



OROVILLE CITY COUNCIL

Council Chambers
1735 Montgomery Street
Regular Meeting

DECEMBER 3, 2013
CLOSED SESSION 5:00 P.M.
OPEN SESSION 6:00 P.M.
AGENDA

CLOSED SESSION (5:00 P.M.)

ROLL CALL

Council Members Andoe, Berry, Bunker, Pittman, Simpson, Vice Mayor Wilcox, Mayor Dahlmeier

CONVENE TO CLOSED SESSION (ITEMS LISTED ON PAGE NO. 5 AND 6)

RECONVENE TO OPEN SESSION

OPEN SESSION (6:00 P.M.)

PLEDGE OF ALLEGIANCE

PROCLAMATION / PRESENTATION

Oath of Office for Reserve Officer Marcus Tennigkeit.

RECOGNITION OF INDIVIDUALS WHO WISH TO SPEAK ON AGENDA ITEMS

This is the time the Mayor will invite anyone in the audience wishing to address the Council on a matter that is on the agenda to state your name and the agenda item on which you wish to speak. When that item comes up on the agenda, you will be asked to step to the podium, repeat your name for the record, and make your presentation or ask questions regarding the agenda item. Following your remarks, Council and/or staff may respond to your comments or questions. **Presentations are limited to three minutes per person.** Under Government Code Section 54954.3 the time allotted for presentations may be limited.

CONSENT CALENDAR

1. **APPROVAL OF THE MINUTES OF THE NOVEMBER 19, 2013 REGULAR MEETING OF THE OROVILLE CITY COUNCIL** – minutes attached
2. **RENEWAL OF MEMORANDUM OF UNDERSTANDING WITH BUTTE COUNTY HOMELESS CONTINUUM OF CARE COUNCIL** – staff report

The Council may consider the renewal of the Memorandum of Understanding by and between the Housing Authority of the County of Butte (Housing Authority), County of Butte Department of Behavioral Health, County of Butte Department of Employment and Social Services, City of Chico, City of Gridley, City of Oroville, Caminar, Inc., Community Action Agency, and Northern Valley Catholic Social Service.

Additionally, the Council may consider authorizing the use of Housing Program Funds, in the amount of \$2,000, for the purpose of funding staff to support for Butte County Homeless Continuum of Care Council. **(Pat Clark, Director of Business Assistance and Housing Development) (Continued from November 3, 2013)**

Council Action Requested:

1. **Adopt Resolution No. 8143 – A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE THE MEMORANDUM OF UNDERSTANDING BY AND BETWEEN THE HOUSING AUTHORITY OF THE COUNTY OF BUTTE, COUNTY OF BUTTE DEPARTMENT OF BEHAVIORAL HEALTH, COUNTY OF BUTTE, DEPARTMENT OF EMPLOYMENT AND SOCIAL SERVICES, CITY OF CHICO, CITY OF GRIDLEY, CITY OF OROVILLE, CAMINAR, INC, COMMUNITY ACTION AGENCY AND NORTHERN VALLEY CATHOLIC SOCIAL SERVICES FOR THE PURPOSE OF FUNDING STAFF SUPPORT FOR THE BUTTE COUNTY HOMELESS CONTINUUM OF CARE COUNCIL AND AUTHORIZE THE USE OF HOUSING PROGRAM FUNDS – (Agreement No. 1865-3).**
2. **Authorize the use of Housing Program funds, in the amount of \$2,000, for the purpose of funding staff to support the Butte County Continuum of Care Council.**
3. **REVISED JOB DESCRIPTION AND SALARY RANGE FOR THE POSITION OF INFORMATION TECHNOLOGY MANAGER** – staff report

The Council may consider the revised job description and salary range for the Information Technology Manager position. **(Randy Murphy, City Administrator and Liz Ehrenstrom, Human Resource Manager II)**

Council Action Requested: **Adopt Resolution No. 8152 – A RESOLUTION OF THE OROVILLE CITY COUNCIL APPROVING THE REVISED JOB DESCRIPTION AND SALARY RANGE FOR THE POSITION OF INFORMATION TECHNOLOGY MANAGER.**

4. **ALLOCATION OF GRANT FUNDS FOR MANAGEMENT OF CLIMATE ACTION PLAN** – staff report

The Council may consider the allocation of remaining funds, in the amount of \$9,146, from the Strategic Growth Council - 2011 Sustainable Communities Planning Grant, to pay The Planning Center/DC&E to manage ICF International's work on the Climate Action Plan. **(Donald Rust, Director of Community Development and Luis Topete, Associate Planner)**

Council Action Requested: **Adopt Resolution No. 8153 – A RESOLUTION OF THE OROVILLE CITY COUNCIL APPROVING THE ALLOCATION OF THE REMAINING \$9,146 BUDGET FROM THE STRATEGIC GROWTH COUNCIL – 2011 SUSTAINABLE COMMUNITIES PLANNING GRANT TO PAY**

THE PLANNING CENTER/DC&E TO MANAGE THE COMPLETION OF THE CITY'S CLIMATE ACTION PLAN.

5. RECLASSIFICATION OF POLICE LIEUTENANT AND BATTALION CHIEF – staff report

The Council may consider the reclassification of the Police Lieutenant and the Battalion Chief. **(Bill La Grone, Director of Public Safety)**

Council Action Requested: Direct staff to analyze the fiscal impact of the proposed changes and return to Council for a final recommendation.

6. DRAFT MUNICIPAL SERVICE REVIEW UPDATE – SPHERE OF INFLUENCE PLAN FOR EL MEDIO FIRE PROTECTION DISTRICT – staff report

The Council may consider sending a written recommendation to the Butte Local Agency Formation Commission expressing the City's disagreement with the proposed Sphere of Influence expansion of the El Medio Fire Protection District. **(Donald Rust, Director of Community Development and Luis Topete, Associate Planner)**

Council Action Requested: Adopt Resolution No. 8154 – A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO EXEUTE A LETTER EXPRESSING THE CITY'S DISAGREEMENT WITH THE PROPOSED SPHERE OF INFLUENCE EXPANSION OF THE EL MEDIO FIRE PROTECTION DISTRICT.

7. USE OF CITY COUNCIL CHAMBERS AND VARIOUS CONFERENCE ROOMS – staff report

The Council will discuss the use of the City Council Chambers and various conference rooms by outside agencies and may determine whether a use fee or use policy should be adopted for future activities. **(Donald Rust, Director of Community Development)**

Council Action Requested: Provide direction to staff regarding the creation of a policy and associated fees for the usage of the City Council Chambers and various conference rooms by outside agencies.

8. UTILIZATION OF VARIOUS CITY FACILITIES – staff report

The Council may consider the utilization of various City facilities, including the Chinese Temple and Museum Annex Building, State Theatre, levee tower on Arline Rhine Memorial Drive, Municipal Auditorium, Centennial Cultural Center Advanced Technology Center, City Corporation Yard and all other City facilities. **(Donald Rust, Director of Community Development and Luis Topete, Associate Planner)**

Council Action Requested: Direct staff to process an evaluation and prepare a report of the various facilities and return to the Council by February 18, 2014 with an update.

9. REMOVAL OF TWO PALM TREES FROM THE PETALUMA ECUMENICAL PROPERTIES' ORANGE TREE SENIOR APARTMENTS PROJECT SITE – staff report

The Council will receive a report on the removal of two (2) palm trees from the Petaluma Ecumenical Properties' Orange Tree Senior Apartment project site located at 1511 Robinson Street (APN 012-141-004). **(Donald Rust, Director of Community Development)**

Council Action Requested: None

PUBLIC HEARINGS - None

REGULAR BUSINESS

10. APPOINTMENT TO THE OROVILLE PLANNING COMMISSION – staff report

The Council may consider appointing a qualified City resident to serve of the Oroville Planning Commission. **(Randy Murphy, City Administrator)**

Council Action Requested: Select a qualified applicant to serve on the Oroville Planning Commission for the remainder of former Commissioner Gordon's term, which will expire on June 30, 2014.

11. BUDGET CARRYOVER OF ALL FUNDS, CAPITAL PROJECTS AND GRANTS AND RESERVE FOR PAYROLL – staff report

The Council may consider Supplemental Appropriation No. 2013/14-1213-24 to carryover the balances of all Funds, Capital projects and Grant budget appropriations from Fiscal Year 2012/13 to Fiscal Year 2013/14 and appropriate a reserve for the 27th payroll. **(Diane MacMillan, Director of Finance)**

Council Action Requested: Approve Supplemental Appropriation No. 2013/14-1213-24 as indicated in the December 3, 2013 staff report.

12. NORTHWEST SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS AGREEMENT CONCESSIONS AND POSSIBLE RESTRUCTURING – staff report

The Council may consider whether to restructure the Northwest Society for the Prevention of Cruelty to Animals (NW SPCA) Agreement for Animal Control Services. **(Bill La Grone, Director of Public Safety)**

Council Action Requested: Authorize the City Administrator to negotiate a variation of proposal No. 3, as indicated in the December 3, 2013 staff report.

13. FEATHER RIVER BOULEVARD REVITALIZATION PLAN (FINAL DRAFT) – staff report

The Council may consider adopting the final draft of the Feather River Boulevard Revitalization Plan. **(Donald Rust, Director of Community Development and Luis Topete, Associate Planner)**

Council Action Requested: Adopt Resolution No. 8155 – A RESOLUTION OF THE OROVILLE CITY COUNCIL ADOPTING THE FINAL DRAFT OF THE FEATHER RIVER BOULEVARD REVITALIZATION PLANNING DOCUMENT.

14. AMENDMENT TO EXISTING AGREEMENT WITH FIRST CARBON SOLUTIONS (FORMERLY MICHAEL BRANDMAN ASSOCIATES) FOR THE PROPOSED WALMART SUPERCENTER – staff report

The Council may consider an amendment to the existing agreement with First Carbon Solutions (formerly Michael Brandman Associates) for the proposed Walmart Supercenter. **(Donald Rust, Director of Community Development)**

Council Action Requested:

- 1. Adopt Resolution No. 8156 – A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AN AMENDMENT TO THE AGREEMENT WITH FIRST CARBON SOLUTIONS (FORMERLY MICHAEL BRANDMAN ASSOCIATES) TO PROVIDE SERVICES FOR THE REVISIONS TO THE ENVIRONMENTAL IMPACT REPORT RELATED TO THE GREENHOUSE GAS ANALYSIS, IN THE AMOUNT OF**

\$49,000, FOR THE PROPOSED WALMART SUPERCENTER – (Agreement No. 1763-6).

- 2. Adopt Resolution No. 8157 – A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AN AGREEMENT WITH THE PLANNING CENTER/DC&E TO PROVIDE PEER REVIEW SERVICES OF THE GREENHOUSE GAS ANALYSIS FOR THE CITY OF OROVILLE, IN THE AMOUNT OF \$9,542, FOR THE PROPOSED WALMART SUPERCENTER – (Agreement No. 3048).**

SUCCESSOR AGENCY - None

MAYOR/ COUNCIL REPORTS

COUNCIL ANNOUNCEMENTS/COMMITTEE REPORTS (A verbal report may be given regarding any committee meetings attended.)

CITY ADMINISTRATOR/ ADMINISTRATION REPORTS

CORRESPONDENCE

- Sister Cities International, received November 22, 2013
- Thomas Tenorio, Community Action Agency, received November 22, 2013
- Butte County Public Health, received September 17, 2013
- CalRecycle, received November 21, 2013

HEARING OF INDIVIDUALS ON NON-AGENDA ITEMS

This is the time the Mayor will invite anyone in the audience wishing to address the Council on a matter not listed on the agenda to step to the podium, state your name for the record and make your presentation. **Presentations are limited to 3 minutes.** Under Government Code Section 54954.2, The Council is prohibited from taking action except for a brief response by the Council or staff to a statement or question relating to a non-agenda item.

CLOSED SESSION

The Council will hold a Closed Session on the following:

1. Pursuant to Government Code section 54957.6, the Council will meet with Labor Negotiators and City Attorney to discuss labor negotiations for the Oroville Police Officers' Association – Sworn and Non-Sworn.
2. Pursuant to Government Code section 54957.6, the Council will meet with Labor Negotiators and City Attorney to discuss labor negotiations for the Oroville Fire Fighters' Association.
3. Pursuant to Government Code section 54956.9(a), the Council will meet with the City Administrator and City Attorney relating to existing litigation: City of Oroville v. Department of Finance, et al., Sacramento County Superior Court, Case No. 34-2013-80001543.
4. Pursuant to Government Code Section 54957(b), the Council will meet with Labor Negotiators and City Attorney to consider employment related to the following position: Assistant City Administrator.

5. Pursuant to Government Code section 54956.9(b), the Council will meet with the City Administrator and the City Attorney regarding potential litigation – four cases
6. Pursuant to Government Code Section 54957(b), the Council will meet with the City Administrator and City Attorney to consider the evaluation of performance related to the following position: City Administrator.

ADJOURNMENT

The meeting will be adjourned. The next regular meeting of the Oroville City Council will be held on Tuesday, December 17, 2013 at 5:00 p.m.

Accommodating Those Individuals with Special Needs – In compliance with the Americans with Disabilities Act, the City of Oroville encourages those with disabilities to participate fully in the public meeting process. If you have a special need in order to allow you to attend or participate in our public meetings, please contact the City Clerk at (530) 538-2535, well in advance of the regular meeting you wish to attend, so that we may make every reasonable effort to accommodate you. Documents distributed for public session items, less than 72 hours prior to meeting, are available for public inspection at City Hall, 1735 Montgomery Street, Oroville, California.

**CITY COUNCIL MEETING MINUTES
NOVEMBER 19, 2013 – 4:00 P.M.**

The agenda for the November 19, 2013 regular meeting of the Oroville City Council was posted on the bulletin board at the front of City Hall on Friday, November 15, 2013, at 3:37 p.m.

The November 19, 2013 regular meeting of the Oroville City Council was called to order by Mayor Dahlmeier at 4:07 p.m.

ROLL CALL

Present: Council Members Andoe, Berry, Bunker, Pittman, Simpson, Vice Mayor Wilcox,
Mayor Dahlmeier
Absent: None

Staff Present:

Randy Murphy, City Administrator	Scott E. Huber, City Attorney
Diane MacMillan, Director of Finance	Bill La Grone, Chief of Police
Donald Rust, Director of Planning & Development Services	Jamie Hayes, Deputy City Clerk
Pat Clark, Director of Business Asst. & Housing Development	Bob Marciniak, Program Specialist

PLEDGE OF ALLEGIANCE

The Pledge of Allegiance was led by Merritt Silva, Oroville Foothill 4-H Club.

PROCLAMATIONS / PRESENTATIONS

Mayor Dahlmeier conducted an Oath of Office for Firefighter, Chris Tennes.

Mayor Dahlmeier presented Megan Wills with a New Business Acknowledgement and Welcome to Oroville for Porterhouse Restaurant.

RECOGNITION OF INDIVIDUALS WHO WISH TO SPEAK ON AGENDA ITEMS

Tom Griffis – Item No. 8	Ron Ullman – Item No. 8
David Townsend – Item No. 9	Michael Smiley – Item No. 10
Machelle Conn – Item No. 12	Bob Zollner – Item No. 16
Bud Englund – Item No. 16	

CONSENT CALENDAR

A motion was made by Council Member Pittman seconded by Council Member Bunker, to approve the following Consent Calendar, with exception to Items No. 8 and 9:

- 1. APPROVAL OF THE MINUTES OF THE OCTOBER 15, 2013 REGULAR MEETING OF THE OROVILLE CITY COUNCIL – minutes attached**

2. ADOPTION OF CALIFORNIA CODE OF REGULATIONS TITLE 24, 2013 EDITION OF THE CALIFORNIA BUILDING STANDARDS CODE AND OTHE RELATED CODES – staff report

The Council considered adopting the most recent editions of the California Code of Regulations Title 24, 2013 edition of the California Building Standards Code with applicable amendments relating to the City of Oroville. **(Donald Rust, Director of Community Development)**

Council Action Requested: **Waive the second reading and adopt by title only, Ordinance No. 1800 - AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF OROVILLE REPEALING CHAPTER 6 AND ADDING A NEW CHAPTER 6 OF THE CODE OF THE CITY OF OROVILLE MUNICIPAL CODE, AND ADOPTING BY REFERENCE THE CALIFORNIA CODE OF REGULATIONS TITLE 24, 2013 EDITION OF THE CALIFORNIA BUILDING STANDARDS CODE, UNIFORM HOUSING CODE 1997 EDITION, UNIFORM CODE FOR THE ABATEMENT OF DANGEROUS BUILDINGS 1997 EDITION, AND AMENDING CERTAIN PORTIONS OF THE CALIFORNIA CODE OF REGULATIONS TITLE 24.**

3. MARTIN RANCH GENERAL PLAN AMENDMENT, ZONE CHANGE, TENTATIVE PARCEL MAP AND PLANNED DEVELOPMENT OVERLAY – staff report

The Council considered a General Plan Amendment, Rezone, Tentative Parcel map, and Planned Development Overlay for a property located northeast of Table Mountain Boulevard at Garden Drive (APN: 031-030-031). **(Donald Rust, Director of Community Development and Luis Topete, Associate Planner)**

Council Action Requested: **Waive the second reading and adopt by title only, Ordinance No. 1801 – AN ORDINANCE OF THE OROVILLE CITY COUNCIL MAKING FINDINGS AND APPROVING GENERAL PLAN AMENDMENT NO. 13-01, REZONE NO. 13-06, AND THE ASSOCIATED PLANNED DEVELOPMENT OVERLAY THAT WILL BE INCORPORATED INTO THE CITY ZONING CODE AS SECTION 26-42.030-1 FOR THE PROPERTY LOCATED ON TABLE MOUNTAIN BOULEVARD - MARTIN RANCH PROJECT (APN 031-030-031).**

4. ADOPTION OF THE 2013 EDITION OF THE CALIFORNIA FIRE CODE – staff report

The Council considered adopting the most recent edition of the 2013 California Fire Code with the applicable amendments relating to the City of Oroville. **(Bill La Grone, Director of Safety Services and Dean Hill, Jr., Fire Marshall)**

Council Action Requested: **Waive the second reading and adopt by title only, Ordinance No. 1802 – AN ORDINANCE OF THE OROVILLE CITY COUNCIL REPEALING CHAPTER 10 OF THE OROVILLE MUNICIPAL CODE AND ADDING A NEW CHAPTER 10 TO THE CITY OF OROVILLE MUNICIPAL CODE, AND ADOPTING BY REFERENCE PART 9, CALIFORNIA FIRE CODE INCLUDING THE APPENDIX CHAPTERS OF THE CALIFORNIA CODE OF REGULATIONS TITLE 24, 2013 EDITION OF THE CALIFORNIA BUILDING STANDARDS.**

5. ELIMINATION OF EMPLOYER PAID MEMBER CONTRIBUTIONS AND REPORTING THE VALUE OF EMPLOYER PAID MEMBER CONTRIBUTION THROUGH PERS FOR SAFETY MANAGEMENT – staff report

The Council considered the elimination of employer paid member contributions (EPMC) and reporting the value of those contributions as special compensation (enhancement) for Safety Management employees. (Randy Murphy, City Administrator and Liz Ehrenstrom, Human Resource Analyst II)

Council Action Requested: **Adopt Resolution No. 8150 - A RESOLUTION OF THE OROVILLE CITY COUNCIL APPROVING THE ELIMINATION OF EMPLOYER PAID MEMBER CONTRIBUTIONS AND REPORTING THE VALUE OF EMPLOYER PAID CONTRIBUTIONS THROUGH CALPERS FOR SAFETY MANAGEMENT EMPLOYEES.**

6. PROFESSIONAL SERVICES AGREEMENT WITH CHARLES LAFLAMME – staff report

The Council considered a Professional Services Agreement with Charles LaFlamme, in the amount of \$3,500, to complete a supplemental appraisal of the Table Mountain Golf Course property. (Donald Rust, Director of Community Development and Rick Walls, Interim City Engineer)

Council Action Requested: **Adopt Resolution No. 8149 – A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH CHARLES LAFLAMME, IN THE AMOUNT OF \$3,500, TO COMPLETE A SUPPLEMENTAL LAND APPRAISAL FOR THE TABLE MOUNTAIN GOLF COURSE PROPERTY – (Agreement No. 3047).**

7. PROFESSIONAL SERVICES AGREEMENT WITH WALLACE ENVIRONMENTAL CONSULTING, INC – staff report

The Council considered a Professional Services Agreement with Wallace Environmental Consulting, Inc., in an amount not to exceed \$16,000, for Environmental Permitting Services. (Donald Rust, Director of Community Development and Rick Walls, Interim City Engineer)

Council Action Requested:

1. Adopt Resolution No. 8148 – A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE A PROFESSIONAL SERVICES AGREEMENT WITH WALLACE ENVIRONMENTAL CONSULTING, INC., IN AN AMOUNT NOT TO EXCEED \$16,000, FOR ENVIRONMENTAL PERMITTING SERVICES – (Agreement No. 3046).

2. Approve Supplemental Appropriation No. 2013/14-1113-23 as indicated in the November 19, 2013 staff report.

8. THIS ITEM WAS REMOVED FROM THE CONSENT CALENDAR (SEE BELOW)

9. THIS ITEM WAS REMOVED FROM THE CONSENT CALENDAR (SEE BELOW)

The motion to approve the above Consent Calendar was passed by the following vote:

Ayes: Council Members Andoe, Berry, Bunker, Pittman, Simpson, Vice Mayor

Wilcox, Mayor Dahlmeier
Noes: None
Abstain: None
Absent: None

ITEMS REMOVED FROM THE CONSENT CALENDAR

8. FEE WAIVER REQUEST BY BIRD STREET MEDIA PROJECT – staff report

The Council considered a fee waiver request by Bird Street Media Project, in the amount of \$660, for use of the Municipal Auditorium for their annual Christmas Craft Faire to be held on December 7, 2013. **(Donald Rust, Director of Community Development and Luis Topete, Associate Planner)**

This item was removed from the Consent Calendar by Council Member Bunker for additional comments.

Ron Ullman and Tom Griffis, Bird Street Media Project Board Members, spoke in support of the fee waiver request.

Following further discussion, a motion was made by Council Member Simpson to:

Waive 100% of the fees, in the amount of \$1,320, for the Bird Street Media annual Christmas Craft faire at the Municipal Auditorium.

This motion failed due to a lack of a second motion.

A motion was made by Council Member Bunker, seconded by Council Member Andoe, to:

Waive 50% of the fees for use of the Municipal Auditorium for an annual Christmas Craft Faire, by Bird Street Media Project, in the amount of \$660.

The motion was passed by the following vote:

Ayes: Council Members Andoe, Berry, Bunker, Pittman, Vice Mayor Wilcox, Mayor Dahlmeier
Noes: Council Member Simpson
Abstain: None
Absent: None

9. FEE WAIVER REQUEST BY THE OROVILLE COMMUNITY CONCERT BAND AND CHORUS – staff report

The Council considered a fee waiver request by the Oroville Community Concert Band and Chorus, in the amount of \$1,500, for use of the Oroville State Theatre for their annual Concert Series, including rehearsals, from December 3, 2013 through July 4, 2014. **(Donald Rust, Director of Community Development)**

This item was removed from the Consent Calendar by for additional comments.

David Townsend, Oroville Community Concert Band and Chorus, asked questions pertaining to the fee structure and spoke in support of the fee waiver request for use of the

Oroville State Theatre for their annual Concert Series.

Following further discussion, a motion was made by Council Member Bunker, seconded by Vice Mayor Wilcox, to:

Approve a 50% fee waiver, in an amount of \$1,500, for the Oroville Community Concert Band and Chorus for use of the Oroville State Theatre for their annual Concert Series, including rehearsals, from December 3, 2013 through July 4, 2014, upon receipt of proof of insurance, and payment of the remaining 50% of fees associated with rehearsal times and the security/cleaning deposit, pursuant to the City of Oroville Fee Waiver Policy.

The motion was passed by the following vote:

Ayes: Council Members Andoe, Berry, Bunker, Pittman, Simpson, Vice Mayor Wilcox, Mayor Dahlmeier
Noes: None
Abstain: None
Absent: None

PUBLIC HEARING

10. ARTS, CULTURE AND ENTERTAINMENT DISTRICT – FINAL DRAFT – staff report

The Council conducted a public hearing to review/comment on the final draft of the City's Arts, Culture and Entertainment District planning document. **(Donald Rust, Director of Community Development and Luis Topete, Associate Planner)**

Michael Smiley, BMS Design Group, gave an overview of the City's Arts, Culture and Entertainment District planning document.

Mayor Dahlmeier opened the public hearing. Hearing no comments or questions from the audience, the Public Hearing was closed.

Following further discussion, a motion was made by Vice Mayor Wilcox, seconded by Council Member Pittman, to:

Adopt Resolution No. 8151 – A RESOLUTION OF THE OROVILLE CITY COUNCIL ADOPTING THE FINAL DRAFT OF THE ARTS, CULTURE AND ENTERTAINMENT DISTRICT PLANNING DOCUMENT.

The motion was passed by the following vote:

Ayes: Council Members Andoe, Berry, Bunker, Pittman, Simpson, Vice Mayor Wilcox, Mayor Dahlmeier
Noes: None
Abstain: None
Absent: None

REGULAR BUSINESS

11. ACCESSION OF ARTIFACTS – staff report

The Council considered accepting the receipt of donations to the Chinese Temple and Museum and the C.F. Lott Home from multiple donors. (**Donald Rust, Director of Community Development and Bob Marciniak, Program Specialist**)

Following discussion, a motion was made by Council Member Bunker, seconded by Council Member Pittman, to:

Accept the receipt of donations to the Chinese Temple and Museum and the C.F. Lott Home from multiple donors.

The motion was passed by the following vote:

Ayes:	Council Members Andoe, Berry, Bunker, Pittman, Simpson, Vice Mayor Wilcox, Mayor Dahlmeier
Noes:	None
Abstain:	None
Absent:	None

12. ACCEPTANCE OF COMPLETED METAL EAGLE SCULPTURE PROJECT – staff report

The Council received an update on the completion of the Metal Eagle Sculpture Project which was created through the use of Supplemental Benefits Fund grant funding awarded to the Artists of River Town. (**Donald Rust, Director of Community Development and Bob Marciniak, Program Specialist**)

Machelle Conn spoke in support of introducing the Metal Eagle Sculpture Project to the community prior to locating a permanent home for the project.

Following discussion, the Council directed staff to move the Metal Eagle Sculpture Project to the City Council Chambers for a 60-day trial period until a final placement location may be determined.

13. ANNUAL RENEWAL FOR THE OPERATION AND MAINTENANCE FOR THREE SPECIFIC SOFTWARE PROGRAMS – staff report

The Council considered the payment of the required annual operation and maintenance cost for three (3) specific software programs, including Spatial Adventures (walking cell phone tour), Buxton (economic development software) and ObiMobile (City of Oroville mobile application). (**Donald Rust, Director of Community Development and Luis Topete, Associate Planner**)

Following discussion, a motion was made by Vice Mayor Wilcox, seconded by Council Member Bunker, to:

Authorize the payment of the required annual operation and maintenance cost for three (3) specific software programs, including Spatial Adventures (walking cell phone tour), Buxton (economic development software) and ObiMobile (City of Oroville mobile application).

The motion was passed by the following vote:

Ayes: Council Member Andoe, Berry, Bunker, Pittman, Simpson, Vice Mayor
Wilcox, Mayor Dahlmeier
Noes: None
Abstain: None
Absent: None

14. TABLE MOUNTAIN GOLF CLUB, INC. FEE WAIVER REQUEST FOR CONSTRUCTION OF NEW PATIO COVER – staff report

The Council considered a fee waiver request from Table Mountain Golf Club, Inc. for all City fees associated with the construction of a new patio cover and installation of a monument sign at 1115 Wes Barrett Lane, Oroville. **(Donald Rust, Director of Community Development and Luis Topete, Associate Planner)**

Following discussion, the Council directed staff to do additional research on the Table Mountain Golf Club, Inc. construction project and return to Council with additional information.

15. REVIEW OF THE CITY'S CURRENT FACILITY AND PARK FEE WAIVER ORDINANCE – staff report

The Council reviewed the current Facility and Park Fee Waiver Ordinance and considered any changes and/or amendments to the Ordinance. **(Donald Rust, Director of Community Development and Luis Topete, Associate Planner)**

At the request of Vice Mayor Wilcox, this item was considered prior to the consideration of Items No. 8 and 9, which were removed from the Consent Calendar.

Following discussion, the Council directed this item back to the Executive Committee for further considerations in regards to the current Facility and Park Fee Waiver Ordinance.

16. REVISIT FIRE DEPARTMENT MINIMUM STAFFING – staff report

The Council will revisit the minimum staffing of the Fire Department and provide direction to staff. **(Randy Murphy, City Administrator)**

This item was considered at the conclusion of the Consent Calendar items.

Bob Zollner spoke in opposition to minimum staffing of the Fire Department.

Bud Englund read aloud a letter from Skip George, Oroville Fire Fighter's Association President, opposing minimum staffing of the Fire Department.

Following further discussion, a motion was made by Council Member Pittman, seconded by Council Member Andoe, to:

Authorize the minimum staffing in the Fire Department to three (3) permanent Fire personnel beginning January 1, 2014.

The motion was passed by the following vote:

Ayes: Council Members Andoe, Berry, Pittman, Vice Mayor Wilcox, Mayor Dahlmeier
Noes: Council Members Bunker, Simpson
Abstain: None
Absent: None

17. MONTHLY SUMMARY OF INVESTMENTS AND MONTHLY FINANCIAL REPORTS FOR SEPTEMBER 2013 – reports attached

The Council received and acknowledged a copy of the Monthly Summary of Investments and the Monthly Financial Reports for September 2013. (**Diane MacMillan, Director of Finance**)

MAYOR/ COUNCIL REPORTS

Council Member Pittman reported that while the Oroville Chamber memberships were holding strong, the Gridley Chamber of Commerce had recently closed.

Council Member Pittman also reported that Mike Glaze, Oroville Economic Alliance, had given a brief presentation relating to proposed economic development opportunities in Oroville.

CITY ADMINISTRATOR/ ADMINISTRATION REPORTS

- Business Assistance and Housing Development Department – activity report
- Police & Fire Department – activity report

City Administrator, Randy Murphy, reported that City staff had met with the County of Butte relating to a regional tourism study. The County has requested funding from each community to participate in a tourism study, an approximate cost of \$116,000 - \$180,000.

Mr. Murphy reported that staff had met with Sacramento Metro Fire to discuss their implemented policy to collect fees for medical services provided by the Fire Department. This item will be presented to Council for consideration at a future City Council meeting.

Mr. Murphy reported that reported that the League of California Cities would be providing updated information relating to pension reforms, storm water fees and additional restrictions on local government.

Mr. Murphy reported that staff was currently working with OpenGov to provide financial transparency to the General Public.

Mr. Murphy reported that staff had met with Senator Jim Nielsen relating to Fire Fees. Senator Nielsen expressed his support the City in improving the City of Oroville.

Mr. Murphy also reported that he had spoken with Ivan Garcia, Butte County Association of Governments, as well as a Caltrans representative in regards to repurposing the earmarked funds, in the amount of \$1,725,000, for Highway 70/Georgia Pacific to the State Route 70 corridor between Ophir Road and Palermo Road. BCAG will be seeking support from Congressman LaMalfa on this issue.

CORRESPONDENCE

- Melanie Waugh, President of the Oroville Downtown Business Association, received November 12, 2013
- Pacific Gas & Electric Company, received November 15, 2013

RECOGNITION OF INDIVIDUALS WHO WISH TO SPEAK ON NON-AGENDA ITEMS

Council Member Bunker reported that a Memorial Plaque dedication would be held on November 23, 2013, at 2:00 pm in honor of Captain Randy Roby who perished in a tragic accident in 1996.

Council Member Bunker requested the Council to consider allowing an organized youth contest relating to painting the exterior windows of the Oroville Inn for the holidays.

CLOSED SESSION

The Council held a Closed Session on the following:

1. Pursuant to Government Code section 54957.6, the Council met with Labor Negotiators and City Attorney to discuss labor negotiations for the Oroville Police Officers' Association – Sworn and Non-Sworn.
2. Pursuant to Government Code section 54957.6, the Council met with Labor Negotiators and City Attorney to discuss labor negotiations for the Oroville Fire Fighters' Association.
3. Pursuant to Government Code section 54956.9(a), the Council met with the City Administrator and City Attorney relating to existing litigation: In the Matter of the Application of California Water Service Company, California Public Utilities Commission, Application No. 17-07-007.
4. Pursuant to Government Code section 54956.9(a), the Council met with the City Administrator and City Attorney relating to existing litigation: City of Oroville v. Department of Finance, et al., Sacramento County Superior Court, Case No. 34-2013-80001543.
5. Pursuant to Government Code Section 54956.8, the Council met with Real Property Negotiators (City Administrator and City Attorney), regarding the property identified as Feather River Water Rights, Oroville.
6. Pursuant to Government Code Section 54957(b), the Council met with the City Administrator and City Attorney to consider the evaluation of performance related to the following position: City Administrator.
7. Pursuant to Government Code section 54956.9(b), the Council met with the City Administrator, Director of Business Assistance and Housing Development, and the City Attorney regarding potential litigation – three cases

Mayor Dahlmeier announced that no actions had been taken in Closed Session and direction had been given to staff.

ADJOURNMENT

The meeting was adjourned at 9:03 p.m. A regular meeting of the Oroville City Council will be held on Tuesday, December 17, 2013 at 5:00 p.m.

Randy Murphy, City Clerk

Linda L. Dahlmeier, Mayor

**OROVILLE CITY COUNCIL
STAFF REPORT**

**TO: MAYOR AND COUNCIL MEMBERS
RANDY MURPHY, CITY ADMINISTRATOR**

**FROM: PAT CLARK, DIRECTOR OF BUSINESS ASSISTANCE AND
HOUSING DEVELOPMENT 530-538-2495**

**RE: RENEWAL OF THE MEMORANDUM OF UNDERSTANDING
WITH BUTTE COUNTY HOMELESS CONTINUUM OF CARE
COUNCIL**

DATE: DECEMBER 3, 2013

SUMMARY

The Council may consider the renewal of the memorandum of understanding by and between the Housing Authority of the County of Butte (Housing Authority), County of Butte Department of Behavioral Health (Behavioral Health), County of Butte Department of Employment and Social Services (DESS), City of Chico (Chico), City of Gridley (Gridley), City of Oroville (Oroville), Caminar, Inc. (Caminar), Community Action Agency (CAA), and Northern Valley Catholic Social Service (NVCSS).

Additionally, the Council may consider authorizing the use of Housing Program Funds in the amount of \$2,000 for the purpose of funding staff to support the Butte County Homeless Continuum of Care Council.

DESCRIPTION

The U.S. Department of Housing and Urban Development (HUD) requires that a geographic area create a "Continuum of Care" (CoC) to be eligible for HUD funding to reduce the number of homeless individuals in the area. On November 18, 2008, the Council authorized the Mayor to execute the memorandum of understanding (MOU); thereby the Housing Authority; County of Butte Department of Behavioral Health; cities of Chico, Gridley and Oroville; Caminar, CAA and NVCSS (Parties) established a new Butte County Homeless CoC Council, and recently the County of Butte's Department of Employment and Social Services, to guide the Butte County CoC. Upon signing the MOU, the parties agreed to establish a position of CoC Coordinator who is an employee of the Housing Authority in collaboration with the Butte County Homeless CoC Council. This position is for part-time employment with benefits provided per the Personnel Policy of the Housing Authority. The term of this MOU was established for the period of one year with the stipulation that it could be amended for new funding periods if the parties approve subsequent funding for the Housing Authority.

The CoC is requesting a renewal of the CoC's MOU and funding of \$2,000 from the City of Oroville associated with the new MOU; the term of which will be for the period from October 1, 2013 to September 30, 2014 or the date when the compensation funds are fully expended, whichever is later. It is proposed that City enter into the new CoC MOU.

FISCAL IMPACT

The parties to this MOU (other than Housing Authority) will provide funding during the term of this MOU to the Housing Authority. The City of Oroville's portion is \$2,000. There are sufficient funds available in the fiscal year 2013/14 Housing Program Fund account number 141 7000 8910 (Outside Services).

RECOMMENDATION

1. Adopt Resolution No. 8143 – A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE THE MEMORANDUM OF UNDERSTANDING BY AND BETWEEN THE HOUSING AUTHORITY OF THE COUNTY OF BUTTE, COUNTY OF BUTTE DEPARTMENT OF BEHAVIORAL HEALTH, COUNTY OF BUTTE, DEPARTMENT OF EMPLOYMENT AND SOCIAL SERVICES, CITY OF CHICO, CITY OF GRIDLEY, CITY OF OROVILLE, , CAMINAR, INC., COMMUNITY ACTION AGENCY AND NORTHERN VALLEY CATHOLIC SOCIAL SERVICES FOR THE PURPOSE OF FUNDING STAFF SUPPORT FOR THE BUTTE COUNTY HOMELESS CONTINUUM OF CARE COUNCIL AND AUTHORIZE THE USE OF HOUSING PROGRAM FUNDS – (Agreement No. 1865-3).
2. Authorize the use of Housing Program funds, in the amount of \$2,000, for the purpose of funding staff to support the Butte County Continuum of Care Council.

ATTACHMENTS

Resolution No. 8143
Agreement No. 1865-3

**CITY OF OROVILLE
RESOLUTION NO. 8143**

A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE THE MEMORANDUM OF UNDERSTANDING BY AND BETWEEN THE HOUSING AUTHORITY OF THE COUNTY OF BUTTE, COUNTY OF BUTTE DEPARTMENT OF BEHAVIORAL HEALTH, COUNTY OF BUTTE, DEPARTMENT OF EMPLOYMENT AND SOCIAL SERVICES, CITY OF CHICO, CITY OF GRIDLEY, CITY OF OROVILLE, CAMINAR, INC., COMMUNITY ACTION AGENCY AND NORTHERN VALLEY CATHOLIC SOCIAL SERVICES IN SUPPORT OF THE BUTTE COUNTY HOMELESS CONTINUUM OF CARE COUNCIL

(Agreement No. 1865-3)

BE IT HEREBY RESOLVED by the Oroville City Council as follows:

- a. The Mayor is hereby authorized and directed to execute a Memorandum of Understanding by and between the Housing Authority of the County of Butte, County of Butte Department of Behavior Health, County of Butte Department of Employment and Social Services, City of Chico, City of Gridley, City of Oroville, Caminar, Inc., Community Action Agency, and Northern Valley Catholic Social Service, for the purpose of funding staff support for the Butte County Homeless Continuum of Care Council. A copy of the Memorandum of Understanding is attached hereto.

- b. The City Clerk shall attest to the adoption of this Resolution.

PASSED AND ADOPTED by the Oroville City Council at a regular meeting on December 3, 2013, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Linda L. Dahlmeier, Mayor

APPROVED AS TO FORM:

ATTEST:

Scott E. Huber, City Attorney

Randy Murphy, City Clerk

MEMORANDUM OF UNDERSTANDING

Between

HOUSING AUTHORITY OF THE COUNTY OF BUTTE

And

COUNTY OF BUTTE DEPARTMENT OF BEHAVIORAL HEALTH

And

COUNTY OF BUTTE DEPARTMENT OF EMPLOYMENT AND SOCIAL SERVICES

And

CITY OF CHICO

And

CITY OF GRIDLEY

And

CITY OF OROVILLE

And

CAMINAR

And

COMMUNITY ACTION AGENCY

And

NORTHERN VALLEY CATHOLIC SOCIAL SERVICE

Butte County Continuum of Care

2014 – 2015

This Memorandum of Understanding (MOU), is entered into by and between the Housing Authority of the County of Butte, hereinafter referred to as "Housing Authority"; County of Butte Department of Behavioral Health, hereinafter referred to as "Behavioral Health"; County of Butte Department of Employment and Social Services, hereinafter referred to as "DESS"; the City of Chico; hereinafter referred to as "Chico"; the City of Gridley, hereinafter referred to as "Gridley"; the City of Oroville, hereinafter referred to as "Oroville"; Caminar, Inc., hereinafter referred to as "Caminar"; Community Action Agency of Butte County, hereinafter referred to as "CAA"; and Northern Valley Catholic Social Service, hereinafter referred to as "NVCSS".

WITNESSETH:

WHEREAS, the U.S. Department of Housing and Urban Development, hereinafter referred to as HUD, requires that a geographic area create and administer a "Continuum of Care" (CoC) to be eligible for HUD funding to reduce the number of homeless individuals in the area; and

WHEREAS, the parties named in this MOU have established a Butte County Homeless Continuum of Care (CoC) Council to guide the Butte County Continuum of Care; and

WHEREAS, the parties named in this MOU have entered into previous CoC MOU's, the previous MOU having expired September 30, 2011; and

WHEREAS, the Continuum of Care Council continues to require staff support to carry out the requirements of future HUD funding applications and CoC administrative and program activities, and the CoC Council seeks to continue the CoC MOU activities and relationships;

NOW, THEREFORE, the parties agree as follows:

SECTION 1. STAFFING

As an employee of the Housing Authority, and in collaboration with the Butte County Homeless Continuum of Care (CoC) Council, the Continuum of Care Coordinator will continued to be retained to provide support to the CoC Council. The Housing Authority will work in collaboration with the Council in providing direction, however in case of any dispute in direction between the Housing Authority and the Council; the Housing Authority's direction shall prevail. The position of CoC Coordinator is established to provide support to the CoC Council and as such is an "at will employee" of the Housing Authority, and further will not be subject to the due process procedures of the Housing Authority. The CoC Coordinator may be terminated at any time by service of a thirty day notice. The Continuum of Care Coordinator will be employed no more than 960 hours in a twelve month period, including paid leave hours, at a varying schedule based on the demands of the work.

The CoC Coordinator will be considered a part time employee of the Housing Authority, with benefits as provided per the Personnel Policy of the Housing Authority, their hourly rate will be \$26.24 for the term of this MOU.

The Housing Authority will assure that all employment laws and requirements are followed. Housing Authority will provide office space, office furniture, computer, basic office supplies and land line telephone for the CoC Coordinator. The cost of identifiable materials and supplies will be directly charged to the administrative budget.

SECTION 2. STAFF DUTIES

The duties of the CoC Coordinator may include, but are not limited to the following:

- a. Oversee the CoC planning process in agreement with local priorities and HUD regulations;
- b. Prepare the annual HUD Exhibit One document, including timetable, implementation steps, and gaps analysis;
- c. Facilitate an equitable rating and ranking process for CoC homeless assistance program applicants;
- d. Develop and maintain effective collaborative relationships with homeless service providers, community groups, elected and appointed public officials, and private industry representatives;
- e. Attend monthly Greater Chico Homeless Task Force Meetings;
- f. Attend monthly Greater Oroville Homeless Coalition Meetings;
- g. Assist with coordination of all other continuum-wide subcommittee meetings;

- h. Participate in Regional Homeless Roundtable Meetings;
- i. Coordinate the development and implementation of a 10-year Strategy to End Homelessness in Butte County;
- j. Coordinate bi-annual point-in-time Homeless Census and Survey;
- k. Coordinate countywide data collection/HMIS;
- l. Provide assistance and consultation to annual Exhibit Two (this contains information about each specific project in the application) project applicants
- m. Coordinate submission of proposal for the HUD Super Notice of Funding Availability (NOFA);
- n. Develop recommendations annually to enhance the effectiveness of local service delivery to the homeless population;
- o. Develop and support the CoC Council and its activity.

SECTION 3. CONTINUUM OF CARE COUNCIL

All parties agree to attend Quarterly Meetings of the Continuum of Care Council and to participate in activities determined by the CoC Council to be necessary for HUD funding.

SECTION 4. TERM OF MOU

The term of this MOU will be for a one-year period from January 1, 2014 to December 31, 2014. If the parties approve subsequent funding for the Housing Authority, this MOU may be amended by attachment of one or more Exhibits for a new funding period.

SECTION 5. COMPENSATION

Parties to this MOU (other than Housing Authority) understand that funding previously secured under previous CoC MOU's is sufficient to carry the activities of the CoC and the CoC Coordinator forward through the start of the term of this MOU. The parties to this MOU further understand that the CoC may recommend and agree to supplemental funding during the term of this MOU, subject to the activities and capacities of the CoC as determined by the CoC Council. Finally, the parties to this MOU understand that future CoC work, accomplished under future MOU agreements, will likely require additional CoC funding beyond that provided to date, to ensure participation in the CoC Council.

SECTION 6. RECORD KEEPING

Housing Authority will maintain and retain employment records of CoC Coordinator including actual cost of CoC Coordinator including documentation of actual time worked, and expenditure of funds. All documents related to this MOU will be retained for a period of three (3) years after this MOU's termination (or for any further period that is required by law) and until all Federal or local audits are complete and exceptions resolved for this MOU's funding period. Upon request, Housing Authority shall make these records available to authorized representatives of the parties.

Authorized Federal agencies, State agencies, and parties to this MOU shall have access, for the purpose of audit or examination, to any non-confidential records pertinent to this specific MOU, held by Housing Authority, and subcontracted agencies/parties.

SECTION 7. TERMINATION

Parties to this MOU may, at their sole discretion, terminate this MOU and Housing Authority's funding upon ninety (90) days written notice that adequate funding is not available for payment for additional months of staff time. Housing Authority may terminate MOU upon (30) days of written notice subject to Housing Authority first complying with all agreements and employment requirements regarding the CoC Coordinator. Should the CoC Coordinator position be terminated and unemployment benefits be applied for the Housing Authority may use funds allocated for the operation of the program to pay such benefits.

SECTION 8. ALTERATION OF TERMS

The body of this MOU fully expresses all understandings of the parties concerning all matters covered and shall constitute the total MOU. No addition to, or alteration of, the terms of this MOU whether by written or verbal understanding of the parties, their officers, agents, or employees shall be valid unless made in the form of a written amendment to this MOU which is formally approved and executed by all parties.

SECTION 9. INDEMNIFICATION

Housing Authority shall defend, hold harmless and indemnify the other Parties to this MOU against all claims, liability, legal actions and costs, including attorneys' fees, as a result of the Housing Authority's duties under this MOU.

SECTION 10. GENERAL LIABILITY COVERAGE PROVISIONS

Concurrently with the execution of this MOU, Housing Authority shall, at its sole cost and expense, provide and maintain during the term of this Agreement, general liability coverage in an amount of at least \$1,000,000 per occurrence or claim which protects the Housing Authority and its employees and the Parties to this MOU for liabilities arising out of this MOU and/or Housing Authority's use of funds as provided for by this MOU. Such liability coverage shall be evidenced by a certificate of coverage approved to the parties' Risk Managers. The Housing Authority's participation in Housing Authorities Risk Retention Pool (HARRP), a California Joint Powers Authority offering coverages to the Butte County Housing Authority shall be acceptable as liability coverage for purposes of this MOU. Such coverage shall provide parties at least 30 days unqualified prior notice of cancellation or material change in coverage.

Upon execution of this MOU, a copy of the certificate of coverage required herein shall be delivered by Housing Authority to parties' Risk Managers for approval as to form and sufficiency. Upon request of parties' Risk Managers, Housing Authority also shall furnish parties with a certified copy of the Memorandum of Coverage issued by Housing

Authority's risk sharing pool detailing the coverage, conditions and exclusions of its liability coverage program.

SECTION 11. LEGAL COMPLIANCES

Housing Authority shall at all times during the term of this MOU comply with all legal requirements, including any applicable Federal, State or local regulations, and shall secure at its full cost and expense any and all permits, applications or other requirements in connection therewith. Any action to enforce the terms of this Contract for breach thereof shall be brought and tried in the County of Butte.

SECTION 12. NON-DISCRIMINATION

A. Housing Authority shall not discriminate against any employee employed in the performance of this MOU, or against any applicant for employment because of sex, race, creed, ethnicity, color, religion, national origin, ancestry, age, marital status, sexual orientation, disability, medical condition, military status, political affiliation, genetic information, or family or health leave. This requirement shall apply to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

B. No person shall, on the ground of sex, race, creed, ethnicity, color, religion, national origin, ancestry, age, marital status, sexual orientation, disability, medical condition, military status, political affiliation, genetic information, or family or health leave, be excluded from participation in, be denied the proceeds of or be subject to discrimination in the performance of this MOU.

SECTION 13. NOTICES

All notices, claims, correspondence, reports and/or statements authorized or required by this MOU shall be addressed as follows:

HOUSING AUTHORITY OF THE COUNTY OF BUTTE:

Edward S. Mayer, Executive Director
2039 Forest Avenue
Chico CA 95928
(530) 895-4474 Ext 215
Fax (530) 895-4459

COUNTY OF BUTTE DEPARTMENT OF BEHAVIORAL HEALTH:

Lisa Cox, Assistant Director
109 Parmac Road, Suite 2
Chico, CA 95926
(530) 891-2850
Fax (530) 895-6549

COUNTY OF BUTTE DEPARTMENT OF EMPLOYMENT AND SOCIAL SERVICES:

Cathi Grams, Director
202 Mira Loma Drive
Oroville, CA 95965
(530) 538-7891
(530) 534-5745

CITY OF CHICO:

Brian Nakamura, City Manager
P.O. Box 3420
Chico, CA 95927
(530) 879-6300
Fax (530) 879-6399

CITY OF GRIDLEY:

Rob Hickey, City Manager
685 Kentucky Street
Gridley, CA 95948
(530) 846-3631
Fax: (530) 846-3229

CITY OF OROVILLE:

Pat Clark, Director
Business Assistance/Housing Development
1735 Montgomery Street
Oroville, CA 95866
(530) 538-2495
Fax (530) 538-2539

CAMINAR:

Michael Schocket, Program Director
2600 El Camino Real, Suite 200
San Mateo, CA 94403
(650) 393-8947
(650) 393-8922

COMMUNITY ACTION AGENCY:

Tom Tenorio, Executive Director
2255 Del Oro Avenue
Oroville, CA 95965
(530) 538-7559
Fax (530) 538-7470

NORTHERN VALLEY CATHOLIC SOCIAL SERVICE:

Bobbi Sawtelle, Housing Director
2400 Washington Avenue
Redding, CA 96001530

(530) 247-3316
Fax (530) 241-6457

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

Edward S. Mayer, Executive Director
Housing Authority of the County of Butte

Date

Anne Robin, MFT, Director
Butte County Department of Behavioral Health

Date

Cathi Grams
Butte County Department of Employment and Social Services

Date

Brian Nakamura, City Manager
City of Chico

Date

Jeff Draper, Mayor
City of Gridley

Date

Linda Dahlmeier, Mayor
City of Oroville

Date

Chip Huggins, CEO
Caminar

Date

Tom Tenorio, Executive Director
Community Action Agency

Date

Donald C. Chapman, CPA, Executive Director
Northern Valley Catholic Social Service

Date

Additional Butte County Signatures:

Nancy Weston, Contracts Manager
Butte County General Services

Date

Approved for budgetary control, Contracts Section by: _____

Approved as to form, County Counsel by: _____

BCDBH BUDGET CODE: _____
FUNDING: _____
CONTRACT MONITOR: _____
CONTRACT NO.: _____

**OROVILLE CITY COUNCIL
STAFF REPORT**

TO: MAYOR AND COUNCIL MEMBERS

**FROM: RANDY MURPHY, CITY ADMINISTRATOR
LIZ EHRENSTROM, HUMAN RESOURCES**

**RE: REVISED JOB DESCRIPTION AND SALARY RANGE FOR THE
POSITION OF INFORMATION TECHNOLOGY MANAGER**

DATE: DECEMBER 3, 2013

SUMMARY

The Council may consider the revised job description and salary range for the Information Technology Manager position.

DISCUSSION

The Council may consider approving the revised job description for the position of Information Technology Manager based on the additional duties the position has assumed. This position has expanded to include the Police Department and the City Radio Communication Systems. The incumbent will also be assisting the GIS Division. Based upon the increased duties, staff is recommending the following salary schedule:

PROPOSED SALARY RANGE FOR IT MANAGER							
A	B	C	D	E	F	G	H
\$61,268.00	\$64,331.40	\$67,547.97	\$70,925.37	\$74,471.64	\$78,195.22	\$82,104.98	\$86,210.23

Staff is recommending approval of the revised job description and salary range as indicated.

FISCAL IMPACT

Supplemental Appropriation No. 2013/14-1213-25 will be necessary as follows (based on E Step):

General Fund	\$3,283
Sewer Fund	\$ 169
Airport Fund	\$ 69

Also will transfer personnel budget to Administration Department 1400

RECOMMENDATION

1. Adopt Resolution No. 8152 - A RESOLUTION OF THE OROVILLE CITY COUNCIL APPROVING THE REVISED JOB DESCRIPTION AND SALARY RANGE FOR THE POSITION OF INFORMATION TECHNOLOGY MANAGER.
2. Approve Supplemental Appropriation No. 2013/14-1213-25 as indicated in the fiscal impact of this staff report, dated December 3, 2013.

ATTACHMENTS

Resolution No. 8152
Information Technology Manager Job Description
IT Task List

**CITY OF OROVILLE
RESOLUTION NO. 8152**

**A RESOLUTION OF THE OROVILLE CITY COUNCIL APPROVING THE REVISED
JOB DESCRIPTION AND SALARY RANGE FOR THE POSITION OF INFORMATION
TECHNOLOGY MANAGER**

BE IT HEREBY RESOLVED by the Oroville City Council as follows:

1. The Council hereby approved the revised job description and salary range for the position of Information Technology Manager. A copy of the job description is attached hereto as Exhibit "A".

PROPOSED SALARY RANGE FOR IT MANAGER							
A	B	C	D	E	F	G	H
\$61,268.00	\$64,331.40	\$67,547.97	\$70,925.37	\$74,471.64	\$78,195.22	\$82,104.98	\$86,210.23

2. The City Clerk shall attest to the adoption of this Resolution.

PASSED AND ADOPTED by the Oroville City Council at a regular meeting held on December 3, 2013 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Linda L. Dahlmeier, Mayor

APPROVED AS TO FORM:

ATTEST:

Scott E. Huber, City Attorney

Randy Murphy, City Clerk

INFORMATION TECHNOLOGY MANAGER

DEFINITION:

Under general direction, manage the planning, assigning, supervising, and delivery of application systems, network systems, daily computer operations, telephone, and radio communications services to City departments; provides highly technical and responsible staff assistance to the City Administrator; may exercise direct supervision over professional, technical and clerical staff; and performs related work as required.

SUPERVISION RECEIVED AND EXERCISED:

Receives general direction from the City Administrator.

May exercise direct supervision over professional, technical and clerical staff as assigned.

EXAMPLES OF ESSENTIAL FUNCTIONS: - *Essential functions may include, but are not limited to, the following:*

Plans, organizes and directs the activities of the Information Technology Division.

Assists in the preparation and administration of the IT Division budget; responsible for forecasting and recommending additional funds needed for staffing, equipment, materials, and supplies.

Provides and/or coordinates staff training; works with employees to correct performance deficiencies; may implement discipline procedures; and may recommend employee termination.

Prepares staff reports for and attends City Council meetings as needed.

Attends meetings, seminars and conferences as assigned.

Develops, implements and review goals, objectives, policies and procedures, and establishes priorities.

Leads the department in the establishment of overall automation strategies, priorities and procedures; establishment and maintenance of production schedules, production records and documentation of new and existing systems.

Performs a wide range of systems analysis, programming and network design work involved in the development, implementation or modification of various provided services.

CITY OF OROVILLE

Coordinates system development activities and technology related services and provide support for improving organizational activities through improved methods and techniques and better utilization of resources.

Develops, implements and reviews disaster recovery planning, and systems and programming standards; maintains and monitors systems security.

Oversees the planning, installation, maintenance, and modification of a City-owned radio communications network, data communications network, and telephone systems.

Supervises and participates in the operation of all computer and communications related equipment and services; consults with manufacturer's representatives to define equipment and software needs; prepares requests for proposals; reviews and evaluates proposals.

Maintains records, including a complete and current inventory of all computer equipment, data communication equipment and network software versions.

Assists in the management of the Geographic Information Systems (GIS) Division.

Oversees and guides the implementation of web-based services.

Performs other related duties as assigned.

MINIMUM QUALIFICATIONS:

Knowledge of:

Principles and techniques of systems analysis and programming; operating principles, methods, practices and limitations of technology as it relates to computers, data, radio, and telephone networks and related equipment; principles of database administration and virtualization; principles of organization, administration, budget and personnel management.

Ability to:

Plan, organize, assign, supervise and review technology related activities and services; keep up to date with new and changing technologies; design systems and perform necessary programming and application documentation; establish and maintain production schedules; operate computer equipment; communicate clearly and concisely, both orally and in writing; select, supervise, train, and evaluate assigned staff; establish and maintain cooperative working relationships with those contacted in the course of work.

Education:

Bachelor's Degree from an accredited college or university in Computer Science, or Business Administration.

Experience:

CITY OF OROVILLE

Seven (7) years of increasingly responsible experience in computer operations, programming, networking and system development and design, including two (2) years of supervisory responsibility.

Substitution:

Any combination of education and experience that provides the required knowledge, skills, and abilities to perform the essential functions of the position listed above.

Additional Requirements:

Possession and maintenance of a valid California Class "C" driver's license.

TYPICAL WORKING CONDITIONS

Work is performed in a normal office environment.

TYPICAL PHYSICAL REQUIREMENTS

Requires the mobility to work in an office environment. Requires the ability to sit at desk for long periods of time and intermittently walk, stand, stoop, kneel, crouch and reach while performing office duties; use hands to finger, handle or feel objects, tools or controls; lift and/or move objects and materials of up to 25 pounds in weight. Must be able to maintain effective audio-visual discrimination and perception needed for making observations, communicating with others, reading and writing, and operating office equipment. Must be able to use a telephone to communicate verbally and a keyboard to communicate through written means, to review information and enter/retrieve data, to see and read characters on a computer screen.

This class specification lists the major duties and requirements of the job and is not all-inclusive. Incumbents may be expected to perform job-related duties other than those contained in this document.

IT Tasks over the last year.

- 1) Continued to modify and build onto the Trakit software. One of the big pieces was implementing eTrakit.
- 2) Built/designed more Crystal reports for Trakit.
- 3) Finished the cell phone provider migration, this cut the city's cellphone bill by over \$700 a month.
- 4) Worked with the ladies in Finance on moving to paperless reports.
- 5) Worked with the ladies in Finance on documenting finance procedures.
- 6) Moved the accounts payable checks to a LaserJet printer which streamlined the process.
- 7) Built a secondary file server and implemented replication.
- 8) Reconnected the monitoring for the solar panels as well as working with Mike on setting up a cleaning/maintenance plan for them.
- 9) Implemented a new firewall at the Police Dept.
- 10) Put in the network infrastructure out at the airport after the pilots lounge was remodeled.
- 11) Finalized the email server migration.
- 12) Assisted in the research of the new software for the Fire Dept., once the decision was made to go with the software I implemented the software/web service. Once the software was working I worked with the Police Dept. CAD software company to implement the web connector that allowed incidents to be moved automatically between systems.
- 13) Implemented the Active911 software on the iPad for the Fire Department.
- 14) Took over the Police Dept. network. I spent a week with Mike before he left and documented the entire network.
- 15) Re-setup the entire data backup scheme at the Police Dept.
- 16) Audited all of the Police Dept. servers to make sure they were working correctly. I found that the CAD server was not adequate and was causing a lot of issues on the network. This server will be replaced in a few weeks.
- 17) Started researching city wide wireless to connect a bunch of city resources. This could eliminate or reduce other internet/phone line connections and give the city greater flexibility in managing its resources.
- 18) Joined the Fire Dept. computers to the Police Dept. network. Bill was able to get some newer computers from the DA's office and I set these up as well. In making the move I found that the network wiring was not sufficient so I had to run new cabling.
- 19) Acquired administration of the radio system for the Police and Fire Dept. I am currently working with an active grant that was given to the city for new radios. This grant could also fund a secondary transmitter site so I am researching what is needed to make this happen.
- 20) Audited all internet lines in all city offices. I was able to cut internet costs down by over \$800 a month.

- 21) Audited the phone lines at the Fire Dept. and we were able to disconnect over half of the phone lines. Discontinuing the services gave the Fire Dept. around a \$100 savings each month.
- 22) Trained the Parks & Trees department on how the sound/lighting system works at the State Theater.
- 23) I was a part of the Dollars & Sense Committee. This committee looked into cost savings, revenue generating, and efficiencies that the city could implement.
- 24) Continuous maintenance on the city's website.
- 25) Computer support for the museums.
- 26) Standard Daily Tasks:
 - a. Server backups
 - b. End user issues like failed logins, printer issues, network access issues, and training on how to use some of the software they may have installed on their machine.
 - c. Maintain user cell phones.
 - d. Monitoring all servers to make sure they are up to date on Windows updates, driver updates, as well as other software updates.
 - e. Upgrading workstations by either rebuilding old ones or setting up new ones.

Fire Projects

	Projects	Notes
1	Re-cable all offices	
2	Upgrade all PCs	I have 5 from the DA's office
3	Adding Phones to the PD-PBX	
4	Setup training for the new Fire Dept. software	Working with Chico on a date
5	Add hydrant information into Fire Dept. software	
6	2nd radio repeater station	
7	Oversee the implementation of the new mobile/hand held radios	
8	BDA's for metal buildings (Radio repeaters)	

**OROVILLE CITY COUNCIL
STAFF REPORT**

**TO: MAYOR DAHLMEIER, COUNCIL MEMBERS AND
RANDY MURPHY, CITY ADMINISTRATOR**

**FROM: DONALD RUST, DIRECTOR (530) 538-2433
LUIS A. TOPETE, ASSOCIATE PLANNER (530) 538-2408
COMMUNITY DEVELOPMENT DEPARTMENT**

**RE: ALLOCATION OF GRANT FUNDS FOR MANAGEMENT OF CLIMATE
ACTION PLAN**

DATE: DECEMBER 3, 2013

SUMMARY

The Council may consider the allocation of remaining funds, in the amount of \$9,146, from the Strategic Growth Council - 2011 Sustainable Communities Planning Grant, to pay The Planning Center/DC&E to manage ICF International's work on the Climate Action Plan (CAP).

DISCUSSION

On July 16, 2013, the Council adopted Resolution No. 8093, authorizing a partnership program participation agreement with the Sierra Business Council (SBC) relating to the 2013 greenhouse gas (GHG) inventory program (Agreement No. 3025). As a result, the work that was originally budgeted for a municipal operations and community wide GHG emissions inventory was performed at no cost by the SBC. A savings of \$9,146 was achieved and remains unallocated from the aforementioned grant.

Staff is recommending the Council approve the allocation of the remaining \$9,146 budget from the GHG emissions inventory to pay The Planning Center | DC&E to manage ICF International's work on the CAP. In addition, the Planning Center | DC&E will update the City's zoning map to make it consistent with the General Plan land use map for no additional cost.

FISCAL IMPACT

No fiscal impact to the City'. Work effort is being fully funded by a Strategic Growth Council – 2011 Sustainable Communities Planning Grant (Grant #:3012-574).

RECOMMENDATIONS

Adopt Resolution No. 8153 – A RESOLUTION OF THE OROVILLE CITY COUNCIL APPROVING THE ALLOCATION OF THE REMAINING \$9,146 BUDGET FROM THE STRATEGIC GROWTH COUNCIL – 2011 SUSTAINABLE COMMUNITIES PLANNING GRANT TO PAY THE PLANNING CENTER/DC&E TO MANAGE THE COMPLETION OF THE CITY'S CLIMATE ACTION PLAN.

ATTACHMENTS

**Resolution No. 8153
Memo from the Planning Center | DC&E**

**CITY OF OROVILLE
RESOLUTION NO. 8153**

A RESOLUTION OF THE OROVILLE CITY COUNCIL APPROVING THE ALLOCATION OF THE REMAINING \$9,146 BUDGET FROM THE STRATEGIC GROWTH COUNCIL – 2011 SUSTAINABLE COMMUNITIES PLANNING GRANT TO PAY THE PLANNING CENTER/DC&E TO MANAGE THE COMPLETION OF THE CITY'S CLIMATE ACTION PLAN

WHEREAS, the City of Oroville was awarded a Strategic Growth Council – 2011 Sustainable Communities Planning Grant from the California Department of Conservation – Division of Land Resource Protection (Grant #: 3012-574); and

WHEREAS, the grant is being used for a sustainable code update and formation of a Climate Action Plan; and

WHEREAS, on July 16, 2013, the City Council adopted Resolution No. 8093, a resolution of the City of Oroville authorizing and directing the Mayor to execute a partnership program participation agreement with the Sierra Business Council (SBC) relating to the 2013 greenhouse gas (GHG) inventory program (Agreement No. 3025); and

WHEREAS, as a result of Agreement No. 3025, the work that was originally budgeted for a municipal operations and community wide GHG emissions inventory was performed at no cost by the SBC and a savings of \$9,146 was achieved and remains unallocated from the aforementioned grant; and

NOW, THEREFORE, BE IT RESOLVED BY THE OROVILLE CITY COUNCIL AS FOLLOWS:

1. The Council hereby approves the allocation of the remaining \$9,146 budget from the GHG emissions inventory to pay The Planning Center | DC&E to manage ICF International's work to complete the City's CAP. In return, the Planning Center | DC&E will update the City's zoning map to make it consistent with the General Plan land use map for no additional cost.
2. The City Clerk shall attest to the adoption of this Resolution

PASSED AND ADOPTED by the Oroville City Council at a regular meeting held on December 3, 2013 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

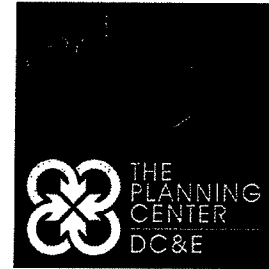
Linda L. Dahlmeier, Mayor

APPROVED AS TO FORM:

ATTEST:

Scott E. Huber, City Attorney

Randy Murphy, City Clerk



MEMORANDUM

DATE November 15, 2013
TO Don Rust and Luise Topete
City of Oroville
FROM Tanya Sundberg and Charlie Knox
RE Budget for CAP Management

Don and Luis,

As we discussed during our call on Monday, November 4, 2013, The Planning Center | DC&E will continue to manage ICF's work on the Climate Action Plan (CAP) using the remaining budget from the GHG emissions inventory. As you requested, this letter identifies the budget needed to continue this role. In addition, as we discussed previously and on November 4, The Planning Center | DC&E will update the City's zoning map to make it consistent with the General Plan land use map for no additional cost.

We request that we shift the entire remaining budget from the GHG inventory of \$9,146 to our budget for the CAP management. In consideration of the upcoming tasks related to the CAP, our cost estimate to continue our project management role for the CAP is actually slightly higher than the available remaining budget from the GHG inventory. Since we are limited to the available remaining budget, we request use of this entire budget. This budget would be distributed among the CAP milestones as follows:

- Task E1, GHG Emissions Inventory: \$915
- Task E2a & E2bi, GHG Reductions & Analysis: \$2,287
- Task E2b, Cost and Savings Analysis: \$915
- Task E3, GHG Target Analysis: \$457
- Task E4, Climate Adaptation Assessment: \$915
- Task E5, Administrative Draft CAP: \$2,287
- Task E5, Public Review Draft CAP: \$915
- Task E6, Monitoring Tools and Guidance: \$455

Please respond to confirm whether this use of the remaining GHG emissions inventory budget is acceptable to the City.

**CITY OF OROVILLE
STAFF REPORT**

**TO: MAYOR, COUNCIL MEMBERS AND
 RANDY MURPHY, CITY ADMINISTRATOR**

FROM: BILL LAGRONE, DIRECTOR OF PUBLIC SAFETY

**RE: RECLASSIFICATION OF POLICE LIEUTENANT AND
 BATTALION CHIEF**

DATE: DECEMBER 3, 2013

SUMMARY

The Council may consider the reclassification of the Police Lieutenant and the Battalion Chief.

DISCUSSION

The Oroville Police Department's organizational structure and the Oroville Fire Department's organizational structure were significantly impacted with the restructuring that occurred earlier this fiscal year. Currently both public safety organizations are being administered by a single Chief with a single mid-manager for each discipline.

The position of Public Safety Director does not allow for the constant demands of the day to day operations of both departments. It is not structurally sound to place the entire command burden upon one individual. It is prudent to plan for the future and develop future leaders.

The Battalion Chief and the Police Lieutenant have been solid performers within the organization. To help ensure the transition to a public safety department, a strong command structure must be in place. It is necessary to plan for the future to ensure our success. In order to assure a solid command structure, I feel it is necessary to reorganize the Public Safety Department.

The Fire Department should have a Deputy Fire Chief in place in the event of my early departure or demise. The Police Department should be staffed with an Assistant Chief of Police for the same reasons as mentioned above, and will provide the Department with a stable management environment.

The Police Lieutenant and the Battalion Chief have assumed additional administrative duties. Both of these managers are working well in excess of 80 hours per pay period. Due to the fact that neither of these positions is eligible to

earn overtime they are currently on the lower end of overall total compensation packages. Due to the new duties and the increased work demands it is my recommendation that these positions become at will positions and work pursuant to personal service agreements, to be negotiated by the City Administrator and approved by the City Council.

Should this change be authorized it would be the intention of the Department to freeze the positions currently held by these employees until such time as monies become available. It is important to keep these positions as priority positions for re staffing due to the workload of this Department.

FISCAL IMPACT

Unknown at this time.

RECOMMENDATION

Direct staff to analyze the fiscal impact of the proposed changes and return to Council for a final recommendation.

ATTACHMENTS

None

**OROVILLE CITY COUNCIL
STAFF REPORT**

**TO: MAYOR AND CITY COUNCIL MEMBERS
RANDY MURPHY, CITY ADMINISTRATOR**

**FROM: DONALD RUST, DIRECTOR (530) 538-2433
LUIS A. TOPETE, ASSOCIATE PLANNER (530) 538-2408
COMMUNITY DEVELOPMENT DEPARTMENT**

**RE: DRAFT MUNICIPAL SERVICE REVIEW UPDATE/SPHERE OF
INFLUENCE PLAN FOR THE EL MEDIO FIRE PROTECTION DISTRICT**

DATE: DECEMBER 3, 2013

SUMMARY

The Council may consider sending a written recommendation to the Butte Local Agency Formation Commission (LAFCo) expressing the City's disagreement with the proposed Sphere of Influence (SOI) expansion of the El Medio Fire Protection District.

DISCUSSION

The El Medio Fire Protection District (EMFPD) is in the process of updating their SOI and has applied to Butte LAFCo for an expansion of their SOI. The current geographic area of the EMFPD is approximately 1,500 acres and they have suggested the District be increased by approximately 2,745 acres, for a proposed new area of 4,245 acres (Attachment A).

The EMFPD SOI Plan is completely within the City's SOI which is currently under review by Butte LAFCo. As shown on Attachment A, a small portion of the northwest district lies within the City of Oroville, with the citizens located in that area paying additional fees for fire protection services in spite of the fact that the Oroville Fire Department (OFD) has less than a one minute response time to the area.

EMFPD has struggled to meet its financial obligations over the past decade and has been heavily reliant on grant funding and shared resources with Butte County/CAL-FIRE, OFD and Oroville Police Department. There are mutual aid agreements between the EMFPD, Butte County Fire/CAL-FIRE and OFD to provide additional resources to each agency for public safety emergencies. With the current fiscal issues rampant throughout local, regional, state, and federal agencies, the proposed EMFPD expansion nearly tripling its current SOI may be unwise at this time. As recently as October 3, 2013, the Chairman of the Butte LAFCo echoed similar concerns.

City staff has had an opportunity to review EMFD's Draft Municipal Service Review Update and SOI Influence Plan. A letter has been sent (Attachment B) to Butte LAFCo on behalf of the Director of Community Development expressing his concerns and disagreement with EMFD's proposed SOI Plan.

FISCAL IMPACT

None.

RECOMMENDATIONS

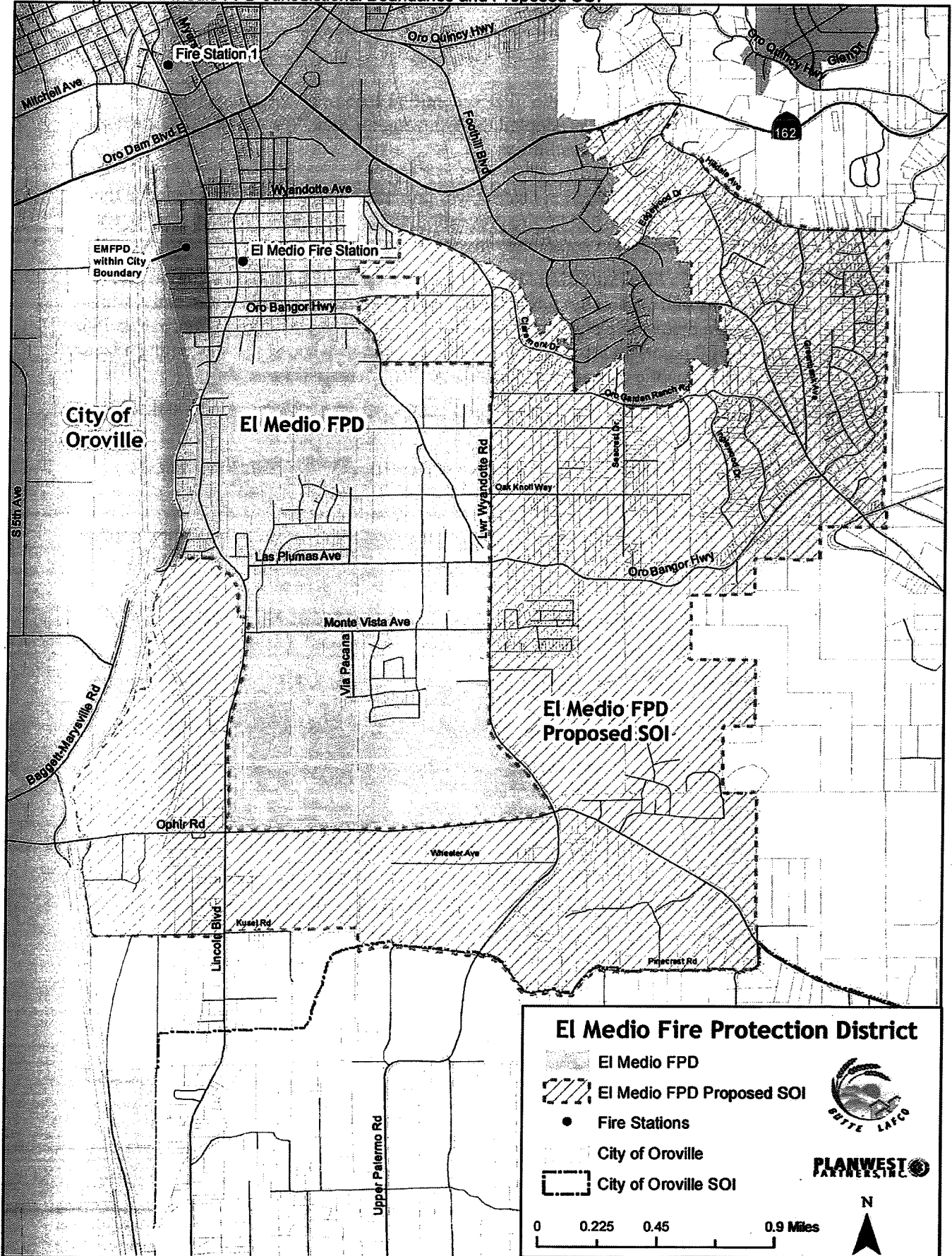
Adopt Resolution 8154 - A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING THE MAYOR TO SIGN A LETTER EXPRESSING THE CITY'S DISAGREEMENT WITH THE PROPOSED SPHERE OF INFLUENCE EXPANSION OF THE EL MEDIO FIRE PROTECTION DISTRICT

ATTACHEMNT(S)

- A – SOI Map (Existing/Proposed)
- B – Letter of Disagreement (from staff)
- C – Resolution No. 8154
- D – Letter of Disagreement (from Council)

EXHIBIT - A

Figure 1: El Medio FPD Jurisdictional Boundaries and Proposed SOI



Data Source: Boundaries, roads, parcels, fire stations - Butte Local Agency Formation Commission

Map compiled January 7, 2013

EXHIBIT - B



City of Oroville

PLANNING & DEVELOPMENT SERVICES DEPARTMENT

Donald Rust
DIRECTOR

1735 Montgomery Street
Oroville, CA 95965-4897
(530) 538-2402 FAX (530) 538-2426
www.cityoforoville.org

October 15, 2013

Stephen Lucas, Executive Director
Butte Local Agency Formation Commission
1453 Downer Street, Suite C
Oroville, CA 95965-4950

RE: DRAFT MUNICIPAL SERVICE REVIEW UPDATE/SPHERE OF INFLUENCE PLAN

Dear Mr. Lucas,

Thank you for the opportunity to review and provide comments regarding the Draft Municipal Service Review Update/Sphere of Influence Plan (MSR Update/SOI Plan) for the El Medio Fire Protection District (EMFPD). The current geographic area of the EMFPD is approximately 1,500 acres and has suggested the District be increased by approximately 2,745 acres, for a proposed new area of 4,245 acres.

As you are no doubt aware, EMFPD has struggled to meet its financial obligations over the past decade and has been heavily reliant on grant funding and shared resources with Butte County/CAL-FIRE, Oroville Fire Department (OFD) and Oroville Police Department. There are mutual aid agreements between the EMFPD, Butte County Fire/CAL-FIRE and OFD to provide additional resources to each agency for public safety emergencies.

The EMFPD SOI Plan is completely within the City's SOI which is currently under review by Butte LAFCo. As shown on Figure 1 of the MSR Update/SOI Plan, a small portion of the northwest district lies within the City of Oroville, with the citizens located in that area paying additional fees for fire protection services in spite of the fact that OFD has less than a one minute response time to the area.

As you may also be aware, the County of Butte and City of Oroville are currently working together regarding the annexation applications for two specific areas of South Oroville, also known as South Side into the City (Attachment A). In addition, the City has proposed to both the County of Butte and Butte LAFCo a long-range strategy for additional annexation within the proposed EMFPD SOI Plan (Attachment B). The current long-range strategy has been broken into small pieces to match a realistic land development and growth model.

In 2011, the City of Oroville successfully processed six island annexation areas of which one was in the EMFPD area. The annexation provided confusion and concern amongst the citizens of the area annexed, concerns by the EMFPD Board and firefighters and the City (Island Annexation No. 11-14 – City of Oroville - Fort Wayne Annexation No. 1). Some of the concerns were:

- Additional fees associated with fire protection services
- The elimination of EMFPD personnel or equipment
- The elimination of the EMFPD Board members
- The level of service fire protection provided by the OFD

With the current fiscal issues rampant throughout local, regional, state, and federal agencies, the proposed EMFPD expansion nearly tripling its current SOI may be unwise at this time. As recently as October 3, 2013, the Chairman of the Butte LAFCo echoed similar concerns, which were previously expressed by you regarding their fiscal situation.

As partners in the field of public safety, the City feels that the appropriate plan of action would be to share the limited resources that are available in the current economic environment by combining into one agency over a specific period of time. The City believes that combination of the two agencies would be the best way to provide fire protection and public safety to the Greater Oroville area and eliminate any confusion and concerns amongst citizens of the area, the EMFPD Board and its firefighters, as well as the City.

The City wishes to work with both EMFPD and Butte LAFCo to ensure that fire protection and public safety are provided to the Greater Oroville area in the most effective and efficient manner for both agencies and their personnel. Unfortunately, for the reasons noted above, we do not agree with EMFPD as to their current SOI expansion proposal and urge Butte LAFCo to allow an increase of the District to the west and south as proposed, but eliminate the large expansion of the boundary to the east within the County's coverage area.

If you have questions please contact me at (530) 538-2433 or rustdl@cityoforoville.org.

Sincerely,

Donald Rust, Director
Planning & Development Services Department

ATTACHMENTS

- A – Phase A & B map for the County proposed annexation
- B – Long-term annexation strategy map

CC: Mayor and Councilmembers
City Administrator
City Attorney
Bill Lagrone, Chief of Fire & Police Departments

EXHIBIT - C

CITY OF OROVILLE RESOLUTION NO. 8154

A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING THE MAYOR TO SIGN A LETTER EXPRESSING THE CITY'S DISAGREEMENT WITH THE PROPOSED SPHERE OF INFLUENCE EXPANSION OF THE EL MEDIO FIRE PROTECTION DISTRICT

WHEREAS, the El Medio Fire Protection District (EMFPD) is in the process of updating their Sphere of Influence (SOI) and has applied to the Butte Local Agency Formation Commission (LAFCo) for an expansion of their SOI; and

WHEREAS, the current geographic area of the EMFPD is approximately 1,500 acres and they have suggested the District be increased by approximately 2,745 acres, for a proposed new area of 4,245 acres; and

WHEREAS, the EMFPD SOI Plan is completely within the City's SOI which is currently under review by Butte LAFCo.

NOW, THEREFORE, BE IT RESOLVED BY THE OROVILLE CITY COUNCIL AS FOLLOWS:

1. The City Council hereby authorizes the Mayor to sign a letter on behalf of the City Council to the Butte Local Agency Formation Commission expressing the City's disagreement with the proposed Sphere of Influence expansion of the El Medio Fire Protection District.
2. The City Clerk shall attest to the adoption of this Resolution

PASSED AND ADOPTED by the Oroville City Council at a regular meeting held on December 3, 2013 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

/

/

/

Linda L. Dahlmeier, Mayor

APPROVED AS TO FORM:

ATTEST:

Scott E. Huber, City Attorney

Randy Murphy, City Clerk



City of Oroville

OFFICE OF THE MAYOR

Linda L. Dahlmeier
MAYOR

1735 Montgomery Street
Oroville, CA 95965-4897
(530) 538-2402 FAX (530) 538-2426
www.cityoforoville.org

December 3, 2013

Stephen Lucas, Executive Director
Butte Local Agency Formation Commission
1453 Downer Street, Suite C
Oroville, CA 95965-4950

**RE: EL MEDIO FIRE PROTECTION DISTRICT DRAFT MUNICIPAL SERVICE
REVIEW UPDATE/SPHERE OF INFLUENCE PLAN**

Dear Mr. Lucas,

On December 3, 2013, the Oroville City Council gave me, Mayor Linda L. Dahlmeier, authorization to sign this letter on behalf of the Oroville City Council for the purpose of expressing the City's disagreement with the proposed Sphere of Influence (SOI) expansion of the El Medio Fire Protection District (EMFPD).

EMFPD's proposed SOI expansion is of concern to the City. The current geographic area of the EMFPD is approximately 1,500 acres and they have suggested the District be increased by approximately 2,745 acres, for a proposed new area of 4,245 acres. Their SOI Plan is completely within the City's SOI which is currently under review by Butte LAFCo. Currently, a small portion of the northwest district lies within the City of Oroville, with the citizens located in that area paying additional fees for fire protection services in spite of the fact that the Oroville Fire Department (OFD) has less than a one minute response time to the area.

The EMFPD has struggled to meet its financial obligations over the past decade and has been heavily reliant on grant funding and shared resources with Butte County/CAL-FIRE, OFD and Oroville Police Department. There are mutual aid agreements between the EMFPD, Butte County Fire/CAL-FIRE and OFD to provide additional resources to each agency for public safety emergencies. With the current fiscal issues rampant throughout local, regional, state, and federal agencies, the proposed EMFPD expansion nearly tripling its current SOI may be unwise at this time. As recently as October 3, 2013, the Chairman of the Butte LAFCo echoed similar concerns.

The City wishes to work with both EMFPD and Butte LAFCo to ensure that fire protection and public safety are provided to the Greater Oroville area in the most effective and efficient manner for both agencies and their personnel. Unfortunately, for the reasons noted above, we do not agree with EMFPD as to their current SOI

expansion proposal and urge Butte LAFCo to allow an increase of the District to the west and south as proposed, but eliminate the large expansion of the boundary to the east within the County's coverage area.

Sincerely,

Linda L. Dahlmeier
Mayor

**OROVILLE CITY COUNCIL
STAFF REPORT**

**TO: MAYOR DAHLMEIER, COUNCIL MEMBERS AND
RANDY MURPHY, CITY ADMINISTRATOR**

**FROM: DONALD RUST, DIRECTOR (530) 538-2433
COMMUNITY DEVELOPMENT DEPARTMENT**

**RE: USE OF CITY COUNCIL CHAMBERS AND VARIOUS CONFERENCE
ROOMS**

DATE: DECEMBER 3, 2013

SUMMARY

The Council will discuss the use of the City Council Chambers and various conference rooms by outside agencies and may determine whether a use fee or use policy should be adopted for future activities.

DISCUSSION

Historically, the City has allowed outside agencies to utilize the City Council Chambers and various conference rooms, free of charge, for non-partisan activities. Some of the agencies have included the Chamber of Commerce, Butte County, and the Oroville Mosquito Abatement District Board.

As the City does not have a use fee or policy in place for the Council Chambers and various conference rooms, non-governmental agencies have been requesting to utilize these rooms for personal business, such as private attorney depositions, real estate association mixers and neighborhood watch groups.

At their October 21, 2013 meeting, the Executive Committee met to discuss this and other issues. The Committee recommended that the Council review and approve moving forward with the creation of a policy and associated fees for the usage of the Council Chambers and various conference rooms and on-going financial impacts to the City.

City staff believes that the creation of a policy and associated fees for the usage of the Council Chambers and various conference rooms would help provide clarity and the potential saving in the City's overall operations and utilization of the Council Chambers and various conference rooms.

FISCAL IMPACT

There will minimal impact to the General Fund to create a policy and associated fees for the usage of the Council Chambers and various conference rooms.

RECOMMENDATION

Provide direction to staff regarding the creation of a policy and associated fees for the usage of the City Council Chambers and various conference rooms by outside agencies.

ATTACHMENT(S)

None

**OROVILLE CITY COUNCIL
STAFF REPORT**

**TO: MAYOR DAHLMEIER, COUNCIL MEMBERS AND
RANDY MURPHY, CITY ADMINISTRATOR**

**FROM: DONALD RUST, DIRECTOR (530) 538-2433
LUIS A. TOPETE, ASSOCIATE PLANNER (530) 538-2408
COMMUNITY DEVELOPMENT DEPARTMENT**

RE: UTILIZATION OF VARIOUS CITY FACILITIES

DATE: DECEMBER 3, 2013

SUMMARY

The Council will consider the utilization of various City facilities, including the Chinese Temple and Museum Annex building, State Theatre, levee tower on Arline Rhine Memorial Drive, Municipal Auditorium, Centennial Cultural Center, Advanced Technology Center, City Corporation Yard and all other city facilities.

DISCUSSION

Over the past several months it has come to the attention of the City staff that there are various city facilities being utilized for storage of project or real property not owned by the City, the acquisition of the cell tower, and the future usage of the Municipal Auditorium, Centennial Cultural Center, Advanced Technology Center, Corporation Yard, and all other city facilities, specifically:

- At the Chinese Temple and Museum Annex Building, pursuant to Resolution No. 7517 and Agreement No. 1930, the disassembled Barton Theatre Pipe Organ (pipes only) are being stored in the facility and taking up valuable space. City staff would like to amend the agreement to move the pipes to the State Theatre and start utilizing the space for other City needs and projects.
- Also, various areas in the State Theatre are being used to store a variety of old components and other equipment that should be organized and evaluated by the City or an appropriate expert to find out the value of the items and the need to remain at the venue.
- The acquisition of the metal tower on the levee, (Arlin Rhine Memorial Drive at Lincoln Street). The City is in the process of resolving the issues related to the ownership of the tower; however, there are various parties that are interested in it. City staff suggests that we set priorities regarding any utilization of the tower, once the full acquisition of the facilities has taken place.

- The Municipal Auditorium, Centennial Cultural Center, Advanced Technology Center, Corporation Yard, and all other city facilities need to be evaluated regarding their current usage and fiscal impact to the City's overall operations.

At their October 21, 2013 meeting, the Executive Committee met to discuss this and other issues. The Committee recommended that the Council review and approve moving forward with the evaluation and preparation of a report regarding the usage of the facilities and on-going financial impacts to the City.

City staff believes that an overall review and evaluation of the City Facilities and various assets would help provide additional fiscal clarity and potential saving in the City's overall operations and utilization of the City facilities and assets.

FISCAL IMPACT

The fiscal cost of city staff to evaluate and prepare the report relating to the usage of the facilities and on-going financial impacts to the City.

RECOMMENDATION

Direct staff to process an evaluation and prepare a report of the various facilities and return to the Council by February 18, 2014 with an update.

ATTACHMENT

Resolution No. 7517
Agreement No. 1930

**CITY OF OROVILLE
RESOLUTION NO. 7517**

**A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND
DIRECTING THE MAYOR TO EXECUTE AN AGREEMENT WITH THE STATE
THEATER ARTISTS GUILD, THE PRIVATE INDUSTRY COUNCIL OF BUTTE
COUNTY, INC. AND THE MOUNT SHASTA CHAPTER OF THE AMERICAN
THEATER ORGAN SOCIETY FOR THE INSTALLATION OF A BARTON THEATER
PIPE ORGAN IN THE OROVILLE STATE THEATER**

(Agreement No. 1930)

BE IT HEREBY RESOLVED by the Oroville City Council as follows:

1. The Mayor is authorized and directed to execute an agreement with the State Theater Artists Guild (STAGE), the Private Industry Council of Butte County, Inc (PIC) and the Mount Shasta Chapter of the American Theater Organ Society (MSATOS) for the installation of a Barton Theater pipe organ in the Oroville State Theater. A copy of the agreement is attached hereto as Exhibit "A".
2. The City Clerk shall attest to the adoption of this Resolution.

PASSED AND ADOPTED by the Oroville City Council at an adjourned meeting on April 20, 2010 by the following vote:

AYES: Council Members Corkin, Hatley, Pittman, Simpson, Wilcox, Mayor Jernigan

NOES: None

ABSTAIN: None

ABSENT: Vice Mayor Johansson



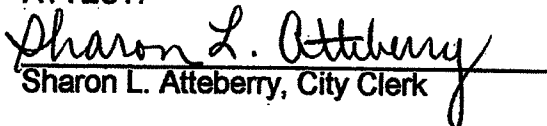
Steve Jernigan, Mayor

APPROVED AS TO FORM:

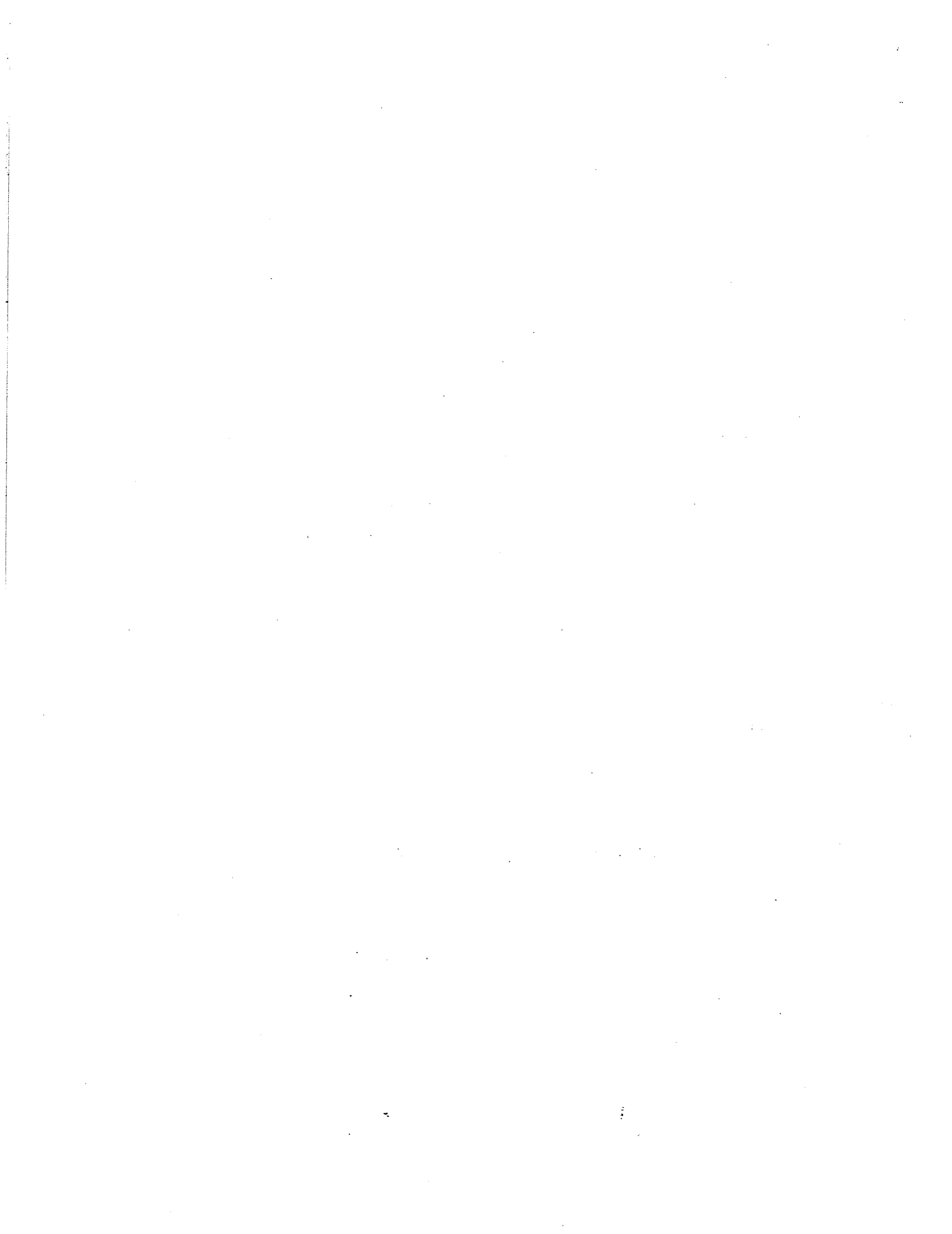


Dwight L. Moore, City Attorney

ATTEST:



Sharon L. Atteberry, City Clerk



**AGREEMENT COVERING PIPE ORGAN INSTALLATION IN
THE OROVILLE STATE THEATRE**

This Agreement is made this twentieth (20) day of May, 2010, between **STATE THEATER ARTIST GUILD**, hereinafter referred to as "**STAGE**", a nonprofit California Public Corporation within the meaning of Section 501 (c) (3) of the Internal Revenue Code and Section 23701d of the California Revenue and Taxation Code, and the **City of Oroville**, California, hereinafter referred to as "**The City**," and the **Private Industry Council of Butte County, Inc**, hereinafter referred to as "**PIC**," and the **Mount Shasta Chapter of the American Theater Organ Society**, hereinafter referred to as "**MSATOS**."

WHEREAS, STAGE is the current recipient of the donation of a three keyboard (manual) Barton Theater Pipe Organ, containing 13 sets of pipes, 6 percussion instruments, 18 sound effect devices, and attendant equipment for its operation and

WHEREAS, the City desires to restore the Oroville State Theatre at 1489 Myers Street, Oroville, California (hereinafter referred to as "the Theatre") to its period of greatest influence, including a theater pipe organ,

THEREFORE, The City, STAGE, PIC and MSATOS agree as follows:

1. STAGE, at its sole expense, shall oversee the work relating to the installation of the Barton Theater Pipe Organ in the State Theatre as provided in this Agreement.
2. The City, at no cost, shall provide space in the Theatre stage basement (the former blower room) and in the organ chambers, for the installation of organ components, and also space on the floor of the house, or the orchestra pit

(whichever is determined best by verbal agreement of all parties) for the installation of the organ console. The City shall also furnish secure storage for the disassembled Barton Theater Pipe Organ in the Museum Annex building until it is installed in the Theatre at no cost to STAGE. At no cost to the City, STAGE and MSATOS will repair and prepare the organ chambers in a manner as required by the City, and in coordination with PIC so as to not interfere with other events at the Theatre.

3. The Barton Theater Pipe Organ, as installed by STAGE and MSATOS, shall remain the property of STAGE until such time as MSATOS has achieved formal IRS and State of California non-profit status. Within six months of MSATOS achieving said status, the ownership of the Barton Theater Pipe Organ shall transfer to MSATOS, and MSATOS shall assume all rights and obligations of this agreement and any future addenda.

4. STAGE shall hold the City harmless from all injury or damage caused by the installation of the Barton Theater Pipe Organ and shall provide commercial liability insurance in the amount of \$1,000,000.00 relating to the installation of the pipe organ in accordance with Section 13 of this Agreement. The City and PIC shall ensure that no liens or encumbrances arising from any work performed for, or materials supplied to the Theatre shall be applied to the organ.

5. The Barton Theater Pipe Organ in its complete state, consisting of chests, relay system, speaking pipework, console, wind system, blower, and all other associated components, including those which may be added subsequent to the original installation, shall remain in the Theatre for a term of 20 years and may be extended for additional 20 year terms upon agreement of all interested parties. It

is part of this Agreement that the organ can be removed if the ownership of the State Theatre is relinquished or sold by the City.

6. In the event any party to this Agreement wishes to review and/or modify the terms of this Agreement, or to terminate this Agreement, then such party shall give the other parties at least 90 days written notice. Negotiations to modify this Agreement shall be conducted by an individual appointed by each party to represent its interest. If the parties agree to modify this Agreement, the modification shall be submitted to each party's governing entity for their approval. Should this Agreement be terminated by the modification, the Barton Theater Pipe Organ shall be removed within 12 months thereafter from the Theatre.

7. The maintenance, tuning, or any modification of the Barton Theater Pipe Organ shall be performed under the direction of MSATOS at no expense to the City or PIC.

8. The City and PIC shall allow locked enclosure of the console for its periods of non-use or when it may be exposed to damage. The pipe chambers and relay room shall be locked at all times. No persons other than those authorized by MSATOS or PIC, or accompanied by an authorized person, shall have access or be admitted to the pipe chambers or the relay room. Those persons authorized with access shall be designated in writing by MSATOS and PIC and access to the pipe chambers and relay room shall be limited to those persons.

USE AND AVAILABILITY OF THE ORGAN

9. City shall make the Theatre available at reasonable times to MSATOS, ^{should they} _{be STAGE} without charge, six times a year for scheduled membership programs, including,

but not limited to, concerts, silent movie presentations, and open console days.

In addition, individual practice times shall be available for members by prior arrangement with PIC. All events such as the foregoing shall be scheduled in advance and subject to the prior approval of the Theatre management (PIC or the City), to avoid conflict with the normal operations of the Theatre

10. In the case of additional public paid-admission concerts or program produced by STAGE or MSATOS, the Theatre shall be used by agreement between the producing party and PIC. The admission charges, ticketing, promotional advertising, etc. shall be detailed in such agreement, including responsibilities for expenses and the distribution of proceeds.

11. The Barton Theater Pipe Organ shall be available to the Theatre for use in public performance, or the private enjoyment of PIC staff, under the supervision of the Theatre's manager. Public presentation of the organ and the organ musician shall be subject to approval by STAGE or MSATOS, and it shall be the prerogative of MSATOS to designate a qualified member of the organ crew to be present during all presentations, including rehearsals, to supervise the use of the organ. No part of any proceeds from a paid-admission concert or program presented under the terms of this paragraph shall inure to the benefit of STAGE or MSATOS, unless so designated by the producing organization.

12. Under the provision of MSATOS bylaws, in the event of dissolution of MSATOS, ownership of the organ shall be transferred to the AMERICAN THEATER ORGAN SOCIETY, a California nonprofit public benefit education corporation within the meaning of section 501©(3) of the Internal Revenue Code, and Section 23701d of the California Revenue and Taxation Code. In the case

of such transfer of ownership, the provision of this agreement shall be binding on and inure to the benefit of the AMERICAN THEATER ORGAN SOCIETY.

13. At all times during the installation, maintenance, Chapter meetings, and public performances, STAGE and MSATOS shall defend, indemnify and hold harmless the City and PIC from all claims and damages, expenses and reasonable attorney's fees as a result of STAGE and MSATOS actions, omissions, or negligence in carrying out this agreement.

14. STAGE shall procure and maintain for the duration of this agreement insurance against claims for injuries to persons or damages to property which may arise from or in connection with the operation and use of the Barton Theater Pipe Organ. The cost of such insurance shall be borne by STAGE.

1) Minimum scope of Insurance shall be at least as broad as "Insurance Services Office Commercial Liability coverage (occurrence form CG0001). "

2) Minimum limits of Coverage: STAGE shall maintain limits no less than General Liability of \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance of other form with general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence.

3) Deductibles and Self-Insured Retentions: Any deductibles or self-insured retentions must be declared by STAGE.

Exhibit B: The general Liability policy is to contain, or be endorsed to contain, the following provisions:

1. STAGE, its officers, officials, and volunteers are to be covered as insureds with respect to liability arising out of ownership, maintenance or use of the Barton Theater Pipe Organ, or use of the State Theatre premises.

2. STAGE's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be in excess of STAGE's insurance and shall not contribute with it.

3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be cancelled, except after thirty days prior written notice by certified mail, return receipt requested, has been given to The City.

Acceptability of Insurers:

Insurance is to be placed with insurers A. M. Best's rating of no less than A:VII.

Verification of Coverage:

STAGE shall furnish the City with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on forms provided by the City or on other than the City's forms, provided those endorsement or policies conform to the requirements. All certificates of endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements affecting the coverage required by these specifications at any time.

IN WITNESS WHEREOF, the parties have hereunto set their common or corporate seals the day and year first above written.

CITY OF OROVILLE

By: [Signature]
Steve Jerrigan, Mayor

Attest:

APPROVED AS TO FORM:

By: [Signature]
Sharon L. Atteberry, City Clerk

By: [Signature]
Dwight L. Moore, City Attorney

STATE THEATER ARTISTS GUILD

Attest:

By: [Signature]
Jim Moll, President

By: [Signature]
Sharon Wedin, Treasurer

PRIVATE INDUSTRY COUNCIL OF BUTTE COUNTY, INC.

By: [Signature]
William Finley, Executive Director

Attest:

By: [Signature]
Jim Christensen, Theatre Manager

MOUNT SHASTA CHAPTER, AMERICAN THEATER ORGAN SOCIETY

By: [Signature]
Al Schoenstein, President

Attest:

By: [Signature]
Vice-President
DAVID DEWEY

**OROVILLE CITY COUNCIL
STAFF REPORT**

**TO: MAYOR DAHLMEIER, COUNCIL MEMBERS AND
RANDY MURPHY, CITY ADMINISTRATOR**

**FROM: DONALD RUST, DIRECTOR (530) 538-2433
COMMUNITY DEVELOPMENT DEPARTMENT**

**RE: REMOVAL OF TWO PALM TREES FROM THE PETALUMA
ECUMENICAL PROPERTIES' ORANGE TREE SENIOR APARTMENT
PROJECT SITE**

DATE: DECEMBER 3, 2013

SUMMARY

The Council will receive a report on the removal of two (2) palm trees from the Petaluma Ecumenical Properties' (PEP Housing) Orange Tree Senior Apartment project site located at 1511 Robinson Street (APN 012-141-004).

BACKGROUND

On November 26, 2012, the property at 1511 Robinson Street (APN 012-141-004) was sold by the City of Oroville to PEP Housing for the purpose of constructing the Orange Tree Senior Apartment project. The project site is the former Vega Center and Oroville Hospital, within the Downtown Historic Overlay (DHO). The proposed project is comprised of five (5) two and three story buildings that include 50 apartment units, 49 units and one (1) manager unit. At full build-out, the complex will include a community room, breeze ways (walkways) connecting all units to the two (2) elevators, gardens and other low maintenance landscaping throughout the project site.

On February 15, 2013, the City of Oroville issued building permits for the project site. During the initial stage of ground preparation, the City met with County personnel to discuss the project and direction that the clean-up project/remediation should take to ensure compliance with Department of Toxic Substance Control (DTSC). The City staff, PEP Housing, Brown & Caldwell (B & C), County staff and Tim Miles (DTSC) discussed the process involved in the overall project.

In June 2013, the Supreme Court ruled on the project opponent's request for Supreme Court review of the Third Appellate Court of the State of California's decision. The Supreme Court denied the project opponent's request. This meant that the project proponent and City of Oroville had prevailed in the underlying litigation. The project opponents cannot properly appeal to the U.S. Supreme Court, and there is no basis for any other review by the appellate or trial courts.

CC-9

In August 2013, PEP Housing received an unrestricted land use clearance from the State Water Control Board and the DTSC and issued a notice to proceed to their contractors, which began the final phase of an approximate 10 year process to construct an affordable senior housing project.

On November 22, 2013, the City's Public Works Supervisor (Certified Arborist) issued a tree removal permit due to the installation of the project's storm drain connection. Also, three (3) certified arborists concluded the trees pose potential dangers. The tree permit is attached to the correspondence provided in Attachment A.

DISCUSSION

This project and project site has been under consideration, discussed at various public hearings/meetings, and numerous actions have been taken by the Oroville City Council, former Oroville Redevelopment Agency, and Oroville Planning Commission since December 2004.

As for the on-going debate by the project opponents regarding the environmental review and cultural and historical resources, the City staff processed Findings for a Notice of Exemption (NOE) pursuant to the California Environmental Quality Act (CEQA) in June 2011 for this project, specifically **Section 15192.: THRESHOLD REQUIREMENTS FOR EXEMPTIONS FOR AGRICULTURAL HOUSING, AFFORDABLE HOUSING, AND RESIDENTIAL INFILL PROJECTS, and Section 15194. AFFORDABLE HOUSING EXEMPTION.**

In order to qualify for the exemption set forth in section 15194, a housing project must meet all of the threshold criteria set forth in Section 15192. The Findings for the NOE are attached to this staff report, however, the subsection and response regarding the cultural and historical resources is below:

(g) The project does not have a significant effect on historical resources pursuant to Section 21084.1 of the Public Resources Code.

Melinda A. Peak, a senior historian and principal investigator for the project site, conducted and completed a cultural and historical resources study with assistance from Neal Neuenschwander who conducted the field survey and building recordation search for the project site. The report concludes that there will be no impact to important cultural and historical resources from implementation of the project.

Initially, the current property owner (applicant) considered saving the two palm trees as part of its landscaping plan, however, it became apparent that the trees would need to be removed. The property owner contacted the city staff through emails and telephone calls regarding the potential removal of the palm trees.

With regards to the two palms, as indicated above, the project (including removal of the existing structures, landscaping and all other on-site features) will have no impact on cultural and historical resources from the construction of the project. In addition, three (3) certified arborist reviewed and concluded the trees pose a potential danger to persons and property on the ground near the trees.

In conclusion, the cultural and historical resources of the project site have been reviewed and a report prepared by a professional historian concluded that there were no cultural and historical resources of importance noted prior to the demolition of the existing structures, the initial grading of the site and removal of any trees. The environmental review of the project site was completed in June 2011; the project is an infill project that is exempt from CEQA based on the Findings for Sections 15192 and 15194. A lawsuit was filed by project opponents and has run its course and the property owner (applicant) can move forward with this project.

The City staff has followed the City Council's direction regarding this project and project site since December of 2004. All appropriate action has taken place and the property owner is required to provide adequate landscaping and a landscaping maintenance agreement as part of the requirements for the project.

FISCAL IMPACT

There are minimal impacts to the General Fund because this project is not an actual cost recovery project.

RECOMMENDATION

For informational purposes only.

ATTACHMENTS

- A – Correspondence from Celia Hirschman
- B – Emails regarding the Palm Trees
- C – NOE Findings for CEQA Guideline Sections 15192 and 15194
- D – Memos from Certified Arborist

EXHIBIT - A

Pulling Prosperity Out By the Roots

Citizen activism is the last line of defense in maintaining standards in a small town like Oroville. In a functional system, the first line starts with elected officials, those trusted emissaries who are granted the privilege of overseeing the wishes of the community. Elected officials govern the city employees, who are charged with the responsibility of implementing the wishes of the officials. Really, the only time the community has to get involved is when the elected officials aren't paying attention or City employees are ignoring the will of the elected officials.

Unfortunately, this week it was a perfect storm of events in Oroville.

On Friday, November 22, two proud 100 year-old 60 ft. Washington Filifera palm trees were intentionally felled at the PEP Housing project on Robinson Street. These beautiful palms were scheduled to be the centerpiece of the forthcoming Senior Apartments. The housing project has a long history of contentious feelings in the neighborhood. Almost all the residents in a 4-block radius signed petitions to stop the development of the 49-unit complex until a proper Environmental Impact Report (EIR) could be filed. Their voices could not convince a majority vote at City Council.

In 2012, the Council voted 4 to 3 to move forward with the housing project without the full EIR. The full EIR would have revealed community problems including lack of adequate parking, the one block/high-density population adjacent to two elementary schools, and the need to retain historic trees on the property.

This particular site was the original location for the first Oroville Hospital. Many Oroville residents were born there, and after a lot of discussion at the City Council, it was determined that retaining the locations' historical significance was appropriate. One of the concessions the City Council and PEP Housing made to the community, was to maintain the location of the century-old Palms at the entrance to the complex.

That was not the end of the controversy. One neighbor took the City to court to argue the legitimacy of a large housing complex at that location, so construction was delayed a year. Then soil testing showed large amounts of DDT that needed mitigation. So the offending soil was removed. Finally, with permits written, though no final public plans were ever seen, construction began in fall 2013.

On Friday morning, neighbors began calling me to complain about impending chainsaws on the two tall palm trees. I'm a resident who takes a strong interest in my community, so its not unusual for me to get phone calls. I took my concern to the construction site manager. He was ready with a copy of the City Arborist's permit for the tree removal. The Arborist didn't identify any health reason for the extractions, nor did he indicate which trees or how many would have to be

EXHIBIT - A

removed. Instead, he listed his reason for the permit as "in way of storm drain installation". I understood this to mean the beautiful Palms.

The City Council had asked the architect to plan around them. The PEP Housing director had agreed. So why was this happening now? I immediately got on the phone with the City Attorney and explained the situation. He promised to convene an emergency meeting among the pertinent staff.

I returned to the construction manager. He explained that dead palm fronds are dangerous. I replied that they are dangerous if they are not trimmed. And these palms haven't been trimmed in over a decade. But trim them once a year and they're fine. He retorted that woodpeckers like palms. True, I said, as do many birds. Is that a problem? His final shot was to say the palm could blow down in a strong wind. I responded that these Palms have been here longer than we have - longer than the City of Oroville. These are a prehistoric breed of palm. They aren't going anywhere. The crown is healthy, the trunk is fine. The crown defines the health of the root.

By now, one of the palms was already being chopped up into small bites to be hauled away. The PEP Housing director came out of his trailer. I explained I had just spoken with the City Attorney, who was meeting with staff to resolve this discrepancy. Could he please wait a few minutes until a decision could be had? He replied, "I won't be bullied. That tree is coming down."

And so it did. Within a few minutes, the other 60-foot tree was on the ground, chopped up like its twin.

It turns out the City Planner knew about it all along. He approved removal of the palms two months before in a memo among City staff and PEP Housing executives. But why didn't the City Council know? And why wasn't the public informed about this change?

These palms had great significance to Oroville. Tall palms represent wealth and abundance. In Oroville, they are particularly important as they represented prosperity to homesteaders and miners, eager to share their good fortune with their neighbors. That's why you see so many in Oroville, particularly around Montgomery Street. Palm trees are one of the most important historic elements of Oroville and it's terrible that our City has allowed another two to disappear.

EXHIBIT - A

Prescott Nichols

From: Craig Griesbach <griesbachcc@cityoforoville.org>
Sent: Friday, September 20, 2013 10:55 AM
To: Jim Langford; Luis A.Topete; Brian W. Frenger; Wade G. Atteberry
Cc: Don Rust; 'Prescott Nichols'; 'Craig Meltzner'; Mary Stompe
Subject: RE: palm trees

Jim,

After further discussion with staff it is ok to remove the palm trees. Don and I would recommend that the trees be recycled if possible by relocating to a different site or sold to a third party (some of those trees that are older can be fairly valuable). Mrs. Clark stated that it is ok with her if the trees are cut down and disposed of if that is what would be easier for you. If you have any questions please let me know.

Thanks and have a great rest of the day and weekend!

Craig Griesbach, CASp
Chief Building Official
City of Oroville
Planning & Development Services
(530) 538-2428 (direct)
(530) 538-2426 (fax)
www.cityoforoville.org





EXHIBIT - A

City of Oroville
1735 Montgomery Street Oroville, CA 95965
(530) 538-2430

APPLICATION FOR TREE PERMIT

Permit No. _____

1. Application is made for permission to REMOVE _____ number of -OR- PRUNE _____ number of
Trees, located at 1511 ROBINSON ST. appt. or order # _____

2. Reason for Removal due to structural defect/potential limb break/fall hazard _____

Removal due to evidence of trunk or root crown rot, declined pre-disposed _____

Pruning for class _____ thinning for general health/maintenance of tree, dead wood removal and canopy cleaning, roof
clearance, and weight reduction. _____

Other IN WAY OF STORM DRAIN INSTALLATION

Precise location and description of trees to be PRUNED and/or REMOVED is shown on the attached tree survey plat, also species and size of
tree to be removed. Size includes diameter measured 4.5 feet above ground, approximate height and approximate canopy diameter.

- OR -

Tree removal is in conjunction with a discretionary development approved by _____ copy is attached.

3. I, the undersigned, as owner of record of the land of the proposed activity, consent to the REMOVAL and/or PRUNING as requested.

4. Attention is directed to the General Provisions and Specific Conditions printed on the reverse side of this permit and to any Special
Provisions attached hereto and made a part hereof.

In consideration of the granting of the application, it is agreed by the owner/permittee that the City of Oroville and any officer or employee
thereof shall be saved harmless by the owner/permittee from any liability or responsibility for any incident, loss or damage to persons or
property, happening or occurring as the proximate result of any of the works undertaken under the terms of this application and the permit or
permits which may be granted in response thereto, and that all of said liabilities are hereby assumed by the owner/permittee.

Agent NYLA ARMSTRONG
Print Name

Address 48 CORNELLIE CT.

City/State/Zip CHICO, CA 95928 Ph (530) 891-6444

Owner PEP HOUSING
Print Name

Address 951 PETALUMA ST.

City/State/Zip PETALUMA, CA Ph ()

Code: 26-50.070

Permit Fee: \$ _____ Validation: _____

Conditions of Work:

Use a certified arborist Use ISA/NAA/ANSI pruning stand.

Not to exceed 25% canopy reduction of live wood

No climbing spurs/spikes on pruned trees

No topping / "Hat-Racking"

Application approved subject to payment of fees, CONDITIONS
OF WORK, and is revocable at any time. This permit is non-
transferable and EXPIRES ONE YEAR from date issued.

By: [Signature] Date 11-22-13
City Signature

Space for Sketch or Additional Details

EXHIBIT - A

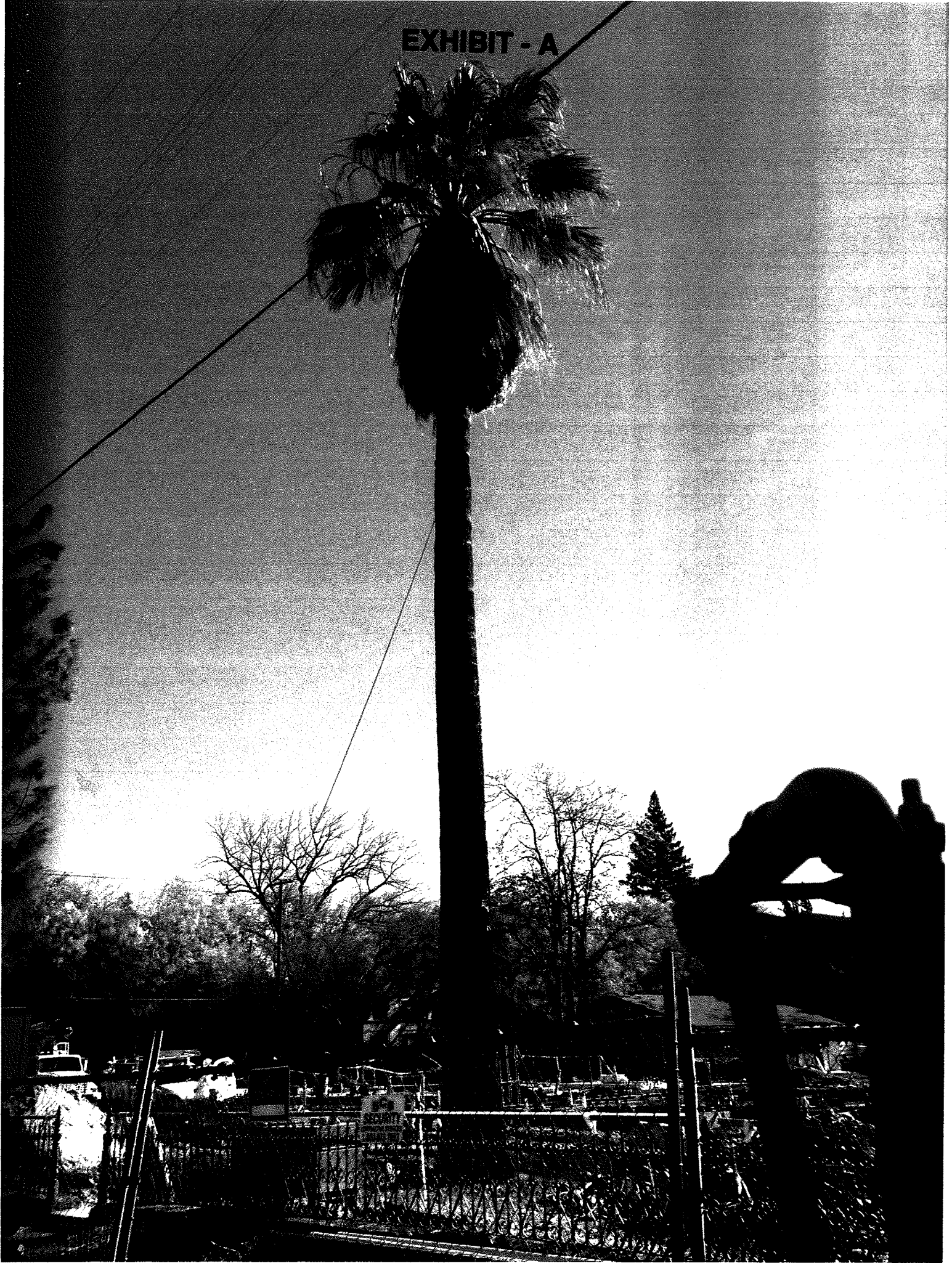


EXHIBIT - B

Don Rust

From: Jim Langford <jiml@pephousing.org>
Sent: Monday, November 25, 2013 8:39 AM
To: Don Rust
Subject: Emailing: 2013-11-22 11.45.43
Attachments: 2013-11-22 11.45.43.jpg

Don,

Attached is a picture taken of one of the palms. As you can see the rot is half way through this piece. This piece was the upper part next to the cone. As another issue these two palms were located on site that was very near our storm drain line. As the City know the coble soils created a situation during excavating to mushroom out while digging. Our ditches which were started at 4 foot wide ended up at almost 20 foot wide as seen on the sewer connection install on Robinson. Although at one time we had considered sving those two palms it became apparent after some research and nearby excvation that this wouldn't be possible.

Give me a call or email me when time permits, thanks Jim

Your message is ready to be sent with the following file or link attachments:

2013-11-22 11.45.43

Note: To protect against computer viruses, e-mail programs may prevent sending or receiving certain types of file attachments. Check your e-mail security settings to determine how attachments are handled.

EXHIBIT - B



EXHIBIT - B

Don Rust

From: Don Rust
Sent: Sunday, November 24, 2013 8:04 PM
To: Don Rust
Subject: FW: palm trees

FYI

From: Prescott Nichols [<mailto:pnichols@indigoarch.com>]
Sent: Monday, November 04, 2013 12:22 PM
To: 'Jim Langford'; 'Nyles Armstrong'; "Jonathan Hammond"
Cc: 'Craig Meltzner'; dl@sunsericonstruction.com; 'Molly Kimberling'; 'Mary Stompe'; Craig Griesbach; Luis A.Topete; Brian W. Frenger; Patricia I. Clark; Don Rust; wdearchitecture@sbcglobal.net; roy@buis-cs.com; 'BEN TIPTON'
Subject: RE: palm trees

Yes!

Prescott Nichols, AIA | LEED AP | Project Architect
indigo | Hammond + Playle Architects, LLP
231 G Street, Suite 2 Davis, CA 95616
Office: 530-750-0756 ext. 3#

From: Jim Langford [<mailto:jiml@pephousing.org>]
Sent: Monday, November 04, 2013 11:54 AM
To: 'Prescott Nichols'; 'Nyles Armstrong'; "Jonathan Hammond"
Cc: 'Craig Meltzner'; dl@sunsericonstruction.com; 'Molly Kimberling'; Mary Stompe; 'Craig Griesbach'; 'Luis A.Topete'; 'Brian W. Frenger'; 'Patricia I. Clark'; 'Don Rust'; wdearchitecture@sbcglobal.net; roy@buis-cs.com; 'BEN TIPTON'
Subject: RE: palm trees

I think that date is Nov 14th. Jim

Jim Langford
Operations/Development Dir.
PEP Housing
951 Petaluma Blvd. So.
Petaluma, Ca 94952
707-778-0270 Fax 707-762-4657
cell# 707-753-1527
www.pephousing.com

From: Prescott Nichols [<mailto:pnichols@indigoarch.com>]
Sent: Monday, November 04, 2013 11:49 AM
To: Jim Langford; 'Nyles Armstrong'; "Jonathan Hammond"
Cc: 'Craig Meltzner'; dl@sunsericonstruction.com; 'Molly Kimberling'; Mary Stompe; 'Craig Griesbach'; 'Luis A.Topete'; 'Brian W. Frenger'; 'Patricia I. Clark'; 'Don Rust'; wdearchitecture@sbcglobal.net; roy@buis-cs.com; 'BEN TIPTON'
Subject: RE: palm trees

All,

I've received the Change Order Request from the Contractor, so we're on track for processing it by next meeting (Oct. 10th).

Regards,

EXHIBIT - B

Prescott

Prescott Nichols, AIA | LEED AP | Project Architect
indigo | Hammond + Playle Architects, LLP
231 G Street, Suite 2 Davis, CA 95616
Office: 530-750-0756 ext. 3#

From: Jim Langford [<mailto:jiml@pephousing.org>]

Sent: Monday, November 04, 2013 11:10 AM

To: 'Nyles Armstrong'; 'Prescott Nichols'; 'Jonathan Hammond'

Cc: 'Craig Meltzner'; dl@sunsericonstruction.com; 'Molly Kimberling'; Mary Stompe; 'Craig Griesbach'; Luis A.Topete; Brian W. Frenger; Patricia I. Clark; Don Rust; wadearchitecture@sbcglobal.net; 'roy@buis-cs.com'; BEN TIPTON

Subject: FW: palm trees

The email below represents the City's take on the palm trees. It's very expensive to move these trees especially considering their height. I'm not one who likes to take down trees but in this case it will be a benefit to the project and we can replace them with two of the Oroville Mother Orange in that location. If we can have that change order ready at the next meeting it would be appreciated. We've reached a point in the underground that warrants the removal in a timely manner. Thanks Jim

Jim Langford
Operations/Development Dir.
PEP Housing
951 Petaluma Blvd. So.
Petaluma, Ca 94952
707-778-0270 Fax 707-762-4657
cell# 707-753-1527
www.pephousing.com

From: Craig Griesbach [<mailto:griesbachcc@cityoforoville.org>]

Sent: Friday, September 20, 2013 10:55 AM

To: Jim Langford; Luis A.Topete; Brian W. Frenger; Wade G. Atteberry

Cc: Don Rust; 'Prescott Nichols'; 'Craig Meltzner'; Mary Stompe

Subject: RE: palm trees

Jim,

After further discussion with staff it is ok to remove the palm trees. Don and I would recommend that the trees be recycled if possible by relocating to a different site or sold to a third party (some of those trees that are older can be fairly valuable). Mrs. Clark stated that it is ok with her if the trees are cut down and disposed of if that is what would be easier for you. If you have any questions please let me know.

Thanks and have a great rest of the day and weekend!

Craig Griesbach, CASp
Chief Building Official
City of Oroville
Planning & Development Services

(530) 538-2428 (direct)

(530) 538-2426 (fax)

www.cityoforoville.org



EXHIBIT - B

From: Jim Langford [mailto:jiml@pephousing.org]

Sent: Thursday, September 19, 2013 6:43 AM

To: Craig Griesbach; Luis A.Topete; Brian W. Frenger; Wade G. Atteberry

Cc: Don Rust; 'Prescott Nichols'; 'Craig Meltzner'; Mary Stompe

Subject: palm trees

Craig,

We have had some discussion about the palm trees at the entry of the OTSA project. Due to the maintenance and hazard conditions they may cause during the winter months we've decided to remove them and replant a couple of indigo trees that blend with the downtown historical overlay. I reviewed the COA's and there is no mention of saving them just a request to keep the project consistent with the historical atmosphere of the area. We will do some research and maybe the City has some insight for a replacement. The project plans show two orange trees directly behind the current location of those palms so I think it would be a little overkill to add more fruit trees unless they're dwarfed types.

There has been support from a few City officials with regards to the replacement and the enhancement of that entry. Our current goal is to save the concrete inscription at the entry way indicating the Old Oroville Hospital location. Also the old wrought iron fence bordering Robinson St will be restored and extended east to the corner. Please let me know how we need to address this and if a tree permit is needed.

I'll be away from the office you can reach me on my cell 707-753-1527 or if I'm out of the AT&T coverage my other cell is 707-481-4994.

Thanks Jim Langford.

EXHIBIT - C

CALIFORNIA CODE OF REGULATIONS SECTION 15192: THRESHOLD REQUIREMENTS FOR EXEMPTIONS FOR AGRICULTURAL HOUSING, AFFORDABLE HOUSING, AND RESIDENTIAL INFILL PROJECTS

In order to qualify for an exemption set forth in sections 15193, 15194 or 15195, a housing project must meet all of the threshold criteria set forth below. (*The text in italics demonstrates the City of Oroville's compliance with the immediately preceding criteria.*)

(a) The project must be consistent with:

(1) Any applicable general plan, specific plan, or local coastal program, including any mitigation measures required by such plan or program, as that plan or program existed on the date that the application for the project pursuant to Section 65943 of the Government Code was deemed complete.

The City of Oroville adopted the 2030 Oroville General Plan and Final Environmental Impact Report (FEIR) in June 2009. In addition, the City Council adopted a General Plan Amendment (GPA) to amend the Land Use Designation for the subject property. The Land Use Designation was changed from Medium-High Density Residential to High Density Residential that allows 30 dwelling units per acre. The GPA was adopted at least one year prior to the application for the Development Review, which provided consistency between the General Plan and the Zoning Ordinance.

(2) Any applicable zoning ordinance, as that zoning ordinance existed on the date that the application for the project pursuant to Section 65943 of the Government Code was deemed complete, unless the zoning of project property is inconsistent with the general plan because the project property has not been rezoned to conform to the general plan.

The City of Oroville adopted an updated Zoning Ordinance in June 2008. The zoning of the project site, High Density Residential/Professional (RP), is consistent with the existing land use designations. Among the uses allowed in the RP zoning district are multiple-residential dwellings, residential care facilities of 6 units or fewer, parks or playgrounds, libraries, and professional offices.

(b) Community-level environmental review has been adopted or certified.

The City of Oroville adopted the 2030 Oroville General Plan and Final Environmental Impact Report (FEIR) in June 2009.

(c) The project and other projects approved prior to the approval of the project can be adequately served by existing utilities, and the project applicant has paid, or has committed to pay, all applicable in-lieu or development fees.

The project site has been previously developed within the incorporated (urbanized)

EXHIBIT - C

area. The property was developed with the former Oroville Hospital and most recently as the Vega Center. The project site has all necessary utilities and other services for the proposed affordable senior housing project.

(d) The site of the project: (1) Does not contain wetlands, as defined in Section 328.3 of Title 33 of the Code of Federal Regulations; (2) Does not have any value as an ecological community upon which wild animals, birds, plants, fish, amphibians, and invertebrates depend for their conservation and protection; (3) Does not harm any species protected by the federal Endangered Species Act of 1973 (16 U.S.C. Sec. 1531 et seq.) or by the Native Plant Protection Act (Chapter 10 (commencing with Section 1900) of Division 2 of the Fish and Game Code), the California Endangered Species Act (Chapter 1.5 (commencing with Section 2050) of Division 3 of the Fish and Game Code; (4) Does not cause the destruction or removal of any species protected by a local ordinance in effect at the time the application for the project was deemed complete.

The proposed project site does not contain any wetlands, any value as an ecological community upon which wild animals, birds, plants, fish, amphibians, and invertebrates depend for their conservation and protection, endangered species, and the destruction or removal of any species protected by a local ordinance in effect at the time the application for the project was deemed complete.

(e) The site of the project is not included on any list of facilities and sites compiled pursuant to Section 65962.5 of the Government Code.

The Cortesse list is prepared in accordance with California Government Code Section 65962.5. A review of the most recent list, updated in 2000, indicates that there are no hazardous substance sites located on the site.

(f) The site of the project is subject to a preliminary endangerment assessment prepared by a registered environmental assessor to determine the existence of any release of a hazardous substance on the site and to determine the potential for exposure of future occupants to significant health hazards from any nearby property or activity.

A Phase 1 ESA was conducted by Holdrege & Kull regarding the subject property located at 1511 Robinson, in the City of Oroville, the report was dated February 14, 2011. The report indicates that there are no recognized environmental conditions identified on the subject property or on the immediately adjacent properties.

Based on the review of available records and reported regulatory status, the two closes LUST sites identified as historically recognized environmental conditions and the dry cleaners and manufacturing facilities recognized as environmental conditions are not likely to have a significant current impact on the subject property. The Phase 1 ESA of the subject property is in general conformance with the scope and limitations of ASTM Practice E 1527-05. This assessment did not revealed evidence of known recognized environmental conditions in connection with the past land uses of the property.

EXHIBIT - C

(g) The project does not have a significant effect on historical resources pursuant to Section 21084.1 of the Public Resources Code.

Melinda A. Peak, a senior historian and principal investigator for the project site, conducted and completed a cultural and historical resources study with assistance from Neal Neuenschwander who conducted the field survey and building recordation search for the project site. The report concludes that there will be no impact to important cultural and historical resources from implementation of the project.

(h) The project site is not subject to wildland fire hazard, as determined by the Department of Forestry and Fire Protection, unless the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a wildland fire hazard.

The project site is located within an urban setting, and due to its location there is no anticipated exposure of people or structures associated with wildland fires.

(i) The project site does not have an unusually high risk of fire or explosion from materials stored or used on nearby properties.

The project site is located within a residential urban setting, and due to its location there is no anticipated an unusually high risk of fire or explosion from materials stored or used on nearby properties.

(j) The project site does not present a risk of a public health exposure at a level that would exceed the standards established by any state or federal agency.

As previously discussed, a Phase 1 ESA was conducted by Holdrege & Kull regarding the subject property located at 1511 Robinson, in the City of Oroville, the report was dated February 14, 2011. The report indicates that there are no recognized environmental conditions identified on the subject property or on the immediately adjacent properties.

Based on the review of available records and reported regulatory status, the two closes LUST sites identified as historically recognized environmental conditions and the dry cleaners and manufacturing facilities recognized as environmental conditions are not likely to have a significant current impact on the subject property. The Phase 1 ESA of the subject property is in general conformance with the scope and limitations of ASTM Practice E 1527-05. This assessment did not revealed evidence of known recognized environmental conditions in connection with the past land uses of the property.

(k) Either the project site is not within a delineated earthquake fault zone or a seismic hazard zone, as determined pursuant to Section 2622 and 2696 of the Public Resources Code respectively, or the applicable general plan or zoning ordinance contains provisions to mitigate the risk of an earthquake or seismic hazard.

EXHIBIT - C

There are no active or potentially active faults near the project area. The area can be subject to an occasional severe ground shaking due to a regional fault(s). Any future structure on the project site will be subject to the provisions of the California Building Code, specifically the seismic design standards within the Seismic Zone 3.

- (l) Either the project site does not present a landslide hazard, flood plain, flood way, or restriction zone, or the applicable general plan or zoning ordinance contains provisions to mitigate the risk of a landslide or flood.

The terrain of the project site is relatively flat and there is no anticipated risk associated with landslides in the area. The project site is not within a 100-year floodplain as mapped by the Federal Emergency Management Agency (FEMA). As previously indicated, the Flood Zone is "ZONE X," and defined as an Area determined to be outside the 0.2% annual chance floodplain.

- (m) The project site is not located on developed open space.

As previously discussed, the project site has been previously developed within the incorporated (urbanized) area. The property was developed with the former Oroville Hospital and most recently as the Vega Center and the proposed project will not disturb any open space.

- (n) The project site is not located within the boundaries of a state conservancy.

As previously discussed, the project site has been previously developed within the incorporated (urbanized) area. The property was developed with the former Oroville Hospital and most recently as the Vega Center and the proposed project is not located near any boundaries of a state conservancy. The project setting is surrounded by existing residential units.

- (o) The project has not been divided into smaller projects to qualify for one or more of the exemptions set forth in sections 15193 to 15195.

The project site is located on a 1.53-acre parcel at the former Oroville Hospital and Vega Center within the Downtown Historic Overlay (DH-O). The project site has been previously developed within the incorporated (urbanized) area. The proposed project is basically an infill redevelopment of a 50 unit affordable senior housing project on the entire 1.53-acre site.

EXHIBIT - C

15194. AFFORDABLE HOUSING EXEMPTION

CEQA does not apply to any development project that meets the following criteria:

(a) The project meets the threshold criteria set forth in section 15192.

The proposed project has been evaluated with regards to the threshold criteria in section 15192, and the City believes that the following studies provided information to meet the criteria: (1) the Phase 1 Environmental Site Assessment conducted by Holdrege & Kull identified in their report on February 14, 2011; (2) the Peak & Associates cultural and historical resources study; (3) the Initial Study/Negative Declaration prepared by the City Staff regarding a General Plan Amendment for the site in April 2010; and (4) the adopted 2030 General Plan and Final Environmental Impact Report (FEIR).

(b) The project meets the following size criteria: the project site is not more than five acres in area.

The project site is located on a 1.53-acre parcel at the former Oroville Hospital and Vega Center within the Downtown Historic Overlay (DH-O).

(c) The project meets both of the following requirements regarding location:

(1) The project meets one of the following location requirements relating to population density: ... (C) The project is located within either an incorporated city or a census defined place with a population density of at least 1,000 persons per square mile and there is no reasonable possibility that the project would have a significant effect on the environment or the residents of the project due to unusual circumstances or due to the related or cumulative impacts of reasonably foreseeable projects in the vicinity of the project.

(1)(C) – The proposed project is located within an incorporated city with a population density of at least 1,000 persons per square mile; the City of Oroville has a population of approximately 14,700 people. The project site has been evaluated through the use of the following documents, as discussed above: A Phase 1 ESA report; cultural and historical resources study; the Initial Study/Negative Declaration prepared by the City Staff in April 2010; and (4) the adopted 2030 General Plan and (FEIR). There is no reasonable possibility that the project would not have any significant effects on the environment or the residents of the project due related or cumulative impacts of reasonably foreseeable projects in the vicinity of the project.

(2) The project meets one of the following site-specific location requirements: (A) The project site has been previously developed for qualified urban uses; ...

(2)(A) – The project site has been previously developed as the former Oroville Hospital and Vega Center and the project site is served by the regarding utilities and

EXHIBIT - C

services.

(d) The project meets both of the following requirements regarding provision of affordable housing.

(1) The project consists of the construction, conversion, or use of residential housing consisting of 100 or fewer units that are affordable to low-income households.

The proposed project will consist of 49 affordable senior housing units, 620 – 640 square feet each with one (1) 840 square foot manager unit, for a total of 50 dwelling units. There will also be a common building of approximately 2,400 ground floor square feet with full kitchen, community space, computer room, manager's office and a small support office.

(2) The developer of the project provides sufficient legal commitments to the appropriate local agency to ensure the continued availability and use of the housing units for lower income households for a period of at least 30 years, at monthly housing costs deemed to be "affordable rent" for lower income, very low income, and extremely low income households, as determined pursuant to Section 50053 of the Health and Safety Code.

The project proponent (PEP Housing) will be required to sign a letter of commitment and ensure the continued availability and use of the housing units for lower income households for a period of at least 55 years.



City of Oroville

Donald Rust
DIRECTOR

COMMUNITY DEVELOPMENT DEPARTMENT

1735 Montgomery Street
Oroville, CA 95965-4897
(530) 538-2401 – FAX (530) 538-2426
www.cityoforoville.org

INTEROFFICE MEMORANDUM

**TO: DONALD RUST, DIRECTOR
COMMUNITY DEVELOPMENT DEPARTMENT**

**FROM: WADE ATTEBERRY, PUBLIC WORKS SUPERVISOR
STREETS AND PARKS & TREES DIVISIONS
COMMUNITY DEVELOPMENT DEPARTMENT**

**RE: EVALUATION OF THE PALM TREES AT 1511 ROBINSON STREET
(FORMER VEGA CENTER/OROVILLE HOSPITAL)**

DATE: NOVEMBER 22, 2013

This memo is a response to our conversation today. As far as I know the palm trees at 1511 Robinson Street have no significant historical value and this particular variety of palm has very little monetary value. Palm trees, in general, are messy and dirty. Palm trees attract rodents, such as rats to nest and live in them. If not pruned regularly, the dead palm fronds can be lethal projectiles in high winds. There is no way to tell the age of the palm trees, if I had to guess, I would say that these palm trees are approximately 50 years old. I think what we are dealing with here is aesthetics. Aesthetics is simply someone's opinion. Someone thinks the Palm trees should stay because they have been there for a long time and look nice. The new property owners think otherwise. I have discussed this with another City Arborist and we are of the same opinion regarding these trees specifically.

Wade Atteberry, Public Works Supervisor
Certified Arborist/Municipal Specialist
#WC4514AM



**NORTH VALLEY
TREE SERVICE**

Certified Arborists and Tree Workers
3882 Esplanade, Chico, CA 95973
(530) 893-9649 (530) 893-9650 FAX
Contractor License #664421

EXHIBIT "D"



November 25, 2013

Sunseri Construction
48 Comanche Cir
Chico, CA 95928

RE: Orange Tree Senior Apartments
1511 Robinson St, Oroville, CA

Attention: Nyles Armstrong

This report is regarding the (2) Palm trees that were removed at 1511 Robinson St, Oroville, CA. Both trees were alive and the foliage (fronds) appeared to be healthy. The trunks on both trees had a lot of rot and decay. I found up to 3 inches deep in some areas, about 2/3 of the way up the trunk. Also, the Palm to the west had an old injury on the trunk with decay. For safety, I believe it was the right decision to remove both trees due to the amount of decay on the trunks.

Thank you,

Tom Bettencourt
Certified Arborist WE-2123A

**CITY OF OROVILLE
STAFF REPORT**

TO: MAYOR AND CITY COUNCIL MEMBERS
FROM: RANDY MURPHY, CITY ADMINISTRATOR
RE: APPOINTMENT TO THE OROVILLE PLANNING COMMISSION
DATE: DECEMBER 3, 2013

SUMMARY

The Council may consider appointing a qualified City resident to serve on the Oroville Planning Commission.

DISCUSSION

The Oroville Planning Commission (Commission) is responsible with considering planning applications, use permits, variances, and tentative parcel maps, as well as making recommendations to the City Council on other development applications such as rezones, general plan amendments, tentative subdivision maps and other planning and zoning issues that affect how the community of Oroville grows.

Article IX of the City Charter allows for seven (7) appointments to the City's Planning Commission. Applicants must reside within the City limits.

Planning Commissioner, Dan Gordon, submitted his resignation from the Planning Commission on October 1, 2013. Staff advertised in the newspaper, on the City website and at the front of City Hall for qualified applicants to apply for the vacant Commission seat to which six applications were received.

The selected appointee will serve the remainder of former Commissioner Gordon's term, which will expire on June 30, 2014.

FISCAL IMPACT

None

RECOMMENDATION

Select a qualified applicant to serve on the Oroville Planning Commission for the remainder of former Commissioner Gordon's term, which will expire on June 30, 2014.

ATTACHMENTS

(6) Applications for Appointment

- **Ira Smith**
- **William Geddis**
- **Michael Britton, Sr.**
- **Peter J. Gibson**
- **Wyatt Jenkins**
- **Alexander Ziburtovicz**

CITY OF OROVILLE
APPLICATION FOR APPOINTMENT TO CITY COMMITTEE OR COMMISSION
(Please Read Instructions)

RETURN TO: CITY CLERK'S OFFICE, 1735 MONTGOMERY STREET, OROVILLE, CA 95965
Completed applications are considered public records per Government Code §6252.

RECEIVED
OCT 29 2013
CITY OF OROVILLE
BUILDING DEPT.

Name of committee/commission you are applying for:

Note: If you are applying for more than one committee/commission, number in order of preference.

Planning Commission

Arts Commission

Housing Loan Advisory Committee

Economic Development Loan Advisory Committee

Park Commission

Southside Community Center Advisory Committee

Oroville Mosquito Abatement District Committee

APPLICANT INFORMATION

Name (print): Ira Smith

Residence Address: 96 Highlands Blvd

Mailing Address (if different): _____

Telephone: _____ E-Mail Address: _____

Are you a qualified elector** of the City? Yes No

** A United States citizen, 18 years of age or older, living within the City limits of the City of Oroville, and a registered voter.

EMPLOYMENT INFORMATION

Occupation: Contractor

Current Employer: Self

Current Employer Address: PO BOX 5131

Telephone: _____

EXPERIENCE/BACKGROUND

(Additional information/resume may be attached to this application)

Education: _____

Memberships of Organizations: _____

Have you served on any committee/commission in the past? Yes No

If yes, list committee/commission and dates served: _____

OPTIONAL

How did you hear about this recruitment? Planning Commission

VERIFICATION

By signing this application, I certify that I am a registered voter in the City of Oroville.

Date: 10-28-13

Signature: Ira Smith



BASIC SUPPLEMENTAL INFORMATION QUESTIONNAIRE

This supplemental questionnaire is a required part of your application package and must be returned along with your "application for appointment" to the City Clerk's Office. If you have any questions, please call the City Clerk's Office at 538-2535.

1. Why would you want to serve on the Committee/Commission?

To help better the town I live in for me and fellow residents.

2. What unique qualifications and/or skills would you bring to the Committee/Commission?

Building and understanding development.

3. Do you have any conflicts or potential conflicts that would make you ineligible to vote on any items? How often do you think these conflicts might arise?

No conflicts

Date: 10-28-13

Signature: _____

CITY OF OROVILLE
APPLICATION FOR APPOINTMENT TO CITY COMMITTEE OR COMMISSION

(Please Read Instructions)

RETURN TO: CITY CLERK'S OFFICE, 1735 MONTGOMERY STREET, OROVILLE, CA 95965

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City of Oroville
NOV 04 2013
Administration

Name of committee/commission you are applying for:

PLANNING COMMISSION

Note: If you are applying for more than one committee/commission, number in order of preference

Planning Commission

Arts Commission

Housing Loan Advisory Committee

Economic Development Loan Advisory Committee

Park Commission

Southside Community Center Advisory Committee

Oroville Mosquito Abatement District Committee

APPLICANT INFORMATION

Name (print): WILLIAM GEDDIS

Residence Address: 68 GAYLOR AVE, OROVILLE, CA, 95965

Mailing Address (if different): _____

Telephone: _____

Mail Address: _____

Are you a qualified elector** of the City?

Yes

No

** A United States citizen, 18 years of age or older, living within the City limits of the City of Oroville, and a registered voter.

EMPLOYMENT INFORMATION

Occupation: RETIRED

Current Employer: _____

Current Employer Address: _____

Telephone: _____

EXPERIENCE/BACKGROUND

(Additional information/resume may be attached to this application)

Education: COLLEGE, NO DEGREE

Memberships of Organizations: OROVILLE EAGLES, KNIGHTS OF COLUMBUS

Have you served on any committee/commission in the past?

Yes

No

If yes, list committee/commission and dates served: PLANNING 1990?

OPTIONAL

CITY COUNCIL 1990-1996

How did you hear about this recruitment?

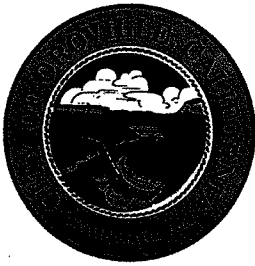
NEWSPAPER

VERIFICATION

By signing this application, I certify that I am a registered voter in the City of Oroville.

Date: 11-05-2013

Signature: William Geddis



BASIC SUPPLEMENTAL INFORMATION QUESTIONNAIRE

This supplemental questionnaire is a required part of your application package and must be returned along with your "application for appointment" to the City Clerk's Office. If you have any questions, please call the City Clerk's Office at 538-2535.

1. Why would you want to serve on the Committee/Commission?

I CARE ABOUT THE CITY OF ORVILLE
AND I AM WILLING TO DONATE MY
TIME FOR ITS BETTERMENT IF I
AM ASKED TO SERVE.

2. What unique qualifications and/or skills would you bring to the Committee/Commission?

I WAS INVOLVED IN
SURVEYING, ENGINEERING, & PLANNING
FOR 45 YEARS. I WAS A PARTNER IN GDA
ENGINEERING, PRIOR TO BEING CHIEF,
FIELD SURVEYS, NORTHERN DIST., CALTRANS

3. Do you have any conflicts or potential conflicts that would make you ineligible to vote on any items? How often do you think these conflicts might arise?

NONE

Date: 11-05-2013

Signature: William Geddis

CITY OF OROVILLE
APPLICATION FOR APPOINTMENT TO CITY COMMITTEE OR COMMISSION

City of Oroville

(Please Read Instructions)

NOV 18 2013

RETURN TO: CITY CLERK'S OFFICE, 1735 MONTGOMERY STREET, OROVILLE, CA 95965

Completed applications are considered public records per Government Code 54957.2
~~Administration~~

Name of committee/commission you are applying for:

Note: If you are applying for more than one committee/commission, number in order of preference.

Planning Commission

Arts Commission

Housing Loan Advisory Committee

Economic Development Loan Advisory Committee

Park Commission

Southside Community Center Advisory Committee

Oroville Mosquito Abatement District Committee

APPLICANT INFORMATION

Name (print): Michael Britton SR.

Residence Address: 1165 Brereton Way Oroville, Ca 95966

Mailing Address (if different): _____

Telephone: _____

E-Mail Address: _____

Are you a qualified elector** of the City?

Yes

No

** A United States citizen, 18 years of age or older, living within the City limits of the City of Oroville, and a registered voter.

EMPLOYMENT INFORMATION

Occupation: Dry Cleaner / Business Owner

Current Employer: Self Modern Dry Cleaners

Current Employer Address: 730 Montgomery St. Oroville, Ca 95965

Telephone: _____

EXPERIENCE/BACKGROUND

(Additional information/resume may be attached to this application)

Education: High School Diploma Las Plumas H.S.

Memberships of Organizations: Knights of Columbus

Have you served on any committee/commission in the past? Yes No

If yes, list committee/commission and dates served: _____

OPTIONAL

How did you hear about this recruitment? Word of Mouth

VERIFICATION

By signing this application, I certify that I am a registered voter in the City of Oroville.

Date: 11-18-13

Signature: Mike Britton



BASIC SUPPLEMENTAL INFORMATION QUESTIONNAIRE

This supplemental questionnaire is a required part of your application package and must be returned along with your "application for appointment" to the City Clerk's Office. If you have any questions, please call the City Clerk's Office at 538-2535.

1. Why would you want to serve on the Committee/Commission?
To give input on businesses coming into Oroville, & The path to Creating more business here. Provide a business owners insight into the Planning Process.
2. What unique qualifications and/or skills would you bring to the Committee/Commission?
I have been an Oroville resident since 1968. My wife & I own a business, and make our home here in Oroville. I also have 30 years of experience in the building industry from logging, to finished homes.
3. Do you have any conflicts or potential conflicts that would make you ineligible to vote on any items? How often do you think these conflicts might arise?
Not to my knowledge

Date: 11-18-13

Signature: Mike Britton

CITY OF OROVILLE
APPLICATION FOR APPOINTMENT TO CITY COMMITTEE OR COMMISSION

(Please Read Instructions)

RETURN TO: CITY CLERK'S OFFICE, 1735 MONTGOMERY STREET, OROVILLE, CA 95965

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City of Oroville

NOV 18 2013

Administration

Name of committee/commission you are applying for:

PLANNING COMMISSION

Note: If you are applying for more than one committee/commission, number in order of preference.

Planning Commission

Arts Commission

Housing Loan Advisory Committee

Economic Development Loan Advisory Committee

Park Commission

Southside Community Center Advisory Committee

Oroville Mosquito Abatement District Committee

APPLICANT INFORMATION

Name (print):

PETER J. GIBSON

Residence Address:

2425 ORO QUINCY HWY., OROVILLE

Mailing Address (if different):

Telephone:

E-Mail Address:

Are you a qualified elector** of the City?

Yes

No

** A United States citizen, 18 years of age or older, living within the City limits of the City of Oroville, and a registered voter.

EMPLOYMENT INFORMATION

Occupation:

UNEMPLOYED

Current Employer:

Current Employer Address:

Telephone:

EXPERIENCE/BACKGROUND

(Additional information/resume may be attached to this application)

Education:

A.S. FIRE SCIENCE

Memberships of Organizations:

BOARD MEMBER HOPE CENTER, MEMBER EVANGELICAL FREE CHURCH, U.S. AIR FORCE RESERVE

Have you served on any committee/commission in the past? Yes

No

If yes, list committee/commission and dates served:

OPTIONAL

How did you hear about this recruitment?

Newspaper

VERIFICATION

By signing this application, I certify that I am a registered voter in the City of Oroville.

Date:

11/15/13

Signature:

Peter J. Gibson



BASIC SUPPLEMENTAL INFORMATION QUESTIONNAIRE

This supplemental questionnaire is a required part of your application package and must be returned along with your "application for appointment" to the City Clerk's Office. If you have any questions, please call the City Clerk's Office at 538-2535.

1. Why would you want to serve on the Committee/Commission?

I LIVE LIVED IN OROVILLE FOR OVER 15 YEARS. I SEE GREAT POTENTIAL AND OROVILLE AS AN UNTAPPED RESOURCE FOR NORTHERN CALIFORNIA. I BELIEVE THAT OROVILLE CAN HAVE GROWTH BUT STILL RETAIN THE SMALL TOWN FEELING. I WANT TO BE PART OF THAT.

2. What unique qualifications and/or skills would you bring to the Committee/Commission? I AM A TEAM PLAYER, GREAT LISTENER AND NOT AFRAID TO ASK QUESTIONS OR USE COMMON SENSE. I HAVE A LOVE FOR OROVILLE AND WOULD LOVE TO BE PART OF THE PROCESS THAT MAKES OROVILLE THE JEWEL THAT I SEE IT AS AND THAT OTHERS TRAVEL TO SEE IT AS WELL.

I REALIZE THAT I DON'T HAVE THE EDUCATION, BACKGROUND THAT OTHERS MAY HAVE, BUT I BRING A FRESH LOOK, LOVE OF CITY AND EXCITEMENT OF THINGS TO COME.

3. Do you have any conflicts or potential conflicts that would make you ineligible to vote on any items? How often do you think these conflicts might arise? NONE

Date: 11/15/13

Signature: 

Peter J. Gibson



2425 Oro Quince Hwy • Oroville, CA 95966

Objective:

To obtain an entry-level position where I can increase my management skills, provide excellent customer service with the opportunity to contribute to the efficient operation of your company while learning advancement through on-the job performance.

Professional Skills:

- Military Veteran
- Intermediate Computer Understanding
- Managerial/Leadership/Training Experience
- Communication/Inter-Personal Skills

Work History:

Fleet Mechanic, Butte County Mosquito & Vector Control District* *April 2007-Present

Performed troubleshooting and repairs to all fleet vehicles as needed, retained fleet maintenance records with accuracy up to date through the main computer program, managed inventory of supplies for vehicles, industrial/mechanical equipment, collaborated with other departments, sustained customer service and vendor relations for the company. Supervised and trained seasonal workers

Aircraft Structural Maintenance Journeyman & Hydraulic Specialist, Beale AFB* *February 2003 – 2007

Executed Corrosion Control, inspections, repairs, replacements, painting, manufacturing of aircraft structural parts on KC-135; performed operational checks, repairs, replacements, servicing, perform periodic inspections and troubleshooting of Hydraulic Systems. Maintained and provided maintenance reports through the computer based program for review.

Courier/Client Services, Oroville Hospital* *April 1999- October 2002

Customer relations for the Lab. Dept., delivery of confidential documents, pick up specimens, delivery of supplies, training of new couriers, processing of specimens into lab.

Health Sales Agent, Combined Insurance Comp. of America* *December 1998 - April 1999

Sales of Health, Cancer and Medicare supplements, customer relations, service calls, explained coverage's to clients, recruiting.

Military Service

- Air Force Reserves, 940 ARW/ 13 RS, Beale AFB, CA, 1998-Present.
- Participant in Allied Forces, 1999.
- Air Force Reserves, 940 AGS, Luke AFB, AZ, 1992-1993.
- Participant in Desert Shield, 1991
- National Guard Reserves, 161st. CAMS, Sky Harbor Intl. Airport, 1990-1992.
- Active Duty Air Force, 314th AMU, Luke AFB, AZ , 1986-1990.

Education:

Graduate of Noncommissioned Officer Academy, San Antonio, TX
Completed Three (3) Trade Schools through Air Force Reserves
Associates in Fire Technology, American River College, 1996

Licenses & Certificates:

- Aircraft Airframe and Power plant license, 1991.

CITY OF OROVILLE
APPLICATION FOR APPOINTMENT TO CITY COMMITTEE OR COMMISSION
(Please Read Instructions)

RETURN TO: CITY CLERK'S OFFICE, 1735 MONTGOMERY STREET, OROVILLE, CA 95965
Completed applications are considered public records per Government Code §6252.

Name of committee/commission you are applying for:

Note: If you are applying for more than one committee/commission, number in order of preference.

- Planning Commission Arts Commission
 Housing Loan Advisory Committee Economic Development Loan Advisory Committee
 Park Commission Southside Community Center Advisory Committee
 Oroville Mosquito Abatement District Committee

APPLICANT INFORMATION

Name (print): Wyatt Jenkins

Residence Address: 12 Westwood Way

Mailing Address (if different): _____

Telephone: _____ E-Mail Address: _____

Are you a qualified elector** of the City? Yes No

** A United States citizen, 18 years of age or older, living within the City limits of the City of Oroville, and a registered voter.

EMPLOYMENT INFORMATION

Occupation: Engineering Technician, Associate

Current Employer: Butte County Public Works

Current Employer Address: 7 County Center Dr.

Telephone: 538-7681

EXPERIENCE/BACKGROUND

(Additional information/resume may be attached to this application)

Education: _____

Memberships of Organizations: _____

Have you served on any committee/commission in the past? Yes No

If yes, list committee/commission and dates served: _____

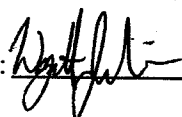
OPTIONAL

How did you hear about this recruitment? Mercury Register

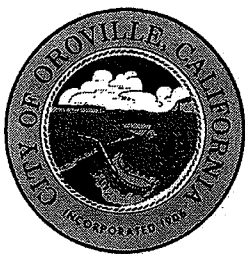
VERIFICATION

By signing this application, I certify that I am a registered voter in the City of Oroville.

Date: 11-18-13

Signature: 

RECEIVED
NOV 20 2013
CITY OF OROVILLE
BUILDING DEPT.



BASIC SUPPLEMENTAL INFORMATION QUESTIONNAIRE

This supplemental questionnaire is a required part of your application package and must be returned along with your "Application for Appointment" to the City Clerk's Office. If you have any questions, please call the City Clerk's Office at 538-2535.

1. Why would you want to serve on the Committee/Commission?

I was born and raised in Oroville and would like to have a part in determining the town's future.

2. What unique qualifications and/or skills would you bring to the Committee/Commission?

I have worked in the Survey, Mapping and Permits division's of Butte County Public Works since 1998. I am very familiar with Maps and Deeds. I use GIS, on a daily basis as part of my job. (G.I.S. - Geographical Information System used to plot many different types of data throughout the County, including within city limits.)

3. Do you have any conflicts or potential conflicts that would make you ineligible to vote on any items? How often do you think these conflicts might arise?

I do not believe I have or will have any conflicts of interest.

Date: 11-18-13

Signature: 

CITY OF OROVILLE
APPLICATION FOR APPOINTMENT TO CITY COMMITTEE OR COMMISSION

(Please Read Instructions)

RETURN TO: CITY CLERK'S OFFICE, 1735 MONTGOMERY STREET, OROVILLE, CA 95965

Completed applications are considered public records per Government Code §6253 RECEIVED

Name of committee/commission you are applying for:

City of Oroville

NOV 21 2013

Note: If you are applying for more than one committee/commission, number in order of preference.

Planning Commission

Arts Commission

Community Development
and
Public Works

Housing Loan Advisory Committee

Economic Development Loan Advisory Committee

Park Commission

Southside Community Center Advisory Committee

Oroville Mosquito Abatement District Committee

APPLICANT INFORMATION

Name (print):

Alexander Ziburjovicz

Residence Address:

1512 Robinson Street

Mailing Address (if different):

Telephone:

Mail Address:

Are you a qualified elector** of the City?

Yes

No

** A United States citizen, 18 years of age or older, living within the City limits of the City of Oroville, and a registered voter.

EMPLOYMENT INFORMATION

Occupation:

Retired

Current Employer:

Current Employer Address:

Telephone:

EXPERIENCE/BACKGROUND

(Additional information/resume may be attached to this application)

Education:

college

Memberships of Organizations:

Have you served on any committee/commission in the past?

Yes

No

If yes, list committee/commission and dates served:

OPTIONAL

How did you hear about this recruitment?

city-of-oroville.org

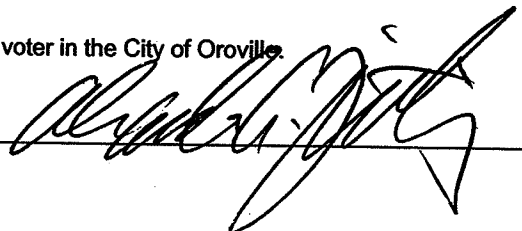
VERIFICATION

By signing this application, I certify that I am a registered voter in the City of Oroville.

Date:

11-21-2013

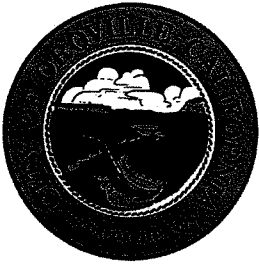
Signature:



RECEIVED

City of Oroville

NOV 21 2013



Community Development
and
Public Works
BASIC SUPPLEMENTAL INFORMATION QUESTIONNAIRE

This supplemental questionnaire is a required part of your application package and must be returned along with your "application for appointment" to the City Clerk's Office. If you have any questions, please call the City Clerk's Office at 538-2535.

1. Why would you want to serve on the Committee/Commission?

serve my community

2. What unique qualifications and/or skills would you bring to the Committee/Commission?

Resident/Property owner in Oroville Historic Downtown Overlay; would be the ONLY downtown resident/layperson serving on the planning commission.

3. Do you have any conflicts or potential conflicts that would make you ineligible to vote on any items? How often do you think these conflicts might arise?

NO

Date: 11-21-2013

Signature: _____

A.21b - Pg 2 of 2

**CITY OF OROVILLE
STAFF REPORT**

**TO: MAYOR AND COUNCIL MEMBERS
RANDY MURPHY, CITY ADMINISTRATOR**

FROM: DIANE MACMILLAN, DIRECTOR OF FINANCE

**RE: BUDGET CARRYOVER OF ALL FUNDS, CAPITAL PROJECTS AND
GRANTS AND RESERVE FOR PAYROLL**

DATE: DECEMBER 3, 2013

SUMMARY

The Council may consider Supplemental Appropriation No. 2013/14-1213-24 to carryover the balances of all Funds, Capital projects and Grant budget appropriations (except Housing), from Fiscal Year 2012/13 to Fiscal Year 2013/14 and appropriate a reserve for the 27th payroll.

DISCUSSION

Every year at this time following the preliminary audit field work, the balances of appropriations for all funds/capital projects and grants budgets are carried over to the new fiscal year in accordance with the City's Expenditure Control Budget Policy. In addition this year we are requesting to setup a reserve for the 27th payroll that happens every 11 years. The last time it occurred was in 2009. By creating the reserve now we will have the funding in place by year 2020 in the General Fund to cover these current estimated expenses. We need to accrue \$56,875 starting last fiscal year forward based on a total need of \$455,000.

FISCAL IMPACT

The detail of accounts to be carried over from the 2012/13 fiscal year to the 2013/14 fiscal year is listed in the Supplemental Appropriation No. 2013/14-1213-24 attachment.

RECOMMENDATION

Approve Supplemental Appropriation No. 2013/14-1213-24 as indicated in the fiscal impact of this staff report, dated December 3, 2013.

ATTACHMENT

Details of Supplemental Appropriation No. 2013/14-1213-24

CITY OF OROVILLE - OTHER FUNDS/CAPITAL PROJECTS CARRYOVERS
 Supplemental Appropriation No. 2013/14-1213-24

EXHIBIT A

25-Nov-13

Fund		CARRYOVER/ RESERVE	Required P.O. carryover /capital project	TOTAL CARRYOVER	Comments:
General Fund - 001					
Police Canine donations	001-6410-2500	\$0	\$0		
		\$0	\$0		
Fire Canine donations	001-4830-2000	\$0	\$0		
	to 001-6410-2000	\$300	\$0		
	001-6410-2000	\$5,665	\$0		
		\$0	\$0		
Police VIPS donations	001-6420-2500	\$1,498	\$0		
		\$0	\$0		
City Clerk - code codification and update	001-7000-1200	\$8,000	\$0		Remainder of complete update and codification of City Code
Finance - software/server/PC's	001-8425-1500	\$5,000	\$0		To upgrade our Accounting Software platform from unix to Microsoft platform and receive all current upgrades.
		\$0	\$0		Upgrade Microsoft office on two PC's Microsoft will not support office 2003.
		\$0	\$0		
		\$0	\$0		
Purchase order carryovers General Fund	all departments		\$250,353		
RESERVE FOR 27TH PAYROLL 2012/13 AND 2013/14		\$56,875			To allocate funds to the Reserve for both fiscal yr 2012/13
Total General Fund requested:				\$270,816	+ Allocate a budget for the transfer of \$56,875 in 2013/14
Sewer - 101			\$8,037	\$8,037	Purchase order - required/Capital Projects
Park Dev Impact Fee Fund - 106	dept 7400		\$4,389	\$4,389	Purchase order - required/Capital Projects
Traffic Imp. Fee Fund - 108	dept 9601/cc#556	\$38,400		\$38,400	Capital Projects
Drainage Imp Fee Fund - 109	dept 7400/cc#553	\$216,000		\$216,000	Capital Projects
Tech Fee Fund - 116	dept 7660		\$14,500	\$14,500	Purchase order - required/Capital Projects
Airport - 130	dept 3500		\$23,268		Purchase order - required/Capital Projects
Airport Grant cc#550	dept 3500	\$80,118			Capital Projects (-\$17,568 grant revenue c/o)
Airport Grant cc#554	dept 3500	\$17,552			Capital Projects (-\$78,478 grant revenue c/o)
Airport Grant cc#555	dept 3500	\$50,000			Capital Projects (-\$45,000 grant revenue c/o)
Airport Grant cc#556	dept 3500	\$345,600			Capital Projects (-\$345,600 grant revenue c/o)
Airport Grant cc#557	dept 3500	\$13,469			Capital Projects (-\$97,000 grant revenue c/o)
Airport - 130	dept 3500	\$25,333		\$555,340	Motor Grader match
Housing Fund - 141	dept 8910		\$50,103	\$50,103	Purchase order - required
CDBG Fund - 150	dept 8559/62/70/71		\$435,502	\$435,502	Purchase order - required
Misc. Fund - 160	dept 1610		\$273,202	\$273,202	Purchase order - required
Fire Grant Fund - 166 (Indain Gaming)	dept 2010	\$122,638	\$2,744	\$125,382	Purchase order - required/Grant
LLMD Fund - 184 (assessment district)	dept 1703		\$400	\$400	Purchase order - required
SBF Fund - 190	dept 9920		\$17,568	\$17,568	Purchase order - required
Successor Agency Fund - 198	dept 9000/50/9150/9805		\$32,592	\$32,592	Purchase order - required
Set-aside/Housing Fund - 199	transfer to 141		\$77,322	\$77,322	Purchase order - required
Equip. Replac - 305 dept 7860 Emp Loan	dept 7860	\$11,272		\$11,272	Employee Computer Loans
Equip. Replac - 305 dept 7700 Fire			\$2,010	\$2,010	Purchase order - required
Equip. Replac - 305 dept 7760 Parks		\$8,000		\$8,000	Wood Chipper
Equip. Replac - 305 dept 7710 Police		\$32,000		\$32,000	New police vehicle & equip
Drainage Imp Fee Fund - 109	dept 7400/cc#553	\$216,000		\$216,000	Capital Project
Capital Proj. - 307	dept 9804/cc#553	\$410,765	\$8,810	\$419,575	Capital Project (revenue c/o - \$427,190)
Capital Proj. - 307	dept 9601/cc#543	\$149,058	\$52,434	\$201,492	Capital Project (revenue c/o -\$74,602)
Bond Fund - 397	dept 9604/cc#LV1		\$178,531	\$178,531	Levee Project - Purchase order - required
ATC Fund - 440	dept 8600/cc#557	\$97,000	\$3,005	\$100,005	Purchase order - required/Capital Projects
City/Housing RLF - 450	dept 8450		\$29,775	\$29,775	Purchase order - required
City RLF - 460	dept 8460		\$4,995	\$4,995	Purchase order - required
Vehicle Maint Fund - 540	dept 3800		\$393	\$393	Purchase order - required
Deposit Pay Fund - 620	obj 2500		\$4,500	\$4,500	Purchase order - required
Police Grant - 158 dept 2527/2542		\$154,443			Grant Indian Gaming
Police Grant - 158 dept 2531		\$26,783			Grant 09RKWX0091 (revenue c/o -\$30,146)
Police Grant - 158 dept 2534		\$2,175			Grant 10 JAG EQ. (revenue c/o-\$3,060)
Police Grant - 158 dept 2536		\$10,395			Grant E911CPE (revenue c/o-\$22,436)
Police Grant - 158 dept 2538		\$11,979			Grant JAG 2932 (revenue c/o-\$11,573)
Police Grant - 158 dept 2539		\$125,000			Grant 2012 COPS Hire (revenue c/o-\$125,000)
Police Grant - 158 dept 2540		\$1,627		\$332,402	Grant 2012 JAG EQ. (revenue c/o-\$1,627)
TOTAL ALL FUNDS:		\$0	\$2,242,945	\$1,474,433	\$3,660,503
total carryovers:				\$3,717,378	Total revenue carryovers \$1,279,280 Per this report only (does not include Housing Grants)

**OROVILLE CITY COUNCIL
STAFF REPORT**

**TO: MAYOR DAHLMEIER AND COUNCIL MEMBERS
RANDY MURPHY, CITY ADMINISTRATOR**

FROM: BILL LA GRONE, DIRECTOR OF PUBLIC SAFETY

**RE: NORTHWEST SOCIETY FOR THE PREVENTION OF CRUELTY
TO ANIMALS AGREEMENT CONCESSIONS AND POSSIBLE
RESTRUCTURING**

DATE: NOVEMBER 19, 2013

SUMMARY

The Council may consider whether to restructure the Northwest Society for the Prevention of Cruelty to Animals (NW SPCA) Agreement for Animal Control Services.

DISCUSSION

During the budgeting process for Fiscal Year 2013/14, Police Department staff was given the direction to approach the NW SPCA to discuss the possibility of restructuring their Agreement for Animal Control Services for the City of Oroville. The idea was to obtain a 20% reduction to help close the 2.1 million dollar structural imbalance in the City's budget.

The current Agreement has a three year term starting in December 2011 through June 2014. There is a possibility, if mutually agreeable, to extend the Agreement in one year extensions twice. The NW SPCA is compensated \$263,227 per year for Animal Control Services.

The Agreement contains the following provisions:

1. The City provides NW SPCA with 345 gallons of fuel per month
2. 2% cost escalator per year
3. After hours call out pay not to exceed \$6,300 per year
4. NW SPCA credits the City (\$19,329) per year for fees collected by NW SPCA

The total current cost of this Agreement to the City of Oroville each year is \$265,723 (Assuming fuel remains at approximately \$3.75 per gallon).

The NW SPCA is always willing to help and has presented a plan to reduce their cost with one of two different proposals. Both proposals would certainly help with
POLICE **Page 1** **12.03.13**

CC-12

the City's fiscal imbalance however; both proposals have down sides that impact the Police Department's ability to provide services to the community.

Proposal #1:

	20% Reduction
Contract Reduction	\$52,645.37
Deletion of 2% escalator	\$ 5,264.54
Total Reduction	\$57,909.91

This reduction does not come without a cost. If Council elects this option, the NW SPCA will no longer be able to provide responses to aggressive stray animals, animal bite investigations, barking dog complaints, reports of animal abuse or neglect, abandoned animals and animals locked in vehicles. It is unfortunate but with this drastic of a cut, both Animal Control Officers would have to be laid off. An additional consequence of the laying off of these employees will be the loss in revenue that these employees generate. Due to this loss of revenue, the NW SPCA would no longer be able to credit the City with \$19,329 to offset their cost. The actual savings to the City under this proposal is \$38,580.91. Any enforcement activities would have to be assumed by the Police Department. The Police Department is not trained or staffed to deal with these types of issues on a day to day basis.

Proposal #2:

	11% Reduction
Contract Reduction	\$28,954.95
Deletion of 2% escalator	\$ 5,264.54
Total Reduction	\$34,219.49

This reduction does not come without a cost. If the Council elects this option the NW SPCA also will no longer be able to provide two Animal Control Officers. Not staffing two Officers means the Police Department will have to assist the SPCA on responses relating to aggressive stray animals, animal bite investigations, barking dog complaints, reports of animal abuse or neglect, abandoned animals, animals locked in vehicles and will not allow for any afterhours call outs.

This option is burdensome to the Police Department, as our staffing is not adequate and is not trained to deal with these issues on a daily basis. This option however does include the NW SPCA crediting the city with \$19,329, which is self-generated from employee activities. The actual savings to the City under this proposal is \$34,219.49.

Proposal #3: (This proposal was generated by the Staff of Police Department)

	7.9% Reduction
Deletion of 2% Escalator	\$5,264.54
Deletion of Fuel allotment ⁽³⁴⁵ gal per month x 3.75 per gal x 12 months	\$15,525.00
Total Reduction	\$20,789.54

This reduction is still not ideal and should only be considered as a onetime alternative. This will impact the NW SPCA and may also result in some loss of levels of service.

FISCAL IMPACT

The General Fund will realize a net increase. The increase will be dependent upon which option is selected.

RECOMMENDATIONS

Authorize the City Administrator to negotiate a variation of Proposal No. 3, as indicated in this staff report, dated December 3, 2013.

ATTACHMENTS

- A - Letter to NW SPCA, dated July 2013
- B - NW SPCA Contract Reduction Proposal
- C - Staff Report – December 20, 2011
- D - Agreement No. 2041

EXHIBIT - A



CITY OF OROVILLE POLICE DEPARTMENT

2055 LINCOLN STREET • OROVILLE, CA 95966-5385

530-538-2448

Fax: 530-538-2409

**Bill LaGrone, Jr.
Chief of Police
530-538-2451**

July 19, 2013

**Rainy Green, Executive Director
Northwest Society for the Prevention
of Cruelty to Animals
2787 5th Avenue
Oroville, Ca 95965**

Dear Ms. Green,

As you may be aware the City of Oroville has recently suffered an economic downturn. This downturn has resulted in a structural imbalance of 2.1 million dollars. The reason for this letter today is to inform you of our formal request to review the contract that your organization currently has with the City of Oroville. What I am specifically requesting is for an overview of what a 20% monetary reduction of the contract would mean to the level of service currently provided.

This should not be viewed as any reflection upon the services you have provided to the City of Oroville; this is merely an attempt to reduce our overall operational cost. Please have your review and proposal ready within 10 business days from the receipt of this letter. Thank you in advance.

Sincerely,

**Bill LaGrone
Chief of Police**



EXHIBIT - B NORTHWEST S.P.C.A.

NORTHWEST SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS
2787 SOUTH 5TH AVE OROVILLE, CA 95965
PHONE (530) 533-7636
FAX (530) 533-7684

Spay or Neuter Your Pet

SPCA Contract Reduction Proposal

The City has requested a proposal for a reduction in our contract and what a 20% decrease will mean for the level of services provided by the Northwest SPCA.

We have listed two proposals below that lay out the city's proposed 20% cut versus an alternative 11% cut and outlines the impact on the level of services. We believe the 11% cut will be less detrimental to the care of the animals.

Explanation	20% Cut	11% Cut
Contracted Amount¹	\$263,226.84	\$263,226.84
Percentage Cut²	- \$52,645.37	- \$28,954.95
2% increase 2013-2014³	- \$5,264.54	- \$5,264.54
Contracted Credit⁴	+ \$19,329.00	- \$19,329.00
Animal Control⁵	Lose 2 officers	Lose 1 officer
Animal Control Services⁶	Lose all animal control	Lose only after hours services
Actual Savings:	\$57,909.91	\$53,548.49

¹ The contracted amount is based off our current 2012-2013 agreement.

² The proposed percentage cut based on the current contract amount.

³ The 2% automatic annual increase per the contract for 2013-2014.

⁴ The contracted credit currently given by SPCA for anticipated revenue generated by animal control officers from fines, fees, and licensing.

⁵ The animal control officer(s) lost due to cuts.

⁶ The services provided by animal control that will be lost.

A 20% cut will result in the loss of all animal control services and officers provided by the SPCA. As a result, the city will need to compensate the \$19,329.00 credit that is currently given because our officers will not be able to generate this revenue by licensing, fines and fees. Implementing the 20% cut will only save the city and additional \$4361.42, but will result in a complete loss of animal control services. All animal control services will ultimately fall upon the city to designate. Some of these services include:

- Aggressive strays
- Bite investigations/Quarantines
- Public nuisance/barking dogs
- Animal abuse/neglect
- Abandoned animals
- Animals in vehicles

August 2, 2013

- All after hours animal services/emergencies
- Humane transport of impounded animals to SPCA

An 11% cut will only result in a loss of one animal control officer and after hours services. The SPCA will continue to provide our regular services during our normal business hours, Monday through Friday between 8:00 am and 5:00 pm, with the exception of major holidays when the SPCA would normally be closed. The SPCA will still be able to generate revenue from licensing, fines and fees by retaining one officer. This will enable the city to retain the \$19,329.00 credit. However, approximately 40% of all calls require a two officer response. This would require back up from another agency as we would only have the single officer. Additionally, by only having one officer, there would need to be back up available from another agency when our officer is sick or on vacation.

Sincerely,




Lorraine Green
NWSPCA Director

EXHIBIT - C

CITY OF OROVILLE STAFF REPORT

TO: MAYOR AND COUNCIL MEMBERS

**FROM: BILL LA GRONE, CHIEF OF POLICE
G. HAROLD DUFFEY, CITY ADMINISTRATOR** 

**RE: AGREEMENT WITH THE NORTHWEST SOCIETY FOR THE
PREVENTION OF CRUELTY TO ANIMALS FOR ANIMAL CONTROL
SERVICES AND BOARDING**

DATE: DECEMBER 20, 2011

SUMMARY

The Council will consider an Agreement with the Northwest Society for the Prevention of Cruelty to Animals (SPCA) for animal control services and boarding.

DISCUSSION

The City is required by State law and the Oroville Municipal Code to provide animal control services. Since at least 2003, the City of Oroville has contracted with the Northwest SPCA for animal control services and boarding. The previous agreement expired on June 30, 2009. In spite of rising costs, the SPCA has continued to provide animal control and boarding services with the intent of entering a new agreement with the City. On October 4, 2011, the Council assigned this matter to the Finance Committee and directed committee members and staff to meet with SPCA representatives to discuss a new agreement between the City and the SPCA. Following several meetings, a tentative agreement was formed.

If approved, the Agreement will extend through June 2014, with the ability to automatically renew for two 1-year terms. The Agreement will partially compensate the SPCA for their additional costs related to services provided since the expiration of the previous Agreement in the amount of \$39,527. The annual cost of the animal control and boarding services will be \$257,902 per year, with an annual adjustment of 2%, less City credit of \$19,329 for anticipated revenues. In addition, the SPCA will have access to 345 gallons of gas per month from the City's corporate yard as well as on call pay and call out reimbursement.

FISCAL IMPACT

Supplemental Appropriation #2011/12-1211-33 will be necessary to cover additional costs.

Contract amount:	\$257,902	
Less Revenue Credit:	- 19,329	
Plus misc. fuel allocation:	5,000	
Plus on call pay monthly:	8,340	
Total to be divided by 12	\$251,913	Previous contract was: \$233,573

Additional not to exceed
Call out pay reimbursement \$6,300 (Annually)

Fuel value at current rate \$15,000

Total estimated value annually \$273,213 plus one time additional payment of \$ 39,527

RECOMMENDATIONS

1. Adopt Resolution No. 7839 – A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AN AGREEMENT WITH THE NORTHWEST SOCIETY FOR THE PREVENTION OF CRUELTY TO ANIMALS FOR ANIMAL CONTROL SERVICES AND BOARDING – (Agreement No. 2041).
2. Approve Supplemental Appropriation No. 2011/12-1211-33 as indicated in this Staff Report, dated December 20, 2011.

ATTACHMENTS

Resolution No. 7839
Agreement No. 2041

EXHIBIT "D"

AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement is made and entered into as of December 6, 2011 by and between the City of Oroville ("City") and the Northwest Society for the Prevention of Cruelty to Animals, Inc. ("SPCA").

RECITALS

- A. The SPCA is specially trained, experienced and competent to provide animal control services and boarding as required by this Agreement.
- B. The SPCA possesses the skill, experience, ability, background, license, certification, and knowledge to provide the services described in this Agreement on the terms and conditions described herein.
- C. The SPCA has provided animal control services and boarding for the City of Oroville since at least 1990. The prior agreement between the SPCA and the City expired on June 30, 2009 and the SPCA has continued to perform animal control services and boarding on behalf of the City.
- D. This Agreement is intended to compensate the SPCA for services rendered since the expiration of the prior agreement, as well as to contract for continued professional services.
- E. City desires to retain the SPCA to render the professional services as set forth in this Agreement.

AGREEMENT

1. Effective Date, Term and Waiver. This agreement shall be effective July 1, 2011 and shall expire on June 30, 2014. The Agreement shall automatically extend for two 1-year periods, unless either party notifies the other party in writing at least 30 days prior to the end of the Agreement. The City and

SPCA agree to waive any claims and/or remedies related to the previous agreements between the parties.

2. **Scope of Services.** The SPCA shall furnish the animal control services and boarding services in a professional manner. SPCA shall perform the scope of services described in this Agreement and in Exhibit "A" which is attached hereto and incorporated herein by reference.
3. **Time of Performance.** The services shall commence upon execution of this Agreement, and shall continue until completion.
4. **Compensation.** The City shall pay \$39,527 to SPCA upon execution of this Agreement in satisfaction of any and all claims by SPCA related to services rendered prior to the execution of this Agreement. Compensation to be paid to SPCA shall be \$257,902 per year, which shall be paid in monthly installments. In addition, SPCA shall be able to utilize up to 345 gallons per month from the City's corporate yard fueling services for use in the SPCA owned vehicles. City shall provide a fuel credit for July, August, September, October, and November 2011 to SPCA. In the event SPCA utilizes more fuel than its monthly allotment, it shall pay the City the market rate applicable at the time of fuel purchase. In the event SPCA utilizes less fuel than its monthly allotment, the unused portion shall rollover to the following month. All credits for unused fuel shall expire at the end of the City's fiscal year. Further, SPCA shall credit the City \$19,329 per year for anticipated revenue related to licensing, redemption and enforcement services. Such credit shall be deducted from the City's payments to the SPCA in equal monthly installments. Payment by City under this Agreement shall not be deemed a waiver of defects in SPCA's services, even if such defects were known to the City at the time of payment.

5. Inflation and Other SPCA Agreements. All amounts of compensation and/or credit contained in this Agreement, with the exception of the fuel credit, shall be adjusted for inflation by 2% per year beginning with the 2012-2013 fiscal year. If SPCA offers its services to any other entity or public agency for a rate lower than that which is contained in this Agreement, the City shall be entitled to receive the same rate as that entity or public agency.
6. Method of Payment. The City shall automatically pay SPCA each month for the previous month of service for all compensation, except for Call Out services. SPCA shall submit monthly billing to City describing the Call Out work performed during the preceding month. City shall pay SPCA no later than 30 days after approval of the monthly Call Out invoice by City staff.
7. Supervision. SPCA shall serve under the direction, supervision and control of the Oroville Chief of Police. All work performed pursuant to this Agreement will be in coordination and cooperation with the Oroville Police Department and/or other City Departments, as applicable.
8. Extra Work and Annexation. At any time during the term of this Agreement, City may request that SPCA perform Extra Work. As used herein, "Extra Work" means any work which is determined by City to be necessary for the proper completion of SPCA's services, but which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. SPCA shall not perform, nor be compensated for, Extra Work without prior written authorization from City. In the event an annexation or compliance with any federal, state or local statute, ordinance or regulation results in significant changes in the City's or SPCA's operating costs, the parties agree to renegotiate this Agreement so the increased or decreased compensation shall reflect such a change.

9. Termination. This Agreement may be terminated by the City immediately for cause or by either party without cause upon fifteen days' written notice of termination. Upon termination, SPCA shall be entitled to compensation for services properly performed up to the effective date of termination.
10. Ownership of Documents. All plans, studies, documents, and other writings, if any, prepared by and for SPCA, its officers, employees, and agents and subcontractors in the course of implementing this Agreement, except working notes and internal documents, shall become the property of the City upon payment to SPCA for such work, and the City shall have the sole right to use such materials in its discretion without further compensation to SPCA or to any other party. SPCA shall, at SPCA's expense, provide such reports, plans, studies, documents, and other writings to City within three (3) days after written request.
11. Confidentiality. All ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents and Data either created by or provided to SPCA in connection with the performance of the Agreement shall be held confidential by SPCA. Such materials shall not, without the prior written consent of City, be used by SPCA for any purposes other than the performance of the services under this Agreement. Nor shall such materials be disclosed to any person or entity not connected with the performance of the services under this Agreement. Nothing furnished to SPCA which is otherwise known to SPCA or is generally known, or has become known, to the related industry shall be deemed confidential. SPCA shall not use City's name or insignia, photographs relating to project for which SPCA's services are rendered, or any public City pertaining to the SPCA's services under this

Agreement in any magazine, trade paper, newspaper, television, or radio production or other similar medium without the prior written consent of City.

12. **SPCA's Books and Records**

- a. SPCA shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services, expenditures, and disbursements charged to City for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to SPCA to this Agreement.
- b. SPCA shall maintain all documents and records which demonstrate performance under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of termination or completion of the Agreement.
- c. SPCA shall provide annually to City its statistics for services performed and fees charged for incorporation into the City's annual adoption of fee structures.
- d. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit, at any time during regular business hours, upon written request by the City Administrator, City Attorney, City Finance Director, or a designated representative of these officers. Copies of such documents shall be provided to the City for inspection at 1735 Montgomery Street, Oroville, California when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the records shall be available at SPCA's address indicated for receipt of notices in this Agreement.
- e. Where City has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment, or termination of

SPCA's business, City may, by written request by any of the above named officers, require that custody of the records be given to the City and that documents be maintained by City Hall.

13. Independent Contractor. It is understood that SPCA, in the performance of the work and services agreed to be performed, shall act as and be an independent contractor and shall not act as an agent or employee of the City. SPCA shall obtain no rights to retirement benefits or other benefits which accrue to City's employees, and SPCA hereby expressly waives any claim it may have to any such rights.
14. Professional Ability of SPCA. City has relied upon the professional training and ability of SPCA to perform the services hereunder as a material inducement to enter into this Agreement. All work performed by SPCA under this Agreement shall be performed in accordance with applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in SPCA's field of expertise.
15. Compliance with Laws. SPCA shall use the standard of care in its profession to comply with all applicable federal, state, and local laws, codes, ordinances, and regulations.
16. Licenses. SPCA represents and warrants to City that it has all licenses, permits, qualifications, insurance, and approvals of whatsoever nature which are legally required of SPCA to practice its profession. SPCA represents and warrants to City that SPCA shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement, any licenses, permits, insurance, and approvals which are required by the City for its business.
17. Indemnity. SPCA agrees to defend, indemnify, and hold harmless the City, its officers, officials, agents, employees, and volunteers from and against any and all claims, demands, actions, losses, damages, injuries, and liability,

direct or indirect (including any and all costs and expenses in connection therein), arising from its performance of this Agreement or its failure to comply with any of its obligations contained in this Agreement, except for any such claim arising from the sole negligence or willful misconduct of the City, its officers, agents, employees, or volunteers.

18. Insurance Requirements. SPCA, at SPCA's own cost and expense, shall procure and maintain, for the duration of the Agreement, the insurance coverage and policies as set forth in Exhibit "B" attached hereto.
19. Notices. Any notice required to be given under this Agreement shall be in writing and either served personally or sent prepaid, first class mail. Any such notice shall be addressed to the other party at the address set forth below. Notice shall be deemed communicated within 48 hours from the time of mailing if mailed as provided in this section.

If to City: **G. Harold Duffey**
 City of Oroville
 1735 Montgomery Street
 Oroville, CA 95965-4897

If to SPCA: **Mitch Brown**
 Northwest SPCA, Inc.
 2787 South 5th Ave.
 Oroville, CA 95965

20. Entire Agreement. This Agreement constitutes the complete and exclusive statement of Agreement between the City and SPCA. All prior written and oral communications, including correspondence, drafts, memoranda, and representations are superseded in total by this Agreement.
21. Amendments. This Agreement may be modified or amended only by a written document executed by both SPCA and City and approved as to form by the City Attorney.

22. **Assignments and Subcontracting.** The parties recognize that a substantial inducement to City for entering into this Agreement is the professional reputation, experience, and competence of SPCA. Assignments of any or all rights, duties, or obligations of the SPCA under this Agreement will be permitted only with the express prior written consent of the City. SPCA shall not subcontract any portion of the work to be performed under this Agreement without the prior written authorization of the City. If City consents to such subcontract, SPCA shall be fully responsible to City for all acts or omissions of the subcontractor. Nothing in this Agreement shall create any contractual relationship between City and subcontractor nor shall it create any obligation on the part of the City to pay or to see to the payment of any monies due to any such subcontractor other than as otherwise required by law.
23. **Waiver.** Waiver of a breach or default under this Agreement shall not constitute a continuing waiver of a subsequent breach of the same or any other provision under this Agreement.
24. **Severability.** If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.
25. **Controlling Law Venue.** This Agreement and all matters relating to it shall be governed by the laws of the State of California and any action brought relating to this Agreement shall be held exclusively in a state court in the County of Butte, or in the United States District Court, Eastern District of California.
26. **Litigation Expenses and Attorneys' Fees.** If either party to this Agreement commences any legal action against the other party arising out of this Agreement, the prevailing party shall be entitled to recover its reasonable litigation expenses, including court costs, expert witness fees, discovery expenses, and attorneys' fees.

27. **Mediation.** The parties agree to make a good faith attempt to resolve any disputes arising out of this Agreement through mediation prior to commencing litigation. The parties shall mutually agree upon the mediator and shall divide the costs of mediation equally. If the parties are unable to agree upon a mediator, the dispute shall be submitted to American Arbitration Association (AAA) or its successor interest. AAA shall provide the parties with the names of five qualified mediators. Each party shall have the option to strike two of the five mediators selected by AAA and thereafter the mediator remaining shall hear the dispute. If the dispute remains unresolved after mediation, either party may commence litigation.
28. **Execution.** This Agreement may be executed in counterparts, in duplicate originals, and/or facsimile or electronically transmitted signatures. If executed in counterparts, then upon proof of execution of at least one copy, the Agreement shall be effective from the date of the last signature. If executed in duplicate, each duplicate copy shall be valid as an original copy. If signatures are transmitted by facsimile or electronically, each facsimile or electronically transmitted signature shall be valid as an original signature. In approving this Agreement, it shall not be necessary to produce or account for more than one such counterpart.
29. **Authority to Enter Agreement.** SPCA has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each party warrants that the individuals who have signed this Agreement have the legal power, right, and authority, to make this Agreement and to bind each respective party.
30. **Prohibited Interests.** SPCA maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for SPCA, to solicit or secure this Agreement. Further, SPCA

warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for SPCA, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer, or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.

31. Equal Opportunity Employment. SPCA represents that is and equal opportunity employer and it shall not discriminate against any subcontractor, employee, or applicant for employment because of race, religion, color, national origin, disability, ancestry, sex, or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, or termination.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first written above.

CITY OF OROVILLE

**NORTHWEST SOCIETY FOR THE
PREVENTION OF CRUELTY TO
ANIMALS, INC.**

By: _____
Linda Dahlmeier, Mayor

By: 
Mitch Brown

Title: President

APPROVED AS TO FORM:

By: _____
Scott E. Huber, City Attorney

ATTEST:

By: _____
G. Harold Duffey, City Clerk

Attachments: **Exhibit A – Scope of Services**
 Exhibit B – Insurance Requirements

**EXHIBIT A
SCOPE OF SERVICES**

The SPCA shall provide animal control services and boarding services to the City as outlined below:

1. **Shelter Services**

- A. **Location.** SPCA shall use the City Animal Shelter, located at 2787 South 5th Avenue, for the impoundment of all animals whether they be strays or otherwise turned over to SPCA by residents of the incorporated area of the Oroville of City. Impound facilities for large or exotic animals need not be located at this location, but shall be located within the County of Butte and shall be capable of ensuring the impoundment of such animals.
- B. **Hours.** SPCA shall maintain shelter open to the public at a minimum Monday through Friday, 8:00 a.m. to 4:30 p.m. and Saturdays from noon to 3:00 p.m. (closed Sundays and holidays).
- C. **Animals at large.** SPCA shall hold animals impounded while running at large for the period of time specified in Code of the City of Oroville, provided that the designated holding period shall not be less than provided by State law, and SPCA reserves the right to humanely euthanize any impounded sick or injured animal upon the recommendation of a veterinarian. In addition, SPCA agrees to provide pick-up and lawful disposal services for dead animals.
- D. **Quarantined Animals.** SPCA agrees, under the direction and in accordance with procedures established by the County Health Director, to carry out the provisions of Sections 121575-121710 (Rabies Control) of the Health and Safety Code of the State of California, and Sections 2606-2606.8 of Title XVII Administrative Code of the State of California and amendments to said Code, insofar as they pertain to the City of Oroville where SPCA provides animal control services.
- E. **Biting.** SPCA agrees to be responsible for investigating reports of biting animals and to report biting incidents to the County Health Officer and to take steps to quarantine and impound biting animals for observation in accordance with instructions by the County Health Officer.
- F. **Veterinary Services.** SPCA may convey all injured domestic animals found without their owners to a veterinarian for proper care and whenever injured, impounded or quarantined domestic animals may need emergency treatment. SPCA also agrees to pay for all veterinarian costs incurred in connection with the examination or treatment of sick or injured animals, including any euthanasia performed by a veterinarian following an examination of a sick or injured animal.

- G. Redemption fees and penalties. SPCA shall charge owners redeeming impounded animals such fees and penalties as may be established by Resolution of the City Council in accordance with the City's Animal Control Ordinance. SPCA shall retain all such fees. SPCA shall report to the Finance Director of City amount of fees collected at the end of the fiscal year.
- H. Euthanasia and Disposal. All euthanasia shall be performed in a manner approved by both the American Humane Association and the American Veterinary Medical Association. SPCA shall also be responsible for the lawful disposal of all dead carcasses resulting from the performance of its duties under this Agreement.

2. Patrol Services

- A. Level of Services. The level of City patrol services required of SPCA shall be a random forty (40) hours per week. If necessary, the Chief of Police shall have the authority to adjust the schedule of the SPCA to meet specific needs within the City. SPCA agrees to furnish 2 motor vehicles with compartmental cages for the separation and humane treatment of animals, and other equipment necessary for the capture and transportation of cats, dogs, livestock and other animals. All patrol vehicles shall be conspicuously marked and identified.
- B. Stand By Availability. SPCA shall be available at all times for any emergency call-outs which are defined as response to injured, sick or aggressive animals or assistance required by the Oroville Police and/or Fire Department. In addition to the compensation outlined in the Agreement, the City shall compensate SPCA \$695 per month (approximately \$1.25 per hour multiplied by 128 hours per week) for Stand By Availability during hours that the SPCA is not open. In addition, if called out by the Oroville Police Department to respond to an injured, sick or aggressive animal, the City shall compensate SPCA at 1.5 times the hourly rate of the SPCA employee called out multiplied by the actual response time. In no event shall the City pay more than \$21.00 per hour for Call Out services. SPCA shall charge a minimum of 2 hours for each Call Out service. In no event shall the annual Call Out expenses exceed 300 hours. For fiscal year 2011-2012 only, the Stand By expenses shall be \$6,240.

3. Dog Licensing Services

- A. Licensing. SPCA shall be responsible for the licensing of all dogs belonging to residents of the City. SPCA shall provide dog-licensing tags and shall also provide for the sale of licenses. SPCA shall charge and collect from the owners of dogs a licensing fee pursuant to Resolution of the City of Oroville. All licensing fees shall become the property of SPCA. SPCA shall report to the Finance Director of City the number of licenses

issued and the amount of revenues collected from the licensing of dogs within the City at the end of the fiscal year.

4. **Poundmaster Services**

A. **Oroville Municipal Code 4-3.** In accordance with Oroville Municipal Code section 4-3, SPCA agrees to serve, and is designated as City Pound Master.

5. **Ordinance Enforcement and Administrative Penalties**

A. **Notice of Violation.** SPCA shall issue notices of violation to persons believed to be in violation of the City Animal Control Ordinance. Such notices will inform the suspected violator of the requirements of the Ordinance.

B. **Administrative Citations.** SPCA, to the extent authorized by City, shall issue administrative citations to persons believed to be in violation of City's Animal Control Ordinance and State laws regulations and who have failed to heed a notice of violation or who have violated the Ordinance in such a manner as would indicate that a notice of violation would be disregarded or of no practical effect.

C. **Investigation and Testimony.** SPCA's employees shall assist the City Attorney in investigating and prosecuting violations of the City's Animal Control Ordinance and State laws and regulations by providing relevant reports or testimony. SPCA shall independently investigate all bite cases involving a known human victim for the purpose of identifying and quarantining the biting animal and determining its possible exposure to rabies.

EXHIBIT B

INSURANCE REQUIREMENTS FOR SPCA

SPCA shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the SPCA, its agents, representatives, employees, or volunteers.

Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence Form CG 0001).
2. Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto).
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance.
- 4.
5. Errors and Omissions Liability insurance appropriate to the SPCA's profession. Architects' and engineers' coverage is to be endorsed to include contractual liability.

Minimum Limits of Insurance

SPCA shall maintain limits no less than:

1. General Liability:
\$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability:
\$1,000,000 per accident for bodily injury and property damage.
3. Employer's Liability:
\$1,000,000 per accident for bodily injury or disease.
4. Errors and Omissions Liability:

\$1,000,000 per occurrence.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the Entity. At the option of the Entity, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the Entity, its officers, officials, employees and designated volunteers; or the SPCA shall provide a financial guarantee satisfactory to the Entity guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Other Insurance Provisions

The commercial general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The Entity, its officers, officials, employees and designated volunteers are to be covered as insureds as respects: liability arising out of work or operations performed by or on behalf of the SPCA; or automobiles owned, leased, hired or borrowed by the SPCA.
2. For any claims related to this project, the SPCA's insurance coverage shall be primary insurance as respects the Entity, its officers, officials, employees and designated volunteers. Any insurance or self-insurance maintained by the Entity, its officers, officials, employees or designated volunteers shall be excess of the SPCA's insurance and shall not contribute with it.
3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the Entity.
4. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A:VII, unless otherwise acceptable to the Entity.

Verification of Coverage

SPCA shall furnish the Entity with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on forms provided by the Entity or on other than the Entity's forms provided those endorsements conform to Entity requirements. All certificates and endorsements are to be received and approved by the Entity before work commences. The Entity reserves the right to

require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications at any time.

**OROVILLE CITY COUNCIL
STAFF REPORT**

**TO: MAYOR DAHLMEIER, COUNCIL MEMBERS AND
RANDY MURPHY, CITY ADMINISTRATOR**

**FROM: DONALD RUST, DIRECTOR (530) 538-2433
LUIS A. TOPETE, ASSOCIATE PLANNER (530) 538-2408
COMMUNITY DEVELOPMENT DEPARTMENT**

**RE: FEATHER RIVER BOULEVARD REVITALIZATION PLAN (FINAL
DRAFT)**

DATE: DECEMBER 3, 2013

SUMMARY

The Council will review and consider adopting the final draft of the Feather River Boulevard Revitalization Plan. The purpose of this plan is to analyze the existing physical conditions of Feather River Boulevard and to develop a commercial corridor revitalization plan for street improvements.

BACKGROUND

On May 17, 2011, the City Council approved the submittal of an application to the State Department of Housing and Community Development in which the City was subsequently awarded a 2011 Community Development Block Grant (CDBG) Planning and Technical Assistance (P/TA) Economic Development Component (#11-PTEC-7637). On March 28, 2012 Council authorized staff to distribute a Request for Proposals on the Feather River Boulevard Revitalization. On August 21, 2012, the City Council adopted Resolution No. 7893, authorizing and directing the Mayor to a execute a professional service agreement, not to exceed the amount of \$40,950, with Northstar Engineering for the completion of the Feather River Boulevard Revitalization Plan. On November 5, 2013 at a noticed public hearing, the City Council directed city staff to complete a final draft of the Feather River Boulevard Revitalization Plan for final review and adoption by the City Council.

DISCUSSION

The section of Feather River Boulevard included in the revitalization project study area is located east of State Route 70 between Oroville Dam Boulevard and Montgomery Street in the City of Oroville.

The purpose of this plan is to analyze the existing physical conditions of Feather River Boulevard and to develop a commercial corridor revitalization plan for street

improvements. The combined efforts of the plan include transportation and circulation planning, determining infrastructure needs and conceptual design. The Revitalization Plan is an integrative process with the overall intention to create a cohesive community and environment for commerce to thrive.

A revitalization plan for the corridor will help facilitate redevelopment of this section of the City of Oroville that can be replicated as part of other City capital investment projects. This plan will provide direction for streetscape and traffic improvements in an effort to enhance pedestrian safety, bring continuity to the corridor and create a more vibrant experience that will attract new business, appeal to the existing community and promote tourism.

ENVIRONMENTAL REVIEW

The adoption of this planning study has been determined to be exempt from CEQA review pursuant to Title 14, CCR, §15061(b)(3), commonly known as the "general rule." A project is exempt from CEQA if the activity is covered by the general rule that CEQA applies only to projects, which have the potential for causing a significant effect on the environment. Where it can be seen with certainty that there is no possibility that the activity in question may have a significant effect on the environment, the activity is not subject to CEQA. Because the document is a conceptual plan and any development within the study area will be analyzed independently for its potential to impact the environment, staff has determined that there is no possibility that the Feather River Boulevard Revitalization Plan will have a significant effect on the environment. Thus, this action is exempt from CEQA review.

FISCAL IMPACT

This study has been funded by a Community Development Block Grant (CDBG) Planning and Technical Assistance Grant in the amount of \$35,000. The City's matching funds include \$7,700. However, the professional services agreement with Northstar Engineering is not to exceed the amount of \$40,950.

PUBLIC OUTREACH

On February 14, 2013, City staff sent a letter to all adjacent property owners for a property owner meeting that was held on Wednesday, February 27, 2013 at the City Council Chambers from 6:00pm to 8:00pm. City staff and the consultants made a presentation and were present to receive comments and answer questions. On June 24, 2013, at a monthly Planning Commission meeting, staff made a presentation of the plan and invited all interested parties through a press release to attend and comment.

RECOMMENDATION

Adopt Resolution No. 8155 - A RESOLUTION OF THE OROVILLE CITY COUNCIL ADOPTING THE FINAL DRAFT OF THE FEATHER RIVER BOULEVARD

REVITALIZATION PLANNING DOCUMENT

ATTACHMENT

Resolution No. 8155

Feather River Boulevard Revitalization Plan (Final Draft)

**CITY OF OROVILLE
RESOLUTION NO. 8155**

A RESOLUTION OF THE OROVILLE CITY COUNCIL ADOPTING THE FINAL DRAFT OF THE FEATHER RIVER BOULEVARD REVITALIZATION PLANNING DOCUMENT

WHEREAS, the City of Oroville seeks to develop a commercial corridor revitalization plan for street improvements along Feather River Boulevard between Montgomery Street and Oro Dam Boulevard; and

WHEREAS, the combined efforts of the plan include transportation and circulation planning, determining infrastructure needs and conceptual design; and

WHEREAS, the revitalization plan is an integrative process with the overall intention to create a cohesive community and environment for commerce to thrive; and

WHEREAS, this plan will provide direction for streetscape and traffic improvements in an effort to enhance pedestrian safety, bring continuity to the corridor and create a more vibrant experience that will attract new business, appeal to the existing community and promote tourism; and

WHEREAS, this effort has been funded by a Community Development Block Grant/Planning and Technical Assistance Grant; and

WHEREAS, on February 27, 2013 a public meeting was held with adjacent properties owners to the study area to receive their comments for providing direction on the planning study; and

WHEREAS, on November 5, 2013 at a noticed public hearing, the City Council directed city staff to complete a final draft of the Feather River Boulevard Revitalization Plan for final review and adoption by the City Council.

NOW, THEREFORE, BE IT RESOLVED BY THE OROVILLE CITY COUNCIL AS FOLLOWS:

1. The City Council hereby adopts the final draft of the Feather River Boulevard Revitalization Plan.
2. The City Clerk shall attest to the adoption of this Resolution

PASSED AND ADOPTED by the City Council of the City of Oroville at a regular meeting held on December 3, 2013, by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Linda L. Dahlmeier, Mayor

APPROVED AS TO FORM:

ATTEST:

Scott E. Huber, City Attorney

Randy Murphy, City Clerk

**FEATHER RIVER BOULEVARD
REVITALIZATION PLAN**

****FINAL DRAFT****

**WILL BE RECEIVED UNDER
SEPARATE COVER**

**OROVILLE CITY COUNCIL
STAFF REPORT**

**TO: MAYOR AND CITY COUNCIL MEMBERS
RANDY MURPHY, CITY ADMINISTRATOR**

**FROM: DONALD RUST, DIRECTOR (530) 538-2433
COMMUNITY DEVELOPMENT DEPARTMENT**

**RE: AMENDMENT TO THE EXISTING AGREEMENT WITH FIRST CARBON
SOLUTIONS (FORMERLY MICHAEL BRANDMAN ASSOCIATES) FOR
THE PROPOSED WALMART SUPERCENTER**

DATE: DECEMBER 3, 2013

SUMMARY

The Council may consider an amendment to the existing agreement with First Carbon Solutions (formerly Michael Brandman Associates) for the proposed Walmart Supercenter.

DISCUSSION

On August 19, 2013, the Third Appellate District of the State of California reaffirmed all aspects of the project with the exception of two items: (1) Prior to the issuance of building permits for the Walmart Supercenter, the applicant (WalMart) will be required to pay all transportation-related fees to the City of Oroville in accordance with [the] latest adopted fee schedule; and (2) Ensure the Project's greenhouse gas (GHG) emissions constitute a significant or a less than significant environmental impact in light of a proper application of the threshold-of-significance standard of Assembly Bill 32, which, according to the EIR, seeks to cut about 30 percent from business-as-usual emission levels projected for 2020, or about 10 percent from 2010 levels.

With regards to item no. 2 listed above, the City will require an amendment to the funding agreement with the applicant to provide additional funding to complete the environmental work to analysis the GHG emissions associated with the project.

The City Attorney's staff services related to the proposed Supercenter will be paid from the amount deposited by WalMart. Such services will be billed at the City Attorney's current rate. City staff recommends the following:

1. Walmart Stores, Inc. will be required to deposit additional funds with the City to pay for all the costs associated with the professional services of the firms retained by the City to process Walmart's Supercenter applications. In addition, the agreement requires Wal-Mart to pay all of the City's litigation expenses if a lawsuit relating to

the proposed WalMart Supercenter is filed against the City.

2. Approve an agreement with First Carbon Solutions (formerly Michael Brandman Associates) in the amount of \$49,000 relating to the preparation of the revised environmental impact report under the City's direction for the proposed WalMart Supercenter.
3. Approve an agreement with The Planning Center | DC&E in the amount of \$9,542 relating to providing peer review services to the City for the GHG analysis for the proposed WalMart Supercenter.

FISCAL IMPACT

There is no impact to the General Fund; the applicant will be required to pay any services related to the processing of the project.

RECOMMENDATION

1. Adopt Resolution No. 8156 - A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AN AMENDMENT TO THE AGREEMENT WITH FIRST CARBON SOLUTIONS (FORMERLY MICHAEL BRANDMAN ASSOCIATES) TO PROVIDE SERVICES FOR THE REVISIONS TO ENVIRONMENTAL IMPACT REPORT RELATED TO THE GHG ANALYSIS IN THE AMOUNT OF \$49,000 FOR THE PROPOSED WALMART SUPERCENTER – (Agreement No. 1763-6).
2. Adopt Resolution No. 8157 - A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AN AGREEMENT WITH THE PLANNING CENTER | DC&E TO PROVIDE PEER REVIEW SERVICES OF THE GHG ANALYSIS FOR THE CITY IN THE AMOUNT OF \$9,542 FOR THE PROPOSED WALMART SUPERCENTER – (Agreement No. 3048).

ATTACHEMNT(S)

Resolution No. 8156
Agreement No. 1763-6
Resolution No. 8157
Agreement No. 3048

**CITY OF OROVILLE
RESOLUTION NO. 8156**

A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AN AMENDMENT TO AN EXISTING AGREEMENT WITH FIRST CARBON SOLUTIONS (FORMERLY MICHAEL BRANDMAN ASSOCIATES) TO PROVIDE SERVICES FOR THE AMENDMENT TO THE ENVIRONMENTAL IMPACT REPORT RELATING TO GREENHOUSE GAS ANALYSIS FOR THE PROPOSED WALMART SUPERCENTER

(Agreement No. 1763-6)

NOW THEREFORE, be it hereby resolved by the Oroville City Council as

follows:

- 1. The Mayor is hereby authorized and directed to execute an amendment to an existing agreement with First Carbon Solutions (formerly Michael Brandman Associates) to provide services for the amendment to the Environmental Impact Report relating to greenhouse gas analysis for the proposed WalMart Supercenter. A copy of the amendment is attached as Exhibit A.**
- 2. The City Clerk shall attest to the adoption of this Resolution.**

PASSED AND ADOPTED by the Oroville City Council at a regular meeting on December 3, 2013 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Linda L. Dahlmeier, Mayor

APPROVED AS TO FORM:

ATTEST:

Scott Huber, City Attorney

Randy Murphy, City Clerk

**AMENDMENT TO AGREEMENT NO. 1763
FOR PROFESSIONAL SERVICES BETWEEN THE CITY OF OROVILLE
AND FIRST CARBON SOLUTIONS**

(Agreement No. 1763-6)

This Amendment dated December 3, 2013 is to the Agreement No. 1763 between the City of Oroville ("City") and First Carbon Solutions, formerly Michael Brandman Associates ("Consultant").

A copy of Agreement No. 1763 is attached as Exhibit "C".

In consideration of terms and conditions herein, City and Consultant agree that Agreement No. 1763 shall be amended as follows:

1. City shall pay Consultant an additional \$49,000 for Environmental Impact Report Services relating to the Wal-Mart Supercenter Project. The Scope of Services related to this Amendment is attached to this Amendment as Exhibit "A" and is incorporated herein by reference.
2. Conflicts between the Agreement and any previous amendment to the Agreement shall be controlled by this amendment. All other provisions within Agreement No. 1763 as amended shall remain in full force effect.

CITY OF OROVILLE

FIRST CARBON SOLUTIONS

Linda L. Dahlmeier, Mayor

By: _____
Its:

ATTEST:

APPROVED AS TO FORM:

Randy Murphy, City Clerk

Scott E. Huber, City Attorney

EXHIBIT - A



OROVILLE WALMART – REVISED GREENHOUSE GAS ANALYSIS / REVISED FINAL EIR / PARTIALLY RECIRCULATED EIR - SCOPE OF WORK, SCHEDULE, AND FEE

Scope of Work

FCS will prepare a Revised Greenhouse Gas Emissions Analysis to address the issues found to be deficient in the *Friends of Oroville v. City of Oroville* Superior Court ruling. Depending on the conclusions of the analysis, FCS will then prepare either a (1) Revised Final EIR; or (2) a Partially Recirculated Draft/Final EIR.

Task 1: Revised Greenhouse Gas Emissions Analysis

FCS will prepare a revised Greenhouse Gas Emissions Analysis that addresses the issues found to be deficient in the *Friends of Oroville v. City of Oroville* Superior Court ruling. The Superior Court identified two issues as deficient: (1) the threshold used for assessing the significance of project emissions; and (2) the failure to account for emissions from the existing Walmart on Oroville Dam Boulevard.

It should be noted that the Butte County Air Quality Management District CEQA Guidelines do not establish any numeric thresholds for greenhouse gas emissions. Instead, the Air District CEQA Guidelines list various publications issued by the California Air Pollution Control Officer Association (CAPCOA) as useful resources in this regard. As such, FCS will use these various CAPCOA documents as the basis for identifying a threshold of significance. It is anticipated that FCS will use a 29-percent reduction from Business as Usual threshold of significance, as this is consistent with the emissions reduction objective identified in the California Global Warming Solutions Act (AB 32) and as described in the California Air Resources Board (ARB) Scoping Plan.

FCS will then model greenhouse gas emissions for construction and operations and identify project features and adopted state regulations that reduce greenhouse gas emissions. After accounting for these features and regulations, FCS will remodel emissions to determine the percent reduction from business as usual these features provide and compare this value to the threshold of significance to determine significance. FCS will present two scenarios: (1) using the existing Walmart store emissions as the baseline; and (2) using a "zero" baseline (This latter baseline reflects the fact that the new site is currently undeveloped and the old site is likely to be reoccupied with a similar use). Should a significant impact be identified, appropriate mitigation measures in accordance with Air District guidance will be proposed.

Optional Task A: Revised Final EIR

A Revised Final EIR would be prepared if it is determined that the conclusions of the greenhouse gas emissions have not materially changed from the Draft EIR. This document would consist of prior Final EIR with addition of the revised greenhouse gas emissions analysis. The follow sub-tasks are associated with the preparation of a Revised Final EIR.

Subtask A.1: Administrative Revised Final EIR

FCS will prepare an Administrative Revised Final EIR for City staff review. The Administrative PRDEIR will consist of the following sections:

EXHIBIT - A



- **Overview:** This section will provide: (1) a description the procedural issues associated with the Revised Final EIR; (2) the contents of the Revised Final EIR and how they changed relevant to the Draft EIR; and (3) the relationship of the Revised Final EIR and other environmental documents prepared for the project.
- **Prior Final EIR:** The prior Final EIR would be included; No changes would be made to these sections.
- **Revised Greenhouse Gas Emissions Analysis:** A new section would be prepared that would be limited to the greenhouse gas emissions analysis (Draft EIR Impact AIR-8; pages 3.2-51 through 3.2-69) and contain the analysis prepared as part of Task 1.
- **Appendices:** The modeling data from the greenhouse gas emissions analysis will be appended to the PRDEIR.

Subtask A.2: Screencheck Revised Final EIR

Upon receipt of City staff comments on the Administrative Revised Final EIR, FCS will revise the document and submit a Screencheck Revised Final EIR to the City of Oroville via FTP site upload. (No hard copies will be submitted as part of this deliverable.) The Screencheck Revised Final will document all changes in strike-out, underline format.

Subtask A.3: Revised Final EIR

Once given authorization from City staff, FCS will prepare the Revised Final EIR for public review. FCS will submit 15 hard copies and 15 of the Revised Final EIR to the City of Oroville for local distribution. This scope of work assumes that the City of Oroville will be responsible for all local noticing, including newspaper noticing and radius mailing.

Subtask A.4: Meetings / Conference Calls

FCS's project manager will attend the following meetings in Oroville:

- Planning Commission Meeting
- City Council Meeting

In addition, FCS representatives will available to participate in up to five conference calls.

Task A.5: Project Management

FCS will perform a variety of tasks during the preparation of the PRDEIR and PRFEIR, including coordination with the FCS project team, City staff, their attorney's, the applicant, meeting/conference call preparation, contract management, invoice billing, and similar tasks.

Optional Task B: Partially Recirculated Draft/Final EIR

A Partially Recirculated Draft/Final EIR would be prepared if it is determined that the conclusions of the greenhouse gas emissions have materially changed from the Draft EIR or the City of Oroville determines that it would be prudent to issue this type of document. This document would consist of re-circulating the

EXHIBIT - A



greenhouse gas emissions portion of the Draft EIR. The follow sub-tasks are associated with the preparation of a Partially Recirculated Draft/Final EIR.

Subtask B.1: Administrative Partially Recirculated Draft EIR

FCS will prepare an Administrative PRDEIR for City staff review. The Administrative PRDEIR will consist of the following sections:

- **Overview:** This section will provide: (1) a description the procedural issues associated with the PRDEIR; (2) the contents of the PRDEIR and how they changed relevant to the Draft EIR; (3) the relationship of the PRDEIR and other environmental documents prepared for the project; (4) a description of the process for commenting on the PRDEIR; (5) and the anticipated final review document. The final review document is anticipated to consist of Responses to Comments received on the PRDEIR (see Subtasks B.5 and B.6).
- **Executive Summary:** The Executive Summary will be limited to the portions of the Executive Summary Matrix that concern greenhouse gas emissions. The matrix will identify only new or revised mitigation measures.
- **Air Quality / Greenhouse Gas Emissions:** This section will be limited to the greenhouse gas emissions analysis (Draft EIR Impact AIR-8; pages 3.2-51 through 3.2-69) and contain the analysis prepared as part of Task 1.
- **Appendices:** The modeling data from the greenhouse gas emissions analysis will be appended to the PRDEIR.

FCS will post the Administrative PRDEIR files to its FTP site for download and submit three (3) hard copies and one (1) unbound copy to the City of Oroville.

Subtask B.2: Screencheck Partially Recirculated Draft EIR

Upon receipt of City staff comments on the Administrative PRDEIR, FCS will revise the document and submit a Screencheck PRDEIR to the City of Oroville via FTP site upload. (No hard copies will be submitted as part of this deliverable.) The Screencheck PRDEIR will document all changes in strike-out, underline format.

Subtask B.3: Partially Recirculated Draft EIR

Once given authorization from City staff, FCS will prepare the PRDEIR for public review. FCS will submit 15 Executive Summary hard copies, 15 CDs with the PRDEIR, and the signed Notice of Completion to the State Clearinghouse to begin the 45-day public review period. FCS will also provide 15 hard copies, 15 CDs, and 1 reproducible master copy to the City of Oroville for local distribution. This scope of work assumes that the City of Oroville will be responsible for all local noticing, including newspaper noticing and radius mailing.

Subtask B.4: Administrative Partially Recirculated Final EIR

After closure of the 45-day public review period, FCS will prepare a Partially Recirculated Final EIR (PRFEIR) that contains responses to comments received on the PRDEIR. Based on the anticipated level of public interest associated with the project, FCS has budgeted 30 hours for responding to comments. FCS will only respond to comments on the issues contained in the PRDEIR; comments on issues outside of the PRDEIR

EXHIBIT - A



(e.g., traffic, urban decay, Walmart's corporate practices) will be referred to the appropriate portions of the Final EIR. In addition, this document will include an Errata identifying changes to the PRDEIR text.

This scope of work assumes that FCS will only be responsible for responding to written comments on the PRDEIR; the City will not hold a meeting to solicit comments on the document.

FCS will post the Administrative PRFEIR document files to its FTP site for download and submit three (3) hard copies and one (1) unbound copy to the City of Oroville.

Subtask B.5: Screencheck Partially Recirculated Final EIR

Upon receipt of City staff comments on the Administrative PRFEIR, FCS will revise the document and submit a Screencheck PRFEIR document to the City of Oroville via FTP site upload. (No hard copies will be submitted as part of this deliverable.) The Screencheck PRFEIR will document all changes in strike-out, underline format.

Subtask B.6: Partially Recirculated Final EIR

Once given authorization from City staff, FCS will prepare the PRFEIR for public review. FCS will send CDs with the PRFEIR and Mitigation Monitoring and Reporting Program (MMRP) directly to each public agency that commented on the PRDEIR. A list of the agencies and cover letter will be provided to the City. FCS will also provide 15 hard copies, 15 CDs, and 1 reproducible master copy to the City of Oroville for local distribution. This scope of work assumes that the City of Oroville will be responsible for all local noticing, including newspaper noticing and radius mailing.

Subtask B.7: Mitigation Monitoring and Reporting Program

FCS will prepare an MMRP identifying the text of the mitigation measures, responsible parties) for implementation, and the timing for all mitigation measures identified in the Draft EIR and PRDEIR. A draft version of the MMRP will be submitted electronically as part of the Screencheck PRFEIR document submittals and a final version will be submitted as part of the PRFEIR submittal. Three (3) hard copies will be submitted and a PDF of the MMRP will be included on the CDs containing the PRFEIR.

Subtask B.8: Meetings / Conference Calls

FCS's project manager will attend the following meetings in Oroville:

- Planning Commission Meeting
- City Council Meeting

In addition, FCS representatives will be available to participate in up to four conference calls.

Task B.9: Project Management

FCS will perform a variety of tasks during the preparation of the PRDEIR and PRFEIR, including coordination with the FCS project team, City staff, their attorney's, the applicant, meeting/conference call preparation, contract management, invoice billing, and similar tasks.

EXHIBIT - A



Schedule

Revised Greenhouse Gas Emissions Analysis and Revised Final EIR

FCS has prepared the following schedule outlining the anticipated timing of each task.

Project Initiation	1
Submit Administrative Revised Final EIR to City	3
City staff provide comments on Administrative Revised Final EIR to FCS	4
Submit Screencheck Revised Final to City	5
City staff provide comments on Screencheck Revised Final EIR to FCS	6
Release Revised Final EIR for public review	7
Public Meeting(s)	To Be Determined

Revised Greenhouse Gas Emissions Analysis and Partially Recirculated Draft/Final EIR

FCS has prepared the following schedule outlining the anticipated timing of each task.

Project Initiation	1
Submit Administrative Partially Recirculated Draft EIR to City	3
City staff provide comments on Administrative Partially Recirculated Draft EIR to FCS	4
Submit Screencheck PRDEIR to City	5
City staff provide comments on Screencheck Partially Recirculated Draft EIR to FCS	6
Release Partially Recirculated Draft EIR for 45-day review period	6
End 45-day review period	12
Submit Administrative Partially Recirculated Final EIR to City	14

EXHIBIT - A



City staff provide comments on Administrative Partially Recirculated Final EIR to FCS	15
Submit Screencheck Partially Recirculated Final EIR and MMRO to City	16
City staff provide comments on Screencheck Partially Recirculated Final EIR and MMRO to FCS	18
Release Partially Recirculated Final EIR and MMRP	18
Public Meeting(s)	To Be Determined

EXHIBIT - A



Budget

Revised Greenhouse Gas Emissions Analysis and Revised Final EIR

FCS has prepared the following budget identifying the costs of each task.

Revised Greenhouse Gas Emissions Analysis	\$9,500
Administrative Revised Final EIR	\$7,000
Screencheck Revised Final EIR	\$3,500
Revised Final	\$2,500
Meeting Attendance	\$4,000
Project Management	\$4,500
Direct Costs	\$1,000
TOTAL	\$32,000

Revised Greenhouse Gas Emissions Analysis and Partially Recirculated Draft/Final EIR

FCS has prepared the following budget identifying the costs of each task.

Revised Greenhouse Gas Emissions Analysis	\$9,500
Administrative Partially Recirculated Draft EIR	\$8,500
Screencheck Partially Recirculated Draft EIR	\$4,000
Partially Recirculated Draft EIR	\$3,500
Administrative Partially Recirculated Final EIR	\$5,500
Screencheck Partially Recirculated Final EIR	\$3,000
Partially Recirculated Final EIR	\$2,500
Mitigation Monitoring and Reporting Program	\$1,000
Meeting Attendance	\$4,000

EXHIBIT - A



Project Management	\$6,000
Direct Costs	\$1,500
TOTAL	\$49,000

Assumptions

The assumptions used in calculating the above fees are:

- The fee is valid for up to 30 days from the date of this scope, after which it may be subject to revision.
- City staff will be responsible for distribution of public review documents.
- This price is based upon completion of the work within the proposed schedule. If delays occur, an amendment of the price would be warranted to accommodate additional project management and other costs, and to reflect adjustments for updated billing rates.
- Costs have been allocated to tasks, based upon FCS's proposed approach. During the work, FCS may, on its sole authority, re-allocate costs among tasks and/or direct costs, as circumstances warrant, so long as the adjustments maintain the total price within its authorized amount.
- The FCS Project Manager will be the primary representative at the project meeting and public hearing.
- Printing costs are based on the method of printing and binding proposed, numbers of copies proposed as work products, and estimated page lengths. Document printing costs are estimated and will be finalized at the time of printing. On further clarification of the documents (paper and/or digital CD) that the applicant team or City staff will need during the preparation effort, FCS will specifically identify a detailed reproduction work plan with more specific costs.

Scope of Work Modifications

FCS assumes a stable and complete project description and project plan set at project initiation. In the event the project description and/or scope of work change to a degree that alters the fee estimate, FCS will contact the applicant team or City staff in writing to submit a revised fee for mutual agreement, and a contract amendment will be processed. Requests for additional work will be documented, and a completion timetable and estimated fee will be submitted for applicant team or County approval.

Invoice Billing

Invoice billing will be on a monthly basis as determined by percentage of work completed. Invoices are due and payable within 30 days of receipt.

EXHIBIT B

INSURANCE REQUIREMENT FOR CONSULTANTS

Consultant shall procure and maintain for the duration of the contract insurance against claims for injuries to persons or damages to property which may arise from or in connection with the performance of the work hereunder by the Consultant, his agents, representatives, or employees.

Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence Form CG 0001).
2. Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto).
3. Workers' Compensation insurance as required by the State of California and Employee's Liability Insurance.
4. Errors and Omissions Liability insurance appropriate to the consultant's profession. Architects' and engineers' coverage is to be endorsed to include contractual liability.

Minimum Limits of Insurance

Consultant shall maintain limits no less than:

1. General Liability: \$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
2. Automobile Liability: \$1,000,000 per accident for bodily injury and property damage.
3. Employer's Liability: \$1,000,000 per accident for bodily injury or disease.
4. Errors and Omissions Liability: \$1,000,000 per occurrence.

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self-insured retentions as respects the City, its officers, officials, employees and volunteers; or the Consultant shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

Other Insurance Provisions

The commercial general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

1. The City, its officers, officials, employees and volunteers are to be covered as additional insureds as respects: liability arising out of work or operations performed by or on behalf of the Consultant; or automobiles owned, leased, hired or borrowed by the Consultant.
2. For any claims related to this project, the Consultant's insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be excess of the Consultant's insurance and shall not contribute with it.

3. Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.
4. Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A. M. Best's rating of no less than A:VII, unless otherwise acceptable to the City.

Verification of Coverage

Consultant shall furnish the City with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on forms provided by the City or on other than the City's forms provided those endorsements conform to City requirements. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications at any time.

**AMENDMENT TO AGREEMENT NO. 1763
FOR PROFESSIONAL SERVICES BETWEEN THE CITY OF OROVILLE AND
MICHAEL BRANDMAN ASSOCIATES**

(Agreement No. 1763-5)

This Amendment (Amendment) dated April 5, 2011 is to Agreement No. 1763 between the City of Oroville ("City") and Michael Brandman Associates ("Consultant").

In consideration of the terms and conditions herein, the City and the Consultant agree that Agreement No. 1763 shall be amended as follows:

1. City shall pay Consultant and additional \$33,900 for Environmental Impact Report Services relating to the Wal-Mart Project. The additional funding request submitted by Consultant are attached to this Amendment.
2. Conflicts between the Agreement and this Amendment shall be controlled by this Amendment. All other provisions within Agreement No. 1763 shall remain in full force and effect.

CITY OF OROVILLE

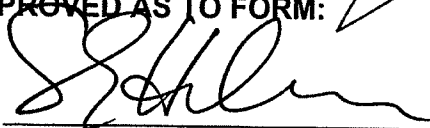
MICHAEL BRANDMAN ASSOCIATES

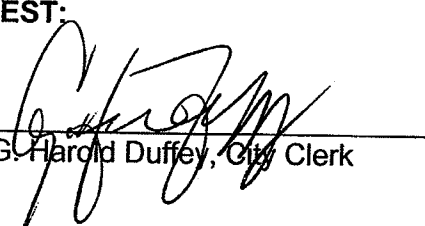
By: 
Linda L. Dahlmeier, Mayor

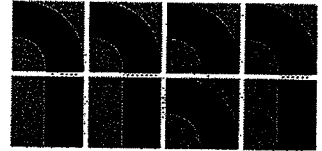
By: 
Jason Brandman

APPROVED AS TO FORM:

ATTEST:

By: 
Scott E. Huber, City Attorney

By: 
G. Harold Duffey, City Clerk



Michael Brandman Associates

February 4, 2011

Rick Walls, Interim Director
City of Oroville
Community Development and Public Works Department
1735 Montgomery Street
Oroville, CA 95965

Fresno
559.497.0310

Irvine
714.508.4100

Palm Springs
760.322.8847

Sacramento
916.447.1100

San Bernardino
909.884.2255

San Ramon
925.830.2733

Subject: **Oroville Walmart Project - Augment Request for Public Hearing Attendance and Response to Comments**

Dear Rick:

Michael Brandman Associates (MBA), Omni-Means, and CBRE Consulting are respectfully requesting a budget augment for services rendered in Fall 2010 associated with the Oroville Walmart Project. We have outlined the tasks associated with augment request in the following paragraphs. The total dollar amount for the augment is **\$33,900**.

Michael Brandman Associates

MBA's additional work was associated with preparation of written responses to late comments submitted by the Butte County Air Quality Management District on Nov. 1, 2010, the California Public Utilities Commission (CPUC) on Nov. 29, 2010, and William Kopper (et. al.) on Dec. 2, 2010. MBA also coordinated with Omni-Means and CBRE Consulting on their responses to the late comments and attended additional public hearings. These tasks were not included in MBA's current scope of work.

The fee for the MBA tasks is **\$9,600**.

Omni-Means

Omni-Means additional work was associated with preparation of responses to comments on the Draft Environmental Impact Report (DEIR) and Partially Recirculated Draft Environmental Impact Report (PRDEIR), attendance at the Planning Commission and City Council meetings (three meetings total), and preparation of written responses to late comments submitted by the CPUC on Nov. 29, 2010 and William Kopper (et. al.) on Dec. 2, 2010. These tasks were not included in Omni-Means' current scope of work.

The fee for the Omni-Means tasks is **\$17,400**.

CBRE Consulting

CBRE Consulting's additional work was associated with preparation of written responses to late comments submitted by William Kopper (et. al.) on Dec. 2, 2010 and attendance at the December 14, 2010 City Council meeting. These tasks were not included in CBRE Consulting's current scope of work.

The fee for the CBRE Consulting tasks is **\$6,900**.

Rick Walls
February 4, 2011
Page 2

Conclusion

Thank you for your consideration of this augment request. If you should have any questions, please don't hesitate to contact me at 925-830-2733 or by email at jbrandman@brandman.com

Sincerely,

A handwritten signature in black ink, appearing to read 'J. Brandman', with a large, stylized initial 'J'.

Jason Brandman, Vice President
Michael Brandman Associates
Bishop Ranch 3
2633 Camino Ramon, Suite 460
San Ramon, CA 94583
Phone: (925) 830-2733
Email: jbrandman@brandman.com



EXTRA WORK AUTHORIZATION No. 7

Attn.: Jason Brandman Address: MBA Bishop Ranch 3 2633 Amino Ramon, Suite 460 Santa Ramon, CA 94583	Date: 9/30/10 Contract Date: 2/27/08 Project: Oroville WalMart TIAR Job No.: 25-1620-06 File No.: M1244EWA008.doc Project Manager: Paul Miller
---	--

Type: Task Authorization Additional Work Change of Scope

THE FOLLOWING WORK WILL BE PERFORMED UNDER THE SAME TERMS AND CONDITIONS AS IN THE ORIGINAL AGREEMENT UNLESS OTHERWISE STATED.

DESCRIPTION OF ADDITIONAL SERVICES	Principle-in-Charge	Project Manager	Traffic Engineer	Graphics Technicia	Clerical	Expenses	Sub-Totals
	\$194	\$147	\$117	\$89	\$35		
Task 1 - Response to DEIR Comments: This task involves the details response to comments on the DEIR. Comments would consist of written clarifications and minor engineering calculations. <i>{Note: Significant new engineering calculations would require additional budget.}</i>			40			\$550	\$5,230
Task 2 - Public Meetings: This task involves the preparation and attendance at three (3) public meetings (Planning Commission and City Coucil).		24	24	8	8		\$7,328
<i>Totals</i>							\$12,558



EXTRA WORK AUTHORIZATION No. 8

Attn.: Jason Brandman Address: MBA Bishop Ranch 3 2633 Amino Ramon, Suite 460 Santa Ramon, CA 94583	Date: 12/21/10 Contract Date: 2/27/08 Project: Oroville WalMart TIAR Job No.: 25-1620-06 File No.: M1244EWA009.doc Project Manager: Paul Miller
---	---

Type: Task Authorization Additional Work Change of Scope

THE FOLLOWING WORK WILL BE PERFORMED UNDER THE SAME TERMS AND CONDITIONS AS IN THE ORIGINAL AGREEMENT UNLESS OTHERWISE STATED.

	Principle- in-Charge	Project Manager	Traffic Engineer	Technician	Clerical	Expenses	Sub-Totals
DESCRIPTION OF ADDITIONAL SERVICES	\$194	\$147	\$120	\$89	\$35		
Task 1 - Response to CPUC and William Kopper Comment Letters: <i>Omni-Means prepared additional written responses to both the CPUC and William Kopper comment letters.</i>		2	16				\$2,214
Task 1 - Mitchell Avenue Railroad Crossing Analysis: <i>This task involved preparing detailed engineering calculations, data collection, simulation and preparation of a detailed response to comment.</i>		2	10	12			\$2,562
<i>Totals</i>							\$4,776

Consultant:

OMNI-MEANS, LTD.: _____

Date: _____

Client:

Company / Agency: _____

Signature (Owner Authorized Representative) _____

Date: _____

Please sign and return this original for OMNI-MEANS, Ltd. files.

101 California Street
44th Floor
San Francisco, CA, 94111

T 415 772 0123
F 415 772 0459

RE Lic. 00409987
www.cbre.com/consulting

December 13, 2010

Mr. Jason Brandman
Vice President
Michael Brandman Associates
Bishop Ranch 3
2633 Camino Ramon, Suite 460
San Ramon, CA 94583

Re: Oroville Walmart Budget Augmentation Request

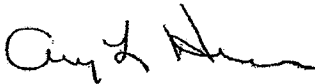
Dear. Jason:

CBRE Consulting requests a budget augmentation for our work with you related to the planned Oroville Walmart store. Our original work authorization included authorization for 10 hours of response to comments and attendance at two public hearings. We are now being asked to attend a third public hearing (scheduled for December 14, 2010) and to respond to a written document prepared by expert Phillip King, Ph.D., submitted by the opposition attorney William Kopper.

To fulfill these requirements we request a budget augment totaling \$6,870. This budget augment will cover time spent responding to Dr. King's document (time expended by three staff members, Amy Herman, Mark Barry, and Greg Keller – collective time spent in excess of 25 hours), 5 hours traveling to and from the third public hearing (including automotive expenses and personal sustenance), and meeting time.

Thank you for your attention to this matter.

Sincerely,



Amy L. Herman, AICP
Senior Managing Director

**AMENDMENT TO AGREEMENT NO. 1763
FOR PROFESSIONAL SERVICES BETWEEN THE CITY OF OROVILLE AND
MICHAEL BRANDMAN ASSOCIATES**

(Agreement No. 1763-4)

This Amendment (Amendment) dated August 3, 2010 is to Agreement No. 1763 between the City of Oroville ("City") and Michael Brandman Associates ("Consultant").

In consideration of the terms and conditions herein, the City and the Consultant agree that Agreement No. 1763 shall be amended as follows:

1. City shall pay Consultant and additional \$31,387 for environmental impact report services relating to the proposed Wal-Mart Project.
2. Conflicts between the Agreement and this Amendment shall be controlled by this Amendment. All other provisions within Agreement No. 1763 shall remain in full force and effect.

CITY OF OROVILLE

MICHAEL BRANDMAN ASSOCIATES

By: 

Steve Jernigan, Mayor

By: 

Jason Brandman

APPROVED AS TO FORM:

ATTEST:

By: 

Scott E. Huber, City Attorney

By: 

Diane MacMillan, Interim City Clerk

**AMENDMENT TO AGREEMENT NO. 1763
FOR PROFESSIONAL SERVICES BETWEEN THE CITY OF OROVILLE AND
MICHAEL BRANDMAN ASSOCIATES**

(Agreement No. 1763-3)

This Third Amendment (Amendment) dated February 16, 2010 is to Agreement No. 1763 between the City of Oroville ("City") and Michael Brandman Associates ("Consultant").

In consideration of the terms and conditions herein, the City and the Consultant agree that Agreement No. 1763 shall be amended as follows:

1. Consultant shall revise the draft traffic impact study for the Wal-Mart Supercenter. These revisions will incorporate the traffic level of service policies contained in the City's 2030 General Plan (GP) as needed to provide consistency between the project traffic impact study and the GP's traffic improvement project list.
2. Conflicts between the Agreement and this Amendment shall be controlled by this Amendment. All other provisions within Agreement No. 1763 shall remain in full force and effect.
3. Consultant shall be paid no more than \$13,270 to complete the work in Section 1 of this Amendment.

CITY OF OROVILLE

By: 

Steve Jernigan, Mayor

MICHAEL BRANDMAN ASSOCIATES

By: 

Jason Brandman

APPROVED AS TO FORM:

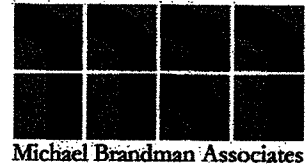
By: 

Dwight L. Moore, City Attorney

ATTEST:

By: 

Sharon L. Atteberry, City Clerk



January 21, 2010

Rick Walls, Director of Public Works
City of Oroville
Public Works Department
1735 Montgomery Street
Oroville, CA 95965

Subject: Request for Additional Funds – Traffic Study for Oroville Wal-Mart Project

Dear Jared:

As you know, Omni Means, at the direction of the project applicant and the City, has been performing additional work in preparing the traffic study for the above mentioned project. As part of our discussions this week, you asked that MBA submit a formal request for additional funds in order to augment our contract being Omni Means is a subconsultant to MBA. In response to that request, I have attached their brief scope of work and request for additional funds.

The total fee associated with the additional work to be performed in preparation of the traffic study is \$13,270. We look forward to receiving the contract amendments for this effort. If you have any questions regarding the enclosed, please call me at 925.830.2733 or email me at jbrandman@brandman.com.

Sincerely,

Jason Brandman, Vice President
Michael Brandman Associates
Bishop Ranch 3
2633 Camino Ramon, Suite 460
San Ramon, CA 94583

Enc: Omni-Means Extra Work Authorization No. 5

33280001.0

Fresno
559.497.0310

Irvine
714.508.4100

Palm Springs
760.322.8847

Sacramento
916.447.1100

San Bernardino
909.884.2255

San Ramon
925.830.2733

**AGREEMENT FOR PROFESSIONAL SERVICES FOR
WALMART SUPERCENTER PROJECT**

THIS AGREEMENT (the "Agreement") is made and entered into this 10th day of Oct, 2007, by and between the CITY OF OROVILLE (herein "City"), a municipal corporation and MICHAEL BRANDMAN ASSOCIATES ("Consultant"). The parties hereto agree as follows:

1.0 SERVICES OF CONSULTANT

1.1 Scope of Services. In compliance with all terms and conditions of this Agreement, the Consultant shall provide those services specified for a proposed Wal-Mart Supercenter in the "Scope of Services" attached hereto as Exhibit "A" and incorporated herein by this reference. As a material inducement to the City entering into this Agreement, Consultant represents that Consultant is a provider of first class work and services and Consultant is experienced in performing the environmental review work and services contemplated herein as required by the California Environmental Quality Act (Pub Res. Code §21000-21178.1) ("CEQA"). Consultant covenants that she shall use her best efforts in performing the work and services required hereunder and that all work product will be of good quality, fit for the purpose intended.

1.2 Consultant's Proposal. The Scope of Services shall include Consultant's proposal ("Proposal") which shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the terms of the Proposal and this Agreement, the terms of this Agreement shall govern.

1.3 Compliance with Law. All Consultant's services rendered under this Agreement shall be provided in accordance with all ordinances, resolutions, statutes, rules and regulations of the City and any federal, state, or local governmental agency having jurisdiction in effect at the time service is performed.

1.4 Licenses, Permits, Fees & Assessment. Consultant and her subconsultants shall obtain at her sole cost and expense any licenses, permits, and approvals as may be required by law for the performance of the services required by this Agreement. Consultant and her subconsultants shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for their performance of the services required by this Agreement. Consultant shall indemnify, defend and hold harmless the City against any such fees, assessments, taxes, penalties, or interest levied, assessed, or imposed against City.

1.5 Familiarity with Work. By executing this Agreement, Contactor acknowledges that Consultant (a) has thoroughly investigated and considered the scope of services to be performed, (b) has carefully considered how the services should be performed, and (c) fully understands the proposed annexation, planning entitlements, difficulties, and restrictions associated with Consultant's performance of the services under this Agreement. If services involve work upon any site, Consultant warrants that Consultant has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services under this Agreement. Should Consultant discover any latent or unknown conditions, which will materially affect the performance of the services under this Agreement, Consultant shall immediately inform the City of such fact and shall not proceed, except at Consultant's risk until written instructions are received from the Community Services Director and the City Administrator.

1.6 Further Responsibilities of Parties. Both parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both parties agree to use their best efforts to execute all instruments, prepare all documents, and take all actions as may be reasonably necessary to carry

out the purposes of this Agreement. Unless hereafter specified, neither party shall be responsible for the services of the other.

1.7 Additional Services. The City shall have the right at any time during the Consultant's performance of the services, without invalidating this Agreement, to order extra work or make changes by altering, adding to or deducting from Consultant's services. No such extra work may be undertaken unless a written order is first given by the City Community Services Director and the City Administrator to the Consultant, incorporating therein any adjustment in (i) the Contract Sum, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Consultant. Any change in compensation of the Contract Sum, or in the time to perform, shall be first approved in writing by the City Council. It is expressly understood by Consultant that the provisions of this section shall not apply to services specifically set forth in the Scope of Services or reasonably contemplated therein. Consultant hereby acknowledges that she accepts the risk that the services to be provided pursuant to the Scope of Services may be more costly or time consuming than Consultant anticipates and that Consultant shall not be entitled to additional compensation therefor except for additional meetings at City's request.

2.0 COMPENSATION.

2.1 Contract Sum. For the services rendered pursuant to this Agreement, the Consultant shall be compensated in accordance with the "Schedule of Compensation" attached hereto as Exhibit "B" and incorporated herein by this reference. Total compensation of Consultant shall not exceed Three Hundred Seventeen Thousand Eight Hundred Ninety Dollars (\$317,890.00) (the "Contract Sum"), except as provided in Section 1.7.

Consultant's compensation and her subconsultants' compensation shall not exceed the amounts set forth in Exhibit "B" for each task. Consultant shall submit a monthly status report and billing to City Community Services Director.

3.0 PERFORMANCE SCHEDULE

3.1 Time of Essence. Time is of the essence in the performance of this Agreement.

3.2 Schedule of Performance. Consultant shall commence the services pursuant to this Agreement upon receipt of a written notice to proceed from the City and shall perform all services within the time period(s) established in the "Schedule of Performance" attached hereto as Exhibit "C" and incorporated herein by this reference.

3.3 Force Majeure. The time period(s) specified in the Schedule of Performance for performance of the services rendered pursuant to this Agreement shall be extended as a result of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Consultant, including, but not restricted to, acts of God or of the public enemy, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, wars, litigation, and/or acts of any governmental agency, including City only if Consultant shall within ten (10) days of the commencement of such delay notify City in writing of the causes of the delay. City shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the reasonable judgment of City such delay is justified. In no event shall Consultant be entitled to recover damages against City for any delay in the performance of this Agreement, however caused, Consultant's sole remedy being extension of the Agreement pursuant to this Section 3.3.

3.4 Term. Unless earlier terminated in accordance with Section 7.6 of this Agreement, this Agreement shall continue in full force and effect until completion of the services, but in no event exceeding two (2) years from the date of this Agreement.

4.0 COORDINATION OF WORK

4.1 Representative of Consultant. Only the persons or entities designated in Exhibit "A" shall perform the services described with their names. The foregoing persons or entities shall not be replaced by Consultant without the prior written approval of City.

4.2 Contract Officers. The Contract Officers shall be the City Community Services Director and the City Administrator. It shall be Consultant's responsibility to assure that the Contract Officers are kept informed of the progress of the performance of the services, and Consultant shall refer any decisions which must be made by City to the Contract Officers.

4.3 Prohibition Against Subcontracting or Assignment. The experience, knowledge, capability, and reputation of Consultant, her principals, and employees and subconsultants were a substantial inducement for City to enter into this Agreement. Therefore, Consultant shall not contract with any other person or entity, other than those shown in Exhibit "A", to perform in whole or in part the services required under this Agreement without the prior written approval of City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated, or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty-five percent (25%) of the present ownership and/or control of Consultant, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall, at City's sole election, be void. No approved transfer shall release Consultant of any liability hereunder without the prior written approval of City.

4.4 Independent Consultant. Consultant shall perform all services required herein as an independent Contractor of City and shall remain at all times as to City an independent Contractor with only such obligations as are consistent with that role. Consultant shall not at any time or in any manner represent that it or any of its agents, employees or subconsultants are agents or employees of City. City shall not in any way or for any purpose become or be deemed to be a partner of Consultant in its business or otherwise or a joint venturer or a member of any joint enterprise with Consultant.

5.0 INSURANCE, INDEMNIFICATION AND BONDS

5.1 Insurance. In accordance with Exhibit "D", Consultant shall procure and maintain insurance, at her sole cost and expense, in a form and content satisfactory to City, during the entire term of this Agreement.

5.2 Indemnification. Consultant agrees to indemnify City, its officers, volunteers, agents, and employees against, and shall hold them and each of them harmless from any and all actions, suits, claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions, or liabilities (herein "claims or liabilities") that may be asserted or claimed by any person, firm, or entity arising out of or in connection with the negligent performance of the work, services, operations, or activities of Consultant, its agents, employees, subconsultants, or invitees relating to this Agreement, or arising from the misconduct, negligent acts or omissions of Consultant hereunder, or arising from Consultant's negligent performance of or failure to perform any term, provision, covenant, or condition of this Agreement, whether or not there is

concurrent passive negligence of City, its officers, agents or employees, who are directly responsible to City and in connection with such indemnification:

(a) Consultant shall defend any legal action or actions filed in connection with any of such claims or liabilities and shall pay all costs and expenses, including legal costs and attorneys' fees incurred in connection with such defense.

(b) Consultant shall promptly pay any court judgment against City, its officers, agents, or employees for any such claims or liabilities arising out of or in connection with the negligent performance of or failure to perform such work, operations, or activities of Consultant hereunder, and Consultant agrees to save and hold City, its officers, agents, and employees harmless therefrom.

(c) In the event City, its officers, agents, or employees is made a party to any action or proceeding filed or prosecuted against Consultant for such damages or other claims arising out of or in connection with the negligent performance of or failure to perform the work operation, or activities of Consultant hereunder, Consultant agrees to pay to City, its officers, agents or employees any and all costs and expenses incurred by City, its officers or employees in such action or proceeding.

(d) Although City has a duty to the public to independently review any consultant prepared negative declaration or environmental impact report (EIR), that duty to the public, or the breach thereof, shall not relieve Consultant of the duties under this section nor of the warranties set forth in Section 1.1.

5.3 Sufficiency of Insurer. Insurance required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide, the Key Rating Guide or in the Federal Register and only if they are of a financial category Class VII or better.

6.0 RECORDS AND REPORTS

6.1 Reports. Consultant shall prepare and submit to the Contract Officers a monthly report concerning the performance of the services required by this Agreement or more often if the Contract Officers deem it necessary. Consultant acknowledges that the City is greatly concerned about the cost of work and services to be performed pursuant to this Agreement. For this reason, Consultant agrees that if Consultant becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the work or services under this Agreement, Consultant shall promptly notify the Contract Officers in writing of such fact, circumstance, technique or event.

6.2 Records. Consultant shall keep, and require subconsultants to keep, such books and records as shall be necessary to perform the services required by this Agreement and enable the Contract Officers to evaluate the performance of such services. The Contract Officers shall have full and free access to such books and records at all times during normal business hours of City, including the right to inspect, copy, audit, and make records and transcripts from such records. Such records shall be maintained for a period of three (3) years following completion of the services hereunder, and the City shall have access to such records in the event any audit is required.

6.3 Ownership of Documents. All drawings, specifications, reports, records, documents and other materials prepared by Consultant, its employees, subconsultants, and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Consultant Officers or upon the termination of this Agreement, and Consultant shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership of

the documents and materials hereunder. Any use of such complete documents for other projects and/or use of uncompleted documents without specific written authorization by the Consultant shall be at City's sole risk and without liability to Consultant. Consultant and her subconsultants may retain copies of such documents for their own use. Consultant shall have an unrestricted right to use the concepts embodied therein. All subconsultants shall provide for assignment to City of any documents or materials prepared by them, and in the event Consultant fails to secure such assignment, Consultant shall indemnify City for all damages resulting therefrom.

6.4 Release of Documents. The drawings, specifications, reports, records, documents, and other materials prepared by Consultant in the performance of services under this Agreement shall not be released publicly without the prior written approval of the Contract Officers.

7.0 ENFORCEMENT OF AGREEMENT

7.1 California Law. This Agreement shall be construed and interpreted both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim, or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Butte, State of California, or another appropriate court in such county, and Consultant covenants and agrees to submit to the personal jurisdiction of such court in the event of such action.

7.2 Retention of Funds. Consultant hereby authorizes City to retain from any amount payable to Consultant (whether or not arising out of this Agreement) (i) any amounts the payment of which may be in dispute hereunder or which are necessary to compensate City for any losses, costs, liabilities, or damages suffered by City.

7.3 Waiver. No delay or omission in the exercise of the right or remedy by a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either party of any default shall be in writing and shall not be a waiver of any other default concerning the same and any other provision of this Agreement.

7.4 Rights and Remedies are Cumulative. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights and remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

7.5 Legal Action. In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct, or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement.

7.6 Termination Prior to Expiration of Term. This section shall govern any termination of this Agreement except as specifically provided in the following section for termination for cause. City reserves the right to terminate this Agreement at any time, with or without cause, upon seven (7) days written notice to Consultant, except that where termination is due to the fault of the Consultant, the period of notice may be such shorter time as may be determined by the Contract Officers. Upon receipt of any notice of termination Consultant shall immediately cease all services hereunder, except such as may be specifically approved by the Contract Officers. Consultant shall be entitled to compensation for all services rendered prior to receipt of the notice of termination and for any services authorized by the Contract Officers

thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officers, except as provided in Section 7.2.

7.7 Termination for Default of Consultant. If termination of this Agreement is due to the failure of the Consultant to fulfill her obligations under this Agreement, City may take over the work and prosecute the same to completion by contract or otherwise, and the Consultant shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Consultant for the purpose of setoff or partial payment of the amounts owed City.

7.8 Attorneys' Fees. If either party to this Agreement commences any legal action or proceeding against the other party arising from this Agreement, the prevailing party, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorneys' fees, expert witness fees, court costs, discovery expenses and all other necessary costs the court allows which are incurred in such litigation.

8.0 CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

8.1 Non-Liability of City Officers and Employees. No officer or employee of the City shall be personally liable to the Consultant, or any successor in interest, in the event of any default or breach by the City or for any amount that may become due to the Consultant or to her successor, or for breach of any obligation of the terms of this Agreement.

8.2 Conflict of Interest. No officer or employee of the City shall have any financial interest, director or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which effects his or her financial interest or the financial interest of any corporation, partnership or association in which he or she is, directly or indirectly, interested, in violation of any state statute or regulation. The Consultant warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

9.0 MISCELLANEOUS PROVISIONS

9.1 Notice. Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first class mail, in the case of City, to the City Administrator, CITY OF OROVILLE, 1735 Montgomery Street, Oroville, CA 95965, phone number (530) 538-2404, and in the case of Consultant to Jason Brandman, 11060 White Rock Road, Suite 150, Sacramento, CA 95670. Either party shall notify the other party of any change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

9.2 Interpretation. The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

9.3 Integration: Amendment. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements, and understandings, if any, between the parties, and none shall be

used to interpret this Agreement. This Agreement may be amended at any time by the mutual consent of the parties by an instrument in writing.

9.4 Severability. In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its validity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

9.5 Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of such party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which such party is bound.

IN WITNESS WHEREOF, the parties have executed and entered into this Agreement as the date first written above.

ATTEST:

**CITY OF OROVILLE
A Municipal Corporation**

By: Sharon L. Attebery
City Clerk

By: [Signature]
Mayor Steve Jernigan

APPROVED AS TO FORM:

**MICHAEL BRANDMAN
ASSOCIATES**

By: [Signature]
City Attorney

By: [Signature]
Name: Jason Brandman
Title: Vice President
Address: 2633 Camino Ramon, Ste. 460
San Ramon, CA 94583

Brandman-4

EXHIBIT A

Task 1: Project Description and Background

The MBA Project Manager will meet with City staff to obtain information necessary for preparation of complete project and alternatives descriptions, establish early communication among various project team members, and become familiar with the issues and concerns identified for analysis.

To facilitate this process, we shall:

- Attend an initial orientation meeting with City staff to review the proposed project scope of work and confirm the elements that will be included in descriptions of the project and alternatives to the proposed project.
- Receive complete project information, approved by the City, to be used in developing an EIR project description. Information will include project objectives (including those of the City and the applicant), land use data and statistical summary, and graphics.
- Receive alternative site criteria, conceptual site plans, land use data, and narrative program descriptions of project alternatives, from the City (with input from the applicant, as directed by the City), sufficient to develop the EIR description of alternatives to the proposed project.
- Refine the project schedule, based upon agreements reached during contract negotiations and on information discussed at the initial meeting, if needed.
- Receive all existing reference and research materials related to the project, the project site and vicinity, including base maps, aerial photographs, and environmental documentation, if appropriate, near the project.
- Review of site specific data, conduct a field visit, interview relevant parties such as City and other agency staff to document baseline conditions, and review the City's Environmental Review Guidelines, as appropriate.

Task 2: Notice of Preparation

MBA will prepare the Notice of Preparation (NOP) for the project, which will include the appropriate City form, a project description, project exhibits, and a discussion of environmental issues. MBA will reproduce 50 copies of the NOP and distribute 15 copies (CD/PDF) to the State Clearinghouse. The remaining 35 copies will be mailed to City staff. One camera-ready original and one CD/PDF formatted copy of the NOP will also be submitted to the City.

Task 3: Scoping Process

MBA will coordinate with City staff to conduct a scoping meeting for the proposed project. MBA will be responsible for collecting and compiling all information provided by the public for consideration in determining the issues to be analyzed in the EIR. MBA will assist the City staff to determine the format, strategies, and content of the scoping presentation as well as in preparing and noticing the meeting, preparing visuals and handouts and other meeting logistics, as necessary.

Task 4: Administrative Draft EIR

MBA will prepare the Administrative Draft EIR and submit five copies to the City for review, to include the following:

- **Project Description.** One of the first key actions will be to formulate a working description for the project and project alternatives. MBA will work with the City to prepare a description that articulates the project's overall objectives. MBA will prepare the project description section of the EIR, based upon information provided during project initiation and comments received on the NOP, to include:
 - Regional and local setting
 - Project history
 - Project goals and objectives of the City and the applicant
 - Project characteristics and important project features

Intended uses of the EIR (as required by Section 15124(d) of the State CEQA Guidelines) will be provided, including a list of responsible and other agencies expected to use the EIR in decision making, and a list of approvals for which the EIR will be used.

- **Cumulative Projects Identification.** Compliant with City standards, MBA will describe the reasonably-foreseeable projects within a City-approved defined study area that may result in cumulative impacts associated with the proposed project. MBA will work closely with City staff to ensure the EIR is prepared at the appropriate level of detail and pertinent projects are evaluated. As identified above, we assume the City will provide information on all reasonably anticipated projects to MBA so cumulative projects can be adequately addressed.

Cumulative projects may be defined within a specified area around each project site as projects constructed, but not occupied; projects approved, but not constructed; pending projects for which pre-filing or filing of an application with its respective lead agency has occurred; and anticipated or announced projects for which no application has yet been filed with the lead agency. However, note the evaluation area for cumulative impacts would vary dependent upon the technical issue to be addressed. For instance, the evaluation area for traffic analysis encompasses a larger area than the immediate site and access to it via Cal Oak Road, Feather River Boulevard, and 7th Avenue. Findings of recent court cases will be used to address all pertinent issues. Cumulative projects will be discussed for each technical issue. Growth-inducing impacts will be evaluated separately in the EIR.

- **Effects Found to be Not Significant.** MBA will describe effects found to be not significant, in accordance with Section 15128 of the State CEQA Guidelines, by listing them with brief explanations of why they are not significant, or by referral to the NOP. We assume the following environmental issues will result in no significant impacts:
 - Agricultural Resources
 - Mineral Resources
 - Population and Housing
 - Recreation

If in responses received on the NOP any of the above issues are found to result in potentially significant impacts that cannot be mitigated, these issues will require evaluation in the EIR. Revisions to the scope and budget will be discussed with the City.

- **Establishment of Thresholds of Significance.** MBA will work with the City to establish thresholds of significance for each environmental issue to be addressed in the EIR. In addition to the general standards of significance identified in the CEQA Guidelines, there are established thresholds applicable to this project including, but

not limited to, cultural resources, hazardous materials, air quality (Butte County Air Quality Management District [AQMD]), biological resources (City, California Department of Fish and Game, U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers), traffic (City), noise (City and/or County), and energy (Appendix F, Energy Conservation, CEQA Guidelines). The thresholds will be stated in each technical section of the EIR to clearly illustrate analytical process used to identify potential project effects. We anticipate current thresholds will primarily be used.

- **Effects Identified as Potentially Significant.** MBA will conduct an environmental analysis of the proposed project to include the documentation of baseline conditions, conducting project and cumulative impact evaluations, and formulating mitigation measures for each environmental issue.

As discussed previously, several technical studies have likely been or will be prepared by the applicant's Engineer. These could include geology and soils, hydrology/water quality, and a Phase I Environmental Site Assessment. MBA will review the studies for CEQA adequacy. After determining the studies are adequate, MBA will summarize and incorporate them into the EIR. Traffic analysis and economic study (urban decay) will be conducted by Omni Means, Ltd and CBRE Consulting, respectively. The MBA project team will address the remaining issues in the EIR.

- **Aesthetics.** The project will be evaluated through the use of ground-level photographs and architectural elevations provided by the applicant. Impacts will be assessed in terms of visibility of the project, alteration of the visual setting, and sensitivity of viewpoints as outlined in the City of Oroville Environmental Review Guidelines. The potential glare impacts, including scale and illumination in relation to existing development, from construction and operation of the proposed project will also be evaluated. Both the aesthetic and light and glare impacts will be assessed in terms of visibility of the project and its components. The long-term implications of the proposed project in relation to the City General Plan and Zoning Ordinance will also be discussed. Potential aesthetic impacts will be identified and discussed. Mitigation measures will be recommended, if necessary, to reduce any significant impacts.
- **Air Quality.** The air quality analysis would examine both regional and localized air quality impacts. Stationary and mobile emissions generated during both the construction and operation phase of the project will be analyzed. Air pollutant emissions produced from both heavy equipment and dust from grading during the construction effort and traffic emissions during the operation phase will be the focus of the study. The impact analysis will include a discussion of the impact criteria based upon Butte County AQMD CEQA Guidelines, City of Oroville Environmental Review Guidelines, or State CEQA Guidelines from the Appendix G checklist. Impacts will also include a review of federal and State ambient air quality standards and other air quality regulations governing this project. Appropriate mitigation measures will be developed, as necessary. A detailed discussion of MBA's scope of work for an air quality study is provided as follows:
 - **Task 1 - Data Collection.** MBA will collect relevant project and site background information, including base graphics showing the project area and vicinity, the proposed project and adjacent land uses, and a copy of the traffic study prepared for the project. Upper and lower air data for the project area collected from the Butte County AQMD, the California Air Resources Board (CARB) and/or the US Environmental Protection Agency (EPA) will be assessed to determine

existing ambient air quality conditions and current attainment status of federal and state standards. Project description and related documents will be reviewed for air quality issues; and field review of the site will be conducted if necessary to document existing conditions and determine if there are any unanticipated sources of emissions or sensitive receptors in the area.

- **Task 2 - Emissions Calculations.** MBA will calculate project emissions using emission factors and methodologies developed by the CARB, Butte County AQMD, and other agencies. Short-term construction emissions as well as long-term operational emissions for the proposed project will be determined using the California ARB URBEMIS (version 9.2) transportation and land use program. Vehicle emission factors will be generated for the proposed project using California ARB EMFAC2002 model (version 2.2). Annual emissions will be calculated using emission factors, traffic generation data, and average vehicle trip distance. A Localized CO Hot-Spot Analysis will be conducted for the proposed project of up to four intersections with the highest potential for congestion using the California Department of Transportation Caline4 model; and model results will be analyzed for the proposed project. Mitigation measures will be incorporated, as appropriate, into the computer model. A consistency determination will be prepared in accordance with CEQA guidelines and Butte County Indirect Source Guidelines to ensure that the project is consistent with the goals of the 2003 Air Quality Attainment Plan.
- **Task 3 - Health Risk Assessment.** MBA will calculate the project's generated concentration of diesel particulates from heavy-duty diesel trucks in the immediate vicinity of the project site and truck routes using the US EPA's Industrial Source Complex (ISC3) model and the methodology found in the EPA-454/B-95-003b technical document published by the US EPA. Cancer and non-cancer health risks associated with project-generated diesel particulates will be predicted using the Unit Risk Factor (URF) developed by the CARB's Scientific Review Committee for cancer risk of diesel particulates, and the Reference Exposure Level (REF) for non-cancer health risks of diesel particulates developed by Office of Environmental Health Hazard Assessment (OEHHA).
- **Task 4 - Global Warming Impact Analysis.** The air quality analysis will estimate project generated emissions of greenhouse gasses and evaluate the incremental contribution to global warming impacts. The analysis will discuss project compliance with recent state legislation of global warming (AB-1493 and AB-32) and project design features that will increase efficiency, reduce vehicle trips, or other features that reduce greenhouse gas emissions and lower the project's incremental contribution to global warming impacts.
- **Task 5 - Draft Report.** MBA will prepare a stand-alone air quality technical report that will describe existing conditions, identify potential impacts of the proposed project, and recommend mitigation measures to reduce those impacts. The report will be summarized in the EIR and included in its entirety as an appendix to the document. The project specific air quality analysis report will be done in the context of CEQA using thresholds of significance specific from either Butte County AQMD or from the CEQA checklist, Appendix G.
- **Biological Resources.** As a baseline document for the Oroville Wal-Mart Super Center EIR, MBA will conduct a biological resources study of the project site and

document the results in a stand-alone report to be summarized in the EIR and included in the appendices of the document.

For the study, MBA will characterize and map the distribution of the Project site's plant communities and wildlife habitats. Our field surveys will include documentation of common plant and wildlife species observed onsite, and any special habitat features (such as active nests being used by migratory birds). MBA will also field evaluate wildlife movement through the property, and potential linkages to important adjacent habitats. Photos will be taken to document the biological resources of the project site. The potential onsite presence of any "special status" plant or wildlife species or habitats will be assessed; these include those considered rare, endangered, threatened, sensitive, or otherwise unique by government agencies (e.g., California Department of Fish and Game [CDFG] or U.S. Fish and Wildlife Service [USFWS]), or by recognized conservation organizations (e.g., California Native Plant Society or California Natural Diversity Data Base [CNDDDB]). After completing the site surveys, MBA will make initial contacts with CDFG, USFWS, USACE, and other regulatory agencies to identify potential agency concerns.

A biological resources study report will be prepared and included in the EIR that summarizes the literature review, agency concerns, and survey methodology, as well as describing plant communities present (type and dominant flora), wildlife observed, and special-status species or habitats that may occur. The report will be written according to accepted scientific and technical standards consistent with the requirements of Butte County, CEQA, USFWS, CDFG, and all other pertinent reviewing agencies and organizations. This report will be summarized in the EIR as the basis for an impact analysis and development of mitigation measures.

Based upon a regional review (within ten miles) of the CNDDDB centered on the Palermo USGS 7.5-minute quadrangle, the following special status species are known to occur in the area and may be present onsite: Brandegee's clarkia (*Clarkia bilboea* ssp. *brandegeae*), Valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), Ahart's dwarf rush (*Juncus leiospermus* var. *ahartii*), Red Bluff dwarf rush (*Juncus leiospermus* var. *leiospermus*), and Butte County golden clover (*Trifolium jokerstii*). A ditch bisects the property from north to south, and this will be evaluated both as a potential Waters of the U.S./State, and as possible habitat for special status species associated with aquatic habitat, such as vernal pool fairy shrimp (*Branchinecta lynchi*) or California linderiella (*Linderiella occidentalis*). Should field surveys result in a finding that habitat onsite is suitable to support any of these species, more detailed ("focused," or presence/absence-level) surveys will be recommended. Further, if any surveys result in a finding that any special-status species is present onsite, mitigation measures will be recommended using USFWS and CDFG standards. These measures will be applicable for any subsequent permits that may be needed from USFWS (either a Section 10a incidental take permit, or a Section 7 consultation) or CDFG (a Section 2081 permit).

Should the ditch that bisects the property be considered a Waters of the U.S. or State, then the report will recommend a detailed wetlands delineation be completed and verified by USACE. Further, if the ditch is found to be jurisdictional, the report will describe wetlands permits that will be needed for filling or altering the ditch. These could include a Streambed Alteration Agreement from CDFG, a Section 404 permit from USACE, and a Section 401 water quality certification from the Regional Water Quality Control Board. MBA could complete a wetlands delineation and undertake

any wetlands permitting, on behalf of the City, as additional tasks, (see option below) or under an amended scope of work.

- **Jurisdictional Delineation (Optional)** - An MBA wetlands regulatory specialist will perform a jurisdictional delineation of the ditch that transects the middle of the property in a north-to-south alignment. Assuming the ditch is found to convey drainage flows from adjoining properties and has a downstream connection to a known Waters of the US/State, or a tributary to one, it may be considered jurisdictional under both Section 404 of the federal Clean Water Act and the California Porter-Cologne Water Quality Act. While completing baseline biological investigations for the EIR, MBA staff will also exactly map the length and width of the ditch (using a GPS) for accurate CADD plotting, and the height of the Ordinary High Water Mark in the ditch will be determined. This information will be used to prepare a jurisdictional delineation report suitable for submittal to USACE. The report will include exhibits depicting the ditch location with surrounding topography, and its location within the local drainage system, as well as local soils, vegetation, and hydrology information. This task does not cover any subsequent permitting that may be needed with USACE, CDFG, or the RWQCB.
- **Cultural Resources.** A cultural resources assessment requires five tasks: a record search at the Northeast Information Center (NEIC), California State University, Chico (Task 1); a record search request to the Native American Heritage Commission in Sacramento (Task 2); a record search request for a paleontological record search (Task 3); a pedestrian field survey of the study area (Task 4); and preparation of a written Cultural Resource Assessment Phase I report detailing the findings of the record searches and the field survey (Task 5). In particular, pedestrian reconnaissance survey of the proposed project area will be conducted by a qualified Archaeologist. The survey will provide a visual assessment of the ground surface and the historic resources within the project area. All previously undiscovered cultural resources older than 45 years of age should be assessed for significance as defined in the CEQA Guidelines 15064.5. If cultural resources over 45 years old are determined to be "significant" resources under CEQA, a formal evaluation will be conducted and could include comprehensive archival/historical research and recordation with a DPR Primary Record and appropriate detailed DPR forms (e.g., Building, Structure, Object (BSO), Archaeological Site Record forms, etc.). The cultural resource survey report will detail the results of the record search and reconnaissance survey. The report will meet all applicable City and/or State standards for Phase I Cultural Resources studies and at minimum contain an introduction and setting section; prehistoric and historic (if present) background information; field methodology; and the results of the record search and the field survey. The survey results are required to contain information on any sites identified and the potential for buried archaeological remains based upon the existing conditions at the proposed project site. This report will be summarized in the EIR and included in its entirety as an appendix to the document.
- **Geology, Soils, and Seismicity.** Based upon the high level of design put forth in the site plan prepared by Pacland in June 2007, it is quite likely a geotechnical study has been prepared for the proposed project the study should evaluate the stability of the soils and geology to support the project and its associated infrastructure. The study is expected to address the potential for lateral spreading, subsidence, liquefaction or collapse, seismic-related ground failure, including liquefaction, strong seismic

ground shaking, expansive soils, and soil erosion. The MBA project team will review the report for CEQA adequacy and to verify there is sufficient information to be used in the preparation of the EIR. We anticipate the report will recommend mitigation measures if there are potential significant impacts. This report will be summarized in the EIR and included in its entirety as an appendix to the document.

- **Hazards and Hazardous Materials.** If not available from the applicant, a Phase I Environmental Site Assessment (ESA) will be prepared by MBA to investigate the likelihood or potential presence of hazardous materials contamination at the project site. The ESA will be performed in conformance with the most recent American Society for Testing and Materials (ASTM) Standard Practice for Environmental Site Assessments: Phase I ESA Process, Designation E 1527-00. The ASTM Standard Practice is in keeping with innocent landowner requirements as provided for under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). In addition to review of existing onsite and project vicinity conditions relating to current and historical uses of the site and the potential for hazardous material contamination, the ESA will also present the results of a review of environmental databases at the Federal, State, and Regional levels for the project site and surrounding areas. This information, including all relevant findings in the ESA will be summarized in the EIR and included in its entirety in an Appendix to the document.
- **Hydrology and Water Quality.** Based upon the high level of design put forth in the site plan prepared by Pacland in June 2007, it is probable a preliminary hydrology study has or will be prepared for the proposed project. If so, the MBA project team will review the report for CEQA adequacy and to verify there is sufficient information to be used to prepare the EIR. The study should evaluate the potential construction and operational impacts of the proposed project on surface runoff, flooding, and the increase in impermeable surface area. MBA will summarize the existing hydrological and water quality characteristics of the project site and the potential impacts from the implementation of the proposed project. The project site is within a 100-year flood plain per the Dry Creek Study of 1991 (the Feather River Backwater Condition), therefore the site is subject to local flooding when high volume release (150,000 cfs) from Oroville Dam occurs. The hydrology study and EIR analysis will evaluate the effect of development within this special flood zone based upon existing data provided by the City of Oroville. Development of the project site may be subject to the City's Municipal Code Chapter 8B, Flood Hazard Prevention. Chapter 8B applies, at a minimum, to those properties designated as an "Area of Special Flood Hazard" on FEMA's flood insurance rate map for the city of Oroville. It is currently unclear whether the project site is included on FEMA's flood insurance rate map. However, the requirements of Chapter 8B likely will apply to the site since the City currently considers the site located within a 100-year floodplain. Section 8B-3 requires a Development Permit for projects located on a flood hazard site. Finally, qualitative discussion of water quality issues related to the proposed project will be provided. Conformity of the proposed project to water quality regulations will also be discussed. Mitigation measures for hydrology and water quality impacts will be recommended, if needed.
- **Land Use and Relevant Planning Programs.** Existing onsite land uses (i.e., vacant) and land uses in the immediate vicinity of the proposed project (i.e., west: vacant land, California Shingle and Shake, California Stove & Supply Company, Performance Mini Storage; north: vacant land, "Old" Oroville Cemetery, Louisiana

Pacific Hardboard Plant; east: vacant land, SPG Solar F&M Machine & Manufacturing Company, Northwest SPCA Animal Shelter; and south: vacant land, Comac MFG Corporation machine tuning and milling shop) will be identified by MBA from existing information, available aerial photography, and a field visit. An existing land use map will be presented in the EIR. The EIR will evaluate the compatibility of the proposed project in relation to surrounding land uses and consistency with regional plans and programs, and the City plans and policies, including, but not limited to, the General Plan and Zoning Ordinance. Impacts on existing land uses including the compatibility of proposed development with the adjacent undeveloped lands, as well as potential future land uses in the project vicinity, will be assessed for the construction (short-term) and operations (long-term) phases (i.e., traffic trips, noise emissions, visual alteration, etc.). Density, interrelationship of uses, and environmental impacts will also be addressed from a land use impact perspective. The appropriateness of the proposed project will be evaluated with respect to the existing and proposed General Plan land uses, emerging land use trends, and regional access availability. We shall recommend measures to reduce or eliminate adverse land use effects, as necessary.

- **Noise.** MBA will provide an analysis of short-term and long-term noise levels associated with the proposed project. These levels will be evaluated and related to any applicable noise regulations or land use compatibility guidelines in the City of Oroville Code and/or Noise Element of the General Plan, or in appropriate County-level documents. The impact analysis will include a discussion of the impact criteria based upon any applicable City of Oroville Environmental Review Guidelines, or the State CEQA Guidelines from the Appendix G checklist. The following is a detailed approach to the analysis:
 - **Task 1 - Noise Monitoring.** MBA will perform limited onsite ambient noise monitoring to update our baseline noise characterization of the area, including the identification of transportation related noise sources such as major arterial roadways, railroads, and potential aircraft over flights. In addition, MBA will identify any stationary (non-transportation related) noise sources such as commercial and industrial noise impacts
 - **Task 2 - Baseline Development.** MBA will develop a baseline traffic noise exposure profile in terms of the day-night level (DNL) noise metric using the Federal Highway Administration (FHWA) Model with the latest California vehicle noise curves (CALVENO)
 - **Task 3 - No Project/With Project Preparation.** MBA will prepare a no-project versus with-project mobile noise impact comparison, including any viable project alternative development scenarios. This will identify specific sensitive receiver locations where mobile source noise impacts may adversely affect nearby residents or other sensitive receptors
 - **Task 4 - Evaluation.** MBA will evaluate stationary noise impacts from temporary onsite construction noise sources and operational noise sources (HVAC, loading docks, etc)
 - **Task 5 - General Plan Noise Element Guidelines Consideration.** MBA will compare project noise impacts to the Noise Element noise/land use compatibility guidelines in the City General Plan Noise Element and other applicable noise exposure regulations such as the City Code or the Butte County General Plan Noise Element

- **Task 6 - Mitigation Plan.** MBA will develop a noise impact mitigation plan that addresses impacted sensitive receptors such as proposed residential uses in close proximity to the site or the truck routes that exceed the target noise exposure limits.
- **Task 7 - Draft Report.** MBA will summarize findings in a "stand-alone" draft noise technical report in a setting/impact/mitigation format.
The noise study will be summarized in the EIR and included in its entirety as an Appendix to the document.
- **Public Services and Utilities.** MBA will coordinate with the team's Project Engineer, the City staff, and affected public service and utility purveyors to assess potential impacts of the proposed project. The following services, facilities, and utility systems will be analyzed:
 - Police Protection
 - Fire Protection
 - Water Supply
 - Wastewater
 - Stormwater
 - Solid Waste
 - Energy

Letters describing the proposed project will be sent to all service and utility agencies. Answers will be requested to document existing and planned facilities' current and planned usages and excess capacities. The additional capacity required to meet projected needs will be described. We shall assess anticipated impacts and recommend appropriate mitigation measures.

- **Traffic and Circulation.** Omni-Means (O-M) will prepare a traffic study for the proposed project. The study will quantify the existing and future (20 year) traffic impacts associated with development of the overall project for vehicular (including trucks), pedestrian and transit related impacts, along with mitigation measures required to mitigate impacts to an acceptable traffic operation and safety level.

O-M has scoped this project based upon the following general assumptions:

The traffic study will analyze the following scenarios

- Existing Conditions
- Short-Term Base Conditions (Existing + Approved/Pending)
- Short-Term Plus Project Conditions (Existing + Approved/Pending + Project)
- Future Year (Year 2030) No Project Conditions
- Future Year (Year 2030) Plus Project Conditions

Access to the project site would be via Feather River Boulevard, Cal Oak Road and 7th Avenue

For each of the project traffic scenarios the transportation analysis will quantify the daily, AM and PM peak hour impacts

O-M will use Butte County Association of Governments (BCAG's) Regional Travel Demand Volume (TDM) for determination of future year traffic volumes (Note - It is not anticipated that the City of Oroville Travel Demand Model (currently in progress)

would be available for use in deriving future year forecasts. However, if the City of Oroville Travel Demand Model would become available during the course of the study the future year forecasts may need verified and adjusted.)

Intersection and roadway capacity analysis will be completed using Synchro software.

Meetings – O-M has not budgeted for project meetings. We shall attend all project meetings on a time-and-materials basis.

Agency Reviews – The Memorandum of Assumptions will be delivered to the City of Oroville, MBA, and other reviewing agencies for review and comment. An initial Administrative Draft TIAR will be delivered to the City of Oroville, MBA, the project team and reviewing agencies (if appropriate) for review and comment, prior to incorporation into the ADEIR. We shall meet with these agencies (if necessary) to review their comments. The Draft TIAR will be prepared incorporating all client and agency comments received on the Administrative Draft report. Following agency review of the ADEIR, DEIR and FEIR, Omni-Means will prepare a Final Report (or formal Response to Comments letter). The Draft TIAR and Final TIAR (or formal Response to Comments letter) will be prepared within an additional four week period, respectively. *(Note – During the scoping of this proposal, Omni-Means contacted the City of Oroville Public Works Department to inquire on details regarding traffic analysis methodologies. Per discussion with City staff, we understand the Oroville Travel Demand Model (base/calibrated model) will be used to derive the proposed project's trip distribution and assignment. The City indicated that the future conditions model may not be completed within the timeframe of this study. As such, the Travel Demand Model will be used only for trip distribution and assignment, per City's desire. However, should the model subsequently become available during the later stages of the study (prior to the DEIR stage), the future year forecasts may require adjustments to conform to model projections.)*

Schedule – Omni-Means would begin work on this project immediately following notice to proceed. The administrative draft TIAR will be completed within an eight-week period. The Draft TIAR and Final TIAR (or formal Response to Comments letter) will be prepared within an additional two-to-three-week, respectively.

- **Task 1 – Study Initiation Meeting and Project Management.** Omni-Means will review all project related material, including: site maps, land use quantities, site access locations, project descriptions, project applications, recent traffic studies within the study area, and agency transportation planning documents (including general plan circulations elements, and/or specific plan circulation elements). The Project Manager will conduct an initial field review and meet with the City to review this Scope of Work and ascertain any changes relative to their requirements. We shall also obtain any additional information the City may have pertinent to this project.

Omni-Means will provide all project managements responsibilities including agency coordination, attend meetings, prepare meeting minutes, manage engineering staff, perform quality control review, and produce project billings.

- **Task 2 – Data Collection.** To provide a data base of existing and future conditions, available relevant data will be collected. This data would include traffic counts, existing development, planned development proposals, improvement plans, etc. Weekday AM and PM peak hour, and roadway daily count information will be obtained by Omni-Means at 15 intersections and eight roadway segments near the project (shown in Attachment A).

- **Intersections**
 1. Oroville Dam Boulevard W/SR 70 SB Ramps
 2. Oroville Dam Boulevard E/SR 70 NB Ramps
 3. Oroville Dam Boulevard E/Feather River Boulevard
 4. Oroville Dam Boulevard E/S 7th Avenue
 5. Oroville Dam Boulevard E/Liability Lane
 6. Oroville Dam Boulevard E/S 5th Avenue
 7. Oroville Dam Boulevard E/Veatch Street
 8. Oroville Dam Boulevard E/Lincoln Boulevard
 9. Oroville Dam Boulevard E/Washington Avenue/Olive Highway
 10. Feather River Boulevard/Cal Oak Road
 11. S 7th Avenue/Cal Oak Road
 12. S 5th Avenue/Cal Oak Road
 13. SR 70/Georgia Pacific Way
 14. Feather River Boulevard/Georgia Pacific Way
 15. S 7th Avenue/Georgia Pacific Way
- **Roadways**
 1. Oroville Dam Boulevard between SR 70 NB Ramps and Feather River Boulevard
 2. Oroville Dam Boulevard between Feather River Boulevard and S 7th Avenue
 3. Oroville Dam Boulevard between S 7th Avenue and S 5th Avenue
 4. Feather River Boulevard between Cal Oak Road and Oroville Dam Boulevard E
 5. S 7th Avenue between Cal Oak Road and Oroville Dam Boulevard
 6. S 5th Avenue between Cal Oak Road and Oroville Dam Boulevard
 7. Feather River Boulevard between Georgia Pacific Way and Cal Oak Road
 8. S 7th Avenue between Georgia Pacific Way and Cal Oak Road
- **Freeway Mainline Segments**
 1. NB SR 70 south of Oroville Dam Boulevard
 2. SB SR 70 south of Oroville Dam Boulevard
 3. NB SR 70 north of Oroville Dam Boulevard
 4. SB SR 70 north of Oroville Dam Boulevard

Freeway mainline volume information will be obtained from Caltrans.

- **Freeway Ramp Merge/Diverge Junctions**
 1. SR 70 NB Off-Ramp Junction
 2. SR 70 NB On-Ramp Junction
 3. SR 70 SB Off-Ramp Junction
 4. SR 70 SB On-Ramp Junction

Note that the budget is to obtain new counts for all of the study intersections and roadway segments. Every attempt will be made to obtain counts from available published reports in which case the budget will be adjusted accordingly. City staff indicated that the study locations identified above will be reviewed within the scoping meeting. If additional counts

are required as determined by City staff/other reviewing agencies, Omni-Means will provide a budget and obtain additional authorization to proceed with the same.

- **Task 3 – Memorandum of Assumptions.** Omni-Means will prepare a detailed Memorandum of Assumptions that documents each of the technical assumptions used to complete the study. These assumptions will include trip generation rates, pass-by percentages, directional distribution estimates, capacity analysis methodologies, and traffic forecasting procedures. The Memorandum will be submitted to the appropriate agencies for review and comment. If adjustments are required, a second draft will be resubmitted to these agencies for final approval.
- **Task 4 – Project Setting and Existing Conditions Capacity Analysis.** Based upon the data collected in Task 2, existing traffic conditions will be analyzed. All critical roadways and intersections near the proposed project (as listed in Task 2) will be described in terms of functional classification, roadway geometries, number of travel lanes, current traffic volumes, and intersection spacing. Roadway and intersection weekday AM and PM peak hour, freeway mainline and merge/diverge junctions and daily capacity analysis will be completed for these conditions.
- **Task 5 – Estimate Project Trip Generation.** We shall estimate the total number of vehicle trips expected to be generated by the proposed Wal-Mart Super Center project. The primary source of trip generation rates will be data obtained from the Trip Generation Manual (7th Edition) published by the Institute of Transportation Engineers, and information provided by the project applicant, as applicable. These rates will be adjusted accordingly for the specific site conditions, and reviewed with by the appropriate agencies, including pass-by trip reduction assumptions. Project trip generation volumes will be estimated for weekday and peak hour conditions.
- **Task 6 - Trip Distribution and Assignment.** Based upon an analysis of the trip making characteristics of the proposed project and area demographics, we shall estimate the trip distribution of project-generated traffic. Traffic will be assigned to the existing street system based upon logical travel patterns associated with this directional distribution.
- **Task 7 – Existing Plus Project Conditions Analysis.** Based upon the results of Tasks 5 and 6, the project-generated peak hour and daily trip volumes will be added to the Existing Conditions volumes, to obtain the Existing Plus Project traffic conditions. The potential LOS impacts of the project will be quantified, by comparison of Existing conditions to Existing Plus Project conditions at all study area critical intersections, freeway mainline and merge/diverge, and roadway segments.
- **Task 8 – Estimate Approved/Pending Project Trip Generation.** The location, and project descriptions for all currently approved/pending projects that can reasonably be expected to be in developed within the next few years will be obtained from the City. The total number of vehicle trips expected to be generated by each of the identified approved/pending projects will be estimated for weekday daily, AM and PM peak hour of adjacent street traffic conditions. The primary source of trip generation rates will be information from the Trip Generation Manual (7th Edition) published by ITE. These rates will be adjusted accordingly for specific site conditions. (Note: The budget is for a maximum of eight approved/pending projects.)
- **Task 9 – Approved/Pending Project Trip Distribution and Assignment.** Trip distribution estimated for approved/pending project traffic will be based upon

- existing and future traffic flow patterns, origin/destination data and area demographics. Traffic will be assigned to the existing street system based upon logical travel patterns associated with this directional distribution.
- **Task 10 – Short-Term No Project (Existing Plus Approved/Pending Projects) Conditions Analysis.** Based upon the results of Tasks 2,4,8, and 9, the weekday peak hour approved/pending projects trips will be added to existing traffic volumes to obtain Short-Term No Project Conditions. The potential LOS impacts of the approved/pending projects will be quantified by comparison of Existing conditions to Short-Term No Project conditions at all study intersections, freeway mainline and merge/diverge junctions, and roadways.
 - **Task 11 – Short-Term Plus Project Conditions Analysis.** Based upon the results of the previous task, the project-generated peak hour trip volumes will be added to the derived Short-Term No Project traffic volumes to obtain Short Term Plus Project Conditions. The potential LOS impacts of the project will be quantified by comparison of Short-Term No Project conditions to Short Term Plus Project conditions at all study area intersections, freeway mainline and merge/diverge junctions, and roadways.
 - **Task 12 – Future Year No Project Conditions Capacity Analysis.** Future Year (Year 2030) conditions without development of the proposed project area will be quantified for weekday daily and peak hour traffic conditions based upon travel forecasts obtained from the BCAG's Regional Traffic Model and adjusted as appropriate. Roadway and intersection weekday peak hour capacity analysis will be completed for these conditions.
 - **Task 13 – Future Year Plus Project Conditions Capacity Analysis.** The project generated peak hour trip volumes will be added to the Future Year (Year 2030) No Project traffic volumes to obtain the Future Year Plus Project Conditions. The potential LOS impacts of the project will be quantified by comparison of Future Year No Project conditions to the Future Year Plus Project conditions at all study area intersections, freeway mainline and merge/diverge junctions and roadways.
 - **Task 14 – Project Access.** Proposed project access roadways will be evaluated to determine appropriate configuration, location and traffic control. Spacing with other intersections and roadways and vehicle stacking requirements will be evaluated. Internal site related vehicle circulation will also be reviewed.
 - **Task 15 – Mitigation Measures.** Intersection and roadway improvements required to mitigate the traffic impacts identified in previous Tasks, for Existing, "Short-Term No Project," "Short-Term Plus Project," Future Year No Project, and Future Year Plus Project conditions will be quantified for weekday peak hour conditions. Roadway, freeway mainline and merge/diverge junctions, and intersection capacity improvements could include roadway widening, freeway interchange improvements, intersection widening, signalization, channelization, and/or turning movement restrictions. Levels of Service values will be reported for each of these mitigated conditions, along with the Projects' fair share of improvements. Fair share will be identified in terms of percentages.
 - **Task 16 – Prepare Administrative Draft TIAR.** The analysis conducted in Tasks 1 through 15 will be summarized in text, tables, and figures to explain the technical evaluation and recommendations. A detailed Administrative Draft TIAR will be prepared and submitted to the MBA and the project team for review and comment, and if appropriate, the affected local agencies.

- **Task 17 – Draft and Final TIAR.** Following review of the Administrative Draft TIAR by the City (and local agencies, if appropriate) Omni-Means will prepare the Draft TIAR for use in completing the ADEIR. Following receipt of the all comments on the ADEIR, a Final Draft TIAR will be prepared for use in the DEIR. Comments received on the DEIR and FEIR will be responded to by revisions to the TIAR (or in a standard Response to Comments format), and submitted to MBA and the project team for use in the project's FEIR. *(Note: Agency comments requiring significant new analysis or technical discussion may be subject to additional charges. This additional work will be completed only with the client's prior authorization, and will be billed on a Time and Materials Basis. In addition, we have included budget for responding to approximately 25 comments requiring a detailed response, and 25 comments requiring only a simple response, regarding the DEIR. The project team EIR consultant will be responsible for all non-technical comments (i.e. grammatical or formatting comments) received on the ADEIR, DEIR and FEIR Transportation chapter. Omni-Means will respond for technical comments on the comments ADEIR, DEIR and FEIR Transportation chapter and all comments received on the TIAR.)*
- **Urban Decay.** CBRE Consulting has identified several tasks relevant to economic impact and urban decay analysis of the Oroville Wal-Mart Supercenter. These tasks are associated with our report production for purposes of the Draft EIR and the subsequent public process and finalization of the EIR.
 - **Task 1 – Project Initiation and EIR Coordination.** CBRE Consulting will initiate the economic impact and urban decay analysis through reviewing existing materials pertaining to the Project and coordinate with MBA regarding key data points, such as tenant sizes, Project opening date, trip distribution assumptions, City of Oroville population estimates and projections, and cumulative projects detail. The purpose of this will be to achieve consistency between the EIR and the economic impact/urban decay study. Data required to support the analysis not included in existing materials will be specially requested.
 - **Task 2 – Project Definition.** We shall will formulate a working definition of the project. This will include anticipated sales upon stabilization and assumed project-opening date. This information will comprise a fundamental study baseline. We shall validate the assumption regarding the opening date with MBA prior to proceeding with the subsequent analysis, as this is a critical project benchmark. CBRE Consulting will develop retail sales categories relevant to the Wal-Mart Supercenter for comparative analysis. The primary resource for this estimation will include the 10-K report on file with the Securities and Exchange Commission prepared for Wal-Mart.
 - **Task 3 – Definition of Market Areas.** CBRE Consulting will define market areas appropriate for analysis of the project. This will include at minimum a primary market area, defined as the area from which the majority of retail demand for the Project is anticipated to originate. This will be defined through several approaches including visual observation and data analysis, analyzing the distribution pattern of other planned Wal-Mart Supercenters within the general region, and retail sales leakage analysis for Oroville and other potential constituent primary market area cities. Examination of the area's geography and regional highway system will also contribute to the definition of this area. CBRE Consulting will additionally estimate the level of the project demand likely to be generated from within this primary market area versus other sources of demand (i.e., assuming additional demand is generated from secondary or even tertiary market areas). If the research suggests the identity of a defined secondary market area, this area will also be defined during this task.

- **Task 4 – Population Estimates and Projections Compilation.** Population estimates and projections comprise a fundamental benchmark for purposes of CBRE Consulting's economic impact analysis. These estimates are an especially critical component of the retail sales leakage analysis described in the following task. Accordingly, substantial effort will be required to compile population estimates and projections for the primary market area as well as the secondary market area if such an area is defined. These will be prepared using generally accepted government resources, such as the State of California Department of Finance, the relevant Council of Governments (COG), and the constituent cities. Prior to proceeding with the retail sales leakage analysis, these estimates and projections will be reviewed with MBA. This task will provide an opportunity to ensure any future residents generated by planned residential projects in the primary market area and secondary market area, if relevant, are included in the population projections.
- **Task 5 – Retail Sales Leakage Analysis.** CBRE Consulting maintains a retail sales leakage model that estimates market area retail spending potential based upon households, income, and consumer spending patterns, and determines the extent to which a market area is or is not capturing this sales potential. Retail categories in which spending is not fully captured are called "leakage" categories, while retail categories in which more sales are captured than generated by residents are called "attraction categories."
CBRE Consulting will conduct this analysis for the city/cities comprising or overlapping with the project primary market area and, to the extent relevant, the secondary market area. The Retail Sales Leakage Analysis can only be performed for jurisdictions with publicly reported taxable sales volumes (i.e., as reported by the State of California Board of Equalization).
To the extent possible, the Retail Sales Leakage Analysis will be operated both for the present time period (the year 2005 being the most recent year for which retail sales data are available) and a relevant projected time period (i.e., the first year the project is anticipated to be fully operational) to determine the extent relevant retail demand is expected to grow based upon household growth by the time of the project's opening. The projection will also facilitate manual adjustments to the Retail Sales Leakage Analysis for any major new stores in relevant retail categories that may have opened in the primary market area after 2005, the year reflected by the available taxable sales data. Efforts will be made to the extent possible to identify the new stores, including their sizes, sales, and opening dates. The analysis will also take into account stores that may have closed since 2005 or are expected to close during the study timeframe. Input from the City of Oroville will be especially helpful for this task. We shall strive to achieve the same level of information for the secondary market area, if relevant.
The present time period results will indicate the extent the primary market area is currently capturing existing regional demand in categories relevant to the project, the extent of this attraction, and the extent there may be other regional potential to capture relevant sales. The results will indicate the extent future area household and income growth may impact the demand for new primary market area sales, coincident with the stabilization of the proposed project.
- **Task 6 – Conduct Site Reconnaissance.** CBRE Consulting will visit the project location to understand the location of the site vis-à-vis competitive retailers (existing and planned, see Task 8). This task will be conducted coincident with Task 7 activities.

- **Task 7 – Existing Comparable Store Impacts.** CBRE Consulting has developed a quantitative approach to estimate the extent of existing comparable primary market area sales that might be diverted by new or expanded retailers. The approach can also be applied to the secondary market area as well, if relevant. The approach takes into consideration the extent existing market area retailers share in regional demand, the extent market area retailers experience net regional attraction or leakage in key retail categories, and the anticipated distribution of the prospective retailer's sales. The data points most critical to this analysis include the actual primary and secondary market area sales data, the Retail Sales Leakage Analysis, and the projected retailer sales. To best accomplish this task, it is optimal to obtain store square footage information. While we can obtain some of this information through industry resources, we may request supplemental information from the City of Oroville. We may also request in writing store sales data in aggregate for a class of retailers to preserve data confidentiality, such as area grocery stores or major general merchandise stores. Given the scant level of data available from the State of California Board of Equalization, there may be an especially strong need for the provision of this information by the City.

This quantitative analysis will be paired with tours of the relevant primary market area stores, to be determined following the earlier project definition. The purpose of the tours will be to identify relative retail niches, to generally assess the nature and strength of their operations, and to qualitatively assess the degree to which the project may compete with existing stores, associated level of sales losses that may be experienced by these type of stores (in general), and duration of these prospective (if any) losses. Competitive stores will be identified through review of existing documents, Internet research, store listings, and estimated sales identified by Claritas (a national provider of demographic and economic data), and field research. Generalized findings will also be provided relative to the secondary market area, if deemed relevant.

- **Task 8 – Cumulative Impacts Analysis.** In addition to project impact, analysis will consider the cumulative impacts of this development in association with other new development projects under construction or planned in the primary market area and secondary market area, if relevant. This analysis will include projects known to the City of Oroville and other primary market area cities (if any) and secondary market area cities (if relevant) for which entitlement applications have been submitted. Projects with a reasonable expectation of being developed during or shortly after the timeframe of the project will be incorporated into the analysis. We shall coordinate with MBA and the Project's Traffic Consultant to ensure we are using common assumptions regarding planned projects. The preceding economic impact findings will be augmented through sensitivity analysis to include these projects.

- **Task 9 – Urban Decay Determination.** Based upon the preceding task findings, we shall develop an estimate of the extent development of the project may or may not contribute to urban decay in the primary market area and secondary market area (if relevant). To establish baseline conditions for this analysis, a visual assessment of existing retail occupancy/vacancies and building conditions will be conducted, and any areas of existing or potential physical deterioration will be noted. This analysis will focus on major shopping centers and the Downtown Oroville area.

A determination the project could result in potential urban decay would need to be predicated upon a finding of negative economic impact so severe stores might close as a result; it would be expected those buildings and/or property, rather than being reused within a reasonable time, would remain vacant, deteriorate, and lead to the decline of the associated or nearby real estate. If we find no or minimal negative impact, urban decay would not be a logical result. However, simple store closures are not sufficient to cause urban decay, as such closures could provide an opportunity for new retailers or other tenants to occupy the vacated space or for property owners to engage in economic development efforts to improve properties. We shall additionally contact commercial brokers active in the primary market area to obtain their perception of the potential for commercial leasing activity as well as their perception of the future and strength of retailing in the primary market area.

- **Task 10 – Report Preparation.** CBRE Consulting will prepare a succinct report documenting our study tasks, approach, and findings. Quantitative findings relevant to the report will be fully documented and attached as exhibits. A draft will be submitted for review prior to finalization, for the purposes of a Draft EIR. The report will be finalized upon our receipt of a consolidated set of client comments.

Our report will be based upon time sensitive information, such as annual taxable retail sales data, planned project information, and real estate market analysis. If City review of our report or submission of the report to public authorities is delayed such that time sensitive information becomes outdated and requires an update, additional time and fees will be required to complete this update.

Depending upon the duration of the delay, the associated time and fees may be significant. A changed assumption regarding the project size or project opening date as agreed upon pursuant to Task 2, Project Definition, will also necessitate substantial edits to the report, resulting in additional time and fees.

- **Task 11 – Response to Public Comments.** CBRE Consulting will review the relevant public comments submitted following distribution of the Draft EIR. We shall provide written responses to those comments directly pertaining to our report and relevant findings. Ten hours are assumed for this task.
- **Task 12 – Public Hearing Attendance.** CBRE Consulting's project management will attend public hearings relevant to the project. This assumes no prior conflicts associated with the meeting dates. Other provisions may need to be made if such conflicts occur. For the public hearings, CBRE Consulting will prepare a presentation about the project if necessary, or simply be available to answer questions should any arise relevant to our analysis. Two public hearings are assumed for this task.
- **Significant Unavoidable Adverse Impacts.** MBA will discuss all significant unavoidable adverse impacts, in conformance with the State CEQA Guidelines, Section 15126(b). The discussion will include any impacts that can be partially mitigated, but not to a level that is less than significant. Any mitigation measures considered, but eliminated from suggestion because of new impacts that would be associated with their implementation, will also be discussed.
- **Growth-Inducing Impacts.** Pursuant to Section 15126(g) of the State CEQA Guidelines, MBA will discuss any potential growth-inducing impacts of the proposed project. Potential sources of growth inducement and their corresponding impacts, such as removal of obstacles to growth (i.e., extension of infrastructure), new

employment generation, or major economic influences, will be qualitatively analyzed, to the extent that they are applicable.

- **Alternatives to the Proposed Project.** MBA will prepare the Alternatives Section for the EIR. The alternatives will be provided in sufficient detail for comparison with the proposed project. To provide an adequate comparison, the applicant and its team of consultants may need to provide data to MBA to support the alternative analysis and findings. Each alternative will be evaluated with respect to each key impact category reviewed for the proposed project. Graphic exhibits of alternatives will be presented, based upon information provided.

As required by the State CEQA Guidelines, MBA will discuss advantages and disadvantages of each alternative. The environmentally-superior alternative will be identified. A summary of the alternatives and their associated impacts will be provided in the EIR summary for resource category. In addition, a brief summary of alternatives that were initially considered but ultimately rejected from further consideration will be provided. One of the alternatives considered will be an "off-site" alternative, though it is yet to be determined if this will be analyzed as feasible or rejected from further consideration. This scope of work assumes three alternatives will be analyzed in the EIR, and no more than two alternatives rejected from further consideration will be summarized.

- **Project Summary.** MBA will prepare a summary, presenting the significant conclusions of the EIR in a manner that is easy to understand. A summary "table" format will be used to identify the significant impacts and the effectiveness of the recommended mitigation measures. A summary of the alternatives analyses, issues still to be resolved, and issues subject to potential controversy will be presented, as required by CEQA compliance procedures.
- **Other CEQA-Mandated Sections.** MBA will be responsible for the preparation of the following for each project:
 - Table of Contents
 - Irreversible and Irretrievable Commitment of Resources
 - List of Organizations and Persons Consulted
 - Preparers of the Environmental Document
 - References
 - Appendices

Task 5: Draft EIR

MBA will respond to the City and applicant's comments on the Administrative Draft EIR, complete necessary revisions, and publish the Draft EIR for public review. Once the product is deemed acceptable for public distribution, MBA will take responsibility for distribution of the Draft EIR.

To facilitate this process, the following steps will be taken for each project:

- Coordinate with the City's project coordinator who will assemble comments on, and suggested revisions to, the Administrative Draft EIR. One set of unified City staff comments will be provided to MBA. The City will reconcile conflicting review comments, if needed, between City staff before giving comments to MBA.
- Complete one set of revisions to the Administrative Draft EIR, pursuant to review comments. Revisions will be prepared in conformance with the scope of work. If additional revisions are required based upon factors such as changes to the project or

changes in report format, additional funds may be required and will be requested by MBA prior to proceeding with the report.

- Prepare and reproduce the Draft EIR for submittal to the City and applicant for a final "proof-check" review prior to distribution to the public.
- Reproduce 30 paper copies, one copy on CD/PDF format, and one camera ready original of the Draft EIR (assumes technical appendices on CD in portable document format [PDF]). Reproduce 15 hard copies and ten CD/PDF of the Technical Appendices. MBA will prepare the notice of completion (NOC) and submit it to the State Clearinghouse with 15 copies of the Draft EIR and Technical Appendices in CD/PDF format.

Task 6: Administrative Final EIR

MBA will prepare written responses to comments received on the Draft EIR that raise significant environmental issues and submit them for City staff and applicant's review after the close of the public comment period. The responses to comments will be prepared based upon the requirements of the State and City CEQA requirements.

To implement this, the following steps are proposed:

- The City's project coordinator will compile and transmit to MBA all written comments on the Draft EIR.
- Confer with staff and applicant's attorney to review written comments on the Draft EIR and comments from public meetings and hearings to develop a general framework and strategies for preparation of responses. The format of the Final EIR will be as an attachment of responses to comments to the text of the Draft EIR.
- Submit five copies of the Administrative Final EIR for City staff and applicant review. Responses within this proposal's scope of work and budget consist of explanation, elaboration, or clarification of the data contained in the Draft EIR with a budgeted effort of up to 100 hours for technical staff in this task. The project applicant's consultants will be responsible for responding to technical questions on their respective reports and providing responses to MBA for incorporation into the Final EIR.

Task 7: Final EIR

MBA will revise the written response to comments based upon comments received by City staff and the applicant. The City's project coordinator will assemble comments on, and suggested revisions to, the Final EIR. One set of unified comments, incorporating all City staff comments will be provided to MBA. MBA will reproduce 30 paper copies, one camera-ready original of the Final EIR, and one copy of the Final EIR (responses to comments document) in electronic format (CD/PDF), and distribute a copy to each public agency that commented on the corresponding Draft EIR in accordance with Section 21092.5(a) of the CEQA statutes. The applicant will also receive a paper and CD copy of the Final EIR and appendices. The remaining copies will be submitted to the City and be available to the public.

Task 8: Meeting Attendance

MBA has extensive experience in public outreach programs and scoping, including public participation programs and public hearings. MBA will be present at public

meetings and hearings to develop an understanding of the public's comments and concerns, be available to answer questions on environmental issues, and make presentations on the EIR.

MBA's role is as follows:

- Attend one public scoping meeting, one public hearing at the Planning Commission, one public hearing at City Council, and five other meetings with City staff and/or the applicant.
- Conduct presentations, as required, regarding the EIR process and findings, and be available to answer questions that may arise at public hearings or meetings.
- Prepare handout materials regarding the EIR process and findings, if needed. Meeting graphics depicting the project and other project description materials are assumed to be provided by the City and/or the project applicant.

Task 9: Mitigation Monitoring and Reporting Program

MBA will prepare a Mitigation Monitoring and Reporting Program (MMRP) for each project complying with Public Resources Code Section 21081.6, as mandated by Assembly Bill 3180 (Cortese 1988), for adoption at the time of the CEQA findings.

- MBA will prepare a Draft MMRP in accordance with the State and City CEQA requirements. The MMRP will be designed to ensure compliance with adopted mitigation requirements during project implementation. In coordination with City staff, MBA will prepare the MMRP for mitigation measures that address significant impacts.
- The program will be designed to fit into the City's existing entitlement and project review process. The City will provide the format. MBA will coordinate with staff to refine MMRP content and format, prior to preparing the Draft MMRP.
- After review and comment on the Draft MMRP, MBA will revise the MMRP, according to the comments provided, and will submit two paper copies, one camera ready original, and one copy on CD/PDF format of the Final MMRP with the submittal of the Final EIR.

Task 10: CEQA Notices

MBA will prepare all CEQA-required notices in compliance with state legislation and guidelines. This task includes the preparation of the Notice Of Completion (NOC) and Notice Of Determination (NOD) that will be prepared for each project.

- Prepare the NOC and NOD, in compliance with the State CEQA Guidelines.
- Submit the draft notices for City staff review and revise them, based upon staff comments. The NOP will be distributed by MBA via certified mail.
- The Final NOC will be filed with the State Clearinghouse with the Draft EIR. The Final NOD is assumed to be filed with the Butte County Clerk within five working days of the project approval. One camera-ready original and one copy on CD/PDF format of the NOP and NOC will be submitted by MBA. MBA assumes the applicant will provide the funds necessary for the California Department of Fish and Game filing fees at the time of filing the NOD.

Task 11: Project Management and Coordination

MBA will manage the preparation of the EIR and maintain close communication among City staff and project team members. This task is intended to ensure the project is running on time and within budget, and is technically correct and legally defensible. The MBA Project Manager will provide management liaison among the project team and City staff for communication of issues, transmittal of comments, financial management (i.e., invoices), and other project management matters. This task assumes 120 hours of time to be spent by MBA's Project Manager and other key staff.

EXHIBIT B

Fees

The fees for the EIR for the development of the approximate 20-acre Wal-Mart Supercenter project, in the City of Oroville are provided below. The proposed fee is based upon the scope of work described above; it includes all labor and direct costs.

TASK	FEES
Professional Labor	
Task 1: Project Description and Background	\$ 4,500
Task 2: Notice of Preparation	3,500
Task 3: Scoping Process	4,000
Task 4: Administrative Draft EIR	59,000
Task 5: Draft EIR	16,000
Task 6: Administrative Final EIR	14,000
Task 7: Final EIR	6,000
Task 8: Meeting Attendance	12,500
Task 9: Mitigation Monitoring and Reporting Program	4,000
Task 10: CEQA Notices	2,500
Task 11: Project Management and Coordination	15,500
Total MBA Professional Labor	141,500
Technical Reports	
Air Quality Study (MBA)	19,500
Biological Resources Assessment (MBA)	9,000
Cultural Resources Assessment (MBA)	6,500
Economic Study (CBRE)	55,000
Noise Study (MBA)	7,000
Traffic Study (Omni-Means)	59,900
(Optional) Wetland Delineation Report (MBA)	7,500
Total Technical Report Labor	164,400
Direct Costs	
Reprographics/Document Production	9,000
Mileage	800
Delivery/Postage	600
Miscellaneous (film, maps, faxes, etc.)	500
10% Administrative Fee	1,090
Total Direct Costs	11,990
Total Professional Fee	\$317,890

The assumptions used in calculating the above fees are:

- The price is valid for up to 30 days from the date of this scope, after which it may be subject to revision.

2. The City will be responsible for distribution of public review documents.
3. This price is based upon completion of the work within the proposed schedule. ~~If delays occur, an amendment of the price would be warranted to accommodate additional project management and other costs, and to reflect adjustments for updated billing rates.~~
4. Printing costs are based upon the method of printing and binding proposed, specific numbers of copies proposed as work products, and estimated page lengths. Document printing costs are estimated and will need to be finalized at the time of printing. (Estimated document costs, including appendices are: IS/NOP - \$15, Administrative Draft EIR: \$70, Draft EIR: \$75, Administrative Final EIR: \$35, MMRP: \$7, Findings of Fact: \$8, Final EIR: \$35).
5. The EIR will be prepared to comply with CEQA.
6. Costs have been allocated to tasks based upon MBA's proposed approach. During the work, MBA may, on its sole authority, re-allocate costs among tasks and/or direct costs, as circumstances warrant, so long as the adjustments maintain the total price within its authorized amount.
7. An internal review and comment will be conducted by the project team for each document submitted to the City.
8. The EIR scope of work may need to be adjusted after receipt of NOP comments.
9. ~~This scope of work and fee is considered preliminary and interim in nature. More specifically, it may be subject to revisions based upon feedback from the City's review of the applicant's project application and review of our proposal.~~

EXHIBIT C

Schedule

WORK PRODUCT/MILESTONE	ESTIMATE COMPLETION (WEEKS)
Project initiation meeting; receipt of approved project plans, and all background information. Initiate preparation of technical reports.	1
Submit NOP to City/Applicant	4
Receive Comments on IS/NOP from City	6
Distribute IS/NOP for 30-Day Public Review Period	7
Close of 30-Day NOP Public Review Period	11
Submit Administrative Draft EIR to City	14
Receive Comments on Administrative Draft EIR from City	16
Submit Revised Draft EIR to City	18
Distribute Draft EIR for Public Review (45 days)	19
End of Public Review Period	25
Submit Administrative Final EIR, and Draft MMRP to City	27
Receive Comments on Administrative Final EIR, and Draft MMRP to City/Applicant	29
Submit Final EIR and Final Version of MMRP to City	31
City Planning Commission and City Council Public Hearings	To be Determined

The assumptions used in determining the above project schedule are:

1. Assumes receipt of approved project description and construction plans, project-related information, base maps, and photographs at the project initiation meeting.
2. The periods shown assume a set amount of time for the City's review of each submittal. If review schedules change, the elapsed time of other tasks will be maintained.
3. Assumes all technical reports will be completed and deemed adequate by Week 10.
4. The review period for the NOP will be the State-mandated 30 days.
5. The review period for the EIR will be the State-mandated 45 days.

EXHIBIT D

EXHIBIT D

INSURANCE REQUIREMENTS

Insurance Requirements for Consultant. The Consultant shall obtain and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by the Consultant, his agents, representatives, or employees.

Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence Form CG 0001)
2. Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto)
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance for Consultant's employees, if any

Minimum Limits of Insurance

Consultant shall maintain limits no less than:

(1) General Liability:	\$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
(2) Automobile Liability:	\$500,000 per accident for bodily injury and property damage
(3) Employer's Liability:	\$1,000,000 per accident for bodily injury or disease.

EXHIBIT D (cont'd)

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City of Oroville. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self insured retentions as respects the City, its officers, officials, employees and volunteers; or the Consultant shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

The commercial general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

The City, its officers, officials, employees and volunteers are to be covered as insureds as respects: liability arising out of work or operations performed by or on behalf of the Consultant; or automobiles owned, leased, hired or borrowed by the Consultant.

For any claim related to this project Consultant insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be excess of Consultant's insurance and shall not contribute with it.

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-VII unless otherwise acceptable to the City.

Verification of Coverage

Consultant shall furnish the City with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on forms provided by the City or on other than the City's forms provided those endorsements conform to City requirements. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications at any time.

**AMENDMENT TO AGREEMENT NO. 1763
FOR PROFESSIONAL SERVICES BETWEEN THE CITY OF OROVILLE AND
MICHAEL BRANDMAN ASSOCIATES**

(Agreement No. 1763-2)

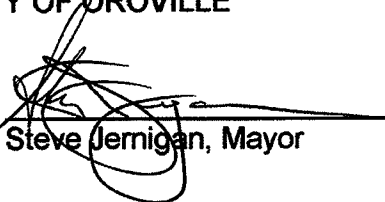
This Second Amendment dated July 7, 2009 is to Agreement No. 1763 between the City of Oroville ("City") and Michael Brandman Associates ("Consultant"). A copy of the Agreement No. 1763 is attached as Exhibit "A."

In consideration of the terms and conditions herein, the City and the Consultant agree that Agreement No. 1763 shall be amended as follows:

1. Consultant shall provide the following additional services for the City:
 - a. Revise trip generation estimates contained in the current draft report to reflect the "ITE Trip Generation 8th Edition" rates. In addition, the new trip generation estimates will be based upon recently updated site plan square foot quantities and will not "Outside Garden Center" area as part of gross leasable square foot totals.
 - b. Revise "Plus Project" impact analysis to incorporate the revised project trip generation estimates into the study location capacity analysis models. Daily, AM peak hour and PM peak hour capacity analysis as completed for the existing draft report will be revised to reflect the new trip generation data.
 - c. Revise draft report to incorporate the revised daily and peak hour capacity analysis results for all "plus project" scenarios into the existing draft report. All "plus project" tables and figures in the existing draft report will be updated with the revised traffic volume data, along with the daily, AM peak hour and PM peak hour capacity analysis results (delay and LOS). All project related impacts currently identified in the draft report will be reviewed based upon the new capacity analysis results. Revised and/or new project impact and related mitigation measures will be added to the existing draft report.
 - d. Additional project management and agency meeting time is required. This task included all project-related conference calls and two (2) meetings with either the City of Oroville or CalTrans.

2. Conflicts between the Agreement and this Second Amendment shall be controlled by this Second Amendment. All other provisions within Agreement No. 1763 shall remain in full force and effect.
3. Consultant shall be paid no more than \$54,818 to complete the work in section 1 of this amendment.

CITY OF OROVILLE

By: 
Steve Jernigan, Mayor

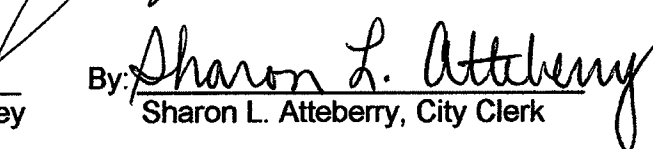
MICHAEL BRANDMAN ASSOCIATES

By: 
Jason Brandman

APPROVED AS TO FORM:

By: 
Dwight L. Moore, City Attorney

ATTEST:

By: 
Sharon L. Atteberry, City Clerk

Attachment:

Exhibit "A" -- Agreement No. 1763

**AMENDMENT TO AGREEMENT NO. 1763
FOR PROFESSIONAL SERVICES BETWEEN THE CITY OF OROVILLE AND
MICHAEL BRANDMAN ASSOCIATES**

(Agreement No. 1763-1)

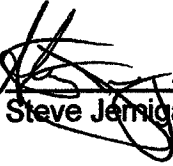
This First Amendment dated June 2, 2009 is to Agreement No. 1763 between the City of Oroville ("City") and Michael Brandman Associates ("Consultant"). A copy of the Agreement No. 1763 is attached as Exhibit "A."


In consideration of the terms and conditions herein, the City and the Consultant agree that Agreement No. 1763 shall be amended as follows:

1. Consultant shall provide the following additional services for the City: Micro-simulation analysis of Oro Dam Boulevard/SR 70 ramps and Feather River Boulevard intersections. Consultant will also prepare a quantified alternative analysis at all study locations, both with and without the proposed project. This alternatives analysis will be completed using a version of the City's travel demand model that includes a new east/west by-pass facility between Oro Dam Blvd. and Georgia Pacific Way. The by-pass facility would include a new SR 70 interchange and grade-separated RR crossing east of SR 70. Transportation impacts and related mitigation measures will be identified, including the project's fair share percentages (when applicable). Consultant will compile the results of this analysis into a Technical Memorandum and submit for review and comments.
2. Conflicts between the Agreement and this First Amendment shall be controlled by this First Amendment. All other provisions within Agreement No. 1763 shall remain in full force and effect.
3. Consultant shall be paid no more than \$13,152 to complete the work in section 1 of this amendment.

CITY OF OROVILLE

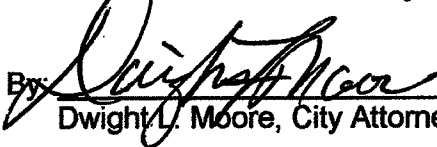
MICHAEL BRANDMAN ASSOCIATES

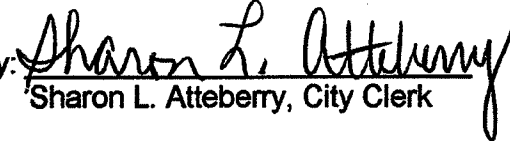
By: 
Steve Jernigan, Mayor

By: 
Jason Brandman

APPROVED AS TO FORM:

ATTEST:

By: 
Dwight L. Moore, City Attorney

By: 
Sharon L. Atteberry, City Clerk

Attachment:

Exhibit "A" -- Agreement No. 1763



May 19, 2009

Jared Hancock, Planning Manager, Interim
City of Oroville
Planning Department
1735 Montgomery Street
Oroville, CA 95965


Subject: Request for Additional Funds - Traffic Study for Oroville Wal-Mart Project

Dear Jared:

As you know, Omni Means, at the direction of the project applicant and the City, has been performing additional work in preparing the traffic study for the above mentioned project. As part of our discussions earlier this week, you asked that MBA submit a formal request for additional funds in order to augment our contract being Omni Means is a subconsultant to MBA. In response to that request, I have attached their brief scope of work and request for additional funds.

The total fee associated with the additional work to be performed in preparation of the traffic study is \$13,152. We look forward to receiving the contract amendments for this effort. If you have any questions regarding the enclosed, please call me at 925.830.2733 or email me at jbrandman@brandman.com.

Sincerely,


Jason Brandman, Vice President
Michael Brandman Associates
Bishop Ranch 3
2633 Camino Ramon, Suite 460
San Ramon, CA 94583

33280001.0

Bakersfield
661.334.2755

Fresno
559.497.0310

Irvine
714.508.4100

Palm Springs
760.323.8847

Sacramento
916.447.1100

San Bernardino
909.884.2255

San Ramon
925.830.2733

ENVIRONMENTAL SERVICES ■ PLANNING ■ NATURAL RESOURCES MANAGEMENT

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**AGREEMENT FOR PROFESSIONAL SERVICES FOR
WALMART SUPERCENTER PROJECT**

THIS AGREEMENT (the "Agreement") is made and entered into this 10th day of Oct, 2007, by and between the CITY OF OROVILLE (herein "City"), a municipal corporation and MICHAEL BRANDMAN ASSOCIATES ("Consultant"). The parties hereto agree as follows:

1.0 SERVICES OF CONSULTANT

1.1 Scope of Services. In compliance with all terms and conditions of this Agreement, the Consultant shall provide those services specified for a proposed Wal-Mart Supercenter in the "Scope of Services" attached hereto as Exhibit "A" and incorporated herein by this reference. As a material inducement to the City entering into this Agreement, Consultant represents that Consultant is a provider of first class work and services and Consultant is experienced in performing the environmental review work and services contemplated herein as required by the California Environmental Quality Act (Pub Res. Code §21000-21178.1) ("CEQA"). Consultant covenants that she shall use her best efforts in performing the work and services required hereunder and that all work product will be of good quality, fit for the purpose intended.

1.2 Consultant's Proposal. The Scope of Services shall include Consultant's proposal ("Proposal") which shall be incorporated herein by this reference as though fully set forth herein. In the event of any inconsistency between the terms of the Proposal and this Agreement, the terms of this Agreement shall govern.

1.3 Compliance with Law. All Consultant's services rendered under this Agreement shall be provided in accordance with all ordinances, resolutions, statutes, rules and regulations of the City and any federal, state, or local governmental agency having jurisdiction in effect at the time service is performed.

1.4 Licenses, Permits, Fees & Assessment. Consultant and her subconsultants shall obtain at her sole cost and expense any licenses, permits, and approvals as may be required by law for the performance of the services required by this Agreement. Consultant and her subconsultants shall have the sole obligation to pay for any fees, assessments and taxes, plus applicable penalties and interest, which may be imposed by law and arise from or are necessary for their performance of the services required by this Agreement. Consultant shall indemnify, defend and hold harmless the City against any such fees, assessments, taxes, penalties, or interest levied, assessed, or imposed against City.

1.5 Familiarity with Work. By executing this Agreement, Contactor acknowledges that Consultant (a) has thoroughly investigated and considered the scope of services to be performed, (b) has carefully considered how the services should be performed, and (c) fully understands the proposed annexation, planning entitlements, difficulties, and restrictions associated with Consultant's performance of the services under this Agreement. If services involve work upon any site, Consultant warrants that Consultant has or will investigate the site and is or will be fully acquainted with the conditions there existing, prior to commencement of services under this Agreement. Should Consultant discover any latent or unknown conditions, which will materially affect the performance of the services under this Agreement, Consultant shall immediately inform the City of such fact and shall not proceed, except at Consultant's risk until written instructions are received from the Community Services Director and the City Administrator.

1.6 Further Responsibilities of Parties. Both parties agree to use reasonable care and diligence to perform their respective obligations under this Agreement. Both parties agree to use their best efforts to execute all instruments, prepare all documents, and take all actions as may be reasonably necessary to carry

out the purposes of this Agreement. Unless hereafter specified, neither party shall be responsible for the services of the other.

1.7 Additional Services. The City shall have the right at any time during the Consultant's performance of the services, without invalidating this Agreement, to order extra work or make changes by altering, adding to or deducting from Consultant's services. No such extra work may be undertaken unless a written order is first given by the City Community Services Director and the City Administrator to the Consultant, incorporating therein any adjustment in (i) the Contract Sum, and/or (ii) the time to perform this Agreement, which said adjustments are subject to the written approval of the Consultant. Any change in compensation of the Contract Sum, or in the time to perform, shall be first approved in writing by the City Council. It is expressly understood by Consultant that the provisions of this section shall not apply to services specifically set forth in the Scope of Services or reasonably contemplated therein. Consultant hereby acknowledges that she accepts the risk that the services to be provided pursuant to the Scope of Services may be more costly or time consuming than Consultant anticipates and that Consultant shall not be entitled to additional compensation therefor except for additional meetings at City's request.

2.0 COMPENSATION.

2.1 Contract Sum. For the services rendered pursuant to this Agreement, the Consultant shall be compensated in accordance with the "Schedule of Compensation" attached hereto as Exhibit "B" and incorporated herein by this reference. Total compensation of Consultant shall not exceed Three Hundred Seventeen Thousand Eight Hundred Ninety Dollars (\$317,890.00) (the "Contract Sum"), except as provided in Section 1.7.

Consultant's compensation and her subconsultants' compensation shall not exceed the amounts set forth in Exhibit "B" for each task. Consultant shall submit a monthly status report and billing to City Community Services Director.

3.0 PERFORMANCE SCHEDULE

3.1 Time of Essence. Time is of the essence in the performance of this Agreement.

3.2 Schedule of Performance. Consultant shall commence the services pursuant to this Agreement upon receipt of a written notice to proceed from the City and shall perform all services within the time period(s) established in the "Schedule of Performance" attached hereto as Exhibit "C" and incorporated herein by this reference.

3.3 Force Majeure. The time period(s) specified in the Schedule of Performance for performance of the services rendered pursuant to this Agreement shall be extended as a result of any delays due to unforeseeable causes beyond the control and without the fault or negligence of the Consultant, including, but not restricted to, acts of God or of the public enemy, fires, earthquakes, floods, epidemics, quarantine restrictions, riots, wars, litigation, and/or acts of any governmental agency, including City only if Consultant shall within ten (10) days of the commencement of such delay notify City in writing of the causes of the delay. City shall ascertain the facts and the extent of delay, and extend the time for performing the services for the period of the enforced delay when and if in the reasonable judgment of City such delay is justified. In no event shall Consultant be entitled to recover damages against City for any delay in the performance of this Agreement, however caused, Consultant's sole remedy being extension of the Agreement pursuant to this Section 3.3.

3.4 **Term.** Unless earlier terminated in accordance with Section 7.6 of this Agreement, this Agreement shall continue in full force and effect until completion of the services, but in no event exceeding two (2) years from the date of this Agreement.

4.0 **COORDINATION OF WORK**

4.1 **Representative of Consultant.** Only the persons or entities designated in Exhibit "A" shall perform the services described with their names. The foregoing persons or entities shall not be replaced by Consultant without the prior written approval of City.

4.2 **Contract Officers.** The Contract Officers shall be the City Community Services Director and the City Administrator. It shall be Consultant's responsibility to assure that the Contract Officers are kept informed of the progress of the performance of the services, and Consultant shall refer any decisions which must be made by City to the Contract Officers.

4.3 **Prohibition Against Subcontracting or Assignment.** The experience, knowledge, capability, and reputation of Consultant, her principals, and employees and subconsultants were a substantial inducement for City to enter into this Agreement. Therefore, Consultant shall not contract with any other person or entity, other than those shown in Exhibit "A", to perform in whole or in part the services required under this Agreement without the prior written approval of City. In addition, neither this Agreement nor any interest herein may be transferred, assigned, conveyed, hypothecated, or encumbered voluntarily or by operation of law, whether for the benefit of creditors or otherwise, without the prior written approval of City. Transfers restricted hereunder shall include the transfer to any person or group of persons acting in concert of more than twenty-five percent (25%) of the present ownership and/or control of Consultant, taking all transfers into account on a cumulative basis. In the event of any such unapproved transfer, including any bankruptcy proceeding, this Agreement shall, at City's sole election, be void. No approved transfer shall release Consultant of any liability hereunder without the prior written approval of City.

4.4 **Independent Consultant.** Consultant shall perform all services required herein as an independent Contractor of City and shall remain at all times as to City an independent Contractor with only such obligations as are consistent with that role. Consultant shall not at any time or in any manner represent that it or any of its agents, employees or subconsultants are agents or employees of City. City shall not in any way or for any purpose become or be deemed to be a partner of Consultant in its business or otherwise or a joint venturer or a member of any joint enterprise with Consultant.

5.0 **INSURANCE, INDEMNIFICATION AND BONDS**

5.1 **Insurance.** In accordance with Exhibit "D", Consultant shall procure and maintain insurance, at her sole cost and expense, in a form and content satisfactory to City, during the entire term of this Agreement.

5.2 **Indemnification.** Consultant agrees to indemnify City, its officers, volunteers, agents, and employees against, and shall hold them and each of them harmless from any and all actions, suits, claims, damages to persons or property, losses, costs, penalties, obligations, errors, omissions, or liabilities (herein "claims or liabilities") that may be asserted or claimed by any person, firm, or entity arising out of or in connection with the negligent performance of the work, services, operations, or activities of Consultant, its agents, employees, subconsultants, or invitees relating to this Agreement, or arising from the misconduct, negligent acts or omissions of Consultant hereunder, or arising from Consultant's negligent performance of or failure to perform any term, provision, covenant, or condition of this Agreement, whether or not there is

concurrent passive negligence of City, its officers, agents or employees, who are directly responsible to City and in connection with such indemnification:

(a) Consultant shall defend any legal action or actions filed in connection with any of such claims or liabilities and shall pay all costs and expenses, including legal costs and attorneys' fees incurred in connection with such defense.

(b) Consultant shall promptly pay any court judgment against City, its officers, agents, or employees for any such claims or liabilities arising out of or in connection with the negligent performance of or failure to perform such work, operations, or activities of Consultant hereunder; and Consultant agrees to save and hold City, its officers, agents, and employees harmless therefrom.

(c) In the event City, its officers, agents, or employees is made a party to any action or proceeding filed or prosecuted against Consultant for such damages or other claims arising out of or in connection with the negligent performance of or failure to perform the work operation, or activities of Consultant hereunder, Consultant agrees to pay to City, its officers, agents or employees any and all costs and expenses incurred by City, its officers or employees in such action or proceeding.

(d) Although City has a duty to the public to independently review any consultant prepared negative declaration or environmental impact report (EIR), that duty to the public, or the breach thereof, shall not relieve Consultant of the duties under this section nor of the warranties set forth in Section 1.1.

5.3 Sufficiency of Insurer. Insurance required by this Agreement shall be satisfactory only if issued by companies qualified to do business in California, rated "A" or better in the most recent edition of Best Rating Guide, the Key Rating Guide or in the Federal Register and only if they are of a financial category Class VII or better.

6.0 RECORDS AND REPORTS

6.1 Reports. Consultant shall prepare and submit to the Contract Officers a monthly report concerning the performance of the services required by this Agreement or more often if the Contract Officers deem it necessary. Consultant acknowledges that the City is greatly concerned about the cost of work and services to be performed pursuant to this Agreement. For this reason, Consultant agrees that if Consultant becomes aware of any facts, circumstances, techniques, or events that may or will materially increase or decrease the cost of the work or services under this Agreement, Consultant shall promptly notify the Contract Officers in writing of such fact, circumstance, technique or event.

6.2 Records. Consultant shall keep, and require subconsultants to keep, such books and records as shall be necessary to perform the services required by this Agreement and enable the Contract Officers to evaluate the performance of such services. The Contract Officers shall have full and free access to such books and records at all times during normal business hours of City, including the right to inspect, copy, audit, and make records and transcripts from such records. Such records shall be maintained for a period of three (3) years following completion of the services hereunder, and the City shall have access to such records in the event any audit is required.

6.3 Ownership of Documents. All drawings, specifications, reports, records, documents and other materials prepared by Consultant, its employees, subconsultants, and agents in the performance of this Agreement shall be the property of City and shall be delivered to City upon request of the Consultant Officers or upon the termination of this Agreement, and Consultant shall have no claim for further employment or additional compensation as a result of the exercise by City of its full rights of ownership of

the documents and materials hereunder. Any use of such complete documents for other projects and/or use of uncompleted documents without specific written authorization by the Consultant shall be at City's sole risk and without liability to Consultant. Consultant and her subconsultants may retain copies of such documents for their own use. Consultant shall have an unrestricted right to use the concepts embodied therein. All subconsultants shall provide for assignment to City of any documents or materials prepared by them, and in the event Consultant fails to secure such assignment, Consultant shall indemnify City for all damages resulting therefrom.

6.4 Release of Documents. The drawings, specifications, reports, records, documents, and other materials prepared by Consultant in the performance of services under this Agreement shall not be released publicly without the prior written approval of the Contract Officers.

7.0 ENFORCEMENT OF AGREEMENT

7.1 California Law. This Agreement shall be construed and interpreted both as to validity and to performance of the parties in accordance with the laws of the State of California. Legal actions concerning any dispute, claim, or matter arising out of or in relation to this Agreement shall be instituted in the Superior Court of the County of Butte, State of California, or another appropriate court in such county, and Consultant covenants and agrees to submit to the personal jurisdiction of such court in the event of such action.

7.2 Retention of Funds. Consultant hereby authorizes City to retain from any amount payable to Consultant (whether or not arising out of this Agreement) (i) any amounts the payment of which may be in dispute hereunder or which are necessary to compensate City for any losses, costs, liabilities, or damages suffered by City.

7.3 Waiver. No delay or omission in the exercise of the right or remedy by a non-defaulting party on any default shall impair such right or remedy or be construed as a waiver. Any waiver by either party of any default shall be in writing and shall not be a waiver of any other default concerning the same and any other provision of this Agreement.

7.4 Rights and Remedies are Cumulative. Except with respect to rights and remedies expressly declared to be exclusive in this Agreement, the rights and remedies of the parties are cumulative and the exercise by either party of one or more of such rights and remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

7.5 Legal Action. In addition to any other rights or remedies, either party may take legal action, in law or in equity, to cure, correct, or remedy any default, to recover damages for any default, to compel specific performance of this Agreement, to obtain declaratory or injunctive relief, or to obtain any other remedy consistent with the purposes of this Agreement.

7.6 Termination Prior to Expiration of Term. This section shall govern any termination of this Agreement except as specifically provided in the following section for termination for cause. City reserves the right to terminate this Agreement at any time, with or without cause, upon seven (7) days written notice to Consultant, except that where termination is due to the fault of the Consultant, the period of notice may be such shorter time as may be determined by the Contract Officers. Upon receipt of any notice of termination Consultant shall immediately cease all services hereunder, except such as may be specifically approved by the Contract Officers. Consultant shall be entitled to compensation for all services rendered prior to receipt of the notice of termination and for any services authorized by the Contract Officers

thereafter in accordance with the Schedule of Compensation or such as may be approved by the Contract Officers, except as provided in Section 7.2.

7.7 Termination for Default of Consultant. If termination of this Agreement is due to the failure of the Consultant to fulfill her obligations under this Agreement, City may take over the work and prosecute the same to completion by contract or otherwise, and the Consultant shall be liable to the extent that the total cost for completion of the services required hereunder exceeds the compensation herein stipulated (provided that the City shall use reasonable efforts to mitigate such damages), and City may withhold any payments to the Consultant for the purpose of setoff or partial payment of the amounts owed City.

7.8 Attorneys' Fees. If either party to this Agreement commences any legal action or proceeding against the other party arising from this Agreement, the prevailing party, in addition to any other relief which may be granted, whether legal or equitable, shall be entitled to reasonable attorneys' fees, expert witness fees, court costs, discovery expenses and all other necessary costs the court allows which are incurred in such litigation.

8.0 CITY OFFICERS AND EMPLOYEES: NON-DISCRIMINATION

8.1 Non-Liability of City Officers and Employees. No officer or employee of the City shall be personally liable to the Consultant, or any successor in interest, in the event of any default or breach by the City or for any amount that may become due to the Consultant or to her successor, or for breach of any obligation of the terms of this Agreement.

8.2 Conflict of Interest. No officer or employee of the City shall have any financial interest, director or indirect, in this Agreement nor shall any such officer or employee participate in any decision relating to the Agreement which effects his or her financial interest or the financial interest of any corporation, partnership or association in which he or she is, directly or indirectly, interested, in violation of any state statute or regulation. The Consultant warrants that it has not paid or given and will not pay or give any third party any money or other consideration for obtaining this Agreement.

9.0 MISCELLANEOUS PROVISIONS

9.1 Notice. Any notice, demand, request, document, consent, approval, or communication either party desires or is required to give to the other party or any other person shall be in writing and either served personally or sent by prepaid, first class mail, in the case of City, to the City Administrator, CITY OF OROVILLE, 1735 Montgomery Street, Oroville, CA 95965, phone number (530) 538-2404, and in the case of Consultant to Jason Brandman, 11060 White Rock Road, Suite 150, Sacramento, CA 95670. Either party shall notify the other party of any change of address in writing. Notice shall be deemed communicated at the time personally delivered or in seventy-two (72) hours from the time of mailing if mailed as provided in this Section.

9.2 Interpretation. The terms of this Agreement shall be construed in accordance with the meaning of the language used and shall not be construed for or against either party by reason of the authorship of this Agreement or any other rule of construction which might otherwise apply.

9.3 Integration: Amendment. It is understood that there are no oral agreements between the parties hereto affecting this Agreement and this Agreement supersedes and cancels any and all previous negotiations, arrangements, agreements, and understandings, if any, between the parties, and none shall be

used to interpret this Agreement. This Agreement may be amended at any time by the mutual consent of the parties by an instrument in writing.

9.4 Severability. In the event that any one or more of the phrases, sentences, clauses, paragraphs, or sections contained in this Agreement shall be declared invalid or unenforceable by a valid judgment or decree of a court of competent jurisdiction, such invalidity or unenforceability shall not affect any of the remaining phrases, sentences, clauses, paragraphs or sections of this Agreement which are hereby declared as severable and shall be interpreted to carry out the intent of the parties hereunder unless the invalid provision is so material that its validity deprives either party of the basic benefit of their bargain or renders this Agreement meaningless.

9.5 Corporate Authority. The persons executing this Agreement on behalf of the parties hereto warrant that (i) such party is duly organized and existing, (ii) they are duly authorized to execute and deliver this Agreement on behalf of such party, (iii) by so executing this Agreement, such party is formally bound to the provisions of this Agreement, and (iv) the entering into this Agreement does not violate any provision of any other Agreement to which such party is bound.

IN WITNESS WHEREOF, the parties have executed and entered into this Agreement as the date first written above.

ATTEST:

By: Sharon L. Attebery
City Clerk

APPROVED AS TO FORM:

By: [Signature]
City Attorney

CITY OF OROVILLE
A Municipal Corporation

By: [Signature]
Mayor Steve Jernigan

MICHAEL BRANDMAN
ASSOCIATES

By: [Signature]
Name: Jason Brandman
Title: Vice President
Address: 2633 Camino Ramon, Ste. 460
San Ramon, CA 94583

Brandman-4

EXHIBIT A

Task 1: Project Description and Background

The MBA Project Manager will meet with City staff to obtain information necessary for preparation of complete project and alternatives descriptions, establish early communication among various project team members, and become familiar with the issues and concerns identified for analysis.

To facilitate this process, we shall:

- Attend an initial orientation meeting with City staff to review the proposed project scope of work and confirm the elements that will be included in descriptions of the project and alternatives to the proposed project.
- Receive complete project information, approved by the City, to be used in developing an EIR project description. Information will include project objectives (including those of the City and the applicant), land use data and statistical summary, and graphics.
- Receive alternative site criteria, conceptual site plans, land use data, and narrative program descriptions of project alternatives, from the City (with input from the applicant, as directed by the City), sufficient to develop the EIR description of alternatives to the proposed project.
- Refine the project schedule, based upon agreements reached during contract negotiations and on information discussed at the initial meeting, if needed.
- Receive all existing reference and research materials related to the project, the project site and vicinity, including base maps, aerial photographs, and environmental documentation, if appropriate, near the project.
- Review of site specific data, conduct a field visit, interview relevant parties such as City and other agency staff to document baseline conditions, and review the City's Environmental Review Guidelines, as appropriate.

Task 2: Notice of Preparation

MBA will prepare the Notice of Preparation (NOP) for the project, which will include the appropriate City form, a project description, project exhibits, and a discussion of environmental issues. MBA will reproduce 50 copies of the NOP and distribute 15 copies (CD/PDF) to the State Clearinghouse. The remaining 35 copies will be mailed to City staff. One camera-ready original and one CD/PDF formatted copy of the NOP will also be submitted to the City.

Task 3: Scoping Process

MBA will coordinate with City staff to conduct a scoping meeting for the proposed project. MBA will be responsible for collecting and compiling all information provided by the public for consideration in determining the issues to be analyzed in the EIR. MBA will assist the City staff to determine the format, strategies, and content of the scoping presentation as well as in preparing and noticing the meeting, preparing visuals and handouts and other meeting logistics, as necessary.

Task 4: Administrative Draft EIR

MBA will prepare the Administrative Draft EIR and submit five copies to the City for review, to include the following:

- **Project Description.** One of the first key actions will be to formulate a working description for the project and project alternatives. MBA will work with the City to prepare a description that articulates the project's overall objectives. MBA will prepare the project description section of the EIR, based upon information provided during project initiation and comments received on the NOP, to include:
 - Regional and local setting
 - Project history
 - Project goals and objectives of the City and the applicant
 - Project characteristics and important project features

Intended uses of the EIR (as required by Section 15124(d) of the State CEQA Guidelines) will be provided, including a list of responsible and other agencies expected to use the EIR in decision making, and a list of approvals for which the EIR will be used.

- **Cumulative Projects Identification.** Compliant with City standards, MBA will describe the reasonably-foreseeable projects within a City-approved defined study area that may result in cumulative impacts associated with the proposed project. MBA will work closely with City staff to ensure the EIR is prepared at the appropriate level of detail and pertinent projects are evaluated. As identified above, we assume the City will provide information on all reasonably anticipated projects to MBA so cumulative projects can be adequately addressed.

Cumulative projects may be defined within a specified area around each project site as projects constructed, but not occupied; projects approved, but not constructed; pending projects for which pre-filing or filing of an application with its respective lead agency has occurred; and anticipated or announced projects for which no application has yet been filed with the lead agency. However, note the evaluation area for cumulative impacts would vary dependent upon the technical issue to be addressed. For instance, the evaluation area for traffic analysis encompasses a larger area than the immediate site and access to it via Cal Oak Road, Feather River Boulevard, and 7th Avenue. Findings of recent court cases will be used to address all pertinent issues. Cumulative projects will be discussed for each technical issue. Growth-inducing impacts will be evaluated separately in the EIR.

- **Effects Found to be Not Significant.** MBA will describe effects found to be not significant, in accordance with Section 15128 of the State CEQA Guidelines, by listing them with brief explanations of why they are not significant, or by referral to the NOP. We assume the following environmental issues will result in no significant impacts:
 - Agricultural Resources
 - Mineral Resources
 - Population and Housing
 - Recreation

If in responses received on the NOP any of the above issues are found to result in potentially significant impacts that cannot be mitigated, these issues will require evaluation in the EIR. Revisions to the scope and budget will be discussed with the City.

- **Establishment of Thresholds of Significance.** MBA will work with the City to establish thresholds of significance for each environmental issue to be addressed in the EIR. In addition to the general standards of significance identified in the CEQA Guidelines, there are established thresholds applicable to this project including, but

not limited to, cultural resources, hazardous materials, air quality (Butte County Air Quality Management District [AQMD]), biological resources (City, California Department of Fish and Game, U.S. Fish and Wildlife Service, U.S. Army Corps of Engineers), traffic (City), noise (City and/or County), and energy (Appendix F, Energy Conservation, CEQA Guidelines). The thresholds will be stated in each technical section of the EIR to clearly illustrate analytical process used to identify potential project effects. We anticipate current thresholds will primarily be used.

- **Effects Identified as Potentially Significant.** MBA will conduct an environmental analysis of the proposed project to include the documentation of baseline conditions, conducting project and cumulative impact evaluations, and formulating mitigation measures for each environmental issue.

As discussed previously, several technical studies have likely been or will be prepared by the applicant's Engineer. These could include geology and soils, hydrology/water quality, and a Phase I Environmental Site Assessment. MBA will review the studies for CEQA adequacy. After determining the studies are adequate, MBA will summarize and incorporate them into the EIR. Traffic analysis and economic study (urban decay) will be conducted by Omni Means, Ltd and CBRE Consulting, respectively. The MBA project team will address the remaining issues in the EIR.

- **Aesthetics.** The project will be evaluated through the use of ground-level photographs and architectural elevations provided by the applicant. Impacts will be assessed in terms of visibility of the project, alteration of the visual setting, and sensitivity of viewpoints as outlined in the City of Oroville Environmental Review Guidelines. The potential glare impacts, including scale and illumination in relation to existing development, from construction and operation of the proposed project will also be evaluated. Both the aesthetic and light and glare impacts will be assessed in terms of visibility of the project and its components. The long-term implications of the proposed project in relation to the City General Plan and Zoning Ordinance will also be discussed. Potential aesthetic impacts will be identified and discussed. Mitigation measures will be recommended, if necessary, to reduce any significant impacts.
- **Air Quality.** The air quality analysis would examine both regional and localized air quality impacts. Stationary and mobile emissions generated during both the construction and operation phase of the project will be analyzed. Air pollutant emissions produced from both heavy equipment and dust from grading during the construction effort and traffic emissions during the operation phase will be the focus of the study. The impact analysis will include a discussion of the impact criteria based upon Butte County AQMD CEQA Guidelines, City of Oroville Environmental Review Guidelines, or State CEQA Guidelines from the Appendix G checklist. Impacts will also include a review of federal and State ambient air quality standards and other air quality regulations governing this project. Appropriate mitigation measures will be developed, as necessary. A detailed discussion of MBA's scope of work for an air quality study is provided as follows:
 - **Task 1 - Data Collection.** MBA will collect relevant project and site background information, including base graphics showing the project area and vicinity, the proposed project and adjacent land uses, and a copy of the traffic study prepared for the project. Upper and lower air data for the project area collected from the Butte County AQMD, the California Air Resources Board (CARB) and/or the US Environmental Protection Agency (EPA) will be assessed to determine

existing ambient air quality conditions and current attainment status of federal and state standards. Project description and related documents will be reviewed for air quality issues; and field review of the site will be conducted if necessary to document existing conditions and determine if there are any unanticipated sources of emissions or sensitive receptors in the area.

- **Task 2 - Emissions Calculations.** MBA will calculate project emissions using emission factors and methodologies developed by the CARB, Butte County AQMD, and other agencies. Short-term construction emissions as well as long-term operational emissions for the proposed project will be determined using the California ARB URBEMIS (version 9.2) transportation and land use program. Vehicle emission factors will be generated for the proposed project using California ARB EMFAC2002 model (version 2.2). Annual emissions will be calculated using emission factors, traffic generation data, and average vehicle trip distance. A Localized CO Hot-Spot Analysis will be conducted for the proposed project of up to four intersections with the highest potential for congestion using the California Department of Transportation Caline4 model; and model results will be analyzed for the proposed project. Mitigation measures will be incorporated, as appropriate, into the computer model. A consistency determination will be prepared in accordance with CEQA guidelines and Butte County Indirect Source Guidelines to ensure that the project is consistent with the goals of the 2003 Air Quality Attainment Plan.
- **Task 3 - Health Risk Assessment.** MBA will calculate the project's generated concentration of diesel particulates from heavy-duty diesel trucks in the immediate vicinity of the project site and truck routes using the US EPA's Industrial Source Complex (ISC3) model and the methodology found in the EPA-454/B-95-003b technical document published by the US EPA.
Cancer and non-cancer health risks associated with project-generated diesel particulates will be predicted using the Unit Risk Factor (URF) developed by the CARB's Scientific Review Committee for cancer risk of diesel particulates, and the Reference Exposure Level (REF) for non-cancer health risks of diesel particulates developed by Office of Environmental Health Hazard Assessment (OEHHA).
- **Task 4 - Global Warming Impact Analysis.** The air quality analysis will estimate project generated emissions of greenhouse gasses and evaluate the incremental contribution to global warming impacts. The analysis will discuss project compliance with recent state legislation of global warming (AB-1493 and AB-32) and project design features that will increase efficiency, reduce vehicle trips, or other features that reduce greenhouse gas emissions and lower the project's incremental contribution to global warming impacts.
- **Task 5 - Draft Report.** MBA will prepare a stand-alone air quality technical report that will describe existing conditions, identify potential impacts of the proposed project, and recommend mitigation measures to reduce those impacts. The report will be summarized in the EIR and included in its entirety as an appendix to the document. The project specific air quality analysis report will be done in the context of CEQA using thresholds of significance specific from either Butte County AQMD or from the CEQA checklist, Appendix G.
- **Biological Resources.** As a baseline document for the Oroville Wal-Mart Super Center EIR, MBA will conduct a biological resources study of the project site and

document the results in a stand-alone report to be summarized in the EIR and included in the appendices of the document.

For the study, MBA will characterize and map the distribution of the Project site's plant communities and wildlife habitats. Our field surveys will include documentation of common plant and wildlife species observed onsite, and any special habitat features (such as active nests being used by migratory birds). MBA will also field evaluate wildlife movement through the property, and potential linkages to important adjacent habitats. Photos will be taken to document the biological resources of the project site. The potential onsite presence of any "special status" plant or wildlife species or habitats will be assessed; these include those considered rare, endangered, threatened, sensitive, or otherwise unique by government agencies (e.g., California Department of Fish and Game [CDFG] or U.S. Fish and Wildlife Service [USFWS], or by recognized conservation organizations (e.g., California Native Plant Society or California Natural Diversity Data Base [CNDDDB]). After completing the site surveys, MBA will make initial contacts with CDFG, USFWS, USACE, and other regulatory agencies to identify potential agency concerns.

A biological resources study report will be prepared and included in the EIR that summarizes the literature review, agency concerns, and survey methodology, as well as describing plant communities present (type and dominant flora), wildlife observed, and special-status species or habitats that may be occur. The report will be written according to accepted scientific and technical standards consistent with the requirements of Butte County, CEQA, USFWS, CDFG, and all other pertinent reviewing agencies and organizations. This report will be summarized in the EIR as the basis for an impact analysis and development of mitigation measures.

Based upon a regional review (within ten miles) of the CNDDDB centered on the Palermo USGS 7.5-minute quadrangle, the following special status species are known to occur in the area and may be present onsite: Brandegee's clarkia (*Clarkia bilboea* ssp. *brandegeae*), Valley elderberry longhorn beetle (*Desmocerus californicus dimorphus*), Ahart's dwarf rush (*Juncus leiospermus* var. *ahartii*), Red Bluff dwarf rush (*Juncus leiospermus* var. *leiospermus*), and Butte County golden clover (*Trifolium jokerstii*). A ditch bisects the property from north to south, and this will be evaluated both as a potential Waters of the U.S./State, and as possible habitat for special status species associated with aquatic habitat, such as vernal pool fairy shrimp (*Branchinecta lynchi*) or California linderiella (*Linderiella occidentalis*). Should field surveys result in a finding that habitat onsite is suitable to support any of these species, more detailed ("focused," or presence/absence-level) surveys will be recommended. Further, if any surveys result in a finding that any special-status species is present onsite, mitigation measures will be recommended using USFWS and CDFG standards. These measures will be applicable for any subsequent permits that may be needed from USFWS (either a Section 10a incidental take permit, or a Section 7 consultation) or CDFG (a Section 2081 permit).

Should the ditch that bisects the property be considered a Waters of the U.S. or State, then the report will recommend a detailed wetlands delineation be completed and verified by USACE. Further, if the ditch is found to be jurisdictional, the report will describe wetlands permits that will be needed for filling or altering the ditch. These could include a Streambed Alteration Agreement from CDFG, a Section 404 permit from USACE, and a Section 401 water quality certification from the Regional Water Quality Control Board. MBA could complete a wetlands delineation and undertake

any wetlands permitting, on behalf of the City, as additional tasks, (see option below) or under an amended scope of work.

- **Jurisdictional Delineation (Optional)** - An MBA wetlands regulatory specialist will perform a jurisdictional delineation of the ditch that transects the middle of the property in a north-to-south alignment. Assuming the ditch is found to convey drainage flows from adjoining properties and has a downstream connection to a known Waters of the US/State, or a tributary to one, it may be considered jurisdictional under both Section 404 of the federal Clean Water Act and the California Porter-Cologne Water Quality Act. While completing baseline biological investigations for the EIR, MBA staff will also exactly map the length and width of the ditch (using a GPS) for accurate CADD plotting, and the height of the Ordinary High Water Mark in the ditch will be determined. This information will be used to prepare a jurisdictional delineation report suitable for submittal to USACE. The report will include exhibits depicting the ditch location with surrounding topography, and its location within the local drainage system, as well as local soils, vegetation, and hydrology information. This task does not cover any subsequent permitting that may be needed with USACE, CDFG, or the RWQCB.
- **Cultural Resources.** A cultural resources assessment requires five tasks: a record search at the Northeast Information Center (NEIC), California State University, Chico (Task 1); a record search request to the Native American Heritage Commission in Sacramento (Task 2); a record search request for a paleontological record search (Task 3); a pedestrian field survey of the study area (Task 4); and preparation of a written Cultural Resource Assessment Phase I report detailing the findings of the record searches and the field survey (Task 5). In particular, pedestrian reconnaissance survey of the proposed project area will be conducted by a qualified Archaeologist. The survey will provide a visual assessment of the ground surface and the historic resources within the project area. All previously undiscovered cultural resources older than 45 years of age should be assessed for significance as defined in the CEQA Guidelines 15064.5. If cultural resources over 45 years old are determined to be "significant" resources under CEQA, a formal evaluation will be conducted and could include comprehensive archival/historical research and recordation with a DPR Primary Record and appropriate detailed DPR forms (e.g., Building, Structure, Object (BSO), Archaeological Site Record forms, etc.). The cultural resource survey report will detail the results of the record search and reconnaissance survey. The report will meet all applicable City and/or State standards for Phase I Cultural Resources studies and at minimum contain an introduction and setting section; prehistoric and historic (if present) background information; field methodology; and the results of the record search and the field survey. The survey results are required to contain information on any sites identified and the potential for buried archaeological remains based upon the existing conditions at the proposed project site. This report will be summarized in the EIR and included in its entirety as an appendix to the document.
- **Geology, Soils, and Seismicity.** Based upon the high level of design put forth in the site plan prepared by Pacland in June 2007, it is quite likely a geotechnical study has been prepared for the proposed project the study should evaluate the stability of the soils and geology to support the project and its associated infrastructure. The study is expected to address the potential for lateral spreading, subsidence, liquefaction or collapse, seismic-related ground failure, including liquefaction, strong seismic

ground shaking, expansive soils, and soil erosion. The MBA project team will review the report for CEQA adequacy and to verify there is sufficient information to be used in the preparation of the EIR. We anticipate the report will recommend mitigation measures if there are potential significant impacts. This report will be summarized in the EIR and included in its entirety as an appendix to the document.

- **Hazards and Hazardous Materials.** If not available from the applicant, a Phase I Environmental Site Assessment (ESA) will be prepared by MBA to investigate the likelihood or potential presence of hazardous materials contamination at the project site. The ESA will be performed in conformance with the most recent American Society for Testing and Materials (ASTM) Standard Practice for Environmental Site Assessments: Phase I ESA Process, Designation E 1527-00. The ASTM Standard Practice is in keeping with innocent landowner requirements as provided for under the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA). In addition to review of existing onsite and project vicinity conditions relating to current and historical uses of the site and the potential for hazardous material contamination, the ESA will also present the results of a review of environmental databases at the Federal, State, and Regional levels for the project site and surrounding areas. This information, including all relevant findings in the ESA will be summarized in the EIR and included in its entirety in an Appendix to the document.
- **Hydrology and Water Quality.** Based upon the high level of design put forth in the site plan prepared by Pacland in June 2007, it is probable a preliminary hydrology study has or will be prepared for the proposed project. If so, the MBA project team will review the report for CEQA adequacy and to verify there is sufficient information to be used to prepare the EIR. The study should evaluate the potential construction and operational impacts of the proposed project on surface runoff, flooding, and the increase in impermeable surface area. MBA will summarize the existing hydrological and water quality characteristics of the project site and the potential impacts from the implementation of the proposed project. The project site is within a 100-year flood plain per the Dry Creek Study of 1991 (the Feather River Backwater Condition), therefore the site is subject to local flooding when high volume release (150,000 cfs) from Oroville Dam occurs. The hydrology study and EIR analysis will evaluate the effect of development within this special flood zone based upon existing data provided by the City of Oroville. Development of the project site may be subject to the City's Municipal Code Chapter 8B, Flood Hazard Prevention. Chapter 8B applies, at a minimum, to those properties designated as an "Area of Special Flood Hazard" on FEMA's flood insurance rate map for the city of Oroville. It is currently unclear whether the project site is included on FEMA's flood insurance rate map. However, the requirements of Chapter 8B likely will apply to the site since the City currently considers the site located within a 100-year floodplain. Section 8B-3 requires a Development Permit for projects located on a flood hazard site. Finally, qualitative discussion of water quality issues related to the proposed project will be provided. Conformity of the proposed project to water quality regulations will also be discussed. Mitigation measures for hydrology and water quality impacts will be recommended, if needed.
- **Land Use and Relevant Planning Programs.** Existing onsite land uses (i.e., vacant) and land uses in the immediate vicinity of the proposed project (i.e., west: vacant land, California Shingle and Shake, California Stove & Supply Company, Performance Mini Storage; north: vacant land, "Old" Oroville Cemetery, Louisiana

Pacific Hardboard Plant; east: vacant land, SPG Solar F&M Machine & Manufacturing Company, Northwest SPCA Animal Shelter; and south: vacant land, Comac MFG Corporation machine tuning and milling shop) will be identified by MBA from existing information, available aerial photography, and a field visit. An existing land use map will be presented in the EIR. The EIR will evaluate the compatibility of the proposed project in relation to surrounding land uses and consistency with regional plans and programs, and the City plans and policies, including, but not limited to, the General Plan and Zoning Ordinance. Impacts on existing land uses including the compatibility of proposed development with the adjacent undeveloped lands, as well as potential future land uses in the project vicinity, will be assessed for the construction (short-term) and operations (long-term) phases (i.e., traffic trips, noise emissions, visual alteration, etc.). Density, interrelationship of uses, and environmental impacts will also be addressed from a land use impact perspective. The appropriateness of the proposed project will be evaluated with respect to the existing and proposed General Plan land uses, emerging land use trends, and regional access availability. We shall recommend measures to reduce or eliminate adverse land use effects, as necessary.

- **Noise.** MBA will provide an analysis of short-term and long-term noise levels associated with the proposed project. These levels will be evaluated and related to any applicable noise regulations or land use compatibility guidelines in the City of Oroville Code and/or Noise Element of the General Plan, or in appropriate County-level documents. The impact analysis will include a discussion of the impact criteria based upon any applicable City of Oroville Environmental Review Guidelines, or the State CEQA Guidelines from the Appendix G checklist. The following is a detailed approach to the analysis:
 - **Task 1 - Noise Monitoring.** MBA will perform limited onsite ambient noise monitoring to update our baseline noise characterization of the area, including the identification of transportation related noise sources such as major arterial roadways, railroads, and potential aircraft over flights. In addition, MBA will identify any stationary (non-transportation related) noise sources such as commercial and industrial noise impacts
 - **Task 2 - Baseline Development.** MBA will develop a baseline traffic noise exposure profile in terms of the day-night level (DNL) noise metric using the Federal Highway Administration (FHWA) Model with the latest California vehicle noise curves (CALVENO)
 - **Task 3 - No Project/With Project Preparation.** MBA will prepare a no-project versus with-project mobile noise impact comparison, including any viable project alternative development scenarios. This will identify specific sensitive receiver locations where mobile source noise impacts may adversely affect nearby residents or other sensitive receptors
 - **Task 4 - Evaluation.** MBA will evaluate stationary noise impacts from temporary onsite construction noise sources and operational noise sources (HVAC, loading docks, etc)
 - **Task 5 - General Plan Noise Element Guidelines Consideration.** MBA will compare project noise impacts to the Noise Element noise/land use compatibility guidelines in the City General Plan Noise Element and other applicable noise exposure regulations such as the City Code or the Butte County General Plan Noise Element

- **Task 6 - Mitigation Plan.** MBA will develop a noise impact mitigation plan that addresses impacted sensitive receptors such as proposed residential uses in close proximity to the site or the truck routes that exceed the target noise exposure limits.

- **Task 7 - Draft Report.** MBA will summarize findings in a "stand-alone" draft noise technical report in a setting/impact/mitigation format.

The noise study will be summarized in the EIR and included in its entirety as an Appendix to the document.

- **Public Services and Utilities.** MBA will coordinate with the team's Project Engineer, the City staff, and affected public service and utility purveyors to assess potential impacts of the proposed project. The following services, facilities, and utility systems will be analyzed:

- Police Protection
- Fire Protection
- Water Supply
- Wastewater
- Stormwater
- Solid Waste
- Energy

Letters describing the proposed project will be sent to all service and utility agencies. Answers will be requested to document existing and planned facilities' current and planned usages and excess capacities. The additional capacity required to meet projected needs will be described. We shall assess anticipated impacts and recommend appropriate mitigation measures.

- **Traffic and Circulation.** Omni-Means (O-M) will prepare a traffic study for the proposed project. The study will quantify the existing and future (20 year) traffic impacts associated with development of the overall project for vehicular (including trucks), pedestrian and transit related impacts, along with mitigation measures required to mitigate impacts to an acceptable traffic operation and safety level.

O-M has scoped this project based upon the following general assumptions:

The traffic study will analyze the following scenarios

- Existing Conditions
- Short-Term Base Conditions (Existing + Approved/Pending)
- Short-Term Plus Project Conditions (Existing + Approved/Pending + Project)
- Future Year (Year 2030) No Project Conditions
- Future Year (Year 2030) Plus Project Conditions

Access to the project site would be via Feather River Boulevard, Cal Oak Road and 7th Avenue

For each of the project traffic scenarios the transportation analysis will quantify the daily, AM and PM peak hour impacts

O-M will use Butte County Association of Governments (BCAG's) Regional Travel Demand Volume (TDM) for determination of future year traffic volumes (Note - It is not anticipated that the City of Oroville Travel Demand Model (currently in progress)

would be available for use in deriving future year forecasts. However, if the City of Oroville Travel Demand Model would become available during the course of the study the future year forecasts may need verified and adjusted.)

Intersection and roadway capacity analysis will be completed using Synchro software.

Meetings – O-M has not budgeted for project meetings. We shall attend all project meetings on a time-and-materials basis.

Agency Reviews – The Memorandum of Assumptions will be delivered to the City of Oroville, MBA, and other reviewing agencies for review and comment. An initial Administrative Draft TIAR will be delivered to the City of Oroville, MBA, the project team and reviewing agencies (if appropriate) for review and comment, prior to incorporation into the ADEIR. We shall meet with these agencies (if necessary) to review their comments. The Draft TIAR will be prepared incorporating all client and agency comments received on the Administrative Draft report. Following agency review of the ADEIR, DEIR and FEIR, Omni-Means will prepare a Final Report (or formal Response to Comments letter). The Draft TIAR and Final TIAR (or formal Response to Comments letter) will be prepared within an additional four week period, respectively. *(Note – During the scoping of this proposal, Omni-Means contacted the City of Oroville Public Works Department to inquire on details regarding traffic analysis methodologies. Per discussion with City staff, we understand the Oroville Travel Demand Model (base/calibrated model) will be used to derive the proposed project's trip distribution and assignment. The City indicated that the future conditions model may not be completed within the timeframe of this study. As such, the Travel Demand Model will be used only for trip distribution and assignment, per City's desire. However, should the model subsequently become available during the later stages of the study (prior to the DEIR stage), the future year forecasts may require adjustments to conform to model projections.)*

Schedule – Omni-Means would begin work on this project immediately following notice to proceed. The administrative draft TIAR will be completed within an eight-week period. The Draft TIAR and Final TIAR (or formal Response to Comments letter) will be prepared within an additional two-to-three-week, respectively.

- **Task 1 – Study Initiation Meeting and Project Management.** Omni-Means will review all project related material, including; site maps, land use quantities, site access locations, project descriptions, project applications, recent traffic studies within the study area, and agency transportation planning documents (including general plan circulations elements, and/or specific plan circulation elements). The Project Manager will conduct an initial field review and meet with the City to review this Scope of Work and ascertain any changes relative to their requirements. We shall also obtain any additional information the City may have pertinent to this project.

Omni-Means will provide all project managements responsibilities including agency coordination, attend meetings, prepare meeting minutes, manage engineering staff, perform quality control review, and produce project billings.

- **Task 2 – Data Collection.** To provide a data base of existing and future conditions, available relevant data will be collected. This data would include traffic counts, existing development, planned development proposals, improvement plans, etc. Weekday AM and PM peak hour, and roadway daily count information will be obtained by Omni-Means at 15 intersections and eight roadway segments near the project (shown in Attachment A).

- **Intersections**
 1. Oroville Dam Boulevard W/SR 70 SB Ramps
 2. Oroville Dam Boulevard E/SR 70 NB Ramps
 3. Oroville Dam Boulevard E/Feather River Boulevard
 4. Oroville Dam Boulevard E/S 7th Avenue
 5. Oroville Dam Boulevard E/Liability Lane
 6. Oroville Dam Boulevard E/S 5th Avenue
 7. Oroville Dam Boulevard E/Veatch Street
 8. Oroville Dam Boulevard E/Lincoln Boulevard
 9. Oroville Dam Boulevard E/Washington Avenue/Olive Highway
 10. Feather River Boulevard/Cal Oak Road
 11. S 7th Avenue/Cal Oak Road
 12. S 5th Avenue/Cal Oak Road
 13. SR 70/Georgia Pacific Way
 14. Feather River Boulevard/Georgia Pacific Way
 15. S 7th Avenue/Georgia Pacific Way
- **Roadways**
 1. Oroville Dam Boulevard between SR 70 NB Ramps and Feather River Boulevard
 2. Oroville Dam Boulevard between Feather River Boulevard and S 7th Avenue
 3. Oroville Dam Boulevard between S 7th Avenue and S 5th Avenue
 4. Feather River Boulevard between Cal Oak Road and Oroville Dam Boulevard E
 5. S 7th Avenue between Cal Oak Road and Oroville Dam Boulevard
 6. S 5th Avenue between Cal Oak Road and Oroville Dam Boulevard
 7. Feather River Boulevard between Georgia Pacific Way and Cal Oak Road
 8. S 7th Avenue between Georgia Pacific Way and Cal Oak Road
- **Freeway Mainline Segments**
 1. NB SR 70 south of Oroville Dam Boulevard
 2. SB SR 70 south of Oroville Dam Boulevard
 3. NB SR 70 north of Oroville Dam Boulevard
 4. SB SR 70 north of Oroville Dam Boulevard

Freeway mainline volume information will be obtained from Caltrans.

- **Freeway Ramp Merge/Diverge Junctions**
 1. SR 70 NB Off-Ramp Junction
 2. SR 70 NB On-Ramp Junction
 3. SR 70 SB Off-Ramp Junction
 4. SR 70 SB On-Ramp Junction

Note that the budget is to obtain new counts for all of the study intersections and roadway segments. Every attempt will be made to obtain counts from available published reports in which case the budget will be adjusted accordingly. City staff indicated that the study locations identified above will be reviewed within the scoping meeting. If additional counts

are required as determined by City staff/other reviewing agencies, Omni-Means will provide a budget and obtain additional authorization to proceed with the same.

- **Task 3 – Memorandum of Assumptions.** Omni-Means will prepare a detailed Memorandum of Assumptions that documents each of the technical assumptions used to complete the study. These assumptions will include trip generation rates, pass-by percentages, directional distribution estimates, capacity analysis methodologies, and traffic forecasting procedures. The Memorandum will be submitted to the appropriate agencies for review and comment. If adjustments are required, a second draft will be resubmitted to these agencies for final approval.
- **Task 4 – Project Setting and Existing Conditions Capacity Analysis.** Based upon the data collected in Task 2, existing traffic conditions will be analyzed. All critical roadways and intersections near the proposed project (as listed in Task 2) will be described in terms of functional classification, roadway geometries, number of travel lanes, current traffic volumes, and intersection spacing. Roadway and intersection weekday AM and PM peak hour, freeway mainline and merge/diverge junctions and daily capacity analysis will be completed for these conditions.
- **Task 5 – Estimate Project Trip Generation.** We shall estimate the total number of vehicle trips expected to be generated by the proposed Wal-Mart Super Center project. The primary source of trip generation rates will be data obtained from the Trip Generation Manual (7th Edition) published by the Institute of Transportation Engineers, and information provided by the project applicant, as applicable. These rates will be adjusted accordingly for the specific site conditions, and reviewed with by the appropriate agencies, including pass-by trip reduction assumptions. Project trip generation volumes will be estimated for weekday and peak hour conditions.
- **Task 6 - Trip Distribution and Assignment.** Based upon an analysis of the trip making characteristics of the proposed project and area demographics, we shall estimate the trip distribution of project-generated traffic. Traffic will be assigned to the existing street system based upon logical travel patterns associated with this directional distribution.
- **Task 7 – Existing Plus Project Conditions Analysis.** Based upon the results of Tasks 5 and 6, the project-generated peak hour and daily trip volumes will be added to the Existing Conditions volumes, to obtain the Existing Plus Project traffic conditions. The potential LOS impacts of the project will be quantified, by comparison of Existing conditions to Existing Plus Project conditions at all study area critical intersections, freeway mainline and merge/diverge, and roadway segments.
- **Task 8 – Estimate Approved/Pending Project Trip Generation.** The location, and project descriptions for all currently approved/pending projects that can reasonably be expected to be in developed within the next few years will be obtained from the City. The total number of vehicle trips expected to be generated by each of the identified approved/pending projects will be estimated for weekday daily, AM and PM peak hour of adjacent street traffic conditions. The primary source of trip generation rates will be information from the Trip Generation Manual (7th Edition) published by ITE. These rates will be adjusted accordingly for specific site conditions. *(Note: The budget is for a maximum of eight approved/pending projects.)*
- **Task 9 – Approved/Pending Project Trip Distribution and Assignment.** Trip distribution estimated for approved/pending project traffic will be based upon

- existing and future traffic flow patterns, origin/destination data and area demographics. Traffic will be assigned to the existing street system based upon logical travel patterns associated with this directional distribution.
- **Task 10 – Short-Term No Project (Existing Plus Approved/Pending Projects) Conditions Analysis.** Based upon the results of Tasks 2,4,8, and 9, the weekday peak hour approved/pending projects trips will be added to existing traffic volumes to obtain Short-Term No Project Conditions. The potential LOS impacts of the approved/pending projects will be quantified by comparison of Existing conditions to Short-Term No Project conditions at all study intersections, freeway mainline and merge/diverge junctions, and roadways.
 - **Task 11 – Short-Term Plus Project Conditions Analysis.** Based upon the results of the previous task, the project-generated peak hour trip volumes will be added to the derived Short-Term No Project traffic volumes to obtain Short Term Plus Project Conditions. The potential LOS impacts of the project will be quantified by comparison of Short-Term No Project conditions to Short Term Plus Project conditions at all study area intersections, freeway mainline and merge/diverge junctions, and roadways.
 - **Task 12 – Future Year No Project Conditions Capacity Analysis.** Future Year (Year 2030) conditions without development of the proposed project area will be quantified for weekday daily and peak hour traffic conditions based upon travel forecasts obtained from the BCAG's Regional Traffic Model and adjusted as appropriate. Roadway and intersection weekday peak hour capacity analysis will be completed for these conditions.
 - **Task 13 – Future Year Plus Project Conditions Capacity Analysis.** The project generated peak hour trip volumes will be added to the Future Year (Year 2030) No Project traffic volumes to obtain the Future Year Plus Project Conditions. The potential LOS impacts of the project will be quantified by comparison of Future Year No Project conditions to the Future Year Plus Project conditions at all study area intersections, freeway mainline and merge/diverge junctions and roadways.
 - **Task 14 – Project Access.** Proposed project access roadways will be evaluated to determine appropriate configuration, location and traffic control. Spacing with other intersections and roadways and vehicle stacking requirements will be evaluated. Internal site related vehicle circulation will also be reviewed.
 - **Task 15 – Mitigation Measures.** Intersection and roadway improvements required to mitigate the traffic impacts identified in previous Tasks, for Existing, "Short-Term No Project," "Short-Term Plus Project," Future Year No Project, and Future Year Plus Project conditions will be quantified for weekday peak hour conditions. Roadway, freeway mainline and merge/diverge junctions, and intersection capacity improvements could include roadway widening, freeway interchange improvements, intersection widening, signalization, channelization, and/or turning movement restrictions. Levels of Service values will be reported for each of these mitigated conditions, along with the Projects' fair share of improvements. Fair share will be identified in terms of percentages.
 - **Task 16 – Prepare Administrative Draft TIAR.** The analysis conducted in Tasks 1 through 15 will be summarized in text, tables, and figures to explain the technical evaluation and recommendations. A detailed Administrative Draft TIAR will be prepared and submitted to the MBA and the project team for review and comment, and if appropriate, the affected local agencies.

- **Task 17 – Draft and Final TIAR.** Following review of the Administrative Draft TIAR by the City (and local agencies, if appropriate) Omni-Means will prepare the Draft TIAR for use in completing the ADEIR. Following receipt of the all comments on the ADEIR, a Final Draft TIAR will be prepared for use in the DEIR. Comments received on the DEIR and FEIR will be responded to by revisions to the TIAR (or in a standard Response to Comments format), and submitted to MBA and the project team for use in the project's FEIR. *{Note: Agency comments requiring significant new analysis or technical discussion may be subject to additional charges. This additional work will be completed only with the client's prior authorization, and will be billed on a Time and Materials Basis. In addition, we have included budget for responding to approximately 25 comments requiring a detailed response, and 25 comments requiring only a simple response, regarding the DEIR. The project team EIR consultant will be responsible for all non-technical comments (i.e. grammatical or formatting comments) received on the ADEIR, DEIR and FEIR Transportation chapter. Omni-Means will respond for technical comments on the comments ADEIR, DEIR and FEIR Transportation chapter and all comments received on the TIAR.}*
- **Urban Decay.** CBRE Consulting has identified several tasks relevant to economic impact and urban decay analysis of the Oroville Wal-Mart Supercenter. These tasks are associated with our report production for purposes of the Draft EIR and the subsequent public process and finalization of the EIR.
 - **Task 1 – Project Initiation and EIR Coordination.** CBRE Consulting will initiate the economic impact and urban decay analysis through reviewing existing materials pertaining to the Project and coordinate with MBA regarding key data points, such as tenant sizes, Project opening date, trip distribution assumptions, City of Oroville population estimates and projections, and cumulative projects detail. The purpose of this will be to achieve consistency between the EIR and the economic impact/urban decay study. Data required to support the analysis not included in existing materials will be specially requested.
 - **Task 2 – Project Definition.** We shall will formulate a working definition of the project. This will include anticipated sales upon stabilization and assumed project-opening date. This information will comprise a fundamental study baseline. We shall validate the assumption regarding the opening date with MBA prior to proceeding with the subsequent analysis, as this is a critical project benchmark. CBRE Consulting will develop retail sales categories relevant to the Wal-Mart Supercenter for comparative analysis. The primary resource for this estimation will include the 10-K report on file with the Securities and Exchange Commission prepared for Wal-Mart.
 - **Task 3 – Definition of Market Areas.** CBRE Consulting will define market areas appropriate for analysis of the project. This will include at minimum a primary market area, defined as the area from which the majority of retail demand for the Project is anticipated to originate. This will be defined through several approaches including visual observation and data analysis, analyzing the distribution pattern of other planned Wal-Mart Supercenters within the general region, and retail sales leakage analysis for Oroville and other potential constituent primary market area cities. Examination of the area's geography and regional highway system will also contribute to the definition of this area. CBRE Consulting will additionally estimate the level of the project demand likely to be generated from within this primary market area versus other sources of demand (i.e., assuming additional demand is generated from secondary or even tertiary market areas). If the research suggests the identity of a defined secondary market area, this area will also be defined during this task.

- **Task 4 – Population Estimates and Projections Compilation.** Population estimates and projections comprise a fundamental benchmark for purposes of CBRE Consulting’s economic impact analysis. These estimates are an especially critical component of the retail sales leakage analysis described in the following task. Accordingly, substantial effort will be required to compile population estimates and projections for the primary market area as well as the secondary market area if such an area is defined. These will be prepared using generally accepted government resources, such as the State of California Department of Finance, the relevant Council of Governments (COG), and the constituent cities. Prior to proceeding with the retail sales leakage analysis, these estimates and projections will be reviewed with MBA. This task will provide an opportunity to ensure any future residents generated by planned residential projects in the primary market area and secondary market area, if relevant, are included in the population projections.
- **Task 5 – Retail Sales Leakage Analysis.** CBRE Consulting maintains a retail sales leakage model that estimates market area retail spending potential based upon households, income, and consumer spending patterns, and determines the extent to which a market area is or is not capturing this sales potential. Retail categories in which spending is not fully captured are called “leakage” categories, while retail categories in which more sales are captured than generated by residents are called “attraction categories.”

CBRE Consulting will conduct this analysis for the city/cities comprising or overlapping with the project primary market area and, to the extent relevant, the secondary market area. The Retail Sales Leakage Analysis can only be performed for jurisdictions with publicly reported taxable sales volumes (i.e., as reported by the State of California Board of Equalization).

To the extent possible, the Retail Sales Leakage Analysis will be operated both for the present time period (the year 2005 being the most recent year for which retail sales data are available) and a relevant projected time period (i.e., the first year the project is anticipated to be fully operational) to determine the extent relevant retail demand is expected to grow based upon household growth by the time of the project’s opening. The projection will also facilitate manual adjustments to the Retail Sales Leakage Analysis for any major new stores in relevant retail categories that may have opened in the primary market area after 2005, the year reflected by the available taxable sales data. Efforts will be made to the extent possible to identify the new stores, including their sizes, sales, and opening dates. The analysis will also take into account stores that may have closed since 2005 or are expected to close during the study timeframe. Input from the City of Oroville will be especially helpful for this task. We shall strive to achieve the same level of information for the secondary market area, if relevant.

The present time period results will indicate the extent the primary market area is currently capturing existing regional demand in categories relevant to the project, the extent of this attraction, and the extent there may be other regional potential to capture relevant sales. The results will indicate the extent future area household and income growth may impact the demand for new primary market area sales, coincident with the stabilization of the proposed project.
- **Task 6 – Conduct Site Reconnaissance.** CBRE Consulting will visit the project location to understand the location of the site vis-à-vis competitive retailers (existing and planned, see Task 8). This task will be conducted coincident with Task 7 activities.

- **Task 7 – Existing Comparable Store Impacts.** CBRE Consulting has developed a quantitative approach to estimate the extent of existing comparable primary market area sales that might be diverted by new or expanded retailers. The approach can also be applied to the secondary market area as well, if relevant. The approach takes into consideration the extent existing market area retailers share in regional demand, the extent market area retailers experience net regional attraction or leakage in key retail categories, and the anticipated distribution of the prospective retailer's sales. The data points most critical to this analysis include the actual primary and secondary market area sales data, the Retail Sales Leakage Analysis, and the projected retailer sales. To best accomplish this task, it is optimal to obtain store square footage information. While we can obtain some of this information through industry resources, we may request supplemental information from the City of Oroville. We may also request in writing store sales data in aggregate for a class of retailers to preserve data confidentiality, such as area grocery stores or major general merchandise stores. Given the scant level of data available from the State of California Board of Equalization, there may be an especially strong need for the provision of this information by the City.

This quantitative analysis will be paired with tours of the relevant primary market area stores, to be determined following the earlier project definition. The purpose of the tours will be to identify relative retail niches, to generally assess the nature and strength of their operations, and to qualitatively assess the degree to which the project may compete with existing stores, associated level of sales losses that may be experienced by these type of stores (in general), and duration of these prospective (if any) losses. Competitive stores will be identified through review of existing documents, Internet research, store listings, and estimated sales identified by Claritas (a national provider of demographic and economic data), and field research. Generalized findings will also be provided relative to the secondary market area, if deemed relevant.
- **Task 8 – Cumulative Impacts Analysis.** In addition to project impact, analysis will consider the cumulative impacts of this development in association with other new development projects under construction or planned in the primary market area and secondary market area, if relevant. This analysis will include projects known to the City of Oroville and other primary market area cities (if any) and secondary market area cities (if relevant) for which entitlement applications have been submitted. Projects with a reasonable expectation of being developed during or shortly after the timeframe of the project will be incorporated into the analysis. We shall coordinate with MBA and the Project's Traffic Consultant to ensure we are using common assumptions regarding planned projects. The preceding economic impact findings will be augmented through sensitivity analysis to include these projects.
- **Task 9 – Urban Decay Determination.** Based upon the preceding task findings, we shall develop an estimate of the extent development of the project may or may not contribute to urban decay in the primary market area and secondary market area (if relevant). To establish baseline conditions for this analysis, a visual assessment of existing retail occupancy/vacancies and building conditions will be conducted, and any areas of existing or potential physical deterioration will be noted. This analysis will focus on major shopping centers and the Downtown Oroville area.

A determination the project could result in potential urban decay would need to be predicated upon a finding of negative economic impact so severe stores might close as a result; it would be expected those buildings and/or property, rather than being reused within a reasonable time, would remain vacant, deteriorate, and lead to the decline of the associated or nearby real estate. If we find no or minimal negative impact, urban decay would not be a logical result. However, simple store closures are not sufficient to cause urban decay, as such closures could provide an opportunity for new retailers or other tenants to occupy the vacated space or for property owners to engage in economic development efforts to improve properties. We shall additionally contact commercial brokers active in the primary market area to obtain their perception of the potential for commercial leasing activity as well as their perception of the future and strength of retailing in the primary market area.

- **Task 10 – Report Preparation.** CBRE Consulting will prepare a succinct report documenting our study tasks, approach, and findings. Quantitative findings relevant to the report will be fully documented and attached as exhibits. A draft will be submitted for review prior to finalization, for the purposes of a Draft EIR. The report will be finalized upon our receipt of a consolidated set of client comments.

Our report will be based upon time sensitive information, such as annual taxable retail sales data, planned project information, and real estate market analysis. If City review of our report or submission of the report to public authorities is delayed such that time sensitive information becomes outdated and requires an update, additional time and fees will be required to complete this update. Depending upon the duration of the delay, the associated time and fees may be significant. A changed assumption regarding the project size or project opening date as agreed upon pursuant to Task 2, Project Definition, will also necessitate substantial edits to the report, resulting in additional time and fees.

- **Task 11 – Response to Public Comments.** CBRE Consulting will review the relevant public comments submitted following distribution of the Draft EIR. We shall provide written responses to those comments directly pertaining to our report and relevant findings. Ten hours are assumed for this task.
- **Task 12 – Public Hearing Attendance.** CBRE Consulting's project management will attend public hearings relevant to the project. This assumes no prior conflicts associated with the meeting dates. Other provisions may need to be made if such conflicts occur. For the public hearings, CBRE Consulting will prepare a presentation about the project if necessary, or simply be available to answer questions should any arise relevant to our analysis. Two public hearings are assumed for this task.
- **Significant Unavoidable Adverse Impacts.** MBA will discuss all significant unavoidable adverse impacts, in conformance with the State CEQA Guidelines, Section 15126(b). The discussion will include any impacts that can be partially mitigated, but not to a level that is less than significant. Any mitigation measures considered, but eliminated from suggestion because of new impacts that would be associated with their implementation, will also be discussed.
- **Growth-Inducing Impacts.** Pursuant to Section 15126(g) of the State CEQA Guidelines, MBA will discuss any potential growth-inducing impacts of the proposed project. Potential sources of growth inducement and their corresponding impacts, such as removal of obstacles to growth (i.e., extension of infrastructure), new

employment generation, or major economic influences, will be qualitatively analyzed, to the extent that they are applicable.

- **Alternatives to the Proposed Project.** MBA will prepare the Alternatives Section for the EIR. The alternatives will be provided in sufficient detail for comparison with the proposed project. To provide an adequate comparison, the applicant and its team of consultants may need to provide data to MBA to support the alternative analysis and findings. Each alternative will be evaluated with respect to each key impact category reviewed for the proposed project. Graphic exhibits of alternatives will be presented, based upon information provided.

As required by the State CEQA Guidelines, MBA will discuss advantages and disadvantages of each alternative. The environmentally-superior alternative will be identified. A summary of the alternatives and their associated impacts will be provided in the EIR summary for resource category. In addition, a brief summary of alternatives that were initially considered but ultimately rejected from further consideration will be provided. One of the alternatives considered will be an "off-site" alternative, though it is yet to be determined if this will be analyzed as feasible or rejected from further consideration. This scope of work assumes three alternatives will be analyzed in the EIR, and no more than two alternatives rejected from further consideration will be summarized.

- **Project Summary.** MBA will prepare a summary, presenting the significant conclusions of the EIR in a manner that is easy to understand. A summary "table" format will be used to identify the significant impacts and the effectiveness of the recommended mitigation measures. A summary of the alternatives analyses, issues still to be resolved, and issues subject to potential controversy will be presented, as required by CEQA compliance procedures.
- **Other CEQA-Mandated Sections.** MBA will be responsible for the preparation of the following for each project:
 - Table of Contents
 - Irreversible and Irretrievable Commitment of Resources
 - List of Organizations and Persons Consulted
 - Preparers of the Environmental Document
 - References
 - Appendices

Task 5: Draft EIR

MBA will respond to the City and applicant's comments on the Administrative Draft EIR, complete necessary revisions, and publish the Draft EIR for public review. Once the product is deemed acceptable for public distribution, MBA will take responsibility for distribution of the Draft EIR.

To facilitate this process, the following steps will be taken for each project:

- Coordinate with the City's project coordinator who will assemble comments on, and suggested revisions to, the Administrative Draft EIR. One set of unified City staff comments will be provided to MBA. The City will reconcile conflicting review comments, if needed, between City staff before giving comments to MBA.
- Complete one set of revisions to the Administrative Draft EIR, pursuant to review comments. Revisions will be prepared in conformance with the scope of work. If additional revisions are required based upon factors such as changes to the project or

changes in report format, additional funds may be required and will be requested by MBA prior to proceeding with the report.

- Prepare and reproduce the Draft EIR for submittal to the City and applicant for a final "proof-check" review prior to distribution to the public.
- Reproduce 30 paper copies, one copy on CD/PDF format, and one camera ready original of the Draft EIR (assumes technical appendices on CD in portable document format [PDF]). Reproduce 15 hard copies and ten CD/PDF of the Technical Appendices. MBA will prepare the notice of completion (NOC) and submit it to the State Clearinghouse with 15 copies of the Draft EIR and Technical Appendices in CD/PDF format.

Task 6: Administrative Final EIR

MBA will prepare written responses to comments received on the Draft EIR that raise significant environmental issues and submit them for City staff and applicant's review after the close of the public comment period. The responses to comments will be prepared based upon the requirements of the State and City CEQA requirements.

To implement this, the following steps are proposed:

- The City's project coordinator will compile and transmit to MBA all written comments on the Draft EIR.
- Confer with staff and applicant's attorney to review written comments on the Draft EIR and comments from public meetings and hearings to develop a general framework and strategies for preparation of responses. The format of the Final EIR will be as an attachment of responses to comments to the text of the Draft EIR.
- Submit five copies of the Administrative Final EIR for City staff and applicant review. Responses within this proposal's scope of work and budget consist of explanation, elaboration, or clarification of the data contained in the Draft EIR with a budgeted effort of up to 100 hours for technical staff in this task. The project applicant's consultants will be responsible for responding to technical questions on their respective reports and providing responses to MBA for incorporation into the Final EIR.

Task 7: Final EIR

MBA will revise the written response to comments based upon comments received by City staff and the applicant. The City's project coordinator will assemble comments on, and suggested revisions to, the Final EIR. One set of unified comments, incorporating all City staff comments will be provided to MBA. MBA will reproduce 30 paper copies, one camera-ready original of the Final EIR, and one copy of the Final EIR (responses to comments document) in electronic format (CD/PDF), and distribute a copy to each public agency that commented on the corresponding Draft EIR in accordance with Section 21092.5(a) of the CEQA statutes. The applicant will also receive a paper and CD copy of the Final EIR and appendices. The remaining copies will be submitted to the City and be available to the public.

Task 8: Meeting Attendance

MBA has extensive experience in public outreach programs and scoping, including public participation programs and public hearings. MBA will be present at public

meetings and hearings to develop an understanding of the public's comments and concerns, be available to answer questions on environmental issues, and make presentations on the EIR.

MBA's role is as follows:

- Attend one public scoping meeting, one public hearing at the Planning Commission, one public hearing at City Council, and five other meetings with City staff and/or the applicant.
- Conduct presentations, as required, regarding the EIR process and findings, and be available to answer questions that may arise at public hearings or meetings.
- Prepare handout materials regarding the EIR process and findings, if needed. Meeting graphics depicting the project and other project description materials are assumed to be provided by the City and/or the project applicant.

Task 9: Mitigation Monitoring and Reporting Program

MBA will prepare a Mitigation Monitoring and Reporting Program (MMRP) for each project complying with Public Resources Code Section 21081.6, as mandated by Assembly Bill 3180 (Cortese 1988), for adoption at the time of the CEQA findings.

- MBA will prepare a Draft MMRP in accordance with the State and City CEQA requirements. The MMRP will be designed to ensure compliance with adopted mitigation requirements during project implementation. In coordination with City staff, MBA will prepare the MMRP for mitigation measures that address significant impacts.
- The program will be designed to fit into the City's existing entitlement and project review process. The City will provide the format. MBA will coordinate with staff to refine MMRP content and format, prior to preparing the Draft MMRP.
- After review and comment on the Draft MMRP, MBA will revise the MMRP, according to the comments provided, and will submit two paper copies, one camera ready original, and one copy on CD/PDF format of the Final MMRP with the submittal of the Final EIR.

Task 10: CEQA Notices

MBA will prepare all CEQA-required notices in compliance with state legislation and guidelines. This task includes the preparation of the Notice Of Completion (NOC) and Notice Of Determination (NOD) that will be prepared for each project.

- Prepare the NOC and NOD, in compliance with the State CEQA Guidelines.
- Submit the draft notices for City staff review and revise them, based upon staff comments. The NOP will be distributed by MBA via certified mail.
- The Final NOC will be filed with the State Clearinghouse with the Draft EIR. The Final NOD is assumed to be filed with the Butte County Clerk within five working days of the project approval. One camera-ready original and one copy on CD/PDF format of the NOP and NOC will be submitted by MBA. MBA assumes the applicant will provide the funds necessary for the California Department of Fish and Game filing fees at the time of filing the NOD.

Task 11: Project Management and Coordination

MBA will manage the preparation of the EIR and maintain close communication among City staff and project team members. This task is intended to ensure the project is running on time and within budget, and is technically correct and legally defensible. The MBA Project Manager will provide management liaison among the project team and City staff for communication of issues, transmittal of comments, financial management (i.e., invoices), and other project management matters. This task assumes 120 hours of time to be spent by MBA's Project Manager and other key staff.

EXHIBIT B

Fees

The fees for the EIR for the development of the approximate 20-acre Wal-Mart Supercenter project, in the City of Oroville are provided below. The proposed fee is based upon the scope of work described above; it includes all labor and direct costs.

TASK	FEES
Professional Labor	
Task 1: Project Description and Background	\$ 4,500
Task 2: Notice of Preparation	3,500
Task 3: Scoping Process	4,000
Task 4: Administrative Draft EIR	59,000
Task 5: Draft EIR	16,000
Task 6: Administrative Final EIR	14,000
Task 7: Final EIR	6,000
Task 8: Meeting Attendance	12,500
Task 9: Mitigation Monitoring and Reporting Program	4,000
Task 10: CEQA Notices	2,500
Task 11: Project Management and Coordination	15,500
Total MBA Professional Labor	141,500
Technical Reports	
Air Quality Study (MBA)	19,500
Biological Resources Assessment (MBA)	9,000
Cultural Resources Assessment (MBA)	6,500
Economic Study (CBRE)	55,000
Noise Study (MBA)	7,000
Traffic Study (Omni-Means)	59,900
(Optional) Wetland Delineation Report (MBA)	7,500
Total Technical Report Labor	164,400
Direct Costs	
Reprographics/Document Production	9,000
Mileage	800
Delivery/Postage	600
Miscellaneous (film, maps, faxes, etc.)	500
10% Administrative Fee	1,090
Total Direct Costs	11,990
Total Professional Fee	\$317,890

The assumptions used in calculating the above fees are:

- i. ~~The price is valid for up to 30 days from the date of this scope, after which it may be subject to revision.~~

2. The City will be responsible for distribution of public review documents.
3. This price is based upon completion of the work within the proposed schedule. ~~If delays occur, an amendment of the price would be warranted to accommodate additional project management and other costs, and to reflect adjustments for updated billing rates.~~
4. Printing costs are based upon the method of printing and binding proposed, specific numbers of copies proposed as work products, and estimated page lengths. Document printing costs are estimated and will need to be finalized at the time of printing. (Estimated document costs, including appendices are: IS/NOP - \$15, Administrative Draft EIR: \$70, Draft EIR: \$75, Administrative Final EIR: \$35, MMRP: \$7, Findings of Fact: \$8, Final EIR: \$35).
5. The EIR will be prepared to comply with CEQA.
6. Costs have been allocated to tasks based upon MBA's proposed approach. During the work, MBA may, on its sole authority, re-allocate costs among tasks and/or direct costs, as circumstances warrant, so long as the adjustments maintain the total price within its authorized amount.
7. An internal review and comment will be conducted by the project team for each document submitted to the City.
8. The EIR scope of work may need to be adjusted after receipt of NOP comments.
9. ~~This scope of work and fee is considered preliminary and interim in nature. More specifically, it may be subject to revisions based upon feedback from the City's review of the applicant's project application and review of our proposal.~~

EXHIBIT C

Schedule

WORK PRODUCT/MILESTONE	ESTIMATE COMPLETION (WEEKS)
Project initiation meeting; receipt of approved project plans, and all background information. Initiate preparation of technical reports.	1
Submit NOP to City/Applicant	4
Receive Comments on IS/NOP from City	6
Distribute IS/NOP for 30-Day Public Review Period	7
Close of 30-Day NOP Public Review Period	11
Submit Administrative Draft EIR to City	14
Receive Comments on Administrative Draft EIR from City	16
Submit Revised Draft EIR to City	18
Distribute Draft EIR for Public Review (45 days)	19
End of Public Review Period	25
Submit Administrative Final EIR, and Draft MMRP to City	27
Receive Comments on Administrative Final EIR, and Draft MMRP to City/Applicant	29
Submit Final EIR and Final Version of MMRP to City	31
City Planning Commission and City Council Public Hearings	To be Determined

The assumptions used in determining the above project schedule are:

1. Assumes receipt of approved project description and construction plans, project-related information, base maps, and photographs at the project initiation meeting.
2. The periods shown assume a set amount of time for the City's review of each submittal. If review schedules change, the elapsed time of other tasks will be maintained.
3. Assumes all technical reports will be completed and deemed adequate by Week 10.
4. The review period for the NOP will be the State-mandated 30 days.
5. The review period for the EIR will be the State-mandated 45 days.

EXHIBIT D

EXHIBIT D

INSURANCE REQUIREMENTS

Insurance Requirements for Consultant. The Consultant shall obtain and maintain for the duration of the contract, insurance against claims for injuries to persons or damages to property, which may arise from or in connection with the performance of the work hereunder by the Consultant, his agents, representatives, or employees.

Minimum Scope of Insurance

Coverage shall be at least as broad as:

1. Insurance Services Office Commercial General Liability coverage (occurrence Form CG 0001)
2. Insurance Services Office Form Number CA 0001 covering Automobile Liability, Code 1 (any auto)
3. Workers' Compensation insurance as required by the State of California and Employer's Liability Insurance for Consultant's employees, if any

Minimum Limits of Insurance

Consultant shall maintain limits no less than:

(1) General Liability:	\$1,000,000 per occurrence for bodily injury, personal injury and property damage. If Commercial General Liability Insurance or other form with a general aggregate limit is used, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit.
(2) Automobile Liability:	\$500,000 per accident for bodily injury and property damage
(3) Employer's Liability:	\$1,000,000 per accident for bodily injury or disease.

EXHIBIT D (cont'd)

Deductibles and Self-Insured Retentions

Any deductibles or self-insured retentions must be declared to and approved by the City of Oroville. At the option of the City, either: the insurer shall reduce or eliminate such deductibles or self insured retentions as respects the City, its officers, officials, employees and volunteers; or the Consultant shall provide a financial guarantee satisfactory to the City guaranteeing payment of losses and related investigations, claim administration and defense expenses.

The commercial general liability and automobile liability policies are to contain, or be endorsed to contain, the following provisions:

The City, its officers, officials, employees and volunteers are to be covered as insureds as respects: liability arising out of work or operations performed by or on behalf of the Consultant; or automobiles owned, leased, hired or borrowed by the Consultant.

For any claim related to this project Consultant insurance coverage shall be primary insurance as respects the City, its officers, officials, employees and volunteers. Any insurance or self-insurance maintained by the City, its officers, officials, employees or volunteers shall be excess of Consultant's insurance and shall not contribute with it.

Each insurance policy required by this clause shall be endorsed to state that coverage shall not be canceled by either party, except after thirty (30) days' prior written notice by certified mail, return receipt requested, has been given to the City.

Coverage shall not extend to any indemnity coverage for the active negligence of the additional insured in any case where an agreement to indemnify the additional insured would be invalid under Subdivision (b) of Section 2782 of the Civil Code.

Acceptability of Insurers

Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A-VII unless otherwise acceptable to the City.

Verification of Coverage

Consultant shall furnish the City with original certificates and amendatory endorsements effecting coverage required by this clause. The endorsements should be on forms provided by the City or on other than the City's forms provided those endorsements conform to City requirements. All certificates and endorsements are to be received and approved by the City before work commences. The City reserves the right to require complete, certified copies of all required insurance policies, including endorsements effecting the coverage required by these specifications at any time.

**CITY OF OROVILLE
RESOLUTION NO. 8157**

A RESOLUTION OF THE OROVILLE CITY COUNCIL AUTHORIZING AND DIRECTING THE MAYOR TO EXECUTE AN AGREEMENT WITH THE PLANNING CENTER / DC&E TO PROVIDE PEER REVIEW SERVICES RELATING TO THE GREENHOUSE GAS ANALYSIS FOR THE PROPOSED WAL-MART SUPERCENTER

(Agreement No. 3048)

NOW THEREFORE, be it hereby resolved by the Oroville City Council as

follows:

- 1. The Mayor is hereby authorized and directed to execute an agreement with The Planning Center / DC&E, to provide Peer Review Services relating to the greenhouse gas analysis for the proposed WalMart Supercenter. A copy of the agreement is attached as Exhibit A.**
- 2. The City Clerk shall attest to the adoption of this Resolution.**

PASSED AND ADOPTED by the Oroville City Council at a regular meeting on December 3, 2013 by the following vote:

AYES:

NOES:

ABSTAIN:

ABSENT:

Linda L. Dahlmeier, Mayor

APPROVED AS TO FORM:

ATTEST:

Scott Huber, City Attorney

Randy Murphy, City Clerk

AGREEMENT FOR PROFESSIONAL SERVICES

This Agreement is made and entered into as of December 3, 2013, by and between the **City of Oroville**, a municipal corporation ("City") and **The Planning Center – DC&E** ("Consultant").

RECITALS

- A. The Consultant is specially trained, licensed, experienced and competent to provide professional peer review land use planning and prepare the Sustainable Code Update and Climate Action Plan for the City of Oroville as required by this Agreement.
- B. The Consultant possesses the skill, experience, ability, background, license, certification, and knowledge to provide the services described in this Agreement on the terms and conditions described herein.
- C. City desires to retain the Consultant to render the professional services as set forth in this Agreement.

AGREEMENT

1. Scope of Services. The Consultant shall furnish the following services in a professional manner. Consultant shall perform the scope of services described in Exhibit "A", which is attached hereto and incorporated herein by reference.
2. Time of Performance. The services of Consultant are to commence upon execution of this Agreement and shall continue until June 16, 2014.
3. Compensation. Compensation to be paid to Consultant shall be in accordance with the Consultant's memorandum dated October 28, 2013 which is included in Exhibit A and incorporated herein by reference. **In no event shall Consultant's compensation exceed the amount Nine Thousand Five Hundred forty two (\$9,542) without additional written authorization from the City governing body.** Payment by City under this Agreement shall not be deemed a waiver of

defects in Consultant's services, even if such defects were known to the City at the time of payment.

4. Method of Payment. Consultant shall submit monthly billing to City describing the work performed during the preceding month. Consultant's bills shall include a brief description of the services performed, the date the services were performed, the number of hours spent and by whom, and a description of any reimbursable expenditures. City shall pay Consultant no later than 30 days after approval of the monthly invoice by City staff.
5. Extra Work. At any time during the term of this Agreement, City may request that Consultant perform Extra Work. As used herein, "Extra Work" means any work which is determined by City to be necessary for the proper completion of Consultant's services, but which the parties did not reasonably anticipate would be necessary at the execution of this Agreement. Consultant shall not perform, nor be compensated for, Extra Work without prior written authorization from City.
6. Termination. This Agreement may be terminated by the City immediately for cause or by either party without cause upon fifteen days' written notice of termination. Upon termination, Consultant shall be entitled to compensation for services properly performed up to the effective date of termination.
7. Ownership of Documents. All plans, studies, documents, and other writings prepared by and for Consultant, its officers, employees, and agents and subcontractors in the course of implementing this Agreement, except working notes and internal documents, shall become the property of the City upon payment to Consultant for such work, and the City shall have the sole right to use such materials in its discretion without further compensation to Consultant or to any other party. Consultant shall, at Consultant's expense, provide such reports,

plans, studies, documents, and other writings to City within three (3) days after written request.

8. Licensing of Intellectual Property. This Agreement creates a nonexclusive and perpetual license for City to copy, use, modify, reuse, or sublicense any and all copyrights, designs, and other intellectual property embodied in documents or works of authorship fixed in any tangible medium of expression including, but not limited to, data magnetically or otherwise recorded on computer diskettes, which are prepared or caused to be prepared by Consultant under this Agreement ("Documents and Data"). Consultant shall require all subcontractors to agree in writing, attached as Exhibit D, that City is granted a nonexclusive and perpetual license for any Documents and Data the subcontractor prepares under this Agreement. Consultant represents and warrants that Consultant has the legal right to license any and all Documents and Data. Consultant makes no such representation and warranty in regard to Documents and Data which may be provided to Consultant by City. City shall not be limited in any way in its use of the Documents and Data at any time, provided that any such use not within the purposes intended by this Agreement shall be at City's sole risk.

9. Confidentiality. Other than is required by the California Government Code and the California Business & Professions Code, all ideas, memoranda, specifications, plans, procedures, drawings, descriptions, computer program data, input record data, written information, and other Documents and Data either created by or provided to Consultant in connection with the performance of the Agreement shall be held confidential by Consultant. Such materials shall not, without the prior written consent of City, be used by Consultant for any purposes other than the performance of the services under this Agreement. Nor shall such materials be disclosed to any person or entity not connected with the

performance of the services under this Agreement. Nothing furnished to Consultant which is otherwise known to Consultant or is generally known, or has become known, to the related industry shall be deemed confidential. Consultant shall not use City's name or insignia, photographs relating to project for which Consultant's services are rendered, or any publicity pertaining to the Consultant's services under this Agreement in any magazine, trade paper, newspaper, television, or radio production or other similar medium without the prior written consent of City.

10. Consultant's Books and Records

- a. Consultant shall maintain any and all ledgers, books of account, invoices, vouchers, canceled checks, and other records or documents evidencing or relating to charges for services, expenditures, and disbursements charged to City for a minimum period of three (3) years, or for any longer period required by law, from the date of final payment to Consultant to this Agreement.
- b. Consultant shall maintain all documents and records which demonstrate performance under this Agreement for a minimum of three (3) years, or for any longer period required by law, from the date of termination or completion of the Agreement.
- c. Any records or documents required to be maintained pursuant to this Agreement shall be made available for inspection or audit, at any time during regular business hours, upon written request by the City Administrator, City Attorney, City Finance Director, or a designated representative of these officers. Copies of such documents shall be provided to the City for inspection at 1735 Montgomery Street, Oroville, California when it is practical to do so. Otherwise, unless an alternative is mutually agreed upon, the

records shall be available at Consultant's address indicated for receipt of notices in this Agreement.

d. Where City has reason to believe that such records or documents may be lost or discarded due to dissolution, disbandment, or termination of Consultant's business, City may, by written request by any of the above named officers, require that custody of the records be given to the City and that documents be maintained by City Hall.

11. Independent Contractor. It is understood that Consultant, in the performance of the work and services agreed to be performed, shall act as and be an independent contractor and shall not act as an agent or employee of the City. Consultant shall obtain no rights to retirement benefits or other benefits which accrue to City's employees, and Consultant hereby expressly waives any claim it may have to any such rights.

12. Interest of Consultant. Consultant (including principals, associates, and professional employees) covenants and represents that it does not now have any investment or interest in real property, and shall not acquire any interest, direct or indirect, in the area covered by this Agreement or any other source of income, interest in real property or investment which would be affected in any manner or degree by the performance of Consultant's services hereunder. Consultant further covenants and represents that in the performance of its duties hereunder no person having any such interest shall perform any services under this Agreement. Consultant is not a designated employee within the meaning of the Political Reform Act because Consultant:

a. will conduct research and arrive at conclusions with respect to its rendition of information, advice, recommendation, or counsel independent of the control

and direction of the City or any City official, other than normal agreement monitoring; and

b. possesses no authority with respect to any City decision beyond rendition of information, advice, recommendation, or counsel. (FPPC Reg. 18700(a)(2).)

13. **Professional Ability of Consultant.** City has relied upon the professional training and ability of Consultant to perform the services hereunder as a material inducement to enter into this Agreement. All work performed by Consultant under this Agreement shall be in accordance with applicable legal requirements and shall meet the standard of quality ordinarily to be expected of competent professionals in Consultant's field of expertise.
14. **Compliance with Laws.** Consultant shall use the standard of care in its profession to comply with all applicable federal, state, and local laws, codes, ordinances, and regulations.
15. **Licenses.** Consultant represents and warrants to City that it has all licenses, permits, qualifications, insurance, and approvals of whatsoever nature which are legally required of Consultant to practice its profession. Consultant represents and warrants to City that Consultant shall, at its sole cost and expense, keep in effect or obtain at all times during the term of this Agreement, any licenses, permits, insurance, and approvals which are required by the City for its business.
16. **Indemnity.** Consultant agrees to defend, indemnify, and hold harmless the City, its officers, officials, agents, employees, and volunteers from and against any and all claims, demands, actions, losses, damages, injuries, and liability, direct or indirect (including any and all costs and expenses in connection therein), arising from its performance of this Agreement or its failure to comply with any of its obligations contained in this Agreement.

17. Insurance Requirements. Consultant, at Consultant's own cost and expense, shall procure and maintain, for the duration of the Agreement, the insurance coverage and policies as set forth in Exhibit "B" attached hereto.
18. Notices. Any notice required to be given under this Agreement shall be in writing and either served personally or sent prepaid, first class mail. Any such notice shall be addressed to the other party at the address set forth below. Notice shall be deemed communicated within 48 hours from the time of mailing if mailed as provided in this section.

If to City: **City Administrator
City of Oroville
1735 Montgomery Street
Oroville, CA 95965-4897**

If to Consultant: **Charlie Knox, Principal, Principal-in-Charge
The Planning Center – DC&E
1625 Shattuck Avenue, Suite 300
Berkeley, CA 94709**

19. Entire Agreement. This Agreement constitutes the complete and exclusive statement of Agreement between the City and Consultant. All prior written and oral communications, including correspondence, drafts, memoranda, and representations are superseded in total by this Agreement.
20. Amendments. This Agreement may be modified or amended only by a written document executed by both Consultant and City and approved as to form by the City Attorney.
21. Assignments and Subcontracting. The parties recognize that a substantial inducement to City for entering into this Agreement is the professional reputation, experience, and competence of Consultant. Assignments of any or all rights, duties, or obligations of the Consultant under this Agreement will be permitted

only with the express prior written consent of the City. Consultant shall not subcontract any portion of the work to be performed under this Agreement without the prior written authorization of the City. If City consents to such subcontract, Consultant shall be fully responsible to City for all acts or omissions of the subcontractor. Nothing in this Agreement shall create any contractual relationship between City and subcontractor not shall it create any obligation on the part of the City to pay or to see to the payment of any monies due to any such subcontractor other than as otherwise required by law.

22. **Waiver.** Waiver of a breach or default under this Agreement shall not constitute a continuing waiver of a subsequent breach of the same or any other provision under this Agreement.
23. **Severability.** If any term or portion of this Agreement is held to be invalid, illegal, or otherwise unenforceable by a court of competent jurisdiction, the remaining provisions of this Agreement shall continue in full force and effect.
24. **Controlling Law Venue.** This Agreement and all matters relating to it shall be governed by the laws of the State of California and any action brought relating to this Agreement shall be held exclusively in a state court in the County of Butte, or in the United States District Court, Eastern District of California.
25. **Litigation Expenses and Attorneys' Fees.** If either party to this Agreement commences any legal action against the other part arising out of this Agreement, the prevailing party shall be entitled to recover its reasonable litigation expenses, including court costs, expert witness fees, discovery expenses, and attorneys' fees.
26. **Execution.** This Agreement may be executed in several counterparts, each of which shall constitute one and the same instrument and shall become binding upon the parties when at least one copy hereof shall have been signed by both

parties hereto. In approving this Agreement, it shall not be necessary to produce or account for more than one such counterpart.

27. **Authority to Enter Agreement.** Consultant has all requisite power and authority to conduct its business and to execute, deliver, and perform the Agreement. Each party warrants that the individuals who have signed this Agreement have the legal power, right, and authority, to make this Agreement and to bind each respective party.
28. **Prohibited Interests.** Consultant maintains and warrants that it has not employed nor retained any company or person, other than a bona fide employee working solely for Consultant, to solicit or secure this Agreement. Further, Consultant warrants that it has not paid nor has it agreed to pay any company or person, other than a bona fide employee working solely for Consultant, any fee, commission, percentage, brokerage fee, gift, or other consideration contingent upon or resulting from the award or making of this Agreement. For breach or violation of this warranty, City shall have the right to rescind this Agreement without liability. For the term of this Agreement, no member, officer, or employee of City, during the term of his or her service with City, shall have any direct interest in this Agreement, or obtain any present or anticipated material benefit arising therefrom.
29. **Equal Opportunity Employment.** Consultant represents that is and equal opportunity employer and it shall not discriminate against any subcontractor, employee, or applicant for employment because of race, religion, color, national origin, disability, ancestry, sex, or age. Such non-discrimination shall include, but not be limited to, all activities related to initial employment, upgrading, demotion, transfer, recruitment or recruitment advertising, layoff, or termination.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed on the date first written above.

CITY OF OROVILLE

THE PLANNING CENTER – DC&E

By: _____
Linda L. Dahlmeier, Mayor

By: _____

Title: _____

Business License #: _____

Tax ID No.: _____

APPROVED AS TO FORM:

ATTEST

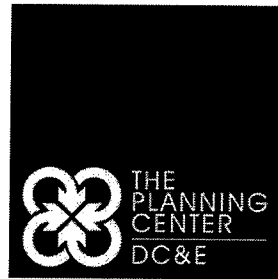
By: _____
Scott E. Huber, City Attorney

By: _____
Randy Murphy, City Clerk

ATTACHMENTS

Exhibit A Scope of Services and Standard Rate Schedule

Exhibit B Insurance Requirements



MEMORANDUM

DATE October 28, 2013
TO Scott Huber and Don Rust
Cota Cole LLP and City of Oroville
FROM Tanya Sundberg and Charlie Knox
RE Peer review of revised GHG analysis and CEQA document for Super Wal-Mart

Scott and Don,

This memorandum provides a scope, schedule, and cost estimate for our peer review of the revised greenhouse gas (GHG) analysis and CEQA document for the Oroville Super Wal-Mart prepared by FirstCarbon Solutions (FCS).

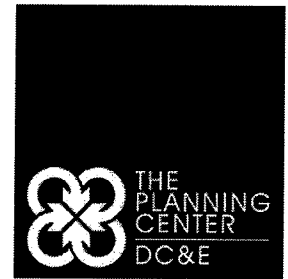
A. Scope

Project-related construction activities, vehicular traffic, energy use (electricity and natural gas), area sources (refrigerants), water use and wastewater generation, and solid waste disposal have the potential to generate GHG emissions. The Planning Center | DC&E has in-house air quality and GHG specialists who will conduct an independent review of the GHG assessment submitted by FCS for the proposed project. As part of the technical review, The Planning Center | DC&E will verify the assumptions used in modeling GHG emissions and determine the applicability of the significance thresholds utilized in the analysis. In addition, The Planning Center | DC&E will ensure that the GHG assessment is consistent with the City's concurrent work on the General Plan, Zoning Ordinance, Climate Action Plan, and associated EIR.

As part of this scope, Charlie Knox and Tanya Sundberg of The Planning Center | DC&E will participate in up to two conference calls with the City, Cota Cole LLP, and FCS regarding our comments from the peer review.

B. Schedule

The Planning Center | DC&E will submit the peer review memorandum within three weeks of the receipt of FCS's revised GHG analysis and CEQA document.



C. Cost Estimate

The cost for The Planning Center | DC&E to conduct the peer review described above is \$9,542. The Planning Center | DC&E will complete this scope of work for a fixed fee not to exceed this amount.



CERTIFICATE OF LIABILITY INSURANCE

DATE (MM/DD/YYYY)

5/17/2013

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

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

PRODUCER Edgewood Partners Insurance Center (EPIC) 19000 MacArthur Blvd. PH Floor Irvine, CA 92612 www.edgewoodins.com	CONTACT NAME:	
	PHONE (A/C, No. Ext): (949) 263-0606	FAX (A/C, No): (949) 263-0906
E-MAIL ADDRESS:		
INSURER(S) AFFORDING COVERAGE		NAIC #
INSURER A: Crum & Forster Specialty Insurance Company		44520
INSURER B: Travelers Property & Casualty Co of America		25674
INSURER C:		
INSURER D:		
INSURER E:		
INSURER F:		

INSURED
 The Planning Center, Inc
 Design Community & Environment
 dba: The Planning Center | DC&E
 3 MacArthur Place, Suite 1100
 Santa Ana CA 92707

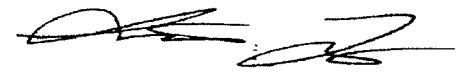
COVERAGES **CERTIFICATE NUMBER:** 16393229 **REVISION NUMBER:**

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

INSR LTR	TYPE OF INSURANCE	ADDL INSR	SUBR WVD	POLICY NUMBER	POLICY EFF (MM/DD/YYYY)	POLICY EXP (MM/DD/YYYY)	LIMITS
A	GENERAL LIABILITY <input checked="" type="checkbox"/> COMMERCIAL GENERAL LIABILITY <input type="checkbox"/> CLAIMS-MADE <input checked="" type="checkbox"/> OCCUR <input checked="" type="checkbox"/> BI/PD Ded: \$5,000 GEN'L AGGREGATE LIMIT APPLIES PER: <input checked="" type="checkbox"/> POLICY <input type="checkbox"/> PRO-JECT <input type="checkbox"/> LOC	✓		EPK-100667	7/1/2012	7/1/2013	EACH OCCURRENCE \$ 5,000,000 DAMAGE TO RENTED PREMISES (Ea occurrence) \$ 50,000 MED EXP (Any one person) \$ 5,000 PERSONAL & ADV INJURY \$ 5,000,000 GENERAL AGGREGATE \$ 5,000,000 PRODUCTS - COMP/OP AGG \$ 5,000,000
B	AUTOMOBILE LIABILITY <input checked="" type="checkbox"/> ANY AUTO <input type="checkbox"/> ALL OWNED AUTOS <input type="checkbox"/> SCHEDULED AUTOS <input checked="" type="checkbox"/> HIRED AUTOS <input checked="" type="checkbox"/> NON-OWNED AUTOS	✓		810-9B273151-TIL-12	7/1/2012	7/1/2013	COMBINED SINGLE LIMIT (Ea accident) \$ 1,000,000 BODILY INJURY (Per person) \$ BODILY INJURY (Per accident) \$ PROPERTY DAMAGE (Per accident) \$
B	UMBRELLA LIAB <input checked="" type="checkbox"/> OCCUR EXCESS LIAB <input type="checkbox"/> CLAIMS-MADE DED <input type="checkbox"/> RETENTION \$			EX-9B273151-TIL-12	7/1/2012	7/1/2013	EACH OCCURRENCE \$ 4,000,000 AGGREGATE \$ 4,000,000 Excess Auto & EL Only \$
B	WORKERS COMPENSATION AND EMPLOYERS' LIABILITY ANY PROPRIETOR/PARTNER/EXECUTIVE OFFICER/MEMBER EXCLUDED? (Mandatory in NH) If yes, describe under DESCRIPTION OF OPERATIONS below		Y/N Y	UB-9B273151-TIL-12	7/1/2012	7/1/2013	<input checked="" type="checkbox"/> WC STATUTORY LIMITS <input type="checkbox"/> OTHER E.L. EACH ACCIDENT \$ 1,000,000 E.L. DISEASE - EA EMPLOYEE \$ 1,000,000 E.L. DISEASE - POLICY LIMIT \$ 1,000,000
A	Pollution Liability			EPK-100667	7/1/2012	7/1/2013	5,000,000 Each Claim/5,000,000 Aggregate
A	Errors & Omissions (Claims Made)			EPK-100667	7/1/2012	7/1/2013	
B	Property/Business Personal Property			660-9B273151-TIL-12	7/1/2012	7/1/2013	

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

The City, its officers, officials, employees and volunteers
 Certificate Holder is named as Additional Insured for General Liability coverage including Waiver of Subrogation and Primary/Non-contributory Wording per attached EN0147 01/11 endorsement. Certificate Holder is Additional Insured for Auto Liability per attached CA T3 53 06 09 endorsement. Waiver of Subrogation Applies to WC per attached WC 00 03 13(00)-01
 Professional Liability Retroactive Date: The Planning Center - 7/1/99; Design Community & Environment - 1/1/87

CERTIFICATE HOLDER	CANCELLATION
City of Oroville 1735 Montgomery Street Oroville CA 95965	SHOULD ANY OF THE ABOVE DESCRIBED POLICIES BE CANCELLED BEFORE THE EXPIRATION DATE THEREOF, NOTICE WILL BE DELIVERED IN ACCORDANCE WITH THE POLICY PROVISIONS. AUTHORIZED REPRESENTATIVE  Scott Lihme

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ACORD 25 (2010/05)

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THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

PRIMARY AND NON-CONTRIBUTORY ADDITIONAL INSURED WITH WAIVER OF SUBROGATION

This endorsement modifies insurance provided under the following:

COMMERCIAL GENERAL LIABILITY COVERAGE PART
CONTRACTORS POLLUTION LIABILITY COVERAGE PART
ERRORS AND OMISSIONS LIABILITY COVERAGE PART

SCHEDULE

Name of Additional Insured Person(s) or Organization(s)
Where Required by Written Contract

- A. **SECTION III – WHO IS AN INSURED** within the Common Provisions is amended to include as an additional insured the person(s) or organization(s) indicated in the Schedule shown above, but only with respect to liability arising out of “your work” for that person or organization performed by you, or by those acting on your behalf.
- B. As respects additional insureds as defined above, this insurance also applies to “bodily injury” or “property damage” arising out of your negligence when the following written contract requirements are applicable:
 1. Coverage available under this coverage part shall apply as primary insurance. Any other insurance available to these additional insureds shall apply as excess and not contribute as primary to the insurance afforded by this endorsement.
 2. We waive any right of recovery we may have against the person(s) or organization(s) indicated in the Schedule shown above because of payments we make for injury or damage arising out of “your work” performed under a written contract with that person(s) or organization(s).
 3. The term “additional insured” is used separately and not collectively, but the inclusion of more than one “additional insured” shall not increase the limits or coverage provided by this insurance.

This Endorsement does not reinstate or increase the Limits of Insurance applicable to any “claim” to which the coverage afforded by this Endorsement applies.

ALL OTHER TERMS AND CONDITIONS OF THE POLICY REMAIN UNCHANGED.

5/17/2013

TRAVELERS 

**WORKERS COMPENSATION
AND
EMPLOYERS LIABILITY POLICY
ENDORSEMENT WC 00 03 13 (00)-01**

POLICY NUMBER: UB-9B273151-TIL-12

WAIVER OF OUR RIGHT TO RECOVER FROM OTHERS ENDORSEMENT

We have the right to recover our payments from anyone liable for an injury covered by this policy. We will not enforce our right against the person or organization named in the Schedule. (This agreement applies only to the extent that you perform work under a written contract that requires you to obtain this agreement from us.)

This agreement shall not operate directly or indirectly to benefit any one not named in the Schedule.

SCHEDULE

DESIGNATED PERSON:

DESIGNATED ORGANIZATION:

ANY PERSON OR ORGANIZATION FOR WHICH THE NAMED INSURED HAS
AGREED BY WRITTEN CONTRACT EXECUTED PRIOR TO LOSS TO
FURNISH THIS WAIVER.

DATE OF ISSUE: 7/1/12

ST ASSIGN:

D12368

THIS ENDORSEMENT CHANGES THE POLICY. PLEASE READ IT CAREFULLY.

BUSINESS AUTO EXTENSION ENDORSEMENT

This endorsement modifies insurance provided under the following:

BUSINESS AUTO COVERAGE FORM

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

GENERAL DESCRIPTION OF COVERAGE – This endorsement broadens coverage. However, coverage for any injury, damage or medical expenses described in any of the provisions of this endorsement may be excluded or limited by another endorsement to the Coverage Part, and these coverage broadening provisions do not apply to the extent that coverage is excluded or limited by such an endorsement. The following listing is a general coverage description only. Limitations and exclusions may apply to these coverages. Read all the provisions of this endorsement and the rest of your policy carefully to determine rights, duties, and what is and is not covered.

- | | |
|---|---|
| A. BROAD FORM NAMED INSURED | H. HIRED AUTO PHYSICAL DAMAGE – LOSS OF USE – INCREASED LIMIT |
| B. BLANKET ADDITIONAL INSURED | I. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT |
| C. EMPLOYEE HIRED AUTO | J. PERSONAL EFFECTS |
| D. EMPLOYEES AS INSURED | K. AIRBAGS |
| E. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS | L. NOTICE AND KNOWLEDGE OF ACCIDENT OR LOSS |
| F. HIRED AUTO – LIMITED WORLDWIDE COVERAGE – INDEMNITY BASIS | M. BLANKET WAIVER OF SUBROGATION |
| G. WAIVER OF DEDUCTIBLE – GLASS | N. UNINTENTIONAL ERRORS OR OMISSIONS |

PROVISIONS

A. BROAD FORM NAMED INSURED

The following is added to Paragraph A.1., **Who Is An Insured**, of **SECTION II – LIABILITY COVERAGE**:

Any organization you newly acquire or form during the policy period over which you maintain 50% or more ownership interest and that is not separately insured for Business Auto Coverage. Coverage under this provision is afforded only until the 180th day after you acquire or form the organization or the end of the policy period, whichever is earlier.

B. BLANKET ADDITIONAL INSURED

The following is added to Paragraph c. in A.1., **Who Is An Insured**, of **SECTION II – LIABILITY COVERAGE**:

Any person or organization who is required under a written contract or agreement between you and that person or organization, that is signed and

executed by you before the "bodily injury" or "property damage" occurs and that is in effect during the policy period, to be named as an additional insured is an "insured" for Liability Coverage, but only for damages to which this insurance applies and only to the extent that person or organization qualifies as an "insured" under the Who Is An Insured provision contained in Section II.

C. EMPLOYEE HIRED AUTO

1. The following is added to Paragraph A.1., **Who Is An Insured**, of **SECTION II – LIABILITY COVERAGE**:

An "employee" of yours is an "insured" while operating an "auto" hired or rented under a contract or agreement in that "employee's" name, with your permission, while performing duties related to the conduct of your business.

COMMERCIAL AUTO

2. The following replaces Paragraph **b.** in **B.5., Other Insurance**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

b. For Hired Auto Physical Damage Coverage, the following are deemed to be covered "autos" you own:

- (1) Any covered "auto" you lease, hire, rent or borrow; and
- (2) Any covered "auto" hired or rented by your "employee" under a contract in that individual "employee's" name, with your permission, while performing duties related to the conduct of your business.

However, any "auto" that is leased, hired, rented or borrowed with a driver is not a covered "auto".

D. EMPLOYEES AS INSURED

The following is added to Paragraph **A.1., Who Is An Insured**, of **SECTION II – LIABILITY COVERAGE**:

Any "employee" of yours is an "insured" while using a covered "auto" you don't own, hire or borrow in your business or your personal affairs.

E. SUPPLEMENTARY PAYMENTS – INCREASED LIMITS

1. The following replaces Paragraph **A.2.a.(2)**, of **SECTION II – LIABILITY COVERAGE**:

(2) Up to \$3,000 for cost of bail bonds (including bonds for related traffic law violations) required because of an "accident" we cover. We do not have to furnish these bonds.

2. The following replaces Paragraph **A.2.a.(4)**, of **SECTION II – LIABILITY COVERAGE**:

(4) All reasonable expenses incurred by the "insured" at our request, including actual loss of earnings up to \$500 a day because of time off from work.

F. HIRED AUTO – LIMITED WORLDWIDE COVERAGE – INDEMNITY BASIS

The following replaces Subparagraph **e.** in Paragraph **B.7., Policy Term, Coverage Territory**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

e. Anywhere in the world, except any country or jurisdiction while any trade sanction, embargo, or similar regulation imposed by the

United States of America applies to and prohibits the transaction of business with or within such country or jurisdiction, for Liability Coverage for any covered "auto" that you lease, hire, rent or borrow without a driver for a period of 30 days or less and that is not an "auto" you lease, hire, rent or borrow from any of your "employees", partners (if you are a partnership), members (if you are a limited liability company) or members of their households.

(1) With respect to any claim made or "suit" brought outside the United States of America, the territories and possessions of the United States of America, Puerto Rico and Canada:

(a) You must arrange to defend the "insured" against, and investigate or settle any such claim or "suit" and keep us advised of all proceedings and actions.

(b) Neither you nor any other involved "insured" will make any settlement without our consent.

(c) We may, at our discretion, participate in defending the "insured" against, or in the settlement of, any claim or "suit".

(d) We will reimburse the "insured":

(i) For sums that the "insured" legally must pay as damages because of "bodily injury" or "property damage" to which this insurance applies, that the "insured" pays with our consent, but only up to the limit described in Paragraph **C., Limit Of Insurance**, of **SECTION II – LIABILITY COVERAGE**;

(ii) For the reasonable expenses incurred with our consent for your investigation of such claims and your defense of the "insured" against any such "suit", but only up to and included within the limit described in Paragraph **C., Limit Of Insurance**, of **SECTION II – LIABILITY COVERAGE**,

and not in addition to such limit. Our duty to make such payments ends when we have used up the applicable limit of insurance in payments for damages, settlements or defense expenses.

- (2) This insurance is excess over any valid and collectible other insurance available to the "insured" whether primary, excess contingent or on any other basis.
- (3) This insurance is not a substitute for required or compulsory insurance in any country outside the United States, its territories and possessions, Puerto Rico and Canada.

You agree to maintain all required or compulsory insurance in any such country up to the minimum limits required by local law. Your failure to comply with compulsory insurance requirements will not invalidate the coverage afforded by this policy, but we will only be liable to the same extent we would have been liable had you complied with the compulsory insurance requirements.
- (4) It is understood that we are not an admitted or authorized insurer outside the United States of America, its territories and possessions, Puerto Rico and Canada. We assume no responsibility for the furnishing of certificates of insurance, or for compliance in any way with the laws of other countries relating to insurance.

G. WAIVER OF DEDUCTIBLE – GLASS

The following is added to Paragraph D., **Deductible**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

No deductible for a covered "auto" will apply to glass damage if the glass is repaired rather than replaced.

H. HIRED AUTO PHYSICAL DAMAGE – LOSS OF USE – INCREASED LIMIT

The following replaces the last sentence of Paragraph A.4.b., **Loss Of Use Expenses**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

However, the most we will pay for any expenses for loss of use is \$65 per day, to a maximum of \$750 for any one "accident".

I. PHYSICAL DAMAGE – TRANSPORTATION EXPENSES – INCREASED LIMIT

The following replaces the first sentence in Paragraph A.4.a., **Transportation Expenses**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

We will pay up to \$50 per day to a maximum of \$1,500 for temporary transportation expense incurred by you because of the total theft of a covered "auto" of the private passenger type.

J. PERSONAL EFFECTS

The following is added to Paragraph A.4., **Coverage Extensions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

Personal Effects

We will pay up to \$400 for "loss" to wearing apparel and other personal effects which are:

- (1) Owned by an "insured"; and
- (2) In or on your covered "auto".

This coverage applies only in the event of a total theft of your covered "auto".

No deductibles apply to this Personal Effects coverage.

K. AIRBAGS

The following is added to Paragraph B.3., **Exclusions**, of **SECTION III – PHYSICAL DAMAGE COVERAGE**:

Exclusion 3.a. does not apply to "loss" to one or more airbags in a covered "auto" you own that inflate due to a cause other than a cause of "loss" set forth in Paragraphs A.1.b. and A.1.c., but only:

- a. If that "auto" is a covered "auto" for Comprehensive Coverage under this policy;
- b. The airbags are not covered under any warranty; and
- c. The airbags were not intentionally inflated.

We will pay up to a maximum of \$1,000 for any one "loss".

L. NOTICE AND KNOWLEDGE OF ACCIDENT OR LOSS

The following is added to Paragraph A.2.a., of **SECTION IV – BUSINESS AUTO CONDITIONS**:

Your duty to give us or our authorized representative prompt notice of the "accident" or "loss" applies only when the "accident" or "loss" is known to:

- (a) You (if you are an individual);

COMMERCIAL AUTO

- (b) A partner (if you are a partnership);
- (c) A member (if you are a limited liability company);
- (d) An executive officer, director or insurance manager (if you are a corporation or other organization); or
- (e) Any "employee" authorized by you to give notice of the "accident" or "loss".

M. BLANKET WAIVER OF SUBROGATION

The following replaces Paragraph A.5., **Transfer Of Rights Of Recovery Against Others To Us**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

5. Transfer Of Rights Of Recovery Against Others To Us

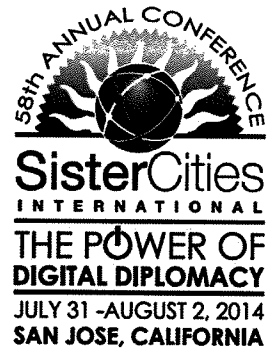
We waive any right of recovery we may have against any person or organization to the ex-

tent required of you by a written contract signed and executed prior to any "accident" or "loss", provided that the "accident" or "loss" arises out of operations contemplated by such contract. The waiver applies only to the person or organization designated in such contract.

N. UNINTENTIONAL ERRORS OR OMISSIONS

The following is added to Paragraph B.2., **Concealment, Misrepresentation, Or Fraud**, of **SECTION IV – BUSINESS AUTO CONDITIONS**:

The unintentional omission of, or unintentional error in, any information given by you shall not prejudice your rights under this insurance. However this provision does not affect our right to collect additional premium or exercise our right of cancellation or non-renewal.



November 1, 2013

City Administrator Murphy
1735 Montgomery Street
Oroville, CA 95965

City of Oroville
NOV 22 2013
Administration

Dear City Administrator Murphy,

Founded in 1956, Sister Cities International represents over 550 cities in the United States that enjoy 1900 sister city/county relationships in 140 countries on 6 continents. These alliances have fostered numerous economic development, educational and environmental programs, arts and cultural activities as well as youth and sports exchanges over the years, in a spirit of international cooperation.

The 2014 Annual Conference and Leadership Meeting celebrating the 58th anniversary of Sister Cities International will be hosted in San Jose, California from July 31st through August 2nd, 2014. Approximately 1,000 elected and community leaders and 500 youth delegates from all over the world are expected to attend this event. The conference theme will be "The Power of Digital Diplomacy."

It is customary that an Honorary Host Committee is created well in advance of the conference. The purpose of our letter is to invite you to join the Honorary Host Committee, which we expect will include other national and international civic, community, and corporate leaders.

For more information about Sister Cities International, the 2014 Annual Conference, the role of the Honorary Host Committee, or to confirm your interest in joining the Honorary Host Committee, please contact Tim Quigley at 408-891-6151 or Taylor Woodruff at 202-650-5080.

Your consideration of this invitation to serve in promoting world peace is much appreciated.

Best Wishes,

Norman Y. Mineta
National Co-Chair
Honorary Host Committee

Mary D. Kane
President and CEO
Sister Cities International

Chuck Reed
Mayor
City of San Jose

Jamie Hayes

From: Thomas Tenorio [ttenorio@BUTTECAA.com]
Sent: Friday, November 22, 2013 11:46 AM
To: Linda Dahlmeier; Thil Y. Chan-Wilcox; Gordon Andoe; Jack Berry; Cheri Bunker; David W. Pittman; Allen JR. Simpson
Cc: CityAdministrator
Subject: Community Christmas Dinner

Honorable Linda Dahlmeier and All Members of the Oroville City Council: I want to take this opportunity to express appreciation for your approval to waive the fees to use the Municipal Auditorium to conduct the 19th Annual Community Christmas Dinner. Your action to approve our request will enable all available resources to go towards providing a memorable event for local residents. We are pleased to provide an opportunity for many of our residents to volunteer as well as to get a great meal. The condition to include the City as an event sponsor is a welcome one. We are also obtaining additional sponsors as we speak. All of this will be acknowledged in public messages. I know that we share a common interest in improving the quality of life of our area. We are glad to add this event to the list of our collective efforts. We hope that you have a great Thanksgiving holiday. Tom

Thomas P. Tenorio, CCAP
Executive Director
Community Action Agency of Butte County, Inc.
370 Ryan Avenue
Chico, CA 95973
(530) 712-2600 Tel
(530) 895-1848 Fax
www.buttecaa.com
ttenorio@buttecaa.com

City of Oroville
NOV 22 2013
Administration



CATHY A. RAEVSKY, DIRECTOR
MARK A. LUNDBERG, M.D., M.P.H., HEALTH OFFICER

WWW.BUTTECOUNTY.NET/PUBLICHEALTH

ENVIRONMENTAL HEALTH DIVISION

September 17, 2013

Bill LaGrone, Jr., Fire Chief
Oroville Fire Department
2055 Lincoln Street
Oroville, CA 95965

Subject: Exemption Request for City Of Oroville Fire Department, 2055 Lincoln Street, Oroville, from Hazardous Material Release, Response Plan Program (HMRRP).

Dear Mr. LaGrone,

We have received your letter dated July 19, 2013 requesting exemption of your Lincoln Street fire station from submitting a "Business Plan" under Chapter 6.95 of the California Health and Safety Code. This department has reviewed your request and supporting arguments for exemption [section 25503.5(e)] and agrees to your exemption and will make the necessary adjustments to our inventory database (billing).

Butte County Public Health looks forward to the continued cooperation and cordial relations it has always enjoyed with the City of Oroville and Oroville Fire. Please free to discuss the content of this letter with us any time.

Very truly yours,



Paul Thao, REHS
Butte County Environmental Health
Hazardous Materials Division

T:\Users\Shared\Thao\Hazmat\HMRRP\HMRRP Inspection Report\HMRRP Inspection letters 2011\2055 Lincoln Street (Oroville Fire

TEL- 530.538.7281 | 202 MIRA LOMA DRIVE
FAX- 530.538.5339 | OROVILLE, CA 95965

OUR MISSION IS TO PROTECT THE PUBLIC THROUGH PROMOTING INDIVIDUAL, COMMUNITY AND ENVIRONMENTAL HEALTH



DEPARTMENT OF RESOURCES RECYCLING AND RECOVERY

1001 I STREET, PO BOX 4025 MS 9A, SACRAMENTO, CALIFORNIA 95812 • (916) 322-4027 • WWW.CALRECYCLE.CA.GOV

Novemebr 21, 2013



COPY

Mr. Rick Farley
City of Oroville
1735 Montgomery Street
Oroville, CA 95965-4897

RE: 2012 Electronic Annual Report (EAR) review complete; No further information needed.

Dear Mr. Farley:

In accordance with the Integrated Waste Management Act (IWMA), CalRecycle staff must review a jurisdiction's Electronic Annual Report (EAR) within 120 days. The intent of this review is to evaluate the implementation of Source Reduction and Recycling Element (SRRE) and Household Hazardous Waste Element (HHWE) programs.

I'd like to inform you that I have completed the City of Oroville's EAR review, and at this time, I do not have any further questions.

Note that CalRecycle staff-recommended per capita disposal indicators for all jurisdictions will be posted at: www.calrecycle.ca.gov/LGTools/MARS/DRMCMMain.asp. A jurisdiction's per capita disposal rate alone is not determinative of its effort to implement its SRRE and HHWE programs. Rather, program information submitted within the EAR and verified through LAMD staff site visits and other findings will be included in a scheduled Department review, every two or four years, to evaluate a jurisdiction's effort in meeting disposal reduction requirements.

Should you have any questions about the EAR review process, please contact me at (916) 341-6604 or by reply email.

Respectfully,

A handwritten signature in cursive script that reads "Cindi Rumenapp".

Cindi Rumenapp
Integrated Waste Management Specialist

cc: Terry Brennan, CalRecycle

