

COOPERATIVE AGREEMENT

JOHN DOYLE SAFE ROUTES TO SCHOOL PROJECT

THIS AGREEMENT is entered into this ____ day of _____, 2014, between the County of Tulare, hereinafter referred to as "COUNTY," and the Porterville Unified School District, hereinafter referred to as "DISTRICT," with reference to the following:

- A. WHEREAS, DISTRICT has requested to construct an asphalt path and other improvements, primarily on the DISTRICT'S property, as described on EXHIBIT A, that conform to COUNTY and Caltrans standards; and
- B. WHEREAS, COUNTY desires to undertake said improvements as the lead agency and DISTRICT is willing to allow COUNTY to assume the lead agency role; and
- C. WHEREAS, DISTRICT shall maintain, repair, operate and assume liability of said improvement on DISTRICT'S property.

ACCORDINGLY, IT IS AGREED:

1. DISTRICT authorizes COUNTY to undertake said improvements as shown on EXHIBIT A attached hereto and incorporated herein by this reference.
2. COUNTY agrees to construct said improvements in accordance with all applicable Federal, State, and Local laws, regulations and directives.
3. COUNTY and DISTRICT agree that no authorization, encroachment permits, oversight, input or requirement other than the authority conferred by this Agreement and the Permission to Enter (EXHIBIT B) shall be required by DISTRICT for any of COUNTY'S responsibilities under this Agreement as deemed necessary by COUNTY.
4. The term of this Agreement is indefinite and will continue until such time both parties deem its dissolution. The indemnity provisions contained in Paragraph 9 of this Agreement shall continue in full force and effect beyond expiration or termination of this Agreement by any other means.
5. COUNTY hereby agrees to pay all expenses arising out of the design, construction and construction management of said improvements on DISTRICT'S property and hereby waives any claim against the DISTRICT for any cost of design, construction and construction management of said improvements.

6. This agreement shall become effective upon the date first written above.
7. From and after the effective date of this Agreement, COUNTY shall have all responsibility and liability for all activities and omissions related to the design, construction, operation and construction management of said improvements on DISTRICT'S property including its integration with any connecting sidewalks and roads.
8. DISTRICT shall have all responsibility and liability arising out of the operation, maintenance and upkeep of said improvements in DISTRICT'S property, including paying all expenses and hereby waives any claim against the COUNTY for any cost of operation, maintenance and upkeep of said improvements on DISTRICT'S property.
9. A party ("Indemnifying Party") shall hold harmless and indemnify the other Party ("Indemnified Party") and its respective governing Boards, officers, directors, employees, authorized agents, engineers, contractors or subcontractors from and against any and all claims, damages, losses, liabilities, costs, and expenses that arise out of or as a result of any negligent act or omission or willful misconduct of the Indemnifying Party or its officers, agents, employees, engineers, contractors or subcontractors in carrying out Indemnifying Party's obligations under this Agreement or under any other agreement executed pursuant hereto, except to the extent that such expense, liability or claim is proximately caused by the negligence or willful misconduct of the Indemnified Party or their respective agents and servants who are directly responsible to such Indemnified Party.
10. COUNTY shall maintain complete and accurate records with respect to all works of improvement authorized by this Agreement. DISTRICT shall maintain complete and accurate records with respect to operation and maintenance of the improvements.
11. This Agreement represents the entire agreement between COUNTY and DISTRICT as to its subject matter and no prior oral or written understanding shall be of any force or effect. No part of this Agreement may be modified without the written consent of both parties.
12. Except as may be otherwise required by law, any notice to be given shall be written and shall be either personally delivered, sent by facsimile transmission or sent by first class mail, postage prepaid and addressed as follows:

COUNTY: Assistant Director – Public Works
Tulare County Resource Management Agency
5961 S. Mooney Blvd.
Visalia, CA 93277

(Fax No.: (559) 730-2653 / Phone No. (559) 624-7000)

DISTRICT: John Snavelly, Ed. D, Superintendent
Porterville Unified School District
600 West Grand Avenue
Porterville, CA. 93257

(Fax No.: (559) 788-0214 / Phone No. (559) 782-7140)

Notice delivered personally or sent by facsimile transmission is deemed to be received upon receipt. Notice sent by first class mail shall be deemed received on the fourth day after the date of mailing. Either party may change the above address by giving written notice pursuant to this paragraph.

13. This Agreement reflects the contributions of both parties and accordingly the provisions of Civil Code Section 1654 shall not apply to address and interpret any uncertainty.

14. Unless specifically set forth, the parties to this Agreement do not intend to provide any other party with any benefit or enforceable legal or equitable right or remedy.

15. This Agreement shall be interpreted and governed under the laws of the State of California without reference to California conflicts of law principles. This Agreement is entered into and shall be performed in Tulare County, California. COUNTY waives the removal provisions of California code of Civil Procedure Section 394.

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

17. The Recitals and the Exhibits to this Agreement are fully incorporated into and are integral parts of this Agreement.

18. This Agreement is subject to applicable laws and regulations. If any provision of this Agreement is found by any court or other legal authority, or is agreed by the parties, to be in conflict with any code or regulation governing its subject, the conflicting provision shall be considered null and void. If the effect of nullifying any conflicting provision is such that a material benefit of the Agreement to either party is lost, the Agreement may be terminated at the option of the affected party. In all other cases the remainder of the Agreement shall continue in full force and effect.

19. Each party agrees to execute any additional documents and to perform any further acts which may be reasonably required to affect the purposes of this Agreement.

20. COUNTY expressly agrees that it will not discriminate in employment or in the provision of services on the basis of any characteristic or condition upon which discrimination is prohibited by state or federal law or regulation.

THE PARTIES, having read and considered the above provision, indicate their agreement by their authorized signatures below.

COUNTY OF TULARE

BY _____
Chairman, Board of Supervisors

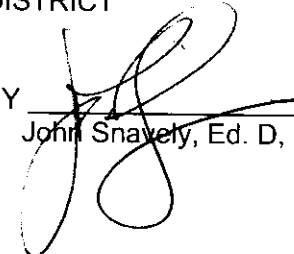
ATTEST: Jean M. Rousseau,
County Administrative Officer/Clerk of the Board
of Supervisors of the County of Tulare

By _____
Deputy Clerk

Approved as to Form
County Counsel

By *Jennifer McNichols* 09/02/2014
Deputy Date
Matter ID 20141258

PORTERVILLE UNIFIED SCHOOL
DISTRICT

BY 
John Snaveley, Ed. D, Superintendent

ATTEST:

BY _____

EXHIBIT "A"

LEGEND

- APPROXIMATE LOCATION OF AC PATHWAY AND GRADING IN PORTERVILLE UNIFIED SCHOOL DISTRICT PROPERTY.
- - - TULARE COUNTY RIGHT OF WAY.

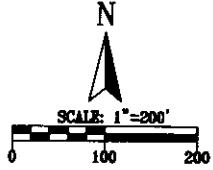
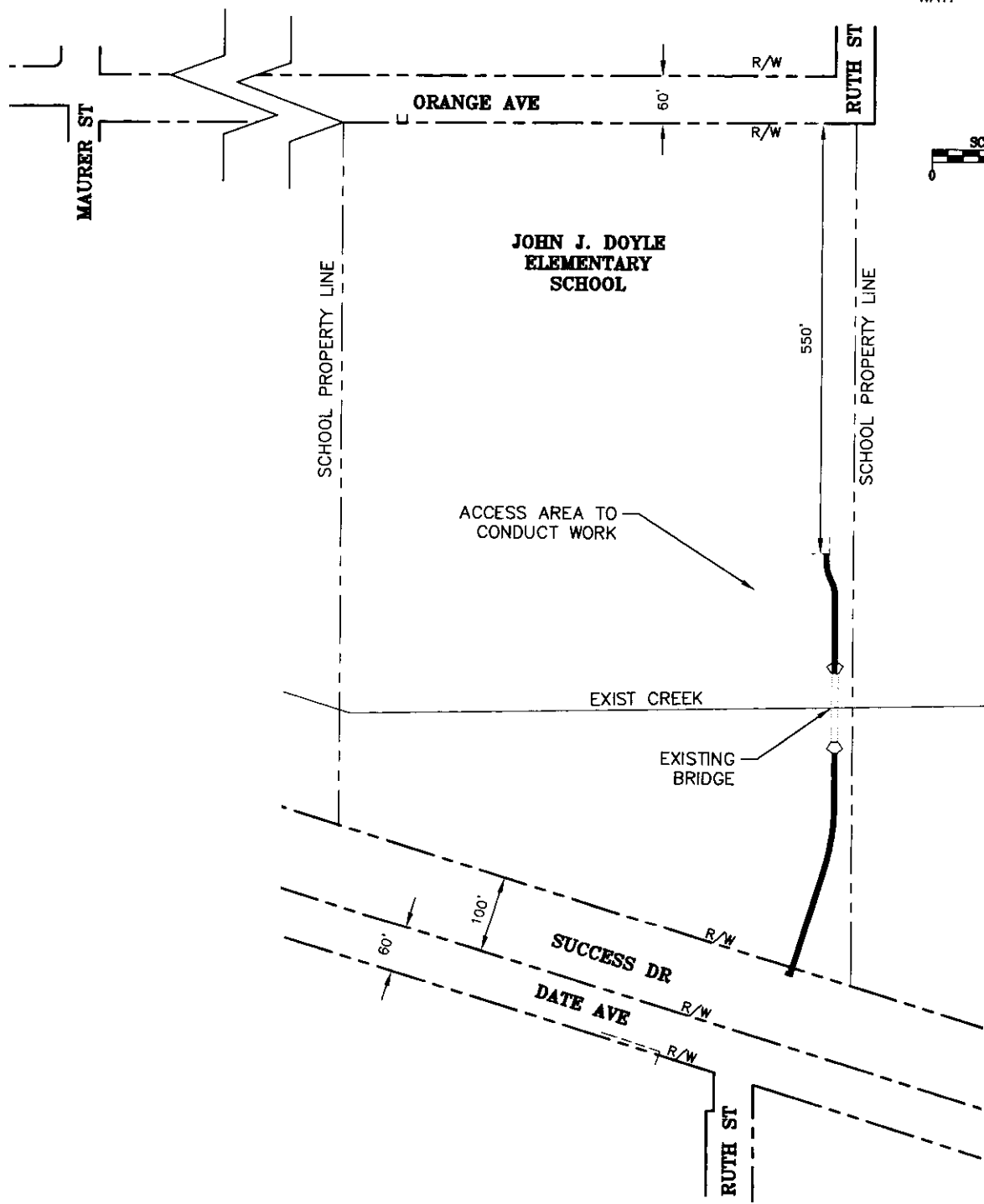


EXHIBIT "A"
JOHN J. DOYLE ELEMENTARY SCHOOL
1045 EAST ORANGE AVE
PORTERVILLE, CA 93257

TULARE COUNTY
RESOURCE MANAGEMENT
AGENCY
5961 SOUTH MOONEY BLVD.
VISALIA, CA 93277



EXHIBIT B

PERMISSION TO ENTER

The undersigned hereinafter referred to as the Owner, hereby grants permission to the County of Tulare and its authorized agents to enter upon the certain property of the Owner located or described herein, upon the following terms and conditions:

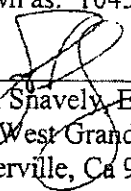
1. This permission is granted on the conditions that the County, its agents and contractors use reasonable care in the manner of making entry onto the property, that real and personal property and improvements on the property shall not suffer unreasonable damage, and that all damage thereto shall be repaired or compensated at no expense to the Owner. Breach of this condition shall entitle the Owner to terminate this permission on ten (10) days written notice to the Tulare County Resource Management Agency, 5961 S. Mooney, Visalia, CA 93277.
2. The purposes of such entry by the said County or its authorized agents shall be as follows:

Allow the County to constructing asphalt walkway following the existing pathway from Date Ave/Success Dr to the school grounds of the John Doyle Elementary School. Any debris generated by the work will be removed. The work will be performed by County forces.
3. Such permission to enter, and any entry or use of the said property by the said County shall not operate to create any permanent easement, or any other property right in the County or public.
4. It is expressly understood and agreed that neither this instrument nor any act carried out hereunder, shall create any right in the Owner or any other person to the continued accomplishment of the above by the County.
5. Said property is described or located as follows:

APN:
262-060-001
262-190-006

Description of Properties:
South portion of said properties from Success Drive along the Easterly line north ending at the John J Doyle Elementary School grounds
Also known as: 1045 E Orange, Porterville

By _____

By  _____
John Shavely, Ed. D, Superintendent
600 West Grand Ave
Porterville, Ca 93257

Date: 5/8/14