

FIRST AMENDMENT TO THE AMENDED AND RESTATED
MEMORANDUM OF UNDERSTANDING BETWEEN
THE COUNTY OF FRESNO AND THE CITY OF SANGER

This First Amendment to the Amended and Restated Memorandum of Understanding ("First Amendment"), executed on this 31st day of October, 2017, (the "Effective Date"), by and between the County of Fresno, a political subdivision of the State of California (hereinafter referred to as "County") and the City of Sanger, a municipal corporation of the State of California (hereinafter referred to as "City"). County and City are each a "Party" to this First Amendment and are sometimes collectively referred to as "the Parties" to this First Amendment.

RECITALS:

WHEREAS, the Parties previously entered into a comprehensive agreement covering development, annexations, sales taxes, property taxes, redevelopment and other matters, which is entitled "Amended and Restated Memorandum of Understanding Between the County of Fresno, the City of Sanger, and the Sanger Redevelopment Agency," dated December 13, 2005, (hereinafter "MOU"); and

WHEREAS, the Sanger Redevelopment Agency was dissolved on February 1, 2012, as a result of ABx1 26 ("Dissolution Law"), as amended, and the City of Sanger is the Successor Agency to the former Sanger Redevelopment Agency (SRA), and the SRA is no longer a party to the MOU; and

WHEREAS, Article IX (General Provisions), Section 9.8 (Renegotiation) provides that if County enters into an MOU with another City that has terms and conditions more favorable in the aggregate to that city, County agrees that it will negotiate such terms and conditions upon written request from City; and

WHEREAS, on July 24, 2017, City notified County of its request to modify the MOU to include provisions similar to those contained in Article V, Section 5.4 of the City of Fowler/County MOU relating to substantial sales tax generating uses; and

1 WHEREAS, the County has evaluated City's request and agrees to the proposed
2 amendment; and

3 WHEREAS, the parties recognize that this First Amendment to the MOU is necessary to
4 accommodate the proposed amendment.

5 NOW, THEREFORE, County and City hereby agrees to amend the MOU as
6 follows:

7 **AMENDMENT I TO MOU**

8 The MOU is amended as follows:

- 9 1. Section 5.4 of the MOU is hereby amended to read in its entirety as follows:

10 "Whenever CITY proposes an annexation of unincorporated territory which
11 generates substantial sales tax revenue for COUNTY, CITY, agrees to further
12 amend its local sales and use tax ordinance as set forth in this section.

13 Notwithstanding the language of subsections 5.2.1 and 5.2.2, this additional
14 amendment shall become operative no later than the commencement of the next
15 calendar quarter following the date upon which such annexation is certified as
16 complete by the Executive Officer of LAFCO. This additional amendment shall
17 decrease CITY's sales tax rate to yield an amount of substantial sales tax
18 revenue being collected by COUNTY in the area to be annexed, thus enabling
19 COUNTY to increase its sales tax rate by a corresponding percentage which
20 shall continue to accrue to COUNTY throughout the term of this RESTATED
21 MOU. Any such additional amendment made by CITY pursuant to this section
22 shall be cumulative and likewise preserve intact any periodic adjustments
23 previously implemented pursuant to the RESTATED MOU. Further, CITY agrees
24 that it shall not split or separate areas into smaller annexations for the purpose
25 of, or having the effect of, creating an annexation or annexations which,
26 individually, do not generate substantial sales tax revenue, but which would
27 generate such revenue if combined. For purposes of this article, the term
28

"substantial sales tax revenue" shall be defined as sales tax revenue derived from taxable sales in the area annexed equal to at least:

5.4.1 If only information for less than one fiscal year exists, then \$100,000 in taxable sales in the most recent quarter for which such information from the State Board of Equalization is available in writing or electronic or magnetic media, and projected to a full four quarters, at least \$400,000 in taxable sales.

5.4.2 If information for one or more years exist, then \$400,000 in taxable sales in the most recent year for which such information from the State Board of Equalization is available in writing or electronic or magnetic media.

5.4.3 Modified Calculation for Area Depicted in Exhibit 6 – Whenever CITY proposes an annexation of unincorporated territory identified which generates substantial sales tax revenue for COUNTY (as defined herein), as depicted in Exhibit 6, and CITY uses the provisions and requirements of Section 2.4 of this MOU (An Alternate Standard for Annexation for Industrial and Regional Commercial uses) to process said annexation, the substantial sales tax-sharing provisions for that area shall be modified using the distribution schedule delineated below and phased out over a period of six years as follows:

First year. COUNTY receives 5% base plus 100% of local sales tax revenue generated by substantial sales tax generator. CITY receives no revenue from substantial sales tax generator.

Second Year. COUNTY receives 5% base plus 80% of local sales tax revenue generated by substantial sales tax generator. CITY receives 20% from substantial sales tax generator.

1 Third Year. COUNTY receives 5% base plus 60% of local sales tax revenue
2 generated by substantial sales tax generator. CITY receives 40%
3 from substantial sales tax generator.

4 Fourth Year. COUNTY receives 5% base plus 40% of local sales tax revenue
5 generated by substantial sales tax generator. CITY receives 60%
6 from substantial sales tax generator.

7 Fifth Year. COUNTY receives 5% base plus 20% of local sales tax revenue
8 generated by substantial sales tax generator. CITY receives 80%
9 from substantial sales tax generator.

10 Sixth Year. COUNTY receives 5% base plus 0% of local sales tax revenue
11 generated by substantial sales tax generator. CITY receives 100%
12 from substantial sales tax generator. This distribution method
13 continues until the end of this agreement.

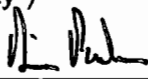
14 This adjustment shall comply with the requirements and procedures of the
15 California Board of Equalization. Any such distribution calculation made by CITY
16 pursuant to this subsection shall take into consideration actual sales tax
17 revenues collected within the substantial sales tax generator area in the last four
18 quarters as reported by the Board of Equalization and/or other reliable source to
19 be determined by the Fresno County Auditor-Controller/Treasurer-Tax Collector
20 to reflect actual sales tax revenues collected in the annexed area where the
21 substantial sales tax generator is located. The distribution calculation shall reflect
22 an increase or decrease in the revenue to be received by COUNTY in the
23 subsequent year depending on the actual sales tax revenue generated by the
24 substantial sales tax generator in the prior year. Nothing in this subsection 5.4
25 alters the duties of the parties pursuant to subsections 5.1 through 5.3, inclusive.”

- 26 2. Exhibit 6, attached hereto and incorporated herein by reference, is hereby
27 incorporated into and made part of the Amended and Restated Memorandum of
28 Understanding.

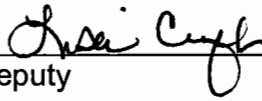
3. Unless expressly modified by the terms of this First Amendment, all other terms of the MOU remain in full force and effect.

IN WITNESS WHEREOF, the Parties hereto have executed this First Amendment, on the date set forth above.

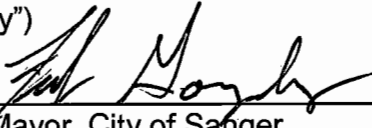
COUNTY OF FRESNO, a Political
Subdivision of the State of California
("County")

By: 
Brian Pacheco, Chairman
Board of Supervisors

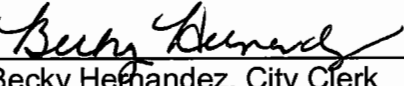
ATTEST:
Bernice E. Seidel
Clerk to the Board of Supervisors

By: 
Deputy

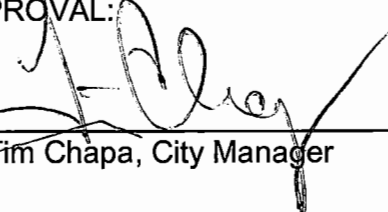
CITY OF SANGER, a Municipal
Corporation of the State of California
("City")

By: 
Mayor, City of Sanger

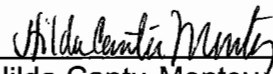
ATTEST:
Becky Hernandez
City Clerk, City of Sanger

By: 
Becky Hernandez, City Clerk

REVIEWED AND RECOMMENDED FOR
APPROVAL:

By: 
Tim Chapa, City Manager

APPROVED AS TO LEGAL FORM:
Hilda Cantu-Montoy, City Attorney, City of
Sanger

By: 
Hilda Cantu-Montoy, City Attorney

LOCATION MAP

