CITY COUNCIL AGENDA
PORTERVILLE, CALIFORNIA
APRIL 5, 2005 6:00 P.M.

Call to Order
Roll Call

ORAL COMMUNICATIONS
This is the opportunity to address the Council on any matter scheduled for Closed Session.

CLOSED SESSION:
A. Closed Session Pursuant to:
   1- Government Code Section 54956.9(b) - Conference with Legal Counsel - Anticipated Litigation: One Case.
   2 - This item has been pulled.

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

Pledge of Allegiance Led by Council Member Cameron Hamilton
Invocation

PROCLAMATIONS
Margaret Slattery - April 23, 2005
Cinco de Mayo - April 28 - May 5, 2005

PRESENTATION
Employee of the Month - Rose Olmos

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 March 1, 2005 and March 15, 2005

2. Claim - Leean Barnes
   Re: Rejecting a claim in an amount exceeding $10,000 filed for personal injury and wage loss allegedly caused when police vehicle struck claimant’s vehicle at the intersection of SR 190 and Road 208.
3. **Approve Amendment No. 1 to the Service Agreement with Roberts Engineering for the Library Restroom Renovation Project**  
Re: Authorizing additional design and project manual preparation work for floor covering replacement, safety modifications to stairwell, and the remodel of the women’s restroom.

4. **Authorization to Advertise for Bids - Well No. 28 Project (Pumping Plant)**  
Re: Approving plans and project manual and advertising for bids for Phase II of installation of pumping plant located at “F” Street next to WalMart Distribution Center.

5. **Authorization to Negotiate a Contract - Engineering Services for the Design of Rocky Hill Zone 1 Reservoirs Project**  
Re: Authorizing staff to negotiate contract with Roberts Engineering, Inc. of Porterville, for design and preparation of plans and project manual.

6. **Authorization to Negotiate Contract for Consultant Services for the Update to the General Plan**  
Re: Approving expanded scope of work to include economic analysis and noise element, and authorizing staff to negotiate contract with firm of Dyett and Bhatia for the General Plan Update.

7. **Approve Service Agreement with Site Design Group, Inc. for Design of the Skate Park**  
Re: Approving agreement with Site Design Group, Inc. for design of skate park facility.

8. **Award of Contract - Water Main (F Street - Gibbons Avenue - Main Street) Project**  
Re: Awarding the bid to Halopoff & Sons, Inc. in the amount of $172,693.65.

9. **Authorization to Appropriate Additional Funds for the Mitigation Water Well Project**  
Re: Authorizing a change order to Johnson Drilling Company’s contract and directing contractor to continue drilling until water is encountered for mitigation water well generally located east of Road 265 and north of Highway 190.

10. **Acceptance of the Well No. 27 Project**  
Re: Accepting the project by Valley Pump and Dairy Systems as complete for construction of a municipal water well and pumping plant facility on the westside of Jaye Street, approximately 1,300 feet north of Gibbons Avenue.

11. **Acceptance of Final Subdivision Map - Sunrise Villa, Phase One Subdivision (OZ Services, Inc. - Thomas J. O’Sullivan)**  
Re: Approving final map of Sunrise Villa, Phase One Subdivision generally located on the eastside of Cottage Street, between Theta Avenue and Mulberry Avenue.

12. **Acceptance of Appraised Value of Right of Way for Property Located at APN 261-092-009 - Arturo Medrano and Delia Medrano - Date Avenue Reconstruction Project**  
Re: Authorizing staff to make payment of $14,500 to Arturo and Delia Medrano for the purchase of 1,312 sq. ft of real property for right of way usage, generally located north of Date Avenue between Main Street and C Street.

13. **Acceptance of Appraised Value of Right of Way for Property Located at APN 261-080-032 - Gil D. and Louisa A. Domingo - Date Avenue Reconstruction Project**  
Re: Authorizing staff to make payment of $8,500 to Gil D. and Louisa A. Domingo for the purchase of 1,111 sq. ft of real property for right of way usage, generally located south of Date Avenue between Main Street and C Street.
14. Intent to Vacate Sanitary Sewer and Water Easements Related to Target Store Expansion Building Permit
   Re: Approving resolution of intent to vacate utility easements to allow for retailer’s expansion to the west.

15. Approval of Relocation Hardship Claim Property Located at APN 245-040-017 - Tenants Pedro M. and Maria Galvez
   Re: Approving hardship claim for moving expenses relating to Henderson Avenue Reconstruction Project
   and authorizing staff to make advance payment of $1,100 (half of total award of $2,200) to tenants.

16. Authorization to Provide Water to Multi-Family Residence Outside City Limits
   Re: Authorizing property owners at 41-45 South Chess Terrace to connect to City water contingent upon
   execution of Consent to Annex form and payment of all pertinent water connection fees.

17. Request for Encroachment Permit - New Building for Stewart Title Company
   Re: Approving request for encroachment due to roof eave encroaching on City right of way at 296 West
   Henderson Avenue.

18. This item has been pulled.

19. Ratify Permission for Tule River Parkway Association Conducting Three Public Event Tree Care Training
    Days
   Re: Ratification of permission for the Association to conduct training event tentatively scheduled for

20. Resolution of support for Proteus, Inc.
    Re: Adopting resolution in support of maintaining Proteus, Inc. in downtown Porterville.

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

PUBLIC HEARING

21. Revision of Taxicab/Vehicle for Hire Ordinance
    Re: Consideration of modifications to ordinance eliminating ambiguity and providing additional regulations
    on taxicabs and/or vehicles for hire.

22. Crestview Park Tentative Subdivision Map (Eastbay Properties - Lisa Jordan)
    Re: Approval of tentative subdivision map for division of a 10± acre parcel zoned City R-1 (One-Family
    Residential) into 45 single family lots located on the southeast corner of Putnam Avenue and Olivecrest
    Avenue.

23. Construction of Concrete Improvements on Henderson Avenue Street Project
    Re: Authorizing staff to commence construction of improvements, the cost of which the City can recover
    from property owners upon said owners pulling a building permit valued at $15,000 or more within a two
    year period, and authorizing staff to schedule a public hearing prior to the establishment of the fee.

SCHEDULED MATTERS

24. This item has been pulled.

25. Authorize Environmental Review of Improvement Concept for an Undated Murry Park Master Plan
    Re: Reviewing improvement concept for master plan and authorizing modified environmental review.

26. Discussion About Car Wash Ordinance
    Re: Discussing options for proposed car wash ordinance.
27. **Consideration of Residency Requirements for Appointment to City Committees or Commissions**  
Re: Consideration of whether future appointees should be required to be Porterville residents, and discussion on definition of residency.

28. **Utility User’s Tax Polling Update**  
Re: Review of polling results, authorizing City Manager to retain a campaign educational consultant to provide information regarding possible courses of action, and appointing 2 Council Members to act as a ballot sub-committee.

29. **Appointment of Members to the Redevelopment Advisory Committee**  
Re: Appointing Mr. Francisco Madrigal and Mr. Daren Griswold to the Redevelopment Advisory Committee.

30. **Authorization to Invest Staff Time to Complete a Second Class II Bicycle Lane Application**  
Re: Directing staff to invest the time necessary to properly complete the REMOVE grant application for the full amount of $50,000.

Adjourn to a Meeting of the Porterville Redevelopment Agency.

**PORTERVILLE REDEVELOPMENT AGENCY AGENDA**

Roll Call: Redevelopment Agency

**WRITTEN COMMUNICATIONS**

**ORAL COMMUNICATIONS**

**PUBLIC HEARING**

PRA-1. **Lease Agreement for Property Located at 287 N. Hockett**  
Re: Approving year-to-year lease agreement, including an option to purchase, with the United Hearts Center for Healing at a rate of $1,300 per month, with annual adjustments.

Adjourn to a Meeting of the Porterville City Council

**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 April 12, 2005 at 6:00 p.m.

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 at 6:00 p.m.
Roll Call: Council Member West, Mayor Pro Tem Irish, Council Member Hamilton, Mayor Martinez
Absent: Council Member Stadtherr

ORAL COMMUNICATIONS
- Dennis Townsend, a Springville resident, business address of 633 N. Westwood, requested that the Council consider the e-mail sent to the Council that day regarding Item 18.

CLOSED SESSION:
A. Closed Session Pursuant to:
   1 - Government Code Section 54956.9(b) - Conference with Legal Counsel - Anticipated Litigation: Two Cases.

7:00 P.M. RECONVENE OPEN SESSION
REPORT ON ANY ACTION TAKEN IN CLOSED SESSION
No action to report.

Pledge of Allegiance Led by Council Member Kelly West
Invocation by Pastor Jim Rogers, Foothill Community Presbyterian Church

PRESENTATION
Employee of the Month - Mark Azevedo

Noting the significant number of individuals in attendance for Item 18, as a courtesy, Mayor Martinez invited those individuals who were present to speak on any issue other than Item 18 to come forward first.

ORAL COMMUNICATIONS
- Sherry McDonald, 2203 West Cricklewood Court, identified herself as a class member of Leadership Porterville 2004 and stated she had come forward to fulfill a class challenge. She then voiced support for allowing sectarian prayer and requested that the Council approve Option No. 4 in Item 18.
- Linda Morton, 617 South Plano Street, voiced opposition to the proposed annexations.
- Karen Offutt, 1910 West Fairhaven Avenue, spoke against the proposed Zone Change 7-2004.
- Greg Shelton, 888 North Williford Drive, requested that the Council remove Item 4 from the Consent Calendar stating that he had a few questions.
- Joanne Del Rio, 1971 West Fairhaven Avenue, spoke against the proposed Zone Change 7-2004.
- Dorothy Broome, 863 South Crystal Street, clarified with the Council when interested individuals could comment on items listed on the Consent Calendar.
- Russell “Buck” Fletcher, 1662 West Morton Avenue, came forward on behalf of his mother, Joanne Fletcher, and voiced “strong” opposition to the proposed annexations.
- Dennis Townsend, a Springville resident, business address of 633 North Westwood, voiced support for Option No. 4 of Item 18 and cited various U.S. Supreme Court Cases which he asserted
supported his position. Mr. Townsend then presented the Council with a petition which he indicated contained 3,709 signatures voicing support for allowing sectarian prayer during Council invocations.

- Roland Davis, a Springville resident, came forward and spoke in favor of free speech and allowing sectarian prayer as proposed in Item 18. He requested that the Council approve Option No. 4.

- Patrick Greene, 1343 West Morton Avenue, came forward and commented that he had changed his viewpoint on legislative invocations citing what he perceived to be contradictions in the California Government Code and the Court's ruling in Rubin v. City of Burbank (2002) 101 Cal. App. 4th 1194.

- Dr. Paul Israel, 17723 Road 232, voiced agreement with Mr. Townsend’s comments and requested that the Council vote to allow sectarian prayer.

- James Handley, 361 West Oak Avenue, voiced support for sectarian prayer and requested that the Council protect the citizens’ rights of free speech.

- Elaine Harris, 1015 South Crystal, spoke in favor of allowing sectarian prayer and acknowledged troops fighting for the rights of American citizens.

- Lois Innis, West Glenn Court, voiced support for a moment of silence, noting that although the petition presented to Council that evening supposedly contained 3,709 signatures, Porterville’s population was over 40,000.

- Herb Foerster, 606 West Mulberry Avenue, voiced support for a moment of silence, noting the religious diversity in Porterville.

- Marybeth Atchison, 1061 North Patsy, voiced support for allowing sectarian prayer and requested that the Council approve Option No. 4, or in the alternative, Option No. 2.

- Peter Schalember, Porterville resident and President of Porterville Area Ministerial Association (“PAMA”) came forward and voiced support for sectarian prayer and requested that the Council approve Option No. 4.

- Brian Mitchell, a Springville resident, came forward and voiced support for Option No. 4, commenting that the issue pertained to freedom of speech.

- John Skinner, 950 North Plano Street, voiced support for the Council approving Option No. 4 allowing sectarian prayer, and then voiced general displeasure with the ACLU.

- Dave Mast, Pastor of New Life Center, 2012 West Morton Avenue, stated he appreciated the Council and voiced support for allowing sectarian prayer.

- Misty Jones, 2250 West Putnam Court, spoke in favor of allowing sectarian prayer during invocations.

- Russell “Buck” Fletcher, 1662 West Morton Avenue, made comments in support of Porterville taking a stand against legislation that it believed was wrong.

- Desiree Hendon, 1038 San Carlos, thanked Council for its hard work and voiced support for allowing sectarian prayer during invocations.

- Craig Morgan, a Springville resident, came forward and voiced support for allowing sectarian prayer.

- Tony Mock, 1407 West Thurman, thanked Council for their hard work and requested that the Council support Option No. 4 allowing sectarian prayer during invocations, commenting that the law was on the Council’s side.

- Sidney David Pedraza, 1125 West Glen Court, voiced support for allowing sectarian prayer during invocations. Comparing the Council to the Founding Fathers of America, he requested that the Council approve Option No. 4.

- Ce Ce Townsend, a Springville resident, thanked Patrick Greene for his comments and voiced support for allowing sectarian prayer. Mrs. Townsend then requested that the Council approve Option No. 4.

- A Spanish-speaking individual came forward in support of allowing sectarian prayer during invocations. Mayor Martinez interpreted the gentleman’s comments.

- Dorothy Broome, 863 South Crystal Street, clarified with the Council that Item 18 would be addressed that evening, but whether any action would be taken was not yet known.
The Council recessed for 10 minutes.

Mayor Martinez thanked all of the individuals who had come forward to offer comments, and thanked them for being respectful.

**CONSENT CALENDAR**

Item No. 4 was removed.

1. **CITY COUNCIL MINUTES OF FEBRUARY 8, 2005**

   **Recommendation:** That the Council approve the City Council Minutes of February 8, 2005.

   **Documentation:** M.O. 01-030105
   **Disposition:** Approved.

2. **BUDGET ADJUSTMENTS FOR THE 2004/2005 FISCAL YEAR**

   **Recommendation:** That the City Council approve the budget adjustments of increasing the revenue estimates and appropriations in the General Fund by $1,000 to account for donation received from the Rotary Club for Literacy; and by $125,250 to account for the grant award of the Pedestrian Safety Program Grant for lighted crosswalks.

   **Documentation:** M.O. 02-030105
   **Disposition:** Approved.

3. **AUTHORIZATION TO ACCEPT DONATED AND DISCOUNT PRICED MATERIALS AND SERVICES ARRANGED BY HOME DEPOT FOR CENTENNIAL PLAZA**

   **Recommendation:** That the City Council authorize the acceptance of donated and discount priced materials and services arranged by Home Depot for the Centennial Plaza Project in an aggregate amount of expenditure not to exceed the donated funds available.

   **Documentation:** M.O. 03-030105
   **Disposition:** Approved.

5. **AUTHORIZATION TO ADVERTISE FOR BIDS - WATER MAIN (F ST. - GIBBONS AVE.-MAIN ST.) PROJECT**

   **Recommendation:** That the City Council:
   1. Approve the Plans and Project Manual; and
   2. Authorize staff to advertise for bids on the project.

   **Documentation:** M.O. 04-030105
   **Disposition:** Approved.

6. **AUTHORIZATION TO ADVERTISE FOR BIDS - PUTNAM RECONSTRUCTION PROJECT**

   **Recommendation:** That the City Council:
   1. Approve the Plans and Project Manual; and
2. Authorize staff to advertise for bids on the project.

Documentation: M.O. 05-030105
Disposition: Approved.

7. AUTHORIZATION TO NEGOTIATE CONTRACT FOR ON-CALL CONSULTANT FOR PREPARATION OF GRANT APPLICATIONS

Recommendation: That the City Council:
1. Authorize staff to negotiate a contract with Applied Development Economics (ADE) for on-call consulting services for feasibility studies and grant applications, with fees for services not to exceed those rates quoted in the proposal;
2. Authorize staff to negotiate a contract with the next highest ranked firm (Chabin Concepts) in the event a contract cannot be negotiated with ADE;
3. Authorize the Mayor to sign all contract documents; and
4. Authorize staff to make payments up to 100% upon satisfactory completion of the work.

Documentation: M.O. 06-030105
Disposition: Approved.

8. ACCEPTANCE OF THE PORTER SLOUGH DITCH PIPING PROJECT

Recommendation: That the City Council:
1. Accept the Porter Slough Ditch Piping Project as complete;
2. Authorize the filing of the Notice of Completion; and
3. Authorize the release of the 10% retention thirty-five (35) days after recordation, provided no stop notices have been filed.

Documentation: M.O. 07-030105
Disposition: Approved.

9. APPROVAL OF RELOCATION PLAN FOR PROPERTY LOCATED AT APN 245-040-017 - OWNER MANUEL A. GALVEZ - HENDERSON AVENUE STREET PROJECT

Recommendation: That the City Council approve the relocation plan for property located at APN 245-040-017.

Documentation: M.O. 08-030105
Disposition: Approved.

10. RESOLUTION RESCINDING RESOLUTION NO. 3-2005, RE-AUTHORIZING THE OBJECTION TO SALE OF TAX DEFAULTED PROPERTIES, AND THE EXECUTION OF AN AGREEMENT WITH THE COUNTY OF TULARE TO PURCHASE TAX-DEFAULTED PROPERTIES WITH A REVISED EXHIBIT “A.”

Recommendation: That the City Council adopt the resolution rescinding Resolution No. 3-2005, Re-Authorizing the Objection to Sale, and Approving a Revised Exhibit A to the Agreement with the County of Tulare for Purchase of Tax-Defaulted Properties.
11. AMENDMENTS TO EMPLOYEE PAY AND BENEFIT PLAN, EMPLOYEE BENEFIT TRUST FUND, EMPLOYEE RETIREMENT SYSTEM, AND THE PERSONNEL SYSTEM RULES AND REGULATIONS

Recommendation: That the City Council adopt the resolution amending the Employee Pay and Benefit Plan for Fiscal Years 2004-2005, 2005-2006, and 2006-2007, the Employee Benefit Trust Fund, the Employee Retirement System, and the Personnel System Rules and Regulations, and authorize the Mayor to execute these and other documents necessary to implement the provisions thereof.

Documentation: Resolution 25-2005
Disposition: Approved.

12. RENEWAL OF PERSONNEL EXAMINING SERVICES CONTRACT BETWEEN THE CITY OF PORTERVILLE AND COOPERATIVE PERSONNEL SERVICES

Recommendation: That the City Council approve the resolution authorizing renewal of a contract agreement with Cooperative Personnel Services, and authorize the City Manager or his designee to sign on behalf of the City.

Documentation: Resolution 26-2005
Disposition: Approved.

COUNCIL ACTION: MOVED by Council Member West, SECONDED by Council Member Hamilton that the Council approve Items 1 through 3, and 5 through 12.

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

4. AUTHORIZATION TO ADVERTISE FOR BIDS - LIGHTED PEDESTRIAN CROSSINGS

Recommendation: That the City Council:

1. Approve the Plans and Project Manual; and
2. Authorize staff to advertise for bids on the Project.

City Manager John Longley presented the item and Public Works Director Baldo Rodriguez presented the staff report.

Mr. Rodriguez stated that he and the City Engineer had visited lighted crosswalk projects in other cities and had been informed that they were very high maintenance due to older technology. He indicated that staff was currently investigating whether crosswalks manufactured with more sophisticated technology would be viable, and if so, an amended staff report with an estimate of probable cost would be provided.

• Greg Shelton, 888 North Williford Drive, came forward and requested clarification as to the exact location of the proposed crosswalk at Henderson Avenue, indicating that he owned the adjacent property.
Mr. Rodriguez clarified that the alignment of the old railroad would be followed, until right before reaching Henderson Avenue, at which point the actual Rails to Trails would veer off the railroad, crossing Henderson on the east side of Fourth Street.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Council Member West that the Council approve the Plans and Project Manual, and authorize staff to advertise for bids on the Project.

M.O. 09-030105

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

Disposition: Approved.

Mayor Martinez indicated that he had received a request to hear Item 18 first, and as such, requested that staff present that item.

18. LEGISLATIVE INVOCATIONS

Recommendation: That the Council consider the information and options presented and, if the Council so chooses, take action. The options are as follows:

Option No. 1: Draft resolution adopting “Moment of Silence”; Option No. 2: Draft resolution adopting policy on Legislative Invocations; Option No. 3: Draft resolution adopting Policy of “Free Prayer”; and Option No. 4: Draft resolution adopting [Re-establishing] Legislative Invocations

City Manager John Longley presented the item, and City Attorney Julia Lew presented the staff report.

Ms. Lew explained that since a threat of litigation existed with that particular item, the Council had discussed the matter outside of Open Session and explained that during that discussion, an alternative solution had been brought forth. At the Council’s request, Ms. Lew then read the alternative resolution into the record:

A Resolution of the City Council of the City of Porterville Providing for Legislative Invocations

WHEREAS, the City of Porterville (“City”) is a charter city organized and existing pursuant to the Constitution of the State of California; and

WHEREAS, the Constitution of the United States, Article (I), states Congress shall make no law respecting an establishment of religion, or prohibiting the free exercise thereof..., and

WHEREAS, as our nation was founded on the freedom of religion and was not founded on the freedom from religion; and

WHEREAS, through time, court decisions and certain interest groups have contributed to the deterioration of those (religious) beliefs and ideals; and
WHEREAS, in Rubin v. City of Burbank (2002) 101 Cal App 4th 1194 has led to further deterioration of the original intent of the First Amendment; and

WHEREAS, the City Council of Porterville, California, believes that the above ruling does in fact violate the Free Speech and Free Exercise Clause of the First Amendment and furthermore, that such ruling should not be controlling with regard to the City of Porterville; and

WHEREAS, as the City Council urges all cities across this State to join in an effort to reinstate prayer without subjugation on content by passing similar resolutions;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PORTERVILLE DOES RESOLVE AS FOLLOWS:

1. That the City Council of the City of Porterville, California, does hereby recognize the rights of individual speech be it during open communications or during a time of recognized invocation;

2. That the City Council of the City of Porterville, California, will not restrict the content of invocations in any manner;

3. That the City Council will not limit invocations to the Porterville Ministerial Association, but will openly without objection welcome those of all faiths;

4. A sample agenda illustrating how the invocation will be handled is attached as Exhibit “A” to this Resolution.

This resolution was passed by the City Council of the City of Porterville at a regularly scheduled meeting thereof on the 1st day of March, 2005.

Mayor Pro Tem Irish commented that the issue was apparently very important to the City, as well as the San Joaquin Valley, as evidenced by the media in attendance. He then offered his family’s long history of military service, pointing out that his entire family has supported the Constitution of this Country. He stated that if he was to err one way or the other on this subject, he would rather err on the side of freedom of speech. He added that he did not wish to tell somebody how to pray, when to pray and when not to pray, and suggested that such a decision was not for him to make.

Council Member Hamilton commented that Mayor Pro Tem Irish had just conveyed everything that he himself had been feeling in his heart and in his mind.

Mayor Martinez commented that this issue had set a direction for Porterville. He stated that as an individual who had also served his Country – as had all of the Council Members – he had served with many individuals of various faiths and different beliefs. He stated that all of these individuals had fought for the U.S. Constitution, freedom of expression and freedom of speech. He commented that he believed that all of the Council Members wanted to make sure that the citizens’ faith had not being infringed upon and that citizens were allowed to express their faith in an open forum.
COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Mayor Pro Tem Irish that the Council approve Option No. 5 as presented by the City Attorney.

Resolution 27-2005

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

Disposition: Approved.

The Council recessed for ten minutes.

PUBLIC HEARING

13. ZONE CHANGE 7-2004 (ENNIS) (A CHANGE OF ZONE FROM R-1 TO R-3 AND R-1 TO R-2 FOR SEPARATE PORTIONS OF 21.05± ACRES GENERALLY LOCATED AT THE SOUTHWEST CORNER OF HENDERSON AVENUE AND NEWCOMB STREET)

Recommendation: That the City Council:
1. Adopt the draft resolution approving a Negative Declaration for Zone Change 7-2004; and
2. Adopt the draft ordinance approving Zone Change 7-2004.

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

The public hearing opened at 9:10 p.m.

• Jim Winton, business address of 150 West Morton Avenue, spoke in favor of proposed Zone Change 7-2004, commenting that it was consistent with the City’s General Plan. He added that in 2002, the Council had denied a Plan Amendment to Commercial, indicating that a mix of multifamily was the appropriate use for that site.
• Tony Mock, 1407 West Thurman, commented that the City had a plan for the future and that changes were necessary to accomplish that plan.
• Greg Shelton, 888 North Williford Drive, voiced support for the proposed Zone Change.
• Ben Ennis, 643 North Westwood, the applicant, indicated that he was attempting to bring the property into compliance with the General Plan and that it had been designated as multifamily since 1986. He then stated that if the Zone Change was approved, he planned on developing luxury fourplexes with garages at the site.
• Dennis Townsend, business address of 633 North Westwood, indicated that his firm had designed the units proposed for this property and that the units were luxurious. He then confirmed that he had not been contacted by anyone seeking information.
• Marge Swartzlander, 1650 Memory Lane, spoke against the proposed Zone Change and voiced general displeasure with developer Ben Ennis. She indicated that many opposed the Zone Change, and upon her cue, approximately 30-40 audience members stood up in solidarity.
• Joanne Del Rio, 1971 Fairhaven, came forward in opposition of the proposed Zone Change alleging a possible conspiracy between Mr. Winton and Mr. Ennis.
• Jerry Swartzlander, 1650 Memory Lane, came forward in opposition to the proposed Zone Change asserting that the change would detrimentally affect the value of adjacent homes.
• Wade Ferguson, 1700 Memory Lane, came forward voiced opposition to the proposed Zone Change.
Karen Offutt, 1910 West Fairhaven Avenue, spoke against the proposed Zone Change and voiced concern with increased criminal activity.

April Thacker, 1640 Memory Lane, voiced opposition to the proposed Zone Change, citing concerns with severe traffic congestion. She then requested that a traffic impact study be conducted.

Ronald Clark, 1620 Memory Lane, spoke against the proposed Zone Change citing concerns with decreased property values, increased traffic, increased crime, and a drain on City services.

Chris Thacker, 1640 Memory Lane, spoke against the proposed Zone Change, citing concerns with traffic congestion and overburdening water and sewer services.

Joe Knitson, 686 North Belmont, voiced opposition to the proposed Zone Change.

Daniel Hoffman, 1740 West Henderson Avenue, spoke against the proposed Zone Change, citing increased traffic congestion.

George Anderson, 1751 West Memory Lane, voiced opposition to the proposed Zone Change, asserting a negative impact on local schools and a decrease in property values.

John Lewis, 1740 West Memory Lane, spoke against the Zone Change, citing decreased property values.

Ken Covain, 1690 West Memory Lane, voiced opposition to the proposed Zone Change, citing safety concerns with children due to increased traffic issues.

Lou Wells, 1800 West Fairhaven, spoke against the proposed Zone Change citing concerns with planning regarding the impact on traffic, schools, the environment, and City services.

Daniel Figeroa, 1790 West Memory Lane, voiced opposition to the proposed Zone Change.

Wayne Foust, 1761 West Memory Lane, spoke against the proposed Zone Change, asserting that the project would require expansion of sewer services, for which the citizens would pay.

The public hearing closed at 10:14 p.m.

The Council recessed for 10 minutes.

Mayor Martinez stated that he resided in the neighbor behind Monache High School, although his residence was not located within 500 feet of the proposed Zone Change. He stated that he had a personal bias in the matter at hand that prevented him from participating in an objective manner, and indicated that he would like to abstain from the vote.

Upon the recommendation of City Attorney Julia Lew, Mayor Martinez recused himself from the Council Chambers.

In response to Council Member West’s question as to whether a traffic impact study had been conducted, Community Development Director Brad Dunlap indicated that the environmental document included projections for the number of vehicle trips resulting from the project. He then clarified that the multiple family development of the property had been addressed with the circulation element which called for four-lane arterials on both Newcomb Street and Henderson Avenue. Those arterials, he pointed out, were currently underway. He added that the trip generation figures in the environmental study corresponded to development at full capacity, which generally did not happen. Mr. Dunlap then confirmed that the entire site was currently zoned R-1 and had been re-designated to high density residential and medium density residential in 1986.

Council Member Hamilton voiced disappointment with the arguments put forth by the opposition. He stated that the City’s sewer system was actually well below capacity and clarified that any odor was attributed to processing, not capacity problems. In response to a question from the audience, Council Member Hamilton clarified that the City was in the process of bringing more water wells on line to address problems with the wells. He then stated that the housing element was a critical part of the proposed Zone Change, noting that City was...
deficient in its levels of different types of housing as mandated by the State. He stated that these requirements were factored into the planning of the City. He pointed out that, in 1986, the Planning Department had stipulated to rezoning the subject property to multiple family. Council Member Hamilton noted the anger directed at Mr. Ennis and rhetorically questioned if the opposition would have been so fervent had the proposal come from an unknown developer. Council Member Hamilton then questioned where such misinformation had come about and how the opposition had been organized.

- Chris Thacker, 1640 Memory Lane, came forward and commented that he had received a notice of the proposed Zone Change in the mail.

In response to Council Member Hamilton’s question, Mr. Dunlap explained that the Community Development Department was responsible for the preparation and distribution of the environmental reports and that Mr. Winton had not prepared any of the environmental reports.

Council Member Hamilton suggested that the Council direct the applicant and property owners to meet to discuss areas of concern. He stated that if the Zone Change was approved, the Council could require a Design Review Overlay on any project brought forward.

Council Member West explained that a Design Review Overlay, or “D” Overlay, provided the maximum protection to the adjoining properties to ensure development compatibility among permitted uses in transitional zones. He stated that it also allowed the Council to work with the developer as to building orientation, site design, set backs, building elevation, window sizes, locations, and other design issues that may affect land use relationships. He stated that the “D” Overlay offered good protection for adjacent property owners.

Mayor Pro Tem Irish stated that he understood that the property owners needed some assurances for protection against what they perceived to be “low income” or undesirable design elements such a two story buildings. He then relayed personal experience with a similar situation near his residence, and stated that the result was a compromise. He stated that he believed a compromise would also be necessary here.

COUNCIL ACTION: MOVED by Council Member West, SECONDED by Council Member Hamilton that the Council adopt the draft resolution approving a Negative Declaration for Resolution 28-2005 Zone Change 7-2004.

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

Council Member West moved to approve the Ordinance, as amended to include a Design Review Overlay. Council Member Hamilton seconded the motion.

A discussion then ensued regarding the “D” Overlay process and traffic at the intersection of Henderson Avenue and Newcomb Street. It was noted that that particular intersection could accommodate up to 25,000 vehicle trips per day, which was more than the proposed project would generate.

City Manager John Longley added that the impact on schools had been analyzed as a part of the environmental document. He stated that he believed those findings to be consistent with other environmental analyses conducted.
Mr. Dunlap confirmed that staff had followed standard methodology in the preparation of the environmental report.

Mayor Pro Tem Irish commented that the Council was cognizant of the fact that growth impacted all of the City’s streets.

**COUNCIL ACTION:** MOVED by Council Member West, SECONDED by Council Member Hamilton that the Council adopt the ordinance, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE APPROVING ZONE CHANGE 7-2004 BEING A CHANGE OF ZONE FROM R-1 (ONE FAMILY RESIDENTIAL) TO R-2 (FOUR FAMILY RESIDENTIAL) WITH A DESIGN REVIEW OVERLAY AND R-1 (ONE FAMILY RESIDENTIAL) TO R-3 (MULTIPLE FAMILY RESIDENTIAL) WITH A DESIGN REVIEW OVERLAY FOR THE VACANT 21.05± ACRE SITE LOCATED GENERALLY AT THE SOUTHWEST CORNER OF HENDERSON AVENUE AND NEWCOMB STREET.

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

City Manager John Longley read the Ordinance by title only.

M.O. 10-030105 MOVED by Council Member Hamilton, SECONDED by Mayor Pro Tem Irish that the Council waive further reading and order the Ordinance to print.

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

At Council’s request, Mr. Dunlap explained that the Zone Change represented a typical planning scenario for phasing in development densities in relationship to arterials which involved tapering back to less intense uses the further away from those intense arterials roadways. He stated that this scenario was a common land use pattern which was replicated throughout the City, and even throughout the country.

Mayor Martinez returned to the Council Chambers and informed the audience that the Council would be available after the meeting to answer any questions they might have.

Disposition: Approved.

**SECOND READINGS**

14. ORDINANCE 1661, CONCERNING THE USE OF SKATEBOARDS

Recommendation: That the Council give Second Reading to Ordinance 1661, waive further reading, and adopt said Ordinance.

The City Manager presented that item and the staff report.
COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Mayor Pro Tem Irish that the Council give Second Reading to Ordinance 1661, waive further reading, and adopt said Ordinance, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE DELETING SECTION 20-1.1 OF CHAPTER 20, OF ARTICLE 1, OF THE PORTERVILLE MUNICIPAL CODE, AND ADDING CHAPTER 18, ARTICLE IV, CONCERNING THE USE OF SKATEBOARDS.

Ordinance 1661

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

The City Manager read the Ordinance by title only.

Disposition: Approved.

15. ORDINANCE 1662, PEDDLERS, SOLICITORS AND CANVASERS (DOOR-TO-DOOR SALES)

Recommendation: That the Council give Second Reading to Ordinance 1662, waive further reading, and adopt said Ordinance.

The City Manager presented the item and the staff report.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Mayor Pro Tem Irish that the Council give Second Reading to Ordinance 1662, waive further reading, and adopt said Ordinance, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE REPEALING CHAPTER 8 OF THE PORTERVILLE MUNICIPAL CODE IN ITS ENTIRETY AND REPLACING IT WITH NEW PROVISIONS OF CHAPTER 8 CONCERNING PEDDLERS, SOLICITORS AND CANVASERS (DOOR-TO-DOOR SALES).

Ordinance 1662

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

The City Manager read the Ordinance by title only.

Disposition: Approved.

16. ORDINANCE 1663, PARKING-COMMERCIAL VEHICLES IN RESIDENTIAL DISTRICTS

Recommendation: That the Council give Second Reading to Ordinance 1663, waive further reading, and adopt said Ordinance.

The City Manager presented the item and the staff report.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Mayor Pro Tem Irish that the Council give Second Reading to Ordinance 1663, waive further reading, and adopt said Ordinance, being AN ORDINANCE OF THE CITY COUNCIL OF THE
Ordinance 1663  CITY OF PORTERVILLE AMENDING CHAPTER 17, ARTICLE XI, SECTION 17-11.7, PARKING - COMMERCIAL VEHICLES IN RESIDENTIAL DISTRICTS, OF THE CODE OF THE CITY OF PORTERVILLE.

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

The City Manager read the Ordinance by title only.

Disposition: Approved.

17. ORDINANCE 1664, SPECIAL FIREWORKS PERMIT

Recommendation: That the Council give Second Reading to Ordinance 1664, waive further reading, and adopt said Ordinance.

The City Manager presented the item and the staff report.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Mayor Pro Tem Irish that the Council give Second Reading to Ordinance 1664, waive further reading, and adopt said Ordinance, BEING AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING CHAPTER 12, ARTICLE II, FIREWORKS, OF THE PORTERVILLE MUNICIPAL CODE.

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

The City Manager read the Ordinance by title only.

Disposition: Approved.

SCHEDULED MATTERS

19. INTERPRETATION OF AMBIGUITY - MOBILE, TEMPORARY AND PERMANENT STRUCTURES

Recommendation: That the City Council adopt the proposed resolution of ambiguity and statements of City Council intent with regard to mobile, temporary, and permanent structures.

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

Mr. Dunlap pointed out that the proposed resolution addressed temporary storage buildings, modular units, and sea trains, and clarified that unless a particular structure had been subject to the Building Code, no property taxes would be assessed.
Mayor Pro Tem Irish questioned how the City could fairly and consistently address situations in which temporary storage facilities were utilized on a more permanent basis, as was being done by WalMart.

Mr. Dunlap indicated that the proposed resolution established a precedent for how the City would handle such situations in the future, adding that staff had approached resolving those situations on a site development basis.

Council Member Hamilton commented that because the City’s impact fees were paid on a square footage basis, those businesses who utilized sea trains excessively were “short-changing” the City.

Mayor Pro Tem Irish commented that he also believed that some of the storage facilities utilizing temporary storage were also not paying their fair share to the City.

COUNCIL ACTION: MOVED by Mayor Pro Tem Irish, SECONDED by Council Member West that the Council adopt the proposed resolution of ambiguity and statements of City Council Resolution 29-2005 intent with regard to mobile, temporary, and permanent structures.

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

Disposition: Approved.

ORAL COMMUNICATIONS

• Dennis Townsend, address on record, voiced concern with the resolution passed that evening regarding Item 18, specifically Exhibit “A.” He commented that moving the time for the invocation to a time before the call to order had not been discussed, yet on Exhibit “A,” the time for the invocation had been moved. Mr. Townsend asserted that prior to its approval, nobody had been privy to the contents of Exhibit “A,” except for Council and staff. He warned that Council had violated the Brown Act and asserted that the Council’s actions appeared to be a “bait and switch.” He then urged the Council to clarify its intent and to immediately correct, prior to adjournment, any misinterpretation as to the resolution.

At Council’s direction, City Attorney Julia Lew responded that it was her understanding that the sample agenda attached to the resolution as Exhibit “A” was the attachment which had been discussed by Council. She added that the resolution and attachment had been put together very quickly and that there had been no intent to misconstrue the Council’s action. She then noted that regardless of what the Council decided to do, Exhibit “A” required revision with respect to the reference to 7:00 as being the time for conclusion of the invocation segment. Ms. Lew then stated that the Council should explicitly put the attachment on the record, which she explained, could be done at that time. She added that if the Council was concerned with the public misinterpreting what had taken place, she suggested waiting until the next meeting so the public could be noticed.

Mr. Townsend reiterated his earlier comments and urged the Council to revise Exhibit “A,” prior to adjournment that evening, to return the time of the invocation to its original place. He added that the resolution passed that evening referred to a “Legislative Invocation,” which happen during the time the Council was in session, not before, which is why it was called “legislative.”

Mayor Pro Tem Irish stated that he did not wish to hastily react to Mr. Townsend’s assertions and then voiced support for bringing the matter back to Council in two weeks.
City Attorney Julia Lew explained that she did not think the Council was in violation of the Brown Act because the option presented was consistent with the resolution that passed and that the attachment had been referenced at the time the resolution was read into the record.

Council Member Hamilton suggested that the Council consider its intent with the resolution.

Mayor Pro Tem Irish stated that his intent had been to support freedom of speech.

Council Member West stated that he understood that the Council had been attempting to provide everybody the same equal rights of free speech, and not to restrict speech.

Mayor Martinez commented that he thought that the location of the invocation had been addressed so that during the Oral Communications segment of the meeting, anyone could come forward and say whatever they wished. He suggested that the item could be brought back to Council.

Council Member Hamilton responded that the Council did not need to bring the item back, but rather the Council could address the matter at that time. He commented that Mr. Townsend had made a great point as to the nature of legislative invocations, and questioned whether the Council could remove No. 4 altogether.

City Attorney Julia Lew clarified that specific reference to Exhibit A had been made in the record as, “A sample agenda illustrating how the invocation will be handled is attached as Exhibit A to this resolution.” She then explained that the Council had several options, such as rescinding No. 4 in the Resolution, or clarifying what No. 4 would look like.

- Tony Mock, address on record, voiced concern with Exhibit “A” and stated that the perception of the audience was that the invocation had remained as a legislative invocation.
- Sidney David Pedraza, address on record, voiced concern with the Council approving a resolution that had not been made available to the public prior to its vote which, he asserted, denied the public the opportunity to voice any concerns.
- An individual came forward and commented that it appeared that the City Attorney had attempted to limit the Council’s liability by changing the time of the invocation.

Council Member Hamilton stated that the City Attorney advised but did not make policy. He pointed out that two of the options considered that evening had language stating “in lieu of legislative invocations,” and two had language stating “providing for legislative invocations.” He stated that Mr. Townsend made a very good point in that legislative invocations occurred during open session.

At the Council’s request, Ms. Lew explained that options available to Council that evening.

18. LEGISLATIVE INVOCATIONS

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Council Member West that the Council rescind Resolution 27-2005, adopted on March 1, 2005, being a Resolution of the City Council of the City of Porterville Providing for Legislative Invocations.

AYES: West, Irish, Hamilton, Martinez
NOES: None
ABSTAIN: None
ABSENT: Stadtherr
Resolution 31-2005

MOVED by Council Member Hamilton, SECONDED by Council Member West that the Council approve Option No. 5, a Resolution of the City Council of the City of Porterville Providing for Legislative Invocations, amended to strike No. 4.

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

• Roland Davis, a Springville resident, clarified with the Council that its understanding of a “legislative invocation” was that the invocation actually occurred during a legislative meeting.
• Dennis Townsend, address on record, came forward and commended the Council for taking action to rectify the situation.
• Roland Davis pointed out that because most of the press had already left, many of the articles might be inaccurate.

OTHER MATTERS
• Mayor Martinez requested that the draft ordinance regarding charitable car washes be brought back for consideration.
• Mayor Pro Tem Irish clarified with staff that consideration of appointments to the Parks & Leisure Services Commission would be brought to Council on March 15, 2005.

Parks and Leisure Services Director Jim Perrine clarified that all individuals who evinced an interest in participating on the Parks and Leisure Services Commission had been advised to contact the City Clerk’s office and submit their name and information.

ADJOURNMENT
The Council adjourned at 11:29 p.m. to the meeting of March 15, 2005 at 6:00 p.m.

____________________________
Patrice Hildreth, Deputy City Clerk

SEAL

____________________________
Pedro R. Martinez, Mayor
CITY COUNCIL MINUTES  
PORTERVILLE, CALIFORNIA  
MARCH 15, 2005 6:00 P.M.

Call to Order at 6:00 p.m.  
Roll Call: Mayor Pro Tem Irish, Council Member Hamilton, Council Member Stadtherr, Mayor Martinez  
Absent: Council Member West

ORAL COMMUNICATIONS  
None

CLOSED SESSION:  
A. Closed Session Pursuant to:  
   5 - Government Code Section 54956.9(b) - Conference with Legal Counsel - Anticipated Litigation: Three Cases.  

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

City Attorney Julia Lew reported that the Council had accepted Mr. Lambarena’s counter offer of $82,500 and approved the resolution accepting a Grant Deed in fee for the real property located at APN 261-080-011.

Documentation: Resolution 32-2005  
Disposition: Approved.

City Attorney Julia Lew reported that the Council had accepted Mr. Ruiz’s counter-offer of $7,400 and approved the resolution accepting a Grant Deed in fee for the real property located at APN 261-093-007.

Documentation: Resolution 33-2005
Disposition: Approved.

Pledge of Allegiance Led by Mayor Pro Tem Ron Irish
Invocation - Two individuals participated.

**PROCLAMATION**

“Adult Literacy Day”- April 2, 2005
- Tony Arellano came forward on behalf of the Literacy Program and received the proclamation.

“Filipino - American Week” - September 24-30, 2005
- Mary Agpaoa, Filipino-American Association member, came forward and received the proclamation.

**PRESENTATION**

Outstanding Business Honoree - Endurequest
- Community Development Director Brad Dunlap presented a slide presentation on award recipient Endurequest highlighting its accomplishments and contributions to the local community.

City Manager’s Featured Projects for March, 2004
Computers - Police Vehicles
- Police Chief Silver Rodriguez introduced and Police Officer Rick Cooksey presented a demonstration on new computer technology recently acquired by the Police Department.

HOME - First Time Low Income Homebuyers Program - Receipt of $1.2 Grant

**ORAL COMMUNICATIONS**

- Carrie Reynolds, 2091 West Della, member of Porterville Leadership Class of 2004, came forward to fulfill a class challenge.
- Mary Agpaoa, member of the Filipino-American Association, thanked Council for the proclamation of Filipino-American Week, and introduced other Association members.
- Russell “Buck” Fletcher, 1662 West Morton Avenue, voiced support for the Council’s handling of the invocation matter.
- Heidi True, 737 West Belleview, spoke against the sidewalk installation currently underway in her neighborhood, requested that the Council improve communication between the City and homeowners, and voiced displeasure with City staff’s response to her concerns.
- Tony Mock, 1407 West Thurman, thanked Council for their diligence with regard to the invocation matter. He then voiced concern with the content of the invocation that evening and requested a copy of the resolution(s) passed on March 1, 2004 regarding invocations.

**CONSENT CALENDAR**

Items 7, 17 and 18 were removed.

1. **CITY COUNCIL MINUTES OF FEBRUARY 15, 2005**

Recommendation: That the Council approve the City Council Minutes of February 15, 2005
2. **BUDGET ADJUSTMENTS FOR THE 2004/2005 FISCAL YEAR**

   **Recommendation:** That the Council approve the budget adjustments increasing the revenue estimates and appropriations in the General Fund by $2,000 to account for donation received from Breakfast Rotary for Centennial Park; and by $176,494 to account for grant award of the Fire Act Grant 2004 for breathing apparatus and authorize staff to modify the revenue and expenditure estimates.

3. **AUTHORIZATION TO NEGOTIATE A CONTRACT FOR ENGINEERING DESIGN SERVICES - JAYE STREET/TULE RIVER BRIDGE PROJECT**

   **Recommendation:** That the Council:
   1. Authorize staff to negotiate a contract with Imbsen & Associates, for design services to rehabilitate and widen the Jaye Street/Tule River Bridge;
   2. Authorize staff to negotiate a contract with the second or third ranked firms if staff is unable to negotiate an acceptable contract with Imbsen & Associates;
   3. Authorize the Mayor to sign all contract documents; and
   4. Authorize staff to make payments up to 100% upon satisfactory completion of the work.

4. **ACCEPTANCE OF APPRAISED VALUE OF RIGHT OF WAY FOR PROPERTY LOCATED AT APN 261-080-037 - ALEJANDRO AND TERESA BENAVIDEZ - DATE AVENUE RECONSTRUCTION PROJECT**

   **Recommendation:** That the Council:
   1. Authorize staff to begin escrow, with the City paying escrow fees;
   2. Authorize staff to make payment to Alejandro and Teresa Benavidez, owners of property, in the amount of $12,900, after completion of escrow;
   3. Authorize the Mayor to sign all necessary documents; and
   4. Authorize staff to record all documents with the County Recorder.

5. **ACCEPTANCE OF APPRAISED VALUE OF RIGHT OF WAY FOR PROPERTY LOCATED AT APN 261-080-038 - JOE LAMBARENA - DATE AVENUE RECONSTRUCTION PROJECT**

   **Recommendation:** That the City Council:
   1. Authorize staff to begin escrow, with the City paying escrow fees;
2. Authorize staff to make payment to Joe Lambarena, owner of property, in the amount of $9,200, after completion of escrow;
3. Authorize the Mayor to sign all necessary documents; and
4. Authorize staff to record all documents with the County Recorder.

Documentation: Resolution 35-2005
Disposition: Approved.

6. ACCEPTANCE OF APPRAISED VALUE OF RIGHT OF WAY FOR PROPERTY LOCATED AT APN 261-080-039 - MARIO A. LAMBARENA AND CRISTAL R. LAMBARENA-MILLON - DATE AVENUE RECONSTRUCTION PROJECT

Recommendation: That the City Council:
1. Authorize staff to begin escrow, with the City paying escrow fees;
2. Authorize staff to make payment to Mario A. Lambarena and Cristal R. Lambarena-Millon, owners of property, in the amount of $7,200, after completion of escrow;
3. Authorize the Mayor to sign all necessary documents; and
4. Authorize staff to record all documents with the County Recorder.

Documentation: Resolution 36-2005
Disposition: Approved.

8. WORKFORCE HOUSING INCENTIVE GRANT PROGRAM

Recommendation: That the City Council:
1. Authorize the application submittal to the Department of Housing and Community Development for the Workforce Housing Incentive Grant Program;
2. Approve the draft resolution authorizing the execution of the standard agreement and any other documents necessary to secure a Workforce Housing Incentive Grant from the State of California; and
3. Authorize the Mayor to sign the application, the standard agreement and all other participation documents, and the Community Development Director to sign all drawdown requests and other administrative documents required for the Workforce Housing Incentive Grant Program.

Documentation: Resolution 37-2005
Disposition: Approved.

9. CONDITIONAL USE PERMIT 1-2005 - RESOLUTION OF DENIAL TO UPGRADE AN EXISTING TYPE 20, BEER AND WINE OFF-SALE LICENSE TO A TYPE 21, BEER, WINE AND DISTILLED SPIRITS OFF-SALE LICENSE AND LETTER OF PUBLIC CONVENIENCE OR NECESSITY FOR AN EXISTING MINI-MART LOCATED AT 809 EAST PUTNAM AVENUE (MOUNIB DAKHIL)

Recommendation: That the City Council adopt the resolution containing findings for denial of Conditional Use Permit 1-2005.

Documentation: Resolution 38-2005
Disposition: Approved.
10. SPRING CLEAN UP EVENT

Recommendation: That the City Council:
1. Declare April 23, 2005, City of Porterville's “Spring Clean Up Day”;
2. Encourage all residents to clean up their properties and take advantage of this special opportunity offered by the City; and
3. Authorize the City to accept trash, litter and yard prunings brought to its Corporation Yard for free disposal on April 23, 2005.

Documentation: M.O. 04-031505
Disposition: Approved.

11. LIGHTED PEDESTRIAN CROSSINGS UPDATE

Recommendation: That the City Council:
1. Approve the changes to the Plan, Project Manual and Estimate of Probable Cost; and
2. Authorize staff to readvertise for bids on the project.

Documentation: M.O. 05-031505
Disposition: Approved.

12. INTENT TO SET A PUBLIC HEARING FOR REIMBURSEMENT AGREEMENTS FOR CONCRETE IMPROVEMENT CONSTRUCTION BY THE CITY - GRANITE HILLS STREETS PROJECT, PHASE TWO, AND MILO STREET RECONSTRUCTION PROJECT

Recommendation: That the City Council:
1. Set a Public Hearing for April 19, 2005, according to the Mitigation Fee Act, for the establishment of the concrete reimbursement fee; and
2. Authorize staff to notify all affected property owners of the Public Hearing, via certified mail, including the concrete reimbursement amount.

Documentation: M.O. 06-031505
Disposition: Approved.

13. APPROVAL FOR COMMUNITY CIVIC EVENT - CITY OF PORTERVILLE PARKS & LEISURE SERVICES DEPT. “SPRING EGG HUNT,” VETERANS PARK, MARCH 25, 2005

Recommendation: That the City Council approve the Community Civic Event Application and Agreement submitted by the City of Porterville Parks & Leisure Services Department, subject to the stated requirements contained in Exhibit “A.”

Documentation: M.O. 07-031505
Disposition: Approved.
14. APPROVAL FOR COMMUNITY CIVIC EVENT - PORTERVILLE BREAKFAST ROTARY CANCER RUN, MAY 7, 2005

Recommendation: That the City Council approve the Community Civic Event Application and Agreement submitted by the City of Porterville Parks & Leisure Services Department, subject to the stated requirements contained in Exhibit “A.”

Documentation: M.O. 08-031505
Disposition: Approved.

15. AIRPORT LEASE - LOT 34E

Recommendation: That the City Council approve the assigning of the Lease Agreement between the City of Porterville and Charles F. Hutchins and Marilyn J. Hutchins to Glenn Ricketson.

Documentation: M.O. 09-031505
Disposition: Approved.

16. REQUEST APPROVAL OF LAND LEASE AT PORTERVILLE MUNICIPAL AIRPORT - DONALD M. MATTHEWS AND MARJORIE E. MATTHEWS, LOT 46E

Recommendation: That the City Council:
1. Approve the Lease for Lot 46E at the Porterville Municipal Airport to Donald M. Matthews and Marjorie E. Matthews; and
2. Authorize the Mayor to sign on behalf of the City.

Documentation: M.O. 10-031505
Disposition: Approved.

19. EMPLOYMENT AGREEMENT - CITY MANAGER

Recommendation: That the Council review and approve the Employment Agreement.

Documentation: M.O. 11-031505
Disposition: Approved.

COUNCIL ACTION: MOVED by Council Member Stadtherr, SECONDED by Mayor Pro Tem Irish that the Council approve Items 1 through 6, 8 through 16, and 19.

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

7. SUBSTITUTION OF SECURITY FOR REQUESTED CONSTRUCTION WARRANTY FOR THE ST. JAMES PLACE PROJECT

Recommendation: That the Council:
1. Approve the substitution of a Letter of Credit for the $50,000 Certificate of Deposit for the warranty security for the St. James Place Project; and
2. Approve that the City, utilizing Redevelopment Low and Moderate Income Housing Funds, pay for the cost of the Letter of Credit of approximately $1,250, but not to exceed $3,000.

Mayor Pro Tem Irish recused himself noting a conflict of interest and left the Council Chambers.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Council Member Stadtherr that the Council deny that the City pay for the cost of the Letter of Credit.

M.O. 12-031505
AYS: Hamilton, Stadtherr, Martinez
NOES: None
ABSTAIN: Irish
ABSENT: West

Disposition: Denied.

17. PROPOSED REVISION OF TAXICAB/VEHICLE FOR HIRE ORDINANCE - SET PUBLIC HEARING

Recommendation: That the City Council:
1. Offer directions or suggestions for the draft ordinance; and
2. Set the date of April 5, 2005 as the date for the public hearing required to establish the ordinance, set the administrative fee, and to receive input from interested persons.

In response to Council Member Hamilton’s question, a discussion on the proposed provisions regarding the parking of taxicab vehicles in residential areas ensued. It was explained that because a taxicab company with a fleet of cars was now operating in Porterville, language restricting such activity had been added for consideration. Staff noted that several complaints of multiple taxicabs being parked in residential areas had been received.

Council Member Hamilton confirmed with staff that all of the taxicab and limousine companies would be contacted and informed of the proposed changes to the Ordinance and advised of the date of the public hearing.

Council Member Stadtherr voiced concern with restricting the ability of single cab owners/operators to park at their residences, to which staff responded that the language could be adjusted to accommodate such situations.

In response to Mayor Pro Tem Irish’s question, staff confirmed that the Public Utilities Commission (“PUC”) regulated limousines and that the Council could adopt an ordinance that required limousine companies to adhere to PUC regulations. It was also confirmed that staff would meet with the limousine companies prior to the public hearing.

In response to Council Member Stadtherr’s concern with the use of the term “automobile,” staff clarified that the term “automobile” applied to all vehicles, not simply cars.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Council Member Stadtherr that the Council set the date of April 5, 2005 as the date for the public hearing.
M.O. 13-031505 hearing required to establish the ordinance, set the administrative fee, and to receive input from interested persons.

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

Disposition: Approved.

18. ALTERNATIVE STAFFING FOR THE POLICE DEPARTMENT

Recommendation: That the Council approve the resolution providing for the reorganization of staffing within the Police Department and approve the proposed job description.

In response to Council Member Hamilton’s question, City Manager John Longley explained that staff recommended that one Records Clerk position and one Clerical Assistant II position be removed from the staffing chart, and the new position of Property and Evidence Technician substituted in. He explained that if in the future a desire arose to restore those positions, the normal budgetary process would apply.

At the Council’s request, Police Chief Silver Rodriguez came forward and clarified that while those positions were still needed in his department, a decision had been made to maximize current staffing to reassign a sworn officer from the evidence room back to policing duties. He explained that in order to accommodate reduced staffing in the records department, the hours for operation had been cut back.

A discussion then ensued regarding the disposition of the two clerical positions.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Mayor Pro Tem Irish that the Council approve the resolution providing for the reorganization of staffing within the Police Department and approve the proposed job description.

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

Disposition: Approved.

SECOND READING

20. ORDINANCE 1665, ZONE CHANGE 7-2004 (ENNIS)

Recommendation: That the Council give Second Reading to Ordinance 1665, waive further reading, and adopt said Ordinance.

Mayor Martinez recused himself and left the Council Chambers.

City Manager John Longley presented the item and the staff report.
COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Council Member Stadtherr that the Council give Second Reading to Ordinance 1665, waive further reading, and adopt said Ordinance, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE APPROVING ZONE CHANGE 7-2004 BEING A CHANGE OF ZONE FROM R-1 (ONE FAMILY RESIDENTIAL) TO R-2 (FOUR FAMILY RESIDENTIAL) WITH A DESIGN REVIEW OVERLAY AND R-1 (ONE FAMILY RESIDENTIAL) TO R-3 (MULTIPLE FAMILY RESIDENTIAL) WITH A DESIGN REVIEW OVERLAY FOR THE VACANT 21.05± ACRE SITE LOCATED GENERALLY AT THE SOUTHWEST CORNER OF HENDERSON AVENUE AND NEWCOMB STREET.

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

Disposition: Approved.

SCHEDULED MATTERS
21. APPROVAL TO MARKET BUILDING LOCATED AT 301 NORTH HOCKETT STREET

Recommendation: That the Council authorize the Purchasing Department to advertise for sale by sealed bid the building located at 301 North Hockett Street for relocation by buyer.

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

In response to a question posed by Council Member Stadtherr as to whether the building could be utilized for training purposes by the Fire Department, Fire Chief Frank Guyton explained that on forcible entry training would be appropriate, and not live fire training, due to safety concerns.

A discussion ensued regarding the likelihood of being able to sell the structure with the requirement of having to demolish or relocate the building within six months. It was stated that moving the structure would be extremely costly.

• Greg Shelton, 888 North Williford Drive, came forward and commented that somebody might be interested in relocating the structure and the City should pursue that option.

In response to Mayor Martinez’s question, City Manager John Longley indicated that the building was defined as an historical property in the community. Staff added that the structure was likely built in the early 1900s.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Council Member Stadtherr that the Council authorize the Purchasing Department to advertise for sale by sealed bid the building located at 301 North Hockett Street for relocation by buyer.

AYES: Irish, Hamilton, Stadtherr, Martinez
22. APPOINTMENT OF MEMBERS TO THE PARKS & LEISURE SERVICES COMMISSION

Recommendation: That the Council appoint, at their discretion, two of the interested individuals as
Commissions to serve the remaining two vacancies with terms ending in October 2007, and a third person to the remaining vacancy which will expire in October of 2005.

City Manager John Longley presented the item, and Parks and Leisure Services Director Jim Perrine presented the staff report.

The Council noted that two of the interested individuals were in attendance and invited them to come forward and address the Council.

• Daniel Hoffman, 1740 West Henderson Avenue, introduced himself to the Council and requested that he be considered for appointment to the Commission.
• Greg Shelton, 888 North Williford Drive, came forward and voiced his interest in being appointed to the vacancy with the term ending in 2005.

Mayor Martinez indicated the Mr. George Luna had volunteered to serve on the Commission at his request. He offered information, particularly noting Mr. Luna’s work with at-risk children, and commented that he believed Mr. Luna would contribute positively to the Commission. He then noted that all of the individuals who had submitted statements of interest had something to contribute to the Commission.

Council Member Stadtherr acknowledged those individuals who had taken the time to write a letter of interest to the Council.

Council Member Hamilton confirmed with staff that the Redevelopment Advisory Committee had two vacancies and that its members were required to either live or work in the Redevelopment Area. After some discussion, staff advised that none of the individuals who had evinced an interest in serving on the Parks and Leisure Services Committee resided within the Redevelopment Area, however, it was mentioned that Mr. John Hardin was believed to work in the Redevelopment Area.

In response to a question from Council, Mr. Perrine indicated that all of the Library Board’s positions were filled.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Mayor Pro Tem Irish that the Council appoint Grace Munoz-Rios to serve on the Parks and Leisure Services Commission to fill the vacant position with a term ending in October 2007.

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

M.O. 16-031505

MOVED by Mayor Pro Tem Irish, SECONDED by Council Member Hamilton that the Council appoint Greg Shelton to serve on the Parks and Leisure Services Commission to fill the vacant position with a term ending in October 2005.

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

M.O. 17-031505

MOVED by Council Member Hamilton, SECONDED by Mayor Martinez that the Council appoint George Luna to serve on the Parks and Leisure Services Commission to fill the vacant position with a term ending in October 2007.

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

The Council thanked Mr. Daniel Hoffman for his interest in serving on the Commission and urged him to reassert his interest in the future. It was then mentioned that Mr. John Hardin might work within the Redevelopment Area, after which the Council directed staff to contact Mr. Hardin to confirm his employment within the Area and to determine if he had an interest in serving on the Redevelopment Advisory Committee. The Council additionally directed staff to prepare thank-you letters for Council’s signature to be sent to all of those individuals who had provided statements of interest.

Disposition: Approved.

23. CONSIDERATION OF ADVERTISING PROGRAM BEING ESTABLISHED FOR CITY TRANSIT BUSES

Recommendation: To be determined by Council.

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

In response to Mayor Pro Tem Irish’s question, staff explained that a policy could be set which would determine what types of advertising would be solicited.

City Attorney Julia Lew pointed out that the draft policy included in the staff report explicitly excluded political ads, however, Ms. Lew contended that the item did raise interesting Constitutional issues.

A discussion then ensued as to the different types of advertising that could be utilized on the sides of the buses, and the differing costs, implementation, and potential income associated with each.

COUNCIL ACTION: MOVED by Mayor Pro Tem Irish, SECONDED by Council Member Hamilton that the Council proceed with obtaining information on a possible program, and return to Council with specific program for review and consideration.
AYES: Irish, Hamilton, Stadtherr, Martinez
NOES: None
ABSTAIN: None
ABSENT: West

Disposition: Direction provided to Council.

The Council recessed for ten minutes.

24. ANNUAL REPORT ON SENIOR COUNCIL UTILITY STIPEND

Recommendation: That the Council receive and file the annual report.

City Manager John Longley presented the item, and Parks and Leisure Services Director Jim Perrine presented the staff report.

Mr. Longley updated that report, indicating that the total amount of utility expense was actually $7,256, with $2,182 representing City water, refuse and sewer; $309 for telephone; $4,171 for electrical power; and $593 for natural gas.

Council Member Hamilton requested a copy of the utility expense breakdown, to which Mr. Longley responded that he would provide a copy to each of the Council Members.

Disposition: No action requested.

25. REVIEW OF DRAFT TULARE COUNTY ASSOCIATION OF GOVERNMENTS FINANCIAL FEASIBILITY INDEPENDENCE (AUTONOMY) STUDY

Recommendation: That the Council provide direction to the staff and the TCAG Board Member regarding the consideration of an autonomous TCAG and LAFCO.

City Manager John Longley presented the item and the staff report.

Council Member Hamilton commented that according to George Finney, Executive Secretary of TCAG Administration, TCAG staff supported the move to autonomy. He pointed out that most Metropolitan Planning Organizations (“MPOs”) in California were autonomous. He then voiced support bringing the item back to the Council once more information regarding the benefits and detriments was available.

A discussion ensued as to those MPOs in California that were autonomous, with the nearest to Tulare County being the Kern Council of Governments (“KCOG”) and the Council of Fresno County Governments (“COFCG”).

The Council directed staff to bring the item back when more information had been received.

In response to Council Member Hamilton’s question, Mr. Longley explained the likely process by which TCAG would formally move toward autonomy, if so approved. He contended the process would conceivably be lengthy, particularly if Kings County had been invited to join, as was briefly mentioned at the last TCAG meeting.

Disposition: Direction provided to staff.
The Council adjourned to a Joint Meeting of the Porterville City Council and Porterville Redevelopment Agency.

**PORTERVILLE REDEVELOPMENT AGENCY AGENDA**

Roll Call: Vice-Chairperson Irish, Agency Member Hamilton, Agency Member Stadtherr, Chairperson Martinez
Absent: Agency Member West

**WRITTEN COMMUNICATIONS**

None

**ORAL COMMUNICATIONS**

None

**JOINT CITY COUNCIL/REDEVELOPMENT SCHEDULED MATTER**

PRA-1 RATIFICATION OF SUBORDINATION AGREEMENTS FOR ST. JAMES PLACE

Recommendation:

1. That the City Council:
   Approve the ratification of the documents needed from the City to effect subordination of the City loan to the Bank of the Sierra for the St. James Place Project; and

2. That the Redevelopment Agency:
   Approve the ratification of the documents needed from the City to effect subordination of the City loan to the Bank of the Sierra for the St. James Place Project.

Vice Chairman Irish noted a conflict of interest, recused himself from the discussion, and left the Council Chambers.

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

At Council Member Hamilton’s request, Mr. Dunlap elaborated that the ambiguity was primarily due to the fact that the original authority had been granted for the original amount of $200,000, and that loan amount had increased to $440,000. He pointed out that although the City was still required by the HOME Program to subordinate, the original authority was ambiguous and therefore staff was seeking ratification of same.

**COUNCIL ACTION:**

MOVED by Council Member and Agency Member Hamilton, SECONDED by Council Member and Agency Member Stadtherr that the Council approve the ratification of the documents needed from the City to effect subordination of the City loan to the Bank of the Sierra for the St. James Place Project, and that the Redevelopment Agency approve the ratification of the documents needed from the Redevelopment Agency to effect subordination of the Agency loan to the Bank of the Sierra for the St. James Place Project.

AYES: Hamilton, Stadtherr, Martinez
NOES: None
Disposition: Approved.

The Joint Meeting of the Porterville Redevelopment Agency and the Porterville City Council adjourned to a meeting of the Porterville Redevelopment Agency.

PRA-2 PAYMENT FOR SECURITY FOR REQUIRED CONSTRUCTION WARRANTY FOR THE ST. JAMES PLACE PROJECT

Recommendation: That the Redevelopment Agency approve the expenditure of Redevelopment Low and Moderate Income Housing Funds for the cost of the Letter of Credit for the St. James Place Project of approximately $1,250, but not to exceed $3,000.

City Manager John Longley presented the item and indicated that in order to be consistent with the action taken by the City Council earlier that evening, the staff recommendation was to deny the expenditure.

COUNCIL ACTION: MOVED by Agency Member Hamilton, SECONDED by Agency Member Stadtherr that the Redevelopment Agency deny the expenditure of Redevelopment Low and Moderate Income Housing Funds for the cost of the Letter of Credit for the St. James Place Project.

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

Disposition: Denied.

Chairperson Irish returned to the Council Chambers.

PRA-3. USE OF REDEVELOPMENT AGENCY FIRST TIME LOW INCOME HOMEBUYER PROGRAM LOAN

Recommendation: That the Redevelopment Agency authorize the use of the program income funds generated by the sale or refinancing of homes assisted with Redevelopment TFHB funds for Redevelopment homebuyer assistance in the Casas Buena Vista Subdivision.

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

COUNCIL ACTION: MOVED by Agency Member Hamilton, SECONDED by Agency Member Stadtherr that the Redevelopment Agency authorize the use of program income funds generated by the sale or refinancing of homes assisted with Redevelopment TFHB funds for Redevelopment Homebuyer assistance in the Casas Buena Vista Subdivision.

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

The Porterville Redevelopment Agency adjourned at 9:02 p.m. to a meeting of the Porterville City Council.

ORAL COMMUNICATIONS

• Greg Shelton, 888 North Williford Drive, thanked the Council for his appointment to the Parks and Leisure Services Commission.

OTHER MATTERS

• Mayor Pro Tem Irish requested that Mr. Dunlap thank Linda Wammack for her preparation of the presentation on Endurequest. He then commended the Parks & Leisure Services Department staff, most notably Jeannie Greenwood, for its well-prepared Newsletter.

• Council Member Stadtherr commented on several matters:
  1. He informed everyone of the Lion’s Club “Brewfest” taking place at the park next to the Veteran’s Building that weekend;
  2. He mentioned that the Great Valley Center was sponsoring a Solar Conference at Cal State Fresno on April 1, 2005 and referenced individuals to www.valleyair.org/solar for further information.
  3. He advised of an upcoming vote on the Reduction in Motor Vehicle Emissions Program by the San Joaquin Valley Air Pollution Control District to take place on March 17, 2005 at 9:00 a.m. He advised that the outcome could affect the City’s ability to seek grant funds for bicycle paths and that he would inform the Council of the outcome.

• Council Member Hamilton requested that staff investigate the possibility of converting the City-owned property adjacent to the Zalud House to a parking lot.

• Mayor Martinez commented on several matters:
  1. He noted Mr. Dan Hogan’s interest in the Zalud House and suggested he be invited to participate on its Committee.
  2. He offered congratulations to City employees Russell Martinez and Shannon Skiles, who were named 2004 Police Officer of the Year and 2004 Firefighter of the Year, respectively, at the Exchange Club’s Annual Banquet.
  3. Mayor Martinez indicated that he had been appointed as an alternate to LAFCO.
  4. He informed Council that he had been elected President at a recent meeting of the Sister Cities Association and that he would first determine what the position entailed before accepting the position.
  5. He stated that he had received several complaints from Catholics who were offended by Council Member Stadtherr’s editorial piece, and questioned if it had possibly contained a typographical error.

• Council Member Hamilton noted that Bakersfield had recently adopted a Sister City in Mexico and suggested that the City contact Bakersfield to discuss logistics in transporting the ambulance(s).

ADJOURNMENT

The Council adjourned at 9:15 p.m. to the meeting of March 29, 2005 at 6:00 p.m.

________________________________________
Patrice Hildreth, Deputy City Clerk

Page 15 of 16
SEAL

________________________________________
Pedro R. Martinez, Mayor
SUBJECT: CLAIM - LEANNA BARNES

SOURCE: Administrative Services Department/City Clerk Division

COMMENT: Leanna Barnes has filed a claim against the City for personal injuries allegedly sustained when her vehicle was struck by a police vehicle driven by Office Aaron Louis Sutherland. The incident occurred at the intersection of SR 190 (Avenue 144) and Road 208. The claimant alleges she has suffered broken ribs, left hand pain, bilateral arm pain, chest pain, neck pain, upper and lower back pain, fifth finger nail loss, index finger puncture, shoulder pain, deep bruising, and other injuries yet to be diagnosed. Ms. Barnes is additionally claiming wage loss since the date of the incident.

The amount being claimed exceeds $10,000 and is within the jurisdiction of Tulare County Superior Court, Unlimited Division.

RECOMMENDATION: That the Council reject said claim, refer the matter to the City's insurance adjustor, and direct the City Clerk to give the claimant proper notification.

Attachment: Claim Form
CITY OF PORTERVILLE
CLAIM FORM

FORM B
(Please Type Or Print)

CLAIM AGAINST CITY OF PORTERVILLE

Claimant's name: Leanna Barnes SS#: 123-45-6789

Claimant’s Telephone No.: 555-1234 DOB: 01/01/1985

Claimant's address: 1507 Holste Ave, P.O. Box 192, Pixley, California 93256

Address where notices about claim are to be sent, if different from above: Gary L. Paden, Law Office of Gary L. Paden, 225 West Oak Ave, Visalia, California 93291, 559-732-8111

Date of incident/accident: September 25, 2004

Date injuries, damages, or losses were discovered: September 25, 2004

Location of incident/accident: SR-190 (Ave 144) at the intersection with Road 208, in the unincorporated area of the City of Porterville, County of Tulare, California.

What did entity or employee do to cause this loss, damage, or injury? Police Officer traveling 80 mph applied brakes when approaching a stop sign at Road 208, but was unable to stop and traveled into the intersection causing collision with claimant.

What are the names of the entity’s employees who caused this injury, damage, or loss (if known)? Officer Aaron Louis Sutherland

What specific injuries, damages, or losses did claimant receive? Broken ribs, left hand pain, bilateral pain, sheet pain, neck pain, upper and lower back pain, fifth finger nail loss, index finger puncture, shoulder pain, deep bruising, and other injuries yet to be diagnosed as still treating, and wage loss since date of the accident.

What amount of money is claimant seeking or, if the amount is in excess of $10,000, which is the appropriate court of jurisdiction. Note: If Superior and Municipal Courts are consolidated, you must represent whether it is a “limited civil case” [see Government Code 910(ff)] Case exceeds $10,000.00 and is not unlimited civil case, it will be filed in Tulare County Superior Court Unlimited Jurisdiction.

How was this amount calculated (please itemize)? Claimant does not yet have all medical bills as she is still treating and experiencing wage loss. The case will be filed in unlimited jurisdiction and damages will be provided upon proof.

Date Signed: March 9, 2005 Signature: [Signature]

If signed by representative:

Representative’s Name Gary L. Paden

Address Law Office of Gary L. Paden, 225 West Oak Ave, Visalia, California 93291

Telephone # 559-732-8111

Relationship to Claimant Attorney
COUNCIL AGENDA: April 5, 2005

SUBJECT: APPROVE AMENDMENT NO. 1 TO THE SERVICE AGREEMENT WITH ROBERTS ENGINEERING FOR THE LIBRARY RESTROOM RENOVATION PROJECT

SOURCE: Parks and Leisure Services Department

COMMENT: A Service Agreement was entered into on February 2, 2002 with Roberts Engineering for design of the OHV Park snack bar and renovation of the City Library restrooms. The OHV facilities were constructed with the project manual provided by Roberts, and a completed project manual for the Library restroom renovation work was provided to the City. Apparently, the Library funding was not sufficient to accomplish the restroom renovation work, therefore the project has been on hold for the last three years.

There is also a need to replace heavily worn sections of floor covering along the main walking pathway to the stairway and the upstairs hallway. Staff have identified sufficient cost savings within the current year Library budget to accomplish a change in the design for the restroom renovation project, with the inclusion of the additional floor cover replacement, and updated cost estimate. Staff believes that the department budget savings will allow for the floor cover replacement, safety modifications to the stairway, and the remodel of the women's restroom. The renovation of the men's restroom is envisioned to be included in the project manual as an alternative bid item in the event that funding is found to complete this work.

Amendment No. 1 to the Service Agreement with Roberts Engineering authorizes the additional design, estimate, and project manual preparation work. The goal is to have the project ready for Council authorization to bid on the April 19, 2005 regular meeting.

RECOMMENDATION: Approve Amendment No. 1 to the Service Agreement with Roberts Engineering for the Library Restroom Renovation Project.

ATTACHMENTS: Amendment No. 1
Service Agreement of February 2, 2002

ITEM NO.: 3
AMENDMENT NO. 1
TO PURCHASE ORDER NO. 012724

CITY OF PORTERVILLE

AND

ROBERTS ENGINEERING

Amendment No. 6 to P. O. No. 012724 is issued by the City and accepted by CONSULTANT pursuant to the mutual promises, covenants, and conditions contained in the Service Agreement between the above named parties dated the 2nd day of February, 2002, in connection with the Library Restrooms Renovation Project.

PURPOSE

The purpose of this amendment is to add "extra" work to the Consultant's Services (scope of services) as required in the Agreement and more specifically described herein.

CONSULTANT'S SERVICES

The services to be provided in Amendment No. 1 will be for the following:

1. Modifications to design, plans, and specifications as follows:
   a. Modifications to plan details for restrooms;
   b. Site measurements of carpet area to be removed;
   c. Add details for carpet replacement areas;
   d. Modifications and additions to specifications;
   e. Modifications and additions to bid documents; and,
   f. Modifications to the Final Engineer's Estimate updating costs as necessary.

2. Review plan corrections and provide comments as necessary.

3. Submit to the City for review and comments;

4. Submit to City for final approval and signatures.

It is understood that due to the CITY's tight time frame to meet City Council agenda deadlines, this work will be performed under that contract as stated above.
The costs associated with the work outlined above are based upon our current fee schedule.

Costs for providing the above stated services will be $3,500.00.

**TIME OF PERFORMANCE**

Services in Amendment No. 1 shall begin immediately after CONSULTANT receives written notification from the CITY. The modified engineer’s estimate will be submitted by the end of the work day April 12, 2005. The modified plans and specifications will be submitted to the CITY by April 29, 2005.

**PAYMENT**

CITY shall pay CONSULTANT the lump sum amount of THREE THOUSAND FIVE HUNDRED DOLLARS ($3,500.00) to complete all services required by Amendment No. 1. Payments will be made monthly on presentation of invoices and shall be based on a percentage of completion, not to exceed the sum set forth herein above.

**TIME EXTENSION**

It is agreed that the contract completion time will be extended to June 30, 2005.

IN WITNESS WHEREOF, duly authorized representatives of the CITY and the CONSULTANT have executed Amendment No. 1 to Purchase Order No. 012724 evidencing its issuance by CITY and accepted by CONSULTANT.

**ROBERTS ENGINEERING**

By [Signature]
Charles W. Roberts

Date: March 30, 2005

**CITY OF PORTERVILLE**

[Signature]
Mayor

Date: ___________________________
SERVICE AGREEMENT

DATE: February 7, 2002

PARTIES: City of Porterville, a California municipal corporation, hereinafter referred to as "CITY"; and Roberts Engineering, hereinafter referred to as "CONSULTANT".

RECITALS: CITY has undertaken a project on which it is seeking assistance from CONSULTANT. Said project which will hereinafter be referred to as "project" is described as follows:

Project Name: City of Porterville, Porterville Library Restrooms and Off Highway Vehicle Park Improvements.

Description of Project: (1) Library - Men’s and Women’s Restrooms - include new tile floor, restroom partitions designed to meet disabled access requirements, new fixtures, and painting as required. Restrooms are approximately 9’6" x 13’6". Consultant shall prepare his/her own construction plans and not rely or reuse City Plans. (2) Off Highway Vehicle Park Improvements - include the addition of concrete steps and hand rails, shade structure, 42’ x 12’, to be attached to existing restroom, concrete slab is in place, and the construction of a snack bar storage area, 10’ x 16’. A closed schematic drawing identifying proposed structures and their locations is enclosed. Consultant shall prepare cost estimates for each project.

AGREEMENTS:

IN CONSIDERATION OF MUTUAL COVENANTS AND AGREEMENTS HEREAFTER set forth the parties hereto do contract and agree as follows: SECTION 1. CONTRACT SERVICES: CONSULTANT hereby agrees to provide the following services and materials, in a timely manner as described
in Exhibit “A”, Scope of Services, in connection with the above described project.

**SECTION 2. CONTRACT SERVICES:** In consideration for said services and materials, CITY shall pay CONSULTANT on a time and materials basis, not to exceed Thirteen Thousand Dollars, ($13,000).

**TIME OF PAYMENT:** Progress payment requests shall be submitted by the 25th of each month. CONSULTANT should receive payment within 30 days of the date the bill is received. Billing will be made in the percentages shown in Exhibit “B” Library, OHV. Proposal. Proof of work must be submitted with bill.

**SECTION 3. COMPLETION DATE:** The services to be performed by CONSULTANT will be commenced upon execution of this agreement and all final plans shall be completed by April 2, 2002.

The parties agree that time is of the essence under this contract. Inasmuch as it would be difficult to ascertain the actual amount of damages sustained by delay in performance of said contract, the amount of $50.00 per calendar day shall be deducted from the contract price for liquidated damages for each calendar day beyond the completion date listed above. Said deduction will not be made if CONSULTANT submits proof in writing that delay in completion was due to a cause beyond its control.
SECTION 4. FAMILIARITY WITH PROJECT: CONSULTANT certifies and agrees that it is fully familiar with all of the details of the project required to perform its services. CONSULTANT agrees it will not rely upon any opinions and representations of CITY unless CITY is the only available source of said information.

SECTION 5. INDEPENDENT CONTRACTOR: It is expressly understood that CONSULTANT is entering into this contract and will provide all services and materials required hereunder as an independent contractor and not as an employee of CITY. CONSULTANT specifically warrants that it will have in full force and effect, valid insurance covering:

(i) Full liability under worker's compensation laws of the State of California; and

(ii) Bodily injury and property damage insurance in the amount not less than Five Hundred Thousand Dollars ($500,000) per occurrence; and

(iii) Errors and Omissions insurance of Five Hundred Thousand Dollars ($500,000) minimum per occurrence, if deductible for Errors and Omissions insurance is Fifty Thousand Dollars ($50,000) or more, the City may require a Surety Bond for the deductible; and

(iv) Automotive liability in the amount not less than Five Hundred Thousand Dollars ($500,000) per occurrence;
fully protecting CITY, its elected and appointed officers, employees, agents and assigns, against all claims arising from the negligence of CONSULTANT and any injuries to third parties, including employees of CITY and CONSULTANT. CONSULTANT agrees to indemnify, defend (at CITY'S election), and hold harmless the CITY against any claims, actions or demands against CITY, and against any damages, liabilities for personal injury or death or for loss or damage to property, or any of them arising out of negligence of CONSULTANT or any of its employees or agents.

SECTION 6. WORKMANSHIP AND MATERIALS: Every part of the work herein described shall be executed in a professional manner with competent, experienced personnel. Finished or unfinished material prepared under the agreement, prepared by CONSULTANT, shall become property of CITY. CONSULTANT hereby warrants that any materials prepared under this agreement shall be fit for the intended use contemplated by the parties.

SECTION 7. ASSIGNMENT OF CONTRACT: It is acknowledged by the parties that CITY has entered into this contract with the express understanding that all work will be performed by CONSULTANT. CONSULTANT shall not, without the written consent of CITY, assign, transfer or sublet any portion or part of this work, nor assign any payments to others.
SECTION 8. AFFIRMATIVE ACTION: CONSULTANT will not discriminate against any employee, or applicant for employment because of race, color, religion, gender, marital status, or national origin.

SECTION 9. CONFLICT TO INTEREST CODE: CONSULTANT agrees to comply with the regulations of CITY'S "Conflict of Interest Code". Said code is in accordance with the requirements of the Political Reform Act of 1974.

CONSULTANT covenants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of service required hereunder. The term "conflict" shall include, as a minimum, the definition of a "conflict of interest" under the California Fair Political Practices Act and the City of Porterville Conflict of Interest Code, as that term is applied to consultants.

SECTION 10. TERMINATION: This contract may be terminated by either party for just cause by giving seven (7) days written notice to the other party. Upon termination by CITY, CITY shall be relieved of any obligation to pay for work not completed including profit and overhead. CONSULTANT may be entitled to just and equitable compensation for satisfactory work completed, except CITY can withhold damages incurred as a result of the termination.

SECTION 11. ENTIRE CONTRACT: It is understood and agreed that this Service Agreement represents the entire Agreement between the parties.
Should it be necessary to institute legal proceedings to enforce any and all of the covenants and conditions of this Agreement, the prevailing party shall be entitled to recover attorneys' fees and costs.

SECTION 12. DISPUTES; VENUE: If either party initiates an action to enforce the terms hereof or declare rights hereunder, the parties agree that the venue thereof shall be the County of Tulare, State of California. CONSULTANT hereby waives any rights it might have to remove any such action pursuant to California Code of Civil Procedure Section 394.

IN WITNESS WHEREOF, the parties have executed this Service Agreement on the date and year first above written.

CITY OF PORTERVILLE

By Gordon T. Woods, Mayor

CONSULTANT

By

Date 2/5/02

Date 2/13/02
PROJECT SCHEDULE
Library and OHV Park
City of Porterville

LIBRARY RESTROOMS
Review existing facility plans
Obtain as-built measurements
Develop preliminary floor plans
Meet with City staff
Finalize plans and specifications
Submit final plans to City
Bidding Phase
Review construction submittals
Prepare as-built plans

OHV PARK
Review existing facility plans
Obtain as-built measurements
Develop preliminary floor plans
Meet with City staff
Finalize plans and specifications
Submit final plans to City
Bidding Phase
Review construction submittals
Prepare as-built plans

The foregoing schedule is based upon working on the projects concurrently and having a 90 day construction period. The as-built plans will be based upon red lined plans provided by the prime contractor at the end of the project.
To:  Gii Meachum

From:  Donna Shamley

Re:  Library/OHV Park Proposal

The following percentages should be used for the above referenced project:

Task A.  50% Includes items 1 through 5 of the scope of work
Task B.  20% Includes items 6 and 7 of the scope of work
Task C.  30% Includes items 8, 9, and 10 of the scope of work

If you have any questions, please call.

[Signature]

Exhibit B
SUBJECT: AUTHORIZATION TO ADVERTISE FOR BIDS - WELL NO. 28 PROJECT (PUMPING PLANT)

SOURCE: Public Works Department - Engineering Division

COMMENT: The Plans and Project Manual have been prepared for Well No. 28 Project (Pumping Plant). The well is located on "F" Street, south and next to the Wal Mart Distribution Center. This is the second phase of the well project and consists of the installation of a 100 HP pump, electrical system, above ground discharge piping and other items of work necessary to provide a complete pumping plant.

The contractor (Zim Industries, Inc.) for the first phase of the Well No. 28 Project has completed the drilling operations, development and production testing. The water quality is good and production will be about 550 gallons per minute. Site clean up and final billings are the only items requiring the contractor’s attention before staff will request acceptance of the project’s first phase.

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

The City’s consultant, Dee Jaspar & Associates, has prepared an Estimate of Probable Cost and the amount, including add alternates, is $617,000. This estimate is about 200% higher than normal. Estimating projects have become very difficult due to escalating construction costs and the high demand for well contract work.

Construction costs for Phase 1 work is approximately $298,000 and as stated, the second phase is estimated to be $617,000. These totals equate to an estimated construction cost of $915,000. During the 04/05 Annual Budget, $452,864 of Water Replacement Funds were appropriated for the Well No. 28 Project. The project will require an appropriation of $590,000 from other accounts within Water Replacement Fund to cover all costs, including construction contingencies and staff time.

RECOMMENDATION: That City Council:

1. Approve the Plans and Project Manual; and
2. Authorize staff to advertise for bids on the project; and

Dir _____ Appropriated/Funded _____ CM _____ Item No. 4
3. Authorize staff to appropriate the necessary Water Replacement Funds during the construction award process.

ATTACHMENTS: Locator Map
               Engineer’s Estimate
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<th>Item No.</th>
<th>Item Description</th>
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<td>5</td>
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<td>4</td>
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<td>7</td>
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<td>8</td>
<td>3/4&quot; Class II Aggregate Base Site Ground Cover</td>
<td>308</td>
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<td>SCADA</td>
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<td>On-Site Sodium Hypochlorite Generation System</td>
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<td>15 Alt.</td>
<td>Chlorine Building w/ Concrete Foundation</td>
<td></td>
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Subtotal w/o Alt. 13-15: $435,445
10% Contingency $43,545
Total Estimate w/o Alt. 13-15: $478,990

Subtotal w/ Alt. 13-15: $561,045
10% Contingency $56,105
Total Estimate w/ Alt. 13-15: $617,150

* Estimate does not include SCE or phone company costs

Prepared By: Curtis M. Skaggs, Project Engineer
Reviewed By: Michael K. Reed, City Engineer
Reviewed By: Baldomero S. Rodriguez, Public Works Director
Reviewed By: John Longley, City Manager

Date: 3-24-05
Date: 3-23-05
Date: 5-28-05
SUBJECT: AUTHORIZATION TO NEGOTIATE A CONTRACT - ENGINEERING SERVICES FOR THE DESIGN OF ROCKY HILL ZONE 1 RESERVOIRS PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: On January 31, 2005, staff received seven (7) proposals for the design and preparation of plans and project manual for the Rocky Hill Zone 1 Reservoirs Project (eastside water tanks). The proposals were ranked in accordance with the “Policy for Selecting Consultants to Provide Architectural, Engineering and Similar Services” adopted by City Council (Resolution 16-2001). Five of the seven firms were selected for formal presentations on March 10, 2005 and they were ranked again according to said policy. The firms were ranked as follows:

Rank: Firm:
1. Roberts Engineering, Inc., Porterville, CA
2. Willdan, Visalia, CA
3. Boyle Engineering Corp., Fresno, CA
4. Carollo Engineers, Fresno, CA
5. Quad-Knopf, Visalia, CA

Funds are provided by Water Replacement Funds and the project was approved during the 04/05 Annual Budget. Funding from a California Infrastructure and Economic Development Bank (CIEDB) loan may be substituted for Water Replacement Funds if the City’s application through the CIEDB is successful.

RECOMMENDATION: That City Council:

1. Authorize staff to negotiate a contract with Roberts Engineering, Inc.;
2. Authorize staff to negotiate a contract with the 2nd or 3rd ranked firm if staff is unable to negotiate an acceptable contract with Roberts Engineering, Inc.;
3. Authorize the Mayor to sign all contract documents; and
4. Authorize staff to make payments up to 100% upon satisfactory completion of the work.

ATTACHMENT: Locator Map

Dir ___ Appropriated/Funded ___ CM ___ Item No. 5
SUBJECT: AUTHORIZATION TO NEGOTIATE CONTRACT FOR CONSULTANT SERVICES FOR THE UPDATE TO THE GENERAL PLAN

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: On November 16, 2004, the City Council authorized the distribution of the Request For Proposals (RFP) to prospective consultants for the update to the Land Use and Circulation Elements of the General Plan. The RFP’s were subsequently distributed and the City received three (3) proposals. To assist in the process of evaluating the prospective consultants, the Council also appointed a Selection Committee made up of a cross section of the Council, staff and representatives from the community. The Committee evaluated each of the proposals and conducted interviews with two of the firms that chose to interview. The third firm bowed out of the process due to scheduling conflicts and work load issues.

The Committee ranked the firms in the following order:

1. Dyett and Bhatia
2. Design, Community and Environment

As a result of the process, the Committee is recommending that the City Council authorize Staff to negotiate a contract with Dyett and Bhatia. In the event a mutual agreement cannot be reached, the Committee requests that Staff be allowed to move to the second firm Design, Community and Environment. Both firms are qualified to perform the requested services.

The evaluation process also resulted in a request from the Committee that the Council approve expanding the scope of the work to include an economic analysis to evaluate future growth in jobs and how it ties into the designation of future land uses and other aspects of the General Plan. This would likely lead into the preparation of an Economic Development Element of the General Plan, but is not envisioned as a part of this effort. Further, the Committee is recommending that the Council expand the scope of work to include the preparation of the Noise Element which serves in conjunction with the Land Use and Circulation Element in the development of new goals, policies and objectives for dealing with noise generating uses as the City grows.

In the FY 2004/2005 budget, the City Council approved an appropriation of $250,000 as the first FY appropriation for the General Plan Update. An additional appropriation will be requested in the FY 2005/2006 budget. The contract with the successful consultant will be structured around the financial resources dedicated to the project, in essence, there will be milestones built into the contract that defines
work based on the allotted amount of funds. In the event additional funds are not available in the FY 2005/2006 budget, the work will be structured in the contract to cease at a logical stopping point coordinated with budget resources.

RECOMMENDATION: That the City Council:

1. Approve the expanded scope of work to include the preparation of an Economic Impact Analysis;

2. Approve the expanded scope of work to include the preparation of the Noise Element Update in conjunction with the Land Use and Circulation Element Updates;

3. Authorize staff to negotiate a contract with Dyett and Bhatia for the General Plan Update;

4. Authorize staff to negotiate a contract with the next highest ranked firm (Design, Community, and Environment) in the event a contract cannot be negotiated with Dyett and Bhatia;

5. Authorize the Mayor to sign all contract documents; and

6. Authorize staff to make payments up to 100% upon satisfactory completion of the work.
SUBJECT: APPROVE SERVICE AGREEMENT WITH SITE DESIGN GROUP, INC. FOR DESIGN OF THE SKATE PARK

SOURCE: Parks and Leisure Services Department

COMMENT: A Request for Qualifications for design services of the above ground skate park was distributed in January 2005. Four firms submitted letters of interest and qualifications. The Design Consultant Selection Committee screened the applications and invited two firms for interviews. The interviews were conducted on March 17, 2005 and it was the recommendation that negotiations on an appropriate scope of services and fee be undertaken with Site Design Group, Inc.

Accompanying this report is the proposed scope of work, fees and project schedule for the design and construction of the project. The Consultant Selection Committee believes that the scope and fee are appropriate and recommend approval of the Service Agreement. The design work is anticipated to be completed by June, 2005, under a very tightly prepared schedule. The design cost is not to exceed $30,475, plus an estimated $2,500 of printing and other reimbursable fees.

Site Design Group, Inc. has extensive skate facility design experience, including many sizable above ground facilities. They are well respected by all modular skate facility manufacturers and will supply the City of Porterville with a customized design which they have assured will be constructed at a lower cost than standard manufacturer catalogue components. Site Design has an aggressive community participation in the design process. Their quality control specifications, and onsite inspection services, will also be provided to assure the highest quality of material and installation.

The parking lot to be constructed adjacent to the skate facility is not a part of the scope of services with Site Design. Separate design services by an engineering firm will be arranged for this routine civil engineering project.

RECOMMENDATION: Approve the Service Agreement with Site Design Group, Inc. for the design of the skate park.

ATTACHMENT: 1. Service Agreement with Scope of Work, Project fees, and Project Schedule

2. Site Design Philosophy and Experience

ITEM NO.: 7
SERVICE AGREEMENT

DATE: April 5, 2005

PARTIES: City of Porterville, a California municipal corporation, hereinafter referred to as "CITY"; and Site Design Group, Inc., hereinafter referred to as "CONSULTANT".

RECITALS: CITY has undertaken a project on which it is seeking assistance from CONSULTANT. Said project which will hereinafter be referred to as "project" is described as follows:

Project Name: Skate Park - design and construction observation services

AGREEMENTS:
IN CONSIDERATION OF MUTUAL COVENANTS AND AGREEMENTS HEREINAFTER set forth the parties hereto do contract and agree as follows:

SECTION 1. CONTRACT SERVICES: CONSULTANT hereby agrees to provide the following services and materials, in a timely manner as described in Exhibit "A", Scope of Services, in connection with the above described project.

SECTION 2. PAYMENT: In consideration for said services and materials, CITY shall pay CONSULTANT on a time and materials basis, not to exceed thirty six thousand two hundred forty Dollars, ($36,240), plus reimbursable expenses (refer to attached fee schedule).

TIME OF PAYMENT: Progress payment requests shall be submitted by the 25th of each month. CONSULTANT should receive payment within 30 days of the date the bill is received.
SECTION 3. COMPLETION DATE: The design services to be performed by CONSULTANT will be commenced upon execution of this agreement and all "work directives" shall be completed by June 6, 2005.

The parties agree that time is of the essence under this contract. Inasmuch as it would be difficult to ascertain the actual amount of damages sustained by delay in performance of said contract, the amount of $30 per calendar day shall be deducted from the contract price for liquidated damages for each calendar day beyond the completion date listed above. Said deduction will not be made if CONSULTANT submits proof in writing that delay in completion was due to a cause beyond its control.

SECTION 4. FAMILIARITY WITH PROJECT: CONSULTANT certifies and agrees that it is fully familiar with all of the details of the project required to perform its services. CONSULTANT agrees it will not rely upon any opinions and representations of CITY unless CITY is the only available source of said information.

SECTION 5. INDEPENDENT CONTRACTOR: It is expressly understood that CONSULTANT is entering into this contract and will provide all services and materials required hereunder as an independent contractor and not as an employee of CITY. CONSULTANT specifically warrants that it will have in full force and effect, valid insurance covering:

(i) Full liability under worker's compensation laws of the State of California; and

(ii) Bodily injury and property damage insurance in the amount not
less than Five Hundred Thousand Dollars ($500,000) per occurrence; and

(iii) Errors and Omissions insurance of Five Hundred Thousand Dollars ($500,000) minimum per occurrence, if deductible for Errors and Omissions insurance is Fifty Thousand Dollars ($50,000) or more, the City may require a Surety Bond for the deductible; and

(iv) Automotive liability in the amount not less than Five Hundred Thousand Dollars ($500,000) per occurrence;

fully protecting CITY, its elected and appointed officers, employees, agents and assigns, against all claims arising from the negligence of CONSULTANT and any injuries to third parties, including employees of CITY and CONSULTANT. CONSULTANT agrees to indemnify, defend (at CITY’S election), and hold harmless the CITY against any claims, actions or demands against CITY, and against any damages, liabilities for personal injury or death or for loss or damage to property, or any of them arising out of negligence of CONSULTANT or any of its employees or agents.

SECTION 6. WORKMANSHIP AND MATERIALS: Every part of the work herein described shall be executed in a professional manner with competent, experienced personnel. Finished or unfinished material prepared under the agreement, prepared by CONSULTANT, shall become property of CITY. CONSULTANT hereby warrants that any materials prepared under this agreement shall be fit for the intended use contemplated by the parties.
SECTION 7. ASSIGNMENT OF CONTRACT: It is acknowledged by the parties that CITY has entered into this contract with the express understanding that all work will be performed by CONSULTANT. CONSULTANT shall not, without the written consent of CITY, assign, transfer or sublet any portion or part of this work, nor assign any payments to others.

SECTION 8. AFFIRMATIVE ACTION: CONSULTANT will not discriminate against any employee, or applicant for employment because of race, color, religion, gender, marital status, or national origin.

SECTION 9. CONFLICT OF INTEREST CODE: CONSULTANT agrees to comply with the regulations of CITY’S “Conflict of Interest Code”. Said code is in accordance with the requirements of the Political Reform Act of 1974.

CONSULTANT covenants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of service required hereunder. The term "conflict" shall include, as a minimum, the definition of a "conflict of interest" under the California Fair Political Practices Act and the City of Porterville Conflict of Interest Code, as that term is applied to consultants.

SECTION 10. TERMINATION: This contract may be terminated by either party for just cause by giving seven (7) days written notice to the other party. Upon termination by CITY, CITY shall be relieved of any obligation to pay for work not completed including profit and overhead. CONSULTANT may be entitled to just and equitable compensation for satisfactory work completed,
except CITY can withhold damages incurred as a result of the termination.

SECTION 11. ENTIRE CONTRACT: It is understood and agreed that this Service Agreement represents the entire Agreement between the parties. Should it be necessary to institute legal proceedings to enforce any and all of the covenants and conditions of this Agreement, the prevailing party shall be entitled to recover attorneys' fees and costs.

SECTION 12. DISPUTES; VENUE: If either party initiates an action to enforce the terms hereof or declare rights hereunder, the parties agree that the venue thereof shall be the County of Tulare, State of California. CONSULTANT hereby waives any rights it might have to remove any such action pursuant to California Code of Civil Procedure Section 394.
IN WITNESS WHEREOF, the parties have executed this Service Agreement on the date and year first above written.

CITY OF PORTERVILLE

By _____________________________
Pedro R. Martinez, Mayor

CONSULTANT

By _____________________________

Date ___________________________

Date ___________________________

HLH:vs

Y/Dilbert/ci.cds/Engineering/Forms & Templates/Service Agreement Template
SCOPE OF WORK

A policy of SITE Design Group, Inc. is to provide the client with a scope of work summary. The proposed design process to be performed by the SITE Design Group, Inc. Project Team (SITE) for The City of Porterville for the Porterville Skate Park Project (CLIENT) includes the following:

TASK 1.0-PROGRAMMING & CONCEPTUAL DESIGN PHASE

Objectives:
- Define scope of work, schedule, and overall items of coordination.
- Review any applicable studies, concepts, existing data sources, and any other work done to date in the interest of this project.
- Establish the project working relationship with all members of the project design team

1.1 Issue Skate Park Data Sheet to Client (SITE/CLIENT)
- SITE will issue a data sheet/questionnaire for the Client to complete prior to the first project meeting. This data sheet will assist SITE in the programming and design of the skate park.

1.2 Data Collection (SITE/CLIENT)
- Data will be collected as it relates to the existing site and proposed development to ensure an understanding of the site and park program. Existing information pertinent to the project scope of work will be gathered and distributed to all design team members during this phase of the work.

1.3 Skate Park Conceptual Layout Plan (SITE)
- Based upon specific design criteria gathered from the Client, SITE will prepare a conceptual layout plan that will depict site facilities and relationships. Specific concepts to be reviewed under this contract shall be limited to the following items:
  - Develop two (2) conceptual skate park designs identifying horizontal layout of the park based on the conceptual bubble diagram layout and client approval.
  - Pedestrian access and circulation system.

1.4 Project Meeting #1 & Public/User Meeting #1 (SITE/CLIENT) TRIP #1
- Meet with Client staff and team consultants to verify work program, schedules and channels of communication.
- Review project scope, schedule and budget with design team.
- Project overview and distribution of design team responsibilities.
- The Client shall locate and reserve the room(s) for each of the below listed meetings.
- The Client shall provide SITE with any operational or maintenance issues pertaining to other parks within the Client's oversight. SITE will use this information to respond to any existing park issues that may be addressed in the design of this project.
- It shall be the responsibility of the Client to provide any applicable municipality and surrounding area guidelines, specifications, and detailing as it relates to any designed element within the project. It shall be the responsibility of the Client to inform SITE of any special requirements for this particular project (city approved development plans, previously approved conceptual plans, special guidelines, area plans, etc.).
- Three separate meetings will occur on the same date.
  - Client Staff Meeting – This meeting will include the Client Staff
• **Design Team/Project Consultant Meeting** – This meeting will include the Client Staff, public agencies and any team consultants related to the project.
• **Public/Skater Meeting #1** – The public meeting, typically starting between 6:00 – 7:00 pm, will be held to facilitate a work session to develop consensus and present the skate park conceptual layouts plans for public review.

1.5 **Project Specific Skate Park Website (SITE)**
• Create website specific to this project available by first accessing www.sitedesigngroup.com. The site will be accessible 24/7 by anyone with the correct login and password, providing they have access to the Internet.
• Items displayed on the website will include concept photos/drawings.
• The website address, along with a login and password will be distributed to all participants in the public meeting #1.

**Task 1.0 Deliverables**
1.1 Memorandum of project understanding and scope – submitted to Client for review and approval.
1.3 SITE shall use the existing preliminary park master plan as the deliverable for this task.
1.4 Internal design sketches of proposed amenities to the Client for review.
1.5 Conceptual Site Plans and improvement sketches to be used as a basis for the future Construction Documents
1.6 Project Specific Website accessible via www.sitedesigngroup.com

**TASK 2.0-Schematic Design Phase**

**Objectives:**
• Prepare schematic design providing detailed direction as to the materials, location and dimensioning of the design elements.
• To develop an estimate of probable construction cost and budget.

2.1 **Skate Park Schematic Design/Master Plan (SITE)**
• Develop a minimum of (2) skate park master plans incorporating feedback from Public Meeting #1 showing the following relationships:
  • Relationship between skate park and existing/proposed recreation areas.
  • Pedestrian access and circulation.
  • Landforms and grading concept (skate park only).

2.2 **Project Meeting #2 - Project Review (PROJECT DESIGN TEAM) PHONE**
• Coordinate with Client staff and team consultants to review the updated site concept and amenity sketches.
• SITE shall make minor revisions to the updated design concept and prepare a new exhibit of the preferred site design.

2.3 **Develop Preferred Skate Park Master Plan (SITE)**
• Develop (1) preferred park layout and/or other amenity designs based on conceptual layouts, design team input, client input, and focus group comments.
• The Plan will show relationships between skatepark and existing/proposed recreation areas, pedestrian access and circulation.

2.4 **Preliminary Cost Estimate (SITE)**
• Determine preliminary cost for typical skate park(s) and adjacent amenities
• Cost Estimate shall be based upon general square footage prices.

2.5 **Deliver Final Preferred Skate Park Design (SITE)**

**Task 2.0 Deliverables**
2.1 Internal design sketches of proposed amenities to the Client for review.
2.2 Conceptual Site Plans and improvement sketches to be used as a basis for the future Construction Documents

**Scope of Work**
2.3 Preferred Skate Park Master Plan
2.4 Preliminary Costs for typical Skate Park
2.5 Final Preferred Skate Park Plan

TASK 3.0-DESIGN DEVELOPMENT PHASE (60% Client Review Submittal)

Objectives:
- To refine the schematic design providing detailed direction as to the materials, location and dimensioning of the design elements.
- To refine an estimate of probable construction cost and budget.
- Upon review by the Client/ City of the Schematic Design Plans, SITE shall prepare the Design Development Drawings setting forth, in technical detail, the requirements for construction of the design. Evolutionary adjustments to the Design Development documents will be incorporated into the work prior to the start of Construction Documents.

3.1 Project Meeting #3 – DD Coordination (SITE/CLIENT) PHONE CONFERENCE
- Site will make available to the Client a copy of the preferred plan prior to project meeting #3.
- Evaluate Preferred Skate Park Plan for security, access and code compliance.
- Review Plan for innovation, value engineering, and review design schedule

3.2 Materials Research (SITE)
- Identify proposed materials and furnishings to be used within the project.
- Identify all products by manufacturer and approximate cost.

3.3 Prepare Base Information (SITE/PROJECT DESIGN TEAM)
- Prepare base information for inclusion in all future design documents.
- SITE will coordinate drawings within our scope of work with Project Design Team members as updates become available.

3.4 Site Plan (SITE/PROJECT DESIGN TEAM)
- Convey major site features relevant to the skate park's placement on site. Survey Base supplied by Project Design Team Sub-Consultant

3.5 Preliminary Skate Park Material Reference Plan (SITE/PROJECT DESIGN TEAM)
- Identify all major amenities in the park Master Plan by keynote description.
- Reference all major details, enlargements and sections.

3.6 Preliminary Layout Plan (SITE)
- Final Location of Skate Park using horizontal coordinates and curve data.
- Enlarged layout plan for the Skate Park using horizontal coordinates and curve data.

3.7 Axon Plan (SITE)
- SITE Shall prepare a 3-D rendering of the skate park for the client

3.8 Preliminary Grading and Drainage Plan & Coordination (SITE/DESIGN TEAM CIVIL ENGINEER)
- Proposed spot grades at necessary points to convey intended elevations and direction of flow by SITE
- Location and sizing of drainage structures, sizing and location of retention basins, invert and finish grades of drains by Project Design Team’s Civil Engineer.

3.9 General Skate Park Lighting Guidelines (SITE/DESIGN TEAM ELECTRICAL ENGINEER)
- Provide general skate park lighting guidelines to Project Design Team's Electrical Engineer to aid in the design of appropriate lighting layout for the Skate Park.
- Project Design Team’s Electrical Engineer will provide plans for park lighting

3.10 Sections/Profiles Plan (SITE)
- Vertical sections conveying the overall skate park design intent.
- Profiles of major amenities and their impact

Scope of Work
3.11 Construction Details (SITE/PROJECT DESIGN TEAM)
- Provide sufficient construction detailing for the construction of all elements within this project that falls under this scope of work within the project limit of work lines.

3.12 Specifications (SITE/PROJECT DESIGN TEAM)
- Provide 60% Specifications for all elements within this project that falls under this scope of work within the project limit work lines.

3.13 Preliminary Statement of Probable Construction Costs – 60% (SITE)
- Prepare cost estimate for the skatepark and adjacent amenities within the project’s limit of work.

3.14 60% Client Review Submittal (CLIENT/SITE)
- Submit 60% plan set, specifications, and construction estimate for review by Client.
- It shall be the responsibility of the Client to review all material and respond to SITE with any comments or questions in a timely manner.

3.15 Project Meeting #4 – DD Review (SITE/CLIENT) PHONE CONFERENCE
- Client Review of 60% submittal

Task 3.0 Deliverables
3.1 Preferred Master Plan rendered on 24" x 36" sheet at an appropriate scale and revised sketches of any amenity revisions.
3.2 Cutsheets and/or product samples for submittal to client for review and approval.
3.3 Individual Coordination items in sketch format for submittal to Project Design Team as necessary to complete the plan set.
3.4+ (1) 24"x36" 60% plan set
(1) Set 60% Specifications
(1) Cost Estimate

TASK 4.0-FINAL CONSTRUCTION DOCUMENTS (90%-100%)

Objectives:
- Upon review by the Client of the Design Development documents, SITE shall finalize the construction contract documents setting forth, in technical detail, the requirements for construction of the design.
- The Construction Documents shall include all items necessary to build the entire park. The park will be a phased construction project with all phasing shown on the final documents. All phases of the park will be shown in one set of final Construction Documents.
- Construction Documents shall include, but not be limited to: Layout, Grading & Drainage, Electrical & Lighting, Materials and other plans as necessary to facilitate the construction of the proposed project.
- SITE will submit 90% plans to the appropriate agencies for review, revisions, and approval.
- Make required revisions as requested by the Client to present to the Client 100% final, professional sealed plans for bidding.

4.1 Project Meeting #5 – CD Overview (SITE/CLIENT) PHONE CONFERENCE
- Review approved Design Development Drawings and Master Schedule.

4.2 Biddable Construction Documents (SITE/PROJECT DESIGN TEAM)
- SITE will finalize plans to facilitate construction of this skate park project. These Final Construction Documents at a minimum shall include:
  - Site Plan
  - Axon Plan
  - Materials Reference Plan

Scope of Work
4.3 Statement of Probable Construction Cost – 90% (SITE/PROJECT DESIGN TEAM)
- Develop spreadsheet of all landscape improvement quantities and unit rates for probable construction cost.
- If necessary, SITE will identify acceptable alternatives to align the probable construction cost with the available construction budget. The cost estimate will be submitted with the 90% plan set to allow for any necessary design adjustments prior to 100% plan submittal and acceptance.
- A final cost estimate that falls within budget will be submitted with the 100% Final Construction Documents.

4.4 Specifications (SITE/PROJECT DESIGN TEAM)
- Refine and revise as necessary technical specifications in CSI (Construction Specification Institute) format for all skate park construction.

Task 4.0 Deliverables
4.1 Full improvement plans.
4.2 Revised Statement of Probable Costs
4.3 Revised Specifications
4.4 Final Submittal from SITE to the Client’s Project Managers shall include the Following
- Original construction drawings with original seal. Client to provide SITE with final submittal requirements (number of plans and type of plans – mylars, vellum, etc.)
- Original technical specifications and table of contents in either PDF or Word format. Client to provide SITE with final submittal requirements
- Should the client request digital files of the work done for archiving purposes SITE will provide TIF files for their use.

➢ Submittals will be printed on One (1) set of Bond

TASK 5.0 - POST DESIGN PHASE

BIDDING SERVICES

Objectives:
- Help the Client during the bidding phase to provide project clarification to potential bidders.
- Issue any changes or value engineering during the project bidding phase

5.1 Pre-Bid Conference-Project Meeting #6 (SITE/SUBS) PHONE
- SITE will participate in the pre-bid conference via telephone to address technical questions posed by prospective contractors.

5.2 Bidding Questions/Clarifications/Interpretations (SITE)
- During the bidding phase SITE shall provide all potential bidders with clarifications to any project related questions on the plans and specifications.
- SITE will document the results for each requested clarification and submit all answers to the Client’s elected Project Manager for distribution to all bidders.

Scope of Work
5.3 Substitutions Review (SITE)
- SITE will review substitutions (approved equals) if requested, forward the request to the Client’s Project Manager/Contract Coordinator with recommendations. It shall be the responsibility of the Client to make the final decision in regard to all substitutions.

5.4 Addenda (SITE)
- Develop and provide to the Client the required project addenda during the project-bidding phase.

CONSTRUCTION OBSERVATION

Objectives:
- Aid the Client in determining in general if the Work is proceeding in accordance with the Contract Documents.
- SITE shall provide observation of the implementation of work designed by SITE within the construction documents, and shall advise and consult with the Client/City. Issues relating to SITE’s work will be conveyed and communication to the Client/City representative for evaluation and direction to the contractor.
- SITE will visit the site during specific critical points in the construction of the skate park. SITE shall not be required to make exhaustive or continuous on-site inspections to check the quality or quantity of work outside the scope of work.
- SITE’s role shall be to ensure that the contractor is performing the work in accordance with the contract documents. SITE shall not be responsible for construction means, methods, techniques, sequences for procedures, or for safety precautions in connection with work, or for the contractor’s failure to carry out the work per local codes, ordinances, and guidelines.

5.5 Pre-Construction Conference (SITE)
- SITE shall not be responsible for the acts or omissions of the contractor or any subcontractors, or any of the contractors or sub-contractor’s agents or employees, or any other persons performing any of the work. To insure that the intent of working drawings is carried out, at least five working days notice is required for approval of deviations of field changes related to the drawings and specifications prepared by SITE. Changes shall be approved in writing by SITE before the contractor is authorized to make those changes.

5.6 Progress Review/Inspections (SITE)
- Progress reports shall be provided following each site visit to the Client/City indicating the progress of the project, quality of construction methods, specific problem areas and state of completion. These reports are for the sole purpose of assisting the Client/City in its management of the construction process.
- SITE shall review and approve shop drawings, samples and other submissions of the contractor only for conformance with the design concept of the project and for compliance with construction documents by SITE.
- The Client/City shall have the final decision and approval on all matters related to design and construction. SITE shall make recommendations in matters relating to artistic/technical effect which will be final if consistent with the intent of the contract documents. SITE will make recommendations to the Client/City to reject work that does not conform to the contract documents and require special inspection or testing when deemed necessary.
- A SITE representative shall have access to the work at all times and shall make periodic visits to the site as scheduled below to become familiar with the progress and quality of the work to determine if the work is proceeding in accordance with the contract documents. The primary basis of on-site observations will be to guard the Client/City against defects and deficiencies in the work of the contractor.
5.7 Substantial Completion Review (SITE)

- In addition, SITE shall not be responsible for the contractor's applications for payment. This will be the responsibility of the designated Project Manager on all items designed and detailed by SITE. However, SITE will advise and inform on the completeness of each phase of work within their scope.

5.8 Project Closeout (SITE)

<table>
<thead>
<tr>
<th>SITE VISITS - CONSTRUCTION OBSERVATION</th>
<th>ITEM</th>
</tr>
</thead>
<tbody>
<tr>
<td>Submittals/ Shop Drawings Review</td>
<td>delivery service/phone - SITE</td>
</tr>
<tr>
<td>Slab Review</td>
<td>#1</td>
</tr>
<tr>
<td>Equipment layout review</td>
<td>#2</td>
</tr>
<tr>
<td>Project Close-out</td>
<td>#3</td>
</tr>
</tbody>
</table>

PROJECT ASSUMPTIONS

The following assumptions shall apply to the proposed scope of work and submitted fees:

- The Scope of Work is for the Skatepark only
- All written documents will be generated using Microsoft Word, Version 2000.
- All spreadsheet documents will be generated using Microsoft Excel, Version 2000.
- All project scheduling will be generated using Microsoft Project 2000.
- The client will provide all existing digital files to SITE that accurately portrays the boundaries of the selected site, existing grading, utilities, and drainage and site amenities. (AutoCAD R14 format or 2000)
- All drawings as outlined in this Scope of Work will be reviewed and stamped by necessary discipline retained by SITE. SITE has retained a Geo-Technical Engineer, Civil Engineer and an Electrical Engineer for this project. SITE has not retained a Surveyor or any other specially consultants that may be required for the project.
- Division 1 specifications, Bidding and Agreement Forms and Bonds, Conditions of the Contract, and any other non-technical specifications shall be the responsibility of the Client.
- The Client shall be provided with adobe PDF files of technical specifications for all items covered under SITE's scope of work.
- Additional meetings, if required and approved, will be billed at our normal hourly rates.
- Additional plan sets, if required and approved, will be billed at our normal in-house, or out-of-house duplication rates.
- Data collected and methods shall at a minimum be as follows:
- Plan Processing Requirements – The Client shall outline to SITE and the design team the process required for the ultimate approval of all reports, plans, specifications, and cost estimates necessary to prepare the project for bidding. The Client shall provide SITE with any specific details, title blocks, specifications, and/or document formatting required by the Client. A Project Manager employed by the Client shall be provided to assist SITE and the design team in the submittal and approval process during the entire duration of the project.
- Budgeting – The Client shall inform SITE of the proposed construction budget of this project.
- Project Data Form – SITE shall provide the Client with a small project information form prior to the 1st Team Meeting. As the form will be used to guide the entire design and detailing of the project it is imperative that the Client complete the form as much as possible, as early as possible.
- Site Visit – There will be one site visit with the Client's Project Manager and/or representative with interested members of the design team to gather an on-site inventory and understanding of the scope of work. This site visit shall occur the date of the kick-off meeting with the client, project team, and public. The team shall record the entire site through photographs and field notes displaying existing field conditions.
- Gather existing reports/studies/record drawings – The Client shall provide SITE with all available information for water, sewer, electrical, and irrigation prior to the site visit. The

Scope of Work
Client shall provide SITE and any design team consultants any available "as-built" plans/notes, all existing digital files for existing conditions (grades, facilities, past improvements), as well as a current site survey.

- **Coordination of Utilities** – The Client shall provide SITE with addresses, phone numbers, and contacts for all utility companies servicing the site. This information shall be utilized to verify existing services and determine requirements to adequately serve the park development. The utility companies shall also be expected to provide underground utility locations critical to the project as well as describing any existing or future utility easements. Specific processing requirements shall be provided to SITE for each utility company involved in the project site.

- **Survey and Mapping** – The Client shall provide SITE with a current field survey locating all above and below ground utilities, appurtenances, structures, and easements. If a current survey does not exist it shall be the responsibility of the client to coordinate the on-site mapping and development of a survey. The survey shall be in digital format that can easily be used with AutoCAD software.

- **Topographic Mapping** – The Client shall provide SITE with a current overall base map displaying the site’s relief through contour and spot elevations. The site topo shall be presented with a maximum 1-foot contour interval. All existing hardscape and structure foundations shall be delineated with spot elevations. The topo shall be in digital format that can easily be used with AutoCAD software.

- **Geotechnical Report** - The SITE Project Team shall provide a current Geo-technical Report prepared specifically for the skate park project site. Should an existing report be available it shall be a maximum of 1 year old. If the report is over 1 year old, the original firm preparing the report shall issue a letter testifying that the report is still valid and no corrections or updates need to be prepared for the report. At a minimum the report is to include the following: vicinity map of the project limits, plot plan showing location of borings, detailed description of the findings and recommendations, a detailed report of the laboratory tests performed, and an executive summary stating general findings and recommendations.
# PROJECT FEES

Fees for the Services detailed in the proposed scope of work are outlined below. The fees are lump sum not to exceed amounts. Reimbursable expenses are in addition to the fees listed below and will be billed as per Attachment B.

<table>
<thead>
<tr>
<th>Task</th>
<th>DESIGN SCOPE OF SERVICES</th>
<th>FEE AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.0</td>
<td>Programming &amp; Conceptual Design</td>
<td>$2,370.00</td>
</tr>
<tr>
<td>2.0</td>
<td>Schematic Design</td>
<td>$5,785.00</td>
</tr>
<tr>
<td>3.0</td>
<td>Design Development (60%)</td>
<td>$7,670.00</td>
</tr>
<tr>
<td>4.0</td>
<td>Construction Documents (90% - 100%)</td>
<td>$7,740.00</td>
</tr>
<tr>
<td></td>
<td><strong>Total SITE's Design &amp; Post Design Fees</strong></td>
<td><strong>$23,565.00</strong></td>
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</table>

<table>
<thead>
<tr>
<th>Task</th>
<th>SUBCONSULTANTS SCOPE OF SERVICES</th>
<th>FEE AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Geo-Technical Report (Blair Church &amp; Flynn)</td>
<td>$1,500.00</td>
</tr>
<tr>
<td></td>
<td>Civil Engineering (Blair, Church &amp; Flynn)</td>
<td>$1,500.00</td>
</tr>
<tr>
<td></td>
<td>Electrical Engineering (Electrical Power Systems)</td>
<td>$3,910.00</td>
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<tr>
<td></td>
<td><strong>Total Sub-consultant Fees</strong></td>
<td><strong>$6,910.00</strong></td>
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<table>
<thead>
<tr>
<th>Task</th>
<th>POST DESIGN SCOPE OF SERVICES</th>
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</thead>
<tbody>
<tr>
<td>5.0</td>
<td>Bidding</td>
<td>$770.00</td>
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<tr>
<td></td>
<td>Construction Observation</td>
<td>$4,995.00</td>
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<tr>
<td></td>
<td><strong>Total SITE's Post Design Fees</strong></td>
<td><strong>$5,765.00</strong></td>
</tr>
</tbody>
</table>

**TOTAL DESIGN FEES:** $30,475.00  
**TOTAL POST DESIGN FEES:** $5,765.00  
**TOTAL ESTIMATED DESIGN FEES:** $36,240.00
**2005 SKATE PARK BILLING RATES**

### HOURLY RATES

<table>
<thead>
<tr>
<th>Position</th>
<th>Rate</th>
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<tbody>
<tr>
<td>Principal</td>
<td>$165 / hour</td>
</tr>
<tr>
<td>Project Planner</td>
<td>$100 / hour</td>
</tr>
<tr>
<td>Project Landscape Architect</td>
<td>$95 / hour</td>
</tr>
<tr>
<td>Project Manager</td>
<td>$95 / hour</td>
</tr>
<tr>
<td>Production Manager</td>
<td>$85 / hour</td>
</tr>
<tr>
<td>Construction Manager</td>
<td>$95 / hour</td>
</tr>
<tr>
<td>Park Designer</td>
<td>$85 / hour</td>
</tr>
<tr>
<td>Graphics/Web Designer</td>
<td>$65 / hour</td>
</tr>
<tr>
<td>Cad Operator II</td>
<td>$65 / hour</td>
</tr>
<tr>
<td>Administration Assistance</td>
<td>$45 / hour</td>
</tr>
</tbody>
</table>

### REIMBURSABLE EXPENSES

Reimbursable Expenses include, but are not limited to, the following:

- Flights (based on coach fare rates)
- Car Rental (based on Economy car rate, or best comparable) *
- Accommodations (not to exceed $90/night-Client arranged preferred) *
- Mileage (paid at $.36/mi)
- Meals ($40.00/per diem, per person)
- Parking Fees (airport, garage, &/or metered)
- Toll Road Fees
- Printing/Duplicating/Plotting/Blueprinting**
- Phone/Fax
- Messenger
- Postage/Federal Express
- Graphics
- Photographs
- Models

### OUTSIDE CONSULTANTS

All outside consultants required in the course of the work that are coordinated through Site Design Group, Inc. will be charged at the consultants direct cost plus 15%

### SALES TAX

Fees associated with this project do not include sales tax in those states where sales tax applies to professional services or gross receipts. The amount of applicable sales tax, if any, is additive to gross charges.

### REIMBURSABLE EXPENSES WILL BE BILLED AT COST PLUS 10% ADMINISTRATIVE FEE

*Site Design Group, Inc prefers that our Clients arrange and pay for all flights and hotel costs associated with travel, thus alleviating our clients of the 10% administrative fee and coordination time spent by SITE for those reimbursables and to alleviate these fees being accrued by Site Design Group, Inc.*

---

### IN-HOUSE PRINTING/DUPLICATING/PLOTTING **

<table>
<thead>
<tr>
<th>B/W Plotting</th>
<th>Cost</th>
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</thead>
<tbody>
<tr>
<td>- 24&quot; x 36&quot; bond</td>
<td>$3.50 ea</td>
</tr>
<tr>
<td>- 24&quot; x 36&quot; vellum</td>
<td>$4.50 ea</td>
</tr>
<tr>
<td>- 24&quot; x 36&quot; mylar</td>
<td>$7.00 ea</td>
</tr>
<tr>
<td>- 30&quot; x 42&quot; bond</td>
<td>$4.00 ea</td>
</tr>
<tr>
<td>- 30&quot; x 42&quot; vellum</td>
<td>$6.00 ea</td>
</tr>
<tr>
<td>- 30&quot; x 42&quot; mylar</td>
<td>$10.50 ea</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Color Plotting</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>- color plots on Bond</td>
<td>$7.00 / sf</td>
</tr>
<tr>
<td>- color plots on coated paper</td>
<td>$10.00 / sf</td>
</tr>
<tr>
<td>- color plots on photo paper</td>
<td>$12.00 / sf</td>
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### XEROGRAPHIC SERVICES

<table>
<thead>
<tr>
<th>Service</th>
<th>Cost</th>
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</thead>
<tbody>
<tr>
<td>- 8½ x 11 Single Sided B/W</td>
<td>$0.08 ea</td>
</tr>
<tr>
<td>- 8½ x 11 Single Sided Color</td>
<td>$0.85 ea</td>
</tr>
<tr>
<td>- 11 x 17 Single Sided B/W</td>
<td>$0.10 ea</td>
</tr>
<tr>
<td>- 11 x 17 Single Sided Color</td>
<td>$1.25 ea</td>
</tr>
</tbody>
</table>

### VIRTUAL FILEROOM PRICING

<table>
<thead>
<tr>
<th>Service</th>
<th>Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>- CD-Rom Burning</td>
<td>$10.00 ea</td>
</tr>
<tr>
<td>- Zip Disk Creation</td>
<td>$22.00 ea</td>
</tr>
<tr>
<td>- Bindery Services</td>
<td>$45.00 / hour</td>
</tr>
</tbody>
</table>

** / most printing and duplicating will be done out of house, but all plotting will be done in house  All out of house printing and duplicating expenses done in the interest of a project will be billed to the client as outlined in the project agreement.
Skate Park Philosophy

The design philosophy of SITE Design Group is to create a user-friendly quality facility that applies to various skill levels and is exciting to the skate park users. The key element to launching a successful skate park project is community involvement. The users are involved in the review of all generated design concepts to ensure a community-based design. It is our intention to continue working with any established focus group to maintain the continuity of the original interest groups. Our designs are unique through site integration. Skate parks can be visually spectacular, primarily created through the arcs, tangents and grade differences. Our skate park designs are intended to provide an inviting setting to be enjoyed by not only the skaters, but also the public/spectators.

Approach

Schedule
SITE Design Group, Inc establishes well-defined schedules for meetings, tasks and design products. Timely meetings with our design team and the City representatives will be regularly scheduled to review concepts, costs and progress. Prior to the start of the project, a master schedule will be developed to define all pertinent tasks, sub-tasks, duration, milestones, meetings and submissions. This process will ensure the client and SITE Design Group's design team understands the project scope and associated task duration.

Coordination
It will be our commitment to the project that the required parties/resources remain informed. The project schedule is designed to ensure a quality product, estimates are accurate and delivery is on time. All internal schedules for the project will have resource names associated with the project tasks prior to the start of the project.

Design Guidelines
SDG will continue its efforts evaluating opportunities and constraints for the skate park and its relationship to the other park amenities. We will provide sound information justifying the space allocation based on theme, budget, circulation, parking, lighting, security and safety as a minimum. This creates a realistic design approach, especially while working with the skate park users and design team.

User Involvement
The success of the park will be credited to the active participation of the park users. It is crucial to establish an effective process and obtain design consensus throughout. SDG understands the importance of receiving additional input from users who have achieved professional status in skateboarding and inline skating outside of the community. Their input ensures that the design brings functional concepts from around the world, as well as receives approval from the professional skaters.

Technology
SDG is committed to providing the latest thinking and technology to skate park design. We have a proven success record using AutoCAD for construction documents and Intergraph "inroads" for modeling, animation, slope analysis, volume calculations, quantity survey, cut and fill balance, coordinate geometry, calculation reports, and more.

Research
SITE Design Group constantly researches information to design better skate parks through failure analysis of past constructed public facilities built. We understand what it will take to create a structurally sound skate park that will stand the test of time, and not inhibit the user experience. We understand all the methodologies and techniques that need to be applied during the construction process to make this park better built than any other public facility.

Budget
The proposed design and budget will be extremely realistic. SDG is currently working on cost estimates for several skate parks similar to what your City proposes. We stay in constant contact with contractors throughout the process for up-to-date cost information to ensure that there are no surprises or cost assumptions. All our area take-off information is extremely accurate including our computer modeling that takes into consideration total surface areas, specialty materials and earthwork calculations.

Construction Process
SDG stresses the importance of being an integral part of the construction process. Design documents cannot substitute for field coordination and requirements for shaping a quality facility. We help shape the concept in the field from quality concrete finish samples, transition templates for perfectly trawled radii, steel coping set-back guides and much more.
List of Skate Park Projects

**Alabama**

<table>
<thead>
<tr>
<th>Location</th>
<th>Skate Park Name</th>
<th>Project Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Huntsville</td>
<td>Insanity Skate Park</td>
<td>Design</td>
</tr>
</tbody>
</table>

**Arizona**

<table>
<thead>
<tr>
<th>Location</th>
<th>Skate Park Name</th>
<th>Project Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Apache Junction</td>
<td>Superstition Shadows Skate Park</td>
<td>Design</td>
</tr>
<tr>
<td>Chandler</td>
<td>Snedigar Sports Complex</td>
<td>Design</td>
</tr>
<tr>
<td>Coolidge</td>
<td>West Park Skate Park</td>
<td>Design/Build</td>
</tr>
<tr>
<td>Flagstaff</td>
<td>Bushmaster Skate Park</td>
<td>Design</td>
</tr>
<tr>
<td>Flagstaff</td>
<td>Foxglen Skate Park</td>
<td>Design</td>
</tr>
<tr>
<td>Gilbert</td>
<td>Freestone Skate Park</td>
<td>Design</td>
</tr>
<tr>
<td>Glendale</td>
<td>Glendale Skate Park</td>
<td>Design</td>
</tr>
<tr>
<td>Goodyear</td>
<td>Skyway Church Skate Park</td>
<td>Design</td>
</tr>
<tr>
<td>Peoria</td>
<td>Peoria Skate Park</td>
<td>Design</td>
</tr>
<tr>
<td>Phoenix</td>
<td>Paradise Valley Skate Park</td>
<td>Design</td>
</tr>
<tr>
<td>Phoenix</td>
<td>Phoenix 1st Divine Extensions Skate Park</td>
<td>Design</td>
</tr>
<tr>
<td>Prescott</td>
<td>Yavapai Skate Park</td>
<td>Design</td>
</tr>
<tr>
<td>Scottsdale</td>
<td>McDowell Mtn Ranch Skate Park</td>
<td>Design</td>
</tr>
<tr>
<td>Tempe</td>
<td>Skate Park at the Tempe Sports Complex</td>
<td>Design</td>
</tr>
<tr>
<td>Tucson</td>
<td>Campfire Skate Park</td>
<td>Design</td>
</tr>
<tr>
<td>Tucson</td>
<td>OTT Family YMCA Skate Park</td>
<td>Design</td>
</tr>
<tr>
<td>Wickenburg</td>
<td>Wickenburg Skate Park</td>
<td>Design</td>
</tr>
</tbody>
</table>

**California**

<table>
<thead>
<tr>
<th>Location</th>
<th>Skate Park Name</th>
<th>Project Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Berkeley</td>
<td>Berkeley Skate Park</td>
<td>Design</td>
</tr>
<tr>
<td>Bolinas</td>
<td>Mesa Skate Park</td>
<td>Design/Build</td>
</tr>
<tr>
<td>Borrego Springs</td>
<td>Badlands Skate Park</td>
<td>Design</td>
</tr>
<tr>
<td>Chino</td>
<td>Ayala Skate Park</td>
<td>Design</td>
</tr>
<tr>
<td>Chula Vista</td>
<td>Veteran's Skate Park</td>
<td>Design</td>
</tr>
<tr>
<td>Chula Vista</td>
<td>Village Six Ledge Park</td>
<td>Design</td>
</tr>
<tr>
<td>Clovis</td>
<td>Letterman Skate Park</td>
<td>Design</td>
</tr>
<tr>
<td>Coronado</td>
<td>Coronado Skate Park</td>
<td>Design</td>
</tr>
<tr>
<td>Delano</td>
<td>Delano Skate Park</td>
<td>Design</td>
</tr>
<tr>
<td>El Dorado Hills</td>
<td>El Dorado Hills Skate Park</td>
<td>Design</td>
</tr>
<tr>
<td>Encinitas</td>
<td>Magdalena-Ecke YMCA Skate Park</td>
<td>Design/Build</td>
</tr>
<tr>
<td>Encinitas</td>
<td>City of Encinitas Skate Park</td>
<td>Design</td>
</tr>
<tr>
<td>Escondido</td>
<td>Escondido Sports Complex Skate Park</td>
<td>Design</td>
</tr>
<tr>
<td>Fresno</td>
<td>Lions Den Skate Park</td>
<td>Design</td>
</tr>
<tr>
<td>Glendale</td>
<td>Verdugo Skate Park</td>
<td>Design/Build</td>
</tr>
<tr>
<td>Lake Forest</td>
<td>Etnies Skate Park</td>
<td>Design</td>
</tr>
<tr>
<td>Lathrop</td>
<td>Lathrop Skate Park</td>
<td>Design</td>
</tr>
<tr>
<td>Ocean Beach</td>
<td>Robb Field Skate Park</td>
<td>Design</td>
</tr>
<tr>
<td>Orange Cove</td>
<td>Orange Cove Skate Park</td>
<td>Design</td>
</tr>
<tr>
<td>Palm Springs</td>
<td>Palm Springs Skate Park</td>
<td>Design</td>
</tr>
<tr>
<td>San Bernardino</td>
<td>Blair Skate Park</td>
<td>Design</td>
</tr>
<tr>
<td>San Francisco</td>
<td>San Francisco YMCA Pier 27 Skate Park</td>
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</tr>
<tr>
<td>Vallejo</td>
<td>Vallejo Skate Park</td>
<td>Design</td>
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**Cayman Islands**

<table>
<thead>
<tr>
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<th>Project Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Grand Cayman</td>
<td>Black Pearl Skate Park</td>
<td>Design/Build</td>
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**Colorado**

<table>
<thead>
<tr>
<th>Location</th>
<th>Skate Park Name</th>
<th>Project Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Boulder</td>
<td>Boulder Skate Park</td>
<td>Design</td>
</tr>
<tr>
<td>Denver</td>
<td>Aurora Wheel Park</td>
<td>Design</td>
</tr>
<tr>
<td>La Junta</td>
<td>Sky/Nav Skate Park</td>
<td>Design/Build</td>
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</table>

**Delaware**

<table>
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<th>Project Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Newcastle County</td>
<td>Glasgow Skate Park</td>
<td>Design</td>
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**Florida**

<table>
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<th>Project Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Orlando</td>
<td>Orlando Skate Park</td>
<td>Design/Shotcrete</td>
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</table>

**Hawaii**

<table>
<thead>
<tr>
<th>Location</th>
<th>Skate Park Name</th>
<th>Project Type</th>
</tr>
</thead>
<tbody>
<tr>
<td>Kamuela</td>
<td>Waimea-Salvation Army Skate Park</td>
<td>Design/Build</td>
</tr>
</tbody>
</table>

Additional park information can be found at: [www.sitedesigngroup.com/projects.php](http://www.sitedesigngroup.com/projects.php)
# List of Skate Park Projects

## Illinois
- Chicago: Wilson Skate Park (Design)
- Northbrook: Northbrook Skate Park (Design)
- Springfield: Springfield Skate Park (Design)

## Kentucky
- Richmond: Richmond Skate Park (Design)

## Minnesota
- Duluth: Duluth Skate Park (Design)

## Missouri
- Hannibal: Hannibal Skate Park (Design/Assist Build)
- Kansas City: Kansas City Skate Park (Design)
- Maryland Heights: Creve Coeur Lake Memorial Skate Park (Design)

## Nevada
- Henderson: Anthem Skate Park (Design/Build)

## New Mexico
- Albuquerque: Calvary Chapel Skate Park (Design)
- Taos: Taos Skate Park (Design)

## Ohio
- Garfield Heights: Hathaway Skate Park (Design)
- Kettering: DC Shoes / Kettering Skate Park (Design)

## Oklahoma
- Oklahoma City: Riverfront Skate Park (Design)

## Oregon
- Forest Grove: Lincoln Park Skate Park (Design)
- Hillsboro: Reedville Creek Skate Park (Design)

## South Africa
- Durban: Wave House (Design/Build)

## Texas
- Abilene: Abilene Skate Park (Design)
- Allen: Allen Station II Skate Park (Design/Build)
- El Paso: Carolina Skate Park (Design)
- Galveston: Menard Skate Park (Design)
- Ingleside: Ingleside Skate Park (Design/Build)
- Keller: Keller Skate Park (Design)
- Midland: William Sam Memorial Skate Park (Design)
- Pearland: Pearland-Coppinger Family YMCA (Design)
- The Woodlands: Bear Branch Wheel Friendly Park (Design)

## Utah
- Bountiful: Bountiful Skate Park (Design)
- Clearfield: Clearfield Skate Park (Design/Build)
- Layton: Layton Skate Park (Design)
- Logan: Logan Skate Park (Design/Build)
- Ogden: Ogden Skate Park (Design)
- Park City: Park City Skate Park (Design)
- Salt Lake City: Fairmont Skate Park (Design)

## Washington
- Mukilteo: YMCA of Snohomish Mukilteo Family Branch Skate Park (Design)

Additional park information can be found at: www.sitedesigngroup.com
SUBJECT: AWARD OF CONTRACT - WATER MAIN (F-GIBBONS-MAIN) PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: On March 29, 2005, staff received four (4) bids for the subject water main project. The project consists of the installation of approximately 1,635 lineal feet of 16-inch water main, 717 lineal feet of 12-inch water main and related appurtenances in “F” Street, Gibbons Avenue and Main Street. The purpose of the project is to connect Well No. 28, which is currently under construction, to the City’s water system.

The estimated probable cost for this project was $209,236. Funding is available within the Water Replacement Funds and was approved in the 04/05 Annual Budget.

The bids are as follows:

<table>
<thead>
<tr>
<th>Contractor</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Halopoff &amp; Sons, Inc.</td>
<td>$172,693.65</td>
</tr>
<tr>
<td>Porterville, CA</td>
<td></td>
</tr>
<tr>
<td>2. Dawson-Mauldin</td>
<td>$209,532.00</td>
</tr>
<tr>
<td>Huntington Beach, CA</td>
<td></td>
</tr>
<tr>
<td>3. West Valley Const.</td>
<td>$298,442.00</td>
</tr>
<tr>
<td>San Jose, CA</td>
<td></td>
</tr>
<tr>
<td>4. HPS Mechanical, Inc.</td>
<td>$380,032.00</td>
</tr>
<tr>
<td>Bakersfield, CA</td>
<td></td>
</tr>
</tbody>
</table>

The bid is under the Engineer’s Estimate of Probable Cost by 17% and staff has found the low bid acceptable.

RECOMMENDATION: That City Council:

1. Award the Water Main (F-Gibbons-Main) Project to Halopoff & Sons, Inc. in the amount of $172,693.65;
2. Authorize progress payments up to 90% of the contract amount; and
3. Authorize a 10% contingency to cover unforeseen construction costs.

ATTACHMENT: Locator Map
AUTHORIZATION TO APPROPRIATE ADDITIONAL FUNDS FOR
THE MITIGATION WATER WELL PROJECT

Johnson Drilling Company has completed the casing hammer
drilling method for the Mitigation Water Well Project. Irrigating the
Elderberry bushes and other associated plant habitat for the Valley
Elderberry Longhorn Beetle (VELB) is the reason for the water
well. Unfortunately, not one water bearing sand stratum was
discovered while drilling 170 feet deep.

City Council authorized expenditure of $33,330.18 for this project.
Construction cost to date is $22,329.23.

Johnson Drilling Company drilled a well about a ½ mile upstream
from the Mitigation Water Well site that is producing about 50
gallons per minute. The total depth of this well is around 360 feet
and they hit hard rock about 245 feet. A considerable amount of
water was discovered once the driller hit a fractured rock zone at
about 250 feet. This well information was not available when staff
and our consultant performed the initial design research.

The consultant for the VELB Mitigation Site is requiring about 40
gallons per minute to irrigate all the plants. To meet the criteria set
by the consultant, drilling deeper based on the information
provided by Johnson Drilling Company is a reasonable approach.
The contractor is willing to mobilize to the site, insert a smaller
casing and continue drilling until water is encountered. Due to the
time constraints for setting up the Mitigation Site, staff feels the
contractor’s offer has merit and is recommending that additional
funds be appropriated to continue with the current contract. It is
estimated that the additional work necessary to drill to a depth of
360 feet will cost $60,000.

It should be noted that it is not possible to guarantee that a water
bearing sand stratum or fractured rock zone will be encountered
due to the varying geological characteristics that exist on the
eastside of Porterville.

Funding will be drawn from all the Capital Improvement Projects
and COP Street Projects that have been impacted by the VELB
habitat issue.
RECOMMENDATION: That City Council:

1. Authorize an extension to Johnson Drilling Company’s contract by Change Order;

2. Authorize staff to direct Johnson Drilling Company to continue drilling until water is encountered; and

3. Authorize staff to expend up to a total of $82,329.23.

ATTACHMENT: Locator Map

P:\manager\Agenda Items\2005_04_05 CC Agenda\2005_04_05 Item 09.wpd
SUBJECT: ACCEPTANCE OF THE WELL NO. 27 PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: Valley Pump and Dairy Systems has completed construction of the Well No. 27 Project per plans and specifications. The project consisted of the construction of a municipal water well and pumping plant facility on the westside of Jaye Street, approximately 1,300 feet north of Gibbons Avenue.

City Council authorized expenditure of $536,790.79. Final construction cost is $388,835.99. The difference between the original bid and the actual cost was due to the low productivity encountered during the development of the well. The contractor agreed to scale down the project and the remainder of the work was completed at an agreed reduced price.

Valley Pump and Dairy Systems requests that the City accept the project as complete. Staff has reviewed the work and found it acceptable.

RECOMMENDATION: That City Council:

1. Accept the Well No. 27 Project as complete;

2. Authorize the filing of the Notice of Completion; and

3. Authorize the release of the 10% retention thirty-five (35) days after recordation, provided no stop notices have been filed.

ATTACHMENT: Locator Map

P:\manager\Agenda Items\2005_04_05 CC Agenda\2005_04_05 Item 10.wpd
EXIST DRAINAGE
RESERVOIR NO. 28

W. 1/4 COR. SE 1/4
SEC. 2-22/27

N. LINE OF THE NE 1/4
OF SW 1/4 OF SEC 2-22/27

SUBJECT LOCATION
PROPOSED WELL LOT

PARCEL AREA = 6400 S.F.
R/W AREA = 1760 S.F.

A.P.N. 269-060-002

JAYE ST.

SUBJECT LOCATION
PROPOSED ROAD R/W ACQUISITION

WAL-MART DISTRIBUTION CENTER

A.P.N. 269-060-050

SUBJECT LOCATION
SUBJECT: ACCEPTANCE OF FINAL SUBDIVISION MAP - SUNRISE VILLA, PHASE ONE SUBDIVISION (Oz Services, Inc. - Thomas J. O'Sullivan)

SOURCE: Public Works Department - Engineering Division

COMMENT: The developer, Oz Services, Inc. (Thomas J. O'Sullivan), 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 8-2005. 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 Sunrise Villa, Phase One Subdivision;

2. Accept all offers of dedications shown on the final map; and

3. Authorize the City Clerk to file said map with the County Recorder.

ATTACHMENT: Final Map
SUBJECT: ACCEPTANCE OF APPRAISED VALUE OF RIGHT OF WAY FOR
PROPERTY LOCATED AT APN 261-092-009 – ARTURO MEDRANO AND
DELIA MEDRANO – DATE AVENUE RECONSTRUCTION PROJECT

SOURCE: PUBLIC WORKS DEPARTMENT

COMMENT: Arturo and Delia Medrano, owners of property located at APN 261-092-009, have
accepted the appraised value of $14,500 for the 1,312 sq. ft. of right-of-way
needed for the Date Avenue Reconstruction project. Included in the appraisal is
severance damage to the remainder of the lot for narrow side width, setback area
between the building and the street, and loss of parking.

The City recently had the property appraised by Michael C. Burger, MAI, a
Certified General Real Estate Appraiser. The appraisal came in at $14,500 for the
1,312 sq. ft. of property needed for the project and improvements. This appraisal
is available in the Community Development Department for your review.

RECOMMENDATION: That City Council:

1. Authorize staff to begin escrow, with the City paying
   escrow fees;
2. Authorize staff to make payment to Arturo and Delia
   Medrano, owners of property in the amount of $14,500,
   after completion of escrow;
3. Authorize the Mayor to sign all necessary documents; and
4. Authorize staff to record all documents with the County
   Recorder.

ATTACHMENTS:

1. Right-Of-Way Take Map
2. Resolution

DD_____ APPROPRIATED/FUNDDED_____ CM_____ ITEM NO. 12
EXHIBIT B
PROPERTY ACQUISITION MAP

NORTH
SCALE 1"=30'

1,312 S.F. PROPERTY ACQUISITION

LOT 15
LOT 16

261-092-009

120.40'
120.45'
10.13'

14.13'
14.14'
10'

50'

POB 1998

DATE AVE

LEGEND

PROPERTY ACQUISITION

ATTACHMENT
ITEM NO 1
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 ARTURO AND DELIA MEDRANO

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 Arturo Medrano and Delia Medrano, husband and wife, as joint tenants, for public street and underground utility purposes, in the City of Porterville, County of Tulare, State of California, to-wit:

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

BE IT FURTHER RESOLVED that the purchase price of $14,500 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 16 of Block 49 of the Map of the Town of 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:

BEGINNING AT a point of intersection with the south line of said Lot 16 and the east line of the land conveyed to the City of Porterville by Deed dated February 5, 1912, recorded in Book 194, page 323 of Deeds;

THENCE, South 88° 58' 20" East, 120.45 feet, to the southeast corner of said Lot 16;

THENCE, North 00° 58' 42" East, along the east line of said Lot 16, 20.14 feet;

THENCE, South 45° 57' 57" West, 14.14 feet, to a point being 10.00 feet West of said east line and 10.13 feet North of the south line of said Lot 16;

THENCE, North 89° 02' 48" West, 100.44 feet, to a point being 10.00 feet East of the west line of said land conveyed to the City of Porterville and 10.00 feet North of the south line of said Lot 16;

THENCE, North 44° 00' 16" West, 14.13 feet, to a point in the east line of said land conveyed to the City of Porterville;

THENCE, South 01° 02' 16" West, along said east line, 19.98 feet, to the POINT OF BEGINNING.

CONTAINING 1,312 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: 9/27/04
SUBJECT: ACCEPTANCE OF APPRAISED VALUE OF RIGHT OF WAY FOR PROPERTY LOCATED AT APN 261-080-032 – GIL D. AND LOUISA A. DOMINGO – DATE AVENUE RECONSTRUCTION PROJECT

SOURCE: PUBLIC WORKS DEPARTMENT

COMMENT: Gil D. and Louisa A. Domingo, owners of property located at APN 261-080-032, have accepted the appraised value of $8,500 for the 1,111 sq. ft. of right-of-way needed for the Date Avenue Reconstruction project. Included in the appraisal is the value for concrete curbing, and asphalt paving which are in the area of the take.

The City recently had the property appraised by Michael C. Burger, MAI, a Certified General Real Estate Appraiser. The appraisal came in at $8,500.00 for the 1,111 sq. ft. of property needed for the project and improvements. This appraisal is available in the Community Development Department for your review.

RECOMMENDATION: That City Council:

1. Authorize staff to begin escrow, with the City paying escrow fees;
2. Authorize staff to make payment to Gil D. and Louisa A. Domingo, owners of property in the amount of $8,500.00, after completion of escrow;
3. Authorize the Mayor to sign all necessary documents; and
4. Authorize staff to record all documents with the County Recorder.

ATTACHMENTS:

1. Right-Of-Way Take Map
2. Resolution

DD____ APPROPRIATED/FUNDED _____ CM_____ ITEM NO._______
EXHIBIT B
PROPERTY ACQUISITION MAP

NORTH
SCALE 1"=30'

MAIN ST
C ST

DATE AVE

Legend

 PROPERTY ACQUISITION

1,111 S.F. PROPERTY ACQUISITION
261-080-032
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
GIL D. AND LOUISA A. DOMINGO

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 Gil D. and Louisa A. Domingo, husband and wife, as joint tenants, for public street and underground utility purposes, in the City of Porterville, County of Tulare, State of California, to-wit:

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

BE IT FURTHER RESOLVED that the purchase price of $8,500 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

Form RW 6-1(B) (Revised 3/02)
APN 261-080-032

Exhibit “A”

That portion of the Northwest quarter of the Southwest quarter of Section 36, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, in the City of Porterville, County of Tulare, State of California, according to the official plat thereof, described as follows:

BEGINNING AT a point of intersection with the north line of the Northwest quarter of the Southwest quarter of said Section 36 and the east line of the land conveyed to the City of Porterville by Deed recorded August 15, 1986 in Book 4460, page 142 of Official Records;

THENENCE, East, along said north line, 1.5 feet, to the northwest corner of that portion of the Northwest quarter of the Southeast quarter of said Section 36 conveyed to John J. Duggan and Bob Jurkovich by Deed dated March 15, 1922, recorded in Book 306, page 358 of Deeds, Tulare County Records;

THENENCE, East, along said north line, 109.5 feet;

THENENCE, South, parallel with the west line of said Section 36, 9.38 feet;

THENENCE, West, 96.0 feet, to a point being 15.00 feet East of the east line of said land conveyed to the City of Porterville and 8.73 feet South of the north line of the Southwest quarter of said Section 36;

THENENCE, Southwesterly, 21.24 feet, to a point in the east line of said land conveyed to the City of Porterville;

THENENCE, North, along said east line, 23.63 feet, to the POINT OF BEGINNING.

CONTAINING 1,111 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: 10/29/04
EXHIBIT B
PROPERTY ACQUISITION MAP

NORTH
SCALE 1"=30'

MAIN ST

DATE AVE

C ST

N. LINE OF SW4,
SEC 36-21/27

SW OF NW4 OF
SEC 36-21/27

1,111 S.F. PROPERTY
ACQUISITION
261-080-032

LEGEND

PROPERTY ACQUISITION
SUBJECT: INTENT TO VACATE SANITARY SEWER AND WATER EASEMENTS RELATED TO TARGET STORE EXPANSION BUILDING PERMIT

SOURCE: Public Works Department - Engineering Division

COMMENT: The City has received a request to vacate public sanity sewer and water easements, all of which are described in Document No. 92-011075, recorded February 18, 1992, in the Office of the Tulare County Recorder. These easements were necessary for the orderly development of Target Store and Mervyn’s Shopping Center. Target Corporation plans to expand their store westerly, which requires the relocation of these underground utilities. Therefore, during the building permit application the Target Corporation has agreed to convey new easements, once the City officially vacates the existing easements. The legal department for the corporation has prepared new easement documents and they are attached for Council’s reference. The City has authority to vacate these easements under Section 8333, Part 3, Division 9 of the Streets and Highways Code of the State of California.

Staff believes that there are no problems with any reversionary rights since these easements are in favor of the City of Porterville. Vacation of these easements will not affect other utility companies, such as, The Gas Company, Edison International, SBC, etc. These utility companies have separate easements within the shopping center.

RECOMMENDATION: That City Council:

1. Pass a Resolution of Intent to Vacate Sanitary Sewer and Water Easements described in a Partnership Grant Deed recorded February 18, 1992 as Document No. 92-011075 of Tulare County Official Records; and

2. Set the Council meeting of May 3, 2005 as the time and place for a public hearing.

ATTACHMENTS: Resolution Document No. 92-011075 Proposed Easements w/ Locator Map
RESOLUTION NO. ____-2005

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
OF INTENTION TO VACATE AND CLOSE TO PUBLIC SANITARY SEWER AND
WATER EASEMENTS DEDICATED AS A PART OF TARGET STORE AND
MERVYN’S COMMERCIAL DEVELOPMENT

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 easements located in the City of Porterville,
County of Tulare, State of California, and known generally as easements necessary for
the orderly development of the Target Store and Mervyn’s Commercial Shopping
Center located in the southwesterly corner of Henderson Avenue and Prospect Street.

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: Notice is further given that on Tuesday, the 3th day of May, 2005,
at 7:00 p.m., or as soon thereafter as the matter can be heard, in the Council Chambers
in the City Hall of 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.

_____________________________________
Pedro M. Martinez, Mayor

ATTEST:
John Longley, City Clerk

_____________________________________
By: Georgia Hawley, Chief Deputy City Clerk
PARTNERSHIP GRANT DEED

The undersigned declares that the documentary transfer tax is $.................................. and is computed on the full value of the interest or property conveyed, or is computed on the full value less the value of lien or encumbrance remaining thereon at the time of sale.

The land, improvements or revery is located in □ unincorporated area □ city of ...........................................

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

ZEDROSON-PROSPECT PARTNERS L.P., a LIMITED partenrship organized under the laws of the State of California hereby GRANT(S) to THE CITY OF PORTERVILLE

the following described property in the City of Porterville, county of Tulare, state of California:

(See Exhibit "A" ATTACHED HERETO AND MADE A PART HEREOF FOR THE COMPLETE LEGAL DESCRIPTION)

Dated January 14, 1992

STATE OF CALIFORNIA
COUNTY OF □ ORANGE □ PLACER □ SACRAMENTO □ SANTA CLARA

On the day of January, 1992 before me, the undersigned, a Notary Public in and for the County and State, personally appeared DAVID H. PAYNE, a person known to me to be the above named party, and acknowledged the instrument described above was signed by the person or persons claiming to have executed the same and acknowledged the same to be the free act and deed of the person or persons signing same.

Notary Public

FOR NOTARY SEAL OR STAMP

MAIL TAX STATEMENTS TO PARTY SHOWN ON FOLLOWING LINE: IF NO PARTY SHOWN, MAIL AS DIRECTED ABOVE

Name

Address

City & State

Notary Seal (Rev. 2-90)

Order: 1286239 Comment:
EXHIBIT "A"

EASEMENTS FOR SANITARY SEWER AND WATER PURPOSES EXTEND IN PORTIONS OF PARCEL MAP NO. 3674 FILED FOR RECORD IN BOOK 38 OF PARCEL MAPS, PAGE 77, TULARE COUNTY RECORDS, AND A PORTION OF LOT 124 AS SHOWN ON "MAP OF THE PICKEREL LAND COMPANY'S FIRST SUBDIVISION," FILED FOR RECORD IN VOLUMES 1 OF MAPS, PAGES 110 AND 111, TULARE COUNTY RECORDS, LOCATED IN SECTION 27, TOWNSHIP 21 SOUTH, RANGE 27 EAST, MOUNT DIABLO RANGE AND MERIDIAN, IN THE CITY OF PORTERVILLE, COUNTY OF TULARE, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

PARCEL 1:

AN EASEMENT FOR SANITARY SEWER AND WATER PURPOSES, SITUATE IN PORTIONS OF PARCELS 4 AND 7 AS SHOWN ON SAID PARCEL MAP NO. 3674, AND SAID LOT 124, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF PARCEL 4, AS SHOWN ON PARCEL MAP NO. 3674, FILED FOR RECORD IN BOOK 11 OF PARCEL MAPS, PAGE 11, TULARE COUNTY RECORDS; THENCE SOUTH 0°57'48" WEST ALONG THE WEST LINE OF SAID PARCEL 2 A DISTANCE OF 3.60 FEET TO THE CENTERLINE OF AN EXISTING 30.00 FOOT WIDE PUBLIC UTILITY AND ACCESS EASEMENT AS SHOWN ON SAID PARCEL MAP NO. 3674; THENCE SOUTH 0°57'18" WEST ALONG SAID CENTERLINE OF EXISTING EASEMENT A DISTANCE OF 317.00 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE SOUTH 0°00'32" EAST 94.70 FEET TO THE SOUTH LINE OF SAID PARCEL 14; THENCE NORTH 89°21'03" WEST ALONG SAID SOUTH LINE OF PARCEL 14 A DISTANCE OF 199.27 FEET TO THE SOUTHEAST CORNER OF SAID PARCEL 14; THENCE NORTH 0°49'31" EAST, ALONG THE WEST LINE OF SAID PARCEL 4 A DISTANCE OF 18.96 FEET; THENCE SOUTH 0°57'26" WEST 862.02 FEET TO THE WEST LINE OF SAID LOT 124; THENCE NORTH 0°38'52" EAST ALONG SAID WEST LINE OF LOT 124 A DISTANCE OF 895.97 FEET TO THE NORTHEAST CORNER OF SAID PARCEL 77; THENCE NORTH 89°37'36" EAST ALONG THE NORTH LINE OF SAID PARCEL 77, BEING ALSO THE SOUTH LINE OF AN 110.00 FOOT WIDE HENDERSON AVENUE, A DISTANCE OF 33.00 FEET; THENCE SOUTH 0°21'32" EAST 795.95 FEET; THENCE SOUTH 40°15'33" EAST 176.00 FEET; THENCE NORTH 89°57'36" EAST 346.47 FEET; THENCE SOUTH 89°32'53" EAST 197.06 FEET; THENCE NORTH 89°37'26" EAST 108.00 FEET; THENCE NORTH 41°48'16" EAST 76.94 FEET; THENCE SOUTH 0°02'22" EAST 15.00 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

AN EASEMENT FOR WATER PURPOSES, 30.00 FEET IN WIDTH, SITUATE IN A PORTION OF PARCEL 77, AS SHOWN ON SAID PARCEL MAP NO. 3674 THE CENTERLINE DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF PARCEL 77; THENCE NORTH 89° 37' 36" EAST ALONG THE NORTH LINE OF SAID PARCEL 77, BEING ALSO THE SOUTH LINE OF A 110.00 FOOT WIDE HENDERSON AVENUE, A DISTANCE OF 150.70 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE SOUTH 0°21′32″ EAST 459.08 FEET TO THE WESTLY EXTENSION OF THE CENTERLINE OF AN EXISTING 30.00 FOOT WIDE PUBLIC UTILITY AND ACCESS EASEMENT AS SHOWN ON SAID PARCEL MAP NO. 3674; THENCE NORTH 0°37′36″ EAST ALONG SAID WESTLY EXTENSION OF THE CENTERLINE OF EXISTING PUBLIC UTILITY AND ACCESS EASEMENT A DISTANCE OF 0.89 FEET TO THE WEST LINE OF SAID EXISTING PUBLIC UTILITY AND ACCESS EASEMENT AND THE END OF THIS DESCRIPTION.

Description: Tulare,CA Document-Year.DociD 1992.11075 Page: 2 of 4
Order: 128629 Comment:
RESOLUTION NO. 132-91

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ACCEPTING A GRANT OF EASEMENT FROM HENDERSON-PINECrest PARTNERS L.R.

BE IT HEREBY RESOLVED by the City Council of the City of Porterville, that the City of Porterville hereby accepts a partnership grant deed of easement from Henderson-Pinecrest Partners L.P., a limited partnership, with foresaid property situate, lying and being in the County of Tulare, State of California, to-wit:

Attached hereto as Exhibit "A"

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.

ATTERT:

[Signature]

C. G. HEFFNER, City Clerk
STATE OF CALIFORNIA
CITY OF TULARE

I, C. G. HEFFNER, 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 5th day of November, 1991.

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

AYES: COUNCILMEN: Lok, Nicholson, Gibbons, Griffith, Lawitt
NOES: COUNCILMEN: None
ABSENT: COUNCILMEN: None

C. G. HEFFNER, City Clerk

[Signature]

Georgina Hanks, Deputy City Clerk
EXHIBIT "A"

EASEMENTS FOR SANITARY SEWER AND WATER PURPOSES SITUATE IN PORTIONS OF PARCEL MAP NO. 3876 FILED FOR RECORD IN BOOK 38 OF PARCEL MAP, PAGE 77, TULARE COUNTY RECORDS, AND A PORTION OF LOT 136 AS SHOWN ON "MAP OF THE FORDER LAND COMPANY'S FIRST SUBDIVISION", FILED FOR RECORD IN VOLUME 1 OF MAPS, PAGES 110 AND 111, TULARE COUNTY RECORDS, LOCATED IN SECTION 27, TOWNSHIP 21 SOUTH, RANGE 27 WEST, MOUND FIELD RACE AND HEIRSHIP, IN THE CITY OF PORTERVILLE, COUNTY OF TULARE, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

PARCELS 1:

AN EASEMENT FOR SANITARY SEWER AND WATER PURPOSES, SITUATE IN PORTIONS OF PARCELS 4 AND 7 AS SHOWN ON SAID PARCEL MAP NO. 3876, AND SAID LOT 136, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF PARCEL '2' AS SHOWN ON PARCEL MAP NO. 1010 FILED FOR RECORD IN BOOK 11 OF PARCEL MAPS, PAGE 11, TULARE COUNTY RECORDS; THEREFROM SOUTH 87°14'48" WEST ALONG THE WEST LINE OF SAID PARCEL 2 A DISTANCE OF 3.80 FEET TO THE CENTERLINE OF AN EXISTING 10.00 FOOT WIDE PUBLIC UTILITY AND ACCESS EASEMENT AS SHOWN ON SAID PARCEL MAP NO. 3874; THEREFROM SOUTH 87°57'30" WEST ALONG SAID CENTERLINE OF EXISTING EASEMENT A DISTANCE OF 317.00 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THEREFROM SOUTH 94°22'22" EAST 84.70 FEET TO THE SOUTH LINE OF SAID PARCEL '4'; THEREFROM WEST 91°24'00" PARTY WALL THE EAST ALONG SAID SOUTH LINE OF PARCEL '4' A DISTANCE OF 155.27 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL '4'; THEREFROM NORTH 0°44'21" EAST, ALONG THE WEST LINE OF SAID PARCEL '4' A DISTANCE OF 18.58 FEET; THEREFROM SOUTH 89°57'38" WEST 845.05 FEET TO THE WEST LINE OF SAID LOT 136; THEREFROM SOUTH 0°39'32" EAST ALONG SAID WEST LINE OF LOT 136 A DISTANCE OF 815.97 FEET TO THE NORTHWEST CORNER OF SAID PARCEL '1'; THEREFROM NORTH 88°33'28" EAST ALONG THE NORTH LINE OF SAID PARCEL '1', BEING ALSO THE SOUTH LINE OF AN 110.00 FOOT WIDE HEIRSHIP AVENUE, A DISTANCE OF 33.00 FEET; THEREFROM SOUTH 0°22'12" EAST 796.90 FEET; THEREFROM 40°11'33" EAST 176.09 FEET; THEREFROM 88°57'38" EAST 348.61 FEET; THEREFROM 85°04'32" EAST 197.00 FEET; THEREFROM 89°32'28" EAST 10.00 FEET; THEREFROM NORTH 41°54'14" EAST 76.94 FEET; THEREFROM SOUTH 0°51'22" EAST 19.00 FEET TO THE TRUE POINT OF BEGINNING.

PARCEL 2:

AN EASEMENT FOR WATER PURPOSES, 30.00 FEET IN WIDTH, SITUATE IN A PORTION OF PARCEL '7' AS SHOWN ON SAID PARCEL MAP NO. 3874 THE CENTERLINE DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF PARCEL '7'; THEREFROM SOUTH 85° 28" EAST ALONG THE NORTH LINE OF SAID PARCEL '7', BEING ALSO THE SOUTH LINE OF AN 110.00 FOOT WIDE PUBLIC UTILITY AND ACCESS EASEMENT AS SHOWN ON SAID PARCEL MAP NO. 3874; THEREFROM SOUTH 94°22'22" EAST 84.70 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THEREFROM SOUTH 94°22'22" EAST 84.70 FEET TO THE WEST END OF SAID EXISTING PRIVATE UTILITY AND ACCESS EASEMENT, A DISTANCE OF 170.00 FEET TO THE TRUE END OF SAID EXISTING PUBLIC UTILITY AND ACCESS EASEMENT AND THE TRUE POINT AND BEGINNING OF THIS DESCRIPTION.

Order: 128629 Comment:
GRANT OF EASEMENT
(SHORT FORM)

THIS GRANT OF EASEMENT is made as of the ___ day of _________, 20___, by TARGET CORPORATION, a Minnesota corporation ("Grantor"), whose address is Target Corporation, Property Development, Attn: Property Administration, 1000 Nicollet Mall, Minneapolis, Minnesota 55403. Grantor is the owner of certain real property described on Exhibit A attached hereto and made a part hereof ("Grantor’s Property").

In consideration of One Dollar ($1.00) and other good and valuable consideration, the receipt of which is hereby acknowledged, Grantor does hereby quitclaim unto the CITY OF PORTERVILLE, a municipal corporation ("Grantee"), subject to the terms and conditions set forth below, a perpetual non-exclusive easement ("Easement") for the specific purpose of permitting Grantee the right to install, operate, maintain, repair, remove and replace sanitary sewer facilities (collectively called the "Facilities") under the surface of that portion of Grantor’s Property that is legally described on Exhibit B attached hereto and shown on Exhibit C attached hereto ("Easement Area"), together with the right of reasonable and necessary ingress and egress to and from the Easement Area in connection with the exercise of the rights granted herein.

By acceptance of the Easement created hereby, Grantee covenants and agrees with Grantor as follows:

1. Reservation of Rights; Relocation. Grantor hereby reserves and retains all other property rights in and to the Easement Area, including without limitation, the rights to (a) use the Easement Area for any purpose whatsoever, so long as such use does not unreasonably interfere with Grantee’s rights hereunder (it being expressly understood that the use of the surface of the Easement Area for vehicular traffic, pedestrian traffic, landscaping, parking and/or signage shall be deemed not to unreasonably interfere with Grantee’s rights hereunder) and (b) locate electric, gas and water lines and other utilities in the Easement Area, so long as such improvements do not unreasonably interfere with Grantee’s permitted use of the Easement Area. Grantor further reserves and retains the right from time to time, in Grantor’s sole discretion, to cause Grantee to relocate the Facilities at Grantor’s expense, it being understood that if such relocation of the Facilities is to a place outside of the Easement Area, Grantee shall execute and deliver to
Grantor, promptly upon request, an amendment to this instrument setting forth the revised Easement Area.

2. **Installation of Facilities.** The Facilities placed in the Easement Area shall be buried to a depth not less than 30 inches below the existing surface, and Grantee shall cause the backfill to be compacted in layers to avoid settling, voids and/or air pockets.

3. **Conduct of Work and Notification.** Any installation, maintenance, replacement, repair and/or removal of the Facilities performed by Grantee, its agents and employees shall be performed (i) at Grantee’s sole cost and expense, (ii) during months other than November, December or January (except in the event of an emergency) and after thirty (30) days’ notice to the Grantor (except that in an emergency the work may be initiated after reasonable notice). In addition, Grantee, its agents and employees shall (a) promptly pay all costs and expenses associated with said work and (b) diligently complete such work as quickly as possible.

4. **Use; Maintenance.** Any use of the Easement shall be performed with care and in such manner as to cause the least interference with the surface of the Easement Area and with the use and enjoyment thereof by Grantor and others lawfully present thereon. Grantee shall maintain the Facilities in a good and safe condition, and Grantee shall install, maintain, operate, repair, replace and remove the Facilities in compliance with all applicable governmental rules, regulations and requirements.

5. **Restoration by Grantee; Removal of Facilities.** If the surface of Grantor’s Property or any portion thereof, or any landscaping, curbing, pavement or other improvements thereon, shall be disturbed by installation, operation, maintenance, replacement or removal activities or other activities performed by or on behalf of Grantee, said surface and improvements shall be promptly restored by Grantee to their condition just prior to such disturbance. Immediately following the performance of work by or on behalf of Grantee, Grantee shall remove from the Easement Area and surrounding land all equipment, materials and debris resulting from or used in connection with such work.

6. **Normal and Reasonable Use by Grantor.** Grantor, its successors and assigns and persons occupying or lawfully present on the Easement Area shall not be liable for damage, if any, which may be caused by normal and reasonable use of, or vehicular or pedestrian traffic over, the Easement Area, including the uses retained by Grantor in Section 1 above.

7. **Prohibition Against Liens.** Grantee shall not permit any mechanics', materialmen’s or other liens to be filed against Grantor’s Property or any part thereof for work or materials furnished Grantee in connection with the Easement, and Grantee agrees to indemnify, defend and hold Grantor harmless from and against the same.

8. **Indemnification.** To the extent permitted by applicable law, Grantee shall indemnify, defend and hold harmless Grantor from and against any and all claims, demands, losses, damages, costs and expenses (including but not limited to court costs, penalties and reasonable attorneys’ fees), judgments, liabilities and causes of action of any nature whatsoever resulting from
or relating to the use or occupancy of the Easement Area by Grantee or arising in any manner out of the acts or omissions of Grantee or its agents or employees or any other persons acting under Grantee's direction or control in connection with the Easement or with the use or occupancy of the Easement Area. The indemnity obligations set forth in Sections 7 and 8 of this Grant of Easement shall survive any termination of the Easement.

9. **No Representations or Warranties; Subject to Encumbrances.** Grantee agrees that it is accepting the Easement without any warranty or representation regarding the Easement or the Easement Area, and subject to all valid and existing licenses, leases, grants, exceptions, encumbrances, title defects, matters of record, reservations and conditions affecting Grantor's Property and/or affecting access thereto.

10. **Condemnation.** Grantee shall not claim or declare any fee interest in and to the Easement Area, and in the event of eminent domain proceedings or settlement pursuant thereto, Grantee shall make no claim against the award or compensation accruing out of or resulting from such event, save and except any payment made to Grantee for damage to the Facilities or with respect to removing or relocating the same.

11. **Taxes.** Grantee agrees to assume and pay all taxes, assessments and other charges, if any, which may be levied, assessed or asserted against the Facilities within the Easement Area.

12. **Attorneys' Fees.** If either party brings an action at law or in equity to enforce or interpret this Agreement, the prevailing party in such action shall be entitled to recover reasonable attorneys' fees and court costs for all stages of litigation, including, but not limited to, appellate proceedings, in addition to any other remedy granted.

13. **Successors and Assigns.** The terms "Grantor" and "Grantee", wherever used in this instrument, are intended in each instance to include the successors and assigns of Grantor as the owner of the Easement Area, and Grantee as the owner of the Facilities; provided however, that any liability or obligation of Grantor as to future events shall terminate upon the transfer of ownership of the Easement Area.

14. **Miscellaneous.** This Agreement shall be governed by and construed in accordance with the laws of the State or Commonwealth in which the Grantor's Property is located. This Agreement shall not be construed strictly for or against either Grantor or Grantee. This Agreement may be signed in counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one instrument. All notices to Grantor shall be delivered in writing at the address noted in the recitals.

[Rest of page intentionally left blank.]
IN WITNESS WHEREOF, the undersigned has executed this instrument as of the date first above written.

TARGET CORPORATION,
a Minnesota corporation

By: __________________________

Its: __________________________

STATE OF MINNESOTA )
) ss.
COUNTY OF HENNEPIN )

The foregoing instrument was acknowledged before me this _____ day of ________________, 20___, by ________________________________, the ________________________________ of TARGET CORPORATION, a Minnesota corporation, on behalf of said corporation.

(seal)  
Notary Public
THIS IS TO CERTIFY, That pursuant to the authority conferred by City of Porterville, Ordinance No. 1590, adopted February 20, 2001, the undersigned, on behalf of the public and City Council of the City of Porterville consents to and accepts for public purposes the grant of easement as set forth herein and consents to the recordation thereof.

IN WITNESS WHEREOF, I have hereunto set my hand
this ______ day of ________________, 2004

______________
Michael K. Reed, PLS #7514, City Engineer

STATE OF CALIFORNIA )
)ss.
COUNTY OF __________ )

The foregoing instrument was acknowledged before me this ___ day of ________________, 2004, by Michael K. Reed, the City Engineer in and for the City of Porterville, California, a municipal corporation, on behalf of said corporation.

(seal)

Notary Public

This Instrument was Prepared By:

Target Corporation Property Development
Attn: Property Administration
1000 Nicollet Mall
Minneapolis, Minnesota 55403
EXHIBIT A

Legal Description of Grantor's Property

Parcel 1 as shown on that certain Lot Line Adjustment map attached as Exhibit A" to Resolution 203, Lot Line Adjustment 8-91, recorded October 29, 1991 as File No. 74396, Tulare County Records, being an adjustment of lot lines between Parcels 1, 2, 4 and 7 and the Remainder of Parcel Map No. 3874, recorded in Book 39, Page 77 of Parcel Maps, Tulare County Records, in the City of Porterville, County of Tulare, State of California, and as more fully described on Exhibit "B" of said Resolution 203, Lot Line Adjustment 8-91.
EXHIBIT B

Legal Description of Easement Area
EXHIBIT "B"

LEGAL DESCRIPTION

ALL THAT CERTAIN PROPERTY IN THE CITY OF PORTERVILLE, COUNTY OF TULARE, STATE OF CALIFORNIA, BEING A PORTION OF PARCEL 1, OF PARCEL MAP NUMBER 3874, FILED IN BOOK 39, PAGE 77 OF PARCEL MAPS, AS ADJUSTED BY LOT LINE ADJUSTMENT 8-91, RECORDED AS INSTRUMENT NUMBER 1991-74396, OF OFFICIAL RECORDS BOTH LOCATED IN RECORDS, OF SAID COUNTY, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT ON THE NORTH LINE OF SAID PARCEL 1, DISTANT 15.00 FEET, EAST ELY AS MEASURED ALONG SAID NORTH LINE, FROM THE MOST NORTHWESTERLY CORNER OF SAID PARCEL 1;

THENCE CONTINUING ALONG SAID NORTH LINE NORTH 89°57'38" EAST, 10.00 FEET;

THENCE LEAVING SAID NORTH LINE, SOUTH 00°13'50" EAST, 538.70 FEET;

THENCE SOUTH 00°54'35" WEST, 165.16 FEET;

THENCE SOUTH 01°51'39" EAST, 139.42 FEET;

THENCE NORTH 89°37'23" EAST, 110.75 FEET;

THENCE SOUTH 89°49'04" EAST, 351.78 FEET;

THENCE SOUTH 84°22'45" EAST, 198.32 FEET;

THENCE SOUTH 88°43'05" EAST, 102.13 FEET;

THENCE NORTH 48°05'05" EAST, 75.12 FEET;

THENCE NORTH 89°56'33" EAST, 20.86 FEET, TO THE MOST EASTERLY LINE OF SAID PARCEL 1;

THENCE SOUTHERLY ALONG SAID MOST EASTERLY LINE, SOUTH 00°02'22" EAST, 10.00 FEET;

THENCE LEAVING SAID MOST EASTERLY LINE, SOUTH 89°56'33" WEST, 17.03 FEET;

THENCE SOUTH 48°05'05" WEST, 75.25 FEET;

THENCE NORTH 88°43'05" WEST, 106.47 FEET;

THENCE NORTH 84°22'45" WEST, 198.22 FEET;

THENCE NORTH 89°49'04" WEST, 351.26 FEET;

THENCE SOUTH 89°37'23" WEST, 120.44 FEET;

THENCE NORTH 01°51'39" WEST, 149.41 FEET;

THENCE NORTH 00°54'35" EAST, 165.30 FEET;

THENCE NORTH 00°13'50" WEST, 538.63 FEET, TO THE POINT OF BEGINNING.

CONTAINING 17121.2 SQUARE FEET MORE OR LESS.

SUBJECT TO ALL COVENANTS, RIGHTS, RIGHTS-OF-WAY AND EASEMENTS OF RECORD.

EXHIBIT "B" ATTACHED HERETO, BY THIS REFERENCE IS MADE A PART HEREOF.

JOSEPH G. DERLETH
PLS 7340, EXPIRES 12/31/05

PACIFIC LAND SERVICES
2151 SALVIO STREET, SUITE 250, CONCORD, CA 94520
925-680-6406
FAX 925-680-6407

LEGAL DESCRIPTION

JOB NO: 02-1650

SCALE: NTS

DATE: 07-09-04
EXHIBIT C

Plat of Easement Area
EXHIBIT "C"

TABLE OF DIMENSIONS:

L1 = N89°57'38"E, 15.00'
L2 = N89°57'38"E, 10.00'
L3 = S00°54'35"W, 165.16'
L4 = S01°51'39"E, 139.42'
L5 = N89°37'23"E, 110.75'
L6 = S84°22'45"E, 198.32'
L7 = S88°43'05"E, 102.13'
L8 = N48°05'05"E, 75.12'
L9 = N89°56'33"E, 20.86'
L10 = S00°02'22"E, 10.00'
L11 = S89°56'33"W, 17.03'
L12 = S48°05'05"W, 75.25'
L13 = N88°43'05"W, 106.47'
L14 = N84°22'45"W, 198.22'
L15 = S89°37'23"W, 120.44'
L16 = N01°51'39"W, 149.41'
L17 = N00°54'35"E, 165.30'

REFERENCES:
R = RECORD PER LOT LINE ADJUSTMENT 8-91, RECORDED AS INSTRUMENT NUMBER 1991-74396 OF OFFICIAL RECORDS

MOST EASTERLY LINE PARCEL 1 PER R

PACIFIC LAND SERVICES
2151 SALVIO STREET, SUITE 250, CONCORD, CA 94520
PHONE 925-680-6406 FAX 925-680-6407
ENGINEERING ENTITLEMENT SURVEYING LANDSCAPE ARCHITECTURE

SEWER EASEMENT PLAT
JOB NO: 02-1650
SCALE: 1"=120'
DATE: 07-09-04

163 WEST HENDERSON AVE., PORTERVILLE, CA
SUBJECT: APPROVAL OF RELOCATION HARDSHIP CLAIM PROPERTY LOCATED AT APN 245-040-017 – TENANTS PEDRO M. AND MARIA GALVEZ

SOURCE: PUBLIC WORKS DEPARTMENT

COMMENT: On March 1, 2005 City Council approved the Relocation Plan for the property located at APN 245-040-017, for the Henderson Avenue Reconstruction Project. At this time, the tenants have submitted a Hardship Advance Claim for necessary deposits or down payments in order to secure replacement housing, and also to assist with moving costs.

In the Relocation Plan, the amount of moving expense this household is eligible to receive is $2,200. The moving advance payment requested is half of the total amount, which is $1,100.

As per Paragon Partners Ltd., the City’s relocation consultant, this is common practice for displaced persons to request an advance on their benefits to assist them with moving expenses.

RECOMMENDATION: That City Council:

1. Approve the Hardship Advance Claim; and
2. Authorize staff to make an advance payment to Pedro M. & Maria Galvez, tenants.

ATTACHMENTS: 1. Claim for Relocation Assistance – Hardship Claim
Paragon Partners Ltd.

Memorandum

Date: March 23, 2005
To: Bernadette Lambert
Copy To: City of Porterville
From: Deborah Martinez
Re: Hardship Advance Claim
Subject: Henderson Avenue Road Improvement Project, No. 3503901
Pedro M. Galvez, et al.
2258 W. Henderson Ave., Porterville, CA

The above referenced residential tenant household is being displaced as a result of the Henderson Avenue Road Improvement project. This household consists of 5 occupants, Pedro M. Galvez (head of household), his wife Maria Galvez and their three sons, Alejandro Galvez (age 20), Luis M. Galvez (age 18), and Isidro Torres (age 9).

In order to assist the displaced with securing a replacement site, they have requested a Hardship Advance payment. The household will move together as currently comprised. The adult sons have requested that all relocation benefits they are eligible to receive, be made payable directly to their parents (see attached Division of Benefits form).

The amount of the moving expenses this household is eligible to receive is $2,200 (9 rooms — Interior & Exterior). The moving advance payment requested is half of the total amount, which is $1,100.

The amount of the rental assistance payment (RAP) this household is eligible to receive is $19,275.90. The RAP advance requested is 2 months of comparable rent or $2,3850, which is $1,700.

The total amount of $2,800 for both moving and RAP Hardship Advance payments is hereby requested and recommended for approval. The check should be made payable to Pedro M. & Maria Galvez.

If you have any questions, please let me know.

DM

5762 Bolsa Avenue Suite 201, Huntington Beach, CA 92649, 714-379-3376 Fax 714-373-1134
SUBJECT:  AUTHORIZATION TO PROVIDE WATER TO MULTI-FAMILY RESIDENCE OUTSIDE CITY LIMITS

SOURCE:  Public Works Department - Engineering Division

COMMENT:  The City has received notice from Mr. & Mrs. Bill Sung requesting authorization to connect their property at 41 - 45 S. Chess Terrace to City water.  The property in question is located outside the City limits but within the Urban Development Boundary (UDB).  Three single family homes are situated on the property.

The City’s “Annexation Policy Manual and Municipal Services Policy for the Unincorporated Areas” states that approval for any type of water connection to water facilities shall not be granted prior to LAFCO approval of an annexation application.  The policy does allow an exception to this rule.  The exception states that approval for connection to water facilities may be granted for existing structures and/or for a vacant lot that will allow only one single family residence subject to payment of pertinent fees.

As stated above, the applicant has three single family homes on one lot.  Short of annexing to the City, the City’s Municipal Services policy prohibits connecting to City water.  What makes this situation unique is the fact that the property is located within one of the top six proposed annexation areas that the City is actively pursuing.  The area containing the subject property will be annexed within a matter of months.  Staff is of the opinion that based on these circumstances, it is reasonable and timely to grant water connection approval to 41 - 45 S. Chess Terrace.

RECOMMENDATION:  That City Council grant approval of a water connection to the property at 41 - 45 S. Chess Terrace contingent upon:

1.  Proper execution of an “Consent to Annex” form by Mr. & Mrs. Sung; and

2.  Payment of all pertinent water connection fees by the property owners prior to connecting to City water facilities.
SUBJECT: REQUEST FOR ENCROACHMENT PERMIT - NEW BUILDING FOR STEWART TITLE COMPANY

SOURCE: Public Works Department - Engineering Division

COMMENT: Staff has received a request to encroach into City right of way from Jim Sims. Mr. Sims is the owner of property at 296 W. Henderson Avenue (northeast corner of “G” Street and Henderson Avenue). The new Stewart Title Company building is under construction at this location and the roof eave overhangs along the “G” Street frontage. The overhang varies from about one (1) foot at the northwest building corner to about three (3) feet at the southwest building corner.

The applicant has paid the applicable fee and has signed the standard encroachment agreement.

RECOMMENDATION: That City Council:

1. Approve the encroachment request subject to the terms of the encroachment agreement and in compliance with all applicable City building codes and ordinances; and

2. Authorize the Mayor to sign Encroachment Agreement No. 34-2004.

ATTACHMENTS: Locator Maps
Encroachment Agreement No. 34-2004
PROPOSED BUSINESS

PROPOSED BUILDING ROOF TO OVERHANG 30' INTO RIGHT OF WAY

10'

ROOF OVERHANG

HENDERSON AVE

JIMS SIMMS
296 W HENDERSON AVE
ENCROACHMENT AGREEMENT 34-2004

THIS ENCROACHMENT AGREEMENT is entered into at Porterville, California, by and between the CITY OF PORTERVILLE, hereinafter referred to as the "CITY", and Jim Simms, hereinafter referred to as "Property Owner", on December 6, 2004.

RECITALS

WHEREAS, the "City" by Section 20-1.2, of the City of Porterville Municipal Code, requires City Council approval of occupancy within the public right of way by executing an encroachment agreement.

WHEREAS, this agreement grants to "Property Owner" the right to encroach upon certain property of the "CITY"; and,

NOW, THEREFORE, it is agreed by and between the parties as follows:

1. The "CITY" hereby grants to "Property Owner" the right to encroach into the public right-of-way at the 296 W. Henderson Avenue for the purpose of the construction of a 30" roof overhang into the City's right of way.

2. In exercising this right to encroach upon "CITY" property, "Property Owner" agrees and does hereby indemnify, save and hold harmless the "CITY", its agents, officers and employees against and from all damages, (including death) judgments, claims, demands, expenses, costs, (including attorney's fees) and expenditures, and against all loss which the "CITY" or such officers, agents, or employees may suffer, or which may be recoverable from or obtainable against the "CITY" or such officers, agents, or employees, proximately caused by or growing out of, or in any way connected with the placing, erection or maintenance of said encroachment. "Property Owner" further agrees that upon fifteen (15) days written notice by
the "CITY" that they will, at their own cost and expense, remove said encroachment and place
said property in as like a condition as possible prior to the encroachment construction. The
"CITY" agrees that it will not terminate this agreement unless and until said property
encroached upon may be required for street widening, sidewalk purposes, or other public
improvements.

3. "Property Owner" further agrees that the promises herein contained shall be binding
upon their heirs, successors, or assigns or any other person or firm that may now be, or
hereafter, an owner of the real property or any part thereof, set forth in Section 1 of this
agreement.

Date: December 16, 2004

Jim Simms  Owner

_________________________
APPROVED BY
CITY OF PORTERVILLE
A Municipal Corporation

_________________________
Baldomero S. Rodriguez
Public Works Director

_________________________
Pedro R. Martinez
Mayor
CALIFORNIA ALL-PURPOSE ACKNOWLEDGEMENT

State of California

County of Tulare

On December 6, 2004 before me, Cecilia Mendez, personally appeared Jim Sims.

☐ Personally known to me OR ☑ 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 acknowledge 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.

CERTIFIED COPY

CECILIA MENDEZ
COMM. #1406199
NOTARY PUBLIC - CALIFORNIA
TULARE COUNTY

SIGNATURE OF NOTARY

OPTIONAL

Though the data below is not required by law, it may prove valuable to persons relying on the documents and could prevent fraudulent reattachment of this form.

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<th>CAPACITY CLAIMED BY SIGNED</th>
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TITLE OR TYPE OF DOCUMENT

NUMBER OF PAGES

DATE OF DOCUMENT

SIGNER(S) OTHER THAN NAMED ABOVE
SIGNER IS REPRESENTING:
NAME OF PERSON(S) OR ENTITY(IES)
THIS ITEM HAS BEEN REMOVED FROM THE AGENDA.
SUBJECT: RATIFY PERMISSION FOR TULE RIVER PARKWAY ASSOCIATION CONDUCTING THREE PUBLIC EVENT TREE CARE TRAINING DAYS

SOURCE: Parks and Leisure Services Department

COMMENT: The Tule River Parkway Association has developed a proposal for State grant funding to provide Porterville Tree Care Training Days. The concept of the proposal is to provide three training days for community members to learn proper planting and care for trees. The curriculum is to be developed collaboratively with the City and other interested parties. The training days are envisioned to include the planting of numerous trees, pruning of existing trees and the performance of other tree maintenance work. The location of the activity is proposed to be the Tule River Parkway.

City staff were consulted, provided input, and fully endorse the concept. Due to the pending grant application deadline, the Parks & Leisure Services Director signed the application documents to provide permission for the public event of planting and maintenance of the trees. In doing so, the Tule River Parkway Association was made aware that the City Council would need to ratify the approval.

The amount of the grant request is $4,355.47 which will be reimbursed to the Tule River Parkway Association upon their completion of the project and submission of proper documentation to the State. The tree care training days are tentatively planned in November and December 2005, and February, 2006.

RECOMMENDATION: That the City Council ratify permission for the Tule River Parkway Association conducting three public event Tree Care Training Days.

ATTACHMENT: Tree Care Days Project Narrative

ITEM NO.: 19
Porterville Tree Care Training Days
Project Narrative

Project Goals, Methods, and Expected Results
The Tree Care Training Days Project will host three training days at the Tule River Parkway. Tree Pruning experts and University of California Extension Master gardeners along will City Parks Department Staff will train community volunteers to perform corrective and directive pruning on young trees, adjust, replace, or remove stakes and ties, weed and mulch tree basins, clean and adjust irrigation emitters. The project will replace nine trees that have died. These nine trees will not replace all the dead or missing trees along the Parkway section that we will work in, but it will be a symbolic beginning to replacing the dead and missing trees and provide additional training to volunteers. The lead trainer and project coordinator will assign volunteers to teams. Teams with highly trained volunteers such as Master gardeners will be trained in tree pruning. Additional teams will be formed and be trained to adjust, replace, or remove stakes and ties, weed and mulch tree basins, and inspect and clear and adjust irrigation emitters or plant the three replacement trees for the day.

Need and Expected Benefits to the Community
The Tule River Parkway is a tree lined multiuse path whose oldest section was planted only five years ago. The Parkway trees have received care from the Parks staff. Additional care is needed for this large number of young trees so that they will develop a strong structure and provide shade and a safe environment along the Parkway. The grant will fund three training days, however the benefit will continue long past these days. The trees will develop safe, strong and useful growth patterns from the training activities. The volunteers will have training that will enable them to benefit other trees both on the Parkway during future events, and within the volunteer’s own yards. The Parkway sections we will train on run through a new neighborhood with a new shade tree in each front yard. These trees will get the benefits of a newly trained property owner. The Parkway is continuing to grow, a new section just opened this February, and another section is in the land acquisition stage. The new trees in these sections will also need care in their first years. Training a cadre of volunteers in proper pruning and tree maintenance techniques will yield long-term benefits to Porterville. These trained tree volunteers hopefully will become advocates for proper tree care methods.

Nature and Level of Community Participation
Many community groups including Boy and Girl Scouts, Church groups, Garden Club, and High School and College service clubs have expressed interest in tree care projects. In addition to these organizations the general public will be invited with directed attention to inviting residents in the Parkway neighborhood. Large community employers will also be invited to participate. The Tule River Parkway Association members will be key volunteers in planning and directing the day’s activities.
Porterville Tree Care Training Days
Project Narrative page 2

Explanation of Expenses
The Project Coordinator is responsible for initiating all planning activities and ensuring that they are completed on schedule. All preparation for the training days including advertising, purchasing, presentation materials and stands, flyers, and brochures are the responsibility of the coordinator. The Coordinator is responsible to work with the City of Porterville, Master gardeners, Tree Experts, and community groups to insure the needed mix of Training Day attendees. Delivery or coordination of delivery of items needed for each day is also the responsibility of the Coordinator.

The Tree Pruning Expert will provide training to selected volunteers on the three tree care days. Brian Kemp has been contacted and has stated his interest in providing this training. The nine replacement trees species have been selected in consultation with Jim Perrine the Director of Parks and Leisure Services. These are all native to the area and propagated from local tree stock. The trees will be planted in the established Parkway in existing tree basin sites with individually controllable emitters.

Mulch, stakes, ties, and soil amendments will be used as needed in existing and new trees. Many of the two and three year in the ground trees need stake adjustment or replacement and many more need tie replacement. The soil along the Parkway is very sandy; Porterville has high summer temperature and no summer rain. Mulch will slow evaporation and aid in retaining the irrigation water within the root zone.

The pruning tools will provide enough tools for 5 teams of tree pruners. Volunteers are likely to bring many of their own tools, but the purchased tools will provide a basic tool kit. The kit will be carried in a five-gallon bucket along with a platform ladder.

Printing costs will cover brochures on young tree care for the volunteers. Operating Costs will allow for information sheets on tree care topics, and the basic office supplies and a small amount of postage to coordinate with community groups. The other category includes tax for all purchases, delivery costs for the larger items, and money to by the stands and materials to make a reusable display for training of volunteers.
Porterville Tree Care Training Days
Tree Care Project Sheet

Location and Site Condition
The training will be conducted along the Tule River Parkway between Jaye Street and Highway 65 a two-mile section of the Parkway. The trees are located along a paved multiuse path, which is separated from the street. Most the Parkway has been regularly sprayed for weed control, however sections of trees have not been maintained for weed control and need hand or hand tool weeding. More than half the trees will need stake and tie adjustment. Stakes removed from trees, which no longer need them, will be reused for stake replacement on other trees.

Number, Size, and Species of Trees
All the trees are young. None have been in the ground more than five years and volunteers will only be dealing with tasks that can be performed from the ground or a small platform ladder. The following trees are planted in the Parkway; Platanus acerifolia Bloodgood, Liquamber styraciflua, Pyrus aristocrat, Chitalpa pink dawn, Arbutus marina, Qercus lobata, Quercus wislizenii, Pistache chinesis, and Populus fremontii, additional native trees exist within the natural lands adjoining the Parkway, however these trees will not be part of this project. The City of Porterville does not have a count of the trees along the Parkway, our best estimate is that there are between 400-600 trees with-in the section where the training will be held.

Type and Frequency of Care
The young Parkway trees will be given the whole range of care in this one project. Highly trained volunteers under the direct supervision of experts will prune the trees. They will have their stakes and ties adjusted. Their tree basins will be weeded, amended and mulched. Irrigation emitters will be checked and cleaned or adjusted as needed. This project will prune each tree once within the four-month care time period, however the stakes and ties will be inspected each time and corrected or repaired as needed.

Source of Technical Expertise
Brian Kemp has expressed his willingness to be the projects lead trainer. The University of California Cooperative Extension Master-gardeners have expressed interest in assisting the training days. Many of the Tule River Parkway Association members have extensive tree pruning and care knowledge and will make excellent team captains. We have trained community volunteers in tree planting in past projects and these trained volunteers will likely come to this activity. The Scout groups would like to take on parts of the project that they can do independently, they could be a great groups to do the basin clearing and mulching along with the irrigation check and clearing. The City of Porterville will assign City Park’s staff to the project and their technical assistance will be used as much as they are available.
SUBJECT: RESOLUTION OF SUPPORT FOR PROTEUS, INC.

SOURCE: City Clerk

COMMENT: Council Member Hamilton has requested that the City Council consider the adoption of a resolution expressing the Council’s support of the Porterville Proteus, Inc. office in downtown Porterville, and its continued maintenance. Currently the Proteus, Inc. office is located at 54 North Main Street.

It should be noted that the Redevelopment Strategic Plan adopted by the City Council recognizes downtown as the center for professional and large scale offices in the City, and encourages the development and continued maintenance of such uses in the Central Business District located in the Redevelopment Area. The continued location of Proteus, Inc. on Main Street promotes downtown revitalization which is definitely a benefit to the City as well as to its citizens.

RECOMMENDATION: That Council adopt the proposed resolution in support of maintaining Proteus, Inc. in downtown Porterville.

ATTACHMENT: Draft resolution

Item No. 20

Approp./CM
Funded
RESOLUTION NO. ____________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
IN SUPPORT OF PROTEUS, INC. AND THE MAINTENANCE OF THEIR
FACILITY LOCATED IN DOWNTOWN PORTERVILLE

WHEREAS, Proteus, Inc. was founded in 1967 as an education-based organization, and has evolved into a multi-faceted corporation providing education, employment, training, and other services to the diverse population of Tulare, Kings, Fresno, and Kern counties. Proteus operates up to 60 concurrent programs, ranging from childcare centers, domestic violence programs, pesticide training, adult and youth programs, foster care and WASC accredited skills training; and

WHEREAS, Proteus seeks funding from federal, state, local public and private agencies that will enable their organization to train, educate, and nurture self-reliant customers; and

WHEREAS, the Porterville Proteus, Inc. office, located at 54 North Main Street, offers on-the-job training and General Education Development (GED) training locally, free of charge; and

WHEREAS, the Redevelopment Strategic Plan adopted by the City Council recognizes downtown as the center for professional and large scale offices in the City, and encourages the development and continued maintenance of such uses in the Central Business District located in the Redevelopment Area. The placement of the Proteus facility on Main Street definitively meets this criteria and promotes downtown revitalization which is definitely a benefit to the City as well as to its citizens.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Porterville that the Council fully supports the retention of the Porterville Proteus, Inc. office on Main Street in the Central Business District, and requests that the Proteus, Inc. Board of Directors give consideration to maintaining the Porterville office in that location as a benefit to the Porterville community.

______________________________
Pedro R. Martinez, Mayor

ATTEST:

John Longley, City Clerk

_________________________________
Georgia Hawley, Chief Deputy City Clerk
PUBLIC HEARING

SUBJECT: REVISION OF TAXICAB/VEHICLE FOR HIRE ORDINANCE

SOURCE: Police Department

COMMENT: For several years, the community of Porterville was served by one taxicab. In the past year, a new taxicab company with a fleet of vehicles began serving the Porterville area. Additionally, three limousine companies are providing transportation services in Porterville. During the process of licensing and issuing permits to the business and drivers, it became evident that the current City ordinance pertaining to taxicabs/vehicles for hire was lacking in several areas. The current ordinance was adopted in 1980 and is somewhat ambiguous in terms of how to ensure the taxicabs or vehicles for hire would be safe. Additionally, the issuance of permits to drivers who would be transporting the citizenry needed to be spelled out more clearly. Staff is proposing revisions to the ordinance to more effectively and efficiently regulate this activity in Porterville.
City staff has worked closely with the City Attorney to develop an ordinance that would be effective in regulating these services, with the goal of ensuring the safety of persons relying on these companies for their transportation needs. In developing the new ordinance, staff has surveyed small and large municipalities to determine the industry standard as it relates to regulating taxicabs and vehicles for hire. Staff has delivered a copy of the proposed ordinance to United Cab and the three limousine companies providing services in Porterville. The department will be requesting an increase in the service fee for processing the permit applications of drivers. The amount will be determined upon completion of the Fee Study.

RECOMMENDATION:
1) That the Council hold a public hearing to receive input and comments from interested persons; and
2) That the Council approve the attached draft ordinance, and order it to Second Reading.

Attachment:
Revised Chapter 23 of Porterville Municipal Code
Taxi Driver/Operator Application & Vehicle Inspection form
Draft Ordinance

Item No. 21

DD____ CM_____ Appropriated/Funded_______
REVISED
TAXICABS AND OTHER VEHICLES FOR HIRE

ARTICLE I. IN GENERAL

Sec. 23-1. Definitions.
For the purposes of this chapter, the following terms shall have the meanings respectively set forth in this section:

Automobile for hire. The term "automobile for hire" as used in this chapter shall include every automobile or motor-propelled vehicle by means of which passengers are transported for hire upon any public street in the city and not over a regular or defined route and irrespective of whether the operations extend beyond the boundaries of the city or not, excepting vehicle of highway contract carriers as defined in this section.

Highway contract carrier. The term "highway contract carrier" as used in this chapter means every highway common carrier subject to the regulations as such by the railroad commission under the public utilities act of the state.

Taxicab. The term "taxicab" as used in this chapter, shall include every automobile or motor-propelled vehicle by means of which passengers are transported for hire upon any public street in the city and not over a regular or defined route and irrespective of whether the operations extend beyond the boundary limits of the city or not where a charge for such transportation is measured by the distance traveled or by the time required for such transportation, or both, or where any other goods are received or charged for such transportation excepting vehicles of "highway contract carriers" as defined in this section.

Sec. 23-2. Compliance with chapter provisions.
The rules and regulations in this chapter shall be observed by all persons operating taxicabs or automobiles for hire, and it shall be unlawful to operate such taxicab or automobile for hire in violation of any of the rules in this chapter.

Sec. 23-3. Identification card.
Any person operating a vehicle for hire or a taxicab shall have the taxi driver identification card issued by the city and displayed in the cab while said person is operating the cab. The identification card shall be affixed to the visor in the driver's area or if no such visor exists attached to the top of the cab in that area.

Sec. 23-4. Persons not eligible to operate/drive vehicle.
No taxicab or automobile for hire shall be operated by any person under the age of eighteen (18) years; or by any person who does not possess a valid California driver's license; or by any person who does not possess a valid taxicab driver permit; or by any person who is known to be habitually under the influence of intoxicating drugs, liquors or combination of both.

Sec. 23-5. Use of intoxicating liquors or medications prohibited during hours of duty.
The driver of any automobile for hire or taxicab in the City of Porterville shall refrain from drinking spirituous, malt, vinous or intoxicating liquors of any kind or character, or the taking of any type of medication that manifests a narcotic tranquilizing effect, during the period of time that such person is on duty or prior to going on duty when the effects of such liquor or medication would still be in
effect on the driver, or when the subject driver is subject to call in the operation of such automobile for hire or taxicab.

Sec. 23-6. Parking.
No automobile for hire or taxicab shall remain standing upon any portion of any public street within the city, except for loading and unloading passengers and then not for a period of more than five (5) minutes, excepting at such stand as may be designated and described in the permit. This section shall not apply to any automobile for hire or taxicab while the same is engaged by or being paid for by a passenger. **During operating hours, taxicabs shall not be parked in residential areas unless during the course of business. During non-operating hours the taxicabs shall be parked at the business location.**

Sec. 23-7. Reserved.

Sec. 23-8. Operator to take most direct route.
The operator of any taxicab shall carry any passenger engaging the same safely and expeditiously to his destination by the most direct and accessible route.

Sec. 23-9. Mechanical and sanitary condition of vehicle.
All automobiles for hire and taxicabs shall be kept in good mechanical condition.

No automobile for hire or taxicab shall be operated unless the passenger compartment be kept clean and in a sanitary condition.

Sec. 23-9.1 Mechanical Inspection.
All vehicles permitted to be operated under a permit issued pursuant to this chapter shall be in safe operating condition and shall be inspected annually by a qualified mechanic certified by the State of California Department of Consumer Affairs. The police department shall provide inspection forms, which the mechanic shall complete and certify. The permit holder shall submit the completed inspection form to the police department.

In the event said vehicle is found to be unsafe because of defective brakes, lights, or other operating defect, said vehicle shall not be used as a taxicab or vehicle for hire until such defect has been corrected. The cost of said inspection shall be at the expense of the taxicab/automobile for hire company.

Sec. 23-9.2 Taximeters; condition, operation.
Every taxicab shall be equipped with a single tariff taximeter or other measuring instrument. The use of any inaccurate taximeter or other measuring instrument for the purpose of gauging or indicating distance traveled, or waiting time for the purpose of fixing rates to be collected from the public, is hereby prohibited. It shall be the duty of the owner using any taximeter or other measuring instrument to keep said taximeter or measuring instrument in an accurate condition.

**The permit holder shall provide proof that each vehicle’s taximeter is inspected a minimum of once a year, and immediately upon a change effecting the meter rate, by the Tulare County Department of Weights and Measures. The taximeter shall be subject to inspection at any time by the Tulare County Department of Weights and Measures.**

Every taximeter or other measuring instrument used for the purpose of gauging or indicating
distance traveled, or waiting time, or for the purpose of computing fares to be collected from the public, shall be of a type approved and subjected to inspection at any times by the Chief of Police or his designee. A police officer who receives a complaint from any person that the rate charged is more than the legal rate shall report such fact to the Chief of Police, who shall cause such taximeter or other measuring instrument to be inspected at once.

The taximeter shall be so placed in a taxicab that the reading dial showing the amount to be charged shall be well lighted and readily discernible by the passenger riding in such taxicab, unless such taxicab is equipped and operated as a receipt-printing taximeter.

All drivers of taxicabs, upon payment of the fare, shall give a receipt when requested for the fare paid.

All taxicab drivers shall cause the taximeter to be in the non-recording position at the termination of each service.

The taxicab driver, while carrying passengers or under employment, shall not cause the taximeter to be in such position as to denote that such taxicab is not employed, or in such position as to denote that he is employed at a rate or fare different than that to which he is entitled.

Sec. 23-9.3 Authority of Police Department to Inspect Taxicabs
The Chief of Police or his designee, under his/her direction, shall have the right at any time, when a taxicab or vehicle for hire is not transporting a customer and after displaying proper identification, to enter into that vehicle for the purpose of ascertaining whether or not any of the provisions set forth in this chapter are being violated.

Such inspection may occur when a customer is present and the Chief of Police of his/her designee has probable cause to believe a violation is present.

Sec. 23-10. Rates.
The operator or owner of a taxicab shall post charges and rates in both the front and rear passenger sections of said vehicle and in a manner so that the same shall be clearly visible to passengers.
The city council shall have the power and right at all times for the duration of the taxi license to regulate and establish reasonable rates and charges. The taxi company licensee shall submit a list of all proposed rates increases to the city no less than thirty (30) days prior to the proposed increase taking effect. If the licensee does not receive any notification from the city, they may presume that there are no objections on the part of the city to the rate increase. The establishment of rates and charges shall be discretionary with the city council.

Sec. 23-11. Soliciting patronage.
No owner or operator of any automobile for hire or taxicab shall solicit patronage for the same from the vehicle or within one hundred (100) yards there from upon any public street, save and except at railroad and interurban depots and within the boundaries of the space to be designated by the chief of police for such purposes.

Sec. 23-12. Exclusive use of persons engaging vehicle.
No operator or owner of any automobile for hire or taxicab shall solicit or take on or carry any
passenger after such automobile for hire or taxicab shall have been engaged or while in use for another passenger, without the consent of the passenger first engaging the same, having been first obtained. A passenger engaging such automobile shall have the exclusive right to full and free use of the passenger compartment and the whole thereof if he desires the same.

Sec. 23-13. Automobile for hire not to be advertised as taxi or taxicab.
No automobile for hire shall be designated as a “taxi” or “taxicab,” or by word or phrase using the words “taxi” or “taxicab” in any sign or advertising matter.

**Sec. 23-13.1 Out of service taxicabs.**
When a taxicab is not in service but is being operated on public streets, a sign shall be affixed on each side of the vehicle, clearly identifying the vehicle as being “Out of Service.”

**ARTICLE II. OPERATING/DRIVER PERMIT**

Sec. 23.14 Operating/driver permit required.
It shall be unlawful to operate or cause to be operated, an automobile for hire, or a taxicab upon any public street within the city without first having obtained a permit to do so in accordance with the provisions hereof, and without complying or having complied with all the provisions of this chapter as well as those applicable sections of chapter 15.

No company shall operate a taxicab or vehicle for hire business within the City of Porterville without having first obtained a business license and an operating permit from the City of Porterville. No person shall be allowed to drive a taxicab or vehicle for hire without having first obtained a driver’s permit from the City of Porterville.

Sec. 23-15. Limit of one permit to each person.
No person shall be entitled to hold more than one (1) permit at a time, either as individual, member of a copartnership, stockholder or officer of a corporation, or under fictitious name, or otherwise.

Sec. 23-16. Application – Contents; fee.
Any person desiring to obtain a permit required by section 23-14 shall pay a fee, as fixed by resolution of the city council, and shall make application for such permit to the chief of police. An operator’s permit application shall set forth:

The name and address of the applicant, and if the same be a corporation, the names of its principal officers, or if the same be a partnership, association or fictitious company, the names of the partners or persons comprising the association or company, with the address of each.

(a) A statement as to whether the permit is desired for an automobile for hire, or a taxicab.

(b) The description of every motor vehicle which the applicant proposes to use, giving:

   a. Trade name;
   b. Motor and serial number;
   c. State license number;
d. Seating capacity;
e. Body style.

(c) The street number and exact location where the applicant proposes to stand each automobile.

(d) Proposed schedule of rates or fares to be charged for carrying of passengers in such automobile.

(e) The distinctive color scheme, name, monogram, or insignia, which shall be used on such automobile, along with an identifying vehicle number.

A driver’s permit application shall set forth:

1. The name, date of birth, physical description, address, and phone number of the applicant.

2. The applicant’s California Driver’s license number, status, and driving history.

3. Place of employment with contact address and phone number.

4. Listing of all previous arrests and convictions.

5. Other information as deemed pertinent by the Chief of Police.

Secs. 23-17, 23-18. Reserved.

Sec. 23-19. Grounds for denial of permit.
The following reasons shall be sufficient denial of such permit as required in section 23-14.
(a) That the application is not in the form, and does not contain the information required to be contained therein by this chapter.

(b) That the vehicle or vehicles described therein are inadequate or unsafe for the purposes for which they are to be used.

(c) That the color scheme, name, monogram or insignia to be used upon such automobile, shall be in conflict with or imitate any color scheme, name, monogram or insignia used by any person in such manner as to be misleading or tend to deceive, or defraud the public.

(d) That the applicant has, at some prior time, had a permit for the operation of automobile for hire, or taxicab revoked for reason.

Sec. 23-19.1. Appeal to city council re: denial of permit.
In the event the chief of police, for any reason, denies the application of any applicant or refuses to issue the applicant a permit for the operation of an automobile for hire or taxicab, such applicant may, on or before the fifteenth day following said denial, file with the city clerk a written notice of protest of the decision of the chief of police and a request that the city council issue the permit requested. Within thirty (30) days following the receipt of applicant's written notice the same shall be considered by the city council at a regular or special meeting. The city council shall have full
power and authority to grant or deny the permit for the causes set forth in section 23.19.

Sec. 23-20. License fee prerequisite to issuance.
Before any permit as required in section 23-14 shall be issued a license fee shall be paid to the city at a rate as fixed by the city council and failure to pay such license fee aforesaid shall automatically revoke any permit issued under this article.

Sec. 23-21. Deposit of insurance policy prerequisite to issuance of operators permit.
Before an operator's permit required in section 23-14 shall be issued by the chief of police, the applicant shall deliver to the city clerk a policy of insurance, executed by a company duly authorized under the laws of the state to do an insurance business, by the provisions of which policy the company promises and undertakes to pay in full all claims for damages to persons or property resulting from the operation of the automobile referred to in such application; provided, that the minimum amount for which liability shall be assumed for injury to or death of one person in any one accident shall be fifty thousand dollars ($50,000.00), one hundred thousand dollars ($100,000.00) to more than one person on any one accident, and the minimum amount for which liability shall be assumed for destruction of property in any one accident shall be twenty-five thousand dollars ($25,000.00).

Sec. 23-22. Photograph; fingerprints.
Before any permit required in section 23-14 shall be issued for the operation of an automobile for hire or taxicab, the operator thereof, together with all chauffeur's licensed, shall file with the chief of police, a photograph, size two inches by two (2) and three-fourths (2 3/4) inches, and shall have their fingerprints taken by the chief of police or any authorized deputy.

Sec. 23-23. Revocation; hearing; notice.
Any permit granted under the provisions of this article may be revoked by the city council either as a whole or as to any or all cars described therein or as to the right to use any distinctive color, monogram or insignia after five (5) days' notice to the permit holder, requiring him to appear at a certain time and place to show cause why such permit should not be revoked for any of the reasons enumerated in section 23-24.

Sec. 23-24. Grounds for revocation.
Grounds for revocation of a permit by the city council shall be for any of the following reasons:

(a) For the nonpayment of any license fee.

(b) For failure to observe any of the rules and regulations or provisions set out in this chapter.

(c) For the violation of any of the laws of the state or ordinances of the city by any permit holder, operator or driver of an automobile for hire or taxicab.

(d) For failure to maintain satisfactory service to the public by means of any of the vehicle described in the permit, or for failure to keep any car described in the permit in use for any unreasonable length of time, or for failure to use the distinctive color, monogram or insignia described in the application.

(e) For any cause which in the opinion of the city council makes it contrary to the public interest, convenience and necessity for the permit to be continued.
(f) The undertaking provided for in section 23-21, has not been given or has been withdrawn or
lapsed for nonpayment, of premium, or is not in force for any reason.

Sec. 23-25. Transferability.
No permit issued under the terms of this article shall be transferable either by contract or operation
of law without the permission of the chief of police having been first obtained, and any such
attempted transfer shall be sufficient cause for revocation thereof.

Sec. 23-26. Applications for changes of name, substitution of vehicle, etc.
In the event that any permit holder desires to change his color scheme, name, monogram or insignia
used on such automobile for hire, or taxicab, or to substitute any vehicle for and in place of the
vehicle described in the application for permit, or to increase or decrease the number of vehicles
used by him as automobiles for hire or taxicabs, he shall make application for permission to do so
from the chief of police which permission shall be granted, if in the discretion of the chief of police,
he deems the public interest, necessity and convenience will be served by such change, and if the
permit holder has complied with all provisions of this chapter.

Sec. 23-27. Appeal to city council re: denial of application for changes, etc.
In the event the chief of police shall refuse to permit any change specified in section 23-26, the
permit holder may protest the decision of the chief of police in the time and in the manner set forth
in section 23-19.1 and the city council shall consider and act on said protest in the time and in the
manner set forth in section 23-19.1 and shall deny the change requested if the council fails to find
that the public interest and convenience will be served by such change or if the permit holder has
failed to comply with the provisions of this chapter.

Sec. 23-28. Permit validity period.
A permit required by this article shall be valid for no longer than a period of one (1) year. Renewal
permits must be completed during the month of January each year.
PORTERVILLE POLICE DEPARTMENT

Application for: Card Dealer { } Card Room Operator { } Taxi Driver { } Taxi Operator { } Other { } __________________________________________________________________________

Applicant’s Name: __________________________________________________________________________

List any aliases: __________________________________________________________________________

Home Address: __________________________________________________________________________

Previous Address: __________________________________________________________________________

Home Phone Number: __________ Date of Birth: __________ Age: _____ Sex: ___

Height: __________ Weight: __________ Hair: __________ Eyes: __________

Driver’s License Number: __________ State: __________ Class: __________

Name/Address/Phone of Business/Employer: __________________________________________________________________________

__________________________________________________________________________________________

List any convictions / arrests:

Date: ___________ Agency: __________________________________________________________________________ Charge: __________

Date: ___________ Agency: __________________________________________________________________________ Charge: __________

Date: ___________ Agency: __________________________________________________________________________ Charge: __________

Date: ___________ Agency: __________________________________________________________________________ Charge: __________

List any vehicle code violations within the past twelve months:

Date: ___________ Violation(s): __________________________________________________________________________

Date: ___________ Violation(s): __________________________________________________________________________

Date: ___________ Violation(s): __________________________________________________________________________

Date: ___________ Violation(s): __________________________________________________________________________

Have you ever applied for this permit or any others listed? __________________________________________________________________________

If yes, what kind of permit and when? __________________________________________________________________________

(continued other side)
Taxicab Operator/Vehicle For Hire Permit Info Only

Applicants must attach a proposed schedule of rates or fares to be charged for carrying of passengers and a copy of valid insurance.

Vehicle Information (Additional sheets may be attached if necessary):

State License Number _______________ VIN __________________________

Make / Model _______________ Body Style ___________ Capacity ________

Describe the vehicle’s color scheme, name, insignia, etc that will be placed on vehicle:

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

Any falsification on this application will result in immediate denial of the permit:

_________________________  __________________________
Signature of Applicant      Date

Police Department Use Only

Date: ____________________________  Fee Paid: $________________________
Fingerprinted: ____________________  Number of Photos: ________________
PPD# _____________________________  Return outdated Permit { } Yes { } No
Date Permit Issued: ________________  Clerk’s Initials ________

Application Approved { } Denied{ }  Comments: ____________________________

________________________________________________________________________

________________________________________________________________________

Reviewed by: ______________________  Reviewer  ______________________  Date

Approved by: ______________________  Chief of Police  ____________________  Date

10/04
Porterville Police Department  
Taxicab/Vehicle For Hire Inspection Form

Business Name, Address, & Phone Number

Insurance Information (Company, Policy #, Liability amount)

Vehicle Information (License #, VIN, Color, Year, Make, Model)

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<tr>
<th>Mechanical Checklist (S = Satisfactory/U = Unsatisfactory)</th>
<th>Exterior Checklist (S = Satisfactory/U = Unsatisfactory)</th>
<th>Interior Checklist (S = Satisfactory/U = Unsatisfactory)</th>
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<td>Driver's Side</td>
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Inspecting Mechanic’s Name (Print)                      Mechanic’s Company, Address, & Phone Number

Inspecting Mechanic’s Signature                        Date of Inspection (10/04)
ORDINANCE NO. ______

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING THE PORTERVILLE MUNICIPAL CODE, CHAPTER 23, TAXICABS AND OTHER VEHICLES FOR HIRE


WHEREAS: The proposed amendment will allow the a more effective and efficient regulation of the vehicle for hire activity in the City of Porterville.

NOW, THEREFORE, BE IT ORDAINED: That the City Council of the City of Porterville does hereby amend Chapter 23, Taxicab and Other Vehicles for Hire, as follows:

SECTION 1: Article 1, In General, Section 23-4, is hereby amended as follows:

Sec. 23-4. Persons not eligible to operate/drive vehicle.

No taxicab or automobile for hire shall be operated by any person under the age of eighteen (18) years; or by any person who does not possess a valid California driver’s license; or by any person who does not possess a valid taxicab driver permit; or by any person who is known to be habitually under the influence of intoxicating drugs, liquors or combination of both.

SECTION 2: Article 1, In General, Section 23-6, is hereby amended as follows:

Sec. 23-6. Parking.

No automobile for hire or taxicab shall remain standing upon any portion of any public street within the city, except for loading and unloading passengers and then not for a period of more than five (5) minutes, excepting at such stand as may be designated and described in the permit. This section shall not apply to any automobile for hire or taxicab while the same is engaged by or being paid for by a passenger. During operating hours, taxicabs shall not be parked in residential areas unless during the course of business. During non-operating hours the taxicabs shall be parked at the business location. Taxi drivers who are “on-call” may park the taxicab on front of their residence during the time during which they are on call, provided no more than one (1) taxicab is parked at that location.

SECTION 3: Article 1, In General, Section 23-9.1, is hereby amended as follows:
Sec. 23-9.1 Mechanical Inspection.

All vehicles permitted to be operated under a permit issued pursuant to this chapter shall be in safe operating condition and shall be inspected annually by a qualified mechanic certified by the State of California Department of Consumer Affairs. The police department shall provide inspection forms, which the mechanic shall complete and certify. The permit holder shall submit the completed inspection form to the police department.

In the event said vehicle is found to be unsafe because of defective brakes, lights, or other operating defect, said vehicle shall not be used as a taxicab or vehicle for hire until such defect has been corrected. The cost of said inspection shall be at the expense of the taxicab/automobile for hire company.

SECTION 4: Article 1, In General, Section 23-9.2 is hereby amended as follows:

Sec. 23-9.2 Taximeters; condition, operation.

Every taxicab shall be equipped with a single tariff taximeter or other measuring instrument. The use of any inaccurate taximeter or other measuring instrument for the purpose of gauging or indicating distance traveled, or waiting time for the purpose of fixing rates to be collected from the public, is hereby prohibited. It shall be the duty of the owner using any taximeter or other measuring instrument to keep said taximeter or measuring instrument in an accurate condition.

The permit holder shall provide proof that each vehicle’s taximeter is inspected a minimum of once a year, and immediately upon a change effecting the meter rate, by the Tulare County Department of Weights and Measures. The taximeter shall be subject to inspection at any time by the Tulare County Department of Weights and Measures.

Every taximeter or other measuring instrument used for the purpose of gauging or indicating distance traveled, or waiting time, or for the purpose of computing fares to be collected from the public, shall be of a type approved and subjected to inspection at any time by the Chief of Police or his designee. A police officer who receives a complaint from any person that the rate charged is more than the legal rate shall report such fact to the Chief of Police, who shall cause such taximeter or other measuring instrument to be inspected at once.

The taximeter shall be so placed in a taxicab that the reading dial showing the amount to be charged shall be well lighted and readily discernible by the passenger riding in such taxicab, unless such taxicab is equipped and operated as a receipt-printing taximeter.

All drivers of taxicabs, upon payment of the fare, shall give a receipt when requested for the fare paid.
All taxicab drivers shall cause the taximeter to be in the non-recording position at the termination of each service.

The taxicab driver, while carrying passengers or under employment, shall not cause the taximeter to be in such position as to denote that such taxicab is not employed, or in such position as to denote that he is employed at a rate or fare different than that to which he is entitled.

SECTION 5: Article 1, In General, Section 23-9.3 is hereby added as follows:

Sec. 23-9.3 Authority of Police Department to Inspect Taxicabs

The Chief of Police or his designee, under his/her direction, shall have the right at any time, when a taxicab or vehicle for hire is not transporting a customer and after displaying proper identification, to enter into that vehicle for the purpose of ascertaining whether or not any of the provisions set forth in this chapter are being violated.

Such inspection may occur when a customer is present and the Chief of Police of his/her designee has probable cause to believe a violation is present.

SECTION 6: Article 1, In General, Section 23-10 is hereby amended as follows:

Sec. 23-10. Rates.

The operator or owner of a taxicab shall post charges and rates in both the front and rear passenger sections of said vehicle and in a manner so that the same shall be clearly visible to passengers.

The city council shall have the power and right at all times for the duration of the taxi license to regulate and establish reasonable rates and charges. The taxi company licensee shall submit a list of all proposed rates increases to the city no less than thirty (30) days prior to the proposed increase taking effect. If the licensee does not receive any notification from the city, they may presume that there are no objections on the part of the city to the rate increase. The establishment of rates and charges shall be discretionary with the city council.

SECTION 7: Article 1, In General, Section 23-13.1 is hereby added as follows:

Sec. 23-13.1 Out of service taxicabs.

When a taxicab is not in service but is being operated on public streets, a sign shall be affixed on each side of the vehicle, clearly identifying the vehicle as being “Out of Service.”

SECTION 8: Article II, Operating/driver Permit, Section 23-14 is hereby amended as follows:
Sec. 23.14 Operating/driver permit required.

It shall be unlawful to operate or cause to be operated, an automobile for hire, or a taxicab upon any public street within the city without first having obtained a permit to do so in accordance with the provisions hereof, and without complying or having complied with all the provisions of this chapter as well as those applicable sections of chapter 15.

No company shall operate a taxicab or vehicle for hire business within the City of Porterville without having first obtained a business license and an operating permit from the City of Porterville. No person shall be allowed to drive a taxicab or vehicle for hire without having first obtained a driver’s permit from the City of Porterville.

SECTION 9: Article II, Operating/driver Permit, Section 23-16 is hereby amended as follows:

Sec. 23-16. Application – Contents; fee.

Any person desiring to obtain a permit required by section 23-14 shall pay a fee, as fixed by resolution of the city council, and shall make application for such permit to the chief of police. An operator’s permit application shall set forth:

The name and address of the applicant, and if the same be a corporation, the names of its principal officers, or if the same be a partnership, association or fictitious company, the names of the partners or persons comprising the association or company, with the address of each.

(a) A statement as to whether the permit is desired for an automobile for hire, or a taxicab.

(b) The description of every motor vehicle which the applicant proposes to use, giving:

a. Trade name;
b. Motor and serial number;
c. State license number;
d. Seating capacity;
e. Body style.

(c) The street number and exact location where the applicant proposes to stand each automobile.

(d) Proposed schedule of rates or fares to be charged for carrying of passengers in such automobile.
(e) The distinctive color scheme, name, monogram, or insignia, which shall be used on such automobile, along with an identifying vehicle number.

A driver’s permit application shall set forth:
1. The name, date of birth, physical description, address, and phone number of the applicant.

2. The applicant’s California Driver’s license number, status, and driving history.

3. Place of employment with contact address and phone number.

4. Listing of all previous arrests and convictions.

5. Other information as deemed pertinent by the Chief of Police.

SECTION 10: Article II, Operating/driver Permit, Section 23-21 is hereby amended as follows:

Sec. 23-21. Deposit of insurance policy prerequisite to issuance of operators permit.

Before an operator’s permit required in section 23-14 shall be issued by the chief of police, the applicant shall deliver to the city clerk a policy of insurance, executed by a company duly authorized under the laws of the state to do an insurance business, by the provisions of which policy the company promises and undertakes to pay in full all claims for damages to persons or property resulting from the operation of the automobile referred to in such application; provided, that the minimum amount for which liability shall be assumed for injury to or death of one person in any one accident shall be fifty thousand dollars ($50,000.00), one hundred thousand dollars ($100,000.00) to more than one person on any one accident, and the minimum amount for which liability shall be assumed for destruction of property in any one accident shall be twenty-five thousand dollars ($25,000.00).

SECTION 11: Article II, Operating/driver Permit, Section 23-28 is hereby amended as follows:

Sec. 23-28. Permit validity period.

A permit required by this article shall be valid for no longer than a period of one (1) year. Renewal permits must be completed during the month of January each year.

SECTION 12: 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

Page 5 of 5
PUBLIC HEARING

SUBJECT: CRESTVIEW PARK TENTATIVE SUBDIVISION MAP (EASTBAY PROPERTIES-LISA JORDAN)

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: The applicant is requesting approval of the Crestview Park Tentative Subdivision Map to divide a 10± acre vacant parcel zoned City R-1 (One-Family Zone) into a 45 lot single family residential subdivision to be developed in one (1) phase for that site generally located on the southeast corner of Putnam Avenue and Olivecrest Avenue.

The average size of the lots consist of 6,000 square feet. The vacant site is triangular in design. The north portion (widest point) of the site fronts on West Putnam Avenue. The south portion (narrowest point) fronts along the north side of Olivecrest Avenue (local street 60 foot wide). Ruth Street, an internal street (60 foot wide), will connect to Putnam Avenue on the north side of the subdivision and will extend south and southwest and connect to Olivecrest Avenue. Mill Court (50 foot wide) will extend west approximately 342± feet and will dead end. Jordan Court and Oak Court (two cul-de-sac streets 50 foot wide) will extend northeast and southwest off of Ruth Street at the south end of the subdivision.

A conceptual layout for a cul-de-sac and two (2) lots to be located to the north and south of the cul-de-sac are shown on the tentative map. Since the applicant is still negotiating with the property owner, the aforementioned is not apart of this project.

A six (6) foot block wall and landscaping along the Olivecrest Avenue frontage of the project will be required. The area shall be placed in a Landscape Maintenance District. Particular attention shall be directed to provide a graffiti free design through the use of a combination of trees, shrubs and vines to be planted to screen the wall.

On March 9, 2005, 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 March 11, 2005 to March 31, 2005. 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 the Negative Declaration for Crestview Park Tentative Subdivision Map; and

(2) Adopt the draft resolution approving Crestview Park Tentative Subdivision Map.

ATTACHMENT:

1. Complete Staff Report
PUBLIC HEARING - STAFF REPORT

TITLE: CRESTVIEW PARK TENTATIVE SUBDIVISION MAP

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

APPLICANT: Eastbay Properties, LP
Lisa Jordan
4392 Bardini Way
Turlock, CA 95382

AGENT: Daryl Jordan/Micheal Johnson
1900 Airdrome Entry
Atwater, CA 95301

PROJECT LOCATION: Generally the southeast corner of Putnam Avenue and Olivecrest Avenue.

SPECIFIC REQUEST: The applicant is requesting approval of the Crestview Park Tentative Subdivision Map to divide a 10± acre vacant parcel zoned City R-1 (One-Family Zone) into a 45 lot single family residential subdivision to be developed in one (1) phase for that site generally located on the southeast corner of Putnam Avenue and Olivecrest Avenue.

PROJECT DETAILS: The average size of the lots consist of 6,000 square feet. The vacant site is triangular in design. The north portion (widest point) of the site fronts on West Putnam Avenue. The south portion (narrowest point) fronts along the north side of Olivecrest Avenue (local street 60 foot wide). Ruth Street, an internal street (60 foot wide), will connect to Putnam Avenue on the north side of the subdivision and will extend south and southwest and connect to Olivecrest Avenue. Mill Court (50 foot wide) will extend west approximately 342± feet and will dead end. Jordan Court and Oak Court (to cul-de-sac streets 50 foot wide) will extend northeast and southwest off of Ruth Street at the south end of the subdivision.

A conceptual layout for a cul-de-sac and two (2) lots to be located to the north and south of the cul-de-sac are shown on the tentative map. Since the applicant is still negotiating with the property owner, the aforementioned is not apart of this project.

The FIRM Flood Insurance Map 065066 0865 B, dated September 29, 1986, indicates that with the exception of the lots fronting on Putnam Avenue and the six lots located at the southeast corner of the subject site, the remaining lots are located in a specific flood hazard area, designated as Flood Zone A (areas of 100-year shallow flooding where depths are between one (1) and three (3) feet; average depths of inundation are shown, but no flood hazard factors are determined).

A Base Flood Elevation will be required to be set prior to the approval of improvement plans, filing a final map or the issuance of any building permit. Additionally, Compliance with the City Flood Hazard Reduction Ordinance, which requires elevation certificates for residential buildings.
A six (6) foot block wall and landscaping along the Olivecrest Avenue frontage of the project will be required. The area shall be placed in a Landscape Maintenance District. Particular attention shall be directed to provide a graffiti free design through the use of a combination of trees, shrubs and vines to be planted to screen the wall.

GENERAL PLAN DESIGNATION: Low Density Residential.

SURROUNDING ZONING LAND USE:

North: City - Putnam Avenue (3/4 street) and developed single family residential subdivision.
South: Olivecrest Avenue and a cemetery.
East: City - Rural residential uses.
West: City - Crestview Street and a developed single family residential subdivision.

SUBDIVISION REVIEW: Pursuant to Article 4 of the Subdivision Ordinance, the Initial Study and proposed Mitigation Measures were transmitted to public/private agencies for a 20 day review period from March 11, 2005 to March 31, 2005. As of this date, no agency has responded.

San Joaquin Unified Air Pollution District March 29, 2005
Resources Management Agency- Long Range Planning No response
Resources Management Agency- Engineering/Flood/Traffic Division No response
Tulare County Health and Human Services Agency No response
Department of Fish and Game No response
California Regional Water Quality Control Board No response
Tulare County Association of Government No response
District Archaeologist No response
Charter Communications No response
Southern CA Edison No response
Postmaster No response
Pacific Bell No response
Southern CA Gas No response
Porterville Unified School District No response
Tulare County Farm Bureau No response

The Subdivision Review Committee, on March 23, 2005, discussed concerns and conditions that should be addressed before the City Council. Conditions developed as a result of this meeting and subsequent staff review will be discussed with the applicant’s agent and incorporated into the draft resolution of approval.

STAFF ANALYSIS: Development of the site as proposed will provide needed housing in conformance with the City’s General Plan Land Use and Housing Elements and requirements of the State Subdivision Map Act and local ordinances.

The proposal to develop the 10± acre vacant parcel zoned City R-1 (One-Family Zone) into a 45 lot single family residential subdivision to be developed in one (1) phase is consistent with the General Plan’s Low Density Residential land use designation and R-1 (One-Family Residential) zoning classification for the site.
The FIRM Flood Insurance Map 065066 0865 B, dated September 29, 1986, indicates that with the exception of the lots fronting on Putnam Avenue and the six lots located at the southeast corner of the subject, the remaining lots are located Flood Zone A (areas of 100-year shallow flooding where depths are between one (1) and three (3) feet; average depths of inundation are shown, but no flood hazard factors are determined). The developer/applicant has begun the process of amending the FEMA maps to either (1) remove the subject site from Flood Zone A; or (2) define a base flood elevation. This process will be completed prior to the approval of grading plans, improvement plans or building permits. Appropriate conditions of approval are proposed to ensure that development is appropriate for anticipated flood flows.

As designed, Lots 24 through 33 are double frontage lots. In most cases, it would be necessary to request an exception to Subdivision Ordinance Section 21-7 which generally prohibits double frontage lots. A six (6) foot block wall and landscaping along the Olivecrest Avenue frontage of the project will be required. Additionally, a condition of approval will require the developer/applicant to dedicate access rights to Olivecrest Avenue from any lots with frontage on Olivecrest Avenue. As a result of these two conditions, staff has determined that the exception to Subdivision Ordinance Section 21-7 is not required.

ALTERNATIVES TO THE PROJECT AND THEIR EFFECT:

1. No project. The site would remain undeveloped until an amended development plan is approved.

2. Approve the project. Conditional approval of the proposed tentative subdivision map would allow the site to be developed in conformance with its current General Plan land use designation while contributing additional housing units towards the City’s Fair Share Regional Housing Goal as identified by the General Plan Housing Element.

ENVIRONMENTAL: On March 9, 2005, 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 March 11, 2005 to March 31, 2005. 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 SUBDIVISION REVIEW COMMITTEE PROCESSING: March 23, 2005

DATE ACCEPTED AS COMPLETE: March 23, 2005

RECOMMENDATION: That the City Council:

(1) Adopt the draft resolution approving the Negative Declaration for Crestview Park Tentative Subdivision Map; and

(2) Adopt the draft resolution approving Crestview Park Tentative Subdivision Map.
ATTACHMENTS:

1. Crestview Park Tentative Subdivision Map
2. Environmental Initial Study
3. Response from San Joaquin Unified Air Pollution District
4. Draft Environmental Resolution
5. Draft Resolution of Approval
CITY OF PORTERVILLE

ENVIRONMENTAL CHECKLIST FORM

1. Project Title: Crestview Park Tentative Subdivision Map

2. Lead Agency Name and Address: City of Porterville
   291 N. Main Street
   Porterville, CA 93258

3. Contact Person and Phone Number: Bradley D. Dunlap

4. Project Location: Generally the southeast corner of Putnam Avenue and Olivecrest Avenue.

5. Project Sponsor’s Name and Address: Daryl and Linda Jordan
   5401 Hickman Rd.
   Denaire, CA 95316

6. General Plan Designation: Low Density Residential

7. Zoning: EXISTING: City R-1 (One-Family Zone)

8. Description of the Project: (SEE ATTACHED LOCATOR MAP 3a)
   The subdivision of a 10± acre vacant parcel zoned City R-1 (One-Family Zone) into a 45 lot single family residential subdivision to be developed in one (1) phase (see page 3b).

9. Surrounding Land uses and Setting:
   North: City - Putnam Avenue (3/4 street) and developed single family residential subdivision.
   South: Olivecrest Avenue and a cemetery.
   East: City - Rural residential uses.
   West: City - Crestview Street and a developed single family residential subdivision.

   The vacant site is triangular in design. The north portion (widest point) of the site fronts on West Putnam Avenue. The south portion (narrowest point) fronts along the north side of Olivecrest Avenue. Ruth Street, an internal street (60 foot wide), will connect to Putnam Avenue on the north side of the subdivision and will extend south and southwest and connect to Olivecrest Avenue. Mill Court (50 foot wide) will extend west approximately 342± feet and will dead end. Jordan Court and Oak Court (to cul-de-sac streets 50 foot wide) will extend northeast and southwest off of Ruth Street at the south end of the subdivision.

   A conceptual layout for a cul-de-sac and two (2) lots to be located to the north and south of the cul-de-sac are shown on the tentative map. Since the applicant is still negotiating with the property owner, the aforementioned is not apart of this project.

   The subject site has not been utilized for agricultural crops and seasonal weeds have been plowed down regularly. An on site inspection was conducted by staff. No rare or endangered plant or animal species were discovered.

ATTACHMENT
ITEM NO. 2
The FIRM Flood Insurance Map 065066 0865 B, dated September 29, 1986 indicates the lots fronting on Olivecrest Avenue and those lots located on the southeast corner of the subject site are located Flood Zone AO (areas of 100-year shallow flooding where depths are between one (1) and three (3) feet; average depths of inundation are shown, but no flood hazard factors are determined).

The Base Flood Elevation will be required to be set prior to the approval of improvements plans, filing a final map or the issuance of any building permit.

Compliance with the City Flood Hazard Reduction Ordinance, which requires elevation certificates or flood resistant construction for all buildings may or will be required. This will reduce the potential impact to less than significant levels.

10. Other public agencies whose approval is required (e.g. permits, financing approval, or participation agreement).
ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below would be potentially affected by this project.

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DETERMINATION: (To be completed by the Lead Agency).

On the basis of this initial evaluation:

I find that the proposed project COULD NOT have a significant effect on the environment, and a NEGATIVE DECLARATION will be prepared.

I find that although the proposed project could have a significant effect on the environment, there will not be a significant effect in this case because the mitigation measures described on an attached sheet have been added to the project. A NEGATIVE DECLARATION will be prepared.

I find that the proposed project MAY have a significant effect(s) on the environment, but the effect(s) (1) has/have been adequately analyzed in an earlier document pursuant to applicable legal standards, and (2) has been addressed by mitigation measures based on the earlier analysis as described on attached sheets. If the effect is a "Potentially Significant Impact" or "Potentially Significant Unless Mitigated" and will not be mitigated. An ENVIRONMENTAL IMPACT REPORT is required, but it must analyze only the effects that remain to be addressed.

I find that although the proposed project could have a significant effect on the environment, there WILL NOT be a significant effect in this case because all potentially significant effects (1) have been analyzed in an earlier EIR or Negative Declaration pursuant to applicable standards and (2) have been avoided or mitigated pursuant to that earlier EIR or Negative Declaration, including revisions or mitigation measures that are imposed upon the proposed project.

I find the proposed project could have a significant effect on the environment. Action to be determined by the Environmental Review Committee.

[Signature]

Bradley D. Dunlap, AICP

City of Porterville

For

Date: 3/9/05

P:\commdev\Bubbel\CrestviewParkEIS.wpd
EVALUATION OF ENVIRONMENTAL IMPACTS:

1. A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources cited for each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g. the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g. the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).

2. All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.

3. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect is significant. If there are one or more "Potentially Significant Impact" entries that will not be mitigated by incorporation of mitigation in the project when the determination is made, an EIR is required.

4. "Potentially Significant Unless Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section 17, "Earlier Analysis," may be cross-referenced).

5. Earlier analysis may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063 (c) (3) (D). Earlier analyses are discussed in Section 17 at the end of the checklist.

6. Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g. general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated. A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.
CHECKLIST

1. **LAND USE AND PLANNING** – Would the proposal:

   a. Conflict with general plan designation or zoning?

      Discussion: Porterville's General Plan designates the subject area for Low Density Residential Uses (2 to 7 d.u. per acre) and the site is located within the R-1 (One Family Residential) Zone.

      The project proposes the division of a vacant 10± acre parcel into a 45 lot single family residential subdivision in one (1) phase. The proposed subdivision would have a gross residential density of approximately 4.5 units/acre.

      The subdivision as proposed is consistent with the polices and guidelines set forth in the Land Use Element and Circulation Element of the General Plan and the Zoning Ordinance. The project as proposed will not violate any of the existing polices.

      Source: 1 &12

   b. Conflict with applicable environmental plans or policies adopted by agencies with jurisdiction over the project?

      Discussion: The project as proposed will not conflict with any applicable environmental plans or policies adopted by agencies with jurisdiction over the project. Therefore, no impact will occur.

      Source: 1, 3 &4

   c. Be incompatible with existing land use in the vicinity?

      Discussion: The proposed project will allow for development as supported by the General Plan and Zoning Ordinance. Therefore, the project will not be incompatible with the existing land uses in the vicinity.

      Source: 1, 2, &30

   d. Affect agricultural resources or operations (e.g. impact to soils or farmlands, or impacts from incompatible land uses)?

      Discussion: The subject site is not currently used for farming operations. The area to the south (County) is being utilized for a cemetery. The area to the north and west (City) is developed with a single family residential subdivision. The area to the east (County) has rural residential uses. Therefore, the proposed project will not affect any agricultural resources or operations.

      Source: 1 &30
2. POPULATION AND HOUSING -- Would the proposal:

2a. Cumulatively exceed official regional or local population projections?

Discussion: Based on the historical growth pattern, it is expected that Porterville’s population will continue to grow at about 2.5% annually. The project as proposed will not cause any substantial increase in local population projections.

Source: 1 & 3

2b. Induce substantial growth in an area either directly or indirectly (e.g. through projects in an undeveloped area or major infrastructure)?

Discussion: Infrastructure is located in Putnam Avenue immediately to the north of the subject site and in Olivecrest Avenue immediately to the southwest and south of the subject site. The proposed project will facilitate development envisioned by the General Plan and Zoning Ordinance. Therefore, the project as proposed will not induce substantial growth in this area.

Source: 1 & 3

2c. Displace existing housing, especially affordable housing?

Discussion: The project as proposed will not require the removal of any existing housing.

Source: 1, 3 & 30

3. GEOLOGIC PROBLEMS -- Would the proposal result in or expose people to potential impacts involving:

3a. Fault rupture?

Discussion: No faults are known to exist in this area. Therefore, the project will not expose people to hazards from fault rupture.

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b. Seismic ground shaking?

Discussion: No faults are known to exist in this area. Therefore, the project will not expose people to hazards from seismic ground shaking.

Source: 7

c. Seismic ground failure, including liquefaction?

Discussion: No faults are known to exist in this area. Therefore, the project will not expose people to hazards from seismic ground failure.

Source: 7

d. Seiche, tsunami, or volcanic hazard?

Discussion: The City of Porterville is not located in an area subject to Seiche, tsunami, or volcanic hazards. Therefore, the project will not create any seiche, tsunami or volcanic hazard to this area.

Source: 7

e. Landslides or mudflows?

Discussion: The subject site is flat. Therefore, the project will not create any landslides or mudflows.

Source: 7

f. Erosion, changes in topography or unstable soil conditions from excavation, grading or fill?

Discussion: Future development of the site with single family residential uses would result in ground disturbance through leveling, grading, etc., and absent proper control measures, could contribute to minor soil erosion during construction. Additionally, development on previously undisturbed soil with high expansion potential would create areas of impermeability which will contribute to increased storm water runoff.

Mitigation: Mitigation measures include the enforcement of a 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 California Building Code, etc., will be required.

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g. Subsidence of the land?  

**Discussion:** Development of the site with a single family residential subdivision will not effect the subsurface soil structure and therefore will not contribute to any subsidence of land.

*Source: 4 & 7*

h. Expansive soils?  

**Discussion:** The subject site contains highly expansive soils. Development in this area may be subject to significant stresses which must be addressed in design to prevent damage to public and private improvements.

**MITIGATION:**

Mitigation measures include the enforcement of the 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, etc., will be required.

Depending on the soils report, an engineered foundation design would be required. As an alternative, the removal of native soil could be replaced with non-expansive material.

*Source: 4, 22 & 29*

i. Unique geologic or physical features?  

**Discussion:** There are no unique geological or physical features in this area, therefore, the proposed project will have no impact.

*Source: 4, 7 & 30*

4. **WATER -- Would the proposal result in:**

a. Changes in absorption rates, drainage patterns, or the rate and amount of surface runoff?  

**Discussion:** Such patterns change incrementally as streets, gutters and pipelines are installed to handle additional surface drainage resulting from the development of impervious surfaces such as building and paving. The rate and amount of runoff will increase as these aforementioned features are constructed. The installation of the curbs, gutters and drop inlets to allow water to be channeled into the existing storm drain line will prevent any future drainage problems in this area.

**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).
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b. Exposure of people or property to water related hazards such as flooding?

*Discussion:* The FIRM Flood Insurance Map 065066 0865 B, dated September 29, 1986 indicates that with the exception of the lots fronting on Putnam Avenue and the six (6) lots located at the southeast corner of the subject site, the remaining lots are located in a specific flood hazard area, designated as Flood Zone A (areas of 100-year shallow flooding where depths are between one (1) and three (3) feet; average depths of inundation are shown, but no flood hazard factors are determined).

*Mitigation:* The Base Flood Elevation will be required to be set prior to the approval of improvements plans, filing a final map or the issuance of any building permit.

Compliance with the City Flood Hazard Reduction Ordinance, which requires elevation certificates or flood resistant construction for all buildings may or will be required. This will reduce the potential impact to less than significant levels.

*Source:* 1, 4 & 26

c. Discharge into surface waters or other Alteration of surface water quality (e.g. temperature, dissolved oxygen or turbidity)?

*Discussion:* The site is within the boundaries of the City’s Master Plan for Storm Drainage (2001). Consequently, the storm water generated from future development of the site has been anticipated by the plan. Water quality could be affected by chemicals (oil based residues) conveyed by storm water runoff from streets, driveways and other impervious surfaces. Demands on the City’s water supply from the unconfined aquifer will be commensurate with the magnitude and type of future development occurring on the 10± acre site.

**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 (NODES 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.

*It is not anticipated that the ultimate development of the 10± acre site, as described, will not significantly deplete groundwater supplies or reduce public water supply from the City’s unconfined groundwater aquifer.*

*Source:* 4, 7 & 26

d. Changes in the amount of surface water in any water body?

*Discussion:* Drainage from the subject site will not be directed to any water body. Therefore, no impact will occur.

*Source:* 4, 17 & 22
e. Changes in currents, or the course or direction of water movements?

Discussion: Drainage from the subject site will not be directed to any water body. Therefore, no impact will occur.

Source: 4, 7 & 26

f. Change in the quantity of ground waters, either through direct additions or withdrawals, or through interception of an aquifer by cuts or excavations or through substantial loss of groundwater recharge capability?

Discussion: The site is within the boundaries of the City of Porterville’s Water Master Plan. Development of the site was anticipated and adequate water supplies have been identified.

It is anticipated that any future development of the site for residential uses should not substantially reduce the amount of water otherwise available for public water supplies. Therefore, no change in the quantity of ground water or the substantial loss of groundwater recharge capability will occur.

Source: 4, 7 & 26

g. Altered direction or rate of flow of groundwater?

Discussion: Future development of the site with residential uses would not require any cuts or excavations other than minor grading, therefore, the direction of flow of groundwater will not be altered.

Source: 1 & 4

h. Impacts to groundwater quality?

Discussion: Future development of the site with residential uses would not require any cuts or excavations other than minor grading. No uses are proposed which could cause the discharge of pollutants into the groundwater.

Source: 1 & 4

i. Substantial reduction in the amount of groundwater otherwise available for public water supplies?

Discussion: Ultimate development of the site is not anticipated to significantly deplete groundwater supplies or reduce public water supply from the City’s unconfined groundwater aquifer, therefore, the impact is less than significant.

Source: 1 & 4
5. AIR QUALITY -- Would the proposal:

a. Violate any air quality standard or contribute to an existing or projected air quality violation?  

Discussion: Future development of the site with residential uses will require equipment to be utilized in regard to the project and vehicular trips will be generated by construction crews during the construction stage of the project. Overall impacts to air quality from buildout as proposed by the General Plan is discussed in the Environmental Impact Report certified upon adoption of the current Land Use Element of the General Plan.

Mitigation: The developer/applicant shall assure compliance with applicable San Joaquin Valley Unified Air Pollution Control District Rules (e.g., Numbers 8010, 8020 and 8030), regarding fugitive dust, as well as Section 7-8, Project Site Maintenance of the Standard Specifications. The developer/applicant shall provide a street sweeper as necessary to comply.

Mitigation: 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:

1. The City will implement Regulation VIII of the SJVAPCD including:

   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.

   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.

   c. One or more of the following means of dust control should be employed after the completion of earth grading operations:

      i. Seeding and watering of new vegetation.
      ii. Hydro mulching or spreading of soil binders.
      iii. Maintenance of the site's soil surface crust through repeated soakings.

2. Require construction equipment to be equipped with catalysts/particulate traps to reduce particulate and Nox emissions.

3. Limit engine idling at the project site.

4. Trees should be carefully selected and located to shade the residential 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.
5. 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.

6. Electric or low nitrogen oxide (Nox) emitting gas-fired water heaters should be installed.

7. Natural gas lines and electrical outlets should be installed in the backyard or patio areas to encourage the use of gas and/or electrical barbeques.

8. Electrical outlets should be installed around the exterior of the units to encourage the use of electric landscape maintenance equipment.

9. Awnings or other shading mechanism for windows should be installed.

10. Ceiling fans should be installed.

11. Energy efficient windows (double pane and/or coated) should be installed.

12. High-albedo (reflecting) roofing material should be installed.

13. The following regulations of the San Joaquin Air Pollution Control District (Rule 4901 - Wood Burning fireplaces and Wood Burning Heaters) will apply to this project:

   a. In new residential developments with a density greater than two (2) dwelling units per acre, no person shall install a wood-burning fireplace.

   b. In new residential developments with a density equal to or greater than three (3) dwelling units per acre, no person shall install more than two (2) EPA Phase II Certified wood burning heaters (wood stove, pellet stove or wood-burning insert) per acre.

   c. No person shall install more than one (1) wood burning fireplace or wood burning heater in each new dwelling unit.

   d. A new residential development is defined as any single or multiple family housing unit, for which construction begins on or after January 1, 2004. Construction has begun when the foundation for the structure is constructed.

Source: 24

b. Expose sensitive receptors to pollutants? ________ ________ X ________

Discussion: The proposed site has a developed single family residential subdivision located to the north and west. Rural residential uses are located to the east and a cemetery to the south. The mitigation measures identified above will provide adequate protection for these residential uses.

Source: 24
c. Alter air movement, moisture, or temperature, or cause any change in climate?

Discussion: The project as proposed, will not alter air movement, moisture, temperature and change in the climate will not occur.

Source: 24

d. Create objectionable odors?

Discussion: The project as proposed, will not create any objectionable odors.

Source: 24

6. TRANSPORTATION/CIRCULATION -- Would the proposal result in:

a. Increased vehicle trips or traffic congestion?

Discussion: Eventual development of the complete 45 lot subdivision is anticipated to result in additional daily trips. Based of the Circulation Element of the General Plan, 9.55 daily trips would be generated per unit, for a total of 429 ADT.

All the interior streets within the proposed subdivision are designed to be 60 foot wide, with the exception of two (2) cul-de-sac streets and one dead end street which will be 50 foot wide. Ingress and egress from the north portion of the subject site will be from Putnam (2 lane Local Street) which will be developed to 60 feet wide. Ingress and egress from the southwest portion of the subject site will be from Olivewcrest Avenue which is developed to a 2 lane 60 foot Local Street.

The alignment of Olivewcrest Avenue curves to the southeast from Putnam Avenue to Olive Avenue to the east which is designated as 2 lane Collector Street capable of handling 12,500 ADDED. Both of these streets were reconstructed and improved with curb, gutter and sidewalk.

No recent traffic counts have been conducted in this area. However, on November 16, 2004 a 24 hour traffic count was concluded at the intersection of Olive Avenue and Conner Street located approximately 1950 feet east of the subject site. A total count of 1,439 ADT. going east and west on Olive Avenue was recorded.

The additional traffic generated by the proposed development will not reduce the performance of these streets since they were originally designed to handle the additional traffic in this area. Therefore, the impact is less than significant.

Source: 1, 2, & 34
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<td>b. Hazards to safety from design features (e.g. sharp curves or dangerous intersections) or incompatible uses (e.g. farm equipment)?</td>
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Discussion: Required improvements along the Putnam Avenue and Olivecrest Avenue frontages and the interior street will be required to be designed and improved to City Standards which are intended to avoid hazardous situations. Therefore, the impact is less than significant.

Source: 1 & 2

c. Inadequate emergency access or access to nearby uses? | _____ | _____ | _____ | X |

Discussion: The subject site and adjacent uses have access to public streets for emergency access.

Source: 1, 2 & 12

d. Insufficient parking capacity on-site or off-site? | _____ | _____ | _____ | X |

Discussion: Eventual development of the site will require on-site parking in conformance with the Porterville Zoning Ordinance. Therefore, no impact will result in insufficient parking capacity on-site.

Source: 1, 2 & 12

e. Hazards or barriers for pedestrians or bicyclists? | _____ | _____ | X | _____ |

Discussion: Careful design of the site's future development circulation patterns and conformance to the City’s development standards and Circulation Element of the General Plan will provide partial mitigation. Subsequent development will be required to design and install proper and necessary traffic circulation facilities for both vehicular and pedestrian traffic. Therefore, hazards or barriers for pedestrians or bicyclist will diminish.

Source: 1, 2 & 12

f. Conflicts with adopted policies supporting alternative transportation (e.g. bus turnouts, bicycle racks)? | _____ | _____ | _____ | X |

Discussion: The project as proposed will not conflict with adopted policies supporting alternative transportation.

Source: 1, 2 & 31

g. Rail, waterborne or air traffic impacts? | _____ | _____ | _____ | X |

Discussion: The project as proposed will not impact any rail, waterborne or air traffic since they do not exist in this area.

Source: 1 & 2
7. BIOLOGICAL RESOURCES -- Would the proposal result in an impact on:

a. Endangered, threatened or rare species or their habitats (including but not limited to plants, fish, insects, animals or birds)?

Discussion: City staff conducted an on-site inspection. The site is vacant and has been regularly disced for weed control. No natural habitat was observed. As such, no endangered, threatened or rare species or habits exist and no impact will occur.

Source: 4, 5, 15 & 30

b. Locally designated species (e.g. heritage trees)?

Discussion: City staff conducted an on-site inspection. The site is vacant and has been regularly disced for weed control. No natural habitat was observed. As such, no endangered, threatened or rare species or habits exist and no impact will occur.

Source: 4, 5, 15 & 30

c. Locally designated natural communities (e.g. oak forest, coastal habitat, etc.)?

Discussion: City staff conducted an on-site inspection. The site is vacant and has been regularly disced for weed control. No natural habitat was observed. As such, no impact to locally designated natural communities will occur.

Source: 4, 5, 15 & 30

d. Wetland habitat (e.g. marsh, riparian and vernal pool)?

Discussion: City staff conducted an on-site inspection. The site is vacant and has been regularly disced for weed control. No natural habitat was observed. As such, no impact to wetland habitat will occur.

Source: 4, 5, 15 & 30

e. Wildlife dispersal or migration corridors?

Discussion: City staff conducted an on-site inspection. The site is vacant and has been regularly disced for weed control. No natural habitat was observed. As such, no impact to locally wildlife dispersal or migration corridors will occur.

Source: 4, 5, 15 & 30
8. ENERGY AND MINERAL RESOURCES -- Would the proposal:

a. Conflict with adopted energy conservation plans?

Discussion: The project as proposed will not conflict with adopted energy conservation plans. Therefore, no change to exiting conservation plans and policies is proposed.

Source: 4

b. Use non-renewable resources in a wasteful and inefficient manner?

Discussion: The project will not directly require any non-renewable resources. Appropriate energy conservation measures as required by the California Building Code will apply, therefore, no impact will occur.

Source: 4

c. Result in the loss of availability of a known mineral resource that would be of future value to the region and the residents of the State?

Discussion: There are no known mineral resources of value on the subject site, therefore, no impact will occur.

Source: 4

9. HAZARDS -- Would the proposal result in:

a. A risk of accidental explosion or release of hazardous substances (including, but not limited to: oil, pesticides, chemicals or radiation)?

Discussion: No hazardous substances are known to exist on the subject site and none are expected to be stored in association with the anticipated residential development.

Source: 7

b. Possible interference with an emergency response plan or emergency evacuation plan?

Discussion: The project as proposed will not interfere with an emergency response plan or emergency evacuation plan. Therefore, no impact will occur.

Source: 7
c. The creation of any health hazard or potential health hazard?

Discussion: All uses and future uses on the site must be in conformance with the Porterville Zoning Ordinance. The project as proposed will not create an potential health hazard. Therefore, no impact will occur.

Source: 7

d. Exposure of people to existing sources of potential health hazards?

Discussion: All uses and future uses on the site must be in conformance with the Porterville Zoning Ordinance. The project as proposed will not create a potential health hazard. Therefore, no impact will occur.

Source: 7

e. Increased fire hazard in areas with flammable brush, grass or trees?

Discussion: All uses and future uses on the site must be in conformance with the Porterville Zoning Ordinance and must comply with the City of Porterville weed abatement program. Therefore, no impact will occur.

Source: 7

10. **NOISE -- Would the proposal result in:**

a. Increase in existing noise levels?

Discussion: Future development of the site with residential uses will create some noise during the construction stage of the project. This noise would cease once the construction is completed. Additionally, compliance with Section 3.3.2 of the Noise Element of the General Plan will be required. A modest increase in noise will also occur due to the additional traffic generated by the proposed subdivision. Therefore, the impact is less than significant.

Source: 6

b. Exposure of people to severe noise levels?

Discussion: Future development of the site with residential uses will create some noise during the construction stage of the project. This noise would cease once the construction is completed. Additionally, compliance with Section 3.3.2 of the Noise Element of the General Plan will be required. A modest increase in noise will also occur due to the additional traffic generated by the proposed subdivision. Therefore, the impact is less than significant.

Source: 6
11. PUBLIC SERVICES -- Would the proposal result in impacts to:

a. Fire protection?  
   
   Discussion: The subject site is within the service area of the Porterville Fire Department. Sufficient capacity exists to serve the area.
   
   Source: 1, 2, 3, 5, 7 & 8

b. Police protection?  
   
   Discussion: The subject site is within the service area of the Porterville Police Department. Sufficient capacity exists to serve the area.
   
   Source: 1, 2, 3, 5, 7 & 8

c. Schools?  
   
   Discussion: The proposed residential project has the potential to increase enrollment within the Porterville Unified School District. School fees will be collected to assist in the funding of future capital improvements that may become necessary within those school districts, however, the potential impact on enrollment from 137 additional single family residences is less than significant.
   
   Source: 1, 2, 3, 5, 7 & 8

d. Maintenance of public facilities, including roads?  
   
   Discussion: The proposed streets and public facilities will be maintained by the City Field Services Division. There is currently sufficient capacity to account for such maintenance, therefore, no impact will occur.
   
   Source: 1, 2, 3, 5, 7 & 8

e. Other governmental services?  
   
   Discussion: The project will not require the need for any additional governmental services.
   
   Source: 1, 2, 3, 5, 7 & 8

12. UTILITY AND SERVICE SYSTEMS -- Would the proposal result in a need for new systems or supplies, or substantial alterations to the following utilities:

a. Power or natural gas?  
   
   Discussion: Electricity and natural gas exists at the site.
   
   Source: 1 & 3
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<td>b. Communications systems?</td>
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<td>Discussion: Telephone lines exist at the site. Source: 1 &amp; 3</td>
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<td>c. Local or regional water treatment or distribution facilities?</td>
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<td>Discussion: Water supply and distribution systems are designed to accommodate development of the subject site. Source: 21 &amp; 28</td>
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<td>d. Sewer or septic tanks?</td>
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<td>Discussion: A 12&quot; sewer line exists in Olivecrest Avenue and an 8&quot; sewer line exists in Putnam Avenue. In 1994, the Water Treatment Plant increased it's capacity from 4 million gallons per day to 8 million gallons per day. Current use is 4.6 million gallons per day. At this rate, sufficient capacity is available to handle a population of 71,300 (22 years at 2.5% growth per year). Source: 17, 20 &amp; 21</td>
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<td>e. Storm water drainage?</td>
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<td>Discussion: An 18&quot; storm drain line exists in Olivecrest Avenue. Run-off in this area is channeled into existing gutters to drop inlets located on Olivecrest Avenue. The site is within the boundaries of the City's Master Plan for Storm Drainage (2001). Consequently, the storm water generated from future development of the site has been anticipated by the plan. Periodic future increases in the amount of water that will be generated into the drainage system will, therefore, occur as the site ultimately develops with single family residential uses, due to the creation of many acres of impervious surfaces. Water quality could be affected by chemicals (oil based residues) conveyed by storm water runoff from streets, driveways and other impervious surfaces. 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 (NODES standards). Source: 17, 20 &amp; 21</td>
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<td>f. Solid waste disposal?</td>
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<td>Discussion: The subject site is within the service area of the Porterville refuse service area. Sufficient capacity exists to serve the area. Therefore, no impact will occur. Source: 17, 20 &amp; 21</td>
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**g. Local or regional water supplies?**

Discussion: A 12" water line exists in Olivecrest Avenue and a 6" water line exists in Putnam Avenue. Current water production capacity is 15,331 gpm. The current demand during the highest use month is approximately 14,000 gpm.

The City adopted an addendum EIR for the City's Water Master Plan in February 2001 which called for the construction of seven new wells with a 1,000 gpm capacity each by the end of 2005. Based on the City's adopted Water Master Plan, mitigation measures have been addressed. One of those wells was constructed in 2002. Two more wells are currently under preliminary review for construction.

Continued implementation of the adopted Sewer and Water Master Plans will insure adequate service as development occurs with the Urban Development Boundary.

Source: 1, 4 & 21

**13. AESTHETICS -- Would the proposal:**

**a. Affect a scenic vista or scenic highway?**

Discussion: There are no scenic vistas or scenic highways in the vicinity of the subject site.

Source: 1 & 5

**b. Have a demonstrable negative aesthetic effect?**

Discussion: Development of the subject site is expected to commensurate to surrounding developed areas. No negative aesthetic effects will occur.

Source: 1 & 5

**c. Create light or glare?**

Discussion: New sources of light and glare will result from subsequent street lighting, and residential dwellings to be installed/developed.

Mitigation: Future development of the subject site will require the installation of low profile exterior lighting which 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 light 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.

Section 2618 F (Glare) of the Porterville Zoning Ordinance will be enforced as follows:

"No direct or reflected glare, whether produced by flood light, high temperature processes such as combustion or welding, or other processes, so as to be visible from any boundary line of property on which the same is produced shall be permitted. Sky reflected glare from buildings or portions thereof shall be so controlled by such reasonable means as are practical to the end that the said sky reflected glare will not inconvenience or annoy persons or interfere with the use and enjoyment of property in and about the area where it occurs."

Source: 1, 5 & 12
14. CULTURAL RESOURCES -- Would the proposal:

a. Disturb paleontological resources? 

Discussion: No paleontological sites, or resources are known to exist on the site and it is unlikely that such will be discovered at the time of any future construction.

Source: 4, 30, 35 & 36

b. Disturb archaeological resources?

Discussion: No paleontological sites, or resources are known to exist on the site and it is unlikely that such will be discovered at the time of any future construction.

Should such resources be uncovered during subsequent construction, work will be halted and the requirements of Supplementary Document "J" of the California Environmental Quality Act Guidelines shall be implemented.

Source: 4 & 30

c. Affect historical resources?

Discussion: No archeological or historical sites, structures, objects or buildings are known to exist on the site and it is unlikely that such will be discovered at the time of any future construction; as previously conducted surveys indicate that Native American habitation sites were located in the eastern sector of the City's urban area along the base of the Sierra Nevada foothills.

Source: 4 & 30

d. Have the potential to cause a physical change which would affect unique ethnic cultural values?

Discussion: No archeological or historical sites, structures, objects or buildings are known to exist on the site and it is unlikely that such will be discovered at the time of any future construction.

Source: 4 & 30

e. Restrict existing religious or sacred uses within the potential impact area?

Discussion: No religious or sacred sites, structures, objects or buildings are known to exist on the site and it is unlikely that such will be discovered at the time of any future construction; as previously conducted surveys indicate that Native American habitation sites were located in the eastern sector of the City's urban area along the base of the Sierra Nevada foothills.

Source: 4 & 30
15. **RECREATION — Would the proposal:**

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>

**Discussion:** City parks and other recreation facilities will be sufficient to accommodate the recreational needs stemming from subsequent residential development of the site with development of Master Planned facilities. However, the following mitigation measures will ultimately be necessary to accommodate City growth in the aggregate as future development occurs.

In order to provide a park and recreation system to meet the needs of the public, the City has adopted a Parks and Recreation Element of the General Plan. The Element defines the adopted goals and policies that are currently in place and being utilized. The Element’s goals are:

1. Establish a system of parks and recreation facilities sufficiently diverse in design to effectively serve the needs and desires of all the citizens of Porterville.

2. Provide park and recreation facilities within close proximity to the residents they are designed to serve.

Additionally, policy guidelines are defined in sufficient detail to ensure that future development of the subject site will be such that its impact on the quality and quantity of existing recreational opportunities will be properly addressed.

**Source:** 5 & 8

b. Affect existing recreational opportunities?  

|  |  |  | X |

**Discussion:** The subject site is not currently used for recreational activities.

**Source:** 5 & 8

16. **MANDATORY FINDINGS OF SIGNIFICANCE — Would the proposal:**

|  |  |  | X |

**Discussion:** The subject site has not been utilized for agricultural crops and seasonal weeds have been plowed down regularly. The subject site has been inspected by City Staff and no natural habitat has been observed. As such, no endangered of threatened or rare species or habitats exist and no impact will occur.

**Source:** 1 & 33
b. Does the project have the potential to achieve short-term, to the disadvantage of long-term, environmental goals?

Discussion: The proposed residential subdivision will allow for the implementation of development as designated by the General Plan and anticipated by a variety of master plans and other associated documents. As such, no impact will occur.

Source: 1 & 33

c. Does the project have impacts that are individually limited, but cumulatively considerable? (“Cumulatively considerable” means that the incremental effects of a project are considerable when viewed in connection with the effects of the past projects, the effects of other current projects, and the effects of probable future projects.)

Discussion: Development of the subject site is anticipated in the Land Use Element, Circulation Element, Water, Sewer, Storm Water Mater Plans. Appropriate infrastructure has been programed into each of these documents to accommodate the incremental effects of any future development of the site with single family residential uses.

Source: 1 & 33

d. Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

Discussion: Future development of the subject site will be required to comply with the standards of the Porterville Zoning Ordinance which is designed to ensure compatible development and adequate protection to neighboring land uses.

Source: 1 & 33

17. EARLIER ANALYSES (See Attached).

Earlier analysis may be used where, pursuant to the tiering, program EIR, or other CEQA process, one or more effects have been adequately analyzed in an earlier EIR or Negative Declaration. Section 15063 (c) (3) (D). In this case a discussion should identify the following items:

a) Earlier analysis used. Identify earlier analyses and state where they are available for review.

b) Impacts adequately addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.

c) Mitigation measures. For effects that are “Less than Significant with Mitigation Incorporated,” describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions of the project.

Authority: Public Resources Code Sections 21083 and 21087.
18. SOURCE REFERENCES

1. Land Use Element of the Porterville General Plan (1998)
2. Circulation Element of the Porterville General Plan (1999)
3. Housing Element of the Porterville General Plan (1992)
5. Open Space Element of the Porterville General Plan (1998)
7. Safety Element of the Tulare County General Plan (1998)
9. Airport Master Plan (1990)
10. Porterville Strategic Plan (1992)
15. Porterville Urban Area Boundary Biotic Survey (Hansen 1988)
16. Porterville Redevelopment Housing Strategic Plan (1994)
17. City of Porterville Storm Drainage Master Plan (2001)
20. City of Porterville Sewer Master Plan (2001)
21. City of Porterville Water Master Plan (2001)
23. San Joaquin Valley Air Pollution Control District Attainment Plan
24. San Joaquin Valley Unified Air Pollution Control District Regulation VII
25. Aerial photo records - City of Porterville
26. FEMA Flood Insurance Panels No. 065066 0865 B, September 29, 1986
27. 1990 Census Data/Tract and Block Group Maps
28. Existing Infrastructure and Facilities Capacity
30. On-site field inspection
31. City of Porterville Transit Development Plan
32. Emergency Services Plan - Tulare County Operational Area
33. City of Porterville Urban Water Management Plan
March 28, 2005

Attn: Mr. Bradley Dunlap
City of Porterville
291 North Main Street
Porterville, California 93257

RE: ND for Crestview Park Tentative Subdivision Map.

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 Air Basin is classified non-attainment for ozone and fine particulate matter (PM10 & PM2.5). Although this project alone would not generate significant air emissions, a concerted effort should still be made to reduce the increase in emissions from this project, as outlined below:

Based on the information provided, the proposed project will be subject to the following District rules. The following items are rules that have been adopted by the District to reduce emissions throughout the San Joaquin Valley, and are required. This project may be subject to additional District Rules. To identify additional rules or regulations that apply to this project, or for further information, the applicant is strongly encouraged to contact the District's Small Business Assistance Office at (661) 326-6969. Current District rules can be found at http://www.valleyair.org/rules/1ruleslist.htm.

**Regulation VIII** (Fugitive PM10 Prohibitions)- Regulation VIII (Rules 8011-8081) is a series of rules designed to reduce PM10 emissions (predominantly dust/dirt) generated by human activity, including construction, road construction, bulk materials storage, landfill operations, etc.

The District's Governing Board approved amendments to Regulation VIII that became effective on October 1, 2004. If a residential project is 10.0 or more acres in area, a Dust Control Plan must be submitted as specified in Section 6.3.1 of Rule 8021. If a residential site is 1.0 to less than 10.0 acres, an owner/operator must provide written
notification to the District at least 48 hours prior to his/her intent to begin any earthmoving activities (see section 6.4.1). A template of the District’s Dust Control Plan is available at: http://www.valleyair.org/busind/comply/PM10/forms/DCP-Form%20-%2010-14-2004.pdf

**Rule 4103** (Open Burning) regulates the burning of agricultural material. Agricultural material shall not be burned when the land use is converting from agriculture to nonagricultural purposes. In the event that the project burned or burns agricultural material, it would be in violation of Rule 4103 and be subject to District enforcement action.

**Rule 4901** (Wood Burning Fireplaces and Wood Burning Heaters) and **Rule 4902** (Residential Water Heaters) limit the emissions of PM10 and NOx in residential developments. On July 17, 2003, the District’s Governing Board adopted amendments to Rule 4901. Construction plans for residential developments may be affected by section 5.3, specifically:

§5.3 Limitations on Wood Burning Fireplaces or Wood Burning Heaters in New Residential Developments.

Beginning January 1, 2004,

5.3.1 No person shall install a wood burning fireplace in a new residential development with a density greater than two (2) dwelling units per acre.
5.3.2 No person shall install more than two (2) EPA Phase II Certified wood burning heaters per acre in any new residential development with a density equal to or greater than three (3) dwelling units per acre.
5.3.3 No person shall install more than one (1) wood burning fireplace or wood burning heater per dwelling unit in any new residential development with a density equal to or less than two (2) dwelling units per acre.

More information about Rule 4901 can be found at our website- www.valleyair.org. For compliance assistance, please contact Mr. Wayne Clarke, Air Quality Compliance Manager, at 230-5968.

This project may be subject to additional District Rules not enumerated above. To identify additional rules or regulations that apply to this project, the applicant is strongly encouraged to contact the District’s Small Business Assistance Office at (661) 326-6969.

The District encourages innovation in measures to reduce air quality impacts. There are a number of measures that could be incorporated into the design/operation of this project to provide additional reductions of the overall level of emissions. (Note: Some of the measures may already exist as City/County development standards. Any measure selected should be implemented to the fullest extent possible.) The measures listed below should not be considered all-inclusive and remain options that the project proponent should consider:
From Table 6-3 of the District's Guide to Assessing and Mitigating Air Quality Impacts 2002 revision (GAMAQI)
- Install Sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent
- Install wheel washers for all exiting trucks, or wash all trucks and equipment leaving the site
- Install wind breaks at windward side(s) of construction areas
- Limit area subject to excavation, grading, and other construction activity at any one time

From Table 6-4 of the GAMAQI:
- Use of Alternative fueled or catalyst equipped diesel construction equipment.
- The project applicant should identify the construction equipment that can feasibly be switched from conventional to alternative-fueled or catalyst-equipped diesel equipment. The project applicant should identify a minimum of alternative fueled or catalyst-equipped diesel construction equipment that will be used for this project. As an example of alternative fuels, not all biodiesels or biodiesel blends will result in reduced NOx emissions. According to the EPA's website, biodiesel use generally results in an increase in NOx emissions. The California Air Resources Board (CARB) has certified specific biodiesels for NOx reduction. Only biodiesels that have been certified by CARB should be used. For more information on biodiesel or other types of alternative fuels, please call Mr. Chris Acree, Air Quality Specialist, at (559) 230-5829. The applicant should calculate the associated emission reductions from implementing this mitigation measure.
- Limit the hours of operation of heavy-duty equipment and/or the amount of equipment in use
- The project applicant should specify the conditions of reduced hours or reduced amount of equipment. Will operation hours be reduced under certain circumstances such as during levels of high ambient air pollution or high temperatures? Will the amount of equipment in use be reduced during peak travel on nearby roads? To what degree is it anticipated that this mitigation measure will be implemented?
- Implement activity management (e.g. rescheduling activities to reduce short-term impacts)
  - The applicant should specify what measures will be implemented.
- Curtail construction during periods of high ambient pollutant concentrations; this may include ceasing of construction activity during the peak-hour of vehicular traffic on adjacent roadways
  - The project applicant should state the criteria for curtailing construction activities, and the steps that will be taken to reduce emissions. For curtailment during periods of high ambient pollutant concentrations, the criteria should be set in terms of the Air Quality Index. See the table below for more information on the Air Quality Index.

http://www.epa.gov/airnow/aqi.html#good
<table>
<thead>
<tr>
<th>Air Quality Index Levels of Health Concern</th>
<th>Numerical Value</th>
<th>Meaning</th>
</tr>
</thead>
<tbody>
<tr>
<td>Good</td>
<td>0-50</td>
<td>Air quality is considered satisfactory, and air pollution poses little or no risk.</td>
</tr>
<tr>
<td>Moderate</td>
<td>51-100</td>
<td>Air quality is acceptable; however, for some pollutants there may be a moderate health concern for a very small number of people who are unusually sensitive to air pollution.</td>
</tr>
<tr>
<td>Unhealthy for Sensitive Groups</td>
<td>101-150</td>
<td>Members of sensitive groups may experience health effects. The general public is not likely to be affected.</td>
</tr>
<tr>
<td>Unhealthy</td>
<td>151-200</td>
<td>Everyone may begin to experience health effects; members of sensitive groups may experience more serious health effects.</td>
</tr>
<tr>
<td>Very Unhealthy</td>
<td>201-300</td>
<td>Health alert: everyone may experience more serious health effects.</td>
</tr>
<tr>
<td>Hazardous</td>
<td>&gt; 300</td>
<td>Health warnings of emergency conditions. The entire population is more likely to be affected.</td>
</tr>
</tbody>
</table>

Additional Mitigation Measures:
- When feasible, construction activity should occur during early morning, late evening, and night time hours. Ozone formation is directly related to temperature and sunlight. If the project emits short-lived ozone precursors during cooler hours, the project's local impact will be reduced.
- Pave haul roads in the project area.
- Construction equipment should have engines that are at least Tier I (as certified by the Air Resources Board). Tier I and Tier II engines have a significantly less PM and NOx emissions compared to uncontrolled engines. To find engines certified by the Air Resources Board, see [http://www.arb.ca.gov/msprog/offroad/cert/cert.php](http://www.arb.ca.gov/msprog/offroad/cert/cert.php). This site lists engines by type, then manufacturer. The "Executive Order" shows what Tier the engine is certified as.
- Trees should be carefully selected and located to protect the building(s) from energy consuming environmental conditions, and to shade paved areas. Trees should be selected to shade paved areas that will shade 50% of the area within 15 years. Structural soil should be used under paved areas to improve tree growth. A brochure has been included for the applicant.

For Structural Soil see http://www.hort.cornell.edu/uhi/outreach/csc/
For Tree Selection see http://www.ufei.org/
For Urban Forestry see http://www.coolcommunities.org
http://wucfore.ucdavis.edu

- If transit service is available to the project site, improvements should be made to encourage its use. If transit service is not currently available, but is planned for the area in the future, easements should be reserved to provide for future improvements such as bus turnouts, loading areas, route signs and shade structures. Appropriations made to facilitate public or mass transit will help mitigate trips generated by the project. Direct pedestrian access to the main entrance of the project from existing or potential public transit stops and provide appropriately designed sidewalks. Such access should consist of paved walkways or ramps and should be physically separated from parking areas and vehicle access routes.
  - Specifically: Bus turnout(s) should be planned near the entrance(s) of the development for school bus loading to accommodate school-age children.

- Sidewalks and bikeways should be installed throughout as much of the project as possible and should be connected to any nearby existing and planned open space areas, parks, schools, residential areas, commercial areas, etc., to encourage walking and bicycling. Connections to nearby public uses and commercial areas should be made as direct as possible to promote walking for some trips. Pedestrian and bike-oriented design reduces motor vehicle usage and their effects on air quality. Sidewalks and bikeways should be designed to separate pedestrian and bicycle pathways from vehicle paths. Sidewalks and bikeways should be designed to be accommodating and appropriately sized for anticipated future pedestrian and bicycle use. Such pathways should be easy to navigate, designed to facilitate pedestrian movement through the project, and create a safe environment for all potential users (pedestrian, bicycle and disabled) from obstacles and automobiles. Pedestrian walkways should be created to connect all buildings throughout the project. The walkways should create a safe and inviting walking environment for people wishing to walk from one building to another.

- As many energy-conserving features as possible should be included in the project. Energy conservation measures include both energy conservation through design and operational energy conservation. Examples include (but are not limited to):
  - Increased energy efficiency (above California Title 24 Requirements)
  - See http://www.energy.ca.gov/title24/
  - Increased wall and ceiling insulation (beyond building code requirements)
  - Energy efficient widows (double pane and/or Low-E)
  - High-albedo (reflecting) roofing material. See http://eetd.lbl.gov/coolroof/
  - Cool Paving. "Heat islands" created by this and similar projects contribute to the reduced air quality in the valley by heating ozone precursors. See http://www.harc.edu/harc/Projects/CoolHouston/ , http://eande.lbl.gov/heatisland/
  - Radiant heat barrier. See http://www.eere.energy.gov/consumerinfo/refbriefs/bc7.html
- Energy efficient lighting, appliances, heating and cooling systems. See http://www.energystar.gov/
- Install solar water-heating system(s)
- Install photovoltaic cells
- Install geothermal heat pump system(s)
- Programmable thermostat(s) for all heating and cooling systems
- Awnings or other shading mechanism for windows
- Porch, patio and walkway overhangs
- Ceiling fans, whole house fans
- Orient the unit(s) to maximize passive solar cooling and heating when practicable
- Utilize passive solar cooling and heating designs. (e.g. natural convection, thermal flywheels)
- See http://www.eere.energy.gov/RE/solar_passive.html
- Utilize day lighting (natural lighting) systems such as skylights, light shelves, interior transom windows etc. See http://www.advancedbuildings.org
- Electrical outlets around the exterior of the unit(s) to encourage use of electric landscape maintenance equipment
- Low or non-polluting landscape maintenance equipment (e.g. electric lawn mowers, reel mowers, leaf vacuums, electric trimmers and edgers, etc.)
- Pre-wire the unit(s) with high speed modem connections/DSL and extra phone lines
- Natural gas fireplaces (instead of wood-burning fireplaces or heaters)
- Natural gas lines (if available to this area) and electrical outlets in backyard or patio areas to encourage the use of gas and/or electric barbecues
- Low or non-polluting incentives items should be provided with each residential unit (such items could include electric lawn mowers, reel mowers, leaf vacuums, gas or electric barbecues, etc.)
- Exits to adjoining streets should be designed to reduce time to re-enter traffic from the project site

More information can be found at:

District staff is available to meet with you and/or the applicant to further discuss the regulatory requirements that are associated with this project. If you have any questions or require further information, please call me at (661) 326-6980.

Sincerely,

[Signature]

Heather Ellison
Air Quality Planner
Southern Region

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 CRESTVIEW PARK TENTATIVE
SUBDIVISION MAP FOR THAT 10± ACRE VACANT SITE
LOCATED GENERALLY ON THE SOUTHEAST CORNER OF PUTNAM AVENUE AND
OLIVECREST AVENUE

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of April 5, 2005, conducted a public hearing to consider approval of Crestview Park Tentative Subdivision Map, being a division of a 10± acre vacant parcel zoned City R-1 (One-Family Zone) into an 45 lot single family residential subdivision to be developed in one (1) phase for that site generally located at the southeast corner of Putnam Avenue and Olivecrest Avenue; and

WHEREAS: On March 9, 2005, the Environmental Coordinator made a preliminary determination that a Mitigated Negative Declaration would be appropriate for the proposed project; 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 for the project in accordance with the California Environmental Quality Act.

2. That the Negative Declaration prepared for this project was made available for public review and comment. The 20 day review period was from March 11, 2005 to March 31, 2005. 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 proposed 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.

4. That the City Council is the decision-making body for the project.

5. 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 44 in the proposed resolution of approval for Crestview Estates Tentative Subdivision Map.
6. That review of the environmental circumstances regarding this project indicates that no adverse impacts would accrue to wildlife resources from implementation of the project.

City staff conducted an on-site inspection. The site is vacant and has been regularly disked for weed control. No natural habitat was observed. 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 judgment 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 for Crestview Park Tentative Subdivision Map as described herein.

____________________________
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><strong>Geologic Problems</strong></td>
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<tr>
<td>3.f</td>
<td>Erosion, changes in topography or unstable soil conditions from excavation, grading or fill.</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. Additionally, depending on the soils report, an engineered foundation design would be required. As an alternative, the removal of native soil could be replaced with non-expansive material.</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>
</tr>
<tr>
<td>3.h</td>
<td>Expansive soils.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Potential Impact</td>
<td>Mitigation Measures</td>
<td>Monitoring</td>
<td>Agency Responsible</td>
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<tr>
<td>------------------</td>
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<tr>
<td>Water</td>
<td>Mitigation measures include the enforcement of a site development plan or the development related conditions of approval requiring erosion control plans and the conservation of vegetation, with soil disturbance to be limited to dry seasons. In addition, conformance with the City Storm Drain Master Plan, and requirements relative to grading, the California Building Code, etc., will be required. Additional mitigation will require compliance with Federal, State and local regulation 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>
</tr>
</tbody>
</table>

Changes in absorption rates, drainage patterns or the rate and amount of surface runoff.

Prior to the approval of grading plans, improvement plans, final map, or building permits on the subject site, the developer/applicant shall secure the appropriate F.E.M.A. map revisions to designate a Base Flood Elevation, or to remove the subject site from the
<table>
<thead>
<tr>
<th>Potential Impact</th>
<th>Mitigation Measures</th>
<th>Monitoring</th>
<th>Agency Responsible</th>
</tr>
</thead>
<tbody>
<tr>
<td>Air Quality</td>
<td>The developer/applicant shall assure compliance with applicable San Joaquin Valley Unified Air Pollution Control District Rules (e.g., Numbers 8010, 8020 and 8030), regarding fugitive dust, as well as Section 7-8, Project Site Maintenance of the Standard Specifications. The developer/applicant shall provide a street sweeper as necessary to comply. 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. 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>
</tr>
<tr>
<td>Potential Impact</td>
<td>Mitigation Measures</td>
<td>Monitoring</td>
<td>Agency Responsible</td>
</tr>
<tr>
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<td>---------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------</td>
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<td>--------------------</td>
</tr>
<tr>
<td><strong>Air Quality</strong></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>
<td></td>
<td></td>
</tr>
<tr>
<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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<tr>
<td></td>
<td>i. Seeding and watering of new vegetation.</td>
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<tr>
<td></td>
<td>ii. Hydromulching or spreading of soil binders.</td>
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<tr>
<td></td>
<td>iii. Maintenance of the site's soil surface crust through repeated soakings.</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
Air Quality

5. a (continued)

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.

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.

4. Electric or low nitrogen oxide (NOX) emitting gas-fired water heaters should be installed.

5. Natural gas lines and electrical outlets should be installed in the backyard or patio areas to encourage the use of gas and/or electric barbecues.
<table>
<thead>
<tr>
<th>Potential Impact</th>
<th>Mitigation Measures</th>
</tr>
</thead>
</table>
| **Air Quality**    | 6. Electrical outlets should be installed around the exterior of the units to encourage the use of electric landscape maintenance equipment. \  
| 5.a (continued)    | 7. Natural gas lines and electrical outlets should be installed in the backyard or patio areas to encourage the use of gas and/or electric barbecues. \  
|                    | 8. Limit engine idling at the project site. \  
|                    | 9. If transit service is available to the project site, improvements should be made to encourage its use. If transit service is not currently available, but is planned for the area in the future, appropriate easements should be reserved to provide for future improvements such as bus turnouts, loading areas and shelters. \  
|                    | 10. Sidewalks and bikeways should be installed throughout as much of the project as possible to encourage walking and bicycling. \  
<p>|                    | 11. With the purchase of any house, included Air Quality incentive items is natural gas barbecues and electric lawnmowers. |</p>
<table>
<thead>
<tr>
<th>Potential Impact</th>
<th>Mitigation Measures</th>
<th>Monitoring</th>
<th>Agency Responsible</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Air Quality</strong></td>
<td>12. Any gas-fired appliances should be low nitrogen oxide (NOX) emitting gas-fired appliances complying with California NOX Emission Rule #1121.</td>
<td></td>
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</tr>
<tr>
<td>5.a (continued)</td>
<td>13. House units should be oriented to maximize passive solar cooling and heating when practicable.</td>
<td></td>
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<tr>
<td></td>
<td>14. The following regulations of the San Joaquin Air Pollution Control District (Rule 4901 - Wood Burning Fireplaces and Wood Burning Heaters) will apply to this project.</td>
<td></td>
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</tr>
<tr>
<td></td>
<td>a. In new residential developments with a density greater than two (2) dwelling units per acre, no person shall install a wood-burning fireplace.</td>
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<tr>
<td></td>
<td>b. In new residential developments with a density equal to or greater than three (3) dwelling units per acre, no person shall install more than two (2) EPA Phase II Certified wood burning heaters (wood stove, pellet stove or wood-burning insert) per acre.</td>
<td></td>
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<td></td>
<td>c. No person shall install more than one (1) wood burning fireplace or wood burning heater in each new dwelling unit.</td>
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<tr>
<td>Potential Impact</td>
<td>Mitigation Measures</td>
<td>Monitoring</td>
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<tr>
<td><strong>Air Quality</strong> 5.a (continued)</td>
<td>d. A new residential development is defined as any single or multiple family housing unit for which construction begins on or after January 1, 2004. Construction has begun when the foundation for the structure is constructed. 14. Awnings or other shading mechanism for windows should be installed. 15. Ceiling fans should be installed 16. Energy efficient window (double pane/or coated) should be installed.</td>
<td></td>
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</tr>
<tr>
<td><strong>Utilities and Service Systems</strong> 12.e</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 be 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 affected utility companies.</td>
<td>The City of Porterville and the affected utility companies.</td>
</tr>
<tr>
<td>Potential Impact</td>
<td>Mitigation Measures</td>
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<td>Agency Responsible</td>
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</tr>
<tr>
<td><strong>Aesthetics</strong></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>
</tr>
</tbody>
</table>
RESOLUTION NO.___________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS IN SUPPORT OF APPROVAL FOR CRESTVIEW PARK TENTATIVE SUBDIVISION MAP FOR THAT 10± ACRE VACANT SITE LOCATED GENERALLY ON THE SOUTHEAST CORNER OF PUTNAM AVENUE AND OLIVECREST AVENUE

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of April 5, 2005, conducted a public hearing to consider approval of Crestview Park Tentative Subdivision Map, being a division of a 10± acre vacant parcel zoned City R-1 (One-Family Zone) into an 45 lot single family residential subdivision to be developed in one (1) phase for that site generally located at the southeast corner of Putnam Avenue and Olivecrest Ave; and

WHEREAS: On March 9, 2005, the Environmental Coordinator made a preliminary determination that a Mitigated Negative Declaration would be appropriate for the proposed project; and

WHEREAS: The Subdivision Review Committee on March 23, 2005, reviewed and discussed concerns and conditions that should be addressed before the City Council. Conditions developed as a result of this meeting and subsequent staff review have been discussed with the applicant’s agent and incorporated into the draft resolution of approval; and

WHEREAS: The City Council received testimony from all interested parties relative to the proposed tentative subdivision map; and

WHEREAS: The City Council made the following findings:

1. That the design and improvements of the proposed project are consistent with the General Plan.

   The Land Use Element of the General Plan designates the site for Low Density Residential development (2-7 d.u./acre). The proposed subdivision will be developed to a density of 4.5 d.u./acre.

   The north portion (widest point) of the site fronts on West Putnam Avenue. The south portion (narrowest point) fronts along the north side of Olivecrest Avenue (local street 60 foot wide). Ruth Street, an internal street (60 foot wide), will connect to Putnam Avenue on the north side of the subdivision and will extend south and southwest and connect to Olivecrest Avenue. Mill Court (50 foot wide) will extend west approximately 342± feet and will dead end. Jordan Court and Oak Court (two cul-de-sac streets 50 foot wide) will extend northeast and southwest off of Ruth Street at the south end of the subdivision.
A conceptual layout for a cul-de-sac and two (2) lots to be located to the north and south of the cul-de-sac are shown on the tentative map. Since the applicant is still negotiating with the property owner, the aforementioned is not apart of this project.

2. That the site is physically suitable for the type and density of the proposed development.

The vacant site is triangular in design. The north portion (widest point) of the site fronts on West Putnam Avenue. The south portion (narrowest point) fronts along the north side of Olivecrest Avenue. The site gently slopes south from Putnam Avenue to the south end of the subject site.

The subject site contains highly expansive soils. Development in this area may be subject to significant stresses which must be addressed in design to prevent damage to public and private improvements. Therefore, no barriers to development will occur.

3. That the Negative Declaration prepared for this project is in compliance with the California Environmental Quality Act indicating that such will not have a significant effect on the environment.

4. That the design of the project, or proposed improvements, are not likely to cause substantial environmental damage. Condition 44 of this resolution requires the developer/applicant to comply with all Mitigation Measures contained in the Mitigation Monitoring Program attached to the resolution.

5. The Initial Study prepared for this project indicates that all potential impacts will be mitigated to less than significant levels. Through the implementation of the mitigation measures contained in the Mitigation Monitoring Program, the result in impacts addressed will be less than significant.

6. That the proposed location of the project and the 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 area.

The General Plan designates the site for Low Density Residential uses. The site has a developed subdivision to the north, and west, rural residential uses to the east and a cemetery to the south. Conditions of approval are included to ensure adequate development standards are met.

7. That the standards 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.

The proposed project complies with all the requirements of the Subdivision Ordinance with a single exception for lot depth. The development standards of the
R-1 (One Family Residential) Zone including lot sizes, site coverage, parking, etc., will apply to the site.

NOW, THEREFORE, BE IT RESOLVED: That the Porterville City Council does hereby approve Crestview Park Tentative Subdivision Map subject to the following conditions:

1. A minimum six (6) foot block wall and landscaping along the Olivecrest Avenue frontage of the project will be required. Said area shall be placed in a Landscape Maintenance District. Particular attention shall be directed to provide a graffiti free design through the use of a combination of trees, shrubs and vines to be planted to screen the wall. The wall(s) shall meet the following standards:
   a. The wall(s) shall match one of the colors in the color palette approved by the City Council and maintained by the Community Development Director.
   b. The wall(s) shall include articulation at intervals of approximately 80 feet except where such articulation is precluded by design constraints. In no case shall a wall exceed 160 feet without articulation. Methods of articulation may include the following:
      c. A minimum planting of six (6) feet in width to a minimum of 24 inch change of plane.
      d. A minimum of an 18 inch change in height.
      e. A section of semi-open fence, except where such a feature would interfere with required sound protection.
      f. A change of material.

2. The developer/applicant shall dedicate access rights to Olivecrest Avenue for Lots 24 through 33 with frontage on Olivecrest Avenue.

3. The developer/applicant shall provide a minimum of one tree for every lot and an additional tree for every corner lot, or payment in lieu.

4. The following regulations of the San Joaquin Valley Air Pollution Control District (Rule 4901 - Wood Burning Fireplaces and Wood Burning Heaters) will apply to this project:
   a. In new residential developments with a density greater than two (2) dwelling units per acre, no person shall install a wood-burning fireplace.
   b. In new residential development with a density equal to or greater than three (3) dwelling units per acre, no person shall install more than two (2) EPA Phase II Certified wood burning heaters (wood-stove, pellet-stove, or wood-burning insert) per acre.
   c. No person shall install more than one (1) wood burning fireplace or wood burning heater in each new dwelling unit.

5. The required twelve (12) foot side yard setback for all reverse corner lots shall be shown on the final map. As currently designed, Lots 5, 7, 16, 19, and 35 are reverse corner lots.

7. The developer/applicant shall pay all applicable fees in accordance with the Municipal Code and State law, prior to approval of the final map by City Council. Fees are subject to change annually. The developer/applicant is hereby notified that you have the right to pay fees, dedications, reservations or other exactions, under protest, pursuant to Government Code section 66020(a). You have 90 days from the date fees are paid to file a written protest.

8. The developer/applicant shall dedicate right-of-way adequate for a street width that matches the ultimate width in the adopted Land Use and Circulation Element and/or the width established by City Council. The developer/applicant shall dedicate and improve a right-of-way adequate for a minimum of two lanes of traffic and on-street parking, on one side, on streets adjacent to the property lines as well as dedication of property required for disabled ramp(s) (C.C. Sec. 21-23).

9. The developer/applicant shall, if necessary in the opinion of the City Engineer, provide an irrevocable offer of dedication at the easterly terminus of Jordan Court that will allow for the reconstruction of the proposed cul-de-sac and future extension of a City standard street into the adjacent easterly parcel.

10. The developer/applicant shall provide and show all required utility easements on the Final Map. The developer/applicant shall also designate the Diagonal Street as Olivecrest Avenue and the locator map shall also show the change on the Final Map.

11. The developer/applicant shall dedicate a one foot (1’) limitation of access strip at locations where, in the opinion of the City Engineer, it is undesirable to allow access. A one foot (1’) limitation of access strip dedication is necessary along Olivecrest Avenue and where Jordan Court intersects the easterly subdivision boundary. The Final Map shall reflect, at a minimum, these two access restrictions.

12. Prior to approval of the improvement plans, the developer/applicant shall have completed and approved, landscaping and/or lighting improvement plans, legal descriptions, etc. The developer/applicant shall petition, on a form provided by the City, to have said subdivision placed in a Lighting and Landscape Maintenance District at the time the final map is approved. Landscape and lighting improvements shall be completed and accepted concurrently with the other improvements in the subdivision. The following shall be included in said annex to the district: (1) Lighting, (2) Public Landscaping, if any (3) Public walls/fences, if any (4) Temporary on-site drainage reservoir, if any, etc.

13. The developer/applicant shall comply with Chapter 7, Article XIII of the City Code and Appendix Chapter 33 of the California Building Code and provide a Preliminary Soils Report (C.C. Sec. 7-126 & Res. 4997) including results of "R-Value" tests and
recommendations regarding construction of public improvements that address City
Standard C-13, satisfactory to the City Engineer, prior to the approval of the improvement
plans or start of grading, whichever comes first. Additional reporting requirements are as
indicated below:

a. Final Grading, Drainage and Soils Report, prior to issuance of building permits
   (C.C. Sec. 7-133);

b. Erosion Control Plan in conformance with the California Storm Water Best
   Management Practice Handbook for Construction Activity, prior to start of
   grading (CBC Appendix chapter 33). The provisions of the approved Erosion
   Control Plan shall be incorporated into the Improvement Plans;

c. Soils Reports in accordance with Chapter 18 of the California Building Code.

14. The developer/applicant shall comply with City Retaining Wall Standards (adopted by City
   Council January 3, 1989) at lot lines where such standards are applicable.

15. In accordance with Section 21-51 of the Subdivision Ordinance, the developer/applicant
   shall enter into an agreement that provides for completion of improvements within twelve
   (12) months prior to recording the final map for each phase.

16. Prior to start of grading on any unit, the developer/applicant shall abandon and cap
    existing wells that are no longer in service. Prior to approval of the improvement plans,
    the developer/applicant shall obtain an abandonment permit from the County Department
    of Environmental Health. Prior to acceptance of improvements, the developer/applicant
    shall provide the City Engineer with proof of completion in compliance with County
    regulations. Developer/applicant shall comply with City standard for “backflow”
    prevention pursuant to Resolution No. 9615 for all wells that will remain in service. Show
    all existing wells on the Tentative Subdivision Map and designate which well or wells will
    remain in service upon full development, if applicable.

17. The developer/applicant shall replace or provide surety for replacement of irrigation pipes
    in the right-of-way, if, in the opinion of the City Engineer, replacement is warranted. The
    developer/applicant shall provide easements for irrigation pipes across lots created, if
    pipes will continue in use. The developer/applicant shall coordinate this effort with the
    irrigation district and City of Porterville. The district shall specify appropriate size and
    material of piping shall be in accordance with current City Standards and policies.
    Scheduling of the pipe replacement shall be approved by the district.

18. Prior to recording the final map, the developer/applicant shall provide surety for off-site
    improvements and provide easements, permits, calculations, etc. if, in the opinion of the
    City Engineer, they are needed for the proper functioning or phasing of the subdivision
    (e.g. water, sewer, drainage, etc.).

19. The developer/applicant shall coordinate with the U.S. Postal Service regarding the kind
    of mail facilities that will be utilized. If neighborhood box units (NBUs) are to be used,
    construct sidewalks in a timely manner to facilitate NBU installation.
20. The developer/applicant shall obtain a City demolition permit prior to approval of the improvement plans and, under City inspection, remove all existing, abandoned and unnecessary items, to the satisfaction of the City Engineer, prior to acceptance of the improvements (e.g. buildings, foundations, septic tanks, irrigation pipes, etc.).

21. The developer/applicant shall assure compliance with applicable San Joaquin Valley Unified Air Pollution Control District Rules (e.g., Numbers 8010, 8020 and 8030), regarding fugitive dust, as well as Section 7-8, Project Site Maintenance of the Standard Specifications. The developer/applicant shall provide a street sweeper as necessary to comply. During grading operations the "Supervising Civil Engineer" shall be responsible for enforcing the dust control provisions of Section 7-8 or the developer/applicant shall pay inspection fees on the grading cost to compensate the City for dust control inspection. The improvement plans shall show a designated wash out area for concrete trucks, and a sign designating it as such. The developer/applicant shall remove and properly dispose of waste concrete deposited in this area.

22. The developer/applicant shall construct or provide surety for construction of curb, gutter, sidewalk, water, sewer, street paving to the center of the street (if necessary), pavement lane transitions (offsite), traffic safety marking and signs, etc. along the full frontage of all proposed subdivision lots except where they exist to City standards and are in good condition in the opinion of the City Engineer. The developer/applicant shall stub improvements to the property line if, in the opinion of the City Engineer, they will be needed for connection to development on the adjacent property.

23. Building or foundation permits shall not be issued until all of the following items are accepted as complete:

   a. The storm drain system is functional so that it will accept water from fire hydrant and/or water main flushing;

   b. The water system, is functional from the source of water past the lots on which permits are being requested (i.e. all services and the sampling station, if required, are installed, valves are functional and accessible, bacteria testing is completed, etc.);

   c. Street base rock for accessibility by the public safety officials and building inspectors;

   d. Lots are graded in accordance with the approved grading plan. Prior to receipt of the Final Grading, a Drainage and Soils Report, and a letter from the "Supervising Civil Engineer" is required validating that the grading has been done in accordance with the approved grading plan and in accordance with the recommends contained in the Preliminary Soils Report;

   e. Lot corners are marked;

   f. Fire hydrants are accepted by the Fire Department and the Engineering Division.

24. The developer/applicant shall construct all drainage facilities that the City Engineer determines are necessary to comply with the intent of the Storm Drain Master Plan. A storm drain line exists in Olive Crest Avenue and sized in accordance the City’s adopted
Master Plan. Dedicate a drainage easement across each lot requiring an easement, unless all lots are graded to drain to the street (C.C. Sec. 21-50). The developer/applicant shall construct concrete drainage swales, approved by the City Engineer, if necessary, to transport storm water across adjacent subdivision lots to reach a City drainage system.

25. The developer/applicant is advised that he is obligated to comply with the National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002 for discharge of storm water associated with construction activity will be required (except operations that result in disturbance of less than five acres of total land area and which are not a part of a larger common plan of development or sale). Before construction begins, the proponent must submit a Notice of Intent (NOI) to comply with the permit, a site map, and appropriate fee to the State Water Resources Control Board (SWRCB). The proponent must also prepare a Storm Water Pollution Prevention Plan (SWPPP) for the entire project before construction begins. The SWPPP must contain at a minimum all items listed in Section A of the permit, including descriptions of measures to be taken to prevent or eliminate unauthorized non-storm water discharges and both temporary (e.g., fiber rolls, silt fences, etc.) and permanent (e.g., vegetated swales, detention basins, etc.) best management practices that will be implemented to prevent pollutants from discharging with storm water into water of the United States. If portions of the project area are to be sold off before the entire project is completed, the proponent must submit to the California Regional Water Quality Control Board a change of information form identifying the new owners along with a revised site map clearly depicting those portions that were sold and those that are remaining. The proponent is also responsible for informing each new owner of their responsibility to submit their own NOI, site map, and appropriate fee to the SWRCB and to prepare their own SWPPP.

26. To accommodate refuse vehicles and street sweepers, the developer/applicant shall dedicate and improve, to City standards, temporary turn-arounds at the ends of dead-end streets.

27. The developer/applicant shall construct all weather alternative vehicular access road equipped with a double 2.5" pipe security gate with Knox padlock to accommodate emergency service vehicles at such time that phased development of the subdivision results in creation of dead end cul-de-sac streets in excess of 600 feet long.

28. The developer/applicant shall cause all regulatory and street name signs to be installed prior to occupancy of any house located where its occupants will utilize a street that does not have them.

29. The developer/applicant shall construct two City standard barricades at the end of all dead end streets.

30. The developer/applicant shall provide a street centerline at intersections that are continuous, wherever practicable, or offset a minimum of 150 feet.

31. The developer/applicant shall complete the street improvements along the south side of Putnam Avenue between Crestview Street and the westerly boundary of the subdivision,
including the acquisition of right of way. The City will enforce its right of eminent domain if necessary to complete these improvements. The developer shall inter into a payback agreement in accordance with Section 21-52 of the Municipal Code.

32. The developer/applicant shall cause the sewer system to be completed, tested, and accepted by the City prior to residential occupancy of any house in the subdivision.

33. The developer/applicant shall move existing utility structures (For example, poles, splice boxes, vaults, etc.) to a position that provides a minimum of four feet (4') of clear space in the sidewalk area and a minimum of two feet (2') of clear space from the curb face to the structure, unless they are below grade (Title 24 DSA) or provide surety in lieu of (Section 2616.1 of the Zoning Ordinance).

34. Prior to acceptance of improvements, the developer/applicant shall provide street lights on Marbelite poles complying with Southern California Edison Company specifications as required by the City Engineer. Use of wood poles is prohibited without prior written approval of the City Engineer.

35. The developer/applicant shall construct the water system in a maximum of two sections for each phase of the subdivision. One section for the model homes and one section for the remainder of the phase. The number of model homes shall not exceed one for each 10 lots in the subdivision or four, whichever is greater. The model homes shall be clustered.

36. The developer/applicant shall have a Civil Engineer design a water system that will provide a fire flow at each fire hydrant of 1,000 g.p.m. with 20 p.s.i. residual pressure for a dwelling less than 3,600 square feet and 1,500 g.p.m. with 20 p.s.i. residual pressure for a dwelling unit greater than 3,600 square feet.

37. The developer/applicant shall comply with the City Flood Damage Prevention Ordinance No. 1397, and the requirements of the State Department of Water Resources where applicable. A portion of the proposed development is within a special flood hazard area. The area is designated as Zone A, without a Base Flood Elevation per FIRM Community Panel No. 065066 0865 B, therefore the following conditions are required: (1) All preliminary subdivision proposals shall identify the flood hazard area and the elevation of the base flood in compliance with Subsection 60.3 (b) (3) of the NFIP Regulations; (2) Once the base flood elevation data is determined, the developer/applicant shall apply and request for a FEMA Letter of Map Change. All final subdivision plans shall provide the elevation of proposed structures and pads shall be forwarded to FEMA and the local administrator, along with the MT-1 or MT-2 form requesting a CLOMA, CLOMR-F or CLOMR, whichever may apply. (3) Once approved by FEMA, the local administrator and Chief Building Inspector, residential building permits may be issued. Elevation Certificates for each residence shall be certified by a Professional Engineer or Surveyor, illustrating the lowest floor elevation in relation to the newly established base flood elevation for all structures within the special flood hazard area. Elevation Certificates shall be submitted and approved by the local administrator prior to the issuance of a Occupancy Permit. (4) The developer/applicant shall apply for a revision to the NFIP map by completing the MT-1 or MT-2 form, requesting a LOMA, LOMR-F or LOMR, whichever may apply.
38. The developer/applicant is hereby notified that reimbursement for Master Plan facilities is made when funds are available and is contingent upon the work being done by the approved low bidder of at least two bona fide bidders. The bids must be approved by the City prior to construction.

39. The developer/applicant shall remove or relocate palm trees along the south side of Putnam Avenue.

40. The developer/applicant shall pay the cost to relocate the overhead wires in the proposed subdivision, to a location outside of the subdivision.

41. Fire hydrants spacing shall be as follows: In Residential development, one hydrant shall be installed at every 500 feet intervals. Hydrants serving cul-de-sacs of less than 400' in depth should be placed on the lot located at the entrance of the cul-de-sac facing the main street.

42. Fire hydrants for the development shall be placed as required per the Fire Department.

43. All dead-ends access roads in excess of 150 feet must be provided with a approved turn-around complying with City Standards.

44. 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 recording the final map, the developer/applicant shall submit a signed document committing to comply with the adopted mitigation measures.

45. At all times, the facility shall be operated and maintained to comply with State Law, the City of Porterville Zoning Ordinance, adopted Building Codes and all other applicable laws and ordinances.

___________________________
Pedro R. Martinez, Mayor

ATTEST:

John Longley, City Clerk

By ___________________________
Georgia Hawley, Chief Deputy City Clerk
PUBLIC HEARING

SUBJECT: CONSTRUCTION OF CONCRETE IMPROVEMENTS ON HENDERSON AVENUE STREET PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: This is the time and place for a Public Hearing to discuss the proposed construction of concrete improvements for the subject project.

The Henderson Avenue Reconstruction Project includes the construction of curbs, gutters, sidewalks and drive approaches in front of undeveloped properties and/or developed properties that lack these public improvements. Section 20-40.1 of the Municipal Code stipulates that these improvements, once constructed, shall be reimbursed to the City of Porterville upon the issuance of a new building permit. Section 20-40.2 of the Municipal Code allows the City to recover the cost of the concrete improvements when the owner pulls a building permit(s) from the City and said permit(s) has a valuation of $15,000 or more within a two (2) year period.

The Henderson Avenue Reconstruction Project also includes the removal and replacement of concrete improvements. The removal and replacement of concrete improvements will not cause an assessment to the fronting property owners.

Section 20-40.8 of the Municipal Code requires that each property owner affected by the project be notified of this Public Hearing. The notification clearly describes the City’s intent to seek reimbursement for the concrete improvements constructed by the City. This section also requires that City Council hold at least one additional Public Hearing prior to the establishment of a fee. Once the fee is established, the City shall record a general notice of “reimbursement fee” with the office of the Tulare County Recorder. The recorded document will officially notify the current owner and potential buyers that the property is subject to a concrete reimbursement fee.
RECOMMENDATION: That the City Council:

1. Take public comments, concerns and questions;

2. Authorize staff to start the construction of the stated concrete improvements for the stated project; and

3. Authorize staff to schedule a Public Hearing prior to the establishment of a fee for the concrete improvements, in accordance with the Mitigation Fee Act, upon completion of each project.

ATTACHMENTS: Locator Map
Reimbursement Spreadsheet
### Exhibit "B"

**Henderson Ave. Reconstruction Project**

**Reimbursement for City Installed Improvements**

<table>
<thead>
<tr>
<th>APN</th>
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<th>Owner Address</th>
<th>Curb\Gutter</th>
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<td>John &amp; Karen Hovannisian</td>
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**Totals**
THIS ITEM HAS BEEN REMOVED FROM THE AGENDA.
SUBJECT: AUTHORIZE ENVIRONMENTAL REVIEW OF IMPROVEMENT CONCEPT FOR AN UPDATED MURRY PARK MASTER PLAN

SOURCE: Parks and Leisure Services Department

COMMENT: The Parks and Leisure Services Commission has reviewed and provided direction on an updated improvement concept for guidance as a Master Plan for Murry Park. This improvement concept includes recommended priorities and phase increments for the envisioned improvements within approximately 19 acres of the existing park area. In addition, the concept includes approximately 16 acres of largely undeveloped adjacent City-owned park land located between Corona Drive and Plano Street as park expansion area. The concept also suggests that the City acquire seven parcels of land totaling approximately three additional acres of land for inclusion within the park area. The land acquisitions would provide for safer access to the expansion area from Plano Street, as well as from the existing park. The connection between the two park areas is recommended to be further enhanced with the closure of Corona Drive at Oak Avenue.

The Parks and Leisure Services Commission has conducted two public meetings taking input from interested parties to develop this improvement concept, priorities and phasing. The improvement concept is now recommended to the City Council for input and authorization to undertake the appropriate environmental review. Quad-Knopf Consultants, as the City's on-call environmental consultant, has provided a scope and fixed fee of $24,955 for the initial study and mitigated negative declaration. The environmental review process is envisioned to take 70 days. Following the environmental review, the improvement concept will be refined to a final improvement plan, and a public hearing will be held. The Parks and Leisure Services Commission will then provide the City Council with a recommended plan, priority and phasing program. The schedule envisions completing the process and having the final plan presented to the City Council for consideration by November, 2005.

Before the environmental review process is undertaken, the City Council should advise of any significant concerns or desires regarding the improvement concept to be evaluated.

RECOMMENDATION: That City Council review the improvement concept for an updated Murry Park Master Plan, provide direction, and authorize environmental review of the improvement plan, as modified.

ATTACHMENTS: Schematic Master Plan for Murry Park
Preliminary Priority and Phasing List

ITEM NO.: 25
MURRY PARK
SCHEMATIC MASTER PLAN

PRELIMINARY PRIORITY LIST
Summary
March 15, 2005

GENERAL PRIORITY RANKING
1. Playgrounds
2. Parking & Vehicle Access
3. Main Picnic Arbor
4. Pond
5. Restrooms
6. Pool Parking & Vehicle Access
7. Lighting
8. Additional Picnic Arbors/Areas – Pool Shade Structure(s)
9. Landscape Enhancements – Trees, Stream & Existing Structures
10. Other Amenities – Basketball, Volleyball,
11. Expansion Area

POTENTIAL PHASES

Phase 1 - Environmental / Design / Budgets

Phase 2 - Playground renovations & replacements

Phase 3 - Entry & New Pond Parking

Phase 4 - Pond Renovation

Phase 5 - Pond Pedestrian Paths, Bridges & Picnic Structure

Phase 6 - Pool Area Parking & Road Alignment

Phase 7 - New Restrooms (2), New Arbor & Adjacent Paving

Phase 8 - Internal Paths, Rose Arbor & Stream Improvements

Phase 9 - Park Drive Parking & Adjacent Park Drive Improvements

Phase 10 - Relocate Maintenance Area – New Basketball

Phase 11 - Replica Mill and other Misc. Amenities

Phase 12 - Oak & Corona Parking, Shade & Picnic Structures

Phase 13 - New Site - Property Acquisitions

Phase 14 - New Site – Grading & Infrastructure

Phase 15 - New Site – Hardscape and Structures

Phase 16 - New Site – Softscape and Amenities
The City Council has provided direction that the matter of the charitable car wash ordinance should be returned for discussion. Consistent with this the staff report from the December 7, 2004 consideration of the ordinance is attached as is a memorandum about the enforcement program in Killeen, Texas.

Recommendation: Provide direction for City staff on the car wash ordinance matter.
ORDINANCE NO. ________

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ADDING ARTICLE VI, SECTIONS 15-70 THROUGH 15-180 TO CHAPTER 15,ENTITLED “CHARITABLE CAR WASH PERMIT PROCEDURE”

WHEREAS, the City Council of the City of Porterville has determined that there has been a proliferation of charitable car washes within the City; and

WHEREAS, due to the lack of regulation, these operations have had a detrimental effect on the city’s environment due to the wastewater run-off, and on commercial car wash operations that must abide by City regulatory wastewater discharge requirements;

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF PORTERVILLE, AS FOLLOWS, TO WIT:

SECTION 1. That Article VI is hereby added to Chapter 15 of Porterville Municipal Code, as follows:

Chapter 15

Article VI

CHARITABLE CAR WASH PERMIT PROCEDURE

Sections:

Sec. 15-70 Definitions.
Sec. 15-80 Permit required for charitable car wash.
Sec. 15-90 Applications for permits.
Sec. 15-100 Issuance and form of permits.
Sec. 15-110 Term of permits.
Sec. 15-120 Nontransferability of permits.
Sec. 15-130 Manner of car wash.
Sec. 15-140 Receipts.
Sec. 15-150 Fund raising as a business.
Sec. 15-160 Revocation of permit.
Sec. 15-170 Violations.
Sec. 15-180 Car washing as a business.

Sec. 15-70 Definitions. For purposes of this chapter, the following definitions shall apply:
“Applicant” means a member of a charitable organization who applies for a car wash permit on behalf of the charitable organization.

“Charitable” means benevolent, civil, religious, educational, fraternal, patriotic, political, philanthropic or other similar purposes.

“Charitable car wash” means the request, directly or indirectly, of money, credit, property, financial assistance or other things of value, on the plea or representation that such money, credit, property, financial assistance or other things of value, or any portion thereof, will be used for a charitable or religious purpose, as those purposes are defined in this section, conducted by way of a car wash or similar service, in any place of business open to the public generally, on the city streets. “Charitable car wash,” as defined in this section, shall be deemed to have taken place when the request is made, whether or not the person making the request receives any contribution referred to in this section.

“Charitable organization” means and includes an organization which is a duly organized governmental or not-for-profit charitable, religious, civic, patriotic or community service organization; and the organization must have a Tax-exempt Identification number assigned to it.

“Contribution” means and includes: food, clothing, money, property, subscriptions or pledges and donations, including those under the guise of loans of money or property.

“Member” means a person who belongs to a charitable organization who is entitled to vote, elect officers of the organization or hold office. The term “member” shall not include those persons who are granted a membership solely for making a contribution as a result of the charitable contribution.

“Permit holder” means the charitable organization who has been granted a permit pursuant to this chapter for the purpose of conducting a charitable car wash.

“Person” means any individual, firm, partnership, corporation, company, association, society, organization, church, congregation, assembly or league, and includes any trustee, receiver, assignee, agent or other similar representative thereof.

“Religious” or “religion” has the meaning established by the Supreme Court of the state or the Supreme Court of the United States.

“Residential property” means a building designed for or occupied by one or more families as a residence including single-family residences, duplexes and apartments.

Sec. 15-80 Permit required for charitable car wash.
A. It is unlawful for any person to engage, directly or indirectly, in a charitable car wash without first obtaining a valid charitable car wash permit pursuant to the provisions of this chapter.

B. The car wash permit issued under this chapter to a charitable organization must be prominently displayed at the location where the car wash is conducted and shall be removed at the completion of the car wash.

Sec. 15-90 Applications for permits.

A. Applications for charitable car wash permits shall be made to the finance department upon forms prescribed by the city. The application shall be declared to under penalty of perjury and filed with the finance department not less than five consecutive business days prior to the time at which the applicant wishes to conduct said car wash.

B. A nonrefundable application fee an amount to be set by resolution shall be paid by the applicant. The application fee shall be based solely upon the administrative costs in processing the application and issuing the permits.

C. Such applications shall contain the following information and documentation:

1. The full name, mailing address, principal business and telephone number of the charitable organization or institution, the names and addresses of the organization’s or institution’s principal officers and executives, and the address of the national, state and local headquarters, if any;

2. The nature of the relationship between the applicant and the permit holder, including whether the applicant is a volunteer, paid officer or employee, independent contractor or an agent of the permit holder;

3. The purpose for which the proceeds of the car wash are to be used;

4. The full name and address of the person or persons who will be in charge of conducting the car wash. The names and addresses of each individual who will actually be engaged in the car wash shall be on file at the agency/organization conducting the car wash and shall be made available to the city police department upon request at any time;

5. A short outline of the method or methods to be used in advertising the car wash, if any;

6. The time when such car wash will be held, including preferred date and hours of the day for commencement and termination of the car wash;
7. A statement to the effect that if a permit is granted, it will not be used or represented in any way as an endorsement of the charitable organization by the city or any department or officer thereof;

8. Proof evidencing that the permit holder is a bonafide charitable organization;

9. Such supplemental information requested by the finance department as the finance department may require. The finance department may require that such information be updated during the time the permit is in force if changes occur subsequent to filing of the application in the planned dates and locations for the charitable car wash.

D. If, while the application is pending or during the term of any permit granted, there is a change in fact, policy or method that would alter the information to be given on the application, the applicant shall notify the finance director in writing thereof prior to five p.m. the day before such change.

E. The application documents shall be available for public inspection.

Sec. 15-100 Issuance and form of permits.

A. The finance department shall issue the permit, unless it finds that:

1. Any statement made in the application is factually incorrect, and the applicant fails to correct the application after being requested to do so;

2. The applicant has not provided the information required by this chapter and fails to provide the missing information after being requested to do so;

3. The application indicates that the proposed car wash will violate any of the requirements of this chapter and the applicant fails to amend the application to indicate compliance with said section after being requested to do so.

4. The applicant has violated any of the provisions of this Article within one year of the date the application is submitted, resulting in the imposition of a fine or the revocation of a prior permit.

B. Nothing set forth in this chapter shall be construed as granting to the finance department or any other person the authority to grant, deny, suspend, revoke or renew any permit by reason of disapproval or agreement with the philosophy, opinion or belief of the applicant, permit holder or person soliciting therefor, or for any other reason not specifically provided for in this section.
C. The finance department shall either issue or deny the requested permit within two consecutive business days after the date the application is made. In the event of denial, the finance department shall give the applicant a written notice which states with specificity the reasons therefor. In the event the finance department fails to act within the time prescribed, the permit shall be deemed issued.

D. The permit, if issued, shall include the following information:

1. The name and address of the permit holder;
2. The date for which the permit is valid;
3. A statement of the charitable or religious purpose of the car wash;
4. A statement that the permit does not constitute an endorsement by the city, or any of its departments, officers or employees, of the purpose of the car wash;
5. A permit number; and
6. The signature of the finance director or his/her designee.

Sec. 15-110 Term of permits. Permits issued under this chapter shall be valid only for the date specified in the application for the car wash and as stated on the permit.

Sec. 15-120 Nontransferability of permits. No permit issued under this chapter shall be transferred or assigned, and any attempt at assignment or transfer shall be void.

Sec. 15-130 Manner of car wash.

A. Car washes held pursuant to permits under this chapter:

1. Shall take place between the hours of eight a.m. and six p.m.;
2. Shall be conducted for a one-day period only;
3. Shall not be conducted by any person under the age of sixteen years, unless supervised by an adult;
4. Shall not be conducted at any house, apartment or other dwelling nor an area zoned for residential use only;
5. Shall be conducted in an area zoned for commercial uses; and such location shall have a means of collecting the wash water and shall discharge the water to the City sewer collection system.
6. Shall use biodegradable soaps or detergents, and shall not violate any of the provisions of Chapter 25, concerning wastewater discharge.
requirements;

7. Shall have a means in place to limit waste water or runoff such as pistol grip nozzle or similar apparatus affixed to each garden hose or water source;

8. Shall not allow any person to solicit cars or other contributions from a position in or on any public right-of-way, including but not limited to sidewalks, traffic islands, driveways or the like as to endanger that individual or others;

9. Shall not be conducted at any commercial property which has held a prior car wash in the past three-month period;

10. Shall not be conducted by a charitable organization which has held a prior car wash in the past one-month period. One application per Tax-exempt Identification Number, and one permit per Tax-exempt Identification Number, will be allowed per month.

B. It is unlawful for a permit holder, as defined herein, to:

1. Persistently and importunately request any donation from any member of the public after such member of the public expresses his or her desire not to make a donation;

2. Intentionally and deliberately obstruct the free movement of any person on any street, sidewalk or other public place or any place open to the public generally;

3. Refuse to provide their name and a copy of the permit issued under this chapter, if requested by City representatives;

4. Misrepresent their identity or the identity of the charitable organization conducting the charitable car wash for which he or she is an agent;

5. Misrepresent that the charitable car wash permit issued under this chapter is an endorsement by the city, or any department or employee thereof of the charitable car wash.

Sec. 15-140 Receipts. Any person receiving money or anything of value in excess of five dollars from any contributor by means of car wash made pursuant to a permit shall, upon request, give each contributor a written receipt signed by the solicitor showing plainly the name of the permit holder and the solicitor, the permit number, the date and the amount received.

Sec. 15-150 Fund raising as a business. An organization in the business of
fund raising (seeking a profit and paying its solicitors), even if engaged by a nonprofit organization, shall be considered a “business” and must comply with this code. If such an organization is soliciting on behalf of a nonprofit organization, the nonprofit organization shall obtain a permit pursuant to this Article.

Sec. 15-160 Revocation of permit. Any violation of this chapter by applicant or permit holder shall be cause for revocation of a permit issued pursuant to this chapter. Furthermore, any organization that violates this Article shall be ineligible for the issuance of a permit for a period of one year.

Sec. 15-170 Violations. Every person who, for himself or herself, or as the agent of another, commences, engages in or conducts car wash as provided in this chapter without procuring the permit as required under this Article or who fails to comply with the conditions of this Article shall be guilty of an infraction punishable by:

1. A fine not exceeding one hundred dollars for a first violation;

2. A fine not exceeding two hundred dollars for a second violation within one year; and

3. A fine not exceeding five hundred dollars for each additional violation within one year.

Sec. 15-180 Car washing as a business. This chapter is expressly limited to charitable car washes. Any person, corporation, business or other entity who wishes to hold impromptu or temporary car washes on a for-profit basis, must comply with all city, county and state licensing or permitting requirements and do not fall within this chapter.

SECTION 2. This ordinance shall be in full force and effect thirty (30) days after its passage, adoption and approval.

ADOPTED, SIGNED AND APPROVED this ______ day of ____________, 2004.

President of the Council and Ex-Officio Mayor of the City of Porterville

ATTEST:

Chief Deputy City Clerk and Clerk
of the Council of the City of Porterville
SUBJECT: Consideration of Residency Requirements for Appointment to City Committees and Commissions

SOURCE: CITY MANAGER

The City Council asked that the matter of a residency requirement for appointment to City Committees and Commissions be placed before the Council for consideration.

The Council does have City Code requirements for appointing city residents only to the Library Board and the Park and Leisure Services Commission. For the Library, Section 14-3 specifies “There is hereby created a library board of trustees consisting of five (5) members, who shall be residents of the City of Porterville.” The language is very similar for the Park and Leisure Services Commission in Section 19-2 “There is hereby created a park and leisure services commission, and shall be composed of seven (7) members, who shall be residents of the City of Porterville.”

The City Charter requires elective officers to be residents. It specifies at Section 7 “In order to be eligible to hold any elective office in the City of Porterville, a person must be a resident and elector therein, and shall have resided in said city for at least thirty days next preceding the filing of their nominating papers, or equivalent declaration or candidacy, and an elector at the time of said filing.” References for appointment committee members have not been found in the City Charter.

When appointments are considered by the City Council, staff has attempted when requested to provide residency status for the candidates. It has not, however, been a consistent consideration.

The Council’s interest in this issue stated at the Council Meeting was to review the status of residency considerations when appointments are considered. There are several options which include:

- Do not require its consideration except for the Park and Leisure Services Commission and Library Board
- Require that residency be declared for any application. If this is the case, to facilitate consideration, a questionnaire should be completed for all candidates with the Chief Deputy City Clerk.
- By Code, define and/or redefine residency requirements for some or all City commissions, committees, and boards
SUBJECT: UTILITY USER’S TAX POLLING UPDATE

SOURCE: Administrative Services

COMMENT:
During the November 2, 2004 City Council meeting, the City Council authorized the City Manager to expend monies to retain a firm to conduct a poll on the likely results of a proposed Utility User’s Tax increase. The firm of Fairbank, Maslin, Maullin, and Associates was contacted to perform the polling. This firm has been highly utilized around the San Joaquin Valley for similar measures, and by the League of California Cities on the Proposition 1A. measure last year.

The survey was placed in the field the week of March 15th through the 20th, and is now complete. Four hundred citizens participated in the phone survey, providing an accurate statistical representation of the community as a whole. Several key trends were identified and summarized as follows:

- Gangs/Crime and Drugs were seen as the biggest problems facing the City of Porterville.
- The issue of crime and public safety is viewed as non-partisan.
- The impact of the State Budget Deficit is recognized locally.
- A sales tax measure is viewed as far more favorable than a utility user’s tax measure.
- There is recognition that the number of service calls answered by the Police and Fire Departments has increased significantly over the past 10 years.
- There is concern that the crime rate has increased over the past five years.
- There is recognition that the community has grown, yet the number of Police Officers and Fire Fighters has not grown accordingly.

Based on the responses to the survey, it is recommended that if a tax measure is recommended that it be placed on a ballot with the highest anticipated voter turnout.

RECOMMENDATION:
(1) That the Council authorize the City Manager to retain a campaign educational consultant to provide information regarding possible courses of action.
(2) That the Council appoint two of its members to act as a ballot measure sub-committee to communicate with the consultant to recommend the most desirable course of action.

ATTACHMENT: Graphic representation of the polling results.
TO: The City of Porterville
FROM: Fairbank, Maslin, Maullin & Associates
RE: Results of a Voter Survey Regarding Possible Finance Measures - DRAFT
DATE: March 31, 2005

Fairbank, Maslin, Maullin & Associates (FMM&A) recently completed a survey of 400 registered voters residing in the City of Porterville\(^1\) to better understand their views towards possible finance measures to help fund city services that could appear on a future ballot.\(^2\) Survey results suggest that a majority of voters – 78 percent – would vote “yes” on a measure that would raise the city’s sales tax by a half cent to fund public safety efforts. Support is strong among almost all demographic groups except among older voters who are at least age 50 and men. Additionally, of the five types of finance measures about which voters were asked, there is a clear preference for a sales tax increase rather than an increase in the utility users’ tax (UUT). For example, only 38 percent of voters say they would support a UUT increase for general purposes compared to 64 percent who would support a

\(^1\) **Methodology:** From March 15-20, 2005, FMM&A completed 400 interviews with registered voters in the City of Porterville. The margin of sampling error for the full sample is +/- 4.9 percent; margins of error for subgroups within the sample will be higher.

\(^2\) Five types of tax increases were tested: A 2 percent increase in the utility users’ tax (UUT) for general purposes; 2 percent increase in the UUT for public safety; a half cent increase in the sales tax for general purposes; a half cent increase in the sales tax for public safety; and, a quarter cent increase in the sales tax.
sales tax increase for general purposes. These and other important findings are provided in more detail below:

- **Voters prefer a sales tax increase over a UUT increase.** As mentioned previously, only 38 percent would support a 2 percent UUT increase for general purposes compared to 64 percent who support a half cent sales tax increase. And although support for the UUT increase jumps to 61 percent when respondents are told the measure would pay for additional public safety efforts, it falls short of the 67 percent needed to pass the measure. On the other hand, 78 percent support a half cent sales tax increase after being told the funds would be used specifically for public safety. **We recommend that Porterville ask for a sales tax increase as opposed to a UUT increase.**

- **Support for the half cent sales tax increase is strong.** As mentioned above, initially, 75 percent of voters support the half cent sales tax increase. After respondents hear arguments in favor of the tax increase and statements opposing the increase, support decreases minimally to 73 percent. **This result suggests solid support for the tax increase measure.**

- **Support for the half cent sales tax increase for public safety is strong across demographic groups except among older voters and men.** For example, Latinos are just as likely as whites to support the measure (64 percent and 65 percent, respectively, say they would vote “yes” for the measure). Similarly, support is consistent among party affiliation; 62 percent of Democrats and 63 percent of Republicans would vote for it. However, 58 percent of men support the measure compared to 66 percent of women. And, 70 percent of voters under age 50 would vote “yes” while 61 percent of those age 50 and older would do so. **Men and older voters should be targeted with an information campaign.**

- **Voters are aware that the state’s budget deficit has hurt the city financially.** Six in ten (61 percent) consider “state funding cuts for essential services such as police and fire” to be an extremely or very serious problem. Similarly, three-quarters (75 percent) of voters find a statement that iterates the need for a tax increase because the state has taken money from local governments to help deal with the state budget deficit makes them much more or somewhat more inclined to support the tax increase proposal. **Again, these results indicate that minimal education is needed to inform voters about the need for additional funds.**

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3 A tax increase for general expenditures would require support from 51 percent of voters. A tax increase for specific expenditures such as public safety would require support from 67 percent of voters.
• **Voters realize that the city has grown.** Fully 95 percent say a statement that the city’s population has increased a lot in the past few years is accurate; 75 percent consider the statement *very* accurate. And, 86 percent indicate that a statement saying that the city’s operating costs have increased is accurate. *This finding shows that minimal education is needed about increasing costs or the need for additional funds.*

• **Voters are concerned about increasing crime including gangs and drugs.** In an open-ended question in which respondents are asked what the biggest problem facing Porterville is, a plurality (28 percent) volunteer gangs and crime and another 4 percent name drugs. These percents are more than double any other mentions. More striking, however, is that when respondents are provided several issues and asked to rate the seriousness of each one, 84 percent consider drug trafficking and drug use to be an extremely or very serious problem and 82 percent say the same about gangs and youth violence. These items rate the highest of the 15 issues about which they were asked. *This finding indicates that concern about public safety is already very high.*

• **Voters want assurances that the money from the measure actually goes to public safety.** Six in ten (64 percent) say it is extremely or very important that the funds go only for public safety and another 62 percent say it is extremely or very important that independent financial audits are required. Similarly, 64 percent say that a statement about tough accountability measures makes them much more or somewhat more inclined to support the measure. Interestingly, voters are not nearly as concerned about citizens' oversight. Only 41 percent consider that provision extremely or very important. *We strongly suggest that the ballot measure, should you decide to go forward with it, includes information about accountability; a citizens' oversight is not nearly as important and is not needed.*

• **Voters are most persuaded to support the measure when they are reminded of the city’s growth and when gangs, drugs and crime are mentioned.** Fully 81 percent consider a supportive statement regarding gangs, drugs and crime to make them much more or somewhat more inclined to support the measure. Eight in ten (79 percent) consider a statement about protecting kids from gangs and drugs to make them much more or somewhat more inclined to support the tax increase and 77 percent say the same thing about a statement regarding the need to expand anti-drug efforts. *We recommend emphasizing that tax revenue from the measure will be used to stem gangs, drugs and crime.*

• **Voters do not indicate major concern about high taxes.** “The amount of local taxes people pay” is rated an *extremely* serious problem by only 7 percent of voters. Additionally, a supportive statement that tourists and shoppers from outside of Porterville will share the tax increase receives cursory support with only 59 percent
indicating it makes them much more or somewhat more inclined to support the tax increase. *This situation indicates that the local tax rate is not a major concern among voters.*

- **Support for a quarter-cent sales tax increase is about the same as support for a half-cent sales tax increase.** Three-quarters (77 percent) would support a quarter cent sales tax increase, which is similar to the support the half cent proposal receives. *We recommend you ask for a half cent sales tax increase should you decide to put a measure on the ballot.*

- **A sunset provision is not necessary.** Six in ten (62 percent) would be more inclined to support the measure if it would be in place for only 10 years. Although that number is strong, the measure receives sufficient support without it. *Therefore, we conclude a sunset provision is unnecessary.*

- **Voters rate the police and fire departments highly.** Nine in ten (89 percent) say the fire department is doing an excellent or pretty good job and 71 percent say the same about the police department. *This result indicates that these two departments should be in the forefront in communicating to voters about a measure.*

- **Voters consider the city government overall to be doing a fair job.** About half (48 percent) say city government overall is doing an excellent or pretty good job and 37 percent say the same about the city council. Additionally, more than half (54 percent) consider the city to be going in the right direction which is a solid number although not quite as high as we’ve seen in other similar communities. Nevertheless, six in ten (59 percent) also say that the statement, “The City of Porterville’s finances are generally well managed,” is accurate which is a good assessment. *The fact that voters consider the city to be doing a fair job, particularly in managing finances, should help in getting a measure passed.*
DRAFT

March 2005

Utility Tax Survey

City of Porterville
Margin of error = plus or minus 4.9%

in the City of Porterville

March 15-20, 2005 of registered voters

N = 400

Methodology

City of Porterville

Utility Tax Survey

Draft
2. Would you say that things are generally headed in the right direction or do you feel that things are pretty seriously off on the wrong track?

- The City of Porterville: 64%
- Tulare County: 40%
- The State of California: 36%
- Right Direction: 51%
- Wrong Track: 49%

Utility Tax Survey City of Porterville

DRAFT
3. I am going to mention a few departments in the City of Porterville. Please tell me if you think that department or unit is doing an

<table>
<thead>
<tr>
<th>%</th>
<th>100%</th>
<th>80%</th>
<th>60%</th>
<th>40%</th>
<th>20%</th>
<th>0%</th>
</tr>
</thead>
<tbody>
<tr>
<td>37%</td>
<td>13%</td>
<td>43%</td>
<td>37%</td>
<td>6%</td>
<td>4%</td>
<td>0%</td>
</tr>
<tr>
<td>48%</td>
<td>10%</td>
<td>61%</td>
<td>48%</td>
<td>6%</td>
<td>7%</td>
<td>0%</td>
</tr>
<tr>
<td>74%</td>
<td>6%</td>
<td>79%</td>
<td>74%</td>
<td>6%</td>
<td>7%</td>
<td>0%</td>
</tr>
<tr>
<td>89%</td>
<td>7%</td>
<td>96%</td>
<td>89%</td>
<td>7%</td>
<td>7%</td>
<td>0%</td>
</tr>
</tbody>
</table>

- The City Council
- City Government Overall
- The Parks and Leisure Department
- The Police Department
- The Fire Department

Job Ratings
Utility Tax Survey
City of Porterville

Excl/Pretty Good/Fair/Poor/DK/NA

[Diagram of job ratings for different departments]
4. In a few words of your own, what would you say is the biggest problem facing the City of Porfterville? Open-end

Top Responses Only

- Gangs/Crime: 28%
- Finances/Funding: 6%
- Bringing more businesses: 6%
- Jobs/Unemployment: 10%
- Activites/Programs: 10%
- Expansion/Growth: 11%
- Bad roads/Heavy Traffic: 11%
OR A measure that would increase the sales tax by 2% cent. OR
OR A measure that would increase the utility users' tax by 2%.

7. Of the following two measures, which one would you most likely vote for? A measure that would increase the utility users' tax by 2%.

8. Of the following two measures, which would provide additional funds for the City of Porterville, which one would you most likely vote for?

Increase the sales tax

Increase the utility users' tax

DK/NA 0%

Both 1%

Neither 15%

Increase the sales tax 68%

Increase the utility users' tax 16%

Utility Tax or Sales Tax?

Utility Tax Survey

City of Porterville

DRAFT

Mar 21, 2005 5:04 PM

No. 513 P. 3
### UT Measure Support and Opposition

#### UT for Public Safety

<table>
<thead>
<tr>
<th>Support</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>61%</td>
</tr>
<tr>
<td>No</td>
<td>36%</td>
</tr>
<tr>
<td>Don't Know / NA</td>
<td>3%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Oppose</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>27%</td>
</tr>
<tr>
<td>No</td>
<td>69%</td>
</tr>
</tbody>
</table>

#### UT for General Uses

<table>
<thead>
<tr>
<th>Support</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>38%</td>
</tr>
<tr>
<td>No</td>
<td>25%</td>
</tr>
<tr>
<td>Don't Know / NA</td>
<td>4%</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Oppose</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>4%</td>
</tr>
<tr>
<td>No</td>
<td>23%</td>
</tr>
<tr>
<td>Don't Know / NA</td>
<td>11%</td>
</tr>
</tbody>
</table>
Support and Opposition for a 1/2 Cent Sales Tax (First Asking)
10. If there were an election today, do you think you would vote "yes" in favor of this measure or "no" to oppose it? Split sample.

<table>
<thead>
<tr>
<th>Party Registration</th>
<th>Sample</th>
</tr>
</thead>
<tbody>
<tr>
<td>Democrats (42%)</td>
<td></td>
</tr>
<tr>
<td>Republicans (47%)</td>
<td></td>
</tr>
<tr>
<td>Other (14%)</td>
<td></td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>Gender</th>
<th>Total</th>
<th>Yes</th>
<th>No</th>
<th>DK</th>
<th>N/A</th>
</tr>
</thead>
<tbody>
<tr>
<td>Men</td>
<td>69%</td>
<td>30%</td>
<td>8%</td>
<td>8%</td>
<td>8%</td>
</tr>
<tr>
<td>Women</td>
<td>62%</td>
<td>26%</td>
<td>8%</td>
<td>8%</td>
<td>8%</td>
</tr>
</tbody>
</table>

Gender and Party Registration Services Measure Demographics: The Porterville Vital City Utility Tax Survey

City of Porterville
If you were in an election today, do you think you would vote "yes" in favor of this measure or "no" to oppose it? Split Sample

Ethnicity

Services Measures Demographics:
The Porterville Vital City

Utility Tax Survey
City of Porterville
If there were an election today, do you think you would vote "yes" in favor of this measure or "no" to oppose it? Sample of 0-5 years

<table>
<thead>
<tr>
<th>Age Group</th>
<th>Yes</th>
<th>No</th>
</tr>
</thead>
<tbody>
<tr>
<td>0-5 years</td>
<td>60%</td>
<td>40%</td>
</tr>
<tr>
<td>5-10 years</td>
<td>68%</td>
<td>32%</td>
</tr>
</tbody>
</table>
| 10-20 years| 5%  | 95%
| 20+ years | 23% | 77%

Time in Porterville Services Measure Demographics
The Porterville Vital City Utility Tax Survey City of Porterville
12. If the measure that I just described was a 1/4 cent sales tax increase, would you vote "yes" in favor of it or "no" to oppose it?

Yes: 26%
Unsure: 4%
No: 74%

Definitely no: 14%
Probably no: 8%
Lean no: 2%

Definitely yes: 2%
Probably yes: 2%
Lean yes: 46%
13. If either measure to increase taxes was in place for only 10 years and would then be legally required to end, would you be more

- 60% SUPPORT
- 32% INCLINED TO SUPPORT
- 28% TOTAL YES
- 5% NA/NI/NA
- 35% NO, would not be more inclined to support
- Yes, somewhat more inclined to support
- Yes, much more inclined to support

(First Asking)
Sunset Provision
Support and Opposition For a
Unify Tax Survey
City of Porterville

Draft
Seriousness of Problems

Utility Tax Survey
City of Porterville

DRAFT
<table>
<thead>
<tr>
<th>Problem</th>
<th>100%</th>
<th>80%</th>
<th>60%</th>
<th>40%</th>
<th>20%</th>
<th>0%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Government</td>
<td>14%</td>
<td>17%</td>
<td>23%</td>
<td>33%</td>
<td>14%</td>
<td>0%</td>
</tr>
<tr>
<td>Inefficiency and Waste in Porterville City</td>
<td>12%</td>
<td>25%</td>
<td>31%</td>
<td>34%</td>
<td>21%</td>
<td>0%</td>
</tr>
<tr>
<td>The overall supply of drinking water</td>
<td>19%</td>
<td>25%</td>
<td>39%</td>
<td>22%</td>
<td>12%</td>
<td>0%</td>
</tr>
<tr>
<td>Traffic and road safety</td>
<td>13%</td>
<td>19%</td>
<td>30%</td>
<td>22%</td>
<td>15%</td>
<td>0%</td>
</tr>
<tr>
<td>Homelessness</td>
<td>19%</td>
<td>22%</td>
<td>34%</td>
<td>27%</td>
<td>10%</td>
<td>0%</td>
</tr>
<tr>
<td>Crime in general</td>
<td>15%</td>
<td>15%</td>
<td>32%</td>
<td>39%</td>
<td>19%</td>
<td>0%</td>
</tr>
</tbody>
</table>

Seriousness of Problems

Continued:

Utility Tax Survey
City of Porterville
Seriousness of Problems
Continued:

Utility Tax Survey
City of Porterville

<table>
<thead>
<tr>
<th></th>
<th>100%</th>
<th>80%</th>
<th>60%</th>
<th>40%</th>
<th>20%</th>
<th>0%</th>
</tr>
</thead>
<tbody>
<tr>
<td>The amount of local taxes people pay</td>
<td>35%</td>
<td>37%</td>
<td>7%</td>
<td>1%</td>
<td>0%</td>
<td></td>
</tr>
<tr>
<td>Too much growth and development</td>
<td>48%</td>
<td>30%</td>
<td>9%</td>
<td>12%</td>
<td>2%</td>
<td>0%</td>
</tr>
<tr>
<td>Mosquitoes</td>
<td>5%</td>
<td>19%</td>
<td>32%</td>
<td>17%</td>
<td>6%</td>
<td>0%</td>
</tr>
<tr>
<td>The West Nile virus which is spread by mosquitoes</td>
<td>9%</td>
<td>19%</td>
<td>32%</td>
<td>17%</td>
<td>6%</td>
<td>0%</td>
</tr>
<tr>
<td>The time it takes police officers and firefighters to respond to emergency 911 calls</td>
<td>5%</td>
<td>19%</td>
<td>32%</td>
<td>17%</td>
<td>6%</td>
<td>0%</td>
</tr>
<tr>
<td>A loss of Porterville's small town feeling</td>
<td>10%</td>
<td>35%</td>
<td>26%</td>
<td>19%</td>
<td>10%</td>
<td></td>
</tr>
<tr>
<td>The quality of local public schools</td>
<td>10%</td>
<td>35%</td>
<td>26%</td>
<td>19%</td>
<td>10%</td>
<td></td>
</tr>
</tbody>
</table>

Accuracy of Statements
Utility Tax Survey
City of Porterville

The City of Porterville's operating costs have increased in the past few years.

The city's crime rate has increased in the past five years.

Porterville's population has increased a lot in the past 10 years.

The number of calls answered by firefighters has grown significantly in the past 10 years.

DRAFT
<table>
<thead>
<tr>
<th>Statement</th>
<th>100%</th>
<th>80%</th>
<th>60%</th>
<th>40%</th>
<th>20%</th>
<th>0%</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>17%</td>
<td>24%</td>
<td>40%</td>
<td>19%</td>
<td>1%</td>
<td></td>
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<tr>
<td></td>
<td>17%</td>
<td>52%</td>
<td>30%</td>
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<tr>
<td></td>
<td>38%</td>
<td>11%</td>
<td>14%</td>
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<tr>
<td></td>
<td>36%</td>
<td>22%</td>
<td>42%</td>
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</table>

**Accuracy of Statements**

**Continued:**

**Utility Tax Survey**

**City of Porterville**
<table>
<thead>
<tr>
<th>Item</th>
<th>100%</th>
<th>90%</th>
<th>80%</th>
<th>70%</th>
<th>60%</th>
<th>50%</th>
<th>40%</th>
<th>30%</th>
<th>20%</th>
<th>10%</th>
<th>0%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Make areas surrounding our schools and parks safer</td>
<td></td>
<td></td>
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<td></td>
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<tr>
<td>Expanding neighborhood-based policing to help</td>
<td></td>
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<td></td>
<td></td>
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</tr>
<tr>
<td>crashes and fights</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Enforcing and improving anti-drug programs</td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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</tr>
<tr>
<td>Increasing crime prevention efforts</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Expanding and improving anti-gang programs</td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Implementing programs to help prevent gang and</td>
<td></td>
<td></td>
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<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>drug crimes</td>
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</tr>
</tbody>
</table>

**Want the Revenue Spent**

**Items on Which Voters**

**Utility Tax Survey**

**City of Portland**

**Draft**

[Image of table with percentages]
<table>
<thead>
<tr>
<th>Item</th>
<th>0%</th>
<th>10%</th>
<th>20%</th>
<th>40%</th>
<th>60%</th>
<th>80%</th>
<th>100%</th>
</tr>
</thead>
<tbody>
<tr>
<td>Increasing the number of after-school programs</td>
<td>13%</td>
<td>14%</td>
<td>22%</td>
<td>63%</td>
<td>69%</td>
<td>99%</td>
<td>100%</td>
</tr>
<tr>
<td>Earthquake or flood</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>100%</td>
</tr>
<tr>
<td>Improving the ability of the city to respond quickly</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>100%</td>
</tr>
<tr>
<td>Road and pothole repair</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>100%</td>
</tr>
<tr>
<td>Hiring seven new police officers</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>100%</td>
</tr>
<tr>
<td>Maintaining and improving streets and roads</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>100%</td>
</tr>
<tr>
<td>Improving emergency 911 response times</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
<td>100%</td>
</tr>
</tbody>
</table>

**Items on Which Voters Want the Revenue Spent:**

**Continued:
<table>
<thead>
<tr>
<th>Items on Which Voters Want the Revenue Spent</th>
<th>Contained:</th>
</tr>
</thead>
</table>

**Utility Tax Survey**

**City of Porterville**

**Draft**

| Sewer Maintenance |%
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>10%</td>
<td>49%</td>
</tr>
</tbody>
</table>

| Graffiti Removal |%
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>9%</td>
<td>55%</td>
</tr>
</tbody>
</table>

| Including a Terrorist Attack |%
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>17%</td>
<td>57%</td>
</tr>
</tbody>
</table>

| Improving the ability of the city to respond quickly |%
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>24%</td>
<td>76%</td>
</tr>
</tbody>
</table>

| Upgrading the 911 dispatch center |%
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>30%</td>
<td>70%</td>
</tr>
</tbody>
</table>

| Hiring Seven New Firefighters |%
<table>
<thead>
<tr>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>11%</td>
<td>89%</td>
</tr>
</tbody>
</table>

**Questions:**

- 16. I am going to read you a list of items that could be funded with revenue from any of the measures. I just asked you about... Regardless of how you feel about the measures, please tell me if it is extremely important, very important, somewhat important, or not too important.
<table>
<thead>
<tr>
<th>Item</th>
<th>Percentage</th>
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</thead>
<tbody>
<tr>
<td>Free trimming</td>
<td>30%</td>
</tr>
<tr>
<td>As soccer and baseball fields</td>
<td>25%</td>
</tr>
<tr>
<td>Increasing the number of recreation facilities such as</td>
<td>20%</td>
</tr>
<tr>
<td>Increasing the number of hours the library is open</td>
<td>20%</td>
</tr>
<tr>
<td>Expanding and improving anti-bullying programs</td>
<td>17%</td>
</tr>
<tr>
<td>Building another fire station</td>
<td>18%</td>
</tr>
<tr>
<td>Increasing the number of foot and bike police</td>
<td>18%</td>
</tr>
</tbody>
</table>

**Items on Which Voters Want the Revenue Spent**

Continued:

**Utility/1ax Survey**

**City of Porterville**
17. I'd like you to tell me how important it is to you personally that each of the following components be included in a proposed measure:

- Requiring a citizens' oversight committee
- Requiring independent annual financial audits
- Requiring that funds are used only for police, fire, and public safety-related purposes

Components of a Measure

Utility Tax Survey
City of Porterville

Draft
I am going to read some statements made by people who support a measure to increase the city's sales tax by one-half cent to fund police officers and property equipment to ensure that our city remains safe. 81% of respondents said yes increased by 75% in the last few years. For example, the number of calls that Porterville firefighters have not added any new officers or firefighters. The police department is growing and yet, at the same time, the police and these efforts need to put more police on the streets. Funds are needed to pay for these efforts. We need to expand drug prevention programs to keep our children and youth off drugs. We've got to protect our kids. Too much crime, gang activity, and illegal drugs from surrounding cities filter into Porterville. We need to keep our children out of gangs. Funds from a sales tax increase would be used to expand drug prevention programs to keep our children and methamphetamine labs. Funds from a sales tax increase would be included.
growth, without additional funds.
be unable to maintain current services, let alone keep up with the
government to help deal with the state budget crisis. The city may
measure because the state has taken money from local
Our local police and fire departments say we should pass this
Emergency Response Times.
the ability of police, firefighters and paramedics to decrease
personnel are overstretched. This measure will significantly improve
Porterville's 911 communication technology is outdated and
off drugs.
intervention programs that will help keep children out of gangs and
adults. We need additional funds for youth crime prevention and
Kids who commit crimes are more likely to end up in prison as
2% Cent Sales Tax for Public Safety
Statements in Support of a
Continued:
Utility Tax Survey
City of Porterville
DRAFT
18. I am going to read some statements made by people who support a measure to increase the city's sales tax by one-half cent to fund public safety efforts. Share of the sales tax increase to fund public safety efforts.

People living outside of Porterville, such as tourists and shoppers from nearby communities, would pay a significant share of the sales tax increase. 

This measure includes tough accountability features such as annual independent financial audits. Also, no money from the measure will be used for payroll or establishing a citizens' oversight committee and performing effectiveness and as promised.

4% 20% 60% 90%

51% 31% 28% 29% 64% 25% 39%

must more inland 5'W. More inland.
19. If the "The Porterville Police, Fire and Emergency Response/911 Measure" which would increase the city's sales tax by ½ cent to fund public safety efforts were on the ballot, do you think you would vote "yes" in favor of this measure or "no" to oppose it?

<table>
<thead>
<tr>
<th>Response</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>Yes</td>
<td>76%</td>
</tr>
<tr>
<td>No</td>
<td>24%</td>
</tr>
</tbody>
</table>

(outcome of the vote)

**Support and Opposition**

Utility Tax Survey

City of Porterville

(Second Asking-After Supportive Arguments)

Yes Cent Sales Tax For Public Safety
20. If the measure that I just described was a 1/4 cent sales tax increase, would you vote "yes" in favor of it or "no" to oppose it? 

<table>
<thead>
<tr>
<th>Percentage</th>
<th>Response</th>
</tr>
</thead>
<tbody>
<tr>
<td>4%</td>
<td>NM/NA</td>
</tr>
<tr>
<td>9%</td>
<td>Definitely no</td>
</tr>
<tr>
<td>8%</td>
<td>Probably no</td>
</tr>
<tr>
<td>2%</td>
<td>Lean no</td>
</tr>
<tr>
<td>2%</td>
<td>Lean yes</td>
</tr>
<tr>
<td>2%</td>
<td>Probably yes</td>
</tr>
<tr>
<td>45%</td>
<td>Definitely yes</td>
</tr>
<tr>
<td>30%</td>
<td>TOTAL</td>
</tr>
<tr>
<td>77%</td>
<td>TOTAL</td>
</tr>
<tr>
<td>60%</td>
<td>TOTAL</td>
</tr>
</tbody>
</table>

(Second Asking—After Supportive Arguments)

Utility Tax Survey
City of Porterville

Draft
Increase for Public Safety

Statements Opposing Sales Tax

Utility Tax Survey

City of Pottsville

47%
27%
16%
21%
35%

20%
14%
40%
60%

A sales tax increase will only hurt the local economy. People will simply shop in surrounding communities to avoid paying it.

The City doesn't have its priorities straight. Non-essential departmental programs and departments have what they need instead of raising taxes again.

The tax increase doesn't sound like it would cost residents very much but taxpayers are being nickel and dimed to death.

City officials might hold a special election for this measure which would cost taxpayers about $50,000. Instead of wasting money on a special election the city should be spending it on critical public safety needs.

24% said they'd rather see more in-city employment opportunities, while only 20% would rather see more public safety spending.
of this measure or "no" to oppose it?

22. Now that you have heard more about this proposal, if the "The Porterville Police, Fire and Emergency Response/911 Measure" which would increase the city's sales tax by ½ cent to fund public safety efforts, were on the ballot, do you think you would vote "yes" in favor

NM/NA

Definitely no

Probably no

Lean no

Lean yes

Probably yes

Definitely yes

Third Asking-After Support and Opposition Statements)

¾ Cent Sales Tax For Public Safety

Utility Tax Survey

City of Porterville

DRAFT
The public safety measure that I just described was a 1/4 cent sales tax increase. Would you vote "yes" in favor of it or "no" to oppose it?

<table>
<thead>
<tr>
<th></th>
<th>4%</th>
<th>%</th>
<th>9%</th>
<th>9%</th>
<th>1%</th>
<th>1%</th>
</tr>
</thead>
<tbody>
<tr>
<td>NM/NA</td>
<td>N</td>
<td>D</td>
<td>P</td>
<td>P</td>
<td>L</td>
<td>L</td>
</tr>
</tbody>
</table>

**Total**

% 77% | % 31% | % 45% | % 60% | % 40% | % 20% | % 0% |

(Third Asking—After Support and Opposition Statements)

*Utility Tax Survey*

City of Porterville

**Support and Opposition**
24. If a measure to increase the sales tax was in place for only 10 years and would then be legally required to end, would you be more...
<table>
<thead>
<tr>
<th></th>
<th>NM/IDK</th>
<th>Total No</th>
<th>Total Yes</th>
</tr>
</thead>
<tbody>
<tr>
<td>Opposition Statements</td>
<td>6%</td>
<td>2%</td>
<td></td>
</tr>
<tr>
<td>After Support and</td>
<td>21%</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Statements</td>
<td>73%</td>
<td>76%</td>
<td>78%</td>
</tr>
<tr>
<td>Initial Vote</td>
<td>6%</td>
<td>2%</td>
<td></td>
</tr>
<tr>
<td>After Supportive</td>
<td>4%</td>
<td>20%</td>
<td>60%</td>
</tr>
</tbody>
</table>

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**City of Porterville**

**Utility & Tax Survey**

**All Votes for 1/2 Cent Sales Tax Increase For Public Safety**
City of Porterville

Utility Tax Survey

March 2005
SUBJECT: APPOINTMENT OF MEMBERS TO THE REDEVELOPMENT ADVISORY COMMITTEE

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: The Redevelopment Advisory Committee was established by Resolution 148-89 during the August 22, 1989 City Council meeting. Duties of the committee are:

1. To serve as an advisory committee only;
2. To review, comment and participate in the initial formulation of the preliminary and final redevelopment plan for the Porterville Redevelopment Project Area No. 1;
3. To consult with the Redevelopment Agency on policy matters which affect the residents of the Project Area; and
4. To perform other responsibilities as specifically requested and/or directed to be performed by the City Council of the City of Porterville and/or the Porterville Redevelopment Agency.

Included in the Resolution was the appointment by the Mayor of fourteen individuals as members of the Advisory Committee. To date, nine of the original committee members have resigned from the committee due to a variety of reasons, including no longer owning property, living, or working in the area, and there have been two new appointments to the committee to replace members that have resigned. At the present time, the Redevelopment Advisory Committee consists of seven members.

Resolution 148-89 states, “...that the establishment of a project Area Advisory Committee consisting of residences, business, and property owners and community organizations within the Porterville Redevelopment Project Area No. 1 would provide the desired community participation...”.

At the October 11, 2004 meeting of the Redevelopment Advisory Committee, the committee discussed the declining number of members of the group and felt that an increase in the membership would be beneficial to the committee. The committee agreed to request that the City Council appoint sufficient members to the Redevelopment Advisory Committee to provide for a nine (9) member Committee.
At the February 1, 2005 City Council meeting, Council was asked to appoint two new members to the Redevelopment Advisory Committee. At that time, Council desired additional time to consider individuals that meet the criteria for appointment and determine if those individuals were willing to serve.

During the March 15, 2005 City Council meeting, Council appointed members to the Parks and Leisure Services Commission. It was noted that Mr. John Hardin had submitted his name for consideration of the appointment and that Mr. Hardin worked in the Redevelopment Project Area. Mr. Hardin was not appointed to the Parks and Leisure Service Commission and, at Council’s direction, staff contacted Mr. Hardin who declined the offer to be considered for appointment to the Redevelopment Advisory Committee.

Mr. David Waite submitted a request for consideration of appointment to the Redevelopment Advisory Committee; however, neither Mr. Waite’s home nor his employment address are within the Redevelopment Project Area.

Staff contacted Francisco Madrigal and Daren Griswold to inquire if they would be interested in serving on the Redevelopment Advisory Committee and both stated they would be willing to serve. Both individuals are eligible to serve as they are either a property owner or employed within the Project Area.

The committee members are reappointed for service every three years, with the current members terms expiring on July 10, 2006. It is staff’s recommendation that Francisco Madrigal and Daren Griswold be appointed to the Redevelopment Advisory Committee for an initial term ending July 10, 2006.

RECOMMENDATION: That the Mayor appoint Francisco Madrigal and Daren Griswold to the Redevelopment Advisory Committee for an initial term expiring July 10, 2006
COUNCIL AGENDA: APRIL 5, 2005

SUBJECT: AUTHORIZATION TO INVEST STAFF TIME TO COMPLETE A SECOND CLASS II BICYCLE LANE APPLICATION

SOURCE: Public Works Department - Engineering Division

COMMENT: There is an opportunity for the City to receive up to $50,000 dollars from a “REduce MOtor Vehicle Emission (REMOVE) grant. The grant application is somewhat involved and staff estimates that it will take approximately 6 to 8 hours to complete.

The City previously completed a Bicycle Transportation Account (BTA) grant application in the amount of approximately $46,000 and mailed the application to Caltrans for consideration. If successful, the City will use the grant money to construct bike lanes and routes beginning in and around Zalud Park and terminating in the vicinity of the Neighborhood Community Center. The BTA grant has a 10% local match requirement.

There is a comprehensive bicycle plan contained within the City’s Circulation Element. The cost to construct the 17 miles depicted in the Circulation Element is approximately $273,000. Provisions within the REMOVE grant allows an agency to use some of the granted funds as an agency’s 10% local match when applying for future BTA grants.

Staff is exploring the idea of applying for a $273,000 BTA grant for Fiscal Year 2005/2006 and using $27,000 of the 2004/2005 REMOVE grant as the City’s 10% match. Obviously, the City would need to secure the $50,000 REMOVE grant first before proceeding with the $273,000 BTA grant application.

As an aside, TCAG informed that the City can apply for a REMOVE grant to cover the City’s 11.5% match on the four hybrid vehicles and five refuse trucks awarded through a CMAQ grant. If successful, the savings to the City would approximate $117,000. TCAG staff will provide additional information on this program when they meet with staff the week of April 11, 2005.

RECOMMENDATION: That City Council:

1. Direct staff to invest the necessary time to properly complete the REMOVE grant application for the full amount of $50,000;

Dir _____ Appropriated/Funded _____ CM _____ Item No. 30
2. Hold in reserve approximately $30,000 to use as the City’s 10% (10.4%) local match for a 2005/2006 BTA grant application in the amount of approximately $273,000;

3. Direct staff to invest the time to properly complete a Fiscal Year (FY) 2005/2006 BTA grant application in the amount of approximately $273,000; and

4. Direct staff to invest the time to properly complete a FY 2005/2006 REMOVE grant application with the purpose in mind to use the grant monies to cover the City’s 11.5% local match CMAQ requirement as it relates to the purchase of hybrid vehicles and refuse trucks.

ATTACHMENT: Grant Source & Match Matrix
<table>
<thead>
<tr>
<th>Grant Source</th>
<th>Fiscal Year</th>
<th>Amount</th>
<th>Approx. 10.4% Match</th>
<th>Source of Match</th>
</tr>
</thead>
<tbody>
<tr>
<td>REMOVE - Class II Only</td>
<td>2004/2005</td>
<td>$50,000.00</td>
<td>None</td>
<td>None</td>
</tr>
<tr>
<td>BTA - Class II &amp; III</td>
<td>2004/2005</td>
<td>$46,000.00</td>
<td>$4,600.00</td>
<td>10% from REMOVE or None (if grant denied)</td>
</tr>
<tr>
<td>BTA - 17 Miles per CE</td>
<td>2005/2006</td>
<td>$273,000.00</td>
<td>$27,000.00</td>
<td>10% from REMOVE or None (if grant denied)</td>
</tr>
</tbody>
</table>

CE = Circulation Element

<table>
<thead>
<tr>
<th>Construction Estimates Per the Circulation Element</th>
</tr>
</thead>
<tbody>
<tr>
<td>BTA - 5.1 Miles Class II</td>
</tr>
<tr>
<td>BTA - 2.5 Miles Class III</td>
</tr>
<tr>
<td>BTA - 17 Miles per CE</td>
</tr>
</tbody>
</table>
BICYCLE INFRASTRUCTURE COMPONENT

What is the Program?
The San Joaquin Valley Air Pollution Control District (SJVAPCD) will pay you to reduce emissions from the development of a comprehensive bicycle transportation network. The expansion of bicycle transportation facilities may provide air quality improvements by providing an alternative to motorized vehicular travel for short distance commuters. The SJVAPCD is providing incentives to municipalities, government agencies, public education, private companies and organizations in the development of:

- Class I Bicycle Path
- Class II Bicycle Lane

Why is the SJVAPCD Offering These Incentives?
The purpose of the REMOVE II Program’s Bicycle Infrastructure Component is to assist the SJVAPCD in achieving air quality standards by the promotion of bicycles as a safe and viable transportation alternative. The widespread practice of commuter bicycling for the direct replacement of vehicle travel has significant benefits for the air quality by reducing motor vehicle emissions, fuel consumption and vehicle miles traveled within the San Joaquin Valley.

How Much Money Can I Get?
The incentive amounts for projects will be generally based on ARB calculation methodologies for emission reduction. The resulting cost effectiveness value for each project will have a direct effect on the funding determination. Funds will be awarded on a first-come, first-serve basis to all applications that meet the criteria and requirements, while program funds are available. In addition, projects are subject to maximum funding caps shown at right.

### How Much Money Can I Get?

<table>
<thead>
<tr>
<th>Category</th>
<th>Maximum Incentive</th>
</tr>
</thead>
<tbody>
<tr>
<td>Class I Bicycle Path</td>
<td>$100,000 (&gt;$50,000/mile)</td>
</tr>
<tr>
<td>Class II Bicycle Lane</td>
<td>$50,000</td>
</tr>
</tbody>
</table>

How Do I Know If I Am Eligible For Funding?
Municipalities, government agencies, and public educational institutions may apply to receive an incentive under this program. Funds are available for eligible bicycle infrastructure projects that meet specific program criteria as follows:

- The bicycle project must contribute to the development of a widespread alternative transportation network of paths, lanes and routes for commuter bicycling. The project should eliminate barriers or gaps within the general bicycle transportation network in the community.
- Project sites should target areas where there is a high demand or necessity for bicycle facility development or improvement. These locations should exhibit high traffic flow and commuter travel to areas of frequent activity such as primary/secondary schools, shops, colleges, churches, libraries, downtown community parks and centers.
- The bicycle infrastructure development will directly support and augment commuter bicycle travel within the geographic boundaries of the SJVAPCD. This verifies that the reduction of vehicle trips and emissions will result within the San Joaquin Valley.
What's the Catch?

There is no catch. We’re paying you to help us clean up the air. However, to achieve this goal, your project must demonstrate that emission reductions claims are real and verifiable within the San Joaquin Valley. Applicants must prove that vehicle trips are actually being replaced and once the bicycle facility is developed, the reductions continue over time. We’ll need the following from you:

▲ Specific project information including detailed bicycle infrastructure description for the location’s potential to effectively increase commuter bicycle travel. Include the location’s proximal activity centers and travel frequency data for both bicycle and motor vehicles.

▲ The project must provide supportive documentation or data to validate the emission reduction claims in the form of records, project maps, design lay out, blue prints, reports, surveys, visual models or displays.

▲ Simple annual reports will be required for 5 years from the beginning of bicycle transportation facility operations. The reports shall include such information as the average vehicle miles traveled replaced by commuter bicycling and the average number of daily commuter bicyclists utilizing the bicycle facility. These reports help us know that we are indeed improving air quality with valuable public dollars.

How Do I Apply?

Applications will be evaluated and approved on a first-come, first-serve basis until program funds are exhausted. In the event that proposals are submitted on the same day, proposals will be funded in the order of the best overall cost-effectiveness until funds are exhausted. The process is as follows:

1. Send an application and detailed project description to the SJVAPCD. The application will require contact information and specific information to assess the bicycle transportation facility’s potential to replace vehicle trips.
2. SJVAPCD staff reviews the application and supportive documents to determine eligibility. It is important to include all the required documentation and supportive data for this program. You will be notified if more information is needed.
3. If the application meets minimum criteria, an incentive amount will be determined for the proposed electronic or telecommunications technology.
4. Applicants will be notified of application approval or denial. Upon approval of the application, the SJVAPCD will prepare a simple contract for signature by the applicant and SJVAPCD.
5. The applicant implements the bicycle transportation facility into service within 1 year of contract execution.
6. The applicant submits equipment invoice, receipts, and SJVAPCD Claim(s) for Payment form. The SJVAPCD issues payment upon verification that the system has been placed into service.
7. As mentioned above, the applicant will submit simple annual reports. The SJVAPCD maintains the right to monitor the project periodically to ensure emission reductions are occurring.

Where Do I Get an Application?

You can receive an application by calling the SJVAPCD at (559) 230-5858. For general information about the program, you can call (559) 230-5800 or visit the SJVAPCD website at www.valleyair.org.
AGENTA: APRIL 5, 2005

PORTERVILLE REDEVELOPMENT AGENCY
PUBLIC HEARING

SUBJECT: LEASE AGREEMENT FOR PROPERTY LOCATED AT 287 N. HOCKETT STREET

SOURCE: COMMUNITY DEVELOPMENT - REDEVELOPMENT

COMMENT: On February 2, 2001, the Porterville Redevelopment Agency purchased the property located at 287 N. Hockett Street as a site for a future parking lot. To date, funding has not been available for the construction of a parking lot at this location and during the December 7, 2004 Closed Session, the Agency approved the lease or sale of the building. The prior tenant of the building was the Porterville Adult Literacy Program operated by the City’s Parks and Leisure Services Department.

United Hearts Center for Healing has expressed a desire to lease, with an option to purchase, the building located at 287 N. Hockett Street for their non-denominational ministry office. The lease would be a year-to-year lease, with no specified term for expiration. The cost for the lease is $1300.00 per month, based on a survey of rents for similar downtown buildings. Should United Hearts desire to exercise the option to purchase the building, the terms and price would be negotiated based on an updated appraisal of the property.

United Hearts Center for Healing is a 501(c)(3) non-profit corporation, operating with a Board of Directors and an advisory board. The premises would be used by United Hearts for the purpose of “open to the public” prayer rooms and would be staffed with volunteers from many area churches. United Hearts has multiple sources of fund-raising, including a small business which exists for the purpose of financially supporting this ministry.

RECOMMENDATION: That the Porterville Redevelopment Agency:

1) Approve a year-to-year lease agreement, including the option to purchase, with the United Hearts Center for healing at a rate of $1300.00 per month, to be adjusted annually as outlined in the lease agreement, and;

2) Authorize the Redevelopment Agency Chairman to sign the lease agreement on behalf of the Agency.

ATTACHMENT: 1) Site Map
2) Lease Agreement

DD_____ APPROPRIATED/FUNDED_____ CM _____ ITEM NO. PRA-01
AGREEMENT FOR LEASE OF PREMISES

THIS AGREEMENT, is entered into as of this _______ day of ____________, 2005 by and between the PORTERVILLE REDEVELOPMENT AGENCY, hereinafter referred to as "Lessor", and UNITED HEARTS CENTER, a non-profit corporation, hereinafter referred to as "Lessees", with respect to the following:

WHEREAS, Lessor owns the real property located at 287 North Hockett Street in the City of Porterville, County of Tulare, California and more particularly described in Exhibit A, attached hereto; and

WHEREAS, Lessee desires to cause the property to be leased for a non-denominational ministry office; and

WHEREAS, Lessee will not utilize the property for a church or church services; and

WHEREAS, Lessor is willing to enter into a lease with Lessee under the terms and conditions set forth below.

ACCORDINGLY, IT IS AGREED:

PART 1.
LEASE, TERM, OPTION TO EXTEND, HOLDOVER, ASSIGNMENT, SUBLETTING

1.1 Lease.
Lessee will lease the Premises located at 287 North Hockett Street, in the City of Porterville, County of Tulare, California, from Lessor on the terms and conditions set forth below.

1.2 Lessee's Possession Date and Term.
Lessee will be entitled to exclusive possession of the Premises on the date to be mutually agreed upon by Lessee and Lessor. If Lessee takes possession of the Premises on a date other than the first day of a calendar month, the initial term will consist of the unexpired portion of the calendar month in which Lessee holds possession of the Premises plus 1 full year from the first day of the calendar month immediately following. The anniversary date will be the first day of the first full month of the term.

1.3 Lessee's Option to Extend Term.
Provided Lessee is not then in default of this Lease, Lessee may extend this Lease on a year-to-year term from the expiration date of the initial term, for a total period not to exceed five years from the first day of the first full calendar month Lessee is in possession of the Premises by serving a Notice of Election to Extend on Lessor at least 30 calendar days before the expiration of the initial term. The year-to-year term will be subject to the same terms and conditions as the initial term, including the annual percentage rent increase as stated in Section 2.1.3 of this agreement, until the tenancy is terminated in a manner provided by law.

1.4 Lessee's Option to Purchase.
Lessee is provided with the first option to purchase the property, subject to appraisal and evaluation, for the same price and same terms and conditions to be offered to any other potential buyer. Lessee is provided the first option to renew purchase upon satisfactory completion of first year lease. The option to purchase may be cancelled by either party at the end of each year.
of lease, with written notice at least 30 days prior to the end of the lease period. Upon termination of the lease, by either the Lessee or Lessor, the option to purchase will expire.

1.5 Holdover without Consent.
If Lessee holds over beyond the expiration of the initial term of this Lease without the written consent of Lessor, the holding over will be deemed a month-to-month tenancy including the annual percentage rent increase, until the tenancy is terminated in a manner provided by law.

1.6 Assignment and Subletting.
Lessee may not assign this Agreement, or sublet any portion thereof, without the prior written consent of Lessor, which consent will not be unreasonably withheld.

2. RENT

2.1 Amount.
Lessee will pay the following rent to Lessor for the exclusive use and occupancy of the Premises.

2.1.1 Daily Rent and First and Last Months Rent.
On the first day of the first full month following occupancy, the sum of $42.74 per day, for any unexpired portion of the calendar month in which the building is occupied, plus the sum of $2,600.00, for the first and last month’s rent.

2.1.2 Monthly Rent.
On the first day of the first second full month of occupancy, and on the first day of each month thereafter, the sum of $1300.00 per month, in advance. Payments not made by the fifth day of the month for which the rent is owed shall be subject to a $50.00 late fee.

2.1.3 Annual Adjustment.
The monthly rent will be increased by 1%, rounded up to the nearest dollar, on every anniversary date following the first full year of the term, including any holdover period.

2.1.4 Place of Payment.
Lessee will pay all rent at the City of Porterville Finance Department, located at 291 North Main Street, Porterville, California 93257.

3. USE OF PREMISES.

3.1 Allowed Uses.
Lessee and Lessee’s subtenants will use the Premises only for the provision of providing an office for non-denominational ministry services, unless Lessee first obtains Lessor’s written consent for other uses. Lessee will use the Premises in compliance with all laws, ordinances, and other governmental regulations now in force or which may hereafter be in force relating thereto, including, but not limited to all zoning, building, safety and public health requirements and regulations.

3.2 Prohibited Uses.
Lessee will not commit or permit the commission of any acts on the Property that:
1. Increase Lessor's existing rates for, or causes the cancellation of, any fire, casualty, liability, or other policy of Lessor insuring the Premises or its contents; or

2. Violate or conflict with any law, statute, ordinance, or governmental rule or regulation, whether now in force or hereafter enacted, applicable to the Premises; or

3. Constitute waste on the Premises, or the maintenance of a nuisance as defined by the laws of California; or

4. Lessee shall not operate as a church, i.e. a meeting place of people for the purpose of organized worship.

4. MAINTENANCE, REPAIR AND UPKEEP.

4.1 Lessee's Responsibilities.
Lessee will be responsible for all day to day maintenance, repair (i.e. leaking faucets, non-working light bulbs, etc.) and upkeep of the Premises including all building interiors and exteriors, all exterior structures and attached equipment and fixtures, including fire extinguishers, whether furnished or constructed by Lessor or by Lessee, all pest control, and all parking areas. Lessee will be responsible for complying with all codes or laws requiring alterations, maintenance or restoration of the Premises during the term of the lease, at no cost to Lessor, including codes requiring fire extinguishers or other fire suppression equipment. If Lessee is required by any code or regulation to construct any alteration as a result of Lessee's, or any subtenant's particular and specific use of the Premises, or if Lessee is required to repair any deterioration or damage to the Premises caused by Lessee's clients, invitees, or subtenants, or by Lessee's lack of ordinary care, Lessee will either directly pay, or will reimburse Lessor for, the reasonable cost thereof.

Lessee will be responsible for providing all custodial service and supplies for the Premises. On the expiration or termination of this Lease, Lessee will deliver the Premises to Lessor in as good condition and repair as existed upon possession of Premises, reasonable wear and tear and damage by the elements excepted.

4.2 Lessor’s Responsibilities

Lessor will be responsible for maintenance of the grounds and all major structural repair to the existing systems, i.e. heating, air conditioning, roofing, plumbing (other than fixtures), and electrical.

5. UTILITIES.

5.1 Lessee's Responsibilities.
Lessee shall be responsible for and will pay for all utilities and services furnished to the Premises, including gas, electricity, telephone, water, trash collection, and all related connection charges.

6. LESSEE'S ALTERATIONS.

6.1 Alterations Permitted.
Lessee, may make such alterations, additions or improvements to the interior of the building on the Premises as Lessee deems necessary in order to conduct Lessee's business on the Premises, including the addition, rerouting or expansion of electrical circuits, telephone and data lines. Lessee may install such signs, awnings, canopies, marquee's or other advertising of Lessee's or any subtenant's services on any
exterior wall, door or window on the building, provided that such changes must not weaken or cause structural damage to the building or reduce the value of the Premises or result in a lien upon the Premises. All signs, awnings, canopies, or marquee’s displayed on any exterior wall, door or window on the building shall comply with the Porterville Redevelopment Agency guidelines for Project Area #1 and must be in compliance with City Codes. Lessor will be notified in writing before any alterations, additions or improvements are undertaken by Lessee. All such alterations, additions or improvements will be at Lessee’s sole expense.

6.2 Permits.
Lessee will obtain all governmental permits required for such changes, and such changes must comply with all applicable laws and regulations. All changes must comply with the Porterville Redevelopment Agency’s guidelines.

6.3 Lessor's Inspection.
Lessor may, at Lessor’s own expense, inspect any of Lessee's work carried out under the terms of this paragraph 6, and may consult with any contractor, subcontractor or architect, as to any aspect of such work.

6.4 Ownership and Removal.
All alterations, additions, improvements, signs, awnings, canopies, marquee's or other advertising provided by Lessee or and subtenant and not removed by Lessee within 30 days of the expiration or other termination of the lease will become the property of Lessor, unless Lessor instructs Lessee in writing to remove the same at Lessee’s sole expense. Lessee will promptly repair any damage to the Premises caused by any such removal, at no cost to Lessor.

7. INSURANCE.

7.1 Lessee’s Insurance
Lessee, at its own expense, shall procure and maintain, throughout the term of this Lease, public liability insurance including bodily injury and property damage insuring Lessee and Lessor with minimum coverage as follows:

- $1,000,000 for personal injury or each person
- $1,000,000 for personal injury or death of two or more persons in each accident or event.

The policy must contain, or be endorsed to contain the following:

**City of Porterville and Porterville Redevelopment Agency**
The City of Porterville, Porterville Redevelopment Agency, its officers, employees, agents and subtenants must be covered as additional insured as respects liability arising out of activities performed by or on behalf of Lessee; and premises owned, occupied or used by Lessee. The coverage must contain no special limitations on the scope of protection afforded to Lessor, its officers, employees or agents.

Lessee shall also procure and maintain, at its expense, throughout the term of this Lease, insurance against loss or damage to any structures constituting any part of the demised Premises, by fire and lightning, with extended coverage insurance.
Lessee will provide Lessor with a certificate or certificates of coverage showing the policy or policies are issued by insurers admitted to conduct business in the State of California.

The policy must not be suspended, voided, canceled or reduced in coverage or in limits, except after 30 days prior written notice has been given to Lessor.

7.2 Proof of Insurance.
Throughout Lessee's occupancy of the Premises Lessor will provide Lessee with a certificate or certificates acceptable to Lessee showing compliance with the provisions required above, and on written request of Lessee, will provide Lessee with a true and complete copy of any policy or policies required above.

8. DESTRUCTION OF PREMISES.

8.1 Repair.
If the Premises are damaged or destroyed from any cause whatsoever before the end of the initial term, Lessor will proceed with due diligence to repair or reconstruct the Premises to a condition substantially equivalent to their condition immediately before the damage or destruction. If such damage or destruction occurs during the last year of the initial term, Lessor will not be obligated to repair or reconstruct the Premises unless Lessee exercises its right to extend the term in accordance with paragraph 1.3, above.

8.2 Rent Adjustment.
Lessor will compensate Lessee for any period of time during which Lessee was unable to use the Premises by a pro-rata rent reduction based on square footage or other appropriate criteria during the period of non-use.

9. INDEMNITY.

9.1 Lessor's Indemnity.
Lessor will hold harmless, defend and indemnify Lessee from and against any liability, claims, actions, costs, damages or losses and expenses (including, without limitation, reasonable attorneys' fees and expenses) for injury, including death, to any person or damage to any property resulting from Lessor's acts or omissions with respect to the Premises. Lessor's obligation will continue beyond the expiration or termination of this Agreement as to any act or omission which occurred before expiration or termination.

9.2 Lessee's Indemnity.
Lessee will hold harmless, defend and indemnify Lessor from and against any liability, claims, actions, costs, damages, losses and expenses (including, without limitation, reasonable attorney's fees and expenses) for injury, including death, to any person, damage to any property, or enforcement actions under California Prevailing Wage laws or any other applicable statute or ordinance, resulting from Lessee's acts or omissions with respect to the Premises. Lessee's obligation will continue beyond the expiration or termination of this Agreement as to any act or omission which occurred before expiration or termination.

10. CONDEMNATION.

10.1 Lessee's Right to Terminate.
In the event of a total or partial taking of the Premises by an entity other than Lessor, exercising the right of eminent domain, which taking renders the majority of the Premises useless for the uses permitted under this Lease, Lessee will have the option of terminating this Lease.
10.2 Reduction of Rent.
If only a portion of the Premises is taken, and Lessee does not terminate this Lease as provided in paragraph 10.1, above, Lessor will reduce the rent thereafter payable by a pro-rata reduction based on square footage or other appropriate criteria.

11. TERMINATION FOR CAUSE.

11.1 Cause.
Either party may terminate this Agreement for cause without prejudice to any other right or remedy to which the terminating party may be entitled at law or under this Agreement. Cause for the purpose of this Agreement exists if a party:

(a) is adjudged a bankrupt, or
(b) becomes insolvent or has a receiver appointed, or
(c) makes a general assignment for the benefit of creditors, or
(d) suffers 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
(e) materially breaches this Agreement.

11.2 Notice to Defaulting Party.
For any of the above occurrences except item (e), 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 only after the failure of the defaulting party to remedy the breach to the satisfaction of the non-defaulting party within 5 calendar days of delivery of a written notice specifying the nature of the breach. If the breach is not remedied within that 5-day period, the non-defaulting party may terminate this Agreement by delivering a further written notice specifying the date of termination. If the nature of the breach is such that it cannot be cured within the 5-day period, the defaulting party may deliver a written proposal to the non-defaulting party 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 will not be unreasonably withheld, the defaulting party will immediately embark on its plan to cure. If the default is not cured within the time agreed, the non-defaulting party may terminate after delivering a written notice specifying the date of termination.

11.3 Delivery of Notices.
Notices given under paragraph 11.2 will be deemed delivered as provided in paragraph 12.17 below.

11.4 Obligations Surviving Termination.
Termination of this Agreement will 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.

11.5 Unlawful Detainer.
The notices provided for in paragraph 12.2 are in addition to any required statutory notices for unlawful detainer proceedings under Code of Civil Procedure section 1161 et seq.
12. MISCELLANEOUS.

12.1 Quiet Enjoyment.
Upon the payment of the rent and Reimbursables and the performance of all the terms, covenants and conditions by Lessee to be performed as herein provided, Lessee will be allowed to peaceably and quietly hold and enjoy the Premises during the term of this lease, or any extended term thereof.

12.2 Surrender.
Lessee will peaceably surrender possession of the Premises upon the expiration or other termination of this lease, and will return the Premises to Lessor in as good a condition as when received, reasonable wear and tear and damage from the elements excepted, except for so much of said Premises as may be injured or destroyed by fire, earthquake or other casualty not the fault of Lessee.

12.3 Amendment.
This Agreement may be modified, amended or terminated at any time by mutual consent in writing of the parties hereto.

12.4 Entire Agreement Represented.
This Agreement represents the entire understanding between Lessor and Lessee as to its subject matter and no prior oral or written understanding shall be of any force or effect. No part of this Agreement may be modified, waived or repealed without the written consent of both parties.

12.5. 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.

12.6 Interpretation.
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.

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

12.8 Governing Law.
This Agreement will 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 will be brought in Tulare County California. Lessor waives the removal provisions of California code of Civil Procedure Section 394.

12.9 Waivers.
The failure of either party to insist on strict compliance with any provision of this Agreement will 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 will not be considered to be a waiver of any preceding breach of the Agreement by the other party.

12.10 Exhibits and Recitals.
All Exhibits to this Agreement are fully incorporated into and are integral parts of this Agreement.
12.11 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 will be considered null and void. If the effect of nullifying any conflicting provision is such that a material benefit of the Agreement to either party is lost, the Agreement may be terminated at the option of the affected party. In all other cases the remainder of the Agreement will continue in full force and effect. If either party, exercising its sole discretion, elects to defend this agreement against a third party suit alleging any invalidity in this Agreement, they must do so at their own expense.

12.12 Further Assurances.
Each party will execute any additional documents and will perform any further acts which may be reasonably required to effect the purposes of this Agreement. Lessee will, on request by Lessor, execute appropriate estoppel certificates and attornments in favor of any trust deed holders or encumbrancers.

12.13 Assurances of Non-discrimination.
Lessor will not discriminate in employment or the performance of the Work or in the provision of services called for under this Agreement on the basis of any characteristic or condition upon which discrimination is prohibited by state or federal law or regulation.

Lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators, and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

That there shall be no discrimination against or segregation of any person or group of persons, on account of race, color, creed, religion, sex, marital status, national origin, or ancestry, in the leasing, subleasing, transferring, use, occupancy, tenure, or enjoyment of the premises herein leased nor shall the lessee himself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use, or occupancy, of tenants, lessees, sublessees, subtenants, or vendees in the premises herein leased.

12.14 Lessor's Right to Enter to Inspect and Post.
Lessor will permit Lessor and its agents to enter upon the Premises at all reasonable times for the purpose of posting notices of non-responsibility for alterations or additions made by Lessee, or for the purpose of inspecting the Premises, and, within six (6) months prior to the expiration of the term of this Lease, or any extension thereof, will permit Lessor to enter for the purpose of placing ordinary for sale or for lease signs.

12.15 Brokers.
All negotiations relative to this Agreement have been carried out directly by representatives of Lessor and Lessee without the participation of brokers and each party represents to the other that there are no unpaid broker's fees in connection with this Agreement.

12.16 Encumbrance of Premises.
Lessor may encumber the Premises so long as Lessee's quiet enjoyment of the Premises is not disturbed thereby.
12.17 Notices.
All notices required to be given under this Agreement must be delivered to the addresses set forth below, unless otherwise instructed in writing, and will be deemed delivered on the following dates:

12.17.1 Notice to Lessor.
When delivered to Lessor in person, or when mailed by certified mail, postage prepaid, to Porterville Redevelopment Agency at 291 North Main Street, Porterville, California 93257.

12.17.2 Notice to Lessee.
When delivered to Lessee in person, or when mailed by certified mail, postage prepaid, to United Hearts Center at 1279 W Henderson, #224, Porterville, California 93257.

12.19 Successors and Assigns.
This Agreement is binding on and will inure to the benefit of the successors and assigns of the parties, but nothing in this section shall be construed as consent by Lessor to any sublease or assignment by Lessee if such consent is otherwise required by the terms of this Agreement.

12.20 Duplicate Originals.
This Agreement will be executed in duplicate originals.

12.21 Time of the Essence.
Time is of the essence of this Agreement.
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the day and year first above written.

PORTERVILLE REDEVELOPMENT AGENCY

By: __________________________________________
    Pedro R. Martinez, Chairman
    LESSOR

Date: ________________________
ATTEST:

By: __________________________________________
    John Longley, Executive Secretary

UNITED HEARTS CENTER

Date: ________________________  By: __________________________________________
    Shawn Beaudry, Director
    LESSEE

By: __________________________________________
    Chris Bastian, Director
    LESSEE

By: __________________________________________
    Jamie Bastian, Director
    LESSEE

Approved as to form:

By: __________________________________________
    Julia Lew, City Attorney