

ORDINANCE NO. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
APPROVING A DEVELOPMENT AGREEMENT BETWEEN
THE CITY OF PORTERVILLE AND CANNABIS EXPRESS, INC. RELATING TO THE
DEVELOPMENT OF A RETAIL CANNABIS DISPENSARY

WHEREAS, to strengthen the public planning process, encourage private participation in comprehensive planning and reduce the economic risk of development, the California State Legislature adopted Government Code Sections 65864 et seq. (the "Development Agreement Statute") which authorizes cities to enter in agreements for the development of real property with any person having a legal or equitable interest in such property in order to establish certain development rights in such property; and

WHEREAS, in accordance with the Development Agreement Statute, the City of Porterville ("City") has enacted regulations to implement procedures for the processing and approval of development agreements; and

WHEREAS, Pursuant to Chapter 15, Article VII, Section 15-87, subsection C. of the Porterville Municipal Code, no approval for a Cannabis Business Regulatory Permit may be granted unless the City Council, prior to or concurrently with such approval, also approves a Development Agreement, setting forth the terms and conditions under which the commercial cannabis business will operate in addition to the requirements of Article VII of Chapter 15, all other local ordinances and regulations, State law, and such other requirements as may be promulgated by the City in order to protect and promote the public health, safety, and welfare; and

WHEREAS, in accordance with Chapter 15, Article VII of the Porterville Municipal Code, the City of Porterville awarded, via a Request for Proposals process, an opportunity to Cannabis Express, Inc. ("Developer") to negotiate a Development Agreement and apply for a Cannabis Business Regulatory Permit for the establishment of a Retail Cannabis Dispensary; and

WHEREAS, the City and Developer have duly met, negotiated, and agreed upon the terms and conditions for said operation of the commercial cannabis business, to be operated at 200 North Main Street, Porterville, California;

WHEREAS, the Development Agreement will assure the City, its residents, and the Developer that the Development will proceed as proposed and that the public improvements and other amenities and funding obligations will be accomplished as proposed; and

WHEREAS, pursuant to Government Code Section 65867 and the City's Development Agreement regulations, the City Council on June 6, 2023, held a duly noticed public hearing concerning whether to adopt the Development Agreement, during which public hearing the Council received comments from City staff, the Developer, and members of the public.

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PORTERVILLE HEREBY ORDAINS as follows:

SECTION 1. This Ordinance incorporates, and by this reference makes a part hereof, the Development Agreement attached hereto as Exhibit A, subject to the provisions of Section 5 hereof.

SECTION 2. This Ordinance is adopted under the authority of California Government Code Section 65854 et seq., and pursuant to the City's Development Agreement regulations.

SECTION 3. In accordance with the City's Development Agreement regulations, the City Council hereby finds and determines, as follows:

(a) The Development Agreement is consistent with the objectives, policies, general land uses, and programs specified in the General Plan, in that it establishes certain development rights, obligations, and conditions for the implementation of the subject property;

(b) The Development Agreement is compatible with the uses authorized in, and the regulations prescribed for, the general plan designations that will apply to the subject property;

(c) The Development Agreement is in conformity with public convenience, general welfare, and good land use practice;

(d) The Development Agreement will not be detrimental to the public health, safety, and general welfare; and

(e) The Development Agreement will not adversely affect the order development of property or preservation of property values.

SECTION 4. The foregoing findings and determinations are based upon the following:

(a) The Recitals set forth in this Ordinance, which are deemed true and correct;

(b) The City's General Plan, and any applicable amendments thereto.

(c) All City staff reports (and all other public reports and documents) prepared for the City Council, related to the Development Agreement, and other actions relating to the subject property;

(d) All documentary and oral evidence received at the public hearing or submitted to the City during the comment period relating to the Development Agreement, and other actions relating to the subject property; and

(e) All other matters of common knowledge to the City Council, including but not limited to the City's fiscal and financial status, City general ordinances, policies and regulations.

SECTION 5. The City Council hereby approves the Development Agreement, attached hereto as Exhibit A, subject to such minor, conforming and clarifying changes consistent with the terms thereof as may be approved by the City Manager, in consultation with the City Attorney prior to execution thereof, including completion of references and status of planning approvals, and completion and conformity of all exhibits thereto, as approved by the City Council.

SECTION 6. CEQA REVIEW. The City Council hereby finds that this ordinance is not subject to review under the California Environmental Quality Act (CEQA) pursuant to CEQA Guidelines section 15061(b)(3) [there is no possibility the activity in question may have a significant affirmative effect on the environment]. In addition to the foregoing general exemption, the City Council further finds that the ordinance is categorically exempt from review under CEQA Guidelines section 15303 [conversion of an existing structure from one

use to another in conjunction with minor changes to the facility]. The City Manager is hereby directed to ensure that a Notice of Exemption is filed pursuant to CEQA Guidelines Section 15062.

SECTION 7. Upon the effective date of this Ordinance as provided in Section 11 hereof, the Mayor and City Clerk are hereby authorized and directed to execute the Development Agreement on behalf of the City of Porterville.

SECTION 8. The City Manager is hereby authorized and directed to perform all acts authorized to be performed by the City Manager in the administration of the Development Agreement pursuant to the terms of the Agreement.

SECTION 9. SEVERABILITY. If any section, subsection, subdivision, paragraph, sentence, clause, or phrase of this ordinance, or its application to any person or circumstance, is for any reason held to be invalid or unenforceable, such invalidity or unenforceability shall not affect the validity or enforceability of the remaining sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases of this ordinance, or its application to any other person or circumstance. The City Council of the City of Porterville hereby declares that it would have adopted each section, subsection, subdivision, paragraph, sentence, clause, or phrase hereof, irrespective of the fact that any one or more other sections, subsections, subdivisions, paragraphs, sentences, clauses, or phrases hereof be declared invalid or unenforceable.

SECTION 10. CONSTRUCTION. The City Council intends this ordinance to supplement, not to duplicate or contradict, applicable state and federal law and this ordinance shall be construed in light of that intent.

SECTION 11. EFFECTIVE DATE. The foregoing ordinance shall take effect thirty (30) days from the date of the passage and adoption. Prior to the expiration of fifteen (15) days from the enactment hereof a certified copy of this ordinance shall be posted in the office of the City Clerk pursuant to Government Code Section 36933(c)(1) and a summary shall be published once in the Porterville Recorder, a newspaper printed and published in the City of Porterville, State of California, together with the names of the Council members voting for and against the same.

PASSED, APPROVED AND ADOPTED this _____ day of June, 2023.

By: _____
Hon. Martha A. Flores, Mayor

ATTEST: _____
John D. Lollis, City Clerk