



MEMORANDUM
OFFICE OF THE
COUNTY EXECUTIVE
COUNTY OF PLACER

TO: Honorable Board of Supervisors

FROM: Thomas M. Miller, County Executive Officer
BY: Holly L. Heinzen, Assistant County Executive Officer

DATE: August 4, 2009

SUBJECT: City of Roseville – O'Brien Annexation
Tax Sharing Agreements

ACTION REQUESTED

Consideration and approval of a resolution authorizing the Chairman of the Board of Supervisors to execute tax sharing agreements for annexation of approximately 10 acres located west of Roseville, known as the O'Brien annexation.

BACKGROUND

The City of Roseville has submitted an application to the Local Agency Formation Commission (LAFCO) for annexation of 10.06 acres located west of the City of Roseville for annexation to the City. The proposal includes two City owned parcels referred to as the O'Brien property. With approval to submit the annexation to LAFCO, the City Council also approved a General Plan Amendment, and pre-zoning/rezone of two City-owned parcels that comprise the annexation area. With these actions a land use designation of Community Commercial and Industrial and a zoning designation of General Commercial and Light Industrial were established by the City and would be in place when annexation occurs. In addition to non-residential commercial and light industrial uses that could occur on the site, this property would be intended as a site for construction of the South Placer Animal Services shelter which would be located adjacent to the Roseville Energy Park.

ISSUE

In order for the annexation to be considered by LAFCO, both jurisdictions must approve a resolution (Placer County Resolution – Attachment 1) indicating authorization of the agreements for sharing of taxes generated in the annexation area. Representatives of the County and City have negotiated these agreements that provide funding for support of city services as well as countywide services that will continue following annexation.

FISCAL IMPACT

Currently the property is owned by the City and, as such, is not subject to property tax. Nonetheless, it would be anticipated that future private non-residential development would occur

on a limited basis at the site. As proposed under the tax sharing agreements, which are modeled after the West Roseville Specific Plan agreements, the County retains *the equivalent* of 67% of the estimated property tax available for sharing (before ERAF deductions) and the City would receive 33% (before ERAF deductions). It is estimated that the net amount to the County (after ERAF) would be approximately 17.56% of the 1% property tax available in the annexation area and the City of City of Roseville would receive 13.8% (after shifts to the Education Revenue Augmentation Fund). Schools and special districts that continue to provide services in the annexation area would retain the balance of the 1% property taxes.

Based on the existing statutory structure for allocation of revenues, and the anticipated level and mix of development, it is estimated that amounts identified would result in funding equivalent to that currently provided through property taxes that support countywide services. In allocating a share of the potential future property taxes to the City, responsibility for municipal type services in the annexation area, such law enforcement (patrol services), land use, road maintenance and domestic animal control would also be transferred to the City of Roseville. In addition, the agreements provide that the City will impose the county capital facilities impact fee to new development that may occur in the annexation area to provide for expansion of county facilities necessary to accommodate new growth.

RECOMMENDATION

It is requested today that your Board approve the attached resolution authorizing the Chairman of the Board of Supervisors to sign the tax sharing agreements for annexation of the O'Brien property utilizing the same framework and tax shares as reflected in the West Roseville Specific Plan agreements.

HH:

Attachment: Resolution

Before the Board of Supervisors County of Placer, State of California

In the matter of: Authorizing the Chairman of the Board of Supervisors to execute property tax sharing agreements with the City of Roseville for annexation of approximately 10 acres located west of Roseville, known as the O'Brien annexation.

Resol. No: _____

The following Resolution was duly passed by the Board of Supervisors of the County

of Placer at a regular meeting held on _____ by the following vote on roll call:

Ayes:

Noes:

Absent:

Signed and approved by me after its passage.

Chairman, Board of Supervisors

Attest:
Clerk of said Board

WHEREAS, the City of Roseville desires to annex certain property known as the O'Brien annexation; and

WHEREAS, the City of Roseville has submitted an application to the Local Agency Formation Commission (LAFCO) for the annexation of 10.06 acres located west of the City of Roseville for annexation to the City. The proposal includes two City owned parcels referred to as the O'Brien property; and

WHEREAS, with approval to submit the annexation to LAFCO, the City Council also approved a General Plan Amendment, and pre-zoning/rezone of two City-owned parcels that comprise the annexation area. With these actions a land use designation of Community Commercial and Industrial and a zoning designation of General Commercial and Light Industrial were established by the City and would be in place when annexation occurs.

WHEREAS, In addition to non-residential commercial and light industrial uses that could occur on the site, this property would be intended as a site for construction of the South Placer Animal Services Shelter.

WHEREAS, in order for Placer LAFCO to consider an application to the City, under Revenue and Taxation Code section 99(b) (6), the City and the County must agree by Resolution to a sharing of the property tax revenue of the Annexation Area; and

WHEREAS, the City of Roseville and Placer County have agreed on property tax and sales tax allocations for taxes that accrued to the County and other affected taxing agencies prior to annexation; and

WHEREAS, the agreement provides for sharing of property and sales taxes, as well as application of a facilities impact fee to be collected by the City of Roseville in the area to be annexed and are intended to be based on the same framework and apportionments utilized in the West Roseville Specific Plan agreements; and

WHEREAS, the agreement also provides for application of a facilities impact fee to be collected by the City of Roseville in the area to be annexed; and

WHEREAS, said fees will be transferred to the County to be used to mitigate the impacts of growth in the annexation area on County services and capital facilities; and

NOW, THEREFORE, BE IT RESOLVED, that the Placer County Board of Supervisors does hereby authorize the Chairman of the Board of Supervisors to sign the AGREEMENT BETWEEN THE CITY OF ROSEVILLE AND COUNTY OF PLACER REGARDING APPORTIONMENT OF SALES AND USE TAX (Exhibit 1) and the AGREEMENT BETWEEN THE CITY OF ROSEVILLE AND COUNTY OF PLACER REGARDING APPORTIONMENT OF PROPERTY TAXES (Exhibit 2) upon annexation of the O'Brien property.

Attachments: Property Tax Agreement
 Sales and Use Tax Agreement
 Parcel Map

**AGREEMENT BETWEEN THE CITY OF ROSEVILLE AND COUNTY OF
PLACER REGARDING TRANSFER OF PROPERTY TAX
UPON O'BRIEN PROPERTY ANNEXATION**

THIS AGREEMENT, dated for identification this _____ day of _____, 2009, is entered into between the CITY OF ROSEVILLE, a municipal corporation ("City"), and the COUNTY OF PLACER, a political subdivision of the State of California ("County").

RECITALS

A. By adoption of Resolutions _____ and _____ on _____, 2009, the City has applied to the Local Agency Formation Commission ("LAFCO") for reorganization which includes the annexation of approximately 10 acres to the City, more particularly described in Exhibit A (the "O'Brien Property Annexation"). The area proposed to be annexed is City owned and designated for the Animal Control/private non-profit animal services support facilities.

B. LAFCO has designated the City's application as _____, entitled "City of Roseville Reorganization to Include Detachment from South Placer Fire District, Sphere of Influence Amendment and Annexation to City of Roseville" (the "O'Brien Property Annexation").

C. This agreement is entered into pursuant to the provisions of Section 99, subdivision (b), of the Revenue and Taxation Code of California, which requires the City and the County to enter into an agreement regarding the transfer of the 1% *ad valorem* property tax available for allocation and distribution upon a reorganization such as the O'Brien Property Annexation before the LAFCO Executive Officer will issue a certificate of filing to commence processing the O'Brien Property Annexation.

D. The County Auditor has notified the City and County pursuant to Revenue and Taxation Code section 99, subdivision (b)(2), that, of the 1% *ad valorem* property tax imposed pursuant to Article 13A, section 1 of the State Constitution, the property tax revenue which is

subject to negotiated exchange consists of the following elements (amounts are estimates, subject to correction):

<i>County General Fund</i>	20.5803%
<i>County Library Fund</i>	1.0231%
<i>Dry Creek Fire Protection District (CSA 28 Zone 165)</i>	6.3898%
<i>Total</i>	27.9932%

E. The City and County recognize that the purpose of this agreement is to make equitable allocation and distribution of available property tax revenues consistent with the terms of existing law as mutually understood by the parties and to maximize each party's ability to deliver essential government services in areas annexed to City.

F. This agreement and the "Agreement between the City of Roseville and County of Placer Regarding Apportionment of Sales and Use Tax," dated _____, 2009 ("Sales Tax Agreement"), are intended to satisfy the requirements of Revenue and Taxation Code §99(b). The City and County have negotiated these agreements for the exchange of property tax revenues for annexations occurring in the O'Brien Property Annexation Area.

AGREEMENT

NOW, THEREFORE, in consideration of the promises and acts described herein, the City and County agree as follows:

Section 1. Recitals

1.1. The foregoing recitals are true and correct and are part of this agreement.

204

Section 2. Definitions

2.1. "Base property tax revenues" shall mean property tax revenues accruing to each affected agency in the 2008-2009 fiscal year, based on the AB8 gross levy prior to adjustments and revenue transfers relative to the Educational Revenue Augmentation Fund (ERAF).

2.2. "ERAF factor" is the number required by California Revenue and Taxation Code sections 97, *et seq.*, to be multiplied times an affected agency's AB8 gross levy in order to determine the amount of funds to be transferred to the schools for ERAF.

2.3. "Incremental property tax revenues" shall mean the amount of property tax revenues attributable to growth in assessed valuation for the affected tax rate area identified for the O'Brien Property Annexation Area.

2.4. "1% *ad valorem* property tax" shall mean the 1% property tax authorized by Article 13A, section 1 of the California Constitution.

Section 3. Establishment of Separate Tax Rate Area

3.1. County will work with the County Auditor to establish the Tax Rate Area(s) (TRA) for the O'Brien Property Annexation Area prior to allocation and distribution of property tax under this Agreement and will report to City the actual amount of the 1% *ad valorem* property tax revenues from the TRA available for allocation and distribution pursuant to this agreement.

Section 4. Receipt and Allocation of 1% *Ad Valorem* Property Tax

4.1. Subject to the provisions of Section 6, from and after the first fiscal year following the effective date of the O'Brien Property Annexation, City shall receive 100% of the 1% *ad valorem* property tax (base property tax revenues and incremental property tax revenues) that would otherwise be allocated and distributed to City and County, pursuant to the AB8 allocation, from the O'Brien Property Annexation Area.

4.2. Following calculation of AB8 revenue and City's ERAF factor (or the County's if lower), the property tax balance remaining shall be shared as follows: 56% for County; and 44% for City pursuant to this subsection. The amount of funds allocable to County under the foregoing formula shall be paid to County by City in accordance with the *O'Brien Annexation Plan Sales Tax Agreement*.

Section 5. - Independent Audit

5.1. City and County shall jointly hire an independent firm to audit the portion of the 1% *ad valorem* property tax revenues transferred by County to City from the O'Brien Property Annexation Area. The audit shall be performed at least once every two years. However, in order to avoid the expense of an audit prior to revenues becoming sufficient to warrant such an expense, no audit shall be performed until either party has given notice to the other that an audit is requested. County Auditor will make any adjustments to payment of property taxes to City which are required as a result of the audit within 60 days of receipt of the audit.

Section 6. – Alternative Transfer of *Ad Valorem* Property Tax: County Minimum Allocation

6.1. If County's ERAF factor is lower than City's ERAF factor at any time of allocation of 1% *ad valorem* property tax (base property tax revenues and incremental property tax revenues) that would otherwise be allocated to City and County from the O'Brien Property Annexation Area pursuant to the AB8 allocation, the entire amount shall be allocated instead to County. In that event, County's ERAF factor shall be applied and the remaining balance shall be distributed as follows: 56% to County; and 44% to City.

6.2. In no event shall the total amount allocated to County under this agreement be less than 67% of the 1% *ad valorem* property tax balance remaining for distribution under AB8 (base property tax revenues and incremental property tax revenues) from the O'Brien Property Annexation Area remaining after the current ERAF shift for counties. In the event that the State reduces the percentage of the property tax shift for counties pursuant to ERAF below 33%, then the distribution set out in Sections 4.1 and 4.2 shall be adjusted so that the County is provided

67% of the amount of the 1% ad valorem property AB 8 gross levy (base and increment) available for distribution less the then current ERAF shift for the County.

6.3. In the event that the "Agreement Between the City of Roseville and County of Placer Regarding Apportionment of Sales and Use Tax," dated June 2, 2004 is held to be invalid by final order or judgment of a court of competent jurisdiction or by action of the State Legislature, the City shall receive 33%, and County shall receive 67%, of the 1% *ad valorem* property tax AB8 gross levy that would otherwise be allocable to City and County (base property tax revenues and incremental property tax revenues) from the O'Brien Property Annexation Area, beginning with the effective date of such final order or judgment.

6.4 Commencement of Exchange. The exchange of Base Property Tax Revenue and Incremental Property Tax Revenue shall commence one year after the calendar year in which the notice of completion is filed.

Section 7. – Capital Facilities Fee

The City will require the developers of the O'Brien Property Annexation Area to pay the County's Capital Facilities Fee to County pursuant to County Ordinance No. 4769-B, adopted October 15, 1996. The City will fulfill this obligation by including the requirement in any development agreement between the City and the owners of the O'Brien Property Annexation Area. The City will require the developer to pay the fee to City and the City will remit the fee revenues to County within thirty (30) days of receipt.

In the event that the City cancels the development agreements, the City agrees that it will pay the Capital Facilities Fee to County in accordance with County Ordinance No. 4769-B for any development occurring in the O'Brien Property Annexation Area subject to the development agreements.

In the event that the City does not enter into any development agreement with any developer of the O'Brien Property Annexation Area prior to the time when the first Capital

Facilities Fee would be payable in accordance with the first paragraph of this Section 7 or if the City modifies any development agreements to nullify the requirement that a developer pay the Capital Facilities Fee, or if the City fails to enforce the portions of a development agreement relating to the requirement that the developer pay the Capital Facilities Fee, or if the development agreement are nullified by a court of competent jurisdiction, then the following language shall apply:

"To the extent allowed by law, the City shall adopt, levy and collect a Capital Facilities Fee as established from time to time by the County and which shall be paid to the County, to mitigate impacts of growth within the O'Brien Property Annexation Area on County capital facilities. The City may elect, in place of collecting said fee from developer, to pay an amount equal to the amount that would otherwise be paid by the developer. The countywide facilities fee shall be consistent with the amount established for countywide facilities for the unincorporated areas of the County. Adjustments to the Capital Facilities Fee in the O'Brien Property Annexation Area shall be implemented consistent with capital facilities standards set for countywide services as established for the unincorporated areas of the County.

In the event that the City is, for any reason, unable to collect said fee from developer for countywide facilities, City agrees (a) at the time of issuance of a building permit within the O'Brien Annexation Area, to pay the equivalent amount of the County Capital Facilities Fee to the County as established from time to time; or (b) to modify the allocation of property taxes as set forth in Section 4 herein so as to provide for sufficient funding in the County's share of property taxes to be received from the O'Brien Property Annexation Area to fully fund the cost of capital facilities needed to serve all residents of the Annexation Area. Such modification of allocation shall provide full funding for all of the Capital Facilities Fees which City is unable to collect from the developers with an adjustment factor to take into account projected future increases in the Capital Facilities Fee."

Notwithstanding the provisions of this Section 7, the City shall have no liability under this Section 7 to pay the Capital Facilities Fee to County if the County's Capital Facilities Fee or any amendments to it are determined invalid by final judgment of a court of competent jurisdiction or if the authority to impose the Capital Facilities Fee in the unincorporated area is withdrawn from the County by an act of the Legislature.

Section 8. - Additional Documents

City and County agree to cooperate in the execution of any additional documents which may be required to carry out the terms of this agreement.

Section 9. - Termination

This agreement may be terminated only by mutual written agreement of the City and County.

Section 10. - Counterparts

This agreement may be executed in two counterparts, each of which shall constitute an original.

COUNTY OF PLACER

CITY OF ROSEVILLE

Chairman, Board of Supervisors

W. Craig Robinson, City Manager

Dated: _____

Dated: _____

Approved as to form:

Approved as to form:

Anthony La Bouff, County Counsel

Brita J. Bayless, City Attorney

209

**AGREEMENT BETWEEN THE CITY OF ROSEVILLE AND COUNTY OF
PLACER REGARDING APPORTIONMENT OF SALES AND USE TAX
UPON THE O'BRIEN PROPERTY ANNEXATION**

THIS AGREEMENT, dated for identification this _____ day of _____, 2009, is entered into between the CITY OF ROSEVILLE, a municipal corporation ("City"), and the COUNTY OF PLACER, a political subdivision of the State of California ("County").

RECITALS

A. By adoption of Resolutions _____ and _____ on _____, 2009, the City has applied to the Local Agency Formation Commission ("LAFCO") for a reorganization which includes annexing to the City approximately 10 acres, described in Exhibit A (the "O'Brien Property Annexation Area"). The area proposed to be annexed is City owned, with a portion designated for the Animal Control and private non-profit animal services facilities.

B. LAFCO has designated the City's application as _____, entitled "City of Roseville Reorganization to Include Detachment from South Placer Fire District, Sphere of Influence Amendment and Annexation to City of Roseville" (the "O'Brien Property Annexation").

C. This agreement is entered into pursuant to the provisions of Article 13, section 29(b) of the State Constitution, which authorizes cities and counties to enter into contracts to apportion between them the revenue derived from any sales or use tax imposed by them pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law, provided that the contract is approved by two-thirds of both the City Council and the Board of Supervisors.

D. The City and County recognize that the purpose of this agreement is to make equitable allocation and distribution of available property tax revenues consistent with the terms of existing law as mutually understood by the parties and to maximize each party's ability to deliver essential government services in areas annexed to City.

E. This agreement and the "Agreement between the City of Roseville and County of Placer Regarding Transfer of Property Tax upon O'Brien Property Annexation," dated _____, 2009 ("Property Tax Agreement"), are intended to satisfy the requirements of Revenue and Taxation Code §99(b). The City and County have negotiated these agreements for the exchange of property tax revenues for annexation occurring in the O'Brien Property Annexation Area.

AGREEMENT

NOW, THEREFORE, in consideration of the promises and acts described herein, the City and County agree as follows:

Section 1. Recitals

1.1. The foregoing recitals are true and correct and are part of this agreement.

Section 2. Establishment of Separate Tax Rate Area

2.1. County will work with the County Auditor to establish the Tax Rate Area(s) (TRA) for the O'Brien Property Annexation Area prior to allocation and distribution of property tax under this Agreement and will report to City the actual amount of the 1% ad valorem property tax revenues from the TRA available for allocation and distribution pursuant to this agreement.

Section 3. Transfer of Sales and Use Tax Revenues to County

3.1. City will transfer to County, as set forth below, a portion of the sales and use tax revenues City receives pursuant to City's Bradley-Burns Uniform Sales and Use Tax ordinance (Roseville Municipal Code Chapter 4.20).

3.2. The amount of sales and use tax revenues to be transferred to County will be in an amount equal to 56% of the balance of 1% *ad valorem* property taxes (authorized by Article 13, section 1 of the California Constitution) allocable to the City from the O'Brien Property Annexation Area remaining for distribution after deductions required of the City for the California Education Revenue Augmentation Fund, as provided by Section 4 of the Property Tax

Agreement. In the event that the County discontinues the procedures authorized by Revenue and Taxation Code §§ 4701 *et seq.* (the "Teeter Plan"), the amount of sales and use tax revenues to be transferred will be exclusive of any penalties and/or interest the City receives due to late payment or delinquency of property taxes.

3.3 In the event that property tax is allocated between City and County in accordance with the provisions of Section 6.1. of the Property Tax Agreement, the obligations of City to County under Sections 3.1. and 3.2. of this agreement shall become obligations of County to City.

3.4 The party required to transfer sales and use taxes shall transfer the sales and use tax revenues to the other party within 30 days of the date of invoice pursuant to Section 2.1. above.

3.5. Administrative charges for preparation of property and sales tax amounts, calculations, tracking and invoicing shall be charged to City based on actual costs and documented expenses.

Section 4. Independent Audit

4.1. City and County shall jointly hire an independent firm to audit the 1% *ad valorem* property tax revenues available for allocation and distributed to City from the O'Brien Property Annexation Area. The audit shall be performed at least once every two years. However, in order to avoid the expense of an audit prior to revenues becoming sufficient to warrant such an expense, no audit shall be performed until either party has given notice to the other that an audit is requested. City will make any adjustments to payment of sales and use tax revenues which are required as a result of the audit within 60 days of receipt of the audit. The adjustments will be in the form of an additional transfer of sales and use tax revenues if any additional property tax revenues have been paid to City, or in the form of an offset against the next transfer of sales and use tax revenues if the audit discloses that the City received less property tax revenues than it should have received.

Section 5. Default

5.1 In addition to any remedies County may have at law or in equity in the event of City's default, County may withhold from property tax payments due to City an amount equal to the amount of sales and use tax revenues which City has failed to pay to County in a timely

manner, provided that (a) County may not exercise this right of offset until 90 days following receipt by City of property tax revenues used to calculate the amount of the sales and use tax payment and (b) County shall have first given City thirty (30) days written notice of County's intent to offset.

5.2 In the event that City fails to transfer sales and use tax revenues within the times specified in Section 3, City shall pay County interest compounded monthly at a rate equal to the County's average pooled investment interest rate as of June 30 of the preceding fiscal year.

Section 6. Effective Date

6.1. This agreement shall become effective as of June 30 following the effective date of the O'Brien Property Annexation.

Section 7. Termination

7.1. This agreement may be terminated only by mutual written agreement of the City and County.

Section 8. Additional Documents

8.1. The City and County agree to cooperate in the execution of any additional documents which may be required to carry out the terms of this agreement.

Section 9. Indemnification

9.1. In the event that this agreement is the subject of a legal challenge, City will defend any such action on behalf of itself and County, and will indemnify County against any damages which may be awarded against County in such a lawsuit.

Section 10. Counterparts

10.1. This agreement may be executed in two counterparts, each of which shall constitute an original.

COUNTY OF PLACER

Chairman, Board of Supervisors

Dated: _____

Approved as to form:

Anthony La Bouff, County Counsel

CITY OF ROSEVILLE

W. Craig Robinson, City Manager

Dated: _____

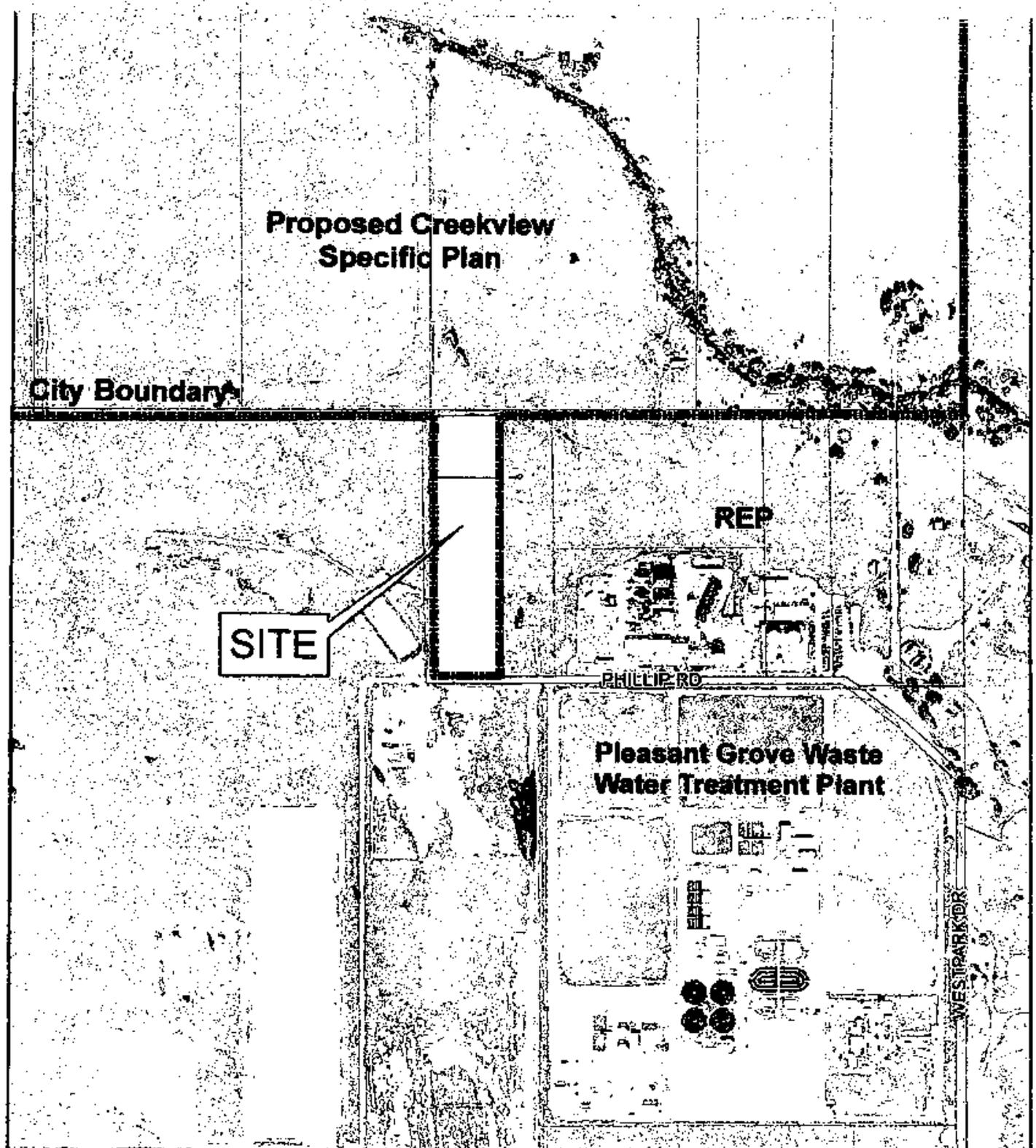
Approved as to form:

Brita J. Bayless, City Attorney

214

ROSBUILD

Project Vicinity Map



Project Name: O'BRIEN PROPERTY ANNEXATION
Project Location: 2850 WESTSIDE DR

