

**INTERNAL CITY AUDIT COMMITTEE MEETING AGENDA
JAY C. COLEMAN CONFERENCE ROOM, CITY HALL
CITY OF PORTERVILLE, CALIFORNIA
WEDNESDAY, OCTOBER 26, 2022, 4:00 P.M.**

Pursuant to the provisions of Assembly Bill 361, signed into law by Governor Newsom on September 16, 2021, the City of Porterville is allowing for and encouraging electronic participation at Brown Act Body Meetings. Until further notice, Porterville Brown Act Body Meetings will be live streamed on YouTube at

<https://www.youtube.com/channel/UC5KuhSrNMNL9nwHJVtnJvvA>

Alternatively, this meeting will also be available via Zoom using the following information:

Topic: City of Porterville – Internal City Audit Committee Virtual Meeting

Please use the following link below to join the webinar:

<https://us06web.zoom.us/j/84723054608?pwd=R2xaNWQ3OHhVdEh5NFNVRkUzWU9qdz09>

Or via Telephone: **1-669-900-6833** *Webinar ID:* **847 2305 4608** *Passcode:* **507108**

Please direct any questions to the Office of City Clerk at 559-782-7464.

Call to Order

Roll Call

Committee Members: Martha A. Flores, Chair
 Kellie Carrillo, Member
 Maria Bemis, Member
 John Lollis, Member
 Julia Lew, Member
 Rob Taylor, Member

ORAL COMMUNICATIONS

This is the opportunity to address the Audit Committee on any scheduled matter. Unless additional time is authorized by the Committee, all commentary shall be limited to three minutes per individual and no more than fifteen minutes total.

SCHEDULED MATTERS

1. Approval of Draft Minutes of September 28, 2022.
 Re: Consideration of draft Minutes of September 28, 2022.

2. Review of Barn Theater Agreement
 Re: Review of the License Agreement between the City of Porterville and the Barn Theater for use of real property located at 42 S Plano St, Porterville, Ca 93257

3. Review of the Porterville Kiwanis Club Agreement
 Re: Review of the License Agreement between the City of Porterville and the Porterville Kiwanis Club for use of real property located at 450 N. Newcomb St, Porterville, Ca 93257

OTHER MATTERS

ADJOURNMENT

In compliance with the Americans with Disabilities Act and the California Ralph M. Brown Act, if you need special assistance to participate in this meeting, or to be able to access this agenda and documents in the agenda packet, please contact the Office of City Clerk at (559) 782-7464. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting and/or provision of an appropriate alternative format of the agenda and documents in the agenda packet.

Materials related to an item on this Agenda submitted to the Audit Committee after distribution of the Agenda packet are available for public inspection during normal business hours at the Office of City Clerk, 291 N. Main Street, Porterville, CA 93257, and on the City's website at www.ci.porterville.ca.us.

ITEM 1

**INTERNAL CITY AUDIT COMMITTEE MINUTES
JAY C. COLEMAN CONFERENCE ROOM, CITY HALL
CITY OF PORTERVILLE, CALIFORNIA
WEDNESDAY, SEPTEMBER 28, 2022, 4:00 P.M.**

Call to Order at 4:01 p.m.

Roll Call: Chair Martha A. Flores,
Member Kellie Carrillo,
Member Maria Bemis,
Member John Lollis,
Member Julia Lew,
Member Rob Taylor (arrived late)

ORAL COMMUNICATIONS

None

SCHEDULED MATTERS

1. Approval of Draft Minutes of August 24, 2022

ACTION: MOVED by Member Julia Lew, SECONDED by Member John Lollis, that the Committee approve the draft minutes of the Internal City Audit Committee Meeting of August 24, 2022.

AYES: Carrillo, Lew, Lollis, Bemis, Flores
NOES: None
ABSTAIN: None
ABSENT: Taylor

Documentation: M.O. 01-092822
Disposition: Approved

2. Review of Barn Theater Agreement

Members of the Committee continued the review of the Barn Theater Agreement located at 42 S. Plano Street, Porterville, CA 93257.

Barn Theater representatives Kristen Redford and Brandon Willet and legal counsel, Mr. Allen Bailey were present.

Member Julia Lew stated her office is currently researching the history of the property and the possibility of getting a title search for the property. Mr. Bailey mentioned the Barn Theater has also been looking into the history and will update the city on those findings. Ms. Lew stated the Barn Theater had submitted potential language in draft form on the revocable license agreement with some changes they would like to see with regard to the purposes. Mr. Bailey added the Barn Theater inquired about adding additional language to their draft regarding who is responsible for the parking lot and its maintenance.

Member Lollis stated he was under the impression that a parking lot resurfacing had been done

to the parking a few years ago as part of the Plano Street Rehabilitation Project. Mr. Bailey stated he would check into this information and would update the Committee with his findings.

Additional discussions of the Committee were the proposed changes regarding fundraising activities and special events.

The consensus of the Committee was to obtain a Title Report & Profile of the property from the Barn Theatre to determine how the property is currently held and be brought back for further review.

3. Federal Transit Administration Triennial Review

Committee members received an update on the Federal Transit Administration Triennial Review given by city staff member Trisha Whiteley.

4. Review of Status of Pension Obligation Bond Validation Suit

Member Lollis provided the Committee with an update on the status of the Pension Obligation Bond Validation Suit and stated there has been no person who has challenged and the determination of the courts was the city may be able to proceed.

5. Review of Friends of the Library Lease Agreement

A review of the proposed property License Agreement between the City of Porterville and the Friends of the Library for use of the city facility located at 298 N. Main Street was done by the Committee.

Members of the Friends of the Library, who were present, asked the Committee how much space of the property would be available to them and if the costs of utility payments would be shared by other tenants or solely their responsibility depending on how much space used. They also stated they have changed their name to "Friends of the Porterville Public Library."

City Staff indicated they would have exclusive use of the entire area but would confirm to make sure that is still the case, as the Porterville Public Library still has a few books there.

A recommendation of the committee was to revise the language of the agreement with regard to the space that will be used and bring the agreement forward to the city council for consideration of approval.

OTHER MATTERS

Items for consideration to bring back to the next audit meeting was the Barn Theater for further review and the Kiwanis Club License Agreement.

ADJOURNMENT

The Internal City Audit Committee Meeting adjourned at 5:21 p.m. to the meeting of October 26, 2022.

Fernando Gabriel-Moraga, Deputy City Clerk

ATTEST:

Martha A. Flores, Committee Chair

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ITEM 2

REVOCABLE LICENSE AGREEMENT

THIS AGREEMENT, made and entered into the ____ of _____, 2022, by
and between the CITY OF PORTERVILLE, a municipal corporation, hereinafter called
the Licensor, and THE BARN THEATRE, a non-profit California public benefit
corporation, hereinafter called the LICENSEE:

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WITNESSETH:

WHEREAS the LICENSOR is the owner of the hereinafter described real
Property; and

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WHEREAS, the property is deemed suitable, necessary, and proper by the
LICENSOR and the LICENSEE for use by the LICENSEE in carrying on and conducting
a community enterprise of a non-profit, non-political, and non-religious nature for which
the LICENSEE has been incorporated and organized, and is now engaged in, carrying on
and conducting as a community enterprise, and for the benefit, enlightenment, amusement,
recreation, education, and advancement of the Porterville Area, and not for the profit of
any individual or enterprise.

NOW, THEREFORE, it is hereby covenanted and agreed between the LICENSOR
and the LICENSEE as follows, to wit:

1. The real property herein referred to and covered by the terms of this license
is that certain real property situated in the City of Porterville, County of
Tulare, State of California, described as follows to wit:

Beginning at the Northwest corner of Northeast
Quarter of Section 36, Township 21 South, Range 27
East, MD. B & M., said point being on the East
Line of Plano Street in the City of Porterville,

County of Tulare, State of California; thence South 3°55' East along the easterly line of said Plano Street 375 feet to the point of beginning of the parcel being described; thence East 170 feet; thence South 7° East 375 feet, more or less, to the Northwesterly line of Park Drive; thence southerly and westerly along said westerly and northerly line of Park Drive 200 feet, more or less, to the easterly line of the said Plano Street; thence northerly along the easterly line of said Plano Street 500 feet, more or less, to the point of beginning. Excepting therefrom, the westerly 20 feet measured at right angles to said easterly line of Plano Street, and also excepting such portions thereof as may be required for the widening of Park Drive.

2. That the LICENSOR, for and in consideration of the promises, covenants, agreements, and stipulations herein contained on the part and behalf of the LICENSEE to be paid, kept, and performed, at the time and in the form and manner herein specified, with time being made the essence hereof, hereby grants to the LICENSEE a license to engage, use and employ the described real property together with the appurtenances thereon for the purpose of carrying on and conducting as a community enterprise for the benefit, enlightenment, amusement, recreation, education and advancement of the Porterville Area a theatre group in accordance with the By-laws and Articles of Incorporation of LICENSEE. The LICENSEE shall use and employ the real property together with the improvements thereon exclusively for the usual and customary theatrical activities of the LICENSEE; and no business, retail, or wholesale, activities or enterprises shall be carried on or conducted for profit or be allowed, suffered, or permitted to be carried on at or upon the property during the terms of this

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license, except as otherwise specified in this Agreement. As a community non-profit that is dependent on it fundraising activities, LICENSEE shall be allowed to also conduct fundraising and/or community enrichment activities at the property including, but not limited to fine arts performances and recitals, concerts, comedy nights, art displays and art nights, talent shows, dance shows, dinners and luncheons, Christmas parties, weddings, birthday parties, and baby showers and shall be allowed to sublicense the property to community clubs for such clubs' meetings. LICENSEE shall be allowed to grant a sublicense, for a period of not more than two (2) consecutive days to other individuals and organizations for the use of the premises, provided that LICENSEE complies with the requirements of this Agreement, including, but not limited to, Paragraphs 5, 16, 17, 18, and 19.

3. The LICENSEE agrees at all times during the term of license to use, the described real property together with improvements thereon, solely and exclusively for activities of the LICENSEE presently authorized by its Articles of Incorporation and By-laws, it being further stipulated that no substantial amendment to the Articles or By-laws of the LICENSEE may be used to amend, extend, or modify the terms and provisions of this license without first obtaining the express written consent of the LICENSOR.

4. The Parties further agree that all of the terms, provisions, stipulations, agreements, and conditions herein contained on the part and behalf of the LICENSEE, to be paid, kept, and performed, shall be and the same are hereby

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expressly declared to be continuing conditions, covenants and agreement by precedent to any right on behalf of the LICENSEE to enjoy or exercise any of the rights or privileges granted by this license.

5. LICENSEE agrees that in the use, employment and enjoyment of this license by the LICENSEE, the LICENSEE shall not suffer, allow, or permit any religious discrimination, political discrimination, race discrimination, or any other form of illegal discrimination to be engaged in, conducted, carried on, or participated in by the LICENSEE or any agent, employee, or servant of the LICENSEE in carrying on or conducting any of the activities of the LICENSEE with reference to the use, employment and enjoyment of this license.
6. That during the entire term of this license, the LICENSEE shall at all times maintain with the State of California its status as a non-profit corporation.
7. That the term of this license shall commence as of October 1, 2022, for a period of five (5) years, ending at midnight on September 30, 2027. The parties may agree to extend this Agreement to be reviewed and adjusted for an additional (1) year, with the terms of said Agreement to be reviewed and modified as the parties deem appropriate prior to renewal.
8. The LICENSEE stipulates and agrees that in the occupancy of the real property and the improvements thereon that the LICENSEE shall not suffer, allow or permit any waste to be committed thereto or thereon, nor shall the LICENSEE suffer, allow, or permit any mechanic's lien or other liens to be filed upon the real property or any of the improvements thereon; nor shall the LICENSEE suffer, allow, or permit the building or permanent improvement thereto, other

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than trade fixtures, to be removed from the real property during the term hereof without permission of the LICENSOR first had and received.

9. The LICENSOR shall have the free right at all times by its authorized agents or representatives of entry upon the property and into, upon, and about the improvements thereon for purposes of inspection and posting of any legal notices thereon.
10. That any and all signs erected or maintained by the LICENSEE upon the property or any of the improvements thereon shall fully comply with and conform to all regulations and standards of the City of Porterville now in force or which may hereafter be in full force and effect.
11. The LICENSEE shall of its own proper cost and expense, and without any cost, charge, or expenses to the LICENSOR, pay and discharge when due and before delinquent all light, electric power, water, gas, telephone, garbage removal, all utilities, and all other occupation charges for the premises and the same shall not be suffered, allowed, or permitted to become a charge or lien upon the real property.
12. It is expressly stipulated and agreed herein that the LICENSOR shall not be called upon, expected to, nor shall the LICENSOR, pay and discharge any costs whatsoever arising from or in any connection with the use and enjoyment of this license by the LICENSEE or in the use and enjoyment of any of the improvements placed upon the property by the LICENSEE.
13. The LICENSEE shall at all times during the terms of this license keep and maintain all of the buildings, fixtures, and grounds directly adjacent to the

building. LICENSEE shall ensure the same is kept in good order and repair, inside and outside, together with all fixtures and appurtenances used and employed in the occupancy/license of the real property and the improvements thereon, including sewer lines, plumbing fixtures, electrical fixtures and all conveniences or necessities used and employed by the LICENSEE in the occupancy of the premises; and the LICENSEE shall at its sole cost and expense from time to time, as the needs may arise therefore, make renewals and replacements thereof in first class modern character and efficiency. LICENSOR shall maintain the turf area, parking lot, and prune trees when necessary.

14. The LICENSEE shall promptly and completely observe, comply with, and conform to all present and future applicable federal, state, and local laws, requirements, and standards in the operation and use of the License and the premises, and its programs on this premises. This includes, but is not limited to, State and Federal discrimination and disability laws and regulations. LICENSEE shall, at its own cost and expense, make any and all improvements thereon or alteration thereto, structurally, or otherwise, that may be required at any time hereafter by any such present or future law, rule, requirement, order, direction, ordinance, or regulations. Failure to comply is grounds for immediate termination of this License by LICENSOR, and any notice requirements required pursuant to this Agreement shall not apply.

15. LICENSEE must maintain all outdoor consumption of beer, wine, and distilled spirits within the outdoor forty by 100-foot, fenced-in consumption area.

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16. LICENSEE shall not make any material alterations, improvements, additions, or any other structural or building changes without the prior written approval of the LICENSOR.

17. The LICENSEE shall not suffer, allow, or permit any property, properly or legally assessable to the LICENSEE, to be assessed against the LICENSOR or against the real property or for which the LICENSOR shall be liable or responsible to pay, or for the same to become a charge or lien upon the real property. In the event any possessory interest tax is assessed as a result of this Agreement, LICENSEE shall pay and be responsible for the full amount assessed.

18. Except as allowed pursuant to Paragraph 2 above, it is expressly stipulated, covenanted and agreed that this license shall not be assigned, transferred, mortgaged or hypothecated in any manner; nor shall the buildings or improvements or facilities used and employed by the LICENSEE in enjoying this license be sublicensed without the prior written consent of the LICENSOR's *Parks and Leisure Services Director or his Designee*; for each such assignment or sublicensing, it being further stipulated that the consent by the LICENSOR to any one assignment/sublicense shall not be construed as a consent to any further of additional assigning or sublicensing.

19. The LICENSEE covenants and agrees at all times during the term of the license to keep and maintain all buildings, structures, and insurable improvements on or pertinent to the real property fully insured (with LICENSOR named as an additional insured) for the replacement value to insure that the building can be

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replaced in the event of a fire with comprehensive coverage and in an amount and in such company or companies as may be acceptable to the LICENSOR; and all such policies of insurance shall be delivered to and held by the LICENSOR, except, however, that if the improvements shall have a mortgage thereon, a mortgage loss clause may be attached thereto in favor of such mortgage to the extent of the outstanding balance due on the aforesaid construction loan.

20. The LICENSEE, as a material part of the considerations to be rendered to the LICENSOR for the granting of the license, and to the fullest extent permitted by law, covenants and agrees, to the fullest extent permitted by law, to release, indemnify, defend and hold LICENSOR harmless and free from all liability and claims for damages by reason of any injury to any person or persons, or property of any kind whatsoever, from any cause or causes whatsoever while in, upon, or in any way connected with said licensed premises, or the premises adjacent thereto during the term of license or any extension thereof. It is further stipulated and agreed that the LICENSEE shall save, indemnify, and defend the LICENSOR, all of its officers, agents and employees of and from all claims, demands, actions or causes of actions arising from or in any way connected with the occupation and of the demised premises, *including but not limited to any sublicense or use by other parties*, together with all costs and attorney's fees; that at all times during the term of this license, LICENSEE shall be and is hereby required and it hereby agrees to keep in full force and effect, with the premium fully prepaid thereon Two Million Dollars \$2,000,000.00 for personal injury and property damage *(covering all occupation and use of the premises)* combined

single limits with liquor and product liability, and shall file with the LICENSOR the original policies and/or certificate thereof.

21. If the LICENSEE shall fail, neglect, or refuse to pay, do, or perform any of the terms, stipulations, promises, covenants, conditions, or agreements hereof on its part and behalf to be paid, kept and performed, the LICENSOR may, at its option, but it shall not be obligated to do so, pay or cause the same to be paid, done or performed, and the amount of money expended by the LICENSOR in so doing, or incurred by the LICENSOR in so doing, shall become a debt immediately due from the LICENSEE to LICENSOR, and shall constitute a material breach hereof entitling LICENSOR to immediate termination hereof pursuant to paragraph 21 below.
22. If the LICENSEE shall fail, neglect or refuse to pay, for a period of (30) days after notice, do or perform any of the items in the form and manner herein provided, the terms, provisions, covenants, conditions, and agreements hereof on its part and behalf to paid, kept and performed, the LICENSOR may terminate and cancel license and at such time and in such event, full and compete title to all improvements, buildings, structures, fixtures, excluding trade fixtures, shall have then vested in the LICENSOR, subject to the encumbrances now existing against such structures; and the LICENSOR may immediately re-enter into the possession of said real property together with all of the said improvements, and the same to have, hold, and enjoy thereafter as the sole, absolute and unconditional owner. In such event, LICENSEE shall have a period of thirty (30)

days after notice to remove its personal property and trade fixtures from the premises.

23. LICENSEE covenants and agrees on the last day of the term of this license, or

the sooner determination of the term this license, to peacefully leave, surrender,
and vacate to the LICENSOR the said real property together with the improvements thereon and the fixtures attached thereto in good order and condition and state of repair.

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24. Failure on the behalf of the LICENSOR to insist on strict performance of the covenants, terms, stipulations, agreements and conditions of the license shall not be construed as a waiver by the LICENSOR of any of its rights hereunder, or as a waiver or a relinquishment of the strict future performance of the covenants, conditions and agreement herein contained, but all and each thereof shall be and remain in full force and effect.

25. If any litigation is commenced between the parties to this Agreement concerning the Agreement or the rights and duties of either in relation to the Agreement, the party prevailing in the Litigation shall be entitled, in addition to any other relief that may be granted in the litigation, to its cost for the litigation including expert witness fees and a reasonable sum as and for its attorney's fees in the litigation, which shall be determined by the court in that litigation or in a separate action brought for that purpose.

26. The parties agree that this Agreement is entered into and is to be performed in Tulare Country, California.

27. Each party and its legal counsel have participated fully in the review and revisions of this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Agreement. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.

WITNESS the hands and seals of the parties the day and year first above written.

CITY OF PORTERVILLE

BY Martha A. Flores, Mayor BY John D. Lollis, City Clerk

BARN THEATRE

BY Denise Everhart, President

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REVOCABLE LICENSE AGREEMENT

THIS AGREEMENT, made and entered into the 18th day of April, 2017, by and between the CITY OF PORTERVILLE, a municipal corporation, hereinafter called the Licensor, and the BARN THEATER, a non-profit corporation, hereinafter called the LICENSEE:

WITNESSETH:

WHEREAS, the LICENSOR is the owner of the hereinafter described real Property; and

WHEREAS, the property is deemed suitable, necessary, and proper by the LICENSOR and the LICENSEE for use by the LICENSEE in carrying on and conducting a community enterprise of a non-profit, non-political, and non-religious nature for which the LICENSEE has been incorporated and organized, and is now engaged in, carrying on and conducting as a community enterprise, and for the benefit, enlightenment, amusement, recreation, education and advancement of the Porterville Area, and not for the profit of any individual or enterprise.

NOW, THEREFORE, it is hereby covenanted and agreed between the LICENSOR and the LICENSEE as follows, to wit:

1. The real property herein referred to and covered by the terms of this license is that certain real property situated in the City of Porterville, County of Tulare, State of California, described as follows to wit:

Beginning at the Northwest corner of Northeast Quarter of Section 36, Township 21 South, Range 27 East, MD. B & M., said point being on the East Line of Plano Street in the City of Porterville, County of Tulare, State of California; thence South 3°55' East along the easterly line of said Plano Street 375 feet to the point of beginning of the parcel being described; thence East 170 feet; thence South 7° East 375 feet, more or less, to the Northwesterly line of Park Drive; thence southerly and westerly along said westerly and northerly line of Park Drive 200 feet, more or less, to the easterly line of the said Plano Street; thence northerly along the easterly line of said Plano Street 500 feet, more or less, to the point of beginning. Excepting therefrom, the westerly 20 feet measured

at right angles to said easterly line of Plano Street,
and also excepting such portions thereof as may be required
for the widening of Park Drive.

2. That the LICENSOR for and in consideration of the promises, covenants, agreements, and stipulations herein contained on the part and behalf of the LICENSEE to be paid, kept and performed, at the time and in the form and manner herein specified, with time being made the essence hereof, hereby grants to the LICENSEE a license to engage, use and employ the described real property together with the appurtenances thereon for the purpose of carrying on and conducting as a community enterprise for the benefit, enlightenment, amusement, recreation, education and advancement of the Porterville Area a theatre group in accordance with the By-laws and Articles of Incorporation of LICENSEE. The LICENSEE shall use and employ the real property together with the improvements thereon exclusively for the usual and customary theatrical activities of the LICENSEE; and no business, retail, or wholesale, activities or enterprises shall be carried on or conducted for profit or be allowed, suffered, or permitted to be carried on at or upon the property during the terms of this license, except as otherwise specified in this Agreement. LICENSEE shall be allowed to grant a sublicense, for a period of not more than two (2) consecutive days to other individuals and organizations for the use of the premises, provided that LICENSEE does this no more than five (5) times per year, and LICENSEE complies with the requirements of this Agreement, including, but not limited to, Paragraphs 5, 16, 17, 18, and 19.
3. The LICENSEE agrees at all times during the term of license to use, the described real property together with improvements thereon, solely and exclusively for activities of the LICENSEE presently authorized by its Articles of Incorporation and By-laws, it being further stipulated that no substantial amendment to the Articles or By-laws of the LICENSEE may be used to amend, extend, or modify the terms and provisions of this license without first obtaining the express written consent of the LICENSOR.
4. The Parties further agree that all of the terms, provisions, stipulations, agreements, and conditions herein contained on the part and behalf of the LICENSEE to be paid, kept, and performed, shall be and the same are hereby expressly declared to be continuing conditions, covenants and agreement by precedent to any right on behalf of the LICENSEE to enjoy or exercise any of the rights or privileges granted by this license.
5. LICENSEE agrees that in the use, employment and enjoyment of this license by the LICENSEE, the LICENSEE shall not suffer, allow, or permit any religious discrimination, political discrimination, race discrimination, or any

other form of illegal discrimination to be engaged in, conducted, carried on, or participated in by the LICENSEE or any agent, employee, or servant of the LICENSEE in carrying on or conducting any of the activities of the LICENSEE with reference to the use, employment and enjoyment of this license.

6. That during the entire term of this license, the LICENSEE shall at all times maintain with the State of California its status as a non-profit corporation.
7. That the term of this license shall commence as of April 18, 2017, for a period of twenty-five (25) years, ending at midnight on April 17, 2042. The parties may agree to extend this Agreement to be reviewed and adjusted for an additional (1) year, with the terms of said Agreement to be reviewed and modified as the parties deem appropriate prior to renewal.
8. The LICENSEE stipulates and agrees that in the occupancy of the real property and the improvements thereon that the LICENSEE shall not suffer, allow or permit any waste to be committed thereto or thereon, nor shall the LICENSEE suffer, allow, or permit any mechanic's lien or other liens to be filed upon the real property or any of the improvements thereon; nor shall the LICENSEE suffer, allow, or permit the building or permanent improvement thereto, other than trade fixtures, to be removed from the real property during the term hereof without permission of the LICENSOR first had and received.
9. The LICENSOR shall have the free right at all times by its authorized agents or representatives of entry upon the property and into, upon, and about the improvements thereon for purposes of inspection and posting of any legal notices thereon.
10. That any and all signs erected or maintained by the LICENSEE upon the property or any of the improvements thereon shall fully comply with and conform to all regulations and standards of the City of Porterville now in force or which may hereafter be in full force and effect.
11. The LICENSEE shall of its own proper cost and expense, and without any cost, charge, or expenses to the LICENSOR, pay and discharge when due and before delinquent all light, electric power, water, gas, telephone, garbage removal, all utilities, and all other occupation charges for the premises and the same shall not be suffered, allowed, or permitted to become a charge or lien upon the real property.
12. It is expressly stipulated and agreed herein that the LICENSOR shall not be called upon, expected to, nor shall the LICENSOR, pay and discharge any costs whatsoever arising from or in any connection with the use and enjoyment of

this license by the LICENSEE or in the use and enjoyment of any of the improvements placed upon the property by the LICENSEE.

13. The LICENSEE shall at all times during the terms of this license keep and maintain all of the buildings, fixtures, and grounds directly adjacent to the building. LICENSEE shall ensure the same is kept in good order and repair, inside and outside, together with all fixtures and appurtenances used and employed in the occupancy/license of the real property and the improvements thereon, including sewer lines, plumbing fixtures, electrical fixtures and all conveniences or necessities used and employed by the LICENSEE in the occupancy of the premises; and the LICENSEE shall at its sole cost and expense from time to time, as the needs may arise therefore, make renewals and replacements thereof in first class modern character and efficiency. LICENSOR shall maintain the turf area, parking lot, and prune trees when necessary.
14. The LICENSEE shall promptly and completely observe, comply with, and conform to all present and future applicable federal, state and local laws, requirements, and standards in the operation and use of the License and the premises, and its programs on this premises. This includes, but is not limited to, State and Federal discrimination and disability laws and regulations. LICENSEE shall, at its own cost and expense, make any and all improvements thereon or alteration thereto, structurally or otherwise, that may be required at any time hereafter by any such present or future law, rule, requirement, order, direction, ordinance, or regulations. Failure to comply is grounds for immediate termination of this License by LICENSOR, and any notice requirements required pursuant to this Agreement shall not apply.
15. LICENSEE must maintain all outdoor consumption of beer, wine and distilled spirits within the outdoor forty by 100 foot fenced in consumption area.
16. LICENSEE shall not make any alterations, improvements, additions or any other structural or building changes without the prior written approval of the LICENSOR.
17. The LICENSEE shall not suffer, allow, or permit any property, properly or legally assessable to the LICENSEE, to be assessed against the LICENSOR or against the real property or for which the LICENSOR shall be liable or responsible to pay, or for the same to become a charge or lien upon the real property. In the event any possessory interest tax is assessed as a result of this Agreement, LICENSEE shall pay and be responsible for the full amount assessed.

18. It is expressly stipulated, covenanted and agreed that this license shall not be assigned, transferred, mortgaged or hypothecated in any manner; nor shall the buildings or improvements or facilities used and employed by the LICENSEE in enjoying this license be sublicensed without the prior written consent of the LICENSOR's *Parks and Leisure Services Director or his Designee*; for each such assignment or sublicensing, it being further stipulated that the consent by the LICENSOR to any one assignment/sublicense shall not be construed as a consent to any further of additional assigning or sublicensing.
19. The LICENSEE covenants and agrees at all times during the term of the license to keep and maintain all buildings, structures, and insurable improvements on or pertinent to the real property fully insured (with LICENSOR named as an additional insured) for the replacement value to insure that the building can be replaced in the event of a fire with comprehensive coverage and in an amount and in such company or companies as may be acceptable to the LICENSOR; and all such policies of insurance shall be delivered to and held by the LICENSOR, except, however, that if the improvements shall have a mortgage thereon, a mortgage loss clause may be attached thereto in favor of such mortgage to the extent of the outstanding balance due on the aforesaid construction loan.
20. The LICENSEE, as a material part of the considerations to be rendered to the LICENSOR for the granting of the license, and to the fullest extent permitted by law, covenants and agrees, to the fullest extent permitted by law, to release, indemnify, defend and hold LICENSOR harmless and free from all liability and claims for damages by reason of any injury to any person or persons, or property of any kind whatsoever, from any cause or causes whatsoever while in, upon, or in any way connected with said licensed premises, or the premises adjacent thereto during the term of license or any extension thereof. It is further stipulated and agreed that the LICENSEE shall save, indemnify, and defend the LICENSOR, all of its officers, agents and employees of and from all claims, demands, actions or causes of actions arising from or in any way connected with the occupation and of the demised premises, *including but not limited to any sublicense or use by other parties*, together with all costs and attorney's fees; that at all times during the term of this license, LICENSEE shall be and is hereby required and it hereby agrees to keep in full force and effect, with the premium fully prepaid thereon Two Million Dollars \$2,000,000.00 for personal injury and property damage (*covering all occupation and use of the premises*) combined single limits with liquor and product liability, and shall file with the LICENSOR the original policies and/or certificate thereof.
21. If the LICENSEE shall fail, neglect, or refuse to pay, do, or perform any of the terms, stipulations, promises, covenants, conditions, or agreements hereof on

its part and behalf to be paid, kept and performed, the LICENSOR may, at its option, but it shall not be obligated to do so, pay or cause the same to be paid, done or performed, and the amount of money expended by the LICENSOR in so doing, or incurred by the LICENSOR in so doing, shall become a debt immediately due from the LICENSEE to LICENSOR, and shall constitute a material breach hereof entitling LICENSOR to immediate termination hereof pursuant to paragraph 21 below.

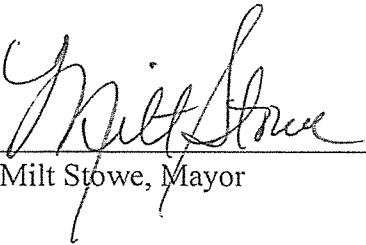
22. If the LICENSEE shall fail, neglect or refuse to pay, for a period of (30) days after notice, do or perform any of the items in the form and manner herein provided, the terms, provisions, covenants, conditions, and agreements hereof on its part and behalf to paid, kept and performed, the LICENSOR may terminate and cancel license and at such time and in such event, full and compete title to all improvements, buildings, structures, fixtures, excluding trade fixtures, shall have then vested in the LICENSOR, subject to the encumbrances now existing against such structures; and the LICENSOR may immediately re-enter into the possession of said real property together with all of the said improvements, and the same to have, hold, and enjoy thereafter as the sole, absolute and unconditional owner. In such event, LICENSEE shall have a period of thirty (30) days after notice to remove its personal property and trade fixtures from the premises.
23. LICENSEE covenants and agrees on the last day of the term of this license, or the sooner determination of the term this license, to peacefully leave, surrender and vacate to the LICENSOR the said real property together with the improvements thereon and the fixtures attached thereto in good order and condition and state of repair.
24. Failure on the behalf of the LICENSOR to insist on strict performance of the covenants, terms, stipulations, agreements and conditions of the license shall not be construed as a waiver by the LICENSOR of any of its rights hereunder, or as a waiver or a relinquishment of the strict future performance of the covenants, conditions and agreement herein contained, but all and each thereof shall be and remain in full force and effect.
25. If any litigation is commenced between the parties to this Agreement concerning the Agreement or the rights and duties of either in relation to the Agreement, the party prevailing in the Litigation shall be entitled, in addition to any other relief that may be granted in the litigation, to its cost for the litigation including expert witness fees and a reasonable sum as and for its attorney's fees in the litigation, which shall be determined by the court in that litigation or in a separate action brought for that purpose.

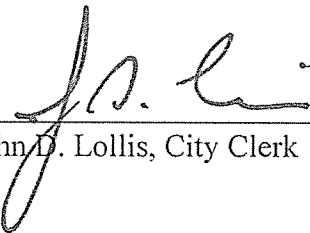
26. The parties agree that this Agreement is entered into and is to be performed in Tulare County, California.

27. Each party and its legal counsel have participated fully in the review and revisions of this Agreement. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply in interpreting this Agreement. The language in this Agreement shall be interpreted as to its fair meaning and not strictly for or against any party.


WITNESS the hands and seals of the parties the day and year first above written.

CITY OF PORTERVILLE

BY 
Milt Stowe, Mayor

BY 
John D. Lollis, City Clerk

BARN THEATER

BY 
President

REVOCABLE LICENSE AGREEMENT

THIS AGREEMENT, made and entered into the 4th day of April, 1984, by and between the CITY OF PORTERVILLE, a municipal corporation, hereinafter called the LICENSOR, and the BARN THEATRE, a non-profit corporation, hereinafter called the LICENSEE;

W I T N E S S E T H:

WHEREAS, the LICENSOR is the owner of the hereinafter described real property deemed suitable, necessary, and proper by the LICENSOR and the LICENSEE for use by the LICENSEE in carrying on and conducting a community enterprise of a non-profit, non-political, and non-religious nature, for which the LICENSEE has been incorporated and organized, and is now engaged in, carrying on and conducting as a community enterprise, and for the benefit, enlightenment, amusement, recreation, education, and advancement of the Porterville Area, and not for the profit of any individual or enterprise.

NOW, THEREFORE, it is hereby covenanted and agreed between the LICENSOR and the LICENSEE as follows, to wit:

1. That the LICENSOR, for and in consideration of the promises, covenants, agreements, and stipulations herein contained on the part and behalf of the LICENSEE to be paid, kept and performed, at the time and in the form and manner herein specified, with time being made the essence hereof, hereby gives to the LICENSEE a license for the period of time, term, and on the conditions herein set forth, the right and privilege, to engage, use and employ the hereinafter described real property together with the appurtenances thereon for the purpose of carrying on and conducting as a community enterprise for the benefit, enlightenment, amusement, recreation, education and advancement of the Porterville area, a theatre group in accordance with the By-laws and Articles of Incorporation of LICENSEE.

2. The LICENSEE stipulates, covenants, and agrees at all times during the term of this license to use, occupy, enjoy and employ all of said real property together with improve-

ments thereon, solely and exclusively for activities of the LICENSEE presently authorized by its Articles of Incorporation and By-laws, it being further stipulated that no substantial amendment to the Articles or By-laws of the LICENSEE may be used to amend, extend, or modify the terms and provisions of this license without first obtaining the express written consent of the LICENSOR.

3. It is further stipulated, covenanted and agreed that all of the terms, provisions, stipulations, agreements, and conditions herein contained on the part and behalf of the LICENSEE to be paid, kept, and performed, shall be and the same are hereby expressly declared to be continuing conditions, covenants and agreements by precedent to any right on behalf of the LICENSEE to enjoy or exercise any of the rights or privileges granted by this license.

4. That in the use, employment and enjoyment of this license by the LICENSEE, the LICENSEE shall not suffer, allow, or permit any religious discrimination, political discrimination, or race discrimination to be engaged in, conducted, carried on, or participated in by the LICENSEE or any agent, employee, or servant of the LICENSEE in carrying on or conducting any of the activities of the LICENSEE with reference to the use, employment and enjoyment of this license.

5. That during the entire term of this license, the LICENSEE shall at all times maintain with the State of California its status as a non-profit corporation.

6. That the term of this license shall commence as of April 4, 1984, for twenty-five (25) years, ending at Midnight on April 3, 2009.

7. The LICENSEE stipulates and agrees that in the occupancy of the real property and the improvement thereon, that the LICENSEE shall not suffer, allow or permit any waste to be committed thereto or thereon, nor shall the LICENSEE suffer, allow, or permit any mechanic's lien or other liens to be filed upon the real property or any of the improvements thereon; nor shall the LICENSEE suffer, allow, or permit the building or permanent improvements thereto, other than trade fixtures, to be

removed from the real property during the term hereof without permission of the LICENSOR first had and received.

8. The LICENSOR shall have the free right at all times by its authorized agents or representatives of entry upon the property and into, upon, and about the improvements thereon for purposes of inspection and posting of any legal notices thereon.

9. That any and all signs erected or maintained by the LICENSEE upon the property or any of the improvements thereon shall fully comply with and conform to all ordinances of the City of Porterville now in force or which may hereafter be in full force and effect.

10. The LICENSEE shall of its own proper cost and expense, and without any cost, charge, or expense to the LICENSOR, pay and discharge when due and before delinquent all light, electric power, water, gas, telephone, garbage removal, all utilities, and all other occupational charges for the premises and the same shall not be suffered, allowed, or permitted to become a charge or lien upon the real property.

11. It is expressly stipulated and agreed herein that the LICENSOR shall not be called upon, expected to, nor shall the LICENSOR pay or discharge any costs or expense whatsoever arising from or in any way connected with the use and enjoyment of this license by the LICENSEE or in the use and enjoyment of any of the improvements placed upon the property by the LICENSEE.

12. The LICENSEE shall at all times during the terms of this license keep and maintain all of the buildings, fixtures, driveways, parking lots, and ground surrounding the same in good order and repair, inside and outside, together with all fixtures and appurtenances used and employed in the occupancy of the real property and the improvements thereon, including sewer lines, plumbing fixtures, electrical fixtures and all conveniences or necessities used and employed by the LICENSEE in the occupancy of the premises; and the LICENSEE shall of its sole cost and expense from time to time, as the needs may arise therefore, make renewals and replacements thereof in first class modern character and efficiency.

13. The LICENSEE shall promptly and completely observe, comply with, and conform to all present and future laws, rules, requirements, orders, directions, ordinances, resolutions and regulations of the United States of America, the State of California, the County of Tulare, and the City of Porterville and any governmental authorities or agencies, and of the Board of Fire Underwriters or any other board, commission, or organization exercising similar functions or regulatory privileges appurtenant to or connected with the enjoyment of this license by the LICENSEE; and LICENSEE shall, at its own cost and expense, make any and all improvements thereon or alterations thereto, structurally or otherwise, that may be required at any time hereafter by any such present or future law, rule, requirement, order, direction, ordinance, or regulation.

14. The LICENSEE shall not make any alterations, improvements, additions or any other structural or building changes without the prior written approval of the LICENSOR.

15. The LICENSEE shall not suffer, allow, or permit any property, properly or legally assessable to the LICENSEE, to be assessed against the LICENSOR or against the real property or for which the LICENSOR shall be liable or responsible to pay, or for the same to become a charge or lien upon the real property.

16. It is expressly stipulated, covenanted and agreed that this license shall not be assigned, transferred, mortgaged or hypothecated in any manner; nor shall the buildings or improvements or facilities used and employed by the LICENSEE in enjoying this license be sublet or leased without the prior written consent of the LICENSOR; for each such assignment or subletting, it being further stipulated that the consent by the LICENSOR to any one assignment shall not be construed as a consent to any further or additional assigning or subletting.

17. The LICENSEE covenants and agrees at all times during the term of this license to keep and maintain all buildings, structures, and insurable improvements on or pertinent to the real property fully insured for the replacement value to insure that the building can be replaced in the event of a fire with comprehensive coverage and in an amount and in such company

or companies as may be acceptable to the LICENSOR; and all such policies of insurance shall be delivered to and held by the LICENSOR with the loss, if any, accruing thereunder to be payable to the LICENSOR, except however, that if the improvements shall have a mortgage thereon, a mortgage loss clause may be attached thereto in favor of such mortgage to the extent of the outstanding balance due on the aforesaid construction loan.

18. The LICENSEE, as a material part of the consideration to be rendered to the LICENSOR for the granting of this license, covenants and agrees to defend and hold LICENSOR harmless and free from all liability and claims for damages by reason of any injury to any person or persons, or property of any kind whatsoever, from any cause or causes whatsoever while in, upon, or in any way connected with the said licensed premises, or the premises adjacent thereto during the term of this license or any extension thereof. It is further stipulated and agreed that the LICENSEE shall, and it does hereby save, indemnify, and to defend the City of Porterville, all of its officers, agents and employees of and from all claims, demands, actions or causes of actions arising from or in any way connected with the occupation of the demised premises, together with all costs and attorney's fees; that at all times during the term of this license, said LICENSEE shall be and is hereby required and it hereby agrees to keep in full force and effect, with the premium fully prepaid thereon, Five Hundred Thousand Dollars (\$500,000.00) for personal injury and property damage combined single limits with the product liability, and shall file with the City of Porterville the original policies and/or certificate thereof.

19. The LICENSEE shall use and employ the real property together with the improvements thereon exclusively for activities to be conducted thereon by the LICENSEE, to wit, the usual and customary theatrical activities of the LICENSEE; and no business, retail or wholesale, activities or enterprises shall be carried on or conducted for profit or be allowed, suffered, or permitted to be carried on at or upon the property during the term of this license.

20. If the LICENSEE shall fail, neglect, or refuse to

pay, do, or perform any of the terms, stipulations, promises, covenants, conditions, or agreements hereof on its part and behalf to be paid, kept and performed, the LICENSOR may, at its option, but it shall not be obligated to do so, pay or cause the same to be paid, done or performed, and the amount of money expended by the LICENSOR in so doing, or incurred by the LICENSOR in so doing, shall become a debt immediately due from the LICENSEE to LICENSOR, and shall constitute a material breach hereof entitling LICENSOR to immediate termination hereof pursuant to paragraph 21 below.

21. If the LICENSEE shall fail, neglect or refuse, for any cause, for a period of thirty (30) days after notice, to pay, do or perform at the time and in the form and manner herein provided, the terms, provisions, covenants, conditions and agreements hereof on its part and behalf to be paid, kept and performed, the LICENSOR may terminate and cancel this license and at such time and in such event, full and complete title to all improvements, buildings, structures, fixtures, excluding trade fixtures, shall have then vested in the LICENSOR, subject to the encumbrances now existing against such structures; and the LICENSOR may immediately re-enter into the possession of said real property together with all of the said improvements, and the same to have, hold, and enjoy thereafter as the sole, absolute and unconditional owner. In such event, LICENSEE shall have a period of thirty (30) days after notice to remove its personal property and trade fixtures from the premises.

22. LICENSEE covenants and agrees on the last day of the term of this license, or the sooner determination of the term of this license, to peacefully leave, surrender and vacate to the LICENSOR the said real property together with the improvements thereon and the fixtures attached thereto in good order and condition and state of repair.

23. Failure on the behalf of the LICENSOR to insist on strict performance of the covenants, terms, stipulations, agreements and conditions of this license shall not be construed as a waiver by the LICENSOR of any of its right hereunder, or as a waiver or

a relinquishment of the strict future performance of the covenants, conditions and agreements herein contained, but all and each thereof shall be and remain in full force and effect.

24. The real property herein referred to and covered by the terms of this license is that certain real property situated in the City of Porterville, County of Tulare, State of California, described as follows, to wit:

Beginning at the Northwest corner of the Northeast quarter of Section 36, Township 21 South, Range 27 East, MD.B. & M., said point being on the East line of Plano Street in the City of Porterville, County of Tulare, State of California; thence South $3^{\circ}55'$ East along the easterly line of said Plano Street 375 feet to the point of beginning of the parcel being described; thence East 170 feet; thence South 7° East 375 feet, more or less, to the northwesterly line of Park Drive; thence southerly and westerly along said westerly and northerly line of Park Drive 200 feet, more or less, to the easterly line of said Plano Street; thence northerly along the easterly line of said Plano Street 500 feet, more or less, to the point of beginning.

Excepting therefrom, the westerly 20 feet measured at right angles to said easterly line of Plano Street, and also excepting such portions thereof as may be required for the widening of Park Drive.

WITNESS the hands and seals of the parties the day and year first above written.

CITY OF PORTERVILLE

BY

Steven E. Tree, Mayor

BARN THEATRE

BY

John Burkey, President

ATTEST:

C.G. Huffaker, City Clerk

ITEM 3

LICENSE AGREEMENT

THIS AGREEMENT, made and entered into the 19th day of December, 2000, by and between the CITY OF PORTERVILLE, a municipal corporation, hereinafter referred to as "LICENSOR", and the PORTERVILLE KIWANIS CLUB, a non-profit corporation, hereinafter referred to as the "LICENSEE".

RECITALS

- A. WHEREAS, the Licensor is the owner of the real property described in Exhibit A which is attached hereto and referred to by reference; and
- B. WHEREAS, the Licensee is a duly constituted corporation, and is a service club and member of Kiwanis International; and
- C. WHEREAS, the Licensee, as a service club, has as one of its primary purposes and functions, service to and betterment of the local community by providing youth activities.

NOW, THEREFORE, it is agreed by and between the parties hereto as follows:

1. That the Licensor, for and in consideration of the promises, covenants, agreements, and stipulations herein contained on the part and behalf of the Licensee to be paid, kept and performed, at the time and in the form and manner herein specified, with time being a license for the period of time, term, and on the conditions herein set forth, grants to Licensee the non-exclusive right and privilege to engage, use and employ the real property described in Exhibit A for the purpose of carrying on and conducting a community service for the benefit of the youth of this community, as a meeting place for Kiwanis sponsored youth organizations.

2. The Licensee agrees that in its use of said premises, for any youth activity sponsored by the Licensee, or for any other activity as may be requested by the Licensee and that is approved in writing by the Licensor, as hereinafter provided, that the occupancy limit of the building located on said premises shall be limited to not more than forty-nine (49) persons.
3. The Licensee agrees that for all youth activities conducted on said premises that not less than two adult supervisors be present on said premises at all times.
4. The Licensee agrees that it shall provide lighting in the parking area located on said premises to a standard to be approved by the Director of Parks and Leisure Services for the Licensor.
5. The Licensee agrees that it shall provide and improve that number of parking spaces required by the Licensor, and said parking places shall be maintained to a standard approved by the Director of Parks and Leisure Services for the Licensor.
6. The Licensee agrees that in its use of the premises, or in the use of said premises by any other non-profit youth organization or group permitted by the Licensee, and approved in writing by the Licensor, that noise shall be limited and shall not interfere with residents in the immediate area to the licensed premises. The Licensor shall be the sole judge as to what constitutes unreasonable noise.
7. In addition to the Licensee sponsored youth organization activities permitted on the subject property under the License Agreement, and upon request, the Licensee may permit the premises to be used by other non-profit organizations for youth activities upon

obtaining written authorization from the Licensor, through its Director of Parks and Leisure Services. A separate authorization is required for each organization activity not directly sponsored by Licensee, and such other organizations must comply with the applicable provisions of Paragraph 20 herein.

8. The term of this license shall be for a period of five years, commencing as of the date hereof and terminating on December 31, 2005.
9. Upon the expiration of this license or sooner termination thereof, or in the event the Licensee does not continue to utilize said premises for the use and purpose herein authorized and set forth, the Licensee agrees to vacate said premises, and to remove, solely at the Licensee's expense, any building or appurtenances placed on said real property by the Licensee, within 90 days after receiving notice by the Licensor to vacate said premises and/or to remove any building or appurtenances.
10. The Licensee agrees, during the term of this license, to use, occupy, and employ said real property, together with the improvements thereon, solely and exclusively for activities of youth groups, and any other use, whether temporary or continuing, shall be deemed a material breach of this license.
11. That during the entire term of this license, and any renewals or extensions thereof, the Licensee shall not allow any income from its activities to be paid to or delivered to the benefit of any member or individual, and any income, right or benefit which shall arise from the use and employment of this license by the Licensee shall be used solely to meet necessary expenses, up-keep and operation of the Licensee in its use of this license.
12. It is agreed that the Licensee shall have the right to use the building as a youth

- organization meeting place and for the uses incidental and ancillary thereto.
13. The Licensee stipulates and agrees that in the occupancy of said real property and any improvements thereon that the Licensee shall not allow any waste to be committed nor shall the Licensee allow any mechanic's license or other liens to be filed upon the real property or any of the improvements thereon. The Licensee further agrees that it shall keep said property and improvements thereon in a neat, orderly, clean, and sanitary condition at all times, and in this respect the determination and opinion of Licensor concerning the condition and cleanliness of said real property and improvements thereon shall be conclusive.
 14. In the event the Licensor notifies the Licensee that said premises are not being maintained in the condition required by this license the Licensee shall immediately place the property in the condition required by the Licensor.
 15. The Licensor shall at all times have the right, by its authorized agents or representatives, to enter upon the property and into the improvements thereon for any purpose deemed reasonable by the Licensor.
 16. That any and all signs erected or maintained by the Licensee upon the property or any of its improvements shall fully comply and conform to all ordinances of the Licensor which are now in force or which may hereafter be in force or effect.
 17. The Licensee shall, without cost, charge or expense to the Licensor, pay all electric power, water, gas, telephone and refuse collection fees and charges, and the same shall not be allowed to become a charge or lien on said real property.
 18. The Licensee shall conform to all present and future laws, rules, requirements, orders,

directions, ordinances, resolutions and regulations of the Licensor. The Licensee shall, at its own cost and expense, make any and all improvements thereon or alterations thereto, structurally or otherwise, that may be required at any time hereafter by such present or future law, rule, requirement, order, direction, ordinance or regulation.

19. This license shall not be assigned or transferred, nor shall the buildings or improvements or facilities used by the Licensee to this license be sublet or leased, without the prior written consent of the Licensor; and, for each such assignment or subletting, it being further stipulated that the consent by the Licensor to any one assignment shall not be construed as a consent to any further or additional assigning or subletting.

20. Licensee, as a material part of the consideration to be rendered to Licensor for the execution of this Agreement, and for the granting of the license contained herein, covenants and agrees during the term of this Agreement to:

- (a) accept responsibility for loss or damage to any person or entity, and to defend, indemnify, hold harmless and release the Licensor, its officers, employees, agents and assigns from any actions, claims, damages, disabilities or the cost of litigation, including Attorneys' fees, that are asserted by any person or entity to the extent arising out of the negligent acts or omissions or willful misconduct in the performance by the Licensee hereunder, whether or not there is passive concurrent negligence on the part of the Licensor, but excluding liability due to the active negligence or willful misconduct of the Licensor. This indemnification obligation is not limited in any way by any limitation

on the amount or type of damage or compensation payable to or by Licensee, or its agents or employees, under workers' compensation acts, disability benefits acts or other employees' benefits acts.

b) procure the following insurance which shall be full coverage insurance, not subject to self-insurance provisions, and shall not of its own initiative cause such insurance to be cancelled or materially changed during the course of this Agreement:

(1) COMPREHENSIVE GENERAL LIABILITY INSURANCE.

Including contractual liability, and personal injury liability and property damage with at least one million dollars (\$1,000,000) liability limit per occurrence, and having a deductible of not more than \$2,000. Prior to commencement of the term of this Agreement, Licensee shall provide Licensor with an original Certificate of Insurance, together with a signed endorsement naming the Licensor as Additional Insured and acknowledging that thirty (30) days written notice of cancellation or material change shall be given Licensor. Coverage shall be primary as to any other insurance with respect to performance of this Agreement, be with a company having an A.M. Best Rating of not less than A:VII, and be an admitted insurer in the State of California.

(2) COMMERCIAL PROPERTY INSURANCE. Providing basic coverages for fire, lightning, explosion, smoke, windstorm, vandalism, etc., in the name of the Licensor, and in a sum equal to the full replacement cost of all buildings on the property, regardless of whether said buildings or structures are improvements by Licensee or Licensor, and to make payment for all premiums thereon. Licensor agrees that in the event of any loss to buildings or structures constructed by Licensee and covered by the insurance policy, the entire sum payable by reason of such loss shall be

payable directly to Licensee.

(3) WORKERS' COMPENSATION INSURANCE. To statutory limits, when applicable to employees of the Licensee, in accordance with State Law.

(c) require any other authorized users of all or any part of the premises, to provide evidence satisfactory to the Licensee and Licensor of General Liability Insurance, in amounts and with terms not less restrictive than set forth in paragraph 20, (b) (1) above, naming the Licensee and the Licensor as Additional Insured.


(d) comply with changes which are expected to occur from time to time in the terms and/or limits of insurance coverages required by Licensor. When applicable, Licensee will be notified in writing of such changes by Licensor's Risk Manager not less than ninety (90) days prior to the expiration/renewal date of the policy or policies affected.

21. If the Licensee fails to perform any of the terms, stipulations, promises, covenants, conditions, or agreements hereof on its part and behalf to be paid, kept and performed, the Licensor may, at its option, but it shall not be obligated to do so, pay or cause the same to be paid, done or performed, and the amount of money expended by the Licensor in so doing, or incurred by the Licensor in so doing, shall become a debt immediately due from the Licensee to the Licensor; and, the Licensee waives the statute of limitations on all things herein covenanted by it to be paid, done, or performed, and stipulates and agrees that the bar of the statute of limitations shall not be raised as a defense to any action by

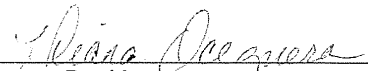
the Licensor or its assigns in the enforcement of any of the terms or provisions hereof

22. Failure on the behalf of the Licensor to insist on strict performance of the covenants, terms, stipulations, agreements, and conditions of this license shall not be construed as a waiver by the Licensor of any of its rights hereunder, or as a waiver or a relinquishment of the strict future performance of the covenants, conditions, and agreements herein contained, but all and each thereof shall be and remain in full force and effect.
23. This license may be terminated by the Licensor in its sole discretion upon ninety (90) days written notice to Licensee by Licensor.
24. "No qualified disabled person shall, on the basis of handicap, be excluded from participation in, or be denied the benefits of, or otherwise be subjected to discrimination under any program or activity" conducted on the premises.

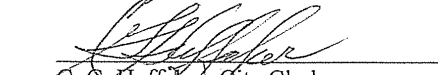
CITY OF PORTERVILLE

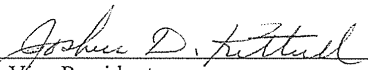
By: 
Gordon T. Woods, Mayor Pro Tem

KIWANIS CLUB OF PORTERVILLE

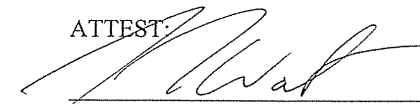
By: 
President

ATTEST:


C. G. Huffaker, City Clerk

By: 
Vice President

ATTEST:


Thomas I. Watson, City Attorney

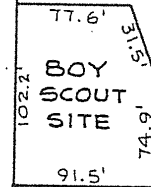
WEST LINE OF SECTION 27

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MORTON

W¹/₄ COR. SEC. 27 - 21/27

SOUTH LINE OF THE NW¹/₄

EXHIBIT "A-1

LEGAL DESCRIPTION OF PROPERTY SUBJECT TO
LICENSE AGREEMENT BETWEEN CITY OF PORTERVILLE
AND THE PORTERVILLE KIWANIS CLUB

That portion of the northwest quarter of Section 27, Township 21 south, Range 27 east, M.D.B. & M., in the City of Porterville, County of Tulare, State of California, described as follows:

Commencing at the west quarter corner of Section 27: thence, easterly along the south line of the northwest quarter of said Section, 80 feet; thence, northerly and parallel to the west line of Section 27, 300.4 feet to the true point of beginning; thence, continuing northerly along the same line 102.2 feet; thence, easterly and perpendicular to said west line, 77.6 feet; thence, in a southeasterly direction 31.5 feet to the intersection with a line running parallel to and 171.5 feet east of the west line of Section 27; thence, southerly along a line parallel to and 171.5 feet east of the west line of Section 27, 74.9 feet, more or less, to a point 300.4 feet north of the south line of the northwest quarter of said Section; thence, westerly 91.5 feet, more or less, to the point of beginning.

**CITY COUNCIL MINUTES
PORTERVILLE, CALIFORNIA
AUGUST 18, 2009, 6:00 P.M.**

Called to Order at 6:00 p.m.

Roll Call: Council Member Hamilton (arrived late), Council Member Pedro Martinez, Council Member Felipe Martinez, Vice Mayor Ward, Mayor McCracken

The Council adjourned to a Joint Meeting of the Porterville City Council and Porterville Redevelopment Agency.

JOINT CITY/PORTERVILLE REDEVELOPMENT AGENCY MINUTES

Roll Call: Agency Member Hamilton (arrived late), Agency Member Pedro Martinez, Agency Member Felipe Martinez, Vice-Chairman Ward, Chairman McCracken

JOINT ORAL COMMUNICATIONS

None

REDEVELOPMENT AGENCY CLOSED SESSION:

- A. Closed Session Pursuant to:
- 1- Government Code Section 54956.8 – Conference with Real Property Negotiators/Property: APNs 261-122-007, 261-122-008, and 252-193-004. Agency Negotiator: Brad Dunlap. Negotiating Parties: Porterville Redevelopment Agency/City of Porterville and Porterville Hotel Investors. Under Negotiation: Terms and Price.

The City Council and Redevelopment Agency adjourned to a meeting of the Porterville City Council.

CLOSED SESSION:

- B. Closed Session Pursuant to:
- 1- Government Code Section 54956.8 – Conference with Real Property Negotiators/Property: APNs 261-130-001, 302-110-054, 253-160-03, and a portion of APN 302-110-075. Agency Negotiator: John Lollis and Brad Dunlap. Negotiating Parties: City of Porterville and Porterville Fair Board. Under Negotiation: Terms and Price.
 - 2- Government Code Section 54956.8 – Conference with Real Property Negotiators/Property: APNs 261-130-001 and 253-160-032. Agency Negotiator: John Lollis and Brad Dunlap. Negotiating Parties: City of Porterville and State of California. Under Negotiation: Terms and Price.
 - 3- Government Code Section 54956.8 – Conference with Real Property Negotiators/Property: Portion of APN 251-001-001. Agency Negotiator: Jim Perrine Negotiating Parties: City of Porterville and Kiwanis Club of Porterville. Under Negotiation: Terms and Price.
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- 4- Government Code Section 54957 – Public Employee Performance Evaluation – Title: Golf Course Manager