



**RESOURCE  
MANAGEMENT AGENCY  
COUNTY OF TULARE  
AGENDA ITEM**

**BOARD OF SUPERVISORS**

KUYLER CROCKER  
District One

PETE VANDER POEL  
District Two

AMY SHUKLIAN  
District Three

EDDIE VALERO  
District Four

DENNIS TOWNSEND  
District Five

**AGENDA DATE:** April 30, 2019 – REVISED

Public Hearing Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Scheduled Public Hearing w/Clerk	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Published Notice Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Advertised Published Notice	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Meet & Confer Required	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Electronic file(s) has been sent	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
Budget Transfer (Aud 308) attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Personnel Resolution attached	Yes	<input type="checkbox"/>	N/A	<input checked="" type="checkbox"/>
Agreements are attached and signature line for Chairman is marked with tab(s)/flag(s)	Yes	<input checked="" type="checkbox"/>	N/A	<input type="checkbox"/>
CONTACT PERSON: Celeste Perez PHONE: (559) 624-7010				

**SUBJECT:** 2017 through 2019 Transit Agreement with the City of Porterville

**REQUEST(S):**

That the Board of Supervisors:

1. Approve an agreement with the City of Porterville, in the amount of \$740,694 for the City to provide transit service to County of Tulare residents, retroactive from July 1, 2017 through June 30, 2019. This agreement is retroactive to July 1, 2017 because of ongoing negotiations with and obtaining authorized signatures from the City. It was impractical for the Board to take action before July 1, 2017 due to the time needed to process, prepare, and submit the agenda item; and
2. Find that the Board had authority to enter into the proposed agreement as of July 1, 2017 and that it was in the County's best interest to enter into the agreement on that date; and
3. Authorize the Chairman to sign the Agreement.

**SUMMARY:**

This has been an annual agreement with the City of Porterville for the City to provide transit service for citizens of local unincorporated areas in the Porterville Service Area. Do to disagreements between the City of Porterville and County staff about how to calculate the County's responsibility, the contract was not renewed last fiscal year. City staff and County staff have now agreed on a formula and would like to cover the cost of services for both fiscal years in a single agreement. County residents can be best served by the City of Porterville's service. As a result, the County has agreed to reimburse the City of Porterville for extending service to

**SUBJECT:** 2017 through 2019 Transit Agreement with the City of Porterville

**DATE:** April 30, 2019

include unincorporated areas adjacent to the City and provide public transit to County residents in those areas.

In fiscal year 2017/2018, an estimated 10% of Porterville dial-a-ride trips served County residents in these unincorporated areas. This represents approximately 1,000 riders. In fiscal year 2018/2019, an estimated 15% of Porterville dial-a-ride trips will serve County residents in these unincorporated areas. This represents approximately 1,500 riders.

The County share of the City of Porterville cost for this service in fiscal year 2017/2018 has been calculated to be \$342,253. The County share of the City of Porterville cost for this service in fiscal year 2018/2019 has been calculated to be \$398,441. The total County share of cost for this service covered under this agreement is \$740,694.

The only changes from the 2016/2017 contract, as amended to date, are changing the term of the agreement to July 1, 2017 to June 30, 2019, and changing the dollar amount provided to the City of Porterville under this agreement to \$740,694.

In fiscal year 2016/2017 the County's contribution for this service was \$404,668. The decreased annual contribution is due to a recalculation of County responsibility that took place over the past two years.

Please note this agreement has been approved as to form by County Counsel. The following terms deviate substantively from the standard County boilerplate:

Mutual Indemnification - Both parties to the agreement agree to indemnify the other.

**FISCAL IMPACT/FINANCING:**

The County's total share of costs under this Agreement will be \$740,694. This amount will be paid from the County's Local Transportation Fund (LTF) and or State Transit Assistance (STA) funds. This Agreement allows Tulare County Association of Governments to redistribute a portion of the County's Local Transportation Fund (LTF) and or State Transit Assistance (STA) to the City of Porterville for this service. There are no net County costs to the General Fund.

**LINKAGE TO THE COUNTY OF TULARE STRATEGIC BUSINESS PLAN:**

This coordinated transit system provides quality service to County residents in the Porterville Area. The Strategic Business Plan Initiatives, under the Safety and Security section addresses that initiative.

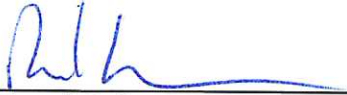
**SUBJECT:** 2017 through 2019 Transit Agreement with the City of Porterville  
**DATE:** April 30, 2019

**ADMINISTRATIVE SIGN-OFF:**



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Sherman Dix  
Assistant Director - Fiscal



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Reed Schenke, P.E.  
Director

rs:rm

Cc: County Administrative Office

Attachment(s): 2017 through 2019 Transit Agreement with the City of Porterville

**BEFORE THE BOARD OF SUPERVISORS  
COUNTY OF TULARE, STATE OF CALIFORNIA**

IN THE MATTER OF 2017 THROUGH 2019 ) Resolution No. \_\_\_\_\_  
TRANSIT AGREEMENT WITH THE CITY ) Agreement No. \_\_\_\_\_  
OF PORTERVILLE )

UPON MOTION OF SUPERVISOR \_\_\_\_\_, SECONDED BY  
SUPERVISOR \_\_\_\_\_, THE FOLLOWING WAS ADOPTED BY THE BOARD  
OF SUPERVISORS, AT AN OFFICIAL MEETING HELD ON APRIL 30, 2019, BY THE  
FOLLOWING VOTE:

AYES:  
NOES:  
ABSTAIN:  
ABSENT:

ATTEST: JASON T. BRITT  
COUNTY ADMINISTRATIVE OFFICER/  
CLERK, BOARD OF SUPERVISORS

BY: \_\_\_\_\_  
Deputy Clerk

\* \* \* \* \*

1. Approved an agreement with the City of Porterville, in the amount of \$740,694 for the City to provide transit service to County of Tulare residents, retroactive from July 1, 2017 through June 30, 2019. This agreement is retroactive to July 1, 2017 because of ongoing negotiations with and obtaining authorized signatures from the City. It was impractical for the Board to take action before July 1, 2017 due to the time needed to process, prepare, and submit the agenda item; and
2. Found that the Board had authority to enter into the proposed agreement as of July 1, 2017 and that it was in the County's best interest to enter into the agreement on that date; and
3. Authorized the Chairman to sign the Agreement.

# **Attachment**

2017 through 2019 Transit Agreement with the City of Porterville

1 **AGREEMENT**

2 THIS AGREEMENT, is entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2019, by  
3 and between the COUNTY OF TULARE, hereinafter referred to as the "County", and the CITY  
4 OF PORTERVILLE, hereinafter referred to as the "City".

5 **WITNESSETH:**

6 WHEREAS, the County and the City desire to coordinate their respective public  
7 transportation systems in the Porterville urbanized area; and

8 WHEREAS, there are and will continue to be citizens of the County who can reasonably be  
9 served by the City's transit system and there are and will continue to be citizens of the City who  
10 can reasonably be served by the County's transit system; and

11 WHEREAS, the County and the City recognize the goals of providing a transportation  
12 system to the general public at a reasonable fare and that providing coordinated public  
13 transportation service within the Porterville urbanized area; and

14 WHEREAS, the County and the City did not come to agreement in the 2017/2018 Fiscal  
15 Year but now agree to the amounts the County will pay to City for providing transportation  
16 services for the unincorporated areas; and

17 WHEREAS, the County and the City desire to provide for the Joint Exercise of Powers for  
18 the purpose of providing and maintaining public transportation systems in the Porterville  
19 urbanized area;

20 NOW, THEREFORE, County and City mutually agree as follows:

21 1. **Scope of Work.** The County and City shall each control, manage, and operate a  
22 separate transit system. The City and County shall furnish each other thirty (30) days prior  
23 written notice of any and all service level and fare level changes.

24 (a) **County.** The County shall provide transit service to those residents of the  
25 City desiring to use the regularly scheduled service of the County transit system. The  
26 County shall establish bus stop location(s) within the City which will interface with  
27 the City bus stop locations and facilitate system transfers. The County stop(s) shall be  
28 established at locations acceptable to the City. Approval on behalf of the City shall  
29 be given by the City Transit Coordinator.

30 (b) **City.** The City shall establish a series of bus stop locations within the  
31 County. The City stops shall be established at locations acceptable to the County.  
32 Approval on behalf of the County shall be given by the Director of Transportation.  
33 The City shall provide transit service to County residents desiring transit service  
34 within the urbanized service area as set forth in Exhibit "A" which is attached hereto  
35 and made a part hereof by this reference.

1           2. **Management-County.** The County shall manage the County transit system in an  
2 appropriate manner, insuring cost effective operation, including marketing the system in a  
3 professional manner and collecting fares from riders on the County transit system.

4           3. **Management-City.** The City shall manage the City transit system in an  
5 appropriate manner, insuring cost effective operation, including marketing the system in a  
6 professional manner and collecting fares from riders on the City transit system.

7           4. **Compensation.** The County shall compensate the City for service to County  
8 residents living in the herein agreed upon service area. Compensation shall be limited to a  
9 set dollar amount of \$740,694. Compensation for the period July 1, 2017 through June 30,  
10 2019, will be as follows:

11		
12	17-18 County LTF/STA	\$342,253
13		
14	18-19 County LTF/STA	\$398,441
15		
16	<b>Total Payment</b>	<b>\$740,694</b>

17           5. **Authorization of Payment.** FTA Section 5307 Funds will be claimed by the City on  
18 the County's behalf. The County by this Agreement authorizes the Tulare County  
19 Association of Governments to transfer \$342,253 from the County's 2017/18  
20 Apportionment and \$398,441 from the County's 2018/19 Apportionment of State Transit  
21 Assistance Funds, and/or Local Transportation Funds to the City of Porterville's  
22 Apportionment. The County further authorizes the City to claim said \$740,694 as full  
23 payment for services under this Agreement. In case of termination of this Agreement prior  
24 to June 30, 2019, the County agrees to compensate the City for a proportional amount of  
25 the sum of \$740,694 based upon the number of days the services were provided by the City  
26 during a 730 day period.

27           6. **FTA Funds.** Per the 2010 Census, the Porterville urbanized area has a population of  
28 72,329; 54,247 (75.0%) of which are City residents, and 18,082 (25.0%) of which are  
29 County residents. The Porterville Urbanized Area is eligible to receive Federal Transit  
30 Administration (FTA) Funds from Section 5307. The City of Porterville will be the  
31 claimant of these funds. The amount included under Section 4 "compensation" reflects a  
32 credit of Section 5307 Funds to the County from the City.

33           7. **Renegotiation.** In the event a contract between the Federal Transit  
34 Administration and the City of Porterville is not executed by June 30, 2019 for the Section  
35 5307 Funds specified in paragraphs 4, 5 and 6, this contract may be renegotiated to reflect  
36 this condition.

1           8. **Drivers.** The parties shall require that all transit drivers meet all licensing  
2 requirements of the State of California.

3           9. **Indemnification-City.** City shall hold harmless, defend and indemnify County,  
4 its agents, officers and employees from and against any liability, claims, actions, costs,  
5 damages or losses of any kind, including death or injury to any person and/or damage to  
6 property, arising out of the activities of City or its agents, officers and employees under this  
7 Agreement. This indemnification specifically includes any claims that may be made  
8 against County by any taxing authority asserting that an employer-employee relationship  
9 exists by reason of this Agreement. This indemnification obligation shall continue beyond  
10 the term of this Agreement as to any acts or omissions occurring under this Agreement or  
11 any extension of this Agreement.

12           10. **Indemnification-County.** County shall hold harmless, defend and indemnify  
13 City, its agents, officers and employees from and against any liability, claims, actions,  
14 costs, damages or losses of any kind, including death or injury to any person and/or damage  
15 to property, arising out of the activities of County or its agents, officers and employees  
16 under this Agreement, and any claims made against County alleging civil rights violations  
17 by City under Government Code section 12920 et seq. (California Fair Employment and  
18 Housing Act). This indemnification obligation shall continue beyond the term of this  
19 Agreement as to any acts or omissions occurring under this Agreement or any extension of  
20 this Agreement.

21           11. **Insurance-Liability.** The City and the County shall each provide comprehensive  
22 general public liability and comprehensive automotive liability insurance with single limit  
23 coverage of not less than \$5,000,000 or equivalent self-insurance covering their activities  
24 under this Agreement. Prior to commencing operations, each party shall file with the Clerk  
25 of the other party certificates of insurance evidencing the coverage required herein and  
26 naming the other party, its officers, agents and employees as additional insured's. Such  
27 certificates shall state that the named additional insured's are not responsible for the  
28 payment of any premium or assessment and shall provide that in the event of a cancellation  
29 or material change of policy, the insurer shall give the named additional insured's no less  
30 than thirty (30) days advance written notice of such cancellation or change. Upon request,  
31 each party shall provide the other with a complete copy of the insurance policy or policies  
32 or evidence and terms of self-insurance as required herein.

33           The parties agree, during the term of the Agreement, to maintain at their own expense  
34 (or require of their independent contractors) all necessary insurance for their respective  
35 officers, employees, and agents, including but not limited to workers' compensation,  
36 disability and unemployment insurance in accordance with state statutory requirements and



1 to provide certificates of such insurance or other evidence of compliance to the other party  
2 upon request. The insurance, and evidence thereof, required by this Agreement may be  
3 provided either directly by the parties or, if a party contracts with an independent  
4 contractor/operator to provide the services required by this Agreement, by the operator of  
5 that party's system as deemed appropriate by such party.

6 **12. Term of Agreement.** This Agreement shall become effective July 1, 2017 and  
7 shall continue in full force and effect until June 30, 2019 unless terminated earlier, as  
8 herein provided.

9 **13. Termination.** The right to terminate this Agreement under this provision may be  
10 exercised without prejudice to any other right or remedy to which the terminating party may  
11 be entitled at law or under this Agreement.

12 (a) Without Cause. Either party shall have the right to terminate this  
13 Agreement without cause by giving the other party SIXTY (60) days prior written  
14 notice of its intention to terminate pursuant to this provision, specifying the date of  
15 termination.

16 (b) With Cause. This Agreement may be terminated by either party should the  
17 other party:

- 18 (i) be adjudged a bankrupt, or
- 19 (ii) become insolvent or have a receiver appointed, or
- 20 (iii) make a general assignment for the benefit of creditors, or
- 21 (iv) suffer any judgment which remains unsatisfied for 30 days, and which  
22 would substantively impair the ability of the judgment debtor to perform under  
23 this Agreement, or
- 24 (v) materially breach this Agreement.

25 For any of the occurrences except item (v), termination may be effected upon  
26 written notice by the terminating party specifying the date of the termination. Upon a  
27 material breach, the Agreement may be terminated following the failure of the  
28 defaulting party to remedy the breach to the satisfaction of the non-defaulting party  
29 within FIFTEEN (15) days of written notice specifying the breach. If the breach is  
30 not remedied within that FIFTEEN (15) day period, the non-defaulting party may  
31 terminate the Agreement on further written notice specifying the date of termination.

32 If the nature of the breach is such that it cannot be cured within a FIFTEEN (15)  
33 day period, the defaulting party may, submit a written proposal within that period  
34 which sets forth a specific means to resolve the default. If the non-defaulting party  
35 consents to that proposal in writing, which consent shall not be unreasonably  
36 withheld, the defaulting party shall immediately embark on its plan to cure. If the

1 default is not cured within the time agreed, the non-defaulting party may terminate  
2 upon written notice specifying the date of termination.

3 (c) Effects of Termination. Termination of this Agreement shall not terminate  
4 any obligations to indemnify, to maintain and make available any records pertaining  
5 to the Agreement, to cooperate with any audit, to be subject to offset, or to make any  
6 reports of pre-termination contract activities.

7 **14. Notices.** Any notices to be given shall be written and served either by personal  
8 delivery or by first class mail, postage prepaid and addressed as follows:

9 County: Director of Transportation  
10 Resource Management Agency  
11 5961 S. Mooney Blvd.  
12 Visalia, CA 93277  
13

14 City: Transit Coordinator  
15 City of Porterville  
16 291 N. Main Street  
17 Porterville, CA 93257

18 **15. Integration.** This Agreement constitutes the sole and only Agreement between  
19 the parties hereto as to the services to be provided hereunder. Any prior agreements,  
20 promises, negotiations or representations as to such services not expressly referred to herein  
21 are of no force and effect.

22 **16. Modification.** The City and County shall furnish each other thirty (30) days prior  
23 written notice of any and all recommended service level and fare level changes. The City  
24 shall request and receive approval from the County Director of Transportation prior to any  
25 changes in service levels or fare levels in unincorporated areas of the service area. Except  
26 for said changes, this Agreement shall be modified or amended only with the prior written  
27 consent of both parties.

28 **17. Assignment.** Neither party shall assign or transfer any of the rights or privileges  
29 or any parts thereof of this Agreement without the other party's prior written consent.

30 **18. Records.** Each party agrees to maintain all books, records, documents, and other  
31 evidence pertaining to this Agreement, any disputes surrounding the subject matter of this  
32 Agreement, and any other related circumstances in accordance with generally accepted  
33 accounting principles and practices. Each party shall allow the other party's agents or  
34 representative's access to such records for inspection, audit, and copying during normal  
35 business hours. Each party shall provide further facilities for such access and inspection.

1            19. **Surveys.** Either the City or the County may conduct periodic ridership surveys.  
2            Said surveys shall not interfere with the operation of the system.

3            20. **Legal Operation.** City and County each shall carry out its obligations under this  
4            Agreement in full compliance with all applicable federal, state and local laws, ordinances,  
5            rules and regulations.

6            21. **Construction.** This Agreement reflects the contributions of both parties and  
7            accordingly the provisions of Civil Code section 1654 shall not apply to address and  
8            interpret any uncertainty.

9            22. **Governing Law.** This Agreement shall be interpreted and governed under the  
10           laws of the State of California without reference to California conflicts of law principles.  
11           Any litigation arising out of this Agreement shall be brought in Tulare County California.  
12           City waives the removal provisions of California Code of Civil Procedure Section 394.

13           23. **Conflict with Laws or Regulations/Severability.** This Agreement is subject to  
14           all applicable laws and regulations. If any provision of this Agreement is found by any  
15           court or other legal authority, or is agreed by the parties, to be in conflict with any code or  
16           regulation governing its subject, the conflicting provision shall be considered null and void.  
17           The remainder of the Agreement shall continue in full force and effect.

18           24. **Headings.** Section headings are provided for organizational purposes only and do  
19           not in any manner affect the scope, meaning or intent of the provisions under the headings.

20           25. **No Third Party Beneficiaries.** Unless specifically set forth, the parties to this  
21           Agreement do not intend to provide any other party with any benefit or enforceable legal or  
22           equitable right or remedy.

23           26. **Waivers.** The failure of either party to insist on strict compliance with any  
24           provision of this Agreement shall not be considered a waiver of any right to do so, whether  
25           for that breach or any subsequent breach. The acceptance by either party of either  
26           performance or payment shall not be considered to be a waiver of any preceding breach of  
27           the Agreement by the other party.

28           27. **Exhibits and Recitals.** The Recitals and the Exhibits to this Agreement are fully  
29           incorporated into and are integral parts of this Agreement.

30           28. **Further Assurances.** Each party agrees to execute any additional documents and  
31           to perform any further acts which may be reasonably required to effect the purposes of this  
32           Agreement.

33           29. **Assurances of Non-Discrimination.** City and County expressly agrees that it  
34           will not discriminate in employment or the provision of services on the basis of any  
35           characteristic or condition upon which discrimination is prohibited by state or federal law  
36           or regulation.

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

COUNTY OF TULARE

By \_\_\_\_\_  
Chairman, Board of Supervisors  
"COUNTY"

ATTEST: Jason Britt,  
County Administrative Officer/  
Clerk of the Board of Supervisors.

By \_\_\_\_\_  
Deputy

CITY OF PORTERVILLE

By \_\_\_\_\_  
Mayor "CITY"

ATTEST: Clerk of City of Porterville

By \_\_\_\_\_  
Deputy

Approved as to Form,  
County Counsel

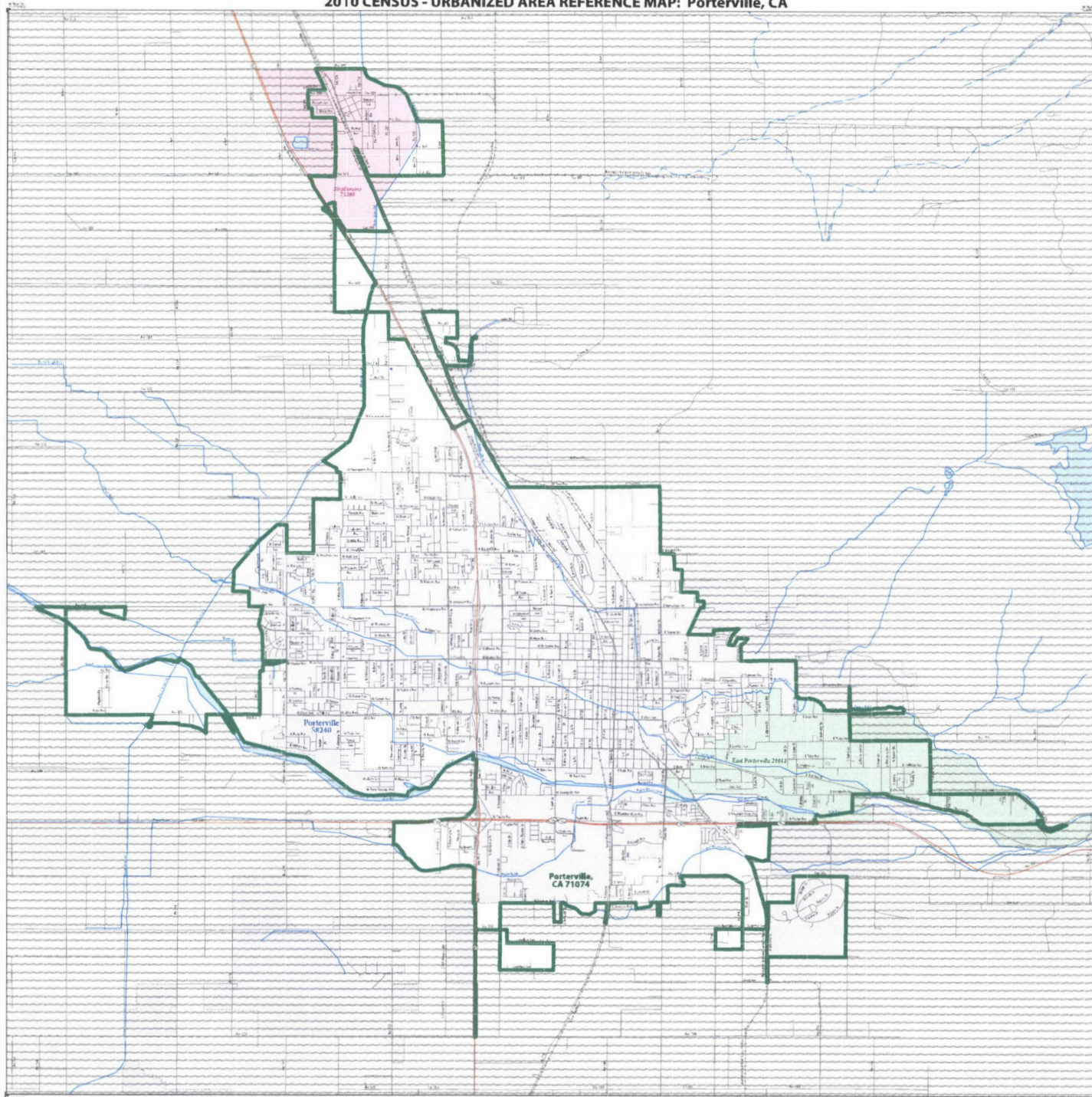
By \_\_\_\_\_  
Deputy

Approved as to Form,  
City Attorney

By \_\_\_\_\_  
City Attorney

# EXHIBIT A

## 2010 CENSUS - URBANIZED AREA REFERENCE MAP: Porterville, CA



**LEGEND**

SYMBOL	DESCRIPTION	SYMBOL	DESCRIPTION
[Symbol]	International Boundary	[Symbol]	Canada
[Symbol]	United States-Canada Boundary	[Symbol]	L'Anse aux Lacs 1880
[Symbol]	Old American-Treaty Land	[Symbol]	T1880
[Symbol]	Colonial Area	[Symbol]	Dover, DE 24580
[Symbol]	Other Cluster	[Symbol]	Tonele, VT #6057
[Symbol]	Non-urbanized area (unincorporated)	[Symbol]	NEW YORK 34
[Symbol]	Urbanized Area (incorporated)	[Symbol]	ENE 23
[Symbol]	Urbanized Area (unincorporated)	[Symbol]	Bristol town 07485
[Symbol]	Metropolitan Area (MCSA)	[Symbol]	MILFORD 47500
[Symbol]	Consolidated City	[Symbol]	Davis 94100
[Symbol]	Unincorporated Place	[Symbol]	Acbe Village 97100
[Symbol]	County (Designated Place)		

SYMBOL	DESCRIPTION	SYMBOL	DESCRIPTION
[Symbol]	Water	[Symbol]	Water
[Symbol]	Water	[Symbol]	Water
[Symbol]	Water	[Symbol]	Water
[Symbol]	Water	[Symbol]	Water
[Symbol]	Water	[Symbol]	Water

When international data is used, such as 1990 boundaries, the map shows the boundary used for that year. The 1990 map shows the boundary used for that year. The 1990 map shows the boundary used for that year.

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**SUBJECT AREA COUNTIES ON MAP SHEET**  
 Butte Fresno

All data for this map were derived from the 2010 Census. The data were derived from the 2010 Census. The data were derived from the 2010 Census. The data were derived from the 2010 Census. The data were derived from the 2010 Census.

U.S. DEPARTMENT OF COMMERCE  
 Bureau of Economic Analysis  
 U.S. Census Bureau



PARENT SHEET:  
 Total Sheets: 1  
 Sheet Sheets: 0  
 Part of Sheet: 1

U.A. NAME: Porterville, CA  
 U.A. CODE: 71074  
 FUNDING: NA  
 ST. CENSUS YEAR: 2010

11/11/2010