either party's ability to perform under the Agreement.

"Unincorporated Area" means those portions of the County which are not contained within the jurisdictional boundaries of incorporated cities.

"Waste Disposal Covenant" means the covenants and agreements of the City set forth in Section 3.1 hereof.

SECTION 1.2 INTERPRETATION. In this Agreement, unless the context otherwise requires:

(A) References Hereto. The terms "hereby", "hereof", "herein", "hereunder" and any similar terms refer to this Agreement, and the term "hereafter" means after, and the term "heretofore" means before, the Contract Date.

(B) Gender and Plurality. Words of the masculine gender mean and include correlative words of the feminine and neuter genders and words importing the singular number mean and include the plural number and vice versa.

(C) Persons. Words importing persons include firms, companies, associations, general partnerships, limited partnerships, trusts, business trusts, corporations and other legal entities, including public bodies, as well as individuals.

(D) Headings. The table of contents and any headings preceding the text of the Articles, Sections and subsections of this Agreement shall be solely for convenience of reference and shall not constitute a part of this Agreement, nor shall they affect its meaning, construction or effect.

(E) No Third Party Beneficiaries. 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.

(F) Applicable Law. This Agreement shall be governed by and construed in accordance with the applicable laws of the State of California.

(G) Conflict With Laws Or Regulations/Severability: This Agreement is subject to all applicable laws and regulations. If any provision of this Agreement is found by any court or other legal authority, or is agreed by the parties to be, in conflict with any code or regulation governing its subject matter, only 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.

(H) Recitals. The recitals and the exhibits to this Agreement are fully incorporated into and are integral parts of this Agreement.

ARTICLE II
REPRESENTATIONS AND WARRANTIES

SECTION 2.1 REPRESENTATIONS AND WARRANTIES OF THE CITY. The City represents and warrants that:

(A) Existence. The City is a charter city validly existing under the Constitution and laws of the State.

(B) Due Authorization. The City has duly authorized the execution and delivery of this Agreement, and this Agreement has been duly executed and delivered by the City.

SECTION 2.2 REPRESENTATIONS AND WARRANTIES OF THE COUNTY. The County represents and warrants that:

(A) Existence. The County is a political subdivision of the State of California validly existing under the Constitution and laws of the State.

(B) Due Authorization. The County has duly authorized the execution and delivery of this Agreement, and this Agreement has been duly executed and delivered by the County.

ARTICLE III
DELIVERY AND ACCEPTANCE OF WASTE
AND PROVISION OF DISPOSAL SERVICE

SECTION 3.1 DELIVERY OF WASTE.

(A) Waste Disposal Covenant. Subject to the occurrence of the Commencement Date and throughout the Term of this Agreement, the City shall exercise all legal and contractual power and authority which it may possess to deliver or cause the delivery of Controllable Waste to the Disposal System in accordance herewith that is not subject to any other agreements or regulations.

(B) Recycled City Acceptable Waste. The parties hereto acknowledge the responsibility of the City to meet the recycling and landfill diversion goals contained in the Act. Nothing in this Agreement is intended or shall be interpreted to prohibit or impair the ability of the City to meet such responsibilities, or to restrict the right of the residents, businesses or organizations in the City to practice source separation, recycling, composting or other materials recovery activities, or to restrict the right of the City to conduct, sponsor, encourage or require such activities in any form. No reduction in the amount of Controllable Waste generated in the City and delivered to the Disposal System by or on behalf of the City which may result from any such source separation or recycling program shall cause the City any liability hereunder (other than potential adjustment to the Contract Rate to the extent provided in Article IV hereof) and shall not constitute a breach of this Agreement.

(C) Waste Delivered to Transfer Station. Residue from any processing of Controllable Waste by materials recovery, composting, recycling or other means, wherever performed, shall constitute Controllable Waste and be subject to the Waste Disposal Covenant. Where City Acceptable Waste is processed at a facility which concurrently processes other Acceptable Waste in a manner which produces commingled residue which cannot be traced to a geographic source, generic residues from such facility in Tonnage equal to the residues that would have been produced had City Acceptable Waste only been processed at the facility shall constitute Controllable Waste and be subject to the Waste Disposal Covenant.

(D) Waste Flow Enforcement. The City acknowledges and agrees that in the event of a breach of the Waste Disposal Covenant by the City, the City shall pay the County an amount equal to the amount that the City would have been required to pay to the County had the Waste Disposal Covenant not been breached, which shall be calculated by (x) subtracting the number of tons actually delivered during the month(s) of the breach from the number of tons that were delivered during the same month(s) closest in time when there was no such

breach, even if such month(s) closest in time was prior to the Term, and (y) multiplying such amount by the Contract Rate in effect at the time of such breach (or any higher rate with respect to which the County has provided notice pursuant to Section 7.15). In the event that the County terminates the Waste Disposal Agreement as a result of such breach and in compliance with section 5.3 (B), the damages due as a result of such termination shall be equal to (aa) the average monthly tonnage amount delivered by the City over the twelve month period prior to the commencement of the breach multiplied by (bb) the Contract Rate in effect at the time of such breach (or any higher rate with respect to which the County has provided notice pursuant to Section 7.15), multiplied by (cc) the number of months that would have remained in the Term of the Agreement had the termination not occurred. The parties recognize that if the City fails to meet its obligations hereunder, the County will suffer damages and that it is and will be impracticable and extremely difficult to ascertain and determine the exact amount of such damages. Therefore, the parties agree that the damages specified above represent a reasonable estimate of the amount of such damages, considering all of the circumstances existing on the date hereto, including the relationship of the sums to the range of harm to the County that reasonably could be anticipated and anticipation that proof of actual damages would be costly or inconvenient. In signing this Agreement, each party specifically confirms the accuracy of the statements made above and the fact that each party had ample opportunity to consult with legal counsel and obtain an explanation of this liquidated damage provision at the time that this Agreement was made.

(E) Waste Information System. The City shall cooperate with the Department in collecting information in order to assure compliance with this Agreement. Such information may include, to the extent practicable, data pertaining to Controllable Waste collected, transported, stored, processed and disposed of, Recycled City Acceptable Waste collected, transported, stored, processed and marketed or disposed of, permit or license terms, collection areas, transportation routes and compliance with Applicable Law; and all other information which may reasonably be required by the Department in connection with this Agreement.

(F) City Actions Affecting County. The City agrees to carry out and fulfill its responsibilities under this Agreement and Applicable Law so as to permit full and timely compliance by the County with its covenants and agreements with the State. In particular, with regard to the minimum tonnage amount specified in the Waste Disposal Covenant, the City agrees not to conduct, authorize or permit any disposal services for Controllable Waste to be provided in competition with the Disposal Services provided by the County hereunder, and not to take or omit to take any action with respect to the minimum Controllable Waste or its collection, transportation, transfer, storage, treatment or disposal that may materially and adversely affect the County's ability to achieve such timely compliance. Notwithstanding the foregoing, the City shall not be required to deny any permit or license or refuse to grant any approval while exercising its police powers.

(G) No Right of Waste Substitution. Nothing in this Agreement shall authorize or entitle the City to deliver or cause the delivery to the Disposal System of Acceptable Waste originating from or generated outside the jurisdiction of the City, nor obligate the County to receive or dispose of any such Acceptable Waste. The City shall not assign in whole or in part its right to deliver or cause to be delivered Controllable Waste to the County hereunder, and shall not permit any Acceptable Waste originating from or generated outside the jurisdiction of the City to be substituted for Controllable Waste for any purpose hereunder.

(H) Annexations and Restructuring. It is the intention of the parties that this Agreement and the obligations and rights of the City hereunder, including particularly the Waste Disposal Covenant and the Contract Rate, shall, to the extent permitted by Applicable Law, extend to any territory annexed by the City and shall bind any successor or restructured Governmental Body which shall assume or succeed to the rights of the City under Applicable Law.

SECTION 3.2 PROVISION OF DISPOSAL SERVICES BY THE COUNTY.

(B) Service Covenant. Commencing on the Commencement Date, the County shall provide or cause the provision of the service of (1) receiving and disposing of all Controllable Waste at the Disposal System, (2) disposing in accordance with subsection 3.2(C) hereof of Controllable Waste which, at any time and for any reason, is in excess of the disposal capacity of the Disposal System, and (3) in accordance with subsection 3.3(C) hereof, disposing of Unacceptable Waste inadvertently accepted at the Disposal System. The County, to the maximum extent permitted under Applicable Law, shall use its best efforts to keep the Visalia and Teapot Dome Landfills open for the receipt of waste for disposal of Controllable Waste pursuant to this Agreement. The County

shall do and perform all acts and things which may be necessary or desirable in connection with its covenants in this subsection, including without limitation all planning, development, administration, implementation, construction, operation, maintenance, management, financing and contract work related thereto or undertaken in connection therewith. The County shall exercise all reasonable efforts to minimize the costs incurred in complying with the Service Covenant consistent with its responsibilities hereunder and under this Agreement, Applicable Law and prudent solid waste management practice and environmental considerations. Compliance with Service Covenant Not Excused for any Reason. Commencing on the Commencement Date, the obligations of the County to duly observe and comply with the Service Covenant shall apply continuously and without interruption for the Term of this Agreement. In the event that any Change in Law or other Uncontrollable Circumstance impairs or precludes compliance with the Service Covenant with the means or methods then being employed by the County, the County shall implement alternative or substitute means and methods to enable it to satisfy the terms and conditions of the Service Covenant. In the event that a Change in Law precludes the County from complying with such covenants with the means or methods then being employed and from utilizing any alternate or substitute means or methods of compliance, the County shall continuously use all reasonable efforts to effectuate executive, legislative or judicial change in or relief from the applicability of such law so as to enable the County lawfully to resume compliance with such covenants as soon as possible following the Change in Law.

(C) Reasonable Cooperation. The parties agree that each is operating a component necessary for City to operate a Municipal Solid Waste System. To this end, the parties agree to reasonably accommodate special circumstances within the other's operations whenever practicable and when such reasonable accommodation will not cause the accommodating party to bear additional costs.

(D) City Included In Future Planning. County agrees to keep City informed and allow City's participation where reasonable in future Disposal System financial, capacity, and operating planning concerning the long term viability and functioning of the County's Disposal System. City's costs related to such participation will be City's sole responsibility.

SECTION 3.3 COUNTY RIGHT TO REFUSE WASTE.

(A) Right of Refusal. Notwithstanding any other provision hereof, the County may refuse acceptance of:

- (1) Unacceptable Waste;
- (2) Controllable Waste delivered at hours other than those provided in Section 3.5 hereof;
- (3) Waste that does not constitute Acceptable Waste;

(4) Identification of Unacceptable Waste. The Department shall have the right (but not the duty or the obligation) to inspect the vehicles delivering material to the Disposal System, and may require that the City remove any Unacceptable Waste from such vehicle before it is unloaded. If the Department determines that it is impractical to separate Controllable Waste from Unacceptable Waste in any vehicle, or if the City is unwilling to make such separation, or if any vehicle is carrying waste which may spill or leak, then the Department may reject the entire vehicle, and the City shall forthwith remove or cause the removal of the entire delivery from the Disposal System. The Department may take all reasonable measures to prevent waste from being blown or scattered before and during unloading.

(B) Hazardous Waste and Hazardous Substances. The parties acknowledge that the Disposal System has not been designed or permitted, and is not intended to be used in any manner or to any extent, for the handling, transportation, storage or disposal of Hazardous Waste or Hazardous Substances. Neither the County nor the City shall countenance or knowingly permit the delivery of Hazardous Waste or Hazardous Substances to the Disposal System.

(C) Disposal of Unacceptable Waste. If Unacceptable Waste is discovered in a vehicle at any landfill within the Disposal System, the driver of the vehicle will not be permitted to discharge the load. If a vehicle is observed unloading Unacceptable Waste or Hazardous Waste in the tipping area of a landfill within the Disposal System Department personnel will use reasonable efforts to assure that such material has been characterized, properly secured and its disposition resolved. The return or reloading onto the delivery vehicle of any Hazardous Waste, Prohibited Medical Waste or other waste requiring handling or transportation shall be conducted in accordance with Applicable Law. Whenever Hazardous Waste is detected at any landfill within the Disposal System, the Department shall take immediate action in accordance with Applicable Law.

SECTION 3.4 MISCELLANEOUS OPERATIONAL MATTERS.

(A) Operating Hours. The County shall keep the Visalia Landfill open for the receiving of Controllable Waste Monday through Friday from 6:00 a.m. to 4:00 p.m. and Saturday 8:00 a.m. to 4:00 p.m. The County shall keep the Teapot Dome Landfill open for the receiving of Controllable Waste 7 a.m. to 4 p.m. Monday through Friday and 8 a.m. to 4 p.m. Saturday. Both landfills will be closed on the following holidays: New Year's Day, Memorial Day, Fourth of July, Labor Day, Thanksgiving Day, and Christmas Day.

(B) Scales and Weighing. The Department shall operate and maintain permanent scales at the Disposal System. The Department shall weigh all vehicles delivering waste by or on behalf of the City (whether or not the County accepts such waste) and prepare a daily weight record with regard to such delivery.

SECTION 3.5 OTHER USERS OF THE DISPOSAL SYSTEM.

(A) Other City Agreements. The County shall have the right to enter into waste disposal agreements with Tulare County cities with respect to Acceptable Waste. In no event shall the Posted Disposal Rate be equal to or less than the Contract Rate. In the event a lower Contract Rate is agreed to with any other entity for disposal of Acceptable Waste generated by that entity within Tulare County, such the Contract Rate provided in this Agreement shall be adjusted to match such lower Contract Rate.

(B) Receipt of Acceptable Waste on a Contract Basis. The County shall have the right to enter into a contract or other agreement with any municipal or private non-County entity for the delivery of Acceptable Waste on terms and conditions that the County determines to be necessary to ensure and enhance the viability of the Disposal System for the benefit of the County and the City. The County certifies that in its good faith judgment the contract or other agreement for the delivery of such waste will not materially and adversely affect the ability of the County to receive and dispose of Acceptable Waste from the City in accordance with the applicable Disposal Agreements.

(C) Self Haulers. The City and the County acknowledge that Self-Haulers shall be entitled to deliver Self-Hauled Waste to the Disposal System, on a non-contract basis, at the Posted Disposal Rate. Such Self-Haulers shall not be entitled to dispose of Acceptable Waste for the Contract Rate.

ARTICLE IV CONTRACT RATE

SECTION 4.1 CHARGING AND SECURING PAYMENT OF CONTRACT RATE.

The City acknowledges that the County shall have the right to charge and collect a Contract Rate for the acceptance and disposal of Controllable Waste delivered to the System by the City. The Contract Rate shall be calculated and established, and may be modified, as provided in Section 4.2 hereof. In addition, the City acknowledges that the County shall have the right to establish as part of the operating rules and regulations reasonable measures to secure the payment of all Contract Rates.

SECTION 4.2 CONTRACT RATE.

(A) Establishment of Contract Rate. The Contract Rate payable by the City shall be \$28 per ton from the Commencement Date through the Term on the Contract, subject to reasonable adjustments due to the following:

(i) changed costs incurred by the County due to the occurrence of one or more Uncontrollable Circumstances, and

(ii) adjustments due to changes in costs incurred by the County (in excess of available insurance proceeds) due to the occurrence of one or more Changes in Law.

(B) Special Charges. Notwithstanding Section 4.2(A), the County shall have the right to impose special charges for the receipt of hard to handle materials, such as bulky materials, construction and demolition debris, tree stumps and sludge. Such special charges shall be calculated to reflect the reasonable incremental costs to the County of accepting such hard to handle materials.

(C) Adjustment Resulting from Changed Fees. In addition to the other adjustments specified herein, the Contract Rate shall be adjusted to reflect the imposition of new fees or changes in existing fees relating to the disposal of Controllable Waste imposed by state, federal or other agencies (i.e., the State's Integrated Waste Management fee, which is currently \$1.40 per ton). The adjustment shall be equal to the amount of any new or changed fee, and the adjustment shall take effect so as to coincide with the imposition of the new or increased fee. The County shall provide notice of any changed pursuant to Section 4.2(D) as soon as practicable after becoming aware of the imposition of any fees described above.

(D) Procedure for Rate Adjustments. County shall give City 90 days advance written notice of any changes to the Contract Rate or any other charges to be imposed upon City under this Agreement. The written notice given by County shall include an explanation of the reasons for the change in charges, provide schedules or computations showing the incremental changes in any charges, and provide City with 30 days to request clarification or dispute any adjustment to the charges imposed under this Agreement.

(E) Termination in Case of Change in Contract Rate. Notwithstanding any other provision of this contract, City shall have the right to terminate this contract without further obligation in the event of an increase in the Contract Rate during the term hereof.

SECTION 4.3 RESPONSIBILITY FOR PAYMENT OF THE CONTRACT RATE.

(A) Payment by City. The City shall take all budgetary, appropriation and other action as may be necessary to provide for the timely payment of the Contract Rate. Such action may include, depending upon the means authorized by the City to provide for such payment, the imposition of benefit assessments, or the collection of user fees, generator charges or other similar impositions for municipal solid waste disposal. The City shall use its best efforts in accordance with Applicable Law to levy and impose all such taxes, assessments, fees or charges, and will take all steps, actions and proceedings for the enforcement, collection and payment of all such amounts which shall become delinquent, to the full extent permitted by Applicable Law.

(B) Disputes. If the City disputes any amount billed by the County in any billing statement, the City shall pay the undisputed portion of the billed amount and shall provide the County with written objection within 30 days of the receipt of such billing statement indicating the amount that is being disputed and providing all reasons then known to the City for any objection to or disagreement with such amount. If the City and the County are not able to resolve such dispute within 30 days after the City's objection, either party may pursue appropriate legal remedies as to the disputed amount. Pending resolution of such dispute, City's failure to pay the amount in dispute shall not be a breach of this Agreement justifying termination by either party.

SECTION 4.4 BILLING OF THE CONTRACT RATE. The County shall continue to bill Contract Rates after the Commencement Date, in the same manner as it has customarily billed tipping fees. Subject to the other provisions of this Agreement, the County shall have the right to modify or amend such manner of billing on reasonable notice to affected parties.

ARTICLE V BREACH, ENFORCEMENT AND TERMINATION

SECTION 5.1 BREACH. The parties agree that in the event either party breaches any obligation under this Agreement or any representation made by either party hereunder is untrue in any material respect, the other party shall have the right to take any action at law or in equity (including actions for injunctive relief, mandamus and specific performance) it may have to enforce the payment of any amounts due or the performance of any obligations to be performed hereunder. Neither party shall have the right to terminate this Agreement except as provided in Section 5.2 and Section 5.3 hereof or as otherwise provided in this Agreement.

SECTION 5.2 CITY CONVENIENCE TERMINATION. The City shall have the right to terminate this Agreement in its sole discretion, for its convenience and without cause at any time during the Term hereof upon 90 days' written notice to the County. If the City exercises its rights to terminate the Agreement pursuant to this Section, the City shall pay the County a termination fee equal to the Contract Rate in effect at the time of such termination (or any higher rate with respect to which the County has provided notice pursuant to Section 7.15) multiplied by the average monthly tonnage amount of City Acceptable Waste delivered to the Disposal System as calculated over the preceding twelve months (or, if the City had been in breach of the Waste Disposal Covenant during such prior months, such amount as would have been delivered if the City had complied with the Waste Disposal Covenant), multiplied by 12 months, or if less than 12 months are remaining in the Terms, the number of months remaining in the Term of the Agreement.

SECTION 5.3 TERMINATION.

(A) With Cause: This Agreement may be terminated by either party should the other party:

- (1) be adjudged a bankrupt, or
- (2) become insolvent or have a receiver appointed, or
- (3) make a general assignment for the benefit of creditors, or
- (4) suffer any judgment which remains unsatisfied for 30 days, and which would substantively impair the ability of the judgment debtor to perform under this Agreement, or
- (5) materially breach this Agreement.

(B) Effects of Termination: Expiration or termination of this Agreement shall not terminate any obligations to indemnify, to maintain and make available any records pertaining to the Agreement, to cooperate with any audit, to be subject to offset, or to make any reports of pre-termination contract activities.

(C) Suspension of Performance: Independent of any right to terminate this Agreement, the authorized representative of County for which City's services are to be performed, may immediately suspend performance by City, in whole or in part, in response to health, safety or financial emergency, or a failure or refusal by City to comply with the provisions of this Agreement, until such time as the cause for suspension is resolved, or a notice of termination becomes effective.

SECTION 5.4 NO WAIVERS. No action of the County or the City pursuant to this Agreement (including, but not limited to, any investigation or payment), and no failure to act, shall constitute a waiver by either party of the other party's compliance with any term or provision of this Agreement. No course of dealing or delay by the County or the City in exercising any right, power or remedy under this Agreement shall operate as a waiver

thereof or otherwise prejudice such party's rights, powers and remedies. No single or partial exercise of (or failure to exercise) any right, power or remedy of the County or the City under this Agreement shall preclude any other or further exercise thereof of the exercise of any other right, power or remedy.

SECTION 5.5 FORUM FOR DISPUTE RESOLUTION. It is the express intention of the parties that all legal actions and proceedings related to this Agreement or to the Disposal System or to any rights or any relationship between the parties arising therefrom shall be solely and exclusively initiated and maintained in courts of the State of California having appropriate jurisdiction.

ARTICLE VI TERM

SECTION 6.1 EFFECTIVE DATE AND TERM.

(A) Initial Term. This Agreement shall become effective, shall be in full force and effect and shall be legally binding upon the City and the County from the Contract Date and shall continue in full force and effect for twenty-four months, unless earlier terminated in accordance with its terms, in which event the Term shall be deemed to have expired as of the date of such termination.

(B) Option to Renew. This Agreement shall be subject to renewal by mutual agreement of the parties, on or before July 31, 2016 for an additional term of one year (the "Renewal Term") on the same terms and conditions as are applicable during the Initial Term hereof. There will be three one-year options to renew. Absent renewal, the Agreement shall expire on July 31, 2016.

(C) Contract Rate During Renewal Term. In connection with the parties' right to renew this Agreement for an additional five-year term pursuant to Section 6.1(B), the parties shall, on or before June 30, 2018, negotiate an applicable change in the Contract Rate for such renewal term

(D) Survival; Accrued Rights. The rights and obligations of the parties hereto pursuant to Sections 3.1(E)(2), 5.1, 5.3, 5.5, 7.2, 7.3, 7.5, 7.7, 7.8, 7.9, and 7.10 hereof shall survive the termination or expiration of this Agreement, and no such termination or expiration shall limit or otherwise affect the respective rights and obligations of the parties hereto accrued prior to the date of such termination or expiration. At the end of the Term of this Agreement, all other obligations of the parties shall terminate.

SECTION 6.2 COMMENCEMENT DATE.

(A) Commencement Date. The Commencement Date for the Agreement shall be August 1, 2014.

ARTICLE VII GENERAL PROVISIONS

SECTION 7.1 OPERATION AND MAINTENANCE OF THE DISPOSAL SYSTEM. The County, at its cost and expense through the County Solid Waste Enterprise Fund, shall at all times operate, or caused to be operated, the Disposal System in accordance with Applicable Law and the operating rules and regulations of the Department.

SECTION 7.2 UNCONTROLLABLE CIRCUMSTANCES GENERALLY.

(A) Performance Excused. Except as otherwise specifically provided in this Agreement, neither the County nor the City shall be liable to the other for any failure or delay in the performance of any obligation under this Agreement (other than any payment at the time due and owing) to the extent such failure or delay is due to the occurrence of an Uncontrollable Circumstance.

(B) Notice, Mitigation. The party experiencing an Uncontrollable Circumstance shall notify the other party by telecommunication or telephone and in writing, on or promptly after the date the party experiencing such Uncontrollable Circumstance first knew of the commencement thereof, followed within 15 days by a written description of (1) the Uncontrollable Circumstance and the cause thereof (to the extent known), (2) the date the Uncontrollable Circumstance began and the cause thereof, its estimated duration, the estimated time during which the performance of such party's obligations hereunder will be delayed, (3) the estimated amount, if any, by which the Contract Rate may need to be adjusted as a result of such Uncontrollable Circumstance, (4) its estimated impact on the other obligations of such party under this Agreement and (5) potential mitigating actions which might be taken by the County or City and any areas where costs might be reduced and the approximate amount of such cost reductions. Each party shall provide prompt written notice of the cessation of such Uncontrollable Circumstance. Whenever such act, event or condition shall occur, the party claiming to be adversely affected thereby shall, as promptly as reasonably possible, use its best efforts to eliminate the cause therefor, reduce costs and resume performance under this Agreement. While the delay continues, the County or City shall give notice to the other party, before the first day of each succeeding month, updating the information previously submitted.

(C) Impact on Contract Rate. If and to the extent that Uncontrollable Circumstances interfere with, delay or increase the cost to either party of meeting its obligations hereunder and providing Disposal Services to the City or the City's delivery of its Controllable Waste to the Disposal System in accordance herewith, the adversely affected party shall be entitled to an adjustment in the Contract Rate as provided in Section 4.2 herein equal to the amount of the increased cost a result thereof. Any cost reductions achieved through the mitigating measures undertaken by the adversely affected party pursuant to subsection 7.2(B) hereof upon the occurrence of an Uncontrollable Circumstance shall be reflected in a reduction of the amount by which the Contract Rate would have otherwise been adjusted or shall serve to adjust the Contract Rate to reflect such mitigation measures, as applicable.

SECTION 7.3 INDEMNIFICATION. To the extent permitted by law, the City agrees that it will protect, indemnify, defend and hold harmless the County from and against all activities arising from the City's activity pursuant to this Agreement. The City acknowledges the County's legitimate interest in actively participating in any defense, litigation or settlement whether the County or the City provides legal counsel. The parties agree that this provision constitutes an indemnity under CERCLA (to the extent of the specific provisions of this Section). The County acknowledges the City's legitimate interest in actively participating in any defense, litigation or settlement, and shall, as a condition to this indemnity, coordinate fully with the City in the defense. To the extent permitted by law, the County agrees that it will protect, indemnify, defend and hold harmless the City from and against all activities arising from the County's activity pursuant to this Agreement. In the event the City shall determine that because of conflict or any other reason that it wishes to be defended by legal counsel other than the legal counsel provided by the County, the cost of providing such legal counsel shall be the City's sole responsibility. The County shall not, however, be required to indemnify or defend the City from and against all Loss-and-Expense arising from any willful, knowing, illegal or negligent disposal of hazardous waste by the City. The parties agree that this provision constitutes an indemnity under CERCLA (to the extent of the specific provisions of this Section). The City acknowledges the County's legitimate interest in actively participating in any defense, litigation or settlement, and shall, as a condition to this indemnity, coordinate fully with the County in the defense.

SECTION 7.4 LIMITED RECOURSE.

(A) To the County. No recourse shall be had to the general funds or general credit of the County for the payment of any amount due the City hereunder, or the performance of any obligation incurred hereunder, including any Loss-and-Expense of any nature arising from the performance or non-performance of the County's obligations hereunder. The sole recourse of the City for all such amounts shall be to the funds held in the County Solid Waste Enterprise Fund in accordance with the terms of this Agreement. The County shall make adequate provision in the administration of the County Solid Waste Enterprise Fund for the payment of any amount or the performance of any obligation which may be due hereunder.

(B) To the City. No recourse shall be had to the general funds or general credit of the City for the payment of any amount due the County hereunder, or the performance of any obligation incurred hereunder, including any Loss-and-Expense of any nature arising from the performance or non-performance of the City's obligations hereunder. The sole recourse of the County for all such amounts shall be to the funds held in the City

Solid Waste Enterprise Fund in accordance with the terms of this Agreement. The City shall make adequate provision in the administration of the City Solid Waste Enterprise Fund for the payment of any amount or the performance of any obligation which may be due hereunder.

SECTION 7.5 PRE-EXISTING RIGHTS AND LIABILITIES. Nothing in this Agreement is intended to affect, release, waive or modify any rights, obligations or liabilities which any party hereto may have to or against the other party as of the Contract Date relating to the disposal of waste in the Disposal System or any other related matter.

SECTION 7.6 NO VESTED RIGHTS. The City shall not acquire any vested property, license or other rights in the Disposal System by reason of this Agreement.

SECTION 7.7 LIABILITY FOR COLLECTION, TRANSPORTATION AND PROCESSING. Any liability incurred by the City as a result of collecting Acceptable Waste or processing it for diversion from landfill shall be its sole liability, except as expressly otherwise provided herein.

SECTION 7.8 NO CONSEQUENTIAL OR PUNITIVE DAMAGES. Other than as provided in this Agreement, in no event shall either party hereto be liable to the other or obligated in any manner to pay to the other any special, incidental, consequential, punitive or similar damages based upon claims arising out of or in connection with the performance or non-performance of its obligations or otherwise under this Agreement, or the material inaccuracy of any representation made in this Agreement, whether such claims are based upon contract, tort, negligence, warranty or other legal theory.

SECTION 7.9 AMENDMENTS. Neither this Agreement nor any provision hereof may be changed, modified, amended or waived except by written agreement duly authorized and executed by both parties.

SECTION 7.10 NOTICE OF LITIGATION. Each party shall deliver written notice to the other of any Legal Proceeding to which it is a party and which questions the validity or enforceability of this Agreement executed by the City or the County or any Legal Entitlement issued in connection herewith.

SECTION 7.11 FURTHER ASSURANCES. At any and all times the City and the County so far as may be authorized by law shall pass, make, do, execute, acknowledge and deliver any and every such further resolutions, acts, deeds, conveyances, instruments, assignments, transfers and assurances as may be necessary or reasonably requested by the other in order to give full effect to this Agreement.

SECTION 7.12 ASSIGNMENT OF AGREEMENT. (A) Assignment. Neither this Agreement nor any of the rights or obligations hereunder may be assigned by either party hereto without the prior written consent of the other party, which may be withheld in the other party's sole discretion. Notwithstanding the foregoing, either party may assign this Agreement to another public entity, subject to the reasonable consent of the other party. In such circumstances the party not requesting the assignment shall have the right to demand assurances of the financial, technical and legal ability of the proposed assignee to undertake the responsibilities and obligations of the assigning party.

SECTION 7.13 INTEREST ON OVERDUE OBLIGATIONS. Except as otherwise provided herein, all amounts due hereunder, whether as damages, credits, revenue or reimbursements, that are not paid when due shall bear interest at the Overdue Rate on the amount outstanding from time to time, on the basis of a 365-day year, counting the actual number of days elapsed, and all such interest accrued at any time shall, to the extent permitted by Applicable Law, be deemed added to the amount due, as accrued.

SECTION 7.14 BINDING EFFECT. This Agreement shall bind and inure to the benefit of the parties hereto and any successor or assignee acquiring an interest hereunder.

SECTION 7.15 NOTICES. Any notice or communication required or permitted hereunder shall be in writing and sufficiently given if delivered in person or sent by certified or registered mail, postage prepaid, to the notice address of the respective parties set forth on the cover page of this Agreement. Changes in the respective

addresses to which such notices may be directed may be made from time to time by any party by notice to the other party.

IN WITNESS WHEREOF, COUNTY and CITY have caused this Agreement to be executed by their duly authorized officers or representatives as of the day and year first above written.

COUNTY OF TULARE

Date 4/7/15

By J. Alan Mithley
Chairman, Tulare County Board of Supervisors

Date 4/7/15

By Debbie A. Ybana
Clerk, Tulare County Board of Supervisors

CITY OF PORTERVILLE

Date 3-23-15

By Milt Stowe
Milt Stowe
Mayor
City of Porterville

Date 3-23-15

By J. D. Lollis
John D. Lollis
City Clerk
City of Porterville

APPROVED AS TO FORM:
COUNTY COUNSEL
TULARE COUNTY, CALIFORNIA

By [Signature]
Date 3-24-15 204308

CITY ATTORNEY

By Julia M. Lew
Date 3-17-15





CITY COUNCIL AGENDA – JULY 19, 2016

SUBJECT: Intent to Vacate Corsair Place

SOURCE: Public Works

COMMENT: On May 17, 2016, City Council approved the summary vacation of Corsair Place (an undeveloped street) within the remainder parcel of Parcel Map No. 4823 (see attachment 2) and Parcel 3 of Parcel Map No. 3813 (see attachment 3), north of Hope Avenue near the Municipal Airport. The summary vacation became effective upon recordation of Resolution No. 24-2016 as Document No. 2016-0036565 with the County Recorder's Office. It is standard procedure to retain reservation and exception rights for existing utilities that may be in place within the vacated area. In this case, it was prudent to do so and necessary due to the existence of a functional water main, sewer main stub and potentially other utilities unknown to staff. These reservations and exceptions are described in Exhibit "C" of the recorded Resolution No. 24-2016. Exhibit "C" mimics Streets and Highways Code language .

The developer interested in purchasing the property has taken exception to the reservations and exceptions (Exhibit "C" of Resolution No.24-2016), in which other utility companies beside the City of Porterville may have a right to the vacated area. The developer has accepted the fact that there will be reservations held for the existing water main that is currently operational through the herein described parcels and the short sewer main extension into the property from Hope Avenue. The developer also understands that the existing water main will be relocated, which will require another vacation of this proposed reservation and granting of an easement to the City for the relocated water main is also required upon development of the property. The sewer main reservation may also be vacated upon development of the property dependent upon how the property develops. These vacations will be presented to City Council simultaneously.

Staff recommends to reinstate the vacation process in order to address the developer's concerns. The initial vacation recorded by Document No. 2016-0036565 is attached as attachment 1 and the proposed Corsair Place vacation with revised reservations and exceptions is attached as attachment 4. The legal description of the reinstated vacation (Exhibit 'A') and plats (Exhibit "B" & Exhibit "B-1") are attached for Council's reference. Specifically described within Exhibit "A" are the areas to be vacated along with the reservation of water and sewer pipeline easements that are now being reserved for maintenance purposes until the property develops. Exhibit "B" illustrates the areas to be vacated and Exhibit "B-1" illustrates the City of Porterville

reserved easements. After Council takes action, the utility companies will be notified of the intent to vacate their rights to the Corsair Place area.

RECOMMENDATION: That City Council:

1. Pass a resolution of intent to vacate Corsair Place, relinquishment of frontage access and a 20 foot wide storm drain easement encumbering Parcel 3 and the remainder parcel of Parcel Map No. 4823;
2. Direct the City Clerk to publish the Public Notice in the Porterville Recorder; and
3. Set the Council meeting of August 16, 2016, as the time and place for a public hearing.

ATTACHMENTS:

1. Resolution No. 24-2016
2. Attachment 2 (PM 3813)
3. Attachment 3 (PM 4823)
4. Intent to Vacate Resolution

Appropriated/Funded:

Review By:

Department Director:

Mike Reed, City Engineer

Final Approver: John Lollis, City Manager



2016-0036565

RECORDING REQUESTED BY:
CITY OF PORTERVILLE AND
WHEN RECORDED MAIL TO:

City of Porterville
ATTN: Luisa Zavala
291 N. Main Street
Porterville, CA 93257

No fee - Government Code Section 27383

Recorded
Official Records
County of
Tulare
ROLAND P. HILL
Clerk Recorder

REC FEE 0.00
CONFORMED COPY 0.00

02:53PM 22-Jun-2016 NB
Page 1 of 7

THIS SPACE FOR RECORDER'S USE ONLY

RESOLUTION NO. 24-2016

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
ORDERING SUMMARY VACATION OF CORSAIR PLACE, RELINQUISHMENT
OF ACCESS RIGHTS AND STORM DRAIN EASEMENT RELATED TO
PARCEL 3 OF PARCEL MAP NO. 3813 AND THE REMAINDER
PARCEL OF PARCEL MAP NO. 4823

THIS PAGE ADDED TO PROVIDE ADEQUATE SPACE FOR RECORDING
INFORMATION

RESOLUTION NO. 24-2016

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
ORDERING SUMMARY VACATION OF CORSAIR PLACE, RELINQUISHMENT
OF ACCESS RIGHTS AND STORM DRAIN EASEMENT RELATED TO
PARCEL 3 OF PARCEL MAP NO. 3813 AND THE REMAINDER PARCEL
OF PARCEL MAP NO. 4823

WHEREAS, Corsair Place is an undeveloped cul-de-sac street intended to serve several future smaller parcels; and

WHEREAS, Corsair Place, and 20 foot wide storm drain easement, along with relinquishment of frontage access rights, limits the type and potential layouts of future development(s) within those parcels; and

WHEREAS, vacation of Corsair Place and related encumbrances is an economic benefit to the City by creating a marketable larger property within the Municipal Airport Industrial Park; and

WHEREAS, the City Council has the authority to summarily vacate Corsair Place encumbering Parcel 3 of Parcel Map No. 3813 and the remainder parcel of Parcel Map No. 4823; and

WHEREAS, the City Council has the authority to summarily vacate the relinquishment of access rights encumbering Parcel 3 of Parcel Map No. 3813 and the remainder parcel of Parcel Map No. 4823; and

WHEREAS, the City Council has the authority to summarily vacate the 20 foot storm drain easement encumbering Parcel 3 of Parcel Map No. 3813 and the remainder parcel of Parcel Map No. 4823.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Porterville as follows:

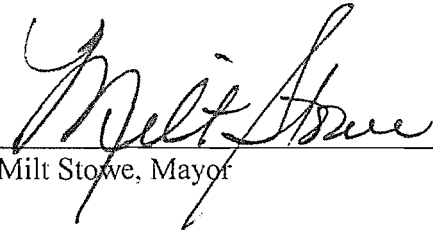
SECTION 1: The Council hereby finds, from all the evidence submitted, that the vacation of Corsair Place, and the relinquishment of frontage access rights and storm drain easement hereinafter described are necessary for present or prospective use, and the City Council hereby makes its order vacating said Corsair Place, relinquishment of frontage access rights and storm drain easement, which is described in the legal description and shown on the map attached hereto, marked Exhibit "A" Legal Description and Exhibit "B" Map of all vacations and by reference made a part hereof.

SECTION 2: The subject street vacation shall be subject to the reservations and exceptions set forth in Exhibit "C" which is attached hereto and by reference made a part hereof.

SECTION 3: The City Clerk shall cause a copy of this resolution to be recorded in the office of the County Recorder of Tulare County, California.

SECTION 4: The City Clerk shall certify to the passage and adoption of this resolution and it shall thereupon take effect and be in force.

PASSED, ADOPTED AND APPROVED this 17th day of May, 2015.


Milt Stowe, Mayor

ATTEST:
John D. Lollis, City Clerk

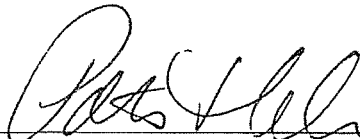
By: 
Patrice Hildreth, Chief Deputy City Clerk

Exhibit "A"

Legal Description

Parcel 1 – Corsair Place Road Right of Way Vacation

That portion of land designated as Corsair Place north of north right of way line of Hope Avenue as shown on Parcel Map 3813, recorded July 19, 1990 in Book 39, of Parcel Maps, at page 16, in the Office of the County Recorder of Tulare County.

RESERVING unto the City of Porterville an easement for sanitary sewer and water purposes over, across, through and within the boundaries of Corsair Place.

Parcel 2 – Easement Vacation

That certain 20 foot wide storm drain easement, centerline of said easement being the north line of Parcel 3, of Parcel Map 3813, recorded July 19, 1990 in Book 39, of Parcel Maps, at page 16, in the Office of the County Recorder of Tulare County.

Parcel 3 – Access Rights Relinquished Vacation

Access Rights Relinquished along the south line of Parcel 3 of Parcel Map 3813, recorded July 19, 1990 in Book 39, of Parcel Maps, at page 16, in the Office of the County Recorder of said county and the most southerly line of the Remainder of Parcel Map 4823, recorded March 29, 2007 in Book 49, of Parcel Maps, at page 28, in the Office of the County Recorder of Tulare County.

END OF DESCRIPTION

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors Act.

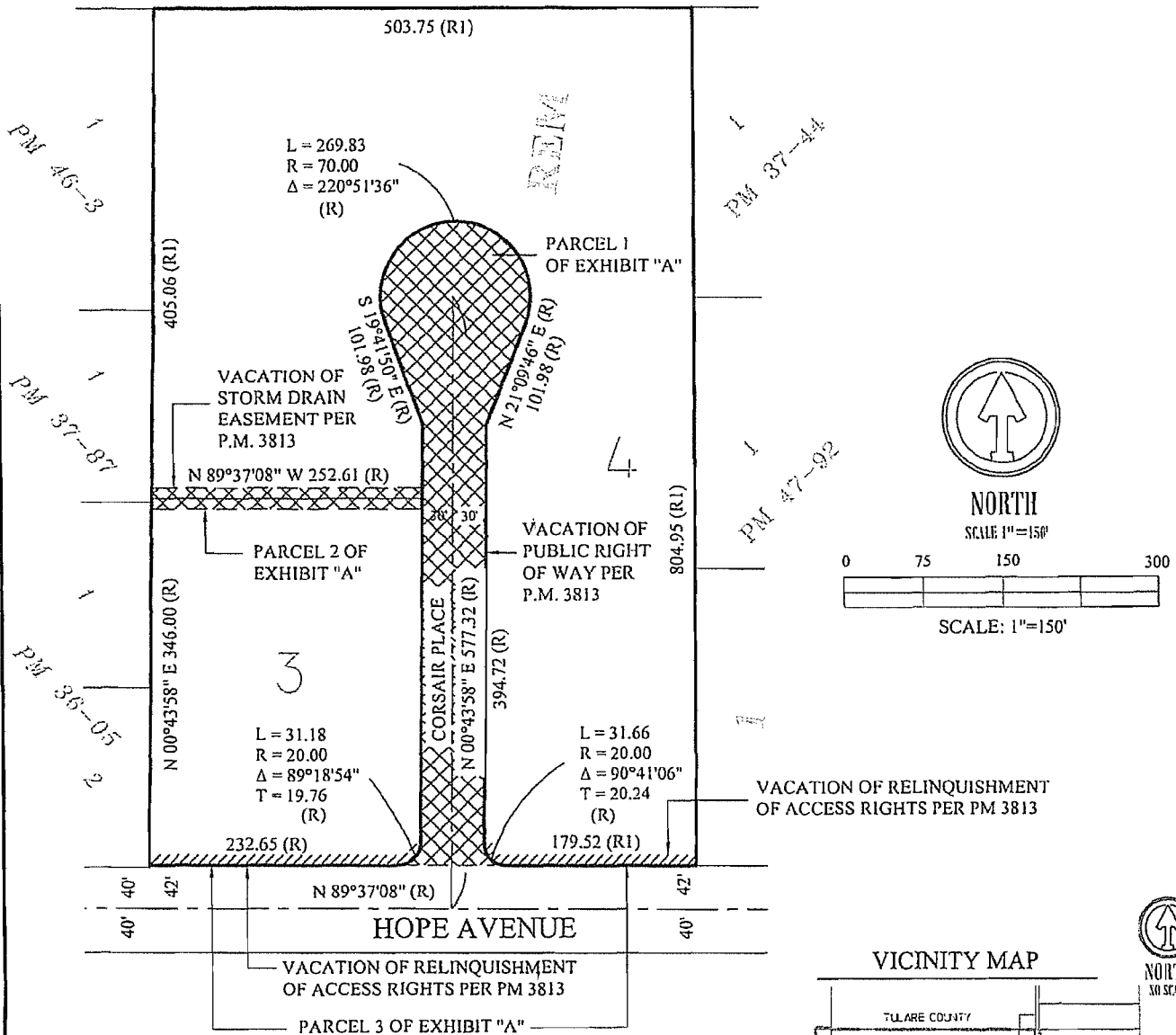
Signature: Michael K. Reed
Licensed Land Surveyor

Date: 5/12/2016



CORSAIR PLACE VACATION MAP

EXHIBIT "B"



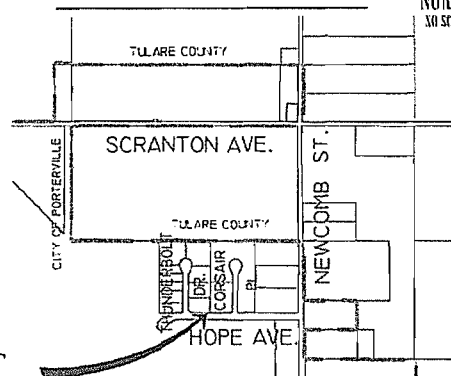
LEGEND

- 3
- PARCEL # PER
PARCEL MAP 3813,
P.M. 39-16 (R)
- LOT # PER
PARCEL MAP 4823,
P.M. 49-28
- VACATION AREA
50,519 SQ. FT.

- (R) RECORD PER P.M. 3813
(R1) RECORD PER P.M. 4823

SUBJECT
PROPERTY

VICINITY MAP



CITY OF PORTERVILLE

ENGINEERING DIVISION

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

That portion of the south half of the Northeast Quarter of Section 9, Township 22 South, Range 27 East, Mount Diablo Base and Meridian, in the City of Porterville, County of Tulare, State of California.

OWNER	CITY OF PORTERVILLE
APN	302-390-015 AND 024
AREA	50,519 +/- S.F.
ACRES	1.16 +/- AC.
SCALE	1" = 150'
DATE	5-12-2016
DRAWN BY	CAL
CHECKED BY	MKR

EXHIBIT "C"

Reservation and Exceptions:

The City reserves and excepts from the vacation the permanent easement and right at any time, or from time to time, to construct, maintain, operate, replace, remove, renew, sanitary sewers, water lines and storm drains and appurtenant structures in, upon, over and across said avenue or part thereof proposed to be vacated and pursuant to any existing franchises or renewals thereof, or otherwise, to construct, maintain, operate, replace, remove, renew and enlarge lines of pipe, conduits, cable, wires, poles, and other convenient structures, equipment and fixtures for the operation of gas pipe lines, telegraph and telephone lines, railroad lines, and for the transportation or distribution of electric energy, petroleum and its products, ammonia, water, and incidental purposes, including access and the right to keep the property free from flammable materials, and wood growth, and otherwise protect the same from all hazards in, upon, and over the avenue or part thereof herein proposed to be vacated.

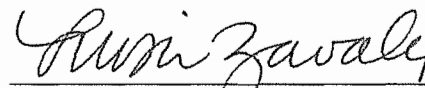
STATE OF CALIFORNIA)
CITY OF PORTERVILLE) SS
COUNTY OF TULARE)

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 17th day of May, 2016.

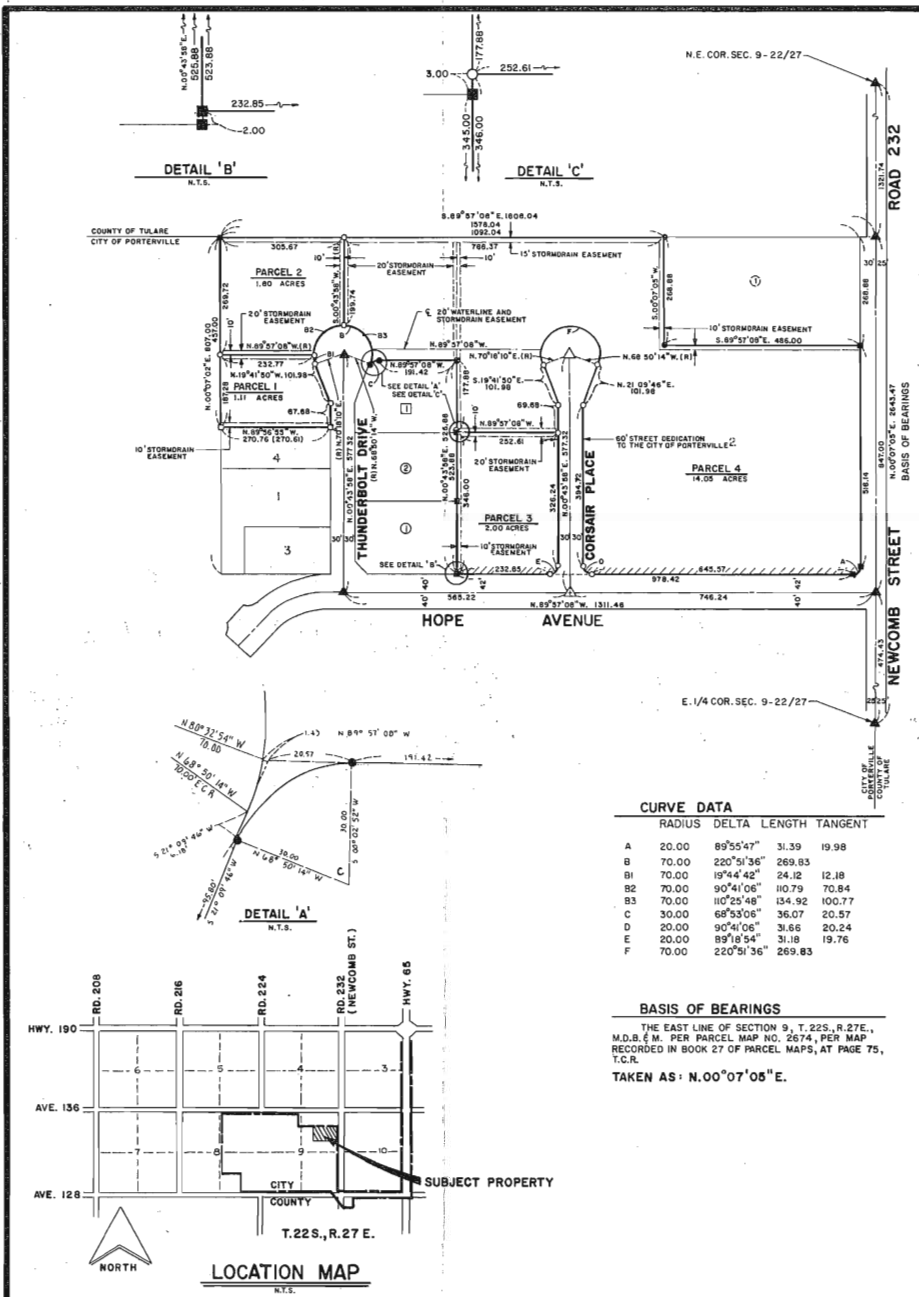
THAT said resolution was duly passed, approved, and adopted by the following vote:

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

JOHN D. LOLLIS, City Clerk



By: Luisa Zavala, Deputy City Clerk



200 100 0 200
SCALE 1" = 200'

NORTH

1. RONALD S. HOLDEN, County Executive/Clerk of the Board of Supervisors, County of Tulare, State of California, hereby certify to the County Recorder and to whomsoever it may concern, that all of the provisions of Division 2, Title 7 of the Government Code of the State of California and of local ordinances pertaining to deposit required at the time of approval by the Board of Supervisors of this map have been complied with.

Dated this 14th day of July, 1990.

RONALD S. HOLDEN, County Executive/Clerk

By Ronald S. Holden
DEPUTY

LEGEND

▲ PARCEL BOUNDARY
□ FOUND CITY OF PORTERVILLE STANDARD MONUMENT
● FOUND 3/4" I.P. TAGGED RCE 15342
● FOUND 3/4" I.P. TAGGED RCE 24673
● FOUND 3/4" I.P. TAGGED RCE 20186
○ SET 3/4" I.P. TAGGED RCE 20186
△ SET CITY OF PORTERVILLE STANDARD MONUMENT
② PARCEL NO. PER PARCEL MAP NO. 3735, P.M. 38/38
① PARCEL NO. PER PARCEL MAP NO. 3684, P.M. 37/87
① PARCEL NO. PER PARCEL MAP NO. 3641, P.M. 37/44
③ PARCEL NO. PER PARCEL MAP NO. 3503, P.M. 36/5
(R) RADIAL BEARING
(000) DATA PER PARCEL MAP NO. 3735, P.M. 38/38
ACCESS RIGHTS RELINQUISHED

ALL DISTANCES ARE SHOWN IN FEET AND DECIMAL THEREOF

BOARD OF SUPERVISORS
TULARE COUNTY, CALIF.

PARCEL MAP NO. 3813
BEING A DIVISION OF PARCEL 2 OF PARCEL MAP NO. 3735, AS PER MAP RECORDED IN BOOK 38 OF PARCEL MAPS AT PAGE 38, T.C.R., SITUATED IN A PORTION OF THE SOUTH HALF OF THE NORTHEAST QUARTER OF SECTION 9, T.22 S., R.27E., M.D.B. & M., IN THE CITY OF PORTERVILLE, COUNTY OF TULARE, STATE OF CALIFORNIA.

FOR
CITY OF PORTERVILLE
291 N. MAIN ST.
PORTERVILLE, CALIF. 93257

BY
HAROLD HILL
CITY ENGINEER
291 N. MAIN ST.
PORTERVILLE, CALIF. 93257

SURVEYOR'S STATEMENT
This map was prepared by me or under my direction and is based upon a field survey in conformance with the requirements of the Subdivision Map Act and local ordinance at the request of the CITY OF PORTERVILLE on FEBRUARY 1990. I hereby state that this parcel map substantially conforms to the approved or conditionally approved tentative map, if any. All monuments are of the character and occupy the positions indicated and are sufficient to enable the survey to be retraced.

Harold L. Hill
REGISTERED PROFESSIONAL ENGINEER
No. 20186
Exp. 3/30/93
CIVIL
STATE OF CALIFORNIA

CITY ENGINEER'S STATEMENT
This map conforms with the requirements of the Subdivision Map Act, and local ordinance. Dated JUNE 19, 1990.

Harold L. Hill
CITY ENGINEER

PLANNING DIRECTOR'S STATEMENT
I hereby certify on behalf of the Parcel Map Committee that this Final Parcel Map conforms to the approved tentative parcel map No. 192 this 19th day of JUNE, 1990.

James J. Mendenhall
CITY PLANNER

STATE OF CALIFORNIA
COUNTY OF TULARE

THIS IS TO CERTIFY that at a regular meeting of the City of Porterville held on the 21st day of JULY, 1990, an order was duly and regularly made and entered approving this map, and accepting on behalf of the public the additional street and easements as shown on the map, within the boundaries of the division shown upon this map. WITNESS my hand and official seal of said City of Porterville this 21st day of JULY, 1990.

Cliff Miller
CITY CLERK

RECORDER'S STATEMENT
Fee Number 44636 Fee Paid _____
Filed this 19th day of JULY, 1990, at 9:00 A.M. in Book 39 of Parcel Maps at Page 14, at the request of CLIFF MILLER, City Clerk
JAY C. BAYLESS, County Recorder By Nadine Burgeon
Deputy

OWNER'S STATEMENT
We hereby certify that We are the owners of or have some right, title or interest in and to the real property shown on this Parcel Map and that We are the only persons whose consent is necessary for the making and filing of said Parcel Map as shown within the border lines hereon, and hereby dedicate to public use the right of way as shown hereon.

City of Porterville
a California Corporation

By Cliff Miller
City Clerk

By Andrew H. Conklin
MAYOR

STATE OF CALIFORNIA
COUNTY OF TULARE

On this 19th day of JUNE, 1990, before me, the undersigned personally appeared Cliff Miller & Theodore Esselin personally known to me or proved to me on the basis of satisfactory evidence to be the persons who executed the within instrument as CITY CLERK AND MAYOR, on behalf of the corporation therein named and acknowledged to me that the corporation executed it.

WITNESS my hand and official seal

Georgia Hawley
NOTARY PUBLIC
Georgia Hawley
Print Name

7-16-90

PARCEL MAP NO. 4823

BEING A DIVISION OF THE REMAINDER OF PARCEL MAP No. 4687, RECORDED IN BOOK 47, PAGE 82, OF PARCELS MAPS, TCR, LOCATED WITHIN THE NORTHEAST 1/4 OF SECTION 9, T.22S, R.27E, M.D.B.M., IN THE CITY OF PORTERVILLE, COUNTY OF TULARE, STATE OF CALIFORNIA.

For: **CITY OF PORTERVILLE**
291 NORTH MAIN STREET
PORTERVILLE, CALIFORNIA 93257

By: **JAMES WINTON & ASSOCIATES**
150 WEST MORTON AVENUE
PORTERVILLE, CALIFORNIA 93257

SURVEYOR'S STATEMENT

THIS MAP WAS PREPARED BY ME OR UNDER MY DIRECTION AND IS BASED UPON A FIELD SURVEY, TRUE AND COMPLETE AS SHOWN, IN CONFORMANCE WITH THE REQUIREMENTS OF THE SUBDIVISION MAP ACT AND LOCAL ORDINANCE AT THE REQUEST OF THE CITY OF PORTERVILLE. ON DECEMBER 13, 2005, I HEREBY STATE THAT THIS FINAL MAP SUBSTANTIALLY CONFORMS TO THE CONDITIONALLY APPROVED TENTATIVE MAP. ALL MONUMENTS ARE OF THE CHARACTER AND OCCUPY THE POSITIONS INDICATED AND ARE SUFFICIENT TO ENABLE THE SURVEY TO BE RETRACED.

DATED THIS 22ND DAY OF February, 2007.

James S. Winton
JAMES S. WINTON R.C.E. 16094



CITY ENGINEER'S STATEMENT

I HEREBY STATE THAT I HAVE EXAMINED THIS MAP, AND I AM SATISFIED THAT IT IS TECHNICALLY CORRECT, AND THAT THE SUBDIVISION AS SHOWN IS SUBSTANTIALLY THE SAME AS IT APPEARED ON THE APPROVED TENTATIVE MAP. IF REQUIRED, AND ANY APPROVED ALTERATIONS THEREOF, AND THAT ALL OF THE PROVISIONS OF CHAPTER 2, DIVISION 2, TITLE 7 OF THE GOVERNMENT CODE AND ANY LOCAL ORDINANCE APPLICABLE AT THE TIME OF APPROVAL OF THE TENTATIVE MAP, HAVE BEEN COMPLIED WITH.

DATED THIS 22ND DAY OF February, 2007.

Michael K. Reed
MICHAEL K. REED
City Engineer, P.L.S. 7514



PLANNING DIRECTOR'S STATEMENT

I HEREBY STATE ON BEHALF OF THE PARCEL MAP COMMITTEE THAT THIS FINAL PARCEL MAP CONFORMS TO THE APPROVED TENTATIVE PARCEL MAP No. 2-2006.

DATED THIS 23RD DAY OF February, 2007.

Gregory B. Hardcastle
GREGORY B. HARDCASTLE, Community Development Director

BOARD OF SUPERVISORS' STATEMENT

I, BRIAN HADDOX, COUNTY ADMINISTRATIVE OFFICER/CLERK OF THE BOARD OF SUPERVISORS OF THE COUNTY OF TULARE, DO HEREBY STATE THAT SAID BOARD OF SUPERVISORS HAS APPROVED THE PROVISIONS HEREOF FOR THE PAYMENT OF TAXES AS PROVIDED IN DIVISION 2 OF TITLE 7 OF THE GOVERNMENT CODE OF THE STATE OF CALIFORNIA.

DATED THIS 22ND DAY OF March, 2007.

C. BRIAN HADDOX, County Administrative Officer/Clerk of the Board of Supervisors



Gregory B. Hardcastle
GREGORY B. HARDCASTLE, Deputy

RECORDER'S STATEMENT

DOCUMENT NUMBER 2007-0030125 FEE PAID: \$ 8.00
FILED THIS 29TH DAY OF MARCH, 2007 AT 8:00 A.M. IN BOOK 49 OF PARCELS MAPS, AT PAGE 28, AT THE REQUEST OF CHICAGO TITLE CO.

GREGORY B. HARDCASTLE, Tulare County Assessor/Deputy-Recorder

Gregory B. Hardcastle
GREGORY B. HARDCASTLE, Deputy

DEDICATION STATEMENT

PURSUANT TO THE AUTHORITY CONFERRED BY CITY OF PORTERVILLE, ORDINANCE No. 1590, ADOPTED FEBRUARY 20, 2001, THE UNDERSIGNED, ON BEHALF OF THE PUBLIC AND CITY COUNCIL OF THE CITY OF PORTERVILLE, CONSENTS TO THE RECORDATION OF THE IRREVOCABLE OFFER OF DEDICATION AS SHOWN ON THIS MAP. THIS STATEMENT SHALL NOT BE DEEMED TO BE AN ACCEPTANCE OF THE OFFER TO DEDICATE SO AS TO COMPLETE THE DEDICATION AT THIS TIME BUT IS MERELY FOR THE PURPOSE OF HAVING THE OFFER RECORDED.

DATED THIS 22ND DAY OF February, 2007.

Michael K. Reed
MICHAEL K. REED
City Engineer, P.L.S. 7514

OWNER'S STATEMENT

WE HEREBY STATE THAT WE ARE THE OWNERS OF, OR HAVE SOME RIGHT, TITLE OR INTEREST IN, THE REAL PROPERTY SHOWN ON THIS PARCEL MAP AND THAT WE ARE THE ONLY PERSONS WHOSE CONSENT IS NECESSARY FOR THE PREPARATION AND RECORDATION OF SAID PARCEL MAP AS SHOWN WITHIN THE BLUE BORDER LINES HEREON. WE CONSENT TO THE RECORDING OF SAID MAP AND IRREVOCABLY OFFER TO DEDICATE TO PUBLIC USE THE STREET RIGHT OF WAY SHOWN HEREON AS AN IRREVOCABLE OFFER OF DEDICATION TO THE CITY OF PORTERVILLE.

CITY OF PORTERVILLE, a Municipal Corporation

By: *Cameron Hamilton* CAMERON HAMILTON, Mayor
By: *John Longley* JOHN LONGLEY, City Clerk



STATE OF CALIFORNIA
COUNTY OF TULARE
ON FEB 27, 2007 BEFORE ME, PATRICIA HILDRETH, a Notary Public Personally Appeared CAMERON HAMILTON & JOHN LONGLEY
[S] PERSONALLY KNOWN TO ME - OR - [] PROVED TO ME ON THE BASIS OF SATISFACTORY EVIDENCE TO BE THE PERSON(S) WHOSE NAME(S) IS/ARE SUBSCRIBED TO THE WRITTEN INSTRUMENT AND ACKNOWLEDGED TO ME THAT HE/SHE/IT/ THEY EXECUTED THE SAME IN HIS/HER/IT/ THEIR AUTHORIZED CAPACITIES, AND THAT BY HIS/HER/IT/ THEIR SIGNATURE(S) ON THE INSTRUMENT THE PERSON(S), OR THE ENTITY UPON BEHALF OF WHICH THE PERSON(S) ACTED, EXECUTED THE INSTRUMENT.
WITNESS MY HAND AND OFFICIAL SEAL.

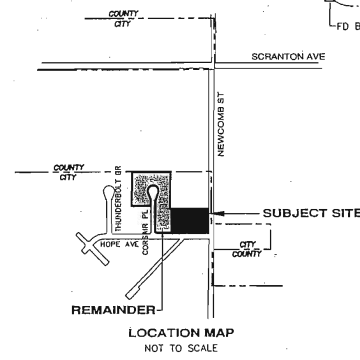
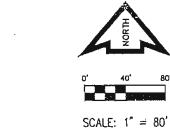
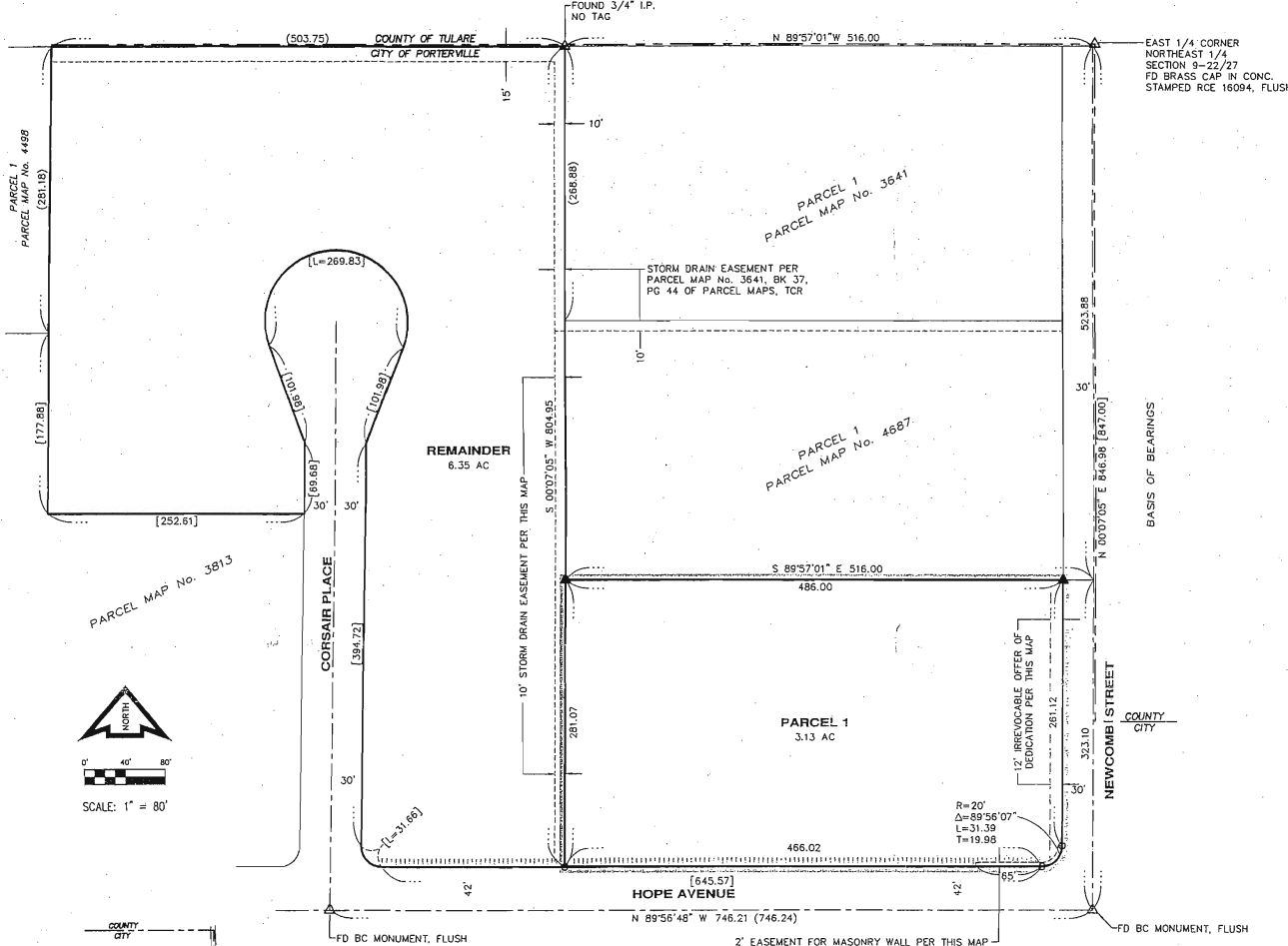
Patricia Hildreth
PATRICIA HILDRETH
COUNTY OF PRINCIPAL PLACE OF BUSINESS: TULARE
MY COMMISSION EXPIRES: 8-31-09

BASIS OF BEARINGS

THE EAST LINE OF THE NORTHEAST 1/4 OF SECTION 9, T.22S, R.27E, TAKEN AS: N 00°07'05" E PER PARCEL MAP No. 4498

LEGEND

- ALL DISTANCES SHOWN ARE IN FEET AND DECIMALS THEREOF, UNLESS OTHERWISE NOTED.
- PARCEL BOUNDARY
 - CITY LIMITS
 - SET 3/4" I.P. TAGGED R.C.E. 16094
 - FD 3/4" I.P. TAGGED RCE 16094 PER PARCEL MAP No. 4687, PM 47/92
 - FOUND AND ACCEPTED AS DESCRIBED
 - RECORD DISTANCE PER PARCEL MAP No. 4498, PM 46/3
 - RECORD DISTANCE PER PARCEL MAP No. 3813, PM 38/16 OR CALCULATED THEREFROM
 - ACCESS RIGHTS RELINQUISHED PER PARCEL MAP No. 3684, PM 37/87



RESOLUTION NO. _____ - 2016

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
OF INTENTION TO VACATE CORSAIR PLACE, STORM DRAIN EASEMENT, AND
RELINQUISHMENT OF ACCESS RIGHTS RELATED TO PARCEL 3 OF PARCEL
MAP NO. 3813 AND THE REMAINDER PARCEL OF PARCEL MAP NO. 4823

SECTION 1: Corsair Place is an undeveloped cul-de-sac street intended to serve several future smaller parcels;

SECTION 2: Corsair Place and 20 foot wide storm drain easement, along with relinquishment of frontage access rights, limits the type and potential layouts of future development(s) within those parcels;

SECTION 3: Vacation of Corsair Place and related encumbrances is an economic benefit to the City by creating a marketable larger property within the Municipal Airport Industrial Park; and

SECTION 4: The Council of the City of Porterville, California, pursuant to Division 9 Part 3, Section 8320, of Streets and Highways Code of the State of California, does hereby resolve as follows, to-wit:

That it is the intention of the Council of the City of Porterville to vacate Corsair Place, storm drain easement, and frontage access rights on Parcel 3 of Parcel Map No 3813 and the remainder parcel of Parcel Map No. 4823; and

SECTION 5: the City Council has the authority to vacate Corsair Place encumbering Parcel 3 of Parcel Map No. 3813 and the remainder parcel of Parcel Map No. 4823; and

SECTION 6: the City Council has the authority to vacate the relinquishment of access rights encumbering Parcel 3 of Parcel Map No. 3813 and the remainder parcel of Parcel Map No. 4823; and

SECTION 7: the City Council has the authority to vacate the 20 foot storm drain easement encumbering Parcel 3 of Parcel Map No. 3813 and the remainder parcel of Parcel Map No. 4823, and

SECTION 8: A map or plan of said public rights of way intended to be vacated, abandoned and closed to public use is on file in the office of the City Clerk of the City of Porterville, reference to which is hereby made;

SECTION 9: The vacation of Corsair Place, and the relinquishment of frontage access rights and storm drain easement hereinafter described are necessary for present or prospective use, which is described in the legal description and shown on the maps attached hereto, marked Exhibit "A" Legal Description, Exhibit "B", and Exhibit "B-

1" Maps of all vacations and reservations and by reference made a part hereof.

SECTION 10: Notice is further given that on Tuesday, the 19th day of August, 2016, at 7:00 p.m., or as thereafter as the matter can be heard, in the Council Chambers in the City Hall in the City of Porterville, at 291 North Main Street, is hereby fixed for the time and place for hearing any objections to the vacation, abandonment and closing to public use of said public rights of way.

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

Milt Stowe, Mayor

ATTEST:
John D. Lollis, City Clerk

By: Patrice Hildreth, Chief Deputy City Clerk

Exhibit "A"

Legal Description

Parcel 1 – Corsair Place Road Right of Way Vacation

That portion of land designated as Corsair Place north of the north right of way line of Hope Avenue as shown on Parcel Map 3813, recorded July 19, 1990 in Book 39, of Parcel Maps, at page 16, in the Office of the County Recorder of Tulare County.

RESERVING unto the City of Porterville an easement for sanitary sewer purposes over, across, through and within Parcel 4 of Parcel Map No. 3813, lying 5 feet on each side of the following described centerline:

Commencing at the southwest corner of Parcel 3 of Parcel Map No. 3813,

Thence, North 89°57'08" West, 277.61 feet, along the north right of way line of Hope Avenue to the **POINT OF BEGINNING**;

Thence, North 00°43'58" East, 4.00. The sidelines of said easement shall extend or shorten so as to terminate on said north right of way line.

ALSO RESERVING unto the City of Porterville an easement for water purposes over, across, through and within Parcel 4 of Parcel Map 3813, lying 5 feet on each side of the following described centerline.

Commencing at the southwest corner of Parcel 3 of Parcel Map No. 3813,

Thence, North 89°57'08" West, 287.61 feet, along the north right of way line of Hope Avenue to the **POINT OF BEGINNING**;

Thence, North 00°43'58" East, 550.32 feet,

Thence, North 89°57'08" West, 287.61 feet. The sidelines of said easement shall extend or shorten so as to terminate on the said north of right of way line and on the west line of Parcel 4 of Parcel Map No. 3813

Parcel 2 – Easement Vacation

That certain 20 foot wide storm drain easement, centerline of said easement being the north line of Parcel 3, of Parcel Map 3813, recorded July 19, 1990 in Book 39, of Parcel Maps, at page 16, in the Office of the County Recorder of Tulare County.

Parcel 3 – Access Rights Relinquished Vacation

Access Rights Relinquished along the south line of Parcel 3 of Parcel Map 3813, recorded July 19, 1990 in Book 39, of Parcel Maps, at page 16, in the Office of the County Recorder of said county and the most southerly line of the Remainder of Parcel Map 4823, recorded March 29, 2007 in Book 49, of Parcel Maps, at page 28, in the Office of the County Recorder of Tulare County.

END OF DESCRIPTION

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors Act.

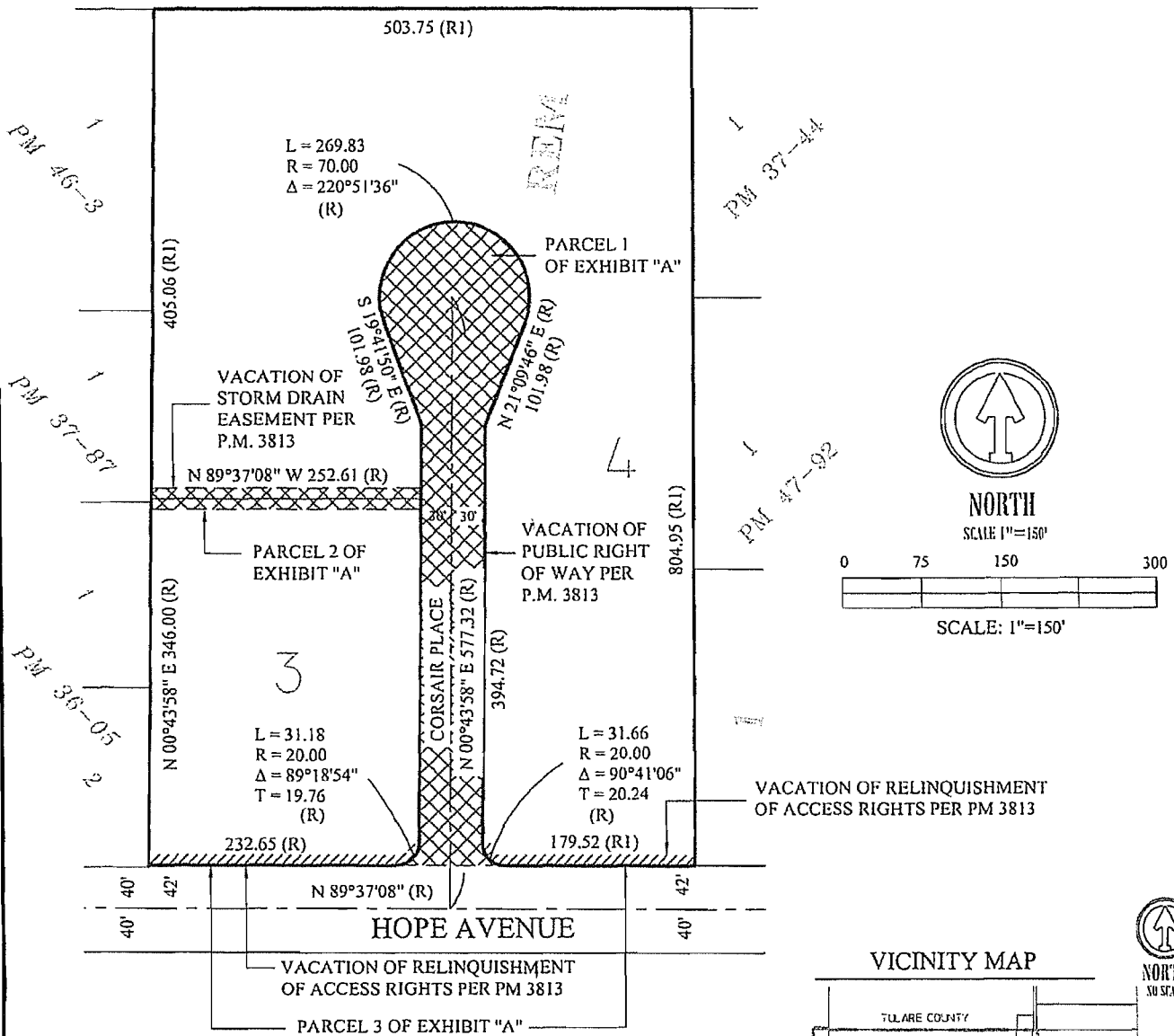
Signature: Michael K. Reed
Licensed Land Surveyor

Date: 7/12/2016



CORSAIR PLACE VACATION MAP

EXHIBIT "B"



CITY OF PORTERVILLE

ENGINEERING DIVISION

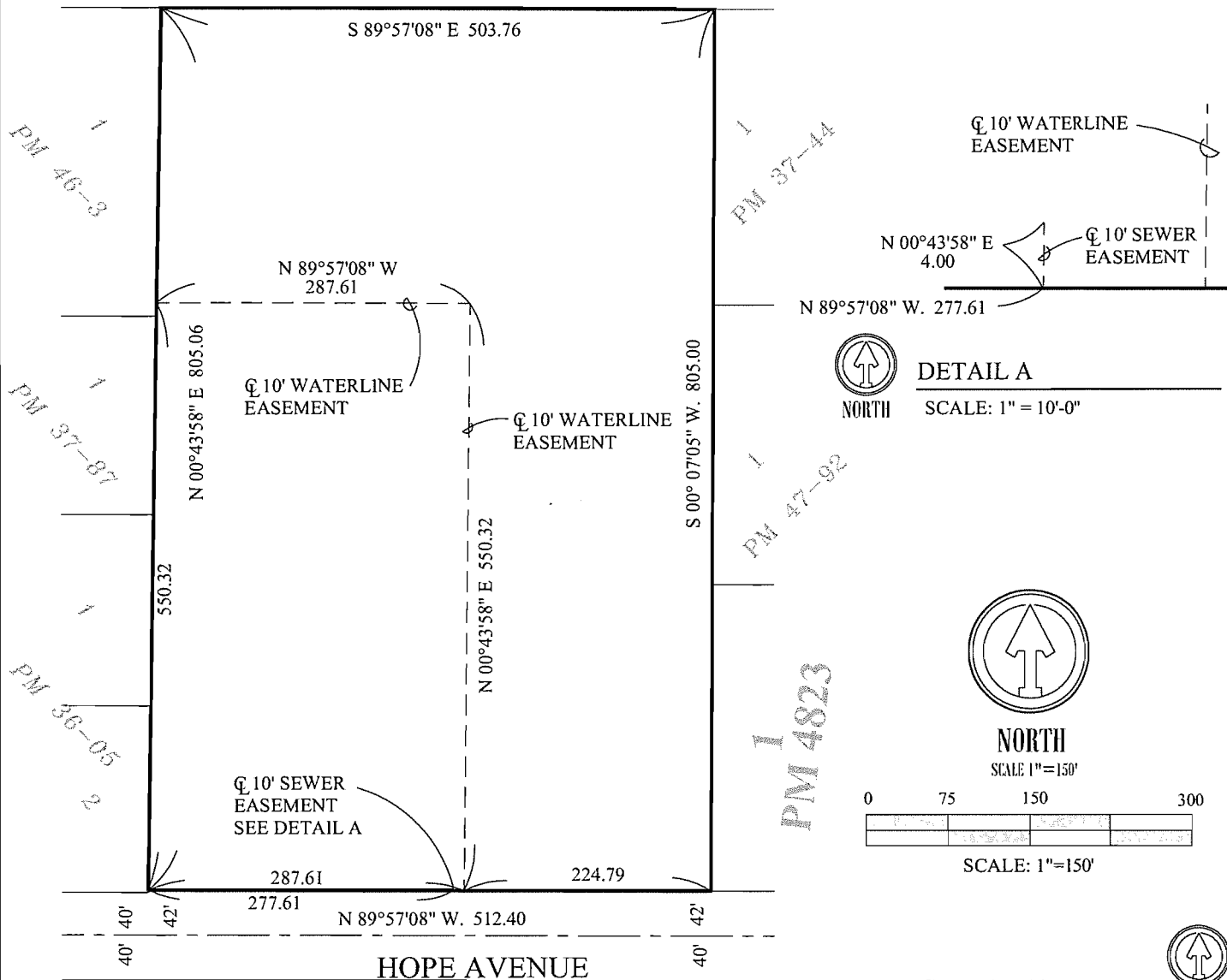
291 NORTH MAIN STREET
PORTERVILLE, CA. 93257
(559) 782-7462

That portion of the south half of the Northeast Quarter of Section 9, Township 22 South, Range 27 East, Mount Diablo Base and Meridian, in the City of Porterville, County of Tulare, State of California.

OWNER	CITY OF PORTERVILLE
APN	302-390-015 AND 024
AREA	50,519 +/- S.F.
ACRES	1.16 +/- AC.
SCALE	1" = 150'
DATE	5-12-2016
DRAWN BY	CAL
CHECKED BY	MKR

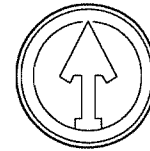
EASEMENT MAP

EXHIBIT "B-1"



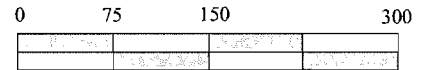
DETAIL A

SCALE: 1" = 10'-0"



NORTH

SCALE 1"=150'

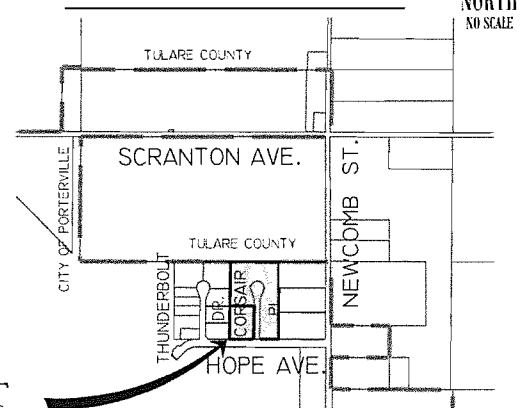


SCALE: 1"=150'

LEGEND

- — EXISTING WATER LINE
- — EXISTING SEWER LINE

VICINITY MAP



SUBJECT
PROPERTY

CITY OF PORTERVILLE

ENGINEERING DIVISION

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

Being a Merger of the Remainder Parcel of Parcel Map 4823 and Parcel 3 of Parcel Map 3813, located in that portion of the south half of the Northeast Quarter of Section 9, Township 22 South, Range 27 East, Mount Diablo Base and Meridian, in the City of Porterville, County of Tulare, State of California.

OWNER	CITY OF PORTERVILLE
APN	302-390-015 AND 024
AREA	409,006 +/- S.F.
ACRES	9.39 +/- AC.
SCALE	1" = 150'
DATE	7-13-2016
DRAWN BY	CAL
CHECKED BY	MKR



CITY COUNCIL AGENDA – JULY 19, 2016

SUBJECT: Intent to Set a Public Hearing for Reimbursement of Concrete Improvements Constructed by the City - W. North Grand Avenue Reconstruction Project, Newcomb Street to Prospect Street

SOURCE: Public Works

COMMENT: The concrete improvements for the W. North Grand Avenue Reconstruction Project, Newcomb Street to Prospect Street are complete. City Council accepted this project during the May 3, 2016, City Council meeting. The concrete improvements include curbs, gutters, sidewalks and drive approaches in front of undeveloped properties and/or developed properties that lacked these public improvements. Concrete improvements were installed along W. North Grand Avenue from approximately 600 feet west of Newcomb Street to Prospect Street.

Section 20-40.1 of the Municipal Code stipulates that these improvements, once constructed, shall be reimbursed to the City of Porterville upon the issuance of a new building permit. Section 20-40.2 of the Municipal Code allows the City to recover the cost of the concrete improvements when the owner pulls a building permit(s) from the City and said permit(s) has a valuation of \$21,569.00 or more within a two (2) year period.

The City has complied with Section 20-40.8 of the Municipal Code on the W. North Grand Avenue Reconstruction Project by notifying affected property owners and holding Public Hearings addressing the City's intentions to seek reimbursement for the concrete improvements constructed by this project. Section 20-40.8 requires that City Council hold at least one additional Public Hearing prior to the establishment of a fee. Once the fee is established, the City will record a general notice of "reimbursement fee" with the office of the Tulare County Recorder. The recorded document will officially notify the current owner and potential buyers that the property is subject to a concrete reimbursement fee.

Staff has calculated the cost of the concrete improvements constructed as a part of the project. The calculations are based on actual costs incurred by the City. A map of the affected property owners and the associated concrete reimbursement fee is attached for Council's reference.

RECOMMENDATION: That City Council:

1. Set a Public Hearing for August 16, 2016, according to the Mitigation Fee Act, for the establishment of the concrete reimbursement fee; and
2. Authorize staff to notify all affected property owners of the Public Hearing, via certified mail, including the concrete reimbursement amount.

ATTACHMENTS:

1. Locator Map
2. Reimbursement Fee Spreadsheet

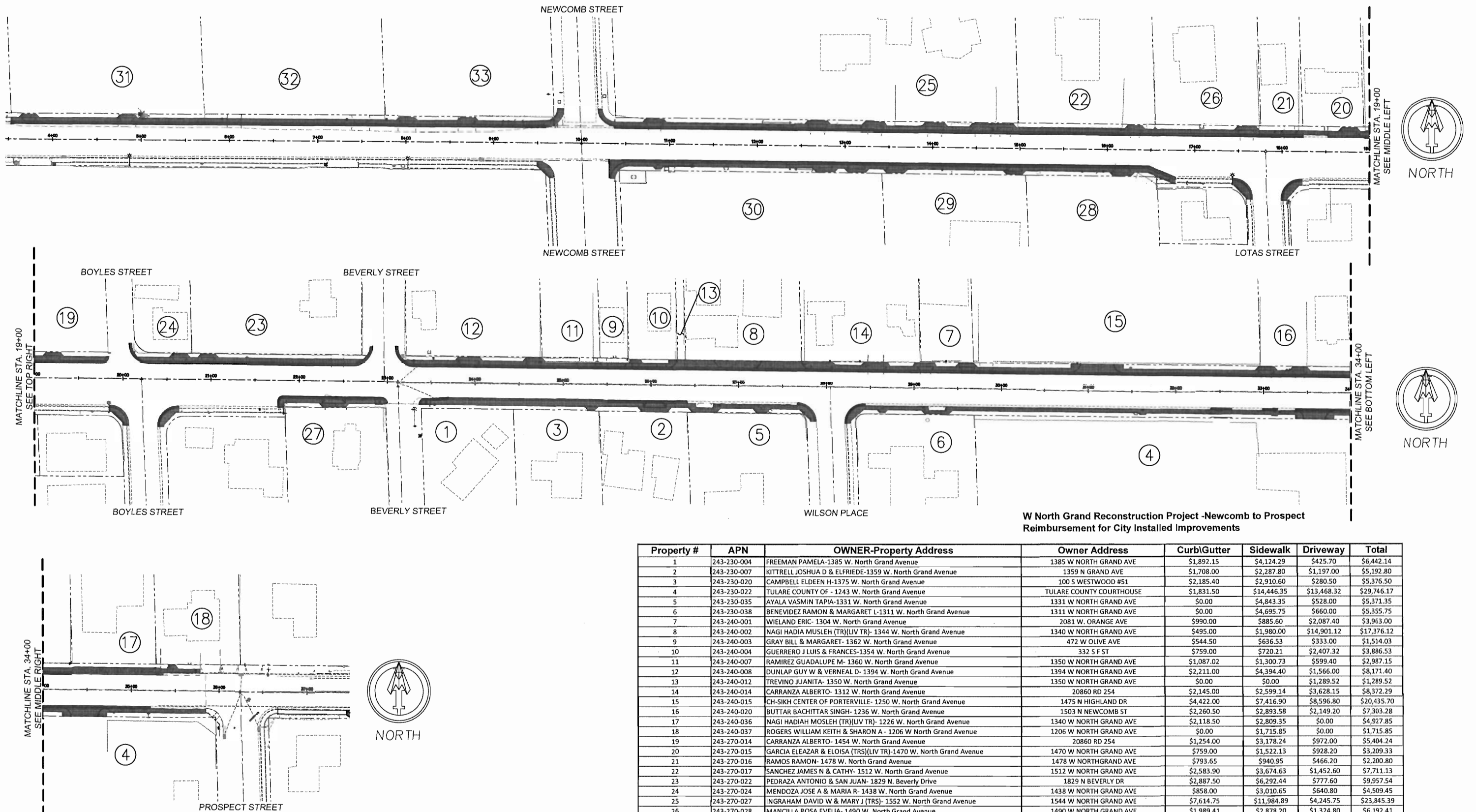
Appropriated/Funded: MB

Review By:

Department Director:

Mike Reed, City Engineer

Final Approver: John Lollis, City Manager



W North Grand Reconstruction Project -Newcomb to Prospect
Reimbursement for City Installed Improvements

Property #	APN	OWNER-Property Address	Owner Address	Curb/Gutter	Sidewalk	Driveway	Total
1	243-230-004	FREEMAN PAMELA-1385 W. North Grand Avenue	1385 W NORTH GRAND AVE	\$1,892.15	\$4,124.29	\$425.70	\$6,442.14
2	243-230-007	KITTRILL JOSHUA D & ELFRIEDE-1359 W. North Grand Avenue	1359 N GRAND AVE	\$1,708.00	\$2,287.80	\$1,197.00	\$5,192.80
3	243-230-020	CAMPBELL ELDEEN H-1375 W. North Grand Avenue	100 S WESTWOOD #51	\$2,185.40	\$2,910.60	\$280.50	\$5,376.50
4	243-230-022	TULARE COUNTY OF - 1243 W. North Grand Avenue	TULARE COUNTY COURTHOUSE	\$1,831.50	\$14,446.35	\$13,468.32	\$29,746.17
5	243-230-035	AYALA VASMIN TAPIA-1331 W. North Grand Avenue	1331 W NORTH GRAND AVE	\$0.00	\$4,843.35	\$528.00	\$5,371.35
6	243-230-038	BENEVIDEZ RAMON & MARGARET L-1311 W. North Grand Avenue	1311 W NORTH GRAND AVE	\$0.00	\$4,695.75	\$660.00	\$5,355.75
7	243-240-001	WIELAND ERIC- 1304 W. North Grand Avenue	2081 W. ORANGE AVE	\$990.00	\$885.60	\$2,087.40	\$3,963.00
8	243-240-002	NAGI HADIAH MUSLEH (TR)(LIV TR)- 1344 W. North Grand Avenue	1340 W NORTH GRAND AVE	\$495.00	\$1,980.00	\$14,901.12	\$17,376.12
9	243-240-003	GRAY BILL & MARGARET- 1362 W. North Grand Avenue	472 W OLIVE AVE	\$544.50	\$636.53	\$333.00	\$1,514.03
10	243-240-004	GUERRERO J LUIS & FRANCES-1354 W. North Grand Avenue	332 S F ST	\$759.00	\$720.21	\$2,407.32	\$3,886.53
11	243-240-007	RAMIREZ GUADALUPE M- 1360 W. North Grand Avenue	1350 W NORTH GRAND AVE	\$1,087.02	\$1,300.73	\$599.40	\$2,987.15
12	243-240-008	DUNLAP GUY W & VERNEAL D- 1394 W. North Grand Avenue	1394 W NORTH GRAND AVE	\$2,211.00	\$4,394.40	\$1,566.00	\$8,171.40
13	243-240-012	TREVINO JUANITA- 1350 W. North Grand Avenue	1350 W NORTH GRAND AVE	\$0.00	\$0.00	\$1,289.52	\$1,289.52
14	243-240-014	CARRANZA ALBERTO- 1312 W. North Grand Avenue	20860 RD 254	\$2,145.00	\$2,599.14	\$3,628.15	\$8,372.29
15	243-240-015	CH-SIKH CENTER OF PORTERVILLE- 1250 W. North Grand Avenue	1475 N HIGHLAND DR	\$4,422.00	\$7,416.90	\$8,596.80	\$20,435.70
16	243-240-020	BUTTAR BACHITTAR SINGH- 1236 W. North Grand Avenue	1503 N NEWCOMB ST	\$2,260.50	\$2,893.58	\$2,149.20	\$7,303.28
17	243-240-036	NAGI HADIAH MOSLEH (TR)(LIV TR)- 1226 W. North Grand Avenue	1340 W NORTH GRAND AVE	\$2,118.50	\$2,809.35	\$0.00	\$4,927.85
18	243-240-037	ROGERS WILLIAM KEITH & SHARON A - 1206 W North Grand Avenue	1206 W NORTH GRAND AVE	\$0.00	\$1,715.85	\$0.00	\$1,715.85
19	243-270-014	CARRANZA ALBERTO- 1454 W. North Grand Avenue	20860 RD 254	\$1,254.00	\$3,178.24	\$972.00	\$5,404.24
20	243-270-015	GARCIA ELEAZAR & ELOISA (TRS)(LIV TR)-1470 W. North Grand Avenue	1470 W NORTH GRAND AVE	\$759.00	\$1,522.13	\$928.20	\$3,209.33
21	243-270-016	RAMOS RAMON- 1478 W. North Grand Avenue	1478 W NORTHGRAND AVE	\$793.65	\$940.95	\$466.20	\$2,200.80
22	243-270-017	SANCHEZ JAMES N & CATHY- 1512 W. North Grand Avenue	1512 W NORTH GRAND AVE	\$2,583.90	\$3,674.63	\$1,452.60	\$7,711.13
23	243-270-022	PEDRAZA ANTONIO & SAN JUAN- 1829 N. Beverly Drive	1829 N BEVERLY DR	\$2,887.50	\$6,292.44	\$777.60	\$9,957.54
24	243-270-024	MENDOZA JOSE A & MARIA R- 1438 W. North Grand Avenue	1438 W NORTH GRAND AVE	\$858.00	\$3,010.65	\$640.80	\$4,509.45
25	243-270-027	INGRAHAM DAVID W & MARY J (TRS)- 1552 W. North Grand Avenue	1544 W NORTH GRAND AVE	\$7,614.75	\$11,984.89	\$4,245.75	\$23,845.39
26	243-270-028	MANCILLA ROSA EVELIA- 1490 W. North Grand Avenue	1490 W NORTH GRAND AVE	\$1,989.41	\$2,878.20	\$1,324.80	\$6,192.41
27	243-280-006	DOMINGO KEITH & MARITESS-1787 N. Beverly Street	944 N COTTAGE ST	\$1,914.00	\$4,080.75	\$1,521.00	\$7,515.75
28	243-280-013	LOFFLAND CHARLES R SR & DONNA M (TR)-1511 W North Grand Avenue	1511 W NORTH GRAND	\$2,491.50	\$3,666.94	\$1,343.25	\$7,501.69
29	243-280-022	SALAZAR MIGUEL-1525 W. North Grand Avenue	1525 W NORTH GRAND	\$2,717.55	\$3,720.75	\$2,723.00	\$9,161.30
30	243-280-030	CH-CALVARY BAPTIST CHURCH-1768 N. Newcomb Street	1768 N NEWCOMB ST	\$4,735.50	\$9,359.39	\$1,223.85	\$15,318.74
31	243-310-025	CURRY GREGORY A & KARRI C-1658 W. North Grand Avenue	1658 W NORTH GRAND AVE	\$3,597.00	\$5,178.30	\$3,773.40	\$12,548.70
32	243-310-027	FERNANDEZ GABRIEL M & NOEMI S-1648 W. North Grand Avenue	1642 W NORTH GRAND AVE	\$3,383.49	\$4,182.00	\$1,232.10	\$8,797.59
33	243-310-028	SALEH ALI A(TR)- 1626 W. North Grand Avenue	1205 W WESTFIELD AVE	\$2,937.00	\$4,608.99	\$2,149.20	\$9,695.19
Totals (Based on Final Field Measurements)							\$272,996.66

CITY OF PORTERVILLE
ENGINEERING DIVISION

291 N. MAIN ST. PORTERVILLE, CALIFORNIA 93257 559 782-7462

DESIGN BY	DC
DRAWN BY	CAL
CHECKED BY	DC
DATE	07/2016

CITY ENGINEER	DATE
PUBLIC WORKS DIRECTOR	R.C.E. DATE

REVISION NO.	DATE
--------------	------



W. NORTH GRAND AVENUE RECONSTRUCTION
CONCRETE REIMBURSEMENT MAP

SHEET
1
OF
1

Exhibit "B"

W North Grand Reconstruction Project -Newcomb to Prospect
Reimbursement for City Installed Improvements

Property #	APN	OWNER-Property Address	Owner Address	Curb\Gutter	Sidewalk	Driveway	Total
1	243-230-004	FREEMAN PAMELA-1385 W. North Grand Avenue	1385 W NORTH GRAND AVE	\$1,892.15	\$4,124.29	\$425.70	\$6,442.14
2	243-230-007	KITTRELL JOSHUA D & ELFRIEDE-1359 W. North Grand Avenue	1359 N GRAND AVE	\$1,708.00	\$2,287.80	\$1,197.00	\$5,192.80
3	243-230-020	CAMPBELL ELDEEN H-1375 W. North Grand Avenue	100 S WESTWOOD #51	\$2,185.40	\$2,910.60	\$280.50	\$5,376.50
4	243-230-022	TULARE COUNTY OF - 1243 W. North Grand Avenue	TULARE COUNTY COURTHOUSE	\$1,831.50	\$14,446.35	\$13,468.32	\$29,746.17
5	243-230-035	AYALA VASMIN TAPIA-1331 W. North Grand Avenue	1331 W NORTH GRAND AVE	\$0.00	\$4,843.35	\$528.00	\$5,371.35
6	243-230-038	BENEVIDEZ RAMON & MARGARET L-1311 W. North Grand Avenue	1311 W NORTH GRAND AVE	\$0.00	\$4,695.75	\$660.00	\$5,355.75
7	243-240-001	WIELAND ERIC- 1304 W. North Grand Avenue	2081 W. ORANGE AVE	\$990.00	\$885.60	\$2,087.40	\$3,963.00
8	243-240-002	NAGI HADIA MUSLEH (TR)(LIV TR)- 1344 W. North Grand Avenue	1340 W NORTH GRAND AVE	\$495.00	\$1,980.00	\$14,901.12	\$17,376.12
9	243-240-003	GRAY BILL & MARGARET- 1362 W. North Grand Avenue	472 W OLIVE AVE	\$544.50	\$636.53	\$333.00	\$1,514.03
10	243-240-004	GUERRERO J LUIS & FRANCES-1354 W. North Grand Avenue	332 S F ST	\$759.00	\$720.21	\$2,407.32	\$3,886.53
11	243-240-007	RAMIREZ GUADALUPE M- 1360 W. North Grand Avenue	1350 W NORTH GRAND AVE	\$1,087.02	\$1,300.73	\$599.40	\$2,987.15
12	243-240-008	DUNLAP GUY W & VERNEAL D- 1394 W. North Grand Avenue	1394 W NORTH GRAND AVE	\$2,211.00	\$4,394.40	\$1,566.00	\$8,171.40
13	243-240-012	TREVINO JUANITA- 1350 W. North Grand Avenue	1350 W NORTH GRAND AVE	\$0.00	\$0.00	\$1,289.52	\$1,289.52
14	243-240-014	CARRANZA ALBERTO- 1312 W. North Grand Avenue	20860 RD 254	\$2,145.00	\$2,599.14	\$3,628.15	\$8,372.29
15	243-240-015	CH-SIKH CENTER OF PORTERVILLE- 1250 W. North Grand Avenue	1475 N HIGHLAND DR	\$4,422.00	\$7,416.90	\$8,596.80	\$20,435.70
16	243-240-020	BUTTAR BACHITTAR SINGH- 1236 W. North Grand Avenue	1503 N NEWCOMB ST	\$2,260.50	\$2,893.58	\$2,149.20	\$7,303.28
17	243-240-036	NAGI HADIAH MOSLEH (TR)(LIV TR)- 1226 W. North Grand Avenue	1340 W NORTH GRAND AVE	\$2,118.50	\$2,809.35	\$0.00	\$4,927.85
18	243-240-037	ROGERS WILLIAM KEITH & SHARON A - 1206 W North Grand Avenue	1206 W NORTH GRAND AVE	\$0.00	\$1,715.85	\$0.00	\$1,715.85
19	243-270-014	CARRANZA ALBERTO- 1454 W. North Grand Avenue	20860 RD 254	\$1,254.00	\$3,178.24	\$972.00	\$5,404.24
20	243-270-015	GARCIA ELEAZAR & ELOISA (TRS)(LIV TR)-1470 W. North Grand Avenue	1470 W NORTH GRAND AVE	\$759.00	\$1,522.13	\$928.20	\$3,209.33
21	243-270-016	RAMOS RAMON- 1478 W. North Grand Avenue	1478 W NORTHGRAND AVE	\$793.65	\$940.95	\$466.20	\$2,200.80
22	243-270-017	SANCHEZ JAMES N & CATHY- 1512 W. North Grand Avenue	1512 W NORTH GRAND AVE	\$2,583.90	\$3,674.63	\$1,452.60	\$7,711.13
23	243-270-022	PEDRAZA ANTONIO & SAN JUAN- 1829 N. Beverly Drive	1829 N BEVERLY DR	\$2,887.50	\$6,292.44	\$777.60	\$9,957.54
24	243-270-024	MENDOZA JOSE A & MARIA R- 1438 W. North Grand Avenue	1438 W NORTH GRAND AVE	\$858.00	\$3,010.65	\$640.80	\$4,509.45
25	243-270-027	INGRAHAM DAVID W & MARY J (TRS)- 1552 W. North Grand Avenue	1544 W NORTH GRAND AVE	\$7,614.75	\$11,984.89	\$4,245.75	\$23,845.39
26	243-270-028	MANCILLA ROSA EVELIA- 1490 W. North Grand Avenue	1490 W NORTH GRAND AVE	\$1,989.41	\$2,878.20	\$1,324.80	\$6,192.41
27	243-280-006	DOMINGO KEITH & MARITESS-1787 N. Beverly Street	944 N COTTAGE ST	\$1,914.00	\$4,080.75	\$1,521.00	\$7,515.75
28	243-280-013	LOFFLAND CHARLES R SR & DONNA M (TR)-1511 W North Grand Avenue	1511 W NORTH GRAND	\$2,491.50	\$3,666.94	\$1,343.25	\$7,501.69
29	243-280-022	SALAZAR MIGUEL-1525 W. North Grand Avenue	1525 W NORTH GRAND	\$2,717.55	\$3,720.75	\$2,723.00	\$9,161.30
30	243-280-030	CH-CALVARY BAPTIST CHURCH-1768 N. Newcomb Street	1768 N NEWCOMB ST	\$4,735.50	\$9,359.39	\$1,223.85	\$15,318.74
31	243-310-025	CURRY GREGORY A & KARRI C-1658 W. North Grand Avenue	1658 W NORTH GRAND AVE	\$3,597.00	\$5,178.30	\$3,773.40	\$12,548.70
32	243-310-027	FERNANDEZ GABRIEL M & NOEMI S-1648 W. North Grand Avenue	1642 W NORTH GRAND AVE	\$3,383.49	\$4,182.00	\$1,232.10	\$8,797.59
33	243-310-028	SALEH ALI A(TR)- 1626 W. North Grand Avenue	1205 W WESTFIELD AVE	\$2,937.00	\$4,608.99	\$2,149.20	\$9,695.19
		Totals (Based on Final Field Measurements)					\$272,996.66



CITY COUNCIL AGENDA – JULY 19, 2016

SUBJECT: Conduct Public Hearing to Approve Water Rate Increase

SOURCE: Public Works

COMMENT: At the May 17, 2016, City Council meeting, Council approved setting a Public Hearing for July 19, 2016, to conduct a protest hearing and consider a water rate increase. In accordance with Proposition 218, legal requirements provide for at least a 45-day notice of a protest hearing for a proposed fee increase. At that meeting, it was clarified, the City will accept written protests already submitted and would be mailing a notice of the Public Hearing for July 19, 2016, with instructions on how to file a protest to the proposed water rate increase as follows:

"YOUR RIGHTS: If you are the record owner of a property subject to the proposed rates or a tenant directly liable for the payment of water service fees (i.e. a customer of record), you may submit a written protest against the proposed rate changes. Only one written protest per parcel will be counted. Written protests may be submitted by mail to the City Clerk, City of Porterville, 291 North Main Street, Porterville, CA 93257, or in person at the Public Hearing, as long as they are received prior to the conclusion of public testimony at the Public Hearing. Please identify on the front of the envelope "Water Rate Protest" for any protest, whether mailed or submitted in person to the City Clerk. Protests submitted verbally, or by e-mail, facsimile, or other electronic means will not be accepted.

Each protest must (1) be in writing; (2) state opposition to the proposed water rate increase; (3) provide the location of the owner's identified parcel (by assessor's parcel number or street address); and (4) include the original signature of the property owner or customer of record submitting the protest. Only one written protest per parcel will be counted.

At the conclusion of the Public Hearing, the City Council will consider adopting the proposed rate increases, which are outlined on the reverse side of the notice. If, at the close of the Public Hearing, written protests against the proposed water rate increases are submitted by a majority of record owners of affected parcels and customers of record (50% plus one), the City will not approve the proposed water rates. If, at the close of the Public Hearing, written protests against the proposed rate increases do not present a majority of record owners of affected parcels and customers of record, the City Council will be authorized to impose rate increases up to the amounts proposed. If adopted, new water rates will be effective August 1, 2016. "

The drought, and issues resulting from its length and severity, continues to affect water production and policy. Agencies at all levels, and particularly the State, have adopted new policies and regulations that are changing the playing field for water purveyors throughout California. The Sustainable Groundwater Management Act, reduced revenues to fund infrastructure, and the Governor's Executive Orders defining water conservation requirements are three of the most pressing issues for Porterville, in addition to our own drought response efforts.

The Governor's Executive Orders and subsequent regulation adopted by the State Water Resources Control Board required the City to reduce our production by 32% for the time period of June 2015 through February 2016. The current regulation requires that Porterville maintain an average production of 26% less than the volume of water produced in our system in 2013. To achieve this, the focus of water conservation must be maintained. With water conservation comes the associated reduction in revenues.

The Sustainable Groundwater Management Act (SGMA) and the resulting Groundwater Sustainability Agency(ies) that will be formed as a result of the SGMA, are compounding the situation. SGMA implementation has multiple associated – and previously unnecessary – costs, including significant water purchases for recharge, well monitoring, reporting, and new infrastructure. Furthermore, as we now pursue financing to develop additional water infrastructure to respond to this drought, we are being advised that our water rates are below the state requirement to qualify for grants and loans.

The City of Porterville has worked for many years to keep our water rates lower than adjacent systems, as a benefit to our community. Unfortunately, reduced water usage in response to the drought has adversely affected water enterprise revenues. Council held a separate study session on April 12, 2016, to discuss the merits and challenges of raising water rates.

An interactive presentation and discussion with Council and the public took place at the study session to determine the direction of the Water Fund. Staff outlined the water operating fund and the capital improvements needed over the next five years. In order to accomplish those objectives, a plan to increase the water service fees was presented. Currently, the City charges a \$10.00 flat rate on a typical residential meter and \$0.90 per 100 cubic feet (about 750 gallons) of water. City Council will consider a rate increase of \$6.50 on a typical residential meter as well as an \$0.85 water rate increase per 100 cubic feet of water consumed. A proportional increase on all other meters, backflow devices, and unmetered accounts is also being recommended. An annual rate increase of 2.3% will be proposed for fiscal years 2017/2018 through 2020/2021 of the five-year plan.

Attached is a copy of the notice that was mailed to property owners and water utility users of Porterville as part of the requirements of Proposition 218, Notice of Public Hearing on Proposed Increase to Water Rates.

RECOMMENDATION: That City Council:

1. Conduct a Public Hearing to consider adoption of increases to the rates for water service fees;
2. Receive any additional written protests;
3. Direct the City Clerk to tally the protests and report the total; and
4. Consider approval of the attached resolution, if the tally does not exceed a majority protest as determined by the City Clerk.

ATTACHMENTS:

1. Water Rate Notification Letter
2. No New Water Rate Increase 2016
3. Proposed Water Rate Increase 2016
4. Resolution Water Rate Increase 2016

Appropriated/Funded: MB

Review By:

Department Director:

Mike Reed, City Engineer

Final Approver: John Lollis, City Manager

Attention:

Due to a mailing error in the City's Proposition 218 Rate Increase notification letter, City Council has rescheduled the June 21, 2016 Public Hearing for July 19, 2016.

Atención:

Debido a un error de correo en la carta de la ciudad dando notificación de aumento de tarifa por proposición 218, el consejo municipal ha reprogramado la audiencia pública del 21 de junio de 2016 al 19 de julio de 2016.

PROPOSITION 218 NOTICE OF PUBLIC HEARING ON PROPOSED INCREASES TO WATER RATES

NOTICE IS HEREBY GIVEN that the City of Porterville will hold a Public Hearing on July 19, 2016 at 6:30 p.m. at the City Council Chambers, located at 291 North Main Street, Porterville, CA 93257, to consider the adoption of increases to the rates for its water service fees. The purpose of the public hearing is to take written and oral comments and consider all written protests against the proposed rate increases. Written protests must be filed with the City of Porterville City Clerk.

For complete information in English, please see attached notice.

PROPOSICIÓN 218 AVISO DE AUDIENCIA PÚBLICA SOBRE AUMENTOS PROPUESTOS EN TARIFAS DE AGUA

LA PRESENTE SE NOTIFICA que la ciudad de Porterville llevará acabo una audiencia pública el 19 de julio de 2016 a las 6:30 pm en la cámara del consejo municipal, ubicada en 291 North Main Street, Porterville, CA 93257, para considerar la adopción de los aumentos a las tarifas de sus cargos por servicio de agua. El propósito de la audiencia pública es para tomar los comentarios escritos y orales y considerar todas las reclamaciones por escrito en contra de los aumentos de tarifas propuestos. Las reclamaciones por escrito deben ser presentadas con el secretario municipal de la ciudad de Porterville.

SUS DERECHOS: Si usted es el propietario del registro de una propiedad sujeta a las tarifas propuestas o un inquilino directamente responsable por el pago de los cargos por servicio de agua (es decir, un cliente de registro), puede presentar una protesta por escrito en contra de los cambios propuestos en las tarifas. Sólo una protesta escrita por parcela será contada. Protestas escritas pueden ser enviadas por correo al secretario municipal de la ciudad de Porterville, ubicado en 291 N. Main Street, Porterville, CA 93257, o en persona en la audiencia pública, siempre y cuando se hayan recibido antes de la conclusión del testimonio público en la audiencia pública. Por favor identifique en el frente del sobre "Water Rate Protest" por cualquier protesta, ya sea por correo o entregarse personalmente al secretario municipal. Las protestas presentadas verbalmente, o por correo electrónico, fax o cualquier otro medio electrónico no serán aceptadas. Para obtener más información acerca de este aviso, por favor llame a la ciudad al (559) 782-7514.

PROPOSITION 218 NOTICE OF PUBLIC HEARING ON PROPOSED INCREASES TO WATER RATES

NOTICE IS HEREBY GIVEN that the City of Porterville will hold a Public Hearing on July 19, 2016, at 6:30pm in the City Council Chambers, located at 291 North Main Street, Porterville, CA 93257, to consider the adoption of increases to the rates for its water service fees. The purpose of the public hearing is to take written and oral comments and consider all written protests against the proposed rate increases. Written protests must be filed with the City of Porterville City Clerk.

YOUR RIGHTS: If you are the record owner of a property subject to the proposed rates or a tenant directly liable for the payment of water service fees (i.e., a customer of record), you may submit a written protest against the proposed rate changes. Only one written protest per parcel will be counted. Written protests may be submitted by mail to the City Clerk, City of Porterville, 291 North Main Street, Porterville, CA 93257, or in person at the public hearing, so long as they are received prior to the conclusion of public testimony at the public hearing. Please identify on the front of the envelope "Water Rate Protest" for any protest, whether mailed or submitted in person to the City Clerk. Protests submitted verbally, or by e-mail, facsimile, or other electronic means will not be accepted.

Each protest must (1) be in writing; (2) state opposition to the proposed water rate increase; (3) provide the location of the owner's identified parcel (by assessor's parcel number or street address); and (4) include the original signature of the property owner or customer of record submitting the protest. Only one written protest per parcel will be counted.

At the conclusion of the public hearing, the City Council will consider adopting the proposed rate increases, which are outlined on the reverse side of this notice. If, at the close of the public hearing, written protests against the proposed water rate increases are submitted by a majority of record owners of affected parcels and customers of record (50% plus one), the City will not approve the proposed water rates. If, at the close of the public hearing, written protests against the proposed rate increases do not present a majority of record owners of affected parcels and customers of record, the City Council will be authorized to impose rate increases up to the amounts proposed. If adopted, new water rates will be effective August 1, 2016.

THE NEED FOR WATER RATE INCREASES: The City makes every effort to provide its customers with water in the most efficient and cost effective manner possible. The City continuously evaluates operational costs and utilization of the assets it holds, it also needs to keep pace with inflation, maintain and upgrade aging infrastructure, and other cost increases. The costs to operate the water system have increased, just like the costs of food, electricity and other basic household commodities. Rates need to be raised to: (1) adequately fund the water system so it can be operated safely and provide residents and businesses with clean, safe and reliable potable water; (2) fund capacity enhancement projects; (3) provide timely maintenance of existing facilities; and (4) design & implementation of infrastructure needed and required by the Sustainable Groundwater Management Act (SGMA); (5) address capital costs, increasing costs of water quality monitoring imposed by SGMA; (6) fund a pipe replacement program.

PROPOSED WATER RATE INCREASES: The City's Water Development, Operations and Replacement Funds are declining to a point where maintenance and replacement projects are being deferred due to lack of funding. The purpose of the Water Operating and Replacement Fund is to ensure that the water supply and distribution system will have the capacity to serve its residents. The suggested increase, charted below, will augment the Water Operating Fund to include a water main replacement program. The implementation of SGMA, will demand funding for; sustainable recharge; water level monitoring; development of infrastructure and basin wide collaboration.

PROPOSED RATES (2016/17): The proposed water rates include two components: (1) a monthly meter charge and (2) a variable (water consumption-based) use charge. The meter charge is a fixed amount calculated to recover a portion of the City's fixed costs of operating and maintaining the water system and is established on the basis of the size of the water meter serving the property. The fixed meter charge is due regardless of the quantity of water consumed. The variable water use charge is the rate the City charges per unit of water consumed (one unit of water equals 748 gallons or 100 cubic feet). The variable charge will be different from one bill to another, depending on the quantity of water consumed. Currently, the City charges a \$10.00 flat rate on a typical residential meter and charges \$0.90 per 100 cubic feet of water. City Council will consider a rate increase of \$6.50 on a typical residential meter as well as a \$0.85 water rate increase per 100 cubic feet of water consumed. A proportional increase on all other meters is also being considered (see graphs on reverse side for additional information).

PROPOSED ANNUAL FIXED RATE INCREASE (BASED ON 2.3% ADJUSTMENTS): In addition to considering these proposed rate increases, City Council will also consider an annual rate increase of 2.3%. The proposed 2.3% adjustments, would take place over the next five years (through FY 2021/22), after which time no further automatic adjustments would take place absent a new notice and hearing pursuant to Proposition 218. Under the proposed annual rate increase structure, Porterville residents are likely to see an increase of \$0.04 per 100 cubic feet of water, or about \$1.29 per month for the average customer (inclusive of the meter rate increase). If implemented, the fixed rate of 2.3% increase charges will take effect starting July 1, 2017. Customers will be notified annually of the increase in their May and June water bills.

PROPOSED WATER CONSERVATION PLAN PHASE V RATE INCREASE: Furthermore, at the public hearing, City Council will consider authorizing a 20% water consumption rate increase in Phase V of the City's Water Conservation Plan. We are currently in transition to Phase III of the plan effective June 1, 2016 through November 30, 2016; Phase V is the City's Emergency Response Phase and implemented in times of severe water supply shortages due to drought or other emergencies. This rate increase will encourage water conservation, will also serve as a provision to recover the lost revenues from water conservation which are needed to pay for routine maintenance of the water system, and will assist with continued adequacy of the City's water supply.

BILL IMPACT: A typical single family home uses 22 units (16,456 gallons or 2,200 cubic feet) of water in a billing cycle. A typical monthly bill would increase from \$29.80 to \$55.00 under the proposed initial increase. Should the annual rate increase pass, a typical monthly bill would increase as follows over the next five years. Please note that bills will be lower or higher than shown depending on actual quantity of water used.

	Current	2016/17	2017/18	2018/19	2019/20	2021/22
<i>Monthly Bill</i>	\$29.80	\$55.00	\$56.26	\$57.53	\$58.81	\$60.10

City staff can assist you with answering any questions about your water bill. If you have any questions regarding the information provided in this notice, or the rates applicable to your property, please contact Field Services at (559) 782-7514.

METERED RATES		Proposed Metered Rates per Fiscal Year (FY)				
Water Rate Schedule	Current Rates	Proposed Rates (2016/17)	Annual Fixed Rate Increases			
			FY 2017/18	FY 2018/19	FY 2019/20	FY 2020/21
<i>Projected Fixed Rate Increase</i>			2.3%	2.3%	2.3%	2.3%
WATER CONSUMPTION CHARGE (per 100 cubic feet)	\$0.90	\$1.75	\$1.79	\$1.83	\$1.87	\$1.91
PHASE V RATE INCREASE†	\$1.08	\$2.10	\$2.15	\$2.20	\$2.24	\$2.29
METER SIZE						
<i>Less than 1"</i>	\$10.00	\$16.50	\$16.88	\$17.27	\$17.67	\$18.08
<i>1"</i>	\$11.00	\$18.15	\$18.57	\$19.00	\$19.44	\$19.89
<i>1 1/4"</i>	\$13.50	\$22.28	\$22.79	\$23.31	\$23.85	\$24.40
<i>1 1/2"</i>	\$16.00	\$26.40	\$27.01	\$27.63	\$28.27	\$28.92
<i>2"</i>	\$20.00	\$33.00	\$33.76	\$34.54	\$35.33	\$36.14
<i>3"</i>	\$27.00	\$44.55	\$45.57	\$46.62	\$47.69	\$48.79
<i>4"</i>	\$33.00	\$54.45	\$55.70	\$56.98	\$58.29	\$59.63
<i>6"</i>	\$40.00	\$66.00	\$67.52	\$69.07	\$70.66	\$72.29
<i>8"</i>	\$50.00	\$82.50	\$84.40	\$86.34	\$88.32	\$90.36

UNMETERED FLAT RATES		Proposed Unmetered Flat Rates per Fiscal Year (FY)				
Water Rate Schedule	Current Rates	Proposed Rates (2016/17)	Annual Fixed Rate Increases			
			FY 2017/18	FY 2018/19	FY 2019/20	FY 2020/21
<i>Projected Fixed Rate Increase</i>			2.3%	2.3%	2.3%	2.3%
<i>Trailer Parks</i>	\$19.68	\$36.32	\$37.16	\$38.01	\$38.88	\$39.77
PHASE V RATE INCREASE†	\$23.62	\$43.59	\$44.59	\$45.62	\$46.67	\$47.74
<i>All Others</i>	\$42.80	\$79.01	\$80.83	\$82.69	\$84.59	\$86.54
PHASE V RATE INCREASE†	\$51.36	\$94.81	\$96.99	\$99.22	\$101.50	\$103.83

BACKFLOW DEVICES		Proposed Backflow Device Rates per Fiscal Year (FY)				
Water Rate Schedule	Current Rates	Proposed Rates (2016/17)	Annual Fixed Rate Increases			
			FY 2017/18	FY 2018/19	FY 2019/20	FY 2020/21
<i>Projected Fixed Rate Increase</i>			2.3%	2.3%	2.3%	2.3%
DEVICE SIZE						
<i>1"</i>	\$6.36	\$10.49	\$10.73	\$10.98	\$11.23	\$11.49
<i>1 1/2" – 2 1/2"</i>	\$8.90	\$14.69	\$15.03	\$15.38	\$15.73	\$16.09
<i>3"</i>	\$10.20	\$16.83	\$17.22	\$17.62	\$18.03	\$18.44
<i>4"</i>	\$12.70	\$20.96	\$21.44	\$21.93	\$22.43	\$22.95
<i>6" – 10"</i>	\$56.00	\$92.40	\$94.53	\$96.70	\$98.92	\$101.20

†Phase V Rate Increases will occur only if directed by City Council to transition into the City's Emergency Response Phase V of its Water Conservation Plan.

FUND 34 WATER OPERATING FUND
No New Rate Increase

Available Balance, Beginning of year

Total Operating Revenues

Total Operating Expense

Operating Balance +/-

Cash Payments Bond payment 2002 COP
2009 CIEDB
2010 CIEDB

Total Cash Payment

NET Revenue +/-

Available Balance, End of year

Meet Water Conservation %
26%

FUND 34 WATER OPERATING FUND

Total Operating Revenues

Total Operating Expense
Sustainable Ground Water
Operating Balance +/-

Cash Payments Bond payment 2002 COP
2009 CIEDB
2010 CIEDB
Total Cash Payment

NET Revenue +/-

Transfer to Water Replacement Fund
Operating Fund Balance

Average Monthly Residential Bill

FUND 80 WATER REPLACEMENT FIND

CIP Projects & SGMA Compliance

Water Replacement Projects

Available For Capital Projects

Revenues & Expenditures History						
2009/10 Actual	2010/2011 Actual	2011/2012 Actual	2012/2013 Actual	2013/2014 Actual	2014/2015 Actual	
						\$ 358,704
\$ 4,653,373	\$ 4,860,523	\$ 4,766,336	\$ 4,947,106	\$ 5,031,187	\$ 4,643,123	
\$ 4,346,836	\$ 4,149,737	\$ 4,182,687	\$ 4,062,386	\$ 4,571,216	\$ 4,608,913	
\$ 306,537	\$ 710,786	\$ 583,649	\$ 884,720	\$ 459,971	\$ 34,210	
\$ 259,488	\$ 405,000	\$ 425,000	\$ 455,000	\$ 485,000	\$ 515,000	
	\$ -	\$ 138,602	\$ 143,925	\$ 149,451	\$ 155,190	
	\$ -	\$ 31,600	\$ 32,647	\$ 33,728	\$ 34,843	
\$ 259,488	\$ 405,000	\$ 595,202	\$ 631,572	\$ 668,179	\$ 705,033	
\$ 47,049	\$ 305,786	\$ (11,553)	\$ 253,148	\$ (208,208)	\$ (670,823)	

Revenues & Expenditures 2015/2016		Revenues & Expenditures Projected				
2015/2016 BUDGETED	2015/2016 Year End Projection	2016/2017 PROJECTED BUDGET	2017/2018 PROJECTED BUDGET	2018/2019 PROJECTED BUDGET	2019/2020 PROJECTED BUDGET	2020/2021 PROJECTED BUDGET
\$ 5,650,993	\$ 5,527,860	\$ 5,677,980	\$ 5,808,229	\$ 5,941,473	\$ 6,077,782	\$ 6,077,782
\$ 4,778,652	\$ 4,533,624	\$ 4,969,717	\$ 5,069,111	\$ 5,170,494	\$ 5,273,903	\$ 5,379,382
		\$ 508,042	\$ 508,042	\$ 508,042	\$ 508,042	\$ 508,042
\$ 872,341	\$ 994,236	\$ 200,221	\$ 231,075	\$ 262,937	\$ 295,836	\$ 190,358
\$ 550,000	\$ 550,000	\$ 580,000	\$ 610,000	\$ 640,000		
\$ 161,149	\$ 161,149	\$ 167,337	\$ 173,763	\$ 180,436	\$ 187,364	\$ 194,559
\$ 35,997	\$ 35,997	\$ 37,189	\$ 38,420	\$ 39,692	\$ 41,005	\$ 42,363
\$ 747,146	\$ 747,147	\$ 784,526	\$ 822,183	\$ 860,127	\$ 228,370	\$ 236,922
\$ 125,195	\$ 247,089	\$ (584,305)	\$ (591,108)	\$ (597,190)	\$ 67,466	\$ (46,564)
		\$ 584,305	\$ 591,108	\$ 597,190	\$ (67,466)	\$ 46,564
		\$ -	\$ -	\$ -	\$ -	\$ -

\$29.80 \$30.49 \$31.19 \$31.90 \$32.64 \$32.64

\$ 4,625,418	\$ 3,715,000	\$ 2,010,000	\$ 4,315,000	\$ 3,275,350
\$ 800,000	\$ 800,000	\$ 800,000	\$ 800,000	\$ 800,000
\$ 3,792,130	\$ (1,917,431)	\$ (6,723,377)	\$ (9,830,405)	\$ (14,577,777)
				\$ (18,399,529)

FUND 34 WATER OPERATING FUND
Water Rate Increase

Available Balance, Beginning of year

Total Operating Revenues

Total Operating Expense

Operating Balance +/-

Cash Payments Bond payment 2002 COP
2009 CIEDB

2010 CIEDB
Total Cash Payment

NET Revenue +/-

Available Balance, End of year

Meet Water Conservation %
26%

FUND 34 WATER OPERATING FUND

Total Operating Revenues

Total Operating Expense
Sustainable Ground Water
Operating Balance +/-

Cash Payments Bond payment 2002 COP
2009 CIEDB

2010 CIEDB
Total Cash Payment

NET Revenue +/-

Transfer to Water Replacement Fund
Operating Fund Balance

Average Monthly Residential Bill

FUND 80 WATER REPLACEMENT FIND

CIP Projects & SGMA Compliance

Water Replacement Projects

Available For Capital Projects

Revenues & Expenditures History						
2009/10 Actual	2010/2011 Actual	2011/2012 Actual	2012/2013 Actual	2013/2014 Actual	2014/2015 Actual	
						\$ 358,704
\$ 4,653,373	\$ 4,860,523	\$ 4,766,336	\$ 4,947,106	\$ 5,031,187	\$ 4,643,123	
\$ 4,346,836	\$ 4,149,737	\$ 4,182,687	\$ 4,062,386	\$ 4,571,216	\$ 4,608,913	
\$ 306,537	\$ 710,786	\$ 583,649	\$ 884,720	\$ 459,971	\$ 34,210	
\$ 259,488	\$ 405,000	\$ 425,000	\$ 455,000	\$ 485,000	\$ 515,000	
	\$ -	\$ 138,602	\$ 143,925	\$ 149,451	\$ 155,190	
	\$ -	\$ 31,600	\$ 32,647	\$ 33,728	\$ 34,843	
\$ 259,488	\$ 405,000	\$ 595,202	\$ 631,572	\$ 668,179	\$ 705,033	
\$ 47,049	\$ 305,786	\$ (11,553)	\$ 253,148	\$ (208,208)	\$ (670,823)	

Revenues & Expenditures 2015/2016		Revenues & Expenditures Projected				
2015/2016 BUDGETED	2015/2016 Year End Projection	2016/2017 PROJECTED BUDGET	2017/2018 PROJECTED BUDGET	2018/2019 PROJECTED BUDGET	2019/2020 PROJECTED BUDGET	2020/2021 PROJECTED BUDGET
\$ 5,650,993	\$ 5,527,860	\$ 9,951,128	\$ 10,179,751	\$ 10,413,632	\$ 10,652,893	\$ 10,897,656
\$ 4,778,652	\$ 4,533,624	\$ 5,343,343	\$ 5,450,210	\$ 5,559,214	\$ 5,670,398	\$ 5,783,806
		\$ 508,042	\$ 508,042	\$ 508,042	\$ 508,042	\$ 508,042
\$ 872,341	\$ 994,236	\$ 4,099,743	\$ 4,221,500	\$ 4,346,377	\$ 4,474,453	\$ 4,605,809
\$ 550,000	\$ 550,000	\$ 580,000	\$ 610,000	\$ 640,000		
\$ 161,149	\$ 161,149	\$ 167,337	\$ 173,763	\$ 180,436	\$ 187,364	\$ 194,559
\$ 35,997	\$ 35,997	\$ 37,189	\$ 38,420	\$ 39,692	\$ 41,005	\$ 42,363
\$ 747,146	\$ 747,147	\$ 784,526	\$ 822,183	\$ 860,127	\$ 228,370	\$ 236,922
\$ 125,195	\$ 247,089	\$ 3,315,217	\$ 3,399,316	\$ 3,486,249	\$ 4,246,083	\$ 4,368,887
		\$ (3,315,217)	\$ (3,399,316)	\$ (3,486,249)	\$ (4,246,083)	\$ (4,368,887)
		\$ -	\$ -	\$ -	\$ -	\$ -

\$29.80 \$55.00 \$56.26 \$57.53 \$58.81 \$60.10

	\$ 4,625,418	\$ 3,715,000	\$ 2,010,000	\$ 4,315,000	\$ 3,275,350
	\$ 800,000	\$ 800,000	\$ 800,000	\$ 800,000	\$ 800,000
	\$ 3,792,130	\$ 1,982,091	\$ 1,166,570	\$ 2,142,981	\$ 1,574,226
					\$ 2,167,925

RESOLUTION NO. ____-2016

A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF PORTERVILLE
SETTING WATER USER FEES

WHEREAS: The City of Porterville, through Municipal Code Chapter 25, is empowered to acquire, construct, and operate a water supply system; and

WHEREAS: By Chapter 25, the City Council of the City of Porterville may establish rates necessary to operate said system. The charges by the City for its water are to be collected monthly by the finance department for the use and benefit of the City and shall be fixed by resolution of the City Council; and

WHEREAS: Rates must reflect actual cost of usage and consumption. In addition to establishing the attached rate increases, City Council will also implement a 2.3% annual rate increase over the next four budget cycles; and

WHEREAS: Certain rates must cover the cost related to administration, construction, maintenance and replacements to the water system. City Council authorizes a 20% water consumption rate increase in Phase V of the City's Water Conservation Plan. This rate increase will encourage water conservation, pay for water conservation programs, and will also serve as a provision to recover the lost revenues from water conservation which are needed to pay for maintenance and operation of the water system necessary to assist with continued adequacy of the City's water supply. Phase V rate increases will occur only if directed by City Council to transition into the City's Emergency Response Phase V of its Water Conservation Plan; and

WHEREAS: The cost analysis to finance said water system demonstrates a need to increase the water rates.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve an increase in water user fees as proposed. The following rates shall be implemented as the rates of the Water Supply System pursuant to Chapter 25-15 for all water bills generated after August 1, 2016.

METERED RATES		Proposed Metered Rates per Fiscal Year (FY)				
Water Rate Schedule	Current Rates	Proposed Rates (2016/17)	Annual Fixed Rate Increases			
			FY 2017/18	FY 2018/19	FY 2019/20	FY 2020/21
Projected Fixed Rate Increase			2.3%	2.3%	2.3%	2.3%
1. WATER CONSUMPTION CHARGE (per 100 cubic feet)	\$0.90	\$1.75	\$1.79	\$1.83	\$1.87	\$1.91
2. PHASE V RATE INCREASE	\$1.08	\$2.10	\$2.15	\$2.20	\$2.24	\$2.29
3. METER SIZE						
Less than 1"	\$10.00	\$16.50	\$16.88	\$17.27	\$17.67	\$18.08
1"	\$11.00	\$18.15	\$18.57	\$19.00	\$19.44	\$19.89
1 1/4"	\$13.50	\$22.28	\$22.79	\$23.31	\$23.85	\$24.40
1 1/2"	\$16.00	\$26.40	\$27.01	\$27.63	\$28.27	\$28.92
2"	\$20.00	\$33.00	\$33.76	\$34.54	\$35.33	\$36.14
3"	\$27.00	\$44.55	\$45.57	\$46.62	\$47.69	\$48.79
4"	\$33.00	\$54.45	\$55.70	\$56.98	\$58.29	\$59.63
6"	\$40.00	\$66.00	\$67.52	\$69.07	\$70.66	\$72.29
8"	\$50.00	\$82.50	\$84.40	\$86.34	\$88.32	\$90.36

4. UNMETERED FLAT RATES		Proposed Unmetered Flat Rates per Fiscal Year (FY)				
Water Rate Schedule	Current Rates	Proposed Rates (2016/17)	Annual Fixed Rate Increases			
			FY 2017/18	FY 2018/19	FY 2019/20	FY 2020/21
Projected Fixed Rate Increase			2.3%	2.3%	2.3%	2.3%
Trailer Parks	\$19.68	\$36.32	\$37.16	\$38.01	\$38.88	\$39.77
PHASE V RATE INCREASE	\$23.62	\$43.59	\$44.59	\$45.62	\$46.67	\$47.74
All Others	\$42.80	\$79.01	\$80.83	\$82.69	\$84.59	\$86.54
PHASE V RATE INCREASE	\$51.36	\$94.81	\$96.99	\$99.22	\$101.50	\$103.83

5. BACKFLOW DEVICES		Proposed Backflow Device Rates per Fiscal Year (FY)				
Water Rate Schedule	Current Rates	Proposed Rates (2016/17)	Annual Fixed Rate Increases			
			FY 2017/18	FY 2018/19	FY 2019/20	FY 2020/21
Projected Fixed Rate Increase			2.3%	2.3%	2.3%	2.3%
DEVICE SIZE						
1"	\$6.36	\$10.49	\$10.73	\$10.98	\$11.23	\$11.49
1 1/2" – 2 1/2"	\$8.90	\$14.69	\$15.03	\$15.38	\$15.73	\$16.09
3"	\$10.20	\$16.83	\$17.22	\$17.62	\$18.03	\$18.44
4"	\$12.70	\$20.96	\$21.44	\$21.93	\$22.43	\$22.95
6" – 10"	\$56.00	\$92.40	\$94.53	\$96.70	\$98.92	\$101.20

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

Milt Stowe, Mayor

ATTEST:
John D. Lollis, City Clerk

By: _____
Patrice Hildreth, Chief Deputy City Clerk



CITY COUNCIL AGENDA – JULY 19, 2016

SUBJECT: Award of Contract for Banking Services

SOURCE: Finance

COMMENT: At its meeting on April 5, 2016, City Council authorized staff to issue a Request for Proposals (RFP) for major banking services. The City's agreement with its current banking services provider expired in June 2013. The RFP process gave staff the opportunity to reevaluate banking services and costs.

The City received a total of three (3) responses to the RFP for banking services from the following:

Bank of the Sierra
MUFG Union Bank
Wells Fargo Bank

Staff carefully reviewed and evaluated all three proposals. All the proposing banks are financially sound and capable of providing all or most of the services currently utilized by the City, as well as additional enhancements that may be implemented in the future. Below is a summary of staff's review of the proposals and analysis of the fees.

Bank of the Sierra is in its 39th year of operations and is the largest independent bank headquartered in Porterville. It is one of the significant local employers in the city with almost 200 employees on staff locally. In their proposal, Bank of the Sierra will waive their implementation and training fee. The review of the proposal submitted by the bank and the initial dialogue with the bank's representatives indicated that the bank is not able to accommodate the city's one-day electronic processing of payroll files for direct deposit and that the bank does not currently provide account reconciliation service, two bank services currently in place and utilized by city staff. At the last council meeting, when staff presented the result of its review of the proposals, City Council delayed the award of the contract, to further explore Bank of the Sierra's capabilities to provide these particular services. City representatives met with officers of the bank and were assured that the bank will be able to process the city's direct deposit payroll file, one day in advance of pay date, specially with the upcoming changes to ACH rules effective in October 2016. The bank officers also clarified that the bank is capable of providing account reconciliation service although none of the bank's current customers actually use the service.

Wells Fargo & Company is a nationwide, diversified financial services company providing banking and other consumer and commercial financial services. They are headquartered in San Francisco but are decentralized with a Wells Fargo office in Porterville. As part of their proposal, Wells Fargo is offering to waive the first three months of banking fees. There are one-time setup charges amounting to \$555 that will apply to the implementation of certain services. The fee waiver and the setup charges will result in net savings to the City of about \$6,000. Wells Fargo provides account reconciliation service and is able to accommodate the one-day electronic processing of payroll direct deposit. Because of the Wells Fargo branch location in Porterville, staff is contemplating the use of a courier service for the City's cash deposits. This would be an additional cost of at least \$125 per month and is included in the total estimated fees shown below.

MUFG Union Bank is the City's current banking services provider and has been since 1995. Staff had not encountered any major issues with the services Union Bank provides and customer service has been excellent. In addition, Union Bank continues to charge the City the same 2008 contract pricing after the term of the agreement expired in 2013, except for the new fees on remote deposit services. In response to the City's RFP, Union Bank submitted an informal bid proposal which is not in the format specified in the RFP. Union Bank is proposing to extend the same 2008 contract pricing for another five years.

The banking services costs include fees that are dependent upon the volume of transactions. Costs incurred are offset by an earnings credit provided by the bank based on the average daily or monthly balance on the account. The table below shows a comparison of the estimated monthly costs of banking services as proposed:

	MUFG Union Bank	Wells Fargo Bank	Bank of the Sierra
Total estimated monthly cost	\$2,045	\$2,394	\$2,500
Earnings credit rate	0.25%	0.28%	0.29%
Estimated earnings credit	\$150	\$187	\$174
Net estimated monthly cost	\$1,895	\$2,207	\$2,326
Increase in cost per year	--	\$3,744	\$5,172

RECOMMENDATION: That the City Council:

1. Select a banking services provider from the RFP responders;
and

2. Authorize staff to execute an agreement with the selected bank for a term of five years with an option to negotiate extensions to the contract for additional two-year periods.

ATTACHMENTS:

Appropriated/Funded: MB

Review By:

Department Director:

Final Approver: Patrice Hildreth, Administrative Services Dir



CITY COUNCIL AGENDA – JULY 19, 2016

SUBJECT: Consideration of Draft Letter to the Tulare County Board of Supervisors Regarding Alternative Solutions to the Winter Closure of M90

SOURCE: City Manager's Office

COMMENT: At its last meeting on July 5th, City Councilmember Gurrola requested that the Council consider authorizing a letter on behalf of the Council to be transmitted to the Tulare County Board of Supervisors, encouraging the Board to consider alternative solutions to the winter closure of M90 in the Sequoia National Forest. The Council authorized that a Draft Letter be prepared and considered at its July 19th meeting.

RECOMMENDATION: That the City Council consider the Draft Letter and its transmittal to the Tulare County Board of Supervisors.

ATTACHMENTS: 1. Draft Letter Re: M90

Appropriated/Funded:

Review By:

Department Director:

Final Approver: John Lollis, City Manager



July 19, 2016

The Honorable Board of Supervisors
County of Tulare
2800 W. Burrel Avenue
Visalia, California 93291

Re: Alternative Solutions to the Winter Closure of M90

Dear Members of the Board of Supervisors:

On behalf of the Porterville City Council, please accept this letter in support of the efforts begun by the Upper Tule Association, in requesting the County investigate alternative solutions to the road closure of M90 during the winter months. Each year beginning with the first snow, the County closes the road from Ponderosa to the Johnsondale turnoff, resulting in the closure of an important 13.6 miles of roadway that connects travelers from around the world to Tulare County.

Tulare is the only county with the ability to boast of a direct connection between Death Valley National Park and the Sequoia National Forest and Giant Sequoia National Monument. However, the road closure each year broadcasts to the world via the internet and social media that the road is closed and visitors must plan an alternate route around Tulare County and spend their valuable tourism dollars elsewhere.

Due to visitor accommodations being very limited in the Sequoia National Forest itself, the approximate 50% drop in visitor spending experienced by businesses along the Upper Tule is magnified in the surrounding communities where visitors spend their dollars on food, gas and hotels; a certainty because these visitors cannot make it to the airports in San Francisco or Los Angeles without a stop in our local communities to refuel or rest. Finding an alternative to the road closure will bring in greatly needed tourism dollars from the approximate 1.1 million visitors to these Parks. The National Forest Service is an enthusiastic supporter of keeping M90 open, given the wide variety of winter activities the Sequoia National Forest could provide (i.e., cross-country skiing, snowshoeing, and snowmobiling), as well as continued access to the majestic Trail of 100 Giants and the Long Meadow Giant Sequoia Grove.

Page 2
July 19, 2016
Alternative Solutions Letter of Support

Alternative solutions to the winter closure of M90 suggested to be investigated to access a larger piece of the estimated \$112.5 billion tourism dollars spent annually in California include:

- Toll roads
- Federal and/or State partnership
- Plow sharing
- Plowing limitations
- Road privatization
- Privatization of plowing contracts
- Partnership with the Tule River Indian Reservation
- Tourism grant dollars

Thank you for your time and consideration of this letter, and we urge you to sincerely investigate this valuable proposal. Our reward will be seen in increased sales tax revenue, higher property values and enhanced emergency safety.

Sincerely,

Milt Stowe, Mayor
Porterville City Council





CITY COUNCIL AGENDA – JULY 19, 2016

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. 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 is being 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.

At its last meeting on July 5th, 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. Approximately thirty (30) residences within the city have been determined to currently have dry wells, most of which are concentrated in the vicinity of E. Vandalia Avenue between Main and Plano Streets, and it is anticipated that more could likely occur through the coming summer months. 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.

Representatives for the City, County, and State (CalOES, DDW, DWR, and SWB) have continued to meet in support of the feasibility study for a long-term permanent water connection plan for the entire East Porterville area and the estimated 1,800 expected future connections, of which the Public Draft was circulated and a Public Meeting, to receive comments, was scheduled for the evening of Thursday, June 23rd at Granite Hills High School. DWR has identified 423 residential units in the East Porterville area (381 of which are in the City's Urban Development Boundary), that are currently 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 would like to begin a significant City waterline extension project in late 2016 to begin permanently connecting those 423 residential units to the City's water system. To provide source water for the DWR extension project, CalOES desires 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 the 80 residential units be included in the water connection project, to which the State has agreed. City staff conducted a public outreach meeting with the E. Vandalia Avenue area residents on Tuesday, June 14th, which was well attended by the affected residents. The City also has agreed to connect expeditiously an estimated 40 residential units that front existing water mains in the East Porterville area and are currently served by the County Household Tank Program.

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 April 5th meeting, which the County Board of Supervisors subsequently approved at their May 10th meeting.

A Memorandum of Understanding between the State, County, and City on the East Porterville permanent water connection project has been drafted, which was approved by the Council during a Special Meeting on Tuesday, June 21st.

With the Council's approval of the MOU, it is anticipated that the State will begin the permanent connection of approximately 40 homes that are located along existing City water mains toward the end of July.

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. Governor Executive Order
3. City-County Well Agreement
4. Memorandum of Understanding

Appropriated/Funded:

Review By:

Department Director:

Final Approver: Yuliana Andrade, City Manager's Secretary

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

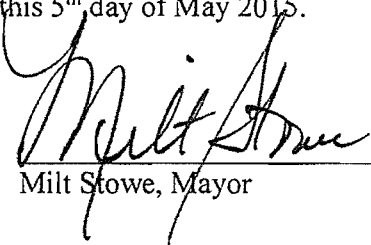
WHEREAS: the long-term ramifications of the current drought will have a significant impact on the city of Porterville and potentially pose a danger to the health and welfare of its residents; and

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

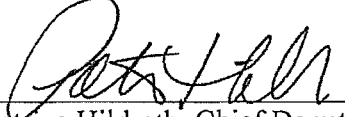
BE IT FURTHER RESOLVED: that the City Council of the City of Porterville requests the Governor and California Department of Water Resources make available California Disaster Assistance Act funding for the State of Local Emergency proclaimed on May 5, 2015, and seek all available forms of Federal assistance, 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

Executive Department

State of California

EXECUTIVE ORDER B-37-16 MAKING WATER CONSERVATION A CALIFORNIA WAY OF LIFE

WHEREAS California has suffered through 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 23.9% between June 2015 and March 2016 and saving enough water during this period to provide 6.5 million Californians with water for one year; and

WHEREAS severe drought conditions persist in many areas of the state despite recent winter precipitation, with limited drinking water supplies in some communities, diminished water for agricultural production and environmental habitat, and severely-depleted groundwater basins; and

WHEREAS drought conditions may persist in some parts of the state into 2017 and beyond, as warmer winter temperatures driven by climate change reduce water supply held in mountain snowpack and result in drier soil conditions; and

WHEREAS these ongoing drought conditions and our changing climate require California to move beyond temporary emergency drought measures and adopt 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; and

WHEREAS these activities are prioritized in the California Water Action Plan, which calls for concrete, measurable actions that "Make Conservation a California Way of Life" and "Manage and Prepare for Dry Periods" in order to improve use of water in our state.

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, in particular California Government Code sections 8567 and 8571, do hereby issue this Executive Order, effective immediately.

IT IS HEREBY ORDERED THAT:

The orders and provisions contained in my January 17, 2014 Emergency Proclamation, my April 25, 2014 Emergency Proclamation, Executive Orders B-26-14, B-28-14, B-29-15, and B-36-15 remain in full force and in effect except as modified herein.

State agencies shall update temporary emergency water restrictions and transition to permanent, long-term improvements in water use by taking the following actions.

USE WATER MORE WISELY

1. The State Water Resources Control Board (Water Board) shall, as soon as practicable, adjust emergency water conservation regulations through the end of January 2017 in recognition of the differing water supply conditions across the state. To prepare for the possibility of another dry winter, the Water Board shall also develop, by January 2017, a proposal to achieve a mandatory reduction in potable urban water usage that builds off of the mandatory 25% reduction called for in Executive Order B-29-15 and lessons learned through 2016.
2. The Department of Water Resources (Department) shall work with the Water Board to develop new water use targets as part of a permanent framework for urban water agencies. These new water use targets shall build upon the existing state law requirements that the state achieve a 20% reduction in urban water usage by 2020. (Senate Bill No. 7 (7th Extraordinary Session, 2009-2010).) These water use targets shall be customized to the unique conditions of each water agency, shall generate more statewide water conservation than existing requirements, and shall be based on strengthened standards for:
 - a. Indoor residential per capita water use;
 - b. Outdoor irrigation, in a manner that incorporates landscape area, local climate, and new satellite imagery data;
 - c. Commercial, industrial, and institutional water use; and
 - d. Water lost through leaks.

The Department and Water Board shall consult with urban water suppliers, local governments, environmental groups, and other partners to develop these water use targets and shall publicly issue a proposed draft framework by January 10, 2017.

3. The Department and the Water Board shall permanently require urban water suppliers to issue a monthly report on their water usage, amount of conservation achieved, and any enforcement efforts.

ELIMINATE WATER WASTE

4. The Water Board shall permanently prohibit practices that waste potable water, 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 and the Department shall 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.
6. The Water Board and the Department shall 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 shall order investor-owned water utilities to accelerate work to minimize leaks.
7. The California Energy Commission shall certify innovative water conservation and water loss detection and control technologies that also increase energy efficiency.

STRENGTHEN LOCAL DROUGHT RESILIENCE

8. The Department shall strengthen requirements for urban Water Shortage Contingency Plans, which urban water agencies are required to maintain. These updated requirements shall include adequate actions to respond to droughts lasting at least five years, as well as more frequent and severe periods of drought. While remaining customized according to local conditions, the updated requirements shall also create common statewide standards so that these plans can be quickly utilized during this and any future droughts.
9. The Department shall consult with urban water suppliers, local governments, environmental groups, and other partners to update requirements for Water Shortage Contingency Plans. The updated draft requirements shall be publicly released by January 10, 2017.

10. For areas not covered by a Water Shortage Contingency Plan, the Department shall work with counties to facilitate improved drought planning for small water suppliers and rural communities.

IMPROVE AGRICULTURAL WATER USE EFFICIENCY AND DROUGHT PLANNING

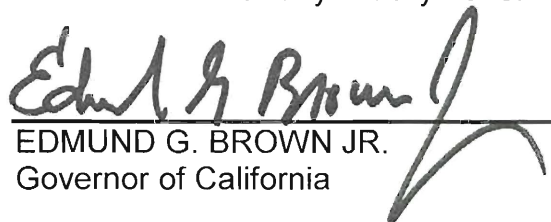
11. The Department shall work with the California Department of Food and Agriculture to update existing requirements for Agricultural Water Management Plans to ensure that these plans identify and quantify measures to increase water efficiency in their service area and to adequately plan for periods of limited water supply.
12. The Department shall permanently require the completion of Agricultural Water Management Plans by water suppliers with over 10,000 irrigated acres of land.
13. The Department, together with the California Department of Food and Agriculture, shall consult with agricultural water suppliers, local governments, agricultural producers, environmental groups, and other partners to update requirements for Agricultural Water Management Plans. The updated draft requirements shall be publicly released by January 10, 2017.

The Department, Water Board and California Public Utilities Commission shall develop methods to ensure compliance with the provisions of this Executive Order, including technical and financial assistance, agency oversight, and, if necessary, enforcement action by the Water Board to address non-compliant water suppliers.

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 9th day of May 2016.


EDMUND G. BROWN JR.
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State

TULARE COUNTY – CITY OF PORTERVILLE WELL AGREEMENT

THIS AGREEMENT is entered into this day of, _____ 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'.

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. Burrell 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.

///

///

///

///

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

COUNTY OF TULARE

BY _____
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 _____
Deputy Clerk

Approved as to Form
County Counsel

By _____
Deputy

CITY OF PORTERVILLE

BY _____
Milt Stowe, Mayor

ATTEST:
City Clerk of the City of Porterville

BY _____
John Lollis, City Manager

Approved as to Form

BY _____
City Attorney

EXHIBIT 'A'

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:

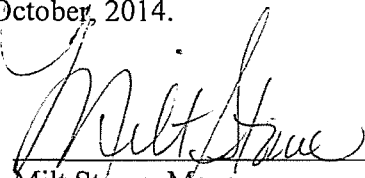
1. To promote orderly development while discouraging urban sprawl, preserving open space and prime agricultural lands, and efficiently extending government services.
2. To honor the City’s fundamental responsibility to provide efficient and sustainable public services to the inhabitants of the city, 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).

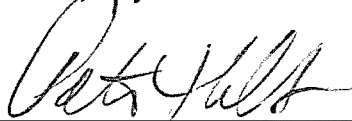
2. It shall be the policy of the City of Porterville to consider extra-territorial service requests primarily within the Urban Development Boundary, which is defined as the City of Porterville Annexation Boundary, as adopted by Tulare County LAFCo.
3. It shall be the policy of the City of Porterville, 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".

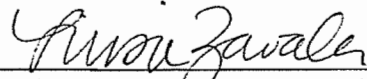
PASSED, APPROVED AND ADOPTED this 19th day of April, 2016.



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.

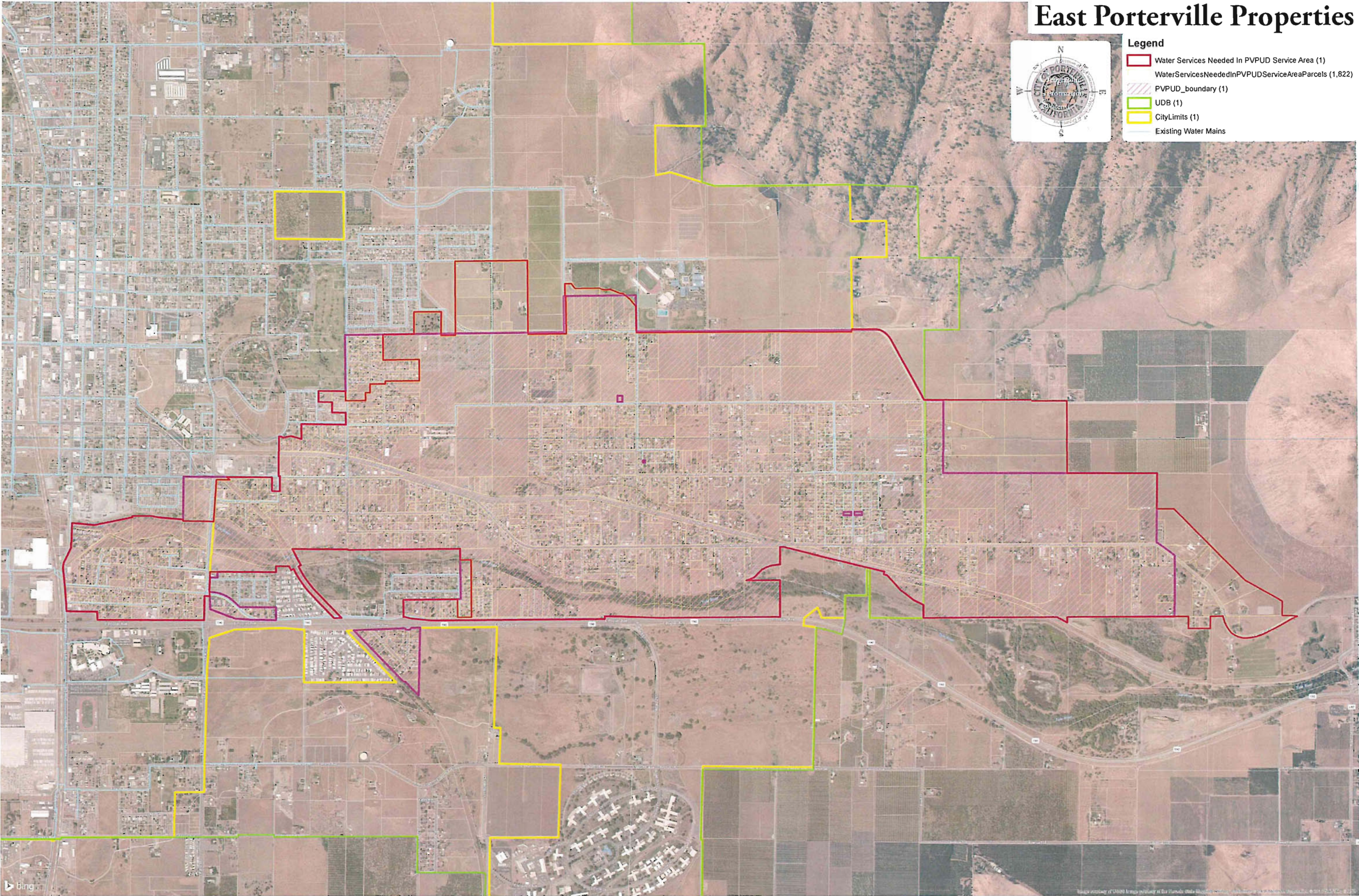
3. PROPERTIES WITHIN THE EAST PORTERVILLE FEASIBILITY STUDY PROJECT AREA: The California State Water Resources Control Board, in coordination with the Department of Water Resources Drought Task Force, is charged with preparing a feasibility study to define a long-term solution to the water related issues 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

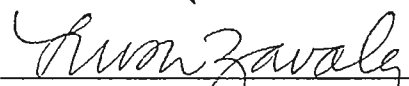

By: Luisa Zavala, Deputy City Clerk

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 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

