



## **AGENDA**

### **Joint Meeting of City Council and Successor Agency to the Redevelopment Agency of the City of Orange Cove**

**Victor P. Lopez, Mayor**

**Diana Guerra Silva, Mayor Pro Tem**  
**Minerva Pineda, Council Member**

**Gilbert Garcia, Council Member**  
**Josie Cervantes, Council Member**

**WEDNESDAY, MARCH 25, 2015 - 6:30 P.M.**  
**Orange Cove Council Chambers**  
**633 6<sup>th</sup> Street, Orange Cove, California 93646**

#### **A. Call to Order/Welcome**

1. Roll Call
2. Invocation
3. Flag Salute

#### **B. Confirmation of Agenda**

#### **C. Presentations**

1. Presentation by Elisa Torres regarding Home Services
2. Presentation by American Legion Alta Post 19 regarding Vietnam Veteran Wall

#### **D. Public Forum**

Members of the public wishing to address the City Council on an item that is not on the agenda may do so now. No action will be taken by the City Council this evening. But items presented may be referred to the City Manager for follow up and a report. In order to allow time for all comments, each individual is limited to three minutes. When addressing the Council, you are requested to come forward to the speakers microphone, state your name and address, and then proceed with your comments.

**E. City Council/Successor Agency Consent Calendar:**

1. Consideration of Resolution No. 2015-12 Approving the City's Warrants
2. City Council Minutes of February 4, 2015
3. City Council Minutes of March 2, 2015
4. Consideration of a Professional Services Agreement with Rosenow-Spevacek Group, Inc. for Redevelopment Consulting Services in an Amount Not to Exceed \$20,462.00
5. Consideration of an Assignment and Assumption of Development Agreement for the Property Located at 1555 South Avenue, Orange Cove, CA, Commonly Known as Orchard Village
6. Consideration of a Subordination Agreement with Orchard Village 188, LP, the City of Orange Cove, JPMorgan Bank and Trust, and JP Morgan Chase Bank for the Property Located at 1555 South Avenue, Orange Cove, CA, commonly known as Orchard Village

**F. Administration**

**City Engineer:**

1. **SUBJECT:** Consideration of a Resolution Vacating Various Alley and Street Rights of Way (Public Hearing)

**Recommendation:** It is recommended that the City Council open the public hearing, and adopt a Resolution vacating various alley and street rights of way.

**Finance Director:**

2. **SUBJECT:** Presentation and discussion regarding the Monthly Financials for February 2015

**Recommendation:** Informational item only

**City Manager:**

3. **SUBJECT:** Orange Cove Area Chamber of Commerce Blossom Trail Event consideration of the following:
  - a. Park and Street Use Agreement with the Orange Cove Area Chamber of Commerce for the Blossom Trail Event
  - b. Resolution approving a request for a fee waiver for the Orange Cove Area Chamber of Commerce's Blossom Trail Event

**Recommendation:** City Council approve the Park and Street Use Agreement and the Resolution approving the fee waiver for the Orange Cove Area Chamber of Commerce's Blossom Trail Event

**G. City Attorney's Report**

4. **SUBJECT:** Consideration of an Ordinance Amending Section 2.08.050 (Compensation), and Repealing Sections 2.08.080 (Removal Procedure) and 2.08.090 (Agreements on Employment) of Chapter 2.08 (City Manager) of Title 2 (Administration and Personnel) of the Orange Cove Municipal Code

**Recommendation:** Introduce and waive further reading of an ordinance of the City of Orange Cove amending Section 2.08.050 (Compensation), and Repealing Sections 2.08.080 (Removal Procedure) and 2.08.090 (Agreements on Employment) of Chapter 2.08 (City Manager) of Title 2 (Administration and Personnel) of the Orange Cove Municipal Code.

**H. City Manager's Report**

**I. City Council Communications**

**J. Closed Session**

1. Conference with Legal Counsel-Anticipated Litigation  
Initiation of litigation pursuant to paragraph (4) of subdivision (d) of Section 54956.9: (One Case)
2. Conference with real property negotiators  
Government Code Section 54956.8  
Property: Industrial Park Property corner of South and Center Street  
City Negotiators: Sam Escobar, City Manager and Bianca Sparks, City Attorney  
Negotiating Parties: 1) Alex Lopez (2 acres); 2) Matt Kuykendall (2 acres)  
Under Negotiation: Price and Terms of Payment
3. Conference with Legal Counsel pursuant to Government Code Section 54957(b)(1):  
  
Public Employee Performance Evaluation  
Title: City Manager
4. Conference with Legal Counsel-Anticipated Litigation  
Significant exposure to litigation pursuant to paragraph (2) of subdivision (d) of Section 54956.9: (One Case)

**K. Reconvene City Council Meeting**

Report out of closed session

## **L. Adjournment**

**ADA Notice:** In compliance with the Americans with Disabilities Act, if you need special assistance to participate in this meeting, please contact the City Clerk at (559) 626-4488 ext. 214. Notification 48 hours prior to the meeting will enable the City to make arrangements to ensure accessibility to this meeting.

**Documents:** Any writings or documents provided to a majority of the City Council regarding any item on this agenda will be made available for public inspection at front counter at City Hall and at the Orange Cove Library located at 815 Park Blvd., Orange Cove, CA during normal business hours. In addition, most documents are posted on City's website at [cityoforangecove.com](http://cityoforangecove.com).

### **STATEMENT ON RULES OF DECORUM AND ENFORCEMENT**

The Brown Act provides that members of the public have a right to attend public meetings, to provide public comment on action items and under the public forum section of the agenda, and to criticize the policies, procedures, or services of the city or of the acts or omissions of the city council. The Brown Act also provides that the City Council has the right to exclude all persons who willfully cause a disruption of a meeting so that it cannot be conducted in an orderly fashion.

During a meeting of the Orange Cove City Council, there is a need for civility and expedition in the carrying out of public business in order to ensure that the public has a full opportunity to be heard and that the Council has an opportunity to conduct business in an orderly manner. The following is provided to place everyone on notice of the rules of decorum and enforcement.

### **GENERAL RULES OF DECORUM**

While any meeting of the City Council is in session, the following rules of decorum shall be observed:

1. All remarks shall be addressed to the City Council as a whole and not to any single member, unless in response to a question from a member of the City Council.
2. A person who addresses the City Council under public comment for a specific agenda item or under the Public Forum section of the agenda may not engage in speech or conduct (i) which is likely to provoke others to violent or riotous behavior, (ii) which disturbs the peace of the meeting by loud and unreasonable noise, (iii) which is irrelevant or repetitive, or (iv) which disrupts, disturbs, or otherwise impedes the orderly conduct of any City Council meeting.

3. A person, other than members of the Council and the person, who has the floor, shall not be permitted to enter into the discussion unless requested by the Mayor to speak.
4. Members of the City Council may not interrupt a person who has the floor and is making public comments. Members of the City Council shall wait until a person completes his or her public comments before asking questions or commenting. The Mayor shall then ask Councilmembers if they have comments or questions.
5. No person in the audience at a Council meeting shall engage in disorderly or boisterous conduct, including the utterance of loud, threatening or abusive language, whistling, stamping of feet or other acts which disturb, disrupt or otherwise impede the orderly conduct of any Council meeting.

**ENFORCEMENT OF DECORUM RULES**  
(Resolution No. 2012-16)

While the City Council is in session, all persons must preserve order and decorum. A person who addresses the City council under public comment for a specific agenda item or under the Public Forum section of the agenda may not engage in speech or conduct which is likely to provoke others to violent or riotous behavior, which disturbs the peace of the meeting by loud and unreasonable noise, which is irrelevant or repetitive, or which disrupts, disturbs, or otherwise impedes the orderly conduct of any City Council meeting.

The Mayor or other presiding officer shall request that a person who is breaching the rules of decorum cease such conduct. If after receiving such a warning, the person persists in breaching the rules of decorum, the Mayor or other presiding officer may order the person to leave the City Council meeting. If such person does not leave, the Mayor or presiding officer may request any law enforcement officer who is on duty at the meeting as sergeant-at-arms to remove the person from the Council Chambers. In the event there is no one from law enforcement present, the Mayor or presiding officer may direct the City Manager to contact law enforcement.

In accordance with the Point of Order Rule 4.6, the majority of the Council may overrule the Mayor if the majority of the Council believes the Mayor or other presiding officer is not applying the rules of decorum appropriately.

**Resolution No. 2015-12**

**A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ORANGE COVE, CALIFORNIA ALLOWING CERTAIN CLAIMS AND DEMANDS (CITY WARRANTS)**

**NOW, THEREFORE, BE IT RESOLVED**, by the City Council of the City of Orange Cove, California, as follows:

SECTION 1: That in accordance with Section 37202 of the Government Code, the Finance Director, or her designated representative, hereby certifies, and the City Manager hereby approves the accuracy of the following demands and to the availability of funds for payment thereof.

EXAMINED

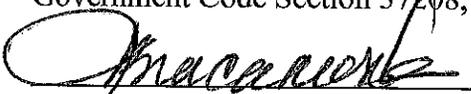
  
\_\_\_\_\_  
Lan Bui, Finance Director

APPROVED

  
\_\_\_\_\_  
Sam Escobar, City Manager

SECTION 2: That the following claims and demands (Warrant Numbers: 036185-16145A) attached hereto and incorporated herein by reference, have been audited as required by law and the same are hereby allowed in the amounts hereinafter set forth on the attached.

SECTION 3: That the following claims and demands have been certified pursuant to Government Code Section 37208, and conforming to the City's adopted budget.

  
\_\_\_\_\_  
June Bracamontes, City Clerk

SECTION 4. The provisions of this Resolution are severable and if any provision, clause, sentence, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts thereof of the Resolution or their applicability to other persons or circumstances.

SECTION 5. That the City Clerk shall certify to the adoption of this Resolution and that the same shall be in full force and effect.

\*\*\*\*\*

This resolution was adopted at a Regular Meeting of the City Council of the City of Orange Cove held on March 25, 2015, by the following vote:

**AYES:**

**NOES:**

**ABSENT:**

**ABSTAIN:**

---

Victor P. Lopez, Mayor

**ATTEST:**

---

June Bracamontes, City Clerk

**APPROVED AS TO FORM:**

---

Bianca Sparks, City Attorney

STATE OF CALIFORNIA )  
COUNTY OF FRESNO ) ss.  
CITY OF ORANGE COVE )

I, JUNE BRACAMONTES, hereby certify that I am the duly appointed City Clerk of the City of Orange Cove and that the foregoing resolution was duly adopted at a regular meeting of the City Council held on the 25<sup>th</sup> day of March, 2015.

---

June Bracamontes  
City Clerk

**MINUTES  
NOTICE OF SPECIAL MEETING  
ORANGE COVE CITY COUNCIL**

**DATE:**            **WEDNESDAY, February 4, 2015 – 5:30 P.M.**

**LOCATION:**    **Orange Cove Council Chambers  
633 6<sup>th</sup> Street, Orange Cove, California 93646**

\*\*\*\*\*

**Victor P. Lopez, Mayor**

**Diana Guerra Silva, Mayor Pro Tem  
Minerva Pineda, Council Member**

**Gilbert Garcia, Council Member  
Josie Cervantes, Council Member**

**A.    CALL TO ORDER/WELCOME**

**COUNCIL PRESENT:**        Mayor Pro Tem Diana Guerra Silva  
                                 Councilmember Gilbert Garcia  
                                 Councilman Josie Cervantes  
                                 Councilmember Minerva Pineda

**COUNCIL ABSENT:**        Mayor Victor P. Lopez

**STAFF PRESENT:**        Deputy City Clerk Clara Camarena  
                                 Attorney Bianca Sparks  
                                 City Manager Samuel A. Escobar  
                                 Police Chief, Marty Rivera  
                                 Finance Director, Lan Bui

**STAFF ABSENT:**        City Clerk June V. Bracamontes

**B.    ADMINISTRATION**

**City Manager**

**1.    SUBJECT:**    Consideration and Discussion regarding the City Attorney Appointment

**Recommendation:**    Council to appoint Bianca Sparks as City Attorney and approve Agreement with Casso & Sparks, LLP for City Attorney Legal Services

Upon the motion by Councilman Gilbert Garcia and seconded by Councilwoman Josie Cervantes, Council approved to appoint Bianca Sparks as the new City Attorney and Approved the Agreement with Casso & Sparks, LLP for the City Attorney Legal Services

(Yes Vote: Silva, Garcia, Pineda and Cervantes)(Absent: Lopez)

2. **SUBJECT:** Consideration and Discussion Declaring Water Supply Shortage

**Recommendation:** Council to consider approving Resolution No. 2015-06 Declaring a Level 2 Water Supply Shortage Pursuant to Chapter 13.17 of the Orange Cove Municipal Code

Upon the motion by Councilman Gilbert Garcia and seconded by Councilwoman Minerva Pineda, Council approved Resolution No. 2015-06 Declaring a Level 2 Water Supply Shortage Pursuant to Chapter 13.17 of the Orange Cove Municipal Code. (Yes Vote: Silva, Garcia, Pineda and Cervantes)(Absent: Lopez)

### Finance Director

3. **SUBJECT:** Mid-year Budget Workshop for FY 2014-2015 for Water, Sewer, and Other Governmental Funds

**Recommendation:** Informational Item Only

The Finance Director presented the following funds for this budget workshop:

#### **Measure C**

Fresno County's answer to the Valleys infrastructure needs. Money is restricted for street project and allocated for streets; ADA Compliance and Flex spending. For the coming budget year funds will be used for Sidewalk Repairs; Center Street; Center Street Trail Connection; Sidewalks – 3<sup>rd</sup> Street and Anchor & Jacobs

- Revenue; Expenditure and Budget Summary

#### **Transportation Development Act**

The TDA provides 2 major sources of funding for public transportation; the Local Transportation Fund (LTF) and the State Transit Assistance fund (STA). Funds for Development and Support of public transportation

-Goals; Revenue; Expense Salary & Benefits; Summary

#### **Gas Tax Funds**

- Type of Gas Taxes; Tax Projects; Gas Tax 2106 Revenue and Expenditure Analysis

-Gas Tax 2107; Revenue and Expenditure/Salary Analysis; 2107.5 Budget Analysis

-Gas Tax 2105; Revenue; Salary/Benefit Analysis; M&O and Capital Outlay Analysis

**Wastewater Facility**

The Wastewater Facility Fund is used to account for debt service payments associated with wastewater plant expansion; \$1.3 million is still owed to bondholders

- Assessment Bonds Amortization
- Wastewater Facility Budget Review

**Child Development**

The Child Development Special Revenue Fund is to be used to provide child care services to families who meet certain income and need criteria

- Child Development Review

**Impact Fees**

- Revenue Analysis

**Successor Agency**

The Successor Agency Trust Funds accounts for the administration and debt service costs relating the dissolution of the Redevelopment Agency

- Revenue Analysis
- Expense Analysis; Salary and Benefits
- Expense Analysis M&O and Capital Outlay
- Mid Year Budget Analysis

Gary Horn presented to Council the Streets Budget Adjustment and Capital Improvement Program.

**C. ADJOURNMENT:**

Mayor Pro Tem Diana Guerra Silva adjourned the City Council Meeting at 7:17 pm

RESPECTFULLY SUBMITTED:

---

June V. Bracamontes, City Clerk  
City of Orange Cove

**MINUTES  
NOTICE OF SPECIAL MEETING  
ORANGE COVE CITY COUNCIL**

**DATE: MONDAY, March 2, 2015 – 5:30 P.M.**

**LOCATION: Orange Cove Council Chambers  
633 6<sup>th</sup> Street, Orange Cove, California 93646**

\*\*\*\*\*

**Victor P. Lopez, Mayor**

**Diana Guerra Silva, Mayor Pro Tem  
Minerva Pineda, Council Member**

**Gilbert Garcia, Council Member  
Josie Cervantes, Council Member**

**A. CALL TO ORDER/WELCOME**

**COUNCIL PRESENT:** Mayor Victor P. Lopez  
Mayor Pro Tem Diana Guerra Silva  
Councilmember Gilbert Garcia  
Councilman Josie Cervantes  
Councilmember Minerva Pineda

**STAFF PRESENT:** City Clerk June V. Bracamontes  
Attorney Bianca Sparks

**STAFF ABSENT:** City Manager Samuel A. Escobar  
Police Chief, Marty Rivera  
Finance Director, Lan Bui

**B. PUBLIC COMMENT:**

During oral communications, if you wish to address the City Council during this Special Meeting, under Government Code Section 54954.3(a), you may only address the City Council concerning any item that has been described in the notice for the Special Meeting.

No Public Comments

**C. CLOSED SESSION**

1. Closed Session pursuant to Government Code Section 54957(b)(1):  
PUBLIC EMPLOYEE PERFORMANCE EVALUATION  
Title: City Manager

Council went into Closed Session at 5:37 p.m  
(City Clerk left the Chambers)

**D. RECOVENE CITY COUNCIL MEETING  
(Report out of Closed Session)**

Mayor Lopez reconvened the City Council Meeting at 6:40 p.m. and direction was given to the City Attorney.

**E. ADJOURNMENT:**

Mayor Lopez adjourned the Special City Council Meeting at 6:41 p.m.

RESPECTFULLY SUBMITTED:

---

June V. Bracamontes, City Clerk  
City of Orange Cove

PRESENTED TO COUNCIL:

DATE: \_\_\_\_\_

ACTION: \_\_\_\_\_



## **REPORT TO SUCCESSOR AGENCY**

March 25, 2015

**To:** Mayor and Council  
**From:** Sam Escobar, City Manager

**SUBJECT:** Consideration of Professional Services Agreement with Rosenow-Spevacek Group, Inc. for Redevelopment Consulting Services

### **BACKGROUND:**

On June 27, 2012, the City of Orange Cove and the Successor Agency to the Orange Cove Redevelopment Agency ("Agency") entered into a contract with RSG to provide services related to the dissolution of the former Orange Cove Redevelopment Agency from January 2012 through June 2013. RSG has provided additional services to the Agency since June 2013, including:

- Operational startup activities to create the Successor Agency, Housing Successor Entity, and Oversight Board
- The Recognized Obligation Payment Schedules (ROPS) covering six month periods from January 2012 through December 2015
- The Successor Agency's Administrative Budget for Fiscal Years 2012-13 through 2015-16
- Five-Year Cash Flow Analyses to aid preparation of the ROPS and inform other planning activities
- Three City Loan Agreements to cover shortfalls in prior ROPS periods
- Due Diligence Review advisory services
- Property and asset disposition services
- Fiscal Consultant services related to a bond refinancing
- Responding to data requests from bond rating agencies
- Review and analysis of contracts, agreements, and other documents
- Documents and presentations for City Council, Successor Agency, and Oversight Board Meetings
- Documents and presentations for meetings with State and County agencies

- Correspondence with State, County, and other agencies as needed
- General project advisory and management Services
- Legislative tracking, analysis, and advice
- Other services as needed

RSG's original contract for \$69,500 covered services provided FY 2012-13, and the Agency authorized an additional \$93,765.00 for services.

As of February 28, 2015, the RSG contract had a balance of \$20,462.50. RSG is proposing to utilize the remaining balance to provide services through FY 2015-16. RSG will consult on all activities required by the Dissolution Act, which may include but are not limited to:

- Financial planning and transition services, including preparation of all Recognized Obligation Payment Schedules ("ROPS"), administrative budgets, and cash flows
- Asset disposition strategic planning, including preparation of transfer documents for housing assets
- General financial advisory services
- Project advisory services
- Project management services
- Meeting, agenda, and staff report assistance for the City Council, Successor Agency and Oversight Board
- Preparation and attendance at meetings with State, County and other agencies
- Consultations with taxing entities
- Monitoring of legal requirements and agreements
- Legislative analysis
- General advice and strategic planning for all requirements set forth under ABX1 26 and AB 1484

In February 2015, the Successor Agency and Oversight Board adopted an Administrative Budget for FY 2015-16 that included services to be provided under the proposed contract amendment. Costs will be paid by the Successor Agency out of the administrative cost allowance, which was placed on the ROPS 15-16A and is under review by the Department of Finance.

**RECOMMENDATIONS:**

1. Approve the attached Professional Services Agreement with RSG to provide Successor Agency redevelopment consulting services through Fiscal Year 2015-16

**RESOLUTION NO. SA 2015-04**

**A RESOLUTION OF THE SUCCESSOR AGENCY TO THE ORANGE COVE REDEVELOPMENT AGENCY APPROVING A PROFESSIONAL SERVICES AGREEMENT WITH ROSENOW-SPEVACEK GROUP, INC. TO PROVIDE REDEVELOPMENT CONSULTING SERVICES TO THE SUCCESSOR AGENCY IN FISCAL YEAR 2015-16**

**WHEREAS**, on January 26, 2012, the City Council adopted Resolution No. 2012-09 electing to serve as the Successor Agency to the former Orange Cove Redevelopment Agency ("Successor Agency") pursuant to Assembly Bill x1 26, as modified by California Supreme Court case *California Redevelopment Association v. Matosantos* and Assembly Bill 1484 (collectively referred to as the "Dissolution Act") and codified in the California Health & Safety Code ("H&SC"); and

**WHEREAS**, Health & Safety Code Section 34177.3(b) states that successor agencies may create enforceable obligations to conduct the work of winding down the redevelopment agency, including acquiring necessary professional administrative services; and

**WHEREAS**, the Successor Agency desires to enter into a contract with Rosenow Spevacek Group, Inc. ("RSG Contract") to provide redevelopment consulting services related to the dissolution of the former Orange Cove Redevelopment Agency; and

**WHEREAS**, the RSG Contract is to be funded by the administrative cost allowance pursuant to Health & Safety Code Section 34171(b); and

**WHEREAS**, the Successor Agency and Oversight Board adopted an Administrative Budget for Fiscal Year 2015-16 pursuant to Health & Safety Code Section 34177(j)(3) that included services to be provided under the RSG Contract Amendment; and

**WHEREAS**, the Successor Agency desires to approve the proposed RSG Contract.

**NOW, THEREFORE, THE SUCCESSOR AGENCY TO THE ORANGE COVE REDEVELOPMENT AGENCY DOES HEREBY RESOLVE AS FOLLOWS:**

**Section 1. Recitals.** The Recitals set forth above are true and correct and incorporated herein by reference.

**Section 2. Contract Approval.** The RSG Contract, attached hereto as Exhibit A and incorporated herein by reference is hereby approved.

**Section 3. Execution and Transmittal.** The Executive Director of the Successor Agency is hereby authorized and directed to take such other and further action consistent with this resolution and sign and transmit any documents, as necessary, in order to implement this Resolution on behalf of the Successor Agency.

**Section 4.** The provisions of this Resolution are severable and if any provision, clause, sentence, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts thereof of the Resolution or their applicability to other persons or circumstances.

**Section 5.** That the Agency Secretary shall certify to the adoption of this Resolution and that the same shall be in full force and effect.

**PASSED, APPROVED AND ADOPTED** at a regular meeting of the Successor Agency, on the \_\_\_ day of \_\_\_, 2015 by the following vote:

AYES:	AGENCY BOARD MEMBERS:
NOES:	AGENCY BOARD MEMBERS:
ABSENT:	AGENCY BOARD MEMBERS:
ABSTAIN:	AGENCY BOARD MEMBERS:

---

VICTOR P. LOPEZ  
AGENCY CHAIRPERSON

ATTEST:

---

JUNE BRACAMONTES, AGENCY SECRETARY

APPROVED AS TO FORM:

---

BIANCA SPARKS  
AGENCY COUNSEL

STATE OF CALIFORNIA )  
COUNTY OF FRESNO ) ss.  
CITY OF ORANGE COVE )

I, JUNE BRACAMONTES, hereby certify that I am the duly appointed Agency Secretary of the Successor Agency to the Orange Cove Redevelopment Agency and that the foregoing resolution was duly adopted at a regular meeting of the Successor Agency held on the \_\_ day of \_\_, 2015.

---

June Bracamontes  
Agency Secretary

**SUCCESSOR AGENCY TO THE ORANGE COVE REDEVELOPMENT AGENCY**

**PROFESSIONAL SERVICES AGREEMENT FOR  
REDEVELOPMENT CONSULTING SERVICES**

This Professional Services Agreement for services (hereinafter, "**Agreement**") is made and entered into this \_\_\_\_ day of March, 2015, by and between the Successor Agency to the Orange Cove Redevelopment Agency, a public body ("**Agency**") and Rosenow-Spevacek Group, Inc., a California corporation ("**Contractor**"). The Agency and Contractor are hereinafter collectively referred to as the "Parties."

**RECITALS**

**WHEREAS**, Agency desires to engage Contractor to perform the services described herein, and Contractor desires to perform such services in accordance with the terms and conditions set forth herein.

**NOW, THEREFORE**, for and in consideration of the mutual covenants and conditions herein contained, Agency and Contractor agree as follows:

**1. TERM**

The term of this Agreement shall commence on January 1, 2015 (the "**Effective Date**") and shall continue in full force and effect until July 1, 2016 or until terminated in accordance with Section 9. The Agreement may be extended for one, one-year term, upon approval by the Agency.

**2. GENERAL SCOPE OF SERVICES**

2.1 Contractor shall perform the services ("**Services**") described in the Scope of Services attached hereto as Exhibit-A ("**Scope of Services**") and incorporated herein by this reference. Tasks other than those specifically described in the Scope of Services shall not be performed without prior written approval of the Agency. The Services shall be performed by Contractor, unless prior written approval is first obtained from the Agency. In the event of conflict or inconsistency between the terms of this Agreement and Exhibit A, the terms of this Agreement shall prevail.

2.2 Agency shall have the right to request, in writing, changes to the Services. Any such changes mutually agreed upon by the Parties, and any corresponding increase or decrease in compensation, shall be incorporated by written amendment to this Agreement.

2.3 Contractor shall perform all Services in a manner reasonably satisfactory to the Agency and in a first-class manner in conformance with the standards of quality normally observed by an entity providing redevelopment consulting services, serving a public agency.

2.4 Contractor shall comply with all applicable federal, state, and local laws, regulations and ordinances in the performance of this Agreement, including but not limited to, the conflict of interest provisions of Government Code Section 1090 and the Political Reform Act

(Government Code Section 81000 *et seq.*). During the term of this Agreement, Contractor shall not perform any work for another person or entity for whom Contractor was not working on the Effective Date if both (i) such work would require Contractor to abstain from a decision under this Agreement pursuant to a conflict of interest statute or law; and (ii) Agency has not consented in writing to Contractor's performance of such work. No officer or employee of Agency shall have any financial interest in this Agreement that would violate California Government Code Sections 1090 *et seq.* Contractor hereby warrants that it is not now, nor has it been in the previous twelve (12) months, an employee, agent, appointee, or official of the Agency. If Contractor was an employee, agent, appointee, or official of the Agency in the previous twelve (12) months, Contractor warrants that it did not participate in any manner in the forming of this Agreement. Contractor understands that, if this Agreement is made in violation of Government Code §1090 *et seq.*, the entire Agreement is void and Contractor will not be entitled to any compensation for Services performed pursuant to this Agreement, and Contractor will be required to reimburse the Agency for any sums paid to the Contractor. Contractor understands that, in addition to the foregoing, it may be subject to criminal prosecution for a violation of Government Code § 1090 and, if applicable, will be disqualified from holding public office in the State of California.

2.5 Contractor represents that it has, or will secure at its own expense, all licensed personnel required to perform the Services. All Services shall be performed by Contractor or under its supervision, and all personnel engaged in the Services shall be qualified and licensed to perform such services.

### **3. COMPENSATION**

3.1 Agency agrees to compensate Contractor for the Services provided under this Agreement in accordance with the rate schedule set forth in Exhibit B ("Rate Schedule"). The Rate Schedule shall not be modified without the Agency's prior written approval. In no event shall the total compensation payable to Contractor under this Agreement exceed the sum of Twenty Thousand Four Hundred Sixty-Two Dollars (\$20,462.00), unless specifically approved in advance, in writing, by the Agency. The Agency shall pay Contractor for services rendered pursuant to this Agreement at the time and manner set forth herein. The payments set forth in this Section 3 shall be the only payments from Agency to Contractor for services rendered pursuant to this Agreement. Contractor shall not bill Agency for duplicate services performed by more than one person.

3.2 Contractor shall submit to Agency an invoice, at the conclusion of every month for the services performed during the prior thirty (30) days. Each invoice shall separately identify the Services rendered during the billing period, the personnel for whose services payment is sought, and all expenses for which reimbursement is requested. As a condition precedent to payment, the Agency may require Contractor to furnish supporting documentation for all charges for which payment is sought. Within twenty (20) business days of receipt of each invoice, Agency shall notify Contractor of any disputed amounts included on the invoice.

3.3 Agency shall make monthly payments, based on the invoice received for Services satisfactory performed and rendered. Within thirty (30) days from receipt of an invoice from Contractor, the Agency shall pay all undisputed amounts to Contractor. The Agency shall have the right to withhold from payments to Contractor reasonably disputed amounts, including without limitation, amounts for Services not performed in accordance with this Agreement and costs,

expenses or damages incurred by the Agency as a result of Contractor's breach of this Agreement or Contractor's negligence.

**4. FACILITIES AND EQUIPMENT**

Agency shall furnish physical facilities such as desks, filing cabinets, and conference space, as may be reasonably necessary for Contractor's use while performing the Services for the Agency. The location, quantity, and time of furnishing those facilities shall be in the sole discretion of Agency. In no event shall Agency be obligated to furnish any Agency vehicle for conducting Agency business or cellular telephone.

**5. OWNERSHIP OF WRITTEN PRODUCTS**

All reports, documents or other written material (the "**Written Products**") developed by Contractor in the performance of the Services pursuant to this Agreement shall be and remain the property of the Agency without restriction or limitation upon its use or dissemination by Agency, and no such written products shall be the subject of a copyright application by Contractor.

**6. RELATIONSHIP OF PARTIES**

At all times during the term of this Agreement, Contractor shall be an independent contractor and shall not be an employee of Agency. Neither Agency nor any of its officers, employees or agents shall have control over the conduct of Contractor, or any of its employees, agents and/or volunteers, except as set forth in this Agreement. Notwithstanding any other city, state, or federal policy, rule, regulation, law, or ordinance to the contrary, Contractor, and any of its employees, agents, and subcontractors providing services under this Agreement, shall not qualify for or become entitled to, and hereby agrees to waive any and all claims to, any compensation, benefit, or any incident of employment by Agency, including but not limited to eligibility to enroll in the California Public Employees Retirement System ("PERS") as an employee of Agency and entitlement to any contribution to be paid by Agency for employer contributions and/or employee contributions for PERS benefits. Contractor shall have no power to incur any debt, obligation, or liability on behalf of Agency or otherwise to act on behalf of Agency as an agent. Contractor shall not represent that it, or that any of its employees, agents or volunteers are, is in any manner employees of Agency.

**7. SUBCONTRACTOR SERVICES**

Contractor shall obtain the Agency's prior written approval before retaining a subcontractor to perform any portion of the Services required by this Agreement. Notwithstanding Contractor's use of any subcontractor, Contractor shall be responsible to the Agency for the performance of its subcontractors as it would be if Contractor had performed those services itself. Nothing in this Agreement shall be deemed or construed to create a contractual relationship between the Agency and any subcontractor employed by Contractor. Contractor shall be solely responsible for payments to any subcontractors. Contractor shall indemnify, defend and hold harmless the Agency Indemnitees (defined below) for any Claims (defined below) arising from, or related to, the services performed by a subcontractor under this Agreement.

**8. NOTICES**

Any notices, bills, invoices, or reports required by this Agreement shall be deemed received on: (i) the day of delivery if delivered by hand, facsimile or overnight courier service during Agency's regular business hours; or (ii) on the third business day following deposit in the United States mail if delivered by mail, postage prepaid, to the addresses listed below (or to such other addresses as the parties may, from time to time, designate in writing).

**If to Agency:**

Sam Escobar, Executive Director  
City of Orange Cove  
633 Sixth Street  
Orange Cove, CA 93646  
Email: samescobar@cityoforangecove.net  
Tel: (559) 626-4488  
Fax: (559) 626-4653

**And:**

Bianca Sparks, General Counsel  
Casso & Sparks  
Post Office Box 4131  
West Covina, CA 91791  
Email: bsparks@cassosparks.com  
Tel: (213) 841-9751

**If to Contractor:**

Tara Matthews, Principal  
Rosenow-Spevacek Group, Inc.  
309 W. 4<sup>th</sup> Street  
Santa Ana, CA 92701-4502  
Tel: (714) 541-4585  
Fax: (714) 541-1175

The Parties hereby agree to notify each other in writing, of any a change in the contact person(s), mailing addresses, email addresses and/or facsimile numbers.

**9. TERMINATION**

Agency shall have the right to terminate this Agreement for any reason on five (5) calendar days' written notice to Contractor, with or without cause. Contractor shall have the right to terminate this Agreement for any reason on thirty (30) calendar days' written notice to Agency. In the event of such termination, Contractor shall be paid the outstanding hourly fee for Services completed up to the effective date of termination. In no event shall Contractor be entitled to receive more than the amount that would be paid to Contractor for the hourly fee applicable to the performance of the Services required by this Agreement. All Agency data, documents, objects, materials or other tangible things shall be returned to Agency upon the termination or expiration

of this Agreement and no later than ten (10) days from the termination or expiration.

## **10. INDEMNIFICATION**

10.1 The Parties agree that Agency, its elected and appointed officers, officials, employees, agents, contractors, consultants and volunteers (“**Agency Indemnitees**”) should, to the extent permitted by law, be fully protected from any and all loss, injury, damage, claim, lawsuit, cost, expense, attorneys’ fees, litigation or court costs, or any other cost arising out of or in any way related to the performance of the Services pursuant to this Agreement (collectively, “**Claims**”). Accordingly, the provisions of this indemnity clause are intended by the Parties to be interpreted and construed to provide the fullest protection possible under the law to Agency. Contractor acknowledges that Agency would not enter into this Agreement in the absence of Contractor’s commitment to indemnify and protect Agency as set forth herein.

10.2 To the fullest extent permitted by law, Contractor shall indemnify, defend with counsel selected by Agency, and hold harmless the Agency Indemnitees from and against any and all Claims of every nature arising out of or in connection with Contractor’s performance of the Services or Contractor’s failure to comply with this Agreement. Acceptance by Agency of insurance certificates and endorsements required under this Agreement does not relieve Contractor from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any Claims whether or not such insurance policies shall have been determined to apply. By execution of this Agreement, Contractor acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

10.3 Agency shall have the right to offset against the amount of any compensation due to Contractor under this Agreement any amount due to Agency from Contractor as a result of Contractor’s failure to promptly pay to Agency any indemnification arising under this Section 10 and related to Contractor’s failure to either (i) pay taxes on amounts received pursuant to this Agreement or (ii) comply with applicable workers’ compensation laws.

10.4 The obligations of Contractor under this Section 10 will not be limited by the provisions of any workers’ compensation act or similar act. Contractor expressly waives its statutory immunity under such statutes or laws as to the Agency Indemnitees.

10.5 Contractor agrees to obtain executed indemnity agreements with provisions identical to those set forth here in this Section 10 from each and every subcontractor or any other person or entity involved by, for, with or on behalf of Contractor in the performance of this Agreement.

## **11. INSURANCE**

11.1 During the term of this Agreement, Contractor shall, at its sole costs and expense, carry, maintain, and keep in full force and effect insurance of the types and in the amounts as set forth below:

11.1.1 Comprehensive General Liability Insurance in an amount not less than **One Million Dollars (\$1,000,000.00)** including bodily injury, property damage, products, completed operations and contractual liability

coverage.

11.1.2 Automobile Liability Insurance for vehicles used in connection with the performance of this Agreement with minimum limits of **One Million Dollars (\$1,000,000.00)** per occurrence.

11.1.3 Statutory Workers' Compensation Insurance and Employer's Liability Insurance for any and all persons employed directly or indirectly by Contractor. The Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be provided with limits of not less than **One Million Dollars (\$1,000,000.00)** per accident.

11.1.4 Professional Liability Insurance against errors and omissions in the performance of the work under this Agreement with coverage limits of not less than **One Million Dollars (\$1,000,000.00)**.

11.2 Agency and its officers, employees, agents, and volunteers shall be named as additional insureds with respect to each of the insurance policies required under this Agreement except for Statutory Workers' Compensation Insurance and Employer's Liability Insurance and Professional Liability Insurance. The coverage shall contain no special limitations on the scope of protection afforded to Agency or its officers, officials, employees, agents, or volunteers. An endorsement must state that coverage is primary insurance with respect to the Agency and its officers, officials, employees, agents and volunteers, and that no insurance or self-insurance maintained by the Agency shall be called upon to contribute to a loss under the coverage.

11.3 Contractor shall require each of its subcontractors, if any, to maintain insurance coverage that meets all of the requirements of this Agreement.

11.4 The policy or policies required by this Agreement shall be issued by an insurer admitted in the State of California. The policy or policies for Comprehensive General Liability Insurance, Automobile Liability Insurance, Statutory Workers' Compensation Insurance and Employer's Liability Insurance shall be issued by an insurer with a rating of at least A:VII in the latest edition of Best's Insurance Guide.

11.5 Contractor agrees that if it does not keep the insurance required by this Section 11 in full force and effect the Agency may either (i) immediately terminate this Agreement; or (ii) take out the necessary insurance and pay, at Contractor's expense, the premium thereon.

11.6 At all times during the term of this Agreement, Contractor shall maintain on file with Agency's Risk Manager a certificate or certificates of insurance showing that the insurance policies required by this Section 11 are in effect in the required amounts and naming the Agency as an additional insured. Contractor shall, prior to commencement of work under this Agreement, file with Agency's Risk Manager such certificate(s).

11.7 Contractor shall provide proof that policies of insurance required herein expiring during the term of this Agreement have been renewed or replaced with other policies providing at least the same coverage. Such proof will be furnished at least two weeks prior to the expiration of the coverages.

11.8 All insurance policies required herein shall be written on an occurrence basis and shall name the Agency Indemnitees as additional insureds, with the exception of professional liability insurance, which shall be written on a claims-made basis. All of the policies required under this Agreement shall contain an endorsement providing that the policies cannot be canceled or reduced except on thirty (30) days' prior written notice to Agency. Contractor agrees to require its insurer to modify the certificates of insurance to delete any exculpatory wording stating that failure of the insurer to mail written notice of cancellation imposes no obligation, and to delete the word "endeavor" with regard to any notice provisions.

11.9 Contractor's insurance coverage shall be primary insurance and shall not be contributing with any insurance or self-insurance maintained by Agency, and the policies shall so provide. The insurance policies shall contain a waiver of subrogation for the benefit of the Agency.

11.10 Any deductibles or self-insured retentions must be declared to and approved by the Agency. At the option of the Agency, Contractor shall either reduce or eliminate the deductibles or self-insured retentions with respect to Agency, or Contractor shall procure a bond guaranteeing payment of losses and expenses.

## **12. GENERAL PROVISIONS**

12.1 Contractor shall not delegate, transfer, subcontract or assign its duties or rights hereunder, either in whole or in part, and any attempt to do so shall be void and of no effect. Agency shall not be obligated or liable under this Agreement to any party other than Contractor.

12.2 The captions appearing at the commencement of the sections hereof, and in any paragraph thereof, are descriptive only and shall have no significance in the interpretation of this Agreement.

12.3 The waiver by Agency or Contractor of any breach of any term, covenant or condition herein contained shall not be deemed to be a waiver of such term, covenant or condition or of any subsequent breach of the same or any other term, covenant or condition herein contained. No term, covenant or condition of this Agreement shall be deemed to have been waived by Agency or Contractor unless in writing.

12.4 Each right, power and remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise shall be cumulative and shall be in addition to every other right, power, or remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise. The exercise, the commencement of the exercise, or the forbearance of the exercise by any party of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by such party of any of all of such other rights, powers or remedies.

12.5 If any action at law or suit in equity is brought to enforce or interpret the provisions of this Agreement, or arising out of or relating to the Services provided by Contractor under this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and all related costs, including costs of expert witnesses and consultants, as well as costs on appeal, in addition to any other relief to which it may be entitled. The venue for any litigation shall be Fresno County, California or in the United States District Court for Eastern District of California.

12.6 If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then such term or provision shall be amended to, and solely to, the extent necessary to cure such invalidity or unenforceability, and in its amended form shall be enforceable. In such event, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Agreement shall be valid and be enforced to the fullest extent permitted by law.

12.7 This Agreement shall be governed and construed in accordance with the laws of the State of California without regard to principles of conflicts of laws.

12.8 This instrument contains the entire Agreement between the Agency and Contractor with respect to the transactions contemplated herein. No other prior oral or written agreement(s) are binding upon the Parties. Amendments hereto or deviations herefrom shall be effective and binding only if made in writing and executed by Agency and Contractor.

12.9 This Agreement may be executed in multiple counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

12.10 Each person executing this Agreement hereby represents and warrants (i) their authority to do so, and (ii) that such authority has been duly and validly conferred.

IN WITNESS WHEREOF, the Parties have executed this Agreement as of the date first written above.

**“AGENCY”**  
**Successor Agency to the Orange Cove  
Redevelopment Agency**

**“CONTRACTOR”**

By: \_\_\_\_\_  
Sam Escobar, Executive Director

By: \_\_\_\_\_

**Attest:**

By: \_\_\_\_\_  
June Bracamontes, Agency Secretary

**Approved as to form:**

By: \_\_\_\_\_  
Bianca Sparks, General Counsel

## **EXHIBIT A**

### **SCOPE OF SERVICES**

Contractor shall provide Agency with redevelopment consulting services, which shall include, but is not limited to, the following:

- Financial planning and transition services, including preparation of all Recognized Obligation Payment Schedules (“ROPS”), administrative budgets, and cash flows
- Asset disposition strategic planning, including preparation of transfer documents for housing assets
- General financial advisory services
- Project advisory services
- Project management services
- Meeting, agenda, and staff report assistance for the City Council, Successor Agency and Oversight Board
- Preparation and attendance at meetings with State, County and other agencies
- Consultations with taxing entities
- Monitoring of legal requirements and agreements
- Legislative analysis
- General advice and strategic planning for all requirements set forth under ABX1 26 and AB 1484

## EXHIBIT B

### RATE SCHEDULE

Principal/Director	\$210.00
Senior Associate	\$165.00
Associate	\$150.00
Senior Analyst	\$125.00
Analyst	\$115.00
Research Assistant	\$100.00
Technician	\$75.00
Clerical	\$60.00

Contractor shall not charge Agency for mileage (except direct costs related to field work/surveys), parking, standard telephone/fax expenses, general postage or incidental copies. Contractor shall charge Agency for messenger services, overnight shipping/express mail costs and teleconferencing services. Any third party data required may also be charged to Agency, including, but not limited to, copies of equalized assessment roll and CoStar Market data. Contractor shall inform Agency of any third party charges prior to charging Agency. Contractor shall also charge for copies of reports, documents, notices and support material in excess of five copies. All charges shall be for actual expenses, without mark-up.



## AGENDA REPORT

To: Mayor Lopez and Members of the City Council

Date: March 25, 2015

From: Sam Escobar, City Manager

Subject: Orchard Village

---

### Recommendation:

It is recommended that the City Council/Agency Board approve an Assignment and Assumption of Development Agreement for the Property Located at 1555 South Avenue, Orange Cove, CA, Commonly Known as Orchard Village and a Subordination Agreement with Orchard Village 188, LP, the City of Orange Cove, JPMorgan Bank and Trust, and JP Morgan Chase Bank for Orchard Village.

### Executive Summary:

In 1994, the City and former Redevelopment Agency approved a Development Agreement ("Agreement") with Orchard Village Apartments, for the property located at 1555 South Avenue ("Orchard Village"). Under the terms of the Agreement, the Developer was required to construct a 188 unit, affordable, multi-family housing project. The project was constructed, and the Developer now desires to sell Orchard Village to Orchard Village 188, LP. The new owner is also proposing to renovate Orchard Village and is in the process of obtaining tax credits from the California Department of Housing and Community Development to complete the renovations.

Under the terms of the existing Agreement, the City is required to approve any assignment for Orchard Village. Further, because the tax credits will create a debt secured by the Orchard Village property, both the City and the Agency are required to subordinate their interests in the property to the lending agencies. Because neither the City nor the Agency has any indebtedness on Orchard Village, and the City/Agency's interest is only the development agreement, it is recommended that the City Council and Agency Board approve both the assignment and the subordination agreement.

### Attachments:

Assignment and Assumption of Development Agreement  
Subordination Agreement

**RECORDING REQUESTED BY AND  
WHEN RECORDED MAIL TO:**

c/o Klein Financial Resources, Inc.  
550 S. California Avenue, Suite 330  
Palo Alto, CA 94306  
Attn: Robert N. Klein

---

**ASSIGNMENT AND ASSUMPTION OF DEVELOPMENT AGREEMENT**

THIS ASSIGNMENT AND ASSUMPTION OF DEVELOPMENT AGREEMENT (“**Assignment**”), made as of March \_\_, 2015 by and between THE ORCHARD VILLAGE APARTMENTS, A CALIFORNIA LIMITED PARTNERSHIP (“**Assignor**”) and ORCHARD VILLAGE 188, LP, a California limited partnership (“**Assignee**”) and consented to by the CITY OF ORANGE COVE, a California municipal corporation (“**City**”).

**RECITALS**

**A.** Assignor, the City, and the former City of Orange Cove Redevelopment Agency entered into that certain Development Agreement dated as of April 26, 1994 and recorded against the Property August 24, 1994 as nos. 94132775, 94132776, 94132777, 94132778 and 94132785 in the Official Records of Fresno County (“**Development Agreement**”). Capitalized terms not defined in this Assignment shall have the meanings given to such terms in the Development Agreement, .

**B.** Concurrently with the recordation of this Assignment, Assignor is selling the Property to Assignee. Klein Financial Resources, Inc. (“**KFR**”) which is a general partner of Assignor is also a general partner of Assignee and has been named as the sponsor by the Department of Housing and Community Development for Assignee.

**C.** Pursuant to Section 1.3 of the Development Agreement, assignment requires approval by the City, and the City desires to consent to the assignment of the Development Agreement to Assignee.

**NOW THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, Assignor, Assignee and the City agree as follows:

**1. Assignment of Development Agreement.** As of the date that this Assignment is recorded in the Official Records (“**Effective Date**”) Assignor hereby assigns to Assignee all of Assignor’s rights, interests, benefits and obligations under the Development Agreement and all of the rights, interests, benefits and privileges of the Assignor thereunder arising after the Effective Date.

**2. Assumption of Obligations.** As of the Effective Date, Assignee hereby accepts the foregoing assignment and hereby assumes and agrees to perform and to be bound by all of the

terms, covenants, conditions and obligations of Assignor under the Development Agreement arising from and after the Effective Date.

**3. Approval of Assignment.** As of the Effective Date, the City hereby approves of the foregoing assignment, as set forth in Section 1.03 of the Development Agreement.

**4. Successors and Assigns.** This Assignment shall be binding upon and inure to the benefit of the successors, assigns, personal representatives, heirs and legatees of the respective parties hereto.

**5. Notice.** All correspondence and notices given or required to be given to the Developer under the Development Agreement, from and after the Effective Date, shall be provided to the Assignee and shall be addressed as follows:

c/o Klein Financial Resources, Inc.  
550 S. California Avenue, Suite 330  
Palo Alto, CA 94306  
Attn: Robert N. Klein

c/o Benodet Enterprises, LP  
1640 School Street  
Moraga, CA 94556  
Attn: Chip Patterson

c/o Riverside Charitable Corporation  
3803 E. Casselle Avenue  
Orange CA 92869-5346  
Attn.: Kenneth Robertson

With a copy to

c/o Alliant Asset Management Company LLC  
21600 Oxnard Street, Suite 1200  
Woodland Hills, California 91367  
Attention: General Counsel

and to:

Kutak Rock LLP  
1650 Farnam Street  
Omaha, Nebraska 68102  
Attention: Shane Deaver, Esq.

**6. Counterparts.** This Assignment may be executed in two or more counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

**7. Governing Law.** This Assignment shall be governed by, interpreted under, and

construed and enforceable with, the laws of the State of California.

8. **Severability.** If any term or provision of this Assignment or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then such term or provision shall be amended to, and solely to, the extent necessary to cure such invalidity or unenforceability, and in its amended form shall be enforceable. In such event, the remainder of this Assignment, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of this Assignment shall be valid and be enforced to the fullest extent permitted by law.

9. **Authority.** Each person executing this Agreement hereby represents and warrants (i) their authority to do so, and (ii) that such authority has been duly and validly conferred.

[Signatures appear on the following page]

IN WITNESS WHEREOF, the parties hereto have executed this instrument as of the date first written above.

**ASSIGNOR:**

THE ORCHARD VILLAGE APARTMENTS, A CALIFORNIA LIMITED PARTNERSHIP

By: The Orchard Ventures I,  
A California Limited Partnership,  
its Co-Managing Sponsoring General Partner

By: Klein Financial Resources, Inc.,  
a California corporation  
its General Partner

By: \_\_\_\_\_  
Robert N. Klein, President

By: Klein Financial Resources, Inc.,  
a California corporation,  
its Co-Managing Operational General Partner

By: \_\_\_\_\_  
Robert N. Klein, President

By: Casa Major, Inc., a California nonprofit public benefit corporation,  
its Managing General Partner

By: \_\_\_\_\_  
Nancy A. Riley, President

**ASSIGNEE:**

ORCHARD VILLAGE 188, LP,  
a California limited partnership

By: Benodet Enterprises, LP,  
a California limited partnership,  
its Co-Administrative General Partner

By: LCA-GP, LLC,  
a California limited liability company,  
its General Partner

By: \_\_\_\_\_  
Chip Patterson, Managing Director and Member

By: Klein Financial Resources, Inc.,  
a California corporation,  
its Co-Administrative General Partner

By: \_\_\_\_\_  
Robert N. Klein, President

By: RCC MGP, LLC  
a California limited liability company,  
its Managing General Partner

By: Riverside Charitable Corporation,  
a California nonprofit public benefit corporation,  
its Sole Member and Manager

By: \_\_\_\_\_  
Kenneth S. Robertson, Executive Director

CITY:

CITY OF ORANGE COVE

By: \_\_\_\_\_  
Victor Lopez, Mayor

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

STATE OF CALIFORNIA )  
 ) ss:  
COUNTY OF \_\_\_\_\_ )

On \_\_\_\_\_, 2015 before me, \_\_\_\_\_  
(insert name and title of the officer),

personally appeared \_\_\_\_\_, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature: \_\_\_\_\_

[Seal]

**RECORDING REQUESTED BY:**

Placer Title Company

**WHEN RECORDED MAIL TO:**

Frankel & Tennant Professional Corporation  
Attorneys at Law  
895 Dove Street, Suite 119  
Newport Beach, CA 92660

*THIS SPACE FOR RECORDER'S USE ONLY*

**SUBORDINATION AGREEMENT**

**NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR SECURITY INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OF SOME OTHER OR LATER INSTRUMENT.**

This Subordination Agreement ("Agreement") is entered into as of \_\_\_\_\_, 2015 by and among ORCHARD VILLAGE 188, LP, a California limited partnership ("Borrower"); the CITY OF ORANGE COVE, a California municipal corporation ("City"); the SUCCESSOR AGENCY TO THE CITY OF ORANGE COVE REDEVELOPMENT AGENCY, a public body corporate and politic ("Agency"); JPMORGAN BANK AND TRUST COMPANY, NATIONAL ASSOCIATION, a national banking association ("AHP Lender"), and JPMORGAN CHASE BANK, N.A., a national banking association ("Chase"). The parties to this Agreement are referred to as the "Parties." Chase, City, Agency, and AHP Lender are referred to as the "Non-Borrowers."

**RECITALS**

A. Borrower has executed a Construction Deed of Trust, Security Agreement, Assignment of Leases and Rents and Fixture Filing (the "Chase Deed of Trust") for the benefit of Chase, to secure a promissory note in the amount of \$8,997,046 the "Chase Note"). The Chase Deed of Trust encumbers, among other things, the real property more particularly described in Exhibit A attached to this Agreement (the "Land") and is to be recorded concurrently herewith in the Official Records of Fresno County, California ("Official Records"). The Land, together with all improvements now or hereafter located on the Land and all fixtures and personal property located on the Land and encumbered by the Recorded Items (as defined below) are referred to, collectively, as the "Property."

B. A Development Agreement (the "Development Agreement") among City, Agency's predecessor and Borrower has been recorded against the Property August 24, 1994 as nos. 94132775, 94132776, 94132777, 94132778 and 94132785 in Official Records.

C. AHP Lender is the current owner and holder of a loan evidenced by a promissory note in the original face principal amount of \$564,000 in favor of AHP Lender's predecessor, secured by a deed of trust (as it and the documents and obligations which it secures may be amended or otherwise modified to the date of recordation of this Agreement the "AHP Deed of Trust") encumbering the Property recorded August 7, 1966 as no. 96102780 in Official Records, the erroneous reconveyance of which has been corrected pursuant to a Memorandum of Assignment of Deed of Trust, Substitution of Trustee and Cancellation of Erroneous Reconveyance of Deed of Trust; Loan Modification and Assumption Agreement to be recorded concurrently herewith. AHP Lender hereby consents to the conveyance of the Property to Borrower.

E. The Chase Deed of Trust, and the AHP Deed of Trust are referred to as the "Recorded Items."

G. It is the intent of the Parties that the order of priority of the Recorded Items as liens on or charges against the Property be as follows:

1. Chase Deed of Trust
2. Development Agreement
3. AHP Deed of Trust

H. It is a condition precedent to the respective obligations of each Party under the Recorded Items to which it is a party that such Recorded Item unconditionally be and remain at all times a lien or charge on the Property, having priority with respect to the other Recorded Items in the order set forth above, and that each Party specifically and unconditionally subordinate the lien or charge of each of the Recorded Items to which it is a party as necessary in order that the Recorded Items have the relative priority set forth above.

I. In consideration of the mutual benefits accruing to the Parties and other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, and in order to induce Chase to make the Chase Loan, the Parties agree as follows:

## **AGREEMENT**

### **1. Priority and Subordination.**

(a) Each Recorded Item, and any and all renewals and extensions thereof, shall unconditionally be and remain at all times a lien or charge on the Property, having the relative priority with respect to the other Recorded Items as set forth above. Each Party intentionally and unconditionally waives, relinquishes and subordinates the lien or charge of the Recorded Items to which it is a party in favor of the lien or charge upon the Property of the other Recorded Items to the extent necessary so that the Recorded Items shall have the relative priority set forth above.

(b) Each Party acknowledges that it has been offered a satisfactory opportunity to review each of the Recorded Items and related documents to the extent that it wishes to review them.

(c) Each Party will enter into a subordination agreement substantially similar to this Agreement with any lender (including but not limited to Bonneville Mortgage Corporation) which refinances the loan to Borrower evidenced by the Chase Note and secured by the Chase Deed of Trust (the "Chase Loan").

2. **Reliance.** Chase would not make Chase Loan without this Agreement.

3. **Recording.** Each Party consents to the recording of the Chase Deed of Trust and this Agreement.

4. **No Obligation.** Chase is not under any obligation to any other Party, nor has Chase represented that it will, see to the application of any proceeds of the Chase Loan except as may otherwise be set forth in a written agreement (other than this Agreement) executed by Chase.

5. **Notice of Default; Opportunity to Cure.**

(a) Each Party shall give each of the other Parties notice of default under each Recorded Item in favor of such Party prior to enforcing remedies for such default against Borrower or the Property, and each of the other Parties shall have the right to cure such default at any time that Borrower would have a right to cure it.

(b) If, prior to a foreclosure sale under a Recorded Item, a Non-Borrower or an entity wholly owned by a Non-Borrower takes title to the Property and cures the default on that Recorded Item, the beneficiary of that Recorded Item will not exercise any right it may have to accelerate the indebtedness secured by that Recorded Item solely by reason of that transfer (or will accept reinstatement if acceleration has already occurred).

(c) In the event a Non-Borrower acquires title to the Property, that Non-Borrower shall have the right to assume and succeed to Borrower's obligations under that Recorded Item and the documents secured by that Recorded Item, under the terms and conditions existing prior to the default, upon compliance with the reasonable requirements of the Non-Borrower which is the beneficiary of that Recorded Item as to assumptions.

6. **Actions by Chase; Certain Waivers.** Chase, without the consent of or notice to any other Non-Borrower, may enter into amendments of the Chase Deed of Trust and the documents and obligations secured thereby (collectively, the "Chase Loan Documents") in any manner, may release any or all persons or entities liable for any obligation secured by the Chase Loan Documents, and may release any or all security for the obligations secured by the Chase Loan Documents, all without affecting the subordination under this Agreement. Notwithstanding

the above, Chase shall not amend the Chase Loan Documents in any manner which would change the economic terms of the Chase Loan (e.g., interest rates, terms thereof, monthly or annual fees, principal amount or repayment terms) as such terms exist as of the date hereof, without the prior written consent of HCD, which consent will not be unreasonably withheld or delayed.

7. **Miscellaneous.**

(a) **Entire Agreement.** This Agreement constitutes the entire agreement among the Parties with respect to the priority of the lien and charge of the Recorded Items against the Property and all prior understandings and agreements on that subject, if any, are superseded and replaced by this Agreement.

(b) **Applicable Law.** This Agreement shall be governed by and construed in accordance with the laws of the state where the Land is located.

(c) **Successors; Assignment.** This Agreement is for the benefit of the Non-Borrowers and their respective successors and assigns, and any provision hereof may be waived or modified by agreement of Non-Borrowers without the consent of Borrower, and without affecting the priority of the liens and charges of the Recorded Items as provided in this Agreement. The heirs, administrators, assigns and successors-in-interest of the Parties shall be bound by this Agreement. This Agreement may be assigned by a Party only as a part of an assignment of such Party's interest in the Property.

(d) **Notices.** All notices to be given pursuant to this Agreement shall be in writing and shall be deemed given when hand-delivered, or two business days after deposit in the U.S. mail, postage prepaid, to the Parties at the addresses set forth below, or to such other place as a Party may from time to time designate for itself by notice to the other Parties. No successor or assign of a Party shall be entitled to notices or opportunity to cure defaults hereunder unless notice of the transfer is given in accordance with this subsection.

(e) **Amendment.** This Agreement may be amended only by a writing signed by the Parties, but this clause shall not impair the validity of any further agreements among fewer than all of the Parties as among themselves.

(f) **Legal Costs.** In the event of any litigation, arbitration or other legal proceeding in which any Party seeks to enforce its rights under this Agreement or to recover damages for the breach thereof, the prevailing Party or Parties shall be entitled to recover its legal costs and expenses, including but not limited to attorneys' fees, from the non-prevailing Party or Parties, whether such costs and expenses are incurred in connection with trial court proceedings, on appeal, in bankruptcy or other insolvency proceedings, in post-judgment collection proceedings, or otherwise.

(g) **Counterparts**. This Agreement may be executed in any number of counterparts, all of which taken together shall constitute one and the same instrument and whether or not all Parties execute each counterpart.

(h) **Authority**. Each person executing this Agreement hereby represents and warrants (i) their authority to do so, and (ii) that such authority has been duly and validly conferred.

(Remainder of page intentionally left blank)

**NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OR CHARGE OF SOME OTHER OR LATER INSTRUMENT.**

BORROWER:  
ORCHARD VILLAGE 188, LP,  
a California limited partnership

By: RCC MGP LLC,  
a California limited liability company  
Its: Managing General Partner

By: Riverside Charitable Corporation,  
a California nonprofit public benefit corporation  
Its: Sole Member

By: \_\_\_\_\_  
Kenneth S. Robertson, President

By: Benodet Enterprises, LP,  
a California limited partnership  
Its: Co-Administrative General Partner

By: LCA-GP, LLC,  
a California limited liability company  
Its: General Partner

By: \_\_\_\_\_  
Chip Patterson, Managing Director and Member

By: Klein Financial Resources, Inc.,  
a California corporation  
Its: Co-Administrative General Partner

By: \_\_\_\_\_  
Robert N. Klein, President

(Address follows on next page)

Address:

Orchard Village 188, LP  
1640 School Street  
Moraga, CA 94556

with a copy to:

Law Offices of Patrick R. Sabelhaus  
1006 Fourth Street, Sixth Floor  
Sacramento, CA 95814  
Attention: Patrick Sabelhaus

and to:

Klein Financial Resources, Inc.  
2607 Fresno Street, Suite A  
Fresno, CA 93721 and also at  
550 So. California Avenue  
Suite, 330  
Palo Alto, CA 94306

and to:

Cox, Castle & Nicholson LLP  
555 California Street, 10th Floor  
San Francisco, CA 94104  
Attn: Stephen C. Ryan

and to:

RCC MGP LLC  
c/o Riverside Charitable Corporation  
3803 E. Casselle Avenue  
Orange CA 92869-5346  
Attn.: Kenneth Robertson

**NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OR CHARGE OF SOME OTHER OR LATER INSTRUMENT.**

CHASE:

JPMORGAN CHASE BANK, N.A.,  
a national banking association

By: \_\_\_\_\_  
Henry J. Tiedemann  
Its: Authorized Officer

Address:  
JPMorgan Chase Bank, N.A.  
300 South Grand Avenue, 4<sup>th</sup> Floor  
Los Angeles, CA 90071  
Attention: Chase Community Development Banking

**NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OR CHARGE OF SOME OTHER OR LATER INSTRUMENT.**

AHP LENDER:

JPMORGAN BANK AND TRUST COMPANY, NATIONAL ASSOCIATION,  
a national banking association

By: \_\_\_\_\_  
Shani Searcy  
Its: Authorized Officer

Address:  
JPMorgan Bank and Trust Company, National Association  
c/o JPMorgan Chase Bank, N.A.  
300 South Grand Avenue, 4<sup>th</sup> Floor  
Los Angeles, CA 90071  
Attention: Chase Community Development Banking

**NOTICE: THIS SUBORDINATION AGREEMENT RESULTS IN YOUR INTEREST IN THE PROPERTY BECOMING SUBJECT TO AND OF LOWER PRIORITY THAN THE LIEN OR CHARGE OF SOME OTHER OR LATER INSTRUMENT.**

CITY:

CITY OF ORANGE COVE,  
a municipal corporation

By: \_\_\_\_\_  
Victor Lopez, Mayor

Address:  
City of Orange Cove  
633 Sixth Street  
Orange Cove, CA 93646

AGENCY:

SUCCESSOR AGENCY TO THE CITY OF ORANGE COVE  
REDEVELOPMENT AGENCY

By: \_\_\_\_\_  
Victor Lopez, Chairperson

Address:  
Successor Agency to the City of Orange Cove Redevelopment Agency  
633 Sixth Street  
Orange Cove, CA 93646





**EXHIBIT A**

**LEGAL DESCRIPTION**

THE LAND DESCRIBED HEREIN IS SITUATED IN THE STATE OF CALIFORNIA, COUNTY OF FRESNO, CITY OF ORANGE COVE, AND IS DESCRIBED AS FOLLOWS:

**PARCEL 1:**

BEING A PORTION OF LOT 3 IN SECTION 23, TOWNSHIP 15 SOUTH, RANGE 24 EAST, MOUNT DIABLO BASE AND MERIDIAN, OF ORANGE COVE TRACT NO. 1, ACCORDING TO THE MAP THEREOF, RECORDED IN BOOK 9 PAGE 33 OF RECORD OF SURVEYS, FRESNO COUNTY RECORDS, BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE INTERSECTION OF THE EAST LINE OF SAID LOT 3 AND THE NORTH LINE OF SAID SECTION 23; THENCE SOUTH 00° 14' 27" EAST, ALONG THE EAST LINE OF SAID LOT 3 A DISTANCE OF 330.09 FEET; THENCE NORTH 89° 32' 10" WEST, A DISTANCE OF 647.09 FEET TO A POINT ON THE WEST LINE OF SAID LOT 3; THENCE NORTH 00° 07' 13" WEST, ALONG THE WEST LINE OF SAID LOT 3 A DISTANCE OF 330.13 FEET TO A POINT ON THE NORTH LINE OF SAID SECTION 23; THENCE SOUTH 89° 31' 54" EAST, ALONG THE NORTH LINE OF SAID SECTION 23 A DISTANCE OF 646.40 FEET TO THE POINT OF BEGINNING.

**PARCEL 2:**

PARCEL 1 OF PARCEL MAP NO. 92-02, ACCORDING TO THE MAP THEREOF RECORDED IN BOOK 53 PAGE 75 OF PARCEL MAPS, FRESNO COUNTY RECORDS.

APN: 378-021-48

**PARCEL 3:**

AN EASEMENT FOR THE USE, REPAIR AND DRAINAGE ON, OVER AND ACROSS THE PONDING BASIN PARCEL MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEING A PORTION OF THE UNSUBDIVIDED REMAINDER AS SHOWN ON PARCEL MAP NO. 97-03, IN THE CITY OF ORANGE COVE, COUNTY OF FRESNO, STATE OF CALIFORNIA, RECORDED IN BOOK 58 OF PARCEL MAPS AT PAGES 49, 50 AND 51, FRESNO COUNTY RECORDS, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHWEST CORNER OF PARCEL 1 OF PARCEL MAP NO. 92-02, ACCORDING TO THE MAP THEREOF RECORDED IN BOOK 53 OF PARCEL MAPS AT PAGE 75, FRESNO COUNTY RECORDS; THENCE SOUTH 89° 32' 10" EAST, ALONG THE SOUTH LINE OF SAID PARCEL 1, A DISTANCE OF 405.00 FEET; THENCE SOUTH 00° 07' 13" WEST AND PARALLEL TO THE WEST LINE OF LOT 3, IN SECTION 23,

TOWNSHIP 15 SOUTH, RANGE 24 EAST, MOUNT DIABLO BASE AND MERIDIAN, OF MAP OF ORANGE COVE, TRACT NO. 1, ACCORDING TO THE MAP THEREOF RECORDED IN BOOK 9 OF RECORD OF SURVEYS AT PAGE 33, FRESNO COUNTY RECORDS, A DISTANCE OF 215.00 FEET; THENCE NORTH 89° 32' 10" WEST AND PARALLEL TO THE SOUTH LINE OF SAID PARCEL 1, A DISTANCE OF 405.00 FEET TO A POINT ON THE WEST LINE OF SAID LOT 3, THENCE NORTH 00° 07' 13" WEST ALONG THE WEST LINE OF SAID LOT 3, A DISTANCE OF 215.00 FEET TO THE POINT OF BEGINNING.



# CITY OF ORANGE COVE REPORT TO THE CITY COUNCIL

**To:** Orange Cove City Council  
**From:** Gary D. Horn, City Engineer  
**Subject:** Resolution Vacating Various Alley and Street Rights of Way  
**Attachments:** Maps and Resolution

**RECOMMENDATION:**

We recommend that the Council conduct a public hearing and then adopt the attached Resolution vacating various alley and street rights of way.

**EXECUTIVE SUMMARY:**

There are several alleys and street rights of way that are not being used for vehicular or pedestrian purposes. Some of them contain utility lines and public utility easements will be reserved for those uses. The Council has set this date for a public hearing, notices have been posted on the sites, a notice has been published in the Reedley Exponent, and letters have been mailed to adjacent property owners. If the Council approves the vacation then the Resolution will be recorded and the fee title will revert to the adjacent property owners to the center line of the right of way.

**BACKGROUND:**

The City Staff is aware of several locations where public street rights of way exist but there either are no paved streets, or the street paving is not being used. In several locations there are existing sewer, water, gas, telephone or electric facilities that must remain and therefore public utility easements will be reserved over those areas. This would allow the vacated area to be paved or landscaped so long as access to the utilities for maintenance is preserved. No buildings could be built in the reserved easements. Ownership of the abandoned area will accrue to the adjacent property owners.

The proposed abandonments are as follows:

Prepared by: GH

Approved by: 

REVIEW: City Manager: \_\_\_\_\_

Finance: \_\_\_\_\_

City Attorney: \_\_\_\_\_

**TYPE OF ITEM:**

**COUNCIL ACTION: APPROVED DENIED NO ACTION**

- Consent
- Info Item
- Action Item
- Department Report
- Redevelopment Agency

- Public Hearing
- Matter Initiated by a Council Member
- Other
- Continued to: \_\_\_\_\_

1. The East/West Alley between 10<sup>th</sup> Street and 11<sup>th</sup> Street north of Park Blvd. Adjacent property owners on each side of the alley have extended their fences to about the centerline of the alley right of way. There is a city sewer main and a water main in the alley right of way.
2. East Railroad Avenue diagonal between Center Street and Park Boulevard. There is existing pavement but no curb and gutter along the street. The city has existing sewer and water mains and SoCal Gas has a gas main in the right of way. The proposal is to abandon the right of way so that half of the street area goes each of the adjacent property owners. The property owner on the southwest side is agreeable to dedicate an easement along Center Street to provide for a more direct connection of the trail from Center Street in exchange for the abandonment of the street right of way.
3. Eleventh Street from Park Boulevard South to existing alley. The AC Market parking lot covers the alley area. There are existing sewer, water and overhead utilities in the right of way.
4. Fourth Street crossing of Pedestrian/Bike Trail. When the Rails to Trails Project was originally planned a street crossing was to be constructed near the Fourth Street alignment. The Council dedicated right of way for a public street. During construction it was determined that the new street would negatively impact the existing residence on the south side of West Railroad Avenue. The Council directed that the new street crossing be moved to the current location at Third Street. New right of way will be dedicated.
5. I Street between 2<sup>nd</sup> Street and Hills Valley Road. There are overhead utilities and a City water main in this street right of way. The adjacent parcels have access to other public streets.
6. Second Street from Adams Avenue to 200 feet South.
7. Portions of B, C, D, E, G and H Streets falling within the Friant-Kern Canal. These street rights of way were never abandoned when the canal was constructed.

The Planning Commission review of the proposal is scheduled for March 24 and a verbal report as their finding of the conformity of the proposed abandonments with the City's adopted General Plan will be given at the Council meeting.

The Council must hold a public hearing prior to adopting a resolution of abandonment. Notice has been published in the Reedley Exponent and notices have been posted at each proposed abandonment

**REASON FOR RECOMMENDATION:**

The rights of way being proposed for abandonment are not being used for public vehicular or pedestrian transportation. Utility easements will be reserved where needed. Abandonment will allow the surface area to be used beneficially by the adjacent property owners and in some cases legitimize the current use.

**FISCAL IMPACT:** None

**ALTERNATIVES:** Council may decide not to abandon any of the proposed rights of way.

**ACTIONS FOLLOWING APPROVAL:** The Resolution will be recorded with the Fresno County Recorder to complete the process.

**CONFLICT OF INTEREST:** None



Document Path: F:\2014\14-265\GIS\14-265\_ROW\_Abandonment\_1.mxd

 Alley to be Abandoned

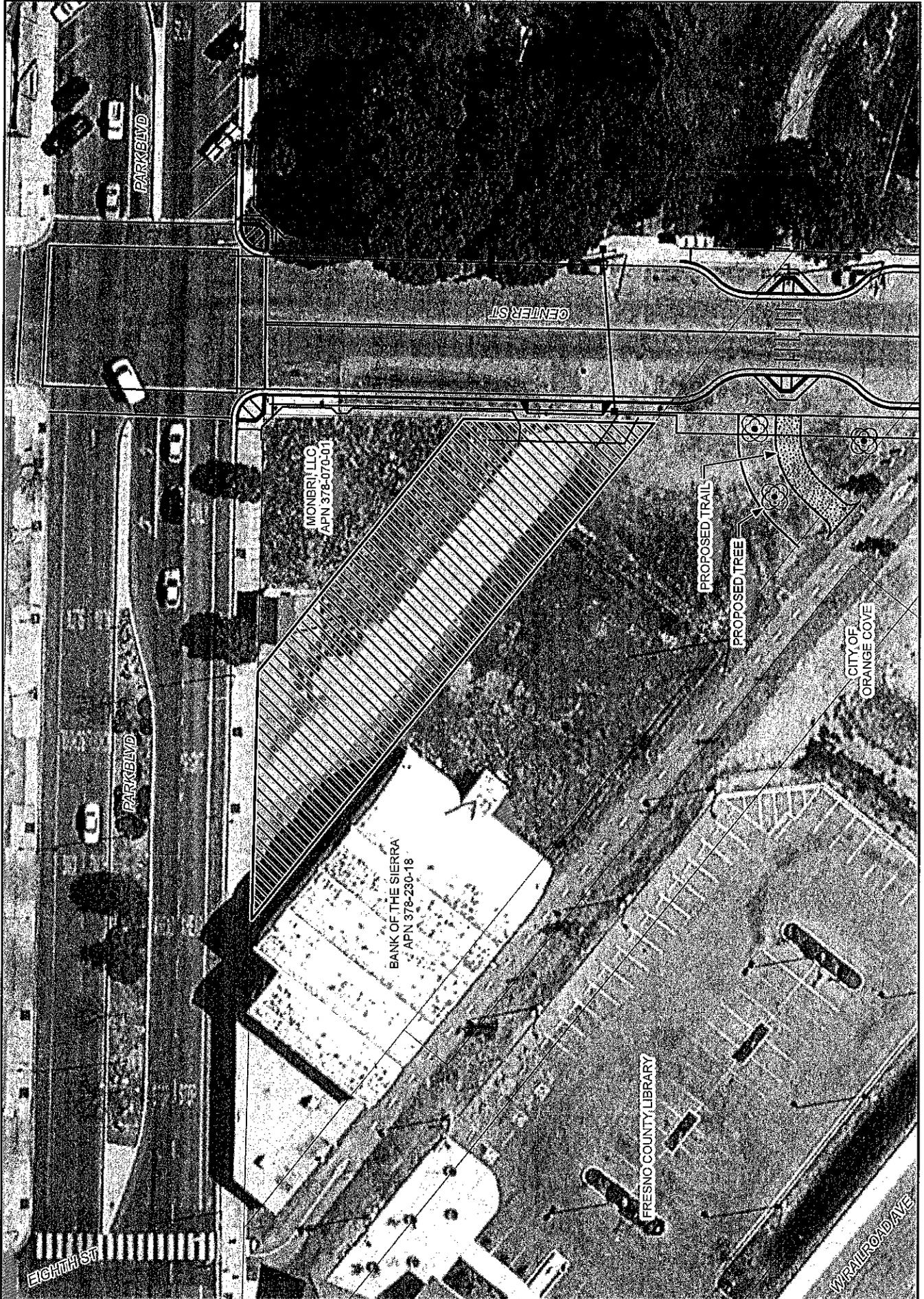
0 30 60 Feet



Alley Abandonment  
Exhibit 1

 Yamabe & Horn  
Engineering, Inc.  
10000 Highway 100, Suite 100  
Houston, Texas 77036





Right of Way to be Abandoned



Yamabe & Horn  
Engineering, Inc.  
1000 N. GARDEN ST. SUITE 100  
ORANGE, CA 92668

Street Abandonment  
Exhibit 2

Document Path: F:\2014\14-265\GIS\14-265\_ROW\_Abandonment\_3.mxd



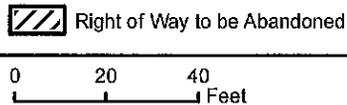
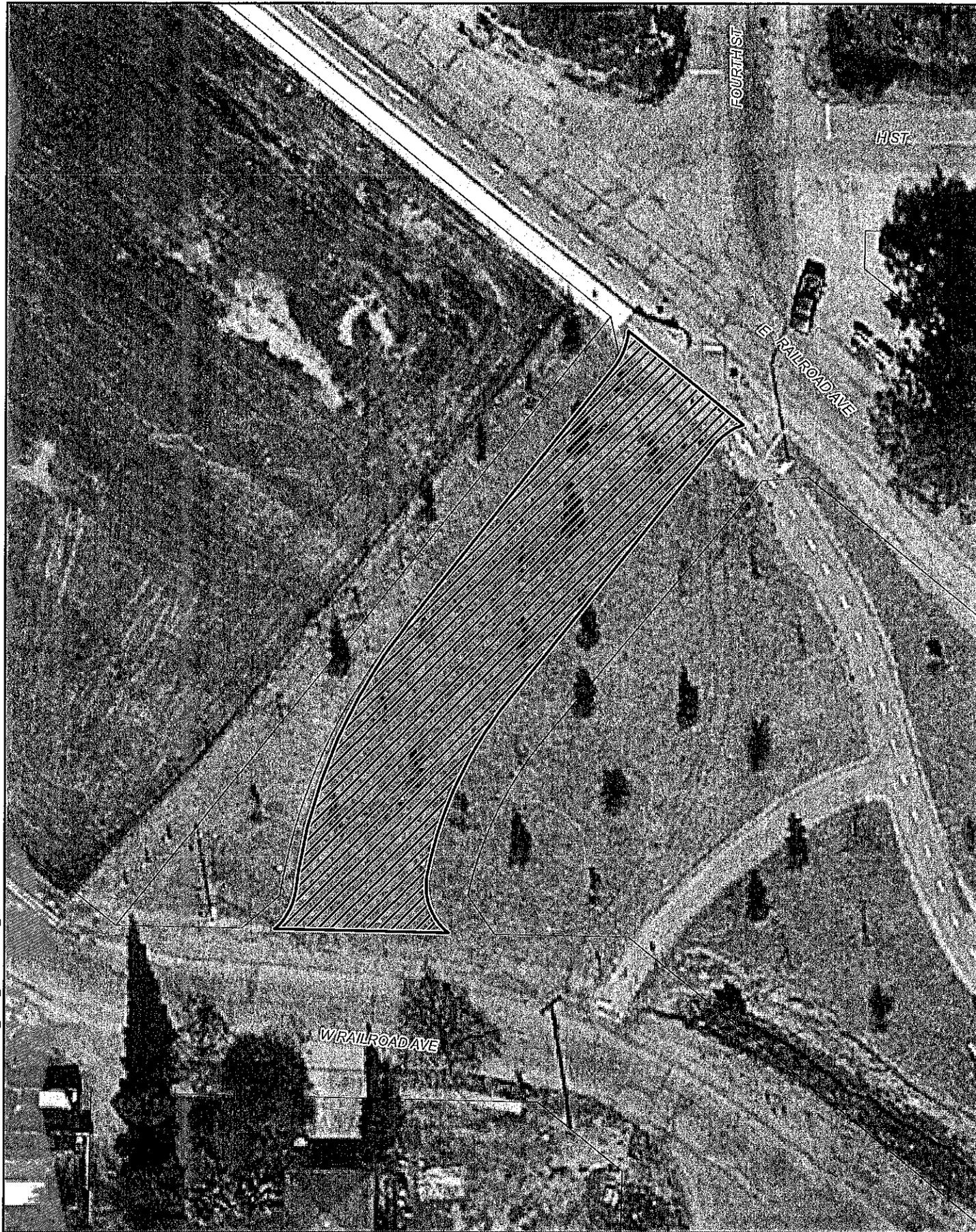
 Right of Way to be Abandoned

0 15 30  
Feet

Street Abandonment  
Exhibit 3

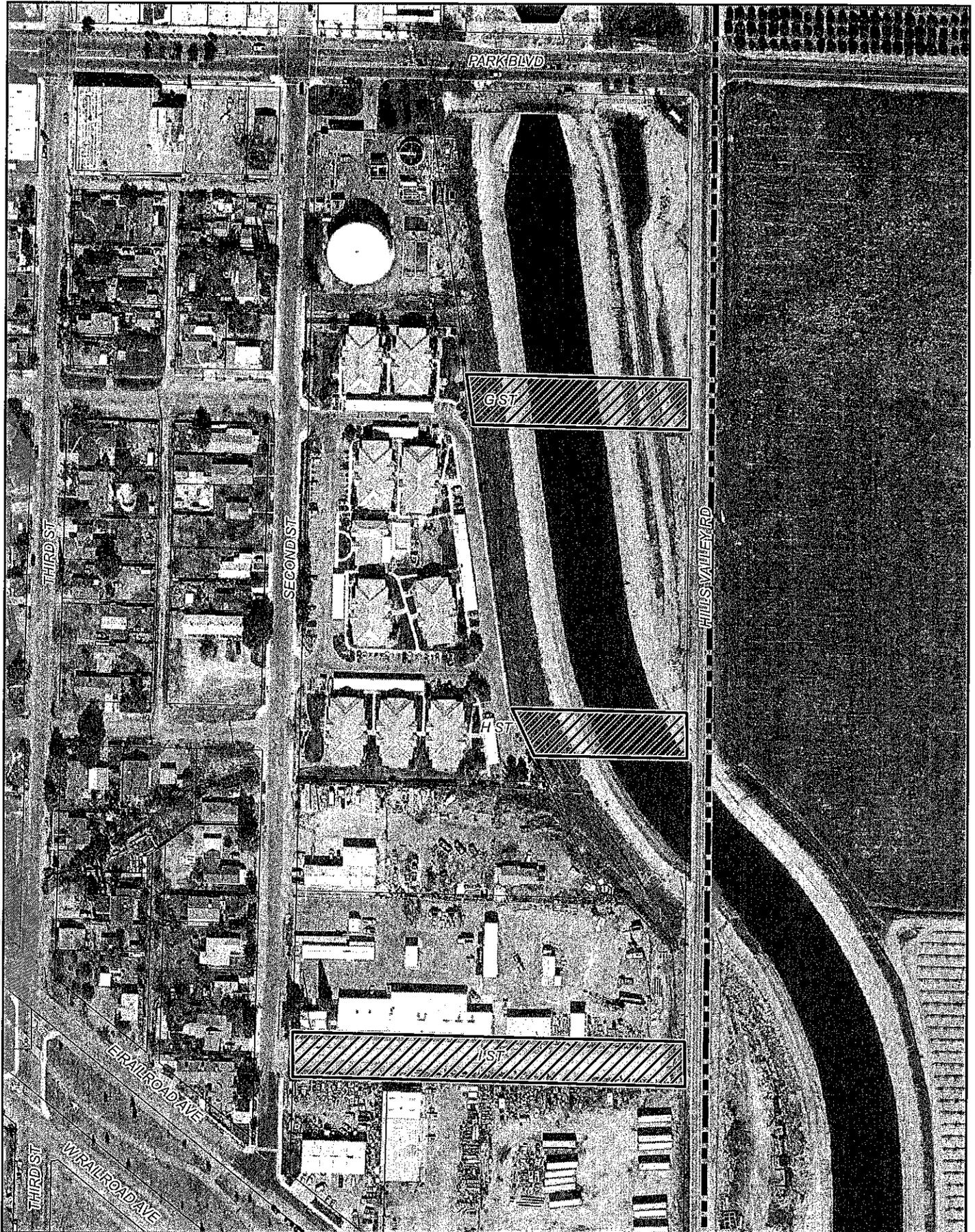
 Yamabe & Horn  
Engineering, Inc.  
[www.yamabe-horn.com](http://www.yamabe-horn.com)



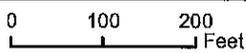


Street Abandonment  
Exhibit 4



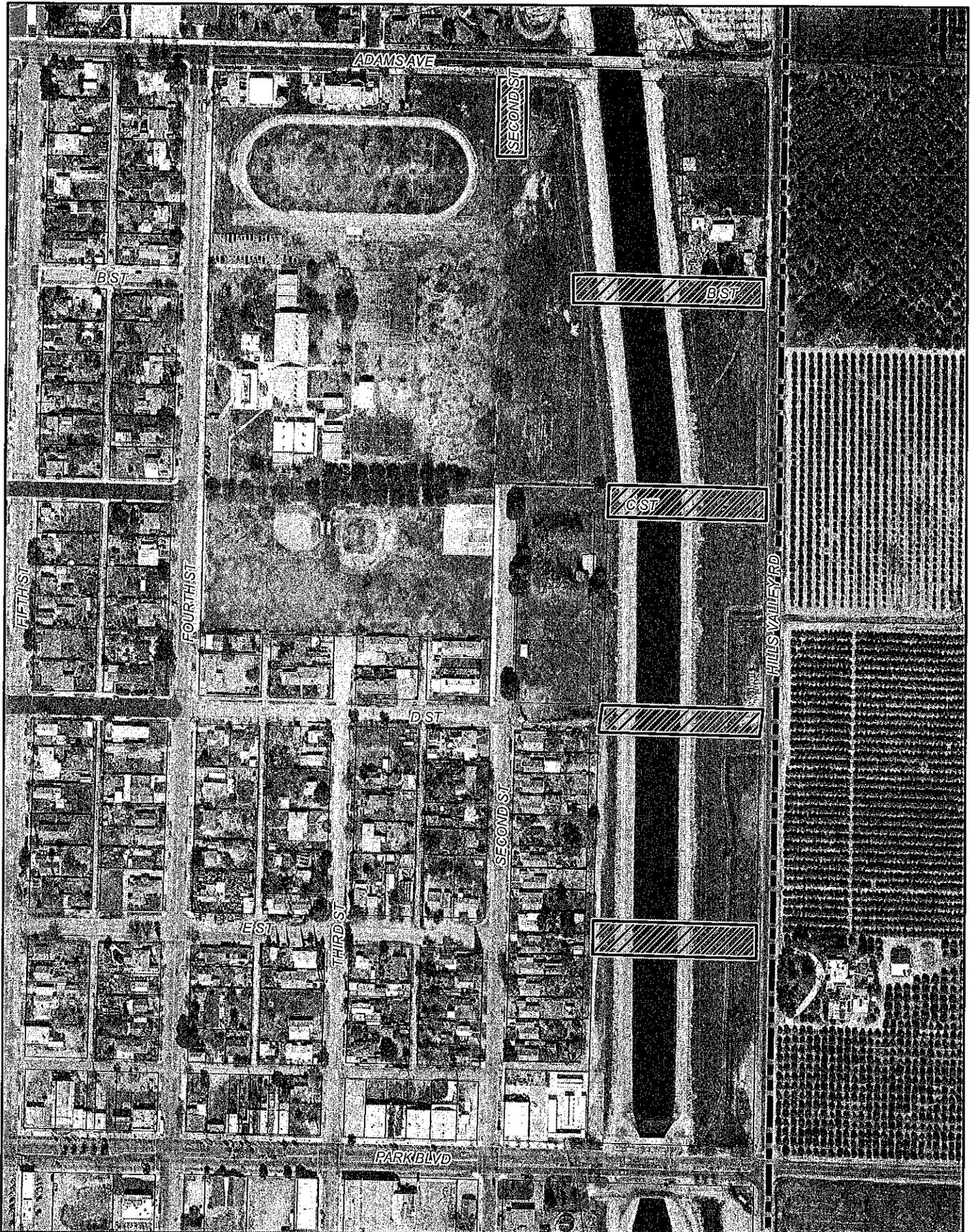


 Right of Way to be Abandoned



Street Abandonment  
Exhibit 5





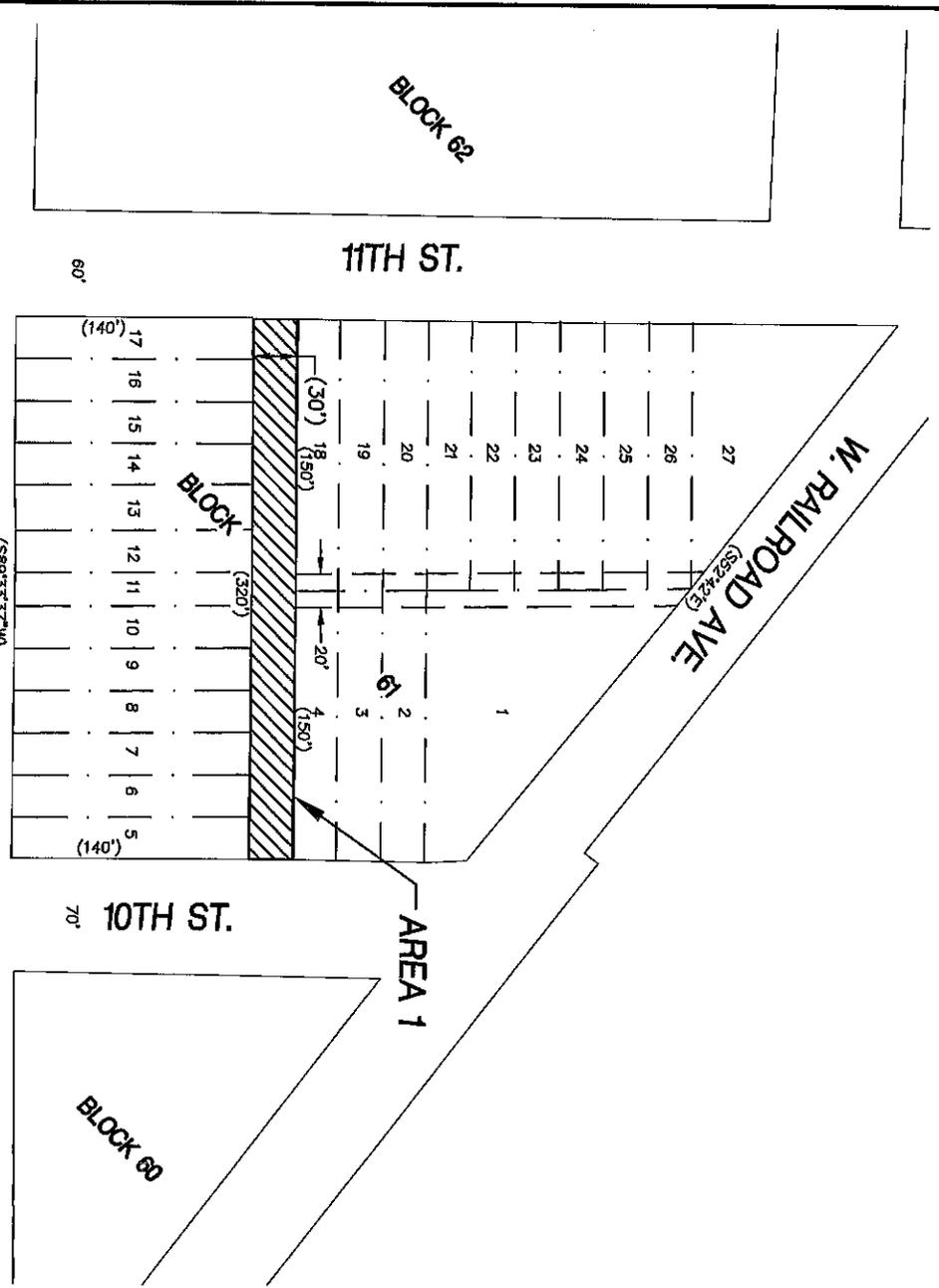
 Right of Way to be Abandoned

0 150 300  
Feet

Street Abandonment  
Exhibit 6



# EXHIBIT "B"



**LEGEND:**  
 RIGHT OF WAY TO BE ABANDONED AND EASEMENT RESERVED FOR PUBLIC UTILITIES

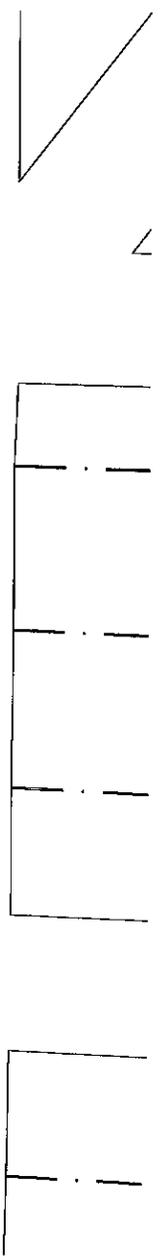
( ) DATA PER MAP OF TOWN OF ORANGE COVE PLATS BK. 7 PGS. 93-96, F.C.R.

SCALE: 1" = 100'  
  
 0' 50' 100'



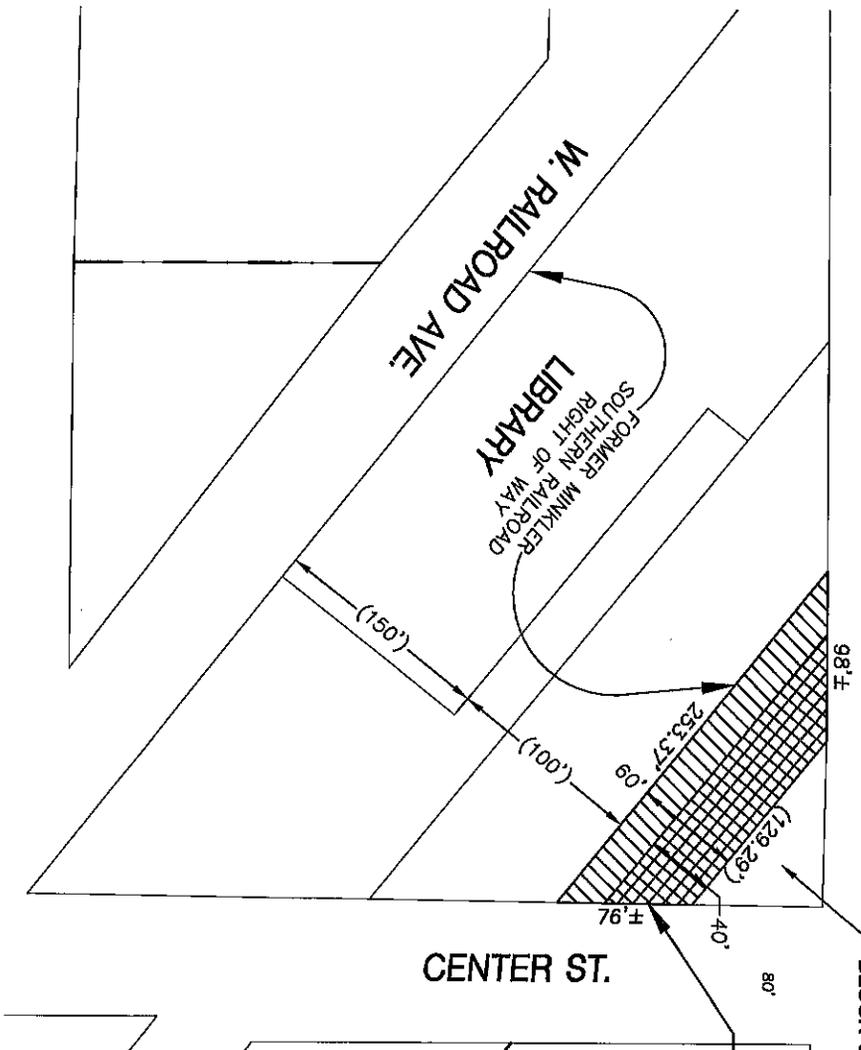
**YAMABE & HORN  
 ENGINEERING, INC.**

# EXHIBIT "B"



PARK BLVD.

BLOCK 60



AREA 2  
EAST RAILROAD  
AVENUE

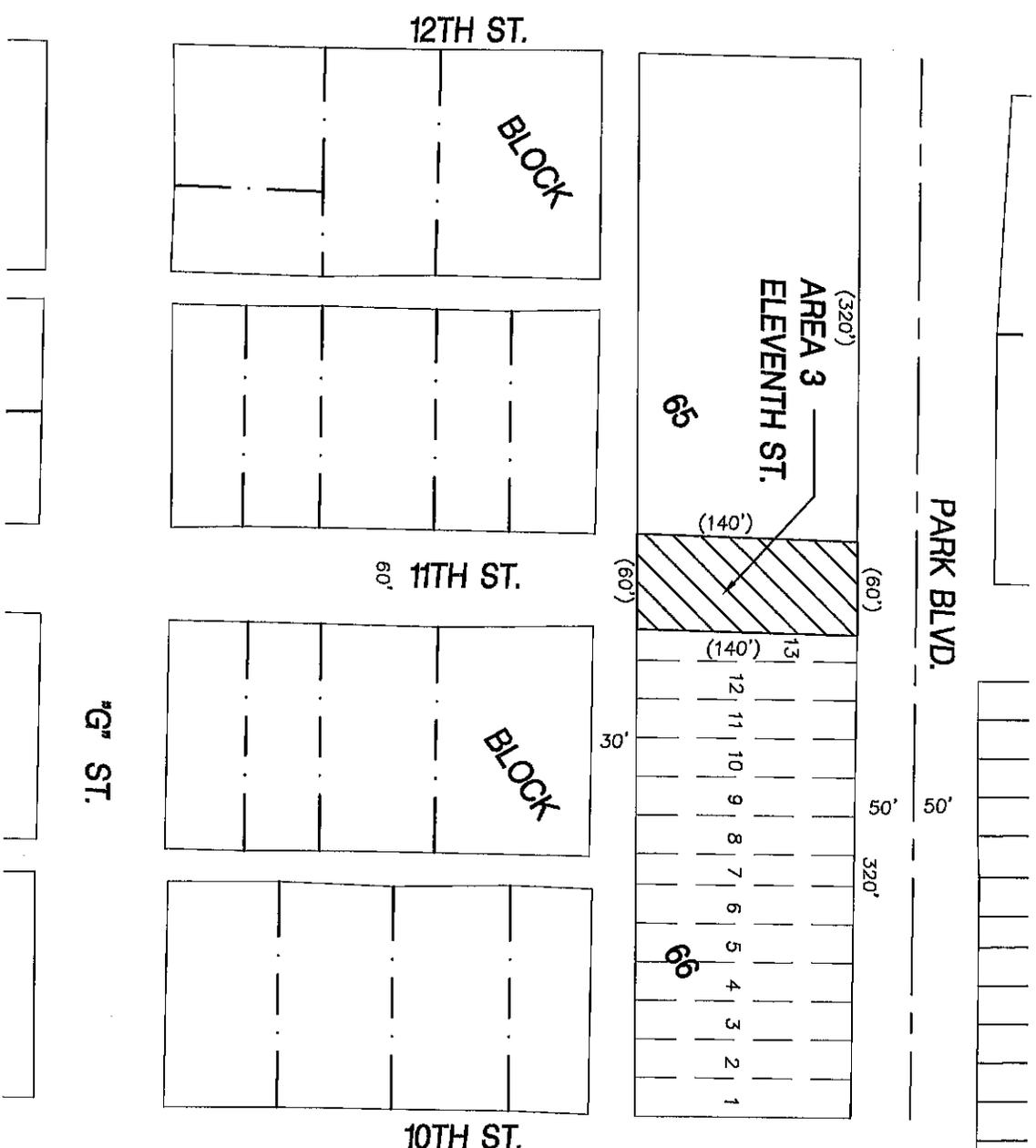
**LEGEND:**  
 RIGHT OF WAY TO BE ABANDONED

 RIGHT OF WAY TO BE ABANDONED AND EASEMENT RESERVED FOR PUBLIC UTILITIES  
 ( ) DATA PER MAP OF TOWN OF ORANGE COVE PLATS BK. 7 PGS. 93-96, F.C.R.



**YAMABE & HORN  
ENGINEERING, INC.**

# EXHIBIT "B"



**LEGEND:**



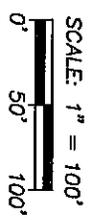
RIGHT OF WAY TO BE  
ABANDONED AND  
EASEMENT RESERVED FOR  
PUBLIC UTILITIES

( )

DATA PER MAP OF TOWN  
OF ORANGE COVE PLATS  
BK. 7 PGS. 93-96, F.C.R.



**YAMABE & HORN  
ENGINEERING, INC.**



# EXHIBIT "B"



**LEGEND:**  
 RIGHT OF WAY TO BE ABANDONED

( ) DATA PER MAP OF TOWN OF ORANGE COVE PLATS BK. 7 PGS. 93-96, F.C.R.

SCALE: 1" = 100'  
0' 50' 100'

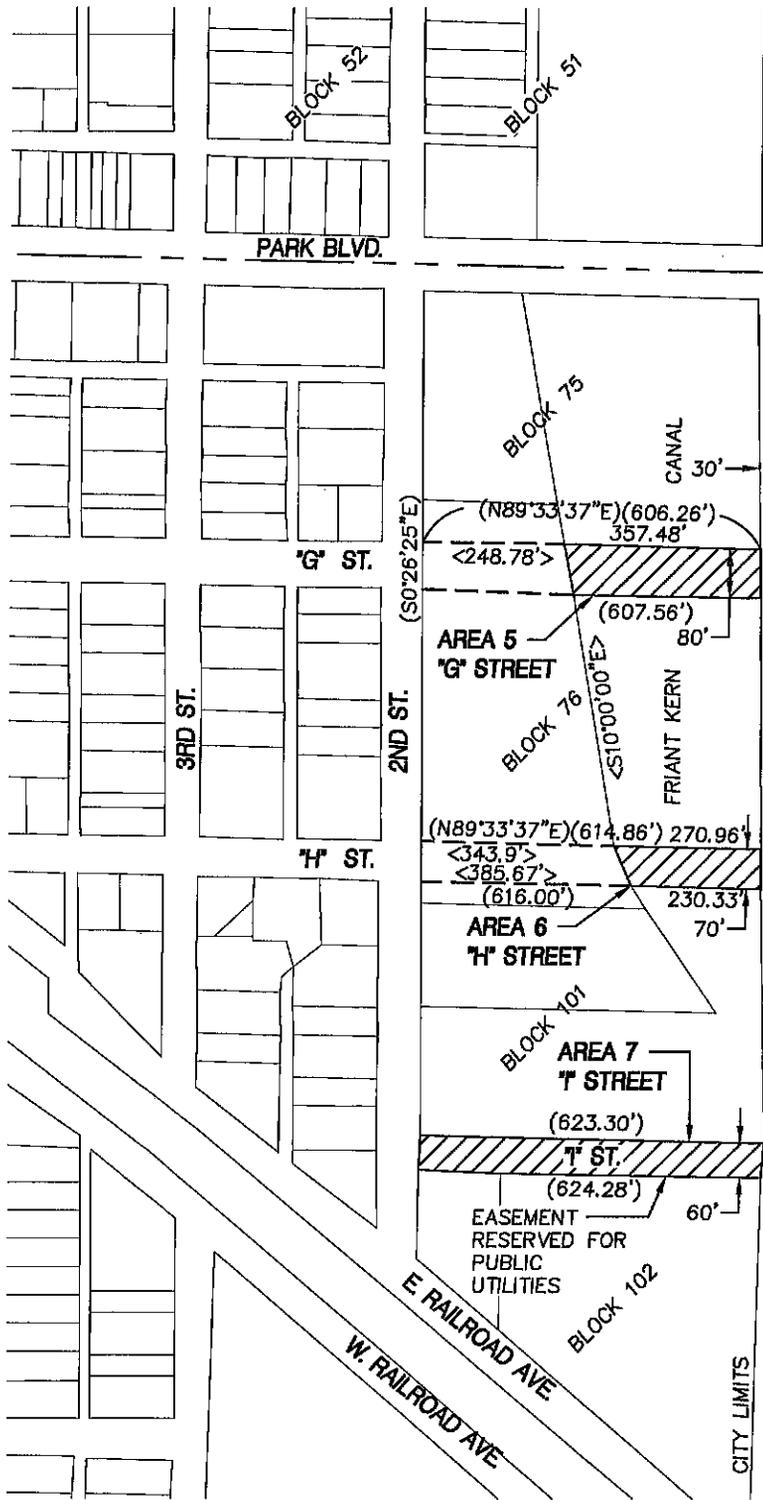


FOURTH ST.  
AREA 4  
DOC. NO. 20090164210  
RECORDED DEC. 3, 2009



**YAMABE & HORN  
ENGINEERING, INC.**

# EXHIBIT



## LEGEND:



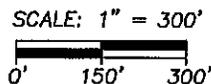
RIGHT OF WAY TO BE ABANDONED

( )

DATA PER MAP OF TOWN OF ORANGE COVE PLATS BK. 7 PGS. 93-96, F.C.R.

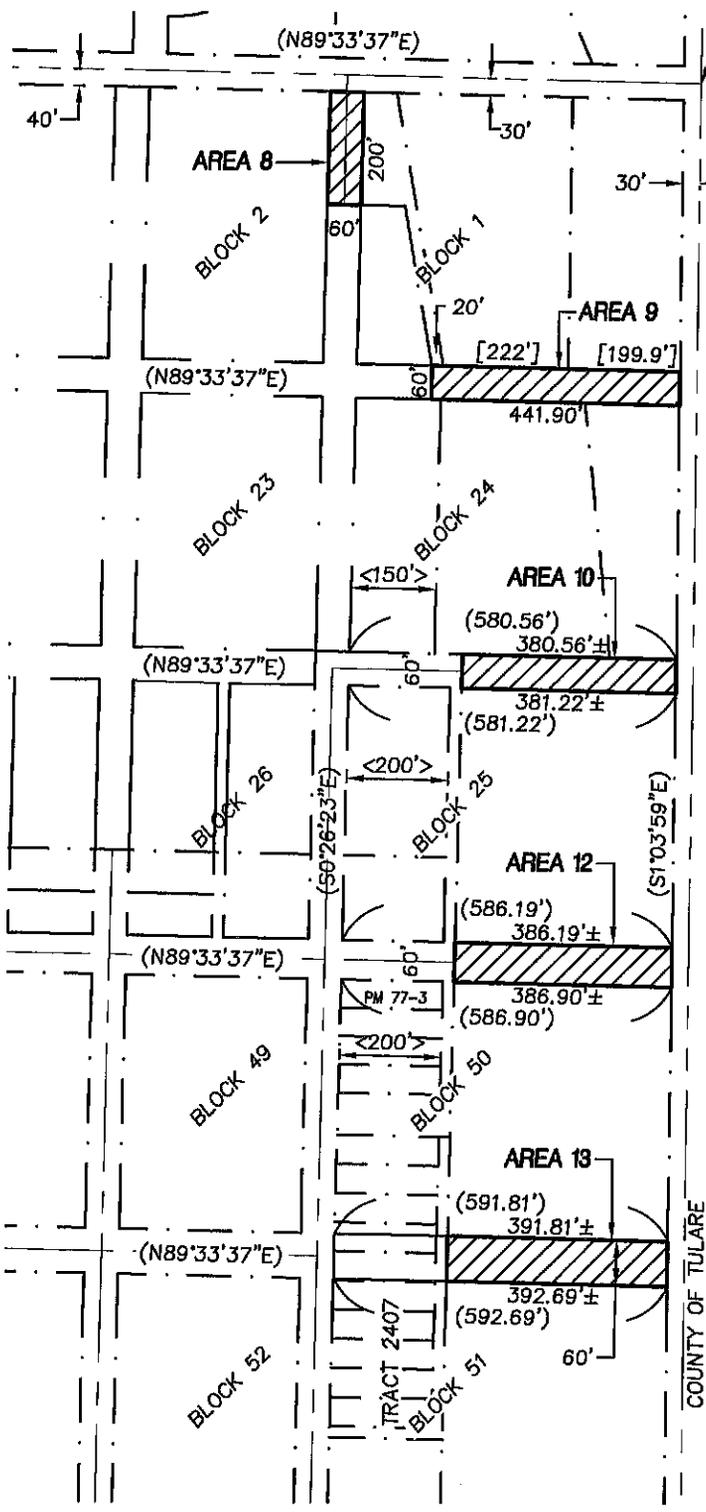
< >

DATA PER LOT LINE ADJUSTMENT MAP, RECORDED OCT. 2, 1985 BK. 2 MISC. MAPS PG. 28, F.C.R.



**YAMABE & HORN ENGINEERING, INC.**

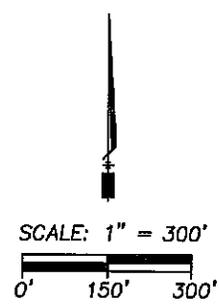
# EXHIBIT



NE. COR.  
 SE, C 13  
 T.15S., R.24E  
 M.D.B.&M.

## LEGEND:

-  RIGHT OF WAY TO BE ABANDONED
- ( ) DATA PER MAP OF TOWN OF ORANGE COVE PLATS BK. 7 PGS. 93-96, F.C.R.
- < > DATA PER DEED RECORDED VOL. 2451, PG. 353, O.R.F.C.
- [ ] DATA PRE DEED RECORDED VOL. 2484, PG. 206, O.R.F.C.




**YAMABE & HORN  
ENGINEERING, INC.**

RESOLUTION NO. 2015-14

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ORANGE COVE,  
CALIFORNIA VACATING VARIOUS ALLEY AND STREET RIGHTS OF WAY

WHEREAS, the City Council of the City of Orange Cove adopted Resolution 2015-08 on February 25, 2015 declaring its intent to vacate portions of street rights of way hereinafter described pursuant to provisions of Chapter 3 of the Public Streets, Highways and Service Easements Vacation Law, Streets and Highways Code Section 8300 et. seq.; and

WHEREAS, Resolution 2015-08 fixed March 25, 2015, at the hour of 6:30 p.m. in the Orange Cove City Hall as the time and place for hearing all persons interested in said vacation; and

WHEREAS, notice of the time and place of hearing has been posted in accordance with the requirements of law, and declaration of said posting and publication are on file with the City Clerk; and

WHEREAS, on DATE, the Planning Commission of the City of Orange Cove considered the proposed abandonments and adopted Resolution PC 2015-\_\_ finding that the abandonments are in conformity with the adopted General Plan for the City of Orange Cove, a copy of which is attached hereto as Exhibit C, and incorporated herein by reference; and

WHEREAS, the Council finds from all the evidence submitted that said portions of alleys and streets as shown on attached Exhibits A and B, attached hereto and incorporated herein by reference, are unnecessary for present or prospective public vehicular or pedestrian use.

NOW, THEREFORE IT IS HEREBY FOUND, DETERMINED, AND ORDERED as follows:

1. The above recitals are true and correct and are adopted as the findings of the City Council.
2. The public interest and convenience require, and it is hereby ordered, that the portions of alleys and streets described in Exhibits A and B be and the same are hereby vacated for public street purposes, all as contemplated by Resolution 2015-08 adopted by the City Council of the City of Orange Cove on the 25th day of February, 2015.
  2. Easements for public utilities are hereby reserved over, across and through the properties described in Exhibits A and B.
  3. The vacated rights of way shall revert to the adjacent property owners.
  4. The provisions of this Resolution are severable and if any provision, clause, sentence, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts thereof of the Resolution or their applicability to other persons or circumstances.

5. The City Clerk shall cause a copy of this Resolution to be duly recorded in the Office of the Fresno County Recorder, as required by California Streets & Highways Code §8325.

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council of the City of Orange Cove held on the 25<sup>th</sup> day of March 2015, by the following vote to wit:

AYES:

NOES:

ABSENT:

ABSTAIN:

---

Victor P. Lopez, Mayor

ATTEST:

APPROVED AS TO FORM

---

June Bracamontes, City Clerk,

---

Bianca Sparks, City Attorney

EXHIBIT A  
LEGAL DESCRIPTIONS

AREA 1

The East-West alley 30 feet wide from Tenth Street to Eleventh Street in Block 61 of the Town (now City) of Orange Cove, according to the map thereof recorded in Book 7 of Plats at Pages 93 through 96, Fresno County Records, and which lies north of Lots 5 through 17 and south of Lots 4 and 18 in said Block 61.

RESERVING on behalf of the public an easement for public utilities over, across and through the above described parcel for Area 1.

AREA 2

East Railroad Street 60 feet wide from Park Boulevard to Center Street and which lies between the Minkler Southern Railway Company right of way and Block 70 of said Town (now City) of Orange Cove, according to the map thereof recorded in Book 7 of Plats at Pages 93 through 96, Fresno County Records,

RESERVING on behalf of the public an easement for public utilities over, across and through the northeasterly 40 feet of the 60-foot wide right of way of the above described parcel for Area 2.

AREA 3

Eleventh Street 60 feet wide from Park Boulevard to the westerly prolongation of the north line of the East-West alley in Block 66 of the Town (now City) of Orange Cove, according to the map thereof recorded in Book 7 of Plats at Pages 93 through 96, Fresno County Records and is adjacent to the west line of Lot 13 in said Block 66.

RESERVING on behalf of the public an easement for public utilities over, across and through the above described parcel for Area 3.

AREA 4

All that land deeded for public street and utility purposes according to the Deed of Easement recorded December 3, 2009 as Document 20090164210, Official Records of Fresno County, being all that portion of the land lying in Section 13, Township 15 South, Range 24 East, Mount Diablo Base and Meridian, according to the Official United States Government Township Plat thereof, in the City of Orange Cove, County of Fresno, State of California, and being a portion of the former right of way granted to the Minkler Southern Railway Company in the deed recorded September 16, 1914 in Volume 566 of Deeds at Page 109, Fresno County Records, described as follows:

Beginning at a point on the Southwesterly right of way line of East Railroad Avenue, said point being the most Easterly corner of the land described in the Quitclaim Deed to the Roger K.

Bowman and Brenda L. Bowman Trust, recorded October 14, 2003 as Document No. 2003-0249352, Official Records of Fresno County; thence South 52°42'00" East, 80.00 feet along the said Southwesterly right of way line; thence South 82°18'00" West, 14.14 feet to a point on a line 10.00 feet Southwesterly of and parallel with said Southwesterly right of way line, said point also being a point on a line 70.00 feet Southeasterly of and parallel with the Southeasterly line of the land described in said Document No. 2003-0249352; thence South 37°18'00" West, 105.76 feet along last said parallel line to the beginning of a tangent curve concave to the Southeast having a radius of 120.00 feet; thence Southerly, 58.96 feet along said curve through a central angle of 28°09'00"; thence South 41°32'54" East, 13.18 feet on a non-tangent line to a point on the Northeasterly right of way line of West Railroad Avenue; thence North 89°35'45" East, 80.00 feet along said Northeasterly right of way line; thence North 46°50'11" East, 14.68 feet to the beginning of a non-tangent curve concave to the Southeast having a radius of 180.00 feet and to which beginning a radial line bears North 84°02'14" West; thence Northerly, 98.45 feet along said curve through a central angle of 31°20'14" to a point of tangency with a line 10.00 feet Southeasterly of and parallel with the Southeasterly line of the land described in said Document No. 2003-0249352; thence North 37°18'00" East, 105.76 feet along said parallel line to a point on a line 10.00 feet Southwesterly of and parallel with the Southwesterly right of way of East Railroad Avenue; thence North 07°42'00" West, 14.14 feet to the Point of Beginning.

#### AREA 5

G Street 80 feet wide from the northerly prolongation of the west line of the Friant-Kern Canal to Hills Valley Road and which lies between Blocks 75 and 76 in the Town (now City) of Orange Cove, according to the map thereof recorded in Book 7 of Plats at Pages 93 through 96, Fresno County Records.

#### AREA 6

H Street 70 feet wide from the northerly prolongation of the west line of the Friant-Kern Canal to Hills Valley Road and which lies between Blocks 76 and 101 in the Town (now City) of Orange Cove, according to the map thereof recorded in Book 7 of Plats at Pages 93 through 96, Fresno County Records.

#### AREA 7

I Street 60 feet wide from Second Street to Hills Valley Road and which lies between Blocks 101 and 102 in the Town (now City) of Orange Cove, according to the map thereof recorded in Book 7 of Plats at Pages 93 through 96, Fresno County Records.

RESERVING on behalf of the public an easement for public utilities over, across and through the above described parcel for Area 7.

#### AREA 8

Second Street from Adams Avenue to a point 200 feet South of Adams Avenue and which lines between Blocks 1 and 2 in the Town (now City) of Orange Cove, according to the map thereof recorded in Book 7 of Plats at Pages 93 through 96, Fresno County Records.

#### AREA 9

B Street from Hills Valley Road to a point 441.90 feet East of the west right of way line for Hills Valley Road and which lies between Blocks 1 and 24 in the Town (now City) of Orange Cove, according to the map thereof recorded in Book 7 of Plats at Pages 93 through 96, Fresno County Records.

#### AREA 10

C Street from Hills Valley Road to a point 200 feet East of the east right of way line of Second Street and which lies between Blocks 24 and 25 in the Town (now City) of Orange Cove, according to the map thereof recorded in Book 7 of Plats at Pages 93 through 96, Fresno County Records.

#### AREA 11

D Street from Hills Valley Road to a point 200 feet East of the east right of way line of Second Street and which lies between Blocks 25 and 50 in the Town (now City) of Orange Cove, according to the map thereof recorded in Book 7 of Plats at Pages 93 through 96, Fresno County Records.

#### AREA 12

E Street from Hills Valley Road to a point 200 feet East of the east right of way line of Second Street and which lies between Blocks 24 and 25 in the Town (now City) of Orange Cove, according to the map thereof recorded in Book 7 of Plats at Pages 93 through 96, Fresno County Records.

EXHIBIT B  
DIAGRAMS

# Memo

**To:** June Bracamontes, City Clerk; Clara Camarena, Deputy City Clerk

**From:** Lan Bui, Finance Director *fb*

**cc:** Sam Escobar, City Manager; Phyllis Mendez, Senior Accountant

**Date:** March 10, 2015

**Re:** Monthly Financials for February 28, 2015

---

Please put the following items on the agenda for the upcoming Wednesday night Council Meeting on March 25, 2015 as information item only:

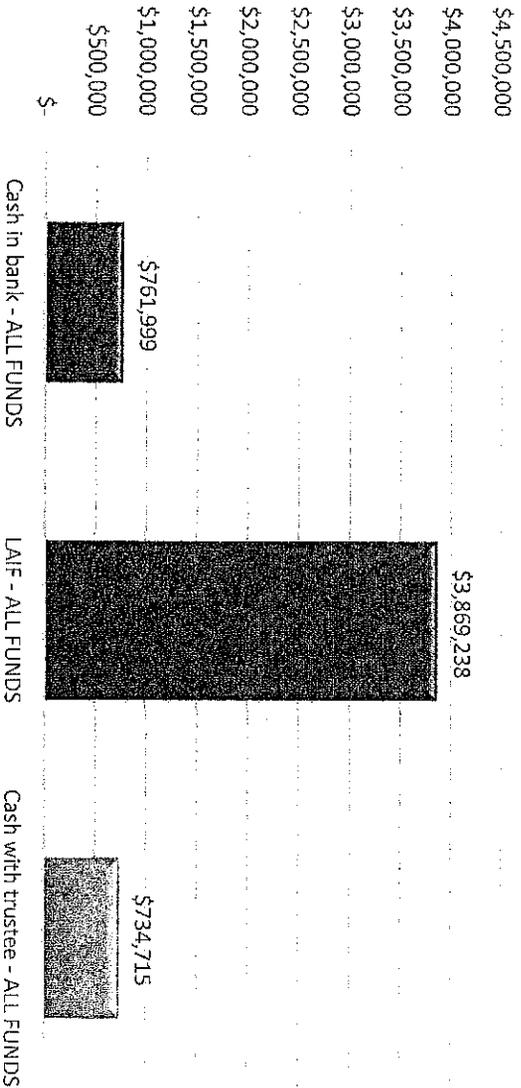
**Presentation of the City's monthly cash and investments summary and fund financials for the month ended February 28, 2015**

**CITY OF ORANGE COVE  
CASH SUMMARY  
(UNAUDITED)**

**February 28, 2015**

Cash in bank - ALL FUNDS	\$ 761,999	14%	Cash account used for our day-to-day operations
LAIF - ALL FUNDS	\$ 3,869,238	72%	City's only investment account
Cash with trustee - ALL FUNDS	\$ 734,715	14%	Cash with fiscal agent used for restricted purposes
	<u>\$ 5,365,952</u>	100%	
Restricted	\$ 2,838,777	53%	
Unrestricted	\$ 2,527,175	47%	
	<u>\$ 5,365,952</u>	100%	

**Summary of Cash & Investments**



**CITY OF ORANGE COVE**  
**SUMMARY OF CASH AND INVESTMENTS**  
**(UNAUDITED)**  
**February 28, 2015**

	Per GL			Per Bank	(Short)/Over
	Restricted	Unrestricted	Total		
<b>Accounts:</b>					
Operating Cash Account (Pooled)	\$ 728,893	\$ (54,331)	\$ 674,563	\$ 765,077	\$ (54,331)
Investment Account - LAIF (Pooled)	1,322,782	2,546,456	3,869,238	3,869,238	-
USDA	52,387	-	52,387	52,387	-
Money Market Account (General Fund)	-	35,050	35,050	35,050	-
<b>Total Cash and Investments</b>	<b>2,104,062</b>	<b>2,527,175</b>	<b>4,631,237</b>	<b>4,721,752</b>	
<b>Accounts held with trustee:</b>					
1995 Water Bonds (Water Fund)	12,311	-	12,311	12,311	\$ -
2004 Tax Allocation Bond (Successor Agency)	722,404	-	722,404	722,404	\$ -
<b>Total cash with fiscal agent</b>	<b>734,715</b>	<b>-</b>	<b>734,715</b>	<b>734,715</b>	
<b>GRAND TOTAL</b>	<b>\$ 2,838,777</b>	<b>\$ 2,527,175</b>	<b>\$ 5,365,952</b>	<b>\$ 5,456,467</b>	

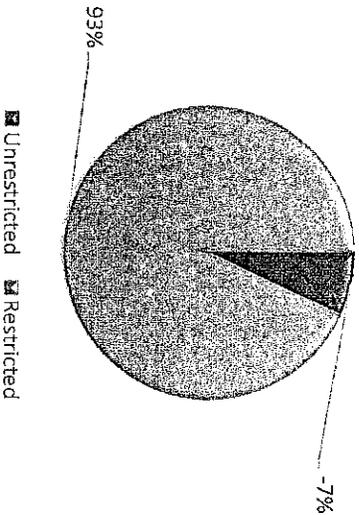
<sup>1</sup> See page 2 for breakdown of cash by major funds  
<sup>2</sup> See page 3 for the breakdown of pooled investments by major fund  
<sup>3</sup> Unspent bond proceeds  
<sup>4</sup> Restricted for debt service payments on 1995 Bonds

**CITY OF ORANGE COVE  
BREAKDOWN OF OPERATING ACCOUNT  
(UNAUDITED)  
February 28, 2015**

Operating Cash Account (Pooled):

General	\$ (54,331)
Local Transportation	182,934
Low Mod	66,244
Housing	(40,297)
Daycare	47,189
Water	(680,487)
Sewer	754,925
Disposal	56,007
Other governmental funds	342,378
<b>Total</b>	<b>\$ 674,563</b>
<b>Unrestricted</b>	<b>\$ (54,331)</b>
<b>Restricted</b>	<b>728,893</b>
	<b>\$ 674,563</b>

**Operating Cash  
Restricted vs. Unrestricted**

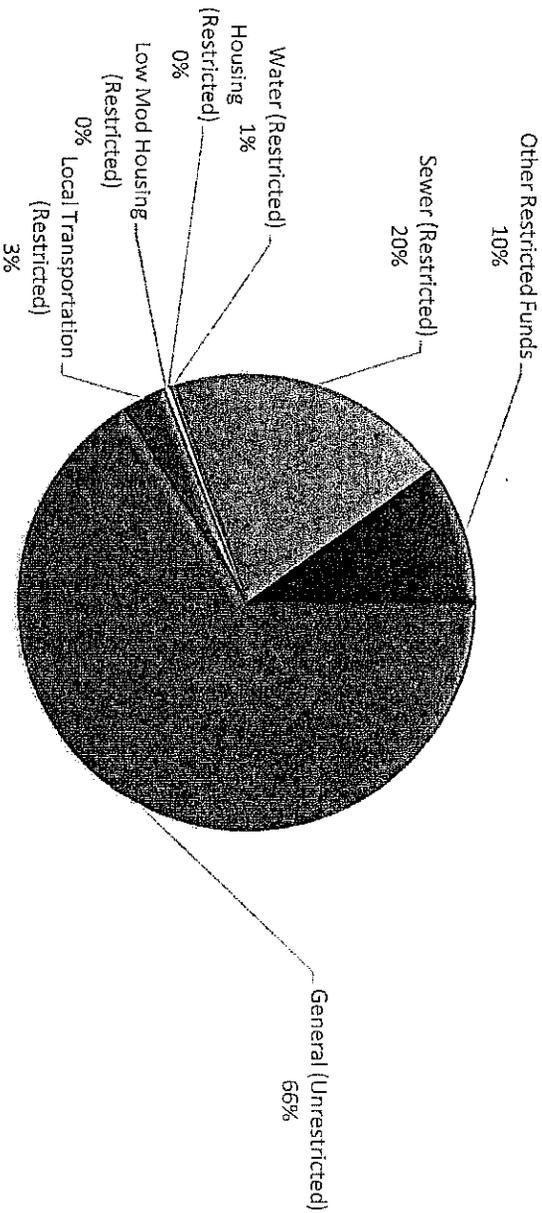


**CITY OF ORANGE COVE  
BREAKDOWN OF LAIF ACCOUNT  
(UNAUDITED)**

**February 28, 2015**

General (Unrestricted)	\$ 2,546,456	66%
Local Transportation (Restricted)	127,206	3%
Low Mod Housing (Restricted)	4,692	0%
Housing (Restricted)	8,713	0%
Water (Restricted)	16,400	0%
Sewer (Restricted)	778,021	20%
Other Restricted Funds	<u>387,750</u>	10%
	<u>\$ 3,869,238</u>	100%

**LAIF Breakdown by Fund**



**BALANCE SHEET - GOVERNMENTAL FUNDS  
FOR THE MONTH ENDED FEBRUARY 28, 2015**

	General	Local		Low-Moderate		Housing Grant	Day Care	Other		Total Governmental Funds
		Transportation	Housing Asset	Housing Asset	Governmental Funds					
<b>ASSETS</b>										
Cash and investments	\$ 2,528,646	\$ 310,140	\$ 70,936	\$ (40,294)	\$ 47,219	\$ 610,180	\$ 3,526,826			
Accounts receivable	0	-	-	-	-	-	0			
Interest receivable	-	-	128,237	39,600	-	-	167,837			
Due from other governments	-	309,565	-	83,433	-	-	324,741			
Due from other funds	-	-	-	-	-	-	-			
Notes receivable	-	-	293,504	1,534,875	-	-	35,803			
Land held for resale	376,000	-	-	-	-	-	599,986			
Total assets	<u>\$ 2,904,646</u>	<u>\$ 619,705</u>	<u>\$ 492,677</u>	<u>\$ 1,617,615</u>	<u>\$ 47,219</u>	<u>\$ 1,570,709</u>	<u>\$ 7,252,569</u>			
<b>LIABILITIES</b>										
Accounts payable and accrued expenses	\$ 30,152	\$ 463	\$ -	\$ -	\$ -	\$ -	\$ 30,615			
Due to other funds	-	-	-	-	-	-	-			
Unearned revenues	-	-	-	-	47,189	-	47,189			
Total liabilities	<u>30,152</u>	<u>463</u>	<u>-</u>	<u>-</u>	<u>47,189</u>	<u>-</u>	<u>77,804</u>			
<b>DEFERRED INFLOWS OF RESOURCES</b>										
Unavailable revenues	-	-	403,237	1,569,557	-	-	-	1,972,794		
Total deferred inflows of resources	<u>-</u>	<u>-</u>	<u>403,237</u>	<u>1,569,557</u>	<u>-</u>	<u>-</u>	<u>1,972,794</u>			
<b>FUND BALANCE</b>										
Nonspendable:										
Notes receivables	-	-	-	-	-	-	35,803			
Land held for resale	376,000	-	-	-	-	-	599,986			
Restricted:										
Low-income housing activities	-	-	89,440	48,058	-	-	-	137,497		
Circulation improvements	-	619,242	-	-	-	-	450,396	1,069,638		
Capital improvement projects	-	-	-	-	-	-	422,474	422,474		
Debt service	-	-	-	-	-	-	321,357	321,357		
Unassigned	2,498,494	-	-	-	30	-	(259,307)	2,239,216		
Total fund balance	<u>2,874,494</u>	<u>619,242</u>	<u>89,440</u>	<u>48,058</u>	<u>30</u>	<u>1,570,708</u>	<u>5,201,971</u>			
Total liabilities, deferred inflows of resources, and fund balance	<u>\$ 2,904,646</u>	<u>\$ 619,705</u>	<u>\$ 492,677</u>	<u>\$ 1,617,615</u>	<u>\$ 47,218</u>	<u>\$ 1,570,709</u>	<u>\$ 7,252,569</u>			

CITY OF ORANGE COVE  
 STATEMENT OF REVENUE, EXPENDITURES AND CHANGES IN FUND BALANCE- GOVERNMENTAL FUNDS  
 FOR THE MONTH ENDED FEBRUARY 28, 2015

	Local		Low-Moderate			Other			Total Governmental Funds
	General	Transportation	Housing Asset	Housing Grant	Daycare	Governmental Funds	Governmental Funds		
<b>Revenues</b>									
Taxes	\$ 736,193	\$ -	\$ -	\$ -	\$ -	\$ 71,063	\$ 807,256		
Intergovernmental	188,764	1,440	-	83,433	686,213	775,783	1,735,633		
Charges for service	72,754	-	-	-	-	-	72,754		
Licenses, permits and impact fees	94,195	-	-	-	-	6,508	100,703		
Interest and rent	38,647	166	6	1,511	30	340	40,700		
Other	88,336	-	-	-	-	-	88,336		
Total revenues	1,218,888	1,606	6	84,944	686,243	853,694	2,845,381		
<b>Expenditures</b>									
Current:									
General government	245,168	-	-	-	-	-	245,168		
Public safety	1,151,642	-	-	-	-	-	1,151,642		
Public works	93,685	-	-	-	-	-	93,685		
Streets	-	38,707	-	-	-	894,994	933,701		
Planning and development	59,105	-	-	48,119	-	-	107,224		
Parks and recreation	168,406	-	-	-	-	-	168,406		
Day care	-	-	-	-	686,213	-	686,213		
Capital outlay	12,750	-	-	-	-	-	12,750		
Debt service:									
Principal	-	-	-	-	-	58,000	58,000		
Interest and other charges	-	-	-	-	-	38,073	38,073		
Total expenditures	1,730,756	38,707	-	48,119	686,213	991,067	3,494,862		
Revenue over/(under) expenditures	(511,868)	(37,102)	6	36,825	30	(137,373)	(649,481)		
<b>Other Financing Sources/(Uses)</b>									
Transfers in/(out) - net	65,605	-	-	-	-	-	65,605		
Total other financing sources/(uses)	65,605	-	-	-	-	-	65,605		
<b>Change in Fund Balance</b>	(446,263)	(37,102)	6	36,825	30	(137,373)	(583,876)		
<b>Fund Balance</b>									
Beginning of year	3,320,757	656,344	89,433	11,232	-	1,708,081	5,785,848		
End of year	2,874,494	619,242	89,440	48,058	30	1,570,708	5,201,971		

CITY OF ORANGE COVE  
 STATEMENT OF NET POSITION- PROPRIETARY FUNDS  
 FEBRUARY 28, 2015

	Business-Type Activities - Enterprise Funds			Total Business-Type Funds
	Water	Sewer	Disposal	
<b>ASSETS</b>				
<b>Current assets</b>				
Cash and investments	\$ (599,389)	\$ 1,532,946	\$ 56,007	\$ 989,565
Accounts receivable	128,680	467,755	60,779	657,214
Interest receivable	-	-	-	-
Total current assets	<u>(470,709)</u>	<u>2,000,701</u>	<u>116,786</u>	<u>1,646,778</u>
<b>Non-current assets</b>				
Property, plant and equipment (net of allowances for depreciation)	<u>6,000,141</u>	<u>10,705,760</u>	-	<u>16,705,901</u>
Total noncurrent assets	<u>6,000,141</u>	<u>10,705,760</u>	-	<u>16,705,901</u>
Total assets	<u>5,529,432</u>	<u>12,706,461</u>	<u>116,786</u>	<u>18,352,679</u>
<b>LIABILITIES</b>				
<b>Current liabilities</b>				
Accounts payable and accrued expenses	2,007	111	-	2,118
Accrued interest	15,326	-	-	15,326
Deposits	34,446	-	-	34,446
Compensated absences	38,392	34,026	-	72,417
Due to other funds	-	-	-	-
Current portion of long-term debt	-	-	-	-
Total current liabilities	<u>90,171</u>	<u>34,136</u>	-	<u>124,308</u>
<b>Non-current liabilities</b>				
Long-term debt	<u>1,481,916</u>	<u>141,892</u>	-	<u>1,623,807</u>
Total liabilities	<u>1,572,087</u>	<u>176,028</u>	-	<u>1,748,115</u>
<b>NET POSITION</b>				
Net investment in capital assets	4,518,225	10,563,868	-	15,082,093
Restricted for debt services	12,311	-	-	12,311
Unrestricted	(573,191)	1,966,565	116,786	1,510,160
Total net position	<u>\$ 3,957,345</u>	<u>\$ 12,530,433</u>	<u>\$ 116,786</u>	<u>\$ 16,604,564</u>

CITY OF ORANGE COVE  
STATEMENT OF REVENUE, EXPENSE, AND CHANGES IN FUND NET POSITION  
PROPRIETY FUNDS  
FOR THE MONTH ENDED FEBRUARY 28, 2015

	Business-Type Activities - Enterprise Funds			Total Business-Type Funds
	Water	Sewer	Disposal	
<b>Operating Revenue</b>				
Charges for service	\$ 787,813	\$ 467,755	\$ 378,926	\$ 1,634,494
Connection fees	1,160	-	-	1,160
Total operating revenue	<u>788,974</u>	<u>467,755</u>	<u>378,926</u>	<u>1,635,655</u>
<b>Operating Expense</b>				
Contractual service and utilities	384,000	244,519	287,422	915,941
Personnel	285,596	261,348	1,747	548,691
Supplies and materials	113,947	28,634	178	142,759
Depreciation expense	-	-	-	-
Total operating expense	<u>783,543</u>	<u>534,500</u>	<u>289,348</u>	<u>1,607,392</u>
Operating income/(loss)	<u>5,431</u>	<u>(66,745)</u>	<u>89,578</u>	<u>28,263</u>
<b>Nonoperating Revenue/(Expense)</b>				
Intergovernmental	252,387	-	5,000	257,387
Development impact fees	3,988	(10,656)	-	(6,668)
Interest income	22	1,016	-	1,038
Interest expense	(42,567)	-	-	(42,567)
Total nonoperating revenue/(expense)	<u>213,830</u>	<u>(9,640)</u>	<u>5,000</u>	<u>209,190</u>
Net income/(loss) before transfers	219,261	(76,385)	94,578	237,453
<b>Operating Transfers In/(Out)</b>	<u>-</u>	<u>-</u>	<u>(31,605)</u>	<u>(31,605)</u>
<b>Changes in Net Position</b>	219,261	(76,385)	62,973	205,849
<b>Net Position</b>				
Beginning of year	3,738,085	12,606,818	53,813	16,398,716
End of the year	<u>\$ 3,957,345</u>	<u>\$ 12,530,433</u>	<u>\$ 116,786</u>	<u>\$ 16,604,564</u>

CITY OF ORANGE COVE  
 COMBINING BALANCE SHEET  
 NON-MAJOR GOVERNMENTAL FUNDS  
 FEBRUARY 28, 2015

	General Debt Service	Gas Tax	Streets Project	Community Development	Development Impact Fees	Measure C	Total Non-major Governmental Funds
<b>ASSETS</b>							
Cash and investments	\$ 321,357	\$ 286,499	\$ (259,307)	\$ (94,929)	\$ 192,662	\$ 163,897	\$ 610,180
Interest receivable	-	-	-	-	-	-	-
Due from other governments	-	-	-	324,741	-	-	324,741
Notes receivable	-	-	-	35,803	-	-	35,803
Land held for resale	-	-	-	599,986	-	-	599,986
Total assets	<u>\$ 321,357</u>	<u>\$ 286,499</u>	<u>\$ (259,307)</u>	<u>\$ 865,600</u>	<u>\$ 192,662</u>	<u>\$ 163,897</u>	<u>\$ 1,570,709</u>
<b>LIABILITIES AND FUND BALANCE</b>							
Liabilities:							
Accounts payable and accrued expenses	\$ -	\$ 0	\$ -	\$ -	\$ -	\$ 0	\$ 0
Due to other funds	-	-	-	-	-	-	-
Total liabilities	-	0	-	-	-	0	0
<b>DEFERRED INFLOWS OF RESOURCES</b>							
Unavailable revenues	-	-	-	-	-	-	-
Total deferred inflows of resources	-	-	-	-	-	-	-
<b>Fund Balance</b>							
Nonspendable:							
Notes receivable	-	-	-	35,803	-	-	35,803
Land held for resale	-	-	-	599,986	-	-	599,986
Restricted:							
Circulation improvements	-	286,499	-	-	-	163,896	450,396
Capital improvement projects	-	-	-	229,812	192,662	-	422,474
Debt service	321,357	-	-	-	-	-	321,357
Unassigned	-	-	(259,307)	-	-	-	(259,307)
Total fund balance	<u>321,357</u>	<u>286,499</u>	<u>(259,307)</u>	<u>865,600</u>	<u>192,662</u>	<u>163,896</u>	<u>1,570,708</u>
Total liabilities, deferred inflows of resources, and fund balance	<u>\$ 321,357</u>	<u>\$ 286,500</u>	<u>\$ (259,307)</u>	<u>\$ 865,600</u>	<u>\$ 192,662</u>	<u>\$ 163,896</u>	<u>\$ 1,570,709</u>

CITY OF ORANGE COVE  
 COMBINING STATEMENT OF REVENUE, EXPENDITURES AND CHANGES IN FUND BALANCE  
 NON-MAJOR GOVERNMENT FUNDS  
 FOR THE MONTH ENDED FEBRUARY 28, 2015

	General Debt Service	Gas Tax	Streets Project	Community Development	Development Impact Fees	Measure C	Total Non-major Governmental Funds
<b>Revenues</b>							
Taxes	\$ 71,063	\$ -	\$ -	\$ -	\$ -	\$ -	\$ 71,063
Intergovernmental	-	154,284	425,045	-	-	196,454	775,783
Licenses, permits and impact fees	-	-	-	-	6,508	-	6,508
Interest and rent	202	11	-	5	7	114	340
Total revenues	71,266	154,296	425,045	5	6,515	196,568	853,694
<b>Expenditures</b>							
Current:							
Streets	-	170,871	666,616	-	-	57,507	894,994
Planning and development	-	-	-	-	-	-	-
Capital outlay	-	-	-	-	-	-	-
Debt service:							
Principal	58,000	-	-	-	-	-	58,000
Interest and other charges	38,073	-	-	-	-	-	38,073
Total expenditures	96,073	170,871	666,616	-	-	57,507	991,067
Revenue over/(under) expenditures	(24,808)	(16,575)	(241,571)	5	6,515	139,061	(137,373)
<b>Other financing sources/(uses)</b>							
Operating transfers in/(out) - net	-	-	-	-	-	-	-
Total other financing sources/(uses)	-	-	-	-	-	-	-
<b>Change in Fund Balance</b>	(24,808)	(16,575)	(241,571)	5	6,515	139,061	(137,373)
<b>Fund Balance</b>							
Beginning of year	346,165	303,074	(17,736)	865,595	186,147	24,835	1,708,081
End of year	\$ 321,357	\$ 286,499	\$ (259,307)	\$ 865,600	\$ 192,662	\$ 163,896	\$ 1,570,708



**To:** Mayor and City Council  
**From:** Samuel A. Escobar, City Manager  
**Subject:** Annual Orange Cove Area Chamber of Commerce Event April 11, 2015  
**Attachments:** City of Orange Cove Park and Street Use Agreement and Resolution Approving a Fee Waiver for the Blossom Trail Event

**BACKGROUND:**

The Orange Cove Area Chamber of Commerce ("Chamber") submitted an application for the Blossom Trail Event scheduled on April 11, 2015. The event consists of a parade and a concert in the park. Staff is requesting that the City Council consider a Park and Street Use Agreement between the City and the Commerce and the Chamber's request for a fee waiver for the event.

**RECOMMENDATION:**

Council to consider approving the Park and Street Use Agreement and the Resolution approving the fee waiver for the Orange Cove Area Chamber of Commerce's Blossom Trail Event.

**EXECUTIVE SUMMARY:**

For the past several years, the Chamber has conducted a spring parade and concert in the park that is open to the public. Given the liability associated with the event, it is necessary for the City and the Chamber to enter into a park and street use agreement, which requires the Chamber to maintain insurance for the event, require all participants to execute waivers waiving the City's liability, and to indemnify the City against any claims that may result from the event.

The Chamber has also requested that the City waive all fees associated with the event. The fee waiver serves a public purpose in that it allows the Chamber to continue the parade and entertainment tradition for another year. The event brings many residents to the City's park, and serves as a positive family-friendly activity for the City.

The Chamber will be required to abide by the City's Municipal Code in order to hold the Event, and must provide the City with all information required by City staff, as set forth in the Park and Street Use Agreement.

Prepared by: JB

Approved by: [Signature]

REVIEW: City Manager: \_\_\_\_\_

Finance: \_\_\_\_\_

City Attorney: \_\_\_\_\_

**TYPE OF ITEM:**

**COUNCIL ACTION: APPROVED DENIED NO ACTION**

- \_\_\_\_\_ Consent
- \_\_\_\_\_ Info Item
- \_\_\_\_\_ Action Item
- \_\_\_\_\_ Department Report
- \_\_\_\_\_ Redevelopment Agency

- \_\_\_\_\_ Public Hearing
- \_\_\_\_\_ Matter Initiated by a Council Member
- \_\_\_\_\_ Other
- \_\_\_\_\_ Continued to: \_\_\_\_\_

**CITY OF ORANGE COVE PARK AND STREET USE AGREEMENT FOR  
BLOSSOM TRAIL EVENT**

**THIS PARK AND STREET USE AGREEMENT** (“Agreement”) is entered into on this 25th day of March, 2015 (“Effective Date”), by and between the City of Orange Cove, a California municipal corporation (the “City”) and The Orange Cove Area Chamber of Commerce, a California corporation, (the “Organizer”). The City and the Organizer are collectively referred to as “Parties.”

**RECITALS**

**WHEREAS**, the City is the owner of **James Eaton Park**, located at corner of 6<sup>th</sup> Street & Center Street, Orange Cove, California (hereinafter the “Park”); and

**WHEREAS**, Organizer desires to organize and operate Orange Cove Blossom Festival on Saturday, April 11, 2015, as provided in this Agreement, at the Park (the “Event”); and

**WHEREAS**, Organizer also desires to organize and operate a parade on certain City streets, as more particularly identified in Exhibit attached hereto and incorporated herein by reference, on **Saturday, April 11, 2015**, from 10:00 am to 12:00 pm (the “Parade”); and

**WHEREAS**, the City finds a public benefit in allowing Organizer to organize and operate the Event and Parade in the City.

**NOW, THEREFORE**, in consideration of the mutual promises, covenants and conditions herein contained, the Parties hereto agree as follows:

**SECTION 1. USE OF CITY PARK AND STREETS; GENERAL CONDITIONS**

**(A) Term.**

The term of this Agreement shall commence on the Effective Date and shall terminate on **Sunday April 12, 2015**, unless sooner terminated by the City, as provided in this Agreement.

**(B) Parade.**

(1) For the purpose of the Parade, on April 11, 2015, from 10:00 am to 12:00 pm, Organizer shall have the right to use the City Streets and public property, which is described in Exhibit A, attached hereto and incorporated herein by reference. The maximum length of the Parade shall be no more than 5 blocks (i.e.-half a mile, three blocks, etc.).

(2) As proposed by Organizer:

- (a) The total number of bands, sound vehicles or musical units and number of members in each unit shall not exceed 30 people total;
- (b) The total number of floats shall not exceed 15;

- (c) The total number of marching units shall not exceed INSERT NUMBER, with a maximum of 15 members in each;
- (d) The space/distancing between each unit, float, band, sound vehicle or other such unit participating in the Parade shall be at least 40 feet apart and shall travel at a speed no more than 3 miles per hour; and
- (e) Up to a maximum of two (2) horses may be included in the parade.

(3) Organizer shall ensure that immediately after conclusion of the Parade, and not later than 12:00 pm, the City Streets are cleaned and restored as originally found.

**(C) Event.**

(1) For the purpose of the Event, Organizer shall have the right to use the Park and its facilities, as identified in Exhibit A, attached hereto and incorporated herein by this reference (“Park Facilities”).

(2) Subject to the requirements of this Agreement and Exhibit B, Organizer shall operate the Event on April 11, 2015 during the hours of 10:00 am to 10:00 pm.

(3) Notwithstanding the foregoing, Organizer may use the Park and Park Facilities for the purposes of setting up for the Event from 7:00 am commencing on Saturday, April 11, 2015.

(4) By no later than 11:00 pm on Saturday, April 11, 2015., Organizer shall ensure the Park and Park Facilities are cleared, cleaned-up, maintained and all areas of the Park and Park Facilities are restored to the condition they were found.

**(D) Use Restrictions.**

The following activities or items are prohibited in the Park and Park Facilities as part of the Event:

- (1) Live animals, except for service animals;
- (2) Pyrotechnics;
- (3) Candles, lanterns, incense or open flames;
- (4) Decorations or other items that will damage building surfaces, such as use of nails, tacks, fasteners, staples, scotch tape, putty, glue or other adhesives;
- (5) Mylar or plastic confetti;
- (6) Straw or hay;
- (7) “Silly String”; and
- (8) Smog or fog generating devices.

**(E) Organizer Responsibilities.**

(1) Organizer is responsible for the conduct of all participants, and any damages that may occur at or to the City Streets, Park, or Park Facilities, or as a result of conducting or operating the Parade and/or Event.

(2) Organizer agrees on its behalf, to fully comply with the City's regulations, requirements and policies, as well as applicable state and federal regulations. Organizer further agrees to fully and promptly obey and comply with any and all lawful orders given by City staff and/or the Orange Cove Police Department and any Fire Departments.

(3) If law enforcement's assistance is required, the City is authorized to terminate the Parade and/or Event immediately.

(4) Organizer shall ensure that all Parade participants, entertainment acts and vendors ("Event Participants") execute and submit to the City the "General Release, Hold Harmless and Indemnity Form," as provided by the City and attached hereto as Exhibit C, at least three (3) days prior to commencement of the Parade and Event.

**(F) Non City-Owned Property.**

The City reserves the right to remove any remaining items from the City Streets, Park or Park Facilities and have them stored at Organizer's expense upon expiration of the Term of this Agreement. If such items, equipment or supplies are not claimed within six (6) months, the City reserves the right to dispose of such material in any manner it deems appropriate. Organizer shall be responsible for any costs of storage and disposal incurred by the City for such equipment or supplies. The City is not responsible for any damage or theft of any items left by Organizer, Event Participants, Parade participants, or any other party attending the Event and/or Parade.

**(G) Additional Guidelines.**

Organizer shall comply with the Additional Guidelines, attached hereto as Exhibit B, and incorporated herein by reference.

**(H) City Responsibilities.**

DESCRIPTION OF WHAT'S EXPECTED FROM THE CITY AS FAR AS:

- Blocking streets: Park Blvd from 9<sup>th</sup> Street to 2<sup>nd</sup> Street, Center to 6<sup>th</sup> Street, H Street to Park Blvd.
- Stage will be needed for the entertainment
- PA System will be needed for the parade
- City's cover tents: unknown how many are needed at this time  
set-up \$30 fee for vendors is suggested, it takes 2 public works staff 20 to 30 minutes to set-up and 20-30 min to take down the tents for the event. It is highly recommended to have the vendor bring their own tent.
- 12-15 garbage containers will be needed
- One port a pottie for females will be needed along with a wash station (upon approval)

**SECTION 2.            RELEASE, HOLD HARMLESS AND INDEMNIFICATION**

(A) Organizer shall defend, indemnify, and hold harmless City, its elected and appointed officers, officials, agents, contractors, consultants, employees and volunteers from and against any and all claims, damages, demands, liability, costs, losses and expenses, including without limitation court costs and reasonable attorneys' fees, arising out of or in connection with Organizer's use of the City Streets, Park and/or Park Facilities or its negligent failure to comply with any of its obligations contained in this Agreement (collectively "Claims"), except such loss or damage which was caused by the sole negligence, or willful misconduct of City. Acceptance by City of insurance certificates and endorsements required under this Agreement does not relieve Organizer from liability under this indemnification and hold harmless clause. This indemnification and hold harmless clause shall apply to any Claims whether or not such insurance policies shall have been determined to apply.

(B) Organizer releases the City, its officers, officials, agents, and employees of any and all claims, damages, demands, liability, costs, losses and expenses, including without limitation court costs and reasonable attorney's fees, arising out of or in connection with Organizer's use of the City Streets, Park and/or Park Facilities under this Agreement.

Organizer acknowledges and expressly waives the benefit of California Civil Code Section 1542, which is set forth below, and specifically agrees that the release contained in this Agreement shall extend to all claims arising out of transactions which the Parties do not know or expect to exist in their favor at this time, and which rise out of or are connected to the Parade and/or Event. California Civil Code Section 1542 provides:

**A GENERAL RELEASE DOES NOT EXTEND TO CLAIMS WHICH THE CREDITOR DOES NOT KNOW OR SUSPECT TO EXIST IN HIS OR HER FAVOR AT THE TIME OF EXECUTING THE RELEASE, WHICH IF KNOWN BY HIM OR HER MUST HAVE MATERIALLY AFFECTED HIS OR HER SETTLEMENT WITH THE DEBTOR.**

\_\_\_\_\_  
City's Initials

\_\_\_\_\_  
Organizer's Initials

The Organizer acknowledges that the facts and law in relation to this matter and the claims released by the terms of this Agreement may turn out to be different from or in addition to the facts or law as now known to each Party or its counsel. The Organizer therefore expressly agrees that the release so given shall be and remain in effect as a full and complete release of the persons and entities released thereby notwithstanding any possibility of new or different facts or law.

(C) By execution of this Agreement, Organizer acknowledges and agrees to the provisions of this Section and that it is a material element of consideration.

(D) If, for any reason such as, but not limited to, earthquake, flood water damage, explosion or other calamity of circumstance, it shall become necessary to close the City Streets, Park or Park Facilities, no liability shall occur against City for damage due to loss of business, loss of revenue or additional costs insured by Organizer.

**SECTION 3. INSURANCE**

During the term of this Agreement, Organizer shall, at its sole costs and expense, carry, maintain, and keep in full force and effect insurance of the types and in the amounts as set forth in the attached Exhibit D, incorporated herein by this reference.

**SECTION 4. COMPLIANCE WITH LAWS**

Organizer represents and warrants to City that Organizer, its officers, agents, employees and volunteers, and Event/Parade Participants have all licenses, permits, qualifications, and approvals of whatever nature which are legally required for Organizer, its officers, agents, employees and volunteers to provide the services, programs and activities contemplated by this Agreement, and that it shall comply with all statutes, ordinances, regulations, and requirements of all governmental entities, federal, state, county and city, relating to its actions under this Agreement whether such statutes, ordinances, regulations and requirements are now in force or hereinafter enacted.

**SECTION 5. GENERAL PROVISIONS**

(A) Each right, power and remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise shall be cumulative and shall be in addition to every other right, power, or remedy provided for herein or now or hereafter existing at law, in equity, by statute, or otherwise. The exercise, the commencement of the exercise, or the forbearance of the exercise by any party of any one or more of such rights, powers or remedies shall not preclude the simultaneous or later exercise by such party of any of all of such other rights, powers or remedies.

(B) If any action at law or suit in equity is brought to enforce or interpret the provisions of this Agreement, or arising out of or relating to Organizer's use of City Streets, Park or Park Facilities under this Agreement, the prevailing party shall be entitled to reasonable attorneys' fees and all related costs, including costs of expert witnesses and consultants, as well as costs on appeal, in addition to any other relief to which it may be entitled. The venue for any litigation shall be Fresno County, California or in the United States District Court for Eastern District of California.

(C) If any term or provision of this Agreement or the application thereof to any person or circumstance shall, to any extent, be invalid or unenforceable, then such term or provision shall be amended to, and solely to, the extent necessary to cure such invalidity or unenforceability, and in its amended form shall be enforceable. In such event, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected thereby, and each term and provision of

this Agreement shall be valid and be enforced to the fullest extent permitted by law.

(D) This Agreement shall be governed and construed in accordance with the laws of the State of California without regard to principles of conflicts of laws.

(E) All documents referenced as exhibits in this Agreement are hereby incorporated in this Agreement. In the event of any material discrepancy between the express provisions of this Agreement and the provisions of any document incorporated herein by reference, the provisions of this Agreement shall prevail.

(F) This instrument contains the entire Agreement between the City and Organizer with respect to the transactions contemplated herein. No other prior oral or written agreement(s) are binding upon the Parties. Amendments hereto or deviations here from shall be effective and binding only if made in writing and executed by City and Organizer.

(G) This Agreement may be executed simultaneously in multiple counterparts, each of which shall be deemed an original, but all of which taken together shall constitute one and the same instrument.

**IN WITNESS WHEREOF**, the Parties have executed this Agreement as of the date first written above.

**“CITY”**  
City of Orange Cove

**“ORGANIZER”**  
The Orange Cove Area Chamber of Commerce

By \_\_\_\_\_  
Sam Escobar, City Manager

By: \_\_\_\_\_  
Name, Title

**ATTEST**

By \_\_\_\_\_  
June Bracamontes, City Clerk

**APPROVED AS TO FORM**

By \_\_\_\_\_  
Bianca Sparks, City Attorney

**Exhibit A**

Description of City Streets, Park and Park Facilities

**INSERT A DIAGRAM OF THE PARADE ROUTE**

**INSERT THE EXACT LOCATION THAT THEY'RE PERMITTED TO USE AND ANY FACILITIES THEY CAN USE AS PART OF THE EVENT**

INSERT SPECIFICS OF THE PARADE:

- The parade will be on Park Blvd – starting on 9<sup>th</sup> Street to 2<sup>nd</sup> Street
- The parade participants will start lining up at 10:00 am and will begin marching at 11:00 am to 12:00 pm.
- James Eaton Park & Stage
- PA System
-

## Exhibit B

### Additional Operational Requirements

**Security Deposit:** Organizer shall deposit \$1,000.00 (One Thousand Dollars) with the City by **Friday, April 3<sup>rd</sup>, 2015** to cover potential damage to the City Streets, Park and Park Facilities (the "Deposit"). The Deposit will be used to cover any costs associated with damage to the Park and Park Facilities caused by the Parade and Event and/or if the City incurs additional maintenance costs related to cleaning the City Streets, Park and Park Facilities as a result of the Parade and/or Event. If no damage occurs and the City Streets, Park and Park Facilities are left in a clean condition, the Deposit will be refunded to the Organizer within fifteen (15) days after the conclusion of the Parade and Event.

**Guidelines:** To receive approval of the Parade and Event, a list of guidelines has been set forth by the City. The Organizer shall complete the guidelines listed below through the City Planning Department and Police Department for approval.

1. Provide a site plan that illustrates the arrangement of Event and Parade, to the Planning Department.
2. Submit a security plan for the Event and the Parade to the City's Police Department for review and approval.
3. Provide proof of insurance with the City of Orange Cove named as additional insured as required by the Agreement.
4. Provide a complete list of vendors and entertainment acts including company names, and provide the following for each vendor:
  - a. Business License Applications must be filed for each with the Business License Officer.
  - b. Copies of Health Permits issued by Fresno County Public Health Department, or any other required permit for the sale of food, to all food vendors.
  - c. A permit from the California Department of Alcoholic Beverage Control is required for the sale of alcohol at the Event.
5. Organizer and Event/Parade Participants shall execute the General Release, Hold Harmless and Indemnity Form (attached to the Agreement as Exhibit C), releasing the City of any liability that may arise during the event. This form also includes an indemnity provision.



## Exhibit D

### INSURANCE REQUIREMENTS

#### Insurance Policies

Without limiting Organizer's indemnification of the CITY, Organizer shall, at all times during the terms of this Agreement, maintain and keep in full force and effect, the following policies of insurance with no less than the delineated minimum coverage.

#### 1. Coverages:

- a. General Liability: Organizer shall maintain commercial general liability insurance with coverage at least as broad as Insurance Services Office form CG 00 01, in an amount not less than one million dollars (\$1,000,000) per occurrence, two million dollars (\$2,000,000) general aggregate, for bodily injury, personal injury, and property damage, including without limitation, blanket contractual liability.
- b. Automobile Liability: Organizer shall maintain automobile insurance at least as broad as Insurance Services Office form CA 00 01 covering bodily injury and property damage for all activities of the Organizer arising out of or in connection with the Event/Parade and Event/Parade related activities covered by this Agreement, including coverage for any owned, hired, non-owned or rented vehicles, in an amount not less than one million dollars (\$1,000,000) combined single limit for each accident.
- c. Worker's Compensation: Organizer shall maintain Workers' Compensation Insurance (Statutory Limits) and Employer's Liability Insurance (with limits of at least one million dollars (\$1,000,000)).

2. Duration of Coverage. Organizer shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the EVENT/PARADE. In the event any policy of insurance required under this Agreement does not comply with these specifications or is canceled and not replaced, CITY has the right but not the duty to obtain the insurance it deems necessary and any premium paid by CITY will be promptly reimbursed by Organizer or CITY will withhold amounts sufficient to pay premium from Organizer payments. In the alternative, CITY may cancel this Agreement.

3. Acceptable Insurers. All insurance policies shall be issued by an insurance company currently authorized by the Insurance Commissioner to transact business of insurance in the State of California, with an assigned policyholders' Rating of A- (or higher) and Financial Size Category Class VII (or larger) in accordance with the latest edition of Best's Key Rating Guide, unless otherwise approved by the CITY.

4. Waiver of Subrogation. All insurance coverage maintained or procured pursuant to this Agreement shall be endorsed to waive subrogation against CITY, its elected or appointed officers, agents, officials, employees and volunteers or shall specifically allow Organizer or

others providing insurance evidence in compliance with these specifications to waive their right of recovery prior to a loss. Organizer hereby waives its own right of recovery against CITY, and shall require similar written express waivers and insurance clauses from each of its subconsultants.

5. **Enforcement of Contract Provisions (non estoppel)**. Organizer acknowledges and agrees that any actual or alleged failure on the part of the CITY to inform Organizer of non-compliance with any requirement imposes no additional obligations on the CITY nor does it waive any rights hereunder.

6. **Specifications not Limiting**. Requirements of specific coverage features or limits contained in this Section are not intended as a limitation on coverage, limits or other requirements, or a waiver of any coverage normally provided by any insurance. Specific reference to a given coverage feature is for purposes of clarification only as it pertains to a given issue and is not intended by any party or insured to be all inclusive, or to the exclusion of other coverage, or a waiver of any type.

7. **Notice of Cancellation**. The policy shall be endorsed to state that coverage shall not be cancelled or modified without thirty (30) days (except for nonpayment for which ten (10) days' notice is required) prior written notice by certified mail to the City of Orange Cove.

8. **Additional Insured Status**. An Additional Insured Endorsement must be provided that includes the following language: "That the City of Orange Cove, its officers, employees, officials and volunteers are covered as insureds with respect to liability arising out of the use of the Orange Cove Blossom Festival held at James Eaton Park on Saturday, April 11, 2015, said event shall consist of a parade and concert in the James Eaton Park. This provision shall also apply to any excess liability policies.

9. **Self-insured Retentions**. Any self-insured retentions must be declared to and approved by CITY. At the option of the CITY, either (a) the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the entity, its officers, officials, employees and volunteers or (b) the Organizer shall provide a financial guarantee satisfactory to the City of Orange Cove guaranteeing payment of losses and related investigations, claim administration or defense expenses. Self-insurance will not be considered to comply with these specifications unless approved by CITY.

10. **Certificate Holder:** City of Orange Cove, 633 6<sup>th</sup> Street, Orange Cove, CA 93646  
ATTN: June Bracamontes, City Clerk.

RESOLUTION NO. 2015-13

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ORANGE COVE, CALIFORNIA APPROVING A REQUEST FOR A FEE WAIVER FOR THE ORANGE COVE AREA CHAMBER OF COMMERCE'S BLOSSOM TRAIL EVENT

WHEREAS, The Orange Cove Area Chamber of Commerce (hereinafter "Chamber") requested that the City Council waive all fees associated with the Chamber's annual Blossom Trail Event ("Event") to be held on April 11, 2015; and

WHEREAS, the total fees associated with the Event are \$X.XX, and the Chamber is requesting that the City waive the entire fee amount; and

WHEREAS, while the City is proposing to waive all fees associated with the Chamber's Event, the Chamber is still required to comply with all other provisions of the City's Municipal Code; and

WHEREAS, the fee waiver serves a public purpose in that it allows the Chamber to continue this tradition for another year. The event brings many residents to the City's park, and serves as a positive family-friendly activity for the City.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF ORANGE COVE HEREBY FINDS, DETERMINES AND RESOLVES AS FOLLOWS:

SECTION 1. The above recitals are true and correct and are incorporated herein by reference.

SECTION 2. The fee waiver serves a public purpose in that it allows the Chamber to continue the parade and entertainment tradition for another year. The event brings many residents to the City's park, and serves as a positive family-friendly activity for the City.

SECTION 3. The City Council hereby approves the fee waiver for all fees associated with the Chamber's Event in the amount of \$X.XX.

SECTION 4. The Chamber shall abide by the City's Municipal Code in order to hold the Event, and shall provide the City with all information required by City staff, as set forth in the Park and Street Use Agreement ("Agreement"), attached hereto as Exhibit A, and incorporated herein by reference, and shall comply with all provisions of the Agreement.

SECTION 5. The provisions of this Resolution are severable and if any provision, clause, sentence, word or part thereof is held illegal, invalid, unconstitutional, or inapplicable to any person or circumstances, such illegality, invalidity, unconstitutionality, or inapplicability shall not affect or impair any of the remaining provisions, clauses, sentences, sections, words or parts thereof of the Resolution or their applicability to other persons or circumstances.

SECTION 6. That the City Clerk shall certify to the adoption of this Resolution and that the same shall be in full force and effect.

PASSED, APPROVED AND ADOPTED this 25<sup>th</sup> day of March, 2015, by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

\_\_\_\_\_  
Victor Lopez, Mayor

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
June Bracamontes, City Clerk

\_\_\_\_\_  
Bianca Sparks, City Attorney



## AGENDA REPORT

To: Mayor Lopez and Members of the City Council

Date: March 25, 2015

From: Bianca Sparks, City Attorney

Subject: CONSIDERATION OF AN ORDINANCE AMENDING SECTION 2.08.050 (COMPENSATION), AND REPEALING SECTIONS 2.08.080 (REMOVAL PROCEDURE) AND 2.08.090 (AGREEMENTS ON EMPLOYMENT) OF CHAPTER 2.08 (CITY MANAGER) OF TITLE 2 (ADMINISTRATION AND PERSONNEL) OF THE ORANGE COVE MUNICIPAL CODE

---

### Recommendation:

It is recommended that the City Council adopt an ordinance amending Section 2.08.050 of the City's Municipal Code and repealing Sections 2.08.080 and 2.08.090 of the City's Municipal Code ("Code") relating to the City Manager.

### Executive Summary:

Chapter 2.08 of the City's Code sets forth the duties and responsibilities of the City Manager, addresses compensation, and also contains removal provisions. The attached ordinance repeals antiquated language regarding the removal of the City Manager.

In the event the City Council wishes to move forward with this ordinance, it may be introduced at this meeting, and adopted at a subsequent meeting.

### Attachments:

Ordinance No. 371

**ORDINANCE NO. 371**

AN ORDINANCE OF THE CITY OF ORANGE COVE AMENDING SECTION 2.08.050 (COMPENSATION), AND REPEALING SECTIONS 2.08.080 (REMOVAL PROCEDURE) AND 2.08.090 (AGREEMENTS ON EMPLOYMENT) OF CHAPTER 2.08 (CITY MANAGER) OF TITLE 2 (ADMINISTRATION AND PERSONNEL) OF THE ORANGE COVE MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF ORANGE COVE DOES ORDAIN AS FOLLOWS:

**SECTION 1. Amendment to the Orange Cove Municipal Code**

Section 2.08.050 (Compensation) of Chapter 2.08 (City Manager) of Title 2 (Administration and Personnel) of the Orange Cove Municipal Code is hereby amended to read in its entirety as follows:

The city manager shall receive such compensation, as the city council shall from time to time determine. In addition, the city manager shall be reimbursed for all actual and necessary expenses incurred by him in the performance of his official duties.

**SECTION 2. Amendment to the Orange Cove Municipal Code.**

Sections 2.08.080 (Removal Procedure) and 2.08.090 (Administration and Personnel) of Chapter 2.08 (City Manager) of Title 2 (Administration and Personnel) the Orange Cove Municipal Code are repealed.

**SECTION 3. Severability.**

If any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance, including the application of such part or provision to other persons or circumstances shall not be affected thereby and shall continue in full force and effect. To this end, provisions of this ordinance are severable. The city council hereby declares that it would have passed each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof irrespective of the fact that any one or more sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases be held unconstitutional, invalid, or unenforceable.

**SECTION 4. Effective Date.**

In accordance with California Government Code § 36937, this Ordinance shall take effect and be in force thirty (30) days from passage and adoption.

**SECTION 5. Publication.**

The City Clerk shall certify to the passage and adoption of this Ordinance and shall cause the same to be published according to law.

\*\*\*\*

The foregoing ordinance was introduced at a regular meeting of the City Council of the City of Orange Cove held on \_\_\_\_\_ and was passed and adopted at a regular meeting of the City Council held on \_\_\_\_\_ by the following vote:

AYES:  
NOES:  
ABSENT:  
ABSTAIN:

ATTEST:

APPROVED:

\_\_\_\_\_  
City Clerk

\_\_\_\_\_  
Mayor, City of Orange Cove