CLOSED SESSION - CITY COUNCIL/REDEVELOPMENT AGENCY:
A. Closed Session Pursuant to:
   1 - Government Code § 54956.9(b) - Conference with Legal Counsel - Anticipated Litigation: One Case.
   2 - Government Code § 54956.9(c) - Conference with Legal Counsel - Anticipated Litigation: One Case.

7:00 P.M. RECONVENE OPEN SESSION AND REPORT ON ANY ACTION TAKEN IN CLOSED SESSION

Pledge of Allegiance Led by Council Member Cameron Hamilton
Invocation by Associate Pastor Barbie Coulter, Porterville Church of the Nazarene

PROCLAMATION
“Workforce Month” - September, 2004

PRESENTATIONS
Employee of the Month - Ron McAllister

ORAL COMMUNICATIONS
This is the opportunity to address the Council on any matter of interest, whether on the agenda or not. Please address all items not scheduled for public hearing at this time.

CONSENT CALENDAR
All Consent Calendar Items are considered routine and will be enacted in one motion. There will be no separate discussion of these matters unless a request is made, in which event the item will be removed from the Consent Calendar.

1. Approval of City Council Minutes of August 10 and 17, 2004

2. Authorization to Advertise for Bids - Central Core Concrete Improvements Projects - Area 1
Re: Approve plans and project manual, and advertise for bids for concrete improvements, funded by a Congestion Mitigation and Air Quality Grant, within Area 1 which is bound by State Route 65 to the west, Olive Avenue and Putnam Avenue to the south, San Joaquin Valley Railroad tracts to the east, and McComb Avenue to the north.

3. Award of Contract for the Preparation of a City-Wide Overhead Cost Allocation Plan and Fee Study
Re: Awarding the contract to Maximus for the amount of $44,500.00, and authorizing the Mayor to sign all necessary documents to initiate process.
4. **Award of Contract - Milo Street Reconstruction Project**  
   Re: Awarding the contract to Mitch Brown Construction, Inc. in the amount of $67,629.38.

5. **Approve Design Services for the Murry Park Master Plan**  
   Re: Approval for use of *hma landscaping architecture* for design services for an amount not to exceed $4,912.50 for updating existing park Master Plan, and an amount not to exceed $4,255 for the expansion area of the park.

6. **Acceptance of Appraised Value of Right of Way for Property Located at APN 261-109-001 - Garcia - Orange Avenue Street Reconstruction Project**  
   Re: Authorize staff to make payment of $381 to Hector D. Garcia for the purchase of 76.10 sq. ft. of real property, located on the southwest corner of Orange Avenue and Main Street, for right-of-way usage.

7. **Calhome Program Application**  
   Re: Approve submission of application to California Dept. of Housing & Community Development for $500,000 in funding, with no requirement for matching funds, for First-Time Homebuyer Mortgage Assistance, Owner-Occupied Rehabilitation, and Homeownership Project Development Loans.

8. **City of Porterville Conflict of Interest Code - Biennial Report and Amendment**  
   Re: Acceptance of staff’s biennial report recommending revisions to City’s Conflict of Interest Code to reflect California statutes.

   Re: Report for information only of fixed route and demand-response services, general operation issues, and statistical summary of ridership.

10. **Approval of Annual Transportation Agreement with Tulare County**  
    Re: Approval of Agreement for transit services to County residents within the designated area for Fiscal Year 2004-2005, and for authorization for Mayor to sign said Agreement.

11. **Approval For Community Civic Event Porterville Fair Board - The Great Outdoors Adventure September 11-12, 2004**  
    Re: Approval of event from 10:00 a.m. to 10:00 p.m. on September 11, 2004, and from 10:00 a.m to 5:00 p.m. on September 12, 2004, subject to the application restrictions.

   A Council Meeting Recess Will Occur at 8:30 p.m., or as Close to That Time as Possible

**PUBLIC HEARINGS**

12. **Conditional Use Permit 6-1982, Modification No. 1 (Colonial Mobilehome Park)**  
    Re: Approval of C.U.P. with conditions including: requirement of on-going facility and landscaping maintenance, setting of landscape maintenance standards, collection of a deposit - the balance of which would be refundable after 7 years - to bring landscaping up to standard should property owner fail to do so, an assurance that City can recover any future costs of enforcement efforts.

13. **Beverly Glenn Tentative Subdivision Map (Mohammad Davarifar)**  
    Re: Request to continue the Public Hearing to October 19, 2004.
Re: Authorize vacation of easements as recorded in Document No. 2000-0037339, recorded on June 14, 2000 in the Office of the Tulare County Recorder.

15. **Zone Change 5-2004 (Steve Vang)**  
Re: Zone change from R-1 (One Family Residential) to C-3 (Heavy Commercial) for 8,050 sq. ft. parcel located on east side of Kessing Street, approximately 90 feet north of Olive Avenue, for conversion of dwelling into a video store and storage building.

16. **Annexation 453 and Conditional Use Permit 7-2004 (Foothill Presbyterian Church)**  
Re: Annexation of a parcel with improvements located on the northwest corner of Merrill Avenue and Maston Street, and the approval of a Conditional Use Permit to allow its conversion to a church with an occupancy not to exceed 49 people.

17. **Use of Local Law Enforcement Block Grant Funds by the Porterville Police Department**  
Re: Accept grant funds in the amount of $13,833, with $1,537 of required matching funds taken from 2004-2005 Police Department budget, for use in off-setting operational costs for School Resource Officer, which position acts as a liaison between Police Department and middle and high schools.

18. **Zoning Ordinance Amendment 3-2004: An Ordinance Amending Various Signage Regulations**  
Re: Approve Ordinance proposing regulations of temporary signage, clarification of definitions and processes, facilitation of enforcement, and the creation of a Temporary Sign Permit Application Fee.

**SECOND READINGS**
19. **Ordinance 1658, Zoning Ordinance Amendment 1-2003**  
Re: Adopting the Ordinance amending the Porterville Zoning Ordinance to define “Call Centers”, identify appropriate locations for such operations, and to set parking requirements.

**SCHEDULED MATTERS**
20. **Confirm Funding Source Option and Award Construction Contract - Tule River Parkway, Phase II**  
Re: Confirm funding for Tule River Parkway, Phase II, between Jaye Street and Main Street, and award contract to Halopoff & Sons, Inc. in the base bid amount of $186,988.05.

21. **Acceptance of Final Subdivision Map - Meadow Breeze, Phase One Subdivision (Nicholson & Smee, LLC)**  
Re: Approve final map of Phase One of Subdivision Meadow Breeze, generally located near Belmont Street and Pioneer Avenue, accept offers of dedication and vacation, and authorize City Clerk to record map.

22. **Approval of the Pre-Qualification Procedure For Bidders on Certain Works Projects**  
Re: Approving pre-qualification system for bidders for use on construction projects funded by, and to meet the requirements of, the California Infrastructure and Economic Development Bank, to appoint an appeals panel, and to approve documents and procedure for use by City Staff.

23. **Update on “For Sale” Vehicles Parked on Privately Owned Public Parking Lots and Private Property**  
Re: Update on the City’s enforcement efforts on the prohibition of “For Sale” vehicles, and request for further direction by Council.
24. **CIEDB Loan Update**  
Re: Update on loan process through California Infrastructure and Economic Development Bank for projects identified in the Water System Improvement Plan.

25. **Consideration of a Joint Powers Agreement between the City of Porterville and the County of Tulare**  
Re: Approval of Agreement to improve cooperation and efficiency pertaining to facilities, projects, activities and/or services, with the City Manager and County Administrator having authority to proceed on actions $25,000 or less in budgeted monies, and requiring authority of the City Council and Board of Supervisors on activities more than $25,000.

26. **Parking Lot Renovation Proposal**  
Re: Authorize the utilization of $42,000 of STP Exchange Funds to complete parking lot project located behind Bank of the Sierra, authorize approximately $210,000 of STP Exchange Funds as the City match portion of the Tule River Park Way Project, Phase II, authorize staff to prepare improvement plan with a budget of $60,000 for parking lot located at Hockett and Mill, and authorize a revenue and appropriation budget adjustment to account for the above.

27. **Consideration of Modifying a Provision to the City’s Business License Ordinance**  
Re: Consider of the modification or suspension of the fee currently charged to business owners who promote or engage in going-out-of-business or removal-of-business sales.

28. **Consideration of an Ordinance and Election for an Increase in the Utility Users’ Tax to Support General Fund Purposes (Including Police & Fire)**  
Re: Consideration of a possible 2% utility users’ tax increase, with a maximum cap from manufacturers doubled to $1,000 per utility, per year, which could provide additional revenue of approximately $930,000 per year to support the hiring of 6 additional police officers and 6 additional fire fighters.

29. **Update – Proposed Changes to Regulations Concerning Solicitors, Peddlers, and Itinerant Vendors**  
Re: Setting a study session for October 12, 2004 to review both the current regulations and an outline of the proposed changes.

30. **Consideration of A Remote Control Automobile Use in Porterville**  
Re: Discussion of the zoning issues regarding consideration of a remote control car track of the south side of Henderson Avenue, east of Fourth Street.

31. **Consideration of State Proposition 1A and Proposition 65**  
Re: Review analysis of Propositions to determine if Council wishes to support or oppose either measure.

32. **Consideration of Mosquito Abatement Programs for Southeastern Tulare County**  
Re: Consideration of further discussions with City of Lindsay and County of Tulare about possible formation of an abatement district, and the commission of a study to define boundaries, establish a budget, and define a potential tax rate.
33. **Council Public Relations**  
   Re: Review of legal framework under which Council can engage in public relations activities, such as submission of editorial articles to newspapers.

34. **Consideration of Selecting New Members to Economic Development Commission And Business Incentive Zone**  
   Re: Consideration of appointment of a Member of Council to represent the City on the Boards.

**ORAL COMMUNICATIONS**

**OTHER MATTERS**

**CLOSED SESSION**  
Any Closed Session Items not completed prior to 7:00 p.m. will be considered at this time.

**ADJOURNMENT** - to the meeting of September 21, 2004

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 Deputy City Clerk at (559) 782-7442. 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.
Call to Order: 6:00 p.m.
Pledge of Allegiance - Council Member Cameron Hamilton
Invocation - Mayor Pedro Martinez
Roll Call: West, Irish, Hamilton, Martinez
Absent: Stadtherr

ORAL COMMUNICATIONS

• Russell Bettencourt, 67 North Kessing, spoke regarding the proposed RMA healthcare plan. Mr. Bettencourt indicated that as a member of the Healthcare Task Force (HTF) he understands the problems with our current healthcare, however, stated that change in costs to retirees in the proposed plan would make it unaffordable for him to retain coverage when he retired. Mr. Bettencourt estimated that if he retired under that plan, he would take home approx. 50% of his wages. Mr. Bettencourt pointed out that he, as well as many other City employees, used to and could make more in wages at another job, yet choose to work for the City because of its good benefits. Although something needs to be done to control the costs of insurance, he stated that the solution should not be at the detriment of employees and/or City retirees. Mr. Bettencourt also stated that he is concerned that the individuals proposing such change are individuals whom have their benefits and their family’s benefits fully paid by the City.

SCHEDULED MATTERS

1. AWARD OF CONTRACT - NELSON BUILDING DEMOLITION PROJECT

Recommendation: That the City Council award the Nelson Building Demolition Project at 296 to 308 North Main Street to Bowen Engineering & Environmental in the amount of $128,000.

The City Manager, John Longley, presented the item and Baldo Rodriguez, Public Works Director, presented the staff report. Mr. Rodriguez stated that the consultant hired by the City to determine a probable cost of the project came in at $267,000. Informal quotes obtained by the City suggested a cost less than $200,000, and so $200,000 was set for the limit. Mr. Rodriguez indicated that the actual low bid came in at $128,000, which is 36% less than our limit and 52% less than what our consultant indicated that it would be. Mr. Rodriguez stated that funding for this project was approved during the July 6, 2004 Council Meeting, with building construction costs at $75,000.00 and equipment/replacement in the amount of $125,000.00. Again, the lowest bid was submitted by Bowen Engineering & Environmental out of Fresno at $128,000. Mr. Rodriguez stated that Mr. Perrine, Director of Parks and Leisure, would also like to comment.

Mr. Perrine indicated that the demolition of the Nelson building is the first step in the construction of the Centennial Plaza Project, accordingly, he will present some information on the anticipated sequence of events. Mr. Perrine stated that in addition to the demolition of the Nelson building, they will also do the master design of the Plaza and the specific design the
initial phase. He stated that the approval of those design services is anticipated to be on the next City Council Agenda for August 17, 2004. Mr. Perrine indicated that design completion is anticipated to occur within a couple of months, and the construction would be anticipated to be initiated before the end of 2004, with completion of that initial phase to be in early 2005, with February as a target.

Mr. Perrine stated that the cost information and confirmation of the budget will also be included as an agenda item for the August 17, 2004 Council Meeting. He indicated that the anticipated building demolition, the design, and the initial phase of the Plaza construction, are all expected to be accomplished within the $200,000 City funding which has been previously discussed. In addition, Mr. Perrine pointed out that the Rotary organization has made commitments of approximately $47,000 to augment the initial phase of the Plaza construction, and Rotary is working on further funding efforts to enhance that initial phase commitment.

Mr. Rodriguez indicated that staff recommends that City Council award the Nelson Building Demolition Project to Bowen Engineering & Environmental in the amount of $128,000, and further that Council authorize payments up to 90% of the contract amount, and that Council authorize a 10% contingency to cover unforeseen construction costs. He stated that he would be happy to answer any questions.

Mayor Pro Tem Irish asked what the finish date of the demolition would be and requested that the accounting for the 10% contingency come back to the Council to review.

Mr. Rodriguez stated that the finish date would be 35 working days, and that typically within 2 weeks the City would meet with the contractor for a pre-bid meeting, and then schedule a start date as quickly as possible. He also indicated that Council could review the accounting for the 10% contingency.

Mayor Pro Tem Irish questioned if the City would be able to construct this Project with $72,000 and $47,000 from Rotary, if the costs for the Project would go over $200,000, and if that $200,000 included costs for demolition.

The City Manager stated that the Project would be done within the $200,000 and the $47,000, and stated that the budget would be brought back to the City Council at the next Council Meeting. He indicated that although he could not speak down to the last $10,000 this evening, staff would bring the budget to Council at the next meeting. Mr. Longley indicated that there are some items that need to be discussed and worked through, such as the P.A. system which is a commitment in the Project. He stated that these items should be contemplated in the budget, and as well as the design. Mr. Longley stated that only general parameters of the budget were provided this evening. He indicated that costs would not go above $200,000, and that staff would not make a proposal above $200,000 of City monies, and that the $200,000 figure includes the demolition costs.

Mayor Pro Tem Irish stated that then, that should leave $72,000 left for construction.

The City Manager stated that the $200,000 does not include the property purchase, but does include the demolition.
Mayor Martinez asked for any other questions or comments from the Council.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED BY Mayor Pro Tem Irish that Council award the Nelson Building Demolition contract to Bowen Engineering & Environmental.

M.O. 01-081004

AYES: West, Irish, Martinez, Hamilton
NOES: None
ABSTAIN: None
ABSENT: Stadtherr

Disposition: Approved.

2. RECOMMENDATION OF THE HEALTHCARE TASK FORCE (HTF)

Recommendation: That the City Council consider the recommendation of the Healthcare Task Force for the enrollment in the RMA Healthcare Plan, and provide staff with direction.

The City Manager presented the item and stated that this item is a review of the discussions of the Healthcare Task Force (HTF) and that this would be a concerted effort over time. He indicated that staff would not be requesting any specific approval this evening, but thought it important to publicly present the general information. The Deputy City Manager, Darrel Pyle, presented the staff report.

The Deputy City Manager stated that this study session would look at actions that can be taken to balance our current healthcare system. He pointed out that the City is currently self-insured for healthcare benefits, and explained exactly what self-insuring entails. Mr. Pyle stated that funding for our healthcare programs is made up of two major components: departmental contributions on behalf of employees, and employee contributions on behalf of their dependents. He stated that this current revenue stream generates approximately $1,076,50. Current costs incurred for most recent fiscal year are $1,628,000, which shows the City was under-funded a little over $500,000. Mr. Pyle pointed out that over the past four fiscal years, this problem has been with the City, and during this time, the City has collected approximately 1.8 million dollars less than the City has paid out to provide the healthcare services.

The Deputy City Manager stated that the effect on risk management reserves is interesting to look at. He indicated that the cash balances in Fund 50 of the Risk Management Fund have held relatively constant during that period. Mr. Pyle pointed out that in that pot of money are the reserves for workers’ compensation, general liability, healthcare, property and casualty loss, and employment practices liability. The Deputy City Manager stated that because the healthcare program has spent more than it has collected, monies collected from departments for workers’ compensation and general liability have been subsidizing the healthcare program. Mr. Pyle stated that because of this, the City does not have an accurate reflection of what it has collected from departments for workers’ compensation and general liability. He indicated that because the monies collected have accumulated over time, such monies have been sufficient to
maintain cash reserves, yet they do not accurately reflect the costs of workers’ compensation and general liability.

The Deputy City Manager indicated that there are three ways to correct the problem. The City can collect more money, pay out less money, or a combination of both. Mr. Pyle stated that the HTF has met over the past 18 months and has determined that to provide a healthcare plan similar to the current plan, the cost is approximately $800 to $1,000 per month per employee and dependents. Mr. Pyle indicated that this figure appears to be a constant in the marketplace.

Mr. Pyle discussed ways to reduce program expenses, such as changing the provider network of doctors. He stated that currently the City uses the contract list of doctors known as the Interplan. Mr. Pyle explained that this is a contract that was negotiated between the Interplan Group and doctors in our area to provide services for a certain amount. Mr. Pyle also stated that the HTF also looked at different networks, such as Blue Cross, and indicated that it appears to have negotiated larger discounts with these same doctors.

The Deputy City Manager suggested another way to lower healthcare costs would be to negotiate increased stop loss levels. He stated that currently the City of Porterville pays the first $60,000 out of reserves for any medical claim incurred that exceeds $60,000, and anything over $60,000 is reimbursed by the stop loss insurance coverage.

Mr. Pyle stated another method to reduce expenses is to reduce the benefit, such as increasing co-pay amounts, dropping prescription drugs, increasing deductibles, or any combination thereof. He also stated another alternative is to spread the risk, such as what has been successfully implemented in the workers’ compensation program and the general liability program.

Mr. Pyle also stated that different combinations of increased revenues and decreased expenses have been reviewed and there appears to be an opportunity to reduce expenses in the current plan in an approximate amount of $100,000. Mr. Pyle indicated that reductions in benefits have also been reviewed, and the HTF has been working with the RMA JPA to create a healthcare program with a modified level of benefits which will allow the City to spread the risk. He stated that this would require additional contributions.

Mr. Pyle stated that the staff’s recommendation that evening was that the Council review the materials that have been provided, and commence a full review of the City’s health insurance program with assurances that the costs of such program will not exceed resources allocated in the City budget and employee’s contribution. He indicated that further resources that impact the employees will be negotiated through the meet and confer process. Mr. Pyle further stated that staff recommends that the HTF should continue to meet with the City’s management team to review issues, and that initial consideration is requested of the Council to participate in the RMA’s program for similar benefits at lesser costs.

Mr. Pyle stated that two individuals were present to speak and answer questions: Charlynn Harless, CEO of Legacy Enterprises, the consultant hired by RMA JPA to assist in the establishment of a healthcare program; and Ron Riley of CEB, who has been the City’s broker.
for the past number of years and who finds the stop loss coverage for the current program. Mr. Pyle then introduced Ms. Harless.

Ms. Harless thanked the Council and the staff for inviting her to speak about the RMA benefits program, and to respond to any questions. Ms. Harless stated that she would go over the process of the feasibility study and the actuarial analysis, and the resulting program that the RMA has established.

Ms. Harless stated that approximately 15 months ago, her company, Legacy Enterprises, was hired to conduct a feasibility study to determine if there could be long term costs savings to existing members of the RMA if they combined resources to establish a self-funded employee benefits program in the same manner that they have successfully reduced costs in the workers’ compensation and liability programs. Ms. Harless stated that her firm collected data from all of the member cities that were eligible to participate in this program, of which 55 cities submitted census information. She stated that those cities that were self-funded submitted 24 months of statistical data on their self-funded program, which information included items such as claims, administration costs, etc. Ms. Harless indicated that other cities that were not self-funded also provided information on their census sheet, including 3 years premium experience, benefit programs, etc. She stated that this information was then compiled into comparisons of benefits, premiums, claims experience, then submitted as a request for proposal to all insurance companies licenced in the State of California, including HMOs. She indicated that fully-insured and self-insured benefits programs were requested.

Ms. Harless stated that initially the expectation was that in the first year of operation the program would be fully insured, the basis of which being many of the insurance companies to whom request for proposals were sent were already insuring many individuals. Ms. Harless stated that unfortunately all HMOs declined to submit proposals because they either did not have a network in all of the cities that were participating in the study, or because they were currently providing coverage through the PERS program and felt that it would be a conflict of interest. Ms. Harless indicated that Blue Shield also declined to quote because it is currently a carrier under the PERS program.

Ms. Harless stated that the only proposal received was from Blue Cross of California, which provided a quote for a self-insured program only, meaning they would allow the RMA to purchase their PPO Network, which is the network referenced in Mr. Pyle’s presentation. Ms. Harless stated that Blue Cross in self-insuring medical plans typically gives the option of either providing claims administration, or allowing third party administration, such as by Delta, the City’s current administrator. She indicated that because of the lack of proposals, the contract for third-party claims administration was awarded to Healthcomp. Ms. Harless stated that they had hoped to obtain a proposal from Delta Health Systems, but that Delta ultimately declined to quote stating a potential conflict of interest due to current negotiations with another group of municipalities.

Ms. Harless indicated that once the determination was made to proceed with a self-funded program, Deloitte Consulting, formerly Deloitte & Touche, was hired to perform an actuarial study to establish what the contribution rates would be for the benefits program. Ms. Harless referred Council and staff to the packet of information provided, specifically the
comparison of 5 benefit plan options. Ms. Harless stated that the philosophy of the RMA program was to establish 5 self-funded benefits programs from which each employee could individually choose. She stated that this philosophy was chosen to hold down the costs of future healthcare. Ms. Harless indicated that they have contracted with providers, created a competitive environment for contracting with those providers, and have put in place significant changes in terms of utilization review and prior authorization. Ms. Harless stated that the hope was to convert current beneficiaries of benefit programs into informed consumers, and she stated that the only hope in achieving this was to give employees choices that meet their specific needs. She complimented the City on the creation of the HTF as a great idea for involving and educating employees for the future.

Ms. Harless then discussed that the actuary was requested to set contribution rates for each of the 5 programs, meaning the premium rate that the City would pay into the plan to purchase the insurance coverage. She stated that the plan was specifically designed not to create a conflict with collective bargaining. Ms. Harless stated that the larger cities, of which there were 5, were grouped to establish a baseline to establish an average cost per person and to adjust that based on the benefit relative value of the differences in the benefit structures of the 5 separate plans, and to blend all of the census for all of the plans to create a baseline of what the averages were for the census.

Ms. Harless explained that because experience information was not available from most cities, the methodology used in creating rates to incorporate those cities was based solely on an age/gender factor. She indicated that each city was rated with a baseline of 1. She stated, for example, Merced was rated 1.69, and that some cities have ratings of .62 or .84. Ms. Harless indicated that where the city falls in that rating determines whether the city is a very good risk, or a high risk. She stated that Merced at 1.69 is considered a high risk city, and that a city at a .62. or a .80 is considered a good risk city. Ms. Harless indicated that Merced’s high rating is due to their older population. Ms. Harless stated that from establishing that one baseline of rates for one plan, the other plans’ rates were established solely based from the relative value of the benefits from that base plan. She indicated, for example, if one plan had a greater deductible, then that plan would have a lower premium rate than the base.

Ms. Harless explained that the objective of the RMA is to pool the resources of the member cities in order to create a larger risk pool, following the principals of insurance, the greater the risk, the smaller the cost per average person.

Ms. Harless stated that the program has been well received except for one issue, that being the cost of the retiree rates. She indicated that originally, the actuarial study was presented with blended rates, meaning the rates were the same for a single person, a person with one dependent, or a person with family coverage, regardless of whether or not that individual was an active employee or retired, or retired with Medicare. Ms. Harless explained that when the actuarial report was delivered to the Board of the RMA, the rates appeared high based on the blending factor. She stated that the actuary was then asked to amend the study to present a second scenario of rates splitting out the actives and the retirees. She indicated that the reason for this request was because in the total population of the participants, the majority of cities did not pay for retiree coverage, or did not offer retiree coverage. Ms. Harless stated that the majority of the cities had over the years negotiated a contribution cap. She stated that since the
majority of the membership were active employees with caps, the employee contributions would be higher because of the need for subsidizing retiree costs because of those cities that provide coverage for retirees.

Ms. Harless stated inclusive in the rates are the costs to administer the program, such as processing claims, premiums for stop loss coverage, etc., such as in the current plan. She indicated that, in addition, the RMA program includes funding for “incurred but not reported” claims (IBNR) to establish a reserve. Ms. Harless stated that funding of IBNR reserves was important in self-funded programs and that this reserve would cover claims incurred during the time the program was offered, but presented after such program ended. She indicated that to determine the IBNR reserves, a lag study is used. Ms. Harless explained that the lag study would entail a review of 12 months and looking at dates the claims were incurred, then looking at the dates the claim were paid. She stated that this provided a time period, or a lag period, and that this period established the best estimate of the run-out.

Ms. Harless then spoke about trust that each member city must bring to the RMA, as well as an assurance to the member cities that each member will remain stable, thereby creating the provision of a 3 year commitment by each member city to the RMA program. Ms. Harless then discussed that the first year of coverage through the RMA plan would not be reflected of the actual costs, as no claims would be paid on claims on average for the first 3 months. Ms. Harless stated that the second year of coverage would be more reflective of determining average claims and how to fund for the future. She indicated that this is why a 3 year minimum was established by the RMA, as that provided the most stable environment for comparing costs.

Ms. Harless indicated that the IBNR reserves for the plan proposal estimated a 3 month IBNR reserve, meaning 3 months of projected claims, and 3 months of administration costs. The RMA decided to fund the IBNR over a 3 year period, with 1 month funded in the first year.

Ms. Harless stated that she believed that the RMA was the best option for the City and its employees, and that she also agreed with Mr. Bettencourt’s comments regarding the concerns for costs to retirees. She indicated that joining a larger risk pool was the best opportunity to ensure the costs for retiree coverage stays as low as possible in the future, irrespective of who funds that cost. Ms. Harless pointed to the successful pooling of risk by the school districts in the State, as well as what has proven successful in the City’s workers’ compensation and liability programs. Ms. Harless summarized that joining the RMA plan is basically a trust issue and that if enough cities do not decide to join, the program will die within the next 2 to 3 months, and she sees no hope of another opportunity in the near future. Ms. Harless then indicated that she would be happy to answer any questions the Council may have.

Mayor Pro Tem Irish questioned how long the trust has been trying to be formed.

Ms. Harless responded that a feasibility study commenced approximately 15 months ago, with a 3 month delay due to the State budget crisis, with many smaller cities delayed trying to respond to that budget crisis. She indicated that this resulted in delaying the study approximately 5 months. Ms. Harless stated that the Board adopted the program and the rates in April 2004, and they have spent time from April to today meeting with various cities and employee groups explaining the program. She indicated that many of the member cities were
currently participating in PERS, which requires notification by August 15, 2004 if they intend to withdraw. Ms. Harless explained that this was why they should know who was participating in the program on August 15, 2004.

Ms. Harless stated that the quoted rates were predicated on 4,400 employees participating, and that whether or not the rates will change with less employees depends solely on what the final number was and what the make-up or rating of the city was. Ms. Harless stated that the rating would then determine the level of stop loss coverage that would be purchased, thereby also affecting costs. Ms. Harless used Port of Stockton and Alex Spanos and Company as two examples of small companies with successful self-funded programs.

Mayor Pro Tem Irish then asked for the names of the other 4 cities grouped with Merced as self-funded cities.

Ms. Harless stated that Merced was not a self-funded city, and indicated that the self-funded cities are: Dinuba, Kingsburg, Livingston, Porterville, Sonora, Tulare, and Turlock. She stated that Livingston and Dinuba were high-deductible cities.

Mayor Pro Tem Irish thanked Ms. Harless.

Mayor Martinez asked if Council had any further questions.

The City Manager stated that the main purpose of tonight was to begin the presentation of information and to include the Council in the process. Mr. Longley indicated that the City has met with the HTF and stated it is important to continue to meet. The City Manager stated that it is a very complex area and that staff is requesting to proceed to work with bargaining units through meet and confer, and to work with the HTF in terms of the plan’s formulation, comparisons, and a continuation of our self-funded plan versus the RMA program, and that in due course to bring information back to the Council.

Mayor Martinez thanked the City Manager and asked Council if direction should be given to continue with the process.

Mayor Pro Tem Irish commented that they received a great deal of information and noted that there was a large number of employees and retirees present in the audience. He indicated that he would like to hear from them if anyone had any comments.

Mayor Martinez welcomed comments from the public.

Gary Irish, 1881 Doris Avenue, Los Osos. Mr. Irish congratulated the Council and indicated that he was representing approximately half of the City’s retirees. He stated that the retirees had voiced concerns to him and requested his assistance. He acknowledged the good things the RMA has done with respect to pooling programs in liability and workers’ compensation. He stated that he has some concerns regarding the likelihood of real savings in the pooled healthcare plan, at least in the initial years. He commented that the savings in the initial years was unclear at this point, although that may change.
Mr. Irish stated he was convinced that the same results may be achieved if the City takes the proposed rate structure and applies it to the current plan. Mr. Irish stated that by doing so, the City could generate approximately $1,852,698, which is above the threshold mentioned in the HTF meeting this afternoon. He also stated that other measures could be implemented as well.

Mr. Irish stated that the RMA plan increases the costs and lowers the benefits, and the City could do this with its current plan, although maybe not lowering the benefits quite as much. Mr. Irish pointed to a 60% coverage for out-of-network care, which he stated seems to be excessive. He stated that through no fault of the employee, often times specialists, or anesthesiologists are typically not in the network, thereby penalizing the employee by having to pay more.

Mr. Irish suggested looking at other measures within the current plan for savings, such as going to the Blue Cross network instead of the Interplan. Mr. Irish pointed out that although the Blue Cross Network would cost more, the ultimate savings in stop loss coverage would greatly off-set that cost. He also stated that the administrative fees that the City currently pays appear to be less than the fees that the City would incur if it chose the RMA program.

Mr. Irish stated with respect to the cities in the RMA, he considers Porterville one of the bigger cities. He stated there are: Turlock, Tracy, Clovis, Tulare, Hanford, Merced, none of which have chosen to participate in the healthcare program. He stated that as of this week, it was his understanding that only approximately 6 other cities, in addition to Porterville, were still considering participating.

Mr. Irish then commented on the threshold being 4,400 participants, and the total of participants for the 6 cities still considering participation totaling 1,182, which is 26.8% of the total needed. Mr. Irish stated that this deficit means a most-certain increase in rates in the next couple of years until the threshold is met.

Mr. Irish disagreed with the strategy of the RMA that Ms. Harless spoke about. He indicated that he believed the strategy was determined due to initial rates being too high. Mr. Irish stated that it appeared that the Board decided to take out 2/3 of the IBNRs of the first year to lower the initial costs, but that the City would still pay those, just in the second and third years, along with those years’ reserves.

Mr. Irish then stated that if the City chose the RMA program, and that program failed, then the City would have a difficult time in returning to the marketplace and receiving good rates. He stated that Tulare is considering this program in the future once it has a good track record. He then indicated that Tulare is currently in a lawsuit with the third-party administrator that the consult has recommended, Healthcom, which lawsuit involves alleged overpayment by Healthcom to service providers.

Mr. Irish then commented on the rates for retirees being 2 ½ times the current plan’s rates. He stated that he would like to see an actuary for retirees under 65 years of age and stated that an actuary reflecting retirees in more categories other than just “retired without Medicare” and “retired with Medicare,” would be more useful. He pointed out that many City employees,
such as police and fire employees while in their 50s. Mr. Irish stated he does not feel that a retiree poses any more risk than an employee the same age, and thus the costs and rates should reflect that. Mr. Irish also stated that he disagreed with Ms. Harless in that he does not believe the City should pay 100% of his healthcare benefits as a retiree. He stated that he wants to pay his fair share, as do other retirees, but he does not want to pay 2 ½ times that.

Mr. Irish then stated that, after he mentioned to somebody that the HTF did not have any retirees represented, he was asked by Deputy City Manager Darrel Pyle to attend the HTF meeting on August 10, 2004. He stated that he hoped that meeting was not the only meeting he would be invited to attend. He stated regardless of who represents the retirees, there should be a retiree represented on the HTF.

Mr. Irish pointed out that the proposed RMA plan included coverage for Council Members, although he was not certain how that would fall under the City’s Charter, and stated that the Charter may not be affected if the premiums were paid by the Council Members. Mr. Irish then questioned which rate would a Council Member pay: the active employee rate, or the retiree rate? He stated that this is just one of the aspects of the proposed plan that needs further clarification.

Mr. Irish stated that it may be in the City’s best interest to wait until the RMA plan is up and running and the participating member threshold was met, before committing to participating. Mr. Irish then thanked the Council for listening.

Mayor Martinez thanked Mr. Irish for his comments and asked if anyone else wished to express concerns or make comments. No one else had any comments.

Mayor Martinez then asked for comments from the Council Members.

Mayor Pro Tem Irish commented that he believed the HTF knew what they were talking about. He asked how many times that the HTF has met and if everybody was represented.

The Deputy City Manager commented that the HTF has met approximately 18 to 24 times over the last 18 months. He stated that the turnout for that particular process had been pretty good in that the employees recognized the importance of the issue, and the opportunity to participate in what recommendations were brought before the Council.

Mayor Martinez asked the City Manager for comments.

The City Manager stated that, related to participation, it should be understood that there was a standing invitation for Mr. Gary Irish to participate anytime and that the staff would make sure to provide Mr. Irish with plenty of notice of future HTF meetings.

Mayor Pro Tem Irish commented that he has experienced the same issue with rising healthcare costs at his work and that the bottom line comes down to two things: cost to employees and what coverage was provided. Mayor Pro Tem Irish then requested a comparison chart reflecting the pros and cons, and the benefits to both active employees and retirees. He
then stated that he recognized that employee insurance coverage was a problem and that the City cannot continue on the path that it was on.

Council Member West stated a comparison chart would be fine with him.

Council Member Hamilton stated that the last time this issue was discussed the Council recognized the complexity of the situation and that the City should not jump in, as it is not yet a crisis, and that the City should take its time in selecting its course.

Council Member West agreed with Council Member Hamilton and expressed concerns for employees like Mr. Bettencourt being affected by the increased costs. Council Member West stated that the City should be careful in proceeding.

Mayor Pro Tem Irish agreed with Council Member West, but stated that the problem was not with what the City was willing to give, but with what the healthcare was not willing to give.

Council Member West stated that the problem was with what the City could afford.

Mayor Pro Tem Irish again requested a comparison chart and to meet again to discuss the issue.

Mr. Longley stated that discussing this issue was the goal for the evening.

ORAL COMMUNICATIONS
None.

OTHER MATTERS/COUNCIL COMMENTS
None.

ADJOURNMENT
The Council adjourned at 7:15 p.m. to the meeting of August 17, 2004.

Georgia Hawley, Chief Deputy City Clerk

SEAL

Pedro R. Martinez, Mayor
Call to Order: 6:02 P.M.
Roll Call: Council Member West, Mayor Pro Tem Irish, Council Member Hamilton, Council Member Stadtherr, Mayor Martinez

CLOSED SESSION - CITY COUNCIL:

A. CLOSED SESSION PURSUANT TO:
   2 - GOVERNMENT CODE SECTION 54956.8 – CONFERENCE WITH REAL PROPERTY NEGOTIATORS/PROPERTY: APN 252-200-039 & 252-200-053. AGENCY NEGOTIATOR: DARREL PYLE. NEGOTIATING PARTIES: CITY OF PORTERVILLE AND NEIL SMITH, SMITH ENTERPRISES. UNDER NEGOTIATION: PRICE AND TERMS.
   3 - GOVERNMENT CODE SECTION 54957.6 - CONFERENCE WITH LABOR NEGOTIATOR. AGENCY NEGOTIATOR: DARREL PYLE. EMPLOYEE ORGANIZATIONS: PORTERVILLE CITY EMPLOYEES ASSOCIATION, PORTERVILLE POLICE OFFICERS ASSOCIATION, AND POLICE SUPERVISOR SERIES.

7:00 P.M. RECONVENE OPEN SESSION

REPORT ON ANY ACTION TAKEN IN CLOSED SESSION

The Mayor stated that there was no action to report, and that Item A3 would be continued at the end of the Meeting.

Pledge of Allegiance led by Joshua, Boy Scouts of America
Invocation by Mayor Martinez

Mayor Martinez greeted Mr. Pete McCracken and recognized him as an important member of the community who frequently volunteers his time for the benefit of the community.

PRESENTATIONS

City Manager’s Featured Project - Hiring of Deputy City Clerk, Patrice Hildreth

ORAL COMMUNICATIONS

• Greg Shelton, 888 N. Williford, thanked the Council for approving the Williford Street Project.
• Dick Eckhoff, 30 E. Oak, spoke in support of funding for an ordinance enforcement officer. Mr. Eckhoff stated that the downtown area was in need of code enforcement. Mr. Eckhoff also requested Council look into restoring library hours.
Ed Patino, Jr., 1218 ½ W. Tomah, spoke regarding Item 18 as to the lack of signs and crosswalks at Santa Fe School, and requested a temporary remedy until permanent signage was installed.

**CONSENT CALENDAR**

Items 7 and 13 were removed.

1. **COUNCIL MINUTES OF JULY 20 AND AUGUST 3, 2004**


   Documentation: Minute Order 01-081704

   Disposition: Approved

2. **AUTHORIZE DISTRIBUTION FOR A REQUEST FOR PROPOSALS AND FUNDING FOR AN ISLAND ANNEXATION CONSULTANT**

   Recommendation: That the City Council authorize the distribution of the request for proposals for preparing and processing island annexations, and authorize the use of the consultant for processing of the Waste Discharge Requirement Annexation.

   Documentation: Minute Order 02-081704

   Disposition: Approved

3. **AUTHORIZE ON-CALL ENGINEERING SERVICES ASSISTANCE FOR PARKS AND LEISURE SERVICES PROJECTS AND ACTIVITIES**

   Recommendation: That the Council authorize on-call engineering services assistance for Parks and Leisure Services Department projects and activities.

   Documentation: Minute Order 03-081704

   Disposition: Approved

4. **AUTHORIZATION TO ADVERTISE FOR BIDS - PORTER SLOUGH DITCH PIPING PROJECT**

   Recommendation: That the Council approve the Plans and Project Manual, and authorize staff to advertise for bids on the project.

   Documentation: Minute Order 04-081704

   Disposition: Approved

5. **AUTHORIZATION TO ADVERTISE FOR BIDS- SLUDGE DRYING BED EXPANSION PROJECT**

   Recommendation: That the Council approve the Plans and Project Manual, and authorize staff to advertise for bids on the project.
6. CONFIRMATION OF BUDGET AND AUTHORIZATION OF DESIGN SERVICES FOR CENTENNIAL PLAZA

Recommendation: That the Council adopt a Resolution confirming the project budget and authorizing the City Manager to execute the Professional Services Supplement with hma landscaping architecture for the Centennial Plaza design work.

Documentation: Resolution No. 107-2004
Disposition: Approved.

8. PHASING OF PORTERVILLE HERITAGE CENTER PROJECT

Recommendation: That City Council approve the Porterville Heritage Center project to be completed in two (2) phases; Phase I being the parking lots, and Phase 2 being the building and landscape.

Documentation: Minute Order 06-081704
Disposition: Approved.

9. SELECTION OF CITY VOTING DELEGATE TO LEAGUE OF CALIFORNIA CITIES MEETING

Recommendation: That the City Council select Council Member Kelly West as the voting delegate to represent the City at the League of California Cities’ Meeting, September 19, 2004, and authorize City Manager to attest to same.

Documentation: Minute Order 07-081704
Disposition: Approved.

10. CORRECTIVE GRANT DEED - ROBERT L. AND DIANE C. FIELDS

Recommendation: That the City Council accept the Corrective Grant Deed and authorize the City Clerk to record said document with the County Recorder’s Office.

Documentation: Resolution No. 108-2004
Disposition: Approved.

11. CORRECTIVE GRANT DEED - MIKE DIAZ SR. AND RAQUEL D. WILLIAMS

Recommendation: That the City Council accept the Corrective Grant Deed and authorize the City Clerk to record said document with the County Recorder’s Office.

Documentation: Resolution No. 109-2004
Disposition: Approved.
12. INTENT TO VACATE PUBLIC VEHICULAR ACCESS, STORM WATER RUNOFF AND TEMPORARY STORM WATER STORAGE RELATED TO MEADOW BREEZE, PHASE 1 (NICHOLSON & SMEE, LLC)

Recommendation: That City Council:
1. Pass a Resolution of Intent to Vacate Parcel B and Parcel C of Exhibit “A” of the Grant of Easement conveyed to the City of Porterville recorded June 14, 2000, as Document No. 2000-0037339 of Tulare County Official Records;
2. Set the Council meeting of September 7, 2004 as the time and place for a public hearing.

Documentation: Resolution No. 110-2004
Disposition: Approved.

14. REQUEST TO APPLY FOR FEDERAL LOCAL LAW ENFORCEMENT BLOCK GRANT (LLEBG) FUNDS

Recommendation: That City Council:
1. Authorize the filing of the grant application;
2. Authorize the Mayor to sign all necessary documents pertaining to the grant;
3. Confirm the appointment of the Advisory Board as recommended above; and
4. Set the public hearing for September 7, 2004

Documentation: Minute Order 08-081704
Disposition: Approved.

15. ORANGE AVENUE RECONSTRUCTION PROJECT STATUS REPORT

Recommendation: Status report only. No action recommended.

16. APPROVAL FOR COMMUNITY CIVIC EVENT DOWNTOWN PORTERVILLE ASSOCIATION MAIN STREET CAR SHOW-OCTOBER 23, 2004

Recommendation: That the Council approve the Community Civic Event Application and Agreement submitted by the Downtown Porterville Association, subject to the stated requirements contained in the Application, Agreement and “Exhibit A”.

Documentation: Minute Order 09-081704
Disposition: Approved.

17. AWARD OF CONTRACT - TULE RIVER PARKWAY, PHASE II

Recommendation: That the City Council postpone the award of contract for the Tule River Parkway, Phase II Project until September 7, 2004, to allow staff to determine the amount of grant funds available to the City for construction of the Project.
COUNCIL ACTION: MOVED by Council Member Stadtherr, SECONDED by Council Member West to approve items 1 through 6, 8 through 12, and 14 through 17. The motion carried unanimously.

7. AUTHORIZATION TO NEGOTIATE A CONTRACT - APPRAISAL, ACQUISITION, AND RELOCATION SERVICES FOR THE DATE AVENUE RECONSTRUCTION PROJECT

Recommendation: That City Council:
1. Authorize staff to negotiate a contract with Paragon Partners, Ltd.;
2. Authorize staff to negotiate a contract with the 2nd or 3rd ranked firm if staff is unable to negotiate an acceptable contract with Paragon Partners, Ltd.;
3. If necessary for budget considerations, authorize staff to negotiate the individual services separately with the firms in ranking order;
4. Authorize the Mayor to sign all contract documents; and
5. Authorize staff to make payments up to 100% upon satisfactory completion of the work.

Council Member Hamilton requested an overhead view of the project, and asked if this project involved a 60 foot road.

Brad Dunlap, Director of Community Development, provided an overhead view and confirmed that it is currently designated as a 60 foot wide right of way, and referred to the cross-hatched area in red on the map attachment (located on Date between Main St. and A St.) which indicates the additional right of way required to reach the desired width.

Council Member Hamilton questioned how many lots would the City need to purchase to reach the desired width. Mr. Dunlap stated approximately 2 to 3, and indicated that staff would like the proposed consultant to review exactly what the City would need to acquire for right of way.

Council Member Hamilton asked if there was a designated set-back once the street is put in, to which Mr. Dunlap responded that the current required set-back on City residences is 5 feet, but there are situations where the set-backs are less than that, and some may be in this particular area.

Council Member Hamilton then asked if the required 5 foot set back would then be an upgrade to the standards, and Mr. Dunlap responded that if the financial costs of the project allowed for it, yes it would. Mr. Dunlap stated that the purpose of this agenda item was to gain access to information as to what the project would cost, so there are a few borderline sites.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Council Member Irish that Council accept staff’s recommendation. The motion carried unanimously.

Disposition: Approved.
13. INTENT TO ABANDON AN ALLEY BOUNDED BY LOCUST AVENUE, PLANO STREET, DATE AVENUE AND HOWARD ST. - SET FOR PUBLIC HEARING (FELIX & COMISION HONORIFICA MEXICANA AMERICANA, INC.)

Recommendation: That City Council:
1. Pass a resolution of intent to abandon an alley bounded by Locust Avenue, Plano Street, Date Avenue and Howard Street; and
2. Set the Council meeting of September 21, 2004, as the time and place for the Public Hearing.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Council Member Irish that Council accept staff’s recommendation.

Resolution No. 111-2004

AYES: West, Irish, Hamilton, Stadtherr
NOES: None
ABSTAIN: Martinez
ABSENT: None

Disposition: Approved.

PUBLIC HEARINGS

18. ZONING ORDINANCE AMENDMENT 1-2003 - CALL CENTERS

Recommendation: Adopt the Zoning Ordinance Amendment No. 1-2003

The City Manager, John Longley, presented the item, and Director of Community Development, Brad Dunlap, presented the staff report.

The public hearing opened at 7:25 p.m.

Pete McCracken, 657 Village Green, reminded the Council of problems the City has had in the past with Conditional Use Permits regarding the sale of alcoholic beverages because of flexible ordinances. Mr. McCracken suggested that the Council clearly word the ordinance for future Council Members, and cautioned over flexible ordinances.

Dick Eckhoff, Downtown Porterville Association, 180 N. Main St., questioned how many call centers are currently operating in Porterville, and what zoning was involved in the DPA, to which it was stated that 1 call center was believed to be operating, and to which Mr. Dunlap indicated that the DPA was mostly C-2 and PO.

Mr. Eckhoff then voiced concern as to the parking situation and asked how parking would be addressed, to which Council Member Hamilton responded through the C.U.P.

Mr. Eckhoff stated that he has not had an opportunity to review the item with the Downtown Porterville Association, but indicated that, at the moment, it did not sound good.

The public hearing closed at 7:29 p.m.
Council Member Hamilton clarified that the Amendment was only to define call centers.

Mr. Dunlap stated that this Amendment would allow a mechanism to address unique situations with call centers and it was the most protective measure for the community. He indicated that this would be the best method of control because of the uniqueness of each call center.

Mayor Pro Tem Irish stated that although there must be some sort of formula that could be applied, such as number of employees per square foot, the maximum would need to be calculated, even if the business was not operating with its maximum number of employees. Mayor Pro Tem Irish then stated that call centers must be handled on an individual basis.

Mr. Dunlap stated that the problem with not doing it that way, if the City put in a standard figure, there would always be someone who comes in and does it differently. Council agreed that there was always an exception.

COUNCIL ACTION: MOVED by Council Member West, SECONDED by Mayor Pro Tem Irish to approve Ordinance 1658 for first reading, and order the ordinance Ordinance No. 1658 to print, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING THE ZONING ORDINANCE TO DEFINE “CALL CENTERS” AND IDENTIFY APPROPRIATE LOCATIONS AND TO SET PARKING REQUIREMENTS. The motion carried unanimously.

The City Manager read the ordinance by title only.

Disposition: Approved

19. CONDITIONAL USE PERMIT 8-2004 AND DESIGN OVERLAY SITE REVIEW (DON FORRESTER)

Recommendation: That the City Council:
1. Adopt the draft resolution containing findings and conditions in support of approval for Conditional Use Permit 8-2004.
2. Adopt the draft resolution containing findings and conditions in support of approval for “D” Overlay Site Review 2-2004.

The City Manager presented the item, and Mr. Dunlap presented the staff report.

The public hearing opened at 7:36 p.m. and closed to the public at 7:37 p.m.

Council Member West questioned the position of the entrance from Porter Road, stating concerns with having an entrance so close to the Morton intersection.

Mr. Dunlap responded that the driveway on Porter Road was placed as far away from the intersection as it could be placed for the site to stand alone, as it does not allow for joint access. Mr. Dunlap stated that the driveway cannot be pushed further south.
Council Member West stated that the driveway’s proposed location looks like an accident waiting to happen.

Mayor Pro Tem Irish questioned the distance between the Porter Road driveway and the Morton intersection, to which Mr. Dunlap responded approximately 80 to 100 feet.

Mayor Pro Tem Irish then questioned the distance between the Morton entrance and the intersection, to which Mr. Dunlap responded that distance was approximately 100 feet, and that the City’s requirement for separation between the driveway and the back of the curb is actually 35 feet.

Mayor Pro Tem Irish questioned whether the City’s requirement was 35 feet on a typical corner. Mr. Dunlap confirmed 35 feet on a typical corner and stated that the applicant had exceeded the City’s minimum requirement.

Mayor Pro Tem Irish asked if the 35 foot requirement takes into consideration the stop lights, and the traffic backing up. The Director of Public Works responded that it does not, and it would make it difficult to make a left turn from the entrance.

Mayor Pro Tem Irish expressed concerns with traffic exiting the driveway onto Porter Road and indicated that there should be a left-turn only sign. Council Member Hamilton stated that this was also his concern.

Mayor Pro Tem Irish asked if the traffic counts of 300 per hour on Porter Road and 500 per hour on Morton Road were correct. The Public Works Director agreed that these were for 24 hour counts, and 300 and 500 are correct. Mr. Rodriguez pointed out that the majority of the traffic occurred within approximately 8 hours.

Council Member Hamilton asked if the applicant had responded to the City’s condition of right out, right in only, as outlined in the staff’s memo. Mr. Dunlap stated that staff was able to notify the applicant on short notice.

Council Member Hamilton then pointed out that since the project’s use was professional office with 24 parking spaces, at most 24 cars would possibly be exiting at the same time. Council Member Hamilton stated that with the condition of right-in, right-out, he saw no problem with approving staff’s recommendation. Council Member West agreed.

Mayor Pro Tem Irish stated that, as staff pointed out, much of the traffic currently on Porter Road would subside once Indiana Street was extended to Putnam Avenue, and stated that he was comfortable with the staff’s recommendation with the condition of no left turns.

Mr. Dunlap asked if Council would like the condition read into record, to which Mayor Pro Tem Irish said yes.

Mr. Dunlap stated that the wording on the 2 conditions was the same, so staff was proposing that the wording be integrated into both the CUP Resolution and the “D” Overlay Site Review Resolution, with Condition No. 29 on the CUP, and Condition No. 30 on the “D” Overlay Site Review. Mr. Dunlap said the conditions are identical and read as follows:
“Upon development of the site as proposed, the developer shall install, or cause the installation of signs and striping restricting vehicular turning movements to right-in and right-out from Porter Road and Morton Avenue due to traffic volumes and queuing patterns. After the completion of the Indiana Street project between Morton Avenue and Olive Avenue, the City Engineer shall provide a report to the City Council to determine whether it would be appropriate to maintain or remove the turning restrictions.”

Mayor Martinez thanked Mr. Dunlap.

COUNCIL ACTION: MOVED by Council Member Stadtherr, SECONDED by Mayor Pro Tem Irish to adopt the draft Resolution authorizing Conditional Use Permit 8-Resolution No. 112-2004 2004, as amended. The motion carried unanimously. Disposition: Approved.

COUNCIL ACTION: MOVED by Council Member West, SECONDED by Council Member Stadtherr to adopt the draft Resolution authorizing approval for “D” Overlay Resolution No. 113-2004 Site Review 2-2004, as amended. The motion carried unanimously. Disposition: Approved.

20. BEVERLY GLENN TENTATIVE SUBDIVISION MAP (MOHAMMAD DAVARIFAR)

Recommendation: That City Council:
1. Adopt the draft resolution approving the Negative Declaration for Beverly Glenn Tentative Subdivision Map; and
2. Adopt the draft resolution approving Beverly Glenn Tentative Subdivision Map.

Mr. Longley presented the item, and Community Development Director presented the staff report. Mr. Dunlap stated that it had been brought to his attention that there was an Elderberry Bush on the property, and he requested that the public hearing be opened for them to take testimony, and then the hearing be continued until September 7. He stated that would allow time for the staff, and the applicants, to look into the matter.

Mayor Martinez clarified that there was an Elderberry bush, but no beetle. Mayor Martinez then explained to the public that Council has had many adventures with the Elderberry bush.

City Attorney Julia Lew then recommended that the public hearing proceed this evening, and the matter be continued to the September 7, 2004 Council Meeting.

The public hearing was opened at 7:46 p.m.
Jim Winton, 150 West Morton, indicated that he was present on behalf of the applicant and had discussed the recent discovery of the Elderberry bush with staff late in the afternoon. He indicated that he and the applicant were in agreement with the continuance.

Mayor Pro Tem Irish questioned who found the Elderberry bush, to which Mr. Winton responded he did not locate the bush, but believed that the individual was present in the audience.

Council Member West questioned the location of the bush, to which Mr. Winton responded Lot 17 at the extreme south boundary.

Cathy Capone, 806 W. Westfield, indicated that she was the Elderberry bush finder, and confirmed that its location was on Lot 17, very close to the south fence. She stated that it appeared that with reasonable modifications, the plan could move forward as it is, with some small protections for the bush. She indicated that she did not believe it should stop the development in any way.

The public hearing was continued until September 7, 2004.

Mayor Martinez thanked everyone for their comments and stated that this matter was taken seriously by the Council. He then asked how large the bush was, to which Ms. Capone responded approximately 8 to 10 feet tall and about 12 to 15 feet wide.

21. NORTH GATE ESTATES PHASES 2 & 3 TENTATIVE SUBDIVISION MAP
   (JAMES KEIGHLEY/ROBERT SCHOETTLER)

Recommendation: That City Council:

1. Adopt the draft resolution approving the Negative Declaration for North Gate Estates Phases 2 and 3 Tentative Subdivision Map; and
2. Adopt the draft resolution approving North Gate Estates Phases 2 and 3 Tentative Subdivision Map.

The City Manager presented the item, and Mr. Dunlap presented the staff report.

The public hearing was opened at 7:51 p.m.

Jim Winton, 150 W. Morton, representing applicants, stated this was an eastside project and confirmed that this was a previously-approved map. He stated that the map was much the same as the original and indicated that he would be happy to answer any questions.

The public hearing closed at 7:53 p.m.

Mayor Pro Tem Irish asked why, along the west boundary of the project, was there no landscape maintenance district, and indicated that this appeared to be a good location for it as Leggett expands.

Mr. Dunlap responded that the area of right of way that extends north of Grand Avenue was under the conditions of approval on the map in an irrevocable offer of dedication, so that street segment would not be constructed as a part of this map, since it does not directly serve the subdivision. He
indicated that the conditions of approval do require a landscape and lighting maintenance district to be formed for the project, but have not specified a wall or landscaping along that periphery. Mr. Dunlap stated that, in the event this was required, there would be a wall and landscaping adjacent to a residential lot not really serving an immediate need for screening from the residential properties. He then pointed out that if the wall was not constructed now, it probably would not be constructed in the future. He stated there were timing and logistical issues.

Council Member West stated that this would be a good place to start, regardless.

Mayor Pro Tem Irish questioned how the City would get this project to blend in as Leggett got built through and other landscape maintenance districts were looked at. Mr. Dunlap responded that it should be considered now.

Council Member Hamilton asked what the time frame was for the project, to which Mr. Winton responded as soon as possible, as it is moving steadily forward at this point.

Mayor Pro Tem Irish stated that he would like the item brought back so as to discuss with the developer some sort of landscape maintenance district at the location.

Council Member Hamilton asked why Council couldn’t approve the tentative map and still address landscaping issue at a later date, to which Mr. Dunlap responded that Council could approve with an amendment to Condition No. 7 that requires a landscape and lighting maintenance district. Mr. Dunlap stated that language could be added to specifically address that location.

Mayor Pro Tem Irish stated that he would like to see what happens with the extension of Leggett, because once this done, it is done. Council Member West agreed.

Mr. Dunlap explained the proposed course of Leggett and stated that it would serve its purpose.

Mayor Pro Tem Irish questioned what other landscape maintenance districts were presently on the east side, to which Mr. Dunlap responded that there were not many on the east side.

Mr. Winton stated that the lack of many landscape and lighting maintenance districts was because they were generally required for modern subdivisions and there were limited modern subdivisions on the east side. Mr. Winton pointed out that it was not a lack of landscape and lighting districts, it is a lack of subdivisions.

Council Member Hamilton asked how the applicant would feel about the requirement of a landscape and lighting maintenance district, to which Mr. Winton responded the applicant was just anxious to move forward. He stated that the wall was actually a requirement on the previous subdivision conditions, and the issue was discussed at length with staff. Mr. Winton indicated that the property had no frontage on the proposed alignment at the south end, stating there is a 6 foot gap. He then pointed to an approximate 12 foot encroachment into the property at the north end. Mr. Winton explained that the real issue was that it is in the county and the adjacent property owner to the west built a new house in the middle of the proposed right of way. Mr. Winton presented an aerial photograph for the Council’s reference reflecting the location of the house. He stated that the he and the applicants assumed that because said house was situated in the middle of the right of way, that
Leggett was not an immediate construction project. He stated that if Council decides a wall was required, the applicants would comply.

Council Member West stated that he agreed with Mayor Pro Tem Irish in that now was the time to start addressing those issues.

The Council took a 10 minute break at 8:00 p.m.

COUNCIL ACTION: MOVED by Mayor Pro Tem Irish, SECONDED by Council Member Hamilton that Council adopt the draft resolution approving the Negative Resolution No. 114-2004 Declaration for North Gate Estates Phases 2 and 3 Tentative Subdivision Map. The motion carried unanimously.

Disposition: Approved.

COUNCIL ACTION: MOVED by Council Member West, SECONDED by Council Member Hamilton that Council adopt the draft resolution approving the North Gate Resolution No. 115-2004 Estates Phases 2 and 3 Tentative Subdivision Map, as amended to include in Condition No. 7: “...The rear of Lots 38-41 shall provide a 5 foot wide easement to accommodate for a 6 foot high masonry wall and landscaping.” The motion carried unanimously.

Disposition: Approved.

22. CONSIDERATION TO REMAIN IN PHASE II OF THE WATER CONSERVATION PLAN AND CONTINUATION OF PUBLIC HEARING

Recommendation: That the City Council:
1. Open the Public Hearing to receive comment; and
2. Remain in Phase II Water Conservation and continue current water conservation efforts.

The City Manager presented the item, and Baldo Rodriguez, Director of Public Works, presented the staff report.

The public hearing re-opened at 8:16 p.m.

Pete McCracken, 657 Village Green, spoke regarding water leaking from a man hole cover on Henderson Avenue just east of Main Street. Mr. McCracken questioned whether this was City water, and then pointed out that if the City is to be held to higher standard, perhaps this should be investigated.

Mr. Rodriguez responded that it was not City water, but irrigation water. Mr. Rodriguez stated that when the irrigation company was contacted, staff was informed that the leak was a result of the pressure needed to provide westside farmers with water.
Cathy Capone, 806 W. Westfield, stated that the water problem would not go away and would only get worse. She requested that a reduction in the use of water be prioritized, perhaps through limiting the use of water in landscaping.

Felipe Martinez, 195 W. Putnam, thanked staff for its assistance in working with Goodell Packing Shed in terms of stopping their release of water onto the streets. Mr. Martinez also thanked staff for approving the installation of a dispenser at Acapulco Car Wash.

The public hearing closed at 8:21 p.m.

Council Member Stadtherr clarified that more wells do not increase the water supply, they increase the City’s ability to tap into the existing supply of what is a fixed amount of water under the soil. He then requested that the 2002 line on the overhead graph be changed to a more visible color. Mr. Rodriguez apologized and indicated it would be changed.

Mayor Pro Tem Irish asked if letters were sent to restaurants requesting that they conserve, and stated that he had received comments by restauranteurs that they have in fact stopped serving water unless requested, to which Mr. Rodriguez confirmed that letters were sent out.

Council Member Stadtherr pointed out that it was not only the drinking water, but also the water it took to wash the glasses at the restaurants.

Mayor Martinez stated that in the upcoming meeting between the City and the school districts, the topic of water tolerant landscaping to assist with water conservation would be discussed.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Mayor Pro Tem Irish to remain in Phase II of the Water Conservation Plan and to continue M.O. 12-081704 water conservation efforts. The motion carried unanimously.

Disposition: Approved.

SCHEDULED MATTERS

23. WATER SYSTEM IMPROVEMENT FINANCING

Recommendation: That City Council:

1. Direct staff to initiate communication with the CIEDB, and move forward with a loan application for the project should it be viewed as favorable;

2. In the event that the CIEDB loan is not deemed favorable, authorize staff to negotiate with John Fitzgerald and Associates for underwriting services in the issuance of Certificates of Participation totaling $9 million for water system improvements, and direct staff and Mr. Fitzgerald to move forward with the process;

3. Authorize the preparation of all documents necessary to provide for the issuance; and
4. Consider the appointment of an independent financial advisor to ensure the issuance of Certificates of Participation is done in the most efficient manner possible.

Mr. Longley presented the item, and the Deputy City Manager, Darrel Pyle, presented the staff report.

Mayor Pro Tem Irish questioned whether there would be time restraints, regardless of how the City obtained the funds, from the time of start to finish, to which Mr. Pyle responded that it was preferred that either mechanism of financing would result in the projects reaching near completion within a 3 year window.

Mayor Pro Tem Irish clarified that once the City commenced the projects, the City could place time limitations on the construction in favor of early completion, and with penalties for running late. Mr. Pyle indicated that the State of California had utilized such methods to ensure timely completion of projects, then deferred to the City Attorney, Julia Lew, for comments.

Ms. Lew stated that she believed this mechanism was available to the City, but would need to look at specifics.

Mayor Pro Tem Irish then stated that often many factors could create substantial delays, ultimately affecting how the money allocated for a particular project perhaps, 8 or 9 years ago, could fund the project at present values. He voiced concern over that happening with this project, and requested a firm start and finish date.

Mr. Longley stated that most lost time in projects was lost in the process. He indicated that preparing a detailed estimate as to what would be required to complete the project was a good time management tool, which had already been started with Council already receiving the first iteration. Mr. Longley stated that while there was some elastic in the time management schedule, it did create accountability, which should provide assurance of timely completion.

Mr. Pyle added that this project could be designed so that only one environmental document need be prepared to encompass all of the elements of the project. He also stated that incentives and penalties could be incorporated into the bid documents.

Council Member West asked if the tanks were going to purchased from the same company, and if so, why isn’t the engineering the same. Mr. Rodriguez responded that the tanks would most likely be done by 1 firm, and explained that they were broken up to attract contractors, as many could not take on that much work at one time.

Council Member Hamilton clarified that staff was only recommending that initial communications be initiated, to which Mayor Pro Tem Irish stated that he would like staff assurances that they would carefully look into the time restraint issues, and indicated that he was not in favor of going to CIEDB again.

Mayor Pro Tem Irish made a motion to approve Recommendation No. 4, and Council Member West seconded the motion.
Council Member Hamilton asked for clarification on Recommendation No. 1, to which the City Manager clarified the staff’s recommendation.

Council Member Hamilton asked if the debt service would be the same for either a C.O.P. or a CIEDB loan, to which the City Manager explained that the debt service would be more with CIEDB because of the prevailing wage, but stated that the annual amount paid would actually be less because of the lower interest rate.

Council Member Stadtherr requested clarification of the staff’s recommendation being a 1 through 4 package. The City Manager stated that they were essentially 4 different steps of the same recommendation.

Mayor Pro Tem Irish then withdrew his motion for approval of only Recommendation No. 4, and asked about the costs of looking at CIEDB, to which the City Manager stated that it would only initially be staff time to obtain parameters from CIEDB. Mr. Longley stated that once the parameters are obtained, staff would return to Council for specific authorization to proceed with the application if the rates were consistent with preliminary findings. He then stated that a detailed budget for costs of preparation, including any consulting services, would also be presented to the Council.

Mayor Pro Tem Irish requested that a line by line comparison between the C.O.P. and the CIEDB loan also be provided at that time. Mr. Longley stated that staff would provide that.

Council Member Hamilton asked if a time restraint prevented seeking a municipal bond, to which the City Manager stated that a municipal bond was an option, although it would cause a delay because it would need to be put to election, the soonest being probably March 2005. He then stated that if the bond was unsuccessful, it might be more difficult.

Mayor Pro Tem Irish asked about a status report on the reorganizations of State agencies and how they may impact our application.

The City Manager indicated that C.O.P. are faster to issue than are CIEDB loans, and Mr. Pyle stated that the State has undergone significant restructurin and streamlining, including CIEDB. He indicated that based on the California Performance Review, it does not appear that the State intends on eliminating that function, and apparently no additional threats against CIEDB remain.

The City Manager stated, to clarify, he understood the motion as follows:

- Staff is authorized to proceed with Step 1 with staff resources only; and
- Staff will bring back a specific proposal with line items and definition on time frames for Council review.

Council Member Stadtherr confirmed Mr. Longley’s understanding of the motion.

**COUNCIL ACTION:**

MOVED by Council Member Stadtherr, SECONDED by Mayor Pro Tem Irish that Council authorize staff to proceed with Step 1 of the recommendation, with staff resources only, and to return to Council with a specific proposal containing line item comparisons and a definition of time frames. The motion carried unanimously.
24. REGULATION OF POCKET BIKES

Recommendation: That City Council, based on the findings of City Attorney Julia Lew, the current industry standard within the State, the availability of the educational flyer, and the training provided to our officers, not enact a City Ordinance requiring disclosure to customers, and allow the Police Department’s educational and enforcement efforts to control this issue.

The City Manager presented the item, and Captain Schnars presented the staff report.

Mayor Pro Tem Irish asked what happens on a traffic stop involving a pocket bike, to which Capt. Schnars responded that it was situational, and indicated that it was helpful that pocket bikes were covered in the Vehicle Code. Capt. Schnars stated that, on a case by case basis, when dealing with juveniles, the bike and the offender could be taken home and their parents educated as to the dangers. He stated that education is key and that enacting an ordinance would only create an additional step.

Mayor Pro Tem Irish responded that Capt. Schnars addressed procedure for juveniles, but not adults, to which Capt. Schnars stated that the adult offender would be cited and the bike towed.

Mayor Pro Tem Irish voiced concern over somebody getting killed on a pocket bike, to which Capt. Schnars agreed with the concern.

Mayor Martinez asked if the Vehicle Code only covered the gas powered pocket bikes, to which Capt. Schnars responded that the brochure the Police Department was handing out as part of its educational program lays out all of the different types of motorized scooters and bikes and what is required by law.

Mayor Pro Tem Irish commented that he is aware of a $200 fine for riding a motorcycle without wearing a helmet, and stated that he hopes the Police Department was more proactive than it has been in the past, and was doing more than passing out flyers. He voiced concern over somebody getting hurt.

Capt. Schnars responded that the Police Department was being proactive, and cited as an example successes in apprehending offenders riding in the river through education of the public. He indicated that dispatch was attempting to obtain additional information during the initial call to assist the patrols in locating juvenile offenders’ parents.

Council Member Stadtherr asked how the flyers were being distributed to the public, to which Capt. Schnars responded that the flyers were made available to everyone, in briefings, so that includes motor officers and patrol officers. Council Member Stadtherr voiced concern over the effectiveness of distribution by motor officers, and the flyer program in general as to the availability of flyers to the public.

Capt. Schnars indicated that many flyers had been distributed, and that the Police Department was also working with the Porterville Recorder.
Council Member Stadtherr stated that the City already had many unenforced ordinances, instead relying on voluntary compliance from the public. He continued that the popularity of pocket bikes would likely die out before an ordinance could be enacted, but he would like to keep the ordinance option open until such time as an ordinance enforcement officer was hired.

Council Member Hamilton stated he did not believe that an ordinance was needed at this time.

25. DISCUSSION OF DRAFT PROPOSAL PREPARED BY CITY STAFF OF JOINT POWERS AGREEMENT WITH THE COUNTY OF TULARE

Recommendation: Review the draft document and provide any direction.

The City Manager presented the item and the staff report.

Mayor Martinez stated that this was a good idea and something the Council would like to see come to fruition.

Council Member Hamilton stated that this process should be taken to the next step.

ORAL COMMUNICATIONS

• Felipe Martinez, 195 W. Putnam, on behalf of his mother residing at 316 S. Kessing, spoke regarding curbing along Kessing and requested prior notification before ticketing parked vehicles.
• Cathy Capone, 806 W. Westfield Avenue, provided a status report on the plantings at Trailhead Park.
• Mary Agpaoa, 870 N. Plano, complained of foul odor apparently emanating from the Foster Farms Plant around 9:00 p.m. each night.

OTHER MATTERS

• Council Member Hamilton asked about Proposition 1A, 65 and 86. Staff stated that it would be placed on the Agenda.
• Mayor Martinez discussed the publication in Porterville Recorder of Council editorials. Staff stated that it would be placed on the Agenda.
• Mayor Martinez mentioned the Prayer Breakfast sponsored by the Ministerial Association on October 8, 2004 at 7:30 p.m.
• Mayor Martinez also mentioned the Pow Wow on September 24-26, 2004.
• Mayor Martinez invited the Council to attend a Twirlerette function on August 27, 2004.

CLOSED SESSION

Council adjourned at 9:09 p.m. to the Closed Session Item A3 which was not completed prior to 7:00 p.m.

ADJOURNMENT

The Council reconvened at 9:28 p.m. and adjourned at 9:28 p.m. to the meeting of September 7, 2004.
Georgia Hawley, Chief Deputy City Clerk

SEAL

Pedro R. Martinez, Mayor
COUNCIL AGENDA: SEPTEMBER 7, 2004

SUBJECT: AUTHORIZATION TO ADVERTISE FOR BIDS - CENTRAL CORE CONCRETE IMPROVEMENTS PROJECTS - AREA 1

SOURCE: Public Works Department - Engineering Division

COMMENT: The Plans and Project Manual have been prepared for Area 1 of the Central Core Concrete Improvement Project. The project consists of the construction of approximately 180,259 square feet of sidewalk and drive approaches, 6,236 linear feet of curb and gutter, 29,414 square feet of asphalt concrete pavement and the relocation of various existing structures, located in public right-of-way. Project limits within Area 1 are bound by State Route 65 to the west, Olive Avenue and Putnam Avenue to the south, San Joaquin Valley Railroad tracks to the east and McComb Avenue to the north. Additionally, a one-block segment of South “A” Street from Date Avenue south to the end of street, is also included.

The Plans and Project Manual are available for review in the Public Works Department - Engineering Division.

The estimated probable cost for this project is $1,525,943. A Congestion Mitigation and Air Quality (CMAQ) Grant is the source of funding as approved during the 04/05 annual budget process.

RECOMMENDATION: That the City Council:

1. Approve the Plans and Project Manual; and

2. Authorize staff to advertise for bids on the project.

ATTACHMENTS: Locator Maps
Engineer’s Estimate

Y:\Engineering\Council Items\Authorization to Advertise for Bids - Central Core Concrete Improvements Project Area 1.wpd

Dir Appropriated/Funded CM Item No. 2
# ESTIMATE OF PROBABLE COST

<table>
<thead>
<tr>
<th>Quantity</th>
<th>Unit</th>
<th>Item</th>
<th>Unit Price</th>
<th>Extension Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>LS</td>
<td>Mobilization/Demobilization (5% max)</td>
<td>$80,000.00</td>
<td>$80,000.00</td>
</tr>
<tr>
<td>1</td>
<td>LS</td>
<td>Clearing and Grubbing</td>
<td>$110,000.00</td>
<td>$110,000.00</td>
</tr>
<tr>
<td>1</td>
<td>LS</td>
<td>Traffic Control</td>
<td>$50,000.00</td>
<td>$50,000.00</td>
</tr>
<tr>
<td>6,236</td>
<td>LF</td>
<td>Curb and Gutter</td>
<td>$20.00</td>
<td>$124,720.00</td>
</tr>
<tr>
<td>173,526</td>
<td>SF</td>
<td>Sidewalk</td>
<td>$2.50</td>
<td>$433,815.00</td>
</tr>
<tr>
<td>14,020</td>
<td>CY</td>
<td>Roadway Excavation</td>
<td>$6.00</td>
<td>$84,120.00</td>
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<tr>
<td>351</td>
<td>Tons</td>
<td>Asphalt Concrete Paving</td>
<td>$60.00</td>
<td>$21,060.00</td>
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<tr>
<td>952</td>
<td>Tons</td>
<td>Aggregate Base</td>
<td>$40.00</td>
<td>$38,080.00</td>
</tr>
<tr>
<td>103</td>
<td>EA</td>
<td>Drive Approaches</td>
<td>$500.00</td>
<td>$51,500.00</td>
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<tr>
<td>1</td>
<td>LS</td>
<td>Misc. Items - See Bid sheet for individual items</td>
<td>$333,612.00</td>
<td>$333,612.00</td>
</tr>
</tbody>
</table>

Baseline Construction Estimate $1,326,907.00

15% Estimate Contingency $199,036.05

Total Estimate of Probable Cost $1,525,943.05

Certification:

Project Manager: [Signature] 8-27-04

Public Works Director: [Signature] 9/1/04

City Engineer: [Signature] 8-31-04

City Manager: [Signature] 9-2-04
SUBJECT: AWARD OF CONTRACT FOR THE PREPARATION OF A CITY-WIDE OVERHEAD COST ALLOCATION PLAN AND FEE STUDY

SOURCE: Administrative Services

COMMENT: As a component of the 2004-05 fiscal year budget, preparations were made to facilitate and fund the creation of a current overhead cost allocation plan and fee study. This process was last undertaken in 1988.

Staff prepared a Request for Proposal for these services and delivered it to thirty-five firms identified as qualified to prepare such a study. Six proposals were received. The prices quoted from the respondents ranged from $34,580 to $69,610, with time tables indicating that the process would take from ten to twenty weeks. After careful evaluation, staff is recommending that Council award a contract to the firm of MAXIMUS to prepare the overhead cost allocation and City-wide fee study. The quote given by MAXIMUS to provide this service to the City of Porterville is $44,500.00, during the twenty week process.

MAXIMUS prepared the most comprehensive proposal, with specific detail regarding federal and state laws governing fees and overhead cost calculations. The City of Porterville has had an excellent working relationship with this firm over the past several years. MAXIMUS is the firm that has been preparing the SB 90 Mandated Cost Reimbursement claims on behalf of the City for the past ten years.

Staff has contacted several of the Cities listed as references by MAXIMUS, and all have been satisfied with the level of service they received and the quality of the finished product.

It is anticipated that this study could be completed, with final reports delivered to the City Council by March of 2005, allowing for implementation at or before the beginning of the 2005-06 fiscal year.

RECOMMENDATION: That the Council award a contract to MAXIMUS for the preparation of the cost allocation plan and City-wide fee study, and authorize the Mayor to sign all documents necessary to initiate the process.
SUBJECT: AWARD OF CONTRACT - MILO STREET RECONSTRUCTION PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: On August 31, 2004, staff received seven (7) bids for the Milo Street Reconstruction Project. This project consists of the construction of curb, gutter, sidewalk, curb return with disabled ramp, cross gutter and paveout along the west side of Milo Street from Charles Lane to Pioneer Avenue and 150 feet along the south side of Pioneer Avenue, west of Milo Street. This project will create a full 40 foot wide street where a half street now exists and will alleviate a severe drainage problem for the residents along the west side of Milo Street.

Funding is provided by Local Transportation Funds (LTF) and the project was approved in the 04/05 Annual Budget. The Engineer’s Estimate is $67,000, which is within 0.94% of the low bid. A Bid Summary is attached for review.

The bids are as follows:

<table>
<thead>
<tr>
<th>Contractor</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>2. Central Valley Asphalt, Lindsay, CA</td>
<td>$73,626.00</td>
</tr>
<tr>
<td>3. Halopoff &amp; Sons, Inc., Porterville, CA</td>
<td>$74,329.59</td>
</tr>
<tr>
<td>4. JVD, Inc., Fresno, CA</td>
<td>$78,590.00</td>
</tr>
<tr>
<td>5. Dawson Mauldin Const., Huntington Beach, CA$</td>
<td>$95,961.40</td>
</tr>
<tr>
<td>7. Lee’s Paving, Inc., Visalia, CA</td>
<td>$109,972.00</td>
</tr>
</tbody>
</table>

Staff has found the low bid acceptable.

RECOMMENDATION: That City Council:

1. Award the Milo Street Reconstruction Project to Mitch Brown Construction, Inc., in the amount of $67,629.38;

2. Authorize progress payments up to 90% of the contract amount; and

3. Authorize a 10% contingency to cover unforeseen construction costs.

ATTACHMENT: Engineers Estimate
Locator Map

Item No. 4
<table>
<thead>
<tr>
<th>ITEM</th>
<th>QTY.</th>
<th>UNIT</th>
<th>DESCRIPTION</th>
<th>UNIT PRICE</th>
<th>AMOUNT</th>
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</thead>
<tbody>
<tr>
<td>1.</td>
<td>L.S.</td>
<td>L.S.</td>
<td>Clearing &amp; Grubbing</td>
<td>$5,000</td>
<td>$5,000</td>
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<tr>
<td>2.</td>
<td>315</td>
<td>C.Y.</td>
<td>Excavation (Includes removal of AC)</td>
<td>$30</td>
<td>$9,450</td>
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<tr>
<td>3.</td>
<td>L.S.</td>
<td>L.S.</td>
<td>Miscellaneous Concrete Removal including but not limited to lawn curbing, sidewalk and concrete driveway.</td>
<td>$2,500</td>
<td>$2,500</td>
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<tr>
<td>4.</td>
<td>L.S.</td>
<td>L.S.</td>
<td>Concrete Removal of Existing Curb, Gutter &amp; Sidewalk (STA. 9+50 to 10+00 on Milo St.)</td>
<td>$1,000</td>
<td>$1,000</td>
</tr>
<tr>
<td>5.</td>
<td>605</td>
<td>L.F.</td>
<td>Curb &amp; Gutter</td>
<td>$15</td>
<td>$9,075</td>
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<tr>
<td>6.</td>
<td>675</td>
<td>S.F.</td>
<td>Drive Approach</td>
<td>$4</td>
<td>$2,700</td>
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<tr>
<td>7.</td>
<td>2050</td>
<td>S.F.</td>
<td>Sidewalk</td>
<td>$3</td>
<td>$6,150</td>
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<tr>
<td>8.</td>
<td>20</td>
<td>L.F.</td>
<td>Cross-Gutter ( ½ street )</td>
<td>$20</td>
<td>$400</td>
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<tr>
<td>9.</td>
<td>1</td>
<td>EA.</td>
<td>Curb Return with Ramp &amp; Spandrel</td>
<td>$2,500</td>
<td>$2,500</td>
</tr>
<tr>
<td>10.</td>
<td>L.S.</td>
<td>L.S.</td>
<td>Traffic Control</td>
<td>$2,000</td>
<td>$2,000</td>
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<tr>
<td>11.</td>
<td>211</td>
<td>TONS</td>
<td>Asphalt Concrete</td>
<td>$50</td>
<td>$10,550</td>
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<tr>
<td>12.</td>
<td>210</td>
<td>C.Y.</td>
<td>Class 2 Aggregate Base</td>
<td>$40</td>
<td>$8,400</td>
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<tr>
<td>13.</td>
<td>50</td>
<td>L.F.</td>
<td>Remove &amp; Replace 4' Field Fence</td>
<td>$20</td>
<td>$1,000</td>
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<tr>
<td>14.</td>
<td>1</td>
<td>EA.</td>
<td>Relocate 20' Flagpole</td>
<td>$1,000</td>
<td>$1,000</td>
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<tr>
<td>15.</td>
<td>60</td>
<td>L.F.</td>
<td>Relocate 4' Chain Link Fence</td>
<td>$15</td>
<td>$900</td>
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</table>
Milo Street Reconstruction & Concrete Improvements Project

Engineers Estimate

<table>
<thead>
<tr>
<th>No.</th>
<th>Quantity</th>
<th>Description</th>
<th>Unit Cost</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>16.</td>
<td>2</td>
<td>EA. Relocate Hose Bib</td>
<td>$500</td>
<td>$1,000</td>
</tr>
<tr>
<td>17.</td>
<td>6</td>
<td>EA. Relocate Mailbox</td>
<td>$150</td>
<td>$900</td>
</tr>
<tr>
<td>18.</td>
<td>1</td>
<td>LS Adjust manhole to grade by rebuilding</td>
<td>$1000</td>
<td>$1000</td>
</tr>
<tr>
<td>19.</td>
<td>4</td>
<td>EA. Adjust Meter Box to Grade</td>
<td>$250</td>
<td>$1000</td>
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**TOTAL**

<table>
<thead>
<tr>
<th>(Figures)</th>
<th>$66,525</th>
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</thead>
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<tr>
<td>10% Contingency</td>
<td>$6,652.50</td>
</tr>
<tr>
<td>*Staff Time</td>
<td>$12,000</td>
</tr>
<tr>
<td><strong>Remaining R/W</strong></td>
<td>$4,500</td>
</tr>
<tr>
<td><strong>Total</strong></td>
<td>$89,677.50</td>
</tr>
</tbody>
</table>

*Staff time including construction management, inspection, quality control testing and field services relocation of four existing water services.

**Have received right of entry through attorney's office, will still have to pay for R/W.

Certification:

Project Manager  
Date: 7/13/04

Public Works Director  
Date: 7/14/04

City Engineer  
Date: 7/13/04

City Manager  
Date: 7/13/04
SUBJECT: APPROVE DESIGN SERVICES FOR THE MURRY PARK MASTER PLAN

SOURCE: Parks and Leisure Services Department

COMMENT: In 1990 a Master Plan for renovation of Murry Park was adopted by the City Council. With the availability of CDBG funding in recent years the implementation efforts of the Master Plan were commenced. The Municipal Pool renovation project began these efforts, and it is hoped that the project will be completed during FY 04-05 with the installation of the water slide. At this point it is an appropriate time to begin planning and design work on other improvements to renovate and enhance the park. A part of this planning work envisions establishing a priority list and budgetary estimate for other improvements.

In addition, the City owns an additional portion of Murry Park which has never been developed with park facilities. This area of approximately 30 acres in size is roughly bordered by Corona Drive on the east, Plano Street on the west, Oak Avenue on the north and Park Drive on the south. The Pioneer Ditch runs through this property from the east to the west, near the northerly boundary. This area was not included in the 1990 Master Plan, but it is park land that the City owns and which could be developed for use ahead of other planned parks for which the City would need to acquire land. For these reasons, staff proposes to include the master planning of this park expansion area as a second element of the current design effort.

Staff has reviewed the current Master Plan and discussed the goals with hma landscape architecture as supplemental services to their existing park facility design agreement. A proposal has been negotiated which would provide an existing park updated Master Plan, priority phasing plan, and cost estimates for not to exceed $4,912.50. The Master Plan for the expansion area would be similarly prepared for a not to exceed cost of $4,255.00.

RECOMMENDATION: That the City Council approve the use of hma landscape architecture for design services related to the Murry Park Renovation Master Plan, and authorize the City Manager to execute a Professional Services Supplement with hma.

ATTACHMENTS: Professional Services Supplement
Locator Map

ITEM NO.: ___
PROFESSIONAL SERVICES SUPPLEMENT

In accordance with Agreement dated: May 7, 2002

Between:

hma landscape architecture
and: the City of Porterville

For Project identified as: Rails to Trails, Tule River Parkway Phase II and Tule River Parkway Phase I.

Authorization is requested to proceed with Additional Services as follows:

- Add scope of services for Murry Park Master Plan per attached spreadsheet (Exhibit A).

Compensation:

- Base Map: $1,280.00
- Update Master Plan: $930.00
- Phasing Plan: $2,702.50
- Master Plan for Expansion Area: $4,255.00

Time:

- 120 days from receipt of Authorization to Proceed and base materials to submittal of Updated Master Plan and Phasing Plan together with Expansion Area Master Plan.

Prompt written notice is required if the services indicated are not needed.

Submitted by:

(Signed)

Kay Hurmacher
(Printed name)

Principal
(Title)

August 31, 2004
(Date)

Authorization is Given by:

(Signed)

John Longley
(Printed name)

City Manager
(Title)

(Date)
# Project Budget

**Project Name:** City of Porterville - Jim Penine

**Date:** 07/19/2004

**Prepared By:** Kay

<table>
<thead>
<tr>
<th>Item</th>
<th>Description</th>
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</thead>
<tbody>
<tr>
<td><strong>Base Map</strong></td>
<td>Assume basic base info from city - boundary, aerial photo, original master plan. Also boundary, aerial for expansion area.</td>
</tr>
<tr>
<td></td>
<td>Cadd draw base from existing information, aerials</td>
</tr>
<tr>
<td></td>
<td>Do visual survey on developed site to record approx. locations of existing elements.</td>
</tr>
<tr>
<td></td>
<td>Add new information and EMLA MP to base</td>
</tr>
<tr>
<td><strong>Update Master Plan</strong></td>
<td>Minor Revise Master Plan to reflect new city ideas (see below for expansion area and meeting to review)</td>
</tr>
<tr>
<td><strong>Phasing Plan</strong></td>
<td>MP level cost estimate for EMLA master plan and new elements (not expansion area) Preliminary phasing plan</td>
</tr>
<tr>
<td></td>
<td>Meeting to review cost estimate and prelim phasing plan (in Porterville)</td>
</tr>
<tr>
<td></td>
<td>Revise phasing plan, precisely identify first phase</td>
</tr>
<tr>
<td></td>
<td>Cadd draft phasing plan, do presentation spreadsheet with Architect's estimates of each phase (master plan level CE)</td>
</tr>
<tr>
<td></td>
<td>Send phasing plan, associated docs to city Review over the phone</td>
</tr>
<tr>
<td></td>
<td>Minor revisions</td>
</tr>
<tr>
<td><strong>Master Plan for Expansion Area</strong></td>
<td>Site walk and inventory, photos</td>
</tr>
<tr>
<td></td>
<td>Meet with City staff to review expansion area and discuss for this area Illustrative sketches/sections Preliminary MP for expansion area (hand drawn) 2 Meetings in Porterville to review this MP and revised MP for existing area Finalize MP based on city review Cadd draft MP Architect's Estimate (MP level) of expansion area</td>
</tr>
</tbody>
</table>

**Total Project:** $3,167.50
City of Porterville's Proposed Renovation of Murry Park
SUBJECT: ACCEPTANCE OF APPRAISED VALUE OF RIGHT OF WAY FOR PROPERTY LOCATED AT APN 261-109-001 - GARCIA - ORANGE AVENUE STREET RECONSTRUCTION PROJECT

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: Mr. Hector D. Garcia, owner of property located at APN 261-109-001, has accepted the appraised value of $381.00 for the 76.10 square feet of right-of-way on the southwest corner of Orange Avenue and Main Street.

The City had the property appraised by Timothy J. Simon, MAI, a Certified General Real Estate Appraiser. The appraisal came in at $381.00 for the 76.10 square feet needed for the project. This appraisal is available in the Community Development Department for your review.

This acquisition is a requirement for the reconstruction of street improvements for the Orange Avenue Project.

RECOMMENDATION: That City Council:

1. Authorize staff to make payment to Mr. Hector D. Garcia, owner of the property, in the amount of $381.00; and

2. Accept the Grant Deed and authorize staff to record with the County Recorder.

ATTACHMENTS:

1. Right-Of-Way Take Map
2. Grant Deed
3. Resolution

DD _____ APPROPRIATED/FUNDED _____ CM _____ ITEM NO. 6
RECORDING REQUESTED BY
AND WHEN RECORDED MAIL THIS
DEED AND TAX STATEMENTS TO:

City of Porterville
291 N. Main Street
Porterville, CA 93257

HECTOR D. GARCIA
GRANT to the CITY OF PORTERVILLE, a Municipal
Corporation, all that real property in the City of Porterville, County of Tulare, State of California, described as:

SEE EXHIBIT "A" AND EXHIBIT "B" ATTACHED HERETO AND MADE A PART THEREOF
The grantor further understands that the present intention of the grantee is to construct and maintain a public street and underground utilities on the lands hereby conveyed in fee and the grantor for the grantor and the grantor's successors and assigns, hereby waives any claims for any and all damages to grantor's remaining property contiguous to the property hereby conveyed by reason of the location, construction, landscaping or maintenance of said street.
(As used above, the term "grantor" shall include the plural as well as the singular number.)

Dated this 18th day of August, 2004

Hector D. Garcia

STATE OF CALIFORNIA  \  ss
County of Tulare

On this the 18th day of August 2004, before me, Vickie Schulz, Notary Public
Name, Title of Officer-E.G., "Jane Doe, Notary Public"

personally appeared Hector D. Garcia
Name(s) of Signer(s)

□ personally known to me
✓ proved to me on the basis of satisfactory evidence

to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Vickie Schulz
(Notary Public's signature in and for said County and State)

VICKIE SCHULZ
Commission # 1431949
Notary Public - California
Tulare County
Smyrna, Tulare County, California

(form of seal or stamp)

Form RW 6-1(B) (Revised 3/02)
RESOLUTION NO. ________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ACCEPTING A GRANT DEED IN FEE FOR PUBLIC STREET AND UNDERGROUND UTILITIES PURPOSES FROM HECTOR D. GARCIA

BE IT RESOLVED by the City Council of the City of Porterville, that the City of Porterville hereby accepts a Grant Deed in fee from Hector D. Garcia, for public street and underground utility purposes, in the City of Porterville, County of Tulare, State of California, to-wit:

See Exhibit “A” and Exhibit “B” attached hereto and made a part thereof.

BE IT FURTHER RESOLVED that the purchase price of $381.00 is hereby approved with the City to open escrow account, pay the normal and customary escrow fees, authorize Mayor to sign all necessary documents, and said deed to be recorded in the office of the Tulare County Recorder. The foregoing has been accepted by the City Council for the City of Porterville.

______________________________
Pedro R. Martinez, Mayor

ATTEST:

John Longley, City Clerk

By: Georgia Hawley, Chief Deputy City Clerk
EXHIBIT "A"

That portion of Lot 32 of Block 50, of the Map of the Town Porterville, in the City of Porterville, County of Tulare, State of California, as shown on map filed in Book 3 of Maps, at page 18, in the office of the County Recorder of said County, more particularly described as follows:

COMMENCING AT the Northwest corner of said Lot 32;

THENCE, Easterly along the North line of said Lot 32 to a point 30.00 feet West, measured at right angles, from the East line of said Lot, said point being the POINT OF BEGINNING;

THENCE, Southerly along a line parallel with the East line of said Lot 32, 12.20 feet;

THENCE, Northwesterly 17.39 feet to a point on the North line of said Lot 32, said point being 42.48 feet West of the Northeast corner thereof;

THENCE, Easterly along the North line of said Lot 32, 12.48 feet to the POINT OF BEGINNING.

CONTAINING 76.1 square feet, more or less.

END OF DESCRIPTION

This real property description has been prepared by me, or under my direction, in conformance with the Professional Land Surveyors Act.

Signature: [Signature]
Licensed Land Surveyor

Date: 8/20/04

[ Seal of Licensed Land Surveyor ]
"Exhibit B"

North 1" = 30'

Orange Avenue

Proposed Acquisition

APN 261-109-001

Attachment 1
SUBJECT: CALHOME PROGRAM APPLICATION

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: The California Department of Housing and Community Development (HCD) has issued a Notice of Funding Availability (NOFA) for funds under the CalHome Program with funding provided by Proposition 46, the Housing and Emergency Shelter Trust Fund Act of 2002. This program is a homeownership program designed to make funds available to cities, counties, and nonprofit corporations to support existing homeownership programs aimed at low-and very low-income households and operated by the local public agency or the nonprofit corporation. The City is currently administering the final allocation of funds from the first CalHome award of $500,000 in 2001.

Eligible activities for CalHome funding include: 1) First-Time Homebuyer Mortgage Assistance, 2) Owner-Occupied Rehabilitation, and 3) Homeownership Project Development Loans.

City staff is preparing a CalHome Program application for $500,000 which is the maximum individual program or aggregate program application amount for all activities. The City proposes to apply for $500,000 for continuation of the City-wide First Time Low Income Homebuyer Loan Program with special consideration for having enough funding available for the continued sales of the Casas Buena Vista subdivision. Together these funds will assist approximately 15 homebuyers to purchase or rehabilitate a home within the city limits of Porterville. No local match is required.

The application to HCD is due September 15, 2004. Award of funds should be made by January 2005 with the execution of a Standard Agreement with HCD several months later. The term of the Standard Agreement shall be for 36 months from the date of the award letter.

The CalHome Program requires that the loans to the homebuyers through this program must have principal and interest payments deferred for the 30 year term of the loan and that the applicants must attend at least eight hours of homebuyer education.

A governing board resolution granting authority to make application to HCD for a funding commitment from the CalHome Program is a requirement of the application. As stated above, no match is required besides the cost of administration of the program.
In applying for these CalHome Program funds, the City is once again taking measures to implement programs outlined in the City's Housing Element, 2000 Five Year Consolidated Plan, and the Redevelopment Implementation Plan.

RECOMMENDATION: That the City Council:

1. Adopt the draft resolution approving the submittal of a CalHome Program funding application to the California Department of Housing and Community Development;

2. Authorize the Mayor to execute all documents pertaining to the CalHome Program; and

3. Authorize the Community Development Director to execute, in the name of the City of Porterville, project drawdown requests, and all other administrative documents required by the California Department of Housing and Community Development for administration of the CalHome Program.

Attachment: Draft Resolution
RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AUTHORIZING THE SUBMITTAL OF AN APPLICATION TO THE CALIFORNIA STATE DEPARTMENT OF HOUSING AND COMMUNITY DEVELOPMENT FOR FUNDING UNDER THE CALHOME PROGRAM; THE EXECUTION OF A STANDARD AGREEMENT IF SELECTED FOR SUCH FUNDING AND ANY AMENDMENTS THERETO; AND ANY RELATED DOCUMENTS NECESSARY TO PARTICIPATE IN THE CALHOME PROGRAM

WHEREAS: The City of Porterville, a political subdivision of the State of California, wishes to apply for and receive an allocation of funds through the CalHome Program; and

WHEREAS: The California Department of Housing and Community Development (hereinafter referred to as “HCD”) has issued a Notice of Funding Availability (“NOFA”) for the CalHome Program established by Chapter 84, Statutes of 2000 (SB 1656 Alarcon), and codified in Chapter 6 (commencing with Section 59650) of Part 2 of Division 31 of the Health and Safety Code (the “statute”). Pursuant to the statute, HCD is authorized to approve funding allocations utilizing monies made available by the State Legislature to the CalHome Program, subject to the terms and conditions of the statute and the CalHome Program Guidelines adopted by HCD on August 15, 2004; and

WHEREAS: The City of Porterville wishes to submit an application to obtain from HCD an allocation of CalHome funds in the amount of $500,000.

NOW, THEREFORE BE IT RESOLVED: That the City Council of the City of Porterville, State of California, hereby approve the submittal to the Department of Housing and Community Development of an application to participate in the CalHome Program in response to the NOFA issued on July 15, 2004 to request $500,000 for the First-Time Homebuyer Mortgage Assistance Program ($500,000) to be used within the city limits of Porterville. If the application for funding is approved, the City of Porterville hereby agrees to use the CalHome funds for eligible activities in the manner presented in the application as approved by HCD and in accordance with program guidelines cited above. It also may execute any and all other instruments necessary or required by HCD for participation in the CalHome Program.

BE IT FURTHER RESOLVED: The City of Porterville authorizes the Mayor to execute in the name of the City of Porterville, the application, the Standard Agreement and all other documents required by HCD for participation in the CalHome Program, and any amendments thereto and that the City of Porterville authorizes the Community Development Director to execute in the name of the City of Porterville project drawdown requests, and all other administrative documents required by the California Department of Housing and Community Development for administration of the CalHome Program.

Pedro R. Martinez, Mayor

ATTEST:

John Longley, City Manager
SUBJECT: CITY OF PORTERVILLE CONFLICT OF INTEREST CODE - BIENNIAL REPORT AND AMENDMENT

SOURCE: Administrative Services

COMMENT: Government Code Section 87306.5 requires local agencies to submit to their code reviewing body a biennial report identifying changes in its code, or a statement that their code is not in need of amendment. Such reports are to be submitted no later than October 1 of each even-numbered year. If it is determined that amendment of the code is necessary, the amendments or revisions shall be submitted to the code reviewing body within 90 days.

The City Council is the code reviewing body for the City of Porterville. The City Manager, as Administrative Supervisor of the Conflicts and Disclosure Monitor Agency, has reviewed the City’s Conflict of Interest Code and has prepared the attached report.

Any necessary amendments to the code will be submitted to the Council after approval by the City Attorney.

RECOMMENDATION: That the City Council accept the Conflicts and Disclosure Monitor Agency 2004 Biennial Report.

Attachment: Conflict of Interest Code Report

Item No. 8
CONFLICTS AND DISCLOSURE MONITOR AGENCY
2004 BIENNIAL REPORT
FOR
THE CITY OF PORTERVILLE

This Agency has reviewed its Conflict of Interest Code and has determined that:

☑ The Agency’s Code needs to be amended and the following amendments are necessary:

___ Include new positions (including consultants) which must be designated.

___ Revise the titles of existing positions.

___ Delete the titles of positions that have been abolished.

___ Delete the positions that manage public investments.

☑ Revise disclosure categories.

___ Other ____________________________

☐ No amendments are necessary. Our Agency’s Code accurately designates all positions that make or participate in the making of governmental decisions; the disclosure assigned those positions accurately requires the disclosure of all investments, business positions, interest in real property and sources of income which may foreseeably be affected materially by the decisions made by those designated positions; and the Code includes all other provisions required by Government Code Section 87302.

John Longley, Administrative Supervisor

August 27, 2004
Date
COUNCIL AGENDA: September 7, 2004


SOURCE: Administration

COMMENT: Attached for the Council's review is a report of the public transit system for Fiscal Year 2003/04. The report covers both Fixed Route and Demand-Response services, and a detailed statistical summary of ridership and general operational issues.

RECOMMENDATION: Accept the attached report as informational item only.

ATTACHMENT: Annual Assessment of C.O.L.T. System
July 1, 2003 through June 30, 2004

DD Appropriated/Funded City Manager

Item No. 9
ANNUAL ASSESSMENT OF C.O.L.T. SYSTEM
July 1, 2003 through June 30, 2004

FIXED ROUTE
After one full year of operations from the City’s Transit Center, it appears that ridership concerns dealing with the change from Second Street to Oak Avenue, the elimination of flag stops, and the installation of fixed bus stops, are beginning to diminish. Even though Porterville has been experiencing the nation-wide trend of a decrease in public transit ridership, there is some indication that this trend is also stabilizing, and an actual increase in efficiency factors is now being evidenced.

Fixed Route ridership during FY 01/02 was at an all-time high, 454,562 passengers. Fiscal Year 02/03 experienced a 1.6% decline with 447,282 passengers; followed by a 6.7% decline in FY 03/04, with a total of 417,253 passengers. However, overall efficiency and a stabilization of ridership decline appear to be occurring during the last six months of FY 03/04.

<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>Passengers</td>
<td>204,023</td>
</tr>
<tr>
<td>Fare Box Ratio</td>
<td>22.4 %</td>
</tr>
</tbody>
</table>

The following is a look at overall statistics for FY 03/04 relating to the Fixed Route bus system:

- 2003/04 Revenue: $182,758
- 2003/04 Operating Costs: $749,845
- Overall Fare Box Ratio: 24.4%
- Operating Cost per Route: $124,974
- Total Passengers: 417,253
- Average Fare per Passenger: 43.8¢

<table>
<thead>
<tr>
<th>Route</th>
<th>Ridership</th>
<th>Revenue</th>
<th>Fare Box Ratio</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>71,767</td>
<td>$31,434</td>
<td>25.2%</td>
</tr>
<tr>
<td>2</td>
<td>78,622</td>
<td>$34,436</td>
<td>27.6%</td>
</tr>
<tr>
<td>3</td>
<td>100,579</td>
<td>$44,054</td>
<td>35.3%</td>
</tr>
<tr>
<td>4</td>
<td>51,480</td>
<td>$22,548</td>
<td>18%</td>
</tr>
<tr>
<td>5</td>
<td>70,201</td>
<td>$30,748</td>
<td>24.6%</td>
</tr>
<tr>
<td>6</td>
<td>44,604</td>
<td>$19,537</td>
<td>15.6%</td>
</tr>
</tbody>
</table>

Note: The two lowest Fare Box Ratios are Routes 4 and 6. Route 4 was modified to incorporate part of its ridership with Route 6 to the Family Healthcare Network (FHCN) bus stop. This modification decreased Route 4 total ridership, but helped to increase Route 6 ridership. This modification was implemented at the commencement of Route 6 on January 2, 2003.
Family Healthcare Network ridership statistics by month since the inception of Route 6 are as follows:

<table>
<thead>
<tr>
<th>Month/Yr.</th>
<th>Total Ridership</th>
</tr>
</thead>
<tbody>
<tr>
<td>January, 2003</td>
<td>386</td>
</tr>
<tr>
<td>February, 2003</td>
<td>972</td>
</tr>
<tr>
<td>March, 2003</td>
<td>1,411</td>
</tr>
<tr>
<td>April, 2003</td>
<td>1,281</td>
</tr>
<tr>
<td>May, 2003</td>
<td>1,462</td>
</tr>
<tr>
<td>June, 2003</td>
<td>1,268</td>
</tr>
<tr>
<td><strong>Total for first six months of Fixed Route service</strong></td>
<td><strong>6,780</strong></td>
</tr>
<tr>
<td>July, 2003</td>
<td>1,296</td>
</tr>
<tr>
<td>August, 2003</td>
<td>1,435</td>
</tr>
<tr>
<td>September, 2003</td>
<td>1,049</td>
</tr>
<tr>
<td>October, 2003</td>
<td>1,300</td>
</tr>
<tr>
<td>November, 2003</td>
<td>595</td>
</tr>
<tr>
<td>December, 2003</td>
<td>1,493</td>
</tr>
<tr>
<td>January, 2004</td>
<td>861</td>
</tr>
<tr>
<td>February, 2004</td>
<td>602</td>
</tr>
<tr>
<td>March, 2004</td>
<td>1,062</td>
</tr>
<tr>
<td>April, 2004</td>
<td>1,373</td>
</tr>
<tr>
<td>May, 2004</td>
<td>985</td>
</tr>
<tr>
<td>June, 2004</td>
<td><strong>1,159</strong></td>
</tr>
<tr>
<td><strong>Total Ridership for FY 03/04 (FHCN)</strong></td>
<td><strong>13,210</strong></td>
</tr>
</tbody>
</table>

With the City's transition into the Federal Transit Administration (FTA) Section 5307 funding requirements, a 20% Fare Box Ratio is now required. A Fare Box Ratio of 24.4% gives us a comfortable margin, while Staff continues to monitor for increased efficiency. Since Fare Box Ratio is the relationship of revenue to operating costs, all measures possible are being taken to increase revenue and decrease operating costs.

Transit Database
One of the Section 5307 requirements is the submittal of transit data consisting of detailed summaries of financial and operating information. In preparation for submittal of the City’s first report, TPG Consulting, Inc., the City’s Transit Consultant, is in the process of conducting on-board surveys collecting data relating to individual bus stops, routes, on-time performance issues, equipment concerns, etc. The information collected can further be used in determining if any route modifications are recommended for additional operating efficiency. These on-board surveys will be completed before the end of September, 2004.

Fixed Route Equipment
The City currently has 12 buses for its Fixed Route operation. The buses range in age and size from two 1997 Collins Diplomat 16-passenger buses (Back-up Vehicles) to 7 MST Freightliners, 28-passenger capacity, 6 of which are 2003 models, one a 2001 model. Additionally, we have three
1999 Ford Aerotech, 22-passerger buses. The Transit Division is working closely with Public Works to determine the appropriate alternative fuel to consider for future transit equipment purchases, the first of which is slated for FY 05/06. In the meantime, the City will be required to reduce its NOx and PM emissions in order to meet Air Resources Board requirements. Staff is researching the best possible solutions to enable us to meet these requirements.

DEMAND-RESPONSE
General overall ridership on Demand-Response has, as anticipated, continued to decrease since the implementation of the additional increase in fares January 1, 2003. Ridership last year was 73,789, compared to 60,259 during FY 03/04, a decrease of 18.33%. The Fare Box Ratio for FY 03/04 is 18.6%, with a 10% Fare Box Ratio being required.

Demand-Response traditionally has been the more expensive system to operate due to the nature of the service. Smaller vehicles are utilized, fewer passengers per vehicle are accommodated; and compared to the Fixed Route average operating cost per passenger of $1.80, Demand-Response average operating cost per passenger is now $10.02. Even though the City’s Demand-Response system continues to be more cost effective than our local counterparts, Staff continues to strive for more efficient ways to operate the system contemplating the possibility of eventually operating Demand-Response as a paratransit service – utilizing the service for Seniors and ADA passengers only, rather than a general ridership service.

Demand-Response Equipment
The City currently operates 11 vehicles, all of which are Activans, with the oldest being 1999 models. These vehicles are completely ADA-accessible, and can hold a maximum of two wheelchair passengers. The average number of Activans operating each day never exceeds five.

As with the Fixed Route operation, future purchases of Demand-Response equipment are not scheduled until FY 05/06.

DOWNTOWN TRANSIT CENTER
The City’s Transit Center located at 61 West Oak Avenue has proven to be a definite improvement for serving the public transit needs of our community. The Center is also being used by Tulare County Transit, Orange Belt Stages and Eagle Mountain Casino.

Portions of the City’s first approved application under Section 5307 provide for Transit Center improvements including security cameras, new furniture, window treatments, improved communication radios and Automatic Vehicle Locator systems for all operating vehicles. The furniture and window treatments have been installed; the City has advertised for RFP’s for the security cameras, radios and Automatic Vehicle Locator equipment, and Staff is processing the remaining projects under its first application. A second application under Section 5307 will be filed this fall, with anticipated approval being expected shortly after the first of the year.
GOALS

Short-Range Goals (FY 2004/05 and 2005/06) include the following:

1. Provide affordable, reliable and efficient transit service that effectively meets the needs of Porterville residents who have limited mobility options, or those who choose transit for some or all of their local travel needs.
2. Maximize service reliability and convenience.
3. Maximize operating efficiency without negatively impacting service quality.
4. Operate a productive service that remains affordable to the recognized primary transit markets.
5. Promote the coordination of service with other regional transit services.
6. Promote public/private partnerships to market or operate transit services in support of City of Porterville Economic and Land Use Development Goals.
7. Ensure ongoing service monitoring, evaluation and planning.
8. Include all key performance indicators for the COLT and Dial-A-COLT services in the monthly reports compiled from contractor’s records.
10. Equip vehicles with Automatic Vehicle Locator System and updated communication equipment; equip Transit Center with security camera system.
11. Continue to encourage greater utilization of Fixed Route.
12. Continue to research the City’s best alternative fuel path for transit vehicles.
13. Continue to monitor and work towards achieving increases in Fare Box Revenue of both Fixed Route and Demand-Response.
14. Complete the development of a bilingual Dial-A-COLT brochure;
15. Continue to apply for and monitor Section 5307 grant applications and completion of projects.

In coordination and conjunction with the Tulare County Regional Transportation Plan, Long-Range Goals include the following:

1. Promote the improvement of air quality and congestion management through implementation of land use and transportation alternatives or incentives that reduce vehicle miles traveled.
2. Improve transportation mobility and operations through the use of such strategies as Transportation System Management, Transportation Demand Management, Intelligent Transportation Systems and Transportation Control Measures.
3. Ensure that transportation investments are cost-effective, protect the environment including improving air quality, promote energy efficiency and enhance the quality of life.
4. Consideration of implementation of “pass” program and purchase of electronic fare equipment.
5. Continue to work with Tulare County Transit Forum to establish a County-wide transfer program.
COUNCIL AGENDA: September 7, 2004

SUBJECT: APPROVAL OF ANNUAL TRANSPORTATION AGREEMENT WITH TULARE COUNTY

SOURCE: Administration

COMMENT: Since 1983, the City of Porterville has maintained annual agreements with the County of Tulare to provide contract transit service to residents within the unincorporated but urban areas of the community, as currently depicted by the attached Service Area Boundary Map. The last Agreement expired June 30, 2004, and it is proposed the attached successor Agreement be approved and maintained for FY 2004-2005.

Traditionally, the County has shared in the net operating cost of the system, i.e., total costs less fare box revenues, in proportion to the ridership percentage from the unincorporated area as experienced over the previous Agreement year. However, calculations have been modified over the last two years due to the inclusion of the City of Porterville in the Federal Transit Administration (FTA) Section 5307 program. Last year, the County reimbursed the City at a rate of 39% of net operating costs for the Demand-Response System, and at the rate of 30% of net operating costs for the Fixed Route system. This year, the County rate of reimbursement is 39.6% and 30%, respectively. The County contribution to City transit operations for the FY 2004-2005 Agreement year will be $300,577, up from last year’s compensation of $277,317. This total amount of compensation also takes into account a credit of $68,911, representing the City’s first annual credit to the County of Tulare over a 6-year period for prior years’ adjustments. These adjustments were agreed upon after a reconciliation by the two agencies based on “actual” amounts expended during this 6-year period which differed from “budgeted” amounts used to calculate the original compensation totals for the six years in question.

RECOMMENDATION: That the City Council enter into an Agreement with the County of Tulare for FY 2004-2005 to provide service to County residents within the Service Area Boundary Map, and authorize the Mayor to execute the Agreement on behalf of the City.

ATTACHMENTS: 1. City/County Transit Agreement
2. Service Area Boundary Map
3. Letter to Tulare County setting forth cost formula components

DD Appropriated/Funded CM Item No. 10
AGREEMENT

THIS AGREEMENT, is entered into as of this ____ day of ______________, 2004, by
and between the COUNTY OF TULARE, hereinafter referred to as the “County”, and the CITY
OF PORTERVILLE, hereinafter referred to as the “City”.

WITNESSETH:

WHEREAS, the County and the City desire to coordinate their respective public
transportation systems in the Porterville area; and

WHEREAS, there are and will continue to be citizens of the County who can reasonably be
served by the City’s transit system and there are and will continue to be citizens of the City who
can reasonably be served by the County’s transit system; and

WHEREAS, the County and the City recognize the goals of providing a transportation
system to the general public at a reasonable fare and that of providing coordinated public
transportation service within the Porterville area; and

WHEREAS, the County and the City desire to provide for the Joint Exercise of Powers for
the purpose of providing and maintaining public transportation systems in the Porterville area;

NOW, THEREFORE, County and City mutually agree as follows:

1. Scope of Work. The County and City shall each control, manage, and operate a
separate transit system. The City and County shall furnish each other thirty (30) days prior
written notice of any and all service level and fare level changes.

   (a) County. The County shall provide transit service to those residents of the
City desiring to use the regularly scheduled service of the County transit system. The
County shall establish bus stop location(s) within the City which will interface with
the City bus stop locations and facilitate system transfers. The County stop(s) shall be
established at locations acceptable to the City. Approval on behalf of the City shall
be given by the City Transit Coordinator.

   (b) City. The City shall establish a series of bus stop locations within the
County. The City stops shall be established at locations acceptable to the County.
Approval on behalf of the County shall be given by the County Road Commissioner.
The City shall provide transit service to County residents desiring transit service
within the service area as set forth in Exhibit “A” which is attached hereto and made a
part hereof by this reference.

2. Management-County. The County shall manage the County transit system in an
appropriate manner, insuring cost effective operation, including marketing the system in a
professional manner and collecting fares from riders on the County transit system.
3. **Management-City.** The City shall manage the City transit system in an appropriate manner, insuring cost effective operation, including marketing the system in a professional manner and collecting fares from riders on the City transit system.

4. **Compensation.** The County shall compensate the City for service to County residents living in the herein agreed upon service area. Compensation shall be limited to a percentage of the operating costs of the City's Transit System. The term "operating cost" as used in this Agreement shall be defined as all costs in the operating expense object classes of the Uniform Systems of Accounts for Public Transit Operators adopted by the State Controller pursuant to Public Utilities Code Section 99243.

Compensation for the period July 1, 2004 through June 30, 2005, will be as follows:

<table>
<thead>
<tr>
<th></th>
<th>Demand Response</th>
<th>Route Service</th>
</tr>
</thead>
<tbody>
<tr>
<td>County LTF (See Below)</td>
<td>$395,960</td>
<td>$257,565</td>
</tr>
<tr>
<td>FTA Section 5307Credit</td>
<td>($119,277)</td>
<td>($68,600)</td>
</tr>
<tr>
<td>Fare Box Credit</td>
<td>($45,144)</td>
<td>($55,800)</td>
</tr>
<tr>
<td>First Annual Credit Adjustment</td>
<td>($68,911)</td>
<td></td>
</tr>
<tr>
<td>Depreciation</td>
<td>$1092</td>
<td>$3,692</td>
</tr>
<tr>
<td>Total Payment</td>
<td>$232,631</td>
<td>$67,946</td>
</tr>
</tbody>
</table>

5. **Authorization of Payment.** FTA Section 5307 Funds will be claimed by the City on the County's behalf. The County by this Agreement authorizes the Tulare County Association of Governments to transfer $300,577 of State Transit Assistance Funds, and/or Local Transportation Funds from the County's 2004/05 Apportionment to the City of Porterville's Apportionment. The County further authorizes the City to claim said $300,577 as full payment for services under this Agreement. In case of termination of this Agreement prior to June 30, 2005, the County agrees to compensate the City for a proportional amount of the sum of $300,577 based upon the number of days the services were provided by the City during a 365 day period.

6. **FTA Funds.** Per the 2000 Census, the Porterville Urbanized Area has a population of 59,961; 39,615 (66.0%) of which are City residents, and 20,346 (34.0%) of which are County residents. The Porterville Urbanized Area is eligible to receive Federal Transit Administration (FTA) Funds from Section 5307. The City of Porterville will be the claimant of these funds. The City will, at the request of the County, claim and transmit up to 34% of said funds for use by the County for eligible purposes under FTA Section 5307. In no case shall the amount transmitted or credited to the County exceed 34% of the total available. Any Section 5307 Funds which are to be transmitted to the County shall be handled under a separate agreement.
7. Renegotiation. In the event a contract between the Federal Transit Administration and the City of Porterville is not executed by June 30, 2005 for the Section 5307 Funds specified in paragraphs 4, 5 and 6 or in the event that $187,877 exceeds 34% of the total FTA Section 5307 funds available to the Porterville urbanized area, this contract will be renegotiated to reflect this condition.

8. Drivers. The parties shall require that all transit drivers meet all licensing requirements of the State of California.

9. Indemnification-City. City shall hold harmless, defend and indemnify County, its agents, officers and employees from and against any liability, claims, actions, costs, damages or losses of any kind, including death or injury to any person and/or damage to property, arising out of the activities of City or its agents, officers and employees under this Agreement. This indemnification specifically includes any claims that may be made against County by any taxing authority asserting that an employer-employee relationship exists by reason of this Agreement. This indemnification obligation shall continue beyond the term of this Agreement as to any acts or omissions occurring under this Agreement or any extension of this Agreement.

10. Indemnification-County. County shall hold harmless, defend and indemnify City, its agents, officers and employees from and against any liability, claims, actions, costs, damages or losses of any kind, including death or injury to any person and/or damage to property, arising out of the activities of County or its agents, officers and employees under this Agreement, and any claims made against County alleging civil rights violations by City under Government Code section 12920 et seq. (California Fair Employment and Housing Act). This indemnification obligation shall continue beyond the term of this Agreement as to any acts or omissions occurring under this Agreement or any extension of this Agreement.

11. Insurance-Liability. The City and the County shall each provide comprehensive general public liability and comprehensive automotive liability insurance with single limit coverage of not less than $5,000,000 or equivalent self-insurance covering their activities under this Agreement. Prior to commencing operations, each party shall file with the Clerk of the other party certificates of insurance evidencing the coverage required herein and naming the other party, its officers, agents and employees as additional insureds. Such certificates shall state that the named additional insureds are not responsible for the payment of any premium or assessment and shall provide that in the event of a cancellation or material change of policy, the insurer shall give the named additional insureds no less than thirty (30) days advance written notice of such cancellation or change. Upon request,
each party shall provide the other with a complete copy of the insurance policy or policies
or evidence and terms of self-insurance as required herein.

The parties agree, during the term of the Agreement, to maintain at their own expense
(or require of their independent contractors) all necessary insurance for their respective
officers, employees, and agents, including but not limited to workers' compensation,
disability and unemployment insurance in accordance with state statutory requirements and
to provide certificates of such insurance or other evidence of compliance to the other party
upon request. The insurance, and evidence thereof, required by this Agreement may be
provided either directly by the parties or, if a party contracts with an independent
contractor/operator to provide the services required by this Agreement, by the operator of
that party's system as deemed appropriate by such party.

12. Term of Agreement. This Agreement shall become effective July 1, 2004 and
shall continue in full force and effect until June 30, 2005 unless terminated earlier, as
herein provided.

13. Termination. The right to terminate this Agreement under this provision may be
exercised without prejudice to any other right or remedy to which the terminating party may
be entitled at law or under this Agreement.

(a) Without Cause. Either party shall have the right to terminate this
Agreement without cause by giving the other party SIXTY (60) days prior written
notice of its intention to terminate pursuant to this provision, specifying the date of
termination.

(b) With Cause. This Agreement may be terminated by either party should the
other party:

(i) be adjudged a bankrupt, or
(ii) become insolvent or have a receiver appointed, or
(iii) make a general assignment for the benefit of creditors, or
(iv) suffer any judgment which remains unsatisfied for 30 days, and which
would substantively impair the ability of the judgment debtor to perform under
this Agreement, or
(v) materially breach this Agreement.

For any of the occurrences except item (v), termination may be effected upon
written notice by the terminating party specifying the date of the termination. Upon a
material breach, the Agreement may be terminated following the failure of the
defaulting party to remedy the breach to the satisfaction of the non-defaulting party
within FIFTEEN (15) days of written notice specifying the breach. If the breach is
not remedied within that FIFTEEN (15) day period, the non-defaulting party may 
terminate the Agreement on further written notice specifying the date of termination. 

If the nature of the breach is such that it cannot be cured within a FIFTEEN (15) 
day period, the defaulting party may, submit a written proposal within that period 
which sets forth a specific means to resolve the default. If the non-defaulting party 
consents to that proposal in writing, which consent shall not be unreasonably 
withheld, the defaulting party shall immediately embark on its plan to cure. If the 
default is not cured within the time agreed, the non-defaulting party may terminate 
upon written notice specifying the date of termination. 

(c) Effects of Termination. Termination of this Agreement shall not terminate 
any obligations to indemnify, to maintain and make available any records pertaining 
to the Agreement, to cooperate with any audit, to be subject to offset, or to make any 
reports of pre-termination contract activities. 

14. Notices. Any notices to be given shall be written and served either by personal 
delivery or by first class mail, postage prepaid and addressed as follows: 

County: County Road Commissioner  
Resource Management Agency  
5961 S. Mooney Blvd.  
Visalia, CA 93277 

City: Transit Coordinator  
City of Porterville  
291 N. Main Street  
Porterville, CA 93257 

15. Integration. This Agreement constitutes the sole and only Agreement between 
the parties hereto as to the services to be provided hereunder. Any prior agreements, 
promises, negotiations or representations as to such services not expressly referred to herein 
are of no force and effect. 

16. Modification. The City and County shall furnish each other thirty (30) days prior 
written notice of any and all recommended service level and fare level changes. The City 
shall request and receive approval from the County Road Commissioner prior to any 
changes in service levels or fare levels in unincorporated areas of the service area. Except 
for said changes, this Agreement shall be modified or amended only with the prior written 
consent of both parties. 

17. Assignment. Neither party shall assign or transfer any of the rights or privileges 
or any parts thereof of this Agreement without the other party's prior written consent.
18. **Records.** Each party agrees to maintain all books, records, documents, and other
evidence pertaining to this Agreement, any disputes surrounding the subject matter of this
Agreement, and any other related circumstances in accordance with generally accepted
accounting principles and practices. Each party shall allow the other party's agents or
representatives access to such records for inspection, audit, and copying during normal
business hours. Each party shall provide further facilities for such access and inspection.

19. **Surveys.** Either the City or the County may conduct periodic ridership surveys.
Said surveys shall not interfere with the operation of the system.

20. **Legal Operation.** City and County each shall carry out its obligations under this
Agreement in full compliance with all applicable federal, state and local laws, ordinances,
rules and regulations.

21. **Construction.** This Agreement reflects the contributions of both parties and
accordingly the provisions of Civil Code section 1654 shall not apply to address and
interpret any uncertainty.

22. **Governing Law.** This Agreement shall be interpreted and governed under the
laws of the State of California without reference to California conflicts of law principles.
Any litigation arising out of this Agreement shall be brought in Tulare County California.
City waives the removal provisions of California Code of Civil Procedure Section 394.

23. **Conflict with Laws or Regulations/Severability.** This Agreement is subject to
all applicable laws and regulations. If any provision of this Agreement is found by any
court or other legal authority, or is agreed by the parties, to be in conflict with any code or
regulation governing its subject, the conflicting provision shall be considered null and void.
The remainder of the Agreement shall continue in full force and effect.

24. **Headings.** Section headings are provided for organizational purposes only and do
not in any manner affect the scope, meaning or intent of the provisions under the headings.

25. **No Third Party Beneficiaries.** Unless specifically set forth, the parties to this
Agreement do not intend to provide any other party with any benefit or enforceable legal or
equitable right or remedy.

26. **Waivers.** The failure of either party to insist on strict compliance with any
provision of this Agreement shall not be considered a waiver of any right to do so, whether
for that breach or any subsequent breach. The acceptance by either party of either
performance or payment shall not be considered to be a waiver of any preceding breach of
the Agreement by the other party.

27. **Exhibits and Recitals.** The Recitals and the Exhibits to this Agreement are fully
incorporated into and are integral parts of this Agreement. Each Exhibit shall be initialed
by both parties to this Agreement.
28. **Further Assurances.** Each party agrees to execute any additional documents and to perform any further acts which may be reasonably required to effect the purposes of this Agreement.

29. **Assurances of Non-Discrimination.** City and County expressly agrees that it will not discriminate in employment or the provision of services on the basis of any characteristic or condition upon which discrimination is prohibited by state or federal law or regulation.

IN WITNESS WHEREOF, the parties have caused this Agreement to be executed as of the date first above written.

COUNTY OF TULARE

By_________________________________
Chairman, Board of Supervisors
"COUNTY"

ATTEST: C. BRIAN HADDIX,
County Administrative Officer/
Clerk of the Board of Supervisors.

By_________________________________
Deputy

CITY OF PORTERVILLE

By_________________________________
Pedro R. Martinez, Mayor
"CITY"

ATTEST: Clerk of City of Porterville

By_________________________________
Deputy

Approved as to Form,
County Counsel

Approved as to Form,
City Attorney

By_________________________________
Deputy

By_________________________________
City Attorney
August 12, 2004

Resource Management Agency
5961 South Mooney Boulevard
Visalia, CA 93277

Attention: Dan Fox, Transit Coordinator

Formula for Fiscal Year 2004/05 Transit Agreement Between the City of Porterville and Tulare County

The following is a description of the cost formula components for the proposed FY 2004/05 transit agreement between our agencies.

FY 2004/05 COLT/COUNTY SERVICE COST
Compensation to the City for service to County residents is based on a percentage of the operating and capital costs of the transit system.

OPERATING COST
Operating cost is defined as all costs in the operating expense categories of the Administrative, Demand-Response and Fixed Route components. In accordance with this definition, and the adopted City of Porterville Annual Budget for FY 2004/05, the COLT operating cost is $1,572,763.

The compensation formula requires that transit system operating costs be allocated between the two service modes, Demand-Response and Fixed Route. The City’s transit budget is prepared in three segments: Administration, Demand-Response and Fixed Route. The only segment based on the proportion of service hours to be operated in each mode is the Administration segment, which segment has been apportioned to Demand-Response and Fixed Route based on the following percentages. The balance of the expense allocation in each service mode represents actual budget projections for that service mode. (Service hours based on actual revenue hours for FY 2003/04.)

<table>
<thead>
<tr>
<th>Service Mode</th>
<th>Service Hrs.</th>
<th>% of Total</th>
<th>Expense Allocated</th>
</tr>
</thead>
<tbody>
<tr>
<td>Demand-Response</td>
<td>16,271</td>
<td>45.5 %</td>
<td>$714,214</td>
</tr>
<tr>
<td>Fixed Route</td>
<td>12,511</td>
<td>54.5 %</td>
<td>$858,549</td>
</tr>
<tr>
<td>Total</td>
<td>35,782</td>
<td></td>
<td>$1,572,763</td>
</tr>
</tbody>
</table>
2004/05 FAREBOX REVENUE
The compensation formula includes a credit to the County for fares collected from County residents. It is therefore necessary to allocate farebox revenues between the two service modes. The City of Porterville FY 2004/05 farebox revenue is estimated to be $300,000. Of this amount, it is projected that 38% will be collected on the Demand-Response service, and 62% will be collected from Fixed Route system passengers. This allocation is based on the proportion of fares collected on each service mode during FY 2003/04.

COMPENSATION FOR DEMAND-RESPONSE
Based on actual ridership data reported by Sierra Management during FY 2003/04, County residents consumed 39.599% of the total Demand-Response passenger trips. (Total Demand-Response Trips totaled 47,091; Total County Trips totaled 18,648.) This percentage will be rounded up to 39.6% for this year’s calculations.

Based on FY 2003/04 passenger mile information, County residents travel on average 1.42 times as far as the average Porterville resident. For this reason, it is proposed that this figure be rounded to a distance factor of 1.4, which will be used in the compensation formula for FY 2004/05. The purpose of this factor is to adjust for the greater number of vehicle miles traveled to provide a trip to a County resident.

With the above data, the proposed FY 2004/05 compensation formula for Demand-Response is calculated as follows:

Demand-Response:
$ 714,214 x 39.6\% x 1.4 = 395,960$
$ 395,960 Total Payment$
- $45,144 Farebox Credit$
$ 350,816$
- $119,277 FTA Section 5307$
$ 231,539 COUNTY LTF$

FIXED ROUTE COMPENSATION FORMULA
The current agreement between the City and the County is based on a projection of service supplied to and consumed by County residents who utilize the six routes serving the unincorporated areas. For FY 2004/05, the same basis is proposed as in the previous agreement which is 30% of said operating cost being attributed to the County.

Based on the above, the proposed Fixed Route compensation formula is as follows:
Fixed Route
$ 858,549 x 30% = $257,565
$ 257,565 Total Payment
- $55,800 Farebox Credit
  $ 201,765
- $68,300 FTA Section 5307
  $ 133,165 COUNTY LTF

**CAPITAL COST**

Capital cost is defined as all depreciation expense attributed to all active City of Porterville Fixed Route and Demand-Response capital expense using the straight line of depreciation.

To calculate depreciation expense attributed to County residents, it is proposed that we use the 39.6% factor from the Demand-Response operating expense calculation, and the 30% factor from the Fixed Route operating expense calculation. These factors can be applied to the total projected depreciation expense for the Demand-Response and Fixed Route capital as follows:

<table>
<thead>
<tr>
<th>Projected Depreciation</th>
<th>Operating Factor</th>
<th>County Depreciation</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Fixed Route</strong></td>
<td>$ 61,527</td>
<td>30%</td>
</tr>
<tr>
<td><strong>Demand-Response</strong></td>
<td>$ 13,793</td>
<td>39.6%</td>
</tr>
<tr>
<td><strong>TOTAL</strong></td>
<td>$ 75,320</td>
<td></td>
</tr>
</tbody>
</table>

Based on the above, $ 23,920 is the proposed County share of projected depreciation expense. 80% of capital expense is funded with FTA funds; therefore, only 20% needs to be funded through County LTF funds, being the sum of $ 4,784.

Total charge to County LTF is $ 369,488 ($ 231,539 + $ 133,165 + $ 4,784). Backup documentation for each of the Demand-Response and Fixed Route formulas is available upon request. From this total, and per agreement with the County of Tulare, the City shall deduct $68,911, representing the City's first annual credit to the County of Tulare over a 6-year period for prior years' adjustments. With this credit, the total charge for County LTF is $ 300,577.

If you should have any questions, or would like to meet to discuss the proposed compensation formula, please call me at 782-7448.

Very truly yours,

Linda Clark
Administrative Analyst I
FY 03/04 Revenue Hours:
- Demand-Response: 16,271
- Fixed Route: 19,511
- Total Revenue Hours: 35,782

<table>
<thead>
<tr>
<th></th>
<th>Demand-Response</th>
<th>45.5% of total Revenue Hours</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Fixed Route</td>
<td>54.5% of total Revenue Hours</td>
</tr>
</tbody>
</table>

FY 04/05 Budget:
- Administration: $305,557 (Operating Costs)
- Demand-Response: $575,186 (Operating Costs)
- Fixed Route: $692,020 (Operating Costs)
- Total: $1,572,763

Administration Costs Divided Between Two Systems:
- Demand-Response (45.5%): $139,028
- Fixed Route (54.5%): $166,529
- Total: $305,557

Total Operating Costs:
- Demand-Response: $714,214
- Fixed Route: $858,549
- Total: $1,572,763

FY 03/04 Farebox Revenue
- Demand-Response: $112,114 (38%)
- Fixed Route: $182,758 (62%)
- Total: $294,872

Based on actual ridership data reported by Sierra Management, during FY 03/04 County residents consumed 39.599% of the total Demand-Response passenger trips. (Total Demand-Response trips totaled 47,091; total County Trips totaled 18,648.) This figure will be rounded up to 39.6% for this year's calculations.

Based on FY 2003/04 passenger mile information, County residents travel on average 1.42 times as far as the average Porterville resident. For this reason, it is proposed that this figure be rounded to a distance factor of 1.4, which will be used in the compensation formula for FY 2004/05. The purpose of this factor is to adjust for the greater number of vehicle miles traveled to provide a trip to a County resident.

Demand-Response:
- $714,214 x 39.6% x 1.4 = $395,960
- $395,960 Total Payment
- $45,144 Farebox credit (39.6% of $114,000)
- $350,816
- $119,277 FTA Section 5307
- $231,539 COUNTY LTF

Fixed Route:
- $858,549 x 30% = $257,565
- $257,565 Total Payment
- $55,800 Farebox credit (30% of $186,000)
- $201,765
- $68,600 FTA Section 5307
- $133,165 COUNTY LTF

39,961 total population from 2000 census; 39,615 (66% City) and 20,346 (34% County).
SUBJECT: APPROVAL FOR COMMUNITY CIVIC EVENT
PORTERVILLE FAIR BOARD - THE GREAT OUTDOORS ADVENTURE
SEPTEMBER 11 -12, 2004

SOURCE: Administrative Services - Finance Division

COMMENT: The Porterville Fair Board is requesting approval to hold "The Great Outdoors Adventure" on Saturday, September 11, 2004 from 10:00 a.m. to 10:00 p.m., and Sunday, September 12, 2004 from 10:00 a.m. to 5:00 p.m. A procession in remembrance of the events of September 11, 2001, will be held on Saturday, September 11, at 9:30 a.m. and will start at City Hall, proceed down Main Street to Olive Avenue, and continue on Olive Avenue east to the fair grounds. Traffic control is requested in conjunction with the procession. The following street closure is requested for the Firemen's muster:

Street closure: Olive Ave, from the Tulare Valley Railroad tracks to Plano Street (all eastbound and westbound lanes).

This request is made under the Community Civic Events Ordinance No. 1326, as amended. The application has been routed according to the ordinance regulations and reviewed by all departments involved. The requirements are listed on the attached copy of the application, agreement and Exhibit "A," and a map indicating the desired street closures is included.

RECOMMENDATION: That the Council:
(1) Approve the attached Community Civic Event Application and Agreement submitted by the Porterville Fair Board, subject to the stated requirements contained in Exhibit "A," and

(2) Grant the Chief of Police the authority to determine the need for the street closure, and close Olive Avenue from the Rail Road tracks to Plano Street should the volume of pedestrian traffic and vehicular traffic warrant it.

ATTACHMENT: Community Civic Event Application, Agreement and Exhibit "A"

DD Appropriated/Funded DP CM Item No. 11
REQUIREMENTS FOR COMMUNITY CIVIC EVENT

PORTERVILLE FAIR BOARD

"THE GREAT OUTDOORS ADVENTURE"

SEPTEMBER 11 & 12, 2004

Business License Supervisor:  
  K. Maxwell

Public Works Director:  
  B. Rodriguez

Community Development Director:  
  B. Dunlap

Field Services Manager:  
  B. Styles

Fire Chief:  
  F. Guyton

Parks and Leisure Services Director:  
  M. Stowe, Acting

Police Chief:  
  S. Rodriguez

Risk Manager:  
  D. Pyle

Council approval required. Non-profit sponsor.

Applicant to pick up/return barricades to corporation yard.

Obtain Council approval for use of city right-of-way.

No comment.

No comment.

Provide extra dumpster for additional trash. Clean up after event.

Street closure requires council approval. Provide safe crossing of Olive Avenue.

See attached.
REQUIREMENTS FOR COMMUNITY CIVIC EVENT

Sponsor: Porterville Fair Board
Event: "The Great Outdoors Adventure"
Event Chairman: Sheila Seaman
Location: Porterville Fairgrounds
Date of Event: September 11 & 12, 2004

RISK MANAGEMENT: Conditions of Approval

That the Porterville Fair Board provide a Certificate of Commercial General Liability Insurance Coverage evidencing coverage of not less than $1,000,000 per occurrence ($2,000,000 aggregate), and having the appropriate Endorsement naming the City of Porterville, its Officers, Employees, Agents and Volunteers as "Additional Insured" against all claims arising from, or in connection with, the Permittee's operation and sponsorship of the aforementioned Community Civic Event.

A. Said Certificate of Insurance shall be an original (fax and xerographic copies not acceptable), the Certificate shall be signed by an agent authorized to bind insurance coverage with the carrier, and the deductible, if any, shall not be greater than $1,000.

B. Said insurance shall be primary to the insurance held by the City of Porterville, be with a company having an A.M. Best Rating of no less that A:VII, and the insurance company must be an "admitted" insurer in the State of California.

C. FOR THE BOXING EVENT: Have an emergency medical response team onsite to include an ambulance.
CITY OF PORTERVILLE
APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A
COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

Application date: 8/11/04 Event date: Sep. 11 & 12, 2004

Name of Event: The Great Outdoors Adventure

Sponsoring organization: Porterville Fair
Phone #: 781-6582

Address: P.O. Box 369

Authorized representative: Nancy Jordt
Phone #: 781-6582

Address: P.O. Box 369

Event chairperson: Sheila Seaman
Phone #: 784-5000

Location of event (location map must be attached): Porterville Fairgrounds -
300 E. Olive & Municipal Ball Park

Type of event/method of operation: outdoor expo; Fireman's Muster; Battle of the Badges (boxing); concert; entertainment

Nonprofit status determination: 

City services requested (any fees associated with these services will be billed separately):

Barricades (quantity): 6

Police protection Yes No X

Street sweeping Yes No

Refuse pickup Yes X No

Other: 

Parks facility application required: Yes No X

Assembly permit required: Yes No X

STAFF COMMENTS (list special requirements or conditions for event):

Approve Deny

Bus Lic Spvr

Pub Works Dir

Comm Dev Dir

Field Svcs Mgr

Fire Chief

Parks Dir

Police Chief

Risk Manager
CITY OF PORTERVILLE

APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

Authorization: This permit must be submitted 30 days PRIOR to the date of the event in order to obtain City Council approval.

City Code requirements:

At least 48” must remain clear on sidewalks for pedestrian traffic.
Do not block any entrance to or exit from buildings.
Area must be accessible to emergency and safety personnel and vehicles.
Electrical cords must be approved and installation checked by the Fire Department.

Liability insurance: The sponsoring organization/applicant agrees to provide and keep in force during the term of this permit a policy of liability and property damage insurance against liability for personal injury, including accidental death, as well as liability for property damage which may arise in any way during the term of this permit. The City of Porterville shall be named as additional insured. The amounts of such insurance and any additional requirements are listed in Exhibit "A."

Alcohol liability insurance: Organization/Applicant will obtain an alcohol permit if any alcoholic beverages are to be served. The insurance policy shall be endorsed to include full liquor liability in an amount not less than one million dollars ($1,000,000) per occurrence. The City of Porterville shall be named as additional insured against all claims arising out of or in connection with the issuance of this permit or the operation of the permittee, his/her agents or representatives pursuant the permit. Claims-made policies are not acceptable.

Health permit: Organization/Applicant will obtain or ensure that all participants obtain a health permit(s) from the County of Tulare Department of Health if any food is to be served in connection with this Community Civic Event.

First aid station: Organization/Applicant will establish a first aid station to provide basic emergency care, such as ice/hot packs, bandages, and compresses.

Agreement: The sponsoring organization/applicant agrees to comply with all provisions of the Community Civic Event Ordinance 1326, as amended, and the terms and conditions set forth by City Council and stated in Exhibit "A." The sponsoring organization/applicant agrees, during the term of this permit, to secure and hold the City free and harmless from all loss, liability, and claims for damages, costs and charges of any kind of character arising out of, relating to, or in any way connected with his/her performance of this permit. Said agreement to hold harmless shall include and extend to any injury to any person or persons, or property of the kind whatsoever and to whomever belonging, including, but not limited to, said organization/applicant, and shall not be liable to the City for any injury to persons or property which may result solely or primarily from the action or non-action of the City or its directors, officers, or employees.

Name of organization: ____________________________  (Signature): ____________________________  Date: ____________________________
CITY OF PORTERVILLE

VENDOR/PARTICIPANT LIST IN CONNECTION WITH THE APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

Name of event: The Great Outdoors Adventure

Sponsoring organization: Porterville Fair

Location: Fairgrounds

Event date: Sep 11-12, 2004

List all firms, individuals, organizations, etc., that will engage in selling at or participate in the above-named event. NO PERMIT WILL ISSUED WITHOUT THIS INFORMATION. This form should be completed at the time of application, but must be submitted one week prior to the event.

<table>
<thead>
<tr>
<th>Vendor name</th>
<th>Address</th>
<th>Telephone</th>
<th>Type of Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cal Spas</td>
<td>3700 Auto Mall Dr, Bakersfield, CA</td>
<td>661-376-0811</td>
<td>spa exhibit</td>
</tr>
<tr>
<td>US Army Corps of Engineers</td>
<td>PO Box 1072, 205 E Main St, A Visalia</td>
<td>784-0215</td>
<td>interactive children's area</td>
</tr>
<tr>
<td>Underwater Excursions</td>
<td>228 W Main</td>
<td>733-3483</td>
<td>exhibit booth</td>
</tr>
<tr>
<td>Picture This</td>
<td>781-6000</td>
<td></td>
<td>photos</td>
</tr>
<tr>
<td>Bank of the Sierra</td>
<td>PO Box 1930, 174 N Main</td>
<td>781-2525</td>
<td>ATM</td>
</tr>
<tr>
<td>City of Porterville</td>
<td>291 N Main 784-2857</td>
<td>784-0177</td>
<td>coffee/smoothies</td>
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<tr>
<td>City of Porterville</td>
<td>291 N Main</td>
<td>784-0217</td>
<td>idol contest</td>
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<td>City of Porterville</td>
<td>291 N Main</td>
<td>804-0217</td>
<td>Firemanic Muster</td>
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<td>City of Porterville</td>
<td>291 N Main</td>
<td>784-0177</td>
<td>info booth</td>
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<tr>
<td>Police Activities League</td>
<td>110 N Main St</td>
<td>904-0217</td>
<td>Mariachi concert</td>
</tr>
<tr>
<td>Buzz's Fly Shop</td>
<td>110 N Main St D Visalia</td>
<td>734-1151</td>
<td>Battle of the Badge (boring)</td>
</tr>
<tr>
<td>Porterville Bonnie Horse</td>
<td>791-1439</td>
<td>782-1955</td>
<td>fly fishing exhibit</td>
</tr>
<tr>
<td>Tulco Animal Shelter</td>
<td>636-962</td>
<td>782-1985</td>
<td>Adopt-a-Pet</td>
</tr>
<tr>
<td>Spragues</td>
<td>25 N D</td>
<td>904-5243</td>
<td>quad expo</td>
</tr>
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<td>Firemanic Muster</td>
<td>1195 W Highland Ave, 2nd Ave, Bakersfield</td>
<td>784-1268</td>
<td>hamburger</td>
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<tr>
<td>Mariachi Academy</td>
<td>105 S Main Street, Bakersfield</td>
<td>782-1763</td>
<td>Mexican food (soda)</td>
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<tr>
<td>Assistant</td>
<td>105 S Main Street, Bakersfield</td>
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<td>sandwiches</td>
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<tr>
<td>Animal &amp; Cheer</td>
<td>639 Memory Lane</td>
<td>734-7241</td>
<td>jewelry</td>
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<td>Porterville Chrysler</td>
<td>777 W Olive St</td>
<td>724-721-</td>
<td>watches</td>
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<tr>
<td>Dunn Brothers</td>
<td>1438 W Olive St</td>
<td>724-1721-</td>
<td>-</td>
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<tr>
<td>Dunn Brothers</td>
<td>1438 W Olive St</td>
<td>724-1721-</td>
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CITY OF PORTERVILLE

REQUEST FOR STREET CLOSURES AND PUBLIC PROPERTY USAGE IN CONNECTION WITH THE APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

Name of event: The Great Outdoors Adventure

Sponsoring organization: Porterville Fair

Event date: Sep 11 & 12, 2004 Hours 10-10 10-5

ATTACH MAP MARKING AREAS TO BE CLOSED OR USED

<table>
<thead>
<tr>
<th>Street Name</th>
<th>From</th>
<th>To</th>
<th>Activity</th>
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</thead>
<tbody>
<tr>
<td>Olive St</td>
<td>2 lanes in front of fairgrounds</td>
<td>Fireman's Muster</td>
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</table>

9/11 Rememberance procession @ 9:30 From City Hall to Fairgrounds (no road closure necessary)

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<tr>
<th>Sidewalks</th>
<th>From</th>
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<th>Activity</th>
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<tr>
<th>Parking lots and spaces</th>
<th>Location</th>
<th>Activity</th>
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</table>


This application must be submitted 10 days prior to the date of the event. A copy of this permit must be at the operating premises of the amplifying equipment for which this registration is issued.

1. Name and home address of the applicant:
   Mitch Sandoval  Phone # 781-4174
   Jene Curriel  361-5957

2. Address where amplification equipment is to be used:
   300 E. Olive  Phone # 781-6582

3. Names and addresses of all persons who will use or operate the amplification equipment:
   Mitch Sandoval
   Jene Curriel

4. Type of event for which amplification equipment will be used:
   Battle of the Badges, Star Idol, Celebrando la Cultura

5. Dates and hours of operation of amplification equipment:
   10:10 on 9/11; 10:5 on 9/12

6. A general description of the sound amplifying equipment to be used:
   [Blank space]
I hereby certify that all statements and answers on this registration form are true and correct.

Sheila Seaman
Applicant

8-11-04
Date

Chief of Police

Date

Section 18-14 City Ordinance Outside Amplifiers; permit required.
It shall be unlawful for any person to maintain, operate, connect, or suffer or permit to be maintained, operated, or connected any loud-speaker or sound amplifier in such a manner as to cause any sound to be projected outside of any building or out of doors in any part of the city, without having first procured a permit from the Chief of Police.

Section 18-9 City Ordinance, Radios, record players, etc.
It shall be unlawful for any person within the city to use or operate or cause to be operated or to play any radio, phonograph, juke box, record player, loudspeaker musical instrument, mechanical device, machine, apparatus, or instrument for intensification or amplification of the human voice or any sound or noise in a manner so loud as to be calculated to disturb the peace and good order of the neighborhood or sleep of ordinary persons in nearby residences or so loud as to unreasonably disturb and interfere with the peace and comfort of the occupants of nearby residences.

California Penal Code Section 415
Any person who maliciously and willfully disturbs another person by loud and unreasonable noise, is guilty of a misdemeanor.

THIS OUTSIDE AMPLIFIER PERMIT HAS BEEN APPROVED. HOWEVER, WE URE YOU TO REMAIN CONSIDERATE OF THE GENERAL PEACE AND ORDER OF THE NEIGHBORS IN THE AREA. FAILURE TO ABIDE BY THESE REGULATIONS CAN RESULT IN REVOCATION OF THE PERMIT.

cc:
Instructions: Complete all items. Submit with required fee (Cashier's Check or Money Order) payable to ABC. Once license is issued, fee cannot be refunded.

1. ORGANIZATION'S NAME
   Fraternal Order of Eagles

2. LICENSE TYPE (Check appropriate license type AND organization type)
   - Daily General ($25.00) (Includes beer, wine and distilled spirits)
     - Fraternal Organization in Existence Over Five Years with Regular Membership
     - Religious Organization
     - Vessel per Section 24045.10 B&P
   - Special Daily Beer ($15.00)
     - Charitable
     - Fraternal
     - Religious
     - Cultural
     - Amateur Sports Organization
   - Special Daily Beer & Wine ($30.00)
     - Social
     - Civil
     - Other:
   - Special Daily Wine ($15.00)

3. LICENSE NUMBER

4. EVENT TYPE
   - Dinner
   - Dance
   - Wedding
   - Lunch
   - Picnic
   - Barbeque
   - Social Gathering
   - Festival
   - Sports Event
   - Concert
   - Birthday
   - Mixer
   - Carnival
   - Dinner Dance
   - Other: outdoor expo

5. TOTAL # OF DAYS
   - 3,000

6. ESTIMATED ATTENDANCE
   - FROM 11 - Noon - 10 pm
   - TO 9/12 - Noon - 5 pm

7. EVENT DATES
   - 9/11 & 12, 2004

8. EVENT LOCATION (Give street name, city, state, zip code)
   Porterville Faregrounds, 500 E Olive - Porterville

9. LICENSE # (Give street name, city, state, zip code)

10. AUTHORIZED REPRESENTATIVE'S NAME
    Robert McKinney

11. AUTHORIZED REPRESENTATIVE'S ADDRESS

12. LAW ENFORCEMENT SIGNATURE

13. DATE SIGNED

14. DEPARTMENT'S MAILING ADDRESS: 900 Wiltshire, Los Angeles, CA 90015

15. LAW ENFORCEMENT APPROVAL REQUIRED
   - Yes, Attached
   - No

16. LAW ENFORCEMENT APPROVAL REQUIRED
   - Yes, Attached
   - No

17. DEPARTMENT'S MAILING ADDRESS: 900 Wiltshire, Los Angeles, CA 90015

18. LAW ENFORCEMENT APPROVAL REQUIRED
   - Yes, Attached
   - No

19. DEPARTMENT'S MAILING ADDRESS: 900 Wiltshire, Los Angeles, CA 90015

TOTAL $31
PUBLIC HEARING

SUBJECT: CONDITIONAL USE PERMIT 6-1982, MODIFICATION NO. 1 (COLONIAL MOBILEHOME PARK)

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

BACKGROUND: Conditional Use Permit 6-1982 was approved by the City Council on June 15, 1982 to permit the development of a mobilehome park to be located on the northeast corner of Westwood Street and Morton Avenue. On July 20, 2004, the City Council found that the Colonial Mobilehome Park was in violation of conditions of approval requiring the installation and maintenance of landscaping along Morton Avenue and Westwood Street. At that meeting, City Council announced their intention to revoke the Conditional Use Permit if the property was not brought back into conformance with approved plans within sixty (60) days. That deadline expires on Saturday, September 18, 2004.

The management of the Colonial Mobilehome Park has retained a general contractor and landscape contractor to bring the property back into conformance. However, the landscape contractor has recommended changes to the original landscape design (see attached letter) as there may be plant species better suited for the landscaped areas. The proposal replaces ground cover with turf, changes the street trees to include varieties on the current City street tree list and replaces and relocates shrubbery plantings. The current proposal also includes Boston Ivy on the block walls to deter graffiti. Although the use of turf is not as water efficient as the original, the letter accompanying the request notes that there are invasive grasses on nearby properties and on the subject site. They suggest that maintenance to prevent such grasses from overtaking groundcover would be prohibitively time consuming.

At Staff's suggestion, the landscape contractor has proposed an alternative to turf in the event that City Council chooses to retain a groundcover. Their first choice would be Aptinia (Red Apple) and second choice would be Miniature Ice Plant. Less desirable choices also mentioned were Snow in Summer and Gazania, both of which are more attractive but less durable. As a final, and least desirable option, the applicants suggest replacing the landscape strip with cobblestone in concrete.
As these modifications are being proposed in the context of an active violation case, Staff has proposed conditions of approval which are intended to offer greater assurance of ongoing compliance. Conditions are proposed to achieve the following:

- Require ongoing maintenance of the facility, including landscaping.
- Set landscape maintenance standards.
- Collect a deposit to be used by the City to bring landscaping up to standards in the event the property owner fails to maintain the site. Such funds would be returned after five years if not used.
- Ensure that City costs of any future enforcement efforts can be recovered from the property owner.

COMMENT: On August 18, 2004, the Project Review Committee met to consider the requested modification (see attached letter). Staff reviewed the proposed plans and made recommendations, all of which have been incorporated into the proposal presented to City Council. The Project Review Committee specifically addressed the request to replace groundcover with turf and offered the following comment:

"During consideration of the prior action to Modify or Revoke the existing Conditional Use Permit, City Council expressed concern regarding the water consumption and potential runoff from turfed areas. Staff has considered the proposed turf and has decided to recommend approval of that portion of the plans unchanged. While turf is not particularly water efficient, it is relatively easy to maintain, [and] it matches neighborhood planting. Nearby examples of Bermuda grass appear to already be volunteering on the site and would be difficult to eradicate. However, as [sic] in order to prevent delays, Staff strongly recommends that a second choice be presented for Council review."

Staff notes that the original landscape plan would not likely be approved today due to its choice of less desirable street trees. The proposed landscape plan meets current standards and practices.

Unfortunately, the process of seeking a modification to the landscape plan has delayed action in installation of landscape improvements, although some grading and compaction seems to have taken place. Staff has not offered any extension to the sixty day deadline for compliance and recommends that the matter continue to be scheduled for public hearing on the September 21, 2004 City Council meeting.
With the additional proposed Conditions of Approval, Staff anticipates that the property owners will be more strongly motivated to avoid future violations. The City will also have significantly greater tools available to compel compliance with landscape maintenance standards.

OPTIONS:

1. Approve Conditional Use Permit 6-1982, Modification No. 1. This would authorize the management of the Colonial Mobilehome Park to install landscaping as proposed.

2. Approve Conditional Use Permit 6-1982, Modification No.1, but amend the proposed landscape plan.

3. Deny Conditional Use Permit 6-1982, Modification No. 1. The management of the Colonial Mobilehome Park would be required to install landscaping to match the originally approved design.

RECOMMENDATION: That the City Council approve Conditional Use Permit 6-1982, Modification No. 1, as proposed.

Attachments:

1. Resolution Approving Conditional Use Permit 6-1982
4. Letter from Chris Kaylor requesting consideration of modified landscaping
5. Application for Conditional Use Permit 6-1982, Modification No. 1
6. Project Review Committee Letter
7. Notice of Exemption
8. Draft Resolution Approving Conditional Use Permit 6-1982, Modification No. 1
RESOLUTION NO. 9724

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE APPROVING CONDITIONAL USE PERMIT NO. 6-82 AND SPECIFIC DEVELOPMENT PLANS

BE IT HEREBY RESOLVED by the City Council of the City of Porterville that Conditional Use Permit No. 6-82 and the Specific Development Plans for a mobile home park at the northeast corner of Morton Avenue and Westwood Street are hereby approved as recommended in Planning Commission Resolution No. 1343 attached hereto as Exhibit "A".

Mary Dougherty, Mayor

ATTEST:

C. G. Huffaker, City Clerk

* * * * * * * * *

STATE OF CALIFORNIA)
COUNTY OF TULARE ) (SS

I, C. G. HUFFAKER, the duly appointed City Clerk of the City of Porterville do hereby certify and declare that the foregoing resolution is a full, true and correct copy of a resolution duly passed and adopted by the City Council at a City Council meeting regularly called and held on the 15th day of June, 1982.

THAT said resolution was passed and adopted by the following vote:

AYES: COUNCILMEN: Ferrell, Moran, Tree, Durbin, Dougherty
NOES: COUNCILMEN: None
ABSENT: COUNCILMEN: None

C. G. HUFFAKER, City Clerk

By: Georgia H. Deputy

ATTACHMENT
ITEM NO. 1
RESOLUTION NO. 1343

A RESOLUTION OF THE PLANNING COMMISSION
OF THE CITY OF PORTERVILLE CONTAINING
FINDINGS AND CONDITIONS IN SUPPORT OF
CONDITIONAL USE PERMIT 6-82 AND SPECIFIC
DEVELOPMENT PLANS LOCATED ALONG THE NORTH-
WEST CORNER OF WESTWOOD STREET AND MORTON
AVENUE.

WHEREAS: The City of Porterville Planning Commission at its
regularly scheduled meeting of May 10, 1982, conducted a
public hearing to consider Conditional Use Permit 6-82 and
Specific Development Plans for a mobilehome park for that
site located along the northeast corner of Westwood Street
and Morton Avenue, and

WHEREAS: The P-D Zone requires that the applicant submit Specific
Development Plans, which shall be in conformance with the approved
General Development Plans, and

WHEREAS: The Specific Development Plans show that the applicant
proposes a mobilehome park within the boundaries of the P-D
Zone, and

WHEREAS: The Planning Commission received testimony from all
interested parties relative to the Conditional Use Permit and
Specific Development Plans, and

WHEREAS: The Planning Commission made the following findings:

1. That the proposed project is consistent
   with adopted general and specific plans.

2. That the design or improvement of the
   proposed project is consistent with adopted
general and specific plans.
3. That the site is physically suitable for the type of development.

4. That the site is physically suitable for the proposed density of development of the project.

5. That the design of the project or the proposed improvements are not likely to cause substantial environmental damage.

6. That a Mitigated Negative Declaration was prepared for the project.

7. That the proposed location of the Planned Unit Development is in accordance with the objectives of the zone plan, and the purpose of the district in which the site is located.

8. That the proposed location of the Planned Unit Development and the proposed conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.

9. That the standards of population density, site area dimensions, site coverage, yard spaces, heights of structures, distance between structures, off-street parking and off-street loading facilities and landscaped areas will produce an environment of stable and desirable character consistent with the objectives of the Zoning Ordinance.

10. That the standards of population density, site area and dimensions, site coverage, yard spaces, height of structures, distances between structures and off-street loading facilities will be such that the development will not generate more traffic than the streets in the vicinity can carry without congestion and will not overload utilities.

NOW, THEREFORE, BE IT RESOLVED: That the Porterville Planning Commission does hereby approve Conditional Use Permit 6-82 Specific Development Plans subject to the following conditions:

1. That all future on-site development shall conform to applicable City of Porterville codes.
2. That all future on-site development shall conform to the City's Zoning Ordinance.

3. That all future on-site uses shall conform to the City's Fire Department Standards.

4. That the requirements of the City Engineer shall be complied with (conditions attached).

5. That the mobilehome park shall be developed substantially as shown on Exhibits 1-20 except where conditions of approval require changes or where changes do not substantially vary from the General Development Plans.

6. That emergency ingress/egress be provided as determined by the Fire Chief and City Engineer.

7. That the owner of the mobilehome park be responsible for maintenance of the landscaping in the Westwood Street and Morton Avenue Parkway.

8. That fire flow requirements shall be 1,000 gallons per minute at 20 pounds per square inch.

9. That the mitigation measures of the Environmental Review Committee be incorporated into the project. (The potential impact concerns of the Environmental Review Committee and mitigation measures are attached.)

10. To allow a 6' redwood interior fence and that the owner be responsible for maintenance.

MOVED BY COMMISSIONER BONDS SECONDED BY COMMISSIONER
ATTEBURY AND CARRIED BY THE FOLLOWING VOTE:

AYES: Bonds, Attebury, Gillett

McCracken

NOES: None

STEPPED DOWN: Nicholson

ABSTAIN: None

ABSENT: Cotta

DATED: May 10, 1982

ATTEST: Pete V. McCracken, Chairman
Porterville Planning Commission
POTENTIAL ENVIRONMENTAL IMPACTS AND MITIGATION MEASURES

1.b & 3.b. The project will result in some coverage of the soil with impervious material, both structures and paving which will increase surface runoff and reduce percolation into the local ground water.

An adequate drainage plan, approved by the City Engineer, will act as a mitigation measure for both the increase surface runoff and decreased recharge of the ground water system.

2.a There will be some marginal increase in air emissions from an additional 180 dwelling units and associated automobile traffic.

The emission of automobile gases is controlled by the State. The Tulare County Air Pollution Control Officer is also responsible for monitoring local air pollution.

4.a There will be a reduction of 26 acres in agricultural crops by the conversion to urban housing usage.

If the site is to be developed to urbanized uses, the loss of the site to agricultural uses cannot be avoided.

6.a. There will be some marginal increase in noise associated with the increased automobile traffic.

The control of automobile engine noise is controlled by mufflers. The curtailment of excessively loud automobile noise will be the responsibility of the police department.

13.a. There will be approximately 1,260 additional vehicle trips per day generated by this project. This additional traffic should have no significant impact on the local street system.

In review of this impact, the City Engineer indicated that the City street system could accommodate the additional traffic generated by the project.

14. There may be some marginal increase in need for police and fire service by this project.

The project site is located within the City limits and is presently receiving all requested City services. Upon development of the site, request for additional City services will be the responsibility of the affected department.
1. That all improvements required shall be constructed in accordance with the applicable City of Porterville Standard Plans and Specifications, and in accordance with applicable codes and ordinances along with the recommendations of the City Engineer, and that all applicable fees required for same shall be paid in accordance with the Municipal Code of the City of Porterville.

2. That all existing, abandoned and unnecessary improvements, structures, foundations, septic tanks, water lines, fences, etc., be removed to the satisfaction of the City Engineer prior to any issuance of building permits.
City of Porterville

Attention: Randy Ruda

RE: Colonial Mobile Home Park Landscape

Bob Vollmer of Vollmer Excavation has asked me, Chris Kaylor, owner of Kaylor Landscape, to help out in the reinstallation of the landscape and irrigation at the colonial mobile home park which is located at Morton and Westwood.

Apparently there was an original landscape plan by which the park was originally constructed, maybe back in the 1980's.

Some comments that I might offer on the plan are:

1. The Eucalyptus trees might be somewhat messy, very large growing, and a little bit brittle in branching structure.

2. The Italian Stone Pines are what the city is removing from the downtown parking lots, because of their invasive roots.

3. Junipers are very durable, but have fallen out of favor in landscapes in lieu of more ornamental shrubs.

4. The Mahonia Aquifolium would prefer some shade to look its best.

5. Vinca Minor and Ajuga will not do well in full sun and in large mass plantings.

6. Verbena is very colorful almost all year round, but is very susceptible to white fly in the fall. It also doesn't have a very long life cycle.

7. That whole area, on that side of town is heavily infested with nut-grass. Nut-grass is probably the most difficult weed/grass to eradicate. On the Westwood side it doesn't appear to be that bad. I believe that the reason is that it hasn't been watered very much, if at all, and that someone has sprayed it with some Round Up at one time or another. Roundup will knock the wind out of it, but it will not eradicate it.

8. The Morton Street side has an existing lawn that will have to be removed. It is my experience, that when you remove an existing lawn, in the Westwood area, that it awakens the nut-grass and that it returns with a vengeance. We just ran across this situation in the last 2 weeks, about 2 blocks north of the mobile home park. With the almost guaranteed presence of the nut-grass and coupled with the imminent infestation of Bermuda grass, the issue will almost be insurmountable.

For whoever maintains the landscaped area, whether it is the City, or the property owner, it promises to be more work than either one of the entities will diligently pursue. It will take 1 person, a full time job (8 hrs per day) of weeding and planting to keep it in a half well-kept appearance. With regular sprays of "manage" (which is the only product left that might control nut-grass) and "turflon" (which can selectively kill Bermuda grass). The grass infestation might be controlled in about a year. The plant failure and replacement of the same
plant material might go on indefinitely.

My suggestion would be to try and somewhat go with the planting theme at Westwood Estates. It is mostly lawn, which would let the nut-grass more intermingle and not be as noticeable. Manage could then be sprayed once a month with "Manage", until it is eradicated. There are a lot of ornamental shade trees, which give it a park-like look. There are intermittent planters with Boulder settings to break-up the long continuous run. It would give continuity to the Westwood Landscape, and also tie in the Morton Street landscape.

To make up for lost time you could space out larger, boxed plant material. This would give the landscape a more mature look.

I believe that ultimately, everyone (The City of Porterville, the property owner, Westwood Estates residents, and the City residents of Porterville) would like to have an attractive landscape surrounding Colonial Mobile Home Park. It would seem to me that it would be more correct to install it only one more time, with the least potential problems for the future as possible.

I will do the work however you direct me, and in a timely, competent manner. If you want to reach me about any other questions or conversations about this, please feel free to call me. I'm always in the office between 5 – 6 A.M. Monday through Friday, at 781-5189. I am in and out of my truck during the day at 359-0313.

Thanks for your time, and I'll talk to you soon.

Chris Kaylor
Owner - Kaylor Landscape

Cc: Bob Vollmer: Vollmer Excavation
APPLICATION FOR CONDITIONAL USE PERMIT

(See Page 3 of this form for information on preparing and filing this application)

The Applicant(s) Colonial Community Homes is/are the owner(s) or tenant(s) of property situated at 2300 W. Morton Avenue, between Westwood Street/Avenue and Morton Avenue Street/Avenue. Exact legal description of said property being (Use separate sheet if necessary)
16.61 Acres Fee Parcel Number: 245-311-014-000

As applicable, a Plot Plan and 300' radius property owners map, and corresponding mailing list are hereeto attached and made a part of this application (see detailed instructions on Page 3 of this form).

(A) Above described property is owned by Colonial Community Homes
Date acquired October, 1996

(B) If applicant is the lessee, give date property was leased:
N/A

(C) List below the original deed restrictions, if any, that were placed on the property which pertain to the type of improvements permitted.
Give date said restrictions expire None

(You may attach copy of original printed restrictions in answer to this question after property underlining those features controlling the type and class of uses permitted thereby).

(D) REQUEST: The applicant requests a Conditional Use Permit to USE the above described property for the following purposes:

(Use this space ONLY to state exactly what is intended to be done, on or, with the property).
Landscaping Change Per Chris Kaylor's Design
NOTE: The basic purpose of the Conditional Use Permit Article of The City Zoning Ordinance is to assure that the design and subsequent operation of a conditional use will be reviewed in order to carry out the purposes of the Ordinance and to protect the public health, safety and welfare, due to the unique and special characteristics of such uses.

1. State how the proposed use will not be materially detrimental to the public welfare or injurious to property or improvements in such vicinity and zone in which the use is proposed to be located.

   Updated better plan, improve the site with grass, shrubs and trees.

2. Principal requirements of intended use (Please answer the following statements, if applicable):
   (a) Total number of people that the building (or grounds if the use is not conducted in a building) can accommodate at one time (Seating Capacity).

      No Change

   (b) Total number of employees that will work on the property.

      No Change

   (c) Total number of off-street parking spaces provided or planned.

      No Change

   (d) Maximum height of buildings or structures.

      No Change

   (e) If the application is not intended to be for a permanent conditional use, state the length of time for which it is requested.

      N/A
We, the undersigned OWNERS of ADJACENT PROPERTY as shown upon the map attached to the application, hereby certify that we have read the foregoing petition and agree that the facts stated correctly and completely present the conditions surrounding the property involved in the application, and believe the application SHOULD BE GRANTED (Add additional sheets where necessary. These signatures are desirable but not required).

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<tr>
<th>No. on Map</th>
<th>Name</th>
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**APPLICANT'S DECLARATION**

STATE OF CALIFORNIA )
) ss.)
COUNTY OF TULARE )

I (we), ____________________________________________________________________________________ being duly sworn, declare and say that I am (we are) the owner (lessee or agent) of property involved in this application and that I (we) have completed this application and all other documents and maps required hereby to the best of my (our) ability and that the statements and information above referred to are, in all respects, true and correct, except, as to the matters stated to be on my information and belief.

I declare under penalty of perjury that the foregoing is true and correct, executed at ____________________________________________________________________________________________ this __________ day of ____________________________

Telephone No. 714 669-5610  FAX 714 573-2707

__________________________________________________________________________

This is to certify that the foregoing application has been inspected by me and has been found to be thorough and complete in every particular and to conform to the rules and regulations of the City of Porterville governing the filing of such application.

By __________________________________

Date Received ________________________
REQUIREMENTS FOR FILING APPLICATION FOR CONDITIONAL USE PERMIT

1. Conditional Use Permit Application Form
2. 300-Foot Radius Map
3. Property Owners' List
4. Plot Plan, Drawings or Photographs
5. Filing fee $700.00

1. The Conditional Use Application form must be filled out with full answers to every statement and question. The application must be signed by owner or authorized agent under penalty of perjury in the space provided on Page 3.

2. The 300-Foot Radius Map accompanying the application must be a clear tracing to a suitable scale and must be correctly prepared. It must show each parcel within 300 feet of the exterior boundaries of property involved with the uses of each parcel or present type of occupancy, such as single-family residence, duplex, apartment house, business building or type of industrial use, or if vacant. The various zones surrounding the subject property must also be shown. Each parcel must be consecutively numbered to correspond to owner's name on Property Owners' List (as explained below).

3. The Property Owners' List should be typewritten or legibly printed on a form to be obtained from the City (or directly on sheets of mailing labels), and must include the owner's name and mailing address. Each owner's name on this list must be numbered to correspond with the numbering placed on the aforesaid Map (Names of owners must be secured from County Assessor's Office at County Courthouse or from any title company). (One copy).

4. The Plot Plan, if applicable, must be a clear and accurate tracing of suitable size showing the parcel dimensions, its location with respect to adjacent streets, and the location of all existing and proposed buildings, structures or other improvements, with their distances from the parcel lines clearly shown. Drawings of proposed buildings on a scale large enough to illustrate the subjects under discussion are suggested as exhibits with this application. Photographs of structures are also helpful (8 copies initially with additional copies to be submitted prior to public hearing).

When above requirements are met, file Application, Plot Plan, if applicable, and Property Owners' List with the Planning Division, City Hall, Porterville, California. The application must be complete in every respect, with all questions and demands answered, before the City Planner can receive and certify the petition.

This application is not a permit. A public hearing will be held on your application.
CITY OF PORTERVILLE
DEPARTMENT OF COMMUNITY DEVELOPMENT AND SERVICES
PLANNING DIVISION
ENVIRONMENTAL INFORMATION FORM

Date Filed: August 3, 2004

(To be completed by Applicant or Engineer)

For Office Use Only:
Receipt No. _______________________ Amount: _______________________
Date: _______________________ Payer: _______________________
Received By: _______________________ ERC No. _______________________ Project No. _______________________

Note: Failure to answer applicant questions could delay the processing of your application or require you
to resubmit your application.

General Information:

1. Name and address of developer or project sponsor: Colonial Community Homes

2. Address of project: 2300 W. Morton Avenue, Porterville, California

3. Name, address, and telephone number of person to be contacted concerning this project: Same as Above  Linda Miyai  Phone: 559-781-7357

4. Indicate number of the permit application for the project to which this form pertains: CUP 6-1982

5. List and describe any other related permits and other public approvals required for this project, including those required by city, regional, state and federal agencies:

   N/A

6. Existing zoning district: E-1

7. Proposed use of site (project for which this form is filed): Mobilehome Park
Project Description:

8. Site size. 16.61 Acres
9. Square footage. No Change
10. Number of floors of construction. No Change
11. Amount of off-street parking provided. No Change
12. Attach plans. Landscape Plans
14. Associated project.
15. Anticipated incremental development. One Step
16. If residential, include the number of units, schedule of unit sizes, range of sale prices or rents, and type of household size expected. No Change
17. If commercial, indicate the type, whether neighborhood, city or regionally oriented, square footage of sales area, and loading facilities. N/A
18. If industrial, indicate type, estimated employment per shift, and loading facilities. N/A
19. If institutional, indicate the major function, estimated employment per shift, estimated occupancy, loading facilities, and community benefits to be derived from the project. N/A
20. If the project involves a variance, conditional use or rezoning application, state this and indicate clearly why the application is required. Landscape improvement with Chris Kaylor's Design.

Are the following items applicable to the project or its effects? Discuss below all items checked yes (attach additional sheets as necessary).

<table>
<thead>
<tr>
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<th>YES</th>
<th>NO</th>
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<tr>
<td>21. Change in existing features of any bays, tidelands, beaches, lakes, or hills, or substantial alteration of ground contours.</td>
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<td>22. Change in scenic views or vistas from existing residential areas or public lands or roads.</td>
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<td>23. Changes in pattern, scale or character of general area of project.</td>
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<td>24. Significant amounts of solid waste or litter.</td>
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<td>25. Change in dust, ash, smoke, fumes or odors in vicinity.</td>
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<tr>
<td>26. Change in ocean, bay, lake, stream or ground water quality or alteration of existing drainage patterns.</td>
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</table>
27. Substantial change in existing noise or vibration levels in the vicinity. 

28. Site on filled land or on slope of 10 percent or more. 

29. Use of disposal of potentially hazardous materials, such as toxic substances, flammables or explosives. 

30. Substantial change in demand for municipal services (police, fire, water, sewage, etc.). 

31. Substantially increased fossil fuel consumption (electricity, oil, natural gas, etc.). 

32. Relationship to a larger project or series of projects. 

Environmental Setting:

33. Describe the project site as it exists before the project, including information on topography, soil stability, plants and animals, and any cultural, historical or scenic aspects. Describe any existing structures on the site, and the use of the structures. Attach photographs of the site. Snapshots or polaroid photos will be accepted. 

Change to improve landscape with Chris Kaylor's Design (remove Hazards) 

34. Describe the surrounding properties, including information on plants and animals and any cultural, historical or scenic aspects. Indicate the type of land use (residential, commercial, etc.), intensity of land use (one-family, apartment houses, shops, department stores, etc.). Attach photographs of the vicinity. Snapshots or polaroid photos will be accepted. 

Developed residential area.

All applicants or engineers must check one of the following boxes:

I hereby authorize the City of Porterville Planning Division to prepare an Environmental Impact Report for my project, if necessary. I understand the City will bill me, and I agree to pay the City for the actual cost of preparation of the Draft Environmental Impact Report. I further understand that no action approving the project will be taken by the City until the cost of the Environmental Impact Report is paid.
I hereby authorize the engineer or surveyor as my representative to authorize the City Planning Division to prepare an Environmental Impact Report for my project, if necessary. I understand the City will bill me, and I agree to pay the City for the actual cost of preparation of the Draft Environmental Impact Report. I further understand that no action approving the project will be taken by the City until the cost of the Environmental Impact Report is paid.

Please do not proceed with the preparation of an Environmental Impact Report for my project until the City Planning Division has received a written authorization letter from me, or my authorized representative.

CERTIFICATION: I hereby certify that the statements furnished above and in the attached exhibits present the data and information required for this initial environmental evaluation to the best of my ability, and that the facts, statements, and information presented are true and correct to the best of my knowledge and belief.

[Signature]

[Date]

Applicant/Engineer

Colonial Community Homes 2300 W. Morton Avenue, Porterville, California 93257

Street Address

City State Zip

559 – 781-7357

Telephone

Forms: EnvironInfo
August 18, 2004

Colonial Community Homes, LLC
2300 W. Morton Ave.
Porterville, CA 93257

Linda Miyai
P. O. Box 487
Westminster, CA 92684

RE: BSR 45-2004 - Proposed modification to Conditional Use Permit 6-82 pertaining to landscaping around the outer perimeter (abutting Westwood Street and Morton Avenue) of Colonial Mobile Home Park located at 2300 West Morton Avenue.

Next Level of Submittal: SEE ATTACHED

Dear Colonial Community Homes and Ms. Linda Miyai:

[ ] The Project Review Committee, during the course of its regularly scheduled meeting of ____________, has determined that materials and data submitted for City review of the above-referenced project are complete as of this date and the procedural steps for consideration of those items shall commence as of ________________.

[X] The Project Review Committee, during the course of its regularly scheduled meeting of August 18, 2004 determined that materials and data submitted for City review of the above-referenced project are NOT complete to accomplish the next level of submittal shown above (Please see attached).

cc: Building Division
    Engineering Division
    Parks and Leisure Services
    Police Department
    Fire Department

Y:\Community Development\Committee Letters\PRC 2004\PRC Letter_BSR45-2004.wpd

ATTACHMENT
ITEM NO. 6
The Project Review Committee (PRC) is generally supportive of the proposed modification to Conditional Use Permit 6-82 pertaining to landscaping around the outer perimeter (abutting Westwood Street and Morton Avenue) of Colonial Mobile Home Park located at 2300 West Morton Avenue. The following topics and requirements were discussed at the Project Review Committee (PRC) Meeting on August 18, 2004.

1. The plans as submitted to the Project Review Committee should be amended as follows:
   a. Consider substituting Raywood Ash for some of the pear or plum trees along Morton Avenue to reflect the trees on the south side of the street.
   b. The flowering pears should be a mix of sizes with no more than 5 smaller than 24 inch box and no fewer than five larger than 24 inch box. Due to their relatively small ultimate size, the purple leaf plums may be installed at the 15 gallon size.
   c. It is Staff’s experience that abelia requires a fairly high maintenance effort. Consider substituting an alternative such as xylosma congestum compactum.
   d. Staff will recommend a condition of approval requiring vines to be placed on the concrete block walls along Morton Avenue and Westwood Street. Indicate the type of vine to be utilized to comply with this condition.
   e. Root barriers will be required for all trees to protect adjacent improvements.

2. During consideration of the prior action to Modify or Revoke the existing Conditional Use Permit, City Council expressed concern regarding the water consumption and potential runoff from turfed areas. Staff has considered the proposed turf and has decided to recommend approval of that portion of the plans unchanged. While turf is not particularly water efficient, it is relatively easy to maintain, it matches neighborhood planting. Nearby examples of Bermuda grass appear to already be volunteering on the site and would be difficult to eradicate. However, as, in order to prevent delays, Staff strongly recommends that a second choice be presented for Council review.

3. The trees should be placed to be staggered throughout the back half of the planter area.

4. The following information is required at the time of submittal for a Conditional Use Permit Modification:
   a. Nine (9) full size copies of a site plan (landscape plan).
   b. One reproducible copy (maximum size 11 X 17) of a site plan and floor plan.
BSR 45-2004 - Colonial Mobile Homes, LLC/Ms. Linda Miyai
August 18, 2004

   c. A completed Conditional Use Permit Application (received).
   d. A completed Environmental Information Form (received).
   e. A 300 foot radius map and corresponding property owners list on mailing labels (key
      labels to radius map) (received).
   f. Processing fees in the amount of $150 to include Conditional Use Permit Modification
      Application fees ($150)
   g. A check made payable to the Tulare County Clerk in the amount of $45.00 for posting of
      Environmental Documents.

Sincerely,


Randall S. Rouda, AICP
Associate Planner

RSR:rsw
NOTICE OF EXEMPTION

TO: Office of Planning and Research
1400 Tenth Street, Room 121
Sacramento, California 95814

FROM: City of Porterville
291 N. Main Street
Porterville, California 93257

APPLICANT: Colonial Community Homes
2300 W. Morton Ave.
Porterville, CA 93257

Tulare County Clerk
County Civic Center
Visalia, California 93291

Conditional Use Permit 6-1982, Modification No. 1

Project Title
City of Porterville

Project Location
Porterville/Tulare County
City/County

Modification to a Conditional Use Permit for an existing, fully developed Mobilehome Park to modify the
adopted landscape plan.

Description of nature, purpose, and beneficiaries of Project

City of Porterville

Name of Public Agency Approving Project
City of Porterville

Name of Person or Agency Carrying Out Project

Exempt Status: (Check One)

Ministerial (Section 15073)

Declared Emergency (Section 15071(a))

Emergency Project (Section 15071 (b) and (c))

Categorical Exemption. State type and section number


It can be seen with certainty that there is no possibility that adoption of the proposed modification will have
a significant effect on the environment.

Reasons why project is exempt

Bradley D. Dunlap, AICP, Community Development Director
(559) 782-7460

Contact Persons
Telephone

If Filed by Applicant:
1. Attach certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the project? ___ Yes ___ No

Date Received for Filing

Signature

Title
Community Development Director
Revised: 1/94
RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS AND CONDITIONS IN SUPPORT OF CONDITIONAL USE PERMIT 6-1982, MODIFICATION NO. 1, TO AMEND THE APPROVED LANDSCAPE PLAN FOR THE COLONIAL MOBILEHOME PARK

WHEREAS: Conditional Use Permit 6-1982 was originally approved by Planning Commission Resolution No. 1343 on May 10, 1982 to adopt specific development plans within a Planned Development and to permit the establishment of the Colonial Mobilehome Park on the northeast corner of Morton Avenue and Westwood Street; and

WHEREAS: Pursuant to Article 31 of the Porterville Zoning Ordinance, the City Council of the City of Porterville at its regularly scheduled meeting of July 20, 2004, conducted a public hearing to consider modification or revocation of Conditional Use Permit 6-1982; and

WHEREAS: At the July 20, 2004 meeting, the City Council determined that the Colonial Mobilehome Park was in violation of Condition No. 1 and Condition No. 7 of Planning Commission Resolution 1343; and

WHEREAS: In order to correct the violations, it will be necessary to replace landscaped improvements along Morton Avenue and Westwood Street; and

WHEREAS: The management of the Colonial Mobilehome Park has submitted amended landscape plans for Conditional Use Permit 6-1982, Modification No. 1 for review by the City Council; and

ATTACHMENT
ITEM NO. 8
WHEREAS: The City Council received testimony from all interested parties relative to said modification of Conditional Use Permit 6-1982.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve Conditional Use Permit 6-1982, Modification No. 1 subject to the following conditions:

1. All Conditions of Approval of Conditional Use Permit 6-1982 shall continue to apply to this project unless modified herein.

2. The developer/applicant and all subsequent owners and operators of the facility shall operate and maintain the establishment in such a manner as to preserve the public safety, health and welfare, to prevent the use from becoming a nuisance and in compliance with all laws, ordinances and regulations regarding the operation and maintenance of a mobilehome park.

3. The developer/applicant and all subsequent owners and operators of the facility shall comply with all conditions of approval of Conditional Use Permit 6-1982 approved by Planning Commission Resolution 1343 and any conditions of approval of any other permits, approvals or authorizations applicable to the mobilehome park.

4. All landscaped areas, including those along the Morton Avenue and Westwood Street frontages, shall be permanently maintained free of diseased, dead or damaged plant materials. Unhealthy or dead plants shall be replaced promptly. Furthermore, the areas shall be neatly trimmed.

5. Within sixty (60) days of the date of this Resolution, the property owner shall submit a signed notice giving the City of Porterville and/or the City’s designated representatives the authority to enter the property for the purpose of carrying out landscape maintenance and/or graffiti removal.

6. Within sixty (60) days of the date of this Resolution, the property owner shall place on deposit with the City of Porterville an amount of $7,000.00. In the event that the landscaped areas along the Morton Avenue and Westwood Street frontages are not maintained, the Community Development Director shall cause the area to be maintained and the expense of such work shall be deducted from the deposited funds. Expended funds shall be replaced by the property owner, or their successors in interest, within sixty (60) days of receipt of notice of the expenditure. The deposited funds shall be returned to the property owner five (5) years after their receipt if not used.
7. In the event that future violations of conditions of approval of Conditional Use Permit 6-1982, including those conditions adopted herein occur, the property owner shall be responsible for reimbursing the City of Porterville for any costs incurred in the enforcement of the conditions. Said costs shall include any and all administrative costs, court costs, and/or legal fees including reasonable attorney’s fees.

______________________________________________
Pedro R. Martinez, Mayor

ATTEST:

John Longley, City Clerk

______________________________________________
Georgia Hawley, Chief Deputy City Clerk
CITY COUNCIL AGENDA: SEPTEMBER 7, 2004

PUBLIC HEARING (CONTINUED)

SUBJECT: BEVERLY GLENN TENTATIVE SUBDIVISION MAP (MOHAMMAD DAVARIFAR)

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: The applicant is requesting approval of Beverly Glenn Tentative Subdivision Map to divide a vacant 4.68± acre parcel zoned City R-1 (One-Family Zone) into nineteen (19) single family residential lots to be developed in one (1) phase. The tentative map was previously approved by City Council on August 6, 1991 and expired on August 6, 2001. The subject site is located north of River Avenue between Lotas and Beverly Streets.

On August 17, 2004, the Porterville City Council opened the public hearing for Beverly Glenn Tentative Subdivision Map. Due to an environmental concern raised at that hearing, it was necessary to redistribute the Initial Study and proposed Mitigation Measures to interested agencies, groups and individuals for a twenty (20) day review period.

As a result of the above, Staff is requesting that the City Council continue the public hearing for one (1) month to October 19, 2004, to allow comments to be received and implemented into Environmental Resolution and incorporated into the Mitigation Monitoring Program.

RECOMMENDATION: That the City Council:

(1) Continue the public hearing to October 19, 2004.

DD_____ APPROPRIATED/FUNDED_____ CM_____ ITEM NO. 13
PUBLIC HEARING

SUBJECT:  VACATE PUBLIC VEHICULAR ACCESS, STORM WATER RUNOFF AND TEMPORARY STORM WATER STORAGE RELATED TO MEADOW BREEZE, PHASE ONE SUBDIVISION (NICHOLSON & SMEE, LLC)

SOURCE:  Public Works Department - Engineering Division

COMMENT:  This is the time and place set for the hearing on the proposed vacation of vehicular access, storm water runoff and temporary storm water storage all of which are described in Document No. 2000-0037339, recorded June 14, 2000 in the Office of the Tulare County Recorder.  These easements were necessary for the orderly development of Castle Woods, Phase Two Subdivision, which is north of and adjacent to Meadow Breeze, Phase One Subdivision.  These easements are no longer needed due to the construction of the public improvements for Meadow Breeze, Phase One Subdivision, currently under construction.  The City has authority to vacate these easements under Section 8320, Part 3, Division 9 of the Streets and Highways Code of the State of California.

These easements are specifically in favor of the City of Porterville.  Therefore, it is not necessary to notify the utility companies of the proposed easement vacations.  Required utility company easements will be conveyed as a part of the Final Map for Meadow Breeze, Phase One Subdivision.  If there are no objections to the proposed vacation, Section 66434(g) of the Subdivision Map Act allows the City Clerk, as directed by City Council, to officially record the vacation by stating so on the Final Map.  The Final Map recordation, in effect, eliminates the need to record a Resolution of Vacation.  The developer is requesting acceptance of the Final Map during Scheduled Matters of this City Council Meeting, September 7, 2004.

RECOMMENDATION:  That the City Council:

1.  Conduct a Public Hearing; and

2.  Authorize the City Clerk to execute the vacation of Parcel B and Parcel C of the Grant of Easement conveyed to the City of Porterville recorded June 14, 2000, as Document No. 2000-0037339 of Tulare County Official Records, by signing the appropriate statement on the Final Map.

ATTACHMENT:  Resolution
Document No. 2000-0037339 w/ Locator Map

MKR Y:\Engineering\Council Items\Public Hearing - Vacate Public Streets, Utilities, etc Meadow Breeze Ph 1.wpd

Appropriated/Funded

Item No. 14
RESOLUTION NO. 110-2004

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
OF INTENTION TO VACATE AND CLOSE TO PUBLIC EASEMENTS DEDICATED AS A
PART OF CASTLE WOODS, PHASE TWO SUBDIVISION

SECTION 1: The Council of the City of Porterville, California, pursuant to Division 9,
Part 3, Section 8320, of Streets and Highways Code of the State of California, does hereby
resolve as follows, to-wit:

That it is the intention of the Council of the City of Porterville to abandon and close to
public use that certain public vehicular access, storm water runoff and temporary storm water
storage easements located in the City of Porterville, County of Tulare, State of California, and
known generally as easements necessary for the orderly development Castle Woods, Phase Two
Subdivision generally located along Salisbury Street between Median Circle Drive and Pioneer
Avenue.

SECTION 2: A map or plan of said public easements intended to be vacated, abandoned
and closed to public use is on file in the office of the City Clerk of the City of Porterville,
reference to which is hereby made.

SECTION 3: That the public convenience and necessity requires the reservation of
easements and rights of way for structures enumerated, if any, in Section 8340 of the California
Streets and Highways Code.

SECTION 4: Notice is further given that on Tuesday, the 7th day of September, 2004, at
7:00 p.m., or as soon thereafter as the matter can be heard, in the Council Chambers in the City
Hall in the City of Porterville, at 291 North Main Street, is hereby fixed for the time and place
for hearing any objections to the vacation, abandonment and closing to public use of said
easements way.

[Signature]
Pedro R. Martinez, Mayor

ATTEST:

John Longley, City Clerk

By: Georgia Hawley, Deputy
I, JOHN LONGLEY, the duly appointed City Clerk of the City of Porterville do hereby certify and declare that the foregoing is a full, true and correct copy of a resolution passed and adopted by the Council of the City of Porterville at a regular meeting of the Porterville City Council duly called and held on the 17th day of August, 2004.

THAT said resolution was duly passed adopted by the following vote:

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<tr>
<th>Council:</th>
<th>WEST</th>
<th>IRISH</th>
<th>HAMILTON</th>
<th>STADTHERR</th>
<th>MARTINEZ</th>
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<tr>
<td>AYES:</td>
<td>X</td>
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<td>ABSENT:</td>
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JOHN LONGLEY, City Clerk

[Signature]

by Georgie Hawley, Chief Deputy City Clerk
Grant of Easement

THE UNDERSIGNED GRANTOR(s) DECLARE(s) DOCUMENTARY TRANSFER TAX IS $_________

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged.

WALL FAMILY PROPERTIES, a California General Partnership

hereby GRANTS to CITY OF PORTERVILLE, a Municipal Corporation

the following described real property in the City of Porterville

County of Tulare, State of California:

SEE EXHIBIT "A" ATTACHED HERETO AND MADE A PART THEREOF.

WALL FAMILY PROPERTIES, A CALIFORNIA GENERAL PARTNERSHIP

Date: May 25, 2000

STATE OF CALIFORNIA
COUNTY OF Tulare ) S.S.

on May 25, 2000 before me,

Signature: Dawn A. McMaster

a Notary Public in and for said County and State, personally appeared

Jeffrey E. Walt, a Freeholder/Real Property Owner

personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose name(s) hereinafter subscribed to this instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies) and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal.

Signature: Dawn A. McMaster

MAIL TAX STATEMENTS TO PARTY SHOWN ON FOLLOWING LINE. IF NO PARTY SHOWN, MAIL AS DIRECTED ABOVE.
PARCEL B

A temporary easement for vehicular access and for storm water runoff over and across that portion of the North half of the Northeast quarter of Section 21, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, in the City of Porterville, County of Tulare, State of California, described as follows:

Commencing at the Northwest corner of Lot 30 of Castle Woods, Phase One, as recorded in Book 37 of Maps, page 42, in the office of the Recorder of said County;

Thence, North 01°49'31" West, along the Northerly prolongation of the West line of said Lot 30, a distance of 30.02 feet to a point in the North line of said Section 21;

Thence, North 89°36'32" West, along the North line of said Section 21, a distance of 359.15 feet;

Thence, South 00°12'46" East, 454.69 feet to the TRUE POINT OF BEGINNING;

Thence, North 89°47'14" East, 60.00 feet;

Thence, South 00°12'46" East, 96.48 feet;

Thence, North 89°47'26" West, 97.95 feet;

Thence, Westerly along a curve, concave to the North, having a radius of 290.00 feet, through a central angle of 20°16'32", an arc distance of 102.62 feet;

Thence, Westerly along a reverse curve, concave to the South, having a radius of 310.00 feet, through a central angle of 06°41'04", an arc distance of 36.17 feet;

Thence, North 13°48'01" East, 20.00 feet to the beginning of a non-tangent curve, through which a radial line bears North 13°48'01" East;

Thence, Easterly along said curve, concave to the South, having a radius of 330.00 feet, through a central angle of 06°41'04", an arc distance of 38.50 feet;

Thence, Easterly along a reverse curve, concave to the North, having a radius of 270.00 feet, through a central angle of 15°33'31", an arc distance of 73.32 feet;

Thence, North 00°12'46" West, 75.00 feet;

Thence, South 89°36'32" East, 30.00 feet;

Thence, North 89°47'14" East, 30.00 feet to the TRUE POINT OF BEGINNING.
PARCEL C

A temporary easement, 60 feet wide, for storm water retention over and across that portion of the North half of the Northeast quarter of Section 21, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, in the City of Porterville, County of Tulare, State of California, the center line of said easement being described as follows:

Commencing the Northwest corner of Lot 30 of Castle Woods, Phase One, as recorded in Book 37 of Maps, page 42, in the office of the Recorder of said County;

Thence, North 01°49'31" West, along the Northerly prolongation of the West line of said Lot 30, a distance of 30.02 feet to a point in the North line of said Section 21;

Thence, North 89°36'32" West, along the North line of said Section 21, a distance of 359.15 feet;

Thence, South 00°12'46" East, 560.72 feet;

Thence, North 89°47'26" West, 38.02 feet;

Thence, Westerly along a curve, concave to the North, having a radius of 300.00 feet, through a central angle of 20°16'32", an arc distance of 106.16 feet;

Thence, Westerly along a reverse curve, concave to the South, having a radius of 300.00 feet, through a central angle of 06°41'04", an arc distance of 35.00 feet to the TRUE POINT OF BEGINNING;

Thence, continuing Westerly along said curve, through a central angle of 13°31'51", an arc distance of 70.85 feet;

Thence, North 89°43'50" West, parallel with the North line of the South half of the Northwest quarter of the Northeast quarter of said Section 21, a distance of 1080.00 feet to the terminus of the line being described.

Said 60 foot strip being bounded on the West by a line bearing North 00°16'10" East.
EXHIBIT "A"

PARCEL A

An easement, 10 feet in width, for the construction, use, maintenance, repair and replacement of a sanitary sewer pipeline and necessary or convenient appurtenances, over, across, through and within that portion of the Northeast quarter of Section 21, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, in the City of Porterville, County of Tulare, State of California, the West and North lines of said 10-foot strip being described as follows:

Commencing at the Northwest corner of Lot 30 of Castle Woods, Phase One, as recorded in Book 37 of Maps, page 42, in the office of the Recorder of said County;

Thence, North 01°49'31" West, along the Northerly prolongation of the West line of said Lot 30, a distance of 30.02 feet to a point in the North line of said Section 21;

Thence, North 89°36'32" West, along the North line of said Section 21, a distance of 359.15 feet;

Thence, South 00°12'46" East, 454.69 feet to the TRUE POINT OF BEGINNING;

Thence, continuing South 00°12'46" East, 96.04 feet;

Thence, North 89°47'26" West, 37.95 feet;

Thence, Westerly along a curve concave to the North, having a radius of 290 feet, through a central angle of 20°16'32", an arc distance of 102.62 feet;

Thence, Westerly along a reverse curve concave to the South, having a radius of 310 feet, through a central angle of 20°12'56", an arc distance of 109.38 feet;

Thence, North 89°43'50" West, parallel with the North line of the South half of the Northwest quarter of the Northeast quarter of said Section 21, a distance of 1,119.72 feet;

Thence, South 00°13'54" East, 140.00 feet to a point in the North line of the South half of the Northwest quarter of the Northeast quarter of said Section 21, said point being South 89°43'50" East, 130.01 feet from the Northwest corner of the South half of the Northwest quarter of the Northeast quarter of said Section 21, and said point being the terminus of the line being described.

Said 10 foot strip being bounded on the South by the North line of the South half of the Northwest quarter of the Northeast quarter of said Section 21.
RESOLUTION NO. 57-2000

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ACCEPTING A GRANT DEED OF EASEMENT FROM WALL FAMILY PROPERTIES

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Porterville, that the City of Porterville hereby accepts a Grant Deed of easement from Wall Family Properties, a California General Partnership, in the City of Porterville, County of Tulare, State of California, described as follows:

See Exhibit "A" Attached Hereto and Made a Part Thereof.

BE IT FURTHER RESOLVED that said deed be recorded in the office of the Tulare County Recorder. The foregoing has been accepted by the City Council for the City of Porterville.

Virginia R. Gurrola, Mayor

ATTEST:

C. G. Huffaker, City Clerk

STATE OF CALIFORNIA) (SS
COUNTY OF TULARE )

I, C. G. HUFFAKER, the duly appointed City Clerk of the City of Porterville, do hereby certify and declare that the foregoing is a full, true and correct copy of a resolution duly and regularly passed and adopted at a regular meeting of the Porterville City Council regularly called and held on the 6th day of June, 2000.

THAT said resolution was duly passed and adopted by the following vote:

AYES: COUNCILMEN: Irish, Wilson, Leavitt
NOES: COUNCILMEN: None
ABSENT: COUNCILMEN: Woods, Gurrola
ABSTAIN: COUNCILMEN: None

C. G. HUFFAKER, City Clerk

By Georgia Hawley, Deputy City Clerk
**PARCEL C**

A temporary easement, 60 feet wide, for storm water retention over and across that portion of the North half of the Northeast quarter of Section 21, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, in the City of Porterville, County of Tulare, State of California, the center line of said easement being described as follows:

Commencing the Northwest corner of Lot 30 of Castle Woods, Phase One, as recorded in Book 37 of Maps, page 42, in the office of the Recorder of said County;

Then thence, North 01°49'31" West, along the Northerly prolongation of the West line of said Lot 30, a distance of 30.02 feet to a point in the North line of said Section 21;

Then thence, North 89°36'32" West, along the North line of said Section 21, a distance of 359.15 feet;

Then thence, South 00°12'46" East, 560.72 feet;

Then thence, North 89°47'26" West, 38.02 feet;

Then thence, Westerly along a curve, concave to the North, having a radius of 300.00 feet, through a central angle of 20°16'32", an arc distance of 106.16 feet;

Then thence, Westerly along a reverse curve, concave to the South, having a radius of 300.00 feet, through a central angle of 06°41'04", an arc distance of 35.00 feet to the TRUE POINT OF BEGINNING;

Then thence, continuing Westerly along said curve, through a central angle of 13°31'51", an arc distance of 70.85 feet;

Then thence, North 89°43'50" West, parallel with the North line of the South half of the Northwest quarter of the Northeast quarter of said Section 21, a distance of 1080.00 feet to the terminus of the line being described.

Said 60 foot strip being bounded on the West by a line bearing North 00°16'10" East.
PARCEL B

A temporary easement for vehicular access and for storm water runoff over and across that portion of the North half of the Northeast quarter of Section 21, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, in the City of Porterville, County of Tulare, State of California, described as follows:

Commencing at the Northwest corner of Lot 30 of Castle Woods, Phase One, as recorded in Book 37 of Maps, page 42, in the office of the Recorder of said County;

Thence, North 01°49'31" West, along the Northerly prolongation of the West line of said Lot 30, a distance of 30.02 feet to a point in the North line of said Section 21;

Thence, North 89°36'32" West, along the North line of said Section 21, a distance of 359.15 feet;

Thence, South 00°12'46" East, 454.69 feet to the TRUE POINT OF BEGINNING;

Thence, North 89°47'14" East, 60.00 feet;

Thence, South 00°12'46" East, 96.48 feet;

Thence, North 89°47'26" West, 97.95 feet;

Thence, Westerly along a curve, concave to the North, having a radius of 290.00 feet, through a central angle of 20°16'32", an arc distance of 102.62 feet;

Thence, Westerly along a reverse curve, concave to the South, having a radius of 310.00 feet, through a central angle of 06°41'04", an arc distance of 36.17 feet;

Thence, North 13°48'01" East, 20.00 feet to the beginning of a non-tangent curve, through which a radial line bears North 13°48'01" East;

Thence, Easterly along said curve, concave to the South, having a radius of 330.00 feet, through a central angle of 06°41'04", an arc distance of 38.50 feet;

Thence, Easterly along a reverse curve, concave to the North, having a radius of 270.00 feet, through a central angle of 15°33'31", an arc distance of 73.32 feet;

Thence, North 00°12'46" West, 75.00 feet;

Thence, South 89°36'32" East, 30.00 feet;

Thence, North 89°47'14" East, 30.00 feet to the TRUE POINT OF BEGINNING.
PUBLIC HEARING

TITLE: ZONE CHANGE 5-2004 (Steve Vang)

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: Zone Change 5-2004 proposes to change the existing zoning from City R-1 (One Family Residential) Zone to C-3 (Heavy Commercial) for that site located on the east side of Kessing Street, approximately 90± feet north of Olive Avenue.

The subject site (8,050 square feet) has an existing duplex with curb, gutter and sidewalk across the full frontage of the parcel. The applicant proposes to convert the existing dwelling into a video store and storage building. A lot line adjustment to provide frontage to Olive Avenue from the subject site will be recorded prior to the second reading of the ordinance.

The existing multiple family residential use will be permitted to continue on the site. However, once the lot line adjustment has been recorded, and the thirty day time period from the second reading of the ordinance has elapsed, the existing multiple family dwelling will be considered a "legal non-conforming use" which could not be rebuilt if destroyed by more than 75% of its assessed value. After the building has been converted to a commercial use, it could not be converted back to a residential use.

ENVIRONMENTAL: On July 22, 2004, the Environmental Coordinator made a preliminary determination that a Mitigated Negative Declaration would be appropriate for the proposed project. The Initial Study and proposed Mitigation Measures have been transmitted to interested agencies, groups, and individuals for a twenty (20) day review period from August 3, 2004 to August 22, 2004. The only agency that responded was the San Joaquin Valley Air Pollution Control District. Those comments have been incorporated into the Mitigation Monitoring Program Attachment A of the draft environmental resolution.

RECOMMENDATION: That the City Council:

1. Adopt the draft resolution approving a Negative Declaration for Zone Change 5-2004.

2. Adopt the draft ordinance approving Zone Change 5-2004.

ATTACHMENT:

1. Complete Staff Report

DD_____ APPROPRIATED/FUNDED______ CM_____ ITEM NO. 15
CITY COUNCIL AGENDA: SEPTEMBER 7, 2004

PUBLIC HEARING - STAFF REPORT

TITLE: ZONE CHANGE 5-2004

APPLICANT: Steve Vang
356 W. Olive Avenue
Porterville, CA 93257

PROJECT LOCATION: East side of Kessing Street, approximately 90± feet north of Olive Avenue.

SPECIFIC REQUEST: Zone Change 5-2004 proposes to change the existing zoning from City R-1 (One Family Residential) Zone to C-3 (Heavy Commercial).

PROJECT DETAILS: The subject site (8,050 square feet) has an existing duplex with curb, gutter and sidewalk across the full frontage of the parcel. The applicant proposes to convert the existing dwelling into a video store and storage building. A lot line adjustment to provide frontage to Olive Avenue from the subject will be recorded prior to the second reading of the ordinance.

The existing multiple family residential use will be permitted to continue on the site. However, once the lot line adjustment has been recorded, and the thirty day time period from the second reading of the ordinance has elapsed, the existing multiple family dwelling will be considered a "legal non-conforming use" which could not be rebuilt if destroyed by more than 75% of its assessed value. After the building has been converted to a commercial use, it could not be converted back to a residential use.

GENERAL PLAN LAND USE DESIGNATION: Heavy Commercial.

SURROUNDING AREA ZONING AND LAND USE:

North: City - Single family dwellings.
South: City - Developed commercial use (Donut Factory) and Olive Avenue.
East: City - Single family residential, commercial use and "H" Street.
West: City - Kessing Street and professional office use.

ALTERNATIVES TO THE PROJECT AND THEIR EFFECT:

1. No Project. Denial of the proposed zone change would result in the existing use of the site to remain non-conforming.

2. Approve the project. Approval of the proposed zone change to City C-3 would allow the subject site to be developed as proposed and allow for the contiguous business to the south to expand.
ENVIROMENTAL: On July 22, 2004, the Environmental Coordinator made a preliminary determination that a Mitigated Negative Declaration would be appropriate for the proposed project. The Initial Study and proposed Mitigation Measures have been transmitted to interested agencies, groups, and individuals for a twenty (20) day review period from August 3, 2004 to August 22, 2004. The only agency that responded was the San Joaquin Valley Air Pollution Control District. Those comments have been incorporated into the Mitigation Monitoring Program Attachment A of the draft environmental resolution.

DATE FILED FOR PROJECT REVIEW COMMITTEE PROCESSING: May 5, 2003

DATE ACCEPTED AS COMPLETE: July 22, 2004

RECOMMENDATION: That the City Council:

1. Adopt the draft resolution approving a Negative Declaration for Zone Change 5-2004.
2. Adopt the draft ordinance approving Zone Change 5-2004.

ATTACHMENTS:

1. Zoning/Land Use Map
2. Negative Declaration
3. Zone Change Application
4. Letter from the San Joaquin Valley Air Pollution Control District
5. Draft Resolution approving Negative Declaration for Zone Change 5-2004
6. Draft Ordinance approving Zone Change 5-2004
ZONE CHANGE
NO. 5–2004

EXISTING LAND USE
CB  PO  KESSING ST.
CB  CB  "H" ST.
CB  CB  OLIVE AVE.
LEGEND
CB = COMMERCIAL BUSINESS
PO = PROFESSIONAL OFFICE
● = SINGLE FAMILY DWELLING
■ = DUPLEX

EXISTING ZONING
KESSING ST.
R-1  R-1  R-1
R-1  R-1  R-1
C-3  C-3  C-3
SUBJECT SITE
C-3  C-3  C-3
R-2  R-2  R-2
LEGEND
R-1 = ONE FAMILY RESIDENTIAL
R-2 = FOUR FAMILY RESIDENTIAL
R-3 = MULTIPLE FAMILY RESIDENTIAL
C-3 = HEAVY COMMERCIAL
C-3(D) = HEAVY COMMERCIAL "D" Overlay Site Review

GENERAL PLAN DESIGN
KESSING ST.
SUBJECT SITE
OLIVE AVE.
"H" ST.
LEGEND
= LOW DENSITY RESIDENTIAL
= MEDIUM DENSITY RESIDENTIAL
= HIGH DENSITY RESIDENTIAL
= HEAVY COMMERCIAL

ZONE CHANGE
NO. 5–2004
KESSING ST.
SUBJECT SITE
OLIVE AVE.
"H" ST.
PROPOSED CHANGE
R-1 TO C-3
ATTACHMENT 1
NEGATIVE DECLARATION

LEAD AGENCY: City of Porterville
291 North Main Street
Porterville, California 93257

PROJECT APPLICANTS: Steve Vang
348 W. Olive Avenue
Porterville, CA 93257

PROJECT TITLE: Zone Change 5-2004

ADDRESS/LOCATION: East side of Keesing Street, approximately 90 feet north of Olive Avenue, in the City of Porterville, County of Tulare.

PROJECT APPLICANT: Steve Vang

PROJECT DESCRIPTION: A proposed zone change for an 8,050 square foot lot developed with a duplex and existing curb, gutter and sidewalk across the full frontage of the site from City R-1 (One Family Residential) to City C-3 (Heavy Commercial).

CONTACT PERSON: Bradley D. Dunlap (559) 782-7480

Per Resolution No. 92-2004, adopted on July 20, 2004, the Environmental Coordinator of the City of Porterville made a preliminary determination that a Mitigated Declaration would be appropriate for the proposed project described herein and has found that this project will have no significant impact on the environment for the following reasons:

1. The project does not have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory.

2. The project does not have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals.

3. The project does not have possible environmental effects which are individually limited but cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

4. The environmental effects of a project will not cause substantial adverse effects on human beings, either directly or indirectly.

5. Mitigation measures X were, ___ were not made a condition of the approval of the project.

On July 22, 2004, the Environmental Coordinator of the City of Porterville determined that the above projects will have no significant effect on the environment.

Copies of plans and other documents relating to the subject project may be examined by interested parties at the City Planning Division, 291 North Main Street, Porterville, California.

Dated: July 22, 2004

Approved: Bradley D. Dunlap, Environmental Coordinator

ATTACHMENT
ITEM NO. 2
APPLICATION FOR CHANGE OF ZONE NO. ......................

TO THE PORTERVILLE CITY PLANNING COMMISSION:

We, the owners of real property set opposite our respective names, hereby petition to have Ordinance No. 797 amended by reclassifying from Zone R-2 to Zone C-3, the property described hereon and shown in colored cross-hatching on the attached map which, together with the Property Owner's List, also attached hereto, are made a part of this petition.

The property is situated on the _________ side of Kessing Street.

between Olive Avenue and Oak Street.

Exact legal description of said property being: Lot N Kessing, APN # 260 702 012 000

1. Does public necessity require the proposed change? Is there a real need in the community for more of the types of uses permitted by the Zone requested than can be accommodated in the areas already zoned for such uses?

   Change from R-2 to C-3. Business explanation.

2. Is the property involved in the proposed reclassification more suitable for the purposes permitted in the proposed classification than for the purposes permitted in the present classification?

   Better as Commercial than Residential.

3. Would the uses permitted by the proposed zone be detrimental in any way to surrounding property?

   No. The proposed zone is consistent with the south adjacent property on the south side, is consistent with the general plan.
4. What were the original deed restrictions, if any, concerning the type and class of uses permitted on the property involved? Give the expiration date of these restrictions.

(You may attach a copy of these restrictions after properly underscoring the portions that are in answer to this question.)

---

The following spaces are for signatures of owners whose properties lie within the radius of 300 feet of the property proposed to be reclassified and who approve of the change. (Not required. (See Item 2, Page 4.))

(Attach extra sheets if necessary.)

<table>
<thead>
<tr>
<th>NO. ON MAP</th>
<th>NAME</th>
<th>ADDRESS</th>
<th>LOT</th>
<th>BLOCK</th>
<th>TRACT</th>
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<td></td>
<td>Rebecca Alcantara</td>
<td>6001 N. Kessing St.</td>
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<td>Donald Alcantara</td>
<td>3680 W. Garden Ave.</td>
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<td>Elmer Apolinar</td>
<td>1122 N. H. St.</td>
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<td>Robert Aragon</td>
<td>5925 N. H. St.</td>
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<td>Jack Austin</td>
<td>6201 N. Kessing St.</td>
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<td>Robert B. W.</td>
<td>8111 N. Kessing St.</td>
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<td>911 N. Kessing St.</td>
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<td>Maria B.</td>
<td>3201 W. Kessing St.</td>
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<td>William</td>
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<td>Bob M.</td>
<td>5601 N. K. 0</td>
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<td>Maria P.</td>
<td>4711 N. H. St.</td>
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<td>Hilda Q.</td>
<td>4431 N. Kessing St.</td>
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We, the undersigned property owners, herewith request that our respective properties which are included in the reclassification petitioned for, be reclassified and for the reasons herein enumerated.

(This space is for signatures of owners of property actually included in the proposed reclassification. Attach extra sheets if necessary.)

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OWNER'S DECLARATION

STATE OF CALIFORNIA )
COUNTY OF TULARE )

I, ________________________________________________________________________, being duly sworn, declare and say that I am the owner of part (or all) of the property involved and that this application has been prepared in compliance with the requirements of the Porterville City Planning Commission as printed herein and that the foregoing information thoroughly and completely, to the best of my ability, presents the argument in behalf of the application herewith submitted and that the statements and information above referred to are in all respects true and correct except as to the matters stated to be on my information and belief.

I declare under penalty of perjury that the foregoing is true and correct, executed at ________________________________________________________________________, this __________ day of __________, ______.

Signed ________________________________________________________________________

Telephone Number ________________________________________________________________________

Mailing Address ________________________________________________________________________

This is to certify that the foregoing application has been inspected by me and found to be complete and acceptable for filing with the Porterville City Planning Commission.

Received ________________________________________________________________________

Date ________________________________________________________________________

Receipt No. ________________________________________________________________________

By ________________________________________________________________________

For The Porterville City Planning Commission

--- 3 ---
August 18, 2004

Attn: Mr. Bradley Dunlap
City of Porterville
291 North Main Street
Porterville, California 93257

RE: Zone Change 5-2004

Dear Mr. Dunlap:

The San Joaquin Valley Unified Air Pollution Control District (District) has reviewed the documentation provided and has the following comments:

The entire San Joaquin Valley is non-attainment for ozone and fine particulate matter (PM-10). The Federal Clean Air Act (CAA) and the California Clean Air Act require areas that are designated non-attainment to reduce emissions until standards are met. Based upon the information provided it does not appear that this project will have a significant impact with respect to air quality. A concerted effort should still be made to reduce project-related emissions.

The following item has been adopted by the District to reduce emissions throughout the San Joaquin Valley, and is required:

- District Regulation VIII - Fugitive Dust Rules is a series of rules designed to reduce PM-10 emissions generated by human activity, including construction, road building, bulk materials storage, landfill operations, etc. Please be advised that the District is currently amending Regulation VIII and anticipates implementing revised requirements on or about October 1, 2004. If construction were to commence on or after October 1, the applicant should contact the District to determine where requirements may have changed and how rule changes may affect the project. A synopsis highlighting many of the requirements of this regulation has been enclosed.

One issue that may arise in conjunction with any proposed construction within the buildings or demolitions in the project area is compliance with the National

David L. Crow
Executive Director/Air Pollution Control Officer

ATTACHMENT
ITEM NO. 4
Emission Standards for Hazardous Air Pollutants (NESHAPS). Specifically, the primary air pollutant of concern is asbestos. To ascertain whether this project is subject to NESHAPS, the project applicant is advised to review the enclosed Asbestos – Compliance Assistance Bulletin. For information regarding Asbestos requirements please contact Sherman Yount at (661) 326-6900.

There are a number of measures that may be able to be incorporated into this project to reduce the project's overall level of emissions. (Note: Some of these measures may already exist as County development standards. All other measures should be implemented to the fullest extent possible.) This list should not be considered all-inclusive. The District encourages innovation in measures to reduce air quality impacts.

- As many energy conserving and well-designed features as possible should be included in the design/construction of the project. Examples include (but are not limited to):
  - Increased wall and ceiling insulation (beyond building code requirements)
  - Energy efficient windows (double pane and/or coated)
  - High-albedo (reflecting) roofing material
  - "Cool Paving"
  - Energy efficient lighting and appliances
  - Energy efficient water heaters (such as instantaneous water heaters/indirect water heaters)
  - Energy efficient heating/cooling systems (such as radiant heating system)
  - Awnings or other shading mechanism for windows
  - Ceiling fans
  - Utilize passive solar cooling and heating designs
  - Install electrical outlets around the exterior of the unit to encourage use of electric landscape maintenance equipment
  - Exits to adjoining streets should be designed to reduce time to re-enter traffic from the project site, etc.

- The project should include as many clean alternative energy features as possible to promote energy self-sufficiency. Examples include (but are not limited to): photovoltaic cells, solar thermal electricity systems, small wind turbines, etc. There are rebate and incentive programs for alternative energy equipment. More information can be found at:
  http://www.dsireusa.org/  
  http://reddc.nrel.gov/  
  http://www.energy.ca.gov/renewables/

- Deciduous trees should be carefully selected and located on southern and western exposures to shade the Buildings during the summer months while allowing the sun to reach the Buildings during the cool winter months.
Thank you for the opportunity to comment. If you have any questions or concerns, please feel free to contact me at (661) 326-6980.

Sincerely,

[Signature]
Heather Ellison
Air Quality Planner

Enclosures

C: File
RESOLUTION NO.________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
CONTAINING FINDINGS IN SUPPORT OF APPROVAL OF A NEGATIVE
DECLARATION OF ENVIRONMENTAL IMPACT FOR ZONE CHANGE 5-2004 BEING A
CHANGE OF ZONING FROM CITY R-1 (ONE FAMILY RESIDENTIAL) TO C-3 (HEAVY
COMMERCIAL) FOR THAT 8,050 SQUARE FOOT SITE LOCATED ON THE EAST SIDE
OF KESSING STREET, APPROXIMATELY 90± FEET NORTH OF OLIVE AVENUE

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting
of September 7, 2004, conducted a public hearing to consider Zone Change 5-2004, being a change
of zone from R-1 (One Family Residential) to C-3 (Heavy Commercial) for that 8,050 square foot
site located on the east side of Kessing Street, approximately 90± feet north of Olive Avenue; and

WHEREAS: The City Council considered the following findings in its review of the
environmental circumstances for this project:

1. That a Negative Declaration was prepared in accordance with the California
   Environmental Quality Act.

2. That the subject project will not create adverse environmental impacts.

   The proposed Negative Declaration was evaluated in light of the prepared
   environmental initial study, comments from interested parties and the public, as well
   as responses to written comments received during the review period. It was
determined that potential impacts associated with the proposed project could be
mitigated to a less than significant level through the implementation of the attached
mitigation measures.

3. That the City Council is the decision-making body for the project.

4. That the Negative Declaration prepared for this project was made available for public
   review and comment for a twenty (20) day review period from August 3, 2004 to
   August 22, 2004. The only agency that responded was the San Joaquin Valley Air
   Pollution Control District. Those comments have been incorporated into the
   Mitigation Monitoring Program Attachment A of the draft environmental resolution.

5. That the mitigation measures contained in the Negative Declaration were
   incorporated into a Mitigation Monitoring Program attached hereto as Attachment
   A.
6. That review of the environmental circumstances regarding this project indicates that no adverse impacts would accrue to wildlife resources from implementation of this project.

City staff conducted an on-site inspection. The subject site (8,050 sq. ft.) is fully developed with an existing duplex. The site contains ornamental vegetation found on residential lots. As such, no endangered, threatened or rare species or habitats exist and no impact will occur.

7. That the project may proceed subsequent to approval and/or conditional approval of the State Department of Fish and Game relative to said State Department's consideration of a "de minimis impact" pursuant to Section 711.2 et. Seq. of the Fish and Game Code.

8. That the environmental assessment and analysis prepared for this project supporting the Negative Declaration reflects the independent judgement of the City of Porterville.

9. The developer/applicant shall comply with all mitigation measures adopted as a component of the approval of the Mitigated Negative Declaration for this project. Submittal of plans for conversion/reconstruction of the existing structure by the developer/applicant will also include a signed document committing to comply with the adopted mitigation measures.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve the Negative Declaration prepared for Zone Change 5-2004, and that the mitigation measures defined in Attachment A shall be implemented by the applicant or his/her successors with project implementation.

____________________________________
Pedro R. Martinez, Mayor

ATTEST:
John Longley, City Clerk

By _________________________________
Georgia Hawley, Chief Deputy City Clerk
## Attachment A

### Mitigation Monitoring Program

<table>
<thead>
<tr>
<th>Potential Impact</th>
<th>Mitigation Measures</th>
<th>Monitoring</th>
<th>Agency Responsible</th>
</tr>
</thead>
<tbody>
<tr>
<td>Geologic Problems</td>
<td>Mitigation measures include the enforcement of site development plan or other development related conditions of approval requiring erosion control plans, and the conservation of vegetation, with soil disturbances to be limited to dry seasons. In addition, conformance with the City Storm Drain Master Plan, and requirements relative to grading, the Uniform Building Code, etc., will be required.</td>
<td>Conformance with the City Storm Drain Master Plan (2001) and requirements relative to grading, the Uniform Building Code, etc., will be required.</td>
<td>City of Porterville</td>
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<td>Erosion, changes in topography or unstable soil conditions from excavation, grading or fill.</td>
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<td>Water</td>
<td>Compliance with Federal, State and local regulations requiring that storm water runoff be monitored and maintained free of heavy concentrations of pollutants will mitigate this potential impact to a level of insignificance (NPDES standards).</td>
<td>Compliance with Federal, State and local regulations requiring that storm water runoff be monitored and maintained free of heavy concentrations of pollutants will mitigate this potential impact to a level of insignificance (NPDES standards).</td>
<td>City of Porterville</td>
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<td>Changes in absorption rates, drainage patterns or the rate and amount of surface runoff.</td>
<td>The installation of storm drain lines in conformance with Federal, State, and local environmental protection requirements and the City's Storm Drainage Master Plan will be required for future development of the site with multiple family residential uses.</td>
<td>The installation of storm drain lines in conformance with Federal, State, and local environmental protection requirements and the City's Storm Drainage Master Plan will be required.</td>
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<td>Potential Impact</td>
<td>Mitigation Measures</td>
<td>Monitoring</td>
<td>Agency Responsible</td>
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<td>Air Quality 5.a</td>
<td>If asbestos or lead base paint is found in the duplex to be converted to a commercial use(s), the City of Porterville will implement and comply with the regulations outlined in the NESHAP regulation, 40 CFR, Part 61, Subpart M. Mitigation of the effects resulting from increased vehicle trips must be accomplished through proper vehicle smog inspections and related efforts to reduce petroleum fueled transit. Additional mitigation measures include adequate circulation of vehicles to lessen concentrations of carbon monoxide in the area, promotion of car pooling and public transportation in the area, and the encouragement of non-motorized transportation modes (i.e./bicycles and walking). Mitigation through construction management.</td>
<td>The State of California, California Air Resources Board (CARB) and San Joaquin Valley Unified Air Pollution Control District (SJAVAPCD) are expected to maintain their commitment to this program.</td>
<td>State of California CARB, SJAVAPCD, City of Porterville.</td>
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<td>Potential Impact</td>
<td>Mitigation Measures</td>
<td>Monitoring</td>
<td>Agency Responsible</td>
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<tr>
<td>Air Quality</td>
<td>a. The prevention of dust from leaving the construction site during clearing, grading and excavation will be accomplished through regular truck spraying with water, sprinkling systems or emulsion sprays.</td>
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<td>5. a (continued)</td>
<td>b. Watering or spraying will be required to be done in the late morning and again at the end of the work day, with increased frequency throughout the day whenever wind is sustained or gusting at speeds in excess of 10 MPH. If winds or gusting exceed 20 MPH, vehicular activity will be required to cease.</td>
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<td>c. One or more of the following means of dust control should be employed after the completion of earth grading operations:</td>
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<td>i. Seeding and watering of new vegetation.</td>
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<td>ii. Hydromulching or spreading of soil binders.</td>
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<td>iii. Maintenance of the site’s soil surface crust through repeated soakings.</td>
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<td>Potential Impact</td>
<td>Mitigation Measures</td>
<td>Monitoring</td>
<td>Agency Responsible</td>
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<td>Air Quality</td>
<td>2. Trees should be carefully selected and located to shade the structures during the hot summer months. This measure should be implemented on southern and western exposures. Deciduous trees should be considered since they provide shade in the summer and allow the sun to reach the commercial building during the cold winter months. 3. As many energy-conserving features as possible should be included in the design/construction of new commercial buildings. Examples include (but are not limited to) increased wall and ceiling insulation (beyond building code requirements), energy efficient lighting, high efficiency appliances and solar-assisted water heating. 4. Electric or low nitrogen oxide (NOX) emitting appliances should comply with California Nox Emission Rule #1121. 5. Electrical outlets should be installed around the exterior of the units to encourage the use of electric landscape maintenance equipment. 6. Limit engine idling at the project site.</td>
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<td>Potential Impact</td>
<td>Mitigation Measures</td>
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<td><strong>Air Quality</strong></td>
<td>7. Construction equipment needs to be equipped with catalyst/particulate traps to reduce particulate and NOX emissions.</td>
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<td>5. a (continued)</td>
<td>8. Increase wall and ceiling insulation (beyond code requirement) should be installed.</td>
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<td>9. Energy efficient window (double pane and/or coated) should be utilized.</td>
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<td>10. High-albedo (reflecting) roofing material should be utilized.</td>
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<td>11. Awnings or other shading mechanism for windows should be installed.</td>
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<td><strong>Noise</strong></td>
<td>To comply with Section 2617 of the Zoning Ordinance, the developer/applicant will be required to construct a six (6) foot tall concrete block wall along the full length of the north side of the subject site and that portion of the east side of the subject site which abuts residential uses. The wall will buffer any additional noise associated with the site.</td>
<td>Conformance with the City of Porterville's Noise Element of the General Plan.</td>
<td>City of Porterville</td>
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<th>Potential Impact</th>
<th>Mitigation Measures</th>
<th>Monitoring</th>
<th>Agency Responsible</th>
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<tr>
<td>Utilities and Service</td>
<td>Mitigation: Compliance with Federal, State and local regulations requiring that storm water runoff monitored and maintained free of heavy concentrations of pollutants will mitigate this potential impact to a level of insignificance (NPDES standards). Any future installation of storm drain lines will be in conformance with Federal, State, and local environmental protection requirements and the City's Storm Drainage Master Plan.</td>
<td>The City of Porterville and the effected utility companies.</td>
<td>The City of Porterville and the effected utility companies.</td>
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<td>Systems</td>
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<td>12.e Storm water drainage.</td>
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<td>Aesthetics</td>
<td>Development of the subject site with commercial uses will require the installation of low profile exterior lighting will be directed away from adjacent properties, as required by the City Zoning Ordinance, and will reduce the impact of outside lighting. Minimal glare is anticipated from street lights and on-site lighting facilities accruing from the site's eventual development. This will serve to reduce potential hazards for autos, bicyclists, and pedestrians, as well as provide a secure environment for the occupants.</td>
<td>Section 2618 F (Glare) of the Porterville Zoning Ordinance will be enforced.</td>
<td>City of Porterville</td>
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<td>13.c Create light and</td>
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<td>glare</td>
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ORDINANCE NO. __________

AN ORDINANCE OF THE CITY COUNCIL OF THE
CITY OF PORTERVILLE APPROVING ZONE CHANGE 5-2004 BEING A CHANGE OF
ZONING FROM R-1 (ONE FAMILY RESIDENTIAL) TO C-3 (HEAVY COMMERCIAL)
FOR THAT 8,050 SQUARE FOOT SITE LOCATED ON THE EAST SIDE OF KESSING
STREET, APPROXIMATELY 90± FEET NORTH OF OLIVE AVENUE

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting
of September 7, 2004, conducted a public hearing to consider Zone Change 5-2004, being a change
of zone from R-1 (One Family Residential) to C-3 (Heavy Commercial) for that 8,050 square foot
site located on the east side of Kessing Street, approximately 90± feet north of Olive Avenue; and

WHEREAS: The City Council of the City of Porterville, after proceedings duly had and
taken, and after due and legal notice having been given, as prescribed by Ordinance 1198 of the City
of Porterville, and the laws of the State of California, has determined that the public interest would
best be served by approval of the proposed Zone Change 5-2004; and

WHEREAS: The City Council made the following findings in support of the approval of
Zone Change 5-2004:

1. The Land Use Element of the General Plan designates those parcels with frontage on
   Olive Avenue as “Heavy Commercial”. Once the parcel is re-configured to include
   Olive Avenue frontage, the land use designation will support the C-3 (Heavy
   Commercial) Zone.

2. That the proposed zoning (C-3 Heavy Commercial) will conform with the land use
designation (Heavy Commercial) of the General Plan.

3. That all uses listed in Article 7, Article 8 and Article 9 of the Porterville Zoning
   Ordinance will be allowed in the C-3 (Heavy Commercial) Zone.

4. That a Negative Declaration was approved for this project in accordance with the
   California Environmental Quality Act and mitigation measures incorporated into the
   approval will be precedent to project implementation.

5. That this zoning designation will ensure that any future development of the subject
   site will be in conformance with existing plans and policies and will not adversely
   impact the surrounding area.

A six (6) foot concrete block wall will be required along the full length of the north
property line and that portion of the easterly portion of the subject site that abuts the
R-1 zoned parcels adjacent to the subject site.

ATTACHMENT
ITEM NO. 6
NOW, THEREFORE, BE IT ORDAINED: That the City Council of the City of Porterville does ordain as follows:

Section 1: That the following described property in the City of Porterville, County of Tulare, State of California, known as Zone Change 5-2004, is hereby re-zoned from R-1 (One Family Residential) to C-3 (Heavy Commercial) for that 8,050 square foot site located on the east side of Kessing Street, approximately 90± feet north of Olive Avenue, more particularly shown on the attached map, incorporated herein by this reference as Exhibit "A"; and

Section 2: It is further ordained that all records of the City of Porterville, together with the official zoning map of the City of Porterville, shall be changed to show that all of the above described real property is rezoned from City R-1 (One Family Residential) Zone to C-3 (Heavy Commercial) for that 8,050 square foot site located on the east side of Kessing Street, approximately 90± feet north of Olive Avenue; and

Section 3: That a Lot Line Adjustment to provide frontage to Olive Avenue from the subject site will be recorded prior to the second reading of the ordinance.

Section 4: This ordinance shall be in full force and effect thirty (30) days from and after its publication and passage.

________________________________________
Pedro R. Martinez, Mayor

ATTEST:
John Longley, City Clerk

By ______________________________________
Georgia Hawley, Chief Deputy City Clerk
ZONE CHANGE
NO. 5-2004

PROPOSED CHANGE
R-1 TO C-3

CITY COUNCIL
ORDINANCE NO._____

EXHIBIT "A"
PUBLIC HEARING

TITLE: ANNEXATION 453 AND CONDITIONAL USE PERMIT 7-2004 (FOOTHILL PRESBYTERIAN CHURCH)

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: In accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, the City Council may authorize filing of the necessary application and proposal for presenting Annexation No. 449 to the Local Agency Formation Commission (LAFCo) for its review and approval.

Annexation 453 proposes to incorporate a 1.93± acre parcel developed with an existing 1,620± square foot single family dwelling, metal carport and out building generally located on the northwest corner of Merrill Avenue and the northerly prolongation of Manton Street.

Pursuant to Section 110 A-4 of the Porterville Zoning Ordinance, upon consummation of the annexation, the subject site will automatically be zoned City R-1 (One Family Residential).

Conditional Use Permit 7-2004 (CUP) will allow for the conversion of the existing 1,620± square foot residential dwelling into a church. The applicant/agent has been advised by the Building Department that the occupancy of the building will not exceed forty-nine (49) persons at any given time.

Section 221 A-5 of the Porterville Zoning Ordinance requires a minimum of three (3) acres subject to approval of a Conditional Use Permit for churches. The Church owns the 4.38± acre vacant parcel to the east. Upon consummation of the annexation, a condition of approval for the CUP will require a lot line adjustment to combine the 4.38± acres and the proposed 1.93± acre site which will allow the proposed use to be in conformance with Section 221 A-5 of the Porterville Zoning Ordinance.
ENVIROMENTAL: On July 22, 2004, the Environmental Coordinator made a preliminary determination that a Mitigated Negative Declaration would be appropriate for the proposed project. The Initial Study and proposed Mitigation Measures have been transmitted to interested agencies, groups, and individuals for a twenty (20) day review period from August 3, 2004 to August 22, 2004. The only agency that responded was the San Joaquin Valley Air Pollution Control District. Those comments have been incorporated into the Mitigation Monitoring Program Attachment A of the draft environmental resolution.

RECOMMENDATION: That the City Council:

1. Adopt the draft resolution approving a Negative Declaration for Annexation 453 and Conditional Use Permit 7-2004.

2. Adopt the draft resolution authorizing initiation of preliminary proceedings and filing of the necessary application with LAFCo.

3. Adopt the draft resolution approving Conditional Use Permit 7-2004.

ATTACHMENT:

1. Complete Staff Report
CITY COUNCIL AGENDA: SEPTEMBER 7, 2004

PUBLIC HEARING - STAFF REPORT

TITLE: ANNEXATION 453 AND CONDITIONAL USE PERMIT 7-2004

APPLICANT: Foothill Presbyterian Church
P. O. Box 50
Porterville, CA 93258

APPLICANT’S AGENT: Roberts Engineering
342 N. Second Street
Porterville, CA 93257

PROJECT LOCATION: The northwest corner of Merrill Avenue and the northerly prolongation of Maston Street.

SPECIFIC REQUEST: Annexation 453 proposes to incorporate a 1.93± acre parcel developed with an existing 1,620± square foot single family dwelling, metal carport and out building generally located on the northwest corner of Merrill Avenue and the northerly prolongation of Maston Street.

Conditional Use Permit 7-2004 (CUP) will allow for the conversion of the existing 1,620± square foot residential dwelling into a church.

PROJECT DETAILS: In accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, the City Council may authorize filing of the necessary application and proposal for presenting Annexation No. 449 to the Local Agency Formation Commission (LAFCo) for its review and approval.

Annexation 453 proposes to incorporate a 1.93± acre parcel developed with an existing 1,620± square foot single family dwelling, metal carport and out building generally located on the northwest corner of Merrill Avenue and the northerly prolongation of Maston Street.

Pursuant to Section 110 A-4 of the Porterville Zoning Ordinance, upon consummation of the annexation, the subject site will automatically be zoned City R-1 (One Family Residential).

Conditional Use Permit 7-2004 (CUP) will allow for the conversion of the existing 1,620± square foot residential dwelling into a church. The applicant/agent has been advised by the Building Department that the occupancy of the building will not exceed forty-nine (49) persons any given time. Pursuant to Section 2202 A-3 of the Zoning Ordinance, one (1) parking space is required for every five (5) seats in the main auditorium. Nine (9) parking spaces and one (1) handicapped parking space has been provided.
Section 221 A-5 of the Porterville Zoning Ordinance requires a minimum of three (3) acres subject to approval of a Conditional Use Permit for churches. The Church owns the 4.38± acre vacant parcel to the east. Upon consummation of the annexation, a condition of approval for the CUP will require a lot line adjustment to combine the 4.38± acres and the proposed 1.93± acre site which will allow the proposed use to be in conformance with Section 221 A-5 of the Porterville Zoning Ordinance.

EXISTING ZONING: County R-1-217 (Single Family Residential - 5 Acre Minimum)

PROPOSED: City R-1 (One Family Residential)

GENERAL PLAN LAND USE DESIGNATION: Low Density Residential

SURROUNDING AREA ZONING AND LAND USE:

North: County - Racket ball club and Linda Vista Avenue.
South: County - Developed county single family residential subdivision and North Grand Avenue.
East: City - Vacant site (owned by the applicant) and State Highway 65.
West: County - Orchard.

ALTERNATIVES TO THE PROJECT AND THEIR EFFECT:

1. Denial of the proposed annexation initiation would negate any conditional use permit.

2. Approval of the annexation initiation would result in the site being automatically zoned City R-1 per Section 110 A-4 of the Porterville Zoning Ordinance upon annexation.

3. Approval of the annexation initiation and denial of the conditional use permit would result in the site being automatically zoned City R-1 per Section 110 A-4 of the Porterville Zoning Ordinance upon annexation, and the existing single family dwelling being utilized for single family uses only.

4. Approval of the conditional use permit would allow for the existing single family dwelling to be converted into a church pursuant to Section 221 A-5 of the Porterville Zoning Ordinance which requires a minimum of three (3) acres subject to approval of a Conditional Use Permit for churches. Additionally, the Church owns the 4.38± acre vacant parcel to the east. Upon consummation of the annexation, a condition of approval for the CUP will require a lot line adjustment to combine the 4.38± acres and the proposed 1.93± acre site which will allow the proposed use to be in conformance with Section 221 A-5 of the Porterville Zoning Ordinance.
ENIRONMENTAL: On July 22, 2004, the Environmental Coordinator made a preliminary determination that a Mitigated Negative Declaration would be appropriate for the proposed project. The Initial Study and proposed Mitigation Measures have been transmitted to interested agencies, groups, and individuals for a twenty (20) day review from August 3, 2004 to August 22, 2004. The only agency that responded was the San Joaquin Valley Air Pollution Control District. Those comments have been incorporated into the Mitigation Monitoring Program Attachment A of the draft environmental resolution.

DATE FILED FOR PROJECT REVIEW COMMITTEE PROCESSING: August 6, 2003

DATE ACCEPTED AS COMPLETE: July 22, 2004

RECOMMENDATION: That the City Council:

1. Adopt the draft resolution approving a Negative Declaration for Annexation 453 and Conditional Use Permit 7-2004.

2. Adopt the draft resolution authorizing initiation of preliminary proceedings and filing of the necessary application with LAFCo.

3. Adopt the draft resolution approving Conditional Use Permit 7-2004.

ATTACHMENTS:

1. General Plan Designation/Zoning/Land Use Map
2. Site Plan and Interior Layout
3. Negative Declaration
4. Conditional Use Permit Application
5. Consent to Annex Form
6. Letter from the San Joaquin Valley Air Pollution Control District
7. Draft Resolution approving Negative Declaration for Annexation 453 and Conditional Use Permit 7-2004
8. Draft Resolution authorizing initiation of preliminary proceedings and filing of the necessary application for Annexation 453 with LAFCo
9. Adopt the draft resolution approving Conditional Use Permit 7-2004
August 18, 2004

Attn: Mr. Bradley Dunlap
City of Porterville
291 North Main Street
Porterville, California 93257

RE: Annexation 453 & CUP 7-2004

Dear Mr. Dunlap:

The San Joaquin Valley Unified Air Pollution Control District (District) has reviewed the documentation provided and has the following comments:

The entire San Joaquin Valley is non-attainment for ozone and fine particulate matter (PM-10). The Federal Clean Air Act (CAA) and the California Clean Air Act require areas that are designated non-attainment to reduce emissions until standards are met. Based upon the information provided it does not appear that this project will have a significant impact with respect to air quality. A concerted effort should still be made to reduce project-related emissions.

The following item has been adopted by the District to reduce emissions throughout the San Joaquin Valley, and is required:

- District Regulation VIII - Fugitive Dust Rules is a series of rules designed to reduce PM-10 emissions generated by human activity, including construction, road building, bulk materials storage, landfill operations, etc. Please be advised that the District is currently amending Regulation VIII and anticipates implementing revised requirements on or about October 1, 2004. If construction were to commence on or after October 1, the applicant should contact the District to determine where requirements may have changed and how rule changes may affect the project. A synopsis highlighting many of the requirements of this regulation has been enclosed.

One issue that may arise in conjunction with any proposed construction within the buildings or demolitions in the project area is compliance with the National...
NEGATIVE DECLARATION

LEAD AGENCY: City of Porterville
PROJECT APPLICANTS: Foothill Presbyterian Church

291 North Main Street
Porterville, California 93257
P.O. Box 50
Porterville, CA 93258

PROJECT TITLE: Annexation 453 and Conditional Use Permit 7-2004

ADDRESS/LOCATION: The northwest corner of Merrill Avenue and the northerly prolongation of Maston Street, in the City of Porterville, County of Tulare.

PROJECT APPLICANT: Foothill Presbyterian Church

PROJECT DESCRIPTION: Annexation 453 proposes to incorporate a 1.93 ± acre parcel developed with an existing single family dwelling, metal carport and out building generally located on the northeast corner of the site. The remaining portion of the site was used for livestock. As a result, the ground is absent any vegetation other than ornamental vegetation located next to the existing dwelling.

Pursuant to Section 110 A-4 of the Porterville Zoning Ordinance, upon consummation of the annexation, the subject site will automatically be zoned City R-1 (One Family Residential).

Conditional Use Permit 7-2004 (CUP) will allow for the conversion of the existing 1,620 ± square foot residential dwelling into a church. The plan and proposed seating capacity has not been submitted as of yet. However, prior to submittal of Conditional Use Permit 7-2004 to the City Council, one of the conditions will require a minimum of one (1) parking stall for every five (5) seats in the main sanctuary.

Section 221 A-5 of the Porterville Zoning Ordinance requires a minimum of three (3) acres subject to approval of a Conditional Use Permit for churches. The Church owns the 4.36 acre vacant parcel to the east. Upon consummation of the annexation a condition of approval for the CUP will require a lot line adjustment to combine the 4.36 acres and the proposed 1.93 ± acre site which will allow the proposed use to be in conformance with Section 221 A-5 of the Porterville Zoning Ordinance.

CONTACT PERSON: Bradley D. Dunlap (559) 782-7460

Per Resolution No. 92-2004, adopted on July 20, 2004, the Environmental Coordinator of the City of Porterville made a preliminary determination that a Mitigated Declaration would be appropriate for the proposed project described herein and has found that this project will have no significant impact on the environment for the following reasons:

1. The project does not have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal, or eliminate important examples of the major periods of California history or prehistory.

2. The project does not have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals.

3. The project does not have possible environmental effects which are individually limited but cumulatively considerable. "Cumulatively considerable" means that the incremental effects of an individual project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

4. The environmental effects of a project will not cause substantial adverse effects on human beings, either directly or indirectly.

Word\NegdecCUP7-2004

ATTACHMENT
ITEM NO. 3

291 N. Main St., Porterville, CA 93257 PHONE 559.782.7460 FAX 559.781.6437
5. Mitigation measures X were, ____ were not made a condition of the approval of the project.

On July 22, 2004 ________, the Environmental Coordinator of the City of Porterville determined that the above projects will have no significant effect on the environment.

Copies of plans and other documents relating to the subject project may be examined by interested parties at the City Planning Division, 291 North Main Street, Porterville, California.

Dated: July 22, 2004

Word: NegdecCUP7-2004

Approved: ____________________________
Bradley D. Dunlap, Environmental Coordinator
RESOLUTION NO.________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS IN SUPPORT OF APPROVAL OF A NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT FOR ANNEXATION 453 FOR THAT 1.93± ACRE SITE LOCATED ON THE NORTHWEST CORNER OF MERRILL AVENUE AND THE NORTHERLY PROLONGATION OF MASTON STREET AND CONDITIONAL USE PERMIT 7-2004 TO CONVERT 1,620± SQUARE FOOT SINGLE FAMILY DWELLING INTO A CHURCH ON THAT 1.93± ACRE SITE LOCATED ON THE NORTHWEST CORNER OF MERRILL AVENUE AND THE NORTHERLY PROLONGATION OF MASTON STREET

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of September 7, 2004, conducted a public hearing to consider Annexation 453 for that 1.93± acre site located on the northwest corner of Merrill Avenue and the northerly prolongation of Maston Street and Conditional Use Permit 7-2004 to convert a 1,620± square foot single family dwelling into a church on that 1.93± acre site located on the northwest corner of Merrill Avenue and the northerly prolongation of Maston Street; and

WHEREAS: Pursuant to Section 110 A-4 of the Porterville Zoning Ordinance, upon consummation of the annexation, the subject site will automatically be zoned City R-1 (One Family Residential); and

WHEREAS: Approval of the conditional use permit would allow for the existing single family dwelling to be converted into a church pursuant to Section 221 A-5 of the Porterville Zoning Ordinance which requires a minimum of three (3) acres subject to approval of a Conditional Use Permit; and

WHEREAS: The Church owns the 4.38± acre vacant parcel to the east. Upon consummation of the annexation, a condition of approval for Conditional Use Permit 7-2004 will require a lot line adjustment to combine the 4.38± acres and the proposed 1.93± acre site which will allow the proposed use to be in conformance with Section 221 A-5 of the Porterville Zoning Ordinance; and

WHEREAS: The City Council considered the following findings in its review of the environmental circumstances for this project:

1. That a Negative Declaration was prepared in accordance with the California Environmental Quality Act.

ATTACHMENT
ITEM NO 7
2. The Initial Study and proposed Mitigation Measures have been transmitted to interested agencies, groups, and individuals for a twenty (20) day review period from August 3, 2004 to August 22, 2004. The only agency that responded was the San Joaquin Valley Air Pollution Control District. Those comments have been incorporated into the Mitigation Monitoring Program Attachment A of the draft environmental resolution.

3. That the mitigation measures contained in the Negative Declaration were incorporated into a Mitigation Monitoring Program attached hereto as Attachment A and included as condition 22 in the proposed resolution of approval for Conditional Use Permit 7-2004.

4. That the subject project will not create adverse environmental impacts.

The proposed Negative Declaration was evaluated in light of the prepared environmental initial study, comments from interested parties and the public, as well as responses to written comments received during the review period. It was determined that potential impacts associated with the proposed project could be mitigated to a less than significant level through the implementation of the attached mitigation measures.

5. That the City Council is the decision-making body for the project.

6. That review of the environmental circumstances regarding this project indicates that no adverse impacts would accrue to wildlife resources from implementation of this project.

On June 1, 1999, a Negative Declaration was approved by the Porterville City Council for a joint project that consisted of the following:

- Annexation 442 (consisting of 16.74± acres of vacant land).
- Tentative Parcel Map 2-99 divided the 16.74± acre site into three (3) parcels, one of which was Parcel 1 consisting of the 4.63± acres (contiguous to the east side of the proposed annexation and conditional use permit).
- Zone Change 2-99 rezoned Parcel 2 of Tentative Parcel Map 2-99 to City C-3.
- Conditional Use Permit 2-99 which allowed for the construction of a church on the Parcel 1 (4.63± acres).

City staff conducted an on-site inspection. The 1.93± acre site is developed with an existing single family dwelling, metal carport and out building generally located on the northeast corner of the site. The remaining portion of the site was used for livestock. As a result, the ground is absent any vegetation other than ornamental vegetation located next to the existing dwelling. As such, no endangered, threatened or rare species or habitats exist and no impact will occur.
7. That the project may proceed subsequent to approval and/or conditional approval of the State Department of Fish and Game relative to said State Department’s consideration of a “de minimis impact” pursuant to Section 711.2 ct. Seq. of the Fish and Game Code.

8. That the environmental assessment and analysis prepared for this project supporting the Negative Declaration reflects the independent judgement of the City of Porterville.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve the Negative Declaration prepared for Annexation 453 and Conditional Use Permit 7-2004.

______________________________
Pedro R. Martinez, Mayor

ATTEST:

John Longley, City Clerk

By __________________________
Georgia Hawley, Chief Deputy City Clerk
## Attachment A

### Mitigation Monitoring Program

<table>
<thead>
<tr>
<th>Potential Impact</th>
<th>Mitigation Measures</th>
<th>Monitoring</th>
<th>Agency Responsible</th>
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<tbody>
<tr>
<td>Geologic Problems</td>
<td>Mitigation measures include the enforcement of site development plan or other development related conditions of approval requiring erosion control plans, and the conservation of vegetation, with soil disturbances to be limited to dry seasons. In addition, conformance with the City Storm Drain Master Plan, and requirements relative to grading, the Uniform Building Code, etc., will be required.</td>
<td>Conformance with the City Storm Drain Master Plan (2001) and requirements relative to grading, the Uniform Building Code, etc., will be required.</td>
<td>City of Porterville</td>
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<td>3.f Erosion, changes in topography or unstable soil conditions from excavation, grading or fill.</td>
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<td>Water</td>
<td>Compliance with Federal, State and local regulations requiring that storm water runoff be monitored and maintained free of heavy concentrations of pollutants will mitigate this potential impact to a level of insignificance (NPDES standards).</td>
<td>Compliance with Federal, State and local regulations requiring that storm water runoff be monitored and maintained free of heavy concentrations of pollutants will mitigate this potential impact to a level of insignificance (NPDES standards).</td>
<td>City of Porterville</td>
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<td>4.a Changes in absorption rates, drainage patterns or the rate and amount of surface runoff.</td>
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<td>Potential Impact</td>
<td>Mitigation Measures</td>
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<tr>
<td>Air Quality</td>
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<tr>
<td>5.a</td>
<td>Violate any air quality standard or contribute to an existing or projected air quality violation. If asbestos or lead base paint is found in the single family residential dwelling to be converted to a church, the City of Porterville will implement and comply with the regulations outlined in the NESHAP regulation, 40 CFR, Part 61, Subpart M. Mitigation of the effects resulting from increased vehicle trips must be accomplished through proper vehicle smog inspections and related efforts to reduce petroleum fueled transit. Additional mitigation measures include adequate circulation of vehicles to lessen concentrations of carbon monoxide in the area, promotion of carpooling and public transportation in the area, and the encouragement of non-motorized transportation modes (i.e. bicycles and walking). Mitigation through construction management. 1. The City will implement Regulation VIII of the SJVUAPCD including:</td>
<td>The State of California, California Air Resources Board (CARB) and San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) are expected to maintain their commitment to this program.</td>
<td>State of California CARB, SJVUAPCD, City of Porterville</td>
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<td>Potential Impact</td>
<td>Mitigation Measures</td>
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<tr>
<td>Air Quality</td>
<td>a. The prevention of dust from leaving the construction site during clearing, grading and excavation will be accomplished through regular truck spraying with water, sprinkling systems or emulsion sprays.</td>
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<td>b. Watering or spraying will be required to be done in the late morning and again at the end of the work day, with increased frequency throughout the day whenever wind is sustained or gusting at speeds in excess of 10 MPH. If winds or gusting exceed 20 MPH, vehicular activity will be required to cease.</td>
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<td>c. One or more of the following means of dust control should be employed after the completion of earth grading operations:</td>
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<td>i. Seeding and watering of new vegetation.</td>
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<td>ii. Hydromulching or spreading of soil binders.</td>
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<td>iii. Maintenance of the site's soil surface crust through repeated soakings.</td>
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<td>Mitigation Measures</td>
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<tr>
<td>Air Quality</td>
<td>2. Trees should be carefully selected and located to shade the structures during the hot summer months. This measure should be implemented on southern and western exposures. Deciduous trees should be considered since they provide shade in the summer and allow the sun to reach the residences during the cold winter months.</td>
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<td>3. As many energy-conserving features as possible should be included in the design/ construction of the new dwellings. Examples include (but are not limited to) increased wall and ceiling insulation (beyond building code requirements), energy efficient lighting, high efficiency appliances and solar-assisted water heating.</td>
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<td>4. Electric or low nitrogen oxide (NOx) emitting gas-fired water heaters should be installed.</td>
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<td>5. Electrical outlets should be installed around the exterior of the units to encourage the use of electric landscape maintenance equipment.</td>
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<td>6. Limit engine idling at the project site.</td>
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<tr>
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<tr>
<td><strong>Air Quality</strong></td>
<td>7. Increase wall and ceiling insulation (beyond code requirement) should be installed.</td>
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<td>5. a (continued)</td>
<td>8. Energy efficient window (double pane and/or coated) should be utilized.</td>
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<td>9. Awnings or other shading mechanism for windows should be installed.</td>
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<td><strong>Utilities and Service Systems</strong></td>
<td>The site is within the boundaries of the City's Master Plan for Storm Drainage (2001). Compliance with Federal, State and local regulations requiring that storm water runoff monitored and maintained free of heavy concentrations of pollutants will mitigate this potential impact to a level of insignificance (NPDES standards). The installation of storm drain lines in conformance with Federal, State, and local environmental protection requirements and the City's Storm Drainage Master Plan will be required.</td>
<td>The City of Porterville and the effected utility companies.</td>
<td>The City of Porterville and the effected utility companies.</td>
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<tr>
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<tr>
<td>Aesthetics</td>
<td>The installation of low profile exterior lighting will be directed away from adjacent properties, as required by the City Zoning Ordinance, and will reduce the impact of outside lighting. Minimal glare is anticipated from street lights and on-site lighting facilities accruing from the site's eventual development. This will serve to reduce potential hazards for autos, bicyclists, and pedestrians, as well as provide a secure environment for the occupants.</td>
<td>Section 2618 F (Glare) of the Porterville Zoning Ordinance will be enforced.</td>
<td>City of Porterville</td>
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</tbody>
</table>
RESOLUTION NO. _______

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE, COUNTY OF TULARE, STATE OF CALIFORNIA MAKING APPLICATION FOR CHANGE OF ORGANIZATION OF TERRITORY KNOWN AS ANNEXATION NO. 453

WHEREAS, the California State Legislature finds and declares that it is the policy of the State to encourage orderly growth and development which is essential to the social, fiscal, and economic well-being of the State, and recognizes that the logical formation and determination of City boundaries is an important factor in promoting the orderly development of urban areas; and

WHEREAS, the legislature recognizes that population density and intensive residential, commercial, and industrial development necessitate a broad spectrum and high level of community services and controls. The legislature also recognizes that when areas become urbanized to the extent that they need the full range of community services, priorities must be established regarding the type and levels of such services that the residents of an urban community need and desire; that community service priorities be established by weighing the total community service needs against total financial resources available for securing community services; and that such community service priorities must reflect local circumstances, conditions, and limited financial resources. The legislature finds and declares that a single government agency, rather than several limited purpose agencies, is better able to assess and be accountable for community service needs and financial resources and, therefore, is the best mechanism for establishing community service priorities; and

WHEREAS, the City Council of the City of Porterville desires to initiate proceedings for a change of organization of the hereinafter described territory.

NOW, THEREFORE, IT IS HEREBY RESOLVED, DETERMINED AND ORDERED AS FOLLOWS:

1. Application is hereby made to the Executive Officer of the Local Agency Formation Commission of the County of Tulare, State of California, as follows:

   A. This proposal is made pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 of the State of California.

   B. The nature of the proposal is a change of organization as follows:

     A description of the exterior boundaries and annexation map of the territory to be annexed is attached hereto and marked Exhibit "A" and made a part hereof by reference as though set forth herein.
C. The reasons for this proposal are as follows:

To provide municipal services including sanitary sewer, water, and storm drainage services, increased police and fire protection, and other municipal services as so required. To provide proper control, orderly development, and logical growth in accordance with the City of Porterville General Plan, LAFCo's Sphere of Influence Boundary, and the Urban Development Boundary as adopted by the County of Tulare and the City of Porterville.

D. In accordance with City Council Resolution No. 92-2004, adopted on July 20, 2004, the Environmental Coordinator made a preliminary determination that a Mitigated Negative Declaration would be appropriate for the proposed project(s).

E. That the environmental assessment and analysis prepared for Annexation No. 453 and Conditional Use Permit 7-2004 supporting the Negative Declaration reflects the independent judgement of the City of Porterville.

F. The subject site is not located within an agricultural preserve.

G. That the subject annexation has full consent from all the owners of the property to be annexed.

H. The 1.93± acre parcel is developed with an existing 1,620± square foot single family dwelling, metal carport and out building. The remaining portion of the site was used for livestock. As a result, the ground is absent any vegetation other than ornamental vegetation located next to the existing dwelling. As such, no endangered, threatened or rare species or habitats exist and no impact will occur.

I. The subject site has not been utilized for agricultural purposes.

J. The subject site is located within Porterville's Urban Development Boundary and LAFCo's Sphere of Influence Boundary.

K. Porterville's General Plan designates the site for Low Density Residential uses.

L. Pursuant to Section 110 A-4 of the Porterville Zoning Ordinance, upon consummation of the annexation, the subject site will automatically be zoned City R-1 (One Family Residential).
M. In conjunction with Annexation 453, Conditional Use Permit 7-2004 proposes to convert a 1,620± square foot single family dwelling into a church on that 1.93± acre site located on the northwest corner of Merrill Avenue and the northerly prolongation of Maston Street.

N. Approval of the conditional use permit would allow for the existing single family dwelling to be converted into a church pursuant to Section 221 A-5 of the Porterville Zoning Ordinance which requires a minimum of three (3) acres subject to approval of a Conditional Use Permit for churches.

O. The Church owns the 4.38± acre vacant parcel to the east. Upon consummation of the annexation a condition of approval for Conditional Use Permit 7-2004 will require a lot line adjustment to combine the 4.38± acres and the proposed 1.93± acre site which will allow the proposed use to be in conformance with Section 221 A-5 of the Porterville Zoning Ordinance; and

P. That the project may proceed subsequent to approval and/or conditional approval of the State Department of Fish and Game relative to said State Department’s consideration of a “de minimis impact” pursuant to Section 711.2 et. seq. of the Fish and Game Code.

Q. It is hereby requested that proceedings be taken for the change of organization proposed herein.

2. The City Clerk (or other official) of the City of Porterville is hereby authorized and directed to file a certified copy of this resolution with the Executive Officer of the Local Agency Formation Commission of the County of Tulare, State of California.

__________________________
Pedro R. Martinez, Mayor

ATTEST:

John Longley, City Clerk

By ______________________
Georgia Hawley, Chief Deputy City Clerk
ANNEXATION AREA NO. 453
For: Foothill Community Presbyterian Church

That portion of Pioneer Land Company's Second Subdivision, situated in a portion of the East half of Section 15, Township 21 South, Range 27 East, in the County of Tulare, State of California, as per map recorded in Book 3 of Maps, at Page 23, Tulare County Recorders, more particularly described as follows:

Beginning at the Southeast corner of the West half of said Lot 33 said point being on the City Limit Line of the City of Porterville; thence South 01° 20' 09" East along the East line of the West half of Lot 29 of said Pioneer Land Company's Second Subdivision and along the City Limit Line of the City of Porterville, a distance of 30.00 feet, more or less, to a point on the South right of way line of Merrill Avenue, said point being on the South line of the North 30.00 feet of Lot 29 of said Pioneer Land Company's Second Subdivision; thence leaving the existing City Limits line of the City of Porterville and running West along the South right of way line of Merrill Avenue and the South line of the North 30.00 feet of said Lot 29, a distance of 328.17 feet, more or less, to a point on the West line of Lot 29 of said Pioneer Land Company's Second Subdivision; thence North along said West line of Lot 29 of said Pioneer Land Company's Second Subdivision, a distance of 30.00 feet, more or less, to the Southwest corner of Lot 33 of said Pioneer Land Company's Second Subdivision; thence North along the West line of Lot 33 of said Pioneer Land Company's Second Subdivision, a distance of 265.49 feet, more or less, to the North line of the South 265.49 feet of said Lot 33; thence Easterly along said North line a distance of 328.17 feet, more or less, to a point on the East line of the West half of said Lot 33 and a point on the existing City Limits Line of the City of Porterville; thence South 01° 20' 09" East along the East line of the West half of said Lot 33, and along the City Limits Line of the City of Porterville, a distance of 265.49 feet, more or less, to the point of beginning.

EXHIBIT "A"
ANNEXATION AREA NO. 453
CITY OF PORTERVILLE,
IN A PORTION OF THE E 1/2 OF SECTION 15,
T. 21 S., R. 27 E. M.B.D. & M., IN THE
COUNTY OF TULARE, STATE OF CALIFORNIA.

SCALE 1" = 200'-0"
ACRES: 1.93±
84,172 SQ. FT.

EFFECTIVE DATE
STATE OF CALIFORNIA
COUNTY OF TULARE

I hereby certify that Resolution No. was passed and adopted by the Council of the City of Porterville on the day of annexing to the City of Porterville the area shown on this map and that said map sets forth the boundaries of territory annexed to the City of Porterville by said resolution.

IN WITNESS WHEREOF I have hereunto set my hand and affixed the Official Seal of the City of Porterville this day of .

City Clerk, City of Porterville
RESOLUTION NO._______

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
CONTAINING FINDINGS IN SUPPORT OF CONDITIONAL USE PERMIT 7-2004 TO
ALLOW THE CONVERSION OF AN EXISTING 1,620± SQUARE FOOT SINGLE FAMILY
DWELLING INTO A CHURCH LOCATED AT THE NORTHWEST CORNER OF MERRILL
AVENUE AND THE NORTHERLY PROLONGATION OF MASTON STREET

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting
of September 7, 2004, conducted a public hearing to consider Conditional Use Permit 7-2004, being
a request to allow the conversion of an existing 1,620± square foot single family dwelling into a
church located at the northwest corner of Merrill Avenue and the northerly prolongation of Maston
Street; and

WHEREAS: The applicant/agent has been advised by the Building Department that
the occupancy of the building will not exceed forty-nine (49) persons at any given time. Pursuant
to Section 2202 A-3 of the Zoning Ordinance, one (1) parking space is required for every five (5)
seats in the main auditorium. Nine (9) parking spaces and one (1) handicapped parking space has
been provided.

WHEREAS: Approval of the conditional use permit would allow for the existing single
family dwelling to be converted into a church pursuant to Section 221 A-5 of the Porterville Zoning
Ordinance which requires a minimum of three (3) acres subject to approval of a Conditional Use
Permit for churches; and

WHEREAS: The Church owns the 4.38± acre vacant parcel to the east. Upon
consummation of the annexation a condition of approval for Conditional Use Permit 7-2004 will
require a lot line adjustment to combine the 4.38± acres and the proposed 1.93± acre site which will
allow the proposed use to be in conformance with Section 221 A-5 of the Porterville Zoning
Ordinance; and

WHEREAS: In conjunction with Conditional Use Permit 7-2004, Annexation 453 proposes
to incorporate into the City Limits of Porterville the 1.93± acre site developed with above mentioned
1,620± square foot single family dwelling, metal carport and out building. The remaining portion
of the site was used for livestock. As a result, the ground is absent any vegetation other than
ornamental vegetation located next to the existing dwelling.

WHEREAS: Pursuant to Section 110 A-4 of the Porterville Zoning Ordinance, upon
consummation of the annexation, the subject site will automatically be zoned City R-1 (One Family
Residential).
WHEREAS: The Initial Study and proposed Mitigation Measures have been transmitted to interested agencies, groups, and individuals for a twenty (20) day review period from August 3, 2004 to August 22, 2004. The only agency that responded was the San Joaquin Valley Air Pollution Control District. Those comments have been incorporated into the Mitigation Monitoring Program Attachment A of the draft environmental resolution.

WHEREAS: The City Council made the following findings with respect to the subject project:

1. That the proposed project is consistent with the site's General Plan land use designation and zoning.

   The General Plan designates the subject site as Low Density Residential. Pursuant to Section 110 A-4 of the Porterville Zoning Ordinance, upon consummation of the annexation, the subject site will automatically be zoned City R-1 (One Family Residential) which is supported by the General Plan.

   Approval of the conditional use permit would allow for the existing single family dwelling to be converted into a church pursuant to Section 221 A-5 of the Porterville Zoning Ordinance which requires a minimum of three (3) acres subject to approval of a Conditional Use Permit for churches. The Church owns the 4.38± acre vacant parcel to the east. Upon consummation of the annexation, a condition of approval for Conditional Use Permit 7-2004 will require a lot line adjustment to combine the 4.38± acres and the proposed 1.93± acre site which will allow the proposed use to be in conformance with Section 221 A-5 of the Porterville Zoning Ordinance.

2. That the site is physically suitable for the type of development proposed.

   The site is generally level. The soil is not highly expansive and therefore will not create any barriers to conversion of the existing single family dwelling to a church.

3. That the design of the project or the proposed improvements are not likely to cause substantial environmental damage.

   With the exception of the existing existing single family dwelling, metal carport and out building, the remaining portion of the site was used for livestock. As a result, the ground is absent any vegetation other than ornamental vegetation located next to the existing single family dwelling. No natural habitat was observed. As such, no endangered, threatened or rare species or habitats exist and no impact will occur. Additionally, Condition 22 of this resolution requires the developer/applicant to comply with all Mitigation Measures contained in the Mitigation Monitoring Program attached to the resolution.
4. That a Negative Declaration was prepared for this project indicating that such will not have a significant effect on the environment.

5. That the proposed location of the project and the conditions under which it will be operated and maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity.

The General Plan designates the site for Low Density Residential uses. Upon consummation of the annexation a condition of approval for Conditional Use Permit 7-2004 will require a lot line adjustment to combine the 4.38± acres and the proposed 1.93± acre site which will allow the proposed use to be in conformance with Section 221 A-5 of the Porterville Zoning Ordinance. Conditions of approval are included to ensure adequate development standards are met.

6. That the standard of population density, site area dimensions, site coverage, yard spaces, height of structures, distance between structures, off-street parking facilities, and landscaped areas will produce an environment of stable and desirable character consistent with the objectives of the Zoning Ordinance.

7. The project as proposed complies with all design standards of the Zoning Ordinance.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve Conditional Use Permit 7-2004, subject to the following conditions:

1. That the developer/applicant shall design and improve the parking lot in conformance with Section 2206 and 2211 of the Zoning Ordinance.

2. The developer/applicant shall secure permits and make the following modifications to the existing building prior to its use as a church:

a. Provide a ramp to the main entrance.

b. Change main doors to a single door and lever hardware that complies with access laws.

c. Restrooms shall be modified to provide access, as per State and Federal access laws.

d. All electrical circuit breakers must be identified.

e. All electrical plug covers, switch covers, etc. must be provided, as per code.

f. Properly abandon washing facilities.

g. Electrical service may require change-out, as per Southern California Edison requirements.
h. Remove recreational vehicle covered parking structure.

i. Remove and properly abandon in-ground spa.

j. Provide fire extinguishers, as per Fire Department.

k. Identify property by posting minimum 6" address numbers visible (readable) from public street.

l. Signs require separate permit.

m. If the developer/applicant intends on connecting to City water and keep a water well on-site, a backflow device, as per City requirements shall be provided.

n. Plans and permits must be secured prior to commencing any demolition or remodeling work.

3. The developer/applicant shall comply with all mitigation measures adopted as a component of the approval of the Mitigated Negative Declaration for this project. Prior to commencing with any demolition or remodeling work, the developer/applicant shall submit a signed document committing to comply with the adopted mitigation measures.

4. Upon consummation of the annexation and prior to the issuance of an occupancy permit, a recorded lot line adjustment will be required to combine the 4.38± acres and the proposed 1.93± acre site which will allow the proposed use to be in conformance with Section 221 A-5 of the Porterville Zoning Ordinance.

5. The developer/applicant shall comply with all requirements of the Porterville Municipal Code and the California Building Code 2001 and latest applicable codes.

6. That 6" barrier curbs or wheel stops to the satisfaction of the Community Development Director shall be placed on the north, west and east side of the proposed parking area to prevent vehicle access to the undeveloped portions of the site.

7. That the maximum occupancy of the building shall not exceed forty-nine (49) persons at any given time.
8. That the subject site will be developed in accordance with the site plan.

9. The Conditional Use Permit shall become null and void if not undertaken and actively and continuously pursued within two (2) years.

Pedro R. Martinez, Mayor

ATTEST:

John Longley, City Clerk

By ______________________________

Georgia Hawley, Chief Deputy City Clerk
CITY COUNCIL AGENDA: September 7, 2004

PUBLIC HEARING

SUBJECT: USE OF LOCAL LAW ENFORCEMENT BLOCK GRANT FUNDS BY THE PORTERVILLE POLICE DEPARTMENT

SOURCE: Police Department

COMMENT: The City Council appointed an Advisory Board to review Local Law Enforcement Block Grant applications and to make non-binding recommendations on the use of funds.

Members of the Advisory Board met on August 20, 2004, and it was their consensus that the Local Law Enforcement Block Grant funds in the amount of $13,833 be utilized to offset operational costs for the School Resources Officer. The School Resource Officer acts as a liaison between the Police Department and the High and Middle City Schools.

The required matching funds of $1,537 will be taken from the 2004-2005 Police Department budget.

RECOMMENDATION: That City Council:

1) Accept the grant;
2) Approve the use of the grant funds as recommended by the Advisory Board; and
3) Authorize budget adjustment for total grant funds received.

ATTACHMENT: Draft Resolution

D.D. Appropriated/Funded C.M. Item No. 17
RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ACCEPTING LOCAL LAW ENFORCEMENT BLOCK GRANT FUNDS AND APPROVING A BUDGET ADJUSTMENT TO THE POLICE DEPARTMENT BUDGET

BE IT HEREBY RESOLVED by the City Council of the City of Porterville as follows:

1. That the City of Porterville accept the 2004/2005 Local Law Enforcement Block Grant (LLEBG) funds;

2. That the Police Department appropriation be increased by $13,833 from LLEBG funds received for Fiscal Year 2004/2005 to allow for the expenditure of those Grant Funds in support of the School Resource Officer Program and its operational costs; and

3. That the City Council approve the required matching funds of $1,537.

ADOPTED this 7th day of September, 2004.

Pedro Martinez, Mayor

ATTEST:

John Longley, City Clerk

By Georgia Hawley, Deputy City Clerk
PUBLIC HEARING

SUBJECT: ZONING ORDINANCE AMENDMENT 3-2004: AN ORDINANCE AMENDING VARIOUS SIGNAGE REGULATIONS

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING

COMMENT: On July 13, 2004, the City Council directed Staff to prepare amendments to the regulations concerning banners and temporary signage, guild signage and roof mounted signage. These items were identified as high value amendments that could improve the visual impact of commercial areas without requiring a comprehensive review of the Ordinance. The City Council also expressed an interest in improving the enforcement of current signage regulations.

Over a period of several years, City Council, Staff and many members of the community have noted temporary signage in particular, has become increasingly common. These signs, while appropriate for limited periods, have a tendency to wear faster than permanent signs, and generally add to visual clutter. The Economic Development Committee of the Chamber of Commerce and several other groups have identified aesthetic concerns, blight, clutter, site maintenance, etc. as significant issues which may be discouraging new investment in the Porterville economy. The City Council’s intent when instructing Staff to prepare a Sign Ordinance Amendment was to give the City additional tools to use in maintaining and improving the appearance of Porterville’s commercial neighborhoods.

Representatives of the Porterville Chamber of Commerce, the Tulare/Kings Hispanic Chamber of Commerce, and the Downtown Porterville Association have been given an opportunity to review the proposed Zoning Ordinance Amendment and make recommendations. All three organizations have expressed support for the general direction proposed by Staff.

Currently, the Zoning Ordinance permits temporary signs for promotional purposes, with no limit to the size or number of signs. Each sign must be removed after six months however, there is no permitting process to verify the installation and removal dates. The Ordinance prohibits the installation of a sign that exceeds the height of the building to which it is attached. That regulation does not prohibit the installation of signs on porch roofs, or on the lower portions of pitched roofs that do not exceed

DD Appropriated/Funded CM Item No. 18
the maximum height of the building at the ridgeline. Finally, the
downtown signage guidelines encourage the use of “guild signs” which
project horizontally from the building. Guild signs can be an attractive,
pedestrian friendly feature of the commercial streetscape. Such signs are
currently limited to a maximum height of six (6) inches. This has proven
to be overly restrictive, preventing the installation of attractive and
creative signage.

The proposed amendments address each of these three weaknesses in the
current Zoning Ordinance. Additional amendments are proposed to clarify
definitions and processes and to facilitate enforcement.

As the proposed regulations of temporary signs include a new Temporary
Sign Permit, the adopting ordinance also creates a Temporary Sign Permit
Application Fee, which is set by an accompanying resolution.

RECOMMENDATION: That the City Council:

1. Approve the proposed Ordinance; and

2. Give first reading to the Ordinance amending
   Article 20 of the Zoning Ordinance pertaining to
   Sign Regulations.

3. Approve the Draft Resolution Setting a Fee for
   Temporary Sign Permit Applications.

ATTACHMENTS: Complete Staff Report
PUBLIC HEARING – STAFF REPORT

SUBJECT: ZONING ORDINANCE AMENDMENT 3-2004: AN ORDINANCE AMENDING VARIOUS SIGNAGE REGULATIONS

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT – PLANNING

PROJECT DETAILS:

On July 13, 2004, the City Council directed Staff to prepare amendments to the regulations concerning banners and temporary signage, guild signage and roof mounted signage. These items were identified as high value amendments that could improve the visual impact of commercial areas without requiring a comprehensive review of the Ordinance. The City Council also expressed an interest in improving the enforcement of current signage regulations.

Over a period of several years, City Council, Staff and many members of the community have noted temporary signage in particular, has become increasingly common. These signs, while appropriate for limited periods, have a tendency to wear faster than permanent signs, and generally add to visual clutter. The Economic Development Committee of the Chamber of Commerce and several other groups have identified aesthetic concerns, blight, clutter, site maintenance, etc. as significant issues which may be discouraging new investment in the Porterville economy. The City Council’s intent when instructing Staff to prepare a Sign Ordinance Amendment was to give the City additional tools to use in maintaining and improving the appearance of Porterville’s commercial neighborhoods.

Representatives of the Porterville Chamber of Commerce, the Tulare/Kings Hispanic Chamber of Commerce, and the Downtown Porterville Association have been given an opportunity to review the proposed Zoning Ordinance Amendment and make recommendations. All three organizations have expressed support for the general direction proposed by Staff.

In preparing the requested amendments, it became clear that several additional changes were necessary in order to avoid creating internal contradictions. Staff was also concerned that any amendment that failed to improve the existing enforcement procedure would be unlikely to have a lasting positive effect. A variety of mostly cosmetic changes are also proposed to make the format of the ordinance internally consistent and consistent with other Articles of the Zoning Ordinance.
PROPOSED AMENDMENTS:

Staff proposes the addition of definitions of the terms “A-Frame Sign”, “Balloon Display”, “Banner”, “Flag”, “Hand-held Sign”, “Pennant”, “Portable Sign”, “Inflatable Sign”, and “Window Sign.” Each term applies to one or more regulations clarifying the extent of the Temporary Sign regulations. As proposed, all but pennants and window signs are treated as “Temporary Signs.”

The definition of Business Face is amended, a definition of Business Face Area is added and the definition of Business Frontage is deleted. These changes are to facilitate a clarification in the method of calculating allowed signage in most commercial zones.

The definition of “Roof” is added and the definition of “Roof Sign” is amended to clarify the overall prohibition on Roof Signs.

Throughout Article 20, a variety of formatting changes are proposed. These changes include renumbering and re-ordering of sections for greater clarity and to offer internal consistency. In several places, the Community Development and Services Director and City Planner are replaced with the Community Development Director. A small number of cross-references are also corrected.

Under the current ordinance, pennants and similar features may only be used as temporary signage and only for 180 days in any year. Such devices are common, and seem to be readily accepted at car dealerships and other businesses with large outdoor display areas. Staff proposes to permit pennants and balloon displays in conjunction with otherwise legal outdoor commercial displays.

Flags are currently permitted as an exception to the temporary signage regulations. Staff proposes to allow a maximum of three (3) flags per site, and to relocate the section permitting them to make clear that they are not considered temporary signs.

The section on Non-Conforming Signs has been amended modestly. When the ordinance was first adopted, sign owners were allowed five years to bring existing signs into conformance with the new regulations. This section now makes clear that the same amortization period applies to most permanent signs made illegal by subsequent amendments of the ordinance. As window signs are considered to be less expensive to remove or bring into conformance, only one year is permitted to correct such signs. An amortization period of sixty days is proposed for temporary signs. This will give businesses two months to secure their first Temporary Sign Permit for any banners, portable signs, etc., which they intend to maintain.

The current sign ordinance is somewhat ambiguous with regard to the use of electronic reader-boards which can be programmed to change messages, flash, provide animations, etc. Staff proposes to clarify that flashing and animation remains a violation, but such signs may use automatic message changes provided such changes do not occur more than once every fifteen (15) seconds.
Currently, signs may be attached to any portion of a building provided the sign does not extend above the roof line (the highest portion of the building). At City Council's request, this has been amended to prohibit any sign from being mounted on a roof (including a porch roof), regardless of its height.

The section that had referred to "Temporary Advertising Devices" has been removed. Replacement language is provided within the sections that describe allowed signage in each zone. The section permitting flags was also relocated as described above.

Staff is proposing to rewrite the requirement to maintain signs in good order to clarify the intent of the section and to include examples of poor maintenance. As amended, this section also should be easier to enforce when necessary.

The current restrictions on "guild signs" which project from buildings over a sidewalk at a pedestrian scale have proven to be overly restrictive. Staff proposes changes to increase the maximum height of such signs from six (6) inches to eighteen (18) inches to allow creative and attractive signs, primarily in the downtown area. Staff also proposes to increase the maximum width from three (3) feet to four (4) feet. The minimum clearance of eight (8) feet over the sidewalk is not changed.

The current ordinance has no specific method for abating illegal signs. In the absence of such a regulation, the standard enforcement regulations of the Zoning Ordinance apply. In practice, this has proven to be cumbersome and expensive to administer. Illegal signs have been allowed to remain for long periods as Staff prepares a record of enforcement and schedules the matter for review by City Council. Staff proposes to give substantial enforcement authority directly to the Zoning Administrator. As proposed, once the Zoning Administrator determines that a sign is illegal, a letter will be sent to the property owner and sign owner allowing thirty (30) days for voluntary correction. If the sign remains after that period, the Zoning Administrator may order its removal with the cost of removal to be charged to the property owner. In practice, it is anticipated that the Zoning Administrator would first have to secure a court order to allow access to the property for the purpose of removing an illegal sign. Of course, as with all actions of the Zoning Administrator, the determination that a sign is illegal is subject to appeal to the City Council.

The current sign ordinance uses two substantially different methods for calculating the allowed signage in different commercial zones. In the C-1 (Neighborhood Commercial) and PO (Professional Office) Zones, the amount of signage permitted is based on the length of the lot frontage, rather than the size of the building. Excessive signage is prevented by the use of a sixty (60) square foot maximum size for any building face. In most other non-residential zones, allowed signage is based on the area of the actual building façade. Staff proposes to amend the method for calculating signage in the C-1 and PO Zones to be identical to the method used in other zones, but to retain the existing maximum signage allowed. This simplifies and clarifies the process to be used without significantly changing the character of office and neighborhood commercial developments.
Window signs in commercial and professional office zones are currently treated temporary signs, which are permitted for up to 180 days, however, in practice, no limit has been imposed. Staff proposes to explicitly allow window signs without a permit but to limit their usage to cover a maximum of 50% of the area of any window. Identical changes are proposed for most non-residential zones.

As City Council is aware, the current Zoning Ordinance permits the display of temporary signs (including banners) for a maximum of 180 days out of any calendar year. However, as there is not a requirement to secure a permit for such signage, enforcement of this regulation has been extremely difficult. Furthermore, there is currently no limit on the number of temporary signs that can be displayed simultaneously. As proposed, a new process will be instituted to require Temporary Sign Permits prior to the display of any banner, portable sign, A-frame sign, etc. A Temporary Sign Permit will be valid for a period of two months, during which time a business may use any combination of temporary signs up to a maximum of one sign facing each adjacent street (or parking lot). In order to prevent clutter along the frontage of shopping centers, Staff also proposes a 100-foot separation between signs along any street for any two businesses within a single shopping center. The final restriction is a maximum of three Temporary Sign Permits per business per calendar year. This will limit the use of temporary signs to a maximum of six months out of each year.

STAFF ANALYSIS:

The changes as proposed are expected to significantly improve the effectiveness and enforceability of the zoning ordinance. Several practices that are not well regulated, such as the display of banners, the use of portable and A-frame signs, window signs etc., will be subject to reasonable, but not excessively burdensome regulation. Staff's primary concern with regard to these changes is the ability to offer ongoing enforcement. While the proposals significantly reduce difficulty in achieving compliance for any particular violation, Staff is aware that there are many businesses which violate the current and/or proposed regulations. Voluntary compliance after a program of outreach and education will be essential for the long-term success of the proposed ordinance.

As proposed, there are no specific regulations regarding the copy or content of signage. Such regulations are strictly limited by the First Amendment. No particular type of signage is prohibited except for “non-appurtenant” signage (billboards) which are already prohibited. Roof mounted signs are proposed to be prohibited, but a wide variety of building mounted sign options remain. Moderate limitations to the use of temporary and window signs for special events, business openings, promotions, etc., continue to permit a wide variety of commercial expression.

While the proposed changes are anticipated to offer significant benefits, Staff recommends that a truly comprehensive amendment to sign regulations be undertaken with the next update to the Zoning Ordinance. Such an update is anticipated following the adoption of the updated Land Use and Circulation Elements of the General Plan. Some of the issues that Staff has identified that would be appropriate to consider in a comprehensive amendment are: The quality of hand-lettered and hand-painted signs;
Limitations on the ability to distribute and concentrate signage among building facades; Aesthetic and architectural compatibility; and all aspects of the regulations of signs which project over public and private walkways.

TRANSITION FROM CURRENT STANDARDS

Staff recommends that the City Council authorize a substantial outreach effort to inform the public and the business community of the amended regulations. Depending on the type of sign, the transition from the current regulations to the proposed regulations will take from two months to five years. Options to consider include press releases; announcements in the City Newsletter; and notices placed in utility bills and in business license renewal bills.

Two months after the effective date of the new regulations, all temporary signage still remaining will be required to have a Temporary Sign Permit. Staff expects to conduct a substantial initial educational and enforcement effort at that time to ensure that the City Council’s intent to achieve greater control over such signs is met.

Window signs are treated as a separate category of sign in the proposed ordinance. The proposed “Non-conforming sign” regulations require any window sign which exists and is legal at the time the ordinance is enacted shall be brought into compliance with the new regulations within one year of adoption. At that time, any sign or signs that collectively cover more than 50% of the area of a window will be in violation.

Finally, all existing roof-mounted signs will be required to be removed within five years of the effective date of the ordinance.

TEMPORARY SIGN PERMIT APPLICATION AND FEE

It is Staff’s intent to design the Temporary Sign Permit application process to avoid imposing unnecessary time and expense for the business community. A draft Temporary Sign Permit Application is attached. It is our expectation that Community Development Staff will be able to issue such permits immediately upon request at the front counter. On average, each permit is expected to require the following resources:

1) **Accept Application, Check Records and Issue Permit.**  
   Clerical Assistant II – 0.2 Hours at $18.693 per hour

2) **Inspection and Enforcement**  
   Assistant Planner – 0.2 Hours at $32.640 per hour

3) **Reporting and Record-keeping**  
   Clerical Assistant II – 0.1 Hours at $18.693 per hour

4) **Administration and Oversight**  
   Associate Planner – 0.1 Hours at $37.229 Per hour
Overhead expenses are expected to be minimal for this type of permit.

Total cost of processing is anticipated to be $15.86 per permit.

Staff recommends setting the initial fee for Temporary Sign Permits at $15.00.

ENVIRONMENTAL:

The general rule set forth in 14 Cal. Admin. Code 15061(b)(3) applies to the proposed amendment since it can be seen with certainty that there is no possibility that adoption of the proposed regulation will have a significant effect on the environment. No new signage is permitted or required to be constructed as a result of this ordinance.

ALTERNATIVES TO THE PROJECT AND THEIR EFFECT:

Approval of the proposed Zoning Ordinance Amendment as proposed would make significant changes to the regulation of temporary signs and roof signs and would make a variety of other changes as described above.

Denial of the proposed Zoning Ordinance Amendment would retain the existing sign code in full effect.

RECOMMENDATION: That the City Council:

1. Approve the proposed Ordinance; and

2. Give first reading to the Ordinance amending Article 20 of the Zoning Ordinance pertaining to Sign Regulations.

3. Approve the Draft Resolution Setting a Fee for Temporary Sign Permit Applications.

ATTACHMENTS: Exhibit A, Outlining proposed changes
Draft Temporary Sign Permit Application
Draft Ordinance
Resolution Setting Temporary Sign Permit Application Fee
EXHIBIT A

ARTICLE TWENTY

SIGNS AND ADVERTISING STRUCTURES

SECTION 2000: Definitions of Words, Phrases, and Terms Contained in this Article.

A-Frame Sign: Shall mean a temporary freestanding sign, usually hinged at the top, or attached in a similar fashion, and widening at the bottom to form a shape similar to the letter “A.”

Advertising Area: Shall mean the total square foot area of all sign facings (except double face signs which shall be computed as one face), calculated by adding the outer dimensions of all faces capable of presenting a sign message including the border and/or frame. The area of a sign without a border placed on the wall of a building shall be computed by enclosing the entire sign within sets of parallel lines touching the outer limits of the sign message and computing the area thus enclosed.

Advertising Structure: Shall mean a structure of any kind or character erected or maintained for outdoor advertising purposes, upon which any poster, bill, printing or other advertisement of any kind whatsoever may be placed, including statuary, for the purpose of advertising the business or activity on the premises, but shall not include official notices issued by any court or public body or officer, notices posted by any public officer in the performance of a public duty or by any person in giving legal notice; directional, warning or information structures required or authorized by law or by federal, state, or county authority.

Balloon display: Shall mean an arrangement of one (1) or more balloons, with or without any message thereon, which are individually less than thirty-six (36) inches in any dimension and inflated with air, helium, or gas, that are tethered at a fixed location and are primarily intended to draw attention to that location. Balloon displays shall not include balloons arranged in a manner that cumulatively spell out a word.

Banner: Shall mean a sign made of cloth, heavy duty plastic, or similar lightweight, flexible material (except paper), attached to or suspended from any structure, building, staff, pole, line, framing, or other projection, and used for temporary advertising purposes, not including “flags”.

Building Line: Shall mean a line established by ordinance beyond which no building may extend. A building line may be a property line.
Building Official: Shall mean the duly appointed and acting Chief Building Inspector of the City of Porterville, his duly authorized representatives or such person as may hereafter be authorized by law to perform the duties now being performed by that official in the City of Porterville.

Business Face: Shall mean the computed lineal width of the front face of a building or store occupied by an individual, multiplied by the height extending from finished grade to the roofline of the top story. Shall mean either but not both of the following for any business or building:

1) That portion or portions of a building or tenant space within a building which faces a public street; OR

2) That portion or portions of a building or tenant space within a building which contains an entrance open to the public and which faces a parking area available to customers or clients of any business within the building.

Business Face Area: Shall mean the computed lineal width of a building face multiplied by the height extending from finished grade to the top of the vertical wall of the business face.

Business Frontage: Shall mean the area between property lines or lease lines of the front of a business in which the primary entrance, accessible to the general public, is located.

Curb Line: Shall mean the line at the face of the curb nearest to the street or roadway. In the absence of a curb, the curb line shall be established by the City Engineer.

Display Frontage: Shall mean the lineal footage of display frontage for those businesses where the principal display of merchandise is located outside of a main building.

Flag: Shall mean any fabric or bunting containing distinctive colors, patterns, symbols, or logos of a government agency, political subdivision, corporation, church, or other entity.

Freeway: Shall mean a highway with respect to which the owners of abutting lands have no right of easement or access to or from their abutting lands, or in respect to which such owners have only limited or restricted easement or access, and which is declared to be in compliance with the Streets and Highways Code of the State of California.

Hand-held Sign: Shall mean a commercial sign held by a person or persons in a manner to attract attention to an area, development, business, or service.

Highway: Shall mean roads, streets, boulevards, lanes, courts, places, commons, trails, ways or other rights-of-way or easements used for or laid out and intended for the public passage of vehicles or of vehicles and persons.
**Integrated Business Development:** Shall mean a development consisting of five or more interrelated business establishments using common driveways and on-site parking facilities.

**Marquee:** Shall mean a permanent roofed structure attached to and supported by a building and projecting over public property.

**Open Uses:** Shall mean those uses which do not have to be associated with buildings or structures for the carrying on of their trade, service or activity, such as, but not limited to, automobile sales, contractors storage yards, and equipment rental yards.

**Pennant:** Shall mean any lightweight plastic, paper, fabric, or other similar, flexible material, suspended from or attached to a rope, wire, string, or pole, usually in a series, designed to move in the wind.

**Portable Sign:** Shall mean a temporary sign which is not permanently affixed to a building, structure, or the ground, and is capable of being carried or readily moved from one location to another. This may include, but is not limited to A-Frame Signs, sandwich signs, or signs which lean on a stationary object, building, or structure. Portable signs shall not include banners, pennants, flags, inflatable signs, vehicle signs, and hand-held signs.

**Primary Highway:** Shall mean any highway, other than an interstate highway, at any time officially designated as a part of the federal-aid primary system by the Director of the Department of Public Works of the State of California and approved by appropriate authority of the federal government.

**Roof:** Shall mean the cover of any building or part of a building including patio, porch and awning covers.

**Roofline:** Shall mean the height above finished grade of the upper most beam, rafter, ridge board, or purlin of any building.

**Sign:** shall mean and include every announcement, declaration, demonstration, display, illustration, insignia, surface or space when erected or maintained in view of the general public for identification, advertisement or promotion of the interests of any person individual, organization, or business.

**Sign, Business Identification:** Shall mean any sign erected installed or maintained for the purpose of identifying a bona fide businesses, use, service, product, commodity, and interest or entertainment being conducted upon the premises on which the sign is located.

**Sign, Center Identification:** Shall mean a free standing advertising structure which supports a sign containing the name identifying an integrated business development and may also include identification signs on which the names and nature of businesses only within the development are uniformly displayed.
Sign, Double Face: Shall mean a single sign with two parallel sign faces back-to-back.

Sign, Energized: Shall mean any sign or advertising structure energized from any source for the purpose of illumination or sustaining motion.

Sign, Facing or Surface: Shall mean the surface of the sign upon, against or through which the message is displayed or illustrated on the sign, excepting signs in which the words, letters, or symbols are independently mounted, then the sign surfaces shall mean the outside dimensions of the area containing all of the individual words, letter, and symbols.

Sign, Ground: Shall mean any sign not exceeding forty-two (42) inches in height, anchored in the ground and not attached to any building.

Sign Height: The height of signs shall be measured from ground level (finished grade) to the top of the sign.

Sign, Inflatable: Shall mean an inflated balloon, in any shape or in the form of any character or animal, and over thirty-six (36) inches in diameter in any dimension, made of vinyl, fabric, cloth, or other similar, lightweight, flexible, material, primarily intended to draw attention to that location.

Sign, Non-Advertising: Shall mean any sign posted on private property containing thereon a regulatory or warning notice and upon which no advertising matter is displayed.

Sign, Non-appurtenant: Shall mean any sign which advertises or directs attention to a use, service, product, commodity, an interest, or entertainment, which is not conducted, available, sold or offered on the same premises.

Sign, Permanent Reader Panel: Shall mean a permanently constructed changeable copy bulletin board lighted or unlighted, attached to a building or freestanding advertising structure, with detachable precut letters and figures.

Signs, Political: Shall mean any sign concerning candidates for political office, propositions involving a ballot issue, or promotional campaigns.

Sign, Portable: Shall mean any moveable sign that is not secured or attached to an approved structure, support or anchor.

Sign, Projecting: Shall mean any sign which is attached to, and is supported solely by a building wall or structure and extends beyond the building wall, structure, or parts thereof, more than six (6) inches and whose angle of incidence to said building wall, structure or parts thereof, is greater than thirty degrees.

Sign, Roof: Shall mean any sign erected, constructed and maintained wholly upon or over the roof of any building with the principle support on the roof structure. Shall mean a sign attached to a building that is characterized by one or more of the following:
a) **Sign** is placed atop, or projects above the top edge of a roof, mansard roof, canopy, or a similar structure not at a vertical plane; or

b) **Sign** is placed atop, or projects above the top edge of a parapet wall, canopy fascia, or a similar structure at or near a vertical plane; or

c) **Sign** is placed on a tower or similar wall structure that extends above the top of the roof or parapet wall of a building.

**Sign, Temporary:** Shall mean sign, banner, pennant, valance or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard, or other light materials, with or without frames; intended to be displayed for a limited period of time only.

**Sign, Wall:** Shall mean all flat signs, whether painted, or of solid face construction or of individual letters, which are placed against the exterior wall of any building or structure.

**Sign, Window:** Shall mean any sign that is applied, painted, or attached to a window or located within two (2) feet of the interior of a window and visible from the exterior of a building.

**Street:** Shall mean the same as "Highway".

**Uniform Building Code:** Whenever the U.B.C. is referred to in this Ordinance it shall be that edition of the U.B.C. and appendixes thereto which have been adopted by Ordinance and are in full force and effect at the time of compliance with or enforcement of any provisions of this Chapter.

**U.B.C. Standards:** Wherever the U.B.C. Standards are referred to in this Chapter it shall be that edition of the U.B.C. Standards or appendixes thereto which have been adopted by Ordinance and are in full force and effect at the time of compliance with, or enforcement of, any provisions of this Chapter.

**SECTION 2001:** Continuation of Existing Regulations.

A. The provisions of this Article, insofar as they are substantially the same as existing ordinances relating to the same subject matter, shall be construed as restatements and continuations and not as new enactments.

**SECTION 2002:** Purpose and Intent.

A. Recognizing the desire and need of each individual, business, firm or corporation to identify its place of residence, business or service, and realizing that the indiscriminate erection, location, illumination, coloring, size, and lack of proper maintenance of signs and advertising structures, constitutes a significant contributing factor detrimental to the well-being and continuing activity of a city's people and economy, it is the purpose and intent of this article to:
A. 1. Assure that all signs and advertising structures are designed, erected and maintained in a manner to enhance, rather than detract from, the ultimate design and appearance of the affected locality, and do not impair the view of nearby or adjacent signs.

B. 2. Prohibit the installation and maintenance of signs or advertising structures which unduly distract motorists' attention from driving, and which detract from attention to traffic movement and to signs and signals promoting traffic safety.

C. 3. Prevent the installation and maintenance of signs or advertising structures which individually or collectively have an injurious effect on the morale of the people and the economic well-being of the City.

D. 4. Assure that size and location of signs and advertising structures do not constitute an obstacle to effective fire protection and fire fighting techniques; nor constitute a direct or potential danger to vehicular or pedestrian traffic, especially in the event of structural failure during the period of inclement weather and earthquakes or in the event of impaired vision due to improper size or location.

E. 5. Otherwise protect the public health, safety, morale, and promote the public welfare.


A. It shall be unlawful for any person to erect, construct, install, structurally alter, or relocate within the City of Porterville any sign or advertising structure without first satisfying the requirement of this Article and obtaining a sign permit.


A. Upon the filing of an application for a sign permit, the plans, specifications and other data, as may be required, shall be examined by the City Planner Community Development Director or his designee, and the Building Inspector, and if it shall appear that the proposed sign or advertising structure is in compliance and all of the requirements of this ordinance and all other laws of the City, the City Planner Community Development Director or his designee shall certify compliance on the plans, and the Building Inspector shall issue the necessary erection sign permit.
SECTION 2005:  Stop Orders.

A. The issuance of a sign permit shall not constitute a waiver of this Article or any ordinance of the City of Porterville, and the Building Inspector is hereby authorized to stop any sign or advertising structure installations which are being carried on in violation of this ordinance, or of any other ordinance of the City of Porterville.

SECTION 2006:  Exceptions and Exemptions.

A. The provisions and regulations of this Article shall not apply to certain classes of signs and advertising structures which are designated in the following subsections; provided, however, that such signs shall be subject to the provisions of Sections 2007 through 2012 2014:

A. 1. Real estate signs not exceeding twelve (12) square feet in area per face pertaining to the sale or rental of the property on which they are displayed, but not more than one such sign for each street frontage, excepting that all such signs located in any "R" Zone shall not exceed six (6) square feet in area per face.

B. 2. Professional name plates and occupational signs denoting only the name and occupation of any occupant in a commercial building or public institutional building, and not exceeding two (2) square feet in area.

C. 3. Identification signs on apartment houses, boarding or rooming houses or similar uses, not exceeding six (6) square feet in area.

D. 4. Name plates or signs not exceeding two (2) square feet in area in the aggregate for residential dwelling units.

E. 5. Permanent reader panels for public, charitable, or religious institutions provided said reader panels are located on the property to which such reader panels pertain and do not exceed sixteen (16) square feet in total area per face nor more than ten (10) feet in height, and further provided said reader panels are located in such a manner as not to constitute a hazard to vehicular or pedestrian traffic.

F. 6. Signs identifying a development and denoting the architect, engineer or contractor when placed upon work under construction, provided, however, that no such sign shall exceed thirty-two (32) square feet in area.

G. 7. Memorial and/or historical signs or tablets, names of buildings or date of erection building construction, when constructed of bronze or other noncombustible materials or cut into any masonry surface.
H. Non-advertising warning signs or no trespassing signs on private property posted no closer than one hundred (100) feet apart nor exceeding two (2) square feet in area per sign.

J. Non-advertising signs of public utility companies as may be required in their operations in providing services for the health and welfare of the general public, or as required by any law or regulation of the State of California or any agency thereof.

K. On-site directional signs for public or private developments, denoting the entrance, exit, and direction of traffic flow and not exceeding four (4) square feet in area per face, provided such signs are not prohibited or further regulated by other sections of this or any other ordinance of the City of Porterville.

L. Non-advertising displays commemorating legal holidays, providing, however, that said displays are not detrimental to public health, safety, and general welfare.

M. Temporary signs noting businesses which sponsor and contribute to the sports activities upon public premises, subject to the provision of Section 2012(A)-2, 3, 4 and 5 contained herein. For the purposes of interpretation of Section 2012(A), paragraph 2 2012, the "event" shall also mean all sports/recreational activities, and the "date of the event" shall be construed to be the first and/or last game or event of the respective season of that activity.

N. Signs required by State or federal law.

O. Pennants and balloon displays at outdoor display areas which otherwise comply with the zone in which they are located.

P. Flags, up to three (3) per site.

SECTION 2007: Non-Conforming Signs

A. Business identification signs which do not conform to this article, but which lawfully existed and were maintained on the effective date of this article shall, within five (5) years after the effective date of this article, be removed or made to conform. Effective date of this article in all cases, shall be interpreted to mean the original date of adoption of the Sign Ordinance, March 8, 1974.
D.A. Non-appurtenant signs or supporting advertising structures which do not conform to this article, but which lawfully existed and were maintained on the effective date of this article shall, within three (3) years after the effective date of this article, be removed or made to conform.

C.B. Non-conforming signs advertising a business which has been vacated for a period of one hundred-eighty (180) days shall be removed or made to conform by the property owner.

B. Window signs which do not conform to this article, but which lawfully existed and were maintained on the effective date of this article or any amendments thereto, shall, within one (1) year after the effective date of this article, or any amendments, be removed or made to conform.

D. Temporary Signs which do not conform to this article, but which lawfully existed and were maintained on the effective date of this article or any amendments thereto, shall, within sixty (60) days after the effective date of this article, or any amendments, be removed or shall be made to conform.

D.E. All other signs which do not conform to this article, but which lawfully existed and were maintained on the effective date of this article or any amendments thereto, non-conforming signs and advertising devices shall, within five (5) years after the effective date of this article, or any amendments, be removed or made to conform. Effective date shall be the same as in Section 2007(A) above.

SECTION 2008: Traffic Hazards

A. No sign, light or advertising structure shall be located in such a manner as to constitute a hazard to pedestrian or vehicular traffic, or in such a manner as to obstruct free and clear vision, at any location where, by reason of the position, shape, color or movement may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device. Nor shall such sign or advertising structure make use of any word, phrase, symbol or character in such a manner as to interfere with, mislead, or confuse traffic.

SECTION 2009: Compliance with Federal and State Regulations.

A. Nothing contained in this Article shall be construed to exempt compliance with applicable outdoor advertising regulations of any federal or state agency having authority over the control of signs and advertising structures within such jurisdictions as may be designated adjacent to and along any Freeway, Highway, Interstate Highway, or Primary Highway.

B. If at any time a regulation or a provision of this Article conflicts with a similar regulation or a provision of another governmental agency, the more restrictive application shall apply unless noted otherwise.
SECTION 2010: Prohibited Signs and Advertising Structures.

A. Any sign or advertising structure that is rotating, animated, simulates movement, or contains any moving parts, shall not permitted.

B. Any energized sign or advertising structure containing flashing lights, including signs or advertising structures with lights flashing in sequence to simulate movement except for electronic reader boards which otherwise comply with the signage requirements of the zone in which they are located and which are programmed to change messages no more frequently than once every 15 seconds shall not be permitted.

C. No signs or sources of illumination shall be permitted in any zoned district if in the opinion of the Director of Community Development and Services Community Development Director, they impose a glare upon any street, alley, driveway, parking area, adjacent property, or into the eyes of any motorist or pedestrian.

D. Non-appurtenant signs shall not be permitted in any zoned district.

E. Advertising structures containing display surface areas or image areas in excess of the maximum square footage permitted for allowable signing within the zoned districts in which they are located or are intended to be located, shall not be permitted.

F. No portable signs shall be permitted in any zoned district with the exception of those temporary advertising devices listed in Section 2013 2019 and Section 2020, below.

G. Roof signs shall not be permitted in any zoned district.

SECTION 2011: Temporary Real Estate Subdivision Signs.

A. Two temporary real estate subdivision signs, each face not to exceed one-hundred (100) square feet in area, may be located on any new subdivision zone; provided, that such signs and advertising structures shall be removed twenty-four (24) months from the date the permit for same is issued, or when the subdivision is completely sold out, whichever comes first, and further provided that:

1. Plans, indicating the size, design, location and sign copy shall be submitted to the Planning Division for approval prior to the issuance of a sign permit by the Building Inspector.

2. Any change in sign copy or advertising structure must be resubmitted for approval.

3. Not more than one (1) such sign shall be permitted to be displayed adjacent to the same street frontage.
3. Not more than one (1) such sign shall be permitted to be displayed adjacent to the same street frontage.

4. A Letter of Agreement from the property owners giving the City right of entry to remove signs in the event the above stipulations are not complied with shall be submitted to the Planning Division prior to the issuance of an "ejection" sign permit.

5. If at any time the property on which the signs are located is sold, the signs shall be removed or a new Letter of Agreement shall be submitted from the buyer to permit the sign to remain and granting the City right to enter the property and remove the sign.

B. Three (3) temporary off-site directional real estate subdivision signs and advertising structures for each subdivision may be located in any zone, subject to the approval of a Conditional Use Permit provided that:

1. Said signs shall not exceed thirty-two (32) square feet in area per face.

2. Said signs and advertising structures shall be removed twenty-four (24) months from the date the permit for same is issued, or when the subdivision is completely sold out, whichever comes first.

3. A use permit shall be approved for each location in conformance with Article 29 contained within this ordinance.

C. Failure to comply with any or all of the applicable provisions as set forth in this Section shall be cause for the immediate removal of the signs and/or advertising structures.

SECTION 2012: Promotional, Campaign, and Political Signs.

A. Temporary promotional, campaign and political signs are permitted on private property in any zoned district and within the public right-of-way providing that:

1. The individual in charge of posting said signs files with the City Clerk his/her name, address and telephone number and receives a copy of Sections 2012 and 2015 of the Zoning Ordinance.

2. Any such sign on a residentially zoned property with frontage on an Arterial or Collector Street as designated by the Circulation Element of the General Plan shall be no greater than twelve and one-half (12.5) square feet in area. Signs on residentially zoned property not fronting an Arterial or Collector Street shall be limited to a maximum of four (4) square feet in area.
3. Any such sign exceeding thirty-two (32) square feet in area shall require approval of a use permit in conformance with Article 29 contained within this ordinance.

4. No such sign shall be posted within public right-of-way in residentially zoned districts except along Arterial streets and Collector Streets as designated in the Circulation Element of the General Plan. Such signs in the public right-of-way shall be limited to a maximum of four (4) square feet in area.

5. No such sign shall be located so as to constitute a hazard to vehicular and pedestrian traffic.

6. No such sign in the City right-of-way shall be attached to any pole or structure supporting a traffic control sign or device, street tree or fire hydrant.

7. No such sign shall be placed in the roadway or on the sidewalk.

8. No such signs shall be posted more than ninety (90) days preceding the date of the event or election to which the signs pertain.

9. All such signs shall be removed within fifteen (15) days following the date of the event or election to which the signs pertain.

10. No such sign shall be placed in the public right-of-way abutting any public property including park lands nor within City maintained landscaped parkways within public right-of-way.

B. Violation to any of the above regulatory conditions shall be deemed a public nuisance and may be summarily abated as such; and each day that such violation continues shall be regarded as a new and separate offense.

SECTION 2013: Temporary Advertising Device.

A. Pennants, banners, spinners, and other similar temporary advertising devices or portable signs shall be prohibited except for grand openings, special events, and promotional sales, provided, however, that one or all of said advertising devices shall not be displayed for more than one hundred eighty (180) cumulative days in the same location in any twelve (12) month period.

B. Nothing contained in this section shall be construed to prohibit the display of the flag of the United States, State of California, or other political subdivision, or any flag or banner of any bona fide religious or fraternal organization.
SECTION 2014: Maintenance.

A. All signs and sign structures shall be periodically inspected and maintained at reasonable intervals including replacement of defective parts, painting, repainting, cleaning and other acts required to maintain the sign. The Building Inspector, or the City Planner, may require corrections or removal of any sign deemed to be in violation of this or any other ordinance of the City of Porterville.

All signs, including those exempt under this chapter, and legal nonconforming signs shall be structurally safe, maintained and kept in good condition. The display surface of all signs shall be kept clean, neatly painted, and free from rust, corrosion and/or tears. Any crack, broken surface, malfunctioning lights, missing sign copy or other unmaintained or damaged portion of a sign shall be repaired or replaced. Signs, and all parts, portions, and materials shall be erected in compliance with all applicable federal, state, and city laws and regulations.

SECTION 2015: Advertising on Public Property.

A. No person, except a "public officer" or "City employee" in the performance of his duty shall paste, post, paint, or erect any flag, pennant, sign, banner, or notice of any kind or cause the same to be done upon public property, street, bridge, or sidewalk within the City of Porterville and no person shall attach any item to private utility company poles without prior written approval from the utility company to which the poles belong.

B. Exceptions:

1. Signs affixed to or painted on temporary construction or fences located within the public right-of-way during construction and only to advertise the architect, construction company or future development, provided that no sign shall exceed thirty-two (32) square feet in area and shall be neatly painted.

2. Non-advertising displays commemorating legal holidays or special events when authorized by the City Council.

3. Signs permitted by Section 2006(A) 13 and Section 2012 contained herein.

SECTION 2016: Projection of Signs and Advertising Structures.

A. With the exception of newspaper and mail receptacles, no sign or advertising structure shall extend or project over any public sidewalk, street, alley, or other public property in any residentially zoned district unless exempted under Section 2006, paragraph 8 of this article.
B. Signs or advertising structures projecting more than six (6) inches from the face of a building, or any other supporting structure, over travelways or walkways on private property used or intended to be used by the general public, shall have a minimum clearance of eight (8) feet above the pavement or finished grade.

C. Signs or advertising structures projecting not more than six (6) inches from the face of a building or any other supporting structure, over a public sidewalk or any other public property, shall have a minimum clearance of eight (8) feet above the pavement or finished grade.

D. Signs or advertising structures projecting more than six (6) inches, but not more than eighteen (18) inches from the face of a building or any other supporting structure shall have a minimum clearance of ten (10) feet above the pavement or finished grade. No sign or advertising structure shall project more than eighteen (18) inches from the face of a building or any other supporting structure, over a public sidewalk or any other public property with the exception of signs affixed to awnings, canopies, or marquees, or appurtenant pedestrian oriented signs when:

1. Said sign is suspended from or placed on an awning, canopy, or marquee.

2. Said sign, when suspended from an awning, canopy, or marquee, does not exceed a width of six (6) inches eighteen (18) inches, nor a length of three (3)-feet four (4) feet.

3. Said sign maintains a clearance from finished grade of not less than eight (8) feet.

E. No sign or advertising structure shall project into any public alley below a height of fourteen (14) feet above finished grade nor more than six (6) inches when over fourteen (14) feet.

F. Signs or advertising structures in any residential, P-O, and C-1 zoned districts may not be attached to a building in such a manner that any portion of same extends above the roofline of the building to which it is attached.

SECTION 2017-2016: Clearance of Signs and Advertising Structures.

A. No permit for any sign or advertising structure shall be issued nor shall same be constructed, installed, or erected which has less horizontal or vertical clearance from energized electrical power lines than prescribed by the California Public Utility Commission, or the Orders of the Division of Industrial Safety, State of California.

B. No sign or advertising structure shall be erected in such a manner that any portion of its surface or supports will interfere in any way with the free use of any fire escape, exit, or standpipe.
C. No sign or advertising structure shall obstruct any window to such an extent that any light or ventilation is reduced to a point below that required by any law or ordinance.

D. That free standing signs or advertising structures having a minimum clearance of less than eight (8) feet from finished grade shall not be located within pedestrian or vehicular walkways or travelways. Such signs shall be subject to the setback requirements applicable to buildings in the zoning district where located, unless stated otherwise in this article.

SECTION 2017 Abatement of Illegal Signs

A. Signs on City Property and Rights-of-way: The Community Development Director, or his designee, may immediately remove any sign located on city property and/or public rights of way which are in violation of this article or which constitute an immediate danger as a traffic or safety hazard as determined by the City Engineer.

B. Permanent or Temporary Commercial Signs and Permanent Noncommercial signs on Private Property:

1. The Zoning Administrator may require any permanent or temporary commercial sign or permanent noncommercial sign installed, constructed, maintained, or relocated on private property in violation of this article, or otherwise constituting a public nuisance, to be removed within thirty (30) days after providing a written notice to the owner of the sign, if known, and to the owner of the property.

2. Such notice shall state the location of the sign, the nature of the violation, and/or the manner in which the sign constitutes a public nuisance. The notice also shall require the removal or other abatement of the sign before the date specified in the notice. Further, the notice shall state that failure to comply may result in the removal of the sign by the City of Porterville and that the cost of such removal may be imposed on the owner of the property. The notice shall also include instructions for the filing of an appeal, Pursuant to Article 30 of this Ordinance, of the determination of the Zoning Administrator that the sign is in violation of this article or constitutes a public nuisance.

3. If an appeal is received prior to the date specified in the notice, abatement proceedings shall be suspended, and any deadlines shall toll, pending the outcome of such appeal.

4. Notices referred to in this section shall be served by posting on the property on which the sign is located and by registered or certified mail delivery, postage prepaid to the owner of the property, and, if known, the owner of the sign.
5. If the sign is not removed or otherwise abated by being brought into compliance with this article after any appeals have been resolved and any deadlines have passed, the Zoning Administrator shall cause the removal of the sign at the expense of the owner of the property and the owner of the sign, if known. Expenses shall include any and all administrative costs, court and/or legal fees, including reasonable attorney’s fees, incurred in the abatement and shall become the responsibility of both the owner of the property and the owner of the sign.

SECTION 2018: Signs in Residential Zones:

A. The following signs are permitted in Residential zones in addition to those exempted by Section 2006.

A. One sign per street frontage for each housing development or institutional use, not to exceed twenty (20) square feet in area, nor ten (10) feet in height and containing no advertising matter except the name and street address of the housing development or institutional use.

B. One sign for each church not to exceed twenty (20) square feet in area.

C. Directional subdivision signs in accordance with the provisions of Section 2011 and promotional, campaign, and political signs in accordance with the provisions of Section 2012.

SECTION 2019: Advertising in P-O and C-1 Zones.

A. The following regulations shall apply to all signs and advertising structures in the P-O Professional Office zone, and C-1 Neighborhood Commercial zone:

B. No sign shall be permitted that does not pertain directly to an approved business service or activity conducted on the premises except as provided in Section 2011 and Section 2012, or unless exempted by Section 2006.

B C. Business Identification Signs: Not more than two (2) signs are permitted for the same business per business frontage and the total advertising area allowed for any business in the aggregate shall not exceed one (1) square foot for each linear foot of business frontage occupied by said business up to a maximum of sixty (60) square feet, excepting that:

1. A business occupying less than twenty linear feet of business frontage shall be permitted maximum advertising area of twenty (20) square feet.

2. A business with more than one frontage shall be allowed signs on each of said frontages. The total advertising area allowed for the additional signs shall be computed in conformance with the above ratio.
1. Not more than two (2) signs shall be permitted for the same business per business face.

2. The total advertising area of all signs shall not exceed 15% of the total business face area except that a minimum of twenty (20) square feet and a maximum of sixty (60) square feet of total advertising area will be permitted for each business face.

3. Except as otherwise prohibited, the total allowed signage may be concentrated or distributed among building walls and free standing signs.

4. No sign affixed to a building shall exceed the height of the roofline of that building.

5. A maximum of one freestanding business identification sign shall be permitted for each business face.
   
   a. No more than one freestanding sign for any business may face any street.
   
   b. The area of a single face of any freestanding sign shall be included in the maximum allowed sign area.
   
   c. The total height above the finished grade at the front property line shall not exceed twenty (20) feet in height.
   
   d. Freestanding signs shall comply with all requirements relating to location, size, area, projection over public right-of-way, height, total signs or setbacks contained herein.
   
   e. Freestanding Business Identification Signs shall be subject to the setback requirements applicable to buildings in the zoning district where located.

C.D. When an exterior wall of a building faces abutting property in an R Zone, no advertising sign shall be painted or placed on such wall, or on any portion of the lot between said wall and said R Zone.

D.E. Signs attached to a building shall be mounted parallel to the face of the structure and shall not project more than eighteen (18) inches from the main building or its attached canopy, nor shall such sign exceed the roofline of the building to which it is attached.

E.F. Center Identification Signs: One (1) free standing Center Identification sign shall be permitted for integrated developments of five (5) or more separated businesses, providing that:
1. The total area of said sign shall not exceed forty (40) square feet plus five (5) square feet for each additional business in the center over five up to a maximum area allowed of one-hundred (100) square feet.

2. Said sign shall not exceed twelve (12) feet in height above the highest finished grade at the front property line.

3. **Said sign Notwithstanding Section 2016.D, Center Identification Signs, including signs with less than eight (8) feet clearance above finished grade or ground sign may be permitted in the front setback area within the P-O zone, provided that no such sign shall be located within a ten (10) foot radius of the corner property lines of a corner lot.**

G. Window signs advertising sales, cut rates, weekend specials and similar sales and promotions shall be permitted, provided that such signs shall be limited to covering a maximum of 50% of the area of a window. Window signs made of paper, cardboard, or similarly unstable material, shall only be permitted on the interior side of the building or structure through which they are viewed.

H. **Banners, Handheld Signs, Portable Signs and Inflatable Signs: Banners, handheld signs, portable signs, and other similar temporary advertising devices shall be prohibited except for business openings, special events, and promotional events.**

1. A Temporary Sign Permit shall be secured prior to the installation or display of any such sign.

2. A Temporary Sign Permit shall be granted for any one business or building for a period of two calendar months. A Temporary Sign Permit shall authorize the business to display one banner, handheld sign, portable sign or inflatable sign per business face for the duration of the sign permit.

3. No more than one Temporary Sign Permit shall be in effect simultaneously for any business.

4. Each business shall be limited to a maximum of three Temporary Sign Permits in any calendar year. Permits valid in two calendar years shall be counted within the earlier calendar year.

5. Unless otherwise authorized by a signage plan adopted by the City Council as a component of a Design Overlay Site Review or Planned Development Specific Plan, freestanding Temporary Signs for multiple tenants of any one building, shopping center, office complex, or unified development, facing a common street shall be separated by a minimum of 100 feet.
SECTION 2020: Advertising in C-2, C-3, C-H, M-1, M-2, and A-D Zone.

A. The following regulations shall apply to all signs and advertising structures in the C-2, C-3, and C-H Commercial Zones, in the M-1 and M-2 Industrial Zone, and in the A-D Airport Development Zone.

B. No sign shall be permitted that does not pertain directly to an approved business service or activity conducted on the premises except as provided in section 2011 and Section 2012, or unless exempted by Section 2006.

C. Business Identification Signs: Not more than four (4) signs are permitted for the same business per business frontage and shall be subject to the following:

1) Not more than four (4) signs shall be permitted for the same business per business face.

2) Their total advertising area of all signs shall not exceed either:
   a. Fifteen percent (15%) of the total business frontage area to which signs pertain, or forty (40) square feet, whichever is greater, for businesses conducted primarily within a building, or
   b. One (1) square foot per linear foot of display frontage up to fifty (50) feet plus one-half (½) square foot for each additional linear foot of display frontage to which such signs pertain for businesses conducted primarily outside of a building.

b. Their height, including any part of the sign or advertising structure, shall not exceed the roofline of the building to which such signs are attached.

3) No sign affixed to a building shall exceed the height of the roofline of that building.

4) Freestanding business identification signs, permanent reader panels, or combinations thereof and their supporting structures, provided that:
   a. A maximum of one freestanding business identification sign shall be permitted for each business face.
   b. Their total height above the finished grade at the front property line does not exceed thirty (30) feet in height.

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Exhibit A
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(ii) All other stipulated requirements relating to location, size, area, projection over public right-of-way, height, total signs or setbacks contained herein have been satisfied.

(iii) A business with frontage on more than one street shall be allowed additional signing on each street frontage, computed by the above formula.

(iv) No ground sign shall be located or constructed in any manner which could constitute a hazard to vehicular or pedestrian traffic on public or private property, and shall be subject to all of the regulations in this chapter.

a. No more than one freestanding sign for any business may face any street.

b. The area of a single face of any freestanding sign shall be included in the maximum allowed sign area.

c. The total height above the finished grade at the front property line shall not exceed thirty (30) feet in height.

d. Freestanding signs shall comply with all requirements relating to location, size, area, projection over public right-of-way, height, total signs or setbacks contained herein.

e. Freestanding Business Identification Signs shall be subject to the setback requirements applicable to buildings in the zoning district where located.

5. (v) Signs displayed on awnings, canopies, and marquees shall be subject to all of the regulations as stipulated in this chapter.

6. Temporary signs, pennants, or banners shall not be suspended from any structure which, in the opinion of the Building Inspector, is not capable of supporting additional weight or wind loads.

7. (vi) When an exterior wall of a building faces abutting property in an R zone, no advertising signs shall be painted or placed on such wall, or on any portion of the lot between said wall and said R zone.

8. (vii) The total advertising area permitted within this section shall include all business identification signs in the aggregate, visible from the exterior of the business.
D. 3 Center Identification Signs: In addition to the above, one (1) center identification sign per street frontage is allowed for integrated developments of five (5) or more separate businesses, subject to the following:

1. a. The combined sign area of the center identification sign does not exceed thirty (30) square feet per one hundred (100) lineal feet of the street frontage on which the sign is located, provided, however, that no one sign shall exceed three hundred and twenty (320) square feet per face.

2. b. No sign is permitted for frontage areas, located adjacent to residentially zoned districts, within a projection of the adjacent residential building setback line.

3. c. No sign shall exceed twenty (20) feet in height above the highest finished grade of the center at the street right-of-way line.

4. d. No sign shall be located within twenty (20) feet of the side property lines on interior lots, or in such a manner as to constitute a hazard to pedestrian or vehicular traffic.

E. 4. Window Signs: Signs advertising sales, cut rates, weekend specials, and similar sales and promotions when made of paper, cardboard, or similarly unstable material, are permitted only on the interior side of the building or structure through which they are viewed. Window signs advertising sales, cut rates, weekend specials and similar sales and promotions shall be permitted, provided that such signs shall be limited to covering a maximum of 50% of the area of a window. Window signs made of paper, cardboard, or similarly unstable material, shall only be permitted on the interior side of the building or structure through which they are viewed.

F. Banners, Handheld Signs, Portable Signs and Inflatable Signs: Banners, handheld signs, portable signs, and other similar temporary advertising devices shall be prohibited except for business openings, special events, and promotional events.

1. A Temporary Sign Permit shall be secured prior to the installation or display of any such sign.

2. A Temporary Sign Permit shall be granted for any one business or building for a period of two calendar months. A Temporary Sign Permit shall authorize the business to display one banner, handheld sign, portable sign or inflatable sign per business frontage for the duration of the sign permit.
3. No more than one Temporary Sign Permit shall be in effect simultaneously for any business.

4. Each business shall be limited to a maximum of three Temporary Sign Permits in any calendar year. Permits valid in two calendar years shall be counted within the earlier calendar year.

5. Unless otherwise authorized by a signage plan adopted by the City Council as a component of a Design Overlay Site Review or Planned Development Specific Plan, freestanding Temporary Signs for multiple tenants of any one building, shopping center, office complex, or unified development, facing a common street frontage shall be separated by a minimum of 100 feet.

SECTION 2021: Advertising in the P-D, and O-A Zones.

A. The following regulations shall apply to all signs and advertising structures in the P-D (Planned Development), and O-A (Open Area) zones.

A1. No sign shall be permitted that does not pertain directly to an approved business, service, or activity conducted on the premises except as may be provided in Section 2011 and Section 2012 or unless exempted by Section 2006.

B. All signs and advertising structures shall conform to a uniform sign program approved by the City Council in accordance with the Conditional Use Permit provisions of Article 29 contained within this Ordinance.
TEMPORARY SIGN PERMIT APPLICATION

A Temporary Sign Permit is required prior to the installation or display of any temporary sign, banner, pennant, valence, advertising display, handheld sign, portable sign, inflatable sign or any other sign which is intended to be displayed for a limited period of time only. Temporary Sign Permit Applications must be submitted by the Property Owner of the Property Owner’s designated representative.

Temporary Sign Permits are valid for a period of two (2) calendar months.

A Sign Permit authorizes the display of any type of Temporary Sign provided no more than one sign for each business faces any street. Within shopping centers and office complexes, freestanding temporary signs facing one street must be separated by a minimum of 100 feet.

An application fee of $15.00 is due upon submittal of this application.

A maximum of three (3) temporary sign permits may be granted to any business location within one calendar year.

Sign Location Address: ________________________________

Sign Location Business Name: ________________________________

Property Owner’s Name: ________________________________ Phone No. (____) __________________

Property Owner’s Mailing Address: ________________________________

Contact Person’s Name: ________________________________ Phone No. (____) __________________

Contact Person’s Mailing Address: ________________________________

Period of Time Sign Permit will be Valid (circle one)

Jan/Feb Feb/Mar Mar/Apr Apr/May May/Jun Jun/Jul


Year _________

(Note: Permits Valid in Dec/Jan will be counted as occurring in the earlier year.)

Signature of Property Owner or Designated Representative ____________________________ Date __________

This Permit has been reviewed by City of Porterville Staff and complies with the requirements of Article 20 of the City of Porterville Zoning Ordinance.

Signature of City of Porterville Representative ____________________________ Permit Issuance Date __________
ORDINANCE NO.________

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING ORDINANCE NO. 1198, BEING THE ZONING ORDINANCE OF THE PORTERVILLE MUNICIPAL CODE, PERTAINING TO SIGNS AND ADVERTISING STRUCTURES

WHEREAS: On July 13, 2004, the City Council directed Staff to prepare amendments to the Zoning Ordinance regulations concerning banners and temporary signage, guild signage and roof mounted signage; and

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of September 7, 2004, conducted a public hearing to consider General Amendment of the Zoning Ordinance 3-2004, amending provisions of Article 20 of the Zoning Ordinance of the City of Porterville; and

WHEREAS: The proposed General Amendment of the Zoning Ordinance will amend the Article regulating signs and advertising structures to create a permitting process for temporary signage, prohibit roof mounted signs, permit larger guild signs, establish an abatement procedure for illegal signs and make various other clarifications to definitions and processes.

NOW, THEREFORE, BE IT ORDAINED: That the City Council of the City of Porterville does hereby amend Ordinance No. 1198 as follows:

SECTION 1: Article 20 is hereby amended to read as follows:
ARTICLE TWENTY

SIGNS AND ADVERTISING STRUCTURES

SECTION 2000: Definitions of Words, Phrases, and Terms Contained in this Article.

A-Frame Sign: Shall mean a temporary freestanding sign, usually hinged at the top, or attached in a similar fashion, and widening at the bottom to form a shape similar to the letter “A.”

Advertising Area: Shall mean the total square foot area of all sign facings (except double face signs which shall be computed as one face), calculated by adding the outer dimensions of all faces capable of presenting a sign message including the border and/or frame. The area of a sign without a border placed on the wall of a building shall be computed by enclosing the entire sign within sets of parallel lines touching the outer limits of the sign message and computing the area thus enclosed.

Advertising Structure: Shall mean a structure of any kind or character erected or maintained for outdoor advertising purposes, upon which any poster, bill, printing or other advertisement of any kind whatsoever may be placed, including statuary, for the purpose of advertising the business or activity on the premises, but shall not include official notices issued by any court or public body or officer, notices posted by any public officer in the performance of a public duty or by any person in giving legal notice; directional, warning or information structures required or authorized by law or by federal, state, or county authority.

Balloon display: Shall mean an arrangement of one (1) or more balloons, with or without any message thereon, which are individually less than thirty-six (36) inches in any dimension and inflated with air, helium, or gas, that are tethered at a fixed location and are primarily intended to draw attention to that location. Balloon displays shall not include balloons arranged in a manner that cumulatively spell out a word.

Banner: Shall mean a sign made of cloth, heavy duty plastic, or similar lightweight, flexible material (except paper), attached to or suspended from any structure, building, staff, pole, line, framing, or other projection, and used for temporary advertising purposes, not including “flags”.

Building Line: Shall mean a line established by ordinance beyond which no building may extend. A building line may be a property line.

Building Official: Shall mean the duty appointed and acting Chief Building Inspector of the City of Porterville, his duly authorized representatives or such person as may hereafter be authorized by law to perform the duties now being performed by that official in the City of Porterville.

Ordinance
**Business Face:** Shall mean either but not both of the following for any business or building:

1) That portion or portions of a building or tenant space within a building which faces a public street; OR

2) That portion or portions of a building or tenant space within a building which contains an entrance open to the public and which faces a parking area available to customers or clients of any business within the building.

**Business Face Area:** Shall mean the computed lineal width of a building face multiplied by the height extending from finished grade to the top of the vertical wall of the business face.

**Curb Line:** Shall mean the line at the face of the curb nearest to the street or roadway. In the absence of a curb, the curb line shall be established by the City Engineer.

**Display Frontage:** Shall mean the lineal footage of display frontage for those businesses where the principal display of merchandise is located outside of a main building.

**Flag:** Shall mean any fabric or bunting containing distinctive colors, patterns, symbols, or logos of a government agency, political subdivision, corporation, church, or other entity.

**Freeway:** Shall mean a highway with respect to which the owners of abutting lands have no right of easement or access to or from their abutting lands, or in respect to which such owners have only limited or restricted easement or access, and which is declared to be in compliance with the Streets and Highways Code of the State of California.

**Hand-held Sign:** Shall mean a commercial sign held by a person or persons in a manner to attract attention to an area, development, business, or service.

**Highway:** Shall mean roads, streets, boulevards, lanes, courts, places, commons, trails, ways or other rights-of-way or easements used for or laid out and intended for the public passage of vehicles or of vehicles and persons.

**Integrated Business Development:** Shall mean a development consisting of five or more interrelated business establishments using common driveways and on-site parking facilities.

**Marquee:** Shall mean a permanent roofed structure attached to and supported by a building and projecting over public property.

**Open Uses:** Shall mean those uses which do not have to be associated with buildings or structures for the carrying on of their trade, service or activity, such as, but not limited to, automobile sales, contractors storage yards, and equipment rental yards.
Pennant: Shall mean any lightweight plastic, paper, fabric, or other similar, flexible material, suspended from or attached to a rope, wire, string, or pole, usually in a series, designed to move in the wind.

Portable Sign: Shall mean a temporary sign which is not permanently affixed to a building, structure, or the ground, and is capable of being carried or readily moved from one location to another. This may include, but is not limited to A-Frame Signs, sandwich signs, or signs which lean on a stationary object, building, or structure. Portable signs shall not include banners, pennants, flags, inflatable signs, vehicle signs, and hand-held signs.

Primary Highway: Shall mean any highway, other than an interstate highway, at any time officially designated as a part of the federal-aid primary system by the Director of the Department of Public Works of the State of California and approved by appropriate authority of the federal government.

Roof: Shall mean the cover of any building or part of a building including patio, porch and awning covers.

Roofline: Shall mean the height above finished grade of the upper most beam, rafter, ridge board, or purlin of any building.

Sign: shall mean and include every announcement, declaration, demonstration, display, illustration, insignia, surface or space when erected or maintained in view of the general public for identification, advertisement or promotion of the interests of any individual, organization, or business.

Sign, Business Identification: Shall mean any sign installed or maintained for the purpose of identifying a bona fide business, use, service, product, commodity, and interest or entertainment being conducted upon the premises on which the sign is located.

Sign, Center Identification: Shall mean a free standing advertising structure which supports a sign containing the name identifying an integrated business development and may also include identification signs on which the names and nature of businesses only within the development are uniformly displayed.

Sign, Double Face: Shall mean a single sign with two parallel sign faces back-to-back.

Sign, Energized: Shall mean any sign or advertising structure energized from any source for the purpose of illumination or sustaining motion.

Sign, Facing or Surface: Shall mean the surface of the sign upon, against or through which the message is displayed or illustrated on the sign, excepting signs in which the words, letters, or symbols are independently mounted, then the sign surfaces shall mean the outside dimensions of the area containing all of the individual words, letter, and symbols.
**Sign Height:** The height of signs shall be measured from ground level (finished grade) to the top of the sign.

**Sign, Inflatable:** Shall mean an inflated balloon, in any shape or in the form of any character or animal, and over thirty-six (36) inches in diameter in any dimension, made of vinyl, fabric, cloth, or other similar, lightweight, flexible, material, primarily intended to draw attention to that location.

**Sign, Non-Advertising:** Shall mean any sign posted on private property containing thereon a regulatory or warning notice and upon which no advertising matter is displayed.

**Sign, Non-appurtenant:** Shall mean any sign which advertises or directs attention to a use, service, product, commodity, an interest, or entertainment, which is not conducted, available, sold or offered on the same premises.

**Sign, Permanent Reader Panel:** Shall mean a permanently constructed changeable copy bulletin board lighted or unlighted, attached to a building or freestanding advertising structure, with detachable precut letters and figures.

**Signs, Political:** Shall mean any sign concerning candidates for political office, propositions involving a ballot issue, or promotional campaigns.

**Sign, Portable:** Shall mean any moveable sign that is not secured or attached to an approved structure, support or anchor.

**Sign, Projecting:** Shall mean any sign which is attached to, and is supported solely by a building wall or structure and extends beyond the building wall, structure, or parts thereof, more than six (6) inches and whose angle of incidence to said building wall, structure or parts thereof, is greater than thirty degrees.

**Sign, Roof:** Shall mean a sign attached to a building that is characterized by one or more of the following:

a) **Sign is placed atop, or projects above the top edge of a roof, mansard roof, canopy, or a similar structure not at a vertical plane; or**

b) **Sign is placed atop, or projects above the top edge of a parapet wall, canopy fascia, or a similar structure at or near a vertical plane; or**

c) **Sign is placed on a tower or similar wall structure that extends above the top of the roof or parapet wall of a building.**

**Sign, Temporary:** Shall mean sign, banner, pennant, valance or advertising display constructed of cloth, canvas, light fabric, cardboard, wallboard, or other light materials, with or without frames; intended to be displayed for a limited period of time only.
Sign, Wall: Shall mean all flat signs, whether painted, or of solid face construction or of individual letters, which are placed against the exterior wall of any building or structure.

Sign, Window: Shall mean any sign that is applied, painted, or attached to a window or located within two (2) feet of the interior of a window and visible from the exterior of a building.

Street: Shall mean the same as "Highway".

Uniform Building Code: Whenever the U.B.C. is referred to in this Ordinance it shall be that edition of the U.B.C. and appendixes thereto which have been adopted by Ordinance and are in full force and effect at the time of compliance with or enforcement of any provisions of this Chapter.

U.B.C. Standards: Wherever the U.B.C. Standards are referred to in this Chapter it shall be that edition of the U.B.C. Standards or appendixes thereto which have been adopted by Ordinance and are in full force and effect at the time of compliance with, or enforcement of, any provisions of this Chapter.

SECTION 2001: Continuation of Existing Regulations.

The provisions of this Article, insofar as they are substantially the same as existing ordinances relating to the same subject matter, shall be construed as restatements and continuations and not as new enactments.

SECTION 2002: Purpose and Intent.

Recognizing the desire and need of each individual, business, firm or corporation to identify its place of residence, business or service, and realizing that the indiscriminate erection, location, illumination, coloring, size, and lack of proper maintenance of signs and advertising structures, constitutes a significant contributing factor detrimental to the well-being and continuing activity of a city's people and economy, it is the purpose and intent of this article to:

A. Assure that all signs and advertising structures are designed, erected and maintained in a manner to enhance, rather than detract from, the ultimate design and appearance of the affected locality, and do not impair the view of nearby or adjacent signs.

B. Prohibit the installation and maintenance of signs or advertising structures which unduly distract motorists' attention from driving, and which detract from attention to traffic movement and to signs and signals promoting traffic safety.

C. Prevent the installation and maintenance of signs or advertising structures which individually or collectively have an injurious effect on the morale of the people and the economic well-being of the City.
D. Assure that size and location of signs and advertising structures do not constitute an obstacle to effective fire protection and fire fighting techniques; nor constitute a direct or potential danger to vehicular or pedestrian traffic, especially in the event of structural failure during the period of inclement weather and earthquakes or in the event of impaired vision due to improper size or location.

E. Otherwise protect the public health, safety, morale, and promote the public welfare.

SECTION 2003: Sign Permit.

It shall be unlawful for any person to, construct, install, structurally alter, or relocate within the City of Porterville any sign or advertising structure without first satisfying the requirement of this Article and obtaining a sign permit.


Upon the filing of an application for a sign permit, the plans, specifications and other data, as may be required, shall be examined by the Community Development Director or his designee, and the Building Inspector, and if it shall appear that the proposed sign or advertising structure is in compliance and all of the requirements of this ordinance and all other laws of the City, the Community Development Director or his designee shall certify compliance on the plans, and the Building Inspector shall issue the necessary sign permit.

SECTION 2005: Stop Orders.

The issuance of a sign permit shall not constitute a waiver of this Article or any ordinance of the City of Porterville, and the Building Inspector is hereby authorized to stop any sign or advertising structure installations which are being carried on in violation of this ordinance, or of any other ordinance of the City of Porterville.

SECTION 2006: Exceptions and Exemptions.

The provisions and regulations of this Article shall not apply to certain classes of signs and advertising structures which are designated in the following subsections; provided, however, that such signs shall be subject to the provisions of Sections 2007 through 2014:

A. Real estate signs not exceeding twelve (12) square feet in area per face pertaining to the sale or rental of the property on which they are displayed, but not more than one such sign for each street frontage, excepting that all such signs located in any "R" Zone shall not exceed six (6) square feet in area per face.

B. Professional name plates and occupational signs denoting only the name and occupation of any occupant in a commercial building or public institutional building, and not exceeding two (2) square feet in area.
C. Identification signs on apartment houses, boarding or rooming houses or similar uses, not exceeding six (6) square feet in area.

D. Name plates or signs not exceeding two (2) square feet in area in the aggregate for residential dwelling units.

E. Permanent reader panels for public, charitable, or religious institutions provided said reader panels are located on the property to which such reader panels pertain and do not exceed sixteen (16) square feet in total area per face nor more than ten (10) feet in height, and further provided said reader panels are located in such a manner as not to constitute a hazard to vehicular or pedestrian traffic.

F. Signs identifying a development and denoting the architect, engineer or contractor when placed upon work under construction, provided, however, that no such sign shall exceed thirty-two (32) square feet in area.

G. Memorial and/or historical signs or tablets, names of buildings or date of building construction, when constructed of bronze or other noncombustible materials or cut into any masonry surface.

H. Traffic, informational, or municipal signs designed to give information in the specific interest of the traveling public, legal notices, railroad crossing, danger signs.

I. Non-advertising warning signs or no trespassing signs on private property posted no closer than one hundred (100) feet apart nor exceeding two (2) square feet in area per sign.

J. Non-advertising signs of public utility companies as may be required in their operations in providing services for the health and welfare of the general public, or as required by any law or regulation of the State of California or any agency thereof.

K. On-site directional signs for public or private developments, denoting the entrance, exit, and direction of traffic flow and not exceeding four (4) square feet in area per face, provided such signs are not prohibited or further regulated by other sections of this or any other ordinance of the City of Porterville.

L. Non-advertising displays commemorating legal holidays, providing, however, that said displays are not detrimental to public health, safety, and general welfare.

M. Temporary signs noting businesses which sponsor and contribute to the sports activities upon public premises, subject to the provision of Section 2012 contained herein. For the purposes of interpretation of Section 2012, the "event" shall also mean all sports/recreational activities, and the "date of the event" shall be construed to be the first and/or last game or event of the respective season of that activity.
N. Signs required by State or federal law.

O. Pennants and balloon displays at outdoor display areas which otherwise comply with the zone in which they are located.

P. Flags, up to three (3) per site.

SECTION 2007: Non-Conforming Signs

A. Non-appurtenant signs or supporting advertising structures which do not conform to this article, but which lawfully existed and were maintained on the effective date of this article shall, within three (3) years after the effective date of this article, be removed or made to conform.

B. Non-conforming signs advertising a business which has been vacated for a period of one hundred-eighty (180) days shall be removed or made to conform by the property owner.

C. Window signs which do not conform to this article, but which lawfully existed and were maintained on the effective date of this article or any amendments thereto, shall, within one (1) year after the effective date of this article, or any amendments, be removed or made to conform.

D. Temporary Signs which do not conform to this article, but which lawfully existed and were maintained on the effective date of this article or any amendments thereto, shall, within sixty (60) days after the effective date of this article, or any amendments, be removed or shall be made to conform.

E. All other signs which do not conform to this article, but which lawfully existed and were maintained on the effective date of this article or any amendments thereto, shall, within five (5) years after the effective date of this article, be removed or made to conform.

SECTION 2008: Traffic Hazards

No sign, light or advertising structure shall be located in such a manner as to constitute a hazard to pedestrian or vehicular traffic, or in such a manner as to obstruct free and clear vision, at any location where, by reason of the position, shape, color or movement may interfere with, obstruct the view of, or be confused with any authorized traffic sign, signal or device. Nor shall such sign or advertising structure make use of any word, phrase, symbol or character in such a manner as to interfere with, mislead, or confuse traffic.
SECTION 2009: Compliance with Federal and State Regulations.

A. Nothing contained in this Article shall be construed to exempt compliance with applicable outdoor advertising regulations of any federal or state agency having authority over the control of signs and advertising structures within such jurisdictions as may be designated adjacent to and along any Freeway, Highway, Interstate Highway, or Primary Highway.

B. If at any time a regulation or a provision of this Article conflicts with a similar regulation or a provision of another governmental agency, the more restrictive application shall apply unless noted otherwise.

SECTION 2010: Prohibited Signs and Advertising Structures.

A. Any sign or advertising structure that is rotating, animated, simulates movement, or contains any moving parts, shall not permitted.

B. Any energized sign or advertising structure containing flashing lights, including signs or advertising structures with lights flashing in sequence to simulate movement except for electronic reader boards which otherwise comply with the signage requirements of the zone in which they are located and which are programmed to change messages no more frequently than once every 15 seconds shall not be permitted.

C. No signs or sources of illumination shall be permitted in any zoned district if in the opinion of the Community Development Director, they impose a glare upon any street, alley, driveway, parking area, adjacent property, or into the eyes of any motorist or pedestrian.

D. Non-appurtenant signs shall not be permitted in any zoned district.

E. Advertising structures containing display surface areas or image areas in excess of the maximum square footage permitted for allowable signing within the zoned districts in which they are located or are intended to be located, shall not be permitted.

F. No portable signs shall be permitted in any zoned district with the exception of those temporary advertising devices listed in Section 2019 and Section 2020, below.

G. Roof signs shall not be permitted in any zoned district.
SECTION 2011: Temporary Real Estate Subdivision Signs.

A. Two temporary real estate subdivision signs, each face not to exceed one-hundred (100) square feet in area, may be located on any new subdivision zone; provided, that such signs and advertising structures shall be removed twenty-four (24) months from the date the permit for same is issued, or when the subdivision is completely sold out, whichever comes first, and further provided that:

1. Plans, indicating the size, design, location and sign copy shall be submitted to the Planning Division for approval prior to the issuance of a sign permit by the Building Inspector.

2. Any change in sign copy or advertising structure must be resubmitted for approval.

3. Not more than one (1) such sign shall be permitted to be displayed adjacent to the same street frontage.

4. A Letter of Agreement from the property owners giving the City right of entry to remove signs in the event the above stipulations are not complied with shall be submitted to the Planning Division prior to the issuance of a sign permit.

5. If at any time the property on which the signs are located is sold, the signs shall be removed or a new Letter of Agreement shall be submitted from the buyer to permit the sign to remain and granting the City right to enter the property and remove the sign.

B. Three (3) temporary off-site directional real estate subdivision signs and advertising structures for each subdivision may be located in any zone, subject to the approval of a Conditional Use Permit provided that:

1. Said signs shall not exceed thirty-two (32) square feet in area per face.

2. Said signs and advertising structures shall be removed twenty-four (24) months from the date the permit for same is issued, or when the subdivision is completely sold out, whichever comes first.

C. Failure to comply with any or all of the applicable provisions as set forth in this Section shall be cause for the immediate removal of the signs and/or advertising structures.
SECTION 2012: Promotional, Campaign, and Political Signs.

A. Temporary promotional, campaign and political signs are permitted on private property in any zoned district and within the public right-of-way providing that:

1. The individual in charge of posting said signs files with the City Clerk his/her name, address and telephone number and receives a copy of Sections 2012 and 2015 of the Zoning Ordinance.

2. Any such sign on a residentially zoned property with frontage on an Arterial or Collector Street as designated by the Circulation Element of the General Plan shall be no greater than twelve and one-half (12.5) square feet in area. Signs on residentially zoned property not fronting an Arterial or Collector Street shall be limited to a maximum of four (4) square feet in area.

3. Any such sign exceeding thirty-two (32) square feet in area shall require approval of a use permit in conformance with Article 29 contained within this ordinance.

4. No such sign shall be posted within public right-of-way in residentially zoned districts except along Arterial streets and Collector Streets as designated in the Circulation Element of the General Plan. Such signs in the public right-of-way shall be limited to a maximum of four (4) square feet in area.

5. No such sign shall be located so as to constitute a hazard to vehicular and pedestrian traffic.

6. No such sign in the City right-of-way shall be attached to any pole or structure supporting a traffic control sign or device, street tree or fire hydrant.

7. No such sign shall be placed in the roadway or on the sidewalk.

8. No such signs shall be posted more than ninety (90) days preceding the date of the event or election to which the signs pertain.

9. All such signs shall be removed within fifteen (15) days following the date of the event or election to which the signs pertain.

10. No such sign shall be placed in the public right-of-way abutting any public property including park lands nor within City maintained landscaped parkways within public right-of-way.
B. Violation to any of the above regulatory conditions shall be deemed a public nuisance and may be summarily abated as such; and each day that such violation continues shall be regarded as a new and separate offense.

SECTION 2013: Maintenance.

All signs, including those exempt under this chapter, and legal nonconforming signs shall be structurally safe, maintained and kept in good condition. The display surface of all signs shall be kept clean, neatly painted, and free from rust, corrosion and/or tears. Any crack, broken surface, malfunctioning lights, missing sign copy or other unmaintained or damaged portion of a sign shall be repaired or replaced. Signs, and all parts, portions, and materials shall be erected in compliance with all applicable federal, state, and city laws and regulations.

SECTION 2014: Advertising on Public Property.

A. No person, except a "public officer" or "City employee" in the performance of his duty shall paste, post, paint, or erect any flag, pennant, sign, banner, or notice of any kind or cause the same to be done upon public property, street, bridge, or sidewalk within the City of Porterville and no person shall attach any item to private utility company poles without prior written approval from the utility company to which the poles belong.

B. Exceptions:

1. Signs affixed to or painted on temporary construction or fences located within the public right-of-way during construction and only to advertise the architect, construction company or future development, provided that no sign shall exceed thirty-two (32) square feet in area and shall be neatly painted.

2. Non-advertising displays commemorating legal holidays or special events when authorized by the City Council.

3. Signs permitted by Section 2006(A) 13 and Section 2012 contained herein.

SECTION 2015: Projection of Signs and Advertising Structures.

A. With the exception of newspaper and mail receptacles, no sign or advertising structure shall extend or project over any public sidewalk, street, alley, or other public property in any residentially zoned district unless exempted under Section 2006, paragraph 8 of this article.
B. Signs or advertising structures projecting more than six (6) inches from the face of a building, or any other supporting structure, over travelways or walkways on private property used or intended to be used by the general public, shall have a minimum clearance of eight (8) feet above the pavement or finished grade.

C. Signs or advertising structures projecting not more than six (6) inches from the face of a building or any other supporting structure, over a public sidewalk or any other public property, shall have a minimum clearance of eight (8) feet above the pavement or finished grade.

D. Signs or advertising structures projecting more than six (6) inches, but not more than eighteen (18) inches from the face of a building or any other supporting structure shall have a minimum clearance of ten (10) feet above the pavement or finished grade. No sign or advertising structure shall project more than eighteen (18) inches from the face of a building or any other supporting structure, over a public sidewalk or any other public property with the exception of signs affixed to awnings, canopies, or marquees, or appurtenant pedestrian oriented signs when:

1. Said sign is suspended from or placed on an awning, canopy, or marquee.

2. Said sign, when suspended from an awning, canopy, or marquee, does not exceed a width of eighteen (18) inches, nor a length of four (4) feet.

3. Said sign maintains a clearance from finished grade of not less than eight (8) feet.

E. No sign or advertising structure shall project into any public alley below a height of fourteen (14) feet above finished grade nor more than six (6) inches when over fourteen (14) feet.

F. Signs or advertising structures in any residential, P-O, and C-1 zoned districts may not be attached to a building in such a manner that any portion of same extends above the roofline of the building to which it is attached.

SECTION 2016: Clearance of Signs and Advertising Structures.

A. No permit for any sign or advertising structure shall be issued nor shall same be constructed, installed, or erected which has less horizontal or vertical clearance from energized electrical power lines than prescribed by the California Public Utility Commission, or the Orders of the Division of Industrial Safety, State of California.

B. No sign or advertising structure shall be erected in such a manner that any portion of its surface or supports will interfere in any way with the free use of any fire escape, exit, or standpipe.
C. No sign or advertising structure shall obstruct any window to such an extent that any light or ventilation is reduced to a point below that required by any law or ordinance.

D. That free standing signs or advertising structures having a minimum clearance of less than eight (8) feet from finished grade shall not be located within pedestrian or vehicular walkways or travelways. Such signs shall be subject to the setback requirements applicable to buildings in the zoning district where located, unless stated otherwise in this article.

SECTION 2017 Abatement of Illegal Signs

A. Signs on City Property and Rights-of-way: The Community Development Director, or his designee, may immediately remove any sign located on city property and/or public rights of way which are in violation of this article or which constitute an immediate danger as a traffic or safety hazard as determined by the City Engineer.

B. Permanent or Temporary Commercial Signs and Permanent Noncommercial signs on Private Property:

1. The Zoning Administrator may require any permanent or temporary commercial sign or permanent noncommercial sign installed, constructed, maintained, or relocated on private property in violation of this article, or otherwise constituting a public nuisance, to be removed within thirty (30) days after providing a written notice to the owner of the sign, if known, and to the owner of the property.

2. Such notice shall state the location of the sign, the nature of the violation, and/or the manner in which the sign constitutes a public nuisance. The notice also shall require the removal or other abatement of the sign before the date specified in the notice. Further, the notice shall state that failure to comply may result in the removal of the sign by the City of Porterville and that the cost of such removal may be imposed on the owner of the property. The notice shall also include instructions for the filing of an appeal, Pursuant to Article 30 of this Ordinance, of the determination of the Zoning Administrator that the sign is in violation of this article or constitutes a public nuisance.

3. If an appeal is received prior to the date specified in the notice, abatement proceedings shall be suspended, and any deadlines shall toll, pending the outcome of such appeal.

4. Notices referred to in this section shall be served by posting on the property on which the sign is located and by registered or certified mail delivery, postage prepaid to the owner of the property, and, if known, the owner of the sign.
5. If the sign is not removed or otherwise abated by being brought into compliance with this article after any appeals have been resolved and any deadlines have passed, the Zoning Administrator shall cause the removal of the sign at the expense of the owner of the property and the owner of the sign. Expenses shall include any and all administrative costs, court and/or legal fees, including reasonable attorney’s fees, incurred in the abatement and shall become the responsibility of both the owner of the property and the owner of the sign.

SECTION 2018: Signs in Residential Zones:

The following signs are permitted in Residential zones in addition to those exempted by Section 2006.

A. One sign per street frontage for each housing development or institutional use, not to exceed twenty (20) square feet in area, nor ten (10) feet in height and containing no advertising matter except the name and street address of the housing development or institutional use.

B. One sign for each church not to exceed twenty (20) square feet in area.

C. Directional subdivision signs in accordance with the provisions of Section 2011 and promotional, campaign, and political signs in accordance with the provisions of Section 2012.

SECTION 2019: Advertising in P-O and C-1 Zones.

A. The following regulations shall apply to all signs and advertising structures in the P-O Professional Office zone, and C-1 Neighborhood Commercial zone:

B. No sign shall be permitted that does not pertain directly to an approved business service or activity conducted on the premises except as provided in Section 2011 and Section 2012, or unless exempted by Section 2006.

C. Business Identification Signs:

1. Not more than two (2) signs shall be permitted for the same business per business face.

2. The total advertising area of all signs shall not exceed 15% of the total business face area except that a minimum of twenty (20) square feet and a maximum of sixty (60) square feet of total advertising area will be permitted for each business face.

3. Except as otherwise prohibited, the total allowed signage may be concentrated or distributed among building walls and free standing signs.
4. No sign affixed to a building shall exceed the height of the roofline of that building.

5. A maximum of one freestanding business identification sign shall be permitted for each business face.
   a. No more than one freestanding sign for any business may face any street.
   b. The area of a single face of any freestanding sign shall be included in the maximum allowed sign area.
   c. The total height above the finished grade at the front property line shall not exceed twenty (20) feet in height.
   d. Freestanding signs shall comply with all requirements relating to location, size, area, projection over public right-of-way, height, total signs or setbacks contained herein.
   e. Freestanding Business Identification Signs shall be subject to the setback requirements applicable to buildings in the zoning district where located.

D. When an exterior wall of a building faces abutting property in an R Zone, no advertising sign shall be painted or placed on such wall, or on any portion of the lot between said wall and said R Zone.

E. Signs attached to a building shall be mounted parallel to the face of the structure and shall not project more than eighteen (18) inches from the main building or its attached canopy, nor shall such sign exceed the roofline of the building to which it is attached.

F. Center Identification Signs: One (1) free standing Center Identification sign shall be permitted for integrated developments of five (5) or more separated businesses, providing that:

1. The total area of said sign shall not exceed forty (40) square feet plus five (5) square feet for each additional business in the center over five up to a maximum area allowed of one-hundred (100) square feet.

2. Said sign shall not exceed twelve (12) feet in height above the highest finished grade at the front property line.
3. Notwithstanding Section 2016.D, Center Identification Signs, including signs with less than eight (8) feet clearance above finished grade may be permitted in the front setback area within the P-O zone, provided that no such sign shall be located within a ten (10) foot radius of the corner property lines of a corner lot.

G. Window signs advertising sales, cut rates, weekend specials and similar sales and promotions shall be permitted, provided that such signs shall be limited to covering a maximum of 50% of the area of a window. Window signs made of paper, cardboard, or similarly unstable material, shall only be permitted on the interior side of the building or structure through which they are viewed.

H. Banners, Handheld Signs, Portable Signs and Inflatable Signs: Banners, handheld signs, portable signs, and other similar temporary advertising devices shall be prohibited except for business openings, special events, and promotional events.

1. A Temporary Sign Permit shall be secured prior to the installation or display of any such sign.

2. A Temporary Sign Permit shall be granted for any one business or building for a period of two calendar months. A Temporary Sign Permit shall authorize the business to display one banner, handheld sign, portable sign or inflatable sign per business face for the duration of the sign permit.

3. No more than one Temporary Sign Permit shall be in effect simultaneously for any business.

4. Each business shall be limited to a maximum of three Temporary Sign Permits in any calendar year. Permits valid in two calendar years shall be counted within the earlier calendar year.

5. Unless otherwise authorized by a signage plan adopted by the City Council as a component of a Design Overlay Site Review or Planned Development Specific Plan, freestanding Temporary Signs for multiple tenants of any one building, shopping center, office complex, or unified development, facing a common street shall be separated by a minimum of 100 feet.

SECTION 2020: Advertising in C-2, C-3, C-H, M-1, M-2, and A-D Zone.

A. The following regulations shall apply to all signs and advertising structures in the C-2, C-3, and C-H Commercial Zones, in the M-1 and M-2 Industrial Zone, and in the A-D Airport Development Zone.

B. No sign shall be permitted that does not pertain directly to an approved business service or activity conducted on the premises except as provided in section 2011 and Section 2012, or unless exempted by Section 2006.
C. Business Identification Signs:

1. Not more than four (4) signs shall be permitted for the same business per business face.

2. The total advertising area of all signs shall not exceed either:
   
a. Fifteen percent (15%) of the total business face area, or forty (40) square feet, whichever is greater, for businesses conducted primarily within a building, or

   b. One (1) square foot per linear foot of display frontage up to fifty (50) feet plus one-half (½) square foot for each additional linear foot of display frontage to which such signs pertain for businesses conducted primarily outside of a building.

3. No sign affixed to a building shall exceed the height of the roofline of that building.

4. A maximum of one freestanding business identification sign shall be permitted for each business face.
   
a. No more than one freestanding sign for any business may face any street.

   b. The area of a single face of any freestanding sign shall be included in the maximum allowed sign area.

   c. The total height above the finished grade at the front property line shall not exceed thirty (30) feet in height.

   d. Freestanding signs shall comply with all requirements relating to location, size, area, projection over public right-of-way, height, total signs or setbacks contained herein.

   e. Freestanding Business Identification Signs shall be subject to the setback requirements applicable to buildings in the zoning district where located.

5. Signs displayed on awnings, canopies, and marquees shall be subject to all of the regulations as stipulated in this chapter.

6. Temporary signs, pennants, or banners shall not be suspended from any structure which, in the opinion of the Building Inspector, is not capable of supporting additional weight or wind loads.
7. When an exterior wall of a building faces abutting property in an R zone, no advertising signs shall be painted or placed on such wall, or on any portion of the lot between said wall and said R zone.

8. The total advertising area permitted within this section shall include all business identification signs in the aggregate, visible from the exterior of the business.

D. Center Identification Signs: In addition to the above, one (1) center identification sign per street frontage is allowed for integrated developments of five (5) or more separate businesses, subject to the following:

1. The combined sign area of the center identification sign does not exceed thirty (30) square feet per one hundred (100) lineal feet of the street frontage on which the sign is located, provided, however, that no one sign shall exceed three hundred and twenty (320) square feet per face.

2. No sign is permitted for frontage areas, located adjacent to residentially zoned districts, within a projection of the adjacent residential building setback line.

3. No sign shall exceed twenty (20) feet in height above the highest finished grade of the center at the street right-of-way line.

4. No sign shall be located within twenty (20) feet of the side property lines on interior lots, or in such a manner as to constitute a hazard to pedestrian or vehicular traffic.

E. Window signs advertising sales, cut rates, weekend specials and similar sales and promotions shall be permitted, provided that such signs shall be limited to covering a maximum of 50% of the area of a window. Window signs made of paper, cardboard, or similar unstable material, shall only be permitted on the interior side of the building or structure through which they are viewed.

F. Banners, Handheld Signs, Portable Signs and Inflatable Signs: Banners, handheld signs, portable signs, and other similar temporary advertising devices shall be prohibited except for business openings, special events, and promotional events.

1. A Temporary Sign Permit shall be secured prior to the installation or display of any such sign.

2. A Temporary Sign Permit shall be granted for any one business or building for a period of two calendar months. A Temporary Sign Permit shall authorize the business to display one banner, handheld sign, portable sign or inflatable sign per business frontage for the duration of the sign permit.
3. No more than one Temporary Sign Permit shall be in effect
simultaneously for any business.

4. Each business shall be limited to a maximum of three Temporary Sign
Permits in any calendar year. Permits valid in two calendar years shall be
counted within the earlier calendar year.

5. Unless otherwise authorized by a signage plan adopted by the City
Council as a component of a Design Overlay Site Review or Planned
Development Specific Plan, freestanding Temporary Signs for multiple
tenants of any one building, shopping center, office complex, or unified
development, facing a common street frontage shall be separated by a
minimum of 100 feet.

SECTION 2021: Advertising in the P-D, and O-A Zones.

The following regulations shall apply to all signs and advertising structures in the P-D
(Planned Development), and O-A (Open Area) zones.

A. No sign shall be permitted that does not pertain directly to an approved business,
   service, or activity conducted on the premises except as may be provided in
   Section 2011 and Section 2012 or unless exempted by Section 2006.

C. All signs and advertising structures shall conform to a uniform sign program
   approved by the City Council in accordance with the Conditional Use Permit
   provisions of Article 29 contained within this Ordinance.

SECTION 2: There is hereby created and added to the City of Porterville Fee Schedule
a processing fee for a “Temporary Sign Permit Application.” Said fee shall be set by
resolution of the City Council of the City of Porterville to recover no more than the
anticipated reasonable cost of processing such a permit.

SECTION 3: This ordinance shall be in full force and effect thirty (30) days from and
after its publication and passage.

Pedro R. Martinez, Mayor

ATTEST:

John Longley, City Clerk

Georgia Hawley, Chief Deputy City Clerk
SUBJECT: SECOND READING - ORDINANCE NO. 1658, ZONING ORDINANCE AMENDMENT 1-2003, CALL CENTERS

SOURCE: Administrative Services Department/City Clerk Division

COMMENT: Ordinance No. 1658, amending the Porterville Zoning Ordinance to define “Call Centers” and identify appropriate locations, and to set parking requirements, was given a First Reading on August 17, 2004, and has been printed.

RECOMMENDATION: That Council give Second Reading to Ordinance No. 1658, waive further reading, and adopt said ordinance.

ATTACHMENT: Ordinance No. 1658
ORDINANCE NO. 1658

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING THE ZONING ORDINANCE TO DEFINE “CALL CENTERS” AND IDENTIFY APPROPRIATE LOCATIONS AND TO SET PARKING REQUIREMENTS

WHEREAS, the City Council of the City of Porterville at its regularly scheduled meeting of August 17, 2004, conducted a public hearing to consider General Amendment of the Zoning Ordinance 1-2003, amending Article 33, Section 3302 of the Porterville Zoning Ordinance pertaining to Definitions and Construction to add the term “Call Center “ and amending Sections 601, 801, and 1101 to add “Call Centers” as an allowed use in specific zones with a Conditional Use Permit, and amending Article 22 to set parking standards for Call Centers.

WHEREAS, the General Amendment of the Zoning Ordinance will amend the Definitions Section with the addition of the term of Call Centers to provide a consistent terminology of the type of business activity, and will identify specific zones in which Call Centers should be located, establish the means of approving Call Centers, and set appropriate development standards.

NOW THEREFORE BE IT ORDAINED, that the City Council of the City of Porterville does hereby amend Article 33, Section 3302 and Article 6, 8, 11 and 22 Sections 601, 801, 1101 and 2205 as follows:

SECTION 1: Article 33 is hereby amended as follows:

Section 3302: Definitions and Construction

A. The following definitions shall be used to clarify terms and words used within the context of this Ordinance:

(17) Call Center

Building or portion of a building whose primary function is telecommunications including, but not limited to; direct sales, customer support, order processing, customer service, surveys, research, credit management, help desk, reservations, billing and accounting, sales and telemarketing. These services are either provided internally by the company for its own use or provided externally by an outsourcing agency which provide these services for several companies. Telecommunications operations which are clearly accessory to another use on the same site, shall not be considered to be “Call Centers.”

Numbers (17) through (94) are hereby renumbered (18) through (95).

SECTION 2: Article 6 is hereby amended as follows:

Section 601: Uses

A. In a P-0 Zone, the following uses only are permitted:

(4) Call Centers, subject to obtaining approval of a Conditional Use Permit.

Numbers (4) through (8) are hereby renumbered as (5) through (9).
SECTION 3: Article 8 is hereby amended as follows:

Section 801: Uses

A. In a C-2 Zone the following uses only are permitted. Any such use involving an off-sale license for alcoholic beverages shall be subject to the provisions of Section 2100 C and D of this Ordinance.

(10) Call Centers, subject to obtaining approval of a Conditional Use Permit.

Numbers (10) through (43) are hereby renumbered as (11) through (44).

SECTION 4: Article 11 is hereby amended as follows:

Section 1101: Uses - M-1 Zone

In an M-1 Zone, the following uses only are permitted:

(11) Call Centers, subject to obtaining approval of a Conditional Use Permit.

Numbers (11) through (41) are hereby renumbered as (12) through (42).

SECTION 5: ARTICLE 22 is hereby amended as follows:

Section 2202: Number of spaces required

A. The number of off-street parking spaces required for different uses shall be not less than as follows:

(22) Call Centers. To be determined by City Council.

SECTION 6: This ordinance shall be in full force and effect thirty days from and after its publication and passage.

________________________________________
Pedro R. Martinez, Mayor

ATTEST:

John Longley, City Clerk

By _________________________
Georgi Hawley, Chief Deputy
SUBJECT: CONFIRM FUNDING SOURCE OPTION AND AWARD CONSTRUCTION CONTRACT - TULE RIVER PARKWAY, PHASE II

SOURCE: Parks and Leisure Services Department

COMMENT: The City entered into a contract with Caltrans in 1998 for an Environmental Enhancement Mitigation ("EEM") Grant to fund the construction of the increment of the Tule River Parkway between Jaye Street and Main Street. It appears that the City believed at the time that the state grant would fund the entire cost of the Parkway design and construction. The City's matching contribution was alluded to be $1.8 million of value in other capital projects. Accompanying this report are copies of the grant application front sheet, the City's proposed capital budget, and a Project Summary detailing the project component costs. The City has sought and received various funding time extensions over the years, with the latest extension requiring the City to complete the construction and make claims for reimbursement no later than April 30, 2005.

Early in 2004, the project required some redesign to coordinate the construction limits to the property acquisitions and the undercrossing of the railroad. The project was then put out to bid and resulted in five bids being submitted on August 16, 2004. At the time the project was let to bid, staff provided a $226,000 estimate of probable cost for the "base" project. This estimate was based upon constructing 3,800 lineal feet of asphalt parkway. The project actually consists of 2,800 lineal feet of parkway, and the staff estimated probable cost for the base project, as adjusted, is $215,000. Halopoff & Sons, a local firm, submitted the low "base bid" at $187,000 that is 15% below the engineer's estimate. The base and add Alternate bids are as follows:

<table>
<thead>
<tr>
<th>Contractor</th>
<th>Base Bid</th>
<th>Base bid plus Alternate</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Halopoff &amp; Sons. Inc.</td>
<td>$186,988.05</td>
<td>$194,143.05</td>
</tr>
<tr>
<td>Porterville, CA</td>
<td></td>
<td></td>
</tr>
<tr>
<td>2. American Paving Co.</td>
<td>$199,203.50</td>
<td>$206,309.80</td>
</tr>
<tr>
<td>Fresno, CA</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3. Lee's Paving</td>
<td>$216,169.50</td>
<td>$222,476.50</td>
</tr>
<tr>
<td>Visalia, CA</td>
<td></td>
<td></td>
</tr>
<tr>
<td>4. Dawson-Mauldin Const.</td>
<td>$218,382.00</td>
<td>$226,332.00</td>
</tr>
<tr>
<td>Huntington Beach, CA</td>
<td></td>
<td></td>
</tr>
<tr>
<td>5. Hobbs Construction</td>
<td>$223,999.00</td>
<td>$230,350.00</td>
</tr>
<tr>
<td>Fresno, CA</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

Dir. [Signature] Approp. Funded [Signature] CM

ITEM NO. 76
Coincidentally, at the same time the bids were being received, Caltrans staff communicated to City staff the need for some clarification on the City application being considered for grant funding the next increment of the Tule River Parkway, the acquisition of land and easements between Main Street and Plano Road. The questions raised by Caltrans alerted City staff to review the grant funding requirements for the Jaye to Main increment.

Caltrans staff have advised City staff that the City is only eligible for reimbursement up to 12% of the Tule River Parkway, Phase II design and construction cost, with a maximum reimbursement of $222,605. Discussions with Caltrans seemed to indicate that the other capital projects the City had advised it was undertaking may have been looked upon as background information when the City's application was considered, and not as eligible matching contributions to which the 12% reimbursement would be applied. For this reason, City staff requested at the August 17, 2004 meeting for the City Council to continue consideration of the construction contract award to the September 7, 2004 meeting.

Staff have determined that the City has incurred costs of $685,878 since October, 2002 on the various projects indicated on the “Proposed Budget” of the EEM application. Added to the approximate $222,605 cost for the Parkway Phase II project, the City could presumably be eligible for 12% reimbursement totaling $109,018. Alternatively, Caltrans could view the other projects as not eligible matching contributions and limit the City’s reimbursement to 12% of the Parkway project cost, or approximately $26,712. City staff have therefore endeavored to identify options for the City Council’s consideration of this project.

**OPTIONS:**

A. Award the construction contract, compile detailed cost records and submit for 12% reimbursement on the total $908,483 expenditure. The City should vehemently emphasize that at the time of the application and grant contract execution, it was the City’s understanding that this was allowed and appropriate to achieve the City’s required match. Prior to proceeding with this approach, staff should review the previous phases of the Tule River Parkway capital project costs that are included in the $685,878 completed project total to ensure that we are not billing for work included in previous reimbursement requests. There is some risk that a 12% reimbursement request on $908,483 will not be supported by Caltrans; or even if it is, that an audit may at a later date determine this not in compliance with the EEM program requirements. In any case, the approximate $113,600 balance of the anticipated $222,605 Tule River Parkway, Phase II cost would have to be funded from another source, such as that discussed under option B.

B. Award the construction contract after confirming a $222,605 project budget derived from revenues of $195,893 from unallocated exchanged STIP funds, and $26,712 of EEM funds. The City recently received $315,000 of transportation funding from Caltrans which are derived from Federal Surface Transportation Improvement Program funds that are exchanged with other agencies for non-federal transportation funds. The $315,000 was revenue
that was not allocated in the budget process, and is restricted in use for
transportation related projects. The Tule River Parkway is a recognized
bicycle pathway, and therefore it is an eligible transportation project.

C. Reject the bids on the project and pursue the exploration of other funding
programs to support the construction of the project at some time in the future.
The City currently has the required permits to proceed with construction of
the project at this time. There have been many obstacles to overcome to
obtain these permits, and the permits do come with limitations on the time in
which they are valid. We do not know how readily we will be able to obtain
the permits in the future. In the meantime, the City will still be responsible
for weed abatement, etc., on the property that has been acquired for the
Parkway.

RECOMMENDATION: Staff believe that it is highly desirable to proceed with the project
utilizing a funding approach as outlined in either option A or option
B. The City Council is asked to confirm one of these funding source
options, establish a budget of $222,605, and award the construction
contract to Halopoff & Sons, Inc. in the amount of $194,143.05 for
the base plus alternate work. Further, the City Council should
authorize progress payments up to 90% of the contract amount and
authorize a 10% contingency to cover unforeseen construction costs.

ATTACHMENTS: EEM Program Application dated 12/02/97
Proposed (Capital Project) Budget
Project Summary
Locator Map
**ENVIRONMENTAL ENHANCEMENT AND MITIGATION PROGRAM APPLICATION**

(Enter Grant Project Information under Section A and Transportation Project Information under Section B.)
See reverse side for additional instructions.

**PROGRAM CATEGORY** (Check one category, only, below)

- [x] Highway Landscape and Urban Forestry
- [ ] Resource Lands
- [ ] Roadside Recreation

**A. GRANT PROJECT (Name)**

**TULE RIVER PARKWAY—Phase II**

**AMOUNT OF GRANT REQUEST** $250,000

**ESTIMATED TOTAL PROJECT COST** $2,046,000

(Grant, Donations, etc., excluding Transportation Project)

**GRANT APPLICANT (Agency — Address — ZIP code)**

- [ ] LOCAL AGENCY
- [ ] STATE AGENCY
- [ ] FEDERAL AGENCY
- [ ] NONPROFIT

City of Porterville
P.O. Box 432
291 North Main
Porterville, CA 93257

**GRANT PROJECT LOCATION**

Jaye Street & Main Street.
Nearest Cross Street

Tulare
County
Nearest City

Porterville
County
Nearest City

15th
Nearest District No.

32nd & 33rd
Nearest District No.

**Grant Applicant's Representative Authorized in Resolution** (Please indicate if address differs from that of Grant Applicant.)

- [ ] Gil Meachum
  Director Parks & Leisure Services
  (209) 782-7461

**Person with day-to-day responsibility for project (if different from authorized representative)**

**BRIEF DESCRIPTION OF GRANT PROJECT** (scope, location, purpose — not to exceed 60 words)

Phase II covers landscaping with 2,500 native trees and 900 plants. Creating new bicycle trail access of 2,320' connecting Tule River Parkway with the City of Porterville and to the new Park and Ride transportation facility located along the parkway. Purpose to mitigate the effects of a park and ride facility, access trails, uptake pollutants and preventing illegal use.

**ANTICIPATED CONSTRUCTION START AND COMPLETION DATES:** November, 1998  July, 1999

**ENVIRONMENTAL CLEARANCE FOR GRANT PROJECT** (check proposed type and status)

- [x] Exempt
- [ ] Negative Declaration
- [ ] Categorical Exemption
- [ ] Environmental Impact Report

**Status**

- [x] Complete
- [ ] In Progress
- [ ] Not Started

**Name of Lead Agency**

City of Porterville

**NOTE:** Final environmental documents must be submitted to the CTC before it may approve project for funding.

**3. RELATED TRANSPORTATION PROJECT**

<table>
<thead>
<tr>
<th>#6</th>
<th>Porterville</th>
<th>Tulare</th>
<th>City of Porterville, 291 North Main</th>
</tr>
</thead>
<tbody>
<tr>
<td>City</td>
<td>County</td>
<td>Route Number/Name</td>
<td></td>
</tr>
<tr>
<td>Jaye Street, Southwest corner Jaye/Tule River near Highway 65 and 190</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Description of Related Transportation Project**

- [ ] Number of Attached Transportation Project narratives
- [ ] Portion of Related Transportation Project:
- [ ] Number of Attached Capital Outlay Program for Related Transportation Project

**Date Construction Begun or Scheduled**

- [x] November, 1998

**Date Approved/Certified Capital Outlay Program for Related Transportation Project**

- [ ] November, 1998

**I certify that the information contained in this project application form, including required attachments, is accurate and that I have read and understand the important information and agree to the assurances on the reverse of this form.**

**Signature**

[Signature]

[Date] 12/03/97
B. PROPOSED BUDGET

The City of Porterville has planned more than $3,000,000 in projects to supplement and compliment this EE & M grant request. Only those marked for $1,796,000 are used to show local contributions as requested in the grant application.

1. PROJECTED INCOME

a. City Funded Projects
   1. Newcomb Reconstruction $205,000 (a)
   2. Tule River Park and Ride Facility 96,000
   3. Plano Street Project 215,900 (a)
   4. Morton Signal Coordination 90,000 (a)
   5. Well (Tule River & S. Morton) 450,000

b. ISTEAs
   1. Plano Street 250,000 (a)
   2. Signal (Indiana & Morton) 120,000 (a)
   3. Tule River Parkway - Park 475,000

c. Gas Tax & SDDF
   1. Plano Street - Phase II 145,000 (a)
   2. Plano to Tule River 75,000

d. Section 108 - Water
   1. S. Jaye Street 700,000

e. EE & M 250,000

f. In Lieu, Volunteer etc. 100,000 (a)

g. Total Projected Income Reported $1,796,000 $250,000

(a) Related projects not included in total

2. PROJECTED EXPENDITURES - EE & M

a. Preliminary Costs $12,500
b. Personnel/Employee Services 12,500
c. Consultant Services 10,000
d. Trees & Planting Materials 127,000
e. Construction 75,500
f. Contingency 12,500

g. TOTAL EXPENDITURES $250,000
3. PROJECT SUMMARY

<table>
<thead>
<tr>
<th>Project Components</th>
<th>Total Cost</th>
<th>Proposed Funding By Grant Program</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Pre Engineering</td>
<td>$ 250,000</td>
<td>$ 12,500</td>
</tr>
<tr>
<td>2. Construction Engineering</td>
<td>125,000</td>
<td>12,500</td>
</tr>
<tr>
<td>3. Personnel</td>
<td>150,000</td>
<td>12,500</td>
</tr>
<tr>
<td>4. Consultant/Program Planning</td>
<td>60,000</td>
<td>10,000</td>
</tr>
<tr>
<td>5. Monitor/Evaluator</td>
<td>100,000</td>
<td>-</td>
</tr>
<tr>
<td>6. Trees &amp; Materials</td>
<td>544,000</td>
<td>127,000</td>
</tr>
<tr>
<td>7. Construction</td>
<td>422,000</td>
<td>63,000</td>
</tr>
<tr>
<td>8. Equipment</td>
<td>80,000</td>
<td>-</td>
</tr>
<tr>
<td>9. Operations</td>
<td>80,000</td>
<td>-</td>
</tr>
<tr>
<td>10. Administration</td>
<td>95,000</td>
<td>-</td>
</tr>
<tr>
<td>11. Contingencies</td>
<td>140,000</td>
<td>12,500</td>
</tr>
<tr>
<td>12. Total Expenditures</td>
<td>$ 2,046,000</td>
<td>$ 250,000</td>
</tr>
</tbody>
</table>

Matching Contributions: $ 1,796,000 88 %
Proposed Grant Contributions: $ 250,000 12 %

The budget above summarizes the cost of the TULE RIVER PARKWAY - Phase II. The total cost is projected to be $ 2,046,000, of which the City will provide 88% or $ 1,796,000 from other projects, resources and grants.
SUBJECT: ACCEPTANCE OF FINAL SUBDIVISION MAP - MEADOW BREEZE, PHASE ONE SUBDIVISION (Nicholson & Smee, LLC)

SOURCE: Public Works Department - Engineering Division

COMMENT: The developer, Nicholson & Smee, LLC (Daryl Nicholson & Gary Smee), has submitted the final map for the subject single family residential project. The developer is requesting Council approval of the final map in conformance with Section 21-27 of the Subdivision Ordinance, prior to completing the construction of the required public improvements.

The developer has submitted the required guarantee to the City to complete all necessary public improvements on the project. A subdivision agreement between the developer and the City has been signed by the developer, and all fees have been paid.

The final map is in conformance with the approved tentative map and City Council Resolution No 39-2004. The improvement plans, specifications, dedications, and the final map have been approved by the Public Works Director and City Engineer.

RECOMMENDATION: That City Council:

1. Approve the final map of Meadow Breeze, Phase One Subdivision;

2. Accept all offers of dedication and vacation shown on the final map; and

3. Authorize the City Clerk to file said map with the County Recorder.

ATTACHMENT: Final Map

Y:\Engineering\Council Items\Acceptance of Final Subdivision Map - Meadow Breeze, Phase One.wpd
COUNCIL AGENDA: SEPTEMBER 7, 2004

SUBJECT: APPROVAL OF THE PRE-QUALIFICATION PROCEDURE FOR BIDDERS ON CERTAIN PUBLIC WORKS PROJECTS

SOURCE: Public Works Department

COMMENT: In 1999, the Legislature enacted a law that allows public agencies to require licensed contractors that wish to bid for public works jobs to “pre-qualify” for the right to bid on a specific public works project or, during a specified period of time. The Department of Industrial Relations (DIR) was directed to develop model guidelines for rating bidders and with drafting a standardized questionnaire. The law does not require, but rather, authorizes a public agency to adopt a pre-qualification system. Attachment 1 “Introduction and Overview...” is attached for Council’s complete review.

As part of the agreement for receiving monies from the California Infrastructure and Economic Development Bank (CIEDB) for the Waste Discharge Requirement projects, CIEDB has stipulated that all construction projects undertaken with CIEDB funded monies must pre-qualify contractors prior to submitting bids for those projects. The first project to be funded by CIEDB is the Sludge Drying Beds Expansion Project.

DIR developed two types of pre-qualification systems and the Public Agency can choose either system. The systems are: 1) by single project (see Attachment 2.a), or 2) annually for all projects (see Attachment 2.b). Staff reviewed both systems and found that the single project procedure best meets our purposes and has the least time constraints (see Attachment 3) for the types and quantity of projects that require pre-qualification.

As part of the system adoption, the City Council is required to designate an Appeals Panel. The Appeals Panel will conduct an appeal hearing upon notice by a contractor receiving a rating below that necessary to pre-qualify.

Documents to be used for the pre-qualification process include the Contractor Pre-Qualification Questionnaire (Attachment 4), Sources for Verification of Information Given by Contractors (Attachment 5), Pre-Qualification Interview Questions and Instructions for Public Agencies (Attachment 6) and, A List of Scorable Questions and the Scoring Instruction (Attachment 7).

Dir Appropriated/Funded Item No. 22
RECOMMENDATION: That City Council:

1. Adopt the Pre-Qualification System for Single Projects for use only in conjunction with construction projects funded by the CIEDB Loan;

2. Appoint a three-member “Appeals Panel” consisting of one council member plus an alternate, the Public Works Director and the City Engineer plus the Field Services Manager as an alternate; and

3. Approve the documents and procedure for use by City Staff during the pre-qualification process.

ATTACHMENTS: 1) Introduction and Overview of the 1999 Law and its Application
               2.a) Request for Pre-Qualification of Bidders Commencing with Forthcoming Public Work Bid
               2.b) Announcement of Pre-Qualification Procedures and Open Dates for Annual Pre-Qualification
               3) Timeline for Pre-Qualification Period for Bidders on a Single Project
               4) Contractor Pre-Qualification Questionnaire
               5) Sources for Verification of Information Given by Contractors
               6) Pre-Qualification Interview Questions and Instructions for Public Agencies
               7) A List of the Scorable Questions and the Scoring Instructions
INTRODUCTION AND OVERVIEW OF THE 1999 LAW AND ITS APPLICATION
I. IMPORTANT PROVISIONS OF THE 1999 LAW

In 1999, the Legislature enacted a law that allows many public agencies to require licensed contractors that wish to bid for public works jobs to “pre-qualify” for the right to bid on a specific public works project, or on public works project undertaken by a public agency during a specified period of time. Public Contract Code section 20101 has the relevant provisions; it was enacted as part of Assembly Bill 574.

The law applies to all cities, counties, and special districts but does not apply to K-12 school districts (which have similar authority to create pre-qualification procedures, described in Public Contract Code section 20111.5, which was enacted in 1997).¹

The law does not require any public agency to adopt a pre-qualification system. Instead, it authorizes every public agency to adopt a pre-qualification system, and describes certain requirements that must be met (described below), if a public agency chooses to adopt such a system.

In fact, the 1999 law allows a public agency to establish two different kinds of pre-qualification procedures for public works projects. The law allows a public agency to establish a pre-qualification procedure linked to a single project (Section 20101[d]). Or, the public agency may adopt a procedure by which a contractor may qualify to bid on projects that are put out for bid by that agency for a period of one year after the date of initial pre-qualification. (Section 20101[c]).

The law requires every public agency that creates either kind of pre-qualification procedure to:

(1) use a “standardized questionnaire and financial statement in a form specified by the public entity”(Section 20101[a]);

(2) adopt and apply a uniform system of rating bidders on objective criteria, on the basis of the completed questionnaires and financial statements (Section 20101[b]);

(3) create an appeal procedure, by which a contractor that is denied pre-qualification may seek a reversal of that determination. (Section 20101[d]).

II. ROLE OF THE DEPARTMENT OF INDUSTRIAL RELATIONS

AB 574 required the Department of Industrial Relations (DIR) to “develop model guidelines for rating bidders, and draft the standardized questionnaire.” It required DIR to “consult with affected public agencies, cities and counties, the construction industry, the surety industry, and other interested parties.”

¹ Community College Districts also have specific authority to carry out pre-qualification procedures, in Public Contract Code section 20651.5, enacted in 1998. Community College Districts may also be covered by AB 574, since they are not specifically exempted.
From January through October 2000, DIR held a series of meetings in Sacramento with representatives of public agencies and other interested parties. More than 25 representatives of interested parties attended each meeting. All told, more than 60 people participated in at least one such meeting, and most representatives participated in more than one. Contractors, public agencies both large and small, and associations of each were well represented throughout the series of meetings. DIR’s initial draft of a questionnaire was revised after each meeting, and each revised draft was discussed at the next meeting, leading to additional revisions. Eventually, there was widespread consensus that the model questionnaire provided in this package offers a system of rating bidders based on objective criteria, and a useful and appropriate series of questions.

In addition, DIR, in compliance with the 1999 legislation, created model guidelines for rating bidders. The model rating system also is included in this package.

III. AN OVERVIEW OF THE DOCUMENTS

For use by the Public Entity in the Pre-Qualification Process are:

1. A model questionnaire to be sent to contractors. The questionnaire includes spaces for answers to be provided by the contractors, with the forms to be returned to the public agency. As required by the legislation, the information provided to the public agency by the contractors, other than the names, addresses and contractor license numbers of the contractors applying – is to be kept confidential.

2. A model scoring system, for rating the answers given by the contractors and by the references. Note: the documents provided here by DIR are designed to collect the information that a public agency will need to carry out a pre-qualification procedure, and the DIR has proposed a rating system. Each public agency, however, is free to devise its own “uniform system of rating prospective bidders . . . based on objective criteria.” That is, each public agency may determine its own scoring system and its own passing scores for different portions of the questionnaire and for the interviews.

3. A model series of questions to be used by representatives of the public agency when interviewing persons who are identified by contractors as their “references” – owners of projects that have been completed by each contractor in the recent past.

4. DIR’s suggestions for procedures to be used for conducting the reference interviews.

5. Two alternative forms: model announcements of pre-qualification procedures. Each is a summary and explanation of the pre-qualification procedure, prepared primarily for licensed contractors, although available for the general public as well. There are two slightly different versions of this document: one explains the pre-qualification procedure linked to a single project.

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2 The documents included in this package can be found at the Department of Industrial Relations web site, www.dir.ca.gov. Click on “Data bases.”

3 The explanation included in this document assumes that the pre-qualification procedure is taking place after the RFP or project announcement is published. A public agency may choose, instead, to have the pre-qualification
while the other explains the procedure of pre-qualification valid for a year and for more than one project.

6. A list of sources of information that may be used by a public agency to verify the accuracy of many of the answers given by the contractors to the questions on the questionnaire. 4

IV. APPEAL PROCEDURE

Section 20101(d) requires every public agency that requires prospective bidders to pre-qualify pursuant to this law to establish “a process that will allow prospective bidders to dispute their proposed pre-qualification rating prior to the closing time for receipt of bids.” The appeal process must include written notification by the public agency of the basis for the prospective bidder’s disqualification “and any supporting evidence that has been received from others or adduced as a result of an investigation by the public entity.” (section 20101[d][1]). The prospective bidder must be given an opportunity to rebut any evidence used as a basis for disqualification and to present evidence to the public entity as to why the prospective bidder should be found qualified.” (section 20101[d][2]). The law does not describe the appeal procedure in any additional detail; each public agency is free to adopt its own procedures, as long as the statutory requirements are met. As an example, while Part I of the model questionnaire includes nine “Essential Requirements for Qualification,” a public agency may choose to allow contractors to appeal a disqualification based solely on an answer to a question in Part I.

DIR has devised two different schedules for appeal procedures. One schedule would be used in a system for pre-qualification for a single project. The sequence of steps in this appeal procedure are scheduled to allow for an appeal decision at least four business days prior to the submission for bids for the single project. The other schedule for an appeal is applicable to a system in which prospective bidders seek pre-qualification valid for one year, without a link to the bidding on a specific project. These two appeal sequences are described in the explanation to contractors (the two documents referred to in paragraph 5, above).

Each public agency should be certain that it distributes to licensed contractors only the description that is appropriate for the pre-qualification procedures that are in use.

There are a number of laws and court decisions that affect the nature of an appeal hearing provided by a public agency. Each public agency should consult its own attorneys for advice in this area.

4 A CAUTIONARY NOTE: The information that will be given to public agencies by contractors seeking pre-qualification is provided under oath, with the understanding that the intentional providing of false information is, in itself, grounds for disqualification. We expect that the information given should be and will be accepted at face value in most instances. Our list of sources of information available to the public is provided for use in the few instances in which a public agency reviewing the answers given in a questionnaire has specific reason to believe that one or more answers should be verified in this manner.
V. APPLICATION OF THE PUBLIC RECORDS ACT

AB 574 provides that "The questionnaires and financial statements shall not be public records and shall not be open to public inspection; however, records of the names of contractors applying for pre-qualification status shall be public records subject to disclosure" under the Public Records Act. (Section 20101[a]). The model questionnaire forms provided by DIR indicate that the cover page of each questionnaire is a public record, and that all other pages of the questionnaire are not public records.

VI. WHAT ARE THE LAW'S PROVISIONS REGARDING PREQUALIFICATION OF SUBCONTRACTORS?

Public agencies are not required to pre-qualify sub-contractors, nor are public agencies prohibited from doing so. Section 20101(f) says:

Nothing in this section shall preclude the awarding agency from pre-qualifying or disqualifying a subcontractor. The disqualification by an awarding agency does not disqualify an otherwise pre-qualified [general] contractor.
REQUEST FOR
PRE-QUALIFICATION OF
BIDDERS COMMENCING
WITH FORTHCOMING PUBLIC WORK BID
REQUEST FOR PRE-QUALIFICATION OF BIDDERS COMMENCING WITH FORTHCOMING PUBLIC WORK BID

Notice is hereby given that the City of Porterville ("City") has determined that all bidders on [Name of specific project] to be undertaken by the City must be pre-qualified prior to submitting a bid on that project. It is mandatory that all Contractors who intend to submit a bid, fully complete the pre-qualification questionnaire, provide all materials requested herein, and be approved by the City to be on the final qualified Bidders list. No bid will be accepted from a Contractor that has failed to comply with these requirements. If two or more business entities submit a bid as part of a Joint Venture, or expect to submit a bid as part of a Joint Venture, each entity within the Joint Venture must be separately qualified to bid. The last date to submit a fully completed questionnaire is mm/dd/yy. [35 days prior to the bid closing date]. Contractors are encouraged to submit pre-qualification packages as soon as possible, so that they may be notified of omissions of information to be remedied or of their pre-qualification status well in advance of the bid advertisement for this project.

Answers to questions contained in the attached questionnaire, information about current bonding capacity, notarized statement from surety, and the most recent reviewed or audited financial statements, with accompanying notes and supplemental information, are required. The City will use these documents as the basis of rating Contractors in respect to the size and scope of contracts upon which each Contractor is qualified to bid. The City reserves the right to check other sources available. The City's decision will be based on objective evaluation criteria.

The City reserves the right to adjust, increase, limit, suspend or rescind the pre-qualification rating based on subsequently learned information. Contractors whose rating changes sufficient to disqualify them will be notified, and given an opportunity for a hearing consistent with the hearing procedures described below for appealing a pre-qualification rating.

While it is the intent of the pre-qualification questionnaire and documents required therewith to assist the City in determining bidder responsibility prior to bid and to aid the City in selecting the lowest responsible bidder, neither the fact of pre-qualification, nor any pre-qualification rating, will preclude the City from a post-bid consideration and determination of whether a bidder has the quality, fitness, capacity and experience to satisfactorily perform the proposed work, and has demonstrated the requisite trustworthiness.

The pre-qualification packages should be submitted under seal and marked “CONFIDENTIAL” to City of Porterville, Secretary - Public Works Department, 291 N. Main Street, Porterville, CA 93257.

The pre-qualification packages (questionnaire answers and financial statements) submitted by Contractors are not public records and are not open to public inspection. All information provided will be kept confidential to the extent permitted by law. However, the contents may be disclosed to third parties for purpose of verification, or investigation of substantial allegations, or in the appeal hearing. State law requires that the names of contractors applying for pre-
qualification status shall be public records subject to disclosure, and the first page of the questionnaire will be used for that purpose.

Each questionnaire must be signed under penalty of perjury in the manner designated at the end of the form, by an individual who has the legal authority to bind the Contractor on whose behalf that person is signing. If any information provided by a Contractor becomes inaccurate, the Contractor must immediately notify the City and provide updated accurate information in writing, under penalty of perjury.

The City reserves the right to waive minor irregularities and omissions in the information contained in the pre-qualification application submitted, to make all final determinations, and to determine at any time that the pre-qualification procedures will not be applied to a specific future public works project.

Contractors may submit pre-qualification packages during regular working hours on any day that the offices of the City are open. Contractors who submit a complete pre-qualification package will be notified of their qualification status no later than ten business days after submission of the information.

The City may refuse to grant pre-qualification where the requested information and materials are not provided, or not provided by mm/dd/yy [date specified in first paragraph – 35 days before bid closing]. There is no appeal from a refusal for an incomplete or late application, but re-application for a later project is permitted. The closing time for bids will not be changed in order to accommodate supplementation of incomplete submissions, or late submissions.

Where a timely and completed application results in a rating below that necessary to pre-qualify, an appeal can be made. An appeal is begun by the Contractor delivering notice to the City of its appeal of the decision with respect to its pre-qualification rating, no later than ten business days prior to the closing time for the receipt of bids for this public works project. Without a timely appeal, the Contractor waives any and all rights to challenge the decision of the City, whether by administrative process, judicial process or any other legal process or proceeding.

If the Contractor gives the required notice of appeal and requests a hearing, the hearing shall be conducted so that it is concluded no later than five business days after the City’s receipt of the notice of appeal, and no later than five business days prior to the last date for the receipt of bids on the project. The hearing shall be an informal process conducted by a panel to whom the City Council of the City of Porterville has delegated responsibility to hear such appeals (the “Appeals Panel”). At or prior to the hearing, the Contractor will be advised of the basis for the City’s pre-qualification determination. The Contractor will be given the opportunity to present information and present reasons in opposition to the rating. Within one day after the conclusion of the hearing, the Appeals Panel will render its decision. It is the intention of the City that the date for the submission and opening of bids will not be delayed or postponed to allow for completion of an appeal process.

Note: A contractor may be found not pre-qualified for bidding on a specific public works contract to be let by the City, or on all contracts to be let by the City
until the contractor meets the City's requirements. In addition, a contractor may be found not pre-qualified for either:

(1) Omission of requested information or
(2) Falsification of information

* * * * *

NOTICE: To contractors who are using subcontractors for this job, please be advised that the City may require, as to subcontractors, one of the following:

☐ The qualification of subcontractors in the following crafts or trades, following acceptance of your bid, but before the award is made:

☐ Pre-qualification of all subcontractors.

☐ Pre-qualification of subcontractors in certain crafts.

☐ Post-bid qualification review.
ANNOUNCEMENT OF PRE-QUALIFICATION PROCEDURES AND OPEN DATES FOR ANNUAL PRE-QUALIFICATION
ANNOUNCEMENT OF PRE-QUALIFICATION PROCEDURES AND OPEN DATES FOR ANNUAL PRE-QUALIFICATION

Notice is hereby given that on ___________ 2000, the City of Porterville ("City") determined that all bidders on public works to be undertaken by the City must be pre-qualified prior to submitting bids for public works. It is mandatory that all Licensed Contractors who intend to submit bids fully complete the pre-qualification questionnaire, provide all materials requested herein, and be approved by the City to be on the final Bidders list. No bid will be accepted from a Contractor that has failed to comply with these requirements. If two or more business entities submit a bid on a project as a Joint Venture, or expect to submit a bid as part of a Joint Venture, each entity within the Joint Venture must be separately qualified to bid.

Pre-qualification applications may be submitted four times each year: (1) from January 1 through January 10; (2) from April 1 through April 10; (3) from July 1 through July 10; and (4) from October 1 through October 10. Contractors who submit a complete pre-qualification package will be notified by first class mail of their qualification status, such notice to be mailed no later than fifteen business days after submission of the information.

Answers to questions contained in the attached questionnaire, information about current bonding capacity on an aggregate and per project limit, notarized statement from surety, and the most recent reviewed or audited financial statements, with accompanying notes and supplemental information, are required. The City will use these documents as the basis of rating Contractors in respect to the size and scope of contracts upon which each Contractor is qualified to bid. The City reserves the right to check other sources available. The City’s decision will be based on objective evaluation criteria.

Pre-qualification approval will remain valid for one (1) calendar year from the date of notice of qualification, except that the City reserves the right during that calendar year to adjust, increase, limit, suspend or rescind the pre-qualification ratings based on subsequently learned information and after giving notice of the proposed action to the Contractor and an opportunity for a hearing consistent with the hearing procedures described below for appealing a pre-qualification determination.

While it is the intent of the pre-qualification questionnaire and documents required therewith to assist the City in determining bidder responsibility prior to the submission of bids and to aid the City in selecting the lowest responsible bidder, neither the fact of pre-qualification, nor any pre-qualification rating, will preclude the City from a post-bid consideration and determination on a specific project of whether a bidder has the quality, fitness, capacity and experience to satisfactorily perform the proposed work, and has demonstrated the requisite trustworthiness. Contractors are encouraged to submit pre-qualification packages as soon as possible, so that they may be notified of pre-qualification status well in advance of upcoming projects.

The pre-qualification packages should be submitted under seal and marked “CONFIDENTIAL” to City of Porterville, Secretary - Public Works Department, 291 N. Main Street, Porterville, CA 93257.
The pre-qualification packages (questionnaire answers and financial statements) submitted by Contractors are not public records and are not open to public inspection. All information provided will be kept confidential to the extent permitted by law, although the contents may be disclosed to third parties for the purpose of verification, investigation of substantial allegations, and in the process of an appeal hearing. State law requires that the names of contractors applying for pre-qualification status shall be public records subject to disclosure, and the first page of the questionnaire will be used for that purpose.

Each questionnaire must be signed under penalty of perjury in the manner designated at the end of the form, by an individual who has the legal authority to bind the Contractor on whose behalf that person is signing. If any information provided by a Contractor becomes inaccurate, the Contractor must immediately notify the City and provide updated accurate information in writing, under penalty of perjury.

The City reserves the right to waive minor irregularities and omissions in the information contained in the pre-qualification application submitted, to make all final determinations, and to determine at any time that the pre-qualification procedures will not be applied to a future public works project.

A contractor who has submitted a completed application form, and who receives a rating of “not qualified” from the City may appeal that determination. There is no appeal from a finding that a contractor is not pre-qualified because of a failure to submit required information, but re-application during one of the designated time periods is permitted. A contractor may appeal the City’s decision with respect to its request for pre-qualification, and request a hearing, by giving notice to the City no later than ten business days after receipt of notice of its qualification status. Unless a Contractor files a timely appeal, the Contractor waives any and all rights to challenge the qualification decision of the City, whether by administrative process, judicial process or any other legal process or proceeding.

If the Contractor gives the required notice of appeal and requests a hearing, the hearing shall be conducted so that it is concluded no later than ten business days after the City’s receipt of its Notice of Appeal. The hearing so provided shall be an informal process conducted by a panel to which the City Council of the City of Porterville has delegated responsibility to hear such appeals (the “Appeals Panel”). At or prior to the hearing, the Contractor will be advised of the basis for the City’s pre-qualification determination. The Contractor will be given the opportunity to present information and present reasons in opposition to the pre-qualification determination. At the conclusion of the hearing or no later than one day after completion of the hearing, the Appeals Panel will render its decision. The date for submission and opening of bids for a specific project will not be delayed or postponed to allow for completion of an appeal process.

**Note:** A contractor may be found not pre-qualified for bidding on a specific public works contract to be let by the City, or on all contracts to be let by the City until the contractor meets the City’s requirements. In addition, a contractor may be found not pre-qualified for either:
(1) Omission of requested information or
(2) Falsification of information
NOTICE: To contractors who are using subcontractors for this job, please be advised that the City of Porterville may require, as to subcontractors, one of the following:

☐ The qualification of subcontractors in the following crafts or trades, following acceptance of your bid, but before the award is made:

☐ Pre-qualification of all subcontractors.

☐ Pre-qualification of subcontractors in certain crafts.

☐ Post-bid qualification review.
CONTRACTOR
PRE-QUALIFICATION
QUESTIONNAIRE
CONTACT INFORMATION

Firm Name: ___________________________ Check One: □ Corporation
(as it appears on license) □ Partnership
□ Sole Prop.

Contact Person: ____________________________________________

Address: __________________________________________________

Phone: ______________ Fax: __________________________

If firm is a sole proprietor or partnership:

Owner(s) of Company _________________________________________

Contractor's License Number(s):
____________________________________________________________
____________________________________________________________
____________________________________________________________
PART I. ESSENTIAL REQUIREMENTS FOR QUALIFICATION

Contractor will be immediately disqualified if the answer to any of questions 1 through 5 is “no.”¹

Contractor will be immediately disqualified if the answer to any of questions 6, 7, 8 or 9 is “yes.”² If the answer to question 8 is “yes,” and if debarment would be the sole reason for denial of pre-qualification, any pre-qualification issued will exclude the debarment period.

1. Contractor possesses a valid and current California Contractor’s license for the project or projects for which it intends to submit a bid.
   □ Yes     □ No

2. Contractor has a liability insurance policy with a policy limit of at least $1,000,000 per occurrence and $2,000,000 aggregate.
   □ Yes     □ No

3. Contractor has current workers’ compensation insurance policy as required by the Labor Code or is legally self-insured pursuant to Labor Code section 3700 et. seq.
   □ Yes     □ No     □ Contractor is exempt from this requirement, because it has no employees

4. Have you attached your latest copy of a reviewed or audited financial statement with accompanying notes and supplemental information?³
   □ Yes     □ No

NOTE: A financial statement that is not either reviewed or audited is not acceptable. A letter verifying availability of a line of credit may also be attached; however, it will be considered as supplemental information only, and is not a substitute for the required financial statement.

5. Have you attached a notarized statement from an admitted surety insurer (approved by the California Department of Insurance) and authorized to issue bonds in the State of California, which states: (a) that your current bonding capacity is sufficient for the project for which you seek pre-qualification if you

¹ A “no” answer to Question 4 will not be disqualifying if the contractor is exempt from complying with Question 4, for reasons explained in footnote 7.
² A contractor disqualified solely because of a “Yes” answer given to question 6, 7, or 9 may appeal the disqualification and provide an explanation of the relevant circumstances during the appeal procedure.
³ Public Contract Code section 20101(e) exempts from this requirement a contractor who has qualified as a small business pursuant to Government Code section 14837(d)(1), if the bid is “no more than 25 percent of the qualifying amount provided in section 14837(d)(1).” As of January 1, 2001, the qualifying amount is $10 million, and 25 percent of that amount, therefore, is $2.5 million.
are seeking pre-qualification for a single project; or (if you are seeking pre-
qualification valid for a year) (b) your current available bonding capacity?  
☐ Yes ☐ No

NOTE: Notarized statement must be from the surety company, not an agent  
or broker.

6. Has your contractor’s license been revoked at any time in the last five years?  
☐ Yes ☐ No

7. Has a surety firm completed a contract on your behalf, or paid for completion  
because your firm was default terminated by the project owner within the last five  
(5) years?  
☐ Yes ☐ No

8. At the time of submitting this pre-qualification form, is your firm ineligible to bid  
on or be awarded a public works contract, or perform as a subcontractor on a  
public works contract, pursuant to either Labor Code section 1777.1 or Labor  
Code section 1777.7?  
☐ Yes ☐ No

If the answer is “Yes,” state the beginning and ending dates of the period of  
debarment:

________________________

9. At any time during the last five years, has your firm, or any of its owners or  
oficers been convicted of a crime involving the awarding of a contract of a  
government construction project, or the bidding or performance of a government  
contract?  
☐ Yes ☐ No

* The City of Porterville may request an additional notarized statement from the surety at the time  
of submission of a bid, if this pre-qualification package is submitted more than 60 days prior to submission  
of the bid.
PART II. ORGANIZATION, HISTORY, ORGANIZATIONAL PERFORMANCE, COMPLIANCE WITH CIVIL AND CRIMINAL LAWS

A. Current Organization and Structure of the Business

For Firms That Are Corporations:

1a. Date incorporated: ____________________________
1b. Under the laws of what state: _______________________
1c. Provide all the following information for each person who is either (a) an officer of the corporation (president, vice president, secretary, treasurer), or (b) the owner of at least 10 percent of the corporation’s stock.

<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
<th>Years with Co.</th>
<th>% Ownership</th>
<th>Social Security #</th>
</tr>
</thead>
<tbody>
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</tbody>
</table>

1d. Identify every construction firm that any person listed above has been associated with (as owner, general partner, limited partner or officer) at any time during the last five years.

NOTE: For this question, “owner” and “partner” refer to ownership of 10 percent or more of the business, or 10 percent or more of its stock, if the business is a corporation.

<table>
<thead>
<tr>
<th>Person’s Name</th>
<th>Construction Firm</th>
<th>Dates of Person’s Participation with Firm</th>
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</table>

For Firms That Are Partnerships:

1a. Date of formation: ____________________________
1b. Under the laws of what state: _______________________

4
1c. Provide all the following information for each partner who owns 10 percent or more of the firm.

<table>
<thead>
<tr>
<th>Name</th>
<th>Position</th>
<th>Years with Co.</th>
<th>% Ownership</th>
<th>Social Security #</th>
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</thead>
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</table>

1d. Identify every construction company that any partner has been associated with (as owner, general partner, limited partner or officer) at any time during the last five years.

**NOTE:** For this question, "owner" and "partner" refer to ownership of 10 percent or more of the business, or 10 percent or more of its stock, if the business is a corporation.

<table>
<thead>
<tr>
<th>Person's Name</th>
<th>Construction Company</th>
<th>Dates of Person's Participation with Company</th>
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</table>

**For Firms That Are Sole Proprietorships:**

1a. Date of commencement of business.
1b. Social security number of company owner.
1c. Identify every construction firm that the business owner has been associated with (as owner, general partner, limited partner or officer) at any time during the last five years.

**NOTE:** For this question, "owner" and "partner" refer to ownership of 10 percent or more of the business, or 10 percent or more of its stock, if the business is a corporation.

<table>
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<th>Person's Name</th>
<th>Construction Company</th>
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</table>
For Firms That Intend to Make a Bid as Part of a Joint Venture:

1a. Date of commencement of joint venture. ________________

1b. Provide all of the following information for each firm that is a member of the joint venture that expects to bid on one or more projects:

<table>
<thead>
<tr>
<th>Name of firm</th>
<th>% Ownership of Joint Venture</th>
</tr>
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</table>

B. History of the Business and Organizational Performance

2. Has there been any change in ownership of the firm at any time during the last three years?

**NOTE:** A corporation whose shares are publicly traded is not required to answer this question.

☐ Yes  ☐ No

If “yes,” explain on a separate signed page.

3. Is the firm a subsidiary, parent, holding company or affiliate of another construction firm?

**NOTE:** Include information about other firms if one firm owns 50 percent or more of another, or if an owner, partner, or officer of your firm holds a similar position in another firm.

☐ Yes  ☐ No

If “yes,” explain on a separate signed page.

4. Are any corporate officers, partners or owners connected to any other construction firms.

**NOTE:** Include information about other firms if an owner, partner, or officer of your firm holds a similar position in another firm.

☐ Yes  ☐ No

If “yes,” explain on a separate signed page.

5. State your firm’s gross revenues for each of the last three years:

__________________________________________________________________________
6. How many years has your organization been in business in California as a contractor under your present business name and license number? _____ years

7. Is your firm currently the debtor in a bankruptcy case?
   ☐ Yes    ☐ No

   If "yes," please attach a copy of the bankruptcy petition, showing the case number, and the date on which the petition was filed.

8. Was your firm in bankruptcy at any time during the last five years? (This question refers only to a bankruptcy action that was not described in answer to question 7, above)
   ☐ Yes    ☐ No

   If “yes,” please attach a copy of the bankruptcy petition, showing the case number and the date on which the petition was filed, and a copy of the Bankruptcy Court’s discharge order, or of any other document that ended the case, if no discharge order was issued.

Licenses

9. List all California construction license numbers, classifications and expiration dates of the California contractor licenses held by your firm:

   ___________________________________________
   ___________________________________________

10. If any of your firm’s license(s) are held in the name of a corporation or partnership, list below the names of the qualifying individual(s) listed on the CSLB records who meet(s) the experience and examination requirements for each license.

   ___________________________________________
   ___________________________________________

11. Has your firm changed names or license number in the past five years?
   ☐ Yes    ☐ No

   If “yes,” explain on a separate signed page, including the reason for the change.
12. Has any owner, partner or (for corporations:) officer of your firm operated a construction firm under any other name in the last five years?
   □ Yes □ No

   If “yes,” explain on a separate signed page, including the reason for the change.

13. Has any CSLB license held by your firm or its Responsible Managing Employee (RME) or Responsible Managing Officer (RMO) been suspended within the last five years?
   □ Yes □ No

   If “yes,” please explain on a separate signed sheet.

Disputes

14. At any time in the last five years has your firm been assessed and paid liquidated damages after completion of a project under a construction contract with either a public or private owner?
   □ Yes □ No

   If yes, explain on a separate signed page, identifying all such projects by owner, owner’s address, the date of completion of the project, amount of liquidated damages assessed and all other information necessary to fully explain the assessment of liquidated damages.

15. In the last five years has your firm, or any firm with which any of your company’s owners, officers or partners was associated, been debarred, disqualified, removed or otherwise prevented from bidding on, or completing, any government agency or public works project for any reason?
   NOTE: “Associated with” refers to another construction firm in which an owner, partner or officer of your firm held a similar position, and which is listed in response to question 1c or 1d on this form.
   □ Yes □ No

   If “yes,” explain on a separate signed page. State whether the firm involved was the firm applying for pre-qualification here or another firm. Identify by name of the company, the name of the person within your firm who was associated with that company, the year of the event, the owner of the project, the project and the basis for the action.
16. In the last five years has your firm been denied an award of a public works contract based on a finding by a public agency that your company was not a responsible bidder?
☐ Yes ☐ No

If “yes,” explain on a separate signed page. Identify the year of the event, the owner, the project and the basis for the finding by the public agency.

* * * * *

NOTE: The following two questions refer only to disputes between your firm and the owner of a project. You need not include information about disputes between your firm and a supplier, another contractor, or subcontractor. You need not include information about “pass-through” disputes in which the actual dispute is between a sub-contractor and a project owner. Also, you may omit reference to all disputes about amounts of less than $50,000.

17. In the past five years has any claim against your firm concerning your firm’s work on a construction project been filed in court or arbitration?
☐ Yes ☐ No

If “yes,” on separate signed sheets of paper identify the claim(s) by providing the project name, date of the claim, name of the claimant, a brief description of the nature of the claim, the court in which the case was filed and a brief description of the status of the claim (pending or, if resolved, a brief description of the resolution).

18. In the past five years has your firm made any claim against a project owner concerning work on a project or payment for a contract and filed that claim in court or arbitration?
☐ Yes ☐ No

If “yes,” on separate signed sheets of paper identify the claim by providing the project name, date of the claim, name of the entity (or entities) against whom the claim was filed, a brief description of the nature of the claim, the court in which the case was filed and a brief description of the status of the claim (pending, or if resolved, a brief description of the resolution).

* * * * *

19. At any time during the past five years, has any surety company made any payments on your firm’s behalf as a result of a default, to satisfy any claims made
against a performance or payment bond issued on your firm’s behalf, in connection with a construction project, either public or private?

☐ Yes       ☐ No

If “yes,” explain on a separate signed page the amount of each such claim, the name and telephone number of the claimant, the date of the claim, the grounds for the claim, the present status of the claim, the date of resolution of such claim if resolved, the method by which such was resolved if resolved, the nature of the resolution and the amount, if any, at which the claim was resolved.

20. In the last five years has any insurance carrier, for any form of insurance, refused to renew the insurance policy for your firm?

☐ Yes       ☐ No

If “yes,” explain on a separate signed page. Name the insurance carrier, the form of insurance and the year of the refusal.

**Criminal Matters and Related Civil Suits**

21. Has your firm or any of its owners, officers or partners ever been found liable in a civil suit or found guilty in a criminal action for making any false claim or material misrepresentation to any public agency or entity?

☐ Yes       ☐ No

If “yes,” explain on a separate signed page, including identifying who was involved, the name of the public agency, the date of the investigation and the grounds for the finding.

22. Has your firm or any of its owners, officers or partners ever been convicted of a crime involving any federal, state, or local law related to construction?

☐ Yes       ☐ No

If “yes,” explain on a separate signed page, including identifying who was involved, the name of the public agency, the date of the conviction and the grounds for the conviction.

23. Has your firm or any of its owners, officers or partners ever been convicted of a federal or state crime of fraud, theft, or any other act of dishonesty?

☐ Yes       ☐ No

If “yes,” identify on a separate signed page the person or persons convicted, the court (the county if a state court, the district or location of the federal court), the year and the criminal conduct.
Bonding

24. Bonding capacity: Provide documentation from your surety identifying the following:

Name of bonding company/surety:______________________________

Name of surety agent, address and telephone number:

__________________________________________________________________________________________________________

25. If your firm was required to pay a premium of more than one percent for a performance and payment bond on any project(s) on which your firm worked at any time during the last three years, state the percentage that your firm was required to pay. You may provide an explanation for a percentage rate higher than one percent, if you wish to do so.

__________________________________________________________________________________________________________

26. List all other sureties (name and full address) that have written bonds for your firm during the last five years, including the dates during which each wrote the bonds:

__________________________________________________________________________________________________________

__________________________________________________________________________________________________________

__________________________________________________________________________________________________________

27. During the last five years, has your firm ever been denied bond coverage by a surety company, or has there ever been a period of time when your firm had no surety bond in place during a public construction project when one was required?  
☐ Yes  ☐ No

If yes, provide details on a separate signed sheet indicating the date when your firm was denied coverage and the name of the company or companies which denied coverage; and the period during which you had no surety bond in place.
C. Compliance with Occupational Safety and Health Laws and with Other Labor Legislation Safety

28. Has CAL OSHA cited and assessed penalties against your firm for any “serious,” “willful” or “repeat” violations of its safety or health regulations in the past five years?
   NOTE: If you have filed an appeal of a citation, and the Occupational Safety and Health Appeals Board has not yet ruled on your appeal, you need not include information about it.
   □ Yes □ No

   If “yes,” attach a separate signed page describing the citations, including information about the dates of the citations, the nature of the violation, the project on which the citation(s) was or were issued, the amount of penalty paid, if any. If the citation was appealed to the Occupational Safety and Health Appeals Board and a decision has been issued, state the case number and the date of the decision.

29. Has the federal Occupational Safety and Health Administration cited and assessed penalties against your firm in the past five years?
   NOTE: If you have filed an appeal of a citation and the Appeals Board has not yet ruled on your appeal, or if there is a court appeal pending, you need not include information about the citation.
   □ Yes □ No

   If “yes,” attach a separate signed page describing each citation.

30. Has the EPA or any Air Quality Management District or any Regional Water Quality Control Board cited and assessed penalties against either your firm or the owner of a project on which your firm was the contractor, in the past five years?
   NOTE: If you have filed an appeal of a citation and the Appeals Board has not yet ruled on your appeal, or if there is a court appeal pending, you need not include information about the citation.
   □ Yes □ No

   If “yes,” attach a separate signed page describing each citation.

31. How often do you require documented safety meetings to be held for construction employees and field supervisors during the course of a project?

32. List your firm’s Experience Modification Rate (EMR) (California workers’ compensation insurance) for each of the past three premium years:
   NOTE: An Experience Modification Rate is issued to your firm annually by your workers’ compensation insurance carrier.
Current year: 

Previous year: 

Year prior to previous year: 

If your EMR for any of these three years is or was 1.00 or higher you may, if you wish, attach a letter of explanation.

33. Within the last five years has there ever been a period when your firm had employees but was without workers’ compensation insurance or state-approved self-insurance?
   ☐ Yes       ☐ No

If “yes,” please explain the reason for the absence of workers’ compensation insurance on a separate signed page. If “No,” please provide a statement by your current workers’ compensation insurance carrier that verifies periods of workers’ compensation insurance coverage for the last five years. (If your firm has been in the construction business for less than five years, provide a statement by your workers’ compensation insurance carrier verifying continuous workers’ compensation insurance coverage for the period that your firm has been in the construction business.)

Prevailing Wage and Apprenticeship Compliance Record

34. Has there been more than one occasion during the last five years in which your firm was required to pay either back wages or penalties for your own firm’s failure to comply with the state’s prevailing wage laws?
   NOTE: This question refers only to your own firm’s violation of prevailing wage laws, not to violations of the prevailing wage laws by a subcontractor.
   ☐ Yes       ☐ No

If “yes,” attach a separate signed page or pages, describing the nature of each violation, identifying the name of the project, the date of its completion, the public agency for which it was constructed; the number of employees who were initially underpaid and the amount of back wages and penalties that you were required to pay.

35. During the last five years, has there been more than one occasion in which your own firm has been penalized or required to pay back wages for failure to comply with the federal Davis-Bacon prevailing wage requirements?
   ☐ Yes       ☐ No

If “yes,” attach a separate signed page or pages describing the nature of the violation, identifying the name of the project, the date of its completion, the public agency for which it was constructed; the number of employees who were
initially underpaid, the amount of back wages you were required to pay along with the amount of any penalty paid.

36. Provide the name, address and telephone number of the apprenticeship program (approved by the California Apprenticeship Council) from whom you intend to request the dispatch of apprentices to your company for use on any public work project for which you are awarded a contract by the City of Porterville.

37. If your firm operates its own State-approved apprenticeship program:

(a) Identify the craft or crafts in which your firm provided apprenticeship training in the past year.

(b) State the year in which each such apprenticeship program was approved, and attach evidence of the most recent California Apprenticeship Council approval(s) of your apprenticeship program(s).

(c) State the number of individuals who were employed by your firm as apprentices at any time during the past three years in each apprenticeship and the number of persons who, during the past three years, completed apprenticeships in each craft while employed by your firm.

38. At any time during the last five years, has your firm been found to have violated any provision of California apprenticeship laws or regulations, or the laws pertaining to use of apprentices on public works?

NOTE: You may omit reference to any incident that occurred prior to January 1, 1998, if the violation was by a subcontractor and your firm, as general contractor on a project, had no knowledge of the subcontractor's violation at the time they occurred.

☐ Yes ☐ No

If “yes,” provide the date(s) of such findings, and attach copies of the Department’s final decision(s).
PART III. RECENT CONSTRUCTION PROJECTS COMPLETED

1. Contractor shall provide information about its six most recently completed public works projects and its three largest completed private projects within the last three years. Names and references must be current and verifiable. Use separate sheets of paper that contain all of the following information:

Project Name: ________________________________________________

Location: ______________________________________________________

Owner: _________________________________________________________

Owner Contact (name and current phone number):

_______________________________________________________________

Architect or Engineer: ____________________________________________

Architect or Engineer Contact (name and current phone number):

_______________________________________________________________

Construction Manager (name and current phone number):

_______________________________________________________________

Description of Project, Scope of Work Performed:

_______________________________________________________________

_______________________________________________________________

_______________________________________________________________

Total Value of Construction (including change orders): ________________

Original Scheduled Completion Date: _______________________________

Time Extensions Granted (number of days): __________________________

Actual Date of Completion: _______________________________________

* * * * * *

5 If you wish, you may, using the same format, also provide information about other projects that you have completed that are similar to the project(s) for which you expect to bid.
CERTIFICATION OF QUESTIONNAIRE

I, the undersigned, certify and declare that I have read all the foregoing answers to this pre-qualification questionnaire and know their contents. The matters stated in the questionnaire answers are true of my own knowledge and belief, except as to those matters stated on information and belief, and as to those matters I believe them to be true. I declare under penalty of perjury under the laws of the State of California, that the foregoing is correct.

__________________________  ________________________
Name: Signature         Name: Printed

__________________________
Company Name:

__________________________
Address:

__________________________
City, State and Zip Code:

__________________________
Dated:

__________________________
Phone Number

__________________________
Phone Number

__________________________
FAX Number
Sources For Verification Of Information Given By Contractors

City of Porterville – Public Works Department
Baldomero S. Rodriguez, Public Works Director
Michael K. Reed, City Engineer
291 N. Main Street
Porterville, CA 93257
Phone: 559-782-7462 Fax: 559-6437
SOURCES FOR VERIFICATION OF INFORMATION GIVEN BY CONTRACTORS

A CAUTIONARY NOTE: The information that will be given to public agencies by contractors seeking pre-qualification is provided under oath, with the understanding that the intentional providing of false information is, in itself, grounds for disqualification. We expect that the information given should be and will be accepted at face value. The following information is provided for use in the few instances in which a public agency reviewing the answers given in a questionnaire has specific reason to believe that one or more answers should be verified by reference to publicly available information.

Information about a contractor's license(s)
(Questionnaire Part I, question 6, and Part II, questions 6 and 9-13)

Names and addresses of licensed contractors, information about the type of license(s) issued and the dates when licenses were issued (and certain other information), are available from the Contractors' State Licensing Board (CSLB), 9821 Business Park Drive, Sacramento, CA 95827. Telephone number 800-321-2752. The CSLB web site for public information is: www.CSLB.ca.gov.

Information about workers' compensation insurance
(Part I, question 3 and Part II, questions 32-33)

Every workers' compensation insurance carrier issues to each of its insured businesses a Certificate of Insurance. The contractor should be willing to provide a copy upon request.

Each contractor's Experience Modification Rate for the year should be stated in a letter to the contractor from the contractor's workers' compensation insurance carrier.

Some large companies are legally self-insured for workers' compensation, with the consent and authorization of the Department of Industrial Relations. The names of companies that are legally self-insured are available from the Department's Office of Self-Insurance Plans, Workers' Compensation, 2265 Watt Avenue, Suite 1, Sacramento, CA 95825; (916) 483-3392.

The names of each business's current and recent workers' compensation insurance carriers are available from the Workers' Compensation Insurance Reporting Bureau (WCIRB), 575 Market Street, San Francisco, telephone (415) 777-0777. WCIRB is not a public agency but it provides information to the public. It will provide the names of the current and recent workers' compensation insurance carriers of every employer in California, in response to a written request, for a fee of $8 for every year for which you seek information.
Information about whether surety insurance carriers are "admitted" to do business in California
(Part I, question 5)

The California Department of Insurance will verify whether an insurance carrier is "admitted" to issue insurance policies within the State. The Department has a "Hot-Line" number – 800-927-4357, and a web-site from which the information is available: www.insurance.ca.gov

Information on disqualification from bidding on public contracts
(Part I, question 8 and Part II, question 15)

Information on the identities of contractors that have been disqualified from bidding on public works contracts is available from the California Labor Commissioner, Division of Labor Standards Enforcement, 455 Golden Gate Avenue, San Francisco, telephone (415) 703-4810.

Information available from the Secretary of State about corporations
(Part II, questions 1a-1d, 2-4)

The California Secretary of State has certain current and historical information about all corporations that operate in California: dates of incorporation, articles of incorporation, the name of the original incorporators, the names of the corporate officers (who are not necessarily the corporate stockholders) and an agent for service of process for the corporation. This information is available from the Secretary of State upon written request. (Secretary of State, Business Programs Division, 1500 Eleventh Street, Sacramento, CA 95814. Telephone (916) 653-2121 or 653-1239). The Secretary of State does not ordinarily have a listing of the names of initial stockholders or current stockholders, and that information is generally not available in any public record.

Information available from County Clerks about partnerships and sole proprietorships
(Part I, questions 1a-1d, 2-4)

Every business, including a partnership, that operates under a "fictitious name" (for example, "Ajax Sheet Metal Contractors" or "Smith Brothers Electrical Contractors") is required to file with the County Clerk in the county in which its home office is located a "Fictitious Business Name" statement. This statement will indicate the owner of the business, if the business is a sole proprietorship, and the names of partners, if the business is a partnership. The information is available to the public from the County Clerk upon request. A written request may be necessary.
Information about bankruptcy proceedings
(Part II, questions 7 and 8)

Bankruptcy petitions, which include the names of the person or business that is seeking protection from the Bankruptcy Court, are available for public inspection at the office of the Clerk of each Bankruptcy Court (which are federal courts). In California, Bankruptcy Courts are located in Sacramento, Modesto, Fresno, San Francisco, Oakland, San Jose, Los Angeles, Santa Ana, Riverside, and San Diego. Most documents filed in court in bankruptcy proceedings are available for public inspection, at the Bankruptcy Court clerk’s office. Some information on bankruptcy filings may also be available from commercial enterprises that collect and sell information from public records. In addition some information about bankruptcy cases filed August 1990 and later is available on-line through the “PACER” (Public Access to Court Electronic Records) system. To obtain information from PACER, you must register with the system, and pay a fee for the materials obtained. Call 1-800-676-6856 or you may register online at http://pacer.psc.uscourts.gov/.

Information about civil suits and arbitration cases
(Part II, questions 14, 17 and 18)

Each court keeps records of every civil suit filed in that court, and of the judgments that are issued after trials. However, the exact terms of pre-trial settlements are generally not recorded in court files. Documents related to disputes submitted to arbitration are generally not available for public inspection. Public agencies, however, are required to disclose the terms of such settlements, when documents are requested under the California Public Records Act.

Information about criminal convictions
(Part I, question 9, and Part II, questions 21, 22, and 23)

Criminal convictions are a matter of public record. Each courthouse (in both the federal and state court systems) has an index of its own criminal records. In addition, a few data collection businesses have collected criminal conviction information from public records throughout the state, and the collected information about particular individuals or businesses is available for sale from these private businesses.

Information about Federal court civil and criminal cases
(Part I, question 9)

Information about federal criminal cases (filed August 1991 and later) and civil cases (filed August 1990 and later) is available on-line through the “PACER” (Public Access to Court Electronic Records) system. To obtain information from PACER, you must register with the system, and pay a fee for the materials obtained. Call 1-800-676-6856) or you may register online at http://pacer.psc.uscourts.gov/.
Information about citations issued for violation of industrial safety and health laws
(Part II, questions 28 and 29)

Information about citations issued by both the federal Occupational Safety and Health Administration and the California Division of Occupational Safety and Health (Cal OSHA) are available on a web site maintained by federal OSHA, http://www.osha.gov. At that web site, click on “Library.” On the Library page, click on “Statistics and Inspection Data.” Next, click on “Establishment Search.” When the next screen appears, enter the name of the contractor about whom you seek information in the “Establishment” window. In the “Process” window, enter the number 999999. Click on California in the “State” window. In the “Inspection Date” window, enter “1990.” Then click the submit button.

Information about prevailing wage law violations
(Part II, question 34)

Information about recent prevailing wage law violations is available from the Division of Labor Standards Enforcement, at 2424 Arden Way, Suite 360, Sacramento, CA 95825. A model letter asking for such information is enclosed.

Citations from either Air Quality or Water Quality Board for violations of regulations
(Part II, question 30)

Information about citations issued by the California Air Resources Board is available from that agency under the Public Records Act. Their address is 2020 L Street, Sacramento, CA 95814, or Post Office Box 2815, Sacramento, 95812. In addition, Regional Air Quality Management Districts and Regional Water Quality Control Boards throughout the state may issue citations for violation of air quality or water quality standards. Consult the appropriate board in your area for information about how to gather appropriate information.

Information about state-approved apprenticeship plans and violations of state apprenticeship laws
(Part II, questions 36-38)

Information about violations of state apprenticeship laws can be obtained from the Division of Apprenticeship Standards, 455 Golden Gate Avenue, 8th Floor, Post Office Box 420603, San Francisco, CA 94142.
PRE-QUALIFICATION
INTERVIEW QUESTIONS
AND
INSTRUCTIONS FOR
PUBLIC AGENCIES
PRE-QUALIFICATION INTERVIEW QUESTIONS

The following questions will be used to interview randomly selected contacts from at least two completed projects. The City of Porterville ("City") will conduct the interviews. No action on the contractor's part is necessary. These questions are included on the package given to the contractor for information only.

The highest possible score is 120 Points. A score less than 55 points disqualifies a contractor from bidding on projects that are proposed by the City. A score of between 56 and 72 indicates the City should conduct an interview of another contact, that is, a manager of another completed project. A score of 72 or higher on each of two interviews is sufficient for pre-qualification.

First, please give a brief description of the project.

1. Are there any outstanding stop notices, liens, or claims by the contractor that are currently unresolved on contracts for which notices of completion were recorded more than 120 days ago? (1 point for each is deducted from overall score; maximum amount to be deducted is 5 points)

2. On a scale of 1-10, with 10 being the best, did the contractor provide adequate personnel? (Max. 10 points)

3. On a scale of 1-10, with 10 being the best, did the contractor provide adequate supervision? (Max. 10 points)

4. On a scale of 1-10, with 10 being the best, was there adequate equipment provided on the job? (Max. 10 points)

5. On a scale of 1-10, with 10 being the best, was the contractor timely in providing reports and other paperwork, including change order paperwork and scheduling updates? (Max. 10 points)

6. On a scale of 1-10, with 10 being the best, did the contractor adhere to the project schedule that your [agency] [business] approved? (Max. 10 points)

7. Was the project completed on time? (10 points if the answer is "Yes").
   Or, if the answer is "no," on a scale of 1-10, with 10 being the best, to what extent was the contractor responsible for the delay in completion?

8. On a scale of 1-10, with 10 being the best, rate the contractor on the timely submission of reasonable cost and time estimates to perform change order work. (Max. 10 points)

9. On a scale of 1-10, with 10 being the best, rate the contractor on how well the contractor performed the work after a change order was issued, and how well the contractor integrated the change order work into the existing work. (Max. 10 points).
10. On a scale of 1-10, with 10 being the best, rate how has the contractor been performing in the area of turning in Operation & Maintenance manuals, completing as-built drawings, providing required training and taking care of warranty items? (Max. 10 points)

11. On a scale of 1-10, with 10 being the best, rate the contractor on whether there were an unusually high number of claims, given the nature of the project, or unusual difficulty in resolving them. (Max. 10 points)

12. On a scale of 1-10, with 10 being the highest, rate the contractor with respect to timely payments by the contractor to either subcontractors or suppliers. (If the person being interviewed knows of no such difficulties, the score on this question should be “10.”)

13. On a scale of 1-10, with 10 being the best, how would you rate the quality of the work overall? (Max. 10 points)
INSTRUCTIONS FOR PUBLIC AGENCIES  
Re: Interview Questions

The following is meant to assist the public agency to conduct the interviews of the managers of projects previously completed (that is, the people who supervised the projects for the project owners) by the contractor wishing to pre-qualify. The interview questions allow qualitative review of work performance for contractors who choose to bid and pre-qualify for public works contracts. The interview questions will be used to examine randomly selected contacts from at least two completed past projects.

In each question, the person being interviewed is asked to rate a certain aspect of contractor’s performance, using a scale of 1 to 10. The highest possible score is 120 points. A score of less than 55 points disqualifies the contractor from bidding on projects that are proposed by the public agency. A score of 72 points or more on each interview is sufficient for a contractor to qualify on this portion of the pre-qualification process. If the scores resulting from an interview are between 55 and 72, the public agency should conduct another interview to collect additional information.

It is possible that the score given to any interview answer may be challenged in an appeal. For that reason, be sure to: (a) ask the person being interviewed for specific information or details, to explain or substantiate the numerical answer given; and (b) take written notes of the information provided.

Selection of the Interviewer:

(a) The public agency should select an individual who is at least moderately well informed about public works construction.

(b) The individual should be unbiased during the interview; this is to ensure accurate implementation of the interview questions.

(c) The individual should not use examples or deviate from the questions unless the project manager is unclear and prompts further explanation. The interviewer should offer additional explanation of the questions only if he/she is sure of the intent of the question in the interview.

Locating the respondent to interview:

(a) The interviewer should attempt to contact a project manager of a past project for the interview. The interviewer should be aware that for one interview to be completed, there may be a need to interview multiple individuals. That is, the interviewer may have to contact multiple individuals, such as the project manager concerning the building process, and a financial manager for warranty items, assessed liens, and the like.

(b) Once reached, the interviewer should review the information contained in the questionnaire of the past project with the project manager. That is, review who is being interviewed and why (purposes of pre-qualifying for public works), the past project type, completion date, and other pertinent information to ensure that the project manager is sure of the project he/she is asked to review.
Interview Length:

(a) The interview should take 8-12 minutes, under normal circumstances.

(b) The interviewer, when contacting the project manager, should convey the expected time which it takes to conduct the interview. This is to ensure the individual is not discouraged from taking part in the interview.

Conducting the interviews:

(a) The interview should examine at least two separate past projects listed in the questionnaire.

(b) After the interview is scored, the interviewer should compare the interview score with the same contractor's score on the written questionnaire. If the ratings (overall scores) are far apart, the interviewer should conduct at least one/two more interviews to determine how past performance should be weighted.

(c) While conducting the interview, the interviewer should be consistent with the way the questions are presented. That is, if the interviewer changes the way questions are presented during the review, it could potentially change the way the respondent answers the questions and jeopardize the overall scoring.
A LIST OF THE SCORABLE QUESTIONS AND THE SCORING INSTRUCTIONS
A LIST OF THE SCORABLE QUESTIONS AND THE SCORING INSTRUCTIONS

The scorable questions arise in three different areas:

(I) History of the business and organizational performance;

(II) Compliance with occupational safety and health laws, workers' compensation and other labor legislation; and

(III) Completion of recent projects and quality of performance.

The interview questions (interviews by the public agency or project managers on projects completed recently by the contractor) are included in group III. In a pre-qualification procedure for a single project, this last category would also include a scoring of the number of recently completed projects that are similar to the project on which pre-qualification is at issue. However, scoring linked to the similarity of past projects would probably not be possible or useful if the public agency as part of a procedure to pre-qualify contractors for an extended period.

Note: Not all questions in the questionnaire are scorable; some questions simply ask for information about the contractor firm’s structure, officers and history. This document includes only those questions that are “scorable.” The question numbers in this document are the numbers used in the questionnaire. Thus, the questions included here begin with question number 6, and there are a few breaks in the numerical sequence.

The Scores Needed for Pre-qualification

To pre-qualify, a contractor would be required to have a passing grade within each of the three large categories referred to above.

For Section I, “History of the business and organizational performance,”
DIR recommends use of a passing score of 57 on this portion of the questionnaire (of a maximum score of 76 on this portion of the questionnaire).

For Section II, Compliance with occupational safety and health laws, workers’ compensation and other labor legislation DIR recommends use of a passing score of 38 on this portion of the questionnaire (of a maximum score of 53 points on this portion of the questionnaire).

Section III, Completion of recent projects and quality of performance, includes a series of interview questions, and may also include questions about recently completed (public or private) construction projects. For the interview questions, DIR recommends that a public agency interview project managers for the owners of two completed projects. DIR recommends a scoring system that would allow
a maximum score of 120 points for each interview. For these questions, DIR recommends qualification for a contractor whose score on each of two interviews is 72 points or more; a denial of pre-qualification for a contractor whose score on either interview is less than 55 points; and an additional interview with another reference if the score resulting from one interview is between 55 points and 72 points.

DIR makes no recommendation about how to score a contractor’s answers about recently completed past projects. Because of the wide range of projects that a public agency may be planning, and the similarly wide range in the skills, abilities, and experience that a public agency will consider most important for a pending project, it is impossible to propose a useful model scoring system to apply to the answers given about a contractor’s completed projects.

**Questions about History of the Business and Organizational Performance**
(16 questions)

1. How many years has your organization been in business in California as a contractor under your present business name and license number? ________ years

   - 3 years or more = 2 points
   - 5 years = 4 pts.
   - 4 years = 3 points
   - 6 years or more = 5 points

2. Is your firm currently the debtor in a bankruptcy case?
   □ Yes □ No

   “No” = 3 points  “Yes” = 0 points

3. Was your firm in bankruptcy any time during the last five years? (This question refers only to a bankruptcy action that was not described in answer to question 7, above).
   □ Yes □ No

   “No” = 3 points  “Yes” = 0 points

4. Has any CSLB license held by your firm or its Responsible Managing Employee (RME) or Responsible Managing Officer (RMO) been suspended within the last five years?
   □ Yes □ No

   No = 5 points  Yes = 0 points
5. At any time in the last five years, has your firm been assessed and paid liquidated damages after completion of a project, under a construction contract with either a public or private owner?
   □ Yes  □ No

   *No projects with liquidated damages of more than $50,000, or one project with liquidated damages = 5 points.*

   *Two projects with liquidated damages of more than $50,000 = 3 points*

   *Any other answer: no points*

6. In the last five years has your firm, or any firm with which any of your company’s owners, officers or partners was associated, been debarred, disqualified, removed or otherwise prevented from bidding on, or completing, any government agency or public works project for any reason?
   NOTE: “Associated with” refers to another construction firm in which an owner, partner or officer of your firm held a similar position, and which is listed in response to question 1c or 1d on this form.
   □ Yes  □ No

   *No = 5 points  Yes = 0 points*

7. In the last five years, has your firm been denied an award of a public works contract based on a finding by a public agency that your company was not a responsible bidder?
   □ Yes  □ No

   *No = 5 points  Yes = 0 points*

* * * * *

NOTE: The following two questions refer only to disputes between your firm and the owner of a project. You need not include information about disputes between your firm and a supplier, another contractor, or subcontractor. You need not include information about “pass-through” disputes in which the actual dispute is between a sub-contractor and a project owner. Also, you may omit reference to all disputes about amounts of less than $50,000.
8. In the past five years, has any claim against your firm concerning your firm’s work on a construction project, been filed in court or arbitration?

☐ Yes  ☐ No

If the firm’s average gross revenue for the last three years was less than $50 million, scoring is as follows:

5 points for either “No” or “Yes” indicating 1 such instance.
3 points for “Yes” indicating 2 such instances.
0 points for “Yes” if more than 2 such instances.

If the firm’s average gross revenue for the last three years was more than $50 million, scoring is as follows:

5 points for either “No” or “Yes” indicating 1, 2, or 3 such instances.
3 points for “Yes” indicating either 4 or 5 such instances.
0 points for “Yes” if more than 5 such instances.

9. In the past five years, has your firm made any claim against a project owner concerning work on a project or payment for a contract, and filed that claim in court or arbitration?

☐ Yes  ☐ No

If your firm’s average gross revenues for the last three years was less than $50 million scoring is as follows:

5 points for either “No” or “Yes” indicating 1 such instance.
3 points for “Yes” indicating 2 such instances.
0 points for “Yes” if more than 2 such instances.

If your firm’s average gross revenues for the last three years was more than $50 million, scoring is as follows:

5 points for either “No” or “Yes” indicating 1, 2, or 3 such instances.
3 points for “Yes” indicating either 4 or 5 such instances.
0 points for “Yes” if more than 5 such instances.

10. At any time during the past five years, has any surety company made any payments on your firm’s behalf as a result of a default, to satisfy any claims made against a performance or payment bond issued on your firm’s behalf in connection with a construction project, either public or private?

☐ Yes  ☐ No

5 points for either “No” or “Yes” indicating 1 such claim.
3 points for “Yes” indicating no more than 2 such claims
Subtract five points for “Yes” if more than 2 such claims
11. In the last five years, has any insurance carrier, for any form of insurance, refused to renew the insurance policy for your firm?
   ☐ Yes ☐ No

   5 points for either “No” or “Yes” indicating 1 such instance.
   3 points for “Yes” indicating 2 such instances.
   0 points for “Yes” or if more than 2 such instances.

12. Has your firm, or any of its owners, officers, or partners ever been found liable in a civil suit, or found guilty in a criminal action, for making any false claim or material misrepresentation to any public agency or entity?
   ☐ Yes ☐ No

   No = 5 points   Yes = subtract 5 points

13. Has your firm, or any of its owners, officers or partners ever been convicted of a crime involving any federal, state, or local law related to construction?
   ☐ Yes ☐ No

   No = 5 points   Yes = subtract 5 points

14. Has your firm or any of its owners, officers or partners ever been convicted of a federal or state crime of fraud, theft, or any other act of dishonesty?
   ☐ Yes ☐ No

   No = 5 points   Yes = subtract 5 points

15. If your firm was required to pay a premium of more than one per cent for a performance and payment bond on any project(s) on which your firm worked at any time during the last three years, state the percentage that your firm was required to pay. You may provide an explanation for a percentage rate higher than one per cent, if you wish to do so.

   ____________%  

   5 points if the rate is no more than one per cent  
   3 points if the rate was no higher than 1.10 per cent.  
   0 points for any other answer.
16. During the last five years, has your firm ever been denied bond credit by a surety company, or has there ever been a period of time when your firm had no surety bond in place during a public construction project when one was required?

☐ Yes  ☐ No

No = 5 points  Yes = 0 points

Questions about compliance with safety, workers compensation, prevailing wage and apprenticeship laws.
(11 questions)

1. Has CAL OSHA cited and assessed penalties against your firm for any “serious,” “willful” or “repeat” violations of its safety or health regulations in the past five years?

Note: If you have filed an appeal of a citation and the Occupational Safety and Health Appeals Board has not yet ruled on your appeal, you need not include information about it.

☐ Yes  ☐ No

If the firm’s average gross revenues for the last three years was less than $50 million, scoring is as follows:

5 points for either “No” or “Yes” indicating 1 such instance.
3 points for “Yes” indicating 2 such instances.
0 points for “Yes” if more than 2 such instances.

If the firm’s average gross revenues for the last three years was more than $50 million, scoring is as follows:

5 points for either “No” or “Yes” indicating 1, 2, or 3 such instances.
3 points for “Yes” indicating either 4 or 5 such instances.
0 points for “Yes” if more than 5 such instances.

2. Has the federal Occupational Safety and Health Administration cited and assessed penalties against your firm in the past five years?

Note: If you have filed an appeal of a citation and the appropriate appeals Board has not yet ruled on your appeal, you need not include information about it.

☐ Yes  ☐ No

If yes, attach a separate signed page describing each citation.

If the firm’s average gross revenues for the last three years was less than $50 million, scoring is as follows:
5 points for either “No” or “Yes” indicating 1 such instance.
3 points for “Yes” indicating 2 such instances.
0 points for “Yes” or if more than 2 such instances.

If the firm’s average gross revenues for the last three years was more than $50 million, scoring is as follows:

5 points for either “No” or “Yes” indicating 1, 2, or 3 such instances.
3 points for “Yes” indicating either 4 or 5 such instances.
0 points for “Yes” if more than 5 such instances.

3. Has the EPA or any Air Quality Management District or any Regional Water Quality Control Board cited and assessed penalties against either your firm or the owner of a project on which your firm was the contractor, in the past five years?

NOTE: If you have filed an appeal of a citation and the Appeals Board has not yet ruled on your appeal, or if there is a court appeal pending, you need not include information about the citation.

☐ Yes  ☐ No

If the firm’s average gross revenues for the last three years was less than $50 million, scoring is as follows:

5 points for either “No” or “Yes” indicating 1 such instance.
3 points for “Yes” indicating 2 such instances.
0 points for “Yes” or if more than 2 such instances.

If the firm’s average gross revenues for the last three years was more than $50 million, scoring is as follows:

5 points for either “No” or “Yes” indicating 1, 2, or 3 such instances.
3 points for “Yes” indicating either 4 or 5 such instances.
0 points for “Yes” if more than 5 such instances.

4. How often do you require documented safety meetings to be held for construction employees and field supervisors during the course of a project?

3 points for an answer of once each week or more often.
0 points for any other answer

5. List your firm’s Experience Modification Rate (EMR) (California workers’ compensation insurance) for each of the past three premium years:

NOTE: An Experience Modification Rate is issued to your firm annually by your workers’ compensation insurance carrier.
Current year: __________________________
Previous year: ________________________
Year prior to previous year: ________________

If your EMR for any of these three years is or was 1.00 or higher, you may, if you wish, attach a letter of explanation.

NOTE: An Experience Modification Rate is issued to your firm annually by your workers’ compensation insurance carrier.

5 points for three-year average EMR of .95 or less
3 points for three-year average of EMR of more than .95 but no more than 1.00
0 points for any other EMR

6. Within the last five years, has there ever been a period when your firm had employees but was without workers’ compensation insurance or state-approved self-insurance?

☐ Yes ☐ No

5 points for either “No” or “Yes” indicating 1 such instance.
0 points for any other answer.

7. Has there been more than one occasion during the last five years on which your firm was required to pay either back wages or penalties for your own firm’s failure to comply with the state’s prevailing wage laws?

☐ Yes ☐ No

NOTE: This question refers only to your own firm’s violation of prevailing wage laws, not to violations of the prevailing wage laws by a subcontractor.

If your firm’s average gross revenues for the last three years was less than $50 million, scoring is as follows:

5 points for either “No,” or “Yes” indicating either 1 or 2 such instance.
3 points for “Yes” indicating 3 such instances.
0 points for “Yes” and more than 3 such instances.

If your firm’s average gross revenues for the last three years was more than $50 million, scoring is as follows:

5 points for either “No” or “Yes” indicating no more than 4 such instances.
3 points for “Yes” indicating either 5 or 6 such instances.
0 points for “Yes” and more than 6 such instances.
8. During the last five years, has there been more than one occasion on which your own firm has been penalized or required to pay back wages for failure to comply with the federal Davis-Bacon prevailing wage requirements?

☐ Yes  ☐ No

*If your firm's average gross revenues for the last three years was less than $50 million, scoring is as follows:*

5 points for either "No," or "Yes" indicating either 1 or 2 such instance.
3 points for "Yes" indicating 3 such instances.
0 points for "Yes" and more than 3 such instances.

*If your firm's average gross revenues for the last three years was more than $50 million, scoring is as follows:*

5 points for either "No" or "Yes" indicating no more than 4 such instances.
3 points for "Yes" indicating either 5 or 6 such instances.
0 points for "Yes" and more than 6 such instances.

Provide the name, address and telephone number of the apprenticeship program sponsor(s) (approved by the California Division of Apprenticeship Standards) that will provide apprentices to your company for use on any public work project for which you are awarded a contract by the City of Porterville.

________________________________________

*5 points if at least one approved apprenticeship program is listed.*

0 points for any other answer.

10. If your firm operates its own State-approved apprenticeship program:

(a) Identify the craft or crafts in which your firm provided apprenticeship training in the past year.

(b) State the year in which each such apprenticeship program was approved, and attach evidence of the most recent California Apprenticeship Council approval(s) of your apprenticeship program(s).

(c) State the number of individuals who were employed by your firm as apprentices at any time during the past three years in each apprenticeship and the number of persons who, during the past three years, completed apprenticeships in each craft while employed by your firm.
5 points if one or more persons completed an approved apprenticeship while employed by your firm.

0 points if no persons completed an approved apprenticeship while employed by your firm.

11. At any time during the last five years, has your firm been found to have violated any provision of California apprenticeship laws or regulations, or the laws pertaining to use of apprentices on public works?
NOTE: You may omit reference to any incident that occurred prior to January 1, 1998 if the violation was by a subcontractor and your firm, as general contractor on a project, had no knowledge of the subcontractor's violation at the time they occurred.
☐ Yes    ☐ No.

If yes, provide the date(s) of such findings, and attach copies of the Department's final decision(s).

If your firm's average gross revenues for the last three years was less than $50 million, scoring is as follows:

5 points for either "No," or "Yes" indicating either 1 or 2 such instance.
3 points for "Yes" indicating 3 such instances.
0 points for "Yes" and more than 3 such instances.

If your firm's average gross revenues for the last three years was more than $50 million, scoring is as follows:

5 points for either "No" or "Yes" indicating no more than 4 such instances.
3 points for "Yes" indicating either 5 or 6 such instances.
0 points for "Yes" and more than 6 such instances.

Questions concerning recent construction projects completed:
(One question, plus 11 interview questions)

The following question to be scored only where a public agency is undertaking a pre-qualification procedure valid for a single project only.

1. Contractor shall provide information about its six most recently completed public works projects and its three largest completed private projects within the last three years.\(^1\) Names and references must be current and verifiable. Use separate sheets of paper that contain all of the following information:

\(^1\) If you wish, you may, using the same format, also provide information about other projects that you have completed that are similar to the project(s) for which you expect to bid.
Project Name: ________________________________
Location: __________________________________
Owner: ______________________________________
Owner Contact (name and current phone number):
____________________________________________
____________________________________________
Architect or Engineer: __________________________
Architect or Engineer Contact (name and current phone number):
____________________________________________
____________________________________________
Construction Manager (name and current phone number):
____________________________________________
____________________________________________
Description of Project, Scope of Work Performed:
____________________________________________
____________________________________________
Total Value of Construction (including change orders): _____________
Original Scheduled Completion Date: _______________________
Time Extensions Granted (number of days): __________________
Actual Date of Completion: ____________________________

* * * * *

Scoring of previous projects completed:

For pre-qualification for a single project that may require specific skills and capabilities, public agencies may choose to score contractors for the number of similar projects completed, and the degree of similarity between past projects and the planned project. DIR has not suggested any scoring for this aspect of the pre-qualification process, because of the numerous possible variations in both the type of project to be built and the points of similarity between the pending project and past projects that may be significant to the public agency.
SUBJECT: UPDATE ON “FOR SALE” VEHICLES PARKED IN PRIVATELY OWNED PUBLIC PARKING LOTS AND PRIVATE PROPERTY

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: The issue of vehicles parked “for sale” was raised as a significant concern by members of the Council and direction was given to Staff to pursue enforcement of local regulations. Over the course of the last year, Staff stepped up enforcement efforts on vehicles being parked “for sale” in commercial parking lots on private property, or undeveloped private sites.

In that effort, Staff contacted shopping center and business owners where the practice of private individuals parking their vehicles on publicly accessible private parking lots occurs regularly. This primarily includes the Wal Mart shopping center and the Target/Mervyns shopping center. Both sites have been posted by the landlord, with signs stating “Customer Parking Only - Vehicles left without permission will be towed away at owners expense CVC 22658-A - for towed vehicles Contact the Police Department at 782-7400”. Staff have contacted the landlords/managers on various occasions when the number of parked cars “for sale” increases and as staff time permits.

Parking of vehicles “for sale” on undeveloped sites has also been a focused problem. The primary location where this has occurred is at South Main Street and Orange Avenue. Staff have informed the owner of the site what the Zoning Ordinance issues are with allowing the use of the undeveloped site to display vehicles “for sale”. The most recent letter went out on August 20, 2004 and informed the owner that if the use continues, the matter will be forwarded to the City Attorney for further processing.

In addition, Staff developed a notice to be placed on vehicles parked “for sale” informing them that they may be in violation of the City’s Zoning Ordinance or the California Department of Motor Vehicles Regulations if someone is conducting a business without an auto dealer’s license.

Staff have provided this update to inform the Council of progress made on the issue to date and to seek direction on what course the Council would like to take from this point in the effort.

RECOMMENDATION: That the City Council receive the report and provide any necessary direction to Staff.

DD_____ Appropriated/Funded_____ CM_____

Item No.23
SUBJECT: CIEDB LOAN UPDATE

SOURCE: Administrative Services

COMMENT: Since the City Council meeting of August 17, 2004, City staff has been in contact with staff at the California Infrastructure and Economic Development Bank (CIEDB). In these discussions, City staff described the projects identified in the Water System Improvement Plan. CIEDB staff indicated that projects of this nature do receive favorable review by the Board. CIEDB staff also re-iterated that the maximum loan amount was $10 million per agency, and that the City would be delivering an application at the beginning of the CIEDB funding cycle.

An application packet has been requested, and should be received by City staff by September 10, 2004. City staff has already begun to create the water rate study necessary to ensure the debt service payments will be covered. This rate study will be delivered to the CIEDB staff person who will be handling the application for the City, to allow for comments on format. Once the format of the rate study is approved by CIEDB staff, the documents will be delivered to the City Council for initial review.

City staff will return to the City Council with an update upon the completion of the application for the loan to provide Council with the time line on the anticipated delivery of funds.

RECOMMENDATION: That the Council accept the update on the CIEDB Loan process.
CITY COUNCIL AGENDA

September 7, 2004

SUBJECT: Consideration of a Joint Powers Agreement between the City of Porterville and the County of Tulare

SOURCE: CITY MANAGER

The Council has provided direction that discussions should occur with Council representatives about the creation of a Joint Powers Agreement between the City of Porterville and the County of Tulare for specific services.

Coordination meetings between City and County officials have been held to formulate the language for the proposed agreement. Representing the City at the Council’s direction have been Mayor Pro Tem Irish, Council member Hamilton, City Manager Longley, and Deputy City Manager Pyle. Subsequently, a legal review has been completed. The basic concept for the agreement is to improve cooperation and service efficiency through a process of collaboration.

The agreement would require twice a year meetings between the County Administrator and the City Manager to review potential areas for joint action. If the action can be achieved for $25,000 or less in budgeted monies, its accomplishment may be achieved through the agreement between the County Administrator and City Manager.

For activities requiring more than $25,000, the action of the City Council and Board of Supervisors is required to formulate and approve an activity sub-agreement.

The scope of the proposed Joint Powers Agreement is facilities, projects, activities or services.

The City Manager suggests that the J.P.A. is a pro-active effort to coordinate governmental services. The role of the City in coordinating with County staff to prepare the document, and the willingness of the County Board of Supervisors to consider the concept is a very positive development. At a minimum, the J.P.A. should produce project coordination and it has the possibility to initiate a series of actions that could substantially modify institutionalized cooperation between the two governments.

RECOMMENDATION:

Approve the J.P.A. document as present and authorize its presentation to the Tulare County Board of Supervisors.

Appropriation

Item No. 25
JOINT EXERCISE OF POWERS AGREEMENT FOR THE
PROVISION OF PUBLIC SERVICES IN THE CITY OF PORTERVILLE

THIS AGREEMENT is entered into as of ____________ between the CITY OF PORTERVILLE, a charter city, referred to as “City,” and the COUNTY OF TULARE, a political subdivision of the State of California, referred to as “County” with reference to the following:

A. City and County each have continuing needs to acquire, develop, operate and maintain various facilities for the provision of public services within the incorporated limits of City; and

B. City and County provide similar services to adjoining areas, these services include but are not limited to police, fire, public works, recreation, library, building inspection, planning, animal control, public works, street construction and maintenance, and purchasing; and

C. City and County have determined that cooperation and joint participation in the acquisition, development, operation, or use of public service facilities and the coordinated or joint provision of public services can promote orderly growth and development and the provision of economical and reliable public services; and

D. City and County wish to establish an agreement providing for such joint participation on an as-needed basis; and

E. City and County have the common power and authority to acquire, develop, operate and maintain real property and to provide specific public services for public purposes; and

F. City and County are authorized by Section 6500 et seq. of the California Government Code to enter into this Agreement for the joint exercise of such powers.

NOW, THEREFORE, IT IS AGREED as follows:

1. Purpose: City and County hereby enter into this Joint Powers Agreement for the general purpose of cooperating in the provision of specific public services and for the acquisition, development, operation and maintenance of real property for public purposes.

2. No Separate Entity: There will be no separate and distinct public entity created by this Agreement.

3. Consultation: During the first week of July and January of each year, and at such other times as both the City and County jointly agree, the City Manager of the City of Porterville, and
County Administrator of the County of Tulare, shall jointly meet to report on proposed facilities, projects, activities and services provided by each agency within the Porterville area. From this meeting, a specification of facilities, projects, activities and services where cooperative activity may result in the savings of public funds or the acceleration in providing a facility, project, activity or service may be defined jointly by the City Manager and County Administrator for specific consideration.

4. **Rules for Meeting:** The consultation meetings will be subject to State Law regarding notice and accessibility. The site for each meeting shall be alternated between Visalia and Porterville. The meeting may proceed if each Party to this agreement is represented. No action may be taken at the consultation, except to review minor activities as provided for herein, and to otherwise recommend to the Porterville City Council and Tulare County Board of Supervisors such other facilities, projects, activities and services to be considered for activity sub-agreement.

5. **Minor Activities:** The City Manager and County Administrative Officer may jointly provide facilities, projects or services by their signatures on an activity sub-agreement, if the value of the specific facility, project or service within a fiscal year does not exceed $25,000 in expenditure and it was reviewed without objection at the July or January or other joint consultation.

6. **Specific Consideration:** The City Manager and County Administrator may jointly submit to the Porterville City Council and Tulare County Board of Supervisors a memorandum for the special or joint provision of a facility, project or service. Following this consideration and direction by each governing body the City Manager and County Administrator may develop an activity sub-agreement that specifies in detail the rights and responsibilities of each party in the exercise of their joint powers for the facility, project, activity or service. The activity sub-agreement will specify each party’s contribution to the cost of the facility, project or service, as well as any ownership interest and the use to be made of any facility, the disposition of any revenue generated by the facility, project, activity or service and specific program and personnel responsibilities for jurisdictions relating to any service. Cost contributions may be in the form of cash, in-kind services, payment of rent, use of facilities, credits against debt, shared service deliveries, and other appropriate consideration. Each sub-agreement will be deemed to incorporate the terms of this Agreement unless specifically stated otherwise in the sub-agreement and would be subject to approval by each governing body.

7. **Applicable Laws:** Unless otherwise specified in the sub-agreement, the laws and regulations applicable to City of Porterville public works projects or service programs, and all other state, federal and local laws will apply to any sub-agreement.

8. **Personnel:** All personnel and employees of each party who conduct activities and/or provide services under an activity sub-agreement will, at all times, remain employees of their respective public entities, and said respective public entities will be solely and completely responsible for the employment, workers compensation coverage, supervision, and discipline of such employees.

9. **Indemnity:** Pursuant to Sections 895 through 895.8 of the Government Code, each party, will defend, indemnify and hold harmless the other party, and its agents, officers and employees, from and against liability, claims, actions, costs, damages, and losses of any kind whatsoever which result, or which are claimed to have resulted, from the activities and conduct, whether negligent or intentional, of such party and/or its agents, officers and employees which arise out
of the performance of the obligations, or from the failure to perform the obligations, undertaken pursuant to this agreement by the indemnifying party. This indemnification is provided by each party to the other party regarding its own activities, and those of its agents, officers, and employees, undertaken pursuant to this Agreement, or as a result of the relationship thereby created. This indemnification obligation shall continue beyond the term of this Agreement as to any acts or omissions occurring under this Agreement or any extension of this Agreement.

10. **Records and Audit:** Each party will maintain complete and accurate records with respect to the services rendered and the costs incurred under any sub-agreement. In addition, the parties will maintain complete and accurate records with respect to any payments to employees or subcontractors. All such records will be prepared in accordance with generally accepted accounting procedures, will be clearly identified, and will be kept readily accessible. Any funds from grants or loans received from outside sources will not be co-mingled with other funds of the parties and will be maintained in separate accounts for each grant or loan. Upon request, each party shall make such records available to the representatives or consultants of the other party and to the agent of any funding agency as may be provided by any grant or loan agreements for the purpose of auditing and/or copying such records for the period required in any grant or loan agreement but for no later than a period of five (5) years from the completion of the activity.

11. **No Third Party Beneficiaries Intended:** Unless specifically set forth in an activity sub-agreement, the Parties to this Agreement do not intend to provide any other party with any benefit or enforceable legal or equitable right or remedy.

12. **Severability:** If any term, condition, covenant, provision or part of this Agreement, or of any sub-agreement is invalid, void or unenforceable for any reason, the remainder of this Agreement of the sub-agreement will continue in full force and effect.

13. **Notices:** Authority to administer this Agreement on behalf of each party is hereby vested jointly with the City Manager of City and the County Administrative Officer of County, or such designees as they may each elect. Any notice required under the terms of this Agreement will be deemed received on the date actually delivered if by personal delivery, or on the third business day following deposit in the United States mail, postage prepared, addressed as follows:

**CITY:**

City Manager  
City of Porterville  
291 N. Main Street  
Porterville, CA 93257

**COUNTY:**

County Administrative Officer  
County of Tulare  
2830 West Burrel  
Visalia, CA 93291

15. This Agreement will become effective on the date first above written, and will remain in full force and effect unless terminated by either party on sixty (60) days written notice to the other. If the agreement is terminated prior to its full term, no further activity sub-agreements
may be entered into by the parties, but any existing activity sub-agreements will remain in full
force and effect for their term.

THE PARTIES having read and considered the above provisions, indicate their agreement by
their authorized signatures below:

COUNTY OF TULARE

By_________________________________________
Chairman, Board of Supervisors
"COUNTY"

ATTEST:  BRIAN HADDIX
County Administrative Officer/Clerk of the Board
of Supervisors of the County of Tulare

By_________________________________________
Deputy Clerk

CITY OF PORTERVILLE

By_________________________________________
Mayor
"CITY"

ATTEST:

By_________________________________________
John Longley, City Clerk

Approved as to Form
Kathleen Bales-Lange
County Counsel

Approved as to Form
City Attorney

By_________________________________________
Deputy

By_________________________________________
Julia M. Lew

KBL/MCS/August 17, 2004/20041035/113965
SUBJECT: PARKING LOT RENOVATION PROPOSAL

SOURCE: Administrative Services

COMMENT: The City received a proposal from the Bank of the Sierra regarding the renovation of the City parking lot located directly behind the Main Street branch and Corporate Headquarters of the Bank. The Bank is in the process of installing a drive-up window on the North-east corner of the branch.

As part of that project, the Bank of the Sierra is proposing to completely reconstruct the entire parking lot. The cost of the project is estimated to be $160,000. The Bank is requesting that the City contribute $42,000 toward the project to cover the cost of the replacement irrigation system and landscaping, which would include the replanting of specimen-sized trees, and the placement of nostalgic street lighting in the parking lot.

Upon receiving notice from the Tulare County Association of Governments (TCAG) that the City will be receiving $312,447 in STP Exchange Funds, funding this project became possible. These funds must be used for transportation related projects.

The STP Exchange Funds will also provide funding to complete the City match portion of the Tule River Park Way Project, Phase II. This project would utilize approximately $210,000 of the funds. Staff is recommending that the remaining $60,000 of STP exchange funds be utilized to reduce tree root hazards found in the City parking lot on the southeast corner of Hockett and Mill. This amount of funding would not allow for a total rehabilitation, but could provide for the removal of the existing hazards, reducing liability to the City.

RECOMMENDATION: That the Council:
(1) Authorize the utilization of STP funds in the amount of $42,000 to complete the parking lot project located behind the Bank of the Sierra;
(2) Authorize the utilization of STP funds as the City match portion of the Tule River Park Way Construction Project;
(3) Authorize staff to prepare a parking lot improvement plan for the City parking lot at Hockett and Mill, with a budget not to exceed $60,000; and
(4) Authorize a revenue and appropriation budget adjustment in the Special Gas Tax Fund to account for the above activity.

[Signatures]

Item No. 26
SUBJECT: Consideration of Modifying A Provision to The City’s Business License Ordinance

SOURCE: CITY MANAGER

Recently the City Manager was contacted by a business indicating that they were going out of business and were required by the City to pay a fee of $50 for a forty-five day period and $100 for an additional forty-five day period. In reviewing the City’s business license provisions, Article III, Section 15-25.1 does require a license to be obtained by any person before selling or offering to sell any goods at a sale to be advertised or held out by means to be a going-out-of-business sale, or a removal-of-business sale . . . .

The business person expressed the counter intuitive nature of the provision and the City Manager concurred. One business owner commented that the fee “adds insult to injury”. Some do not pay and refer it to bankruptcy while many do not tell us they are going out of business and we do not find out to much later.

It would appear appropriate to introduce ordinance language to modify the provision to either not require a license or to suspend any fee.

It is estimated that less than $100 is received each year from this fee, though it does create an adverse business climate.

RECOMMENDATION:

Provide staff with direction whether an ordinance should be prepared modifying the going out of business provision of the municipal code, or in the alternative, suspending the fee.
semiannually for each vehicle with one-ton or less load capacity, and the sum of thirty-five dollars ($35.00) semiannually for each vehicle with load capacity of over one (1) ton.

(b) Any business not designated under this section or in any other section of this chapter or in any other ordinance or Code of the City of Porterville shall be licensed under section 15-23.

All licenses shall be paid in advance, in the legal currency of the United States, at the office of the city.

No greater or less amount of money shall be charged or received for any license than is provided in this chapter, and no license shall be sold or issued for any period of time other than is provided in this chapter. (Ord. No. 1324, 12-18-84; Ord. No. 1358, § 1, 7-15-86; Ord. No. 1384, § 3, 8-4-87; Ord. No. 15-24, 3-15-94; Ord. No. 1531, § A4, 6-18-96)

Sec. 15-25. Reserved.

ARTICLE III.
GOING-OUT-OF-BUSINESS SALE
OR REMOVAL-OF-BUSINESS SALE

Sec. 15-25.1. License required.
A license shall be obtained by any person before selling or offering to sell any goods at a sale to be advertised or held out by means to be a going-out-of-business sale or a removal-of-business sale, as defined under sections 15-1(l) and 15-1(w) of this chapter. The provisions of this chapter shall not apply to or affect persons acting pursuant to an order or process of a court of competent jurisdiction or persons acting in accordance with their powers and duties as public officials. (Ord. No. 1324, 12-18-84)

Sec. 15-25.2. Surrender of business license.
(a) Upon being issued a permit pursuant to this chapter for a going-out-of-business sale or removal-of-business sale, the permittee shall surrender concurrently to the finance director each business license the permittee may hold at that time applicable to the business location covered by the application for a permit under this chapter, if the sale is advertised or conducted in a manner calculated to convey to the public the belief that the business will cease to be conducted at that location upon the disposal of the goods to be placed on sale.

(b) It shall be unlawful for any person to whom a closeout sale permit is issued to engage in a business of similar nature at the same location for a period of one (1) year following the closing date of the sale. (Ord. No. 1324, 12-18-84)

Sec. 15-25.3. Application for license.
(a) Any person desiring to conduct a going-out-of-business sale or a removal-of-business sale, as defined in this chapter, shall make a written application to the collector setting forth and containing the following information:

(1) The true name and address of the owner of the goods to be subject of the sale;
§ 15-25.4 LICENSES AND BUSINESS REGULATIONS § 15-25.6

(2) The true name and address of the person from whom he purchased the goods to be sold and the price therefor, and if not purchased, the manner of such acquisition;

(3) A description of the place where such sale is to be held;

(4) The nature of the occupancy, whether by lease or sublease, and the effective date of termination of such occupancy;

(5) The dates of the period of time in which the sale is to be conducted;

(6) A full and complete statement of the facts in regard to the sale, including the reason for the urgent and expeditious disposal of goods thereby and the manner in which the sale will be conducted;

(7) The means to be employed in advertising such sale, together with the proposed context of any advertising;

(8) A complete and detailed inventory of the goods to be sold at such sale as disclosed by the applicant's records; said inventory shall be attached to and become a part of the required application;

(9) All goods included in such inventory shall have been purchased by the applicant for resale on bona fide orders, without cancellation privileges, and shall not comprise goods purchased on consignment.

Such inventory shall not include goods ordered in contemplation of conducting a going-out-of-business sale or a removal-of-business sale. Any unusual purchase or additions to the stock of goods of the business hereby effected within sixty (60) days before the filing of an application hereunder shall be deemed to be of such character.

(b) In the event of delay of construction of a new facility or remodeling of a facility into which the business is to be relocated, which delay is not the fault of the licensee, new merchandise ordered after the application for "removal of business sale" may be offered for sale and excluded from this restriction. (Ord. No. 1324, 12-18-84)

Sec. 15-25.4. License issuance.
The collector shall issue a license for a going-out-of-business sale or a removal-of-business sale after all requirements of this chapter have been met. The license shall authorize the sale described in the application for a period of not more than forty-five (45) consecutive days, following the issuance thereof for a going-out-of-business sale and for a period of not more than ninety (90) consecutive days following the issuance thereof for a removal of business sale. (Ord. No. 1324, 12-18-84)

Sec. 15-25.5. License renewal.
The collector shall renew a license for one period of time only, such period to be in addition to the time permitted in the original license and not to exceed forty-five (45) consecutive days, when he ascertains:

(1) The facts existing justify the renewal;

(2) That the licensee has filed an application for renewal;

(3) That the licensee has submitted with the application for renewal a revised inventory showing the items on the original inventory remaining unsold and not listing any goods not included in the original application and inventory. (Ord. No. 1324, 12-18-84)

Sec. 15-25.6. Penalties.
Any person who shall hold, conduct or carry on a going-out-of-business sale or a removal-of-business sale as defined in this chapter, without securing a license as herein provided, shall be guilty of a misdemeanor. (Ord. No. 1324, 12-18-84)
§ 15-25.7. Revocability of license.

The collector may revoke any going-out-of-business sale or removal-of-business sale license when any regulations set forth in this chapter are violated. Said revocation may be appealed to the city council as set forth in section 15-13(a) of this chapter. (Ord. No. 1324, 12-18-84)


Any person aggrieved by any decision of the collector with respect to the issuance or refusal to issue such license may appeal to the council by filing a notice of appeal with the clerk of the council. The council shall thereupon fix a time and place for hearing such appeal. The clerk of the council shall give notice to such person of the time and place of hearing by serving it personally or by depositing it in the United States Post Office at Porterville, California, postage prepaid, addressed to such person at his last-known address. The council shall have authority to determine all questions raised on such appeal. No such determination shall conflict with any substantive provision of this article. (Ord. No. 1324, 12-18-84)

§ 15-25.9. Regulations.

(a) Established business requisite. No license shall be granted to any person who has not been the bona fide owner of a business advertised or described in the application for a license hereunder for a period of at least twelve (12) months prior to the date of the proposed sale.

(b) Restricted location. Where a person applying for a license hereunder operates more than one (1) place of business, the license issued shall apply only to the one (1) store or branch specified in the application; and no other store or branch shall advertise or represent that it is cooperating with or in any way participating in the licensed sale, nor shall the store or branch conducting the licensed sale advertise or represent that any other store or branch is cooperating with or participating in any way in the licensed sale.

(c) Operation at other than fixed premises. Any licensee transacting and carrying on business, but not operating at a fixed place of business in the city, shall keep the license upon his person at all times while transacting and carrying on such business. (Ord. No. 1324, 12-18-84)

§ 15-25.10. License tax.

(a) Going-out-of-business sale. The sum of fifty dollars ($50.00) for a period of not more than forty-five (45) days; and a renewal fee of one hundred dollars ($100.00) for one (1) additional forty-five (45) day period.

(b) Removal-of-business sale. The sum of five dollars ($5.00) for a period of not more than ninety (90) days; and a renewal fee of ten dollars ($10.00) for one additional forty-five (45) day period. (Ord. No. 1324, 12-18-84)

Secs. 15-26—15-30. Reserved.
At the first Council Meeting in July, options were presented regarding a possible tax increase to support police and fire protection. From the discussion, the Council asked for further legal information regarding a utility users’ tax measure and a calculation about the yield and possible application of a 2% utility users’ tax increase.

**Yield and Use**

A review of yields from the utility users’ tax specifies, that should the tax be increased by 2% and the maximum (cap) from manufacturers doubled to $1,000 per utility, per year, the additional revenue received would be about $930,000. This level of revenue would support:

**Six (6) additional police officers with vehicles:** $81,800 per officer = $490,800. These officers would be used for patrol and potentially for special response units.

**Six (6) additional fire fighters** = $396,000. The fire fighters would be used to buttress current fire suppression; Improve fire prevention and public education; Allocate resources for code enforcement activities; Possibly (with Council concurrence), undertake joint staffing programs with other agencies.

The difference between the estimated tax and expenditure is **$43,200** in total.
Election Date & Cost Options

Unless there is a unanimous vote of the Council defining an emergency, the measure could first appear on the City Council election of March, 2006. If there is a unanimous vote of the Council, declaring an emergency it could appear on an earlier ballot.

March 8, 2005: The earliest date practically available is March 8, 2005. The date specified for the Council’s final approval and Resolution for Tulare County is November 2, 2004. Considerable effort is required before this final, however, and if it is determined the election is scheduled for March, 2005, then the initial consideration of the ordinance should be accomplished by September 21, 2004.

June 7, 2005: This date would require the Council’s final approval by February 11, 2005 with initial ordinance consideration around December 21, 2004.

November 8, 2005: The corresponding date for the November 8, 2005 election is July 5, 2005 for the City Council Final Approval and Resolution for Tulare Council and the initiation of proceeding on May 15, 2005.

If the monies were to be in the 2005/06 FY Budget, the election would have to occur no later than June 7, 2005. The cost of the election has been estimated by the County Auditor-Controller at $47,000 to $50,000 for a special election. A general election measure is about half this cost.

City Attorney Memorandum

The City Attorney has prepared a memorandum regarding legal considerations relating to to a utility users’ general tax measure. This memorandum covers a general versus special tax, the public hearing process, Council approval, election, a note on special taxes.

RECOMMENDATION:

Based on the public’s willingness to consider a “general measure” increase in the utility users’ tax: Set a goal for an election date on this matter and direct the staff to provide further information required and the specific form of the ordinance.

Though this measure would not commit the monies only to police and fire protection, the clear intent of the Council would be expressed to use additional revenues received from the tax for this purpose as the Council’s policy priority.
The following are the various legislative requirements for the imposition a UUT tax increase:

"GENERAL" v. "SPECIAL" TAX

"General" taxes are imposed for general governmental purposes. "Special" taxes are taxes imposed for a specific purpose, including taxes placed in the general fund, but to be used only for a specific purpose. The definition of a "special" tax has been further clarified by case law to mean a tax levied to fund a specific governmental project or program, when there is a legal obligation to use the fund for the specified purpose. The courts have upheld a general tax that a city intends to use for a specific purpose, passed with an advisory measure by the electorate setting forth the city's intentions and indicating that there is no legal obligation to use the funds as intended.

PUBLIC HEARING PROCESS AND APPROVAL BY CITY COUNCIL

The City must approve the tax by Resolution or Ordinance (via the City's standard procedures for adoption). The current UUT amounts are set forth in the City's regulations, so any increases should be adopted by ordinance. The ordinance must contain the type of tax, rate of tax (a range or inflationary adjustments are permitted), and method of collection. I recommend that the Council hold at least one public hearing prior to adopting the ordinance. General taxes also require at least a 2/3 majority approval by the city council (in other words a 4/5 vote), prior to being submitted to the electorate for a vote.

ELECTION

The California Constitution requires that the general tax be submitted to the people for a majority vote (of those voting). The election must be consolidated with a regularly scheduled general election for the members of the city council, except in cases of emergency as declared unanimously by the council. There is no case law outlining what constitutes an "emergency" under Article XIIIC, §2(b); however it appears that it is up to the Council to make that determination. Therefore, in order to have the election this next year, the council will need to make the appropriate findings (e.g. based on the city’s public safety
needs and the fiscal crisis it faces), which can be set forth in the ordinance. Gov. Code §53724 additionally provides that the election should be consolidated with a statewide primary, general, or regularly scheduled local election; however the council may schedule the election for any other date otherwise permitted by law (but then must bear the cost of the election).

Generally, the election can be conducted via mail, with some limitations. This could potentially provide some cost-savings and can be more thoroughly examined. If desirable this option can be explored with our local elections department.

A NOTE ON SPECIAL TAXES

In the alternative to a general tax measure, the City could choose to pursue the adoption of a special tax. Special taxes must be approved by a 2/3 vote of the electorate; however there are no timing restrictions or consolidation requirements, and the election can be conducted by mail. As discussed above a “special” tax must be used for a specific service or program.
SUBJECT: UPDATE -- PROPOSED CHANGES TO REGULATIONS CONCERNING SOLICITORS, PEDDLERS, AND ITINERANT VENDORS

SOURCE: CITY ATTORNEY

COMMENT: Review of the City's regulations concerning vendors and solicitors was originally requested by the Downtown Porterville Association due to its concerns regarding out-of-town vendors. At the July 6, 2004, City Council meeting, Council reviewed and gave direction concerning various proposed substantive modifications to the City's vending and solicitation regulations.

Consequently, this office has been working to effect these changes. However, as has already been discussed, the vending/solicitation regulations are not contained within one chapter and appear throughout the municipal code (including Chapters 8, 15, 20, and the Zoning Ordinance). Since the July 6, 2004, meeting, further issues have been uncovered. For example, certain street vending activities require a conditional use permit as a special use under the City's zoning ordinance. The Community Development Department has expressed concerns with the CUP requirement and would like to explore alternatives to this process. Additionally, there are several exemptions to the street vending regulations that Council may wish to explore and at the very least, require clarification (e.g. the "caterers" exemption should be more clearly defined). These issues need to be resolved before a full comprehensive ordinance can be presented.

As has already been discussed, it is very difficult to make very specific changes to the code without overhauling other areas, given the current status of our regulations. Given that this continues to take additional time and resources to sort out, and given that further issues have been uncovered involving policy questions concerning the City's handling of itinerant and street vendors, I am requesting a study session be set concerning these issues. At that time, the Council can review an outline of the actual changes proposed thus far and the areas where policy questions need to be addressed.

RECOMMENDATION: That a Study Session be set for October 12, 2004, or other time as determined by the Council, to review the additional issues and provide direction.
CITY COUNCIL AGENDA

September 7, 2004

SUBJECT: Consideration of A Remote Control Automobile Use in Porterville

SOURCE: CITY MANAGER

A member of the City Council has asked to discuss with the City Council a remote control car track on the South Side of Henderson East of Fourth Street. The focus of the discussion by the Council member is to facilitate the track to serve youth. A summary of zoning issues regarding the track has been prepared by the City’s associate planner and is attached.
Memo

To: John Longley, City Manager
From: Randall S. Rouda, AICP, Associate Planner
Date: August 19, 2004
Subject: Use of M-1 Zoned Property for Remote Control Car Racetrack

As we discussed, the leaseholder of property on the south side of Henderson Avenue, east of Fourth Street has asked what would be necessary to secure an electrical permit to bring service to the site. The use to be served is a recreational racetrack facility for remote control cars. The subject site is located in the M-1 (Light Manufacturing) Zone.

Apparently, the use has expanded over time at the site from a personal hobby to a “club” with regular events, and an attendance which can exceed twenty members at a time. The site has no permanent improvements, though minor grading work has been done to create the race tracks and temporary platforms have been installed for operating the cars and viewing the events.

Although the leaseholder has stated that there is no profit motive in providing the facility, the type of use appears to fall most closely into the “commercial recreation” category. Such uses are allowed in the C-2 and C-3 Zones with a Conditional Use Permit. Provided the use is not classified as “retail commercial” or “retail service,” it would also be permitted in the M-1 Zone with a Conditional Use Permit. (Alternatively, the use could be classified as a “play area” which is allowed in any zone with a Conditional Use Permit.) In the absence of a Conditional Use Permit to authorize the use, Staff has determined that the City cannot approve an electrical permit to serve the site. The application fee for a Conditional Use Permit is $700. The additional $500 fee for a Negative Declaration would probably not apply.

Compliance with parking standards would likely be a challenge for the subject site. The Zoning Ordinance prohibits the use of land for parking until a plan has been submitted to the City and approved. The closest category for calculating required parking appears to be “Theaters, stadiums, auditoriums, clubs, lodges, funeral chapels, and other places of assembly” which require one parking space for every five seats. (An occupancy calculation would be conducted to determine the equivalent number of “seats” available at the site.) The City Council may choose to apply a different minimum parking standard to the use. Parking may be provided either on-site or off-site (within 300 feet for places of assembly or within 600 feet for all other uses). The Zoning Ordinance also sets the minimum development standard for parking areas as two inches of asphalt over four inches of base (or the equivalent).

In keeping with City Policy, Staff would expect to recommend Conditions of Approval requiring the installation of curb, gutter, sidewalk, pavement, street lights and fire hydrants. Depending on the scope of the proposed use, it may also be appropriate to require restroom facilities. While City Council has broad authority to customize Conditions of Approval for each particular use, Planning Staff would caution that an approach that is overly accommodating could be seen as setting a precedent for other uses on undeveloped lots.
ARTICLE EIGHT
CENTRAL COMMERCIAL ZONE

SECTION 800: C-2 Zone

The following regulations shall apply in the C-2 Central Commercial Zone, unless otherwise provided in this Ordinance.

SECTION 801: Uses

A. In a C-2 Zone, the following uses only are permitted. Any such use involving an off-sale license for alcoholic beverages shall be subject to the provisions of Section 2100 C and D of this Ordinance.

1. Any use permitted in the C-1 Zone except that office, business and professional, is not limited to 5,000 square feet in size per lot or integrated commercial development.

2. Antique stores.

3. Auction yards or sales.

4. Auto supply store.

5. Bar and night club; Subject to approval of a Conditional Use Permit pursuant to the provisions of Section 2100B of this Ordinance.

6. Billiard and pool hall, bowling lanes, subject to obtaining approval of a Conditional Use Permit and the provisions of Section 2100B of this Ordinance.

7. Bird or pet shop.

8. Blueprinting and photocopying.

9. Bus depot and taxi terminal, no repair or storage on site.

10. Christmas tree sales provided all pertinent temporary and mobile structures are removed from the subject site by January 15th of each year.

11. Churches, conducted wholly within a building enclosed on all sides, and subject to the requirements of Article 22, Off-Street Parking and subject to the approval of a Conditional Use Permit and other requirements of Article 21 contained herein.
(31) Restaurant or cafe, including dancing and/or entertainment. Any such use involving the serving of alcoholic beverages under an on-sale license shall be subject to the provisions of Section 2100B of this Ordinance.

(32) Secretarial services.

(33) Signing, subject to the stipulations of Article 20.

(34) Sporting goods.

(35) Commercial recreation, including but not limited to arcades, subject to obtaining approval of a Conditional Use Permit. Any such use involving the serving of alcoholic beverages under an on-sale license shall be subject to the provisions of Section 2100B of this Ordinance.

(36) Supermarket.

(37) Service stations, subject to obtaining approval of a Conditional Use Permit.

(38) Theater or auditorium.

(39) Toy store.

(40) Accessory buildings and uses customarily incidental to any of the above uses when located on the same lot or parcel of land.

(41) Automobile and motorcycle dealerships conducted wholly within a building enclosed on all sides including the display, storage, repair, and reconditioning of vehicles, subject to approval of a Conditional Use Permit and the provisions of Article 26 of this Ordinance.

(42) Dwellings, provided that no such use shall be on the ground floor of any structure.

(43) Temporary auto sales subject to Zoning Administrator approval according to the provisions of Section 3008.

B. For General Provisions and Exceptions, see Article 26.
SECTION 803: Height

A. No building shall exceed a height of fifty (50) feet.

B. For General Provisions and Exceptions, see Article 25.

SECTION 804: Rear Yard

A. No rear yard shall be required provided that satisfactory fire walls are constructed along rear lot lines.

B. For General Provisions and Exceptions, see Article 25.

SECTION 805: Lot Area. (C-2 Zone)

A. There shall be no minimum lot area requirements, subject to the following exception:

(1) In the case of buildings hereafter erected or structurally altered for purposes of residence or human habitation (such as hotels, there shall be a lot area of not less than eight hundred (800) square feet per family; provided, however, that this regulation shall not apply to hotels or apartment hotels, if no cooking is done in the individual room, suite or apartment.

B. For General Provisions and Exceptions, see Article 25.

SECTION 806: Off-Street Parking and Loading Space Requirements.

A. See Article 22, Off-Street Parking Requirements.

B. See Article 24, Loading Space Requirements.

ZO3: ART-8
ARTICLE ELEVEN
LIGHT MANUFACTURING ZONE

SECTION 1100: M-1 Zone

The following regulations shall apply in the M-1 Manufacturing Zone, unless otherwise provided in this ordinance.

SECTION 1101: Uses - M-1 Zone:

In an M-1 zone, the following uses only are permitted:

1. Agricultural uses as permitted in the R-A Zone. (See Section 201, Paragraph A, subparagraphs 3 and 4).

2. Any use permitted in the C-3 Zone, except retail sales and/or retail services, and office, business, or professional, not provided for within this section.

3. Any kind of manufacture, processing or treatment of materials, provided that such uses (and other uses mentioned in this Section) shall be subject to the provisions of Section 1102, Limitations on Uses (M-1 Zone).

4. Aircraft and missile factory.

5. Animal hospitals, kennels and veterinarians.

6. Automobile dismantling and used parts storage, provided such must be conducted wholly within a building.


8. Boat-building works.


11. Dairy products processing.

12. Dwelling for the owner of property used primarily for agricultural purposes located in such zone, when situated on a farm or ranch containing not less than five acres.

13. Dwelling for agricultural employees employed on such property for more than half of each year, when situated on farms or ranches containing not less than ten acres.
(37) Wood products manufacturing.

(38) Accessory buildings and uses customarily incidental to any of the above uses.

(39) Alcohol Manufacture subject to obtaining the approval of a conditional use permit and that such uses are located not less than five hundred (500) feet from the nearest R-Zone, C-Zone, or Residential and Commercial Land Use designation as shown in the Land Use Element and adopted revisions of the Porterville General Plan.

(40) On-site hazardous waste management facilities as an accessory use incidental to any of the above uses when located on the same lot or parcel of land subject to approval of a Conditional Use Permit and subject to the conditions set forth in Section 2623 regarding Development Standards.

(41) "Sexually Oriented Businesses subject to the provisions of Article 26 of this Ordinance."

For general provisions and exceptions, see Article 26.

SECTION 1102: Limitations of Uses (M-1 Zone).

A. No uses shall be permitted in an M-1 zone which may be obnoxious or offensive by reason of odor, dust, gas, smoke, noise, vibration, radiation, electrical disturbance, heat, glare, hazard or other similar causes, and which do not meet performance standards set out in Article 26.

Good standard practices generally observed with respect to the operation of the corresponding permitted use specifically listed in Section 1101 shall be referred to as a general standard in interpretation of this provision.

B. No uses shall be permitted in an M-1 zone which are listed or described in Section 1201; uses (M-2 zone) or Section 1202 (M-2 zone) uses requiring conditional use permits (M-2 zone) except as specifically provided in Section 1101.

SECTION 1103: Height (M-1 Zone).

A. No building shall exceed a height of fifty feet.

B. For general provisions and exceptions, see Article 26.
ARTICLE TWENTY-TWO

OFF-STREET PARKING

SECTION 2200: General Requirements and Exceptions.

A. No land shall be used for the parking of vehicles, until the proposed plan of the parking space or area has been submitted and a permit issued, therefore, in the same manner as specified for required parking spaces in Section 2207, and all land used for the parking of vehicles shall be designed, improved and maintained as mentioned in Section 2206.

B. Exceptions. Parking spaces or areas used exclusively by the occupants of dwellings, their guests and employees, but not including multiple family dwellings, boarding and lodging houses, fraternities and sororities, where located on the same lot or building site, are excepted from the requirements of improvement and maintenance mentioned in Section 2206, and where such parking space is also a nonconforming use, it shall be excepted from the requirements of plan and permit as mentioned in Section 2207.

C. Parking spaces or areas which are nonconforming, other than those mentioned in the preceding paragraph B, shall within three (3) years after the time this Ordinance is effective, be improved and maintained as mentioned in Section 2206.

SECTION 2201: Minimum Parking Space; General.

A. Every building hereafter erected, reconstructed or structurally altered shall be provided with the minimum parking space and facilities as required by the provisions of this article, such parking space shall be continuously available and maintained with access suitable for vehicles to and from a public street or alley. Subsequent changes of use of such buildings shall not excuse compliance with minimum parking requirements provided herein. Such minimum parking space and facilities shall be and remain under the same ownership as the land on which such building is situated.

B. The provisions of this Article shall not be construed to require the provision of additional parking space or facilities in the case of reconstruction or structural alteration of any of the following buildings, provided such building was in existence at the time this Ordinance was adopted, or during the one-year period immediately prior thereto:

1. In a C or M zone, provided such reconstruction or alteration does not add more than five hundred (500) square feet of usable floor space to the building in the aggregate.
<table>
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<tr>
<th>6. Duplex.</th>
<th>Same as No. 7 below.</th>
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<tr>
<td>7. Apartment houses, R-3 District.</td>
<td>One (1) covered space, plus one-half open space for each dwelling unit in any apartment.</td>
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<tr>
<td>8. Apartment houses, R-4 District.</td>
<td>One (1) covered space plus one-half space for each dwelling unit in any apartment.</td>
</tr>
<tr>
<td>9. Furniture and Appliance Store.</td>
<td>One (1) for each six hundred (600) square feet of gross floor area.</td>
</tr>
<tr>
<td>10. Hotels.</td>
<td>One (1) for each sleeping or living unit.</td>
</tr>
<tr>
<td>11. Rooming and boarding houses, rest homes, independent living retirement facilities and assisted living retirement/residential care facilities.</td>
<td>One (1) for each two beds.</td>
</tr>
<tr>
<td>12. Hospitals.</td>
<td>One (1) for each bed.</td>
</tr>
<tr>
<td>13. Convalescent Hospitals and Sanitariums.</td>
<td>One (1) for each two beds.</td>
</tr>
<tr>
<td>14. Manufacturing, and communications equipment buildings.</td>
<td>One (1) for each three (3) employees on the maximum work shift.</td>
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<tr>
<td>15. Motels.</td>
<td>One (1) for each sleeping or living unit.</td>
</tr>
<tr>
<td>16. Restaurants, bars and other establishments for consumption on the premises of food and beverages.</td>
<td>One (1) for each four (4) seats.</td>
</tr>
<tr>
<td>17. Retail stores and personal service establishments not otherwise provided for herein.</td>
<td>One (1) for each two hundred (200) square feet of gross floor area.</td>
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hours on any lot within the required front yard setback of any residentially zoned premises.

2. In the case of theaters, stadiums, auditoriums, (including school stadiums and auditoriums), funeral chapels, churches, bowling lanes, dance halls and other similar places of assembly, the required parking spaces shall be not more than three hundred (300) feet from the building or use served thereby.

3. For all other uses, the required parking facilities shall be not more than six hundred (600) feet from the building or use served thereby.

4. The distance requirement mentioned in subparagraph 2 shall not apply to any parking spaces provided on the same lot or building site provided exclusively for the owners, their employees or agents.

5. Distance as herein mentioned shall refer to the distance measured from the nearest point of the parking facility to the nearest access to the building or use, along a pedestrian way.

SECTION 2206: Design and Improvements; Parking Lots Generally.

A. Access: Each parking lot or area shall be provided with suitable drives or aisles, and safe exit and entrances to and from a public street or thoroughfare. Access to parking spaces from aisles or drives shall be such as not to interfere with the use of other required parking spaces on the lot and no parking area, except for residential uses normally permitted in R-1 and R-2 zoned districts, shall be located so as to require or encourage the backing of automobiles or other vehicles across any front or side lot line adjacent to a dedicated street to effect egress from the places of parking.

B. Surfacing: The parking area, aisles and access drives shall be surfaced with an asphalt concrete surfacing of 2" minimum thickness on a 4" untreated, compacted rock base. The subgrade shall be compacted to a minimum relative compaction of 90%. The minimum slope of asphalt paved surface in the direction of drainage shall be 12 inches per 100 feet and the minimum slope of concrete gutters shall be three (3) inches per 100 feet. The 4" untreated compacted rock base may be modified on basis of an "R" value test of the existing soil. The test to be made with a traffic index of 5.0. On major developments service roads shall be designed to carry the traffic loads anticipated.

C. Fences: Where any parking lot or area in an R-3, R-4, P-O, and all Commercial and Manufacturing Zoning abuts property in
D. The point or points of exit and entrance to and from public ways shall not thereafter be changed from those shown in the plan, unless with the written approval of said official or his lawful successor.

E. The parking lot or area shall be improved in accordance with the approved plan as filed, and shall thereafter be permanently maintained so as to comply with the minimum requirement of this ordinance in effect at the time of approval of said plan.

SECTION 2208: Two-Car Garage Requirement: Intent and Purpose

A. It is the intent of this section to require that all dwelling units in the R-A, R-E, R-1-8 and R-1 zones shall also have constructed on the same lot as a necessary and essential accessory building to the residential use of said lot, a two car enclosed garage or appropriate carport as provided herein, containing a minimum of four hundred (400) square feet. The purpose of said requirement is to provide adequate off-street parking so as to alleviate the congestion on residential streets and space for the necessary storage materials in an enclosure. Said enclosed garage or appropriate carport is necessary to protect the general welfare of residential areas by preventing the establishment of parking spaces in an open parking lot situation inappropriate to residential development, and to the open and disorderly display of gardening equipment, tools, boxes, and other materials which would be stored in enclosures to avoid the appearance of a commercial junk yard.

SECTION 2209: Garage Regulations.

A. In the event that an individual property owner desires to convert and established two-car garage for living purposes, he shall be required to provide two (2) off-street parking spaces located in either:

1. A carport for two (2) cars constructed in such a manner so that there is proper provision for the enclosed storage of materials, or that there is adequate storage area elsewhere on the premises. The required storage unit shall contain a minimum of eighty (80) square feet of floor area and shall be no less than six (6) feet high with no other dimension less than four (4) feet and shall have exterior access. The floor area of said carport shall contain not less than 400 square feet, exclusive of storage area, or

2. A newly constructed two-car garage complying with the area requirements set forth herein.
1. Landscape a minimum 5% of total parking area if greater than one-half acre in size.

2. Provide the required number of parking stalls as required by the City Planning Division Zoning Ordinance.

3. Install wheel or bumper stops to prevent parked cars from encroaching into the right-of-way.

4. Provide adequate drainage. Sheet flow over sidewalks is not permitted.

5. Paving of lots shall stop at property line and not encroach onto City right-of-way.

6. Parking lots shall include 2% of the total, or not less than one space for the physically handicapped.

7. The number of compact spaces shall not exceed 10% of the total requirement for parking spaces of an establishment, unless approved by the Project Review Committee.

NOTE: COMPACT SPACE SIZE = 7' X 16'

SECTION 2211 - EXHIBIT "A"
ARTICLE TWENTY-ONE

SPECIAL USES

SECTION 2100: Special Uses Explained.

A. The uses mentioned in this article are uses which for reasons of the public necessity are sometimes required to be permitted in zones other than in which regularly classified, or are sometimes not included within any specific zone, or sometimes require the imposition of certain conditions upon design, installation, and subsequent operation in order to carry out the purposes of this Ordinance and to protect the public health and welfare because of the unique and special characteristics of such uses.

B. Sales of Alcoholic Beverages

1) For the purposes of this Article, certain terms and words are defined as follows:

a) "Sensitive Use" means any religious institution; school; public park; or boys' club, girls' club, or similar youth organization.

b) "Religious Institution" means any church, synagogue, mosque, temple or building which is primarily used for religious worship and related religious activities, as identified on the latest equalized tax roll.

c) "School" means any public or private educational facility including, but not limited to nursery schools, preschools, kindergartens, elementary schools, primary schools, intermediate schools, junior high schools, middle schools, high schools, vocational schools, secondary schools, continuation schools, special education schools, junior colleges, and universities. School includes the school grounds, but does not include the facilities used primarily for another purpose and only incidentally as a school.

d) "Public Park" or "Recreation Area" means public land which has been designated for park or recreational activities including, but not limited to a park, playground, nature trails, swimming
a) A change in the type of on-sale license to a more permissive type.

b) The discontinuance of an existing use and re-establishment of such; i.e. an establishment legally operating under an existing on-sale license prior to adoption of the Ordinance Amendment requiring approval of a Conditional Use Permit to allow such is closed for a period of 30 days or more. Said uses shall also be subject to the provisions of Article 25 of this Ordinance.

c) There is a significant change in the mode or character of the establishment.

d) The suspension of on-sale license by the State of California.

C. Off-Sale Liquor Establishment Defined

An off-sale liquor establishment shall mean any establishment wherein alcoholic beverages are sold or given away for consumption off the premises which is applying for or has obtained an off-sale license from the California Department of Alcoholic Beverage Control, including license types 20 and 21.

D. Sales of Alcoholic Beverages, Off-Sale

Any use involving the sale of alcoholic beverages under an off-sale license within 600 linear feet of the nearest property line of any sensitive use as defined in this article shall be subject to obtaining approval of a Conditional Use Permit.

Any duly licensed off-sale liquor establishment in operation on July 20, 2004 shall be subject to the provisions of Article 25 of this Ordinance.

SECTION 2101: Effect of Permit Requirement.

A. No use listed in Section 2103 shall be permitted in any zone in the City without such review and such permit, unless in a zone where such use is specifically permitted by this ordinance.

B. Any use listed in Section 2103 after the same has been reviewed and a conditional use permit, therefore has been issued in the manner herein mentioned, may be permitted in any
1. Airports, heliports.
2. Cemeteries.
3. Churches (not permitted in a C-1 Zone).
4. Columbariums, crematories, or mausoleums; (provided that none of the foregoing shall be permitted in any R Zone, unless within a cemetery).
5. Fire or police stations; court and government office buildings.
6. Golf courses or driving ranges.
7. Play areas, playgrounds and public parks.
8. Public utility facilities, including but not confined to communications equipment buildings, water wells, substations, and excluding public utility pole lines, pipes, conduits, distribution mains and domestic water wells. (With reference to transmission towers and lines, see Section 2101 D).
9. Radio or television transmitters and receivers.
10. Refuse dumps and disposals.
11. Mental hospitals (provided such use shall not be permitted in any R Zone).
12. Railroads.
13. Condominiums: Condominiums or similar developments, either new structures or the conversion of existing structures originally built for sale or lease, shall be allowed in any district upon securing approval of a conditional use permit as provided in this article; and further provided that:

   a. Regulations governing use, density, building height, required yards, building separations, signs and off-street parking, and other explicit regulations, where applicable, shall be those of the zoning district within which the development site is located.

   b. Residential condominiums shall be classified as follows:

   21-5
d. In all residential condominiums, the outdoor common area, exclusive of all structures, shall contain an area having a slope of not more than ten (10) percent, and a minimum area per unit as follows:

(i) For horizontal condominiums: one thousand (1,000) square feet per unit, not including parking areas.

(ii) For vertical condominiums:

a. Where structures average two (2) stories or less: five hundred (500) square feet per unit, not including parking areas.

b. Where structures average more than two (2) stories: four hundred (400) square feet per unit, not including parking areas.

(iii) The requirements of this section may be met in whole or in part by any equivalent open ground area which is a part of the fee to any individual condominium.

a. In any condominium in which residential uses are proposed in any "R" District, the main structures shall be separated from any other main structure on the same lot by a distance of not less than one-half (½) of the sum of the heights of the two buildings, and in no case less than twenty (20) feet.

b. The side yard setback of any residential main structure on any condominium lot on a public street shall be five (5) feet if the distance between the front lot boundary and the rear lot boundary is one hundred (100) feet or less, and ten (10) feet if the distance between the front lot boundary line and the rear lot boundary line is over one hundred (100) feet.

c. Application for a Conditional Use Permit shall be accompanied by:

(1) Map, to a workable scale, showing the site in relation to surrounding property, existing roads and other existing improvements.

31-7
businesses licensed under Chapter 15 of the City Code shall be exempt from obtaining a Conditional Use Permit so long as the event is limited to not more than any five (5) calendar days within any 30 calendar day period. This requirement to secure a conditional use permit on private property shall not apply to caterers licensed under Chapter 15, Section 15-23, Gross Receipts, Classification B, of the City Code.

SECTION 2104: Procedure.

A. The procedure for application for such permits, and the review and issuance thereof, shall be as provided in Article 29 unless otherwise mentioned herein.

B. Such permits may be revoked or modified in the manner and under the conditions set forth in Article 31 herein.

SECTION 2105: Application to Other Uses.

Other uses not mentioned herein may be required by other parts of this ordinance to be subject to issuance of such permits, and such shall be subject to review, specifications of conditions, and issuance, modification and revocation of conditional use permits in the manner set out in this Article, and Articles 29 and 31.

ZO2: ART-21.(1)
SUBJECT: Consideration of State Proposition 1A and Proposition 65

SOURCE: CITY MANAGER

The Council directed that material be provided to consider the Council’s position on Proposition 1A and Proposition 65. These measures will appear on the November ballot. The Legislative Analyst’s Office has prepared an analysis of each measure. These have been copied and attached for the Council’s consideration as has material from the League of Cities.

Within the analysis from the Legislative Analyst, the comparisons are drawn as follows:

**Propositions 1A and 65**

Propositions 1A and 65 both amend the State Constitution to achieve three general objectives regarding state and local government finance. The similarities and differences between the two measures are highlighted below.

1. Limits State Authority to Reduce Major Local Tax Revenues
   **Effect on 2004-05 State Budget.**
   - Proposition 65’s restrictions apply to state actions taken over the last year, and thus would prevent a major component of the 2004-05 budget plan (a $1.3 billion property tax shift in 2004-05 and again in 2005-06) from taking effect unless approved by the state’s voters at the subsequent statewide election.
   - Proposition 1A’s restrictions apply to future state actions only, and would allow the planned $1.3 billion property tax shift to occur in both years.

2. Effect on Future State Budgets.
   - Proposition 65 allows the state to modify major local tax revenues for the fiscal benefit of the state, but only with the approval of the state’s voters.
   - Proposition 1A prohibits such state changes, except for limited, short-term shifting of local property taxes. The state must repay local governments for these property tax losses within three years.

3. Reduces State Authority to Reallocate Tax Revenues Among Local Governments
   **Effect on Revenue Allocation.**
   - Proposition 65 generally requires state voter approval before the state can reduce any individual local government’s revenues from the property tax, uniform local sales tax, or vehicle license fee (VLF).
   - Proposition 1A prohibits the state from reducing any local government’s revenues from local sales taxes, but maintains some state authority to alter the allocation of property tax revenues, VLF revenues, and other taxes. Proposition 1A does not include a state voter approval requirement.

4. Local Governments Affected.
   - Proposition 65’s restrictions apply to cities, counties, special districts, and redevelopment agencies.
   - Proposition 1A’s restrictions do not apply to redevelopment agencies.

5. Restricts State Authority to Impose Mandates on Local Governments Without Reimbursement
   - Proposition 65 authorizes local governments, schools, and community college districts to decide whether or not to comply with a state requirement if the state does not fully reimburse local costs.
   - Proposition 1A’s mandate provisions do not apply to schools and community colleges. If the state does not fund a mandate in any year, the state must eliminate local government’s duty to implement it for that same time period.
The Council may determine to:

- Take no action indicating support for either measure
- Support one measure
- Support one measure and oppose the other
- Require further information

If the Council should determine to support one measure and/or oppose the other, direction should be given to prepare a resolution. The reasons for the action should be clarified in the resolution.

RECOMMENDATION: Provide direction to the staff clarifying how to proceed.
Proposition 1A
Local Government Finance. Constitutional Amendment.

BACKGROUND

Local Government Funding

California cities, counties, and special districts provide services such as fire and police protection, water, libraries, and parks and recreation programs. Local governments pay for these programs and services with money from local taxes, fees, and user charges; state and federal aid; and other sources. Three taxes play a major role in local finance because they raise significant sums of general-purpose revenues that local governments may use to pay for a variety of programs and services. These three taxes are the property tax, the uniform local sales tax, and the vehicle license fee (VLF). Many local governments also impose optional local sales taxes and use these revenues to support specific programs, such as transportation. Figure 1 provides information on these major revenue sources.
Figure 1
Local Government Taxes

Property Tax
- Local governments receive general-purpose revenues from a 1 percent property tax levied on real property.
- During the 2003-04 fiscal year, local governments received approximately $15 billion in property tax revenues. (An additional $16 billion in property taxes went to schools and community colleges.)
- There is wide variation in the share of property taxes received by individual local governments. This variation largely reflects differences among local agency property tax rates during the mid-1970s, the period on which the state's property tax allocation laws are based.

Vehicle License Fee (VLF)
- The VLF is a tax levied annually on the value of vehicles registered in the state.
- For about a half century, the VLF rate was 2 percent of vehicle value. In 1999, the Legislature began reducing the rate charged to vehicle owners, with the state "backfilling" the resulting city and county revenue losses.
- During 2003-04, the VLF (set at a rate of 0.65 percent of vehicle value) and the VLF backfill would have provided about $5.9 billion to cities and counties. The state, however, deferred payment of part of the backfill to 2006.
- Under current law, most VLF revenues are allocated to counties for health and social services programs. Some VLF revenues are allocated to cities for general purposes.

Local Sales Tax (Uniform)
- Cities and counties receive revenues from a uniform local sales tax levied on the purchase price of most goods—such as clothing, automobiles, and restaurant meals. This tax is sometimes called the "Bradley-Burns" sales tax.
- During 2003-04, this tax was levied at a rate of 1.25 percent and generated about $5.9 billion.
- Under current law, 80 percent of sales tax revenues are distributed to local governments based on where sales occur—to a city if the sale occurs within its boundaries, or to a county if the sale occurs in an unincorporated area. The remaining 20 percent of local sales tax revenues are allocated to counties for transportation purposes.
- Beginning in 2004-05, local governments will receive additional property taxes to replace some local sales tax revenues that are pledged to pay debt service on state deficit-related bonds, approved by voters in March 2004.

Local Sales Tax (Optional)
- Cities and counties can impose certain additional sales taxes for local purposes.
- During 2003-04, 40 jurisdictions levied these optional sales taxes and generated about $3.1 billion.
- Most revenues are used for transportation purposes.

State Authority Over Local Finance
The State Constitution and existing statutes give the Legislature authority over the taxes described in Figure 1. For example, the Legislature has some authority to change
tax rates; items subject to taxation; and the distribution of tax revenues among local governments, schools, and community college districts. The state has used this authority for many purposes, including increasing funding for local services, reducing state costs, reducing taxation, addressing concerns regarding funding for particular local governments, and restructuring local finance. Figure 2 describes some of these past actions the Legislature has taken.

| Figure 2 |
|-----------------|---|
| **Major State Actions Affecting Local Finance** | |
| **Increasing Funding for Local Services.** In 1979, the state shifted an ongoing share of the property tax from schools and community colleges to local governments (cities, counties, and special districts). This shift limited local government program reductions after the revenue losses resulting from the passage of Proposition 13, but increased state costs to backfill schools' and community colleges' property tax losses. | |
| **Reducing State Costs.** In 1992 and 1993, the state shifted an ongoing share of property taxes from local governments to schools and community colleges. In 2004, the state enacted a similar two-year shift of property taxes ($1.3 billion annually) from local governments to schools and community colleges. These shifts had the effect of reducing local government resources and reducing state costs. The state also reduced its costs by deferring payments to local governments for state mandate reimbursements (most notably in 2002, 2003, and 2004) and for a portion of the vehicle license fee (VLF) "backfill" (2003), described below. | |
| **Reducing Taxation.** Beginning in 1999, the state reduced the VLF rate to provide tax relief. The state backfilled the resulting city and county revenue losses. | |
| **Addressing Concerns Regarding Funding for Specific Local Governments.** In the past, the state has at various times adjusted the annual allocation of property taxes and VLF revenues to assist cities that received very low shares of the local property tax. | |
| **Restructuring Local Finance.** In 2004, the state replaced city and county VLF backfill revenues with property taxes shifted from schools and community colleges. | |

**Requirement to Reimburse for State Mandates**

The State Constitution generally requires the state to reimburse local governments, schools, and community college districts when the state "mandates" a new local program or higher level of service. For example, the state requires local agencies to post agendas for their hearings. As a mandate, the state must pay local governments, schools, and community college districts for their costs to post these agendas. Because of the state's budget difficulties, the state has not provided in recent years reimbursements for many mandated costs. Currently, the state owes these local agencies about $2 billion for the prior-year costs of state-mandated programs. In other cases, the state has "suspended" state mandates, eliminating both local government responsibility for complying with the mandate and the need for state reimbursements.
PROPOSAL

Limitations on Legislature’s Authority to Change Local Revenues

This measure amends the State Constitution to significantly reduce the state’s authority over major local government revenue sources. Under the measure the state could not:

- **Reduce Local Sales Tax Rates or Alter the Method of Allocation.** The measure prohibits the state from: reducing any local sales tax rate, limiting existing local government authority to levy a sales tax rate, or changing the allocation of local sales tax revenues. For example, the state could not reduce a city’s uniform or optional sales tax rate, or enact laws that shift sales taxes from a city to the county in which it is located.

- **Shift Property Taxes From Local Governments to Schools or Community Colleges.** The measure generally prohibits the state from shifting to schools or community colleges any share of property tax revenues allocated to local governments for any fiscal year under the laws in effect as of November 3, 2004. The measure also specifies that any change in how property tax revenues are shared among local governments within a county must be approved by two-thirds of both houses of the Legislature (instead of by majority votes). For example, state actions that shifted a share of property tax revenues from one local special district to another, or from a city to the county, would require approval by two-thirds of both houses of the Legislature. Finally, the measure prohibits the state from reducing the property tax revenues provided to cities and counties as replacement for the local sales tax revenues redirected to the state and pledged to pay debt service on state deficit-related bonds approved by voters in March 2004.

- **Decrease VLF Revenues Without Providing Replacement Funding.** If the state reduces the VLF rate below its current level, the measure requires the state to provide local governments with equal replacement revenues. The measure also requires the state to allocate VLF revenues to county health and social services programs and local governments.

The measure provides two significant exceptions to the above restrictions regarding sales and property taxes. First, beginning in 2008-09, the state may shift to schools and community colleges a limited amount of local government property tax revenues if the Governor proclaims that the shift is needed due to a severe state financial hardship, the Legislature approves the shift with a two-thirds vote of both houses, and certain other conditions are met. The state must repay local governments for their property tax losses, with interest, within three years. Second, the measure allows the state to approve voluntary exchanges of local sales tax and property tax revenues among local governments within a county.
State Mandates

The measure amends the State Constitution to require the state to suspend certain state laws creating mandates in any year that the state does not fully reimburse local governments for their costs to comply with the mandates. Specifically, beginning July 1, 2005, the measure requires the state to either fully fund each mandate affecting cities, counties, and special districts or suspend the mandate's requirements for the fiscal year. This provision does not apply to mandates relating to schools or community colleges, or to those mandates relating to employee rights.

The measure also appears to expand the circumstances under which the state would be responsible for reimbursing cities, counties, and special districts for carrying out new state requirements. Specifically, the measure defines as a mandate state actions that transfer to local governments financial responsibility for a required program for which the state previously had complete or partial financial responsibility. Under current law, some such transfers of financial responsibilities may not be considered a state mandate.

Related Provisions in Proposition 65

Proposition 65 on this ballot contains similar provisions affecting local government finance and mandates. (The nearby box provides information on the major similarities and differences between these measures.) Proposition 1A specifically states that if it and Proposition 65 are approved and Proposition 1A receives more yes votes, none of the provisions of Proposition 65 will go into effect.
Propositions 1A and 65

Propositions 1A and 65 both amend the State Constitution to achieve three general objectives regarding state and local government finance. The similarities and differences between the two measures are highlighted below.

Limits State Authority to Reduce Major Local Tax Revenues

Effect on 2004-05 State Budget:
- Proposition 65's restrictions apply to state actions taken over the last year, and thus would prevent a major component of the 2004-05 budget plan (a $1.3 billion property tax shift in 2004-05 and again in 2005-06) from taking effect unless approved by the state's voters at the subsequent statewide election.
- Proposition 1A's restrictions apply to future state actions only, and would allow the planned $1.3 billion property tax shift to occur in both years.

Effect on Future State Budgets:
- Proposition 65 allows the state to modify major local tax revenues for the fiscal benefit of the state, but only with the approval of the state's voters.
- Proposition 1A prohibits such state changes, except for limited, short-term shifting of local property taxes. The state must repay local governments for these property tax losses within three years.

Reduces State Authority to Reallocate Tax Revenues Among Local Governments

Effect on Revenue Allocation:
- Proposition 65 generally requires state voter approval before the state can reduce any individual local government's revenues from the property tax, uniform local sales tax, or vehicle license fee (VLF).
- Proposition 1A prohibits the state from reducing any local government's revenues from local sales taxes, but maintains some state authority to alter the allocation of property tax revenues, VLF revenues, and other taxes. Proposition 1A does not include a state voter approval requirement.

Local Governments Affected:
- Proposition 65's restrictions apply to cities, counties, special districts, and redevelopment agencies.
- Proposition 1A's restrictions do not apply to redevelopment agencies.

Restricts State Authority to Impose Mandates on Local Governments Without Reimbursement

- Proposition 65 authorizes local governments, schools, and community college districts to decide whether or not to comply with a state requirement if the state does not fully reimburse local costs.
- Proposition 1A's mandate provisions do not apply to schools and community colleges. If the state does not fund a mandate in any year, the state must eliminate local government's duty to implement it for that same time period.

**Fiscal Effects**

Proposition 1A would reduce state authority over local finances. Over time, it could have significant fiscal impacts on state and local governments, as described below.
Long-Term Effect on Local and State Finance

Higher and More Stable Local Government Revenues. Given the number and magnitude of past state actions affecting local taxes, this measure's restrictions on state authority to enact such measures in the future would have potentially major fiscal effects on local governments. For example, the state could not enact measures that permanently shift property taxes from local governments to schools in order to reduce state costs for education programs. In these cases, this measure would result in local government revenues being more stable—and higher—than otherwise would be the case. The magnitude of increased local revenues is unknown and would depend on future actions by the state. Given past actions by the state, however, this increase in local government revenues could be in the billions of dollars annually. These increased local revenues could result in higher spending on local programs or decreased local fees or taxes.

Lower Resources for State Programs. In general, the measure's effect on state finances would be the opposite of its effect on local finances. That is, this measure could result in decreased resources being available for state programs than otherwise would be the case. This reduction, in turn, would affect state spending and/or taxes. For example, because the state could not use local government property taxes permanently as part of the state's budget solution, the Legislature would need to take alternative actions to resolve the state's budget difficulties—such as increasing state taxes or decreasing spending on other state programs. As with the local impact, the total fiscal effect also could be in the billions of dollars annually.

Less Change to the Revenue of Individual Local Governments. Proposition 1A restricts the state's authority to reallocate local tax revenues to address concerns regarding funding for specific local governments or to restructure local government finance. For example, the state could not enact measures that changed how local sales tax revenues are allocated to cities and counties. In addition, measures that reallocated property taxes among local governments in a county would require approval by two-thirds of the Members of each house of the Legislature (rather than majority votes). As a result, this measure would result in fewer changes to local government revenues than otherwise would have been the case.

Effect on Local Programs and State Reimbursements

Because the measure appears to expand the circumstances under which the state is required to reimburse local agencies, the measure may increase future state costs or alter future state actions regarding local or jointly funded state-local programs. While it is not possible to determine the cost to reimburse local agencies for potential future state actions, our review of state measures enacted in the past suggests that, over time, increased state reimbursement costs may exceed a hundred million dollars annually.
Proposition 65

Local Government Funds and Revenues. State Mandates. Initiative Constitutional Amendment.

BACKGROUND

Local Government Funding

California has over 5,000 local governments—cities, counties, special districts, and redevelopment agencies—that provide services such as fire and police protection, water, libraries, and parks and recreation programs. Local governments pay for these programs and services with money from local taxes, fees, and user charges; state and federal aid; and other sources. Three taxes play a major role in local finance because they raise significant sums of general-purpose revenues that local governments may use to pay for a variety of programs and services. These three taxes—the property tax, the local sales tax, and the vehicle license fee (VLF)—are described in Figure 1.
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<td>• During the 2003-04 fiscal year, local governments received approximately $15 billion in property tax revenues. (An additional $16 billion in property taxes went to schools and community colleges.)</td>
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<td>• There is wide variation in the share of property taxes received by individual local governments. This variation largely reflects differences among local agency property tax rates during the mid-1970s, the period on which the state’s property tax allocation laws are based.</td>
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<td>• The VLF is a tax levied annually on the value of vehicles registered in the state.</td>
</tr>
<tr>
<td>• For most of this century, the VLF rate was 2 percent of vehicle value. In 1990, the rate was reduced to 1.65 percent, with much of the reduction “backfilled” the resulting city and county revenue losses.</td>
</tr>
<tr>
<td>• During 2003-04, the VLF (set at a rate of 0.65 percent of vehicle value) and the VPLF program provide about $3.6 billion to cities and counties. The VPLF program replaces part of the base of 2003-04. The VPLF program is allocated to cities and counties on a population basis for general-purpose uses and the remaining VLF revenues be allocated to counties for health and social services programs.</td>
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<td>• Under current law, 80 percent of sales tax revenues are distributed to local governments based on where sales occur—to a city if the sale occurs within its boundaries, or to a county if the sale occurs in an unincorporated area. The remaining 20 percent of local sales tax revenues are allocated to counties for transportation purposes.</td>
</tr>
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<td>• Beginning in 2004-05, local governments will receive additional property taxes to replace some local sales tax revenues that are pledged to pay debt service on state deficit-related bonds, approved by voters in March 2004.</td>
</tr>
</tbody>
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**State Authority Over Local Finance**

The State Constitution and existing statutes give the Legislature authority over the three major taxes described in Figure 1. For example, the Legislature has some authority to change tax rates; items subject to taxation; and the distribution of tax revenues among local governments, schools, and community college districts. The state has used this authority for many purposes, including increasing funding for local services, reducing state costs, reducing taxation, and addressing concerns regarding funding for...
particular local governments. Figure 2 describes some past actions the Legislature has taken, as well as actions that the state was considering during the summer of 2004 (at the time this analysis was prepared).

<table>
<thead>
<tr>
<th>Past Actions</th>
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<tbody>
<tr>
<td><strong>Increasing Funding for Local Services.</strong> In 1979, the state shifted an ongoing share of the property tax from schools and community colleges to local governments (cities, counties, and special districts). This shift limited local government program reductions after the revenue losses resulting from the passage of Proposition 13, but increased state costs to backfill schools’ and community colleges’ property tax losses.</td>
</tr>
<tr>
<td><strong>Reducing State Costs.</strong> In 1992 and 1993, the state shifted an ongoing share of property taxes from local governments to schools and community colleges. The state also shifted local government resources to reducing state costs. It also lowered discretionary payments to local governments and mandated state reimbursements (most notably in 2002 and 2003) in lieu of a portion of the VLF backfill (2004).</td>
</tr>
<tr>
<td><strong>Reducing Taxation.</strong> Beginning in 1999, the state reduced the VLF rate to reduce the need for in-lying cities and counties to reallocate revenues.</td>
</tr>
</tbody>
</table>

**Figure 2**

**Major State Actions Affecting Local Finance**

<table>
<thead>
<tr>
<th>Proposals Under Consideration in July 2004</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Reducing State Costs.</strong> The state was considering shifting $1.3 billion of property taxes in 2004-05 and in 2005-06 from local governments to schools and community colleges to reduce state costs. The state was also considering deferring 2004-05 mandate payments to local governments.</td>
</tr>
<tr>
<td><strong>Restructuring Local Finance.</strong> The state was considering replacing city and county VLF backfill revenues with property taxes shifted from schools and community colleges.</td>
</tr>
</tbody>
</table>

**Requirement to Reimburse for State Mandates**

The State Constitution generally requires the state to reimburse local governments, schools, and community college districts when the state "mandates" a new local program or a higher level of service. For example, the state requires local agencies to post agendas for their hearings. As a mandate, the state must pay local governments, schools, and community college districts for their costs to post these agendas. Because of the state's budget difficulties, the state has not provided mandate reimbursements in recent years. Currently, the state owes these local agencies about $2 billion for prior-years' costs of state-mandated programs.
PROPOSAL

Limitations on Legislature's Authority to Change Local Revenues

This measure amends the State Constitution to significantly reduce the Legislature's authority to make changes affecting any local government's revenues from the property tax, sales tax, and VLF. Specifically, the measure requires approval by the state's voters before a legislative measure could take effect that reduced a local government's revenues below the amount or share it would have received based on laws in effect on January 1, 2003. For example, this measure would require statewide voter approval before a law took effect that:

- Shifted property taxes from local governments to schools and community colleges.
- Changed how sales taxes are distributed among cities and counties.
- Exchanged city sales taxes for increased property taxes.
- Revoice the formulas used to distribute property taxes among local governments.

Proposition 65 also would suspend any law enacted after November 1, 2003 that would have required voter approval under the terms of this measure. Suspended laws would take effect only if they were approved by the state's voters at the next statewide election.

The measure provides two exceptions to these voter-approval requirements. The state could enact laws that (1) shift property taxes among consenting local governments or (2) replace VLF revenues with an equal amount of alternative funds.

This measure also places into the State Constitution two existing state statutes relating to local finance. These statutes require the state to pay deferred VLF backfill revenues to cities and counties ($1.2 billion) by August 2006 and reestablish the local sales tax rate at 1.25 percent after the state's deficit-related bonds are paid.

State Mandates

The measure amends the State Constitution to reduce the state's authority over local government, school, and community college programs. Specifically, if the state does not provide timely reimbursement for a mandate's costs (other than mandates related to employee rights), local agencies could choose not to comply with the state requirement. The measure also appears to expand the circumstances under which the state would be responsible for reimbursing local agencies for carrying out a new state requirement. For example, the measure may increase the state's responsibility to reimburse local governments when the state increases a local agency's share of cost for a jointly financed state-local program.
FISCAL EFFECTS

Proposition 65 would reduce state authority over local finances. Over time, it could have significant fiscal impacts on state and local governments, as described below.

Long-Term Effect on Local and State Finance

Higher and More Stable Local Government Revenues. Given the number and magnitude of past state actions affecting local taxes, this measure's restrictions on the state's authority to enact such measures in the future would have potentially major fiscal effects on local governments. For example, a legislative measure that reduces local government revenues may not receive the necessary voter approval required under this measure. In addition, there may be other cases where the Legislature and Governor do not pursue legislation to reduce local revenues because of the perceived difficulty in obtaining voter approval. In these cases, this measure would result in local government revenues being more stable—and higher—than otherwise would be the case. The magnitude of increased local revenues is unknown and would depend on future actions by the Legislature and Governor, and the number of past actions by the state, for the increased local government revenues could be in the billions of dollars annually. These increased local revenues could result in higher spending on local programs or decreased local fees or taxes.

Less Change to the Revenue of Individual Local Governments. Proposition 65 restricts the state's authority to reallocate local tax revenues to address concerns regarding funding for specific local governments or to restructure local government finance. For example, measures that changed how local sales tax revenues are allocated to cities and counties, or that shifted property taxes from a water district to another special district, would not become effective until approved by voters at a statewide election. If the state's voters did not approve such reallocations, or if the Legislature and Governor did not pursue them because of the perceived difficulty in obtaining voter approval, this measure would result in fewer changes to local government revenues than otherwise would have been the case.

Potential Immediate Effect on Local and State Finance

This analysis was prepared in mid-July, before the state's budget for 2004-05 was adopted. At that time, the Legislature was considering the Governor's proposal to shift $1.3 billion of property taxes from local governments to schools and community
colleges in 2004-05 and again in 2005-06. This shift would reduce local government resources by $1.3 billion in each of the two years. It would also decrease state costs by comparable amounts (because higher property taxes to schools and community colleges result in lower state education costs). This property tax shift, if adopted in the 2004-05 budget, would be affected by passage of Proposition 65. That is, the property tax shift would be suspended until voted upon at the subsequent statewide election (currently scheduled for March 2006). If voters approved the shift proposal, it would go into effect. If voters rejected the proposal, it would not go into effect, and the fiscal impacts described above would be reversed. That is:

- Local governments would retain the $1.3 billion in property tax revenues in 2004-05 and in 2005-06.
- The state would experience increased costs of comparable amounts.

Effect on Local Programs and State Reimbursements

Because the measure appears to expand the circumstances under which the state is required to reimburse local agencies, the measure may increase future state costs and a commitment by the state to reimburse local or jointly funded state-local programs. While it is not possible to determine the cost to reimburse local agencies for potential future state actions, our review of state measures enacted in the past suggests that, over time, increased state reimbursement costs could exceed at least $4 billion dollars annually.
Proposition 1A – “Protection of Local Government Revenues”:
Constitutional Protection for Local Government Revenues

Questions and Answers

Senate Constitutional Amendment No. 4 (SCA 4) enacts substantial reforms to the legislature's ability to raid the local government shares of the property tax, sales tax and vehicle license fee to pay for state programs. It will appear on the November 2, 2004, general election ballot as Proposition 1A and be entitled “Protection of Local Government Revenues”.

This document contains key questions and answers about this important ballot measure, which is strongly supported by the League of California Cities.

PROPERTY TAX

Background: Proposition 13 reduced the property tax rate to $1.00 per $100 of assessed valuation countywide. This single rate replaced the multiple property tax rates imposed by local governments prior to Proposition 13. The revenue from the $1.00 rate is shared in each county by the county, the cities, the special districts, and the schools. Each jurisdiction's share of the $1.00 rate was based originally upon the property tax rates in effect prior to Proposition 13. The shares have been modified over the years by the Legislature.

1. What's the basic protection for the property tax in Proposition 1A?

Proposition 1A will end the practice of state raids on local property tax, by allowing only two loans within a 10 year period – and those may occur only if the state meets certain criteria.

Specifically, Prop. 1A prevents the Legislature from reducing the combined property tax shares of cities, special districts, and the county, except to borrow the funds on a temporary basis to address a "severe state fiscal hardship". If, for example, on November 3, 2004, the property tax shares of cities, special districts, and the county of the hypothetical "California County" equaled 60% of property taxes collected in that county, the Legislature cannot pass a law that reduces the percentage below 60% except to respond to a significant state fiscal problem. Additional restrictions are:
• The 2003 VLF GAP Loan must be repaid before borrowing could occur;
• The loan could only occur twice within a 10 year period;
• The loan ("the total amount of revenue losses") must be repaid with interest within 3 years, and prior loans must be repaid before borrowing could occur a second time within 10 years;
• The amount of the loan is limited to no more than 8% of the total amount of property tax allocated to cities, counties, and special districts in the previous fiscal year; and
• The reduction could only occur with a 2/3 vote of the Legislature.

2. Can the Legislature continue to reallocate property taxes on the local level?

Yes, but with a significant new restriction on that ability. Since the passage of Proposition 13, the Legislature has had the power to reallocate property taxes among local governments, but its major experience with this over the last 25 years has been to allocate city, county and special district shares of the property tax to schools through ERAF and reduce state general fund support for schools. Proposition 1A would prevent future allocations of local government shares to schools (except on a temporary basis, when the funds may be borrowed, as explained in questions 1 and 4). However, the state retains the authority to transfer property taxes among cities, counties, and special districts with a 2/3 vote of the Legislature. Under current law, the state can make this type of transfer with a majority vote of the Legislature.

3. Could the state reallocate property taxes in order to fund a state mandate?

No. The amendments to Section 6 of Article XIII B of the state constitution specify that, "Ad valorem property tax revenues shall not be used to reimburse local government for the costs of a new program or higher level of services."

4. Does Proposition 1A allow the state flexibility to respond to a significant state fiscal problem?

Yes, by allowing the state to borrow local property tax if it first meets the criteria identified in Question #1. Beginning in the 2008-2009 fiscal year, if the state has already paid cities and counties the amount owed from the 2003-04 VLF Gap Loan (est. $1.22 billion), the governor may issue a proclamation that declares that there is a "severe state fiscal hardship" that requires the state to temporarily suspend Proposition 1A's basic protection for the property tax. Next, the Legislature must first adopt a statute with a 2/3 vote that contains a suspension of the basic protection for that fiscal year only. Then it must adopt a separate statute that requires the state to repay cities, counties, and special districts the total amount of property tax loss caused by the suspension within three years.
5. What will suspension of the property tax protection in Proposition 1A allow the state to do?

During the one-year period of a suspension, the state can take property taxes from cities, counties, and/or special districts ("local agencies") and transfer them to the schools or to some other agency that operates within the county in which the property taxes were generated. This transfer will reduce the protected property tax percentage. However, the reduction may not result in a property tax loss that exceeds 8 percent of the total amount of property tax allocated to cities, counties, and special districts in the previous fiscal year. Currently this percentage is the equivalent of roughly $1.3 billion.

6. When will local agencies be repaid if property tax is taken during a suspension period?

No later than the end of the third fiscal year following the fiscal year to which the reduction applies. If the reduction applies in the 2010-11 fiscal year, then repayment must occur no later than June 30 of 2014. Repayment will be for the "total amount of revenue losses" including interest.

7. Can the Legislature suspend the Proposition 1A protection each time there is a "severe state fiscal hardship?"

No. Suspension of the protection may only occur twice in a ten year period; and only if the VLF Gap Loan amount has been repaid; and if only any prior suspension of property tax has been repaid with interest.

8. Why was the redevelopment property tax increment not explicitly protected in the final version of SCA 4?

It was the opinion of key legislators and legislative staff that Article 16, Section 16 of the state constitution, already protects the redevelopment property tax increment. Further, the Governor insisted on the inclusion of language in the ballot arguments for Proposition 1A that declares that the redevelopment increment is already protected by the state constitution.

SALES TAX

Background: The sales and use tax laws allow cities and counties to impose the basic 1% sales tax as well as a variety of other use taxes such as taxes for transit, jails, open space, etc. The basic 1% rate is distributed back to the jurisdiction in which it was collected. Both cities and counties may increase the sales and use tax by one-quarter cent for general governmental purposes with a majority vote. Last year the Legislature
suspended one-quarter cent of the basic 1% sales tax until the state’s fiscal recovery bonds are repaid.

1. What’s the basic protection for the sales and use tax in Proposition 1A?

Proposition 1A prevents the state from borrowing or taking local sales and use taxes. While the measure allows the state to borrow local property shares after meeting specific criteria, Prop. 1A does not allow the state to reduce the current funding that local governments receive from sales and use tax or require that sales tax revenues be distributed based upon population rather than the location or in any other way restrict a city or county from imposing sales and use taxes in accordance with existing law.

2. What about the current suspension of one-quarter cent of the sales tax occurring as a result of the passage of Proposition 57? Does Proposition 1A require the suspension to end when the fiscal recovery bonds are repaid?

Yes. Proposition 1A prevents the state from extending the period during which the one-quarter cent is suspended; from failing to pay the property tax backfill during the period of suspension; and from failing to restore the full sales tax rate when the bonds are repaid.

3. Can the state take any action that affects the sales and use tax?

Yes. It gives the Legislature the authority to authorize two or more local agencies within a county to exchange property tax and sales tax but only if the governing bodies of each of those agencies approves a locally-negotiated exchange agreement. Voter approval is not required to make the exchange.

Additionally, the Legislature can change how sales tax is distributed if the change is required by federal law or to participate in an interstate agreement that addresses payment of sales tax for Internet purchases.

VEHICLE LICENSE FEE

Background: The constitution currently guarantees all VLF revenue to cities and counties. No particular amount of revenue is guaranteed, however, because the amount depends upon the VLF rate that is set by the Legislature. The current VLF rate is 2%. Over the past several years, the Legislature has reduced the portion of the 2% rate paid by the taxpayer and made up the difference to cities and counties through a backfill of state general funds. During this fiscal year, cities and counties have not received a backfill of state general funds even though the taxpayer is paying only 1/3 of the 2% rate (0.65%). Under Proposition 1A, cities and
counties will receive these funds in the form of increased allocations of the property tax beginning in this fiscal year.

1. What is the basic protection for the VLF in Proposition 1A?

Proposition 1A constitutionally guarantees VLF revenue to cities and counties at the rate of 0.65% of the value of a vehicle. This is a significant change for cities and counties since the constitution currently allocates the VLF to cities and counties but no specific rate is guaranteed. The Legislature will decide how much of the VLF will pay for realignment programs and how much will be distributed for general purpose local government programs.

2. What happens if the Legislature lowers the rate below 0.65%?

Proposition 1A requires the Legislature to enact a law that provides for an allocation to cities and counties equal to the difference between the revenues received from 0.65% rate and the lower rate.

3. What will cities receive in place of the 2004-05 states General Fund VLF backfill?

Beginning in the 04-05 fiscal year, and continuing each year thereafter, cities and counties will receive property tax, instead of VLF backfill from the state general fund, in an amount equal to the difference between revenues that would be received from the VLF if at the 2% rate and the revenue received from the VLF at the 0.65% rate. The additional property tax will be distributed by reducing each local agency’s contribution to ERAF. The first receipt of this additional property tax will occur in the January distribution of the FY 2004-05 property tax. The amounts received in subsequent years will increase at rates corresponding to the rate of increase in local property tax within a county. The entitlement to backfill is in a statute, not in the Constitution, but the new property tax has the same protections as other parts of the property tax (see Property Tax section).

MANDATE REFORM

Background: The Constitution requires the state to reimburse local governments for state-mandated programs. The Legislature has sometimes “suspended” the mandate, rather than reimbursing local governments. There are a group of mandates that the state has determined require reimbursement for which the Legislature has never reimbursed local governments. Finally, the Legislature has not reimbursed local governments when it transfers additional responsibility for a state program or service to local governments when the local government already had partial responsibility for that program or service.
1. Does Proposition 1A strengthen the requirement to reimburse cities, counties and special districts for the costs of state-mandated programs and services?

Yes. Beginning in 2005-06, in each fiscal year’s budget, the Legislature must either appropriate sufficient fund to reimburse local governments for their costs of complying with a mandate or suspend the operation of the mandate for that fiscal year.

2. Does the “fund or suspend” requirement apply to all mandates?

No. There are two exceptions. The first is for employee and employee organization related mandates. The second is for costs incurred prior to the 2004-05 fiscal year that have not been paid prior to the 2005-06 fiscal year. These costs may be paid over a five-year period beginning in 2005-06. The five-year period is established in statute, not in the Constitution.

3. What happens when the state transfers additional responsibility for a program or a service that the local government already had some responsibility for?

Proposition 1A defines “mandate” to include a transfer of additional responsibility for a state program or service.
## Proposed Local Government Agreement

<table>
<thead>
<tr>
<th>Current Law</th>
<th>Agreement</th>
<th>Statutory/Constitutional</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>VLF Rate</strong></td>
<td>Currently at 2%</td>
<td>Reduced to 0.65% statutorily and property tax backfill provided between 0.65% and 2%</td>
</tr>
<tr>
<td><strong>Backfill if VLF Reduced</strong></td>
<td>None</td>
<td>Backfill provided if rate reduced below 0.65%</td>
</tr>
<tr>
<td><strong>Increases in VLF Rate</strong></td>
<td>Set at 2% in statute. Can only be used for city or county purposes.</td>
<td>Constitutionally guarantees 0.65% for cities and counties.</td>
</tr>
<tr>
<td><strong>Agencies Protected</strong></td>
<td>None. Legislation may reallocate at will to ERAF and among agencies.</td>
<td>City, county, special district. No further protections for RDA beyond existing provisions of Art. 16, Sec. 16 of state constitution.</td>
</tr>
<tr>
<td><strong>Reallocation Among Local Agencies</strong></td>
<td>Legislature can reallocate by simple majority vote, including to ERAF or other state fund.</td>
<td>Local share (non-school/ERAF) may be reallocated by 2/3 votes to other local govs. In a county. Legislature may not reallocate to increase school or ERAF share. Reallocation of property tax may not be done to support state-mandated programs.</td>
</tr>
<tr>
<td><strong>Suspension Trigger</strong></td>
<td>None. May take permanently at will.</td>
<td>Beginning in 2008-09, if Governor proclaims &quot;significant state fiscal hardship.&quot;</td>
</tr>
<tr>
<td><strong>Suspension Vote Needed</strong></td>
<td>Simple majority to take permanently—no repayment.</td>
<td>2/3rds vote – separate bill providing for repayment.</td>
</tr>
<tr>
<td><strong>Suspension Limits</strong></td>
<td>None. May take permanently at will.</td>
<td>No more than 2 times in 10 years. No loan until VLF Gap loan and previous suspension loan paid. --Cap of 8% of local share of property taxes ($1.3 billion today).</td>
</tr>
<tr>
<td><strong>Repayment terms</strong></td>
<td>No provision for repayment.</td>
<td>Legislature must pass a statute to fully repay loan with interest (as provided by law) within three fiscal years.</td>
</tr>
<tr>
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</tr>
<tr>
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</tr>
<tr>
<td>Protection</td>
<td>None. Legislature may reduce rate or change method of distribution. Prop. 57 triple flip ½ cent sales tax not protected</td>
<td>Protects the rate and method of distribution of the local Bradley-Burns sales tax and Transactions and Use Tax. Guarantees payment of property tax backfill for Prop. 57 sales tax ¼ cent suspension. Also guarantees return of ¼ cent Bradley Burns sales tax when Prop 57 bonds retired.</td>
</tr>
<tr>
<td>Reallocation</td>
<td>May be allowed. Law unclear.</td>
<td>None</td>
</tr>
</tbody>
</table>

**Mandates**

**Scope—Consequence of Nonpayment**

<table>
<thead>
<tr>
<th>Current Law</th>
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<tbody>
<tr>
<td>None</td>
<td>Statute imposing mandate is suspended if no state funding except for specified employee rights and benefits. Applies only to city, county, special district mandates.</td>
<td>Constitutional</td>
</tr>
</tbody>
</table>

**Mandate Definition**

<table>
<thead>
<tr>
<th>Current Law</th>
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</thead>
<tbody>
<tr>
<td>State may shift costs to local governments without triggering reimbursement requirement.</td>
<td>Clarifies mandate definition to include cost shifts from the state to locals.</td>
<td>Constitutional</td>
</tr>
</tbody>
</table>

**Voluntary Property Sales Tax Exchanges**

<table>
<thead>
<tr>
<th>Current Law</th>
<th>Agreement</th>
<th>Statutory/ Constitutional</th>
</tr>
</thead>
<tbody>
<tr>
<td>None</td>
<td>Legislature may approve a statutory framework for voluntary exchanges of property tax and sales tax.</td>
<td>Constitutional</td>
</tr>
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</table>
CITY COUNCIL AGENDA

September 7, 2004

SUBJECT: Consideration of Mosquito Abatement Programs for Southeastern Tulare County

SOURCE: CITY MANAGER

At a recent Council Meeting the matter of mosquito abatement was discussed. The City Manager was directed to meet with County representatives about this matter. The meeting was conducted and, as a result, the press release which is attached was issued.

The County representatives indicated a willingness to consider the formation of a mosquito abatement district for Southeastern Tulare County. This portion of the County is not now within a mosquito abatement district.

District formation would require consideration by the Local Agency Formation Commission and an election creating the district and authorizing an assessment for services. The new district would include Lindsay and Porterville and adjacent County areas. The next step would be to commission a study defining the boundaries of the district, establishing a budget and defining a potential tax rate. The City has not solicited estimated costs, but it would most likely require $25,000 to $40,000 to complete such an analysis.

Options to the formation of a district involving Tulare County and the cities of Porterville and Lindsay, include the following:

- **Have the City underwrite the cost of mosquito abatement in City and County areas.** A recommendation was made against this approach because of significant cost.

- **Join an existing district:** Though initial discussions may be beneficial, it is the perception that joining an existing government can become a difficult and time consuming undertaking.

- **Determine not to proceed with further City efforts to provide mosquito abatement.**

The City staff has received about eight (8) telephone calls from the public indicating their desire for the additional effort at mosquito abatement.

RECOMMENDATION:

Provide direction about further action to consider a mosquito abatement program. Further discussions with the County and Lindsay about the possible formation of a district would prove beneficial. To pursue this option, however, a project report should be commissioned.

Item No. 32
DATE: 8/24/04

CONTACT: Eric Coyne
Board of Supervisors
#733-6271
RELEASE: Immediately

TULARE COUNTY, PORTERVILLE AND LINDSAY OFFICIALS EXPLORE WAYS TO DEVELOP MOSQUITO ABATEMENT DISTRICT IN SOUTH VALLEY

Tulare County, Porterville and Lindsay officials are exploring options that could lead to developing a new mosquito abatement district that would serve portions of southeast Tulare County.

These governmental entities are in the process of investigating how a new mosquito abatement district or M.A.D. could be formed or if the boundaries of an existing M.A.D. could be expanded to include a significant portion of the South Valley that presently receives no mosquito abatement, including the areas in and around the cities of Porterville and Lindsay, and the communities of Terra Bella and Springville.

Mosquito abatement districts are special districts. They can only be created through a vote of the people who reside within the boundaries of the area for which they provide services.

In the meantime, city and county officials say that the best way the public can avoid being bitten by mosquitoes is to:

- Use insect repellent that contains no more than 10% DEET.
- Avoid spending time outside when mosquitoes are most active, especially at dawn and dusk.
- Eliminate sources of standing water on your property.

Tulare County is approximately the same size as the state of Connecticut. Roughly half of the County's land mass are public lands such as national parks or forest lands. Four existing mosquito abatement districts serve the majority of its most populated communities.
Tulare County Vector Control Districts

Abatement Dists
- Delano
- Delta
- Kings
- Tulare

Non Districted Areas
SUBJECT: COUNCIL PUBLIC RELATIONS

SOURCE: CITY ATTORNEY

COMMENT: At the August 17 City Council meeting, the Council expressed an interest in exploring potential ways to provide statements and/or articles to the public. The Council asked that this office provide information concerning the legal framework under which it can engage in public relations, and provide options on how this could be achieved.

In response, attached is a memorandum by Lynn Beckers in our office concerning Brown Act and First Amendment concerns and setting forth some potential options for engaging in public relations activities. This is by no means a comprehensive list of mechanisms by which the Council could make its opinions known, and, of course, the options also vary concerning the amount of city staff time that would be needed.

RECOMMENDATION: The City Attorney and staff make the following recommendations:

1) That the Council review the information and provide further direction.

DATE: August 30, 2004

TO: Porterville City Council
   Julia Lew

FROM: Lynn Beckers

SUBJECT: Council Communications

You have asked me to explore how a governing body might establish regular communications with the public via newspaper articles, etc.

However, a precursor to determining what a governing body may do as an entity is to define what the members’ individual rights are. First Amendment speech protections extend to and protect individual, elected officials, in the same manner that those protections are extended to anyone else.

Similarly, there is nothing to prohibit a council from appointing one of its members to craft a communication reflecting a consensus of the body. However, the Brown Act limits the manner in which a governing body discusses, considers and determines when a group communication is to be prepared and what the nature of its contents will be. Discussions outside of a meeting by a majority of council members, regarding issues that will ultimately be addressed and voted upon is, of course, a violation of the Brown Act.

Specifically, the Council must take care not to violate the open-meeting provisions of the Brown Act. Under the Brown Act, determinations made by the Council must be made at a Council meeting. There are several options for how a council could proceed.

1. The Council could decide that when an issue arises, the Mayor would ask for a volunteer or appoint a councilperson to write the communication and then submit it to the media.
Under this scenario the Council could choose to either have the piece submitted directly to the media, or to have the communique brought back before the Council for review and discussion prior to submission to the media. Bringing the piece back to Council for approval before submission would be procedurally cumbersome, requiring an agenda item because if the Council is to review and consider the piece for submission, then dialogue and decision-making must occur in the context of an open meeting.

2. A councilperson could raise the possibility of preparing a media communique during discussion of any agendized item as it is addressed during a council meeting. If there were a consensus among the members, then one councilperson could volunteer/be appointed to prepare and submit a communique reflecting the Council’s position on the matter.

   Thereafter the Council would need to decide whether the piece would come back for review or be sent directly by the writer.

3. The Council could decide that, procedurally, consideration of topic(s) for public communiques will be broached during the “Other Matters” section near the end of the agenda, and then subsequently assigned for preparation of the communique.

4. In the alternative, the Council could, in the course of discussion on an agenda item, direct staff to prepare a proclamation reflecting the Council’s position on the matter. After approval by the Council, the proclamation or statement could be submitted to the press.
CITY COUNCIL AGENDA

September 7, 2004

SUBJECT: Consideration of Selecting New Members to Economic Development Commission And Business Incentive Zone

SOURCE: CITY MANAGER

Since March of 2003, Mayor Pete Martinez has served as the City's representative on the Business Incentive Zone and City Manager John Longley has served as the representative on the Economic Development Corporation. John Longley has also served as the alternate representative on the Business Incentive Zone.

Representation by elected representatives is an important matter to consider. Therefore, the Council may wish to consider appointing an elected official to the City’s seat on the Tulare County Economic Development Corporation. Mayor Martinez has expressed that because of efficiency it may be most beneficial to consolidate representation on the EDC and BIZ in a single elected official.

This matter is presented for the Council’s consideration. The consideration could result in immediate appointments or the specification of a change in membership on the EDC or BIZ Board in the future.

RECOMMENDATION:

Select a Member of the Council to provide representation on the EDC and BIZ, or provide direction for the future consideration of this to the City Manager.