

CITY COUNCIL AGENDA: February 17, 2015

TITLE: ADDENDUM NO. 3 TO CITY MANAGER EMPLOYMENT AGREEMENT

SOURCE: CITY ATTORNEY

COMMENT: As requested by the City Council, attached is a proposed Addendum modifying Section 1 of the City Manager's Employment Agreement with the City. The proposed revision changes the monthly rate of compensation from \$11,010.00 to \$12,661.50. This is the first proposed revision to the City Manager's compensation rate since the Employment Agreement went into effect in 2009. Pursuant to Section 5 of the Employment Agreement, the City Manager remains subject to same pension and health care contributions that apply to all other management employees of the City.

All other terms and conditions as set forth in the 2009 Agreement and Addenda Nos. 1 and 2, and not inconsistent with this Addendum, remain in effect. The City Manager's term of employment is currently set to expire December 31, 2016.

RECOMMENDATION: That the City Council consider and approve Addendum No. 3.

ATTACHMENTS: 1) Addendum No. 3 to Employment Agreement  
2) Employment Agreement with Addenda 1 and 2

**ADDENDUM NO. 3 TO EMPLOYMENT AGREEMENT**  
**BETWEEN THE CITY OF PORTERVILLE AND JOHN D. LOLLIS**

This Addendum No. 3 is made a part of the Employment Agreement between the City of Porterville ("City") and John D. Lollis ("City Manager") entered into on September 2, 2008, and effective as of January 14, 2009.

1. Commencing March 1, 2015, the City agrees to pay the City Manager at the rate of the sum of \$12,661.50 per month as compensation for the retention of the City Manager's services specified in the Employment Agreement, and such compensation as the City Council may, from time to time, determine, consistent with the provisions set forth in Section 1 of the Employment Agreement.
2. All other terms as outlined in the Employment Agreement and Addenda Nos. 1 and 2, and not inconsistent with this Addendum, shall remain in effect.

IN WITNESS WHEREOF, the parties have executed this Addendum No. 3 on February \_\_\_\_, 2015.

**"CITY"**

**"CITY MANAGER"**

\_\_\_\_\_  
Milt Stowe  
Mayor of the City of Porterville

\_\_\_\_\_  
John D. Lollis

ATTEST:

\_\_\_\_\_  
By: Patrice Hildreth, Deputy City Clerk

APPROVED AS TO FORM:

\_\_\_\_\_  
Julia M. Lew, City Attorney

## **EMPLOYMENT AGREEMENT**

### **EMPLOYMENT AGREEMENT BETWEEN THE CITY OF PORTERVILLE AND JOHN D. LOLLIS.**

**WHEREAS**, the City of Porterville, hereafter referred to as "City," desires to hire JOHN D. LOLLIS, as its City Manager;

**WHEREAS**, JOHN D. LOLLIS, desires to be employed as the City Manager of the City of Porterville;

**WHEREAS**, it is the desire and intent of the parties to create an employment agreement;

**WHEREAS**, the City desires to employ the services of Mr. Lollis, as City Manager of the City as provided by Section 17 of the Charter of the City of Porterville, upon the retirement of the City's current City Manager, John R. Longley, as of January 14, 2009;

**WHEREAS**, it is the desire of the City Council to provide certain benefits, establish certain conditions of employment and to set working conditions of the City Manager; and

**WHEREAS**, it is the desire of the City Council to:

- (1) Secure and retain the services of the City Manager and provide inducement for him to remain in such employment;
- (2) To make possible full work productivity by assuring the City Manager's morale and peace of mind with respect to future security; and
- (3) To provide a just means for terminating the City Manager's services at such time as he may be unable to discharge his duties or when the City may desire to otherwise terminate his employ.

**NOW, THEREFORE**, in consideration of the mutual covenants herein contained, the parties agree to enter into this Employment Agreement, as follows:

## **Section 1. Compensation**

Commencing January 14, 2009, and thereafter, City agrees to employ and pay the City Manager at the rate of the sum of \$11,010.00 per month as compensation for the retention of the above mentioned services, and such compensation thereafter as the City Council may, from time to time, determine; provided that, at a minimum, after the first year of this Agreement, the City Manager shall receive an annual percentage increase equal to the average cost of living adjustment awarded to other city Department Directors for the preceding year; and provided further that City Manager may additionally request, on or about December 1 of each year (commencing on December 1, 2009), a performance based salary increase not to exceed five percent (5%) which the City Council may approve in whole or part within thirty (30) days of receipt of such request, after first conducting a written evaluation of City Manager's work performance of the prior year. Said compensation shall be paid at the same times and in the same manner as other employees of the City are paid.

## **Section 2. Term of Service**

The City Manager's term of employment shall be through December 31, 2011. Nothing in this Agreement shall prevent, limit or otherwise interfere with the right of the City Council to terminate the services of the City Manager at any time, provided that such termination shall be subject to the provisions of Section 3 herein below. The City Manager may be removed by a four fifths (4/5) vote of the total City Council members. Before voluntarily resigning his position, the City Manager agrees to give the City Council at least three (3) months notice in writing of his intention to resign stating the reasons therefore. It is specifically noted and agreed that City Manager's employment with the City is in an "at will" capacity and as such, he may be terminated at any time, with or without cause. Any termination of City Manager shall be made by giving him written notice thirty (30) days in advance. Upon receipt of such notice, City Manager shall have the right to request the reasons for such termination be specified in writing and shall further have the right, if he so requests, to address the City Council, in a closed session, regarding his termination. Any such written explanation of the reasons provided for termination

shall be a confidential communication between employer and employee and shall not be disclosed to third parties.

### **Section 3. Severance Pay**

In the event of involuntary separation of the City Manager, he shall be entitled to receive a lump sum payment as and for severance pay in an amount equal to twelve (12) months salary. In addition to any such salary, the City Manager shall be paid any other amounts that would be due to a City employee upon termination of employment with the City. The City and the City Manager understand that in the event of involuntary separation, the City Manager desires to obtain a position with the City similar to the position he held prior to the effective date of this Agreement. In the event he applies for and is hired for such a position during the twelve-month period following his separation as City Manager, he agrees that he will reimburse the City for the balance of the lump sum paid representing the remainder, if any, of said twelve-month period.

Notwithstanding the above provisions of this Section, in the event the City Manager is terminated and a court of competent jurisdiction finds and determines that he is guilty of an illegal act involving moral turpitude or personal gain, then, in that event, the City shall have no obligation to pay the aggregate severance sum designated hereinabove in this Section.

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### **Section 4. Dues, Travel and Conferences**

The City hereby agrees to annually budget and allocate sufficient funds to pay for the dues and expenses of the City Manager's necessary travel and living while representing the City at the Annual International City/County Management Association Conference, the Annual League of California Cities Conference, conferences of the City Manager's Department of the League of California Cities and conferences or meetings of state committees or commissions upon which the Manager serves as a member, said membership on said committees or commissions being subject to the approval of the Council, and for such other official conferences, meetings and/or travel as are reasonably necessary for the City Manager to carry out his professional responsibilities as the appointed executive of the City.

## **Section 5. Regular Benefits**

All provisions of the City Charter and Code and Rules and Regulations of the City relating to vacation, sick leave, retirement and pension system contributions, holidays and other fringe benefits and working conditions as they now exist or hereafter may be amended shall apply to the City Manager as they would to other management employees of the City, in addition to any other benefits enumerated herein specifically for the benefit of the City manager, except as otherwise provided in this Agreement.

## **Section 6. Supplemental Benefits**

In addition to the regular benefit provided for in Section 5 herein above, the City Manager shall be entitled to the following supplemental benefits:

- a. He shall be enrolled in the PERS retirement system and the City shall pay the employer's required contribution and he shall pay the employee's required contributions to said Program;
- b. He shall be provided, at City expense, a cellular telephone; provided that he shall be available and accessible to City Council members by means of these communication devices seven (7) days a week, twenty four (24) hours a day, unless he has first otherwise notified the Council of his unavailability for an approved reason or basis;
- c. The City Manager shall be entitled to receive an annual physical from the Sansom Institute, paid by the City.
- d. The City Manager shall be entitled to receive a laptop computer for City use, provided a program is developed for the provision of such computers (with internet and e-mail capabilities and systems) to City Council Members and other appointed or designated officials, for City use. The costs for the laptops will be amortized over the remaining term of the official's contract or the terms for the elected Council Members. If the official resigns, leaves or is otherwise removed from employment/office,

for any reason, and wishes to retain the laptop, he will be responsible for paying the balance owed for the remainder of his contract/term.

#### **Section 7. General Expenses**

The City recognizes that certain expenses of a non-personal job related nature will be incurred by the City Manager while on City business. Such expenses include, but are not limited to, meals with potential tenants, developers, representatives of businesses interested in locating in the City, or already located in the City, and other federal, state and local agency officials. City agrees to reimburse or to pay said general expenses and the Finance Director is hereby authorized to disperse such money upon receipt of duly executed expense or petty cash vouchers, receipts, statements or personal affidavits. Such receipts and supporting documentation shall be made available to the Mayor and City Council, and the City Council may designate one of its members or another individual to audit the City Manager's expenses.

#### **Section 8. Automobile Allowance**

The City agrees to provide the City Manager with a vehicle allowance in the amount of \$400.00 per month. This allowance shall not be considered part of City Manager's salary for the purposes of PERS final compensation.

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#### **Section 9. Other Terms and Conditions of Employment**

The parties shall, by amendment to this Agreement, fix such other terms and conditions of employment from time to time as may be determined relating to the performance of the City Manager of the City, provided such terms and conditions are not inconsistent or in conflict with the provisions of this Agreement or City Charter.

#### **Section 10. Annual Evaluation**

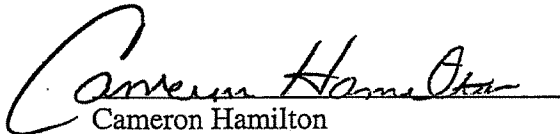
The City Manager's performance and compensation shall be evaluated on an annual basis on or about the month of December by the City Council. Said evaluation process shall include written goals and objectives for the City Manager being set for the next year by the City Council.

**Section 11. General Provisions**

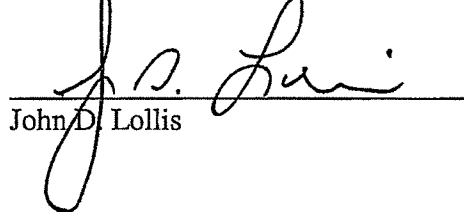
If a provision or any portion thereof contained in this Agreement is held to be unconstitutional, invalid or unenforceable, the remainder of this Agreement or portion thereof shall be deemed to be severable, shall not be affected and shall remain in full force and effect.

DATED this 2nd day of September, 2008.

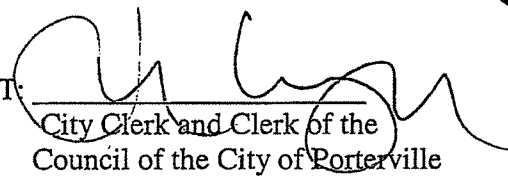
"CITY"

  
Cameron Hamilton  
Mayor of the City of Porterville

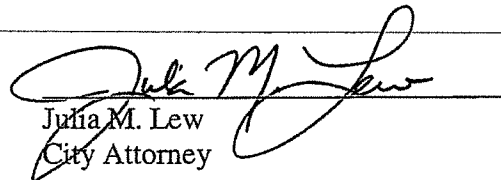
"CITY MANAGER"

  
John D. Lollis

ATTEST:

  
City Clerk and Clerk of the  
Council of the City of Porterville

APPROVED AS TO FORM:

  
Julia M. Lew  
City Attorney



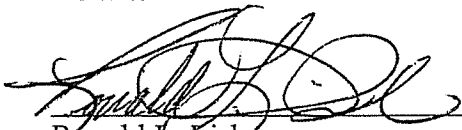
**ADDENDUM NO. 1 TO EMPLOYMENT AGREEMENT**  
**BETWEEN THE CITY OF PORTERVILLE AND JOHN D. LOLLIS**

This Addendum No. 1 is made a part of the Employment Agreement between the City of Porterville ("City") and John D. Lollis ("City Manager") entered into on September 2, 2008, and effective as of January 14, 2009.

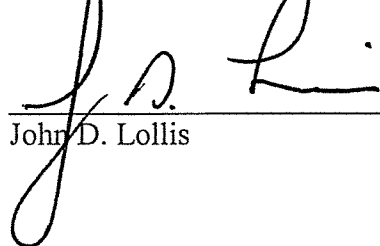
1. The term of City Manager's employment is hereby extended through December 31, 2016.
2. With regard to Section 3 of the Employment Agreement, and consistent with the provisions of AB 1344, which shall go into effect January 1, 2012, in the event of involuntary separation of the City Manager, he shall be entitled to receive the lesser of the following: a lump sum payment in the amount equal to 12 months salary, or equal to his monthly salary multiplied by the number of months left on the unexpired term of this Agreement or any further Addendums. Any cash settlement provided by the City related to termination of the City Manager shall be fully reimbursed to the City if City Manager is convicted of a crime involving an abuse of his office or position, as defined by AB 1344. To the extent the Agreement allows for paid leave salary pending any investigation, and/or the payment of a legal criminal defense of City Manager, any funds expended by the City for these purposes shall be fully reimbursed to the City if City Manager is convicted of a crime involving an abuse of his office or position. Said reimbursements are required if such payments are made, even if the payments were made by the City in the absence of any contractual requirement to do so.
3. All other terms as outlined in the Employment Agreement, executed on September 2, 2008, and not inconsistent with this Addendum, shall remain in effect.

IN WITNESS WHEREOF, the parties have executed this Addendum No. 1 on December 20, 2011.

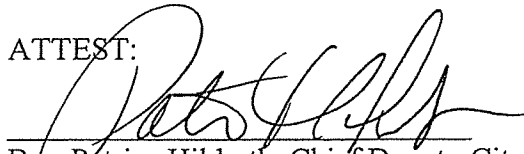
"CITY"

  
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Ronald L. Irish  
Mayor of the City of Porterville

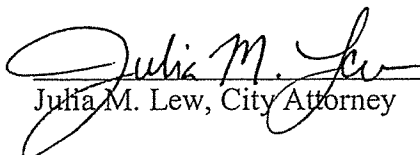
"CITY MANAGER"

  
\_\_\_\_\_  
John D. Lollis

ATTEST:

  
\_\_\_\_\_  
By: Patrice Hildreth, Chief Deputy City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
Julia M. Lew, City Attorney

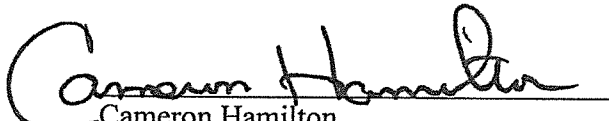
**ADDENDUM NO. 2 TO EMPLOYMENT AGREEMENT**  
**BETWEEN THE CITY OF PORTERVILLE AND JOHN D. LOLLIS**

This Addendum No. 2 is made a part of the Employment Agreement between the City of Porterville ("City") and John D. Lollis ("City Manager") entered into on September 2, 2008, and effective as of January 14, 2009.

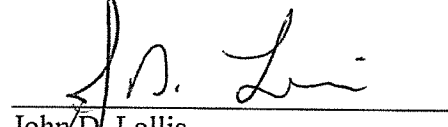
1. The City Council acknowledges that the City Manager may live outside the city limits from approximately July 1, 2014 to June 30, 2015, and consents to this to the extent legally required per Porterville Charter Section 21.
2. All other terms as outlined in the Employment Agreement and Addendum No.1, and not inconsistent with this Addendum, shall remain in effect.

IN WITNESS WHEREOF, the parties have executed this Addendum No. 2 on June 17, 2014.

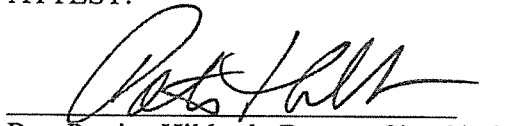
**"CITY"**

  
Cameron Hamilton  
Mayor of the City of Porterville

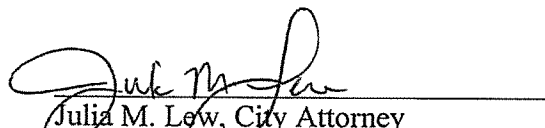
**"CITY MANAGER"**

  
John D. Lollis

ATTEST:

  
By: Patrice Hildreth, Deputy City Clerk

APPROVED AS TO FORM:

  
Julia M. Low, City Attorney