

OPERATIONS & MAINTENANCE AGREEMENT

by and between

City of Orange Cove

and

SitelogIQ, Inc.

1651 Response Road., Suite 300

Sacramento, California 95815

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OPERATION AND MAINTENANCE AGREEMENT

This Operation and Maintenance Agreement ("Agreement") is entered into as of _____, between the City of Orange Cove, a City organized and existing under the laws of the State of California ("City") and SitelogIQ, Inc., a Delaware corporation doing business as SitelogIQ, Inc ("Operator").

RECITALS

WHEREAS, City intends to construct, install, and commission a small-scale photovoltaic solar electric facilities (individually called System, together called "Systems").

WHEREAS, the Systems will be constructed at various client sites (individually called Site, together called Sites).

WHEREAS, the Systems and Sites are as follows:

System	Site
487.2 kW DC	Orange Cove Wastewater Treatment Plant S.Monson Ave. & S. Parlier Ave., Orange Cove, CA 93646

WHEREAS, SitelogIQ, Inc., and City have entered into a Facility Solutions Agreement ("FSA") pursuant to which Installer has agreed to design, construct and deliver the Systems on behalf of City; and

WHEREAS, Operator, in its capacity as operator hereunder, has agreed to operate and maintain the Systems under the terms and conditions set forth herein.

NOW, THEREFORE, in consideration of the foregoing and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties hereby agree as follows:

AGREEMENT

1. DEFINITIONS

Unless otherwise required by the context in which any term appears: (a) capitalized terms used in this Agreement shall have the respective meanings set forth in Exhibit A; (b) the singular shall include the plural and vice versa; (c) the word "including" shall mean "including, without limitation"; (d) references to "Sections" and "Exhibits" shall be to sections and exhibits hereof; (e) the words "herein", "hereof" and "hereunder" shall refer to this Agreement as a whole and not to any particular section or subsection hereof; and (f) references to this Agreement shall include a reference to all Exhibits hereto, as the same may be amended, modified, supplemented or replaced from time to time.

2. SERVICES

2.1. System Services

- (a) Throughout the Term of this Agreement, Operator shall provide System Services as set forth in Exhibit B for the Systems.
- (b) Operator shall perform an Annual Energy Production Evaluation for each System.
- (c) System Services shall be performed in accordance with Industry Standards and Applicable Law for photovoltaic solar projects in California.
- (d) All periodic maintenance and inspection services shall be performed at regular intervals as described in Exhibit B
- (e) All maintenance and inspection services shall be performed by qualified technical personnel in accordance with the operation and maintenance manuals.
- (f) Operator personnel and agents will check-in at offices during business hours prior to beginning Work.
- (g) Repair of damaged/vandalized Systems shall be performed by Operator, as directed by City, at the rates specified in Exhibit F.
- (h) Any other City requested services not defined in this Agreement shall be billed at the rates specified in Exhibit F on a time and materials basis.

2.2. Annual Reports and Meeting

Throughout the Term, Operator shall furnish to City the Annual maintenance/inspection report ("Annual Report") covering all Systems for the twelve-month period ending on December 31 of each calendar year. The first reporting period of the Term shall begin upon Final Completion (as set forth in the FSA) and extend through December 31. The Annual Report shall be submitted

within two (2) months from the period ending. The Annual Report shall include the following:

- a. Summary of operations;
- b. Weather and energy production data;
- c. Calculation of Cumulative Annual Energy Production;
- d. System performance data;
- e. Reports of any environmental disturbances (e.g. chemical spills);
- f. Safety/accident reports;
- g. Summary of Additional Services, if any;
- h. Maintenance and inspection logs; and
- i. Proposal of actions required to be taken by Operator, if any.

2.3. Warranty

- (a) Subject to the limitations set forth in this Section 2.3, commencing on the Final Completion Date, and for a period of ten (10) years, Operator warrants that the System will be free from defects in materials and workmanship under normal operating conditions and shall conform to the final System design provided by the Operator under the FSA. If the System has a defect that causes it to fail to conform to any of the foregoing Warranties, Operator will, at its option, either repair or replace the portion of the System that is defective at no cost to the City.

Subject to the limitations set forth in this Section 2.3, commencing on the Final Completion Date for each system, Operator shall provide a ten (10) year warranty to protect against defects and undue degradation of electrical generation output of the Solar Plant ("Operator Warranty") in compliance with the California Public Utility Code 387.5(d)(4). Operator Warranty shall include the following:

- (i) Ten (10) year warranty to protect City against more than 15% degradation of electrical generation output that may occur as a result of faulty installation.
- (ii) Ten (10) year warranty to provide for no-cost repair or replacement of a defect not otherwise covered by Manufacturer Warranties provided such defect causes more than fifteen percent (15%) degradation of electrical generation output.

If the System has a defect that causes it to fail to conform to any of the foregoing Warranties, Operator will, at its option, either repair or replace the portion of the Solar Plant that is defective at no cost to the City.

- (b) This Warranty shall not cover any defects to the extent such defect is caused by any of the following:

- (i) Alterations or repairs made to the System by anyone except for Operator or Operator's Subcontractors without Operator's prior written approval;
- (ii) Failure of the System to perform caused by legislative, administrative, or executive regulation, order or requisition of the government, local utility or public utilities commission, or any state, provincial or municipal government or official;
- (iii) Use of the System by anyone except for Operator or Operator's Subcontractors beyond the scope contemplated in its operating manuals or technical specifications;
- (iv) Damage to the System not caused directly or indirectly by Operator or its Subcontractors under any agreement between Operator and City;
- (v) Damage or property loss to the System caused by third parties including, but not limited to, vandalism and theft.
- (vi) Manufacture defects or Return merchandise authorization (RMA) of equipment.
- (vii) Force Majeure Events; and
- (viii) A change in usage of the Site, which may affect building or site permits and related requirements, without the written approval of Operator, or a change in Ownership of building or property and the new City has not signed an assumption agreement of the terms and conditions herein.

Corrections, repairs, or replacement covering the equipment, materials, and labor as a result of the defects above shall be billed at the rates specified in Exhibit F, on a time and materials basis

- (c) The Operator Warranty assumes that all Manufacturer Warranties have been assigned to the City under the FSA. Operator's obligations under the Operator Warranty do not apply to defects in materials or equipment provided by Manufacturer Warranty. Operator makes no representation or warranty, and City shall seek no recourse from Operator, regarding the warranties of the manufacturers, including, without limitation, the power output of the PV modules.
- (d) To the extent that Equipment Warranties cover replacement and/or repair of any System equipment during the Term, it shall be Operator's responsibility under this Agreement to use commercially reasonable efforts to submit, process and pursue, at Operator's sole cost and expense, warranty coverage; provided, however, that, because warranty claims may

need to be submitted in the name of City, City shall provide such full and complete cooperation as Operator may reasonably require in connection with such submission, processing and pursuit of warranty coverage.

- (e) Operator agrees to act as agent on behalf of City for purposes of Section 2.3(d). If, in the event the equipment manufacturer denies responsibility for warranty service and Operator is instructed by City to pursue action against the equipment manufacturer, whether through litigation or otherwise, City shall reimburse Operator for any of the costs, expenses, or repairs incurred by Operator in this context, even if such attempt to recover from the equipment manufacturer fails, provided that such failure is not the result of errors or omissions by Operator. Such costs shall be reimbursed by City to Operator within thirty (30) days of receipt of invoice.
- (f) This Warranty shall expire ten (10) years (one hundred twenty (120) months) after Final Completion Date for each System.
- (g) Except as expressly provided herein or in the Agreement, Operator expressly disclaims any and all warranties of any kind, express, implied or statutory, including without limitation any implied warranties of merchantability and/or fitness for a particular purpose.

2.4. Insurance

Without limiting any of the obligations or liabilities of either of the Parties, each of the Parties shall at all times throughout the Term of this Agreement and any renewal thereof, carry and maintain, or cause to be carried and maintained, at its own expense, such insurances coverage in Exhibit C.

2.5. General Obligations of City

City shall ensure that Operator and its authorized agents, employees or Subcontractors shall have reasonable access to the Site in order to provide scheduled or unscheduled maintenance activities, maintenance of the grounds, emergency services, or to conduct other System Services, in all cases, to the extent that such activities and/or services are within the scope of this Agreement and are provided in accordance with the terms of this Agreement. Except in the case of an emergency, Operator shall give 48 hours prior written notice to the appropriate client site administrator, whose name and contact information shall be provided to Operator, before any entry onto the Site by Operator's employees, agents or contractors.

2.6. Permits

- (a) Subject to Section 2.6(c), Operator shall be responsible, at its sole cost and expense, for procuring, obtaining, maintaining and complying with all Operator Acquired Permits (Exhibit D) required to perform System Services under this Agreement;

- (b) Subject to Section 2.6(c), City shall be responsible for procuring, obtaining, maintaining and complying with all City Acquired Permits (Exhibit D) applicable as of the date hereof. If any new City Acquired Permits shall become required for the operation of the System due to a change in the Applicable Law after the date of this Agreement, City shall obtain such permits in a timely manner and at its sole cost and expense, except where such additional City Acquired Permits arise as a result of any omission, neglect or default of Operator, in which case Operator shall reimburse City for any costs or losses arising as a result of or in connection with procuring, obtaining, maintaining and complying with such City Acquired Permits.
- (c) To the extent that a Party is required to obtain any Applicable Permits, the other Party agrees to cooperate with and assist that Party in obtaining the same and the Party which is required to obtain such Applicable Permits shall reimburse the other Party for its reasonable costs in providing such assistance. Notwithstanding anything in this Agreement to the contrary, Operator shall be required to comply with Applicable Law as in effect on the date of this Agreement at no additional charge to City. Following the date of this Agreement, any costs incurred by Operator in performing its obligations hereunder resulting from changes in Applicable Permit conditions or requirements, or changes in Applicable Law, shall be borne by City except to the extent it does not involve an increase in the scope of System Services.

2.7. Telephone & Data Communication

City shall directly pay any utility or other third party service provider invoices as become due as may be required for Operator's remote access to telephone and/or data communications service available at the Site to the extent necessary for the performance by Operator of System Services under this Agreement. City will be responsible for all monthly service charges related to telephone and data communications services.

2.8. Storage

To the extent Operator has established space on the Site and to the extent that any such use is permitted under Applicable Law, Operator may use such space for storing parts and supplies necessary for the performance of System Services. At Operator's option and upon the written approval of City, additional storage sheds may be installed at the Site at Operator's expense. Operator must seek and obtain building permits and other local permits and approvals required in connection therewith (which shall be designated as Operator Acquired Permits) and City shall reasonably cooperate in obtaining such permits and approvals. Operator shall maintain any space utilized in accordance with this Agreement as if it were part of System Services and shall be required (at its own cost), if requested by City, to remove any storage sheds installed at the Site at the end of the Term.

2.9. Duty to Cooperate

City shall cooperate with Operator in taking all actions reasonably requested by Operator (i) to ensure that parties with whom City has agreements or relationships that are essential to System Services are available and able to perform as contemplated in this Agreement. City shall be directly responsible for all utility costs (water, communication, electricity) of the System except to the extent that such costs arise as a result of the omission, neglect or default of Operator.

3. TERM

3.1. Term

- (a) The term of this Agreement ("Term") includes the period during which System Services are to be provided for the Systems and shall commence when the first System has achieved Final Completion (as defined in the FSA); and expire (i) one hundred twenty (120) months after the last System has achieved Final Completion.
- (b) The Term shall be subject to the provisions of Section 3.2 (Termination).
- (c) Termination of this Agreement shall be without prejudice to Operator's right to receive a proportional amount of the Service Fees that have accrued up to the date of Termination.
- (d) No later than one hundred eighty (180) calendar days prior to the end of the Term, City may request that the Term of this Agreement be extended by an additional period specified in such request. Parties shall negotiate an extension in good faith and in a timely fashion prior to the expiration of the Term, though neither Party shall not be obligated to enter into an extension.

3.2. Termination

- (a) City may terminate this Agreement in the event of any of the following:
 - (i) Operator becomes Insolvent; or
 - (ii) Failure by Operator to perform any of its material obligations under this Agreement, which failure is not remedied within thirty (30) calendar days of written notice of such failure from City to Operator; provided that if such failure can be remedied, and (1) such failure cannot reasonably be remedied within such thirty (30) calendar day period, and (2) Operator commences cure of such failure within such thirty (30) calendar day period and thereafter diligently seeks to remedy such failure, then City shall not be entitled to terminate this Agreement until such time as Operator ceases all reasonable endeavors to cure such failure unless such failure continues for a period of a ninety (90) calendar days from the original written notice from City; or

- (iii) A Force Majeure Event occurs which prevents Operator from providing a material part of System Services for a continuous period of at least one hundred eighty (180) calendar days and City reasonably concludes such prevention is not reasonably likely to be remedied within a further period of one hundred eighty (180) calendar days. Subject to Section 6.5, City shall compensate Operator for all System Services completed prior to the termination date.
- (b) Operator may terminate this Agreement in the event of any of the following:
 - (i) City fails to pay to Operator any amounts due under this Agreement (other than any amounts which are the subject of a good faith dispute) within fifteen (15) calendar days of written notice of such failure from Operator to City, provided that failure to pay shall not be on account of the negligence or willful action or inaction of Operator; or
 - (ii) Material breach by City of any of its obligations under this Agreement, which materially impairs Operator's ability to perform its obligations under this Agreement, and which breach is not remedied within thirty (30) calendar days of written notice of such failure from Operator to City; provided that (1) if such failure can be remedied, and (A) such failure cannot reasonably be remedied within such thirty (30) calendar day period, and (B) City commences cure of such failure within such thirty (30) calendar day period, and thereafter diligently seeks to remedy such failure, then Operator shall not be entitled to terminate this Agreement until such time as City ceases reasonable efforts to cure such failure unless such failure continues for a period of ninety (90) calendar days from the original written notice from Operator; and (2) failure of City to perform its obligations is not on account of the negligence or willful action or inaction of City; or
 - (iii) City becomes Insolvent.
- (c) Parties may terminate this Agreement, either partially or in whole, by mutual written consent. Termination by mutual consent may be initiated by either Party at any time by written means. Upon such termination, City shall compensate Operator for all System Services completed prior to the termination date.
- (d) A notice of termination given pursuant to the foregoing provisions of this Section 3.2 ("Termination Notice") shall specify in reasonable detail the circumstances giving rise to the Termination Notice. Except to the extent

otherwise provided herein, this Agreement shall terminate on the date specified in the Termination Notice, which date shall not be earlier than the date upon which the applicable Party is entitled to effect such termination as provided above.

- (e) Termination of this Agreement shall not affect any rights or obligations as between the Parties which may have accrued prior to such termination or which expressly or by implication are intended to survive termination whether resulting from the event giving rise to termination or otherwise, including, without limitation, Sections 6.7 and 6.8.

4. SERVICE FEES

4.1. Compensation

As compensation for provision of System Services by Operator, City shall pay Operator an annual fee of **fifteen thousand, seven hundred dollars (\$15,700) inflating at 3.0% annually**, for each year during the Term ("Service Fees"). Service Fees are due within thirty (30) calendar days of Invoice Date. First annual invoice will be submitted to the City upon Final Completion of the Project as defined in the FSA. All subsequent invoices will be submitted annually.

4.2. Late Payments

Overdue payment obligations of City hereunder shall bear interest from the date due until the date paid at a rate per annum equal to the rate published by the Wall Street Journal as the "prime rate" on the date on which such interest begins to accrue plus two percent (2%).

4.3. Disputed Payments

In the event that City disputes any portion of an invoice submitted by Operator, City shall pay the undisputed portion thereof when due. All disputed payments shall be resolved in accordance Section 6.5.

5. OPERATOR'S GUARANTEE

- (a) Operator shall conduct and provide to City an evaluation each calendar year during the effective Term of the Agreement to determine the Cumulative Annual Energy Production from all the Systems combined.
- (b) The Cumulative Annual Energy Production shall be measured for each complete calendar year, January 1 to December 31 ("Annual Production Period"). No evaluation will be performed for the first partial period (Final Completion for all Systems to the first December 31 of the Term) and the final partial period evaluation will be prorated (Jan 1 of the Term to Term expiration).

- (c) The Cumulative Annual Energy Production shall be compared to the Expected Annual Energy Production calculated upon Final completion for all the Systems combined to evaluate the performance of the Systems.
- (d) Operator hereby guarantees to City an energy output of ninety percent (90%) of the Expected Annual Energy Production for the aggregate of the Systems for each Annual Production Period ("Energy Production Guarantee"), subject to the adjustments in Section 5(g), 5(h), 5(i), and 5(j).
- (e) The evaluation shall be conducted in accordance with the procedures provided in Exhibit E.
- (f) If the Systems fail to meet the Energy Production Guarantee, then within ninety (90) calendar days after the failure is identified, the Operator shall pay the City the difference between the Cumulative Annual Energy Production and the Energy Production Guarantee for such period multiplied by the Power Payment (\$0.17/kWh) ("True-Up Refund"). The True-Up Refund shall increase three percent (3%) Annually upon commencement of the Term.
- (g) If the Cumulative Annual Energy Production is more than one hundred five percent (105%) of the Expected Annual Energy Production, then the City shall give a kWh credit to the Operator for every kWh between the measured Cumulative Annual Energy Production and one hundred five percent (105%) of the Expected Annual Energy Production for such Annual Production Period. Operator shall be entitled to apply this credit to any future Annual Production Period at the Operator's sole discretion.
- (h) The Expected Annual Energy Production for the combined Systems shall be reduced accordingly for the period of time any System is not in operation in connection with (a) temporary removal of the System, a movement to an alternate location, or a temporary shutdown of the System or any portion thereof; (b) the occurrence of an event of Force Majeure has temporarily impaired or disabled the operation of any System or any portion thereof; (c) City interferes with the System; (d) vandalism or theft, (e) Utility caused outages, or (f) any manufacturer defects that cause outages. Operator shall provide and justify data verifying the loss of generation using the System Model defined in Exhibit E.
- (i) Operator's Expected Annual Energy Production shall proportionately terminate and be of no further force or effect if any System, or any portion thereof, is subject to a permanent shutdown or an event of Force Majeure occurs, the effect of which to permanently impair or interfere with the operation of the System, or any portion thereof.
- (j) The Parties agree that City shall avoid activities that result in overshadowing or shading of the Systems in a manner that would prevent

Operator from satisfying its Energy Production Guarantee. In the event the Systems, or any portion thereof, is overshadowed or shaded in a manner that prevents Operator from satisfying its Energy Production Guarantee for any reason beyond the control of Operator, City agrees that Operator's Expected Annual Energy Production shall be reduced accordingly. Operator shall provide and justify data verifying the loss of generation using the System Model of the System due to overshadowing or shading.

6. MISCELLANEOUS

6.1. No Partnership

This Agreement is not intended, and shall not be construed, to create any association, joint venture, agency relationship or partnership between or among the Parties or to impose any such obligation or liability upon any Party. No Party shall have any right, power or authority to enter into any contract or undertaking for, or act as or be an agent or representative of, or otherwise bind, the other Party or Parties.

6.2. Party Representatives

- (a) City Representative. City designates, and Operator agrees to accept, Rudy Hernandez, as "City Representative" for all matters relating to City's performance under this Agreement. The actions taken by City Representative regarding such performance shall be City the acts of City and shall be fully binding on City. City may, upon written notice to Operator, change the designated City Representative.
- (b) Operator Representative. Operator designates, and City agrees to accept, John Gajan, as "Operator Representative" for all matters relating to Operator's performance under this Agreement. The actions taken by Operator Representative shall be deemed the acts of Operator. Operator may, upon written notice to City, change the designated Operator Representative.

6.3. Notices and Demands.

Any notice, request, demand or other communication required or permitted under this Agreement, shall be deemed to be properly given by the sender and received by the addressee if made in writing and (a) if personally delivered; (b) three (3) days after deposit in the mail if mailed by certified or registered air mail, post prepaid, with a return receipt requested; or (c) if sent by facsimile with confirmation. Mailed notices and facsimile notices shall be addressed as follows to:

City:

Name: City of Orange Cove
Attention: Rudy Hernandez
Address:

Phone: (559) 626-4488
Facsimile:
Email: rudu@cityoforange Cove.com

With a copy to:

Name: Tuttle & McClosky
Attention: Daniel T. McCloskey
Address: 750 East Bullard, Suite 101 Fresno, CA. 93710

Operator:

SitelogIQ Inc.
Attention: John Gajan, Senior VP of Operations
1651 Response Road, Suite 300
Sacramento, CA 95815
Phone: (925) 307-4461
Email: john.gajan@sitelogiq.com

6.4. Fingerprinting.

Unless exempted, Operator and its Subcontractors shall comply with the applicable requirements of Education Code Sections 45125.1 and 45125.2 with respect to fingerprinting of Operator and Subcontractor's employees and representatives who perform Work at the Site.

6.5. Force Majeure Event

- (a) Neither Party shall be considered to be in default of its obligations under this Agreement when and to the extent that performance of such obligations is prevented by any Force Majeure Event which arises after the date of this Agreement.
- (b) If either Party shall rely on the occurrence of a Force Majeure Event as a basis for being excused from the performance of its obligations under this Agreement, then the Party relying on the event or condition shall (i) provide prompt notice to the other Party of the occurrence of the Force Majeure Event, giving an estimation of its expected duration and the probable impact on the performance of its obligations hereunder; (ii) exercise all commercially reasonable efforts to continue to perform its obligations hereunder; (iii) expeditiously take any action within its reasonable control to correct or cure the Force Majeure Event excusing performance; (iv) exercise all commercially reasonable efforts to mitigate or limit damages to the other Party to the extent such action will not adversely affect its own interests; and (v) provide periodic notices to the other Party with respect to its actions and plans for actions in accordance with (ii), (iii) and (iv) above and promptly notify to the other Party of the cessation of the event or condition giving rise to it being excused from performance.

- (c) In the event that Operator is prevented from providing all or part of System Services as a result of a Force Majeure Event for a period of thirty (30) consecutive days and it is reasonably expected that Operator will not be able to resume full performance of System Services within an additional thirty (30) days, City shall be entitled to require Operator to reduce the scope of System Services commencing as of the date of such notice by City until such time as Operator can demonstrate, to the reasonable satisfaction of City, that Operator is able to resume full performance of System Services. As from the date on which City reduces System Services until the date on which Operator resumes full performance of System Services, the obligation of City to pay the fee pursuant to Section 4 shall be reduced proportionately to take account of the level of System Services that Operator is actually performing.
- (d) Operator shall document any Force Majeure Event and its consequences so that costs which are directly attributable to such Force Majeure Event may be claimed by City from any insurance carried by City.

6.6. Dispute Resolution

- (a) Good faith negotiations. In the event that any question, dispute, difference or claim arises out of or in connection with this Agreement, including any question regarding its existence, validity, performance or termination (a "Dispute"), which either Party has notified to the other, senior management personnel from both Operator and City shall meet and diligently attempt in good faith to resolve the Dispute for a period of thirty (30) days following one Party's written request to the other Party for such a meeting. If, however, either Party refuses or fails to so meet, or the Dispute is not resolved by negotiation, the provisions of Subsections (b), (c) and (d) of this Section shall apply to the extent applicable to the Dispute.
- (b) Technical Dispute. Technical Disputes shall be resolved by an independent expert. For the purposes of this Agreement, a "Technical Dispute" shall mean a Dispute regarding whether the System conforms to the Industry Standards related to operation and maintenance. All Technical Disputes shall be resolved on an accelerated basis by a nationally recognized professional expert mutually agreed in writing by Operator and City. Parties will share equally in the cost of the independent expert engaged to resolve Technical Disputes.
- (c) Non-Binding Mediation. If the Dispute remains unresolved, a Party may require that a non-binding mediation take place with a mediator mutually chosen by City and Operator. If City and Operator are unable to agree on a mediator, then either may request that the American Arbitration Association (the "AAA") to appoint a mediator. The mediator's fee and expenses shall be paid one-half by City, and one-half by Operator. In any

such mediation, representatives of the Parties with authority to resolve the dispute shall meet for at least three hours with mediator. The obligation to mediate shall not be binding upon any Party with respect to (i) requests for preliminary injunctions, temporary restraining orders, specific performance, or other procedures in a court of competent jurisdiction to obtain interim relief deemed necessary by such court to preserve the status quo or prevent irreparable injury pending resolution by arbitration of the actual Dispute; (ii) actions to collect payments not subject to bona fide Dispute; or (iii) claims involving third parties who have not agreed to participate in the mediation of the Dispute. The provisions of this Section 6.5 shall survive any termination of this Agreement.

- (d) Attorneys' Fees. The prevailing Party in any action brought to enforce the terms of this Agreement or arising out of this Agreement may recover its reasonable costs and attorneys' fees expended in connection with such an action from the other Party.

6.7. Indemnification.

The Parties hereto agree to defend, indemnify and hold one another harmless from and against any and all liability, loss, expense, attorneys' fees, or claims for injury and/or damages arising from or in any way connected to the performance of this Agreement, but only in proportion to and to the extent such liability, loss, expense, attorneys' fees, or claims for injury or damages are caused by or result from the negligent or intentional acts or omissions of the indemnifying party, its officers, agents or employees.

6.8. Consequential Damages.

Notwithstanding any other provision of this Agreement, and to the fullest extent permitted by law, neither the City nor Operator, their respective officers, directors, partners, employees, contractors or subconsultants shall be liable to the other or shall make any claim for any incidental, indirect or consequential damages arising out of or connected in any way to the project or to this Agreement. This mutual waiver of consequential damages shall include, but is not limited to, loss of use, loss of profit, loss of business, loss of income, loss of reputation or any other consequential damages that either party may have incurred from any cause of action including negligence, strict liability, breach of contract and breach of strict or implied Warranty.

6.9. Limit of Liability.

To the maximum extent permitted by law, City agrees to limit Operator's liability for any and all claims, losses, costs, damages of any nature whatsoever or claims expenses from any cause or causes, including attorneys' fees and costs and expert-witness fees and costs, so that the total aggregate liability of Operator to the City shall not exceed the equivalent to one (1) year Service Fee as calculated for the first twelve (12) months of the Agreement. It is intended that this limitation apply to any and all liability or cause of action however alleged or arising, unless otherwise prohibited by law.

6.10. Governing Law.

The formation, interpretation and performance of this Agreement shall be governed by and construed in accordance with the laws of the State of California. In the event of any Dispute that is not resolved pursuant to Section 6.5, the Parties hereto agree to submit to the jurisdiction of any court of competent jurisdiction within Stanislaus County, California and shall comply with all requirements necessary to give such court jurisdiction.

6.11. Tax Matters

Notwithstanding anything to the contrary set forth herein or in any other agreement to which the parties hereto are parties or by which they are bound, the obligations of confidentiality contained herein and therein, as they relate to the transactions described in and contemplated by such agreements, shall not apply to the U.S. Federal tax structure or U.S. Federal tax treatment of the System, and each of the parties hereto (and any employee, representative or agent of any party hereto) may disclose to any and all persons without limitation of any kind, the U.S. Federal tax structure and U.S. Federal tax treatment of such transactions. The preceding sentence is intended to cause the System or the interests in them pursuant to the agreements between the Parties not to be treated as having been offered under conditions of confidentiality for purposes of section 1.6011-4(b)(3) (or any successor provision) of the Treasury Regulations promulgated under Section 6011 of the Internal Revenue Code of 1986, as amended, and shall be construed in a manner consistent with such purpose. In addition, each of the Parties acknowledges that it has no proprietary or exclusive rights to the tax structure of the transactions described in and contemplated by the agreements between the Parties or any tax matter or tax idea related to such transactions.

6.12. Successors and Assigns

- (a) Except as set forth in this Agreement, no Party shall be entitled to assign this Agreement or any of its rights or obligations under this Agreement, nor shall it enter into any transaction as a result of which it may transfer, assign, charge or dispose by any title of any of those rights and obligations, without the prior written consent of the other Party, which may be withheld in its sole and absolute discretion; provided that nothing herein shall prohibit City's Membership Interests from being sold to an Affiliate of City, or an entity which has, in whole or in part, common Ownership, directly or indirectly, with the Ownership of City.
- (b) Notwithstanding the foregoing, (i) City shall be entitled to assign its right, title and interest in and to this Agreement (and, in particular, any rights arising in relation to any insurance policy and any other right to collect any amount from Operator) to any lenders by way of security for the performance of obligations to such lenders without the consent of Operator; and (ii) Operator shall be entitled to assign its right, obligation, title and interest in and to this Agreement to any of its Affiliates or in connection with a merger or acquisition of Operator. Parties shall provide a written notice at least 30 days prior to assigning the rights, title, and interest in and to this Agreement.

6.13. Announcements and Publications.

Operator shall coordinate with City with respect to, and provide advance copies to City for review of, the text of any proposed announcements or publications that include any non-public information concerning the Work prior to the dissemination thereof to the public or to any Person other than Subcontractors or advisors of Operator, in each case, who agree to keep such information confidential. If City delivers written notice to Operator rejecting any such proposed announcement or publication within two (2) Business Days after receiving such advance copies, the Operator shall not make such public announcement or publication; provided, however, that Operator may disseminate or release such information in response to requirements of Governmental Authority.

6.14. No Waiver

No provision of this Agreement shall be considered waived by either Party except when such waiver is made in writing. The failure of either Party to insist, on one or more occasions, upon strict performance of any of the provisions of this Agreement or to take advantage of its rights hereunder or the delay or failure in exercising totally or partially any right or remedy under this Agreement, shall not be construed as a waiver of any such provisions or the relinquishment of any such rights or any other rights for the future, but the same shall continue and remain in full force and effect.

6.15. Validity.

The provisions contained in each section, subsection and clause of this Agreement shall be enforceable independently of each of the others and their validity shall not be affected if any of the others are invalid. If any of those provisions is void but would be valid if some part of the provision were deleted, the provision in question shall apply with such modification as may be necessary to make it valid. The Parties shall, if necessary, negotiate in good faith and make any necessary amendments to ensure the enforceable terms of this Agreement reflect the true intent of the Parties as of the date of execution of this Agreement.

6.16. Priority of Documents.

In the event of conflicting provisions in the Agreement, the provisions shall govern in the following priority: first, duly executed amendments to this Agreement (to the extent not superseded by a subsequent amendment), second, this Agreement, and third, Exhibits.

6.17. Time of Essence.

Time is expressly agreed to be of the essence of this Agreement and each, every and all of the terms, conditions and provisions herein.

6.18. Headings.

The headings in this Agreement are for convenience of reference only and the words contained therein shall in no way be held to explain, modify, amplify or aid in the interpretation, construction or meaning of the provisions of this Agreement.

6.19. Binding Effect.

This Agreement shall be binding on the Parties hereto and on their respective permitted successors, heirs and assigns.

6.20. Counterparts; Signature Pages.

This Agreement may be executed in counterparts which, taken together, shall constitute a single instrument. Facsimile and other electronically transmitted signature pages shall be effective to bind a Party to this Agreement.

6.21. Complete Agreement.

- (a) This Agreement together with the Exhibits hereto completely and exclusively states the agreement of the Parties regarding its subject matter and its terms govern, all prior proposals, agreements, or other communications between the Parties, oral or written, regarding such subject matter. No verbal, or written agreement nor conversation with any officer or employee of either Party nor any or all prior proposals shall affect or modify any of the terms and conditions of this Agreement. This Agreement shall not be modified except by written amendment signed on behalf of the City and Operator by their duly authorized representatives. Any purported oral amendment to the Agreement shall have no effect.
- (b) Each Party acknowledges that it has not relied on any representation, warranty, collateral contract or other assurance made by or on behalf of any other party at any time before the signature of this Agreement. Each Party waives all rights and remedies which, but for this clause (ii), might otherwise be available to it in respect of any such representation, warranty, collateral contract or other assurance.

[Signature page follows]

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

City:

Operator:

City of Orange Cove
Name: Rudy Hernandez
Title: Interim City Manager

SitelogIQ, Inc
Name: John Gajan
Title: Senior VP of Operations

**EXHIBIT A
TO
OPERATION AND MAINTENANCE AGREEMENT**

DEFINED TERMS

As used in the attached Agreement, the following terms shall have the meanings set forth below:

Additional Services means any other services not defined in this Agreement which shall be billed at the rates specified in Exhibit F on a time and materials basis.

Affiliate of a specified Person means any Person that directly or indirectly through one or more intermediaries controls, is controlled by, or is under common control with, such specified Person. As used in this definition of Affiliate, the term "control" of a specified Person including, with correlative meanings, the terms, "controlled by" and "under common control with," means (a) the Ownership, directly or indirectly, of 50% or more of the equity interest in a Person or (b) the power to direct or cause the direction of the management and policies of a Person, whether through Ownership of voting securities, by contract or otherwise.

Agreement means this Operation and Maintenance Agreement as it may be amended and/or restated from time to time.

Annual Energy Production Evaluation is an analysis which measures and compares the Cumulative Annual Energy Production with the Energy Production Guarantee based on Exhibit E.

Annual Production Period is the period between January 1 and December 31.

Annual Reports has the meaning given in Section 2.2.

Applicable Law shall mean, with respect to any Governmental Authority, any constitutional provision, law, statute, rule, regulation, ordinance, treaty, order, decree, judgment, decision, certificate, injunction, registration, license, permit, authorization, guideline, governmental approval, consent or requirement of such Governmental Authority, as construed from time to time by any Governmental Authority.

Applicable Permits shall mean, collectively, Operator Acquired Permits and the City Acquired Permits.

Business Day means a day (other than a Saturday or Sunday) on which banks are generally open in California for normal business.

Cumulative Annual Energy Production means the actual AC electrical output in kilowatt-hours (kWh) for the Annual Production Period as measured and recorded by all the Systems revenue meters and adjusted for meter calibration error, if required.

Energy Production Guarantee is the guaranteed energy production output as defined in Section 5(d).

Expected Annual Energy Production means the expected AC electrical output in kilowatt-hours (kWh) for the Annual Production Period as calculated by the System Model that represents the final design of the Systems and adjusted for Annual weather data and degradation.

Force Majeure Event shall mean, when used in connection with the performance of a Party's obligations under this Agreement, any act or event (to the extent not caused by such Party or its agents or employees) which is unforeseeable, or being foreseeable, unavoidable and outside the control of the Party which invokes it, and which renders said Party unable to comply totally or partially with its obligations under this Agreement. In particular, any of the following shall be considered a Force Majeure Event:

(a) war (whether or not war is declared), hostilities, revolution, rebellion, insurrection against any Governmental Authority, riot, terrorism, acts of a public enemy or other civil disturbance;

(b) acts of God, including but not limited to, storms, floods, lightning, earthquakes, hailstorms, ice storms, tornados, typhoons, hurricanes, landslides, volcanic eruptions, fires, winds in excess of ninety (90) miles per hour, and objects striking the earth from space (such as meteorites);

(c) acts of sabotage or destruction by a third party (other than any Operator retained by or on behalf of the Party) of facilities and equipment relating to the performance by the affected Party of its obligations under this Agreement;

(d) regional or national strikes, walkouts, lockouts or similar industrial or labor actions or disputes; and

(e) acts of any Governmental Authority that materially restrict or limit a Party's performance under this Agreement, including Operator's access to the Site or its activities at the Site.

Governmental Authority shall mean any national, autonomic, state, regional, province, town, city, or municipal government, whether domestic or foreign, or other administrative, regulatory or judicial body of any of the foregoing.

Industry Standards shall mean those standards of care and diligence normally practiced by small-scale solar engineering, construction and installation firms in performing services of a similar nature in jurisdictions in which System Services will be performed and in accordance with good engineering design practices, Applicable Laws, Applicable Permits, and other standards established for such Work. Industry Standards are not intended to be limited to optimum practice or methods to the exclusion of all others, but rather to be a spectrum of reasonable and prudent practices and methods that must take the conditions specific to any given facility into consideration.

Insolvent means (a) a Party shall file a voluntary petition in bankruptcy or shall be adjudicated as bankrupt or insolvent, or shall file any petition or answer or consent seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief for itself under the present or future applicable federal, state or other statute or law relative to bankruptcy, insolvency or other relief for debtors, or shall seek or consent to or acquiesce in the appointment

of any trustee, receiver, conservator or liquidator of such party or of all or any Final part of its properties (the term "acquiesce", as used in this definition, includes the failure to file a petition or motion to vacate or discharge any order, judgment or decree within fifteen (15) days after entry of such order, judgment or decree); (b) a court of competent jurisdiction shall enter an order, judgment or decree approving a petition filed against a Party seeking a reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under the present or any future Federal bankruptcy act, or any other present or future applicable Federal, state or other statute or law relating to bankruptcy, insolvency or other relief for debtors, and such party shall acquiesce and such decree shall remain unvacated and unstayed for an aggregate of sixty (60) days (whether or not consecutive) from the date of entry thereof, or a trustee, receiver, conservator or liquidator of such party shall be appointed with the consent or acquiescence of such party and such appointment shall remain unvacated and unstayed for an aggregate of sixty (60) days, whether or not consecutive; (c) a Party shall admit in writing its inability to pay its debts as they mature; (d) a Party shall give notice to any Governmental Authority of insolvency or pending insolvency, or suspension or pending suspension of operations; or (e) a Party shall make an assignment for the benefit of creditors or take any other similar action for the protection or benefit of creditors.

Installer shall mean the contractor responsible for the procurement, installation, startup, and testing of the System under separate contract with the City.

Manufacturer Warranty shall mean all warranties provided by the equipment manufacturers and assigned to City under the FSA..

O&M Manual shall mean the set of System operational and maintenance documents provided by the Installer to the City and by the City to the Operator for the purpose of instruction in the operation and maintenance needs of the System and its components.

Operator has the meaning given in the preamble to this Agreement.

Operator Acquired Permits shall mean those permits set forth in Exhibit D hereto.

Operator Representative shall mean the representative of Operator appointed pursuant to Section 6.2(b).

City has the meaning given in the preamble of this Agreement.

City Acquired Permits shall mean those permits set forth in Exhibit D hereto.

City Representative shall mean the representative of Operator appointed pursuant to Section 6.2(a).

Parties means each of Operator and City.

Party means either Operator or City.

Permits shall mean, collectively, Operator Acquired Permits and the City Acquired Permits.

Person means any natural person, corporation, general partnership, limited partnership, limited liability company, proprietorship, other business organization, trust, union, association, or Governmental Authority.

Power Payment shall have the meaning set forth in Section 5.

Site has the meaning given in the Recitals of this Agreement.

Subcontractor means any person to whom Operator subcontracts any of its obligations under this Agreement pursuant to a Subcontract, including the Suppliers and any person to whom such obligations are further subcontracted of any tier.

Final Completion shall have the meaning defined in the Facility Solutions Agreement between Operator and City.

System has the meaning set forth in the Recitals.

System Services means, collectively, the services set forth in Exhibit B.

Technical Dispute has the meaning given in Section 6.6(b).

Term has the meaning given in Section 3.1(a).

Termination Notice has the meaning given in Section 3.2(c).

True-Up Refund has the meaning given in Section 5(f).

True-Up Fee has the meaning given in Section 5(g).

Warranty means the Warranty Requirements set forth in the California Public Utilities Commission California Solar Initiative Program Handbook dated December 2011 (Section 2.4 – Warranty Requirements).

EXHIBIT B
TO
OPERATION AND MAINTENANCE AGREEMENT
SYSTEM SERVICES

Annual Inspection Services

Complete inspection, system maintenance, and recommissioning services in each year of this agreement term as detailed below. Report inspection finding, required repairs, and repair recommendations, including estimated costs for each maintenance visit. As part of our system maintenance, the following services will be completed and reported to the City during the Annual report period.

a) Visual Inspection

- a. Visually inspect structures, arrays, and enclosures for excessive wear, damage, defects, rust/corrosion, etc.
- b. Verify new and/or existing shade concerns for the photovoltaic array.
- c. Verify module cleanliness and/or soiling issues; perform washing if requested by the City
- d. Verify that all signage and placards are firmly attached and legible.
- e. Verify condition of all wall & pad mounted switchgear, meters and inverters for corrosion and security of attachment to wall/structure/pad, etc. Note any new access issues.
- f. Verify condition of ac and dc disconnect(s).
- g. Confirm that the System is online and that the output is at the expected level.
- h. Confirm that the monitoring system is in service and functioning properly.

b) Photo Documentation

- a. Take digital photos of all major system components
- b. Submit digital images along with checklist and other documentation following visit.

c) Array – Structure & Modules

- a. Complete inspection of array.
- b. Inspect and tighten structure ground bonding straps/fasteners.
- c. Verify secure module attachment by random torque testing or visual test.
- d. Verify condition of racking hardware connections, splices, etc.
- e. Verify condition of inter-module array wiring for aging and corrosion.
- f. Inspect visible random sampling of wiring connections.
- g. Inspect visible conduit system.

d) Electrical Connection – Inverters & Combiner Box

- a. Verify condition of inverters.
- b. Note condition of all circuit boards and electrical components.
- c. Check Voc & Isc of all strings (if required).
- d. Verify that all manufacturer updates and service bulletins have been performed.
- e. Coordinate inverter manufacturer service, if necessary.

- f. Perform all electrical connection torque tests.
- g. Inspect and clean heatsink, if applicable.
- h. Inspect and clean inverter exhaust fan and vents.
- i. Inspect and tighten connectors and lugs (inverter, transformer, disconnects).
- j. Oil and lubricate disconnects.
- k. Check all fuses for cleared fuse and replace any cleared fuses.
- l. Verify condition of wire transition junction boxes for weatherproofing, corrosion, and security of internal wiring connections.
- m. Verify condition of all DC and AC conduits and connections.
- n. Verify interior and exterior condition of DC combiner box(es).

e) Data Acquisition System (DAS)

- a. Clean all instrumentation and sensors and lubricate moving parts.
- b. Inspect and tighten connections.
- c. Check input signals.
- d. Confirm that pyranometer/sensor is aligned with the plane of the PV array.
- e. Log kWh readings from Inverters to meters, and compare data in a 24-hour increment to monitoring system to verify proper calibration of meters and monitoring system.
- f. Check calibration of the weather station instruments, as necessary.

System Services Not Included

- a. Weed abatement around array and immediate vicinity.
- b. Repair of fencing.
- c. Repair, replacement, or cleaning due to vandalism, theft, or accidental damage.
- d. Repair or replacement of light bulbs or lighting fixtures.
- e. Repairs not explicitly defined in this Exhibit B.
- f. Any services not included in this Agreement.
- g. Repairs not stated in the Agreement or in the FSA (Contractor Warranty) are considered Additional Services and shall be billed on a time and materials basis per the rates in Exhibit F.
- h. Panel washing (Operator will advise City on panel washing frequency as needed maintain performance – Panel washing costs provided in Exhibit F)

EXHIBIT C
TO
OPERATION AND MAINTENANCE AGREEMENT
INSURANCE

Operator Insurance Requirements

1. Required Coverages. Operator shall carry and maintain with carriers or self-insurance, as a minimum, the following insurance coverages:
 - i. Workers Compensation Insurance and Employers Liability. In accordance with the laws of the state of where work may be done with limits for employers liability in the minimum amount of one million dollars (\$1,000,000) for each occurrence and one million dollars (\$1,000,000) for each occurrence of disease on a per employee basis;
 - ii. Commercial General Liability. One million dollars (\$1,000,000) per occurrence/two million dollars (\$2,000,000) in the aggregate for bodily injury, personal injury and property damage, products and completed operations;
 - iii. Commercial Automobile Liability, Any Auto. One million dollars (\$1,000,000) per accident including owned, non-owned, and hired automobiles.
 - iv. Excess coverage of four million dollars (\$4,000,000) per occurrence and aggregate, or any other equivalent, available insurance coverage of the Operator.
2. Policy Endorsements. Insurance coverages required to be maintained by Operator under this Agreement shall:
 - i. provide a severability of interests or cross liability clause for Commercial General Liability Insurance;
 - ii. except in the case of worker's compensation insurance and other statutory insurances where it would be inappropriate, name City and others as may be reasonably required by City, as additional insured's; and to the extent permissible in accordance with the policy, include a waiver of subrogation by the insurers in favor of City and each of its respective assignees, Affiliates, agents, officers, directors, employees, insurers or policy issuers and a waiver of any right of the insurers to any set-off or counterclaim, whether by endorsement or otherwise, in respect of any type of liability of any of the Persons insured under any such policies.
3. Certificates. Operator shall throughout the Agreement Term provide certificate(s) and/or memoranda of insurance evidencing the coverage's specified in this Attachment C to City upon City's reasonable request.

City Insurance Requirements

1. Required Coverages. City shall carry and maintain with carriers or self insurance, as a minimum, the following insurance coverages:
 - i. Workers Compensation Insurance and Employers Liability. In accordance with the laws of the state of where work may be done with limits for employers liability in the minimum amount of one million dollars (\$1,000,000) for each occurrence and one million dollars (\$1,000,000) for each occurrence of disease on a per employee basis;
 - ii. Commercial General Liability. One million dollars (\$1,000,000) per occurrence/two million dollars (\$2,000,000) in the aggregate for bodily injury, personal injury and property damage, products and completed operations;
 - iii. Commercial Automobile Liability, Any Auto. One million dollars (\$1,000,000) per accident including owned, non-owned, and hired automobiles.
 - iv. Property Risk Insurance. Amount equal to the replacement value of the Systems for loss or damage to the System by fire and lightning, vandalism, theft, malicious mischief, and extended coverage endorsement for all risks of physical loss.
 - v. Excess coverage of four million (\$4,000,000) per occurrence and aggregate, or any other equivalent, available insurance coverage of the Operator.
2. Policy Endorsements. Insurance coverages required to be maintained by City under this Agreement shall provide a severability of interests or cross liability clause for Commercial General Liability Insurance;
3. Certificates. City shall throughout the Agreement Term provide certificate(s) and/or memoranda of insurance evidencing the coverage's specified in this Attachment C to Operator upon Operator's reasonable request.

**EXHIBIT D
TO
OPERATION AND MAINTENANCE AGREEMENT**

PERMITS

Operator Required Permits

No Operating Permits Required

City Required Permits

No Operating Permits Required

**EXHIBIT E
TO
OPERATION AND MAINTENANCE AGREEMENT**

Annual Energy Production Evaluation

Cumulative Annual Energy Production Measurement

The Cumulative Annual Energy Production is the actual AC electrical output in kilowatt-hours (kWh) for the Annual Production Period as measured and recorded by all of the Systems revenue meter(s) and adjusted for meter calibration error, if required.

Expected Annual Energy Production Calculation

At the completion of each Annual Production Period, the Operator shall update the software model of the Systems to calculate the Expected Annual Energy Production of the Systems for that period for comparison with the Cumulative Annual Energy Production of the same period. Operator shall use the final software model developed by the Installer as part of the FSA ("System Model").

The model shall use the actual meteorological data from the System weather station at the Site. The calibration of the weather station instruments shall be checked as recommended by the manufacturer by a qualified testing agency using test instruments traceable to recognized national calibration standards. A report of the instrument calibration status shall be prepared by the testing agency detailing any deviation in meter values from the standard outside of the meter manufacturer's acceptable range. Data affected by instruments found out of calibration may be reviewed and adjusted by mutual agreement between the City and Operator.

The input values used in the System Model shall include the following parameters based on the final installed System:

- Albedo
- Module orientation
- Shading
- Equipment models and configuration
- Module thermal parameters
- Ohmic losses
- Module quality and mismatch losses
- Soiling losses, adjusted for calendar month and washing frequency
- IAM losses

Hidden parameters and preferences within the model shall remain at default values unless noted and justified. All input parameter values and assumptions shall be provided with the model for review, and shall remain consistent from year to year.

The following factors shall be adjusted in the System Model each year of operation:

- Actual weather data for the Annual Production Period

- Manufacturer Module degradation factors (Manufacturer Module Power Output Warranty)
- Adjustments per Section 5(g), 5(h), 5(i), and 5(j)

The final model calculation shall detail the Expected Annual Energy Production on an hourly basis (8760 hours per year) in addition to a total output value in kilowatt-hours (kWh).

Annual Energy Production Evaluation

The measured Cumulative Annual Energy Production value for the System shall be compared with the calculated Expected Annual Energy Production value and evaluated as described in Section 5, Operator's Guarantee, of this Agreement.

A. Modeled Annual Energy Production Calculation

The temperature-derate model used by Operator to determine the modeled level of production a system. The system losses, DC system size, CEC inverter efficiency, and the panel temperature coefficient is the accumulation of losses, degradation rates, and efficiencies which are evaluated on an annual basis. These losses are initially calculated upon project commissioning and will only be re-calculated if components fail, degrade, or are changed. Cell temperature and POA irradiance are real-time calculations based on measurements from a reference cell.

Our system model is a combination of system specifications, estimated soiling, shade expectations, degradation expectations. This model is calculated by using the single line as-built plans and a production summary report from HelioScope and are re-evaluated for accuracy on an Annual basis. The Modeled Energy equation is:

$$\text{Modeled Energy}(kW AC) = \sigma \times (1 - S) \times \frac{I}{1000} \times P \times (1 + \gamma \times (T - 25))$$

Where:

T = Cell Temperature

S = System Model Loss

I = POA Irradiance

P = DC System Size

σ = CEC Inverter Efficiency

γ = Temperature Coefficient of the Panel

This modeled production will be compared to actual measured production to calculate operational performance of the system. Unplanned system outages and soiling above expectations will be evaluated and included in system losses.

**EXHIBIT F
TO
OPERATION AND MAINTENANCE AGREEMENT**

RATES FOR ADDITIONAL SERVICES

2022 RATE SCHEDULE

<u>Maintenance Services</u>	
<i>Lead Technician</i>	<i>\$150</i>
<i>Electrician</i>	<i>\$150</i>
<i>Laborer</i>	<i>\$85</i>
<u>Professional and Technical Services</u>	
<i>Project Manager/Engineer</i>	<i>\$180</i>
<i>Project Assistant</i>	<i>\$85</i>
<u>Supplemental Services</u>	
<i>Module Cleaning</i>	<i>\$5/kW-dc</i>

Other Costs

1. *Cost per truck roll for services above and beyond this agreement to be invoiced at time and materials (T&M) rate listed above and dispatched per City's request.*
2. *Daily/Saturday Overtime will be billed at 1.5 times the hourly rates. Sunday/Holiday Overtime will be billed at 2 times the rates.*
3. *Direct Expenses (non-equipment) will be billed at cost plus 10%.*
4. *Mileage will be billed at the published IRS mileage rates in effect.*
5. *Travel time to and from City sites will be billed at hourly rates shown above.*
6. *Federal published per diem rates (GSA) will apply if applicable.*
7. *Subcontractors will be billed at invoice price plus 15%.*
8. *Rates will escalate at 3% per calendar year.*

**EXHIBIT G
TO
OPERATION AND MAINTENANCE AGREEMENT**

ENERGY REPORTING AND MANAGEMENT SERVICES

An energy specialist will provide the following services:

ENERGY MANAGEMENT

Responsibility is to improve energy efficiency by evaluating our client's energy use and help craft energy policies, strategies, programs, and support energy measures.

- Evaluate the Client's energy use and offer assistance for energy saving policies, strategies, and programs.
- Quarterly utility bill analysis and energy monitoring report.
- Annual utility rate analysis for all electric service accounts to ensure and optimize utility cost.

QUARTERLY REPORT CREATION AND UPDATE

- Develop quarterly utility summary report in coordination with client's needs
- Update and deliver quarterly report to client with Energy Engineer review of trends, interval data usage, and anomalies.
- Develop and create an external accessible dashboard for communication with key stakeholders, staff, or customers about projects and performance.

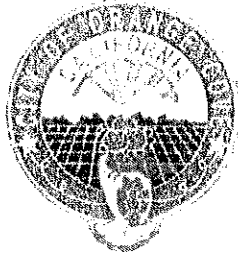
ECAA ENERGY REPORTING SERVICES

- Complete documentation and reporting to the California Energy Commission (CEC) to meet California Energy Conservation Assistance Act (ECAA) project annual progress and final reporting requirements.
- SitelogIQ will use available methods developed by the CEC including program calculators and reporting forms for project energy savings to meet program requirements.

Mayor:
Victor P. Lopez

Mayor Pro Team:
Diana Guerra Silva

City Council Members:
Roy Rodriguez
Josie Cervantes
Esperanza Rodriguez



Incorporated January 20, 1948

Rudy Hernandez
Interim City Manager
(559) 626-4488 ext. 216

Rudy Hernandez
Financial Consultant
(559) 626-4488 ext. 216

City Clerk:
June V. Bracamontes
(559) 626-4488 ext. 214

633 Sixth Street, Orange Cove, CA 93646 | Phone: (559) 626-4488 | FAX: (559) 626-4653

Date: December 8, 2021
To: The Honorable Mayor and City Council
From: Rudy Hernandez, Interim City Manager
Subject: APPROVE THE AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING BETWEEN THE COUNTY OF FRESNO AND THE CITY OF ORANGE COVE, COMMONLY REFERRED TO AS THE "ANNEXATION AND TAX SHARING AGREEMENT".

Attachments: Amended and Restated Memorandum Understanding and Exhibits 1-5.

BACKGROUND:

The County of Fresno has comprehensive Agreements covering annexations, development, tax sharing, and other matters with all cities within its jurisdiction. These Agreements outline necessary provisions to comply with the Cortese-Knox Local Government Reorganization Act, State Revenue and Taxation Code, County General Plan, and other State and local laws and regulations. The City of Orange Cove last entered into a comprehensive MOU with Fresno County in 2006, with a subsequent one year extension approved in March 2021. The 2006 MOU is set to expire on March 21, 2022.

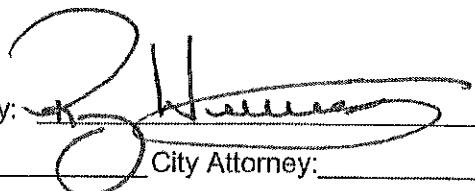
The Amended and Restated MOU removes all references to the Orange Cove Redevelopment Agency and provisions related to Redevelopment law. It maintains all pertinent provisions, including provisions that the County and City negotiated and approved in 2017, allowing for less onerous annexations which is of benefit to the City. All tax sharing formulas remain the same. The Amended and Restated MOU has a 15-year term, which will expire in 2036. Also included is the identification of "future growth areas," which are mutually agreed upon areas of potential Sphere of Influence (SOI) expansion and annexation anticipated over the MOU period, as required by LAFCO.

RECOMMENDATION:

For the City Council to approve the amended Memorandum of Understanding (MOU) regarding annexation and tax sharing with Fresno County.

FISCAL IMPACT:

The tax sharing percentages and allocations remain the same in this Agreement as the current Agreement. For property annexed from the County into the City, the County receives 100% of the base property tax revenue that it was receiving prior to the annexation of the property and receives 63% of any additional increment, or revenue increase, once development of the property takes place. The City receives 37% of any additional increment generated. For property that generates sales tax, there is a complex formula that provides for a sharing of the revenue between the County and City.

Prepared by: _____ Approved by:  _____
REVIEW: City Manager: ☒ _____ Finance: ☐ _____ City Attorney: ☐ _____

TYPE OF ITEM:	COUNCIL ACTION:	APPROVED	DENIED	NO ACTION
<input type="checkbox"/> Consent	<input type="checkbox"/> Public Hearing			
<input type="checkbox"/> Info Item	<input type="checkbox"/> Matter Initiated by Council Member			
<input checked="" type="checkbox"/> Action Item	<input type="checkbox"/> Other			
<input type="checkbox"/> Department Report	<input type="checkbox"/> Continued to: _____			
<input type="checkbox"/> Redevelopment Agency	_____			

1 **AMENDED AND RESTATED**
2 **MEMORANDUM OF UNDERSTANDING BETWEEN**
3 **THE COUNTY OF FRESNO, THE CITY OF ORANGE COVE,**
 AND THE ORANGE COVE REDEVELOPMENT AGENCY.

4 THIS AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING
5 (hereinafter "Restated MOU") is made and executed this 21st day of
6 March, 2006, by and between the COUNTY OF FRESNO, a political
7 subdivision of the State of California (hereinafter referred to as "CITY"), and the City of
8 ORANGE COVE, a municipal corporation of the State of California (hereinafter referred
9 to as "CITY"), and the ORANGE COVE REDEVELOPMENT AGENCY, a
10 redevelopment agency organized and existing under and by virtue of the laws of the
11 State of California (hereinafter referred to as "AGENCY").

12 WITNESSETH

13 WHEREAS, COUNTY, CITY and AGENCY wish to work together to develop a
14 fair and equitable approach to tax sharing and the encouragement of sound economic
15 growth; and

16 WHEREAS, in order to encourage economic development and environmentally
17 sound land use planning, it is important that any tax sharing among COUNTY, CITY and
18 AGENCY be determined in advance and that such arrangements not be fiscally
19 detrimental to either COUNTY, CITY, or AGENCY; and

20 WHEREAS, COUNTY, CITY and AGENCY recognize the importance of
21 COUNTY and CITY services and are prepared to cooperate in an effort to address
22 COUNTY's and CITY's fiscal problems; and

23 WHEREAS, through annexation and appropriate redevelopment, CITY and
24 AGENCY provide the opportunity for economic growth and development to support
25 public services for CITY and COUNTY; and

26 WHEREAS, close cooperation between COUNTY, CITY and AGENCY is
27 necessary to maintain the quality of life throughout Fresno County and deliver needed
28 services in the most cost-efficient manner to all CITY and COUNTY residents; and

1 WHEREAS, COUNTY recognizes the need for orderly growth within and
2 adjacent to CITY and for supporting appropriate annexations and promoting the
3 concentration of development within CITY; and

4 WHEREAS, CITY and AGENCY recognize that development within CITY limits
5 may also have the effect of concentrating revenue-generating activities within CITY
6 rather than in unincorporated areas and that, as a result of Proposition 13 and its
7 implementing legislation, annexation by CITY of unincorporated territory can result in a
8 loss of revenue sources for COUNTY unless there is significant new development
9 activity as a result of annexation; and

10 WHEREAS, annexation which results in the development of urban uses in
11 response to a clearly demonstrated community demand is appropriate; and well
12 planned and fiscally sound redevelopment can be a valuable tool in the physical and
13 economic development of CITY and COUNTY;

14 WHEREAS, the parties recognize that COUNTY General Plan Goal LU-G
15 provides that COUNTY will direct urban growth and development within the cities
16 spheres of influence to existing incorporated cities and will ensure that all development
17 in city fringe areas is well planned and adequately served by necessary public facilities
18 and infrastructure and furthers countywide economic development goals; and

19 WHEREAS, the parties recognize that when urban growth and development is
20 directed to cities there is a lost opportunity of development by COUNTY in the
21 unincorporated area and that sharing of local sales and use taxes generated by such
22 development would serve as a tool for the COUNTY to participate in receiving a share
23 of that new revenue; and

24 WHEREAS, it is the interest of the parties to require all new urban development
25 to pay a roughly proportionate share of the cost of urban services and infrastructure
26 created by the development, whether it occurs in the CITY or in the adjacent
27 unincorporated area of the CITY's sphere of influence.

28 WHEREAS, COUNTY, CITY AND AGENCY executed a Joint Powers Agreement

1 dated March 30, 1982 for the distribution of property tax increment revenue collected in
2 subproject areas located outside City limits.

3
4 NOW, THEREFORE, COUNTY, CITY and AGENCY hereby agree as follows:

5 ARTICLE I

6 DEFINITIONS

7 Unless the particular provision or context otherwise requires, the definitions
8 contained in this article and in the Revenue and Taxation Code shall govern the
9 construction, meaning, and application of words used in this RESTATED MOU.

10 1.1 "Base property tax revenues" means property tax revenues allocated by
11 tax rate equivalents to all taxing jurisdictions as to the geographic area comprising a
12 given tax rate area annexed in the fiscal year immediately preceding the tax year in
13 which property tax revenues are apportioned pursuant to this RESTATED MOU,
14 including the amount of State reimbursement of the homeowners' and business
15 inventory exemptions.

16 1.2 Except as provided in Section 6.1, "property tax increment" means
17 revenue from the annual tax increment, as "annual tax increment" is defined in Section
18 98 of the Revenue and Taxation Code, attributable to the tax rate area for the
19 respective tax year.

20 1.3 "Substantial development" or "substantially developed" means real
21 property which, prior to annexation, has an improvement value to land value ratio equal
22 to or greater than 1.25:1, as of the lien date in the fiscal year in which the annexation
23 becomes effective under the Cortese-Knox Local Government Reorganization Act, and
24 on and after January 1, 2000, the Cortese-Knox-Hertzberg Local Government
25 Reorganization Act of 2000.

26 1.4 "Property tax revenue" means base property tax revenue, plus the
27 property tax increment for a given tax rate area.

28

1.5 "Tax apportionment ratio" means the tax apportionment ratio of the parties for a given fiscal year and shall be ascertained by dividing the amount determined for each party pursuant to Revenue and Taxation Code Sections 96(a) or 97(a), whichever is applicable, by that party's gross assessed value, and by then dividing the sum of the resulting tax rate equivalents of both parties into each party's tax rate equivalent to produce the tax apportionment ratio.

1.6 "Tax rate equivalent" means the factor derived for an agency by dividing the property tax levy for the prior fiscal year computed pursuant to Section 97 of the Revenue and Taxation Code by the gross assessed value of the agency for the prior fiscal year.

1.7 "Redevelopment project" means any new redevelopment plan or project area and any amendment to an existing development plan or project area to which Health and Safety Code Section 33354.6, as amended by Chapter 147 of the 1984 Statutes, applies. For example, the addition of the power of eminent domain to an existing redevelopment plan is not a "redevelopment project" because it does not affect any of the criteria listed in Health and Safety Code Section 33354.6.

1.8 "Effective Date" shall mean the date that all the parties hereto shall execute this Amended and Restated Memorandum of Understanding between the County of Fresno and the City of Orange Cove and the City of Orange Cove Redevelopment Agency.

1.9 "Urban development" or "urban type development" shall mean development not allowed in areas designated Agriculture, Rural Residential or River Influence in COUNTY's General Plan or its applicable community plans as of the Effective Date of this RESTATED MOU.

ARTICLE II.

ANNEXATIONS BY CITY

2.1 Any annexations undertaken by CITY following the date of the execution of this RESTATED MOU shall be consistent with both the terms of this MOU and the

1 standards (hereinafter "The Standards" or "Standards") as set forth in Exhibit "1",
2 attached hereto and incorporated by reference herein as if set fourth fully at this point.
3 This RESTATED MOU shall not apply to annexations proposed by CITY which are not
4 in compliance with its terms or which fail to meet The Standards. If a proposed
5 annexation is not in compliance with the terms of this RESTATED MOU, including but
6 not limited to, The Standards, then no property tax exchange agreement, as required by
7 Revenue and Taxation Code Section 99, shall exist in regards to that proposed
8 annexation. Any such non-complying annexation shall be handled individually through
9 separate negotiations between CITY and COUNTY.

10 2.2 In order to encourage the orderly processing of proposed annexations,
11 CITY shall, at least thirty (30) days prior to filing any annexation proposal with the
12 Fresno County Local Agency Formation Commission (hereinafter "LAFCO"), notify
13 COUNTY of its intention to file such proposal and the date upon which CITY expects
14 such proposal to be filed. Upon COUNTY's request, CITY agrees to meet with
15 COUNTY to review whether its proposed annexation complies with The Standards.
16 Within fifteen (15) days after the date COUNTY receives notice by the CITY of its
17 annexation proposal, COUNTY shall notify CITY in writing if it has determined that the
18 proposed annexation is inconsistent with The Standards. Upon receipt of such
19 notification, CITY may either modify the proposal to COUNTY's specifications or adopt a
20 resolution finding that the proposed annexation is, in CITY's determination, consistent
21 with The Standards.

22 2.3 If CITY adopts a resolution making the findings described in Section 2.2,
23 then COUNTY may challenge such findings by appropriate court action filed within thirty
24 (30) days of receipt of written notice of the adoption of CITY's resolution. The court
25 shall independently review the evidence and determine whether the proposed
26 annexation is consistent with the Standards.

27 As an alternative to a judicial challenge by the COUNTY, the parties may within
28 the aforesaid thirty (30) day period mutually agree in writing to arbitrate their dispute

1 through proceedings conducted in accordance with the rules established by the
2 American Arbitration Association. The parties upon agreeing to arbitrate will proceed
3 with arbitration in a timely manner. The arbitrator hearing the matter shall
4 independently review the evidence and determine whether the proposed annexation is
5 consistent with The Standards.

6 Costs incurred by the prevailing party, either in county proceedings or the
7 arbitration proceedings, shall be paid by the non-prevailing party. The parties agree
8 that CITY shall not proceed to LAFCO with the proposed annexation until the dispute is
9 finally resolved either by court or arbitration proceedings. If CITY attempts to proceed
10 with such proposed annexation prior to the expiration of the period in which COUNTY
11 may file its court action or agree to arbitrate, or prior to the final conclusion of such court
12 or arbitration proceeding, then this RESTATED MOU shall immediately terminate as to
13 such annexation and, in particular, no property tax exchange agreement, as required by
14 Section 99 of the Revenue and Taxation Code, shall exist between CITY and COUNTY
15 as to that proposed annexation.

16 Notwithstanding the foregoing, the CITY may proceed to LAFCO under this
17 RESTATED MOU if court or arbitration proceedings are not completed within thirty (30)
18 days after the filing thereof provided, however, that LAFCO in its resolution of approval,
19 at the request of the CITY, conditions the completion of the annexation upon the
20 Executive Officer's prior receipt of a certified copy of the document evidencing the
21 finality of the aforesaid court or arbitration proceedings determining that the proposed
22 annexation is consistent with Exhibit "1" attached hereto, or alternatively, receipt of a
23 written stipulation of the CITY and COUNTY agreeing that a master property tax
24 agreement still exists permitting the completion of such proposed annexation. If LAFCO
25 declines to include the aforesaid condition, or CITY fails to timely request such
26 condition, no property tax exchange agreement as required by Section 99 of the
27 Revenue and Taxation Code shall exist between CITY and COUNTY as to that
28 proposed annexation. If CITY nevertheless attempts to proceed with the annexation,

1 such action on the part of the CITY shall also be deemed good cause for the COUNTY
2 at its option to terminate this MOU in its entirety.

3 2.4 For the purpose of promoting economic development and job creation, an
4 Alternate Standard for Annexation for industrial or regional commercial uses is hereby
5 created. In the place of the Standards for Annexation set forth in Exhibit 1, the Alternate
6 Standard for Annexation shall apply to and govern the review of annexation proposals
7 for industrial or regional commercial uses. Annexation proposals for industrial/regional
8 commercial uses shall include a conceptual development plan, as described herein.
9 The conceptual development plan shall consist of the economic objectives to be
10 achieved, the service and financing strategy and its schedule, and shall include a map
11 of the proposed rezoning. The conceptual development plan's schedule shall include
12 milestones for major project components, to measure the progress of the project. Due
13 to the complexity of such projects the development schedule for planning and
14 implementation may reasonably require a period of from five to ten years. The
15 annexation proposal shall be submitted to and reviewed by the COUNTY pursuant to
16 Section 2.2. Annexation proposals that comply with the criteria of this Section 2.4 shall
17 be deemed to comply with Section 2.1. The annexation application to be submitted to
18 LAFCO shall be considered complete upon adoption of the rezoning by the CITY.
19 COUNTY and CITY agree to meet annually to review the progress toward the
20 achievement of the economic development objectives and to identify ways to promote
21 mutual economic development objectives.

22 2.5 Section 2.4 shall be deemed suspended if CITY rezones an area that was
23 annexed using the Alternate Standard for Annexation to a zone other than
24 Industrial/Regional Commercial without COUNTY's consent.

25 ARTICLE III

26 EXCHANGE OF PROPERTY TAX REVENUES TO BE 27 MADE UNDER SECTION 99 OF THE REVENUE AND TAXATION CODE 28

1 3.1 The property tax revenues collected in relation to annexations covered by
2 the terms of this RESTATED MOU shall be apportioned between CITY and COUNTY
3 as set forth in Sections 3.2 and 3.3 below. The parties acknowledge that, pursuant to
4 Sections 54902, 54902.1 and 54903 of Government Code and Sections 97 and 99 of
5 the Revenue and Taxation Code, the distribution of such property tax revenues will not
6 be effective until the revenues are collected in the tax year following the calendar year
7 in which the statement of boundary changes and the map or plat is filed with the County
8 Assessor and the State Board of Equalization.

9 3.2 In regards to the annexation of real properties which are not considered
10 substantially developed at the time of annexation, COUNTY will retain all of its base
11 property tax revenue upon annexation. The amount of the property tax increment for
12 special districts whose services are assumed by CITY shall be combined with the
13 property tax increment of the COUNTY, the sum of which shall be allocated between
14 CITY and COUNTY pursuant to the following ratio:

15 COUNTY: 63%

16 CITY: 37%

17 Effective July 1, 2006 these property tax-sharing ratios shall be as shown in Exhibit "2".

18 3.3 In regards to the annexation of real properties which are considered
19 substantially developed at the time of annexation, property tax revenue (base plus
20 increment) will be reallocated as follows: a detaching or dissolving district's property tax
21 revenue (base plus increment) shall be combined with COUNTY's and the sum of which
22 shall be allocated between CITY and COUNTY pursuant to the ratio set forth in Section

23 3.2.

24 ARTICLE IV

25 DEVELOPMENT WITHIN AND ADJACENT

26 TO CITY'S SPHERE OF INFLUENCE AND FEE COLLECTION PROCESS

27 4.1 COUNTY shall not approve any discretionary development permits for
28 new urban development within CITY's sphere of influence unless the development shall

1 have first been referred to CITY for consideration of possible annexation. If CITY does
2 not, within sixty (60) days of receipt of notice from COUNTY, adopt a resolution of
3 application to initiate annexation proceedings before LAFCO, COUNTY may approve
4 development permits for that new urban development. County's approval shall take into
5 consideration CITY's general plan and be consistent with COUNTY's general plan
6 policies, provided, that the development is orderly and does not result in the premature
7 conversion of agricultural lands.

8 4.2 Within the CITY's sphere of Influence, COUNTY shall require compliance
9 with development standards that are comparable to CITY's and charge fees reflecting
10 the increased administrative and implementing cost where such CITY standards are
11 more stringent than COUNTY's. These requirements shall apply to discretionary
12 development applications approved by COUNTY. For purposes of this Agreement,
13 "discretionary development applications" shall mean General Plan Amendments,
14 Rezoning, Tentative Tract Maps, Tentative Parcel Maps, Conditional Use Permits,
15 Director Review and Approvals, and Variances.

16 4.3 CITY development fees shall be charged for any discretionary
17 development applications to be approved by the COUNTY within CITY's sphere of
18 influence. To establish or amend CITY development fees, CITY shall conduct a public
19 hearing and notify property owners in accordance with State Law. At the conclusion of
20 that hearing, CITY shall adopt a resolution describing the type, amount, and purpose of
21 CITY fees to be requested for COUNTY adoption.

22 4.4 CITY shall transmit the adopted resolution to the COUNTY for its adoption
23 of the fees. CITY shall include a draft ordinance for COUNTY's adoption with
24 appropriate supporting documentation or findings by the CITY demonstrating that the
25 fees comply with Section 66000 of the Government Code and other applicable State
26 Law requirements. CITY fees may also include CITY's and COUNTY's increased
27 administrative costs and inspection charges.

1 4.5 COUNTY shall collect any such applicable CITY development fees at the
2 time of final map approval or issuance of building permits as established by the fee
3 schedule. Or, COUNTY shall require the applicant to present a voucher issued by CITY
4 evidencing the payment of the fees directly to CITY, or written confirmation by CITY that
5 fees are inapplicable. If COUNTY imposes and collects fees on behalf of CITY,
6 COUNTY shall transfer the fees to CITY at the earliest time legally permitted.

7 4.6 CITY shall give COUNTY at least thirty (30) days notice before
8 implementing any new fees or an amendment to existing fees. Notwithstanding this
9 Section 4.6, or any other provision of this MOU, CITY shall be solely responsible for
10 determining the amount of the fees and setting them in accordance with law. This
11 Section 4.6 shall not be construed as a representation by COUNTY as to the propriety
12 of the fees or the procedures used in setting them.

13 4.7 CITY shall hold harmless, defend and indemnify the COUNTY from all
14 claims, demands, litigation of any kind whatsoever arising from disputes relating to the
15 fees, the enactment of or the collection of CITY development fees.

16 4.8 If COUNTY adopts capital facilities fees, CITY shall require that an
17 applicant for any land use entitlement or permit within CITY shall pay all COUNTY
18 public facilities fees applicable to the entitlement or permit on behalf of the COUNTY.
19 At the COUNTY's request, CITY shall either timely impose and collect all such fees or
20 shall require the applicant to present a voucher issued by COUNTY evidencing the
21 payment of fees directly to COUNTY. If adopted by COUNTY, the fees are to mitigate
22 the impact of development on required COUNTY facilities and services including, but
23 not limited to, the criminal justice system, health, social services, parks, transportation
24 and library. CITY shall transfer the fees collected to COUNTY at the earliest time
25 legally permissible to do so. COUNTY may impose new fees and amend existing fees
26 from time to time in its sole discretion. COUNTY shall give CITY at least thirty (30) days
27 notice before implementing any new fees or an amendment to existing fees.
28 Notwithstanding this Section 4.8, or any other provision of this Restated MOU,

1 COUNTY shall be solely responsible for determining the amount of the fees and setting
2 them in accordance with law. This Section 4.8 shall not be construed as a
3 representation by CITY as to the propriety of the fees or the procedures used in setting
4 them.

5 4.9 COUNTY shall hold harmless, defend and indemnify the CITY from all
6 claims, demands, litigations of any kind whatsoever arising from disputes relating to the
7 enactment or collection of COUNTY capital facilities fees.

8 4.10 COUNTY shall support urban unification. To this end, COUNTY shall
9 oppose the creation of new governmental entities within CITY's sphere of influence,
10 except for such entities that may be necessary to address service requirements that
11 cannot be addressed by annexation to CITY. CITY and COUNTY will support transition
12 agreements with current service providers which recognize the primary role of cities as
13 providers of urban services and where current services have participated in service
14 master planning.

15 4.11 Within the CITY's sphere of influence and for the two mile area beyond
16 that sphere of influence COUNTY and CITY agree that, in the early stages of
17 preparation of land use and circulation proposals and general plan amendments, they
18 shall consult at the staff level in such fashion as to provide meaningful participation in
19 the policy formulation process, and shall likewise consult on other policy changes which
20 may have an impact on growth or the provision of urban services. CITY shall also be
21 given the opportunity to respond to COUNTY before the final document is prepared for
22 presentation to COUNTY's Planning Commission. COUNTY agrees that it will solicit
23 comments from CITY in the preparation of any Initial Study required by the California
24 Environmental Quality Act undertaken within the area.

25 4.12 Any change in the CITY's sphere of influence proposed by either
26 COUNTY or CITY which would modify the area depicted in Exhibit "3-A" and
27 3-B requires the mutual consultation of both parties prior to submission to LAFCO.
28

ARTICLE V

IMPLEMENTATION OF SALES TAX

REVENUE COLLECTION

5.1 Pursuant to the Bradley Burns Uniform Local Sales and Use Tax Law, Part 1.5, Division 2, of the Revenue and Taxation Code (commencing with Section 7200), CITY is, concurrent with the execution of this RESTATED MOU, amending its local sales and use tax ordinance. This amendment shall be timely forwarded to the State Board of Equalization so that it will become operative as of the first July 1 following the CITY reaching the threshold forth in subsections 5.2.1 and 5.2.2. This amendment shall enable COUNTY, pursuant to its sales and use tax ordinance, to collect a portion of the sales and use tax revenues generated within the incorporated areas of CITY in accordance with the applicable rate set forth on Exhibit 4", attached hereto and incorporated by reference as if set forth fully at this point. The format of this amendment by CITY to its local sales and use tax ordinance shall likewise provide as a credit against the payment of taxes due under such ordinance, an amount equal to any sales and use tax due to COUNTY.

5.2 Except as otherwise provided herein, CITY further agrees that the amendment adopted pursuant to Section 5.1 above shall likewise provide for the periodic reallocation of additional sales tax revenues generated within the incorporated areas of CITY in accordance with the schedule set forth on Exhibit "4". Each subsequent incremental adjustment shall go into effect at the commencement of the fiscal year indicated. These periodic adjustments shall enable COUNTY, pursuant to its sales and use tax ordinance, to collect that portion of the sales and use tax revenues generated within the incorporated areas of CITY equal to the applicable percentage as specified in Exhibit "4". These periodic adjustments shall automatically go into effect provided that:

5.2.1 CITY receives sales tax revenues per capita in an amount greater than fifty percent (50%) of the sales tax revenue per capita collected by all

1 Fresno County cities when taken as a group during the most recent fiscal
2 year for which State Board of Equalization information is available, then it
3 hereby agrees to reallocated sales tax revenues with COUNTY beginning
4 in fiscal year 2005-06 in accordance with the provisions of this article; and
5 5.2.2 CITY's annual sales tax revenue information is available for the
6 State Board of Equalization allows City to reallocate sales tax revenue at
7 the percentage designated in Exhibit "4" and still have a net increase in its
8 remaining sales tax revenue when compared with the fiscal year
9 immediately preceding the fiscal year described above. The periodic
10 phase in of sales tax reallocation described herein shall be delayed from
11 year-to-year if CITY falls below the sales tax reallocation threshold as
12 identified in Section 5.2. In those years in which CITY does not meet the
13 sales tax reallocation threshold, CITY's sharing proportion shall continue
14 at the same rate as in the last year in which CITY met or exceeded the
15 threshold. When, in a subsequent year, CITY again meets or exceeds the
16 threshold, the sharing proportion of CITY shall be at the next higher
17 sharing proportion shown on Exhibit "4", and the annual phase-in shall
18 continue therefrom.

19 5.3 The sales tax ordinance amendments adopted by CITY pursuant to this
20 article are intended to reduce CITY's sales tax rate from its then-existing level to a level
21 which thereby enables COUNTY, pursuant to its sales tax ordinance, to continue
22 collecting those amounts set forth in the previous provisions of this article as well as the
23 applicable percentages set forth on Exhibit "4". In addition, each periodic adjustment is
24 intended by the parties to enable COUNTY to collect an amount equivalent to the
25 applicable percentage specified in Exhibit "4".

26 5.4 Whenever CITY proposes an annexation of unincorporated territory which
27 generates substantial sales tax revenue for COUNTY, CITY, agrees to further amend its
28 local sales and use tax ordinance as set for in this section. Notwithstanding the

1 language of subsections 5.2.1 and 5.2.2, this additional amendment shall become
2 operative no later than the commencement of the next calendar quarter following the
3 date upon which such annexation is certified as complete by the Executive Officer of
4 LAFCO. This additional amendment shall decrease CITY 's sales tax rate to yield an
5 amount of substantial sales tax revenue being collected by COUNTY in the area to be
6 annexed, thus enabling COUNTY to increase its sales tax rate by a corresponding
7 percentage which shall continue to accrue to COUNTY throughout the term of this
8 RESTATED MOU. Any such additional amendment made by CITY pursuant to this
9 section shall be cumulative and likewise preserve intact any periodic adjustments
10 previously implemented pursuant to this RESTATED MOU. Further, CITY agrees that it
11 shall not split or separate areas into smaller annexations for the purpose of, or having
12 the effect of, creating an annexation or annexations which, individually, do not generate
13 substantial sales tax revenue, but which would generate such revenue if combined. For
14 purposes of this article, the term "substantial sales tax revenue" shall be defined as
15 sales tax revenue derived from taxable sales in the area annexed equal to at least:

16 5.4.1 If only information for less than one fiscal year exists, then
17 \$100,000 in taxable sales in the most recent quarter for which such
18 information from the State Board of Equalization is available in writing or
19 electronic or magnetic media, and projected to a full four quarters, at least
20 \$400,000 in taxable sales.

21 5.4.2 If information for one or more years exist, then \$400,000 in taxable
22 sales in the most recent year for which such information from the State
23 Board of Equalization is available in writing or electronic or magnetic
24 media.

25 5.5 If CITY fails to amend its sales tax ordinance as provided in section 5.1, or
26 if the amendment to the sales tax ordinance fails to provide for the periodic reallocation
27 of additional sales tax revenues as provided in section 5.2, the subsections therein, and
28 Exhibit "4", or if CITY fails to further amend its sales tax ordinance upon the annexation

1 of unincorporated territory which generates substantial sales tax revenue for COUNTY
2 as provided in section 5.4, or if CITY splits or separates areas into smaller areas as
3 prohibited by section 5.4, then this RESTATED MOU shall immediately terminate and,
4 in particular, no property tax exchange agreement, as required by Section 99 of the
5 Revenue and Taxation Code, shall exist between CITY and COUNTY.

6 5.6 CITY and COUNTY further agree that the annual report of the State Board
7 of Equalization and the Department of Finance Annual Population Estimates shall be
8 used as the data source for the purpose of calculating the per capita sales tax revenue
9 pursuant to this RESTATED MOU.

10 5.7 Application of the formula to be used in the allocation of revenues
11 pursuant to section 5.2 is illustrated in Exhibit "5", attached hereto and incorporated by
12 reference herein as if set forth fully at this point.

13 ARTICLE VI

14 REDEVELOPMENT

15 6.1 The parties acknowledge that circumstances may develop making it
16 desirable to negotiate the amount of property tax increment, as described in Section
17 33670 of the Health and Safety Code, that AGENCY will pass through to County and
18 the Fresno County Library District (hereinafter "Library District") in individual
19 redevelopment projects. In those instances where CITY or AGENCY wish to negotiate,
20 the parties agree to conduct and complete such negotiations within a 60-day period
21 following CITY or AGENCY's written notice to COUNTY of the desire to negotiate as to
22 the particular redevelopment project. These negotiations will take place prior to
23 AGENCY approval of the preliminary report. In the absence of such negotiations or if
24 negotiations do not result in an agreement within the negotiating period, CITY and
25 AGENCY will pass through to COUNTY and the Library District one hundred percent
26 (100%) of their respective shares of the property tax increment for the project. The
27 parties shall take all actions necessary under Section 33401 of the Health and Safety
28 Code and other provisions of law to accomplish the purposes of this article. This

1 obligation includes a finding by AGENCY that any pass through of the property tax
2 increment to COUNTY and the Library District is necessary and appropriate to alleviate
3 any financial burden or detriment to COUNTY and the Library District caused by a
4 redevelopment project.

5 6.2 Understanding that the following remedies are available without statement
6 herein, but desiring that the parties be aware, if a redevelopment project is approved
7 without CITY and AGENCY fully complying with this article, then COUNTY's cumulative
8 remedies shall include, but not be limited to, the following:

9 6.2.1 COUNTY may, to the full extent provided by law, challenge the
10 validity of the redevelopment plan approved or adopted for a
11 redevelopment project and may exercise any and all other such remedies
12 it may have related to such redevelopment project. This subsection shall
13 not be construed to allow COUNTY to challenge a redevelopment plan
14 approved prior to the date of this RESTATED MOU, except as allowed by
15 law in the absence of this RESTATED MOU.

16 6.2.2 If CITY and AGENCY fail or refuse to negotiate with COUNTY or if
17 negotiations do not conclude in an agreement, and CITY and AGENCY
18 pass through to COUNTY and the Library District less than one hundred
19 percent (100%) of their respective shares of the property tax increment,
20 then this RESTATED MOU shall automatically terminate and, in particular,
21 no property tax exchange agreement, as required by Section 99 of the
22 Revenue and Taxation Code, shall exist between City and County.

23 6.2.3 COUNTY may maintain a court action for specific performance of
24 the provisions of this article, and for declaratory relief to settle disputes as
25 to CITY's or AGENCY's compliance with this article.

26 6.3 The provisions of this article shall apply only to Redevelopment Plans
27 adopted prior to January 1, 1994. For each redevelopment plan adopted prior to
28

1 January 1, 1994, but amended after January 1, 1994, to include new territory, Article VI
2 of the RESTATED MOU shall be inapplicable to the new added territory.

3 ARTICLE VII

4 COUNTY AND CITY ASSURANCES ON USE OF REVENUE

5 7.1 COUNTY recognizes that certain revenue reallocated to it by this
6 RESTATED MOU would otherwise have been appropriated by CITY to meet demands
7 for services. In light therefore, COUNTY agrees to use such new revenue in order to
8 maintain levels of COUNTY services that are supportive of CITY and AGENCY
9 services, unless the federal or state governments materially reduce the level of funding
10 for such services. Examples of such COUNTY services include: criminal justice
11 system, public health, and other similar services.

12 7.2 CITY agrees to continue enforcement of laws which result in the collection
13 of fines and forfeitures.

14 ARTICLE VIII

15 COOPERATIVE EFFORTS AT LEGISLATIVE REFORM

16 8.1 CITY and COUNTY agree to work jointly for state legislation and
17 appropriations that would improve the fiscal condition of both CITY and COUNTY.

18 ARTICLE IX

19 GENERAL PROVISIONS

20 9.1 Term of MOU

21 This RESTATED MOU shall commence as of the date of execution by COUNTY,
22 CITY and AGENCY and shall remain in effect for a period of fifteen (15) years, unless
23 terminated prior to that time by mutual agreement of the parties.

24 In addition, should all or any portion of this RESTATED MOU be declared invalid
25 or inoperative by a court of competent jurisdiction, or should any party to this
26 RESTATED MOU fail to perform any of its obligations hereunder, or should any party to
27 this RESTATED MOU take any action to frustrate the intentions of the parties as
28 expressed in this RESTATED MOU, then in such event, this entire RESTATED MOU,

as well as any ancillary documents entered into by the parties in order to fulfill the intent of this RESTATED MOU, shall immediately be of no force and effect and, in particular, no property tax exchange agreement, as required by Section 99 of the Revenue and Taxation Code, shall exist between the CITY and COUNTY as to unincorporated property.

9.2 Geographic Application of RESTATED MOU

This RESTATED MOU shall apply only to the areas identified as the City of Orange Cove's Sphere of Influence as depicted in Exhibit "3-A" and the New Planned Growth Area as shown in Exhibit 3-B. This RESTATED MOU shall not apply to areas beyond those included in Exhibits "3-A" and "3-B" unless and until the parties mutually agree to amend this RESTATED MOU,

9.3 Termination Due to Changes in Law

The purpose of this MOU is to alleviate in part the revenue shortfall experienced by COUNTY which may result from CITY's annexation of revenue-producing or potentially revenue-producing properties located within the unincorporated area of COUNTY, and from CITY's and AGENCY's redevelopment projects. The purpose of this RESTATED MOU is also to enable CITY to proceed with territorial expansion and economic growth consistent with the terms of existing law as mutually understood by the parties as well as to maximize each party's ability to deliver essential governmental services. In entering into this RESTATED MOU, the parties mutually assume the continuation of the existing statutory scheme for the distribution of available tax revenues to local government and that assumption is a basic tenet of this RESTATED MOU. Accordingly, it is mutually understood and agreed that this RESTATED MOU may, by mutual agreement be terminated should changes occur in statutory law, court decisions or state administrative interpretations which negate the basic tenets of this RESTATED MOU.

1 9.4 Modification

2 This RESTATED MOU and all of the covenants and conditions set forth herein
3 may be modified or amended only by a writing duly authorized and executed by
4 COUNTY, CITY and AGENCY.

5 9.5 Enforcement

6 COUNTY, CITY and AGENCY each acknowledge that this instrument cannot
7 bind or limit themselves or each other or their future governing bodies in the exercise of
8 their discretionary legislative power. However, each binds itself that it will insofar as is
9 legally possible fully carry out the intent and purposes hereof, if necessary by
10 administrative action independent of ordinances, and that this RESTATED MOU may
11 be enforced by injunction to the extent allowed by law.

12 9.6 Entire MOU; Suppression

13 With respect to the subject matter hereof, this RESTATED MOU supersedes any
14 and all previous negotiations, proposals, commitments, writings, and understandings of
15 any nature whatsoever between COUNTY, CITY and AGENCY except as otherwise
16 provided herein. This RESTATED MOU does not supersede existing written
17 agreements among COUNTY, CITY and AGENCY pertaining to redevelopment
18 projects, as defined in this RESTATED MOU, trigger the application of article VI of this
19 RESTATED MOU.

20 9.7 Notice

21 All notices, requests, certifications or other correspondence required to be
22 provided by the parties to this RESTATED MOU shall be in writing and shall be
23 delivered by first class mail or an equal or better form of delivery to the respective
24 parties at the following addresses:

25 COUNTY

26 County Administrative Officer
27 County of Fresno
28 Hall of Records, Room 300
 2281 Tulare Street
 Fresno, CA 93721

CITY AND AGENCY

 City Manager
 City of Orange Cove
 City Hall
 633 Sixth Street
 Orange Cove, CA 93646

1 9.8 Renegotiation

2 If County enters into an MOU with another City that has terms and conditions
3 more favorable in the aggregate to that city than those terms and conditions contained
4 herein, COUNTY agrees that it will negotiate such terms and conditions upon written
5 request from CITY or AGENCY, with the intent of offering a more favorable agreement.
6 Negotiations shall conclude thirty (30) days from the date of receipt of notice by
7 COUNTY and, if agreement is tentatively reached during that period, the legislative
8 bodies of the parties shall approve any such amendment within thirty (30) days from the
9 date of receipt of notice by COUNTY and, if agreement is tentatively reached during that
10 period, the legislative bodies of the parties shall approve any such amendment within
11 thirty (30) days following the date of the tentative agreement. COUNTY, CITY and
12 AGENCY are not required to reach agreement.

13 9.9 Notice of Breach

14 Prior to this RESTATED MOU being terminated as expressly provided in
15 Sections 5.5, 6.2.2 and 9.1, COUNTY shall provide notice to CITY and AGENCY of such
16 breach, and CITY and AGENCY shall comply with the terms and conditions of this
17 RESTATED MOU within thirty (30) days of receipt of notice. If CITY or AGENCY fail to
18 timely comply, this RESTATED MOU shall terminate as provided herein. During the
19 thirty (30) day notice period and until CITY and AGENCY certify in writing that they are
20 in compliance and COUNTY agrees in writing, no property tax exchange agreement, as
21 required by Section 99 of the Revenue and Taxation Code, shall exist between
22 COUNTY and CITY with respect to any pending annexations.

23 In like manner the CITY and AGENCY shall give COUNTY thirty (30) days
24 written notice and opportunity to cure any alleged breach of the RESTATED MOU on
25 the part of the COUNTY.

26 /

27 /

28 /

1 IN WITNESS WHEREOF, the parties hereto have executed this RESTATED MOU in
2 the County of Fresno, State of California, on the dates set forth above.

3
4 COUNTY OF FRESNO, a Political
5 Subdivision of the State of California
6 ("COUNTY")

CITY OF ORANGE COVE, a Municipal
Corporation of the State of California
("CITY")

7 By: Phil Larson
8 Phil Larson, Chairman
Board of Supervisors

By: Victor P. Lopez
Victor P. Lopez, Mayor
City of ORANGE COVE

9 MAR 21 2006

REDEVELOPMENT AGENCY OF THE
CITY OF ORANGE COVE ("Agency")

10
11 ATTEST:
12 Bernice E. Seidel,
Clerk to the Board of Supervisors

By: Bill Little
Bill Little, Executive Director

13 By: Bruce Hall, Deputy

14 DANIEL T. McCloskey, City Attorney
City of ORANGE COVE

15 REVIEWED AND RECOMMENDED
16 FOR APPROVAL
Bart Bohn, County Administrative Officer

By: James T. McCloskey

ATTEST:

17 By: Bart Bohn

18
19 APPROVED AS TO LEGAL FORM:
20 Dennis Marshall, County Counsel

June V. Lopez-Bracamontes,
Clerk to the City of ORANGE COVE

21 By: John B. Bohn

By: June V. Lopez-Bracamontes

22
23 APPROVED AS TO ACCOUNTING FORM:
Auditor-Controller/Treasure-Tax Collector

24 By: John Bohn

EXHIBIT 1
STANDARDS FOR ANNEXATION

- The proposal must be consistent with the adopted sphere of influence of the city and not conflict with the goals and policies of the Cortese-Knox-Hertzberg Act.
- The proposal must be consistent with city general and specific plans, including adopted goals and policies.
- Pursuant to CEQA, the proposal must mitigate any significant adverse effect on continuing agricultural operations on adjacent properties, to the extent reasonable and consistent with the applicable general and specific plan.
- A proposal for annexation is acceptable if one of the following conditions exist:
 1. There is existing substantial development provided the City confines its area requested to that area needed to include the substantial development and create logical boundaries.
 2. Development exists that requires urban services which can be provided by the City.
 3. If no development requiring urban services exists, at least 50% of the area proposed for annexation has:
 - (a) Approved tentative subdivision map (single-family residential)
 - (b) Approved site plan (for uses besides single-family residential)
- The proposal would not create islands. Boundaries must ultimately minimize creation of peninsulas and corridors, or other distortion of boundaries.

For any of the following circumstances a proposal for annexation is presumed to comply with all standards for annexation:

- The request for annexation is by a city for annexation of its own publicly-owned property for public use.
- The request for annexation is by a city in order to facilitate construction of public improvements or public facilities which otherwise could not be constructed.
- The request for annexation is to remove an unincorporated island or substantially surrounded area.
- The request for annexation is for an industrial or regional commercial project for which a development application has been made and no significant adverse environmental impact will result that cannot be mitigated or overridden by a necessary public purpose. Condition(s) assuring the financing or completion of necessary development infrastructure before completion of annexation shall be made a part of the proposal.
- The annexation is intended to mitigate or otherwise comply with standards/conditions required by another agency with respect to another development annexation.

EXHIBIT 2
ORANGE COVE

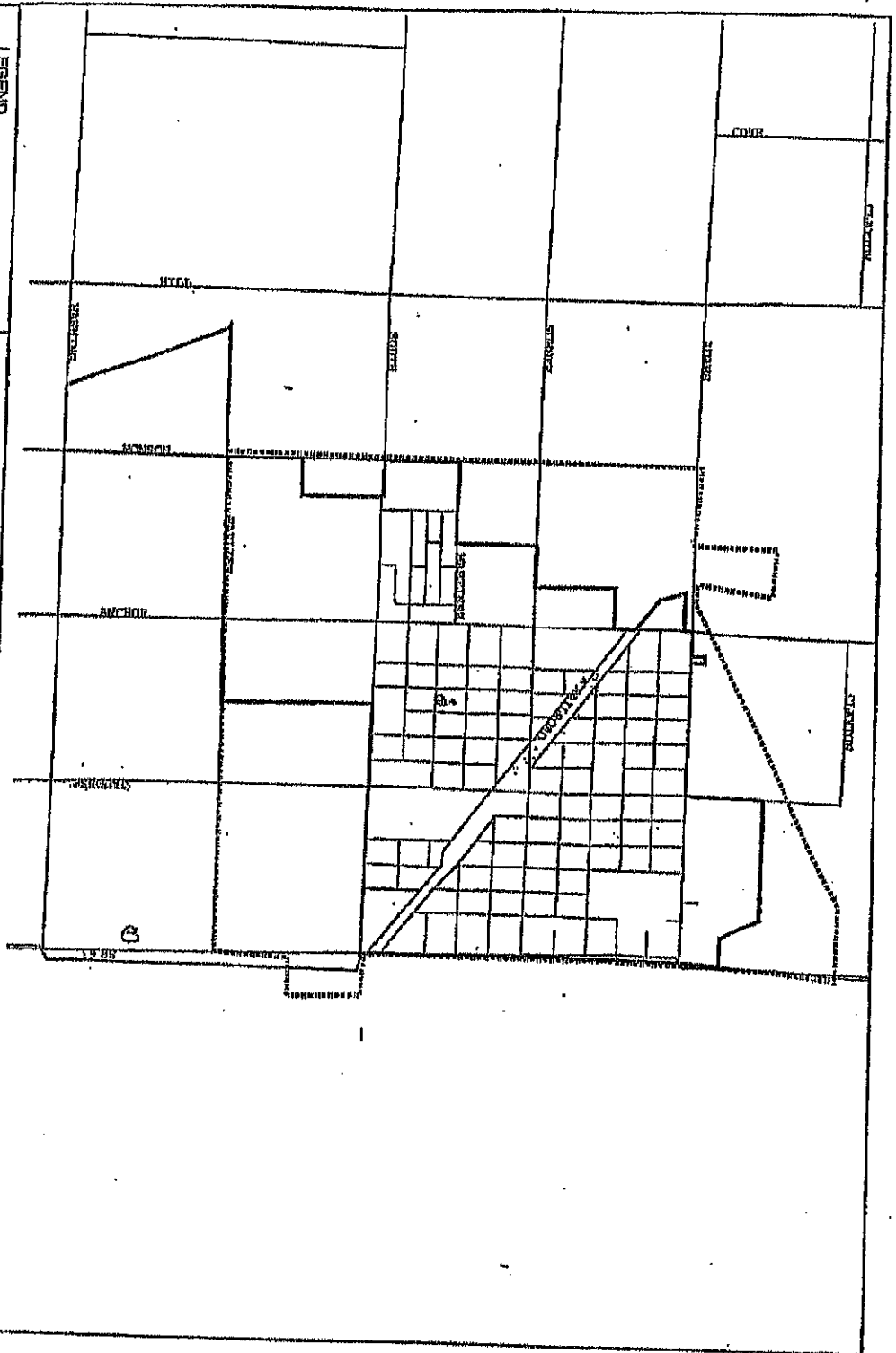
Effective July 1, 2006, the property tax-sharing ratios shall be as follows:

County	City	Effective Date:
63.0%	37.0%	July 1, 2006
63.0%	37.0%	July 1, 2007
63.0%	37.0%	July 1, 2008
63.0%	37.0%	July 1, 2009
63.0%	37.0%	July 1, 2010
63.0%	37.0%	July 1, 2011
63.0%	37.0%	July 1, 2012
63.0%	37.0%	July 1, 2013
63.0%	37.0%	July 1, 2014
63.0%	37.0%	July 1, 2015
63.0%	37.0%	July 1, 2016
63.0%	37.0%	July 1, 2017
63.0%	37.0%	July 1, 2018
63.0%	37.0%	July 1, 2019
63.0%	37.0%	July 1, 2020

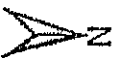
EXHIBIT 3-A

CITY OF
ORANGE
COVE

Adopted: August 28, 1974
Updated: December 11, 1996
Map Date: March 2004



0.2 0 0.2 Miles



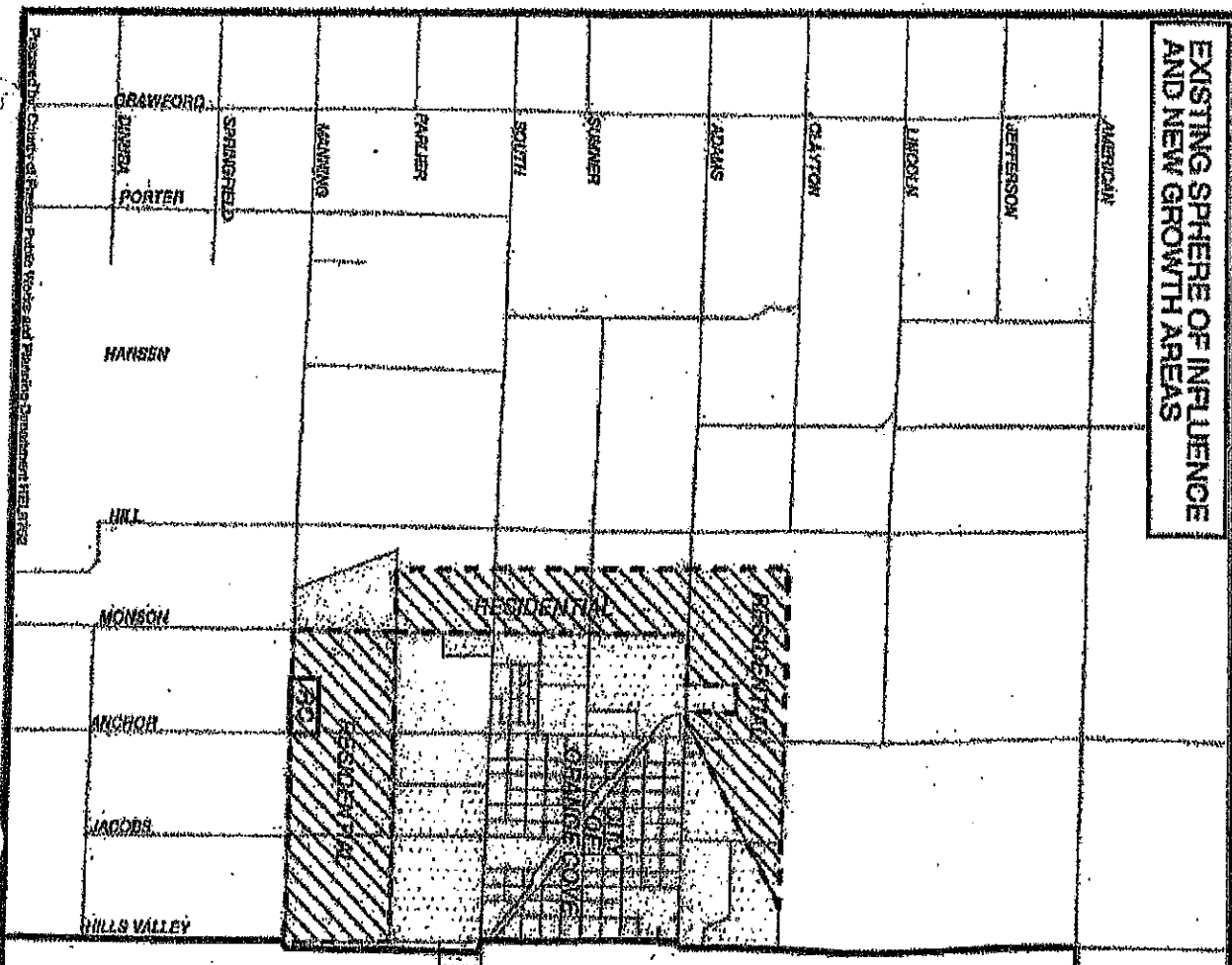
City Data (2004)
Sphere Area 1,651 Acres
City Area 1,150 Acres

FRESNO LOCAL FORMATION COMMISSION
SPHERE OF INFLUENCE




LEGEND
SPHERE OF INFLUENCE
CITY LIMITS

EXHIBIT 3-B

**EXISTING SPHERE OF INFLUENCE
AND NEW GROWTH AREAS**



TULARE COUNTY

LEGEND	
	NEW GROWTH AREAS
	EXISTING SPHERE OF INFLUENCE
	EXISTING CITY LIMIT BOUNDARY



Prepared by: Claudio Pardo and Mariano Zambrano FID 5735

EXHIBIT 4
ORANGE COVE

SALES TAX REVENUE
SHARING PROPORTION

YEAR	CITY
1	$\frac{1}{2}$
2	1
3	$1\frac{1}{2}$
4	2
5	$2\frac{1}{2}$
6	3
7	$3\frac{1}{2}$
8	4
9	$4\frac{1}{2}$
10	5
11	5
12	5
13	5
14	5
15	5

TABLE 1: SALES TAX REVENUE ALLOCATION APPLICATION FY 2003-04 DATA

EXHIBIT 5

CITY	SALES TAX REVENUE 2002-2003	POPULATION JANUARY 1 2003	PER CAPITA SALES TAX REVENUE 2002-2003	SALES TAX REVENUE 2003-2004	POPULATION JANUARY 1 2004	PER CAPITA SALES TAX REVENUE 2003-2004	MEETS 50% CRITERIA 2002-2003	MEETS 50% CRITERIA 2003-2004	GROWTH OVER 1/2%	SALES TAX REVENUE GROWTH
	A	B	C	D	E	F	G	H	I	J
CLAVES	\$11,098,774	78,977	\$145.69	\$11,890,894	80,884	\$148.89	A	A	YES	7.34%
COALINGA (1)	\$657,568	11,506	\$57.15	\$767,190	11,780	\$64.27	B	A	YES	15.14%
FIREBAUGH	\$648,375	6,172	\$105.05	\$560,376	6,585	\$85.10	A	A	NO	-13.67%
FOWLER	\$396,855	4,273	\$137.34	\$839,660	4,600	\$182.53	A	A	YES	43.08%
FRESNO	\$86,899,314	448,453	\$126.88	\$61,848,583	459,143	\$135.59	A	A	YES	8.70%
HURON	\$133,441	6,884	\$19.36	\$147,496	6,969	\$21.16	B	B	YES	10.53%
KERMAN	\$597,099	9,999	\$59.75	\$624,057	10,686	\$58.51	A	B	YES	4.51%
KINGSBURG	\$594,097	10,489	\$56.64	\$664,516	11,157	\$59.66	B	B	YES	10.17%
MENDOTA	\$339,350	8,163	\$39.86	\$342,470	8,656	\$39.56	B	B	YES	5.26%
ORANGE COVE	\$122,038	8,739	\$13.96	\$136,415	9,255	\$14.74	B	B	YES	11.78%
PARLIER	\$194,849	12,167	\$16.00	\$293,961	12,292	\$23.97	B	B	YES	\$1,02%
REEDLEY	\$1,367,474	21,395	\$63.93	\$1,308,719	21,753	\$60.16	A	B	NO	-3.69%
SANBER	\$1,464,559	19,894	\$73.62	\$1,513,206	20,520	\$73.74	A	A	YES	3.32%
SAN JOAQUIN	\$116,993	3,492	\$33.50	\$128,839	3,559	\$36.54	B	B	YES	8.42%
SEAMA	\$9,926,954	20,902	\$187.87	\$4,096,095	21,781	\$188.06	A	A	YES	4.31%
SALES TAX REVENUE TOTAL ALL CITIES	\$78,693,530	688,448	\$117.73	\$65,130,366	688,580	\$123.99				
PER CAPITA ALL CITIES			\$117.73			\$123.99				
UNINCORPORATED POPULATION (1)		172,975			176,062					
TOTAL COUNTY POPULATION		841,423			862,642					

SALES TAX REVENUES:

POPULATION DATA:

COLUMNS A & D, SOURCE: STATE BOARD OF EQUALIZATION ANNUAL REPORT STATISTICAL APPENDIX; FISCAL YEAR DATA AVAILABLE IN JANUARY OF NEXT CALENDAR YEAR.

COLUMNS B & E, SOURCE: SOURCE STATE DEPARTMENT OF FINANCE JANUARY 1, POPULATION ESTIMATES; AVAILABLE IN MAY OF THAT CALENDAR YEAR.

PER CAPITA SALES TAX ALL CITIES (FY 1999) SUM COLUMNS A & B, THEN DIVIDE THE COLUMN A SUMMED TOTAL BY THE COLUMN B SUMMED TOTAL. THE RESULT IS LISTED IN COLUMN C AS "PER CAPITA CITIES".

PER CAPITA SALES TAX ALL CITIES (FY 1999) SUM COLUMNS D & E, THEN DIVIDE THE COLUMN D SUMMED TOTAL BY THE COLUMN E SUMMED TOTAL. THE RESULT IS LISTED IN COLUMN F AS "PER CAPITA CITIES".

50% MINIMUM CRITERIA: THE PREVIOUS CALCULATIONS ARE DIVIDED BY 2, THEN A COMPARISON OF THIS NUMBER WITH THE NUMBERS IN COLUMNS C & F IS MADE. THE RESULTS ARE REFLECTED IN COLUMNS G & H, "A" MEANS ABOVE, "B" BELOW THE CRITERIA.

SALES TAX REVENUE GROWTH: COLUMN J: COMPUTE PERCENTAGE GROWTH OF SALES TAX REVENUE CHANGE IN SALES TAX REVENUE IN COLUMN D COMPARED TO COLUMN A.

GROWTH CRITERIA: IF THE SALES TAX REVENUES OF THE CITY GREW BY AT LEAST 1/2%, THE RESULTS ARE REFLECTED IN COLUMN "I" WITH A "YES".

(1) COALINGA & UNINCORPORATED YEAR 2002 and 2004 POPULATION ADJUSTED PER AGREEMENT DATED MARCH 23, 1999, SECTION 5, Population data for the adjustment provided by Council of Fresno County Governments

1 **SECOND AMENDED AND RESTATED**
2 **MEMORANDUM OF UNDERSTANDING BETWEEN**
3 **THE COUNTY OF FRESNO AND THE CITY OF ORANGE CODE**

4 THIS SECOND AMENDED AND RESTATED MEMORANDUM OF UNDERSTANDING
5 (hereinafter "RESTATED MOU") is made and executed by and between the COUNTY OF FRESNO, a
6 political subdivision of the State of California (hereinafter referred to as "COUNTY"), and the City of
7 Orange Cove, a municipal corporation of the State of California (hereinafter referred to as "CITY).

8 WITNESSETH

9 WHEREAS, on March 21, 2006, COUNTY and CITY entered into a comprehensive agreement
10 covering development, annexations, sales taxes, property taxes, and other matters, referred to as the
11 2006 Amended and Restated Memorandum of Understanding ("2006 MOU"); and

12 WHEREAS, the 2006 MOU served in part as COUNTY's and CITY's master property tax transfer
13 agreement under subdivision (d) of section 99 of the Revenue and Taxation Code; and

14 WHEREAS, the 2006 MOU also included provisions relating to redevelopment and included as a
15 party the former Orange Cove Redevelopment Agency, which CITY dissolved on February 1, 2012,
16 following the State adopted comprehensive legislation, Assembly Bill X1 26 (Stats. 2011, 1st Ex. Sess.
17 Chp. 5), dissolving California redevelopment agencies and prohibiting further redevelopment activities
18 under the California Community Redevelopment Law (former Health and Safety Code Section 33000 et
19 seq.); and

20 WHEREAS, on March 9, 2021, COUNTY and CITY executed a First Amendment to the 2006
21 MOU to accommodate extension of the 2006 MOU for one year from the expiration date of March 21,
22 2021, and to provide additional time for both parties to complete ongoing negotiations regarding a longer-
23 term extension; and

24 WHEREAS, the 2006 MOU is set to expire March 21, 2022; and

25 WHEREAS, COUNTY and CITY desire to make additional changes to their comprehensive
26 agreement set forth in the 2006 MOU, and to extend the term of their comprehensive agreement for an
27 additional 15 years; and
28

1 WHEREAS, due to the age of the 2006 MOU and the desire to make additional changes,
2 COUNTY and CITY have determined that it is in their best interests to entire into this RESTATED MOU,
3 which will supersede and replace the 2006 MOU; and

4 WHEREAS, COUNTY and CITY wish to continue to work together to develop a fair and equitable
5 approach to tax sharing and the encouragement of sound economic growth; and

6 WHEREAS, in order to encourage economic development and environmentally sound land use
7 planning, it is important that any tax sharing among COUNTY and CITY be determined in advance and
8 that such arrangements not be fiscally detrimental to either COUNTY or CITY; and

9 WHEREAS, COUNTY and CITY recognize the importance of COUNTY and CITY services and
10 are prepared to cooperate in an effort to address COUNTYs and CITYs fiscal problems; and

11 WHEREAS, through annexation CITY provides the opportunity for economic growth and
12 development to support public services for CITY and COUNTY; and

13 WHEREAS, close cooperation between COUNTY and CITY is necessary to maintain the quality
14 of life throughout Fresno County and deliver needed services in the most cost-efficient manner to all CITY
15 and COUNTY residents; and

16 WHEREAS, COUNTY recognizes the need for orderly growth within and adjacent to CITY and
17 for supporting appropriate annexations and promoting the concentration of development within CITY; and

18 WHEREAS, CITY recognizes that development within CITY limits may also have the effect of
19 concentrating revenue-generating activities within CITY rather than in unincorporated areas and that, as
20 a result of Proposition 13 and its implementing legislation, annexation by CITY of unincorporated territory
21 can result in a loss of revenue sources for COUNTY unless there is significant new development activity
22 as a result of annexation; and

23 WHEREAS, annexation is appropriate where it results in the development of urban uses in
24 response to a clearly demonstrated community demand, and it can be a valuable tool in the physical and
25 economic development of CITY and COUNTY; and

26 WHEREAS, the parties recognize that COUNTY General Plan Goal LU-G provides that COUNTY
27 will direct urban growth and development within the cities spheres of influence to existing incorporated
28

1 cities and will ensure that all development in city fringe areas is well planned and adequately served by
2 necessary public facilities and infrastructure and furthers countywide economic development goals; and

3 WHEREAS, the parties recognize that when urban growth and development is directed to cities
4 there is a lost opportunity of development by COUNTY in the unincorporated area and that sharing of
5 local sales and use taxes generated by such development would serve as a tool for the COUNTY to
6 participate in receiving a share of that new revenue; and

7 WHEREAS, it is the interest of the parties to require all new urban development to pay a roughly
8 proportionate share of the cost of urban services and infrastructure created by the development, whether
9 it occurs in the CITY or in the adjacent unincorporated area of the CITY's sphere of influence.

10 WHEREAS, COUNTY, CITY AND AGENCY executed a Joint Powers Agreement dated March
11 30, 1982, for the distribution of property tax increment revenue collected in subproject areas located
12 outside City limits.

13 NOW, THEREFORE, COUNTY and CITY hereby agree as follows:

14 ARTICLE I

15 DEFINITIONS

16 Unless the particular provision or context otherwise requires, the definitions contained in this
17 article and in the Revenue and Taxation Code shall govern the construction, meaning, and application of
18 words used in this RESTATED MOU.

19 1.1 "Base property tax revenues" means property tax revenues allocated by tax rate
20 equivalents to all taxing jurisdictions as to the geographic area comprising a given tax rate area annexed
21 in the fiscal year immediately preceding the tax year in which property tax revenues are apportioned
22 pursuant to this RESTATED MOU, including the amount of State reimbursement of the homeowners' and
23 business inventory exemptions.

24 1.2 Except as provided in Section 6.1, "property tax increment" means revenue from the
25 annual tax increment, as "annual tax increment" is defined in Section 98 of the Revenue and Taxation
26 Code, attributable to the tax rate area for the respective tax year.

27 1.3 "Substantial development" or "substantially developed" means real property which, prior
28 to annexation, has an improvement value to land value ratio equal to or greater than 1.25:1, as of the lien

1 date in the fiscal year in which the annexation becomes effective under the Cortese-Knox Local
2 Government Reorganization Act, and on and after January 1, 2000, the Cortese-Knox-Hertzberg Local
3 Government Reorganization Act of 2000.

4 1.4 "Property tax revenue" means base property tax revenue, plus the property tax increment
5 for a given tax rate area.

6 1.5 "Tax apportionment ratio" means the tax apportionment ratio of the parties for a given
7 fiscal year and shall be ascertained by dividing the amount determined for each party pursuant to
8 Revenue and Taxation Code Sections 96(a) or 97(a), whichever is applicable, by that party's gross
9 assessed value, and by then dividing the sum of the resulting tax rate equivalents of both parties into
10 each party's tax rate equivalent to produce the tax apportionment ratio.

11 1.6 "Tax rate equivalent" means the factor derived for an agency by dividing the property tax
12 levy for the prior fiscal year computed pursuant to Section 97 of the Revenue and Taxation Code by the
13 gross assessed value of the agency for the prior fiscal year.

14
15 1.7 "Effective Date" shall mean the last date that all the parties hereto execute this Amended
16 and RESTATED MOU between COUNTY and CITY.

17 1.8 "Urban development" or "urban type development" shall mean development not allowed
18 in areas designated Agriculture, Rural Residential or River Influence in COUNTY's General Plan or its
19 applicable community plans as of the Effective Date of this RESTATED MOU.

20 21 ARTICLE II

22 ANNEXATIONS BY CITY

23 2.1 Any annexations undertaken by CITY following the date of the execution of this
24 RESTATED MOU shall be consistent with both the terms of this MOU and the standards (hereinafter
25 "The Standards" or "Standards") as set forth in Exhibit "1", attached hereto and incorporated by reference
26 herein as if set fourth fully at this point. This RESTATED MOU shall not apply to annexations proposed
27 by CITY which are not in compliance with its terms or which fail to meet The Standards. If a proposed
28 annexation is not in compliance with the terms of this RESTATED MOU, including but not limited to, The

1 Standards, then the property tax exchange provisions of Article III of this RESTATED MOU shall not
2 apply in regards to that proposed non-complying annexation. An exchange of property tax revenues
3 between COUNTY and CITY for any such non-complying annexation shall be handled individually
4 pursuant to subdivision (e) of Section 99 of the Revenue and Taxation Code or by the negotiation of a
5 standalone property tax exchange agreement between COUNTY and CITY.

6 2.2 In order to encourage the orderly processing of proposed annexations, CITY shall, at least
7 thirty (30) days prior to filing any annexation proposal with the Fresno County Local Agency Formation
8 Commission (hereinafter "LAFCO"), notify COUNTY of its intention to file such proposal and the date
9 upon which CITY expects such proposal to be filed. Upon COUNTY's request, CITY agrees to meet with
10 COUNTY to review whether its proposed annexation complies with The Standards. Within fifteen (15)
11 days after the date COUNTY receives notice by the CITY of its annexation proposal, COUNTY shall notify
12 CITY in writing if it has determined that the proposed annexation is inconsistent with The Standards.
13 Upon receipt of such notification, CITY may either modify the proposal to COUNTY's specifications or
14 adopt a resolution finding that the proposed annexation is, in CITY's determination, consistent with The
15 Standards. If County fails to give such notice within the fifteen-day period, the annexation shall be
16 conclusively deemed consistent with all provisions of this article and The Standards.

17 2.3 If CITY adopts a resolution making the findings described in Section 2.2, then COUNTY
18 may challenge such findings by appropriate court action filed within thirty (30) days of receipt of written
19 notice of the adoption of CITY's resolution. The court shall independently review the evidence and
20 determine whether the proposed annexation is consistent with the Standards.

21 As an alternative to a judicial challenge by the COUNTY, the parties may within the aforesaid
22 thirty (30) day period mutually agree in writing to arbitrate their dispute through proceedings conducted
23 in accordance with the rules established by the American Arbitration Association. The parties upon
24 agreeing to arbitrate will proceed with arbitration in a timely manner. The arbitrator hearing the matter
25 shall independently review the evidence and determine whether the proposed annexation is consistent
26 with The Standards.

27 Costs incurred by the prevailing party, either in court proceedings or the arbitration proceedings,
28 shall be paid by the non-prevailing party. The parties agree that CITY shall not proceed to LAFCO with

1 the proposed annexation until the dispute is finally resolved either by court or arbitration proceedings. If
2 CITY attempts to proceed with such proposed annexation prior to the expiration of the period in which
3 COUNTY may file its court action or agree to arbitrate, or prior to the final conclusion of such court or
4 arbitration proceeding, then the property tax exchange provisions of Article III of this RESTATED MOU
5 shall not apply to that proposed annexation.

6 Notwithstanding the foregoing, the CITY may proceed to LAFCO under this RESTATED MOU if
7 court or arbitration proceedings are not completed within thirty (30) days after the filing thereof provided,
8 however, that LAFCO in its resolution of approval, at the request of the CITY, conditions the completion
9 of the annexation upon the Executive Officer's prior receipt of a certified copy of the document evidencing
10 the finality of the aforesaid court or arbitration proceedings determining that the proposed annexation is
11 consistent with Exhibit "1" attached hereto, or alternatively, receipt of a written stipulation of the CITY and
12 COUNTY agreeing that a master property tax agreement still exists permitting the completion of such
13 proposed annexation. If LAFCO declines to include the aforesaid condition, or CITY fails to timely request
14 such condition, no property tax exchange agreement as required by section 99 of the Revenue and
15 Taxation Code shall exist between CITY and COUNTY as to that proposed annexation. If CITY
16 nevertheless attempts to proceed with the annexation, such action on the part of the CITY shall also be
17 deemed good cause for the COUNTY at its option to terminate this RESTATED MOU.

18 2.4 For the purpose of promoting economic development and job creation, an Alternate
19 Standard for Annexation for industrial or regional commercial uses is hereby created. In the place of The
20 Standards set forth in Exhibit 1, the Alternate Standard for Annexation shall apply to and govern the
21 review of annexation proposals for industrial or regional commercial uses. Annexation proposals for
22 industrial/regional commercial uses shall include a conceptual development plan, as described herein.
23 The conceptual development plan shall consist of the economic objectives to be achieved, the service
24 and financing strategy and its schedule, and shall include a map of the proposed rezoning. The
25 conceptual development plan's schedule shall include milestones for major project components, to
26 measure the progress of the project. Due to the complexity of such projects the development schedule
27 for planning and implementation may reasonably require a period of from five to ten years. The
28 annexation proposal shall be submitted to and reviewed by the COUNTY pursuant to Section 2.2.

Annexation proposals that comply with the criteria of this Section 2.4 shall, be deemed to comply with Section 2.1. The annexation application to be submitted to LAFCO shall be considered complete upon adoption of the rezoning by the CITY. COUNTY and CITY agree to meet annually to review the progress toward the achievement of the economic development objectives and to identify ways to promote mutual economic development objectives. The proposed annexation made under this Alternate Standard for Annexation described in this Section 2.4 should not create islands and annexation boundaries must ultimately minimize creation of peninsulas, corridors, or other distortion of boundaries.

2.5 Section 2.4 shall be deemed suspended if CITY rezones an area that was annexed using the Alternate Standard for Annexation to a zone other than Industrial/Regional Commercial without COUNTY's consent.

ARTICLE III

EXCHANGE OF PROPERTY TAX REVENUES TO BE

MADE UNDER SECTION 99 OF THE REVENUE AND TAXATION CODE

3.1 The property tax revenues collected in relation to annexations covered by the terms of this RESTATED MOU shall be apportioned between CITY and COUNTY as set forth in Sections 3.2 and 3.3 below. The parties acknowledge that, pursuant to Sections 54902, 54902.1 and 54903 of Government Code and Section 99 of the Revenue and Taxation Code, the distribution of such property tax revenues will not be effective until the revenues are collected in the tax year following the calendar year in which the statement of boundary changes and the map or plat is filed with the County Assessor and the State Department of Tax and Fee Administration.

3.2 In regards to the annexation of real properties which are not considered substantially developed at the time of annexation, COUNTY will retain all of its base property tax revenue upon annexation. The amount of the property tax increment for special districts whose services are assumed by CITY shall be combined with the property tax increment of the COUNTY, the sum of which shall be allocated between CITY and COUNTY pursuant to the following tax apportionment ratio:

COUNTY: 63%

CITY: 37%

Effective July 1, 2022 these property tax-sharing ratios shall be as shown in Exhibit "2".

1 3.3 In regards to the annexation of real properties which are considered substantially
2 developed at the time of annexation, property tax revenue (base plus increment) will be reallocated as
3 follows: a detaching or dissolving district's property tax revenue (base plus increment) shall be combined
4 with COUNTY's and the sum of which shall be allocated between CITY and COUNTY pursuant to the
5 ratio set forth in Section 3.2.

6 ARTICLE IV

7 DEVELOPMENT WITHIN AND ADJACENT

8 TO CITY'S SPHERE OF INFLUENCE

9 AND COUNTY CAPITAL IMPROVEMENT FEES

10 4.1 COUNTY shall not approve any discretionary development permits for new urban
11 development within CITY's sphere of influence unless the development shall have first been referred to
12 CITY for consideration of possible annexation. If CITY does not, within sixty (60) days of receipt of notice
13 from COUNTY, adopt a resolution of application to initiate annexation proceedings before LAFCO,
14 COUNTY may approve development permits for that new urban development. COUNTY's approval shall
15 take into consideration CITY's general plan and be consistent with COUNTY's general plan policies,
16 provided, that the development is orderly and does not result in the premature conversion of agricultural
17 lands.

18 4.2 Within the CITY's sphere of influence, COUNTY shall require compliance with
19 development standards that are comparable to CITY's and charge fees reflecting the increased
20 administrative and implementing cost where such CITY standards are more stringent than COUNTY's.
21 These requirements shall apply to discretionary development applications approved by COUNTY. For
22 purposes of this Agreement, "discretionary development applications" shall mean General Plan
23 Amendments, Rezoning, Tentative Tract Maps, Tentative Parcel Maps, Conditional Use Permits, Director
24 Review and Approvals, and Variances.

25 4.3 CITY development fees shall be charged for any discretionary development applications
26 to be approved by the COUNTY within CITY's sphere of influence. To establish or amend CITY
27 development fees, CITY shall conduct a public hearing and notify property owners in accordance with
28 State Law. At the conclusion of that hearing, CITY shall adopt a resolution describing the type, amount,

1 and purpose of CITY fees to be requested for COUNTY adoption.

2 4.4 CITY shall transmit the adopted resolution to the COUNTY for its adoption of the fees.
3 CITY shall include a draft ordinance for COUNTY's adoption with appropriate supporting documentation
4 or findings by the CITY demonstrating that the fees comply with the Mitigation Fee Act (Section 66000,
5 and following, of the Government Code) and other applicable State Law requirements. CITY fees may
6 also include CITY's and COUNTY's increased administrative costs and inspection charges, provided
7 those costs similarly comply with the Mitigation Fee Act and other applicable State Law requirements.

8 4.5 COUNTY shall collect the applicable CITY development fees for infrastructure and
9 facilities at the time of final map approval or issuance of building permits as established by the fee
10 schedule. Or, COUNTY shall require the applicant to present a voucher issued by CITY evidencing the
11 payment of the fees directly to CITY, or written confirmation by CITY that fees are inapplicable. If
12 COUNTY imposes and collects fees on behalf of CITY, COUNTY shall transfer the fees to CITY at the
13 earliest time legally permitted.

14 4.6 CITY shall give COUNTY at least thirty (30) days notice before implementing any new
15 fees or an amendment to existing fees. Notwithstanding this Section 4.6, or any other provision of this
16 MOU, CITY shall be solely responsible for determining the amount of the fees and setting them in
17 accordance with law. This Section 4.6 shall not be construed as a representation by COUNTY as to the
18 propriety of the fees or the procedures used in setting them.

19 4.7 CITY shall hold harmless, defend and indemnify the COUNTY from all claims, demands,
20 litigation of any kind whatsoever arising from disputes relating to the fees, the enactment of or the
21 collection of CITY development fees.

22 4.8 If COUNTY adopts capital improvement fees, CITY shall require that an applicant for any
23 land use entitlement or permit within CITY shall pay all COUNTY, public improvement fees applicable to
24 the entitlement or permit on behalf of the COUNTY. At the COUNTY's request, CITY shall either timely
25 impose and collect all such fees or shall require the applicant to present a voucher issued by COUNTY
26 evidencing the payment of fees directly to COUNTY. If adopted by COUNTY, the fees are to mitigate
27 the impact of development on required COUNTY facilities and services including, but not limited to, the
28 criminal justice system, health, social services, parks, transportation and library. If CITY imposes and

1 collects fees on behalf of COUNTY, CITY shall transfer the fees to COUNTY at the earliest time legally
2 permissible to do so. COUNTY may impose new fees and amend existing fees from time to time in its
3 sole discretion. COUNTY shall give CITY at least thirty (30) days notice before implementing any new
4 fees or an amendment to existing fees. Notwithstanding this Section 4.8, or any other provision of this
5 RESTATED MOU, COUNTY shall be solely responsible for determining the amount of the fees and
6 setting them in accordance with law. This Section 4.8 shall not be construed as a representation by CITY
7 as to the propriety of the fees or the procedures used in setting them. If COUNTY imposes capital
8 improvement fees and CITY collects capital improvement fees on behalf of COUNTY, this RESTATED
9 MOU serves as a joint powers agreement under Chapter 5 of Division 7 of Title 1 (commencing with
10 Section 6500) of the Government Code for the purpose of CITY's collection of capital improvement fees
11 on behalf of COUNTY.

12 4.9 COUNTY shall hold harmless, defend and indemnify the CITY from all claims, demands,
13 litigations of any kind whatsoever arising from disputes relating to the enactment or collection of COUNTY
14 capital improvement fees.

15 4.10 COUNTY shall support urban unification and consolidation of urban services. To this end,
16 COUNTY shall oppose the creation of new governmental entities within CITY's sphere of influence,
17 except for such entities that may be necessary to address service requirements that cannot be addressed
18 by annexation to CITY. CITY and COUNTY will support transition agreements with current service
19 providers which recognize the primary role of cities as providers of urban services and where current
20 service providers have participated in service master planning.

21 4.11 Within CITY's sphere of influence and for the two-mile area beyond that sphere of
22 influence, COUNTY and CITY agree that, in the early stages of preparation of zone changes, circulation
23 proposals and general plan amendments for new urban development, they shall consult and formally
24 notify at the staff level in such fashion as to provide meaningful participation in the policy formulation
25 process, and shall likewise consult on other policy changes which may have an impact on growth or the
26 provision of urban services. CITY shall also be given the opportunity to respond to COUNTY before the
27 final document is prepared for presentation to COUNTY's Planning Commission. COUNTY agrees that
28 it will solicit comments from CITY in the preparation of any Initial Study required by the California

1 Environmental Quality Act undertaken within the area. If CITY determines such urban development may
2 have a significant effect on the environment, the COUNTY shall require an Environmental Impact Report
3 to be prepared if a fair argument can be made in support of the CITY's finding.

4 Notwithstanding anything to the contrary herein, because of state-mandated directives, including
5 without limitation, the state Regional Housing Needs Allocation, COUNTY may consider approval of
6 urban development in areas that are not currently planned for urban development, in order to meet its
7 obligations under a state-mandated directive.

8 4.12 Any change in the CITY's sphere of influence proposed by either COUNTY or CITY which
9 would modify the area depicted in Exhibit "3" requires the mutual consultation of both parties prior to
10 submission to LAFCO.

11 ARTICLE V

12 IMPLEMENTATION OF SALES TAX

13 REVENUE COLLECTION

14 5.1 Pursuant to the Bradley Burns Uniform Local Sales and Use Tax Law, Part 1.5, Division
15 2, of the Revenue and Taxation Code (commencing with Section 7200), CITY shall, concurrent with the
16 execution of this RESTATED MOU, amend its local sales and use tax ordinance, as needed, to comply
17 with the terms of this RESTATED MOU. The amendment of CITY's sales and use tax ordinance
18 (hereinafter referred to as "Ordinance Amendment") described in this Section 5.1 shall be timely
19 forwarded to the State Department of Tax and Fee Administration so that it will become operative as of
20 the first July 1 following the CITY reaching the threshold forth in subsections 5.2.1 and 5.2.2. The
21 Ordinance Amendment shall enable COUNTY, pursuant to its sales and use tax ordinance, to collect a
22 portion of the sales and use tax revenues generated within the incorporated areas of CITY in accordance
23 with the applicable rate set forth on Exhibit 4", attached hereto and incorporated by reference as if set
24 forth fully at this point. The format of this amendment by CITY to its local sales and use tax ordinance
25 shall likewise provide as a credit against the payment of taxes due under such ordinance, an amount
26 equal to any sales and use tax due to COUNTY.

27 5.2 Except as otherwise provided herein, CITY further agrees that the Ordinance Amendment
28 shall likewise provide for the periodic reallocation of additional sales tax revenues generated within the

1 incorporated areas of CITY in accordance with the schedule set forth on Exhibit "4". Each subsequent
2 incremental adjustment shall go into effect at the commencement of the fiscal year indicated. These
3 periodic adjustments shall enable COUNTY, pursuant to its sales and use tax ordinance, to collect that
4 portion of the sales and use tax revenues generated within the incorporated areas of CITY equal to the
5 applicable percentage as specified in Exhibit "4". These periodic adjustments shall automatically go into
6 effect provided that:

7 5.2.1 CITY receives sales tax revenues per capita in an amount greater than fifty percent
8 (50%) of the sales tax revenue per capita collected by all Fresno County cities when taken as
9 a group during the most recent fiscal year for which State Department of Tax and Fee
10 Administration information is available, then it hereby agrees to reallocated sales tax revenues
11 with COUNTY beginning in fiscal year 2021-22 in accordance with the provisions of this article;
12 and

13 5.2.2 CITY's annual sales tax revenue information is available for the State Department
14 of Tax and Fee Administration allows City to reallocate sales tax revenue at the percentage
15 designated in Exhibit "4" and still have a net increase in its remaining sales tax revenue when
16 compared with the fiscal year immediately preceding the fiscal year described above. The
17 periodic phase in of sales tax reallocation described herein shall be delayed from year-to-year
18 if CITY falls below the sales tax reallocation threshold as identified in Section 5.2. In those
19 years in which CITY does not meet the sales tax reallocation threshold, CITY's sharing
20 proportion shall continue at the same rate as in the last year in which CITY met or exceeded
21 the threshold. When, in a subsequent year, CITY again meets or exceeds the threshold, the
22 sharing proportion of CITY shall be at the next higher sharing proportion shown on Exhibit "4",
23 and the annual phase-in shall continue therefrom.

24 5.3 The Ordinance Amendment is intended to reduce CITY's sales tax rate from its then-
25 existing level to a level which thereby enables COUNTY, pursuant to its sales tax ordinance, to continue
26 collecting those amounts set forth in the previous provisions of this article as well as the applicable
27 percentages set forth on Exhibit "4". In addition, each periodic adjustment is intended by the parties to
28 enable COUNTY to collect an amount equivalent to the applicable percentage specified in Exhibit "4".

1 5.4 Whenever CITY proposes an annexation of unincorporated territory which generates
2 "substantial sales tax revenue" (as defined in this section 5.4 below) for COUNTY, CITY, agrees to further
3 amend its local sales and use tax ordinance as set forth in this section. Notwithstanding the language of
4 subsections 5.2.1 and 5.2.2, this additional amendment shall become operative no later than the
5 commencement of the next calendar quarter following the date upon which such annexation is certified
6 as complete by the Executive Officer of LAFCO. This additional amendment shall decrease CITY's sales
7 tax rate to yield an amount of substantial sales tax revenue being collected by COUNTY in the area to
8 be annexed, thus enabling COUNTY to increase its sales tax rate by a corresponding percentage which
9 shall continue to accrue to COUNTY throughout the term of this RESTATED MOU. Any such additional
10 amendment made by CITY pursuant to this section shall be cumulative and likewise preserve intact any
11 periodic adjustments previously implemented pursuant to this RESTATED MOU. Further, CITY agrees
12 that it shall not split or separate areas into smaller annexations for the purpose of, or having the effect of,
13 creating an annexation or annexations which, individually, do not generate substantial sales tax revenue,
14 but which would generate such revenue if combined. For purposes of this article, the term "substantial
15 sales tax revenue" shall be defined as sales tax revenue derived from taxable sales in the area annexed
16 equal to at least:

17 5.4.1 If only information for less than one fiscal year exists, then \$100,000 in taxable
18 sales in the most recent quarter for which such information from the State Department of
19 Tax and Fee Administration is available in writing or electronic or magnetic media, and
20 projected to a full four quarters, at least
21 \$400,000 in taxable sales.

22 5.4.2 If information for one or more years exist, then \$400,000 in taxable sales in the
23 most recent year for which such information from the State Department of Tax and Fee
24 Administration is available in writing or electronic or magnetic media.

25 5.5 If CITY fails to amend its sales tax ordinance as provided in section 5.1, or if the Ordinance
26 Amendment fails to provide for the periodic reallocation of additional sales tax revenues as provided in
27 section 5.2, the subsections therein, and Exhibit "4", or if CITY fails to further amend its sales tax
28 ordinance upon the annexation of unincorporated territory which generates substantial sales tax revenue

1 for COUNTY as provided in section 5.4, or if CITY splits or separates areas into smaller areas as
2 prohibited by section 5.4, then this RESTATED MOU shall immediately terminate and, in particular, no
3 master property tax exchange agreement under subdivision (d) of Section 99 of the Revenue and
4 Taxation Code, shall exist between CITY and COUNTY.

5 5.6 CITY and COUNTY further agree that the annual report of the State Department of Tax
6 and Fee Administration and the Department of Finance Annual Population Estimates shall be used as
7 the data source for the purpose of calculating the per capita sales tax revenue pursuant to this
8 RESTATED MOU.

9 5.7 Application of the formula to be used in the allocation of revenues pursuant to section 5.2
10 is illustrated in Exhibit "5", attached hereto and incorporated by reference herein as if set forth fully at this
11 point.

12 ARTICLE VI

13 COUNTY AND CITY ASSURANCES ON USE OF REVENUE

14 6.1 COUNTY recognizes that certain revenue reallocated to it by this RESTATED MOU would
15 otherwise have been appropriated by CITY to meet demands for services. In light therefore, COUNTY
16 agrees to use such new revenue in order to maintain levels of COUNTY services that are supportive of
17 CITY services, unless the Federal or state governments materially reduce the level of funding for such
18 services. Examples of such COUNTY services include, but are not limited to, the criminal justice system,
19 public health, and other similar services.

20 6.2 7 CITY agrees to continue enforcement of laws which result in the collection of fines and
21 forfeitures.

22 ARTICLE VII

23 COOPERATIVE EFFORTS AT LEGISLATIVE REFORM

24 7.1 CITY and COUNTY agree to work jointly for state legislation and appropriations that would
25 improve the fiscal condition of both CITY and COUNTY.

26 ARTICLE IX

27 GENERAL PROVISIONS

28 8.1 Term of MOU

1 This RESTATED MOU shall commence as of the date of execution by COUNTY and CITY and
2 shall remain in effect for a period of fifteen (15) years, unless terminated prior to that time by mutual
3 agreement of the parties or as otherwise provided by the RESTATED MOU.

4 In addition, should all or any portion of this RESTATED MOU be declared invalid or inoperative
5 by a court of competent jurisdiction, or should any party to this RESTATED MOU fail to perform any of
6 its obligations hereunder, or should any party to this RESTATED MOU take any action to frustrate the
7 intentions of the parties as expressed in this RESTATED MOU, then in such event, this entire RESTATED
8 MOU, as well as any ancillary documents entered into by the parties in order to fulfill the intent of this
9 RESTATED MOU, shall immediately be of no force and effect and, in particular, no property tax exchange
10 agreement, as required by Section 99 of the Revenue and Taxation Code, shall exist between the CITY
11 and COUNTY as to unincorporated property.

12 8.2 Geographic Application of RESTATED MOU

13 This RESTATED MOU shall apply only to the areas identified as the City of Orange Cove's Sphere
14 of Influence and the Future Growth Areas as depicted in Exhibit 3. This RESTATED MOU shall not apply
15 to any sphere of influence beyond the area depicted in Exhibit 3 unless and until the parties mutually
16 agree to amend this RESTATED MOU.

17 8.3 Termination Due to Changes in Law

18 The purpose of this RESTATED MOU is to alleviate in part the revenue shortfall experienced by
19 COUNTY which may result from CITY's annexation of revenue-producing or potentially revenue-
20 producing properties located within the unincorporated area of COUNTY. The purpose of this RESTATED
21 MOU is also to enable CITY to proceed with territorial expansion and economic growth consistent with
22 the terms of existing law as mutually understood by the parties as well as to maximize each party's ability
23 to deliver essential governmental services. In entering into this RESTATED MOU, the parties mutually
24 assume the continuation of the existing statutory scheme for the distribution of available tax revenues to
25 local government and that assumption is a basic tenet of this RESTATED MOU. Accordingly, it is mutually
26 understood and agreed that this RESTATED MOU may, by mutual agreement be terminated should
27 changes occur in statutory law, court decisions or state administrative interpretations which negate the
28 basic tenets of this RESTATED MOU.

1 8.4 Modification

2 This RESTATED MOU and all of the covenants and conditions set forth herein may be modified
3 or amended only by a writing duly authorized and executed by COUNTY and CITY.

4 8.5 Enforcement

5 COUNTY and CITY each acknowledge that this instrument cannot bind or limit themselves or
6 each other or their future governing bodies in the exercise of their discretionary legislative power.
7 However, each binds itself that it will insofar as is legally possible fully carry out the intent and purposes
8 hereof, if necessary by administrative action independent of ordinances, and that this RESTATED MOU
9 may be enforced by injunction to the extent allowed by law.

10 8.6 Entire Agreement and : Supersession

11 With respect to the subject matter hereof, this RESTATED MOU supersedes any and all previous
12 negotiations, proposals, commitments, writings, and understandings of any nature whatsoever between
13 COUNTY and CITY except as otherwise provided herein.

14 8.7 Notice

15 All notices, requests, certifications or other correspondence required to be provided by the parties
16 to this RESTATED MOU shall be in writing and shall be delivered by first class mail or an equal or better
17 form of delivery to the respective parties at the following addresses:

18 COUNTY

19 County Administrative Officer
20 County of Fresno
21 Hall of Records, Room 300
22 2281 Tulare Street
23 Fresno, CA 93721

18 CITY

19 City Manager
20 City of Orange Cove
21 City Hall
22 633 Sixth Street
23 Orange Cove, CA 93646

24 8.8 Renegotiation

25 If COUNTY enters into an agreement or memorandum of understanding, which includes a master
26 property tax exchange agreement under subdivision (d) of Section 99 of the Revenue and Taxation Code,
27 with another city that has terms and conditions more favorable in the aggregate to that city than those
28 terms and conditions contained herein, COUNTY agrees that it will negotiate such terms and conditions
upon written request from CITY, with the intent of offering that more favorable agreement. Negotiations
shall conclude thirty (30) days from the date of receipt of notice by COUNTY and, if agreement is

1 tentatively reached during that period, the legislative bodies of the parties shall approve any such
2 amendment within thirty (30) days following the date of the tentative agreement. COUNTY and CITY are
3 not required to reach agreement.

4 8.9 Notice of Breach

5 Prior to this RESTATED MOU being terminated as expressly provided in Sections 5.5,6.2.2 and
6 9.1, COUNTY shall provide notice to CITY of such breach, and CITY shall comply with the terms and
7 conditions of this RESTATED MOU within thirty (30) days of receipt of notice. If CITY fails to timely
8 comply this RESTATED MOU shall terminate as provided herein. During the thirty (30) day notice period
9 and until CITY certifies in writing that they are in compliance and COUNTY agrees in writing, no property
10 tax exchange agreement, as required by Section 99 of the Revenue and Taxation Code, shall exist
11 between COUNTY and CITY with respect to any pending annexations.

12 In like manner the CITY and AGENCY shall give COUNTY thirty (30) days written notice and
13 opportunity to cure any alleged breach of the RESTATED MOU on the part of the COUNTY.

14 8.10 No Waiver of Government Claims Act

15 For all claims arising from or related to this RESTATED MOU, nothing in this RESTATED MOU
16 establishes, waives, or modifies any claims presentation requirements or procedures provided by law,
17 including the Government Claims Act (Division 3.6 of Title 1 of the Government Code, beginning with
18 section 810).

19 8.11 Governing Law and Venue

20 This RESTATED MOU shall be administered and interpreted under the laws of the State of California.
21 Jurisdiction of litigation arising from this RESTATED MOU shall only be in California. Any action brought
22 to interpret or enforce this RESTATED MOU, or any of the terms or conditions hereof, shall be brought
23 and maintained in the Fresno County Superior Court.

24 8.12 Authorization to Execute

25 COUNTY and CITY each represent and warrant that the individuals signing this RESTATED MOU
26 are duly authorized to do so by their respective legislative bodies and that their signatures on this
27 RESTATED MOU legally bind COUNTY and CITY to the terms of this RESTATED MOU.

28 8.13 Counterparts

1 This RESTATED MOU may be signed in counterparts, each of which is an original, and all of
2 which together constitute this RESTATED MOU.

3 (Signature page follows.)
4
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28

1
2 IN WITNESS WHEREOF, the parties hereto have executed this RESTATED MOU in the County
3 of Fresno, State of California, on the last date set forth below.
4

5 County of Fresno, a Political
6 Subdivision of the State of California
(COUNTY)

City of Orange Cove, a Municipal
Corporation of the State of California (CITY)

7
8 By: _____
9 Steve Brandau, Chairman of the
Board of Supervisors of the County of Fresno

By: _____
Victor P. Lopez, Mayor, City of Orange Cove

10 Date: _____

Date: _____

11 **Attest:**

12 Bernice E. Seidel
13 Clerk of the Board of Supervisors
14 County of Fresno, State of California
Clerk to the Board of Supervisors

Attest:

June V. Lopez-Bracamontes
City Clerk

15 By: _____
16 Deputy

By: _____
June V. Lopez-Bracamontes, City Clerk
City of Orange Cove

Rudy Hernandez, Interim City Manager

20 By: _____
21 Rudy Hernandez, Interim City Manager
22 City of Orange Cove

23 Approved as to Legal Form
24 City Attorney, City of Orange Cove

25 By: _____
26 Dan McCloskey, City Attorney
27 City of Orange Cove
28

EXHIBIT 1
STANDARDS FOR ANNEXATION

- The proposal must be consistent with adopted sphere of influence of the city and not conflict with the goals and policies of the Cortese-Knox-Hertzberg Act.
- The proposal must be consistent with city general and specific plans, including adopted goals and policies.
- Pursuant to CEQA, the proposal must mitigate any significant adverse effect on continuing agricultural operations on adjacent properties, to the extent reasonable and consistent with the applicable general and specific plan.
- A proposal for annexation is acceptable if one of the following conditions exist:
 1. There is existing substantial development provided the City confines its area requested to that area needed to include the substantial development and create logical boundaries.
 2. Development exists that requires urban services which can be provided by the City.
 3. If no development requiring urban services exists, at least 25% of the area proposed for annexation has:
 - (a) Approved tentative subdivision map (single-family residential)
 - (b) Approved site plan (for uses including multi-family)
 4. The annexation is to fulfill the city's Regional Housing Needs Allocation (RHNA) obligation which otherwise cannot be accommodated on lands currently within the city's incorporated boundary.
 5. The annexation includes the full width of road right-of-way along the annexation boundary and does not result in the creation of bypassed segments of existing road rights-of-way.
- The proposal would not create islands. Boundaries must ultimately minimize creation of peninsulas and corridors, or other distortion of boundaries.

For any of the following circumstances listed below, a proposal for annexation is presumed to comply with all standards for annexation:

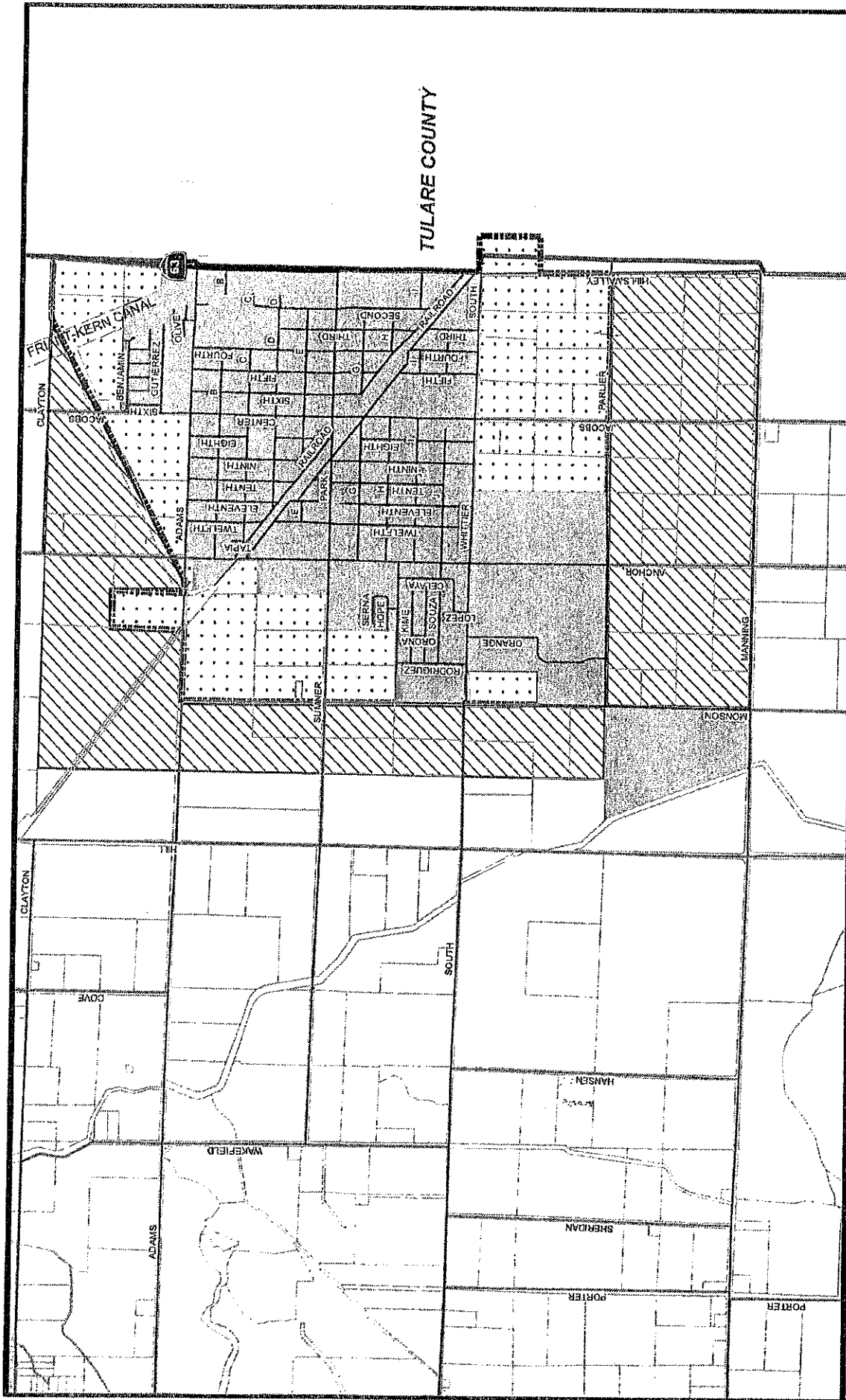
- The request for annexation is by a city for annexation of its own publicly-owned property for public use.
- The request for annexation is by a city in order to facilitate construction of public improvements or public facilities which otherwise could not be constructed.
- The request for annexation is to remove an unincorporated island, substantially surrounded area, or otherwise address existing peninsulas and/or irregular boundaries.

Commented [JB1]: Delete. This section is already addressed in Section 2.4 of Article II (alternate standard of annexation for regional commercial/industrial).

EXHIBIT 2

Effective July 1, 2021, the property tax sharing ratios shall continue as follows:

County	City	Effective Date
63.0%	37.0%	July 1, 2022
63.0%	37.0%	July 1, 2023
63.0%	37.0%	July 1, 2024
63.0%	37.0%	July 1, 2025
63.0%	37.0%	July 1, 2026
63.0%	37.0%	July 1, 2027
63.0%	37.0%	July 1, 2028
63.0%	37.0%	July 1, 2029
63.0%	37.0%	July 1, 2030
63.0%	37.0%	July 1, 2031
63.0%	37.0%	July 1, 2032
63.0%	37.0%	July 1, 2033
63.0%	37.0%	July 1, 2034
63.0%	37.0%	July 1, 2035
63.0%	37.0%	July 1, 2036



CITY OF ORANGE COVE

City of Orange Cove City Limits

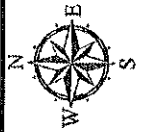
City of Orange Cove Sphere of Influence

Future Growth Area 1,034.35 Acres



Department of Public Works and Planning
Development Services Division

Prepared by: GS/ALM/NO
8/13/00/CS&P/HS/ALM/Specific



EXHBIT 4

Effective July 1, 2021, the Sales Tax Revenue Sharing Proportion shall continues as follows:

YEAR	CITY
1	5%
2	5%
3	5%
4	5%
5	5%
6	5%
7	5%
8	5%
9	5%
10	5%
11	5%
12	5%
13	5%
14	5%
15	5%

EXHIBIT 5

Table 1: Sales Tax Revenue Allocation Application FY 2018-19 Data

City	Sales Tax Revenue		Population		Per Capita Tax Revenue		Sales Tax Revenue		Population		Per Capita Tax Revenue		Meets 50% Criteria		Meets 50% Criteria		Growth over 1/2%		Sales Tax Revenue Growth	
	2017 - 2018	A	January 1, 2018	B	2017 - 2018	C	2018 - 2019	D	January 1, 2019	E	2018 - 2019	F	2017 - 2018	G	2018 - 2019	F	over 1/2%	I	J	
Clovis	\$ 20,088,192		113,501		\$ 176.99		\$ 21,398,962		116,609		\$ 183.51		A		A		Yes		6.53%	
Coalinga	\$ 795,842		16,516		\$ 48.19		\$ 946,569		16,944		\$ 55.86		B		B		Yes		18.94%	
Firebaugh	\$ 887,447		7,893		\$ 112.43		\$ 825,341		7,980		\$ 103.43		A		A		No		-7.00%	
Fowler	\$ 1,290,773		6,161		\$ 209.51		\$ 1,415,099		6,220		\$ 227.51		A		A		Yes		9.63%	
Fresno	\$ 86,000,524		536,593		\$ 160.27		\$ 91,798,987		542,012		\$ 169.37		A		A		Yes		6.74%	
Huron	\$ 174,745		7,281		\$ 24.00		\$ 182,158		7,302		\$ 24.95		B		B		Yes		4.24%	
Kerman	\$ 1,913,749		15,335		\$ 124.80		\$ 1,981,109		15,767		\$ 125.65		A		A		Yes		3.52%	
Kingsburg	\$ 975,836		12,397		\$ 78.72		\$ 1,141,664		12,551		\$ 90.96		A		A		Yes		16.99%	
Mendota	\$ 611,472		12,201		\$ 50.12		\$ 674,507		12,278		\$ 54.94		B		B		Yes		10.31%	
Orange Cove	\$ 176,743		9,443		\$ 18.72		\$ 225,323		9,460		\$ 23.82		B		B		Yes		27.49%	
Parlier	\$ 424,544		15,460		\$ 27.46		\$ 444,697		15,658		\$ 28.40		B		B		Yes		4.75%	
Reedley	\$ 1,687,854		25,797		\$ 65.43		\$ 1,755,297		25,873		\$ 67.84		B		B		Yes		4.00%	
Sanger	\$ 2,320,636		26,418		\$ 87.84		\$ 2,325,388		27,005		\$ 86.11		A		A		No		0.20%	
San Joaquin	\$ 185,302		4,124		\$ 44.93		\$ 252,989		4,144		\$ 61.05		B		B		Yes		36.53%	
Selma	\$ 5,515,388		24,327		\$ 226.72		\$ 6,482,913		24,402		\$ 265.67		A		A		Yes		17.54%	

Sales Tax Revenue: Columns A & D, Source: State Board of Equalization Annual Report Statistical Appendix; Fiscal Year Data Available in January of Next Calendar Year

Population Data: Columns B & E, Source: State Department of Finance January 1, Population Estimates; Available in May of that Calendar Year

Per Capita Sales Tax All Cities (FY 2017-18) Sum Columns A & B, Then divide the column A summed total by the column B summed total. The Result is listed in Column C as "Per Capita Cities"

Per Capita Sales Tax All Cities (FY 2018-19) Sum Columns D & E, Then divide the column D summed total by the column E summed total. The Result is listed in Column F as "Per Capita Cities"

50% Minimum Criteria: The Previous Calculations divided by 2. Then a comparison of this number with the numbers in columns C & F is made. Results are reflected in columns G & H. "A" means above, "B" below the Criteria.

Sales Tax Revenue Growth: Column J; Compute percentage growth of Sales Tax Revenue: Change in Sales Tax Revenue in Column D compared to Column A.

Growth Criteria: If the Sales Tax Revenue of the city grew by at least 1/2%, the results are reflected in column I with a "YES"



Date: January 12, 2022
To: Mayor and City Council
From: Rudy Hernandez, Interim City Manager
Subject: Update on Financial Issues
Attachments: None.

Background

- Parcel Tax/Utility Users Tax Ballot Measure
- Fresno County Court Services in the City of Orange Cove
- Records Retention Act – Old files going back many years located in train.
- Use of Senior Center By Proteous

RECOMMENDATION:

For Information Only.

Prepared by: _____

Approved by: _____

REVIEW: City Manager: ☒

Finance: _____

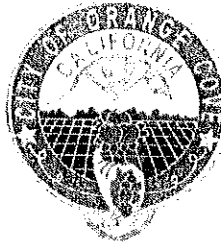
City Attorney: _____

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: _____



Date: January 12, 2022
To: Mayor and City Council
From: Rudy Hernandez, Interim City Manager
Subject: Approval of Contract with the Law Firm of Lozano Smith To Provide Legal Services pertaining to Personnel Services.
Attachments: Proposal Submitted by the Law Firm of Lozano Smith.

BACKGROUND:

The City of Orange Cove is currently facing some tough challenges that require an attorney with a strong personnel background. Some key issues facing the City are:

- Financial Issues. The City is currently projecting future year financial deficits and will need the assistance of an attorney to deal with our unions in mitigating these financial shortfalls.
- Assist staff with COVID-19 related issues involving city staff.
- Labor Negotiations. The current MOU with Local 39 and Police Officers Association will expire at the end of June 30, 2022. In about a month or 2, labor negotiations will begin for the new MOU beginning July 1, 2022.
- Other personnel legal issues as directed by City Council.

BID PROPOSALS:

On December 14, 2021, the City Council in close session reviewed and discussed the two (2) bid proposals submitted by the law firms listed below:

1. Constanzo & Associates
2. Lozano Smith


RECOMMENDATION:

After discussing the 2 bid proposals, the City Council selected the law firm of Lozano Smith. Based on this information, staff recommends that the City Council approve the attached contract with Lozano Smith.

FISCAL IMPACT:

The hourly rate charged by Lozano Smith is \$250 per hour. Paralegal/Law Clerk is \$150 per hour. The fiscal impact will be based on the amount of hours requested by city staff for legal services.

Prepared by Rudy Hernandez

Approved by: 

REVIEW: City Manager: ✓

Finance: _____

City Attorney: 

TYPE OF ITEM:

COUNCIL ACTION: APPROVED DENIED NO ACTION

_____ Consent

_____ Info Item

x Action Item

_____ Department Report

_____ Redevelopment Agency

_____ Public Hearing

_____ Matter Initiated by a Council Member

_____ Other

_____ Continued to: _____



Lozano Smith

ATTORNEYS AT LAW

AGREEMENT FOR LEGAL SERVICES

THIS AGREEMENT is effective December 20, 2021, between the CITY OF ORANGE COVE ("Client") and the law firm of LOZANO SMITH, LLP ("Attorney") (each a "Party" and collectively the "Parties"). Attorney shall provide legal services as requested by Client on the following terms and conditions:

1. **ENGAGEMENT.** Client hires Attorney on an as-requested basis as its legal counsel with respect to matters the Client refers to Attorney. When Client refers a matter to Attorney, Attorney shall confirm availability and ability to perform legal services regarding the matter. After Attorney has completed services for the specific matter referred by Client, then no continuing attorney-client relationship exists until Client requests further services and Attorney accepts a new engagement. If Attorney undertakes to provide legal services to represent Client in such matters, Attorney shall keep Client informed of significant developments and respond to Client's inquiries regarding those matters. Client understands that Attorney cannot guarantee any particular results, including the costs and expenses of representation. Client agrees to be forthcoming with Attorney, to cooperate with Attorney in protecting Client's interests, to keep Attorney fully informed of developments material to Attorney's representation of client, and to abide by this Agreement. Client is hereby advised of the right to seek independent legal advice regarding this Agreement.
2. **RATES TO BE CHARGED.** Client agrees to pay Attorney for services rendered based on the attached rate schedule. Agreements for legal fees on other-than-an-hourly basis may be made by mutual agreement for special projects (including as set forth in future addenda to this Agreement).
3. **REIMBURSEMENT.** Client agrees to reimburse Attorney for actual and necessary expenses and costs incurred in the course of providing legal services to Client, including but not limited to expert, consultant, mediation and arbitration fees. Attorney shall not be required to advance costs on behalf of Client over the amount of \$1,000 unless otherwise agreed to in writing by Attorney. Typical expenses advanced for Client, without prior authorization, include messenger fees, witness fees, expedited delivery charges, travel expenses, court reporter fees and transcript fees. Client authorizes Attorney to retain experts or consultants to perform services.
4. **MONTHLY INVOICES.** Attorney shall send Client a statement for fees and costs incurred every calendar month (the "Statement"). Statements shall set forth the amount, rate and description of services provided. Client shall pay Attorney's Statements within thirty (30) calendar days after receipt. An interest charge of one percent (1%) per month shall be assessed on balances that are more than thirty (30) calendar days past due, not to exceed 10% per annum.
5. **COMMUNICATIONS BETWEEN ATTORNEY AND CLIENT.** The Parties recognize that all legal advice provided by Attorney is protected by the Attorney-Client and Work Product

Privileges. In addition to regular telephone, mail and other common business communication methods, Client hereby authorizes Attorney to use facsimile transmissions, cellular telephone calls and text, unencrypted email, and other electronic transmissions in communicating with Client. Unless otherwise instructed by Client, any such communications may include confidential information.

6. **POTENTIAL AND ACTUAL CONFLICTS OF INTEREST.** If Attorney becomes aware of any potential or actual conflict of interest between Client and one or more other clients represented by Attorney, Attorney will comply with applicable laws and rules of professional conduct.

7. **INDEPENDENT CONTRACTOR.** Attorney is an independent contractor and not an employee of Client.

8. **TERMINATION.**

a. Termination by Client. Client may discharge Attorney at any time, with or without cause, by written notice to Attorney.

b. Termination by Mutual Consent or by Attorney. Attorney may terminate its services at any time with Client's consent or for good cause. Good cause exists if (a) Client fails to pay Attorney's Statement within sixty (60) calendar days of its date, (b) Client fails to comply with other terms of this Agreement, including Client's duty to cooperate with Attorney in protecting Client's interests, (c) Client has failed to disclose material facts to Attorney or (d) any other circumstance exists that requires termination of this engagement under the ethical rules applicable to Attorney. Additionally, to the extent allowed by law, Attorney may decline to provide services on new matters or may terminate the Agreement without cause upon written notice to Client if Attorney is not then providing any legal services to Client. Even if this Agreement is not terminated, under paragraph 1 an attorney-client relationship exists only when Attorney is providing legal services to Client.

c. Following Termination. Upon termination by either Party: (i) Client shall promptly pay all unpaid fees and costs for services provided or costs incurred pursuant to this Agreement up to the date of termination; (ii) unless otherwise required by law or agreed to by the Parties, Attorney will provide no legal services following notice of termination; (iii) Client will cooperate with Attorney in facilitating the orderly transfer of any outstanding matters to new counsel, including promptly signing a substitution of counsel form at Attorney's request; and (iv) Client shall, upon request, be provided the Client's file maintained for the Client by Attorney and shall sign acknowledgment of receipt upon delivery of that file. For all Statements received by Client from Attorney prior to the date of termination, Client's failure to notify Attorney in writing of any disagreement with either the services performed or the charges for those services as shown in the Statement within thirty (30) calendar days of the date of termination shall be deemed Client's acceptance of and agreement with the Statement. For any billing appearing for the first time on a Statement received by Client from Attorney after the date

of termination, failure to notify Attorney in writing of any disagreement with either the services performed or the charges for those services within thirty (30) calendar days from receipt of the Statement shall be deemed to signify Client's acceptance of and agreement with the Statement.

9. **MAINTENANCE OF INSURANCE.** Attorney agrees that, during the term of this Agreement, Attorney shall maintain liability and errors and omissions insurance.

10. **CONSULTANT SERVICES.** Attorney works with professional consultants that provide services, including but not limited to, investigations, public relations, educational consulting, leadership mentoring and development, financial, budgeting, management auditing, board/superintendent/chancellor relations, administrator evaluation and best practices, and intergovernmental relations. Attorney does not share its legal fees with such consultants. Attorney may offer these services to Client upon request.

11. **DISPUTE RESOLUTION.**

a. Mediation. Except as otherwise set forth in this section, Client and Attorney agree to make a good faith effort to settle any dispute or claim that arises under this Agreement through discussions and negotiations and in compliance with applicable law. In the event of a claim or dispute, either Party may request, in writing to the other Party, to refer the dispute to mediation. This request shall be made within thirty (30) calendar days of the action giving rise to the dispute. Upon receipt of a request for mediation, both Parties shall make a good faith effort to select a mediator and complete the mediation process within sixty (60) calendar days. The mediator's fee shall be shared equally between Client and Attorney. Each Party shall bear its own attorney fees and costs. Whenever possible, any mediator selected shall have expertise in the area of the dispute and any selected mediator must be knowledgeable regarding the mediation process. No person shall serve as mediator in any dispute in which that person has any financial or personal interest in the outcome of the mediation. The mediator's recommendation for settlement, if any, is non-binding on the Parties. Mediation pursuant to this provision shall be private and confidential. Only the Parties and their representatives may attend any mediation session. Other persons may attend only with the written permission of both Parties. All persons who attend any mediation session shall be bound by the confidentiality requirements of California Evidence Code section 1115, et seq., and shall sign an agreement to that effect. Completion of mediation shall be a condition precedent to arbitration, unless the other Party refuses to cooperate in the setting of mediation.

b. Dispute Regarding Fees. Any dispute as to attorney fees and/or costs charged under this Agreement shall to the extent required by law be resolved under the California Mandatory Fee Arbitration Act (Bus. & Prof. Code §§ 6200, et seq.).

c. Binding Arbitration. Except as otherwise set forth in section (b) above, Client and Attorney agree to submit all disputes to final and binding arbitration, either following mediation which fails to resolve all disputes or in lieu of mediation as may be agreed by

the Parties in writing. Either Party may make a written request to the other for arbitration. If made in lieu of mediation, the request must be made within sixty (60) calendar days of the action giving rise to the dispute. If the request for arbitration is made following an unsuccessful attempt to mediate the Parties' disputes, the request must be made within ten (10) calendar days of termination of the mediation. The Parties shall make a good faith attempt to select an arbitrator and complete the arbitration within ninety (90) calendar days. If there is no agreement on an arbitrator, the Parties shall use the Judicial Arbitration and Mediation Service (JAMS). The arbitrator's qualifications must meet the criteria set forth above for a mediator, except, in addition, the arbitrator shall be an attorney unless otherwise agreed by the Parties. The arbitrator's fee shall be shared equally by both Parties. Each Party shall bear its own attorney fees and other costs. The arbitrator shall render a written decision and provide it to both Parties. The arbitrator may award any remedy or relief otherwise available in court and the decision shall set forth the reasons for the award. The arbitrator shall not have any authority to amend or modify this agreement. Any arbitration conducted pursuant to this paragraph shall be governed by California Code of Civil Procedure sections 1281, et seq. By signing this Agreement, Client acknowledges that this agreement to arbitrate results in a waiver of Client's right to a court or jury trial for any fee dispute or malpractice claim. This also means that Client is giving up Client's right to discovery and appeal. If Client later refuses to submit to arbitration after agreeing to do so, Client maybe ordered to arbitrate pursuant to the provisions of California law. Client acknowledges that before signing this Agreement and agreeing to binding arbitration, Client is entitled, and has been given a reasonable opportunity, to seek the advice of independent counsel.

d. Effect of Termination. The terms of this section shall survive the termination of the Agreement.

12. **ENTIRE AGREEMENT.** This Agreement with its exhibit supersedes any and all other prior or contemporaneous oral or written agreements between the Parties. Each Party acknowledges that no representations, inducements, promises or agreements have been made by any person which are not incorporated herein, and that any other agreements shall be void. Furthermore, any modification of this Agreement shall only be effective if in writing signed by all Parties hereto.

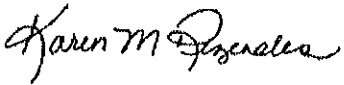
13. **SEVERABILITY.** Should any provision of this Agreement be held by a court of competent jurisdiction to be invalid, void or unenforceable, but the remainder of the Agreement can be enforced without failure of material consideration to any Party, then this Agreement shall not be affected and it shall remain in full force and effect, unless amended or modified by mutual consent of the Parties; provided, however, that if the invalidity or unenforceability of any provision of this Agreement results in a material failure of consideration, then, to the extent allowed by law, the Party adversely affected thereby shall have the right in its sole discretion to terminate this Agreement upon providing written notice of such termination to the other Party.

14. **NON-WAIVER.** None of the provisions of this Agreement shall be considered waived by either Party unless such waiver is specified in writing.

15. NO THIRD PARTY RIGHTS. This Agreement shall not create any rights in, or inure to the benefit of, any third party.

16. ASSIGNMENT. The terms of this Agreement may not be assigned to any third party. Neither Party may assign any right of recovery under or related to the Agreement to any third party.

SO AGREED:

CLIENT SIGNATURE	ATTORNEY SIGNATURE
City of Orange Cove	Lozano Smith, LLP
BY (Authorized Signature)	BY (Authorized Signature) 
PRINTED NAME AND TITLE OF PERSON SIGNING	PRINTED NAME AND TITLE OF PERSON SIGNING Karen M. Rezendes, Managing Partner
DATE EXECUTED	DATE EXECUTED 12/20/2021



Lozano Smith

ATTORNEYS AT LAW

PROFESSIONAL RATE SCHEDULE FOR CITY OF ORANGE COVE

1. HOURLY PROFESSIONAL RATES

Client agrees to pay Attorney by the following standard hourly rate:

All Attorneys	\$ 250 per hour
Paralegal / Law Clerk	\$ 150 per hour

2. BILLING PRACTICE

Lozano Smith will provide a monthly, itemized Statement for services rendered. Time billed is broken into 1/10 (.10) hour increments, allowing for maximum efficiency in the use of attorney time. Invoices will clearly indicate the department or individuals for whom services were rendered.

Written responses to audit letter inquiries will be charged to Client on an hourly basis, with the minimum charge for such responses equaling .5 hours. Travel time shall be prorated if the assigned attorney travels for two or more clients on the same trip.

3. COSTS AND EXPENSES

In-office copying/electronic communication printing	\$ 0.25 per page
Facsimile	\$ 0.25 per page
Postage	Actual Usage
Mileage	IRS Standard Rate

Other costs, such as messenger, meals, and lodging shall be charged on an actual and necessary basis.



REPORT TO CITY COUNCIL AND SUCCESSOR AGENCY

January 12, 2022

To: Mayor and Successor Agency Board

From: Rudy Hernandez, City Manager

SUBJECT: Consideration of Proposals for Fiscal Year 22-23 Successor Agency and Housing Successor Consulting Services by RSG, Inc.

BACKGROUND:

In 2012, the Orange Cove Redevelopment Agency was dissolved by State law. The City of Orange Cove ("City") elected to become the Successor Agency to the Orange Cove Redevelopment Agency ("Successor Agency") and the Housing Successor to the Orange Cove Redevelopment Agency ("Housing Successor"). The dissolution of redevelopment is complex and arduous. The City requires financial and management consulting services to help manage the numerous deadlines and requirements of State Law on Successor Agency and Housing Successor activities.

Successor Agency Consulting Services

The City and Successor Agency have employed RSG, Inc. ("RSG") to provide consulting services related to the dissolution of the former Orange Cove Redevelopment Agency since 2012. To date, RSG has assisted with:

- Operational startup activities to create the Successor Agency, Housing Successor Entity, and Oversight Board
- Recognized Obligation Payment Schedules (ROPS) and Administrative Budgets covering January 2012 through Fiscal Year ("FY") 2022-23
- Long-Term Cash Flow Analyses to aid preparation of the ROPS and inform other planning activities
- City Loan Agreements to cover shortfalls in prior ROPS periods
- Due Diligence Review advisory services
- Zero-Property Long Range Property Management Plan
- 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

A new contract for administrative services is proposed in a not-to-exceed amount of \$20,000 to continue providing consulting services in FY 2022-23.

RSG will consult on all activities required by the Dissolution Act, which may include but are not limited to:

- Maintenance of Budget and Cash Flow - RSG will maintain a working cash flow model for the Successor Agency to anticipate any future budget shortfalls.
- Preparation of the Annual ROPS and accompanying Administrative Budgets - RSG will assist the Successor Agency in completing the ROPS 23-24 and the annual administrative budget for FY 2023-24 that is due February 1, 2023. If the Successor Agency decides to prepare a Last & Final ROPS, it may be prepared under the FY 2022-23 contract to the extent budget is available. A contract amendment may be required to increase the budget if agreed upon by Successor Agency staff and RSG.
- Assistance with the Prior Period Adjustment ("PPA") 20-21 - RSG will assist the Successor Agency in reporting the differences between approved obligations and actual payments in FY 2020-21, and coordinate with the Fresno County Auditor-Controller on submission and follow-up.
- Attendance of Meetings - RSG will make a staff member at Successor Agency, Oversight Board, or DOF meetings (up to 6 meetings total).
- Provision of Additional Administrative Services - RSG will assist the Successor Agency with any additional administrative tasks as they arise.

The fee stated in the proposal matches the amount proposed to the Successor Agency and Oversight Board in the FY 2022-23 Administrative Budget. Costs for services will be paid on a monthly basis as they accrue on a time and material basis by the Successor Agency.

Housing Successor Consulting Services

Health and Safety Code Section 34176.1 requires the City to prepare an annual report of the Housing Successor's financial activity, loan administration, and property disposition and development activity every year. A report of FY 2021-22 activities is due to the California Department of Housing and Community Development ("HCD") by April 1, 2023. RSG proposes preparing the report for a fixed fee of \$5,000.

RECOMMENDATIONS:

1. Adopt Resolution No. 2022-01 Approving a Contract with RSG, Inc. to Provide Consulting Services to the Successor Agency through Fiscal Year 2022-23.
2. Adopt Resolution No. SA 2022-02 Approving a Contract with RSG, Inc. to Provide Consulting Services to the Housing Successor through Fiscal Year 2022-23.

RESOLUTION NO. 2022-01

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF ORANGE COVE APPROVING A CONTRACT WITH RSG, INC. TO PROVIDE HOUSING SUCCESSOR CONSULTING SERVICES THROUGH FISCAL YEAR 2022-23

WHEREAS, Assembly Bill 26 ("AB x1 26") was enacted by the State Legislature and signed by the Governor as of June 29, 2011; and

WHEREAS, on January 25, 2012, the City Council of the City of Orange Cove ("City Council") adopted Resolution No. 2012-XX electing to serve as the Housing Successor to the former Orange Cove Redevelopment Agency ("Housing Successor") in accordance with California Health & Safety Code ("HSC") Section 34176; and

WHEREAS, HSC Section 34176.1 requires the Housing Successor to prepare an annual report of its activities and submit it to the California Department of Housing and Community Development ("HCD") by April 1 annually; and

WHEREAS, the City Council desires to approve a contract with RSG, Inc. to provide Housing Successor consulting services through Fiscal Year 2022-23 as outlined in the proposal attached as Exhibit "A" ("RSG Contract"); and

WHEREAS, the City Council desires to approve the proposed RSG Contract.

NOW, THEREFORE, THE CITY COUNCIL TO THE CITY OF ORANGE COVE 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 is hereby approved.

Section 3. Execution and Transmittal. The City Manager 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 City.

PASSED, APPROVED AND ADOPTED at a regular meeting of the City Council, on the ____ day of _____, 20__ by the following vote:

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

VICTOR P. LOPEZ
AGENCY CHAIRPERSON

ATTEST:

JUNE BRACAMONTES, AGENCY SECRETARY

APPROVED AS TO FORM:

~~XXX~~, AGENCY COUNSEL

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
SUCCESSOR AGENCY TO THE ORANGE COVE REDEVELOPMENT AGENCY)

I, JUNE BRACAMONTES, hereby certify that I am the duly appointed Agency Secretary
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
_____, 20__.

June Bracamontes
Agency Secretary

RESOLUTION NO. SA 2022-02

**A RESOLUTION OF THE SUCCESSOR AGENCY TO THE ORANGE COVE
REDEVELOPMENT AGENCY APPROVING A CONTRACT WITH RSG,
INC. TO PROVIDE CONSULTING SERVICES TO THE SUCCESSOR
AGENCY THROUGH FISCAL YEAR 2022-23**

WHEREAS, Assembly Bill 26 ("AB x1 26") was enacted by the State Legislature and signed by the Governor as of June 29, 2011; and

WHEREAS, on January 25, 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") in accordance with the Dissolution Act (enacted by Assembly Bills x1 26 and 1484 and Senate Bill 107, as codified in the California Health & Safety Code); and

WHEREAS, HSC 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 approve a contract with RSG, Inc. to provide Successor Agency consulting services through Fiscal Year 2022-23 as outlined in the proposal attached as Exhibit "A" ("RSG Contract"); and

WHEREAS, the RSG Contract is to be funded by the administrative cost allowance pursuant to HSC Section 34171(b); and

WHEREAS, the Successor Agency and Oversight Board shall adopt an Administrative Budget for Fiscal Year 2022-23 pursuant to HSC Section 34177(j) that includes services to be provided under the RSG Contract; 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 is hereby approved.

Section 3. Execution and Transmittal. The City Manager 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.

PASSED, APPROVED AND ADOPTED at a regular meeting of the Successor Agency.
on the ____ day of _____, 20__ by the following vote:

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

VICTOR P. LOPEZ
AGENCY CHAIRPERSON

ATTEST:

JUNE BRACAMONTES, AGENCY SECRETARY

APPROVED AS TO FORM:

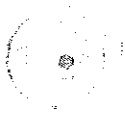
XXX, AGENCY COUNSEL

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
SUCCESSOR AGENCY TO THE ORANGE COVE REDEVELOPMENT AGENCY)

I, JUNE BRACAMONTES, hereby certify that I am the duly appointed Agency Secretary
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
_____, 20__.

June Bracamontes
Agency Secretary

EXHIBIT "A"
RSG, INC. PROPOSAL FOR
ORANGE COVE SUCCESSOR AGENCY
CONSULTING SERVICES IN FISCAL YEAR 2022-23



DEEDED TO REMINDING
BOLDEN FUTURE'S

11/10/21
11/10/21
11/10/21

11/10/21
11/10/21
11/10/21

November 10, 2021

Via Electronic Mail

Rudy Hernandez, City Manager
CITY OF ORANGE COVE
633 Sixth Street
Orange Cove, CA 93646

**PROPOSAL FOR SUCCESSOR AGENCY ADMINISTRATIVE CONSULTING
SERVICES 2022-23**

Dear Mr. Hernandez:

RSG is pleased to present this proposal to the City of Orange Cove ("City") and Successor Agency to the Redevelopment Agency of the City of Orange Cove ("Successor Agency") to provide administrative consulting services for the 2022-23 fiscal year. RSG has been working with the City and Successor Agency since the beginning of redevelopment dissolution in 2012. With RSG's assistance, the Successor Agency has overcome many hurdles and fulfilled numerous state reporting requirements. RSG would like to continue serving the Successor Agency in its capacity as Administrative Consultants and see the Successor Agency through to the end of this arduous process.

SCOPE OF SERVICES

The proposed Scope of Services is based upon our experience with the Successor Agency and upcoming tasks that we have identified. RSG is happy to discuss modifications to the scope as needed to satisfy the Successor Agency's needs. RSG has identified the following tasks:

Task 1: Budget and Cash Flow Work

RSG will continue to maintain a working cash flow model for the Successor Agency to anticipate any future budget shortfalls and ensure that obligations can be met. RSG will assist the Successor Agency in working to close any budget gaps by employing the variety of methods. RSG will also review the County Auditor-Controller's January and June RPTTF distributions to ensure accuracy, including updates the Successor Agency's long-term cash flow based on actual revenues and expenditures.

Task 2: Complete Annual ROPS and Accompanying Administrative Budgets

The Successor Agency must annually submit a Recognized Obligation Payment Schedule ("ROPS") to the Countywide Oversight Board ("Oversight Board") and Department of Finance. RSG will assist the Successor Agency in completing the 2023-24 ROPS that will be due February 1, 2023. Should an issue arise during the Department of Finance's review of the ROPS, RSG would assist the Successor Agency in drafting a Meet and Confer request and is available to attend the meeting. The Successor Agency is allowed to amend the ROPS once during the period. RSG can assist the Successor Agency if this need arises.

The Successor Agency must submit an annual administrative budget supporting the use of the annual administrative allowance allowed by law. RSG will assist the Successor Agency in preparing the annual administrative budget for fiscal year 2023-24, which will be submitted along with the ROPS. RSG will attend the Oversight Board meetings for both these items and prepare related staff reports and resolutions.

Task 3: Assist with County Prior Period Adjustment

The differences between actual payments and past estimated and approved obligations on the ROPS shall be annually submitted by the Successor Agency to the County Auditor-Controller on October 1 each year for review and adjustment to future distributions. RSG will assist the Successor Agency with the Prior Period Adjustment report of fiscal year 2020-21 expenses that is due October 1, 2022. This includes assisting the Successor Agency with providing any information requested by the County.

Task 4: Attend Meetings as Necessary

RSG will make a staff member available to the Successor Agency should they need assistance at Successor Agency, Oversight Board, or DOF meetings.

Task 5: Additional Administrative Services as Needed

RSG will assist the Successor Agency with any additional administrative tasks as they arise and respond to general inquiries from DOF and other interested parties.

CONTRACT TERM

RSG's contract will begin on July 1, 2022 and end on June 30, 2023.

PROJECT TEAM

Ms. Tara Matthews, Partner, will be the Principal-in-Charge of this engagement. Suzy Kim, Director, will be the Project Manager and will be assisted by additional staff as needed.

FEE PROPOSAL

RSG will complete consulting services on a time-and-materials basis, with a not to exceed amount of **\$20,000**. RSG does not charge clients for mileage (except direct costs related to field surveys), parking, standard telephone/fax expenses, general postage or incidental copies. However, we do charge for messenger services, overnight shipping/express mail costs and teleconferencing services. We also charge for copies of reports, documents, notices, and support material in excess of five (5) copies. These costs are charged back at the actual expense plus a 10% surcharge.

RSG issues monthly invoices payable upon receipt, unless otherwise agreed upon in advance. Invoices identify tasks completed to date, hours expended, and the hourly rate.

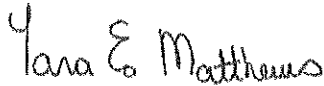
HOURLY BILLING RATES:

Principal / Director	\$ 275
Senior Associate	200
Associate	185
Senior Analyst	150
Analyst	135
Research Assistant	125
Technician	80
Clerical	60
Reimbursable Expenses	Cost plus 10%

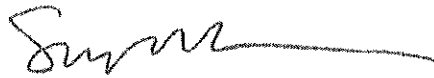
Rudy Hernandez
CITY OF ORANGE COVE
November 10, 2021
Page 4

We appreciate the opportunity to submit our proposal to the City and Successor Agency, and look forward to working with you again. If you have any questions, please do not hesitate to contact Suzy Kim at 714-316-2116.

Sincerely,
RSG, INC.



Tara Matthews
Principal

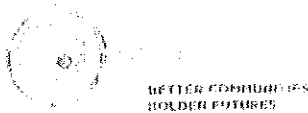


Suzy Kim
Director

APPROVED AND AUTHORIZED TO
PROCEED:

Signature: _____
Printed _____
Name: _____
Title: _____
Date: _____

EXHIBIT "A"
RSG, INC. PROPOSAL FOR
ORANGE COVE HOUSING SUCCESSOR
CONSULTING SERVICES IN FISCAL YEAR 2022-23



COMMUNITY DEVELOPMENT
DEPARTMENT
CITY OF ORANGE COVE

COMMUNITY DEVELOPMENT
DEPARTMENT
CITY OF ORANGE COVE

November 10, 2021

Via Electronic Mail

Rudy Hernandez, City Manager
CITY OF ORANGE COVE
633 Sixth Street
Orange Cove, CA 93646

PROPOSAL FOR HOUSING SUCCESSOR CONSULTING SERVICES IN FY 2022-23

Dear Mr. Hernandez:

RSG is pleased to present this proposal to the City of Orange Cove ("City") to provide Housing Successor Agency consulting services. The City serves as the Housing Successor Agency to the former Orange Cove Redevelopment Agency. The City is required to prepare a Housing Successor Agency Annual Report and pursue affordable housing opportunities in accordance with the California Health and Safety Code. This letter presents our scope of services and fee estimate to assist the City with these obligations.

SCOPE OF SERVICES

Task 1 – Housing Successor Agency Annual Report

RSG will prepare the Housing Successor Agency Annual Report ("Annual Report") for Fiscal Year 2021-22. The Annual Report is due with the City's Housing Element Annual Report by April 1, 2023 to the California Department of Housing and Community Development ("HCD"). The Annual Report must also be presented to City Council.

The Annual Report will include all items required by Health & Safety Code Section 34176.1. It includes a summary of financial activity and affordable housing efforts. RSG will integrate financial data provided by City staff and information about affordable housing resources and activity. The Annual Report will clearly detail compliance with legal requirements and outline steps to come into compliance, if necessary.

It is important to note that the City is also required to prepare an independent financial audit of the Successor Housing Agency's Low and Moderate Income Housing Asset Fund ("Housing Fund"), which is due to the City Council by December 31st annually. The audit may be completed as a component of the City's Annual Audited Financial Statements.

PROJECT TEAM

To provide the best, most transparent services, RSG dedicates at least one Principal and a Project Manager to each project and creates a core group of people that works with each client on a consistent basis throughout all stages of the assignment. We employ a passionate and talented team of associates and analysts, who blend an understanding of each client's situation with our expertise in researching, analyzing, modeling, and ultimately developing recommendations and results.

This engagement will be led by Tara Matthews, Principal, with other RSG staff assigned as needed. Staff resumes may be found on our company website at www.webrsg.com/meet-team.

FEE ESTIMATE

The fixed fee for this engagement is \$5,500. Any services in excess of the quoted amounts will be conducted with City staff's authorization and may require a contract amendment. Our services for this engagement would be charged on a time-and-materials basis using the billing rates below.

HOURLY BILLING RATES:

Principal / Director	\$ 275
Senior Associate	200
Associate	185
Senior Analyst	150
Analyst	135
Research Assistant	125
Technician	80
Clerical	60

Reimbursable Expenses	Cost plus 10%
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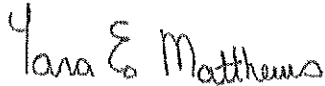
RSG does not charge clients for mileage (except direct costs related to field surveys), parking, standard telephone/fax expenses, general postage or incidental copies. However, we do charge for messenger services, overnight shipping/express mail costs, and teleconferencing services. We also charge for copies of reports, documents, notices, and support material in excess of five (5) copies. These costs are charged back at the actual expense plus a 10% surcharge.

RSG issues monthly invoices payable upon receipt, unless otherwise agreed upon in advance. Invoices identify tasks completed to date, hours expended, and the hourly rate. Our Federal Tax ID is 95-3435849.

Rudy Hernandez, City Manager
CITY OF ORANGE COVE
November 10, 2021
Page 3

We welcome the opportunity to discuss this proposal with you in further detail. If you have any questions, please do not hesitate to contact Tara at (714) 316-2111 or tmatthews@webrsg.com. If this proposal is acceptable as written, please sign below indicating the tasks to be completed, or forward a contract in the City' preferred format. Thank you for the opportunity to assist the City.

Sincerely,
RSG, INC.



Tara Matthews
Principal

APPROVED AND AUTHORIZED TO PROCEED:

Signature	_____
Printed	_____
Name	_____
Title	_____
Date	_____



REPORT TO SUCCESSOR AGENCY

January 12, 2022

To: Mayor and Council

From: Rudy Hernandez, City Manager

SUBJECT: Recognized Obligation Payment Schedule 22-23 for the July 1, 2022 through June 30, 2023 period and Administrative Budget for Fiscal Year 2022-23

BACKGROUND:

A Recognized Obligation Payment Schedule ("ROPS") covering the period of July 1, 2022 through June 30, 2023 is due by February 1, 2022 pursuant to Health and Safety Code ("HSC") Section 34177(o). The ROPS requests necessary payments for each enforceable obligation of the former Orange Cove Redevelopment Agency for Fiscal Year ("FY") 2022-23.

Orange Cove Successor Agency ("Successor Agency") staff has prepared a ROPS 22-23 for the Successor Agency Board's consideration, which is attached to this staff report. The Fresno Countywide Oversight Board ("Oversight Board") will also review the ROPS 22-23 at its meeting on January 20, 2022. Once approved, staff will transmit it electronically to the Department of Finance ("DOF"), State Controller, and Fresno County Auditor-Controller ("CAC") for their review. The adopted ROPS must be transmitted by February 1, 2022; if it is not transmitted on time, the City of Orange Cove will be subject to a penalty of \$10,000 per day. With DOF approval, the Auditor-Controller will be authorized to disperse property tax revenue to pay ROPS obligations on June 1, 2022 and January 2, 2023.

It is important to remember that the ROPS is merely a projection of estimated payments for the ensuing twelve-month fiscal period. The actual payments made could be the same or less.

ROPS 22-23 Obligations

The following summarizes the Successor Agency's obligations listed on the ROPS 22-23:

- Item 10 – Successor Agency Administration & Operations - The Successor Agency is requesting \$100,000 for its FY 2022-23 administrative expenses. An Administrative Budget that details proposed expenses has been prepared and is discussed later in this staff report.
- Item 16 – 2014 Tax Allocation Refunding Bonds, Series 2014 – The Successor Agency is requesting \$395,766 in RPTTF to fund the repayment of the Series 2014 Tax Allocation Refunding Bonds ("Bonds"). The 2014 Bonds refinanced bonds issued by the former Redevelopment Agency in 2004. The 2014 Bonds are the Successor Agency's largest obligation and are projected to be fully repaid by fiscal year 2031-32.
- Item 17 – Trustee Administration Fee - \$1,500 is requested to pay an administrative fee charged by the fiscal agent on the 2014 Bonds pursuant to an enforceable contract.
- Item 18 – Continuing Disclosure - \$4,000 is requested to pay Albert Peché to prepare and submit legally mandated reports on the 2014 Bonds pursuant to an enforceable contract.

Cash Balances

The Report of Cash Balances in the current ROPS represents the Successor Agency's estimate of the cash balance as of June 30, 2020. It shows the inflow and outflow of funds held by the Successor Agency. Funds are being spent in a timely manner and consistent with the approvals of the Oversight Board and DOF. The Cash Balances page helps the Successor Agency to identify other funds available to spend on enforceable obligations, detailed as follows:

- As of June 30, 2020, the Successor Agency had \$398,707 in remaining bond proceeds. DOF approved a Bond Expenditure Agreement on the ROPS 19-20 that permitted the Successor Agency to transfer bond proceeds to the City to spend as required by the bond covenants.
- The Successor Agency had \$818 in Reserve Balances held for the ROPS 20-21 and 21-22 as approved by DOF.
- The Successor Agency earned \$1,986 in Fiscal Year 2019-20 from Other Fund revenues, contributing to an ending Other Funds balance of \$2,245 as of June 30, 2020.

- The Successor Agency expects DOF to re-allocate \$7,050 in property tax revenues received, but not spent, for obligations in fiscal year 2019-20 for expenditures in Fiscal Year 2022-23.

ROPS 19-20 Prior Period Adjustment

As required by HSC section 34186 (c), the Successor Agency prepared a reconciliation between approved and actual payments on enforceable obligations from the ROPS covering Fiscal Year 2019-20 and submitted this reconciliation to the CAC by October 1, 2021. There was a \$7,050 difference between approved and actual payments. The CAC is reviewing the Prior Period Adjustment and will submit its determination to DOF by February 2, 2022. DOF will reduce the ROPS 22-23 RPTTF allocation by the amount determined by the CAC.

Administrative Cost Allowance

The maximum administrative cost allowance a successor agency can receive is 50 percent of the RPTTF distributed in the prior fiscal year for non-administrative obligations. The ROPS 21-22 had \$396,812 in non-administrative obligations funded by RPTTF. The ROPS 22-23 may request an administrative allowance that is up to 50 percent of this amount, or \$198,406. The Successor Agency is requesting a lower administrative budget of \$100,000 for the ROPS 22-23 period based on the Successor Agency's anticipated costs.

An administrative budget has been prepared for FY 2022-23 for the Successor Agency Board and Oversight Board's consideration.

Oversight Board and DOF Review

Adoption of enclosed resolution will authorize staff to transmit the ROPS 22-23 and administrative budget for FY 2022-23 to the Oversight Board and DOF, along with any other parties, for review and make changes as necessary.

RECOMMENDATIONS

Staff recommends that the Successor Agency:

1. Adopt Resolution No. SA 2022-01 Approving the Successor Agency's Recognized Obligation Payment Schedule and Administrative Budget for Fiscal Year 2022-23

RESOLUTION NO. SA 2022-01

A RESOLUTION OF THE SUCCESSOR AGENCY TO THE ORANGE COVE REDEVELOPMENT AGENCY APPROVING THE RECOGNIZED OBLIGATION PAYMENT SCHEDULE AND ADMINISTRATIVE BUDGET FOR JULY 2022 THROUGH JUNE 2023

WHEREAS, Assembly Bill 26 ("AB x1 26") was enacted by the State Legislature and signed by the Governor as of June 29, 2011; and

WHEREAS, on January 25, 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") in accordance with the Dissolution Act (enacted by Assembly Bills x1 26 and 1484 and Senate Bill 107, as codified in the California Health & Safety Code); and

WHEREAS, among the duties of successor agencies under the Dissolution Act is the preparation of a Recognized Obligation Payment Schedule ("ROPS") for the ensuing twelve-month period for consideration by an oversight board and the California Department of Finance ("DOF") for purposes of administering the wind-down of financial obligations of the former Redevelopment Agency; and

WHEREAS, the Dissolution Act requires that the proposed ROPS be approved by the Fresno Countywide Oversight Board, transmitted for review to the Fresno County Auditor-Controller, State Controller's Office, and DOF; and

WHEREAS, the proposed ROPS 22-23 for the twelve-month period from July 1, 2022 through June 30, 2023, attached hereto as Exhibit "A" has been prepared and is consistent with the provisions of the Dissolution Act and in the format made available by DOF; and

WHEREAS, Section 34177(j) requires the Successor Agency to prepare a proposed administrative budget and submit it to the Fresno Countywide Oversight Board for approval; and

WHEREAS, the Successor Agency has prepared an Administrative Budget for the period July 1, 2022 to June 30, 2023, attached hereto as Exhibit "B"; and

WHEREAS, the Successor Agency desires to approve the ROPS 22-23 and Administrative Budget and transmit them to various parties as required by the Dissolution Act.

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. Approval of ROPS. The Successor Agency hereby approves and adopts the ROPS 22-23 covering the period of July 1, 2022 through June 30, 2023, in substantially the

form attached hereto as Exhibit A, and incorporated herein by reference, as required by the Dissolution Act.

Section 3. Approval of Administrative Budget. Pursuant to the Dissolution Act, the Successor Agency approves the Fiscal Year 2022-23 Administrative Budget submitted herewith as Exhibit B, which is incorporated herein by this reference.

Section 4. Posting; Transmittal to Appropriate Agencies. The City Manager is hereby authorized and directed to post of copy of the ROPS 22-23 on the City's website and transmit a copy of the ROPS 22-23 and Administrative Budget to the Fresno Countywide Oversight Board for its approval and to other parties as required by the Dissolution Act.

PASSED, APPROVED AND ADOPTED at a regular meeting of the Successor Agency, on the 12th day of January, 2022, by the following vote:

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

VICTOR P. LOPEZ
AGENCY CHAIRPERSON

ATTEST:

JUNE BRACAMONTES, AGENCY SECRETARY

APPROVED AS TO FORM:

~~XXX~~, AGENCY COUNSEL

STATE OF CALIFORNIA)
COUNTY OF FRESNO) ss.
SUCCESSOR AGENCY TO THE ORANGE COVE REDEVELOPMENT AGENCY)

I, JUNE BRACAMONTES, hereby certify that I am the duly appointed Agency Secretary 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 12th day of January, 2022.

June Bracamontes
Agency Secretary

EXHIBIT A

RECOGNIZED OBLIGATION PAYMENT SCHEDULE 2022-23
JULY 2022 THROUGH JUNE 2023

Recognized Obligation Payment Schedule (RPS 22-23) - Summary
Filed for the July 1, 2022 through June 30, 2023 Period

Successor Agency:
 County:

Orange Cove
 Fresno

Current Period Requested Funding for Enforceable Obligations (RPS Detail)

Enforceable Obligations Funded as Follows (SEC-D):		22-23A Total (July - December)	22-23B Total (January - June)	RPS 22-23 Total
A	Bond Proceeds	\$ -	\$ -	\$ -
B	Reserve Balance	\$ -	\$ -	\$ -
C	Other Funds	\$ -	\$ -	\$ -
D	Redevelopment Property Tax Trust Fund (NETIF) (F-H):	\$ -	\$ -	\$ -
E	RP TIF	\$ 304,566	\$ 196,500	\$ 501,266
F	Administrative RP TIF	\$ 204,566	\$ 196,500	\$ 401,266
G	Current Period Enforceable Obligations (A+B):	\$ 100,000	\$ -	\$ 100,000
H		\$ 304,566	\$ 196,500	\$ 501,266

Certification of Oversight Board Chairman:
 Pursuant to Section 54177 (c) of the Health and Safety Code, I
 hereby certify that the above is a true and accurate Recognized
 Obligation Payment Schedule for the above named successor
 agency.

 Signature Title

 Signature Title

[illegible]

Orange Cove Recognized Obligation Payment Schedule (ROPS 22-23) - Report of Cash Balances

July 1, 2019 through June 30, 2020
(Report Amounts in Whole Dollars)

Pursuant to Health and Safety Code section 34177 (b), Redevelopment Property Tax Trust Fund (RPTTF) may be listed as a source of payment on the ROPS, but only to the extent no other funding source is available or when payment from property tax revenues is required by an enforceable obligation. For tips on how to complete the Report of Cash Balances Form, see Cash Balance Tips Sheet

B										C					D		E		F		G		H																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																																														
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EXHIBIT B

**SUCCESSOR AGENCY ADMINISTRATIVE BUDGET
FOR FISCAL YEAR 2022-23**

ORANGE COVE SUCCESSOR AGENCY ADMINISTRATIVE BUDGET FY 2022-23

FY 2022-23 Administrative Activities		Personnel					
County correspondence/coordination		Successor Agency Staff, RSG, Legal Counsel					
State correspondence/coordination		Successor Agency Staff, RSG, Legal Counsel					
Prepare ROPS		Successor Agency Staff, RSG, Legal Counsel					
Prepare administrative budget		Successor Agency Staff, RSG, Legal Counsel					
Governmental asset transfer		Successor Agency Staff, RSG, Legal Counsel					
Successor Agency Board staff support		Successor Agency Staff, RSG, Legal Counsel					
Management of dissolution activities		Successor Agency Staff, RSG, Legal Counsel					
Annual audit		Accountant					
Manage/monitor finances		Successor Agency Staff, RSG					
Agendas/minutes/Brown Act records assistance		Successor Agency Staff					
Budget by Personnel			Description	Estimated Hours	Average Rate	Total	ROPS A Period ROPS B Period
Successor Agency Staff Costs			Salaries, Wages, Benefits	1,400	\$42	59,600	59,600
Operating Expenses			Insurance, Supplies, Maintenance		n/a	5,000	5,000
RSG, Inc.			Advisory Services (ROPS Preparation, Legislative Guidance, Property Disposition, Cash Flow Projections, State/County Correspondence, etc.)	110	\$180	20,000	20,000
Legal Counsel			Legal Services (Review materials, Meeting attendance is charged to the City for City Council/Successor Agency meetings.) Audit Services	60	\$165	9,900	9,900
Accountant			Supplies and Meeting Operations Cost		n/a	3,500	3,500
Successor Agency Board Costs					n/a	2,000	2,000
Contingency					n/a	-	-
Grand Total						\$ 100,000	\$ 100,000



Date: January 12, 2022
To: Mayor and City Council
From: Rudy Hernandez, Interim City Manager
Subject: Approval of Encarnacion (Shun) Patlan to The Position of Director of Building, Planning, and Code Enforcement Services.
Attachments: 1. Director of Building, Planning, & Code Enforcement Services Job Description
2. Estimated Fee Revenues From Housing Development

BACKGROUND:

On September 26, 2018, I was appointed as the City's Interim City Manager and have had the opportunity to evaluate the City's Building and Planning Service needs. Based on my analysis, the City has a critical need for a professional with a strong background in Building, Code Enforcement, and Planning Services.

Based on the above-mentioned statement, I am hereby recommending the City Council approve the appointment of Shun Patlan to the position of Director of Building, Planning, and Code Enforcement Services effective January 12, 2022. Mr. Patlan worked for the City of Parlier for 35 years in the capacity of Code Enforcement/Planning Official and Community Development Director. Mr. Patlan retired from the City of Parlier on September 26, 2016 and has worked for the City of Orange Cove from April 2021 – January 2022 performing planning and code enforcement duties. In addition, Mr. Patlan attended California State University, Fresno and Kings River Community College. It should also be noted that this will be a management position not requiring union approval or recruitment services.

Under PERS guidelines, Mr. Patlan can only work 960 hours per fiscal year and he has already worked 930 which leaves him with a remaining balance of 30 hours.

Some of the projects that Shun is working on are listed below:

- Booth Ranch
- Martinez Tentative Tract Map
- Blossom Estates/Piro Tentative Tract Map
- Orange Blossom Heights Apartment Project
- Macias Annexation
- Tract No. 5904 (See attached page for description of work).
- Sale of Property (See attached page for description of work)
- Public Inquiries (See attached page for description of work)

RECOMMENDATION:

For the City Council to approve the appointment of Shun Patlan to the position of Director of Building, Planning, and Code Enforcement Services.

FISCAL IMPACT:

The annual cost for the Director of Building, Planning, and Code Enforcement Services is approximately \$112,320 (Salary/Benefits) and will pay \$40 per hour. The cost for the period of January – June 2022 (6 months) is \$56,160 and will be funded by grants and possibly development impact fees. The plan is to pay 50% from General Fund (\$28,080) and other funds \$28,080).

ALTERNATIVE OPTION:

Willdan Employment Agency has offered to hire Shun Patlan for the Planning/Code Enforcement position at \$87 per hour (See attached Letter). This alternative option will cost the City (960 x \$87) \$83,520 for 6 months or \$167,040 annually. Per my discussion with our City Attorney, PERS guidelines do not allow Shun to work for Willdan and come back to work for the City of Orange Cove. If Council were to go with this option, Willdan would have to send another person to perform planning/code enforcement services.

PROJECTED REVENUE FROM THESE HOUSING DEVELOPMENTS (See attached estimated fee schedule for current projects).

1. Development Impact Fees - \$5,923,032
2. Building Fees (General Fund) - \$394,000

Total \$6,317,032

3. Annual General Fund Property Taxes \$412,920

Prepared by: Rudy Hernandez

REVIEW: City Manager: ✓

Approved by: [Signature]

Finance: _____

City Attorney: _____

TYPE OF ITEM:	COUNCIL ACTION:	APPROVED	DENIED	NO ACTION
<u> </u> Consent	<u> </u> Public Hearing			
<u> </u> Info Item	<u> </u> Matter Initiated by a Council Member			
<u> x </u> Action Item	<u> </u> Other			
<u> </u> Department Report	<u> </u> Continued to: _____			
<u> </u> Redevelopment Agency				

City of Orange Cove
Job Description
Director of Building, Planning and Code Enforcement Services
(Duties, Tasks and Responsibilities)

- The Director of Building, Planning, and Code Enforcement Services Manages the Building, Planning and Code Enforcement Departments.

Building Department

- Customer Resource Person Providing Information Service at Front Counter, Telephone & Email for Permit Applications and Building Permits.
- Perform and Manage Construction Drawing Plan Checking.
- Collect and Account for Building, Plan Check, Impact, Grading, Kings County Unified School District & Fresno County Transportation Impact Fees.
- Issue Building and Encroachment Permits.
- Update, Maintain & Manage Hard & Computer Filing Systems.
- Prepare Yearly & Monthly Studies and Reports for Housing and Economic Development for Federal, State, County and Local School District Agencies.
- Administer State Mandated Construction Debris Ordinance Regulations.
- Administer FEMA Mandated Floodplain Ordinance Regulations.
- Certify Developments Have Been Made in Conformity With the Plans and Conditions Approved By the City.

Planning Department

- In-House City Planner Resource Person Providing Information Services at Front Counter, Telephone & Email for Site Plan Review, General Plan Land Use, Zoning & CEQA Regulations and Procedures, Conditional Use Permits and Variances.
- Account and Collect Entitlement Fees for General Plan & Zoning Applications, Site Plan Review Applications, Conditional Use Permits and Variance Applications, Engineering Plan Checking and Inspections Fees.
- Manage and participate in the Conditions of Approval, Review, Implementation and Adoption of Site Plan Reviews, General Plan Land Use, Zoning Amendments, Conditional Use and Variance Permits.
- Update Planning Amendments to the General Plan Land Use & Zoning District Maps.
- Update, Maintain & Manage Hard & Computer Filing Systems.

Code Enforcement Department

- Receive Complaints, Investigate and Inspect Public Nuisance Complaints.
- Perform Substandard Building Inspections.
- Enforce Water Utility Billing Accounts and Business License Violations. Assist Police & Fire Departments with Public Nuisance Violations.
- Prepare and Issue Notice & Orders for Code Compliance.
- Establish, Update and Maintain Case Journals, Hard and Computer Files.

Other Duties, Tasks and Responsibilities

- Select Project Management and Inspections for Public Utility and Groundwater Remediation Well Encroachments, Select City Grant Projects and Supplemental Reporting.
- Design and Update City Web Site 'On-Line' Forms & Applications for Building, Planning & Finance Departments
- Prepare and Present Staff Reports and Various Informational Topics for City Council Review and Consideration.
- Research and Draft Planning Ordinances for City Manager Review.

**City of Orange Cove
Estimated Fees
Current Projects**

<u>Project</u>	<u>Development Impact Fees</u>	<u>Building Fees General Fund</u>	<u>Totals</u>
Macías Map (42 Housing Units)	\$616,644.00	\$84,000.00	\$700,644.00
Martinez Map (18 Housing Units)	\$264,276.00	\$36,000.00	\$300,276.00
Blossom Estates/Piro (156 Housing Units)	\$2,290,392.00	\$112,000.00	\$2,402,392.00
Howard Annex/Map (156 Housing Units)	\$2,290,392.00	\$112,000.00	\$2,402,392.00
Blossom Height Apt. (42 Apt. Units)	\$461,328.00	\$50,000.00	\$511,328.00
Totals	\$5,923,032.00	\$394,000.00	\$6,317,032.00

*****Projected General Fund Property Tax Revenue (Excludes Apartment Units)**

<u>Housing Units</u>	<u>Projected Sales Price Per Unit</u>	<u>Estimated Assessed Value</u>	<u>Projected Property Tax Revenue (1%)</u>
372	\$300,000.00	\$111,600,000.00	\$1,116,000.00

*****City Of Orange Cove Estimated Annual Tax Revenue \$1,116,000 x 37% = \$412,920.00**

Booth Ranch –

*Expansion is under construction and several inspections have been conducted. Staff working with city engineer and project engineer on the Utility and Fire Plan. Permit need to be issued as soon as they are approved. Conditions of approval need to be monitored by planning staff.

Martinez Tentative Tract Map –

*Staff and the city engineer have accepted the Martinez Tentative Map as compliant. Staff is working in reviewing the final map application and the final map itself. Final Map being prepared for planning commission consideration and approval sometime in February, then before the City Council after the planning commission.

This is an 18- lot single family subdivision located at the northeast corner of Martinez and Anchor Avenue.

Blossom Estates/Piro Tentative Tract Map - Staff and the city engineer have accepted the Blossom Tract Map as compliant. Staff is now preparing/up-dated the environmental documents for the project. The Initial Study and Mitigated Negative Declaration documents will be sent out to public agencies for the 20-day public review period next week. A tentative planning commission hearing date will be February 15, 2022 and then to the city council for approval. Public hearing notices need to go out to residents within 300-feet of the project site.

This project is a proposed 156-lot single family residential subdivision located at South of South Avenue between Anchor and Orange Street

Orange Blossom Heights Apartment Project –

*On November 15, 2021 staff accepted the Blossom Heights Apartment Project Site Plan as complete and compliant. The 20-day review period for outside agencies was sent out for review. A public hearing notice will be sent out for publication for a tentative planning commission hearing for January 18, 2022 and then to the City Council for approval.

This project is a proposed 44-unit multifamily affordable apartment project located at the Northeast corner of Adams and Jacobs.

Macias Annexation -

The project engineer is working on some revisions to the legal map for the Macias Project as requested by the county assessor's office. These are last items needed to have the annexation recorded. The city engineer is reviewing the latest revised tentative tract map submitted by project engineer. Staff and the city engineer have accepted the tentative map and will be scheduling tentative map before the City Council sometime in February 2022.

The project is a proposed 42-lot single residential subdivision at West of Anchor and North of Summer Avenue

Tract No. 5904 – In 2008 a tentative tract was proposed at Orange and Tangerine for a 17-lot subdivision which was not process/approved. An interested investor in looking in buying the 2.9 acre parcel. However, the Interested investor is looking at rezoning for an apartment complex rather than a subdivision. Staff prepared and sent all land entitlement application, fee schedules and city development standard to Mr. Casey.

Sale of Property – Planning staff will be working with Mr. Santillian and providing assistance on application submittals and all pertinent information for processing his commercial development.

Public Inquiries – Planning continues to receive multiple inquiries via telephone and walk-in's regarding zoning information, business license questions and application processing.

January 7, 2022

Mr. Rudy Hernandez
City Manager
City of Orange Cove
633 Sixth Street
Orange Cove, CA 93646

Subject: Proposal to Provide Development Consulting Services

Dear Mr. Hernandez:

The City of Orange Cove has partnered with Willdan for several years to provide support services when there have been vacancies or an increase in workload. Consistent with that partnership, Willdan is currently proposing to assist the City of Orange Cove with the processing of an increased level of development applications.

Willdan is proposing that the support initially be provided by a new employee of Willdan, Encarnacion (Shaun) Patlan, Project Manager I. Mr. Patlan has a history of providing development support to small cities in the San Joaquin Valley.

Based upon conversations, it is mutually agreed that the services provided by Mr. Patlan will vary to meet the City's needs. It is also mutually agreed that Mr. Patlan's services may be provided at the City's Offices or remotely. The schedule for the services provided will be mutually agreed between Willdan and the City with the understanding that Mr. Patlan has been proposed to also provide services to a neighboring city and as scheduling allows, may be proposed for additional agencies. It is further understood that if mutually agreed, a different employee may be utilized to provide the services.

As with other services provided to the City by Willdan the Development Consulting Services will be supported by the additional resources of Willdan.

It is understood that initially, Mr. Patlan will provide services to the City on a two to three days per week schedule.

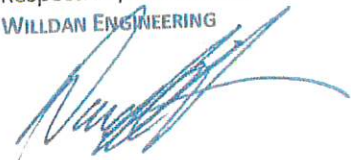
While Mr. Patlan is providing the Development Services Consultant services, Willdan will invoice for services monthly at a billing rate of \$87 per hour.

Please feel free to contact me at dwilson@willdan.com, (559) 901-9000, or Deputy Director Al Brady at abrady@willdan.com, 657.223.8533 should you have any questions, or require additional information.

If this proposal is acceptable, please acknowledge by signing below and returning a signed copy to Doug Wilson.

We are looking forward to continuing our partnership with the **City of Orange Cove**.

Respectfully submitted,
WILLDAN ENGINEERING



Doug Wilson
Principal Project Manager
dwilson@willdan.com
559.901.9000

Accepted
City of Orange Cove

Rudy Hernandez
City Manager

