SUBJECT:  CITY OF PORTERVILLE POLICY FOR LAND ACQUISITION

SOURCE:  Engineering and Building Department

COMMENT: City staff members will be acquiring numerous parcels of land over the next several years. In order to establish the City Council’s policy for the acquisition process, staff has prepared the attached City of Porterville Policy for Land Acquisition. This policy defines the steps that will take place and the roles of the individuals involved in land acquisition.

Caltrans policy differs from the City’s policy in the following respects:

- An offer must be presented in person in almost all circumstances (i.e., not mailed);
- In no way can there be a threat of condemnation in the first offer or that we start condemnation in 30 days.

The City Attorney has approved the proposed policy and prepared the attachments. She advises following Caltrans’ policy on acquisitions where State or Federal funds are involved.

Staff has prepared the attached resolution for the City Council to adopt the subject policy.

Alternative Actions by the Council:
1.  Adopt the attached policy;
2.  Give staff direction for revision of the policy; or
3.  Take no action.

RECOMMENDATION: That the City Council adopt the City of Porterville Policy for Land Acquisition by resolution.

ATTACHMENTS:  Resolution
City of Porterville Policy for Land Acquisition
Draft statutory offer letter
Draft Summary of the Basis for the Amount Established as Just Compensation

Item No. 10
RESOLUTION NO. _________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
ADOPTING CITY OF PORTERVILLE POLICY FOR LAND ACQUISITION

WHEREAS, The City of Porterville must abide by the California Government
Code in acquiring land for City purposes; and

WHEREAS, the City Council has delegated certain duties to City Staff, in the
task of acquiring land/easements for City purposes; and

WHEREAS, the City Council wishes to establish a consistent policy for
acquisition of said land/easements; and

WHEREAS, Caltrans policy for acquisition of land differs in some respects from
City of Porterville policy; and

WHEREAS, Porterville must follow Caltrans’ policy in order to avoid loss of grant
funding for State and Federally funded projects governed by Caltrans’ regulations.

NOW, THEREFORE, BE IT RESOLVED, by the City Council of the City of
Porterville that the attached City of Porterville Policy for Land Acquisition is hereby
adopted for all land acquisition by the City that is not funded by State or Federal funds
governed by Caltrans regulations. Be it further resolved, that the City will follow
Caltrans’ policy when State or Federal funds, governed by Caltrans’ regulations, are
involved.

________________________________________
Gordon T. Woods, Mayor

ATTEST:

________________________________________
John Longley, City Clerk
CITY OF PORTERVILLE
POLICY FOR LAND ACQUISITION

The Right of Way Agent (Negotiator) shall comply with the California Government Code. The procedures described herein are intended to be a guide to help assure compliance with the Government Code.

1. Upon completion of CEQA/NEPA requirements, the Project Manager (For design of the project) will:
   a. Initiate the acquisition process by requesting a preliminary title report and an appraisal via the Community Development Project Manager;
   b. Meet with the appraiser to review the improvement plans.

2. Upon notification from the Community Development Project Manager that the title report and appraisal are available, the Project Manager will:
   a. Make an appointment with the Right of Way Agent to review the appraisals and the project improvement plans;
   b. Obtain a copy of the complete appraisal report from the Community Development Project Manager to give to the Right of Way Agent. Appraisal reports are confidential documents and are not to be released to the Right of Way agent without the understanding that they are to be kept confidential; and
   c. Provide the Right of Way Agent with a copy of the improvement plans.

3. During the initial meeting with the Right of Way Agent, the Project Manager will:
   a. Discuss the details of the acquisition with the Right of Way Agent:
      • Review the improvement plans.
      • Explain what the City plans to do and when they plan to do it.
      • Discuss what improvements may have to be relocated, salvaged or destroyed (e.g., Fences, mailboxes, irrigation systems, etc.).
      • Decide who will move or replace improvements (Owner or the City’s contractor) and reasonable compensation, if appropriate.
      • Estimate reasonable compensation for improvements that will be removed or destroyed, if they do not appear to be considered in the appraisal (e.g., Trees, landscaping, etc.).
   b. Provide the Right of Way Agent with a copy of the appraisal. Then the Project Manager must return the appraisal report to the Community Development Project Manager, keeping its contents confidential, except
for the summary of the basis for the amount established as just compensation, a copy of which will be mailed to the owner (See Step 5).

4. The Right of Way Agent will visit each site to determine if the appraiser has missed anything that justifies additional or reduced compensation to the property owner. If so, the Right of Way Agent will provide a written estimate of the additional or reduced amount of compensation due the property owner in the form of a memorandum to the Project Manager. The discrepancy will be discussed with the appraiser to determine if a modification to the appraisal is appropriate. If the Director of Public Works finds the additional or reduced amount to be justified, the appraised amount will be adjusted accordingly in determining the total amount to be put in the statutory initial offer letter. This amount shall first be presented at a City Council meeting, with supporting documentation, and approved by City Council before it is sent/given to the owner. For all parcels where the offering price is the same as the appraised value the Project Manager will:

a. Prepare a memo to the City Manager, for the Director of Public Works to sign, that lists the offering price(s) of each parcel and transmits a map showing the location of the parcel(s); and
b. Obtain the City Manager’s approval before making an offer.

5. The Project Manager will compose the statutory initial offer letter to the owners of record, shown on the preliminary title report, giving them 30 days to accept the offer. The initial offer package will be sent certified mail, return receipt requested, and contain the following items:

a. An offer letter telling the property owner the City’s Right of Way Agent will visit them to review a purchase contract with them;
b. A summary of the basis for the amount established as just compensation;
c. A map showing the property/easement to be purchased;
d. A legal description of the property/easement to be purchased; and
e. Information Regarding City of Porterville Land Acquisition Policy.

A copy of Items “a” through “d” will be given to the Right of Way Agent the same day they are sent to the property owner. This is the Right of Way Agent’s notice to proceed to Step 6 below.

6. The Right of Way Agent will:

a. Contact the owners and try to meet with them at approximately the same time as the mailed copy of the statutory initial offer letter arrives. The Right of Way Agent will deliver a copy of Items “a” through “e” above to the owners and review them with the owners on the first visit;
b. Work on establishing a rapport with the owners;
c. Explain what the City plans to do and when they plan to do it;
d. Review the summary of the basis for the amount established as just compensation with them; and
e. When a price is agreed upon, the Right of Way Agent will give the owner a copy of the draft City Purchase Contract and deed, briefly describing the essential steps in the City’s procedure described below.

- The Right of Way Agent arranges for the Purchase Contract and deed to be signed by the owners and routes the Purchase Contract to the City Manager for the Mayor (or his designee) to sign. The City Manager’s office then delivers the following to the Community Development Project Manager:
  - Signed Purchase Contract
  - Signed deed
  - Resolution (Prepared by the Project Manager working with the Engineering Secretary)

- The Community Development Project Manager prepares a City Council agenda item for approval of the Purchase Contract.
- The Purchase Contract is presented to City Council for approval.
- If the City Council approves, the Mayor signs the resolution and the Deputy City Clerk sends a copy to the Community Development Project Manager.
- The preliminary title report is reviewed by the Community Development Project Manager to determine if it is necessary to open an escrow and obtain title insurance. If so, the Community Development Project Manager opens an escrow.
- If an escrow has not been opened, Community Development Project Manager prepares and submits a Request for Disbursement/Payment to the Finance Department for payment to be made to the owner in accordance with the terms of the Purchase Contract.
- The Community Development Project Manager sends the deed to the Deputy City Clerk.
  - The Deputy City Clerk sends the signed deed to the County Recorder’s Office requesting that the deed be recorded.
- When the recorded deed is returned from the Recorder’s office, the Deputy City Clerk makes two copies, sends one to the Community Development Project Manager and one to the Engineering Secretary who gives it to the Project Manager.
- The Deputy City Clerk files the recorded deed.
- The strip map, if any, is updated by the Community Development Project Manager to keep track of the properties acquired.

7. The Right of Way Agent generally makes one additional visit on small parcels (less than 200 square feet) or two additional visits over a period of one month,
for larger parcels, to try to reach agreement on price.

8. The owner’s counter offer, if any, is presented to the Community Development Project Manager who evaluates it and makes a recommendation to the Director of Public Works. If the Director determines that it is in the City’s best interest to accept the price in the counter offer, he will have the Community Development Project Manager notify the Project Manager who in turn will notify the Right of Way Agent that the Director has approved the counter offer and staff may proceed as directed in Step 6, e.

9. If the Director determines that it is not in the City’s best interest to accept the counter offer, then the Director directs the Community Development Project Manager to notify the City Attorney and to prepare an agenda item for City Council Closed Session submitting the counter offer to the Council for their consideration and direction. If Council takes official action and accepts the counter offer, staff proceeds as directed in Step 6, e.

10. If the City Council rejects the counter offer, the Right of Way Agent meets with the City Attorney, the Director of Public Works and the Project Manager to discuss eminent domain proceedings.
   - The City Attorney makes a final written offer with a deadline for acceptance and sends a Notice of Intent to Adopt a Resolution of Necessity.
   - If the offer is not accepted by the deadline, the City Attorney initiates eminent domain proceedings.
   - The Right of Way Agent and/or the appraiser may be called upon to give testimony in the eminent domain proceedings.
   - When the eminent domain proceedings are concluded, the City Attorney sends a copy of the Court Ordered Right of Possession to the Director of Public Works.
   - The Director sends a copy of the Court Ordered Right of Possession to the Deputy City Clerk, the Community Development Project Manager and the Project Manager.
   - The Deputy City Clerk files the Court Ordered Right of Possession.
   - The strip map, if any, is updated by the Community Development Project Manager to keep track of the properties acquired.

Attachments:
- Draft statutory offer letter
- Draft *Summary of the Basis for the Amount Established as Just Compensation*