



**CITY COUNCIL AGENDA
CITY HALL, 291 N. MAIN STREET
PORTERVILLE, CALIFORNIA
DECEMBER 19, 2017, 5:30 PM**

Call to Order

Roll Call

ORAL COMMUNICATIONS

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

CITY COUNCIL CLOSED SESSION:

A. Closed Session Pursuant to:

- 1** - Government Code Section 54956.8 -- Conference with Real Property Negotiators/Property: APN: 260-235-006 and 260-242-016. Agency Negotiator: John Lollis and Patrice Hildreth. Negotiating Parties: City of Porterville and Greg Shelton and Steve Penn. Under Negotiation: Terms and Price.
- 2** - Government Code Section 54957.6 – Conference with Labor Negotiator. Agency Negotiator: John Lollis and Patrice Hildreth. Employee Organizations: Porterville Peace Officers Association.
- 3** - Government Code Section 54956.9(d)(1) – Conference with Legal Counsel – Existing Litigation: Duran v. City of Porterville, Tulare County Superior Court Case No. 271986; and Boehm v. City of Porterville, Tulare County Superior Court Case No. 271932.
- 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: Two cases.

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

Pledge of Allegiance Led by Mayor Milt Stowe

Invocation

PRESENTATIONS

Employee of the Month - Yuliana Andrade

AB 1234 REPORTS

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

1. Local Agency Formation Commission (LAFCO) - December 6, 2017
2. Tulare County Association of Governments (TCAG) - December 11, 2017

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 - December 7, 2017
 2. Library & Literacy Commission - December 12, 2017
 3. Arts Commission - December 13, 2017
 4. Animal Control Commission
 5. Youth Commission - December 11, 2017
 6. Transactions and Use Tax Oversight Committee (TUTOC)
- 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. **Purchase of Real Property - APN 271-060-027**
Re: Consideration of a resolution approving the purchase of property located east of Plano Street, between State Route 190 and East Worth Avenue from James Gregory Shelton for \$178,000.

2. **Award of Contract for Lease of 298 N. Main Street, Suites 2 & 3**
Re: Considering approval to award the lease agreement for 298 N. Main Street, Suites 2 and 3, to Kyler Macrcelino and Seth Schultz, dba The Lunch Box Catering Company, for a term of five years with an option to extend the term of the agreement for an additional five year period.
3. **Approval of Amendment to Measure 'R' Supplemental Agreement - State Route 190 Corridor Project Project Approval and Environmental Document (PA & ED) Stage**
Re: Considering approval of a resolution in support of amending the Program Supplements to the Cooperative Agreement for the State Route 190 Corridor Project PA & ED Stage.
4. **Renewal of Airport Lease Agreement - Lot 44B**
Re: Considering approval of a five-year extension of the Lease Agreement between the City of Porterville and Mr. Mike Quatacker of Porterville, CA, for Lot 44B at the Porterville Municipal Airport.

SECOND READINGS

5. **Second Reading - Ordinance No. 1844 - An Ordinance Approving Zone Change PRC 2016-034-Z**
Re: Second Reading of Ordinance No. 1844, an ordinance approving a zone change from RM-3 to CR for the .56± acre site located at the northeast corner of Henderson Avenue and Prospect Street, which was given first reading on December 5, 2017, and has been printed.

SCHEDULED MATTERS

6. **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 January 16, 2017.

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 – DECEMBER 19, 2017

SUBJECT: 1. Water Conservation Phase III Status Update

SOURCE: Public Works

COMMENT: As Porterville has continued to implement an active water conservation approach, both conserving and providing flexibility to the community, the City will be transitioning from Phase III to Phase IV of the City's Water Conservation Plan, effective December 1, 2017, as approved by the City Council at its meeting on May 16, 2017. The Water Conservation Plan applies to all municipal water users within or not within city limits. As part of the Phase IV implementation, the City will reduce its watering days to a one day per week watering schedule based on address. If an address ends with an "odd" number, the watering day is Saturday; if an address ends with an "even" number, the watering day is 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, Tuesday, Wednesday, Thursday or Friday. Watering of the outdoor landscape is prohibited during, and within 48 hours after, measurable rainfall, which is 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 November 2017 show that a total of 28 Notice of Violations were issued for water wasting; zero Administrative Citations were issued.

Water production for November 2017 was a 3% increase to the 5-year average. The production for the month of November 2017 was 248 million gallons, which when compared to the production for the month of November 2013 of 254 million gallons, equates to a 2.3% reduction. Residential consumption for November 2017 was 100 gallons per capita per day (GPCD).

Under the February 2016 emergency regulation, the City of Porterville received a revised conservation standard of 28% with an additional 2% reduction for a climate adjustment, making the City's conservation standard 26%. After reviewing the Water Board's Self-Certification criteria for the City of Porterville, Council approved maintaining a self-imposed standard of 26%. The continuation of the conservation standard keeps a standardized message the City has worked to develop in public outreach, provides resiliency and capacity to ensure 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 City will continue to track cumulative conservation totals as well as monthly reporting data, comparing water production totals from 2013 to 2015 through current. 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. The cumulative total for the City of Porterville's conservation efforts will reflect June 2015 through November 2017. Porterville's cumulative total conservation through November 2017 is 26.21%.

The Governor's executive order directs the State Water Board to lift the specific conservation provisions of its drought emergency regulations but to keep in place the temporary requirements for monthly water use reporting and prohibitions against wasteful water use practices while the Board works to develop permanent reporting and wasteful use regulations. The temporary requirements will remain in effect until November 25, 2017, when the emergency regulation is set to expire. The current prohibitions against wasteful water use practices include outdoor watering during or within 48 hours after a rain event; hosing down a sidewalk instead of using a broom or a brush, and over-watering a landscape to where water is running off onto the sidewalk or into the gutter. The long-term conservation framework, also released on April 7, 2017, includes recommendations to establish permanent water conservation standards and improved agricultural and urban water management planning to better prepare for more frequent and severe droughts due to climate change. These actions will help achieve a top priority of the California Water Action Plan - to improve long-term drought preparedness and "Make Conservation a California Way of Life." Permanent Drought Draft Regulations have been released and are out for public comment, comments are due to the Water Board by December 26, 2017.

RECOMMENDATION: Informational report only.

ATTACHMENTS:

1. Drought Response Phase III Flyer
2. Drought Response Phase IV Flyer
3. Monthly Production Status for November 2017

Appropriated/Funded:

Review By:

Department Director:

Mike Reed, Acting Public Works Director

Final Approver: Patrice Hildreth, Administrative Services Dir



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.



DROUGHT RESPONSE Phase IV

Mandatory Odd/Even Watering Schedule, based on address. Residents will be allowed ONE day a week to water lawns and landscapes. No watering allowed Monday through 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 (>0.01 inches).

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 IV water conservation regulations could result in citations with fines up to \$500.

DROUGHT RESPONSE PHASE IV

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

Mandatory Odd/Even Watering Schedule

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

- Odd Address
- Even Address
- Outdoor Watering is Prohibited

ODD NUMBER ADDRESSES

If your address ends with an “odd” number, 1, 3, 5, 7, or 9, your watering day is Saturday *only*.

OR

EVEN NUMBER ADDRESSES

If your address ends with an “even” number, 0, 2, 4, 6, or 8, your watering day is 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**

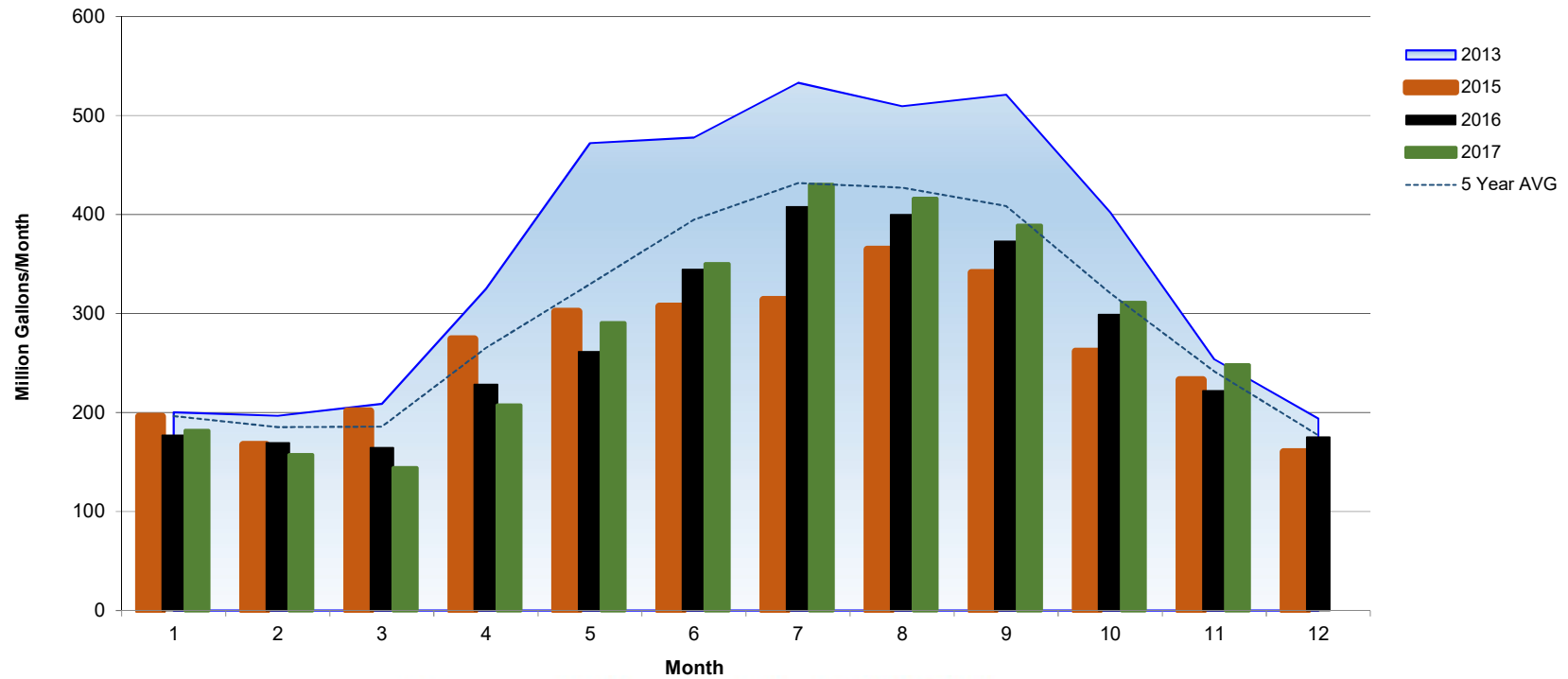
**Vehicles shall only be
washed on designated
watering days and with
hoses equipped with a
shut-off nozzle**

**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
MONDAY THROUGH
FRIDAY.**

**Monthly Production Status & Cumulative Total June 15/16 Through
November 2017 Production Comparison to 2013 & 5 Year Average**



Cumulative Total 26.2%

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

Percent Comparison to 2013 Production



CITY COUNCIL AGENDA – DECEMBER 19, 2017

SUBJECT: Purchase of Real Property - APN 271-060-027

SOURCE: Community Development

COMMENT: Pursuant to City Council authorization on October 17, 2017, staff has negotiated the purchase of real property from Mr. James Gregory Shelton in the accepted amount of \$178,000. The property consists of approximately 8.7 acres of land generally located east of Plano Street, between State Route 190 and East Worth Avenue. The terms of the purchase are outlined in the Purchase and Sale Agreement which is provided herein, as is the draft resolution for Council's consideration. The funding source for said purchase is the City of Porterville Water Enterprise Fund.

RECOMMENDATION: That the City Council adopt the draft resolution approving the purchase of APN 271-060-027; and authorize the Mayor and City Manager to sign all documents necessary to complete the purchase.

ATTACHMENTS:

1. Purchase and Sale Agreement APN 271-060-027
2. Draft Resolution
3. Locator Map

Appropriated/Funded: JR for MB

Review By:

Department Director:

Jenni Byers, Community Development Director

Final Approver: Patrice Hildreth, Administrative Services Dir

**PURCHASE AND SALE AGREEMENT
AND ESCROW INSTRUCTIONS**

Between

JAMES GREGORY SHELTON

SELLER

And

**CITY OF PORTERVILLE,
a California municipal corporation**

BUYER

DATED: _____, 2017

("Escrow Holder")

_____, California _____

Attention: _____

Telephone: _____

E-Mail: _____

Escrow No. _____

Date of Opening of

Escrow: _____

PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS

THIS PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS (the "Agreement") is made as of _____, 2017 ("Execution Date"), by and between **JAMES GREGORY SHELTON** ("Seller"), and **CITY OF PORTERVILLE**, a California municipal corporation ("Buyer").

ARTICLE 1 PROPERTY

1.1 The Property. Seller agrees to sell to Buyer and Buyer agrees to purchase from Seller the real property in Porterville, Tulare County, California, as described in **Exhibit A** (the "Property"), subject to the terms and conditions of this Agreement, any and all applicable federal, state and local laws, orders, rules, regulations, any and all outstanding rights of record or open and obvious on the ground, and all matters in the form of the Quitclaim Deed also attached in **Exhibit A** (the "Deed").

ARTICLE 2 PURCHASE PRICE

2.1 Purchase Price The purchase price ("Purchase Price") for the Property is \$178,000.

2.2 Payment of Purchase Price. Buyer shall pay the Purchase Price as follows:

2.2.1 Deposit. Concurrently with Buyer's execution and delivery of this Agreement to Seller, Buyer shall deliver to Escrow Holder, for deposit into the above-referenced numbered escrow account (the "Escrow"), the sum of \$10,000 as a deposit toward the Purchase Price (the "Deposit"). Buyer shall pay the Deposit by cashier's or certified check drawn upon a California financial institution, or by cash deposit or a wire transfer of U.S. funds for immediate credit ("Good Funds"). The Deposit will be applied towards the Purchase Price at Closing (as defined in Section 7.2.1), except in the event of a material default by Seller or the failure of a condition precedent to Buyer's obligations hereunder, or termination of this Agreement.

2.2.2 Balance. At least one (1) business day prior to the Closing Date (as defined in Section 7.2.1), Buyer shall deliver to Escrow Holder a sum equal to the Purchase Price, together with Buyer's share of prorations and costs of Escrow as provided in Sections 7.6 through 7.8, less the amount of the Deposit. Buyer shall pay such sum in Good Funds.

ARTICLE 3 AS IS SALE

3.1 As Is Sale. Buyer and its representatives, prior to the Closing Date, will have been afforded the opportunity to make such inspections of the Property and matters related thereto as Buyer and its representatives desire, including, without limitation, governmental laws and regulations to which the Property is subject. Buyer shall accept the Property upon the basis of its review and determination of the applicability and effect of such laws and regulations. Buyer acknowledges and agrees that the Property is to be sold and quitclaimed to and accepted by Buyer in an "as is" condition with all faults, and that the Property has been used for, among other things, railroad operating right-of-way. Seller does not make any representations or warranties of any kind whatsoever, either express or implied, with respect to the Property or any of such related matters; in particular, but without limitation, Seller makes no representations or warranties with respect to the use, condition, title, occupation or management of the Property, compliance with applicable statutes, laws, codes, ordinances, regulations or requirements relating to leasing, zoning, subdivision, planning, building, fire, safety, health or environmental matters, compliance with covenants, conditions and restrictions (whether or not of record), other local, municipal, regional, state or federal requirements, or other statutes, laws, codes, ordinances, regulations or requirements (collectively, "Condition of the Property"). Buyer acknowledges that it is entering into this Agreement on the basis of Buyer's own investigation of the physical and environmental conditions of the Property, including the subsurface conditions and Buyer assumes the risk that adverse physical and environmental conditions may not have been revealed by its investigation.

3.2 Survival. The provisions of Section 3.1 will survive the Closing and the delivery of the Deed.

ARTICLE 4 TITLE TO PROPERTY

4.1 Title. At the Closing (as defined in Section 7.2.1), Seller shall execute and deliver to Buyer the Deed(s) to the Property in the form of **Exhibit A** attached hereto. Title will be evidenced by the issuance by First American Title Company ("Title Company") of a CLTA Standard Coverage Owner's Policy of Title Insurance in the full amount of the Purchase Price (the "Title Policy"), insuring fee simple title to the Property in Buyer, subject only to:

4.1.1 A lien to secure payment of real property taxes and assessments, not delinquent;

4.1.2 Matters affecting the condition of title created or permitted to be created by or with the written consent of Buyer;

4.1.3 Standard exceptions in the Title Policy, and exceptions that are disclosed by the Title Report described in Section 5.1 or any supplementary report and that are approved or deemed approved by Buyer in accordance with Section 5.1; and

4.1.4 Any other exceptions or reservations set forth in the Deed.

4.2 Extended Coverage. Buyer, at its option and at its sole cost and expense, may obtain ALTA extended coverage and/or an ALTA survey, provided, however, that the failure to obtain such extended coverage will not be a condition to nor delay the Close of Escrow beyond the Closing Date, and that Seller will not be required to assume any obligations or liabilities in addition to Seller's obligations and liabilities under this Agreement.

ARTICLE 5 BUYER'S CONDITIONS TO CLOSING

The following are conditions precedent to Buyer's obligation to purchase the Property:

5.1 Approval of Title.

(a) Seller, at its sole cost and expense, has obtained a preliminary title report on the Property ("Title Report") together with copies of all the documents referred to in the Title Report that are provided by the Title Company with the Title Report, and has or shall furnish a copy of same to Buyer. Within the earlier to occur of (i) ten (10) days after receipt by Buyer of the Title Report, or (ii) Sixty (60) days after Opening of Escrow ("Title Contingency Date"), per Section Article 6 below, Buyer shall deliver written notice to Seller ("Buyer's Title Notice") of all matters of title to the Property disapproved by Buyer ("Disapproved Items"). If Buyer timely notifies Seller of Disapproved Items and all or some of the Disapproved Items (except for those Disapproved Items, if any, which will be removed upon the Close of Escrow in accordance with the terms of this Agreement) are not cured or deleted as exceptions to title within ten (10) days after Seller's receipt of Buyer's Title Notice ("Seller's Cure Period"), Buyer will have the option of either waiving its disapproval of such Disapproved Items and proceeding to the Close of Escrow or terminating this Agreement, in which event the provisions of Section 5.1(b) will govern. The procurement by Seller of a commitment for the issuance of the Title Policy, or an endorsement thereto, insuring Buyer against any Disapproved Item set forth in Buyer's Title Notice, will be deemed a cure by Seller of such Disapproved Item. In the event Buyer elects to terminate this Agreement pursuant to this Section 5.1, Buyer shall notify Seller of its election by written notice no later than five (5) days after expiration of Seller's Cure Period. Buyer's failure to timely deliver written notice to Seller of its election will be deemed to be Buyer's election to proceed to the Close of Escrow and to waive its disapproval of such Disapproved Items. In no event will Seller's failure to cure or delete as exceptions to the Title Policy any Disapproved

Items be deemed to be a breach of this Agreement by Seller or entitle Buyer to any offset against the Purchase Price.

(b) If this Agreement is terminated pursuant to this Section 5.1., the Deposit will be returned to Buyer and neither party will have any further rights or obligations under this Agreement (other than the Surviving Obligations).

5.2 Compliance by Seller. Seller will have complied with each and every condition and material covenant of this Agreement to be kept or complied with by Seller.

ARTICLE 6 SELLER'S CONDITIONS TO CLOSING

The following are conditions precedent to Seller's obligation to sell the Property:

6.1 Compliance by Buyer. Buyer will have complied with each and every condition and material covenant of this Agreement to be kept or complied with by Buyer.

ARTICLE 7 OPENING AND CLOSING OF ESCROW

7.1 Opening of Escrow and Escrow Instructions. Upon execution of this Agreement, the parties shall deposit three (3) executed counterparts of this Agreement (and Buyer shall deposit the Deposit) with Escrow Holder and this instrument will serve as the instructions to Escrow Holder for consummation of the purchase and sale contemplated hereby, including Escrow Holder's general provisions which are contained in **Exhibit B** attached hereto to the extent said general provisions do not conflict with the provisions contained in these Escrow Instructions. Escrow Holder shall insert the date of the Opening of Escrow on the upper right hand corner of the first page of this Agreement on each of the three counterparts. The Opening of Escrow is the date upon which Escrow Holder has received executed counterparts of this Agreement from both Buyer and Seller and has received the Deposit from Buyer. Escrow Holder shall deliver to both Buyer and Seller a set of counterparts of the Agreement executed by Buyer, Seller and Escrow Holder and shall retain a set in Escrow. Escrow Holder is responsible only for undertaking such matters in conjunction with the Closing as are specifically provided for in this Agreement or in any additional or supplementary escrow instructions delivered by the parties.

7.2 Closing.

7.2.1 Closing Date. The consummation of the transaction contemplated by this Agreement and recording of the Deed (the "Closing" or "Close of Escrow") will occur and delivery of all items to be made at the Closing under the terms of this Agreement will be made

within sixty (60) days after the date of Opening of Escrow, unless the Closing date is extended upon mutual agreement between the parties.

7.2.2 Preclosing Conditions. Provided that Escrow Holder can comply with these instructions, that Escrow Holder has received the deliveries described in Sections 8.3 and 8.4 below, that Escrow Holder has not received prior written notice from a party that any condition to such party's obligations has not been fulfilled, or that Buyer has elected to terminate its rights and obligations under this Agreement pursuant to Article 5 or Seller has elected to terminate its rights and obligations under this Agreement pursuant to Article 6 and the Title Company has issued or is unconditionally prepared to issue to Buyer, as of the Closing Date, the Title Policy, then Escrow Holder is authorized and instructed to (a) record the Deed, (b) deliver the Purchase Price to Seller, less prorations and costs of Escrow in accordance with Section 8.6, (c) deliver a conformed copy of the recorded Deed(s), and (d) deliver the closing statements to Buyer and Seller in accordance with Section 8.2.4.

7.2.3 Failure to Close. If the Closing does not occur on or before the Closing Date (or as extended by mutual agreement), then either party not then in default may elect to terminate this Agreement and cancel Escrow by giving written notice of such termination and cancellation to the other party and to Escrow Holder. In the event of such termination and cancellation, neither party will have any further obligations hereunder (other than the Surviving Obligations) and, unless the Escrow fails to close due to (a) a material default by Seller, (b) the failure of a condition precedent to Buyer's obligations hereunder, or (c) termination of this Agreement, the Deposit and any interest accrued thereon will be paid to or retained by Seller, and all documents and other instruments must be returned to the party depositing the same into Escrow. If neither party is in default, then Buyer and Seller will share equally the cost of cancellation of Escrow. If only one of the parties hereto is in default or if this Agreement expressly so provides, then such defaulting party shall pay for the entire cost of cancellation of Escrow. The termination of this Agreement and cancellation of Escrow will be without prejudice to whatever legal rights, as such rights may be limited by the terms of this Agreement, that Buyer or Seller may have against each other arising out of this Agreement and the Escrow. If neither party so elects to terminate this Agreement and cancel Escrow, Escrow Holder shall close the Escrow as soon as possible.

7.2.4 Notification; Closing Statements. If Escrow Holder cannot comply with the instructions in this Agreement and to be provided, Escrow Holder is not authorized to cause the recording of the Deed or close this Escrow. If Escrow Holder is unable to cause the recording of the Deed, Escrow Holder shall notify Jennifer Byers at (559) 782-7460 and James Gregory Shelton, without delay. If Escrow Holder is able to comply with the instructions herein and to be provided, at the Closing Escrow Holder shall deliver to Seller at the addresses provided in Section 12.9 a true, correct and complete copy of the Seller's closing statement, in the form customarily prepared by Escrow Holder and shall deliver to Buyer at the address provided in Section 10.9 a true, correct and complete copy of Buyer's closing statement, in the form customarily prepared by Escrow Holder.

7.3 Deliveries by Seller. Not later than one business day prior to the Closing Date, Seller shall deposit with Escrow Holder the following items:

7.3.1 Deed. The Deed in the form of **Exhibit A** duly executed and acknowledged by Seller.

7.3.2 California Form 593-C. California Form 593-C (Real Estate Withholding Certificate) duly executed by Seller, if applicable.

7.3.4 Other Documents. Any other documents, instruments, data, records, correspondence or agreements called for under this Agreement and/or necessary to effectuate the sale that have not previously been delivered.

7.4 Deliveries by Buyer. Not later than one (1) business day prior to the Closing Date (or such other time specified below), Buyer shall deposit with Escrow Holder the following items:

7.4.1 Purchase Price. A sum, including the Deposit, in an amount equal to the Purchase Price, plus Buyer's share of the prorations and costs of Escrow that are required pursuant to this Article 8 to close Escrow.

7.4.2 Other Documents. Any other documents, instruments, data, records, correspondence or agreements called for under this Agreement and/or necessary to effectuate the sale that have not been previously delivered.

7.5 Other Instruments. Seller and Buyer shall each deposit such other instruments and take such other actions as are reasonably required by Escrow Holder or otherwise required to close the Escrow and consummate the purchase of the Property in accordance with the terms of this Agreement.

7.6 Prorations. All revenues and expenses of the Property, including, without limitation, real property taxes, special taxes, assessments and utility fees and/or deposits, and rentals under the Licenses, if any, will be prorated and apportioned between Buyer and Seller as of 12:01 a.m. on the Closing Date, so that Seller bears all expenses with respect to the Property and has the benefit of all income with respect to the Property through and including the date immediately preceding the Closing Date. Seller and Buyer agree that any of the aforesaid prorations that cannot be calculated accurately as of the Closing Date will be prorated on the basis of the parties' reasonable estimates, and will be recomputed between Seller and Buyer when actual tax statements for the year of Closing are received, and either party owing the other party a sum of money based on such subsequent proration adjustment will promptly pay said sum to the other party, and, if payment is not made within ten (10) days after delivery of a bill therefor, will pay interest thereon at the lesser of the rate of ten percent (10%) per annum or the highest rate permitted by law, from the Closing Date to the date of payment.

7.7 Special Taxes, Bonds or Assessments. If, at the time of Closing, any portion of the Property is affected by an assessment or other charge, whether for taxes or bonds, or interest thereon, which is or may become payable in installments, and an installment payment of such assessment is then a lien, then such installment will be prorated as of midnight at the end of the

day preceding the Close of Escrow. All installments not then yet due whether or not the same have been prepaid will not be prorated and Buyer shall assume such bonds or assessments. Any prepaid assessments made in advance of its due date will be credited to Seller. In addition, Buyer shall assume any and all future bonds, assessments, special taxes, fees or charges applicable to the Property for liabilities now or hereafter imposed by any governmental authority (collectively referred to as "Governmental Requirements") including, without limitation, any such Governmental Requirements imposed by the City of Porterville, and those for (a) common area improvements, whether or not specifically set forth in this Agreement, (b) local assessment or improvement districts, (c) any special tax assessments, (d) traffic mitigation improvements, (e) park and recreation fees, and/or (f) any other public facility infrastructure or traffic mitigation required or imposed by the City of Porterville. Buyer shall assume all such bonds or future assessments without offset or adjustment.

7.8 Costs and Expenses. The costs and expenses of Escrow upon Close of Escrow will be shared equally (50% each) by Buyer and Seller, including, without limitation, all recording charges, the premium for the Title Policy, the cost of any documentary or other transfer taxes applicable to the sale, and all other standard costs and charges of the Escrow.

7.9 Disbursement of Funds. On the Close of Escrow, Escrow Holder shall disburse the Purchase Price less Seller's share of prorations as determined pursuant to this Agreement in immediately available funds, and, unless otherwise instructed by Seller, Escrow Holder shall cause such funds to be sent as follows: _____

_____.

7.10 Delivery of Documents. Upon the Close of Escrow, Escrow Holder shall promptly deliver all instruments and documents to the parties as specified in Section 10.9. Escrow Holder shall promptly deliver to the party entitled thereto the recorded originals of such instruments or documents upon Escrow Holder's receipt of the same.

7.11 Supplemental Taxes. Seller and Buyer acknowledge that the Property may be subject to supplemental taxes due as a result of change of ownership taking place through this Escrow. Any necessary adjustment due either party on receipt of a supplemental tax bill will be made by the parties outside of this Escrow and Escrow Holder is released of any liability in connection with same.

ARTICLE 8

REPRESENTATIONS, WARRANTIES AND COVENANTS;

8.1 Representations, Warranties and Covenants of Seller. Seller hereby represents, warrants and covenants to Buyer as of the date of this Agreement, as follows:

8.1.1 Organization. Seller is an individual.

8.1.2 Enforceability. This Agreement and all documents executed by Seller which are to be delivered to Buyer at the Closing are intended, provided Buyer has duly executed those documents requiring Buyer's signature, to be legal, valid, and binding obligations of Seller, and do not and at the time of Closing will not violate any provisions of any agreement or judicial order to which Seller is a party or to which Seller or the Property is subject.

8.1.3 Bankruptcy. No petition in bankruptcy (voluntary or otherwise), assignment for the benefit of creditors, or petition seeking reorganization or arrangement or other action under federal or state bankruptcy or insolvency laws is pending against or contemplated by Seller.

8.2 Representations, Warranties and Covenants of Buyer. Buyer hereby represents, warrants and covenants to Seller as of the date of this Agreement, as follows:

8.2.1 Organization. Buyer is a municipal corporation, duly organized, validly existing and in good standing under the laws of the State of California and qualified to do business in California, with full power and authority to enter into and comply with the terms of this Agreement.

8.2.2 Enforceability. This Agreement and all documents executed by Buyer which are to be delivered to Seller at the Closing are intended, provided Seller has duly executed those documents requiring Seller's signature, to be legal, valid, and binding obligations of Buyer, and do not and at the time of Closing will not violate any provisions of any agreement or judicial order to which Buyer is a party or to which it is subject.

8.2.3 Bankruptcy. No petition in bankruptcy (voluntary or otherwise), assignment for the benefit of creditors, or petition seeking reorganization or arrangement or other action under federal or state bankruptcy or insolvency laws is pending against or contemplated by Buyer.

8.3 Mutual Representations and Covenants, Brokers and Finders. No broker's fee, finder's fee, commission or similar compensation will be paid to principals of Buyer or Seller in connection with this Agreement. In the event of a claim for broker's fee, finder's fee, commission or other similar compensation in connection herewith, Buyer, if such claim is based upon any agreement alleged to have been made by Buyer, agrees to indemnify and hold Seller harmless against any and all liability, loss, cost, damage or expense (including reasonable attorneys' fees and costs) which Seller may sustain or incur by reason of such claim; and Seller, if such claim is based upon any agreement alleged to have been made by Seller, agrees to indemnify and hold Buyer harmless against any and all liability, loss, cost, damage or expense (including reasonable attorneys' fees and costs) which Buyer may sustain or incur by reason of such claim. The provisions of this Section will survive the Close of Escrow or termination of this Agreement.

ARTICLE 9 POSSESSION

Possession of the Property will be delivered to Buyer on the Close of Escrow.

ARTICLE 10 MISCELLANEOUS

10.1 Agreement Expenses. The parties agree to bear their respective expenses, incurred or to be incurred in negotiating and preparing this Agreement and in Closing and carrying out the transactions contemplated by this Agreement.

10.2 Satisfaction or Waiver of Contingencies. The consummation of the Closing will be conclusive evidence that the contingencies and conditions to Closing have been fully satisfied or waived.

10.3 Successors and Assigns. This Agreement will be binding upon, and inure to the benefit of, the parties hereto and their respective successors, heirs, administrators and assigns.

10.4 Parties in Interest. Except as expressly provided in this Agreement, nothing in this Agreement, whether express or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any persons other than the parties to it and their respective successors and assigns, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third persons to any party to this Agreement, nor will any provision give any third persons any right to subrogation or action over or against any party to this Agreement.

10.5 Entire Agreement. This Agreement constitutes the entire agreement between the parties pertaining to the subject matter contained in it and supersedes all prior or contemporaneous oral or written agreements, representations, statements, documents, or understandings of the parties.

10.6 Amendment. No supplement, modification, or amendment of this Agreement will be binding unless executed in writing by the party to be bound.

10.7 Waiver. No waiver of any of the provisions of this Agreement will be deemed, or will constitute, a waiver of any other provision, whether or not similar, nor will any waiver constitute a continuing waiver. No waiver will be binding unless executed in writing by the party making the waiver.

10.8 Timeliness. Seller and Buyer acknowledge and agree that time is strictly of the essence with respect to each and every term, condition, obligation and provision of this Agreement and that failure to timely perform any of the material terms, conditions, obligations or

provisions of this Agreement by either party is a material breach of and a non-curable (but waivable) default under this Agreement by the party so failing to perform.

10.9 Notices. Any notice or other communication required or permitted to be given under this Agreement ("Notices") must be in writing and must be (a) personally delivered; (b) delivered by a reputable overnight courier; or (c) delivered by certified mail, return receipt requested and deposited in the U.S. Mail, postage prepaid. Notices will be deemed received at the earlier of (a) actual receipt or (b) one business day after deposit with an overnight courier as evidenced by a receipt of deposit; or (c) three business days following deposit in the U.S. Mail, as evidenced by a return receipt. Notices must be directed to the parties at their respective addresses shown below, or such other address as either party may, from time to time, specify in writing to the other in the manner described above:

If to Seller: James Gregory Shelton
888 N. Williford Dr.
Porterville, CA 93257

If to Buyer: CITY OF PORTERVILLE
ATTN: Jennifer Byers, Community Development Director
291 Main Street
Porterville, California 93257
Telephone: (559) 782-7460

10.10 Governing Law and Venue. This Agreement is to be construed in accordance with, and governed by, the laws of the State of California, and any action or proceeding, including arbitration, brought by any party in which this Agreement is subject, will be brought in the county in which the Property is located. This Agreement is entered into and to be performed in Tulare County, California.

10.11 Effect of Headings. The headings of the paragraphs of this Agreement are included for purposes of convenience only, and will not affect the construction or interpretation of any of its provisions.

10.12 Invalidity. Any provision of this Agreement which is invalid, void, or illegal, will not affect, impair, or invalidate any other provision of this Agreement, and such other provisions of this Agreement will remain in full force and effect.

10.13 Counterparts. This Agreement may be executed simultaneously in one or more counterparts, each of which will be deemed an original, but all of which together will constitute one and the same instrument.

10.14 Number and Gender. When required by the context of this Agreement, each number (singular and plural) will include all numbers, and each gender will include all genders.

10.15 Joint and Several Liability. In the event either party hereto now or hereafter consists of more than one person, firm, or corporation, then and in such event, all such persons, firms, or corporations will be jointly and severally liable as parties under this Agreement.

10.16 Recording. Neither party may record this Agreement or any memorandum thereof.

10.17 Advice of Professionals. Each party has had the opportunity to be advised by legal counsel and other professionals in connection with this Agreement, and each party has obtained such advice as each party deems appropriate.

10.18 Negotiated Terms. The parties agree that the terms and conditions of this Agreement are the result of negotiations between the parties and that this Agreement will not be construed in favor of or against any party by reason of the extent to which any party or its professionals participated in the preparation of this Agreement.

10.19 Recitals and Exhibits. The recitals and contents of all Exhibits to this Agreement are incorporated by reference and constitute a material part of this Agreement.

10.20 Professional Fees and Costs. If any legal or equitable action, arbitration, bankruptcy, reorganization, or other proceeding, whether on the merits, application, or motion, are brought or undertaken, or an attorney retained, to enforce this Agreement or any closing document, or because of an alleged dispute, breach, default, or misrepresentation in connection with any of the provisions of this Agreement or any closing document, then the successful or prevailing party or parties in such undertaking (or the party that would prevail if an action were brought) will be entitled to recover reasonable attorney's and other professional fees, expert witness fees, court costs and other expenses incurred in such action, proceeding, or discussions, in addition to any other relief to which such party may be entitled. The parties intend this provision to be given the most liberal construction possible and to apply to any circumstances in which such party reasonably incurs expenses. The provisions of this Section will survive the Close of Escrow or the termination of this Agreement.

10.21 Not an Offer. The submission of this Agreement to Buyer for review or signature does not constitute an offer to sell the Property to Buyer or the granting of an option or other rights with respect to the Property to Buyer. No agreement with respect to the purchase and sale of the Property will exist, and this writing will have no binding force or effect, until executed and delivered by both Seller and Buyer.

10.22 Severability. Any provision of this Agreement that is determined by a court of competent jurisdiction to be invalid or unenforceable will be invalid or unenforceable only to the extent of such determination, which will not invalidate or otherwise render ineffective any other provision of this Agreement.

10.23 Merger. Except as otherwise expressly provided in this Agreement, the covenants, representations and warranties of Buyer and Seller in this Agreement will merge into

the Deed to be delivered by Seller to Buyer at Closing and will not survive the Closing of Escrow.

SELLER:

By: _____

Name: _____

Title: _____

BUYER:

**CITY OF PORTERVILLE,
a California municipal corporation**

By: _____

Name: _____

Title: _____

THE UNDERSIGNED ESCROW HOLDER ACKNOWLEDGES ITS RECEIPT OF THE DEPOSIT AND THREE (3) EXECUTED COPIES OF THIS AGREEMENT AND AGREES TO ACT IN ACCORDANCE THEREWITH.

ESCROW HOLDER:

By: _____

_____, Escrow Officer

EXHIBIT A

[Quitclaim Deed with Legal Descriptions]

EXHIBIT B

ESCROW HOLDER GENERAL PROVISION

RESOLUTION NO. ____-2017

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
PORTERVILLE ACCEPTING A GRANT DEED IN FEE FOR
REAL PROPERTY FROM JAMES GREGORY SHELTON

BE IT RESOLVED by the City Council of the City of Porterville, that the City of Porterville hereby accepts a Grant Deed in fee from James Gregory Shelton, a single man, for real property, in the County of Tulare, State of California, to-wit:

See Exhibit "A" and shown on Exhibit "B" attached hereto and made a part thereof.

BE IT FURTHER RESOLVED that the purchase price of \$178,000.00 is hereby approved with the City to open escrow account, pay the normal and customary escrow fees, authorize Mayor to sign all necessary documents, and said deed to be recorded in the office of the Tulare County Recorder. The foregoing has been accepted by the City Council for the City of Porterville, and that the Mayor be authorized to sign all necessary documents, and said quitclaim deed to be recorded in the office of the Tulare County Recorder.

PASSED, APPROVED AND ADOPTED this 19th day of December, 2017.

By: _____
Milt Stowe, Mayor

ATTEST:
John D. Lollis, City Clerk

By: _____
Patrice Hildreth, Chief Deputy City Clerk

Exhibit "A"

Legal Description

ALL THAT LAND LOCATED IN THE COUNTY OF TULARE, STATE OF CALIFORNIA, DESCRIBED AS:

ALL THAT PORTION OF THE LAND CONVEYED TO THE MINKLER SOUTHERN RAILWAY COMPANY IN THE DEED RECORDED OCTOBER 14, 1918 IN VOLUME 265, PAGE 71 OF DEEDS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, LYING WITHIN THE NORTHEAST QUARTER OF SECTION 1, TOWNSHIP 22 SOUTH, RANGE 27 EAST, MOUNT DIABLO BASE AND MERIDIAN, AND THE NORTHWEST QUARTER OF SECTION 6, TOWNSHIP 22 SOUTH, RANGE 28 EAST, MOUNT DIABLO BASE AND MERIDIAN, ACCORDING TO THE OFFICIAL PLATS THEREOF.

EXCEPTING THEREFROM SAID LAND ALL OWNERSHIP RIGHTS TO THE ENTIRE MINERAL ESTATE BELOW THE PROPERTY, BELOW A DEPTH OF 25 FEET, INCLUDING WITHOUT LIMITATION, ALL OIL, PETROLEUM, GAS AND OTHER MINERALS, WHETHER GASEOUS, LIQUID OR SOLID, IN AND UNDER THE ABOVE DESCRIBED PREMISES, BELOW A DEPTH OF 25 FEET. SUCH RIGHTS SHALL INCLUDE SURFACE AND SUBSURFACE ACCESS EASEMENTS, RIGHTS TO CONSTRUCT, MAINTAIN AND OPERATE SURFACE AND SUBSURFACE FACILITIES, AND OTHER RIGHTS TO DEVELOP AND EXTRACT OIL, PETROLEUM, GAS OR ANY OTHER MINERAL, EXCEPT THAT GRANTOR (1) SHALL NOT, WITHOUT PRIOR WRITTEN CONSENT FROM GRANTEE, WHICH CONSENT SHALL NOT BE UNREASONABLY WITHHELD OR DELAYED, HAVE ANY RIGHT TO ENTER THE SURFACE OF THE PROPERTY, FOR PURPOSES OF EXPLORATION, DEVELOPMENT OR EXTRACTION OF SUCH MINERALS; (2) SHALL NOT IN EXERCISING THESE RIGHTS MORE THAN MINIMALLY INTERFERE WITH GRANTEE'S USE OF THE PROPERTY; AND (3) PRIOR TO THE EXERCISE OF THESE RIGHTS, SHALL PROVIDE ADEQUATE LIABILITY PROTECTION TO GRANTEE, IN THE FORM OF GENERAL LIABILITY INSURANCE OBTAINED (OR EXTENDED), AT THE SOLE COST OF THE GRANTOR, NAMING GRANTEE AS AN INSURED PARTY, UPON SUCH TERMS AS ARE THEN REASONABLE AND CUSTOMARY, UNLESS GRANTOR, IN THE REASONABLE OPINION OF GRANTEE, POSSESSES THE FINANCIAL CAPABILITY TO FUND SUCH LIABILITY PROTECTION AS A SELF-INSURED ENTITY, UNDER THAT REASONABLE AND CUSTOMARY STANDARD, FOR ANY LOSSES OR DAMAGES REASONABLY LIKELY TO BE SUSTAINED BY GRANTEE AS A RESULT OF GRANTOR'S EXERCISE OF THESE RIGHTS. IN ADDITION, ANY SURFACE OR SUBSURFACE FACILITIES CONSTRUCTED, OR EQUIPMENT USED, BY GRANTOR IN

THE COURSE OF GRANTOR'S EXERCISE OF THESE RIGHTS, SHALL BE CONSTRUCTED AND USED IN A MANNER THAT RESULTS IN NO MORE THAN MINIMAL INTERFERENCE WITH GRANTEE'S USE OF THE PROPERTY, AS RESERVED IN THE DEED RECORDED DECEMBER 29, 1992, AS DOCUMENT NO. 92-094547, OFFICIAL RECORDS, AND RECORDED OCTOBER 18, 1994, AS DOCUMENT NO. 94-074651, OFFICIAL RECORDS. See attached Exhibit "A" and Exhibit "B".

SUBJECT TO a prior reservation by the Atchison, Topeka and Santa Fe Railway Company (the "Santa Fe Railway"), Grantor's predecessor in title, of the mineral estate and related surface rights, and of easements for pipelines and fiber optics communication lines and related facilities, all as more particularly set forth in the conveyance to Grantor.

SUBJECT TO all prior rights of reversion, reservations, easements, rights-of-way, and defects in title.

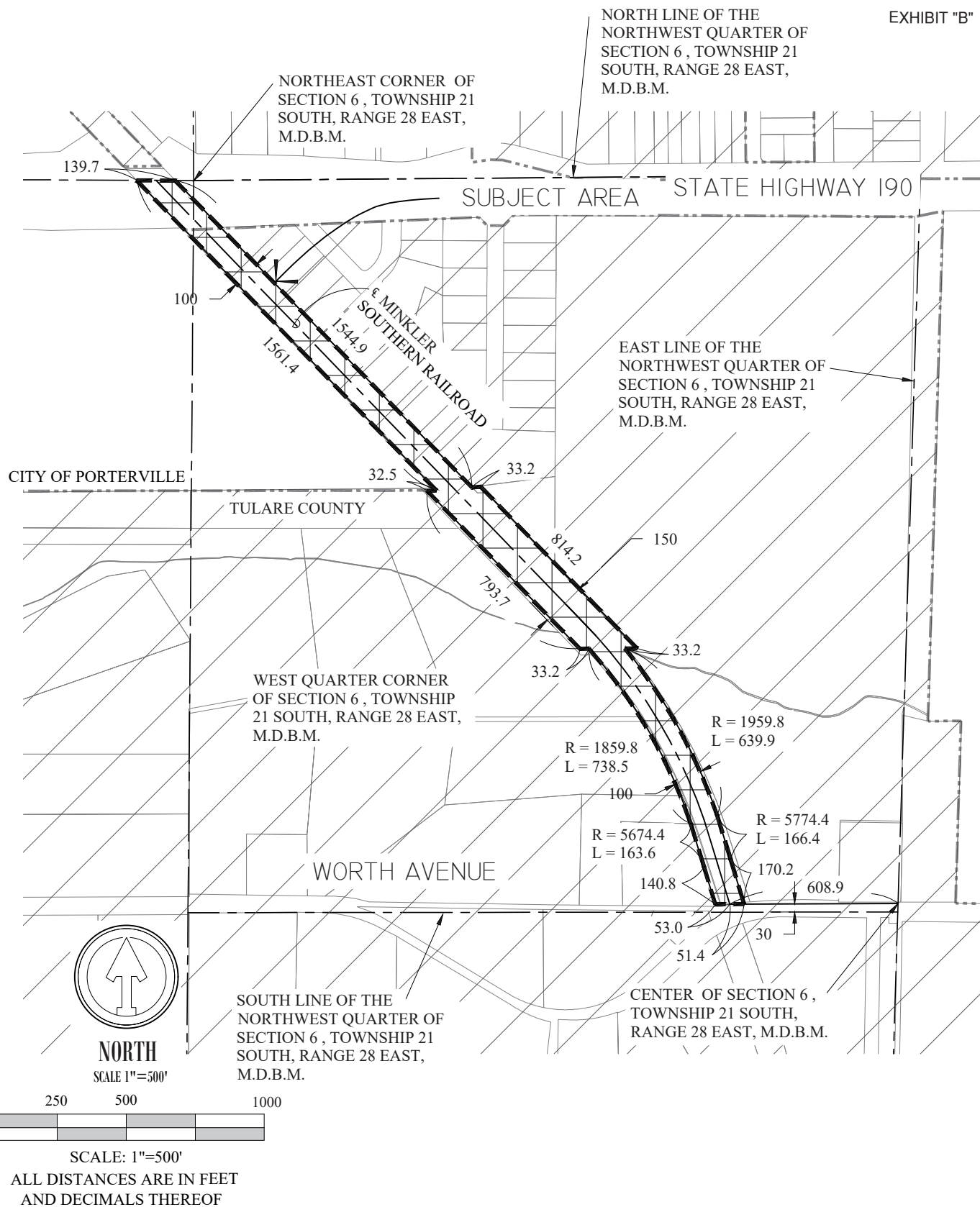
RESERVING TO GRANTOR, a non-exclusive easement for the removal of rail materials, construction, reconstruction, maintenance, use and/or operation of one or more pipelines and/or fiber optics communications lines, including any related facilities and/or appurtenances, whether occurring or located in, under, across, along and/or through the portion of the Land that is no less than twenty five (25) feet and no more than fifty (50) feet from the centerline of the main rail line (provided, that in the event the premises do not allow for such a corridor, then such lines and related facilities and/or appurtenances may be located proportionately closer to such centerline), including the right for Grantor to enter, disturb the surface, and occupy the Land for purposes of removal of rail materials, constructing, reconstructing, maintaining, using and/or operating one or more pipelines and/or fiber optics communications lines, including any related facilities and/or appurtenances, whether occurring or located in, under, across, along and/or through any portion of the Land; provided however, that Grantor (1) shall notify Grantee in advance of any entry onto the Land in the course of Grantor's exercise of these easement rights; (2) shall enter and occupy the Land in a manner which does not more than minimally interfere with Grantee's use of the Property; and (3) prior to exercising these rights, shall provide liability protection to Grantee, in the form of general liability insurance obtained (or extended), at the sole cost of the Grantor, naming Grantee as an insured party, upon such terms as are then reasonable and customary, unless Grantor, in the reasonable opinion of Grantee, possesses the financial capability to fund such liability protection as a self-insured entity, under then reasonable and customary standards, for any losses or damages reasonably likely to be sustained by Grantee as a result of Grantor's exercise of these easements rights.

Grantee, by accepting delivery of this Quitclaim Deed, acknowledges and agrees that Grantee has had the opportunity to investigate title to and inspect and test the Land to the extent that Grantee deemed appropriate, and Grantee acknowledges that the Land has been used for railroad purposes, that title is subject to prior reservations by Santa Fe Railway as described

above, and is or may be subject to rights of reversion, leases, other easements, licenses, other encumbrances and right-of-way, and defects in title, and is or may be subject to contamination from prior uses. Grantee accepts the Land AS IS, WITH ALL FAULTS, KNOWN OR UNKNOWN, without any representations or warranties by Grantor or any agent or representative of Grantor, express or implied.

Grantee, by accepting delivery of this Quitclaim Deed, further agrees to obtain and pay for any subdivision or other governmental approvals required for the conveyance of the Land to Grantee or for Grantee's use thereof, and, should the property description be inadequate for any purpose, to pay for any survey or other work required to obtain an adequate description.

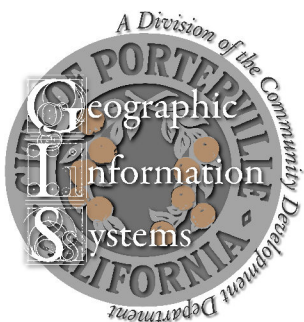
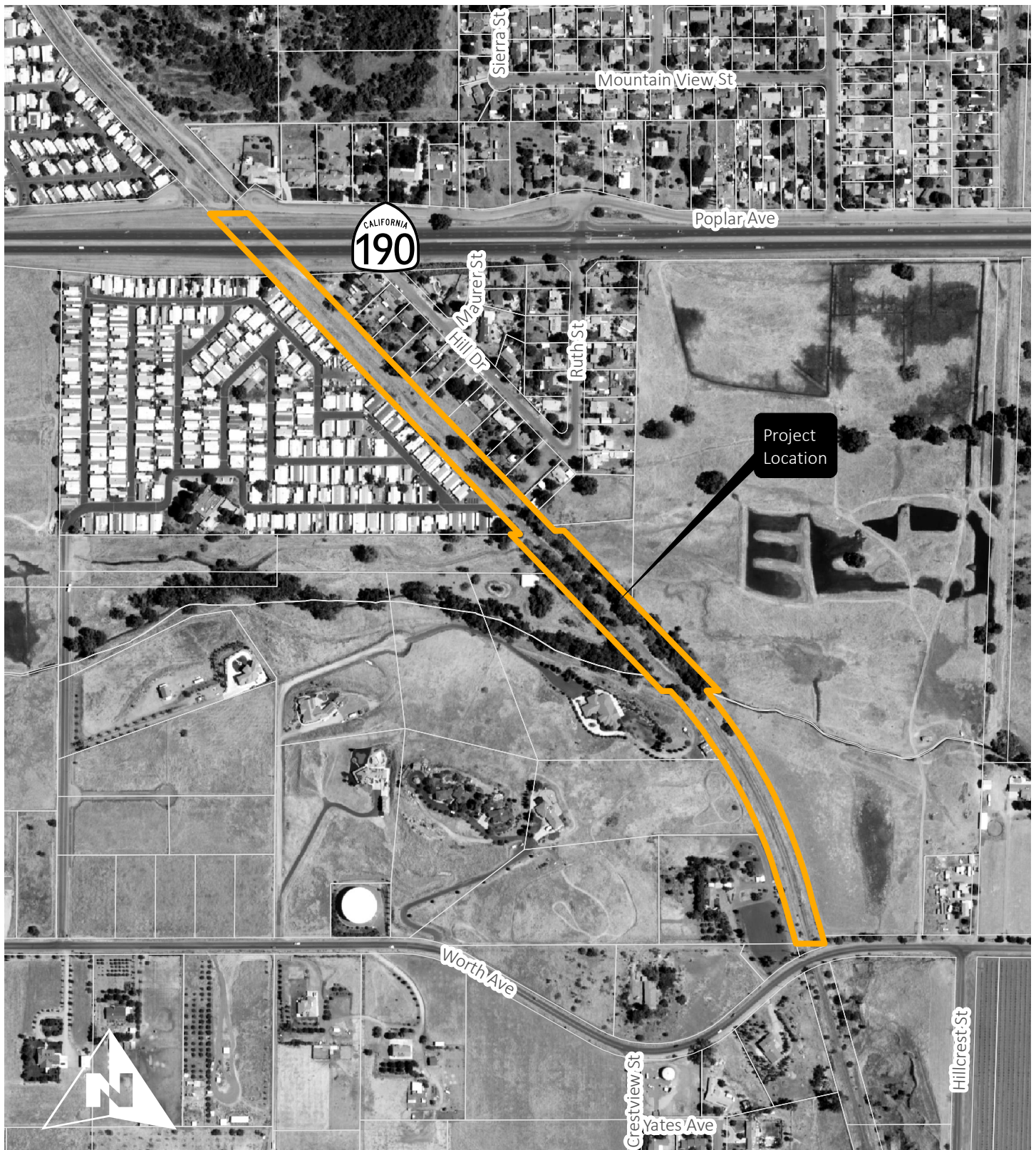
Grantee agrees to indemnify Grantor against any and all obligations, suits, claims, losses, or expenses arising from or related to Grantee's use and occupancy of the Land.



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

Located in a portion of the Northeast Quarter of Section 1, Township 21 South, Range 27 East, and a portion of the Northwest Quarter of Section 6, Township 21 South, Range 28 East, Mount Diablo Base and Meridian, in the City of Porterville and County of Tulare, State of California.

OWNER	JAMES GREGORY SHELTON
APN	-
AREA	379,384 SQ. FT.
ACRES	8.71 ACRES
SCALE	1" = 500'
DATE	11/17/2017
DRAWN BY	CAL
CHECKED BY	VS



Purchase of Real Property
APN: 271-060-027
Locator Map
1" = 500 ft



CITY COUNCIL AGENDA – DECEMBER 19, 2017

SUBJECT: Award of Contract for Lease of 298 N. Main Street, Suites 2 & 3

SOURCE: Community Development

COMMENT: On August 31, 2017, the former tenant of 298 N. Main Street, Suites 2 and 3, terminated its Lease Agreement. The City Council directed staff to issue a Request for Proposals (RFP), and as such an RFP was issued on November 3, 2017 and kept open until December 4, 2017. Staff advertised the RFP in various ways. In addition to the required legal notice, an article was written in the Porterville Recorder, a segment on KTIP Radio was run, as well as various Facebook posts, and an e-mail to the Porterville Chamber of Commerce's contact list. The RFP also included a pre-proposal inspection that took place on November 14, 2017. The City received one response to the RFP, which was from The Lunch Box Catering Company.

Staff evaluated the proposal using several factors including the proposers' experience in the restaurant business, the demonstration of financial ability and sufficient resources to operate the restaurant, and to maintain the proposed monthly lease amount.

After reviewing the proposal received, staff recommends awarding the contract to Kyler Marcelino and Seth Schultz, dba The Lunch Box Catering Company. Their management team has 24 years of experience in the restaurant industry. The Lunch Box Catering Company currently has three locations, including two in Visalia and one in Exeter. Consistent with the lease appraisal, they are proposing an initial monthly rent of \$3,600.

RECOMMENDATION: That the City Council award the lease agreement for 298 N. Main Street, Suites two and three, to Kyler Macrcelino and Seth Schultz, dba, The Lunch Box Catering Company for a term of five years with an option to extend the terms of the agreement for an additional period of five years.

ATTACHMENTS: 1. Draft Lease Agreement

Appropriated/Funded:

Review By:

Department Director:

Jenni Byers, Community Development Director

Final Approver: Patrice Hildreth, Administrative Services Dir

AGREEMENT FOR LEASE OF PREMISES

THIS AGREEMENT is entered into as of this _____ day of _____, 201__ by and between the CITY OF PORTERVILLE, hereinafter referred to as "Lessor", and _____, hereinafter referred to as "Lessee", with respect to the following:

WHEREAS, Lessor owns the real property located at 298 North Main Street, Suites 2 and 3, in the City of Porterville, County of Tulare, California and more particularly described in Exhibit A, attached hereto, and of which the premises is a part; and

WHEREAS, Lessee desires to lease the premises (hereinafter "Premises"), more particularly described in Exhibit B for a restaurant; and

WHEREAS, Lessor is willing to enter into a lease with Lessee under the terms and conditions set forth below.

ACCORDINGLY, IT IS AGREED:

PART 1. **LEASE, TERM, OPTION TO EXTEND, HOLDOVER, ASSIGNMENT, SUBLETTING**

1.1 Lease.

Lessee will lease the Premises located at 298 North Main Street, Suites 2 and 3, in the City of Porterville, County of Tulare, California, as shown in Exhibit B, from Lessor on the terms and conditions set forth below.

1.2 Lessee's Possession Date and Term.

Lessee will be entitled to exclusive possession of the Premises on the date to be mutually agreed upon by Lessee and Lessor. The term hereof shall commence on _____, and expire on _____ (note – 5 year term). Lessee has the option to renew the Lease for an additional 5 year period, provided that Lessee has provided written notice to Lessor of its intention to renew at least 90 days in advance of the expiration of the term, and the parties can agree to the amount of rent to be paid, based on fair market rental value. In the event the parties cannot agree to the amount of rent to be paid, the parties agree to informal resolution via mediation with a mutually agreed-upon mediator. Notwithstanding the stated term of the lease, either party may terminate this Lease without cause with 180 days prior written notice. Notwithstanding the 180 day period, in accordance with Porterville City Charter Section 68, Lessor may terminate this Lease with 90 days prior written notice provided it pays Lessee for improvements as required by that Section.

1.3 Holdover without Consent.

If Lessee holds over beyond the expiration of the initial term of this Lease without the written consent of Lessor, the holding over will be deemed a month-to-month tenancy including the annual percentage rent increase, until the tenancy is terminated in a manner provided by law.

1.4 Assignment and Subletting.

Lessee shall not assign this lease or sublet any portion of the Premises without prior written consent of the Lessor, which shall not be unreasonably withheld. Any such assignment or subletting without consent shall be void and, at the option of the Lessor, may terminate this lease.

2. RENT

2.1 Amount.

Lessee will pay the following rent to Lessor for the exclusive use and occupancy of the Premises.

2.1.1 Monthly Rent.

On the first day of each month, the sum of **\$3,600** will be due, per month, in advance. In consideration of the improvements needed in order to achieve code compliance, Lessor shall not charge rent for the first month of the Lease. Payments not made by the fifth day of the month for which the rent is owed shall be subject to a \$50.00 late fee.

2.1.2 Annual Adjustment.

Commencing on the second Lease Year and for all subsequent Lease Years during the Term the then-current Rent shall be adjusted annually by the product of (i) the Rent last paid by Tenant pursuant to the terms of this Lease which is applicable to the first Lease Year, and (ii) a "**CPI Adjustment**," which shall be a fraction, the numerator of which is the "**Adjustment Month CPI**," as that term is defined below, and the denominator of which is either (a) for the first such adjustment during the Term, the "**Base Month CPI**," as that term is defined below, or (b) for all subsequent adjustments, the Adjustment Month CPI used as the numerator for the previous adjustment. For purposes of this Lease, the "**Base Month CPI**" shall mean the "**CPI**," as that term is defined below, for the calendar month which is three (3) months prior to the Commencement Date; the "**Adjustment Month CPI**" shall mean the CPI for the same month as the Base Month CPI prior to the first (and each succeeding) anniversary of the Commencement Date. For purposes of this Lease, "**CPI**" shall be deemed to mean The United States Department of Labor, Bureau of Labor Statistics Consumer Price Index for Urban Wage Earners and Clerical Workers (CPI-W), San Francisco-Oakland-San Jose, CA Average, Subgroup "All Items" (1982-1984 = 100). If at any time there shall not exist the CPI in the format recited herein, Landlord shall substitute any official index published by the Bureau of Labor Statistics or successor or similar governmental agency as may then be in existence and shall, in both parties' opinion, be most nearly equivalent thereto.

2.1.3 Place of Payment.

Lessee will pay all rent at the City of Porterville Finance Department, located at 291 North Main Street, Porterville, California 93257.

3. USE OF PREMISES.

3.1 Allowed Uses.

Lessee and Lessee's subtenants will use the Premises only for a restaurant and uses incident for that purpose, unless Lessee first obtains Lessor's written consent for other uses. Lessee will use the Premises in compliance with all laws, ordinances, and other governmental regulations now in force or which may hereafter be in force relating thereto, including, but not limited to all building, safety and public health requirements and regulations.

3.2 Prohibited Uses.

Lessee will not commit or permit the commission of any acts on the Premises that:

1. Increase Lessor's existing rates for, or causes the cancellation of, any fire, casualty, liability, or other policy of Lessor insuring the Premises or its contents; or
2. Violate or conflict with any law, statute, ordinance, or governmental rule or regulation, whether now in force or hereafter enacted, applicable to the Premises; or
3. Constitute waste on the Premises, or the maintenance of a nuisance as defined by the laws of California.

3. MAINTENANCE, REPAIR AND UPKEEP.

3.1 Lessee's Responsibilities.

Lessee accepts the Premises, as well as the Improvements located thereon, in their present condition. That stated, Lessor shall reimburse Lessee for up to \$14,500 for the performance of maintenance and repair issues prior to commencing business. "Maintenance and repair" is to include ensuring facility complies with all Building Codes, including the Americans with Disabilities Act. Lessee shall use a licensed contractor and obtain all necessary permits to perform necessary required improvements. Lessee will be responsible for all maintenance, repair, replacement and upkeep of the Premises including all building interiors, all interior structures and attached equipment and fixtures, including fire extinguishers, whether furnished or constructed by Lessor or by Lessee, and all pest control. Lessee will be responsible for complying with all codes or laws requiring alterations, maintenance or restoration of the Premises during the term of the lease, at no cost to Lessor, including codes requiring fire extinguishers or other fire suppression equipment. If Lessee is required by any code or regulation to construct any alteration as a result of Lessee's, or any subtenant's particular and specific use of the Premises, or if Lessee is required to repair any deterioration or damage to the Premises caused by Lessee's clients, invitees, or subtenants, or by Lessee's lack of ordinary care, Lessee will either directly pay, or will reimburse Lessor for, the reasonable cost thereof. Lessee may remove additional fixtures and equipment it installs over the life of the Lease, with prior notice to and consent by the Lessor, which will not unreasonably be withheld, so long as Lessee repairs/restores the premises to its original condition. Any additional fixtures or equipment installed during the Lease term and not removed pursuant to this section will become the property of the Lessor at the end of the Lease.

Lessee to have six months from delivery of space to determine if the HVAC units provided are in good working order and make claim to Lessor to repair or replace equipment if found faulty.

Lessee shall maintain a maintenance contract and is responsible for HVAC unit repairs unless unit cannot be repaired other than at a cost which is in excess of 50% of the cost of replacing such item, then such item shall be replaced by Lessor and the cost prorated between the parties (50/50) and the tenant shall be obligated to pay its share monthly at a rate of 144th during the remainder of the term.

Lease includes the use of all existing furniture, fixtures, and equipment (FF&E). Lessee accepts responsibility of maintenance and/or replacement of FF&E without any Lessor contribution or liability.

Lessee will be responsible for providing all custodial service and supplies for the Premises, including the common eating area on the patio. On the expiration or termination of this Lease, Lessee will deliver the Premises to Lessor in as good condition and repair as existed upon possession of Premises, reasonable wear and tear and damage by the elements excepted.

4. [This Article has been removed.]

5. UTILITIES AND TAXES.

5.1 Lessee's Responsibilities.

Lessee shall be responsible for and will pay for all utilities and services furnished to the Premises, including gas, electricity, telephone, water, trash collection, and all related connection charges.

5.2 Property/Possessory Interest Taxes. All property and/or possessory interest taxes and assessments against the Premises, by any governmental entity shall be the responsibility of Lessee and shall be paid by the Lessee before they become delinquent.

6. LESSEE'S ALTERATIONS.

6.1 Alterations Permitted.

Lessee may make such alterations, additions or improvements to the interior of the building on the Premises as Lessee deems necessary in order to conduct Lessee's business on the Premises, including the addition, rerouting or expansion of electrical circuits, telephone and data lines. Lessee may install such signs, awnings, canopies, marquees or other advertising of Lessee's or any subtenant's services on any exterior wall, door or window on the building, provided that such changes must not weaken or cause structural damage to the building or reduce the value of the Premises or result in a lien upon the Premises. All signs, awnings, canopies, or marquees displayed on any exterior wall, door or window on the building shall comply with City Codes. Lessor will be notified in writing before any alterations, additions or improvements are undertaken by Lessee. All such alterations, additions or improvements will be at Lessee's sole expense.

6.2 Permits.

Lessee will obtain all governmental permits required for such changes, and such changes must comply with all applicable laws and regulations. Lessor as permitting authority for the City of Porterville agrees to treat Lessee the same as it would any other landlord or tenant seeking a permit for alterations, additions, improvements, signs, awnings, canopies, or marquees involving property not owned by the City of Porterville.

6.3 Lessor's Inspection.

Lessor may, at Lessor's own expense, inspect any of Lessee's work carried out under the terms of this paragraph 6, and may consult with any contractor, subcontractor or architect, as to any aspect of such work.

6.4 Ownership and Removal.

All alterations, additions, improvements, signs, awnings, canopies, marquees or other advertising provided by Lessee or and subtenant and not removed by Lessee within 30 days of the expiration or other termination of the lease will become the property of Lessor, unless Lessor instructs Lessee in writing to remove the same at Lessee's sole expense. Lessee will promptly repair any damage to the Premises caused by any such removal, at no cost to Lessor.

7. INSURANCE.

7.1 Lessee's Insurance

Lessee, at its own expense, shall procure and maintain, throughout the term of this Lease, public liability insurance including bodily injury and property damage insuring Lessee and Lessor with minimum coverage as follows:

- \$1,000,000 for personal injury or each person
- \$1,000,000 for personal injury or death of two or more persons in each accident or event.

The policy must contain, or be endorsed to contain the following:

City of Porterville

The City of Porterville, its officers, employees, agents and subtenants must be covered as additional insured as respects liability arising out of activities performed by or on behalf of Lessee; and premises owned, occupied or used by Lessee. The coverage must contain no special limitations on the scope of protection afforded to Lessor, its officers, employees, or agents.

Lessee shall also procure and maintain, at its expense, throughout the term of this Lease, insurance against loss and damage to any structures constituting any part of the demised Premises, by fire or other casualty, with extended insurance.

Lessee will provide Lessor with a certificate or certificates of coverage showing the policy or policies are issued by insurers admitted to conduct business in the State of California.

The policy must not be suspended, voided, canceled, or reduced in coverage or in limits, except after 30 days prior written notice has been given to Lessor.

7.2 Proof of Insurance

Throughout Lessee's occupancy of the Premises, Lessee will provide Lessor with a certificate or certificates acceptable to Lessor showing compliance with the provisions required above, and on written request of Lessor, will provide Lessor with a true and complete copy of any policy or policies required above.

8. DESTRUCTION OF PREMISES

8.1 Repair.

If the Premises are damaged or destroyed from any cause due to no fault and beyond the control of Lessee during the initial term, with the exception that follows, Lessor will proceed with due diligence to repair or reconstruct the Premises to a condition substantially equivalent to their condition immediately before the damage or destruction. If such damage or destruction occurs during the last year of any term of this Lease, Lessor will not be obligated to repair or reconstruct the Premises.

8.2 Rent Adjustment.

In the event of damage per Section 8.1 above, Lessor will, for any period of time during which Lessee was unable to use the Premises, provide a pro-rata rent reduction based on square footage or other appropriate criteria during the period of non-use. If 30% or more of the Premises is damaged or destroyed and cannot be repaired in 90 days or less, the Lessee will have the option to terminate the Lease.

9. INDEMNITY.

9.1 Lessee's Indemnity.

To the fullest extent permitted by law, Lessee will hold harmless, defend and indemnify Lessor from and against any liability, claims, actions, costs, damages, losses and expenses (including, without limitation, reasonable attorney's fees and expenses) for injury, including death, to any person, damage to any property, or enforcement actions under any other applicable statute or ordinance, resulting from Lessee's occupation of the Premises or use of the Property, or Lessee's acts or omissions with respect to the Premises or Property or breach of lease by Lessee. Lessee's obligation will continue beyond the expiration or termination of this Agreement as to any act or omission which occurred before expiration or termination.

9.2 Lessor's Indemnity.

To the fullest extent permitted by law, Lessor will hold harmless, defend and indemnify Lessee from and against any liability, claims, actions, costs, damages, losses and expenses (including, without limitation, reasonable attorney's fees and expenses) for injury, including death, to any person, damage to any property, or enforcement actions under California Prevailing Wage laws or any other applicable statute or ordinance, resulting from Lessor's occupation of the Building or use of the Property, or Lessor's acts or omissions with respect to the Building or Property or breach of lease by Lessor. Lessor's obligation will continue beyond the expiration or termination of this Agreement as to any act or omission which occurred before expiration or termination.

10. CONDEMNATION.

10.1 Lessee's Right to Terminate.

In the event of a total or partial taking of the Premises by an entity other than Lessee, exercising the right of eminent domain, which taking renders the majority of the Premises useless for the uses permitted under this Lease, Lessee will have the option of terminating this Lease.

10.2 Reduction of Rent.

If only a portion of the Premises is taken, and Lessee does not terminate this Lease as provided in paragraph 10.1, above, Lessor will reduce the rent thereafter payable by a pro-rata reduction based on square footage or other appropriate criteria.

11. TERMINATION FOR CAUSE.

11.1 Cause.

Either party may terminate this Agreement for cause without prejudice to any other right or remedy to which the terminating party may be entitled at law or under this Agreement. Cause for the purpose of this Agreement exists if a party:

- (a) is adjudged as bankrupt, or
- (b) becomes insolvent or has a receiver appointed, or
- (c) makes a general assignment for the benefit of creditors, or
- (d) suffers any final judgment which remains unsatisfied for 30 days, unless enforcement is stayed or bonded, and which would substantively impair the ability of the judgment debtor to perform under this Agreement,
or
- (e) materially breaches this Agreement.

11.2 Notices to Defaulting Party.

For any of the above occurrences except item (e), termination may be effected upon written notice by the terminating party specifying the date of the termination. Upon a material breach, the Agreement may be terminated only after the failure of the defaulting party to remedy the breach to the satisfaction of the non-defaulting party within 5 calendar days of delivery of a written notice specifying the nature of the breach. If the breach is not remedied within that 5-day period, the non-defaulting party may terminate this Agreement by delivering a further written notice specifying the date of termination. If the nature of the breach is such that it cannot be cured within the 5-day period, the defaulting party may deliver a written proposal to the non-defaulting party within that period which sets forth a specific means to resolve the default. If the non-defaulting party consents to that proposal in writing, which consent will not be unreasonably withheld, the defaulting party will immediately embark on its plan to cure. If the default is not cured within the time agreed, the non-defaulting party may terminate after delivering a written notice specifying the date of termination.

11.3 Delivery of Notices.

Notices given under paragraph 11.2 will be deemed delivered as provided in paragraph 12.17 below.

11.4 Obligations Surviving Termination.

Termination of this Agreement will 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.

11.5 Unlawful Detainer.

The notices provided for in paragraph 11.2 are in addition to any required statutory notices for unlawful detainer proceedings under Code of Civil Procedure section 1161 et seq.

12. MISCELLANEOUS.

12.1 Quiet Enjoyment.

Upon the payment of the rent and Reimbursables and the performance of all the terms, covenants and conditions by Lessee to be performed as herein provided, Lessee will be allowed to peaceably and quietly hold and enjoy the Premises during the term of this lease, or any extended term thereof.

12.2 Surrender.

Lessee will peaceably surrender possession of the Premises upon the expiration or other termination of this lease, and will return the Premises to Lessor in as good a condition as when received, reasonable wear and tear and damage from the elements excepted, except for so much of said Premises as may be injured or destroyed by fire, earthquake or other casualty not the fault of Lessee (See Section 8.1).

12.3 Amendment.

This Agreement may be modified, amended or terminated at any time by mutual consent in writing of the parties hereto.

12.4 Entire Agreement Represented.

This Agreement represents the entire understanding between Lessor and Lessee 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, waived or repealed without the written consent of both parties.

12.5. Headings.

Section headings are provided for organizational purposes only and do not in any manner affect the scope, meaning or intent of the provisions under the headings.

12.6 Interpretation.

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.

12.7 No Third Party Beneficiaries.

Unless specifically set forth, the parties to this Agreement do not intend to provide any third party with any benefit or enforceable legal or equitable right or remedy.

12.8 Governing Law.

This Agreement will be interpreted and governed under the laws of the State of California without reference to California conflicts of law principles. This Lease is entered into and to be performed in Tulare County, California. Lessor waives the removal provisions of California code of Civil Procedure Section 394.

12.9 Waivers.

The failure of either party to insist on strict compliance with any provision of this Agreement will not be considered a waiver of any right to do so, for any subsequent breach. The acceptance by either party of either performance or payment will not be considered to be a waiver of any breach of the Agreement by the other party, unless otherwise explicitly agreed to in writing by the parties.

12.10 Exhibits and Recitals.

All Exhibits to this Agreement are fully incorporated into and are integral parts of this Agreement.

12.11 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, the conflicting provision will 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 will continue in full force and effect. If either party, exercising its sole discretion, elects to defend this agreement against a third party suit alleging any invalidity in this Agreement, they must do so at their own expense.

12.12 Further Assurances.

Each party will execute any additional documents and will perform any further acts which may be reasonably required to effect the purposes of this Agreement. Lessee will, on request by Lessor, execute appropriate estoppel certificates and attornments in favor of any trust deed holders or encumbrances.

12.13 Assurances of Non-discrimination.

Lessor will not discriminate in employment or the performance of the Work or in the provision of services called for under this Agreement on the basis of any characteristic or condition upon which discrimination is prohibited by state or federal law or regulation.

Lessee herein covenants by and for itself, its heirs, executors, administrators, and assigns, and all persons claiming under or through it, and this lease is made and accepted upon and subject to the following conditions:

That there shall be no discrimination against or segregation of any person or group of persons, on account of race, color, creed, religion, sex, marital status, national origin, sexual orientation or ancestry, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the Premises herein leased.

12.14 Lessor's Right to Enter to Inspect and Post.

Lessee will permit Lessor and its agents to enter upon the Premises at all reasonable times for the purpose of posting notices of non-responsibility for alterations or additions made by Lessee, or for the purpose of inspecting the Premises, and, within six (6) months prior to the expiration of the term of this Lease, will permit Lessor to enter for the purpose of placing ordinary for sale or for lease signs.

12.15 Brokers.

All negotiations relative to this Agreement have been carried out directly by representatives of Lessor and Lessee without the participation of brokers and each party represents to the other that there are no unpaid broker's fees in connection with this Agreement.

12.16 Encumbrance of Premises.

Lessor may encumber the Premises so long as Lessee's quiet enjoyment of the Premises is not disturbed thereby.

12.17 Notices.

All notices required to be given under this Agreement must be delivered to the addresses set forth below, unless otherwise instructed in writing, and will be deemed delivered on the following dates:

12.17.1 Notice to Lessor.

When delivered to Lessor in person, or 3 days after date of mailing when mailed by certified mail, postage prepaid, to the City Manager, City of Porterville, at 291 North Main Street, Porterville, California 93257.

12.17.2 Notice to Lessee.

When delivered to Lessee in person, or 3 days date of mailing when mailed by certified mail,

postage prepaid, to the _____.

12.19 Successors and Assigns.

This Agreement is binding on and will inure to the benefit of the successors and assigns of the parties, but nothing in this section shall be construed as consent by Lessor to any sublease or assignment by Lessee if such consent is otherwise required by the terms of this Agreement.

12.20 Duplicate Originals.

This Agreement will be executed in duplicate originals.

12.21 Time of the Essence.

Time is of the essence of this Agreement.

12.22 Attorneys Fees. If any litigation is commenced between the parties to this lease concerning the Premises, this lease, or the right and duties of either in relation to the Premises or to this lease, the party prevailing in that litigation shall be entitled to, in addition to any other relief that may be granted in the litigation, a reasonable sum as and for its attorneys' fees in that litigation that are determined by the court in that litigation or in a separate action brought for that purpose.

12.23 Authority to Execute Lease.

The signer for each entity has the approval of the entity's governing body to execute this Agreement.

12.24 "Goodwill" Value. It is hereby agreed and understood by both parties that any "goodwill" value acquired by Lessee during the term of this agreement will bear no value in terms of consideration to Lessee at the termination of this Agreement.

12.25 Liens and Encumbrances. Lessee shall keep the premises and all structures and improvement situated thereon free from any liens or encumbrances arising out of the service performed or obligations incurred by Lessee, or from any other cause.

12.26 Negation of Partnership. Lessor shall become or be deemed a partner or joint venture with Lessee or associate in any relationship with Lessee's operations thereon.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

CITY OF PORTERVILLE

Date: _____

By: _____
Milt Stowe, Mayor
LESSOR

ATTEST:

By: _____
John D. Lollis, City Manager

Approved as to form:

By: _____
Julia Lew, City Attorney

[LESSEE]

Date: _____

By: _____

LESSEE

Approved as to form:

By: _____
_____, Attorney for Lessee

Date: _____

MKJL/PORTERVILLE/CenTenNorthMainStreetLeaseoct2017.doc



CITY COUNCIL AGENDA – DECEMBER 19, 2017

SUBJECT: Approval of Amendment to Measure 'R' Supplemental Agreement - State Route 190 Corridor Project Project Approval and Environmental Document (PA & ED) Stage

SOURCE: Public Works

COMMENT: Background:

The City of Porterville updated its General Plan in 2008 establishing policies and implementation strategies to guide the City's growth over the next twenty plus years. A major component of the General Plan is establishing a comprehensive circulation network throughout the City and surrounding County areas. The Circulation Element of the General Plan responds to the requirements of Government Code §65302 (b), which requires the identification of the "location and extent of existing and proposed major thoroughfares, transportation routes, terminals, any military airports and ports, and other local public utilities and facilities, all correlated with the land use element of the plan."

The preparation of the Circulation Element in concert with the Land Use Element forms the roadmap for growth of the community. The vision for the growth of Porterville was cast into the plan through a significant public participation process and is being implemented with each development and public works project constructed in the city. State Routes 65 and 190, within the Porterville area, are regional connectors linking Porterville with the surrounding areas of the County and other communities. This study focuses on the future improvements to the SR 190 corridor.

State Route 190 is the major east-west transportation corridor in Porterville. Extending from State Route 99 near Tipton at its westerly terminus to Quaking Aspen Camp near Ponderosa, State Route 190 provides Tulare County a regional transportation corridor. The regional connectivity of State Route 190 intersects with facilities to extend Porterville's reach for importing and exporting goods beyond the region, throughout California, and beyond.

The importance of State Route 190 to the economic future and growth of Porterville cannot be understated. Employment opportunities associated with agricultural exports and ease of access to other elements of the state highway system generate significant annual tax revenues and create jobs for the City.

Tourism drawn to the Sequoia National Forest includes visitors to the Eagle Mountain Casino on the Tule River Indian Reservation, and is an additional

benefit to the local economy.

Project Approval and Environmental Documentation:

Caltrans has completed the final Project Approval and Environmental Document (PA & ED) phase as of June 2017. City council on December 20, 2016, approved the amendment to include the Plano and College intersection in the PA & ED, due to the comments received during the public review process. The Porterville Unified School District, Porterville College, and a residential property owner expressed the concern about the traffic impact the roundabout at Plano and 190 would have at the intersection of Plano and College. Caltrans and the City of Porterville agreed that Plano and College intersection had to be inserted into the PA & ED.

Due to the implementation of Plano and College intersection into the Project Approval and Environmental Documents (PA & ED) cost's from Caltrans increased for the PA & ED support. Attached is a brief summary of the PA & ED cost that Caltrans District 6 has completed at various sites. It also includes the cost of the PA & ED support for the City of Porterville sites. A quick comparison of the sites show that the support costs are lower when comparing the number of roundabouts included in our PA & ED. Thus staff is asking to amend the Cooperative Agreement amount from \$680,000 to \$1,265,000.

RECOMMENDATION:

That the City Council:

1. Approve the attached Resolution in support to amend the Program Supplements to the Cooperative Agreement;
2. Authorize the Mayor and City Manager to execute the amended Supplemental Agreement;
3. Direct the City Clerk to transmit the executed Supplemental Agreements and resolutions to Tulare County Transportation Authority; and
4. Authorize the Public Works Director to execute the amended cooperative agreement in final form.

ATTACHMENTS:

1. PA & ED Cost Comparison
2. Draft Cooperative Agreement
3. Measure 'R' Program Supplement to Cooperative Agreement
4. Resolution

Appropriated/Funded:

Review By:

Department Director:

Mike Reed, Acting Public Works Director

Final Approver: Patrice Hildreth, Administrative Services Dir

EA	Description	PAED support		
06-0Q431	Porterville Intersection Improvements	\$1,250,000	Porterville Intersection Improvements	PAED
06-0L340	Fre 168 Auberry Rd Roundabout	\$924,000		
06-0J530	Tul 190/Reservation Road Roundabout	\$702,000	Coop Agreement Amount	\$680,000
			PAED Cost for 4 locations	\$836,000
			PAED cost for Plano/College	\$414,000
06-0P910	Mad 99/233 Roundabout	\$988,000	Total Cost (5 locations, 3 Roundabouts, 1 Aux Lane, 1 Off-ramp improvements	\$1,250,000
06-0V280	Ker 184/Sunset Roundabout	\$1,100,000		
06-0P290	Ker 155/Delano Roundabout	\$400,000		
06-0Q320	Kin 198/Hanford Armona Roundabout	\$484,000		

COOPERATIVE AGREEMENT COVER SHEET

Funding Summary Amendment – Funding Summary No. 02 Agreement Amendment No. 01

Work Description

Operational improvements at various locations in Porterville from 0.3 miles west of Westwood Road to 0.3 miles east of Plano Street Contact Information

Contact Information

CALTRANS

Curt Hatton, Project Manager
2015 E. Shields, Suite 100
Fresno, CA 93726
Office Phone: (559) 243-3445
Email: Curt.Hatton@dot.ca.gov

CITY OF PORTERVILLE

Mike Reed, City Engineer
291 N. Main Street
Porterville, CA 93257
Office Phone: (559) 782-7462
Email: Mreed@ci.porterville.ca.us

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DRAFT

AMENDMENT NO. 01

FUNDING SUMMARY NO. 02

1. PARTIES, in accordance with the provisions of this AGREEMENT, hereby amend this AGREEMENT by replacing Funding Summary No. 01 in its entirety with Funding Summary NO. 02.
2. Funding Summary No. 2 increases CITY's Measure funds from \$680,000 to \$1,265,000.

Funding Source	Funding Partner	Fund Type	PA&ED Support	PS&E Support	R/W Capital	R/W Support	CON Capital	CON Support	Totals by Fund Type
IMPLEMENTING AGENCY - >			CALTRANS						
LOCAL	CITY	Measure	\$1,265,000	\$0	\$0	\$0	\$0	\$0	\$1,265,000
		Totals by Component	\$1,265,000	\$0	\$0	\$0	\$0	\$0	\$1,265,000

This table represents full funding of each PROJECT COMPONENT in Agreement 06-1577

Billing and payment details follow.

Part II – Billing and Payment Details

Cost: PA&ED (Project Approval and Environmental Document)

1. Each PARTNER listed below will do work for PA&ED as described in the SCOPE SUMMARY of this Agreement:
 - CALTRANS

Therefore, based on the funding types displayed in the FUNDING SUMMARY table for this PROJECT COMPONENT:

- CALTRANS may invoice CITY

PARTNERS will exchange funds for actual costs.

CALTRANS will invoice City for a \$5,000 initial deposit after execution of this Agreement and thirty (30) working days prior to the commencement of PA&ED expenditures. This deposit represents two (2) months' estimated support costs.

Thereafter, CALTRANS will submit to City monthly invoices for estimated monthly costs based on the prior month's expenditures.

SIGNATURES

PARTIES are empowered by California Streets and Highways Code to enter into this AGREEMENT and have delegated to the undersigned the authority to execute this Funding Summary on behalf of the respective agencies and covenants to have followed all the necessary legal requirements to validly execute this Funding Summary.

Signatories may execute this Funding Summary through individual signature pages provided that each signature is an original. This Funding Summary is not fully executed until all original signatures are attached.

**STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION**

CITY OF PORTERVILLE

By: _____
SHARRI BENDER EHLERT
District Director

By: _____
MILT STOWE
Mayor

**VERIFICATION OF FUNDS &
AUTHORITY:**

By: _____
WILLIAM ETHERTON
District Budget Manager

**CERTIFIED AS TO FINANCIAL TERMS
AND POLICIES:**

By: _____
TAMARA WARREN
Accounting Supervisor

MEASURE 'R' PROGRAM SUPPLEMENT TO COOPERATIVE AGREEMENT

This Program Supplement is made and entered into on **December 19, 2017**, by and between the City of Porterville ("Sponsor") and the TULARE COUNTY ASSOCIATION OF GOVERNMENTS, acting as the Local Transportation Authority ("Authority").

This Program Supplement hereby incorporates the "Measure 'R' Cooperative Agreement" for Measure 'R' expenditures, which was entered into between the Sponsor and the Authority on May 29, 2007, and is subject to all terms and conditions thereof. This Program Supplement is executed under authority of Resolution No. _____-2017, approved by the Sponsor on December 20, 2017 (see copy attached).

Project scope and costs are incorporated herein as amended Exhibit "A" and agreed upon by Sponsor and Authority.

Covenants of Sponsor

- 1.1. SPONSOR agrees that it will only proceed with work authorized for specific phase(s) with a written "Authorization to Proceed" or AUTHORITY action and will not proceed with future phase(s) of this project(s) prior to receiving a written "Authorization to Proceed" or AUTHORITY action.
- 1.2. The SPONSOR will assist Caltrans in administering the project (Project Approval and Environmental Documentation) in accordance with SPONSOR and Caltrans standards.
- 1.3. Project Approval and Environmental Documentation information shall be submitted by the SPONSOR to the AUTHORITY within 60 days after the project contract award.
- 1.4. Failure to submit Project Approval and Environmental Documentation information in accordance with section 1.3 will cause a delay (without interest or penalties) in AUTHORITY processing invoices for the construction phase.
- 1.5. If no costs have been invoiced for a six-month period, SPONSOR agrees to submit for each phase a written explanation of the absence of project(s) activity along with target billing date and billing amount.

IN WITNESS WHEREOF, the undersigned parties have executed this Agreement on the day and year first written above.

COUNTY OF TULARE TRANSPORTATION
AUTHORITY

CITY OF PORTERVILLE

By: _____
Authority Director

By: _____
Milt Stowe, Mayor

Attest:

By: _____
John D. Lollis, City Clerk

AMENDED EXHIBIT "A"

State Route 190 Project Approval and Environmental Documentation (PA&ED) Phase for the "Near Term" Projects

Project Scope

The City of Porterville and Caltrans have partnered over the last several years to prepare a State Route 190 Corridor Study and a Project Initiation Document (PID). Both documents are complete and approved by the City Council. Caltrans is now seeking authorization to move into the next phase of project development for the "Near Term" projects as now defined in the most recently prepared document, the PID. City Council and Caltrans will execute a Cooperative Agreement to prepare a PA&ED for operational improvements at four locations on State Route (SR) 190 including: westbound auxiliary lane from SR 65 to Jaye Street, intersection improvements at SR 190 and Westwood Street, intersection improvements at SR 190 and Plano Street, and Main Street ramp termini improvements.

Caltrans Capital Outlay Support Estimate

\$1, 265,000

Project Schedule

Project Milestones		Scheduled Delivery Date (Month/Day/Year)
PROJECT PROGRAM	M015	07/01/2014
BEGIN ENVIRONMENTAL	M020	08/01/2014
CIRCULATE DPR & DED EXTERNALLY	M120	07/01/2015
PA & ED	M200	01/01/2016

RESOLUTION NO. _____ - 2017

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AFFIRMING
AND APPROVING THE SUPPORT OF THE CITY COUNCIL FOR THE STATE ROUTE
190 PROJECT APPROVAL AND ENVIRONMENTAL DOCUMENTATION (PA&ED)
PHASE

WHEREAS, the City of Porterville Measure R Regional Program is eligible to receive 100% reimbursement for the Project Approval and Environmental Documentation (PA&ED) phase of the State Route 190 “Near Term” projects as defined in the Project Initiation Document (PID), which meets the Measure ‘R’ guidelines and City General Plan for Regional Projects; and

WHEREAS, the Tulare County Association of Governments is requesting that the City of Porterville approve and submit a Supplemental Agreement that will allow the City to receive reimbursement for all of Caltrans costs associated with the preparation of the PA&ED;

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Porterville does hereby affirm and approve support of the PA&ED phase of the State Route 190 “Near Term” projects and authorizes the Mayor and City Clerk to execute the Program Supplement and any other related documents as may be required.

PASSED, APPROVED and ADOPTED this 19th day of December, 2017.

Milt Stowe, Mayor

ATTEST:

John D. Lollis, City Clerk

By: Patrice Hildreth, Chief Deputy City Clerk



CITY COUNCIL AGENDA – DECEMBER 19, 2017

SUBJECT: Renewal of Airport Lease Agreement - Lot 44B

SOURCE: Finance

COMMENT: Mr. Mike Quatacker is the current leaseholder of Lot 44B at the Porterville Municipal Airport. The lease expires on January 31, 2018; however, the lease terms allow for options to extend the lease in five-year periods. We have received a request from Mr. Quatacker to extend his lease for an additional five years, expiring on January 31, 2023.

RECOMMENDATION: That City Council approve a five-year extension of the Lease Agreement between the City of Porterville and Mr. Mike Quatacker of Porterville, CA, for Lot 44B at the Porterville Municipal Airport.

ATTACHMENTS:

1. Locator Map
2. Letter from Mr. Quatacker requesting renewal
3. Paragraph 2 of original Lease Agreement

Appropriated/Funded:

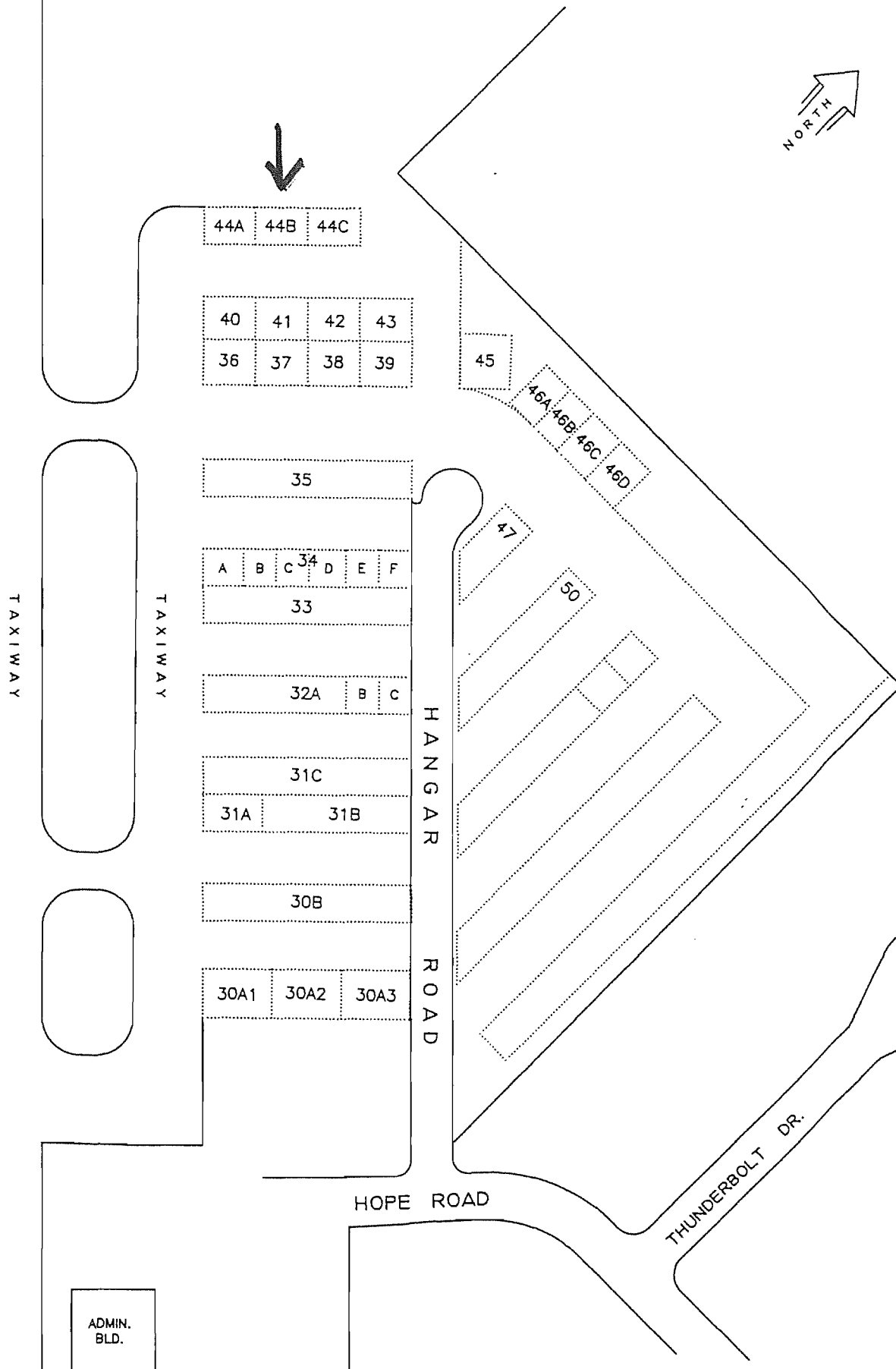
Review By:

Department Director:

Maria Bemis, Finance Director

Final Approver: Patrice Hildreth, Administrative Services Dir

AIRPORT LEASE SITES



Re: Airport Lease Renewal Lot 44B



mike quatacker <mikequatacker@hotmail.com>

Today, 4:14 PM

Janie Rodriguez

📧 ⚙️ Reply all ▾

Janie Rodriguez
City of Porterville

I Mike Quatacker would like to extend my lease on hanger 44B at the Porterville Airport for another Five Year's

Thank you
Mike Quatacker
Sent from my iPhone

LEASE AGREEMENT
PORTERVILLE MUNICIPAL AIRPORT

THIS LEASE AGREEMENT ("Lease"), executed at Porterville, California this 1st day of February, 1993, by and between the CITY OF PORTERVILLE, a political subdivision of the State of California, hereinafter referred to as "City" and AL QUATAKER 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, 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:

(a) **Démised 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, more particularly described by metes and bounds in Exhibits being attached hereto and by this reference made a part hereof.

2. Term: The term of this lease shall commence when both parties have executed the same and shall terminate on January 31, 2002. (3) Provided Lessee is not in default with respect

to any of the conditions or covenants of this lease. Lessee shall have an option to request an extension of the terms hereof for additional periods of five (5) years, by giving written notice thereof to Lessor not less than 120 days prior to expiration of this agreement or any five year extension. Lessor is not obligated to grant any extension but such shall not be unreasonably withheld.

3. Rental and Business Privilege Consideration: Lessee agrees to pay to City in lawful money of the United States without deduction or offset, to the Finance Director, City of Porterville, P O Box 432, Porterville, California, 93258, 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 \$.1662 per square foot per year. Inasmuch as the lease site contains approximately 4,200 square feet of land area, said rental rate will be \$698.04 per year payable in advance on February 1st of each year of this lease. See Exhibit "A" attached.

At the end of each year of this lease, the rate shall be adjusted by a percentage equal to the percentage increase or decrease in the Consumer Price Index (CPI) for San Francisco in the interval between the date of execution of this Lease or the last date of rate adjustment.

4.a Purpose: This Lease is made for the purpose of constructing and operating an 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.



CITY COUNCIL AGENDA – DECEMBER 19, 2017

SUBJECT: Second Reading - Ordinance No. 1844 - An Ordinance Approving Zone Change PRC 2016-034-Z

SOURCE: Administrative Services

COMMENT: Ordinance No. 1844, An Ordinance of the City Council of the City of Porterville Approving Zone Change (PRC 2016-034-Z) from RM-3 (High Density Residential) to CR (Retail Centers) for the .56± acre site located generally at the northeast corner of Henderson Avenue and Prospect Street, was given first reading on December 5, 2017, and has been printed.

RECOMMENDATION: That the Council give Second Reading to Ordinance No. 1844, waive further reading, and adopt said Ordinance.

ATTACHMENTS:

1. Ordinance No. 1844
2. Zoning Map (Exhibit A to Ordinance)

Appropriated/Funded:

Review By:

Department Director:

Patrice Hildreth, Administrative Services Dir

Final Approver: Patrice Hildreth, Administrative Services Dir

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
APPROVING ZONE CHANGE (PRC 2016-034-Z) FROM RM-3 (HIGH DENSITY
RESIDENTIAL) TO CR (RETAIL CENTERS) FOR THAT .56± ACRE SITE LOCATED
GENERALLY AT THE NORTHEAST CORNER OF HENDERSON AVENUE AND
PROSPECT STREET

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of December 5, 2017, conducted a public hearing to approve findings and consider Zone Change (PRC 2016-034), being a change of zone from RM-3 (High Density Residential) to CR (Retail Centers) for the parcel located on the east side of Prospect Street, 300± feet north of Henderson Avenue (APN 246-111-008); and

WHEREAS: The public hearing was continued to allow for a 10-day public hearing notice in accordance with §601.05 of the Porterville Development Ordinance. The City Council at its regularly scheduled meeting of December 5, 2017 concluded the public hearing; and

WHEREAS: The City Council of the City of Porterville determined that the proposed Zone Change (PRC 2016-034) is consistent with the guiding and implementation policies of the adopted 2030 General Plan; and

WHEREAS: That a Negative Declaration was prepared for the project in accordance with the California Environmental Quality Act and was transmitted to interested agencies and made available for public review and comment. The review period ran for twenty days from October 30, 2017, to November 20, 2017. No comments were received; and

WHEREAS: The City Council made the following findings that the proposed project will advance the goals and objectives of and is consistent with the policies of the General Plan and any other applicable plan that the City has adopted.

- a. The project supports and complies with the following General Plan guiding policies:
 - LU-G-1: Promote a sustainable, balanced land use pattern that responds to existing needs and future needs of the City.
 - LU-G-3 Promote sustainability in the design and development of public and private development projects.
- b. Development of the site as proposed requires approval of a Conditional Use Permit and would be subject to the City's development standards.
- c. The General Plan designation for the subject area was approved by the City Council on November 21, 2017, modifying the General Plan designation from High Density Residential to Retail Centers for the subject parcel.

- d. The subject Zone Change will not create adverse environmental impacts on the adjacent neighborhood when standards of the Development Ordinance and General Plan are applied to the subsequent development project.
- e. The final configuration of the existing parcels has yet to be determined. Prior to building permit submittal, a reciprocal ingress/egress and parking agreement shall be recorded if a parcel merger of all the properties is not proposed which would help ensure that subsequent development will not adversely impact the surrounding developed area.

NOW, THEREFORE, BE IT ORDAINED: That the City Council of the City of Porterville does ordain as follows:

Section 1: That the following described property in the City of Porterville, County of Tulare, State of California, known as Zone Change PRC 2016-034-Z, is hereby rezoned from RM-3 (High Density Residential) to CR (Retail Centers), pursuant to Section 3 below, for the parcel described herein as Assessor's Parcel Number 246-111-008 located generally 300± feet north of Henderson Avenue on the east side of Prospect Street; and

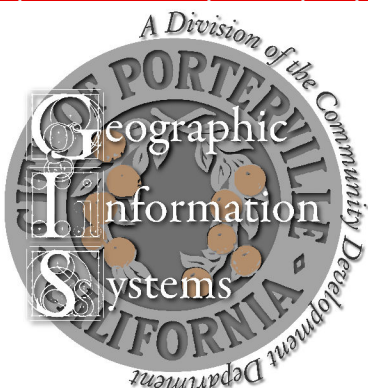
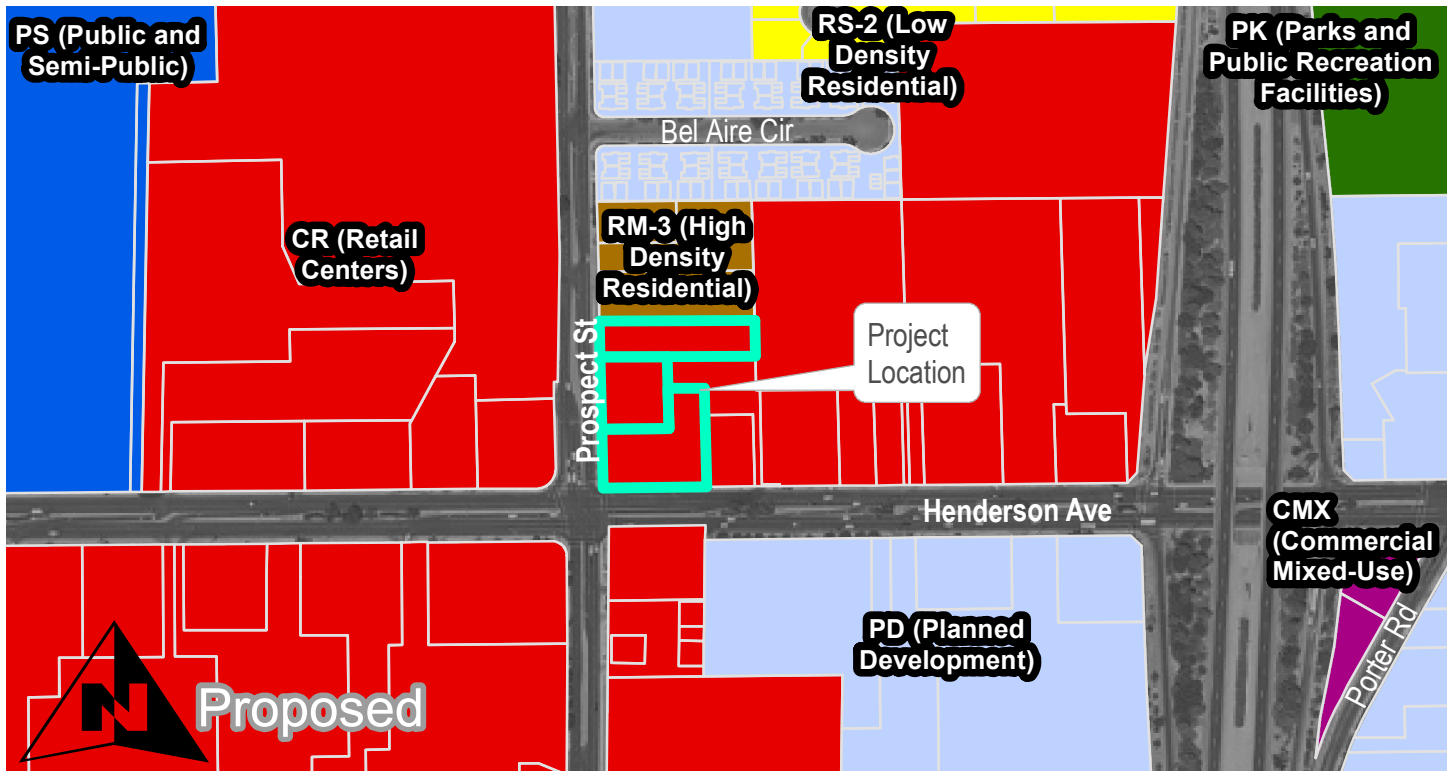
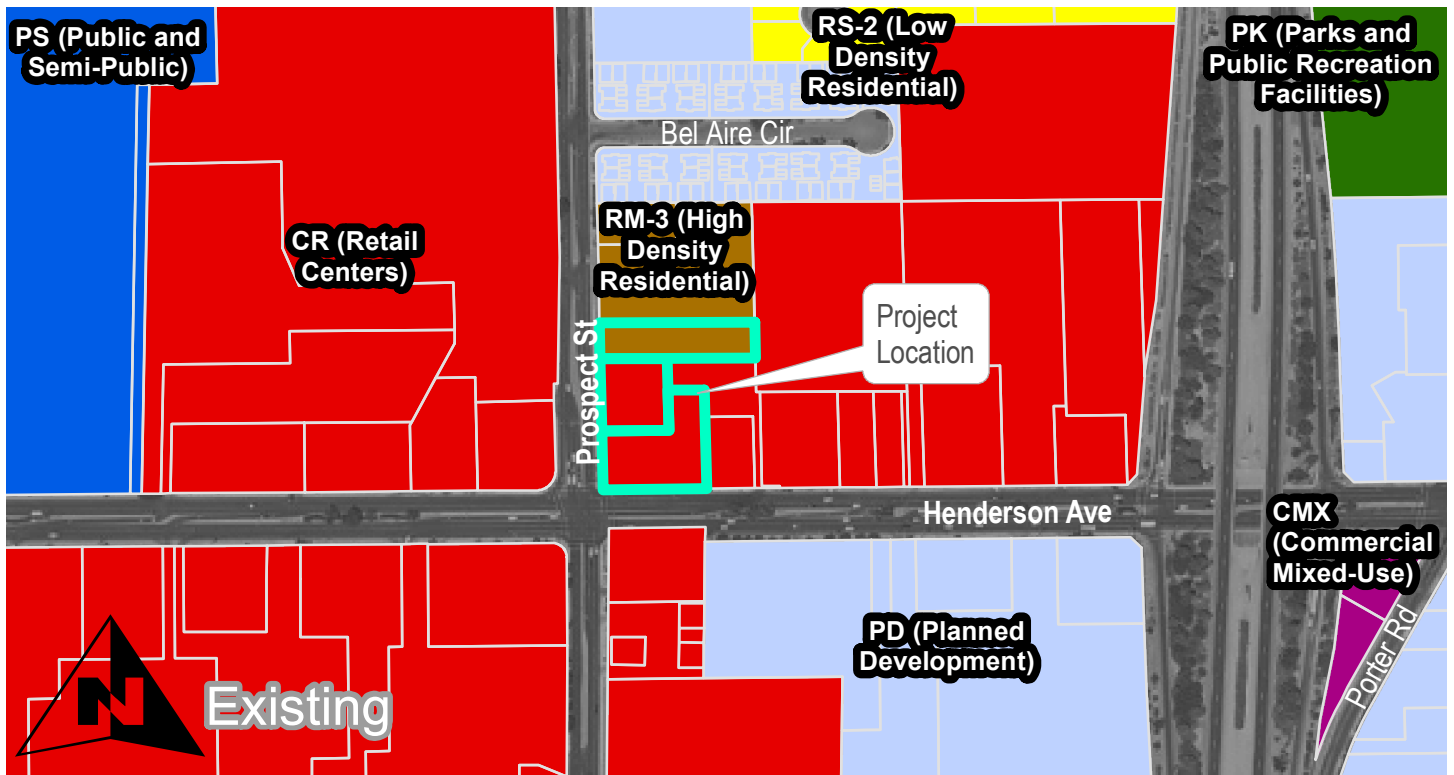
Section 2: It is further ordained that all records of the City of Porterville, together with the official zoning map of the City of Porterville, shall be changed to show the above described real property is rezoned from RM-3 (High Density Residential) to CR (Retail Centers) for the parcel described above, more particularly shown on the attached map as Exhibit "A".

PASSED, APPROVED AND ADOPTED this 19th day of December, 2017.

By: _____
Milt Stowe, Mayor

ATTEST:
John D. Lollis, City Clerk

By: _____
Patrice Hildreth, Chief Deputy City Clerk



PRC 2016-034
 Porter's Crossing commercial development
 @ 1174 W. Henderson Ave
 Zoning Land Use Map
 1" = 400 ft.



CITY COUNCIL AGENDA – DECEMBER 19, 2017

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 was considered (2%).

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

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

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

At its last meeting on November 21, 2017, 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. Five (5) residences within the city have been determined to have dry wells, for which City staff submitted a Mutual Aid Request to Tulare County OES to initiate the household tank program for identified properties within the city where wells are dry and challenged for permanent connection. City, County, State and non-profit partner representatives have continued to discuss solutions toward addressing these challenged residences when the State is expected to end its drought emergency funding effective August 1st. The State has committed funding through June 30, 2018 for non-profit agencies to continue drought-related activities, which Self-Help Enterprises has committed to continue the household tank program locally.

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

Given CalOES has paid for the development of the new well, and its connection to the City's water system, the City will be required under "Drought Redundancy and Resiliency Provisions" to make available to the State up to three million gallons of water per month without charge for emergency purposes.

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

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

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

As of Friday, March 31, 2017, the date the State established as the final day for property owners to complete the registration process to participate in the State-funded connection program opportunity, of the 1,017 eligible developed residential properties identified by the State for connection, 722 completed the required Extra-Territorial Services Agreement, leaving 295 developed residential properties non-responsive to this unique connection program, 23 of which were reported as having either dry or diminishing capacity wells.

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

Agreement with DDW to the sponsorship conditions they have offered.

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

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

ATTACHMENTS:

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

Appropriated/Funded:

Review By:

Department Director:

Final Approver: Patrice Hildreth, Administrative Services Dir

RESOLUTION NO. 49-2015

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

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

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

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

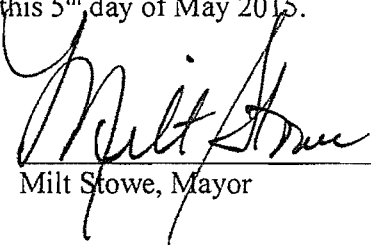
WHEREAS: the long-term ramifications of the current drought will have a significant impact on the city of Porterville and potentially pose a danger to the health and welfare of its residents; and

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

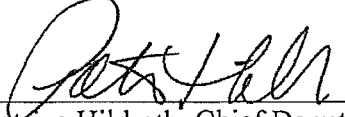
BE IT FURTHER RESOLVED: that the City Council of the City of Porterville requests the Governor and California Department of Water Resources make available California Disaster Assistance Act funding for the State of Local Emergency proclaimed on May 5, 2015, and seek all available forms of Federal assistance,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

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

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


Milt Stowe, Mayor

ATTEST:
John D. Lollis, City Clerk


By: Patrice Hildreth, Chief Deputy City Clerk

TULARE COUNTY – CITY OF PORTERVILLE WELL AGREEMENT

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

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

ACCORDINGLY, IT IS AGREED:

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

TULARE COUNTY AGREEMENT NO. 27596

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

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

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

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

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

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

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

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

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

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

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

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

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

COUNTY OF TULARE

BY Mike Ennis
Mike Ennis Chairman,
Board of Supervisors



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

By Danisa A. Ybana
Deputy Clerk

Approved as to Form
County Counsel

By M. G. [Signature] for LMT
Deputy 20151902

CITY OF PORTERVILLE

BY Milt Stowe
Milt Stowe, Mayor

ATTEST:
City Clerk of the City of Porterville

BY J. L. [Signature]
John Lollis, City Manager

Approved as to Form

BY [Signature]
City Attorney

EXHIBIT 'A'

East Porterville Project Boundary

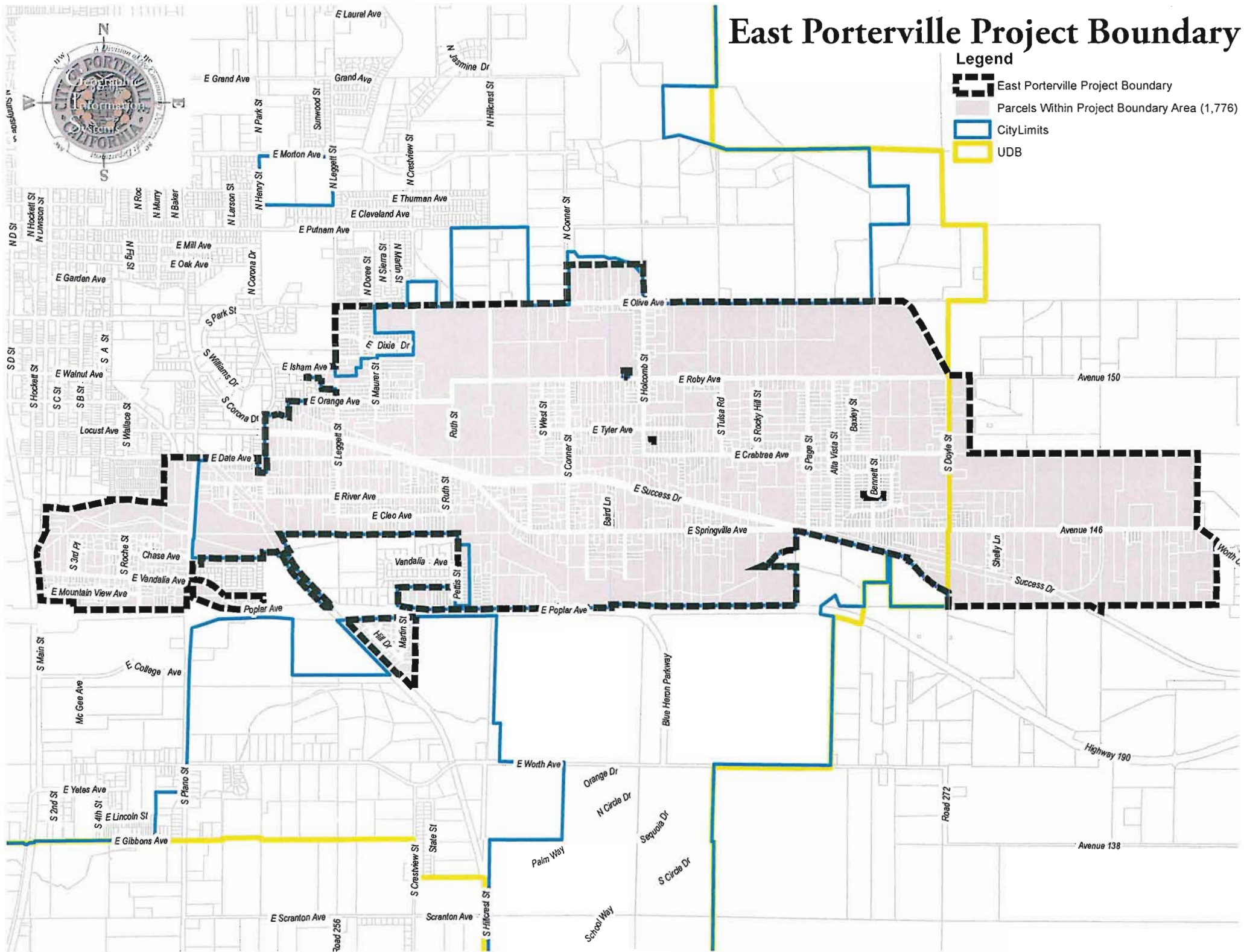


EXHIBIT 'B'

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:

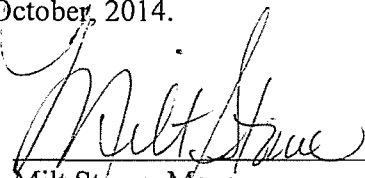
1. To promote orderly development while discouraging urban sprawl, preserving open space and prime agricultural lands, and efficiently extending government services.
2. To honor the City’s fundamental responsibility to provide efficient and sustainable public services to the inhabitants of the city, 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).

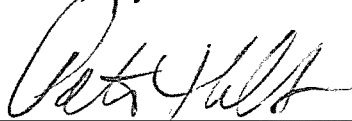
2. It shall be the policy of the City of Porterville to consider extra-territorial service requests primarily within the Urban Development Boundary, which is defined as the City of Porterville Annexation Boundary, as adopted by Tulare County LAFCo.
3. It shall be the policy of the City of Porterville, 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".

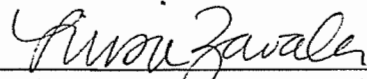
PASSED, APPROVED AND ADOPTED this 19th day of April, 2016.



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.

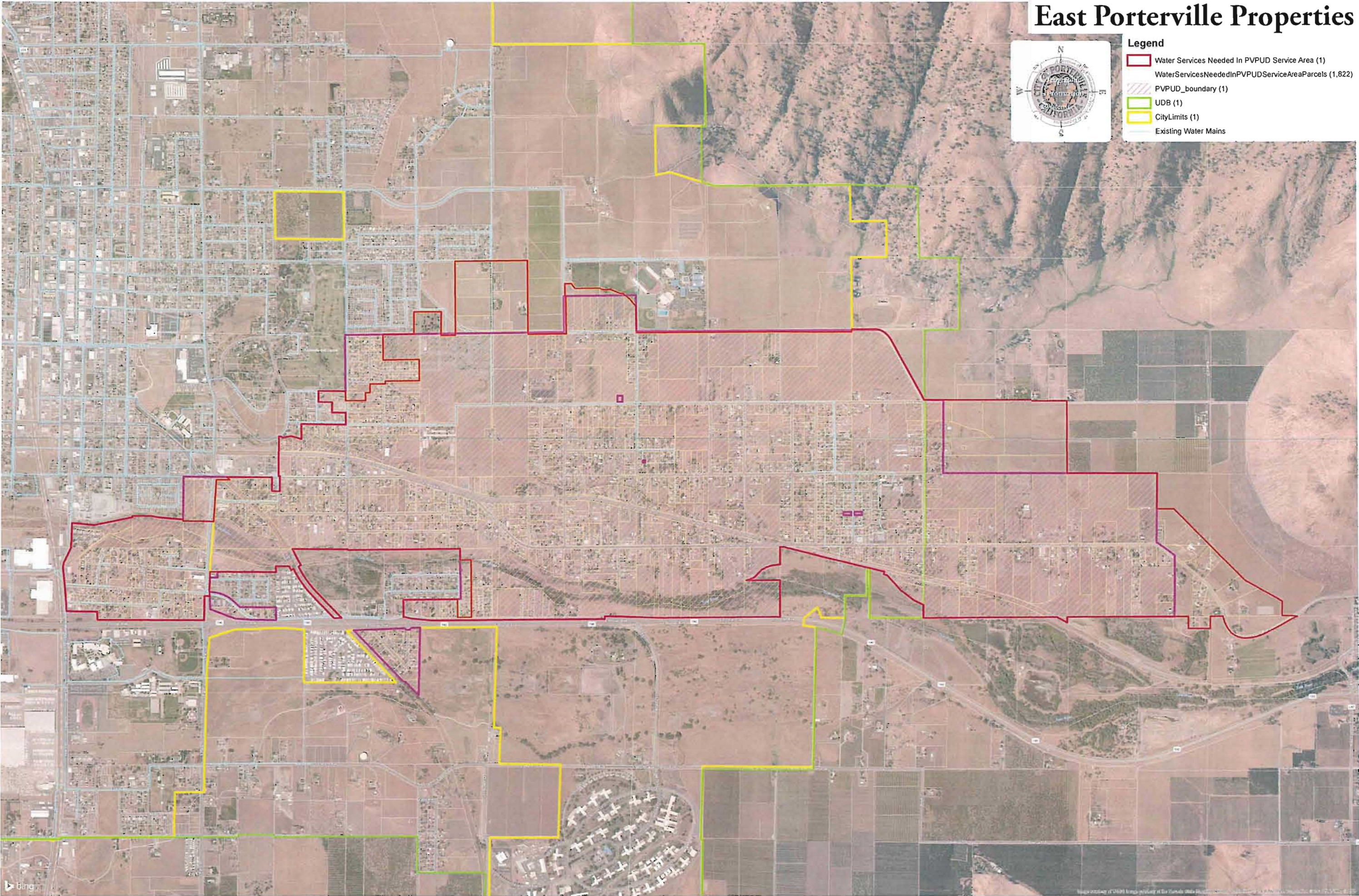
3. PROPERTIES WITHIN THE EAST PORTERVILLE FEASIBILITY STUDY PROJECT AREA: The California State Water Resources Control Board, in coordination with the Department of Water Resources Drought Task Force, is charged with preparing a feasibility study to define a long-term solution to the water related issues 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

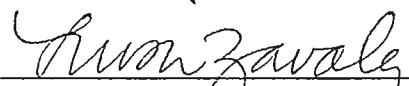

By: Luisa Zavala, Deputy City Clerk

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



Amendment No. 1

To the East Porterville Water Supply Project

Memorandum of Understanding (MOU)

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

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

Recitals

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

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

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

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

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

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

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

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

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

2. Section A (3) is amended to read as follows:

The Parties intend that Phase 2 of the Project will provide municipal water supply to approximately 800 properties in East Porterville by connecting them to the City of Porterville's water system. The total number of homes eligible for this Project is approximately 1,100.

3. Section A (5) is amended to read as follows:

The Parties intend that Well C1 will be used to provide the initial water supply. The Parties acknowledge the delay in Well C1 completion. To mitigate the effects of this on the residents of East Porterville, the City of Porterville will allow connections of homes as they become prepared for connection. These early connections will be beyond the initial 70 connections (previously 40 connections) agreed to, given the availability of capacity during the winter months. However, these additional connections to the City's water system will cease on March 1, 2017, if Well C1's connection to the City's water system is not completed by then.

4. Sections A (7) b-f shall be added and made part of this MOU:

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

(b). The East Porterville Water Supply Project Hydraulic Analysis Report ("Hydraulic Analysis Report," which is attached as Exhibit 10) determined that the water supply capacity required to serve all eligible residents of East Porterville is 1,435 gallons per minute (gpm). This capacity shall be based on the sustainable yield of the wells which is defined as 75 percent of the initial design capacity. Since Well C1 has a sustainable yield of 600 gpm, the Parties agree that the State will fund the construction and equipping of additional wells to provide the 835 gpm shortfall.

(c). Based on the Hydraulic Analysis, a 700,000 gallon water storage tank is required to serve the residents of East Porterville. However, based on Porterville's master plan recommendations, a 1.2 million-gallon storage tank is required for the City's buildout. The Parties therefore intend to construct a 1.2 million-gallon storage tank with cost sharing between the State and the City. The State will fund the cost of a 700,000 gallon tank required for the Project and the City of Porterville will fund the cost of the additional 500,000 gallons of storage required for the City's future use as contained in its master plan. The cost-sharing shall be proportional to the tank capacity being funded.

(d). The Parties intend to upgrade the existing Henderson-Plano Booster Pump Station and the Granite Hills Intertie which would facilitate water supply to the East Pressure Zone which serves East Porterville. The State will fund the construction of one booster pump rated at 2,100

gpm along with a variable frequency drive and the Granite Hills Intertie. The City will fund the replacement of its two existing pumps along with associated variable frequency drives as part of Phase 2 of the Project. These two pumps are more than 30-years old and their replacement will enable the City's water system to operate more efficiently and in a cost-saving manner.

(e). The Parties further agree that a booster pump station of capacity 1,670 gpm is required to convey water from the West Pressure Zone, where the new wells will be located, to the Central Pressure Zone for onward conveyance to East Porterville. The State will fund the construction of this booster pump station.

(f). Given that Well C1 has an estimated sustainable yield of 600 gpm, as well as a unit demand of 0.833 gpm per home connection based on the Hydraulic Analysis , Well C1 could effectively serve up to 720 households . The Parties agree that home connections for Phase 2 of the Project can begin as soon as Well C1 is connected to the City's water system, and the Henderson-Plano Booster Pump Station upgrade and the Granite Hills Intertie are completed. These home connections shall cease when the capacity of Well C1 is exceeded. Thereafter, additional home connections will be made after the construction of additional wells or if City staff determines that the water system can support additional home connections.

5. Section (C) 16 is amended to read as follows:

16. This MOU will become effective upon the signature of the all Parties. The MOU will terminate on June 30, 2018, unless extended by all Parties in writing.

6. The list of the Exhibits at the end of MOU is amended to read as follows:

1. DWR and Tulare County Executed Well C1 Agreement
2. SWRCB and County Executed Well C1 Agreement (Water Board Grant #D-15-11-902)
3. County and Porterville Draft Well Agreement
4. Map of East Porterville
5. Household Water Service Installation Diagram
6. Household Water Service Cost Estimate
7. Sample Extraterritorial Service Agreement
8. Sample SWRCB Water Connection Agreement
9. Draft Feasibility Study for the Long-Term Plan
10. East Porterville Water Supply Project Hydraulic Analysis Report

This MOU has been executed by:

California Department of Water Resources

State Water Resources Control Board

California Office of Emergency Services

County of Tulare

City of Porterville



EDMUND G. BROWN JR.
GOVERNOR



MATTHEW RODRIGUEZ
SECRETARY FOR
ENVIRONMENTAL PROTECTION

State Water Resources Control Board

NOV 29 2017

The Honorable Milt Stowe
Mayor of City of Porterville
291 North Main Street
Porterville, CA 93257

RECEIVED

DEC 04

CITY OF PORTERVILLE
CITY MANAGER

Dear Mayor Stowe:

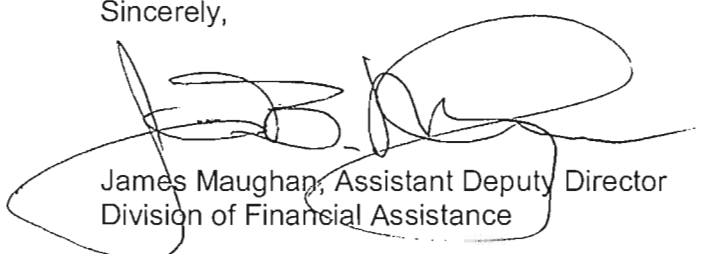
The Department of Water Resources and the State Water Resources Control Board are requesting an increase to the number of household connections from 720 to 800 to the City of Porterville (City) water system, prior to the completion of the East Porterville Emergency Water Supply Project – Phase 2 (Project). The construction of all facilities is estimated to be completed by June 2019.

According to Section A(7)(f) of Amendment No. 1 to the Project's Memorandum of Understanding (MOU), the estimated sustainable yield of Well C1 is 600 gallons per minute (gpm) and therefore will serve up to 720 households. Our current projections show that approximately 800 households will need to be connected by the end of 2017.

Our current plans are to drill two additional wells which would add more than 835 gpm of sustainable yield to the City's water supply, pending land acquisition by the City. Further, our calculations indicate that Well C1 is currently capable of producing 800 gpm in the interim, which can support a total of 960 households in the short term. It is our hope that the City will complete acquisition of the properties needed to drill the two additional wells in a timely manner to ensure that the City's water supply does not become stressed.

We look forward to hearing favorably from you and thank you for your continued support in providing safe drinking water to the residents of East Porterville.

Sincerely,


James Maughan, Assistant Deputy Director
Division of Financial Assistance

cc: See next page

FELICIA MAROIS, CHAIR | EILEEN SOBECK, EXECUTIVE DIRECTOR

1001 I Street, Sacramento, CA 95814 | Mailing Address: P.O. Box 100, Sacramento, CA 95812-0100 | www.waterboards.ca.gov

Executive Department
State of California

EXECUTIVE ORDER B-40-17

WHEREAS California has endured a severe multi-year drought that has threatened the water supplies of communities and residents, devastated agricultural production in many areas, and harmed fish, animals and their environmental habitats; and

WHEREAS Californians responded to the drought by conserving water at unprecedented levels, reducing water use in communities by more than 22% between June 2015 and January 2017; and

WHEREAS the State Water Resources Control Board, the Department of Water Resources, the Department of Fish and Wildlife, the Office of Emergency Services, and many other state agencies worked cooperatively to manage and mitigate the effects of the drought on our communities, businesses, and the environment; and

WHEREAS the State provided 66,344,584 gallons of water to fill water tanks for communities suffering through drought-related water shortages, outages, or contamination, and provided emergency assistance to drill wells and connect communities to more robust water systems; and

WHEREAS the State took a number of important actions to preserve and protect fish and wildlife resources, including stream and species population monitoring, fish rescues and relocations, infrastructure improvements at trout and salmon hatcheries, and infrastructure to provide critical habitat for waterfowl and terrestrial animals; and

WHEREAS the State established a Statewide Water Efficiency and Enhancement Program for agricultural operations that provides financial assistance for the implementation of irrigation systems that save water; and

WHEREAS water content in California's mountain snowpack is 164 percent of the season average; and

WHEREAS Lake Oroville, the State Water Project's principal reservoir, is 101 percent of average, Lake Shasta, the federal Central Valley Project's largest reservoir, is at 110 percent of average, and the great majority of California's other major reservoirs are above normal storage levels; and

WHEREAS despite winter precipitation, the effects of the drought persist in areas of the Central Valley, including groundwater depletion and subsidence; and

WHEREAS our changing climate requires California to continue to adopt and adhere to permanent changes to use water more wisely and to prepare for more frequent and persistent periods of limited water supply; and

WHEREAS increasing long-term water conservation among Californians, improving water use efficiency within the State's communities and agricultural production, and strengthening local and regional drought planning are critical to California's resilience to drought and climate change.

NOW, THEREFORE, I, EDMUND G. BROWN JR., Governor of the State of California, in accordance with the authority vested in me by the Constitution and statutes of the State of California, do hereby **TERMINATE THE JANUARY 17, 2014 DROUGHT STATE OF EMERGENCY** for all counties in California except the Counties of Fresno, Kings, Tulare, and Tuolumne.

I FURTHER ORDER THAT:

1. The orders and provisions contained in my April 25, 2014 Emergency Proclamation, as well as Executive Orders B-26-14, B-28-14, B-29-15, and B-36-15 are rescinded.
2. The orders and provisions contained in Executive Order B-37-16, **Making Water Conservation a California Way of Life**, remain in full force and effect except as modified by this Executive Order.
3. As required by the State Emergency Plan and Government Code section 8607(f), the Office of Emergency Services, in coordination with other state agencies, shall produce an after-action report detailing the State's response to the drought and any lessons learned in carrying out that response.

MAINTAINING CONSERVATION AS A WAY OF LIFE

4. The State Water Resources Control Board (Water Board) shall continue development of permanent prohibitions on wasteful water use and requirements for reporting water use by urban water agencies, and to provide a bridge to those permanent requirements, shall maintain the existing emergency regulations until they expire as provided by the Water Code. Permanent restrictions shall prohibit wasteful practices such as:
 - Hosing off sidewalks, driveways and other hardscapes;
 - Washing automobiles with hoses not equipped with a shut-off nozzle;
 - Using non-recirculated water in a fountain or other decorative water feature;
 - Watering lawns in a manner that causes runoff, or within 48 hours after measurable precipitation; and
 - Irrigating ornamental turf on public street medians.
5. The Water Board shall rescind those portions of its existing emergency regulations that require a water supply stress test or mandatory conservation standard for urban water agencies.

6. The Department of Water Resources (Department) shall continue work with the Water Board to develop standards that urban water suppliers will use to set new urban water use efficiency targets as directed by Executive Order B-37-16. Upon enactment of legislation, the Water Board shall adopt urban water use efficiency standards that include indoor use, outdoor use, and leaks as well as performance measures for commercial, industrial, and institutional water use. The Department shall provide technical assistance and urban landscape area data to urban water suppliers for determining efficient outdoor use.
7. The Water Board and the Department shall continue to direct actions to minimize water system leaks that waste large amounts of water. The Water Board, after funding projects to address health and safety, shall use loans from the Drinking Water State Revolving Fund to prioritize local projects that reduce leaks and other water system losses.
8. The Water Board and the Department shall continue to take actions to direct urban and agricultural water suppliers to accelerate their data collection, improve water system management, and prioritize capital projects to reduce water waste. The California Public Utilities Commission is requested to work with investor-owned water utilities to accelerate work to minimize leaks.
9. The Water Board is further directed to work with state agencies and water suppliers to identify mechanisms that would encourage and facilitate the adoption of rate structures and other pricing mechanisms that promote water conservation.
10. All state agencies shall continue response activities that may be needed to manage the lingering drought impacts to people and wildlife. State agencies shall increase efforts at building drought resiliency for the future, including evaluating lessons learned from this current drought, completing efforts to modernize our infrastructure for drought and water supply reliability, and shall take actions to improve monitoring of native fish and wildlife populations using innovative science and technology.

CONTINUED DROUGHT RESPONSE IN FRESNO, KINGS, TULARE, AND TUOLUMNE COUNTIES

11. The Water Board will continue to prioritize new and amended safe drinking water permits that enhance water supply and reliability for community water systems facing water shortages or that expand service connections to include existing residences facing water shortages.
12. The Department and the Water Board will accelerate funding for local water supply enhancement projects and will continue to explore if any existing unspent funds can be repurposed to enable near-term water conservation projects.
13. The Water Board will continue to work with local agencies to identify communities that may run out of drinking water, and will provide technical and financial assistance to help these communities address drinking water

shortages. It will also identify emergency interconnections that exist among the State's public water systems that can help these threatened communities. The Department, the Water Board, the Office of Emergency Services, and the Office of Planning and Research will work with local agencies in implementing solutions to those water shortages.

14. For actions taken in the Counties of Fresno, Kings, Tulare, and Tuolumne pursuant to directives 11–13, the provisions of the Government Code and the Public Contract Code applicable to state contracts, including, but not limited to, advertising and competitive bidding requirements, as well as Division 13 (commencing with section 21000) of the Public Resources Code and regulations adopted pursuant to that Division, are hereby suspended. These suspensions apply to any actions taken by state agencies, and for actions taken by local agencies where the state agency with primary responsibility for implementing the directive concurs that local action is required, as well as for any necessary permits or approvals required to complete these actions.
15. California Disaster Assistance Act Funding is authorized until June 30, 2017 to provide emergency water to individuals and households who are currently enrolled in the emergency water tank program.
16. State departments shall commence all drought remediation projects in Fresno, Kings, Tulare, and Tuolumne Counties within one year of the date of this Executive Order.

This Executive Order is not intended to, and does not, create any rights or benefits, substantive or procedural, enforceable at law or in equity, against the State of California, its agencies, departments, entities, officers, employees, or any other person.

I FURTHER DIRECT that as soon as hereafter possible, this Order be filed in the Office of the Secretary of State and that widespread publicity and notice be given of this Order.

IN WITNESS WHEREOF I have hereunto set my hand and caused the Great Seal of the State of California to be affixed this 7th day of April 2017.


EDMUND G. BROWN JR.
Governor of California

ATTEST:

ALEX PADILLA
Secretary of State

