

COUNCIL AGENDA: DECEMBER 16, 2014

HEARING

SUBJECT: RESOLUTION OF NECESSITY PERTAINING TO THE ACQUISITION OF A PORTION OF PROPERTY LOCATED AT APN #261-020-010, OWNER LYNDA MOURTON, FOR PROPOSED WALKING AND RIDING TRAIL FOR THE TULE RIVER PARKWAY MASTER PLAN PROJECT, PHASE III

SOURCE: City Attorney's Office

COMMENT: Staff has sent several communications to the owner/representative of the subject property, Lynda Mourton, to acquire the above-referenced portion of property. This portion of the property needs to be acquired in order to construct a walking and riding trail as part of the Tule River Parkway Master Plan Project, Phase III. The City and property owner are working towards but have not yet finalized an agreement.

Staff is asking City Council to adopt a Resolution of Necessity, as the plans for the proposed project are complete and the City needs to commence construction work soon in order to preserve project funding. The City Attorney has prepared the attached Resolution of Necessity as authorized and for adoption by City Council. The statutory offer and summary of the basis for just compensation, pursuant to Government Code Sections 7267.1 and 7267.2(a) and prepared by City and/or its agent, have been sent to the owners. The City Attorney has also notified the above owner, in writing via certified mail, at least 15 days prior to the Council meeting, that this matter would be scheduled for this meeting's agenda. As of today, no request to be heard has been received by the City from the property owners. In adopting a Resolution of Necessity, the City Council must find that the public interest and necessity require the project, that the project is planned or located in the manner that will be most compatible with the greatest public good and least private injury, and that the property sought to be acquired is necessary for the project. Passage of the Resolution requires a two-thirds vote of all members of the City Council.

RECOMMENDATION: That City Council:

1. Hear testimony from the owners and/or their representative(s), if they appear at the hearing and request to be heard;

2. Adopt the attached Resolution of Necessity; and
3. Authorize the City Attorney to take all appropriate action necessary to acquire said property on behalf of the City of Porterville.

ATTACHMENT: Resolution of Necessity and Attachments

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CITY COUNCIL, CITY OF PORTERVILLE
COUNTY OF TULARE, STATE OF CALIFORNIA

RESOLUTION NO. _____ - 2014

RESOLUTION OF NECESSITY REQUIRING THE EXERCISE OF
THE POWER OF EMINENT DOMAIN PERTAINING TO THE ACQUISITION OF
PROPERTY FOR USE BY THE CITY OF PORTERVILLE FOR CONSTRUCTION OF
WALKING AND RIDING TRAIL FOR TULE RIVER PARKWAY MASTER PLAN
PROJECT, PHASE III IN COMPLIANCE WITH THE REQUIREMENTS OF SECTION
1245.210 ET SEQ. OF THE CODE OF CIVIL PROCEDURE OF THE STATE OF
CALIFORNIA

WHEREAS, the City of Porterville intends to undertake a project to construct a walking and riding trail as part of the Tule River Parkway Master Plan Project, Phase III and complete related work; and

WHEREAS, after notice and opportunity have been given to the property owner(s) at issue, the City Council of the City of Porterville hereby finds and determines as follows:

1. The City of Porterville intends to construct the aforementioned Project, a public use, together with related improvements to carry out and make effective the principal purpose pursuant to Code of Civil Procedure Section 1240.120(a), and in connection therewith, acquire interest in certain real property. Said public use is a function of the City of Porterville.

2. The City of Porterville is authorized to acquire the portion of the parcel described in Appendix 1 herein and exercise the power of eminent domain for the public use set forth herein in accordance with the California Constitution and the California Eminent Domain Law, Code of Civil Procedure Section 1230.010 et seq. and pursuant to Government Code Section 37350.5, Streets and Highways Code Section 5100 et seq., and Sections 3 and 4 of the Charter of the City of Porterville.

3. The property to be acquired will affect a portion of a parcel generally located at APN# 261-020-010 and consisting of the property more particularly described

in Appendix 1, attached hereto and incorporated herein by reference together with a map thereof.

4. On December 1, 2014, there was mailed a Notice of City of Porterville's Intent to Adopt a Resolution of Necessity for acquisition by eminent domain of the real property described in Appendix 1 herein, which Notice of Intent is attached hereto as Appendix 2 and is incorporated herein by this reference. Said Notice of Hearing was mailed to all persons whose names appear on the last equalized County Assessment Roll as having an interest in the property described in Appendix 1. Said Notice advised said persons of their right to be heard on the matters referred to therein on the date and at the time and place stated therein. Said persons received the Notice of Intent.

5. The hearing set out in said Notice was held on December 16, 2014, at the time and place stated therein, and all interested parties were given an opportunity to be heard. The hearing was closed.

Based upon the evidence presented, this City Council by vote of two-thirds or more of its members, further finds, determines, declares, and resolves each of the following:

- a. The public interest and necessity require the proposed project.
- b. The proposed project serves a public purpose and is planned or located in the manner that will be most compatible with the greatest public good and the least private injury.
- c. The property described herein in Appendix 1 is necessary for the proposed project.
- d. The offer required by Section 7267.2(a) of the Government Code, and the summary of the basis for the amount established as just compensation, attached hereto in Appendix 2, was made to the owner or owners of record.

- e. All conditions and statutory requirements necessary to exercise the power of eminent domain (“the right to take”) to acquire the property described herein have been complied with by the City of Porterville.
 - f. A portion of the property described in Appendix 1 may be acquired for a more necessary public use pursuant to Code of Civil Procedure Section 1240.610. The City Council further finds and determines that insofar as and to the extent that said parcel has heretofore been dedicated to a public use for telephone and/or electric utility purposes, the acquisition and use of said parcel by the City of Porterville for the public use described above is for a more necessary public use than the use to which the property has already been appropriated.
6. The City Attorney is hereby AUTHORIZED and EMPOWERED:
- a. To acquire in the name of the City of Porterville, by condemnation, the property described in Appendix 1, attached hereto and incorporated herein by this reference in accordance with the provisions of the California Eminent Domain Law and the Constitution of California;
 - b. To acquire the property in fee simple unless a lesser estate is described in Appendix 1, herein;
 - c. To prepare or have prepared and to prosecute or to retain counsel to prosecute in the name of the City of Porterville such proceedings in the proper court as are necessary for such acquisition;
 - d. To deposit the probable amount of compensation, based on an appraisal, and to apply to said court for an order permitting the City

of Porterville to take immediate possession and use of said property for said public uses and purposes.

This Resolution was passed by the City Council members of the City of Porterville at a regularly scheduled meeting thereof on the 16th day of December, 2014, by the following vote:

AYES:

NOES:

ABSENT:

Mayor Milt Stowe, City of Porterville

ATTEST:

John Lollis, City Clerk,
City of Porterville

By: Patrice Hildreth, Chief Deputy City Clerk

APPENDIX 1

APN: 261-020-010
Owner: Mourton

LEGAL DESCRIPTION

Exhibit "A"

That portion of the Northeast quarter of the Southwest quarter of Section 36, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, in the City of Porterville, County of Tulare, State of California, more particularly described as follows:

COMMENCING AT the Northwest corner of said Northeast quarter of the Southwest quarter;

THENCE, South 89°25'17" East, along the north line of said Northeast quarter of the Southwest quarter, a distance of 924.00 feet;

THENCE, South 00°28'58" West, parallel with the west line of said Northeast quarter of the Southwest quarter, 787.60 feet, to a point in the center line of the Tule River and the **POINT OF BEGINNING**;

THENCE, North 84°17'26" West, along said center line of the Tule River, a distance of 153.40 feet;

THENCE, North 85°49'54" West, a distance of 272.40 feet;

THENCE, North 79°00'11" West, a distance of 151.96 feet;

THENCE, North 89°52'46" West, 350.00 feet, to a point in the west line of said Northeast quarter of the Southwest quarter;

THENCE, South 00°28'58" West, along the west line of said Northeast quarter of the Southwest quarter, a distance of 199.43 feet;

THENCE, North 87°35'07" East, a distance of 320.00 feet;

THENCE, South 85°15'43" East, a distance of 606.08 feet, to a point in a line 924.00 feet easterly and parallel with the west line of said Northeast quarter of the Southwest quarter;

THENCE, North 00°28'58" East, parallel with the west line of said Northeast quarter of the Southwest quarter, 171.22 feet to the **POINT OF BEGINNING**;

CONTAINING: 167,187 square feet (3.84 acres) more or less.

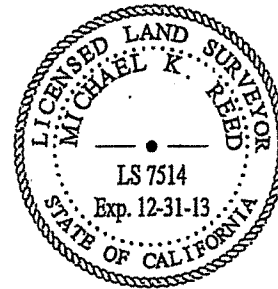
BASIS OF BEARING for the parcel described herein is the north line of the Southwest quarter, Section 36, Township 21 South, Range 27 East, Mount Diablo Base & Meridian, taken as South 89°25'17" East, per Record of Survey, filed in Book 21 of Licensed Surveys at page 68 in the Office of Tulare County Recorder.

END OF DESCRIPTION

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

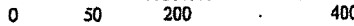
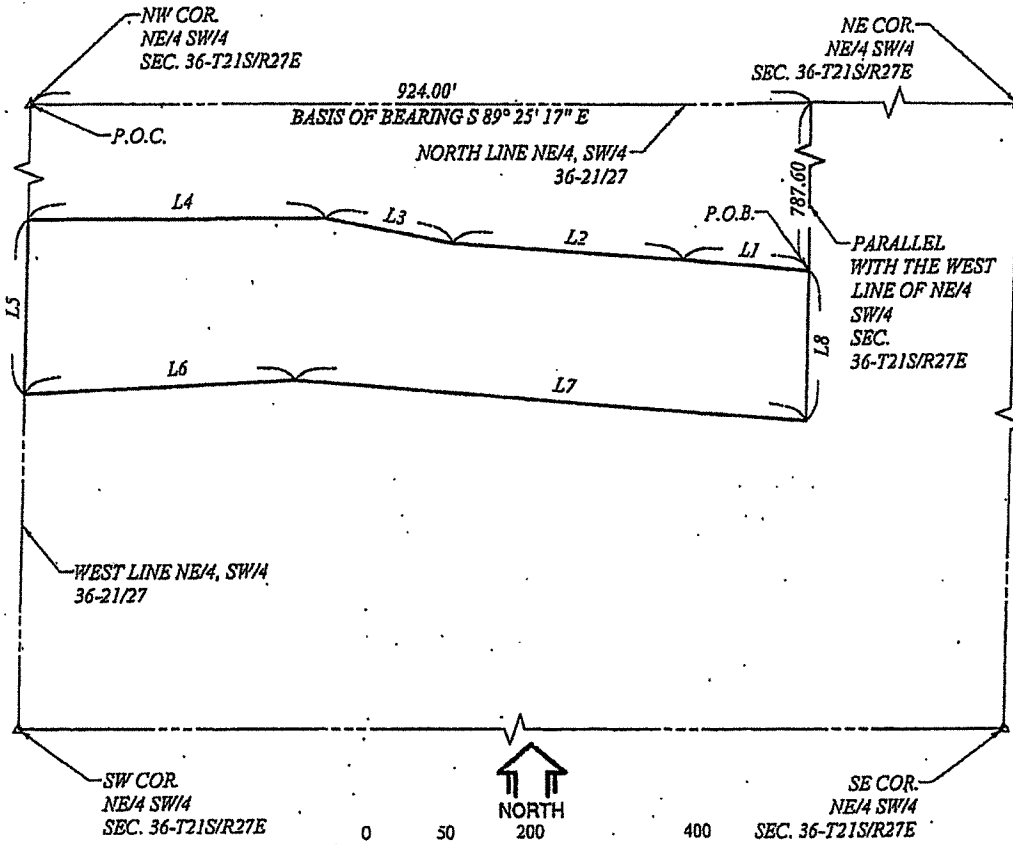
Signature: Michael K. Reed
Michael K. Reed, Licensed Land Surveyor

Date: 1/12/2012



PARCEL PLAT

EXHIBIT "B"



SCALE: 1"=200'

Line Table		
Line #	Length	Bearing
L1	153.40	N84° 17' 26"W
L2	272.40	N85° 49' 54"W
L3	151.96	N79° 00' 11"W
L4	350.00	N89° 52' 46"W
L5	199.43	S00° 28' 58"W
L6	320.00	N87° 35' 07"E
L7	606.08	S85° 15' 43"E
L8	171.22	N00° 28' 58"E

CITY OF PORTERVILLE
ENGINEERING DIVISION

291 N. MAIN ST. PORTERVILLE, CALIFORNIA 93257 559 782-7482

PORTION OF THE NORTHEAST QUARTER OF
THE SOUTHWEST QUARTER SECTION 36,
TOWNSHIP 21 SOUTH, RANGE 27 EAST,
MOUNT DIABLO BASE AND MERIDIAN, IN
THE CITY OF PORTERVILLE, COUNTY OF
TULARE, STATE OF CALIFORNIA

OWNER: LYNDA MOURTON
APN: POR. 261-020-010
AREA: 167,187 S.F.
ACRES: 3.84
DRAWN BY: JB
CHK'D BY: DB

APPENDIX 2

WALTER McCORMICK (1926 - 2005)
S.L. KABOT
NANCY A. JENNER
JULIA M. LEW
CHAD M. LEW

MATTHEW C. PIERCE

LAW OFFICES OF
MCCORMICK KABOT JENNER & LEW
A PROFESSIONAL CORPORATION
1220 WEST MAIN STREET
VISALIA, CALIFORNIA 93291

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(559) 734-8762

INTERNET
WWW.MKJW.COM

December 1, 2014

Ms. Lynda Mourton
617 S. Plano Street
Porterville, CA 93257

Murray Tragish, Esq.
1405 Commercial Way, Ste. 130
Bakersfield, CA 93309

RECEIVED
DEC 04 2014
CITY OF PORTERVILLE
CITY MANAGER

RE: Notice of City of Porterville's Intent to Adopt a Resolution of Necessity to Acquire Property by Eminent Domain [CA Code of Civil Procedure 1245.235]

Site Address: (No Address), Porterville, CA
Assessor's Parcel Number: 261-020-010

Dear Ms. Mourton and Mr. Tragish:

The City of Porterville is aware that substantial progress has been made toward settling the issues related to the City's proposed acquisition of the above-referenced property, and appreciates the effort you are making to that end. However, due to the time frame for the project it is necessary to move forward with the proceedings required prior to a potential eminent domain action. Notwithstanding this notice, the City has every intention of coming to an amicable resolution and will continue to work toward that end.

- 1. Notice of Intent of City Council to Adopt a Resolution of Necessity.** The City Council intends to consider the adoption of a Resolution of Necessity on December 16, 2014 that, if adopted, will authorize the City of Porterville to acquire the property described herein by eminent domain for the purpose of developing a walking and riding trail as part of the Tule River Parkway Master Plan Project, Phase III. A description of the property being considered for acquisition is included in the attachment marked Appendix A.
- 2. Notice of Your Right to Appear and Be Heard.** Please take notice that the City Council of the City of Porterville, at a regular meeting to be held on Tuesday, December 16, 2014 at 6:30 p.m., or as soon thereafter as the matter may be heard, at Porterville City Hall, 291 N. Main Street, Porterville, California, will hold a hearing on whether such a Resolution of Necessity should be adopted, as required by California Code of Civil Procedure section 1245.235 for the commencement of an eminent domain proceeding to acquire real property.

You have a right to appear and be heard before the City Council at the above scheduled hearing on the following matters and issues, and to have the City Council give judicious consideration to your testimony prior to deciding whether or not to adopt the proposed Resolution of Necessity:

- a. Whether the public interest and necessity require the proposed project;
- b. Whether the proposed project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury;
- c. Whether the property sought to be acquired by eminent domain and described in the Resolution of Necessity is necessary for the proposed project;
- d. Whether the offer required by Government Code section 7267.2(a), together with the accompanying statement and summary basis for the amount established as just compensation, was actually made to you and whether said offer and statement/summary were in a form and contained all of the factual information required by Government Code section 7267.2(a). Said offer(s) and a copy of Government Code section 7267.2(a) is attached hereto and included in Appendix A.
- e. Whether City Council has complied with all conditions and statutory requirements necessary to exercise the power of eminent domain (the "right to take") to acquire the property described herein, including relocation assistance, as well as any other matter regarding the right to take said property by eminent domain; and
- f. Whether City Council has statutory authority to acquire the property by eminent domain.

A copy of the proposed Resolution of Necessity will be available, upon your request, for inspection at the office of the Clerk of City Council at Porterville City Hall, 291 N. Main Street, Porterville, California five (5) days after this Notice was mailed and prior to the hearing at the place of the hearing.

Your name appears on the last equalized Tulare County assessment roll and as Owner (in our preliminary title report) of the property required for the proposed project.

The statutes that authorize the City to acquire the property by eminent domain for this proposed project are Porterville City Charter Section 4 and California Government Code Section 37350.5.

3. If you desire to be heard, please be advised that you may file a written request with the clerk of the governing board within fifteen (15) days after this Notice was mailed. You must file your request to be heard at: Porterville City Hall, 291 N. Main Street, Porterville, California.

If you elect not to appear and be heard in regard to compensation, your nonappearance will not be a waiver of your right to claim greater compensation in a court of law. The amount to be paid for the property will not be considered by the board at this hearing.

If you elect not to appear and not to be heard, your failure will be a waiver of your right to later challenge the right of the City to take the property by eminent domain.

The amount of the compensation to be paid for the acquisition of the property is

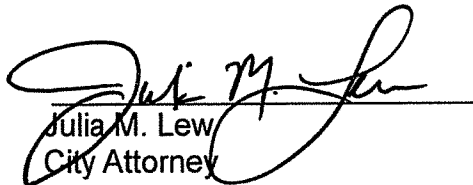
not a matter or issue being heard by City Council at this time. Your nonappearance at this noticed hearing will not prevent you from claiming greater compensation, in and as determined by a Court of Law in accordance with the laws of the State of California. This Notice is not intended to foreclose future negotiations between you and the representatives of the City on the amount of compensation to be paid for your property. If you elect not to appear and not to be heard, you will only be foreclosed from raising in a Court of law the issues that are the subject of this noticed hearing and that are concerned with the right to take the property by eminent domain.

If City Council elects to adopt the Resolution of Necessity, then within six months of the adoption of the Resolution, the City will commence eminent domain proceedings in Superior Court. In that proceeding, the Court will determine the amount of compensation to which you are entitled.

Dated and mailed on December 1, 2014.

McCormick Kabot Jenner & Lew
A Professional Corporation

By:



Julia M. Lew
City Attorney
City of Porterville

CC: Baldo Rodriguez, Porterville Public Works Director
John Lollis, Porterville City Manager
Matthew C. Pierce

Enclosures: Appendix A

Matt Pierce

From: Matt Pierce [mpierce@mkjw.com]
Sent: Thursday, November 13, 2014 3:43 PM
To: 'Murray Tragish'
Subject: Porterville/Mourton property

Murray, I have spoken with the city about the issues we discussed this afternoon. The city is willing to sell the property through a 30-45 escrow period, and the city is also willing to put up no trespassing signs on the east side of the gate/fence to be constructed along the east boundary of Ms. Mourton's retained parcel. I also confirmed that the city's offer was \$3,500 total for Mr. Oswald to build chain link fences on the east and west sides of the retained parcel. So, if he wishes to accept that offer, the total purchase price will be \$110,500. If not, the city will construct those fences and the purchase price will be \$107,000.

I think we have an agreement. Let me know about how to proceed with the east/west fences, and I will start preparing a purchase agreement.

Thank you,

Matthew C. Pierce
Deputy City Attorney, City of Porterville

McCORMICK, KABOT, JENNER & LEW

1220 West Main Street

Visalia, CA 93291

Office: (559) 734-6729

Fax: (559) 734-8762

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WALTER McCORMICK (1926 - 2005)
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November 11, 2014

Murray Tragish, Esq.
1405 Commercial Way, Ste. 130
Bakersfield CA 93309

**Re: City of Porterville / Lynda Mourton
Acquisition of APN 261-020-10**

Dear Mr. Tragish:

The following is the City of Porterville's latest proposal to purchase the northern section of Ms. Mourton's property in lieu of instigating imminent domain proceedings. I will outline the proposal by addressing your letter of October 21, 2014 point by point. This letter is intended as a summary of our recent conversations. If this letter does not properly reflect our conversations, please let me know.

The numbered points that follow are taken directly from your October 21, 2014 letter. The City's response to each is indicated in bold.

1. My client shall deed to the City all of the property north of the canal, which is located on the northern portion of her property.

The City accepts this item as is.

2. The City will construct a chain-length fence on the east and west boundaries of the retained parcel, and the City will pay all construction repair and maintenance costs associated with the fence.

The City is willing to construct these fences, but will pay Ms. Mourton and Mr. Oswald \$3,500 to construct them. Alternatively, the City will build the fences as requested. However, the City cannot agree to maintain and repair these fences in perpetuity, as they are to be constructed on Ms. Mourton's retained property. To do so would be a violation of the Gift of Public Funds Doctrine. Article XVI, section 6, of the California Constitution prohibits the making of "gifts" of public funds, as cited below:

"The Legislature shall have no power . . . to make any gift or authorize the making of any gift, of any public money or thing of value to any individual, municipal or other corporation whatever . . ."

3. My client shall construct the chain-length fence on the north boundary of the retained parcel, and the City will pay my client the sum of \$17,000.00 to construct said fence. The City will pay for all repair and maintenance costs associated with the fence.

The City agrees to pay Ms. Mourton \$17,000 to construct a fence along the north boundary of her retained property. As discussed above, the Gift of Public Funds Doctrine prohibits the City from maintaining and repairing this fence.

4. The City will include in the construction of the east boundary fence a six-foot locked gate at the easement termination point. Further, the City will provide my client with a key or a lock combination to the locking mechanism.

Please see the City's response to item no. 2. The City is willing to either construct this fence and gate, or pay Ms. Mourton to do so herself. In either event, the city will provide Ms. Mourton with access to the gate.

5. The City will provide "no parking" and "trespassing" signs along the east fence indicating that any placement of vehicles or otherwise are trespassing. Further, signs should be posted alerting parking users that are parking along the east side of my client's property is prohibited.

This item needs further discussion. Parking along the east fence would indicate that someone is parking within Ms. Mourton's east access easement or on her property, and is therefore trespassing. The City is not certain this request's purpose.

6. There will be seven 100 watt nostalgic style lights along the park parameter. They will be similar to the lights along downtown Main Street. The basketball court will have two 465 watt lights, and the lights will point directly downward illuminating only the basketball court.

The City accepts this item as is.

7. The plans for the Parkway do not call for an amphitheatre.

The City confirms that the plans do not call for an amphitheatre.

8. The park shall be open from 7:00 a.m. to 10:00 p.m., or such lesser hours as required or permitted. Alcohol beverages will be prohibited and noise levels shall comply with City standards. Any formal gatherings requiring exclusive use of any park facility or park space shall require a permit.

This request accurately reflects the current usage conditions for the proposed park. These usage conditions are the same for all city parks. However, the conditions are subject to change with amendments or additions to the statutes and municipal codes upon which they are based. The City cannot agree to maintain these usage conditions when and if there

Murray Tragish, Esq.
November 11, 2014
Page 3 of 3

are changes made to the laws upon which they are based.

9. As to the my client's concerns regarding the alleged easement driveway road from Plano Road through the Reeder property (now the Fallen Heroes Park), that runs to the east of my client's propeliy, my client shall Quitclaim any interest in the dirt road but shall require a non-exclusive easement so that she may continue to use the roadway without interruption, if in fact the need arises.

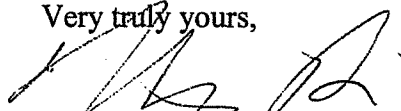
Upon review of the easement documents you have provided to me, the City suggests drawing up a new easement that gives Ms. Mourton's retained parcel the right to non-exclusive use the portion of the access road situated on the City's property. The City has also offered to record this new easement upon its execution. However, this new easement will have no effect on the portion of the access road which runs through the parcel owned by the Estate of Max Young (the portion of the road immediately west of Plano Street).

10. The City shall retain all responsibility and liability for the portion of the properties conveyed to the City.

The City accepts this item as is.

The City further accepts Ms. Mourton's prior offer of \$90,000 for the purchase of this land. This price does not include the proposed amounts that the City has offered to pay to Ms. Mourton for the constructions of fences along the north, east and west ends of her retained parcel.

Very truly yours,



Matthew C. Pierce

LAW OFFICES
MURRAY TRAGISH
1405 COMMERCIAL WAY
SUITE 130
BAKERSFIELD, CALIFORNIA 93309
(661) 324-2648
FAX (661) 324-2654
E-MAIL: murray@murraytragish.com

October 21, 2014

Mathew C. Pierce, Esq.
Law Offices of McCormick, Kabot, Jenner and Lew
1220 West Main Street
Visalia, California 93291

**VIA ELECTRONIC MAIL
AND FIRST CLASS MAIL**

Re: Lynda Mourton / City of Porterville
Acquisition of APN 261-020-10

Dear Mr. Pierce:

In response to your letter of August 18, 2014, and our subsequent telephone conversations regarding my client's discussion with the City of Porterville, my client will sell portions of her property to the City of Porterville for \$90,000.00, based on the following:

1. My client shall deed to the City all of the property north of the canal, which is located on the northern portion of her property.
2. The City will construct a chain-length fence on the east and west boundaries of the retained parcel, and the City will pay all construction repair and maintenance costs associated with the fence.
3. My client shall construct the chain-length fence on the north boundary of the retained parcel, and the City will pay my client the sum of \$17,000.00 to construct said fence. The City will pay for all repair and maintenance costs associated with the fence.
4. The City will include in the construction of the east boundary fence a six-foot locked gate at the easement termination point. Further, the City will provide my client with a key or a lock combination to the locking mechanism.
5. The City will provide "no parking" and "trespassing" signs along the east fence indicating that any placement of vehicles or otherwise are trespassing. Further, signs should be posted alerting parking users that are parking along the east side of my client's property is prohibited.
6. There will be seven 100 watt nostalgic style lights along the park parameter. They will be similar to the lights along downtown Main Street. The basketball court will have two

465 watt lights, and the lights will point directly downward illuminating only the basketball court.

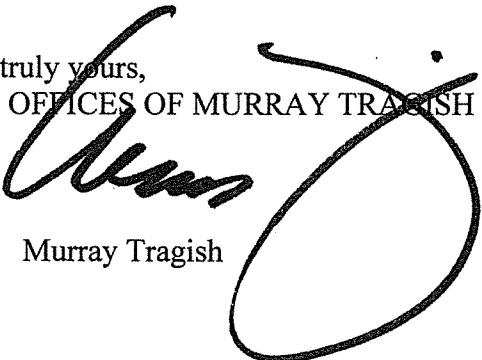
7. The plans for the Parkway do not call for an amphitheater.
8. The park shall be open from 7:00 a.m. to 10:00 p.m., or such lesser hours as required or permitted. Alcohol beverages will be prohibited and noise levels shall comply with City standards. Any formal gatherings requiring exclusive use of any park facility or park space shall require a permit.
9. As to the my client's concerns regarding the alleged easement driveway road from Plano Road through the Reeder property (now the Fallen Heroes Park), that runs to the east of my client's property, my client shall Quitclaim any interest in the dirt road but shall require a non-exclusive easement so that she may continue to use the roadway without interruption, if in fact the need arises.
10. The City shall retain all responsibility and liability for the portion of the properties conveyed to the City.

Please advise if the foregoing is amenable to the City.

If you have any further questions, please do not hesitate to contact my offices as soon as possible.

Very truly yours,
LAW OFFICES OF MURRAY TRAGISH

Murray Tragish



MT/ab

Cc: Lynda Mourton

WALTER McCORMICK (1926 - 2005)
S. L. KABOT
NANCY A. JENNER
JULIA M. LEW
CHAD M. LEW

MATTHEW C. PIERCE

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August 18, 2014

Murray Tragish, Esq.
1405 Commercial Way, Ste. 130
Bakersfield CA 93309

**Re: City of Porterville / Lynda Mourton
Acquisition of APN 261-020-10**

Dear Mr. Tragish:

Please be advised that this firm represents the interests of the city of Porterville. I am writing in response to your correspondence of May 23, 2014, regarding the parcel described above. I will respond to your inquiries point by point, using the same numbers as used in your May 23, 2014, correspondence.

1. The City acknowledges and confirms that it will construct the chain link fence on the east, north and west boundaries of the retained parcel, and that the City will pay all construction, repair and maintenance costs associated with the fence as described in your letter of May 23, 2014.

2. The city will include in the construction of the fence a six foot locked gate at the easement termination point. The City will provide Ms. Mourton with a key or a lock combination to the locking mechanism.

3. Parking along the east fence would indicate that someone is parking within Ms. Mourton's east access easement and is therefore trespassing. Signs can be posted alerting park users that parking along the north end of the park (the east side of Mourton property) is prohibited.

4. There will be seven 100-watt nostalgic style lights along the park perimeter. They will be similar to the lights along downtown Main Street. The basketball court will have two 465 watt lights, but these lights will point directly downward illuminating the basketball courts.

5. The plans do not call for an amphitheater.

6. When completed, the park shall be open from 7:00 a.m. to 10:00 p.m. These are the same hours that all city parks are open for public use. Alcoholic drinks are prohibited, and noise levels shall comply with City standards. Formal gatherings requiring exclusive use of any park facility or park space shall require a permit.

Murray Tragish, Esq.
August 18, 2014
Page 2 of 2

7. This inquiry is not clear. If Ms. Mourton holds any riparian rights to the Tule River, these rights should be discoverable through a property title search. Your question seems to imply a demand to the City or Mr. Simon to confirm or deny whether Ms. Mourton has riparian rights. The onus is on Ms. Mourton to provide whatever documentation she may have that spells out her riparian rights to the Tule River. Lacking any information in this regard should settle the matter and not result in the City expending considerable effort on her behalf to determine if she has or does not have riparian rights.

8. Patrons of Fallen Heroes Park do not have to use the dirt roadway to access the park. Fallen Heroes Park can be accessed from Chase Avenue, and patrons of the Tule River Phase III Parkway will have two access points (trailheads) across the roadway from Fallen Heroes Park to the Tule River Phase III Parkway. The property purchased from the Reeders wholly contains the dirt roadway in question. With respect to the claimed easement, Ms. Mourton will need to show that she has a recorded easement for use of the roadway.

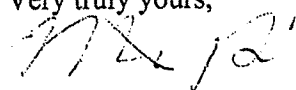
The City, in the course of completing its due diligence, reviewed all documents available and did not find any recorded easement in favor of Ms. Mourton. Nevertheless, the City is prepared to offer Ms. Mourton a non-exclusive easement that she may continue to use the roadway without interruption. The City cannot agree to Ms. Mourton's request that the City purchase the easement that may or may not be Ms. Mourton's to sell.

9. The City cannot agree to the sharing or payment of insurance premiums. The City does not pay or share in the cost of insurance premiums for residents who live next to a City park or City owned facility (youth center for example) because of an increase in foot traffic or more intense use in the neighborhood. To do so would place an unprecedented and onerous burden on City resources.

10. Once the City acquires the northern portion of the Mourton property, the remaining property continues to meet all zoning requirements and remains a marketable lot. A lot line adjustment is not necessary or required. Section 664528(a) of the Subdivision Map Act provides an exemption. When a government agency acquires property from another agency or from an individual property owner, the acquisition is exempt from the provisions or requirements of the Subdivision Map Act.

With regards to your offer of \$117,000 to purchase the property, the offer is rejected. The City Council has authorized the above concessions to your inquiries, but has declined to make a counter purchase offer. If you wish to submit another offer, or further discuss this matter in any way, please contact me.

Very truly yours,



Matthew C. Pierce



**Public Works
Department**

**VIA PRIORITY MAIL -
RETURN RECEIPT**

December 10, 2013

Ms. Lynda Mourton
617 S. Plano Street
Porterville, CA 93257

Mr. Murry Tragish, Esq.
1405 Commercial Way, Suite 130
Bakersfield, CA 93309

Subject: Continued Negotiations for the acquisition of fee title property located at APN 261-020-010

Dear Ms. Mourton and Mr. Tragish:

This letter is in follow-up to the letter dated October 21, 2013. The letter incorrectly listed an easement for a portion of the property located at APN 261-020-010. Original discussions included the fee title for 3.84 acres plus an easement that crossed over to Roche Street. It was determined the easement would not be required, the easement was removed from discussion and a subsequent appraisal summary was provided without reference to the easement.

As you know, an independent appraisal was obtained by Michael Burger & Associates in accordance with California Code of Civil Procedure §1263.025(a), stating a value of \$160,000 with the extraordinary assumption that the City would install fencing at a minimum height of ten feet. Unfortunately, a ten-foot fence would not comply with the Porterville Development Ordinance; however, installation of a six-foot fence installed by the City continues to be a reasonable request. Staff requested direction from City Council in closed session on September 17, 2013, basing the counter offer of \$160,000 on the independent appraisal.

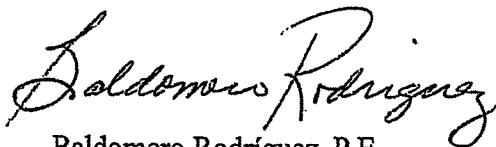
The City originally had the property appraised by Timothy J. Simon, MAI, a Certified General Real Estate Appraiser, and that appraisal came in at \$60,188. As time elapsed Mr. Simon re-appraised the property for \$73,563. The City hereby rescinds all previous offers to purchase and hereby offers you the sum of EIGHTY-EIGHT THOUSAND FOUR HUNDRED TWENTY (\$88,420) for the acquisition of 100% of the interest in the Property, as well as the City to install a six-foot fence to separate your property from the fee title property.

This is an offer to purchase all of the interest designated as the Property, free of all liens and other encumbrances, except as may be agreed to by the City. If you agree to the transaction, as described, please sign the copy of this letter and return it to this office in the enclosed envelope.

The Tule River Parkway, Phase III is a grant funded project, and as such the City must demonstrate completion of certain milestones. If you agree to and accept the City's above described offer and conditions, please contact the City by January 17, 2014. The City would then prepare a Purchase Agreement and begin the escrow process.

If you have any questions regarding this Project, the continuation of this negotiation, or the acquisition process, please feel free to contact me at (559) 782-7520 or by email at: brodriguez@ci.porterville.ca.us.

Sincerely,



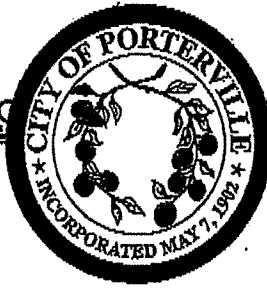
Baldomero Rodriguez, P.E.
Public Works Director
City of Porterville

cc: Michael Reed, Deputy Public Works Director

Agreed and accepted.

Ms. Lynda Mourton

Date



**Public Works
Department**

October 21, 2013

Ms. Lynda Mourton
617 S. Plano Street
Porterville, CA 93257

Subject: Council Response to Counter Offer - Easement Request @ APN 261-020-010.

Dear Ms. Mourton:

This letter is in response to your counter offer to the City's offer of \$60,188 for an easement across the property identified as APN-261-020-010. Your counter of \$160,000 plus the value of installing ten foot fencing was considered by the City Council in closed session on September 17, 2013.

Please accept this letter as City Council's official notice informing you of its decision to reject your counter offer of \$160,000. The \$160,000 asking price for the easement plus the value of installing ten feet fencing vastly exceeds the appraised value from the City's appraiser of \$60,188 for the 167,270 square foot square foot easement.

The City Council has directed staff to make a counter offer of \$88,420. This counter offer is based on the appraisal done by Timothy J. Simon, MAI, a Certified General Real Estate Appraiser.

Please call this office if you have questions regarding this letter.

Sincerely,

Baldomero Rodriguez, P.E.
Public Works Director
City of Porterville

cc: Michael Reed, Jenni Byers

Paragon Partners Ltd.

June 4, 2012

Lynda Mourton
617 South Plano Street
Porterville, CA 93257

RE: Revised Offer to Purchase Real Property
Assessor's Parcel Number: 261-020-010 (portion)

Dear Ms. Mourton:

The City of Porterville (City) is proposing to develop a walking and bike riding trail as part of the Tule River Parkway Master Plan, Phase III. The proposed project will require the acquisition of a portion of the above referenced parcel, described as 3.84 acre area (the Property) to be acquired in fee simple title.

Therefore, the City hereby rescinds all previous offers to purchase and hereby offers you the sum of SIXTY THOUSAND ONE HUNDRED EIGHTY-EIGHT DOLLARS (\$60,188.00) for the acquisition of 100% of the interest in the Property.

In accordance with California Code of Civil Procedure § 1263.025(a), the City hereby offers to pay the reasonable costs, not to exceed \$5,000, of an independent appraisal should you desire for such appraisal to be conducted. Any independent appraisal shall be conducted by an appraiser licensed by the Office of Real Estate Appraisers.

The amount of the offer is predicated on the assumption that there exists no hazardous substance, product, waste, or other material of any nature whatsoever which is or becomes listed, regulated, or addressed pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 United States Code section 9601 et seq., on the Property. Furthermore, please be advised that the amount offered is subject to an environmental site inspection, and the cost to remediate any identified problems may affect the valuation of the Property. This offer is also conditioned on the City Council's ratification of the offer by execution of a contract of acquisition or adoption of a resolution of necessity.

This is an offer to purchase all of the interest designated as the Property, free of all liens and other encumbrances, except as may be agreed to by the City.

No final determination has been made as to the ownership of the subject property. This offer is contingent upon presentation of conclusive evidence of title. If more than one person has an interest in the subject property that the City is seeking to acquire, all parties with such interest must accept this offer.

If you sign and return the Purchase Contract, the City will deposit the full consideration with an escrow holder with instructions to pay the same to you or any holder of any encumbrance on your property after the City Council approves the purchase. The City will pay all the escrow fees. When property is sold to the City of Porterville, there is the same obligation as in a private transaction for the Owner to pay in escrow the amounts needed to remove liens and

encumbrances, if any. In the event that there are liens and encumbrances, the escrow agent, on behalf of the Owner, shall either:

- Pay to owners of liens and encumbrances, out of the approved compensation paid by the City of Porterville, the amount needed to terminate leases or cancel trust deeds, mortgages, or other liens affecting the property acquired, or
- Arrange for holders of leases, trust deeds, mortgages, or other liens to quitclaim their interest, if any, to the Parcel being acquired. When an Owner sells his/her property to the City of Porterville, the Owner's obligation to pay current and past due property taxes is the same as if the Owner were selling to a private individual. However, you, as an Owner, will not be required to pay recording fees, transfer taxes, or the *pro rata* portion of real property taxes which are allocable to any period after the passage of title or possession to the City.

If you agree to the transaction as described, please do the following:

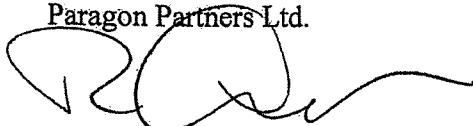
1. Sign all 3 originals of the enclosed Purchase Agreement (a fully executed copy will be returned to you).
2. Sign the enclosed Grant Deed before a Notary Public - a Notary Public is available to witness your signature free of charge at Porterville's City Hall.
3. Please complete and sign the IRS Form W-9, "Request for Taxpayer Identification".
4. Return each of the above-mentioned documents to Paragon Partners Ltd. in the enclosed envelope.

We look forward to working with you toward a friendly negotiation and timely completion of this transaction. Please let us know as soon as possible if you agree to accept the City's offer and complete the four steps listed above.

If for any reason you should see fit to not accept the City's offer, please be advised that this letter, the offer made herein, the enclosed summary statements, and all matters stated herein are made under the provisions of California Evidence Code §§ 1152 and 1154, and shall not be admissible in any eminent domain proceeding, or any other action, for any purpose prohibited under these sections.

If you have any questions regarding this Project, the revised Offer to Purchase, the Purchase Contract or the acquisition process, please feel free to contact me at 714-379-3376 or by e-mail at: radler@paragon-partners.com.

Sincerely,
Paragon Partners Ltd.



RICHARD A. ADLER
Agent for the City of Porterville

cc: Murray Tragish, Esq., 1405 Commercial Way, Suite 130, Bakersfield, California 93309

Enclosures: Appraisal Summary Statement
Legal Description and Plat Drawing
Eminent Domain Information Pamphlet
Grant Deed
IRS Form W-9

GRANTORS: Lynda Mourton
PROJECT: Tule River Parkway Phase III
ADDRESS: (None Available)
APN: 261-020-010 (Portion)
PARCELS: (See attached Exhibits "A" and "B")
DATE: _____
ESCROW NO: _____

PURCHASE CONTRACT

This Purchase Contract (this "Agreement") is between the City of Porterville, a municipal corporation ("City") and Lynda Mourton, ("Grantor").

It is mutually agreed as follows:

1. Grantor agrees to sell to City, and City agrees to purchase from Grantor, on the terms and conditions set forth in this Agreement, the fee interest in and to that certain portion of the real property more fully described in the legal description attached hereto as Exhibit "A" and depicted on the Property Plat attached as Exhibit "B" all of which are incorporated herein by reference, together with all improvements located thereon (together, the "Property"), for the purpose of developing a walking and bike riding trail as part of the Tule River Parkway Master Plan, Phase III. Grantor hereby states that Grantor has full title except as hereinafter mentioned and has full authority to sign this Agreement and to convey the rights described herein.
2. This sale is contingent upon The City's agreement to purchase and install a chain link fence or other similar fencing along the South side of the Fee Title purchase area. New fencing will connect to existing fencing along Grantor's southerly and easterly property lines. Escrow holder is not a party to this matter and is not to be concerned.
3. The parties hereto have set forth the whole of their agreement. The performance of this Agreement constitute the entire consideration for the Property and shall relieve the City of all further obligation on this account, or on account of the location, grade, or construction of the proposed public improvement.
4. Upon approval by the City Council, the City shall:
 - A. Pay the undersigned Grantor the sum of **SIXTY THOUSAND ONE HUNDRED EIGHTY-EIGHT DOLLARS AND NO CENTS (\$60,188.00)** for the Property within thirty (30) days after date title to said Property vests in the City free and clear of all liens, encumbrances, assessments, easements, and leases (recorded and/or unrecorded).
 - B. Pay all the escrow and recording fees incurred in this transaction and, if title insurance is desired by the City, then the City will pay the premium charged therefore. Said escrow and recording reconveyance of Deed(s) of Trust, all of which fees, where required, shall be paid by the Grantor. Grantor hereby

authorizes the City to prepare and file escrow instructions with the escrow agent on behalf of Grantor in accordance with this Agreement.

- C. Have the authority to deduct and pay from the amount shown in Clause 3. A above any amount necessary to pay reconveyance fees and trustee's fees for any full reconveyance of Deed(s) of Trust, and to satisfy any bond demands and/or delinquent taxes due in any year except the year in which this escrow closes, together with penalties and interest thereon, and/or delinquent and unpaid non-delinquent assessments, which have become a lien at the close of escrow. Current taxes shall be prorated as of the date of possession or the date of conveyance is recorded, whichever occurs first. However, if an Order of Immediate Possession has been obtained, then the date of proration of taxes shall be as of the effective date of said Order.
5. Grantor grants the City, its permittees, contractors, agents or assigns, a right to enter, upon, over, across, and under Grantor's property shown on Exhibits "B" attached hereto and Grantor's property lying adjacent to the property shown on Exhibits "B" during the period of construction for the purpose of constructing the public improvement and accomplishing all necessary incidents, thereto, including, but not limited to, the repair, replacement, restoration, removal, and /or disposal of existing improvements.
- A. Any actual damage or substantial interference with the possession or use of the adjacent land caused by City, its permittees, contractors, agents or assigns shall be cured by same. In addition, the City of Porterville agrees to indemnify the Grantor and hold said Grantor harmless from any loss of, or damage to any property or injury or death of any person whomsoever arising out of or connected with their performance of any work authorized under this Agreement.
 - B. It is agreed and confirmed by the parties hereto that, notwithstanding other provisions in this Agreement, the right of possession and use of the Property by the City (including, but not limited to, the right to construct and install new improvements and to replace, repair, restore, remove, and /or dispose of existing improvements) shall commence upon execution of this Agreement and shall terminate upon completion of construction of the project, and that the amount shown in Clause 3.A. herein includes, but not limited to, full payment for such possession and use, including damages, if any, from said commencement date.
6. The sum set forth in Clause 3.A. above included payment for fee title to 167,187 square feet (approx. 3.84 acres) of land and any and all trees, landscaping and improvements thereon, and all rights of possession and use provided for herein, together with any and all other losses, whether separately mentioned in this Agreement or not.
7. It is understood that once this Agreement is executed it must be approved by the City Council to complete the transaction. Delivery of this Agreement and the accompanying Deed is conditioned upon the City Council's approval of said documents.

8. NO OTHER OBLIGATION OTHER THAN THOSE SPECIFICALLY SET FORTH
HEREIN WILL BE RECOGNIZED.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year
shown.

GRANTOR:

Lynda Mourton

Date: _____

CITY OF PORTERVILLE:

By: _____
For City of Porterville

Date: _____

By: _____

Witness/Received:

By: _____

Date: _____

By: _____
Acquisition Agent

Date: _____

APN: 261-020-010

Owner: Mourton

LEGAL DESCRIPTION

Exhibit "A"

That portion of the Northeast quarter of the Southwest quarter of Section 36, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, in the City of Porterville, County of Tulare, State of California, more particularly described as follows:

COMMENCING AT the Northwest corner of said Northeast quarter of the Southwest quarter;

THENCE, South 89°25'17" East, along the north line of said Northeast quarter of the Southwest quarter, a distance of 924.00 feet;

THENCE, South 00°28'58" West, parallel with the west line of said Northeast quarter of the Southwest quarter, 787.60 feet, to a point in the center line of the Tule River and the **POINT OF BEGINNING**;

THENCE, North 84°17'26" West, along said center line of the Tule River, a distance of 153.40 feet;

THENCE, North 85°49'54" West, a distance of 272.40 feet;

THENCE, North 79°00'11" West, a distance of 151.96 feet;

THENCE, North 89°52'46" West, 350.00 feet, to a point in the west line of said Northeast quarter of the Southwest quarter;

THENCE, South 00°28'58" West, along the west line of said Northeast quarter of the Southwest quarter, a distance of 199.43 feet;

THENCE, North 87°35'07" East, a distance of 320.00 feet;

THENCE, South 85°15'43" East, a distance of 606.08 feet, to a point in a line 924.00 feet easterly and parallel with the west line of said Northeast quarter of the Southwest quarter;

THENCE, North 00°28'58" East, parallel with the west line of said Northeast quarter of the Southwest quarter, 171.22 feet to the **POINT OF BEGINNING**;

CONTAINING: 167,187 square feet (3.84 acres) more or less.

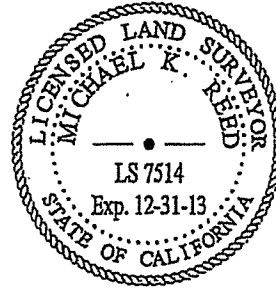
BASIS OF BEARING for the parcel described herein is the north line of the Southwest quarter, Section 36, Township 21 South, Range 27 East, Mount Diablo Base & Meridian, taken as South 89°25'17" East, per Record of Survey, filed in Book 21 of Licensed Surveys at page 68 in the Office of Tulare County Recorder.

END OF DESCRIPTION

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

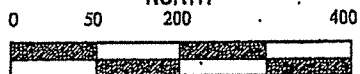
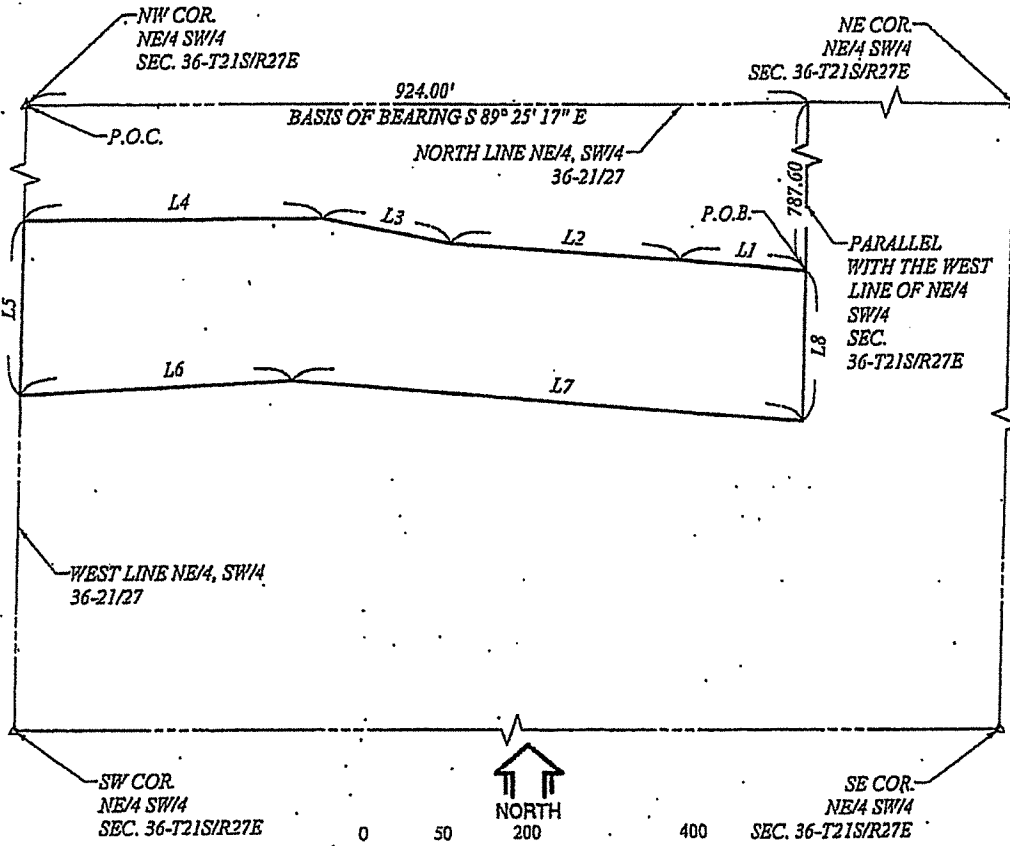
Signature: Michael K. Reed
Michael K. Reed, Licensed Land Surveyor

Date: 1/12/2012



PARCEL PLAT

EXHIBIT "B"



SCALE: 1"=200'

Line Table		
Line #	Length	Bearing
L1	153.40	N84° 17' 26"W
L2	272.40	N85° 49' 54"W
L3	151.96	N79° 00' 11"W
L4	350.00	N89° 52' 46"W
L5	199.43	S00° 28' 58"W
L6	320.00	N87° 35' 07"E
L7	606.08	S85° 15' 43"E
L8	171.22	N00° 28' 58"E

CITY OF PORTERVILLE
ENGINEERING DIVISION
 291 N. MAIN ST. PORTERVILLE, CALIFORNIA 93257 559 782-7482

PORTION OF THE NORTHEAST QUARTER OF
 THE SOUTHWEST QUARTER SECTION 36,
 TOWNSHIP 21 SOUTH, RANGE 27 EAST,
 MOUNT DIABLO BASE AND MERIDIAN, IN
 THE CITY OF PORTERVILLE, COUNTY OF
 TULARE, STATE OF CALIFORNIA

OWNER: LYNDA MOURTON
 APN: POR 261-020-010
 AREA: 167,187 S.F.
 ACRES: 3.84
 DRAWN BY: JB
 CHK'D BY: DB

Paragon Partners Ltd.

January 18, 2012

Lynda Mourton
617 South Plano Street
Porterville, CA 93257

**RE: Revised Offer to Purchase Real Property Pursuant to
Assessor's Parcel Number: 261-020-010 (portions)**

Dear Ms. Mourton:

The City of Porterville (City) is proposing to develop a walking and bike riding trail as part of the Tule River Parkway Master Plan, Phase III. The proposed project will require the acquisition of portions of the above referenced parcel, described as: 1) a 20-foot wide easement for public ingress and egress, and; 2) a 3.84 acre area to be acquired in fee simple title. Please note that certain of the proposed property boundaries, as described in the enclosed Deeds, have been revised per your request and the amount of just compensation has been adjusted accordingly.

Therefore, the City hereby offers you the revised sum of SIXTY ONE THOUSAND SEVEN HUNDRED FORTY DOLLARS (\$61,740.00) for the acquisition of 100% of the interest(s) in the Property.

The amount of the offer is predicated on the assumption that there exists no hazardous substance, product, waste, or other material of any nature whatsoever which is or becomes listed, regulated, or addressed pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 United States Code section 9601 et seq., on the Property. Furthermore, please be advised that the amount offered is subject to an environmental site inspection, and the cost to remediate any identified problems may affect the valuation of the Property. This offer is also conditioned on the City Council's ratification of the offer by execution of a contract of acquisition or adoption of a resolution of necessity.

This is an offer to purchase all of the interest designated as the Property, free of all liens and other encumbrances, except as may be agreed to by the City.

No final determination has been made as to the ownership of the subject property. This offer is contingent upon presentation of conclusive evidence of title. If more than one person has an interest in the subject property that the City is seeking to acquire, all parties with such interest must accept this offer.

If you sign and return the Purchase Contract and the two Grant Deeds, the City will deposit the full consideration with an escrow holder with instructions to pay the same to you or any holder of any encumbrance on your property after the City Council approves the purchase. The City will pay all the escrow fees. When property is sold to the City of Porterville, there is the same obligation as in a private transaction for the Owner to pay in escrow the amounts needed to remove liens and encumbrances, if any. In the event that there are liens and encumbrances, the escrow agent, on behalf of the Owner, shall either:

- Pay to owners of liens and encumbrances, out of the approved compensation paid by the City of Porterville, the amount needed to terminate leases or cancel trust deeds, mortgages, or other liens affecting the property acquired, or
- Arrange for holders of leases, trust deeds, mortgages, or other liens to quitclaim their interest, if any, to the Parcel being acquired. When an Owner sells his/her property to the City of Porterville, the Owner's obligation to pay current and past due property taxes is the same as if the Owner were selling to a private individual. However, you, as an Owner, will not be required to pay recording fees, transfer taxes, or the *pro rata* portion of real property taxes which are allocable to any period after the passage of title or possession to the City.

If you agree to the transaction as described, please do the following:

1. Sign all 3 originals of the enclosed Purchase Agreement (a fully executed copy will be returned to you).
2. Sign both the (revised) Easement Deed and the (revised) Grant Deed before a Notary Public - a Notary Public is available to witness your signature free of charge at Porterville's City Hall.
3. Please complete and sign the IRS Form W-9, "Request for Taxpayer Identification".
4. Return each of the above-mentioned documents to Paragon in the enclosed envelope.

We look forward to working with you toward a friendly negotiation and timely completion of this transaction. Please let us know as soon as possible if you agree to accept the City's offer and complete the four steps listed above.

If for any reason you should see fit to not accept the City's offer, please be advised that this letter, the offer made herein, the enclosed summary statements, and all matters stated herein are made under the provisions of California Evidence Code §§ 1152 and 1154, and shall not be admissible in any eminent domain proceeding, or any other action, for any purpose prohibited under these sections.

If you have any questions regarding this Project, the revised Offer to Purchase, the Purchase Contract or the acquisition process, please feel free to contact me at 714-379-3376 or by e-mail at: radler@paragon-partners.com .

Sincerely,
Paragon Partners Ltd.



RICHARD A. ADLER
Agent for the City of Porterville

Enclosures: Legal Descriptions and Plat Drawings (2)
 Purchase Contract (revised)
 Easement and Grant Deeds (revised)
 IRS Form W-9

GRANTORS: Lynda Mourton
PROJECT: Tule River Parkway Phase III
ADDRESS: (None Available)
APN: 261-020-010
PARCELS: (See attached Exhibits "A" and "B")
DATE: _____
ESCROW NO: _____

PURCHASE CONTRACT

This Purchase Contract (this "Agreement") is between the City of Porterville, a municipal corporation ("City") and Lynda Mourton, ("Grantor").

It is mutually agreed as follows:

1. Grantor agrees to sell to City, and City agrees to purchase from Grantor, on the terms and conditions set forth in this Agreement, an Easement for public ingress and egress over and across that certain portion of the real property more fully described in the legal description attached hereto as Parcel 1, Exhibit "A" and depicted on the Property Plat attached as Exhibit "B", together with the fee interest in and to that certain portion of the real property more fully described in the legal description attached hereto as Parcel 2, Exhibit "A" and depicted on the Property Plat attached as Exhibit "B" all of which are incorporated herein by reference, together with all improvements located thereon (together, the "Property"), for the purpose of developing a walking and bike riding trail as part of the Tule River Parkway Master Plan, Phase III. Grantor hereby states that Grantor has full title except as hereinafter mentioned and has full authority to sign this Agreement and to convey the rights described herein.
2. This sale is contingent upon The City's agreement to purchase and install a chain link fence or other similar fencing along the east side of Easement and the South side of the Fee Title purchase area. New fencing will connect to existing fencing along Grantor's southerly and easterly property lines. Escrow holder is not a party to this matter and is not to be concerned.
3. The parties hereto have set forth the whole of their agreement. The performance of this Agreement constitute the entire consideration for the Property and shall relieve the City of all further obligation on this account, or on account of the location, grade, or construction of the proposed public improvement.
4. Upon approval by the City Council, the City shall:
 - A. Pay the undersigned Grantor the sum of **SIXTY ONE THOUSAND SEVEN HUNDRED FORTY DOLLARS AND NO CENTS (\$61,740.00)** for the Property within thirty (30) days after date title to said Property vests in the City free and clear of all liens, encumbrances, assessments, easements, and leases (recorded and/or unrecorded).

- B. Pay all the escrow and recording fees incurred in this transaction and, if title insurance is desired by the City, then the City will pay the premium charged therefore. Said escrow and recording reconveyance of Deed(s) of Trust, all of which fees, where required, shall be paid by the Grantor. Grantor hereby authorizes the City to prepare and file escrow instructions with the escrow agent on behalf of Grantor in accordance with this Agreement.
 - C. Have the authority to deduct and pay from the amount shown in Clause 3. A above any amount necessary to pay reconveyance fees and trustee's fees for any full reconveyance of Deed(s) of Trust, and to satisfy any bond demands and/or delinquent taxes due in any year except the year in which this escrow closes, together with penalties and interest thereon, and/or delinquent and unpaid non-delinquent assessments, which have become a lien at the close of escrow. Current taxes shall be prorated as of the date of possession or the date of conveyance is recorded, whichever occurs first. However, if an Order of Immediate Possession has been obtained, then the date of proration of taxes shall be as of the effective date of said Order.
5. Grantor grants the City, its permittees, contractors, agents or assigns, a right to enter, upon, over, across, and under Grantor's property shown on Exhibits "B" attached hereto and Grantor's property lying adjacent to the property shown on Exhibits "B" during the period of construction for the purpose of constructing the public improvement and accomplishing all necessary incidents, thereto, including, but not limited to, the repair, replacement, restoration, removal, and /or disposal of existing improvements.
- A. Any actual damage or substantial interference with the possession or use of the adjacent land caused by City, its permittees, contractors, agents or assigns shall be cured by same. In addition, the City of Porterville agrees to indemnify the Grantor and hold said Grantor harmless from any loss of, or damage to any property or injury or death of any person whomsoever arising out of or connected with their performance of any work authorized under this Agreement.
 - B. It is agreed and confirmed by the parties hereto that, notwithstanding other provisions in this Agreement, the right of possession and use of the Property by the City (including, but not limited to, the right to construct and install new improvements and to replace, repair, restore, remove, and /or dispose of existing improvements) shall commence upon execution of this Agreement and shall terminate upon completion of construction of the project, and that the amount shown in Clause 3.A. herein includes, but not limited to, full payment for such possession and use, including damages, if any, from said commencement date.
6. The sum set forth in Clause 3.A. above included payment for the following: an Easement for public ingress and egress over 8,624 square feet of land together with fee title to 167,187 square feet (approx. 3.84 acres) of land and any and all trees, landscaping and improvements thereon, and all rights of possession and use provided for herein, together with any and all other losses, whether separately mentioned in this Agreement or not.

7. It is understood that once this Agreement is executed it must be approved by the City Council to complete the transaction. Delivery of this Agreement and the accompanying Deeds is conditioned upon the City Council's approval of said documents.
8. NO OTHER OBLIGATION OTHER THAN THOSE SPECIFICALLY SET FORTH HEREIN WILL BE RECOGNIZED.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year shown.

GRANTOR:

Lynda Mourton

Date: _____

CITY OF PORTERVILLE:

By: _____
For City of Porterville

Date: _____

By: _____

Witness/Received:

By: _____

Date: _____

By: _____
Acquisition Agent

Date: _____

APN: 261-020-010
Owner: Mourton, Easement

PARCEL 1

LEGAL DESCRIPTION

“Exhibit A”

A 20.00 foot wide easement for public ingress and egress situated in the Northeast quarter of the Southwest quarter of Section 36, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, in the City of Porterville, County of Tulare, State of California, the centerline of which is more particularly described as follows:

COMMENCING AT the Northwest corner of said Northeast quarter of the Southwest quarter;

THENCE, South 89°25'17" East, along the north line of said Northeast quarter of the Southwest quarter, a distance of 924.00 feet;

THENCE, South 00°28'58" West, parallel with the west line of said Northeast quarter of the Southwest quarter, 958.82 feet;

THENCE, North 85°15'43" West, a distance of 606.08 feet;

THENCE, South 87°35'07" West, a distance of 46.33 feet, to the **POINT OF BEGINNING**;

THENCE, South 09°05'56" East, a distance of 251.62 feet, to the beginning of a tangent curve concave westerly, having a radius of 50.00 feet;

THENCE, southerly and southwesterly along said curve, through a central angle of 69°17'15", an arc length of 60.46 feet, to the beginning of a reverse curve concave southeasterly, having a radius of 115.00 feet;

THENCE, southwesterly and southerly along said curve, through a central angle of 59°20'41", an arc length of 119.11 feet, to a point in the south line of said Northeast quarter of the Southwest quarter and the terminus of said centerline.

The sidelines of said 20.00 foot easement to be extended or shortened to meet at angle points created with intersecting courses.

CONTAINING: 8,624 square feet (0.20 acres) more or less.

BASIS OF BEARING for the parcel described herein is the north line of the Southwest quarter, Section 36, Township 21 South, Range 27 East, Mount Diablo Base & Meridian, taken as South 89°25'17" East, per Record of Survey, filed in Book 21 of Licensed Surveys at page 68 in the Office of Tulare County Recorder.

END OF DESCRIPTION

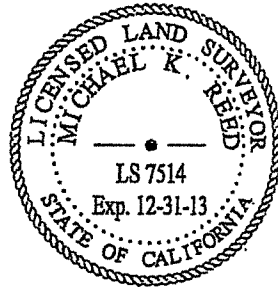
This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors Act.

Signature: _____

Michael K. Reed, Licensed Land Surveyor

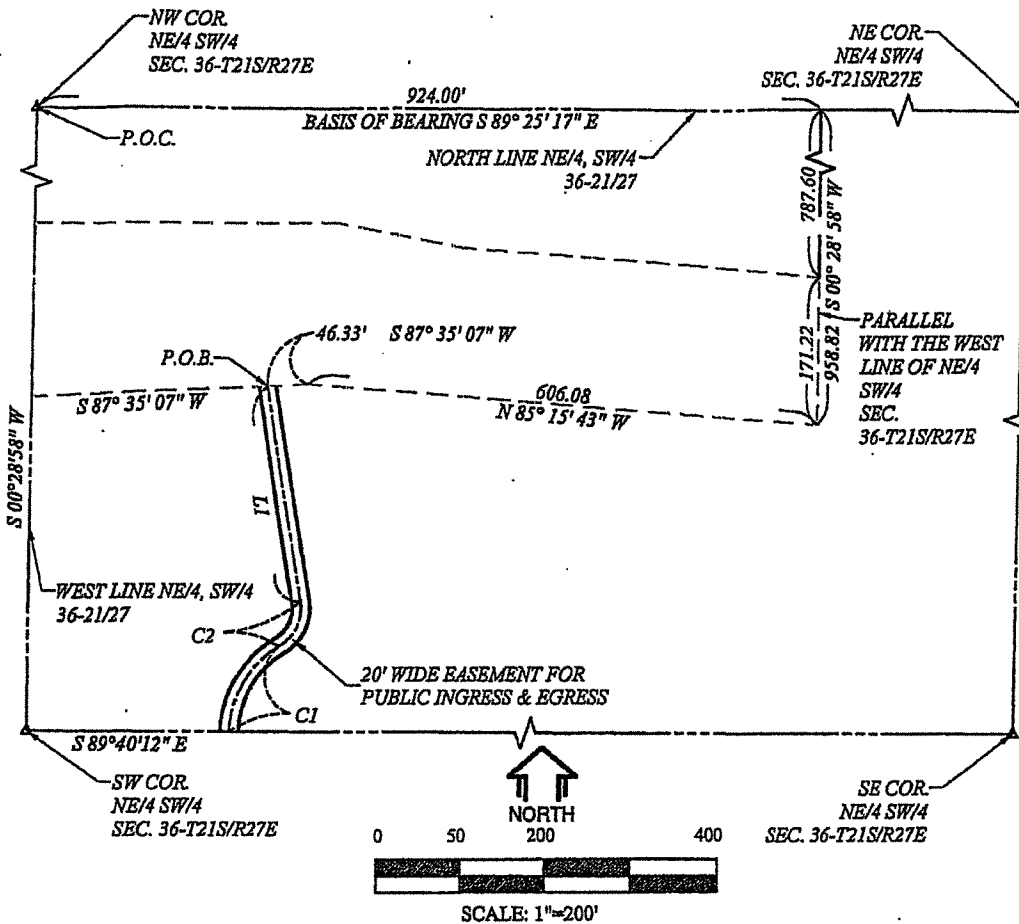
Date: _____

1/12/2012



EASEMENT

EXHIBIT "B"



Curve #	Radius	Length	Delta
C1	115.00	119.11	59°20'41"
C2	50.00	60.46	69°17'15"

Line #	Length	Bearing
L1	251.62	N 09° 05' 56" W

EASEMENT
 AREA: 8,624 S.F.
 ACRES: 0.20

PARCEL 1

CITY OF PORTERVILLE
 ENGINEERING DIVISION

291 N. MAIN ST. PORTERVILLE, CALIFORNIA 93257 559 782-7482

PORTION OF THE NORTHEAST QUARTER OF
 THE SOUTHWEST QUARTER SECTION 36,
 TOWNSHIP 21 SOUTH, RANGE 27 EAST,
 MOUNT DIABLO BASE AND MERIDIAN, IN
 THE CITY OF PORTERVILLE, COUNTY OF
 TULARE, STATE OF CALIFORNIA

OWNER: LYNDA
 MOURTON

APN: POR. 261-020-010

DRAWN BY: JB
 CHK'D BY: DB

PARCEL 2

APN: 261-020-010

Owner: Mourton

LEGAL DESCRIPTION

Exhibit "A"

That portion of the Northeast quarter of the Southwest quarter of Section 36, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, in the City of Porterville, County of Tulare, State of California, more particularly described as follows:

COMMENCING AT the Northwest corner of said Northeast quarter of the Southwest quarter;

THENCE, South 89°25'17" East, along the north line of said Northeast quarter of the Southwest quarter, a distance of 924.00 feet;

THENCE, South 00°28'58" West, parallel with the west line of said Northeast quarter of the Southwest quarter, 787.60 feet, to a point in the center line of the Tule River and the **POINT OF BEGINNING**;

THENCE, North 84°17'26" West, along said center line of the Tule River, a distance of 153.40 feet;

THENCE, North 85°49'54" West, a distance of 272.40 feet;

THENCE, North 79°00'11" West, a distance of 151.96 feet;

THENCE, North 89°52'46" West, 350.00 feet, to a point in the west line of said Northeast quarter of the Southwest quarter;

THENCE, South 00°28'58" West, along the west line of said Northeast quarter of the Southwest quarter, a distance of 199.43 feet;

THENCE, North 87°35'07" East, a distance of 320.00 feet;

THENCE, South 85°15'43" East, a distance of 606.08 feet, to a point in a line 924.00 feet easterly and parallel with the west line of said Northeast quarter of the Southwest quarter;

THENCE, North 00°28'58" East, parallel with the west line of said Northeast quarter of the Southwest quarter, 171.22 feet to the **POINT OF BEGINNING**;

CONTAINING: 167,187 square feet (3.84 acres) more or less.

BASIS OF BEARING for the parcel described herein is the north line of the Southwest quarter, Section 36, Township 21 South, Range 27 East, Mount Diablo Base & Meridian, taken as South 89°25'17" East, per Record of Survey, filed in Book 21 of Licensed Surveys at page 68 in the Office of Tulare County Recorder.

END OF DESCRIPTION

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

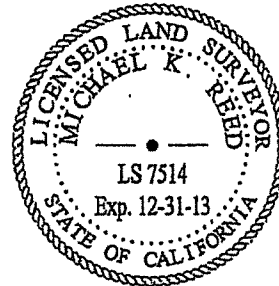
Signature: _____

Michael K. Reed

Michael K. Reed, Licensed Land Surveyor

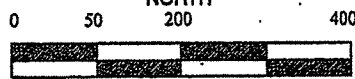
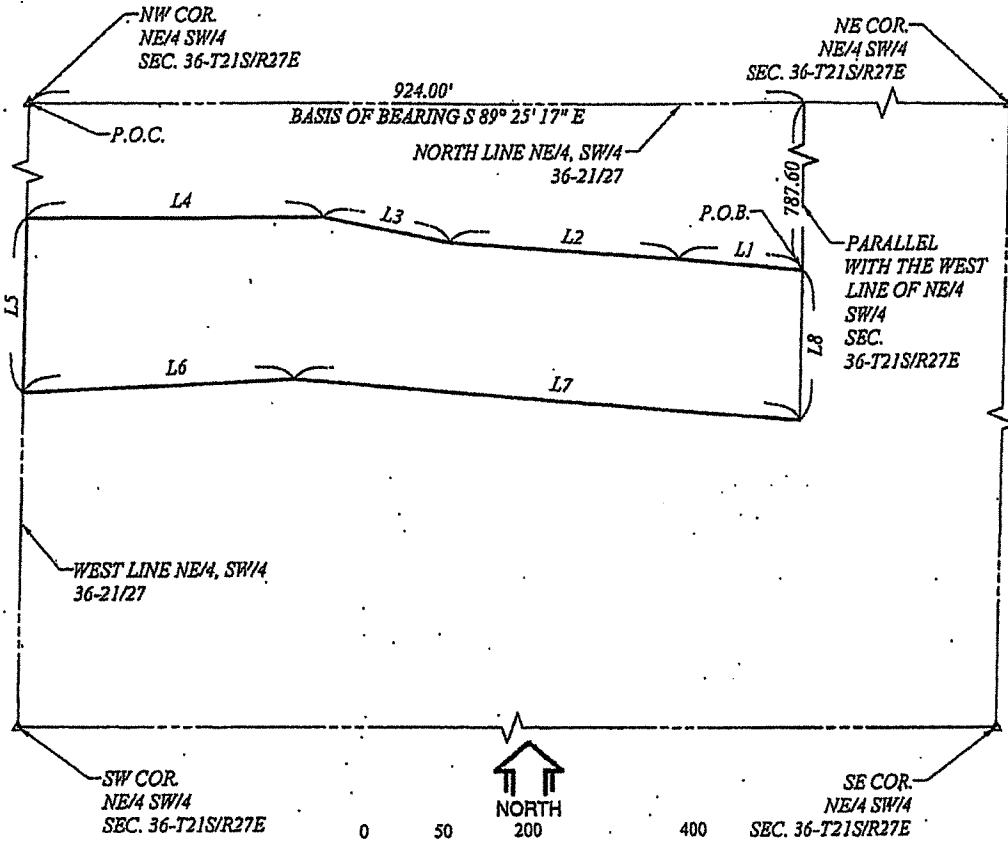
Date: _____

11/12/2012



PARCEL PLAT

EXHIBIT "B"



SCALE: 1"=200'

Line Table		
Line #	Length	Bearing
L1	153.40	N84° 17' 26"W
L2	272.40	N85° 49' 54"W
L3	151.96	N79° 00' 11"W
L4	350.00	N89° 52' 46"W
L5	199.43	S00° 28' 58"W
L6	320.00	N87° 35' 07"E
L7	606.08	S85° 15' 43"E
L8	171.22	N00° 28' 58"E

PARCEL 2

CITY OF PORTERVILLE
ENGINEERING DIVISION

281 N. MAIN ST. PORTERVILLE, CALIFORNIA 93257 559 782-7488

PORTION OF THE NORTHEAST QUARTER OF
THE SOUTHWEST QUARTER SECTION 36,
TOWNSHIP 21 SOUTH, RANGE 27 EAST,
MOUNT DIABLO BASE AND MERIDIAN, IN
THE CITY OF PORTERVILLE, COUNTY OF
TULARE, STATE OF CALIFORNIA

OWNER: LYNDA MOURTON
APN: POR 261-020-010
AREA: 167,187 S.F.
ACRES: 3.84
DRAWN BY: JB
CHK'D BY: DB

Paragon Partners Ltd.

COPY

**VIA PRIORITY MAIL -
RETURN RECEIPT**

November 28, 2011

Lynda Mourton
617 South Plano Street
Porterville, CA 93257

**RE: Offer to Purchase Real Property Pursuant to
Government Code §7267.1 and § 7267.2(a)
Site Address: (None Available)
Assessor's Parcel Number: 261-020-010 (portions)**

Dear Ms. Mourton:

The City of Porterville (City) is proposing to develop a walking and bike riding trail as part of the Tule River Parkway Master Plan, Phase III. The proposed project will require the acquisition of portions of the above referenced parcel, described as: 1) a 20-foot wide easement for public ingress and egress, and; 2) a 3.4 acre area to be acquired in fee simple title. Paragon Partners Ltd. has been retained by the City to acquire those property rights.

California law requires that, before making an offer for the acquisition of real property for the Tule River Parkway Project, the City must obtain an appraisal to determine the fair market value of the real property being acquired (the Property), must establish an amount which it believes to be just compensation for that Property and must make an offer to the owner for an amount not less than the just compensation so determined. The City has accordingly had those portions of your property appraised to determine the fair market value, as defined in California Code of Civil Procedure section 1263.320. It was appraised in accordance with commonly accepted appraisal standards and included consideration of the highest and best use of the land, the land's current use and any improvements located thereon. The appraisal has been completed and reviewed, and the City has determined an amount which constitutes just compensation for the Property.

The City hereby offers you the sum total of **\$61,725.00** for the acquisition of 100% of the interest(s) in the Property. The enclosed Appraisal Summary Statement outlines the basis for this offer.

In accordance with California Code of Civil Procedure § 1263.025(a), the City hereby offers to pay the reasonable costs, not to exceed \$5,000, of an independent appraisal should you desire for such appraisal to be conducted. Any independent appraisal shall be conducted by an appraiser licensed by the Office of Real Estate Appraisers.

The amount of the offer is predicated on the assumption that there exists no hazardous substance, product, waste, or other material of any nature whatsoever which is or becomes listed, regulated,

or addressed pursuant to the Comprehensive Environmental Response, Compensation and Liability Act, 42 United States Code section 9601 et seq., on the Property. Furthermore, please be advised that the amount offered is subject to an environmental site inspection, and the cost to remediate any identified problems may affect the valuation of the Property. This offer is also conditioned on the City Council's ratification of the offer by execution of a contract of acquisition or adoption of a resolution of necessity.

This is an offer to purchase all of the interest designated as the Property, free of all liens and other encumbrances, except as may be agreed to by the City.

No final determination has been made as to the ownership of the subject property. This offer is contingent upon presentation of conclusive evidence of title. If more than one person has an interest in the subject property that the City is seeking to acquire, all parties with such interest must accept this offer.

If you sign and return the Purchase Contract and the two Grant Deeds, the City will deposit the full consideration with an escrow holder with instructions to pay the same to you or any holder of any encumbrance on your property after the City Council approves the purchase. The City will pay all the escrow fees. When property is sold to the City of Porterville, there is the same obligation as in a private transaction for the Owner to pay in escrow the amounts needed to remove liens and encumbrances, if any. In the event that there are liens and encumbrances, the escrow agent, on behalf of the Owner, shall either:

- Pay to owners of liens and encumbrances, out of the approved compensation paid by the City of Porterville, the amount needed to terminate leases or cancel trust deeds, mortgages, or other liens affecting the property acquired, or
- Arrange for holders of leases, trust deeds, mortgages, or other liens to quitclaim their interest, if any, to the Parcel being acquired. When an Owner sells his/her property to the City of Porterville, the Owner's obligation to pay current and past due property taxes is the same as if the Owner were selling to a private individual. However, you, as an Owner, will not be required to pay recording fees, transfer taxes, or the *pro rata* portion of real property taxes which are allocable to any period after the passage of title or possession to the City.

If you agree to the transaction as described, please do the following:

1. Sign all 3 originals of the enclosed Purchase Agreement (a fully executed copy will be returned to you).
2. Sign both the Easement Deed and the Grant Deed before a Notary Public - a Notary Public is available to witness your signature free of charge at Porterville's City Hall.
3. Please complete and sign the IRS Form W-9, "Request for Taxpayer Identification".
4. Return each of the above-mentioned documents to Paragon in the enclosed envelope. The other materials (Appraisal Summary, Map, Title Report, etc.), are included for your information and files.

Page 3 of 3
November 28, 2011

We look forward to working with you toward a friendly negotiation and timely completion of this transaction. Please let us know as soon as possible if you agree to accept the City's offer and complete the four steps listed above.

If for any reason you should see fit to not accept the City's offer, please be advised that this letter, the offer made herein, the enclosed summary statements, and all matters stated herein are made under the provisions of California Evidence Code §§ 1152 and 1154, and shall not be admissible in any eminent domain proceeding, or any other action, for any purpose prohibited under these sections.

If you have any questions regarding this Project, the Offer to Purchase, the Purchase Contract or the acquisition process, please feel free to contact me at 714-379-3376 or by e-mail at: radler@paragon-partners.com.

Sincerely,
Paragon Partners Ltd.

RICHARD A. ADLER
Agent for the City of Porterville

Enclosures: Appraisal Summary Statement
Legal Descriptions and Plat Drawings (2)
Copy of Title Report
Eminent Domain Information Pamphlet
Purchase Contract
Easement Deed and Grant Deed
IRS Form W-9
Acknowledgment of Receipt

GRANTORS: Lynda Mourton
PROJECT: Tule River Parkway Phase III
ADDRESS: (None Available)
APN: 261-020-010
PARCELS: (See attached Exhibits "A" and "B")
DATE: _____
ESCROW NO: _____

PURCHASE CONTRACT

This Purchase Contract (this "Agreement") is between the City of Porterville, a municipal corporation ("City") and Lynda Mourton, ("Grantor").

It is mutually agreed as follows:

1. Grantor agrees to sell to City, and City agrees to purchase from Grantor, on the terms and conditions set forth in this Agreement, an Easement for public ingress and egress over and across that certain portion of the real property more fully described in the legal description attached hereto as Parcel 1, Exhibit "A" and depicted on the Property Plat attached as Exhibit "B", together with the fee interest in and to that certain portion of the real property more fully described in the legal description attached hereto as Parcel 2, Exhibit "A" and depicted on the Property Plat attached as Exhibit "B" all of which are incorporated herein by reference, together with all improvements located thereon (together, the "Property"), for the purpose of developing a walking and bike riding trail as part of the Tule River Parkway Master Plan, Phase III. Grantor hereby states that Grantor has full title except as hereinafter mentioned and has full authority to sign this Agreement and to convey the rights described herein.
2. The parties hereto have set forth the whole of their agreement. The performance of this Agreement constitute the entire consideration for the Property and shall relieve the City of all further obligation on this account, or on account of the location, grade, or construction of the proposed public improvement.
3. Upon approval by the City Council, the City shall:
 - A. Pay the undersigned Grantor the sum of **SIXTY ONE THOUSAND SEVEN HUNDRED TWENTY FIVE DOLLARS AND NO CENTS (\$61,725.00)** for the Property within thirty (30) days after date title to said Property vests in the City free and clear of all liens, encumbrances, assessments, easements, and leases (recorded and/or unrecorded).
 - B. Pay all the escrow and recording fees incurred in this transaction and, if title insurance is desired by the City, then the City will pay the premium charged therefore. Said escrow and recording reconveyance of Deed(s) of Trust, all of which fees, where required, shall be paid by the Grantor. Grantor hereby authorizes the City to prepare and file escrow instructions with the escrow agent on behalf of Grantor in accordance with this Agreement.

- C. Have the authority to deduct and pay from the amount shown in Clause 3. A above any amount necessary to pay reconveyance fees and trustee's fees for any full reconveyance of Deed(s) of Trust, and to satisfy any bond demands and/or delinquent taxes due in any year except the year in which this escrow closes, together with penalties and interest thereon, and/or delinquent and unpaid non-delinquent assessments, which have become a lien at the close of escrow. Current taxes shall be prorated as of the date of possession or the date of conveyance is recorded, whichever occurs first. However, if an Order of Immediate Possession has been obtained, then the date of proration of taxes shall be as of the effective date of said Order.
4. Grantor grants the City, its permittees, contractors, agents or assigns, a right to enter, upon, over, across, and under Grantor's property shown on Exhibits "B" attached hereto and Grantor's property lying adjacent to the property shown on Exhibits "B" during the period of construction for the purpose of constructing the public improvement and accomplishing all necessary incidents, thereto, including, but not limited to, the repair, replacement, restoration, removal, and /or disposal of existing improvements.
- A. Any actual damage or substantial interference with the possession or use of the adjacent land caused by City, its permittees, contractors, agents or assigns shall be cured by same. In addition, the City of Porterville agrees to indemnify the Grantor and hold said Grantor harmless from any loss of, or damage to any property or injury or death of any person whomsoever arising out of or connected with their performance of any work authorized under this Agreement.
- B. It is agreed and confirmed by the parties hereto that, notwithstanding other provisions in this Agreement, the right of possession and use of the Property by the City (including, but not limited to, the right to construct and install new improvements and to replace, repair, restore, remove, and /or dispose of existing improvements) shall commence upon execution of this Agreement and shall terminate upon completion of construction of the project, and that the amount shown in Clause 3.A. herein includes, but not limited to, full payment for such possession and use, including damages, if any, from said commencement date.
5. The sum set forth in Clause 3.A. above included payment for the following: an Easement for public ingress and egress over 8,543 square feet of land together with fee title to 167,188 square feet (approx. 3.84 acres) of land and any and all trees, landscaping and improvements thereon, and all rights of possession and use provided for herein, together with any and all other losses, whether separately mentioned in this Agreement or not.
6. It is understood that once this Agreement is executed it must be approved by the City Council to complete the transaction. Delivery of this Agreement and the accompanying Grant Deeds is conditioned upon the City Council's approval of said documents.
7. NO OTHER OBLIGATION OTHER THAN THOSE SPECIFICALLY SET FORTH HEREIN WILL BE RECOGNIZED.

IN WITNESS WHEREOF, the parties have executed this Agreement the day and year shown.

GRANTOR:

Lynda Mourton

Date: _____

CITY OF PORTERVILLE:

By: _____
For City of Porterville

Date: _____

By: _____

Witness/Received:

By: _____

Date: _____

By: _____
Acquisition Agent

Date: _____

APN: 261-020-010
Owner: Mourton, Easement

LEGAL DESCRIPTION

"Exhibit A"

A 20.00 foot wide easement for public ingress and egress situated in the Northeast quarter of the Southwest quarter of Section 36, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, in the City of Porterville, County of Tulare, State of California, the centerline of which is more particularly described as follows:

COMMENCING AT the Northwest corner of said Northeast quarter of the Southwest quarter;

THENCE, South $89^{\circ}25'17''$ East, along the north line of said Northeast quarter of the Southwest quarter, a distance of 924.00 feet;

THENCE, South $00^{\circ}28'58''$ West, parallel with the west line of said Northeast quarter of the Southwest quarter, 957.00 feet;

THENCE, North $85^{\circ}26'01''$ West, a distance of 605.95 feet;

THENCE, South $87^{\circ}35'07''$ West, a distance of 46.33 feet, to the **POINT OF BEGINNING**;

THENCE, South $09^{\circ}05'56''$ East, a distance of 261.14 feet, to the beginning of a tangent curve concave westerly, having a radius of 75.00 feet;

THENCE, southerly and southwesterly along said curve, through a central angle of $68^{\circ}07'54''$, an arc length of 89.18 feet, to the beginning of a reverse curve concave southeasterly, having a radius of 75.00 feet;

THENCE, southwesterly and southerly along said curve, through a central angle of $58^{\circ}42'10''$, an arc length of 76.84 feet, to a point in the south line of said Northeast quarter of the Southwest quarter and the terminus of said centerline.

The sidelines of said 20.00 foot easement to be extended or shortened to meet at angle points created with intersecting courses.

CONTAINING: 8,543 square feet (0.20 acres) more or less.

BASIS OF BEARING for the parcel described herein is the north line of the Southwest quarter, Section 36, Township 21 South, Range 27 East, Mount Diablo Base & Meridian, taken as South 89°25'17" East, per Record of Survey, filed in Book 21 of Licensed Surveys at page 68 in the Office of Tulare County Recorder.

END OF DESCRIPTION

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

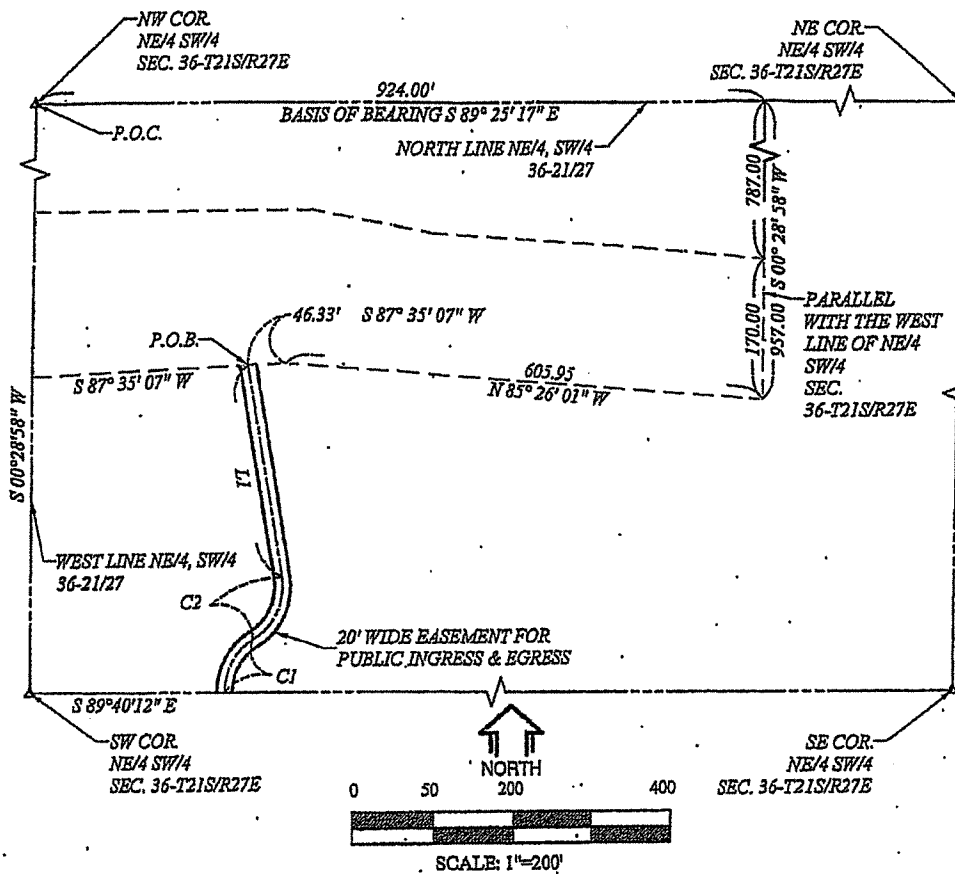
Signature: Michael K. Reed
Michael K. Reed, Licensed Land Surveyor

Date: 10/20/2011



EASEMENT

EXHIBIT "B"



Curve Table			
Curve #	Radius	Length	Delta
C1	75.00	76.84	58°42'10"
C2	75.00	89.18	68°07'54"

Line Table		
Line #	Length	Bearing
L1	261.14	N 09° 05' 56" W

EASEMENT
 AREA: 8,543 S.F.
 ACRES: 0.20

CITY OF PORTERVILLE
 ENGINEERING DIVISION

201 N. MAIN ST. PORTERVILLE, CALIFORNIA 93257 559 782-7482

PORTION OF THE NORTHEAST QUARTER OF
 THE SOUTHWEST QUARTER SECTION 36,
 TOWNSHIP 21 SOUTH, RANGE 27 EAST,
 MOUNT DIABLO BASE AND MERIDIAN, IN
 THE CITY OF PORTERVILLE, COUNTY OF
 TULARE, STATE OF CALIFORNIA

OWNER: LYNDA
 MOURTON

APN: POR. 261-020-010

DRAWN BY: JB
 CHK'D BY: DB

APN: 261-020-010

Owner: Mourton

LEGAL DESCRIPTION

Exhibit "A"

That portion of the Northeast quarter of the Southwest quarter of Section 36, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, in the City of Porterville, County of Tulare, State of California, more particularly described as follows:

COMMENCING AT the Northwest corner of said Northeast quarter of the Southwest quarter;

THENCE, South 89°25'17" East, along the north line of said Northeast quarter of the Southwest quarter, a distance of 924.00 feet;

THENCE, South 00°28'58" West, parallel with the west line of said Northeast quarter of the Southwest quarter, 787.00 feet, to a point in the center line of the Tule River and the **POINT OF BEGINNING**;

THENCE, North 84°17'26" West, along said center line of the Tule River, a distance of 153.40 feet;

THENCE, North 85°49'54" West, a distance of 272.00 feet;

THENCE, North 79°00'11" West, a distance of 151.96 feet;

THENCE, North 89°52'46" West, 350.40 feet, to a point in the west line of said Northeast quarter of the Southwest quarter;

THENCE, South 00°28'58" West, along the west line of said Northeast quarter of the Southwest quarter, a distance of 200.00 feet;

THENCE, North 87°35'07" East, a distance of 320.00 feet;

THENCE, South 85°26'01" East, a distance of 605.95 feet, to a point in a line 924.00 feet easterly and parallel with the west line of said Northeast quarter of the Southwest quarter;

THENCE, North 00°28'58" East, along said parallel line, 170.00 feet to the **POINT OF BEGINNING**;

CONTAINING: 167,188 square feet (3.84 acres) more or less.

BASIS OF BEARING for the parcel described herein is the north line of the Southwest quarter, Section 36, Township 21 South, Range 27 East, Mount Diablo Base & Meridian, taken as South 89°25'17" East, per Record of Survey, filed in Book 21 of Licensed Surveys at page 68 in the Office of Tulare County Recorder.

END OF DESCRIPTION

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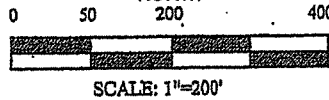
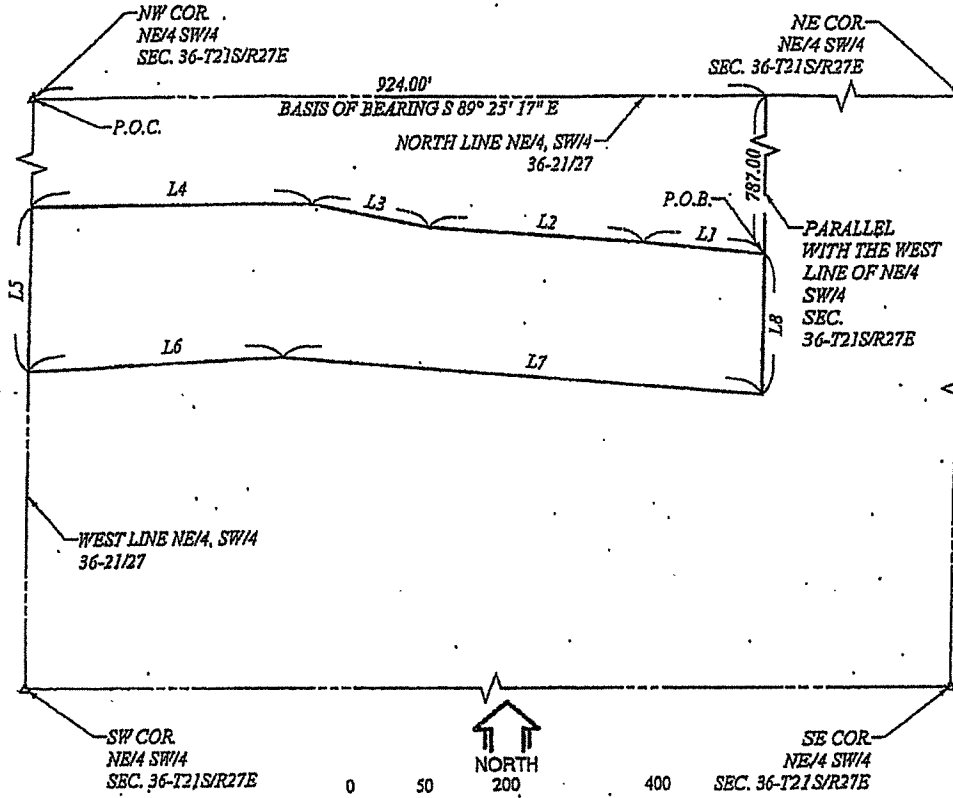
Signature: Michael K. Reed
Michael K. Reed, Licensed Land Surveyor

Date: 10/20/2011



PARCEL PLAT

EXHIBIT "B"



Line Table		
Line#	Length	Bearing
L1	153.40	N84° 17' 26"W
L2	272.00	N85° 49' 54"W
L3	151.96	N79° 00' 11"W
L4	350.40	N89° 52' 46"W
L5	200.00	S00° 28' 58"W
L6	320.00	N87° 35' 07"E
L7	605.95	S85° 26' 01"E
L8	170.00	N00° 28' 58"E

CITY OF PORTERVILLE
ENGINEERING DIVISION

291 N. MAIN ST. PORTERVILLE, CALIFORNIA 93257 532 782-7482

PORTION OF THE NORTHEAST QUARTER OF
THE SOUTHWEST QUARTER SECTION 36,
TOWNSHIP 21 SOUTH, RANGE 27 EAST,
MOUNT DIABLO BASE AND MERIDIAN, IN
THE CITY OF PORTERVILLE, COUNTY OF
TULARE, STATE OF CALIFORNIA

OWNER: LYNDA
MOURTON
APN: POR. 261-020-010
AREA: 167,188 S.F.
ACRES: 3.84
DRAWN BY: JB
CHK'D BY: DB

**SUMMARY OF THE BASIS FOR THE
AMOUNT ESTABLISHED AS JUST COMPENSATION**

The following is a summary of the basis for the amount that the City of Porterville established as just compensation, which amount was derived from an appraisal as approved by the City of Porterville. The appraisal was prepared to comply with Code of Civil Procedure Section 1255.010 and to assist the City of Porterville to acquire property by negotiated agreement with Owners, so as to avoid litigation, relieve congestion in the courts, and assure consistent treatment for Owners as required by Government Code Section 7267. The appraisal was made in accordance with accepted appraisal principles, consistent with California valuation law. A statement of the appraisal process, which was the basis for the valuation conclusions, follows:

Definition of the Appraisal Problem – Property Data

Date of Valuation Used:	November 18, 2011
Property Identification:	Tule River Parkway Ph. III
Record Owner:	Lynda Mourton
Parcel Number:	261-020-010
Property Address:	None
Date acquired:	N/A
Price paid:	N/A
Character of interest being considered for acquisition:	Fee acquisition and easement
Area of parcel proposed to be acquired:	3.84 acres fee acquisition 8,543 sq. ft. Public Ingress/Egress Easement
Improvements pertaining to the realty:	None
Topography:	Undulating, river bed and street level
Shape:	Irregular-shaped
Access:	Roche Street via Chase Avenue
Utilities:	City of Porterville

Highest and Best Use Analysis

Highest and best use is defined as the reasonably probable and legal use of land which is legally permissible, physically possible, and financially feasible that results in the highest value. Highest and best use analysis is used in the appraisal process to identify comparable properties and, where applicable, to determine whether the existing improvements should be retained, renovated, or demolished. The results of the highest and best use analysis are

Present Use:	Vacant Land
Applicable Zoning:	One 40% RM-2 and 60% Parks and Public Recreation.
Applicable general plan designation:	Same
Reasonably probable legal land use designation in the near future:	Public/residential on a portion
Highest and best legal use of the property reasonably probable in the near future:	Same

Value Estimate: Application of the Sales Comparison Approach

The sales comparison approach was used as the best indication of market value. The sales comparison approach is one of the three accepted approaches value. The income capitalization approach and the cost approach were not considered to be applicable to this appraisal problem. The sales comparison approach is used to derive a value indication by comparing the property being appraised to similar properties that have sold recently, applying appropriate units of comparison, and making adjustments to the comparables based on the elements of comparison. This is the preferred method of valuation when comparable sales data are available. The sales comparison approach was based on the consideration of comparable sales, which sold within a reasonable time of the date of valuation for unadjusted prices ranging from \$1.28 to \$3.88 per square foot.

Valuation Conclusions

Based on the valuation derived from the said appraisal, the amount which the City of Porterville believes to be just compensation follows:

Fair Market Value of Land Parcel.....\$186,586

In addition, in establishing the amount believed to be just compensation, the City of Porterville derived from said appraisal whether or not there were damages and benefits to the remaining property. The basis for this determination is whether or not the remainder had been diminished in value by reason of the acquisition of the Parcel being acquired and the construction of the improvement in the manner proposed (severance damage) and, if so, whether the same remainder had been increased in value by reason of the construction of the improvement in the manner proposed (benefits). If there are no severance damages, then whether there is a benefit is inapplicable since benefits can only be offset against severance damages by reason of California valuation law.

Derived from said appraisal, the amount established as just compensation is....	\$61,725
Severance damages to the remainder.....	-0-
Total Compensation for Acquisition	\$61,725

Dated:

**By: _____
Baldomero Rodriguez, Public Works Director**

Visit Us on our Website: www.ctfc.com



Chicago Title Company

ISSUING OFFICE: 2510 S. East Avenue, Suite 600 • Fresno, CA 93706
559 457-2300 • FAX 559 457-2394

PRELIMINARY REPORT

Title Officer: Casandra Wright

Title No.: ~~142309396~~ CW

Locate No.: CACT17754-7754-~~423~~-0042309396

TO: City of Porterville
291 N. Main Street
Porterville, CA 93257

ATTN: Susan Duke

PROPERTY ADDRESS: Porterville, California

EFFECTIVE DATE: May 4, 2010, 07:30 A.M.

The form of policy or policies of title insurance contemplated by this report is:

CLTA Standard Coverage Policy - 1990

1. THE ESTATE OR INTEREST IN THE LAND HEREINAFTER DESCRIBED OR REFERRED TO COVERED BY THIS REPORT IS:
A Fee
2. TITLE TO SAID ESTATE OR INTEREST AT THE DATE HEREOF IS VESTED IN:
Lynda Mourton, a Widow
3. THE LAND REFERRED TO IN THIS REPORT IS DESCRIBED AS FOLLOWS:
SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART HEREOF

TPTP 05/17/2010

ITEMS: (continued)

Title No. 10-42309396-CW
 Locate No. CACTI7754-7754-4423-0042309396

7. **Easement(s)** for the purpose(s) shown below and rights incidental thereto as granted in a document.
- Granted to: City of Porterville
 Purpose: storm drainage
 Recorded: February 22, 1989, Instrument No. 9054, Book 4804, Page 142, of Official Records
 Affects: portion of said land
8. **Easement(s)** for the purpose(s) shown below and rights incidental thereto as granted in a document.
- Granted to: City of Porterville
 Purpose: construct, maintain, repair and use the said pipeline for the purpose of a storm drain
 Recorded: April 24, 1989, Instrument No. 21654, Book 4828, Page 451, of Official Records
 Affects: portion of said land
9. **Matters** contained in that certain document entitled "Grant of Easement" dated January 16, 1989, executed by Poplar Irrigation Company, a California Corporation recorded April 24, 1989, Instrument No. 21654, of Official Records.
- Reference is hereby made to said document for full particulars.
10. **A deed of trust** to secure an indebtedness in the amount shown below, and any other obligations secured thereby
- Amount: \$85,000.00
 Dated: March 26, 1991
 Trustor: Dan E. Weisenberger, a married man
 Trustee: Ticor Title Insurance Company of California, a California Corporation
 Beneficiary: Edythe L. Lew, a widow
 Loan No.:
 Recorded: March 29, 1991, Instrument No. 18461, of Official Records
11. **Any adverse claim** based upon the assertion that:
- Some portion of said land is tide or submerged land, or has been created by artificial means or has accreted to such portion so created.
 - Some portion of said land has been brought within the boundaries thereof by an avulsive movement of the Tule River and Poplar Ditch or has been formed by accretion to any such portion.
12. **Rights and easements** for navigation and fishery which may exist over that portion of said land lying beneath the waters of Tule River.

Title No. 10-42309396-CW
Locate No. CACTI7754-7754-4423-0042309396

LEGAL DESCRIPTION

EXHIBIT "A"

THE LAND REFERRED TO HEREIN BELOW IS SITUATED IN THE COUNTY OF TULARE, STATE OF CALIFORNIA, AND IS DESCRIBED AS FOLLOWS:

THE WEST 55 RODS OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 36, TOWNSHIP 21 SOUTH, RANGE 27 EAST, MOUNT DIABLO BASE AND MERIDIAN, IN THE CITY OF PORTERVILLE, COUNTY OF TULARE, STATE OF CALIFORNIA.

EXCEPTING THEREFROM THAT PORTION DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 36;

THENCE, NORTH 89°19'55" EAST, 924.00 FEET ALONG THE NORTH LINE OF SAID NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 36;

THENCE, SOUTH 00°45'54" EAST, 787.00 FEET, PARALLEL WITH THE WEST LINE OF SAID NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 36 TO A POINT IN THE CENTER LINE OF THE TULE RIVER;

THENCE, ALONG SAID CENTER LINE OF THE TULE RIVER, NORTH 85°32'18" WEST, 153.40 FEET;

THENCE, NORTH 87°04'46" WEST, 272.00 FEET;

THENCE, NORTH 80°15'03" WEST, 151.96 FEET;

THENCE, SOUTH 88°58'09" WEST, 350.00 FEET TO A POINT IN THE WEST LINE OF SAID NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 36;

THENCE, DEPARTING SAID CENTER LINE OF THE TULE RIVER, NORTH 00°45'54" WEST, 731.57 FEET ALONG SAID WEST LINE OF THE NORTHEAST QUARTER OF THE SOUTHWEST QUARTER OF SECTION 36 TO THE POINT OF BEGINNING.

APN: 261-020-010

ITEMS: (continued)

Title No. 10-42909396-CW
Locate No. CACT17754-7754-4423-0042309396

13. A deed of trust to secure an indebtedness in the amount shown below, and any other obligations secured thereby

Amount: \$18,270.71
Dated: September 12, 2002
Trustor: Lynda Mourton, a widow
Trustee: Cuesta Title Company, a California Corporation
Beneficiary: Dan E. Weisenberger, a married man as his sole and separate property
Loan No.:
Recorded: September 30, 0200, Instrument No. 2002-73923, of Official Records

END OF ITEMS

Note 1. ***IMPORTANT RECORDING NOTE***

For Kings County, please send all original documents for recording to the following office:

Chicago Title Company
1460 W. 7th Street, Ste 102
Hanford, CA 93230
Attn: Recording Desk
Phone: (559) 584-3381

For Tulare County, please send all original documents for recording to the following office:

Chicago Title Company
1750 W. Walnut Ave, Ste A
Visalia, CA 93277
Attn: Recording Desk
Phone: (559) 636-4300

Please direct all other title communication and copies of documents, including recording release instructions, policy write-up instructions, lenders instructions and settlement statements, to the Title Only Department of the issuing office.

- Note 2. The current owner does NOT qualify for the \$20.00 discount pursuant to the coordinated stipulated judgments entered in actions filed by both the Attorney General and private class action plaintiffs for the herein described property.
- Note 3. The policy of title insurance will include an arbitration provision. The Company or the insured may demand arbitration. Arbitrable matters may include, but are not limited to, any controversy or claim between the Company and the insured arising out of or relating to this policy, any service of the Company in connection with its issuance or the breach of a policy provision or other obligation. Please ask your escrow or title officer for a sample copy of the policy to be issued if you wish to review the arbitration provisions and any other provisions pertaining to your Title Insurance coverage.
- Note 4. There are NO deeds affecting said land, recorded within twenty-four (24) months of the date of this report.

Title No. 10-42309396-CW
 Locate No. CACT17754-7754-4423-0042309396

AT THE DATE HEREOF, ITEMS TO BE CONSIDERED AND EXCEPTIONS TO COVERAGE IN ADDITION TO THE PRINTED EXCEPTIONS AND EXCLUSIONS IN SAID POLICY FORM WOULD BE AS FOLLOWS:

1. **Property taxes**, which are a lien not yet due and payable, including any assessments collected with taxes to be levied for the fiscal year 2010-2011.

2. **Property taxes**, including any personal property taxes and any assessments collected with taxes, for the fiscal year 2009-2010, Assessor's Parcel Number 261-020-010.

Code Area Number:	004-144
1st Installment:	\$565.63 PAID
2nd Installment:	\$632.19 DELINQUENT
Land:	\$61,861.00
Improvements:	\$44,989.00
Exemption:	
Personal Property:	

3. **The lien of supplemental taxes**, if any, assessed pursuant to the provisions of Chapter 3.5 (Commencing with Section 75) of the Revenue and Taxation code of the State of California.

4. **Taxes and assessments** levied by the Porter Vista Public Utility District.

5. **Provisions**, conditions and qualifications affecting said land, adopted by the planning commission for the uses and purposes as set forth therein:

City/County: County of Tulare
 Resolution No:4660
 Approving: Tentative Parcel Map 79-143
 Certified Copy
 Recorded: October 10, 1979 as Instrument No. 60250 Official Records.

6. **Easement(s)** for the purpose(s) shown below and rights incidental thereto as granted in a document.

Granted to:	City of Porterville and the Porter Vista Public Utility District
Purpose:	Public Sanitary and Storm Sewers
Recorded:	February 22, 1989, Instrument No. 9053, Book 4804, Page 139, of Official Records
Affects:	portion of said land

NOTES: (continued)

Title No. 10-42309396-CW
Locate No. CACT17754-7754-4423-0042309396

- Note 5.** The name(s) of the buyer(s) furnished with this application for Title Insurance is/are:
to follow
If these names are incorrect, incomplete or misspelled, please notify the Company.
- Note 6.** The Requirement that the complete and correct name or names of proposed buyers herein, be submitted to the Title Department, at least 5 days prior to the close of escrow.
- Note 7.** Escrow information note: Arb No. 261-002-0-01,08
- Note 8.** If a county recorder, title insurance company, escrow company, real estate broker, real estate agent or association provides a copy of a declaration, governing document or deed to any person, California law requires that the document provided shall include a statement regarding any unlawful restrictions. Said statement is to be in at least 14-point bold face type and may be stamped on the first page of any document provided or included as a cover page attached to the requested document. Should a party to this transaction request a copy of any document reported herein that fits this category, the statement is to be included in the manner described.
- Note 9.** Please contact Escrow Office for Wire Instructions.
- Note 10.** Any documents being executed in conjunction with this transaction must be signed in the presence of an authorized Company employee, an authorized employee of an agent, an authorized employee of the insured lender, or by using Bancserv or other approved third-party service. If the above requirements cannot be met, please call the company at the number provided in this report.

END OF NOTES

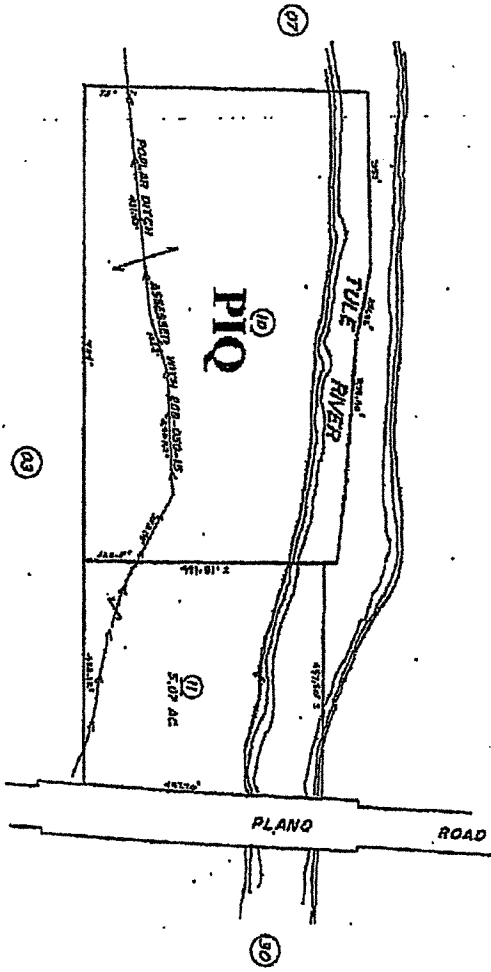
NE 1/4 OF SW 1/4 & POR NW 1/4 OF SE 1/4 SEC. 36, T21S, R27E, M.D.B. & M.

TAX CODE AREA
126-002

261-02

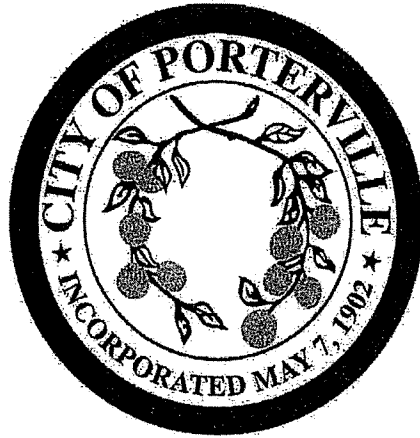
This map is being prepared as a convenience to the landowner and is not intended to be used as a deed. The County does not guarantee accuracy. It is the responsibility of the landowner to verify the accuracy of the information shown on this map. The County does not warrant the accuracy of the information shown on this map. The County does not warrant the accuracy of the information shown on this map. The County does not warrant the accuracy of the information shown on this map.

DATE	STREET	CITY, SEC.



NOTE - ASSESSOR'S BLOCK NUMBERS SHOWN IN BUBBLES
ASSESSOR'S PARCEL NUMBERS SHOWN IN CIRCLES

ASSESSOR'S MAPS BK. 261, PG. 02
COUNTY OF TULARE, CALIF.



EMINENT DOMAIN Information Pamphlet

CITY OF PORTERVILLE
Community Development Department
291 North Main Street
Porterville, CA 93257

EMINENT DOMAIN – Information Pamphlet

I. Introduction

Eminent domain is the power of the government to purchase private property for a "public use" so long as the property owner is paid "just compensation." Whenever possible, the City of Porterville tries to avoid use of the eminent domain power, exercising it only when it is necessary for a public project. The decision to acquire private property for a public project is made by the City only after a thorough review of the project, which often includes public hearings.

This pamphlet provides general information about the eminent domain process and the rights of the property owner in that process.¹

- **What is a "public use"?**

A "public use" is a use that confers public benefits, like the provision of public services or the promotion of public health, safety, and welfare. Public uses include a wide variety of projects such as street improvements, construction of water pipelines or storage facilities, construction of civic buildings, redevelopment of blighted areas, and levee improvements to increase flood protection. Some public uses are for private entities, such as universities, hospitals and public utilities, which serve the public.

- **What is "just compensation"?**

Just compensation is the **fair market value** of the property being acquired by the government. The state law definition of fair market value is "the highest price on the date of valuation that would be agreed to by a seller, being willing to sell but under no particular or urgent necessity for so doing, nor obliged to sell, and a buyer, being ready, willing, and able to buy but under no particular necessity for so doing, each dealing with the other with full knowledge of all the uses and purposes for which the property is reasonably adaptable and available."

II. The Eminent Domain Process and the Property Owner's Rights

The eminent domain process begins with a public use project. When selecting a project location, the goal is to render the greatest public good and the least private injury or inconvenience. If it is determined that all or a portion of your property may be necessary for a public use project, the City will begin the appraisal process to determine the property's fair market value.

¹ This pamphlet reflects the current law as of January 1, 2008. However, the information in this pamphlet is not, nor should it be construed as, legal advice. You should consult with qualified legal counsel regarding your specific situation rather than relying on this pamphlet as legal advice.

- **How is the fair market value of my property determined?**

The City will retain an independent, accredited appraiser familiar with local property values to appraise your property. The appraiser will invite you to accompany him or her during an inspection of your property. You may give the appraiser any information about improvements and any special features that you believe may affect the value of your property. It is in your best interest to provide the appraiser with all the useful information you can in order to ensure that nothing of value will be overlooked. If you are unable to meet with the appraiser, you may wish to have a person who is familiar with your property meet with the appraiser instead.

After the inspection, the appraiser will complete an appraisal that will include the appraiser's determination of your property's fair market value and the information upon which the fair market value is based. The appraiser will provide the City with the appraisal. The City will then make a written offer to purchase the property. The offer will also include a summary of the appraisal. The offer will be for no less than the amount of the appraisal.

- **What factors does the appraiser consider in determining fair market value?**

Each parcel of real property is different and, therefore, no single formula can be used to appraise all properties. Among the factors an appraiser typically considers in estimating fair market value are:

- The location of the property;
- The age and condition of improvements on the property;
- How the property has been used;
- Whether there are any lease agreements relating to the property;
- Whether there are any environmental issues, such as contaminated soil;
- Applicable current and potential future zoning and land use requirements;
- How the property compares with similar properties in the area that have been sold recently;
- How much it would cost to reproduce the buildings and other structures, less any depreciation; and
- How much rental income the property produces, or could produce if put to its highest and best use.

- **Will I receive a copy of the appraisal?**

The City is required to provide you with its purchase offer, a summary of the appraiser's opinion, and the basis for the City's offer. Among other things, this summary must include:

- A general statement of the City's proposed use for the property;
- An accurate description of the property to be acquired;
- A list of the improvements covered by the offer;
- The amount of the offer; and
- The amount considered to be just compensation for each improvement which is owned by a tenant and the basis for determining that amount.

However, the City is only required to show you a copy of the full appraisal if your property is an owner-occupied residential property with four or fewer residential units. Otherwise, the City may, but is not required, to disclose its full appraisal during negotiations (though different disclosure requirements apply during the litigation process if the issue of fair market value goes to court).

- **Can I have my own appraisal done?**

Yes. You may decide to obtain your own appraisal of the property in negotiating the fair market value with the City. At the time of making its initial offer to you, the City must offer to reimburse you the reasonable costs, not to exceed \$5,000, of an independent appraisal of your property. To be eligible for reimbursement, the independent appraisal must be conducted by an appraiser licensed by the State Office of Real Estate Appraisers.

- **What advantages are there in selling my property to the City?**

A real estate transaction with the City is typically handled in the same way as the sale of private property. However, there may be a financial advantage to selling to the City.

- You will not be required to pay for real estate commissions, title costs, preparation of documents, title policy or recording fees required in closing the sale. The City will pay all these costs.
- Although the City cannot give you tax advice or direction, you might also be eligible for certain property and income tax advantages. You should check with the Internal Revenue Service (IRS) for details or consult your personal tax advisor.

- **If only a portion of my property is taken, will I be paid for the loss to my remaining property?**

In general, when only a part of your property is needed, every reasonable effort is made to ensure you do not suffer a financial loss to the "remainder" property. The City will pay you the fair market value of the property being taken as well as compensation for any loss in value to your remaining property that is not offset by the benefits conferred by the project. The compensation for the loss in value to your remaining property is often referred to as "severance damages."

Also, if any remaining part is of such a size, shape, or condition as to be of little market value, the City will offer to acquire that remaining part (or remnant) from you, if you so desire.

- **Will I be compensated for loss of goodwill to my business?**

If you are the owner of a business that is conducted on the property being acquired, you may have a right to compensation for lost business goodwill if the loss is caused by the acquisition

of the property. "Goodwill" consists of the benefits that accrue to a business as a result of its location, reputation for dependability, skill or quality, and any other circumstances resulting in probable retention of old or acquisition of new patronage.

- **What will happen to the loan on my property?**

Where the City is acquiring the entire property, generally the compensation payable to the owner is first used to satisfy outstanding loans or liens as in a typical real estate transaction. Where less than the entire property is being acquired, whether outstanding loans or liens are paid from the compensation will depend on the particular facts and circumstances.

- **Do I have to sell at the price offered?**

No. If you and the City are unable to reach an agreement on a mutually satisfactory price, you are not obligated to sign an offer to sell or enter into a purchase agreement.

- **If I agree to accept the City's offer, how soon will I be paid?**

If you reach a voluntary agreement to sell your property or an interest in the property to the City, payment will be made at a mutually acceptable time. Generally, this should be possible within 30 to 60 days after a purchase/sale contract is signed by all parties.

- **What happens if we are unable to reach an agreement on the property's fair market value?**

The City, to the greatest extent practicable, will make every reasonable effort to acquire your property by negotiated purchase. If, however, the negotiations are unsuccessful, the City may either file an eminent domain action in a court located within the same county where your property is located or it may decide to abandon its intention to acquire the property. If the City abandons its intention to acquire, it will promptly notify you.

If the City proceeds with eminent domain, the first step is for the City staff to request authority from the City Council to file a condemnation action. The approval from the City Council is called a "Resolution of Necessity." In considering whether condemnation is necessary, the City Council must determine whether the public interest and necessity require the project, whether the project is planned or located in the manner that will be most compatible with the greatest public good and the least private injury, and whether your property is necessary for the project. You will be given notice and an opportunity to appear before the City Council when it considers whether to adopt the Resolution of Necessity. You may want to call an attorney or contact an attorney referral service right away. You or your representatives can raise any objections to the Resolution of Necessity and the condemnation either orally before the City Council or in writing to the City Council.

If the City Council adopts the Resolution of Necessity, the City can file a complaint in court to acquire title to the property upon payment of the property's fair market value. The City is the plaintiff. Anyone with a legal interest in the property, generally determined from a title

report on the property (including tenants or mortgage holders), are named as defendants. Often, the City will also deposit the amount the City believes is the "probable amount of compensation" with the State Treasurer where the complaint is filed. A deposit must be made if the City is seeking to acquire possession of the property before agreement is reached on the fair market value.

- **Can the City acquire possession of my property before the property's fair market value is determined in the eminent domain lawsuit?**

In some cases, the City may decide it needs possession of the property before the property's fair market value is finally determined. In such a case, the City must apply to the court for an "order for possession" to allow it to take possession and control of the property prior to resolution of the property's fair market value. The City is required to schedule a hearing with the court on the proposed order for possession and to give you notice of the hearing. Notice must generally be sent at least 90 days before the hearing date if the property is occupied and 60 days before the hearing date if the property is unoccupied. A judge will decide whether the order for possession should be granted. As noted above, the City must deposit with the State Treasurer the probable amount of just compensation in order to obtain possession of the property.

- **Can I oppose the motion for an order for possession?**

Yes. You may oppose the motion in writing by serving the City and the court with your written opposition within the period of time set forth in the notice from the City.

- **Can I rent the property from the City?**

If the City agrees to allow you or your tenants to remain on the property after the City acquires possession, you or the tenants will be required to pay a fair rent to the City. Generally, such rent will not be more than that charged as rent for the use of a property similar to yours in a similar area.

- **Can I withdraw the amount deposited with the State Treasurer before the eminent domain action is completed, even if I don't agree that the amount reflects the fair market value of my property?**

Yes. Subject to the rights of any other persons having a property interest (such as a lender, tenant, or co-owner), you may withdraw the amount deposited with the State Treasurer before the eminent domain action is completed. If you withdraw the amount on deposit, you may still seek a higher fair market value during the eminent domain proceedings, but you may not contest the right of the City to acquire the property, meaning you cannot contest that the acquisition of your property is for a public purpose or is otherwise improper.

You also have the right to ask the court to require the City to increase the amount deposited with the State Treasurer if you believe the amount the City has deposited less than the "probable amount of compensation."

- **Can I contest the condemning agency's acquisition of the property?**

Yes. Provided you have not withdrawn the amount deposited, you can challenge in court the City's right to acquire or condemn the property.

7267.2. (a) (1) Prior to adopting a resolution of necessity pursuant to Section 1245.230 of the Code of Civil Procedure and initiating negotiations for the acquisition of real property, the public entity shall establish an amount that it believes to be just compensation therefor, and shall make an offer to the owner or owners of record to acquire the property for the full amount so established, unless the owner cannot be located with reasonable diligence. The offer may be conditioned upon the legislative body's ratification of the offer by execution of a contract of acquisition or adoption of a resolution of necessity or both. The amount shall not be less than the public entity's approved appraisal of the fair market value of the property. A decrease or increase in the fair market value of real property to be acquired prior to the date of valuation caused by the public improvement for which the property is acquired, or by the likelihood that the property would be acquired for the improvement, other than that due to physical deterioration within the reasonable control of the owner or occupant, shall be disregarded in determining the compensation for the property.

(2) At the time of making the offer described in paragraph (1), the public entity shall provide the property owner with an informational pamphlet detailing the process of eminent domain and the property owner's rights under the Eminent Domain Law.

(b) The public entity shall provide the owner of real property to be acquired with a written statement of, and summary of the basis for, the amount it established as just compensation. The written statement and summary shall contain detail sufficient to indicate clearly the basis for the offer, including, but not limited to, all of the following information:

(1) The date of valuation, highest and best use, and applicable zoning of property.

(2) The principal transactions, reproduction or replacement cost analysis, or capitalization analysis, supporting the determination of value.

(3) If appropriate, the just compensation for the real property acquired and for damages to remaining real property shall be separately stated and shall include the calculations and narrative explanation supporting the compensation, including any offsetting benefits.

(c) Where the property involved is owner-occupied residential property and contains no more than four residential units, the homeowner shall, upon request, be allowed to review a copy of the appraisal upon which the offer is based. The public entity may, but is not required to, satisfy the written statement, summary, and review requirements of this section by providing the owner a copy of the appraisal on which the offer is based.

(d) Notwithstanding subdivision (a), a public entity may make an offer to the owner or owners of record to acquire real property for less than an amount that it believes to be just compensation therefor if (1) the real property is offered for sale by the owner at a specified price less than the amount the public entity believes to be just compensation therefor, (2) the public entity offers a price that is equal to the specified price for which the property is being offered by the landowner, and (3) no federal funds are involved in the acquisition, construction, or project development.

(e) As used in subdivision (d), "offered for sale" means any of the following:

(1) Directly offered by the landowner to the public entity for a specified price in advance of negotiations by the public entity.

(2) Offered for sale to the general public at an advertised or published specified price, set no more than six months prior to, and

still available at, the time the public entity initiates contact with the landowner regarding the public entity's possible acquisition of the property.