CITY COUNCIL AGENDA
PORTERVILLE, CALIFORNIA
JUNE 7, 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:

7:00 P.M. RECONVENE OPEN SESSION

REPORT ON ANY ACTION TAKEN IN CLOSED SESSION

Pledge of Allegiance Led by Council Member Stadtherr
Invocation

PRESEN TATION
   Employee of the Month - Mike Reed
   Recognition of Mayor Pedro Martinez

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 April 19, 2005 and May 3, 2005

2. Purchase of Specialized Equipment
   Re: Authorizing purchase by negotiation of one refuse truck to replace Unit 6638 which was damaged beyond repair in a May 27, 2005 traffic accident.

3. Porterville Police Department Communications Center Upgrade
Re: Authorizing upgrades at an estimated total cost of $423,245.04, of which $249,451.43 would be funded by secured State grants, with the remaining $173,793.61 funded by Police Department 2004/2005 Fiscal Year Budget.

Re: Authorizing staff to advertise for separate bids for maintenance of Tule River Parkway and roadway median islands.

5. Acceptance of the Well No. 28 (Phase One) Project
Re: Accepting the Project by Zim Industries, Inc. for the new municipal well located on the west side of “F” Street, south of and next to the Wal-Mart Distribution Center, and authorizing staff to file Notice of Completion.

6. Acceptance of the Water Main (F-Gibbons-Main) Project
Re: Accepting the Project by Halopoff & Sons, Inc. for the Water Main Project along “F” Street, Gibbons Avenue and Main Street, and authorizing staff to file Notice of Completion.

7. Acceptance of Improvements - New Expressions, Phase Three Subdivision (Ennis Homes, Inc.- Brian Ennis)
Re: Acceptance of public improvements by the City for maintenance for improvements located generally along Springville Avenue, Cleo Avenue and Cloverleaf – all east of Wisconsin Street; the eastern end of McIntire Avenue, east of Indiana Street; and Milo Street just north of McIntire Avenue.

8. Program Supplement to the Local Agency-State Master Agreement - Preliminary Engineering for Jaye Street/Tule River Bridge Rehabilitation and Widening Project
Re: Approving Program Supplement Agreement with Department of Transportation for federal funding for Project.

9. Approval of Relocation Claim Property Located at APN 245-040-017 - Tenants Pedro M. and Maria Galvez
Re: Approving payment of Relocation Claim in amount of $18,675.90 for Henderson Avenue Reconstruction Project.

10. Airport Hangar Purchase - Acceptance of Loan
Re: Authorizing staff to accept $118,000 loan from Caltrans at the fixed interest rate of $4.4477% for a term of 12 years, with no pre-payment penalty, for the purchase of an airport hangar.

11. Transit Center Leases
Re: Approving Commercial Leases with Tenants Sierra Management at $600 per month and Orange Belt Stages at $125 per month.

12. Approval of City Sponsorship for the “Nutrition On The Go” Program to be Administered by Food Link
Re: Approving sponsorship of program to include use of park facilities and promotional assistance at a cost estimated to be less than $500.

13. Consider Committee Attendance Records - Parks and Leisure Services
Re: Reviewing attendance records for reference when terms of appointees elapse.
14. Intent to Set a Public Hearing for Reimbursement Agreements for Concrete Improvement Construction by the City - Orange Avenue Reconstruction Project
Re: Setting July 5, 2005 as the time and place for the Public Hearing for the establishment of the concrete reimbursement fee.

15. 100% Attendance Program
Re: Approving change to replace formal recognition dinner with a casual barbeque and drawing.

16. Status Report of $458,000 Reserve Budgeted For General Fund Debt Coverage
Re: Accepting status report on reservation of Fund Balance established to provide General Fund security in the current unstable financial environment.

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

PUBLIC HEARING
17. Sewer Rate and Treatment Plant Fee Increase
Re: Consideration of adoption of 6% sewer rate increase and 7% treatment plant fee increase as recommended by consultant, Bartle Wells & Associates.

18. Charitable Car Wash Ordinance
Re: Consideration of ordinance regulating non-commercial car washes for first reading and publication.

Re: Continuing with Phase II of the Water Conservation Plan and continuing Public Hearing to July 19, 2005 to consider moving to Phase III of the Plan.

20. Zoning Ordinance Amendment 1-2005
Re: Considering requiring construction of masonry block wall between residential and non-residential uses.

SCHEDULED MATTERS
21. Provide Direction on Development of an Oak Tree Preservation Ordinance
Re: Consideration on whether the Parks and Leisure Services Commission should undertake efforts towards development of an oak tree preservation ordinance for recommendation to the City Council.

22. Consider Skate Park Design Concept
Re: Authorizing design of a full concrete Skate Park in accordance with one of the two design concepts.

23. Establishment of Banner Policy
Re: Approving policy setting guidelines for banners, including: banner replacement, application procedure, design approval, and size and material standards.

24. Public Notification Guidelines for Proposed Construction Projects
Re: Adopting specific guidelines for notification to public for proposed projects and directing staff to implement policy.

25. Environmental Review of the City of Porterville Hillside/Eastside Water Development Project
Re: Adopting the resolution approving the Negative Declaration acknowledging the City’s regulatory responsibilities and intent to comply with mitigation measures.

26. Set Adjourned Meeting - City-Wide Overhead Cost Allocation Plan and Fee Study
Re: Setting a date and time for the review of the Plan and Fee Study conducted by MAXIMUS, Inc.

**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 June 10, 2005 at 8:30 a.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.
CITY COUNCIL MINUTES
PORTERVILLE, CALIFORNIA
APRIL 19, 2005 6:00 P.M.

Call to Order: 6:01 p.m.
Roll Call: Council Member West, Mayor Pro Tem Irish, Council Member Hamilton, Council Member Stadtherr, Mayor Martinez

ORAL COMMUNICATIONS
None

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

7:00 P.M. RECONVENE OPEN SESSION

REPORT ON ANY ACTION TAKEN IN CLOSED SESSION
The City Attorney stated that there was no action to report.

Pledge of Allegiance Led by Council Member Kelly West
Invocation - Moment of Silence

PROCLAMATIONS
“Iris Festival Day” - April 23, 2005
- Deborah Sierra, Festival Chairman, and Susie Hamlin, Chamber Board Chair, came forward on behalf of the Chamber of Commerce and received the proclamation.

“Arbor Day” - April 29, 2005
- Jim Perrine, Parks and Leisure Services Director, came forward and received the proclamation.

PRESENTATION
City Manager’s Featured Projects for April, 2005
• Reconstruction of Orange Avenue
  Public Works Director Baldo Rodriguez presented a slide show.
• Reconstruction of Indiana Street

Mayor Martinez spoke regarding the anniversary of the Oklahoma City tragedy that happened ten years ago. He stated that we saw the worst and the best of humanity. The Mayor spoke on the courage shown by the Oklahoma police and fire officers. The Mayor then had the audience join him in a round of applause for those officers, and for the police and fire officers of Porterville.

ORAL COMMUNICATIONS

• Shirley Hickman, 341 S. Chestnut, stated that she was there because of the Public Library. Mrs. Hickman stated that the budget was tight and had brought about the reduction of library hours and its closure on Friday and Saturday. She stated that members of the AAUW supported a funding increase for the Porterville Library so the Library could be open on Friday and Saturday, and spoke regarding the importance of the Library. Mrs. Hickman stated the AAUW’s support of a sales tax increase for police, fire and which included the Library.

• Carla Barde, 384 N. Hockett, stated that she was a First Grade teacher at Belleview School, a Member of AAUW, with a Library Degree from USC. She spoke regarding her support of the Library, and asked for longer hours and that the Library be reopened on Friday and Saturday to counter the ill effects of television by having the Library open. Mrs. Barde stated that having a fully functional Library was something that attracted educated people to move to Porterville.

• John Fitzpatrick, 441 N. Sunnyside, came forward regarding Item 21 and spoke again residential in that area and asked that his property not be included.

• Ellen Nichols, 456 N. Hawaii, corner of Hawaii and School Streets, spoke about three sewer back-up incidents at her home, and that she didn’t favor adding residential density to that area without huge improvements to the infrastructure.

• Dick Eckhoff, Sierra Trophies, 196 N. Main, Chairman Downtown Porterville Association (DPA), 180 N. Main, spoke on 1) support for Library; 2) Item 28 - DPA wants another representative; 3) Item 12 (or community civic events in general) DPA would like notification before anything large is planned on Main Street so they can make comments and get information out to members; 4) use of loud speakers at the fairgrounds—he would like teeth put into control on that; 5) questioned whether the Cinco de Mayo parade would have vendors at that event, and if they would have porta-potties. He also introduced their new Executive Assistant, Debra Kellerhals, who would be working 20 hours a week.

• Eleanor Forrester, 606 W. Mulberry, also spoke supporting the Library and its media center, and requested that the Library be reopened on Friday and Saturday.

• Greg Shelton, 888 N. Williford Drive, stated that he agreed with the concerns expressed regarding the Library. On Item 28 Mr. Shelton asked to be a member at large, and he spoke regarding his concerns with Item 24.
• Terry Ringe, 567 Kevin Lane, spoke as an advocate for education. She stated that she has helped start Family Housing for Education, has helped Sierra View District Hospital start a 501C3, the Porterville Area Wellness Services, and helped the Art Association get their 501C3 so they could promote murals for the area. She stated her support of the AAUW and its desire to have more funding for the Library. Mrs. Ringe stated that there was a connection between crime, poverty, arson and those things that required them to have larger funding for police and fire departments. She stated that education was the only way to lessen poverty and crime, and anything they could do to increase funding for the Public Library—if it was a tax increase, anything they could do, she would support that and she would go around, along with other AAUW members, to get signatures on petitions for the Library.

• Cathy Capone, 806 W. Westfield, spoke regarding five issues. 1) The Second Tree Planting Day at Trailhead Park had been completed on April 16 with the planting of 70 15-gallon trees by nine individuals, and will do follow-up maintenance on April 22. 2) Mrs. Capone spoke in support of expanding Library hours and days, the need for computer resources. 3) Mrs. Capone spoke on the Valley Oak tree on Castle Street. She stated that the Tule River Parkway Association has been conducting a Valley Oak census since 1996 and they have the locations of such trees from Grand Avenue to Scranton Avenue, and from Success Dam to Westwood Street, and there were 40 large trees in the area. She stated that the Valley Oak tree on Castle was an extremely large and healthy tree, and needed to be preserved. The Council needed to receive the information they needed to make informed decisions. 4) Mrs. Capone spoke on Item 7 and how the project was sited— it was done very intelligently. 5) May 14 is scheduled for River Clean-up Day for anyone interested in working on that with her on that. Mrs. Capone stated that Walmart Distribution would have volunteers out for that also.

• Lois Innis, 1138 W. Glenn Court, spoke in favor of Saturday Library hours for students who were involved in sports, preserving the Castle Street Valley Oak, and spoke in favor of the skate park which would serve many young people.

Council took a break from 7:56 p.m. to 8:06 p.m.

CONSENT CALENDAR

Items 4, 6, 7, 11, 12 and 15 were removed.

1. CITY COUNCIL MINUTES OF MARCH 29, 2005

Recommendation: That the Council approve the City Council Minutes of March 29, 2005

Documentation: M.O. 01-041905

Disposition: Approved.

2. CLAIM - MICHAEL C. SCHMIDT

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

Documentation: M.O. 02-041905
3. CLAIM - DORA TORRES

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

Documentation: M.O. 03-021505
Disposition: Approved.

5. ACCEPTANCE OF THE INDIANA STREET RECONSTRUCTION PROJECT - PUTNAM AVENUE TO MORTON AVENUE

Recommendation: That the City Council:
1. Accept the Indiana Street Reconstruction Project, Putnam Avenue to Morton Avenue, 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. 04-021505
Disposition: Approved.

8. ACQUISITION OF RIGHT OF WAY - PROPERTY LOCATED AT APN 261-080-012 – OWNER ROY A. MACOMBER – DATE AVENUE STREET PROJECT

Recommendation: That the City Council:
1. Approve the Purchase Agreement;
2. Authorize staff to begin escrow, with the City paying escrow fees;
3. Authorize staff to make payment to Roy A. Macomber, owners of property in the amount of $56,000.00, after completion of escrow;
4. Authorize the Mayor to sign all necessary documents; and
5. Authorize staff to record all documents with the County Recorder.

Documentation: Resolution 46-2005
Disposition: Approved.

9. INTENT TO SET A PUBLIC HEARING FOR REIMBURSEMENT AGREEMENTS FOR CONCRETE IMPROVEMENT CONSTRUCTION BY THE CITY - INDIANA STREET RECONSTRUCTION PROJECT

Recommendation: That the City Council:
1. Set a Public Hearing for May 17, 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.
10. INTENT TO SET A PUBLIC HEARING FOR SEWER AND SOLID WASTE COLLECTION AND DISPOSAL SERVICE FEES

Recommendation: That the City Council:
1. Set a Public Hearing for June 7, 2005, to adopt new residential and commercial Sewer rates;
2. Set a Public Hearing for June 21, 2005 for adoption of a new solid waste service fee; and
3. Authorize staff to notify all affected property owners of the Public Hearing.

Documentation: M.O. 06-041905
Disposition: Approved.

13. APPROVAL FOR COMMUNITY CIVIC EVENT - ROLLIN’ RELICS CAR CLUB - ROLLIN’ RELICS CAR SHOW - MAY 7, 2005

Recommendation: That the Council approve the Community Civic Event Application and Agreement submitted by the Rollin’ Relics Car Club, subject to the stated requirements contained in the Application, Agreement and Exhibit “A.”

Documentation: M.O. 07-041905
Disposition: Approved.

14. APPROVAL FOR COMMUNITY CIVIC EVENT - NATIONAL FARM WORKERS SERVICE CENTER, DIA DE LAS MADRES, MAY 8, 2005

Recommendation: 1. That the Council approve the Community Civic Event Application and Agreement from the National Farm Workers Service Center, subject to the Restrictions and Requirements contained in the Application, Agreement and Exhibit “A,” without closing Olive Avenue; and
2. That Council approve the use of the parking lot on the south side of Olive Avenue and the bare ground south of that parking lot for this event with sponsor-controlled pedestrian crossing.

Documentation: M.O. 08-041905
Disposition: Approved.

16. APPROVAL FOR COMMUNITY CIVIC EVENT - ANNUAL PORTERVILLE FAIR - MAY 18-22, 2005

Recommendation: 1. That Council approve the Community Civic Event Application and Agreement from the Porterville Community Fair Board, subject to the
Restrictions and Requirements contained in Application, Agreement and Exhibit “A,” and

2. That Council approve the use of the parking lot on the south side of Olive Avenue and the bare ground south of that parking lot for fair patron parking and set up from May 18 - 22, 2005.

Documentation: M.O. 09-041905
Disposition: Approved.

17. RESOLUTION APPROVING THE FILING OF APPLICATION FOR THE SUMMER FOOD SERVICE PROGRAM

Recommendation: That the City Council adopt the Resolution approving the filing of an application for the Summer Food Service Program, and appoint the Director of Parks and Leisure Services as agent of the City for this purpose.

Documentation: Resolution 47-2005
Disposition: Approved.

18. FIRE ACT GRANT APPLICATION 2005

Recommendation: That the City Council:
1) Authorize staff to submit the application for funding to FEMA,
2) Authorize staff to accept the grant award if awarded,
3) Authorize the Mayor to sign for the acceptance of the grant,
4) Authorize the disbursement of funds from the Fire Department’s “Firefighting and Rescue Equipment Replacement Fund # EL-2997” for the 10% match.

Documentation: M.O. 10-041905
Disposition: Approved.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Council Member Stadtherr that the Council approve Items 1, 2, 3, 5, 8, 9, 10, 13, 14 and 16 through 18. The motion carried unanimously.

12. APPROVAL FOR COMMUNITY CIVIC EVENT - COMISION HONORIFICA MEXICANA-AMERICANA, INC. CINCO DE MAYO FESTIVITIES, APRIL 29, 2004 - MAY 1, 2004

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.”

Mayor Martinez abstained from this item.
COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Council Member Stadtherr that the 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,” and as amended by the Police Chief as to the number of security guards required at the beer garden during certain hours—which is two security guards from 1:00 p.m. to 5:00 p.m. and four security guards from 5:00 p.m. to 10:00 p.m. (closing time).

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

Disposition: Approved.

4. SCADA EQUIPMENT UPGRADES

Recommendation: That Council authorize Staff to begin negotiations with Tesco Controls, Inc., to upgrade the Wastewater Treatment Facility’s SCADA System Equipment. Further, that Council authorize payment upon satisfactory completion of the project.

Mayor Pro Tem Irish stated that he would like answers, such as: Were they purchasing software and hardware? Did any mechanical equipment need to be replaced? How long had they been experiencing the 40% failure, and how was it determined? How would the upgrade change the staff call out procedure—how was it being done now?

Public Works Director Baldo Rodriguez stated that he did not have those answers now, but he would get the information for the Council.

Council directed that the matter be carried over until the next meeting in order to get the additional information.


Council considered the next two items together:

6. ACCEPTANCE OF IMPROVEMENTS - MEADOWOODS, PHASE 3 SUBDIVISION (NICHOLSON & SMEE LLC - GARY SMEE)

Recommendation: That City Council:

1. Accept the public improvements of Meadowoods, Phase 3 Subdivision for maintenance; and
2. Authorize the filing of the Notice of Completion, and release the payment guarantee thirty-five (35) days after recordation, provided no liens have been filed.

7. ACCEPTANCE OF IMPROVEMENTS - RIVER SPRINGS, PHASE THREE SUBDIVISION (G.W. HOMES, INC. - GREG WOODARD)

Recommendation: That City Council:
1. Accept the public improvements of River Springs, Phase Three subdivision for maintenance; and
2. Authorize the filing of the Notice of Completion, and release the payment guarantee thirty-five (35) days after recordation, provided no liens have been filed.

Mayor Pro Tem Irish stated that he hoped they would continue to look at landscape maintenance and pocket parks for new subdivisions—the key being pocket parks.

COUNCIL ACTION: MOVED by Mayor Pro Tem Irish, SECONDED by Council Member Kelly that Council approve Items 6 and 7 as recommended. The motion M.O. 12-041905 carried unanimously.

Disposition: Approved.

11. APPROVAL FOR COMMUNITY CIVIC EVENT - PORTERVILLE UNIFIED SCHOOL DISTRICT, PORTERVILLE CELEBRATES READING, APRIL 23, 2005

Recommendation: 1. That the Council approve the Community Civic Event Application and Agreement from the Porterville Unified School District, subject to the Restrictions and Requirements contained in the Application, Agreement and Exhibit “A,” without closing Olive Avenue; and
2. That Council approve the use of the parking lot on the south side of Olive Avenue and the bare ground south of that parking lot for this event with sponsor-controlled pedestrian crossing.

COUNCIL ACTION: MOVED by Mayor Pro Tem Irish, SECONDED by Council Member Hamilton that the Council approve the Community Civic Event Application and Agreement from the Porterville Unified School District, subject to the Restrictions and Requirements contained in the Application, Agreement and Exhibit “A,” with the opportunity to close Olive Avenue at the direction of the Police Chief; and, that Council approve the use of the parking lot on the south side of Olive Avenue and the bare ground south of that parking lot for this event with sponsor-controlled pedestrian crossing. The motion M.O. 13-041905 carried unanimously.

Disposition: Approved with amendment.
15. APPROVAL FOR COMMUNITY CIVIC EVENT - MADERA AIR RACES-MODEL AIRPLANE ACROBATIC CONTEST- MAY 13 THROUGH 15, 2005

Recommendation: That the Council deny the Application for this Community Civic Event based on safety concerns expressed by several departments and request staff to notify the applicant of the denial.

Council Member Hamilton stated that a denial recommendation should not be on the Consent Calendar.

Council discussed their concerns of allowing one group and not another and not telling the group sooner about the proposed denial. Council questioned whether staff would assist the group in finding another location for their event.

Frank Guyton, Fire Chief, stated that they had told the applicant that they would be recommending denial when they submitted the application. He stated that the airport would get too little for the liability incurred.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Council Member Stadtherr that the Council deny the Application for this Community Civic Event based on safety concerns expressed by several departments and request staff to notify the applicant of the denial. The motion carried unanimously.

Disposition: Approved denial of the request.

PUBLIC HEARINGS

19. CONSTRUCTION OF CONCRETE IMPROVEMENTS ON HENDERSON AVENUE STREET PROJECT

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.

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

Mayor Martinez reopened the public hearing at 8:24 p.m. and closed the hearing at 8:25 p.m. when no one came forward to speak.

Council Member Hamilton stated that he would prefer that any time a property was sold, the City would get the unpaid fees.
The City Attorney stated this was a development fee and it was tied to development, and there were practical considerations with doing it that way. She stated that it could be done, but it would have to be put in the ordinance that it would be collected at that time. She stated that she could review the matter.

COUNCIL ACTION: MOVED by Council Member West, SECONDED by Council Member Stadtherr that the Council authorize staff to start the construction of the stated concrete improvements for the stated project; and, 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. The motion carried unanimously.

Disposition: Approved.

20. REIMBURSEMENT AGREEMENTS FOR CONCRETE IMPROVEMENTS CONSTRUCTED BY THE CITY - GRANITE HILLS STREETS RECONSTRUCTION, PHASE 2 AND MILO STREET RECONSTRUCTION PROJECTS

Recommendation: That the City Council:
1. Open the public Hearing, take public comments, concerns and questions;
2. Approve the resolutions Implementing Development Charges for Construction of Curbs, Gutters, Sidewalks, and Drive Approaches; and
3. Authorize staff to record a general notice of “Reimbursement Fee” with the office of the Tulare County Clerk-Recorder.

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

Mayor Martinez opened the public hearing at 8:28 p.m.

Greg Shelton, 888 N. Williford Drive, came forward and stated that the County had a way to condition building permits for long term, and he thought the City could also do that.

The City Attorney stated that it sounds like a development agreement reimbursement, which is already done by the City for all oversize improvements. She stated that the City had the same mechanism as the County, but they did not use it the same way. Ms. Lew stated that she would look at the County development agreement and how much theirs was doing that the City’s agreement was not.

Mike Tyler, 1005 East Putnam, stated that when improvements were done on Crestview, he thought part of his agreement was that curb, gutter and driveways was also included, and he was surprised to get a $3,000 bill. He stated that he never got a notice, or his neighbors, just the notice for tonight including a list of what everyone owed without a how or why it was assessed. He stated that he wanted to make sure his original agreement with the City would be upheld and he would not be liable for the $3,000 plus.
Public Works Director Baldo Rodriguez stated that the City would stand by any written agreement made. He stated that Mr. Tyler could see him about this matter tomorrow.

Mayor Martinez questioned staff about the notification process.

The City Engineer stated that staff sent out certified letters to each property owner a week and a half ago, with all the details. Public Works Director Baldo Rodriguez stated that the original letters were not sent out as the work was already done. Staff stated that the fee would not be implemented until the property owner made improvements of $15,000 or more within a two year period.

The Mayor closed the hearing at 8:35 p.m. when no one else came forward to speak.

Mayor Pro Tem Irish thanked Ben Webb for making the process easier.

Council Member Hamilton questioned whether the City could collect the fee from Granite Hills High School.

Public Works Director Baldo Rodriguez stated that the school mostly obtained its permits from the State. The City Attorney stated that they could research how to collect from PUSD. Staff clarified that the fee was the actual cost per foot for the concrete improvements.

**COUNCIL ACTION:** MOVED by Council Member West, SECONDED by Council Member Stadtherr that the Council adopt the Resolutions implementing the Development Charges for Construction of Curbs, Gutters, Sidewalks, and Drive Approaches; and, authorize staff to record a general notice of “Reimbursement Fee” with the office of the Tulare County Clerk-Recorder. The motion carried unanimously.

Disposition: Approved.

21. GENERAL PLAN AMENDMENT 1-2005 (NUMBER CHANGED TO 1-2005 (A)) AND ZONE CHANGE 1-2005 (CAMARENA)

Recommendation: That the Council:

1. Open the public hearing on General Plan Amendment 1-2005 (a), hold the public hearing and take public testimony on the matter and continue it until May 3, 2005, to consider the proposal in conjunction with General Plan Amendment No. 2-2005 (Number to be changed to 1-2005(b)).

2. Adopt the draft resolution approving the Negative Declaration prepared for General Plan Amendment 1-2005 (a).

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

Mayor Martinez opened the public hearing at 8:38 p.m. and continued the hearing to May 3, 2005.
22. INCREASING FEES IN ACCORDANCE WITH THE MITIGATION FEE ACT AND ANNUAL ADJUSTMENT OF FEES BY APPLICATION OF THE ENR COST INDEX

Recommendation: That the City Council act to approve the proposed increases in fees shown in the attached Exhibits “A” and “H.”

The City Manager stated that this item would be continued to May 3, 2005, and would be a Consent Calendar Item. The City Attorney stated that she would reword the item a little.

Disposition: Continued.

SECOND READING

23. ORDINANCE 1666, TAXICAB/VEHICLE FOR HIRE

Recommendation: That the Council give Second Reading to Ordinance 1666, waive further reading, and adopt said Ordinance.

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 waive further reading of Ordinance 1666. The motion carried unanimously.

City Manager John Longley read the ordinance by title.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Council Member West that the Council adopt said Ordinance, being AN ORDINANCE OF Ordinance 1666 THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING THE PORTERVILLE MUNICIPAL CODE, CHAPTER 23, TAXICABS AND OTHER VEHICLES FOR HIRE. The motion carried unanimously.

Disposition: Approved.

The Council took a short recess at 8:42 p.m.

SCHEDULED MATTERS

24. "D" OVERLAY SITE REVIEW 1-2005

RECOMMENDATION: That the City Council:

1. Put in CEQA action recommendation resolution for “D” Overlay Site Review 1-2005;
2. Adopt the draft resolution containing findings and conditions in support of the approval for “D” Overlay Site Review 1-2005 subject to conditions of approval.

Mayor Pro Tem Irish and Council Member Stadtherr stated that they would be abstaining from this item and recused themselves and left the Council Chambers.

City Manager John Longley presented the item, and Community Development Director Brad Dunlap presented the staff report. Mr. Dunlap stated that they recommended amending the resolution of approval to contain a condition to read: “The developer/applicant shall have a registered Civil Engineer or Land Surveyor prepare and submit legal descriptions necessary to request the vacation or Cleveland Avenue right of way. The following information is required at the time of submittal.

i. Three copies of a map and legal description.
ii. Processing fee in the amount of $240.00.
iii. Adequate title information (deed, etc.) to verify true rights of ways interests, if necessary in the opinion of the City Engineer.

The vacation shall be approved prior to the issuance of a building permit”. Mr. Dunlap stated that this condition should be added to the end of the environmental document. He further stated that the project had been designed around the elderberry bushes on the property.

Council Member West asked about traffic onto Morton off of Pearson, and stated that a traffic impact study had been done, and Villa and Putnam would be signalized.

Kelly Morgan, 465 West Putnam, gave a short presentation on the need for the out patient dialysis center.

Ron Wheaton, 465 West Putnam, also spoke in favor of the Sierra View District Hospital project.

Ron Wyatt, 645 West Putnam, spoke in favor of the project.

Dr. Melody Dumlao, 104 Vista Court, Exeter, Urologist, spoke regarding the need for this dialysis center in Porterville instead to having to refer her patients to Kaweah Delta Hospital.

Greg Shelton, 888 West Williford Drive, stated that he was not adverse to the dialysis center, but they needed to address parking in the beginning.

**COUNCIL ACTION:** MOVED by Council Member Hamilton, SECONDED by Council Member West that the Council adopt the CEQA action recommendation resolution Resolution 50-2005 for “D” Overlay Site Review 1-2005; and adopt the draft resolution containing findings and conditions in support of the approval for “D” Overlay Site Review 1-2005, with amendment, subject to conditions of approval.

**AYES:** West, Hamilton, Martinez
Mayor Martinez asked that Item 30 be moved up on the agenda.

30. CONSIDERATION OF REQUEST FOR LETTER OF SUPPORT FOR CONGRESSIONAL APPROPRIATIONS REQUEST

Recommendation: Authorize the Mayor to sign letters of support (in the form provided) for a Congressional Appropriation. The letter should be sent to Senator Feinstein and Congressman Nunes.

City Manager Longley presented the item and staff report and read the draft letter of support.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Council Member West that the Council authorize the Mayor to sign letters of support (in the form provided) for a Congressional Appropriation, with the letter to be sent to Senator Feinstein and Congressman Nunes. The motion carried unanimously.

Mayor Martinez thanked Mr. Garfield and the contributions he has made to the community.

25. WATER CONSERVATION PLAN

RECOMMENDATION: That City Council:
1. Approve the City moving into Phase II on May 1, 2005;
2. Set a Public Hearing for June 7, 2005 to move into Phase III for the months of June through August if severe water supply shortage is projected for the summer; and
3. If severe water supply shortage is not projected for the summer, City staff will only have a Water Conservation Report at the June 7, 2005 Public Hearing.

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

Council questioned whether staff had gotten any feedback on the use of artificial turf on medians. Staff stated that they looked into the practice and there seems to be problems with installation, vandalism, cost of purchasing and installing, and the cost of removing old landscaping. Council clarified that the reason artificial turf worked well at the pool was because it was a flat, cement area that was well secured. The Mayor stated that they would be looking at alternatives as they build new medians.
Council discussed the need for year-round water conservation and the cost of new water wells. Council Member Hamilton stated that Phases 1 and 2 were only “fluff”, so why not go directly to Phase 2 and then 3.

City Manager Longley stated that the process was one of creating public awareness of the need to conserve water. He stated that they believed raising awareness helped in conservation efforts, both individually, and through reporting water use abuses.

Council Member Hamilton questioned whether this helps, or if this was something they just do. He asked what they were trying to accomplish. Council Member Hamilton stated that if Phases 1 and 2 worked, they wouldn’t need Phase 3–which only works because they threaten to penalize people.

Mayor Pro Tem Irish told staff that he would be interested to have the 2000-2002 figures also, factoring in growth, new wells, etc. It was suggested that staff also provided an overlay of showing days with 100°+ temperature.

Staff stated they spend $5,500 on the literature and promotion, and they feel it works. They stated that they were trying to maintain production on the wells, without having to drill new wells to meet current needs.

Council Member Hamilton stated that they needed to rewrite Phase 2 and expand it.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Council Member Stadtherr that the Council approve going to Phase 2, and look at ways of putting some oomph into it, as recommended. The motion carried unanimously.

Disposition: Approved.

26. PUBLIC TRANSIT SYSTEM OPERATIONAL MODIFICATIONS

Recommendation: That the City Council approve:

1. The modifications to Routes 2 and 5;
2. The addition of Route 7;
3. The operation of Routes 6 and 7 on an hourly basis, alternating one bus between these two routes;
4. The extended hours of Fixed Route, to include service from 7:00 a.m. to 7:00 p.m., Monday through Friday, with Saturday service remaining at 9:00 a.m. to 5:00 p.m.;
5. The reduction of Demand-Response operating hours, to include service from 7:00 a.m. to 9:00 p.m., Monday through Friday, with Saturday service remaining at 9:00 a.m. to 6:00 p.m.;
6. All operational modifications to become effective July 1, 2005.
7. The Staff meeting with affected parties to this proposal after six months of operation to assess the effectiveness and service adequacies.
City Manager Longley presented the item and Darrel Pyle, Deputy City Manager, gave the staff report. Mr. Pyle stated that Charlie Clouse, of TPG was present to answer any questions.

Mayor Pro Tem Irish asked staff to provide an overlay map showing what was proposed now as compared to the first routes. He also spoke regarding a future route to the airport for employees to ride.

Mr. Pyle stated that they were looking at Scranton and additional ridership from the industrial park. He stated that they were looking at moving toward the airport property in the next two years.

Mayor Pro Tem Irish stated that they would see a correlation between ridership and gas prices. He stated that they needed to look at areas where they have large groups of employees. Mayor Pro Tem Irish stated that he would like to thank Linda Clark for her efforts in the Transit Program.

Council Member Stadtherr stated that sometime in the next two months, he would like to go back and address monthly passes. Mr. Pyle stated that staff could bring that back when Tulare County and the public transit organizations in Tulare County work on a Countywide pass to make the systems more interchangeable—probably in the next eight weeks. Council Member Stadtherr stated that would be fine.

Council briefly discussed fare box ratios, and Mr. Pyle stated that staff would come back for adjustments if any route pulled them below the ratio. He stated that they were right at 20% now.

Mayor Martinez clarified with Linda Clark that the changes to the routes would be included in the new County Transit Guide.

COUNCIL ACTION: MOVED by Council Member Stadtherr, SECONDED by Council Member West that the Council approve the staff recommendation. The motion M.O. 18-041905 carried unanimously.

Disposition: Approved.

27. TRANSIT BUS ADVERTISING

Recommendation: That the City Council approve:
1. The Draft City Operated Local Transit Policy for Advertising, or as revised by the City Attorney;
2. Transit Advertising Contract; and
3. Service Agreement with The Kaltoft Company, and authorize the Mayor to execute the same.

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

COUNCIL ACTION: MOVED by Mayor Martinez, SECONDED by Council Member Stadtherr that the Council accept the staff recommendation. The motion M.O. 19-041905 carried unanimously.
Mayor Martinez stated that the City Manager needed to leave for an out of town meeting, and Council Member Stadtherr made a motion to excuse Mr. Longley, and Mayor Martinez seconded the motion. Mr. Longley did not leave.

28. GENERAL PLAN UPDATE ADVISORY COMMITTEE APPOINTMENTS

Recommendation: That the City Council appoint the General Plan Update Advisory Committee as proposed.

City Manager John Longley presented the item, and Brad Dunlap, Community Development Director, presented the staff report. Mr. Dunlap stated that basically it was members of stakeholder groups on the committee. The names provided by the various organizations were Greg Woodard, Brian Ennis, Donnelle Silva-Carter, Jackie Witzel, Gilbert Ynigues, Felipe Martinez, John Eby, Keith Hanson, John Snavely, Mike Arndt, Renee Sprague, Theresa Szymanis, David Nenna, and Kelly Morgan.

Council Member Hamilton stated that he thought Porterville College should have a representative, and that they should discuss having Greg Shelton as a member at large.

The Council questioned having County residents on committees. Mayor Pro Tem Irish stated that they should come up with a standard—perhaps 40% to 45%, or whatever, could be non-residents. Mayor Martinez agreed that in the future they should look at developing something with a majority of Porterville people being on committees. Mayor Pro Tem Irish stated that it should be a policy.

Mayor Martinez asked about expanding this committee, and Mr. Dunlap explained that there would be a series of public workshops to obtain public input.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Mayor Pro Tem Irish that the Council appoint Greg Shelton as a member-at-large to the General Plan Update Advisory Committee.

M.O. 20-041905

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

Disposition: Motion fails.

M.O. 21-041905 MOVED by Council Member Stadtherr, SECONDED by Council Member West that the City Council appoint the General Plan Update Advisory Committee as proposed.

AYES: West, Hamilton, Stadtherr, Martinez
NOES: Irish
ABSTAIN: None
ABSENT: None
29. SET ADJOURNED MEETINGS

Recommendation: That the City Council select dates and times for the various adjourned meetings.

Council set June 14, 2005 for the Budget Meeting, and directed staff to call the Council members to set the date for the second meeting regarding the Citywide Fee and Cost Analysis Study.

31. INTERIM FINANCIAL STATUS REPORTS

Recommendation: That Council accept the interim financial status reports as presented.

The City Manager presented the item and the Deputy City Manager gave the staff report.

Council accepted the interim financial status reports as presented.

The Council took a short recess at 10:33 p.m.

32. COMPLIANCE PROCEDURES FOR SB 564 AND SB 866 AND RESOLUTION OF AFFIRMATION OF INVESTMENT POLICY

Recommendation: That City Council adopt a resolution accepting the Statement of Investment Policy in accordance with SB 564 and SB 866.

The City Manager presented the item and this item and the Deputy City Manager gave the staff report.

COUNCIL ACTION

MOVED by Council Member Stadtherr, SECONDED by Council Member Hamilton that the City Council adopt a resolution accepting the Statement of Investment policy in accordance with SB 564 and SB 866. The motion carried unanimously.

Disposition: Approved.

33. QUARTERLY PORTFOLIO SUMMARY

Recommendation: That City Council accept the quarterly Portfolio Summary in accordance with SB 564 and SB 866.

The City Manager presented the item and this item and the Deputy City Manager gave the staff report. Mr. Pyle stated that he could get Council Member Stadtherr the revisions in the JPA pool.

COUNCIL ACTION

MOVED by Council Member West, SECONDED by Council Member Stadtherr that the City Council accept the quarterly Portfolio Summary in accordance with SB 564 and SB 866. The motion carried unanimously.
Disposition: Approved.

ORAL COMMUNICATIONS
• Dick Eckhoff came forward and gave his input on the Water Conservation Program.

OTHER MATTERS
• Mayor Pro Tem Irish asked for some acknowledgment to go to Rick McIntyre and the LDS Church for the project on “P” Hill.

• Council Member Hamilton stated that travel policy needed to be amended to include requesting a form for possible waiving of occupancy tax as government officials when traveling.

• Council Member Hamilton stated that he would like to recognize the homeowners who renovate their homes to the betterment of the community. He stated that a certificate to Michael’s could be given out at a Parks and Leisure Commission meeting, or applicable committee.

• Mayor Pro Tem Irish asked about the old Charter building which was in such poor condition. He was told that Community Development was working with the property owner on removing the building.

• Council Member Stadtherr stated that he may be placing a resolution of opposition to Jackie Goldberg’s Bill banning the use of the name ‘Redskins’ for school teams or mascots. He stated that he had a copy of the City of Tulare’s resolution. Council concurred with placing it on the agenda for consideration.

• Mayor Martinez asked if there was a way of preventing adult businesses from opening close to town. The City Attorney explained the lack of options for regulating businesses outside the City limits.

• Mayor Martinez stated that he had accepted an Ambassador position instead of the other position. He stated that he had spoken about bringing something down here.

ADJOURNMENT
The Council adjourned at 10:53 p.m. to the meeting of May 3, 2005 at 6:00 p.m.

GEORGIA HAWLEY, CHIEF DEPUTY CITY CLERK

PEDRO R. MARTINEZ, MAYOR
CALL TO ORDER: 6:00 p.m.

ROLL CALL: Council Member West, Mayor Pro Tem Irish, Council Member Hamilton, Council Member Stadtherr, Mayor Martinez

ORAL COMMUNICATIONS
None

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

7:00 P.M. RECONVENE OPEN SESSION

REPORT ON ANY ACTION TAKEN IN CLOSED SESSION
No action reported.

Mayor Martinez noted the special gavel at the dias and requested that Council Member Hamilton explain its history. Council Member Hamilton indicated that the gavel had been made from the wood of a 60-foot oak tree that the City had cut down in 1953. He stated that the gavel had opened Council Meetings from 1953 to 1959. It was pointed out that the oak tree was discovered to be hollow inside and had posed a safety risk.

Pledge of Allegiance Led by Mayor Pro Tem Ronald Irish
Invocation - One Individual Participated.

PROCLAMATION
“World Asthma Day in Porterville” - May 3, 2005

PRESENTATION
Employee of the Month - Georgia Hawley
Porterville AARP Chapter 1746 - Zalud House
   • Marg Gabriel, President of AARP Chapter 1746, came forward and presented the Council with a $200 check for the Zalud House.

Certificates of Recognition for Porterville Tourism Brochure (Samuel Pedraza & Dulce Fernandez)
   • Mayor Martinez presented Certificates and thanked the individuals for their work on the brochure. Donette Silva-Carter, Porterville Chamber of Commerce President, came forward and also recognized the efforts of Mr. Pedraza and Ms. Fernandez.
Mayor Martinez informed everyone of a group of individuals in attendance who were currently taking classes to become U.S. citizens. Everyone acknowledged the individuals for their efforts.

ORAL COMMUNICATIONS

- April Tolson, 246 South Chestnut, spoke regarding Item 28, voicing concern with the life span of a structure constructed of wood.
- Brian Ennis, 643 North Westwood Street, spoke regarding Item 11, and offered a presentation on the Chamber’s efforts toward designing a Porterville entrance sign.

CONSENT CALENDAR

Items 2, 11, 16 and 17 were removed.

1. CITY COUNCIL MINUTES OF APRIL 5, 2005

Recommendation: That the City Council approve the City Council Minutes of April 5, 2005.

Documentation: M.O. 01-050305
Disposition: Approved.

3. NEGOTIATED PURCHASE: POLICE DEPARTMENT DUTY HANDGUNS

Recommendation: That the City Council authorize the purchase by negotiation of replacement duty handguns, holsters, and magazine pouches for the Police Department at an estimated cost between $14,000 and $18,000 and authorize payment for said equipment upon satisfactory delivery.

Documentation: M.O. 02-050305
Disposition: Approved.

4. AWARD OF CONTRACT FOR THE PURCHASE OF A NEW CLASS ONE FIRE APPARATUS PUMPER

Recommendation: That the City Council:
1. Approve the negotiated bid with Central States Fire Apparatus for the purchase of a new Class One Pumper in the amount of $245,551 (tax included);
2. Authorize the Fire Chief to sign any paperwork needed to implement the construction process; and
3. Authorize progressive payments from the Fire Department’s equipment replacement fund.

Documentation: M.O. 03-050305
Disposition: Approved.

5. AUTHORIZATION TO ADVERTISE FOR BIDS - HENDERSON AVENUE RECONSTRUCTION PROJECT

Recommendation: That the City Council:
1. Approve the Plans and Project Manual;
2. Authorize the appropriation of a total of $805,077.73 from the Sewer Revolving Fund, Storm Drain Revolving Fund, and Water Revolving Fund;
3. Authorize the appropriation of $115,000 from the Transportation Development Fund after 04/05 COP debt payment;
4. Authorize the appropriation of $127,125 from the Local Transportation Fund to finance the balance of the project; and
5. Authorize staff to advertise for bids on the project.

Documentation: M.O. 04-050305
Disposition: Approved.

6. THIS ITEM WAS REMOVED.

7. ACCEPTANCE OF THE ORANGE AVENUE RECONSTRUCTION PROJECT

Recommendation: That the City Council:
1. Accept the Orange Avenue Reconstruction 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 notice have been filed.

Documentation: M.O. 05-050305
Disposition: Approved.

8. ACCEPTANCE OF APPRAISED VALUE OF RIGHT-OF-WAY FOR PROPERTY LOCATED AT APN 261-094-009 - CLEMENTE MORALES, GLORIA BRITT, LUIS MORALES, AND MIKE MORALES - 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 Clementine Morales, Gloria Britt, Luis A. Morales and Mike Morales, owners of property, in the amount of $8,300, 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 53-2005
Disposition: Approved.

9. ACCEPTANCE OF APPRAISED VALUE OF RIGHT OF WAY FOR PROPERTY LOCATED AT APN 261-080-007 - BRYAN C. AND MARY C. TENBERGE - 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 Bryan C. and Mary C. Tenberge, owners of property, in the amount of $9,300, 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.
10. SALE OF AIRPORT INDUSTRIAL SITE - GARY AND BELINDA DAY

Recommendation: That the City Council:
1. Approve the resolution authorizing the sale of the property; and
2. Authorize the Mayor to sign all documents and agreements necessary to complete the project.

Documentation: Resolution 54-2005
Disposition: Approved.

12. VACATION OF SANITARY SEWER AND WATER EASEMENTS RELATED TO TARGET STORE EXPANSION BUILDING PERMIT

Recommendation: That the City Council postpone indefinitely the public hearing until the Target Corporation commits to the store expansion.

Documentation: M.O. 06-050305
Disposition: Approved.

13. RESOLUTION APPROVING THE FILING OF APPLICATION FOR THE FUNDING FROM THE URBAN FORESTRY GRANT PROGRAM AS PROVIDED THROUGH PROPOSITION 12

Recommendation: That the City Council adopt the Resolution approving the filing of an application for the Urban Forestry Grant Program, and appoint the Director of Parks and Leisure Services as agent of the City for this purpose.

Documentation: Resolution 56-2005
Disposition: Approved.

14. THIS ITEM WAS REMOVED.

15. REQUEST TO APPLY FOR EDWARD BYRNE MEMORIAL JUSTICE ASSISTANCE GRANT FUNDS

Recommendation: That the City Council:
1. Authorize the filing of the grant application;
2. Authorize the Mayor to sign all necessary documents pertaining to the grant.

Documentation: M.O. 07-050305
Disposition: Approved.

18. RESOLUTION OF SUPPORT FOR CITY OF TULARE

Recommendation: That the City Council:
1. Adopt the proposed resolution in support of the City Council of the City of Tulare, the City of Tulare, the Tulare Union High School, and the Tulare Union High School Redskin Mascot by declaring the Porterville City Council’s support for the decision that the designation of a school’s mascot should be left up to the local communities and their locally elected representatives; and
2. Formally request that the California State Legislature and the Governor of the State of California defeat any attempt to take this decision out of the hands of the local communities.

Documentation: Resolution 57-2005
Disposition: Approved.

COUNCIL ACTION: MOVED by Council Member West, SECONDED by Council Member Stadtherr that the Council approve Items 1, 3 through 10, 12 through 15, and 18. The motion carried unanimously.

2. SCADA EQUIPMENT UPGRADES

Recommendation: That the City Council authorize staff to begin negotiations with Tesco Controls, Inc. to upgrade the Wastewater Treatment Facility’s SCADA System equipment, and authorize payment upon satisfactory completion of the project.

At Mayor Pro Tem Irish’s request, Public Works Director Baldo Rodriguez provided a summary of the item and staff’s recommendation. It was explained that most of the cost was attributed to software.

Mayor Pro Tem Irish voiced concern with software costs not being included in the equipment replacement fund.

COUNCIL ACTION: MOVED by Mayor Pro Tem Irish, SECONDED by Council Member Hamilton that the Council authorize staff to begin negotiations with Tesco Controls, Inc. to upgrade the Wastewater Treatment Facility’s SCADA System equipment, and authorize payment upon satisfactory completion of the project. The motion carried unanimously.

Disposition: Approved.

11. PROPOSED OFFER OF DEDICATION FOR PORTERVILLE ENTRANCE SIGNS

Recommendation: That the City Council approve the proposal for the dedication of the Porterville entrance signs upon completion of construction and direct staff to work with the committee regarding provision of electrical service for nighttime illumination and easements from the property owners for maintenance of the signs.

Mayor Pro Tem Irish indicated that he had only pulled the item so as to have an opportunity to thank everyone involved in the project. He then thanked Brian Ennis, the Chamber of Commerce, and the Committee for their efforts. Mayor Pro Tem Irish then moved that the Council approve staff’s recommendation.

Council Member Stadtherr seconded the motion.
Council Member West commented that the sign was attractive and suggested that the platform be “pigeon-proofed.”

Mayor Martinez thanked everyone involved for their work on the sign.

COUNCIL ACTION: MOVED by Mayor Pro Tem Irish, SECONDED by Council Member Stadtherr that the Council approve the proposal for the dedication of the Porterville entrance signs upon completion of construction and direct staff to work with the committee regarding provision of electrical service for nighttime illumination and easements from the property owners for maintenance of the signs. The motion carried unanimously.

Disposition: Approved.

16. RENEWAL OF STATE MANDATED COST CLAIMING SERVICES AGREEMENT WITH DMG MAXIMUS

Recommendation: That the City Council authorize the Mayor to sign the service agreement with Maximus to provide Mandated Cost Claiming Services on behalf of the City of Porterville.

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

In response to Council Member Hamilton’s question, Mr. Pyle explained that the SB-90 would be paid in full with interest beginning in 2005/2006.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Mayor Pro Tem Irish that the Council authorize the Mayor to sign the service agreement with Maximus to provide Mandated Cost Claiming Services on behalf of the City of Porterville. The motion carried unanimously.

Disposition: Approved.

17. ANNUAL ADJUSTMENT OF FEES BY APPLICATION OF THE ENR COST INDEX

Recommendation: Consistent with agreements and previous instructions, the report is provided for informational purposes. It is recommended that the City Council use the information to inform any citizens that may inquire about the fee adjustments.

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

Mayor Pro Tem Irish voiced concern with raising the Park Impact Fees and suggested that it might not be necessary to increase those fees if the City moved forward with the “pocket park” concept. He then confirmed that if the Park Impact Fees were not increased that year, the item would return the following year for consideration. Mayor Pro Tem Irish then requested that the Council consider the Park Impact Fees and the Connection Fees separately.
Mr. Longley pointed out that there was not a recommendation for approval, but rather the item was an informational item. It was then clarified by City Attorney Julia Lew that if the Council wished to cancel an increase, the item would need to be brought back and changed via resolution.

COUNCIL ACTION:  MOVED by Mayor Pro Tem Irish, SECONDED by Mayor Martinez that the Council direct staff to prepare a draft resolution suspending the Engineering M.O. 11-050305 News Record increase in the Park Impact Fee and bring it back to Council for consideration. The motion carried unanimously.

Disposition: Continued.

PUBLIC HEARING
19. GENERAL PLAN AMENDMENT 1-2005(A) (FORMERLY 1-2005) AND ZONE CHANGE 1-2005 (CAMARENA)

Recommendation: That the Council:
1. Adopt the draft revised resolution approving the Negative Declaration prepared for General Plan Amendment 1-2005(a) and Zone Change 1-2005;
2. Adopt the draft revised resolution approving General Plan Amendment 1-2005(a) as amended;
3. Adopt the draft ordinance for Zone Change 1-2005 and give the first reading to the draft ordinance; and
4. Waive further reading of the draft ordinance approving Zone Change 1-2005, and order the ordinance to print.

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

The public hearing opened at 7:35 p.m.

• Richard Camarena, 470 North Sunnyside, came forward and voiced support for the GPA and the proposed zone change.
• John Fitzpatrick, 441 North Sunnyside, came forward and indicated that he owned one of the parcels that would be impacted by the zone change. He voiced opposition to the proposed GPA and zone change contending any change would be inconsistent with the City’s General Plan.
• Greg Shelton, 888 North Williford Drive, voiced support for the proposed GPA and zone change.

The public hearing closed at 7:45 p.m.

Council Member Hamilton commented that the inconsistency lied with the current situation, not the proposed change.

Council Member West voiced support for the proposed change and moved that the Council approve staff’s recommendation.

Council Member Hamilton seconded the motion.

In response to Council Member Hamilton’s question, Mr. Dunlap explained that attempting to make a C-3 use operate out of a house was problematic. He commented that he did not view the proposed change to be
problematic to Mr. Fitzpatrick in that there was high density residential adjacent to commercial throughout the City.

COUNCIL ACTION: MOVED by Council Member West, SECONDED by Council Member Hamilton that the Council adopt the revised resolution approving the Negative Declaration prepared for General Plan Amendment 1-2005(a) and Zone Change 1-2005; adopt the draft revised resolution approving General Plan Amendment 1-2005(a) as amended; adopt the draft ordinance, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE APPROVING ZONE CHANGE Ordinance 1667 1-2005 FROM C-3 (HEAVY COMMERCIAL) TO R-3 (MULTIPLE FAMILY RESIDENTIAL), AS AMENDED, FOR THOSE THREE (3) PARCELS LOCATED ON THE WEST SIDE OF SUNNYSIDE STREET, EXTENDING SOUTH OF BELLEVIEW AVENUE, and give first reading to the Ordinance. The motion carried unanimously.

Mr. Longley read the Ordinance by title only.

M.O. 12-050305 MOVED by West, SECONDED by Council Member Stadtherr that the Council waive further reading, and order the Ordinance to print. The motion carried unanimously.

Disposition: Approved.

20. GENERAL PLAN AMENDMENT 1-2005(B) (FORMERLY 2-2005) AND ZONE CHANGE 2-2005 (SMEE BUILDERS)

Recommendation: That the City Council:
1. Adopt the draft resolution approving the Negative Declaration prepared for General Plan Amendment 1-2005(b) and Zone Change 2-2005;
2. Adopt the draft resolution approving General Plan Amendment 1-2005(b);
3. Approve the draft revised ordinance approving Zone Change 2-2005 and give first reading to the draft ordinance; and
4. Waive further reading of the ordinance approving Zone Change 2-2005 and order the Ordinance to print.

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

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

- Jim Winton, business address 150 West Morton Avenue, came forward on behalf of applicant Smee Builders. He requested approval of the item and stated he was available to answer any questions that the Council might have.

The public hearing closed at 7:54 p.m.

Mayor Pro Tem Irish commented for the record that conceptually he would like to see better Landscape Maintenance Districts set up, and also pocket parks included.
Mr. Dunlap stated that when the Subdivision Map was brought before the Council, a Landscape Maintenance District would be included, however a pocket park would not been incorporated.

In response to Council Member West’s question, staff explained that the City’s new well was located to the north along Jaye Street, and that the proposed subdivision would eventually tie into that well.

Mayor Pro Tem Irish requested, and Mr. Dunlap acknowledged, that staff would discuss with the developer the possibility of incorporating a pocket park into the development.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Council Member Stadtherr that the Council adopt the draft resolution approving the Negative Resolution 60-2005 Declaration prepared for General Plan Amendment 1-2005(b) and Zone Change 2-2005; adopt the draft resolution approving General Plan Amendment 1-2005(b); Resolution 61-2005 approve the draft revised ordinance, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE APPROVING ZONE CHANGE Ordinance 1668 FROM M-1 (LIGHT MANUFACTURING) TO RE (ONE FAMILY ESTATE) FOR THAT 40± ACRE VACANT SITE LOCATED ON THE M.O. 13-050305 NORTHWEST CORNER OF SOUTH JAYE STREET (UNIMPROVED) AND GIBBONS AVENUE, give first reading to the ordinance; waive further reading and order the Ordinance to print. The motion carried unanimously.

Mr. Longley read the Ordinance by title only.

Disposition: Approved.

The Council recessed for fifteen minutes.

21. ZONING ORDINANCE AMENDMENT 1-2005

Recommendation: That the Council:  
1. Approve the proposed Zoning Ordinance Amendment 01-2005 and give first reading to the draft ordinance; and  
2. Waive further reading, and order the Ordinance to print.

City Manager John Longley presented the item, and indicated that the staff’s recommendation was amended to request that the Council open the public hearing, receive comment, and then continue the public hearing until a subsequent meeting of the Council.

The public hearing opened at 8:14 p.m.

• Pete McCracken, 657 Village Green, requested clarification as to which party would be responsible for constructing the block wall barrier, the residential user, the non-residential user, or both.

Staff clarified that whichever user developed first would be the responsible party.

The public hearing was then continued to May 17, 2005.

Disposition: Continued.

Recommendation: That the Council:

2. Adopt the resolution of approval for the 2005 Five Year Consolidated Plan and 2005-2006 Action Plan; and
3. Authorize the City Manager to execute any necessary documents.

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

The public hearing opened at 8:23 p.m. and closed at 8:24 p.m. when nobody came forward.

Mayor Pro Tem Irish voiced concern with the approximate 23% administration costs associated with the Plan.

Council Member West voiced concern with the exclusion of funds for the homeless in the Plan. He emphasized the importance of addressing homelessness in the community.

Mr. Dunlap responded that the demand for services was much greater than the available resources. He stated that a substantial portion of the allocation would go towards debt service on the Section 108 loan that was utilized to construct the neighborhood community center. He indicated that other funds were allocated towards the operation of the youth center, and that if the Council wished to also fund homeless programs, the funds would need to be re-allocated from another program. He explained that the City was limited as to the expenditure for programming for public benefit. He stated that the plan before Council represented the priorities previously identified by the Council and that it also included operational funding. In terms of administration costs, Mr. Dunlap explained that the actual time required by staff to maintain, monitor and assess the HUD program was excessive and unfortunately warranted high administration costs. Mr. Dunlap also noted that the City’s entitlement was $42,000 less than last year, which he pointed out was a sizeable reduction.

Mr. Longley stated that there was some urgency for Council’s consideration of the item currently before them. He then stated that staff would prepare some options regarding programs for the homeless for Council’s review in the next 45 to 60 days so as to allow Mr. Dunlap time to meet with some committees. He then added to Mr. Dunlap’s comments regarding the necessity for the administrative cost allocated in the Plan.

Mayor Pro Tem Irish agreed that homelessness needs to be addressed, however he would like a distinction drawn between “career homeless” and homeless. He stated that he would like to help those in circumstances beyond their control, but not those who chose to be homeless.

Mr. Dunlap noted Community Development Associate Denise Marchant’s knowledge in this area and requested that she come forward and address the Council on the subject.

Ms. Marchant came forward and stated that she had just returned from an Executive Board Meeting of Continuum of Care that afternoon, pointing out that Porterville was one of the only cities in Tulare and Kings County that was actively involved. She then proceeded to inform the Council on the status of funding for the homeless in the area, and noted that in the previous year, two of the agencies that had received funding for
homeless programs were from Porterville, being the Central California Family Crisis Center, and Alternative Services. Ms. Marchant explained that as a part of the Continuum of Care, HUD also urged transitional housing and provided special points for permanent housing. She pointed out that Porterville’s Casas Buena Vista project was renowned in the County and in the Continuum for providing permanent housing. She summarized that the City currently funded homeless programs, but it was geared more towards the permanent housing and not towards emergency housing. Ms. Marchant then informed the Council that the Continuum’s meetings were held the last Mondays of each month and invited the Council to attend.

Mayor Martinez commented that he believed that the City did a fine job in attempting to accommodate and provide resources to families in need.

City Manager confirmed that staff would provide an issue paper on the homeless which would identify options for the Council consideration within the next sixty (60) days.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Council Member Stadtherr that the Council adopt the resolution of approval for the 2005 Five Year Consolidated Plan and 2005-2006 Action Plan, and authorize the City Manager to execute any necessary documents. The motion carried unanimously.

Disposition: Approved.

SCHEDULED MATTERS

23. “D” OVERLAY SITE REVIEW 2-2005 (LEROY ROHRbach)

Recommendation: That the City Council adopt the draft resolution containing findings and conditions in support of the approval for “D” Overlay Site Review 2-2005, subject to the conditions of approval.

City Manager John Longley presented the item, and Community Development Director Brad Dunlap presented the staff report. Mr. Dunlap circulated samples of some of the materials proposed for the project.

In response to Council Member Hamilton’s question, staff confirmed that a block wall would be continued along the residential portion of the east boundary of the property.

A discussion then ensued as to whether Landscape Maintenance Districts were a viable option for commercial properties. Mr. Dunlap explained that the City placed stronger conditions of approval on commercial projects, such as specifically identifying automatic irrigation systems to ensure ongoing maintenance of landscaping.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Council Member West that the Council approve the draft resolution containing findings and conditions in support of the approval of “D” Overlay Site Review 2-2005 subject to conditions of approval. The motion carried unanimously.

Disposition: Approved.

24. CONSIDERATION OF ROUNDABOUTS ON ALL FUTURE STREET INTERSECTION PROJECTS

Recommendation: Informational report only.
City Manager John Longley presented the item and the staff report, indicating that the item had been placed on the Agenda at the request of a Council Member.

Council Member Stadtherr asked if the Mayor had approved his request to provide a twelve minute presentation on roundabouts, to which Mayor Martinez responded that he believed twelve minutes was too long and that he would rather see the matter reviewed in a Study Session.

Council Member Hamilton commented that he did not understand why the matter required Council approval. He stated that he believed staff already had the ability to consider roundabouts, and that the issue need not be set forth in policy.

City Manager John Longley responded that because there had been perceived pros and cons at the Council level regarding the use of roundabouts, staff had responded. He stated that he too believed that staff already possessed the ability to consider roundabouts in the normal course of business and that it need not be policy.

Mayor Pro Tem Irish commented that by making the matter a policy, the Council would really be taking away from staff’s judgment and expertise, and that he did not wish to do that.

Mr. Longley clarified that consideration of roundabouts would be another tool in staff’s tool chest. He stated that if staff believed a roundabout would be appropriate in a particular situation, then it would be considered, just as any other approach would also be considered. However, he stated, there would not be a mandatory consideration of roundabouts for each and every project.

Council Member Stadtherr requested that the Council formalize its instructions to staff.

Mayor Martinez commented that he believed there was nothing to be approved, to which Mayor Pro Tem Irish agreed.

Pursuant to Mayor Martinez’s request, Mr. Longley confirmed that a Memorandum had been prepared outlining the locations of other roundabouts throughout the County – one in Dinuba and one in Visalia – so that Council could visit them. It was stated that those roundabouts were likely built by developers, and not by the cities.

Council Member Hamilton commented that he did not want any outside influence or pressure on staff to consider roundabouts, but rather the determination should be from staff in situations that they deem plausible for roundabouts.

Council Member West questioned why the City would not be interested in looking at the roundabout concept if there were shown to be safer, cheaper and had a calming effect on traffic.

Mayor Martinez requested that the 12-minute video be circulated amongst the Council.

Mayor Pro Tem Irish agreed that he would like to view it in his private time, rather than scheduling a Study Session that would require staff time.

It was decided that staff already possessed the ability to consider roundabouts at intersections, but that such consideration would not be mandatory, but up to staff’s judgment based on their expertise. City Manager John Longley informed the Council that staff would be balanced in how they considered the use of roundabouts and pointed out that staff would be well prepared to defend its future decisions to the Council.
25. CONSIDERATION OF BIDS - LIGHTED PEDESTRIAN CROSSWALK WARNING SYSTEM PROJECT

Recommendation: That the City Council, compliant with City policy and practice, reject all bids for the Lighted Pedestrian Crosswalk Warning System Project.

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

Council Member Hamilton commented that while he appreciated that staff had presented alternatives to Council, the City had a policy, and he believed the Council ought to adhere to that policy. He then questioned if staff had attempted to extend the grant deadline past June 30, 2005 so as to allow enough time to re-bid the project.

Mr. Rodriquez responded that the June 30th date was the extended date.

Council Member Hamilton moved to approve staff’s recommendation to reject the bids.

Council Member Stadtherr seconded the motion.

City Manager John Longley clarified that staff would attempt to obtain another extension of time for the grant, however if an extension could not be obtained, the project would be dead.

Disposition: No action taken.

26. CONSIDERATION OF BIDS - PUTNAM AVENUE RECONSTRUCTION PROJECT (FOURTH ST. TO HENRAHAN ST.)

Recommendation: That the City Council, compliant with City policy and practice, reject all bids for the Putnam Avenue Reconstruction Project.

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

In response to Council Member Hamilton’s question, a discussion ensued regarding the background of the item. Mr. Rodriguez emphasized that safety was the primary concern for the project.

It was suggested that the City negotiate with the lowest bidder to reduce the bid amount by 3%.

At the request of Mr. Rodriguez, City Attorney Julia Lew clarified that the City could not actually negotiate prior to either accepting or rejecting the bids on the project. She explained that the City could change the scope of the project to lower the cost only after the bid was accepted, but not before.

Mr. Longley stated that he had been involved in processes which a change of scope had been made prior to acceptance of the bid.
Ms. Lew stated that changing the scope prior to acceptance of the bid might pose an unfair advantage issue. She then confirmed that because the contract was a public contract, the City could not merely negotiate back and forth, but rather the City would need to go back to the RFP.

A discussion ensued as to whether the cost to go to RFP would exceed the cost of the 3% overbid figure. Mr. Longley confirmed that staff would provide a cost estimate for re-bidding the project and bring the item back to Council for consideration.

Disposition: Continued.

27. CONSIDER INSTALLATION OF PLAQUE IN HONOR OF MARGARET J. SLATTERY WITHIN THE HERITAGE COMMUNITY CENTER

Recommendation: That the City Council support the recommendations of the Parks and Leisure Services Commission and the Library Board of Directors to offer the opportunity for Margaret J. Slattery to be recognized equally with others on a “Wall of Fame,” but not to name the new library room in her honor.

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

Mayor Pro Tem Irish commented that he believed the concept in naming the Heritage Center was to encompass a lot of individuals who deserved recognition. He stated that he recalled discussing naming the various rooms in the Center after individuals, but not on a permanent basis. He stated that it was discussed that after a room had been named after an individual for a certain amount of time, a plaque in that person’s honor might then be moved to the “Wall of Fame.” He stated that it was his understanding that the Council did not wish to name the rooms or the areas in the building after individuals on a permanent basis, but rather it would be a perpetually changing monument to the citizens of Porterville. He then commented that he would not have a problem with naming the Library after Ms. Slattery for a defined period of time, after which a plaque in her honor could be placed on the Wall of Fame.

Council Member Hamilton agreed with Mayor Pro Tem Irish’s comments and stated that this was also how he remembered the discussion.

Council Member Stadtherr voiced concern with the system, particularly when the time came to remove a name in order to recognize a different individual.

Council Member West confirmed with staff that the Heritage Center had five rooms, plus a hallway. He then agreed with Council Member’s Stadtherr’s concerns regarding changing the names to honor different individuals, cautioning that it would likely create divisiveness in the community. He voiced support for only having a Wall of Fame, and not naming a room after any one individual.

A discussion ensued as to whether any other individuals had been considered for such an honor.

A reference was then made to the Policy for Naming or Dedication of City Facilities that was adopted on February 17, 2004. Mayor Martinez commented that it was his understanding that the Policy provided the Council the ability to name a room in the Center after an individual, pointing to the extraordinary circumstances language. He commented that he too had concerns with being fair, and cited the numerous individuals who had been considered when naming the facility.
Mayor Pro Tem Irish pointed out that Margaret Slattery’s name had been the only name that had come up for the library. He then stated that if the Council proceeded, it did not mean that Ms. Slattery’s plaque would be the only plaque on the Wall of Fame.

Council Member West voiced support for staff’s recommendation and not for naming a room after an individual.

Mayor Martinez commented that when he compared the accomplishments of Ms. Slattery with those of the other individuals considered for the facility, Ms. Slattery’s accomplishments far exceeded the others. He stated that her contributions were not controversial and that she had provided a great service to the community by teaching individuals to read. He then stated that even some of the individuals who had been considered in the naming of the Heritage Center had agreed that Ms. Slattery was deserving of having the library named after her. He suggested that the library room could be named in her honor, for a period of perhaps three to five years, after which the Council could decide if a plaque in her honor should be placed on the Wall of Fame.

Mayor Martinez moved that the Council approve naming the library room in the Heritage Center after Margaret J. Slattery for a period of five years, after which it would come back to Council for consideration, and that the Council also approve naming the week during which “Porterville Celebrates Reading” takes place, “Margaret J. Slattery Week.”

Council Member Stadtherr voiced concern with the efforts made by the Council in drafting the Policy for Naming or Dedication of City Facilities and having it last only three months.

Council Member Hamilton commented that he was only interested in honoring Ms. Slattery’s memory.

Council Member West commented that the Council could still honor Ms. Slattery’s memory by including her on the Wall of Fame.

COUNCIL ACTION: MOVED by Mayor Martinez, SECONDED by Mayor Pro Tem Irish that the Council approve naming the library room in the Heritage Center after Margaret J. Slattery for a period of five years, after which it would come back to Council for consideration, and that the Council also approve naming the week during which “Porterville Celebrates Reading” takes place, “Margaret J. Slattery Week.” The motion carried unanimously.

Disposition: Approved.

The Council recessed for 15 minutes.

At Council Member Stadtherr’s request, Mayor Martinez requested that Item 31 be presented next.

31. ENERGY DESIGN STANDARDS

Recommendation: That the Council provide direction to staff.

City Manager John Longley presented the item and indicated that a Council Member had requested that the item be placed on the Agenda.

Council Member Stadtherr indicated that the item came forth from a meeting of the League of California Cities that he had attended with Mr. Longley. He stated that Johnson Controls had made a presentation at that
meeting. He commented that the cost of a building is not only the construction cost, but also the operations cost. He commented that currently, he believed the City only considered the construction cost. He stated that the Leadership in Energy and Environmental Design (“LEED”) standard provided a checklist of items that the City could consider to make its buildings more energy efficient. He stated that the draft resolution provided in the staff report for Council’s consideration had been based off a Scottsdale, Arizona resolution. He pointed to language in the Scottsdale resolution which allowed staff to proceed with LEED standards only if the pay period did not exceed five years. He stated that representatives from Johnson Controls, Inc. were present and would also be back in the area in approximately three weeks if the Council was interested in obtaining additional information. He added that Johnson Controls’ website was: www.johnsoncontrols.com.

Mayor Martinez indicated that he had received a telephone call which he needed to take, and excused himself from the Council Chambers.

Mayor Pro Tem Irish invited the representatives from Johnson Controls to come forward.

• Wayne Joseph, Acquisition Manager for Johnson Controls, came forward and addressed the Council. He indicated that over the last few years, everyone had to look at ways in which energy was purchased and consumed. He stated that municipalities often had unique circumstances with budgeting, particularly with the current State budgetary problems. He suggested that a forward-thinking, strategic energy conservation plan was beneficial to all cities. He stated that Johnson Controls had worked with many cities and would like to assist the City of Porterville.

Mayor Martinez returned to the Council Chambers.

In response to Council Member Hamilton’s question, Mr. Joseph indicated that there were three “super powers” in their industry: Siemens Building Technologies, Honeywell, and Johnson Controls. He added that whichever company Porterville selected to assist them, it was important that the City proceed. He stressed the importance of energy stewardship for the sake of future generations. Mr. Joseph indicated that whether or not the City of Porterville developed an energy policy was an internal decision, however, he stated, every five to seven years significant technology was upgraded to warrant major savings. He suggested that such savings often was substantial enough to pay for the project, including the cost of funds. He added that Johnson Controls’ effort would not be centered around what the City was doing wrong, but rather around what the City needed to do right in the future. He stated that representatives from Johnson Controls would work with the Public Works Department staff in looking at their strategic plan and performing a preliminary assessment. He stated that two to four engineers from Johnson Controls would look at the City facilities and building records to identify opportunities for energy efficiency.

Council Member Hamilton questioned why the Council should consider this item as policy, rather than allowing staff to make that decision based on their professional opinion. He then complimented Mr. Joseph, indicating that he had read some very positive commentary by cities with which Johnson Controls had worked.

A discussion ensued as to the various areas in which cities can look to save money by turning to “green” or environmentally-friendly technologies.

Council Member Stadtherr commented that he believed the issue should be brought forth as policy so as to give it more public recognition, and also put the local architects and builders on notice that such a green policy might be coming. He noted that presently, the closest green-certified architects and builders were located in Fresno and Bakersfield.
Mr. Longley confirmed that Council’s direction was to proceed with the free preliminary assessment at staff level.

Disposition: Direction provided to staff.

28. CONSIDER SKATE PARK MASTER PLAN

Recommendation: That the City Council consider the Skate Park Master Plan.

City Manager John Longley presented the item, and Parks and Leisure Services Director Jim Perrine presented the staff report and a visual presentation which included various design concepts and examples of skate parks throughout the country. Mr. Perrine also circulated samples of various surfacing materials proposed for the ramps and/or bowl elements of the design.

In response to Mayor Martinez’s concern regarding the potential for damage to the surface material from the pegs on BMX bikes, Mr. Perrine explained that rails, corners or other areas that might be more vulnerable to damage would be reinforced with steel, or some sort of protective material.

A discussion ensued as to the Park’s size and layout, which was proposed to be 15,000 sq. ft. and to include both streetscape elements and transitional elements, including a bowl. Staff estimated the cost to be $328,000, including contingency costs. Mr. Perrine stated that currently the budget provided for $330,000 for the Park itself, $30,000 for fencing and amenities, plus parking lot and design services, for a total project budget of $494,000. He stated that $346,000 would be funded by the State grant, $110,000 from the Housing Bond funds, $30,000 from Workforce Housing funds, $77,004 in cash from local donations, for a total of $494,000. He noted that there was also a Rotary pledge of $15,000.

Council Member Stadtherr confirmed with staff that ADA access would be required along the perimeter area, however within the actual skate area it would not be required, being that the area was technically considered a hazardous sports area. A discussion then ensued as to ways in which the City might be able to make bringing a bike into the facility a difficult or impossible task.

Mayor Martinez voiced concern with safety issues and the difficulty in patrolling a bowl due to limited visibility from the street.

Council Member West voiced concern with the wood elements of the proposed design, citing that maintenance would be excessive. He then requested clarification as to the cost for concrete versus wood design, to which Mr. Perrine indicated that modular streetscape components would cost an additional 10%, or $33,000.

Mayor Pro Tem Irish clarified with staff that the design proposal before Council that evening was primarily concrete, with the only modular element being the bowl. He then voiced concern with the concrete elements, indicating that the Council had wanted a modular design. Mayor Pro Tem Irish added that he wanted to make sure there was also room for expansion.

Council Member Hamilton commented that he was pleased with the concept, but that the details needed to be worked out. He clarified that staff was seeking approval that evening of the plan concept, including the materials. He then stated that it was his understanding that Council’s direction had clearly been to proceed with a modular design. Council Member Hamilton commented that if expansion was necessary, he would prefer it took place at another location so as to not to have so many kids in one area.
Mayor Martinez agreed that it was also his understanding that Council had directed staff to bring back a modular design for review.

Council Member West stated that the Council had also sought input from the community for design ideas.

Mayor Pro Tem Irish indicated that the modular concept he had envisioned was what the professional skaters used while on tour. A discussion ensued as to the streetscape and transitional design elements, including the expected life span and required maintenance of the materials for the modular design. Staff explained that the joints and surface materials would require regular, if not daily, inspection and maintenance.

Council Member West pointed to the cost in both maintaining the structure and in moving it. It was suggested that the structure would not be able to be moved due to grant requirements.

- Greg Shelton, address on record, came forward and indicated that he had attended the public meeting on the proposed Skate Park. He stated that he did not believe that the kids at that meeting really cared what materials were used, as long as they got their Skate Park. He added that there was some concern with making the Park user-friendly for all levels of skaters. Mr. Shelton then voiced concern with proceeding with a $75,000 bowl that would require excessive maintenance.

Mayor Martinez commented that one aspect of the modular design that he appreciated was being able to reconfigure the design, such as for competitions. A discussion then ensued as to possibly including different vertical elements rather than a bowl, for which Mayor Martinez voiced support. He spoke in favor of a modular design and clarified with staff the proposed design along the perimeter of the Park.

Council Member Hamilton commented that extreme sports was the current trend, citing the popularity of the “X Games.” He then stated that he was convinced that a modular design was the way to proceed.

Mr. Perrine indicated that according to the designer, streetscape was the currently the most desired design amongst skaters and that vertical elements were not as popular.

City Manager John Longley confirmed that staff would bring the item back with a modular design concept.

Disposition: Continued.

29. CONSIDER INITIATING AN EVALUATION OF CITY SPORT FIELDS USAGE, CAPACITY AND NEEDS

Recommendation: That the City Council discuss initiating an evaluation of City sport field use, capacity, needs, and provide direct to staff.

City Manager John Longley indicated that it had been requested that this item be held over until the Adjourned Meeting scheduled for May 10, 2005.

Disposition: Continued.
30. REVIEW OF REDEVELOPMENT ADVISORY COMMITTEE STRUCTURE - RESOLUTION 148-89

Recommendation: Informational item only.

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

Disposition: Informational item only.

ORAL COMMUNICATIONS

• Pete McCracken, 657 Village Green, voiced concern with the Council setting policy rather than allowing the City’s engineering staff its professional discretion.
• Dick Eckhoff, 197 North Main Street, posed questions regarding Items 25 and 26, including whether the bidders had a history of over bidding; if the City had previous success in re-bidding a project, and the length of time between engineer’s estimate and actual bids. Regarding Items 24 and 31, Mr. Eckhoff suggested City policy might result in more action.
• Greg Shelton, address on record, asked if the Council had any comments regarding the issue of a particular Oak tree that was currently the subject of debate.

OTHER MATTERS

• Mayor Pro Tem Irish requested that staff provide the Council with attendance records for members of City Committees and Boards.
• Council Member West requested that a Study Session be set to discuss options for utilizing the golf course. Staff confirmed that the item would be discussed at the Study Session scheduled for May 10, 2005.
• Council Member Stadtherr responded to comments made by Mr. McCracken. He then offered a five second video clip depicting the dangers to pedestrians at traffic-signaled intersections. He then thanked Council for its consideration of the roundabout issue.
• Mayor Martinez confirmed that staff would seek an extension for the grant pertaining to Item 25, and if no extension could be obtained, the project would die. Regarding the bike lane issue, Mayor Martinez confirmed that staff would keep the Council updated on the grant application. He then informed Council that he would request a vote of confidence at the next meeting.

ADJOURNMENT

The Council adjourned at 11:03 p.m. to the meeting of May 10, 2005 at 6:00 p.m.

_______________________________
Patrice Hildreth, Deputy City Clerk

SEAL

_______________________________
Pedro R. Martinez, Mayor
SUBJECT: PURCHASE OF SPECIALIZED EQUIPMENT

SOURCE: Public Works Department - Field Services Division

COMMENT: In accordance with the City's Purchasing Policy and Procedure Manual, as amended by Resolution No. 122-87 adopted by Council on October 10, 1987, Staff hereby requests approval to begin negotiations one month early for the purchase of one refuse truck.

On May 27, 2005, refuse truck unit 6638 was involved in a traffic accident and is beyond repair. This unit is scheduled to be replaced in fiscal year 05/06. Funds for the purchase of this equipment are available in the Equipment Replacement Fund.

RECOMMENDATION: That Council authorize purchase by negotiation of the specialized equipment and authorize payment for said equipment upon satisfactory delivery.
SUBJECT: PORTERVILLE POLICE DEPARTMENT COMMUNICATIONS CENTER UPGRADE

SOURCE: Police Department

COMMENT: The Porterville Police Department Communications Center has emergency communications equipment that is nearing its useful life. We are experiencing breakdowns that are difficult to repair because of the age of the equipment. A properly functioning communications console is vital to the safety and security of the citizens of Porterville and the police officers, and firefighters tasked with protecting our community. The equipment our dispatchers use on a daily basis to relay critical and confidential information was purchased used in 1989, the date the current police facility was built. The vendors and manufacturers of the equipment are unable to find parts to repair these critical components.

The Communications Center is the nerve center for emergency communications within the City of Porterville. Police, fire, ambulance, animal control, public works, and other inter-agency/intra-agency communication is facilitated by the staff and equipment located in the Communications Center. Additionally, in the event of a natural disaster, a critical incident that threatens our community, or a terrorist attack, the Communications Center is the key component in the successful implementation of the City of Porterville Emergency Operations Center.

The needs assessment focuses on the centers upgrade needs, incorporating the facilities expansion possibilities by assessing Porterville population growth projections, and explores revenue sources to offset the cost factors of the Communications Center upgrade.

The total estimated cost for the required upgrades is $423,245.04. A funding source of $249,451.43 in State of California grants funds to implement wireless 9-1-1 compatibility and GIS tracking software is secured for this project. The remaining balance for the upgrade of $173,793.61 is requested from savings in the Porterville Police Department 2004-2005 budget.

RECOMMENDATION: That the City Council:

1) Approve the expenditure of $173,793.61, in funds from the Porterville Police Department 2004-2005 fiscal year budget.

DD [ ] CM [ ] Appropriated/Funded _____ Item No. 3
SUBJECT: AUTHORIZATION TO ADVERTISE FOR BIDS - ANNUAL MAINTENANCE OF THE TULE RIVER PARKWAY, AND ROADWAY MEDIAN ISLANDS

SOURCE: Parks and Leisure Services Department

COMMENT: As the City grows and improvements are made to roadways, the amount of park and landscape facilities increases. In the current fiscal year, a new segment of the Tule River Parkway was constructed, and new median islands were installed along Orange Avenue. While preparing for the new budget year, the activity of maintaining unique components of landscape areas has been considered for efficiency and cost effectiveness.

Specification and bid packages for annual maintenance have been prepared for the purpose of obtaining bids for landscape maintenance services. One bid specification is for maintenance of the Tule River Parkway, from Main Street to Highway 190 and Indiana Street. The second bid package is for median island maintenance throughout the City. The bid packages include the new segment of the Tule River Parkway and the new Orange Avenue medians. Both of these new landscape areas will fall into the City Parks maintenance responsibility during the next fiscal year.

These two bid packages represent unique segments of park landscape maintenance, each of significant size and special requirements. The Tule River Parkway currently has no assigned staff, with maintenance staff from other areas being reallocated from day to day as needed. Maintenance is not consistent. The median islands are partially maintained by a contractor who was assigned when staffing levels were diminished several years ago. This maintenance effort was viewed as a 'stop gap', and is not fully adequate or comprehensive. City maintenance staff, again reallocated from other assignments, spend considerable time supplementing the services of the current contractor. With maintenance contractors in place, the City Parks maintenance staff can give more focus to their present assigned maintenance responsibilities.

RECOMMENDATION: Authorize the Purchasing Agent to advertise for separate bids for Annual Maintenance of the Tule River Parkway and Annual Maintenance of Median Islands

ITEM NO.: 1
SUBJECT: ACCEPTANCE OF THE WELL NO. 28 (PHASE ONE) PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: Zim Industries, Inc. has completed the water well drilling phase of the Well No. 28 Project. The new municipal water well is located on the west side of "F" Street, south of and next to the Wal-Mart Distribution Center. The first phase of the Well No. 28 Project consisted of drilling a 30" diameter bore hole 595 feet deep, installation of steel casing, development and production testing. The water quality is good and production will be approximately 550 gallons per minute.

The City's consultant, Dee Jaspar & Associates was involved with the project inspection and has given the City the inspection reports, as-built plans and other appurtenant information related to the construction of the project.

City Council authorized expenditure of $321,189.00. Final construction cost is $299,220.00.

Zim Industries, Inc. requests that the City accept the project as complete. Staff has reviewed the work and found it acceptable.

RECOMMENDATION: That the City Council:

1. Accept the Well No. 28 Project (Phase One) 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

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Dir Appropriated/Funded CM Item No. 5
SUBJECT: ACCEPTANCE OF THE WATER MAIN (F-GIBBONS-MAIN) PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: Halopoff & Sons, Inc. has completed the Water Main (F-Gibbons-Main) Project per plans and specifications. 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.

City Council authorized expenditure of $189,963.02. Final construction cost is $172,811.23.

Halopoff & Sons, Inc. requests that the City accept the project as complete. Staff has reviewed the work and found it acceptable.

RECOMMENDATION: That the City Council:

1. Accept the Water Main (F-Gibbons-Main) 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

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SUBJECT: ACCEPTANCE OF IMPROVEMENTS - NEW EXPRESSIONS, PHASE THREE SUBDIVISION (ENNIS HOMES, INC. - BRIAN ENNIS)

SOURCE: Public Works Department - Engineering Division

COMMENT: The Subdivider, Ennis Homes, Inc. (Brian Ennis, President), has requested that the public improvements constructed for their subdivision be accepted by the City for maintenance. All required improvements, including sidewalks, have been completed, inspected by City staff, and found acceptable.

The Subdivider has a one (1) year maintenance guarantee for five percent of the total cost of improvements on file with the City Clerk's Office.

RECOMMENDATION: That City Council:

1. Accept the public improvements of New Expressions, Phase Three subdivision for maintenance; and

2. Authorize the filing of the Notice of Completion, and release the payment guarantee thirty-five (35) days after recordation, provided no liens have been filed.

ATTACHMENT: Locator Map

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Dir Appropriated/Funded CM Item No. 7
COUNCIL AGENDA: JUNE 7, 2005

SUBJECT: PROGRAM SUPPLEMENT TO THE LOCAL AGENCY-STATE MASTER AGREEMENT - PRELIMINARY ENGINEERING FOR JAYE STREET/TULE RIVER BRIDGE REHABILITATION AND WIDENING PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: The Department of Transportation has submitted Program Supplement Agreement Number 026-M, and requests that the City execute said agreement. The executed agreement becomes a part of the Local-State Master Agreement No. 06-5122.

The Program Supplement attached is for preliminary engineering of the Jaye Street/Tule River Bridge rehabilitation and widening project. Said agreement describes the special covenants with which the City must comply.

RECOMMENDATION: That the City Council:

1. Approve the subject program supplement by passing a resolution authorizing the Mayor to sign the subject program supplement; and

2. Direct staff to return the signed program supplement to CalTrans.

ATTACHMENTS: Program Supplement Agreement No. 026-M
Locator Map
Resolution

P:\pubworld\Engineering\Council Items\Program Supplement to the Local Agency-State Master Agreement - Jaye Street Bridge Widening.wpd
This Program Supplement hereby incorporates the Administering Agency-State Agreement for Federal Aid which was entered into between the Administering Agency and the State on 05/14/97 and is subject to all the terms and conditions thereof. This Program Supplement is executed in accordance with Article I of the aforementioned Master Agreement under authority of Resolution No. (See copy attached).

The Administering Agency further stipulates that as a condition to the payment by State of any funds derived from sources noted below obligated to this project, the Administering Agency accepts and will comply with the Special covenants or Remarks setforth on the following pages.

PROJECT LOCATION:
Jay Street (Road 244) bridge over the Tule River.

TYPE OF WORK: Bridge Rehabilitation

<table>
<thead>
<tr>
<th>Estimated Cost</th>
<th>Federal Funds</th>
<th>Matching Funds</th>
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CITY OF PORTERVILLE

STATE OF CALIFORNIA
Department of Transportation

By

Chief, Office of Project Implementation
Division of Local Assistance

By

Chief, Office of Project Implementation
Division of Local Assistance

Date

Title

I hereby certify upon my personal knowledge that budgeted funds are available for this encumbrance:

Accounting Officer

Date 5/10/05

<table>
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<tr>
<th>Chapter</th>
<th>Statutes</th>
<th>Item</th>
<th>Year</th>
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Program Supplement 06-5122-M026- ISTEA
SPECIAL COVENANTS OR REMARKS

1. The ADMINISTERING AGENCY will advertise, award and administer this project in accordance with the most current published Local Assistance Procedures Manual.

2. All project repair, replacement and maintenance involving the physical condition and the operation of project improvements referred to in Article III MAINTENANCE, of the aforementioned Master Agreement will be the responsibility of the ADMINISTERING AGENCY and shall be performed at regular intervals and as required for efficient operation of the completed project improvements.

3. The ADMINISTERING AGENCY is required to have an audit in accordance with the Single Audit Act and OMB A-133 if it receives a total of $500,000 or more in federal funds in a single fiscal year. The federal funds received under this project are a part of the Catalogue of Federal Domestic Assistance (CFDA) 20.205, Highway Planning & Research. OMB A-133 superceded OMB A-128 in 1996. A reference to OMB A-128 in a Master Agreement (if any) is superceded by this covenant to conform to OMB A-133.

4. The ADMINISTERING AGENCY agrees that payment of Federal funds will be limited to the amounts approved by the Federal Highway Administration (FHWA) in the Federal-Aid Project Authorization/Agreement or Amendment/Modification (E-76) and accepts any resultant increases in ADMINISTERING AGENCY funds as shown on the Finance Letter, any modification thereof as approved by the Division of Local Assistance, Office of Project Implementation.

5. Award information shall be submitted by the ADMINISTERING AGENCY to the District Local Assistance Engineer immediately after the project contract award. A copy of the award package shall also be included with the submittal of the ADMINISTERING AGENCY's first invoice for the construction contract to:

Department of Transportation
Division of Accounting
Local Programs Accounting Branch, MS#33
P. O. Box 942874
Sacramento, CA 94274-0001
Failure to do so will cause a delay in the State processing invoices for the construction phase. Please refer to Section 15.7 "Award Package" of the Local Assistance Procedures Manual and LPP 01-06.

6. STATE and ADMINISTERING AGENCY agree that any additional funds which might be made available for new phase(s) of work by future Federal obligations will be encumbered on this PROJECT by use of a STATE approved "Authorization to Proceed" and Finance Letter. ADMINISTERING AGENCY agrees that Federal funds available for reimbursement will be limited to the amounts obligated by the Federal Highway Administration.

7. ADMINISTERING AGENCY agrees that it will only proceed with work authorized for specific phase(s) with an "Authorization to Proceed" and will not proceed with future phase(s) of this project prior to receiving an "Authorization to Proceed" from the STATE for that phase(s) unless no further State or Federal funds are needed for those future phase(s).

8. Any State and Federal funds that may have been encumbered for this project are only available for disbursement for a period of five (5) years and seven (7) years, respectively, from the start of the fiscal year(s) that those funds were appropriated within the State Budget Act. All project funds not liquidated within these periods will revert unless an executed Cooperative Work Agreement extending these dates is requested and is approved by the California Department of Finance per Government Code Section 16304. The exact date of each fund reversion will be reflected in the approved finance letter(s) issued for this project.

Notwithstanding the unliquidated sums of project specific State and Federal funding remaining and available to fund project work, any invoice for reimbursement that is not submitted to the Department on or before 60 days after that applicable fixed fund reversion date will not be paid from that fiscal year's encumbered funds because all of these unexpended funds will be irrevocably reverted by the Department's Division of Accounting on that date.

Pursuant to a directive from the State Controller's Office and
SPECIAL COVENANTS OR REMARKS

the Department of Finance, the last date to submit invoices for reimbursed work in each fiscal year is May 15th in order for payment to be made out of those then current appropriations. Project work performed and invoiced after May 15th will be reimbursed only out of available funding that might be encumbered in the subsequent fiscal year, and then only when those funds are actually allocated and encumbered as authorized by the California Transportation Commission and the Department's Accounting Office.

9. "ADMINISTERING AGENCY certifies that neither the ADMINISTERING AGENCY nor its principals are suspended or debarred at the time of the execution of this agreement. ADMINISTERING AGENCY agrees that it will notify the STATE immediately, in the event a suspension or a debarment happened after the execution of this agreement."

10. The ADMINISTERING AGENCY will reimburse the STATE for the ADMINISTERING AGENCY share of costs for work requested to be performed by the STATE.
RESOLUTION NO. __________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AUTHORIZING THE MAYOR TO SIGN PROGRAM SUPPLEMENT NO. 026-M TO ADMINISTER THE AGENCY-STATE AGREEMENT FOR FEDERAL-AID PROJECTS NO. 06-5122

BE IT RESOLVED by the City Council of the City of Porterville that the Mayor is hereby authorized to execute the document known as Program Supplement No. 026-M to Local Agency-State Master Agreement No. 06-5122, covering preliminary engineering for the Jaye Street/Tule River Bridge Rehabilitation and Widening Project.

ADOPTED this 7th day of June, 2005.

________________________________________
Kelly E. West, Mayor

ATTEST:

John Longley, City Clerk

________________________________________
By Georgia Hawley, Chief Deputy City Clerk
SUBJECT: APPROVAL OF RELOCATION 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. On April 5, 2005, City Council approved a Hardship Claim in the amount of $2,800.00 for moving expenses. At this time, the tenants have moved and are now submitting a Relocation Claim in the amount of $18,675.90, which is the balance of the total owed to Pedro M. and Maria Galvez.

RECOMMENDATION: That City Council:

1. Approve the Relocation Claim; and
2. Authorize staff to make a payment of $18,675.90 to Pedro M. & Maria Galvez, tenants.

ATTACHMENTS: 1. Claim for Relocation Assistance
PERSONAL INFORMATION NOTICE

Pursuant to the Federal Privacy Act (P.L. 93-579) and the Information Practices Act of 1977 (Civil Code Sections 1798, et seq.) notice is hereby given for the request of personal information by this form. The requested personal information is voluntary. The principal purpose of the voluntary information is to facilitate the processing of this form. The failure to provide all or any part of the requested information may delay processing of this form. No disclosure of personal information will be made unless permissible under Article 5, Section 1798.24 of the IPA of 1977. Each individual has the right upon request and proper identification, to inspect all personal information in any record maintained on the individual by an identifying particular. Direct any inquiries on information maintenance to your IPA Officer.

ALL CLAIMS MUST BE FILED WITHIN 18 MONTHS AFTER:

(a) For tenants, the date of displacement; or
(b) For owners, the date of displacement or the date of final payment for the acquisition of the real property, whichever is later.

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<td>245-040-017</td>
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<tr>
<td>Case No.:</td>
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1. DISPLACED (Head of Household OR all adult members):
Pedro M. Galvez, et al.

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<td>Date Occupied Replacement Property:</td>
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<td>Final Date to file all Claims:</td>
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2. DISPLACEMENT PROPERTY:
2250 W. Henderson Avenue
Porterville, CA 93270

3. REPLACEMENT PROPERTY:
1040 N. Jay Street
Porterville, CA 93270

4. REPLACEMENT HOUSING PAYMENTS BEING CLAIMED (See attached support documentation)

   For 90-day occupants – tenants & owners (including mobile homes):
   A. Rent Differential (Lump Sum) (Balance): $19,275.90
   B. Rent Differential (See attached worksheet): $19,275.90
   C. Down payment and/or Incidents: $0
   D. Other: $0

   For 180-day occupant – owner only (including mobile homes):
   E. Price Differential (Advance/Estimate) (Final): $0
   F. Mortgage Differential (Advance/Estimate) (Final): $0
   G. Incidental Expenses (Advance/Estimate) (Final) – (see attached worksheet): $0
   H. Other: $0

Moving Expense (For 90-day and 180-day occupants):
I. Fixed Moving Schedule (9 Rooms): $2,200.00
J. Actual Moving Expense: $0
K. Utility Hookups: $0
L. Move Cost Finding: $0
M. Other: $0

Total Claim: $21,475.90
Less Hardship Advance Payment Received: $2,800.00
Total Amount Claimed: $18,675.90

I CERTIFY that I have not submitted any other claim for, or received reimbursement or compensation for, any item of expense in this claim, from the City of Porterville nor from any other public agency or private company, and that I will not accept reimbursement or compensation from any other source for any item of expense paid pursuant to this claim. I further certify that all information submitted herewith or included herein is true and correct. I understand that, in addition to the penalty provided by Penal Code Section 72, falsification of any item in this claim as submitted herewith may result in forfeiture of the entire claim.

Displacee's Signature: Pedro M. Galvez  Date: 5-19-05
Displacee's Signature: Maria Galvez  Date: 5-18-05

I CERTIFY that I examined this claim and substantiation documentation and have found it to conform to the applicable provisions of State of California, Title 25 Regulations. This claim is approved for a payment of $18,675.90.

Authorized Signature:  Date:
Relocation Consultant:  Date:

ADA Notice: For individuals with disabilities, this document is available in alternate formats. For information call (916) 654-5413 Voice, CRS: 1-800-735-2929, or write Right of Way, 1125 N Street, MS-37, Sacramento, CA 95814.
SUBJECT: AIRPORT HANGAR PURCHASE - ACCEPTANCE OF LOAN

SOURCE: FIRE DEPARTMENT/AIRPORT

COMMENT: At the Council Meeting of November 2, 2004, Council directed staff to complete negotiations with Mr. Coulter for the purchase of his hangar at the Porterville Municipal Airport. A negotiated amount of $118,000 was achieved and supported by a licensed appraisal with an analysis by Caltrans of the “value-over-time” to the Airport.

Staff submitted a loan request to Caltrans for $118,000 to purchase the hangar along with an analysis which indicates the City’s airport fund has the ability to repay the loan within eight years. Caltrans has approved our loan request, extended the repayment time from 8 years to 12 years with no prepayment penalty, and is developing the necessary documents for the City to sign. The interest rate is fixed at 4.4477% per year.

RECOMMENDATION: That the City Council:

1. Authorize the acceptance of the loan from Caltrans;
2. Authorize the Mayor to sign all necessary documents;
3. Authorize staff to begin escrow, with the City paying normal and customary escrow fees;
4. Authorize staff to make payment to Art Coulter in the amount of $118,000, less customary fees; and
5. Authorize staff to record all documents with the County Recorder.

ATTACHMENTS: 1- California Airport Loan Agreement
CALIFORNIA AIRPORT LOAN AGREEMENT

THIS AGREEMENT, MADE AND ENTERED INTO THIS 24th DAY OF MAY, 2005, BY AND BETWEEN THE STATE OF CALIFORNIA, Department of Transportation, hereinafter referred to as "STATE," AND THE CITY OF PORTERVILLE, a political subdivision of the State of California, hereinafter referred to as "PUBLIC ENTITY."

WHEREAS, the Legislature has provided that the STATE may render assistance to a political subdivision or political subdivisions jointly in the form of loans for the purpose of planning, acquisition, construction, improvement, maintenance, or operation of an airport owned or controlled, or to be owned or controlled by the political subdivision or subdivisions; and

WHEREAS, STATE has provided, through regulations, loan assistance to eligible political subdivisions which have met certain conditions of eligibility; and

WHEREAS, this project meets all criteria for an eligible project as set forth in Public Utilities Code, Section 21602, and Title 21, Subchapter 4.5, of the California Code of Regulations, California Airport Loan Program Regulations, Sections 4071 and 4072;

NOW, THEREFORE, in consideration of the covenants and conditions herein contained, STATE and PUBLIC ENTITY agree as follows:

1. The provisions of Title 21, Subchapter 4.5, of the California Code of Regulations, California Airport Loan Program Regulations, are hereby incorporated in and made a part of this agreement.

2. STATE will lend PUBLIC ENTITY the sum of $118,000 to purchase hangars at the Porterville Municipal Airport hereinafter referred to as the "PROJECT." The loan will extend for a period of 12 years at an annual interest rate of 4.4477 percent.

3. All money disbursed to PUBLIC ENTITY under this agreement, and all interest earned on such money shall be used solely for the payment of costs necessarily incurred by PUBLIC ENTITY for the completion of the PROJECT and repayment of STATE's loan.

4. PUBLIC ENTITY shall deposit all loan funds received from STATE and income received from the PROJECT in a separate account within the airport's special aviation fund as required by Section 4073(d), Title 21 of the California Code of Regulations. PUBLIC ENTITY agrees to hold the funds in the separate account in trust for repayment of this loan and accrued interest. PUBLIC ENTITY expenditures from this account are limited to the PROJECT's normal maintenance costs and expenditures made pursuant to the terms of this agreement, until STATE's loan and accrued interest are fully repaid.
5. PUBLIC ENTITY shall repay the principal amount in successive annual payments in accordance with Exhibit A plus accrued interest. The annual payments become due one year from the date the warrant is issued to PUBLIC ENTITY and each year thereafter. Interest will be computed on a daily basis.

6. Upon completion of the PROJECT, a "Statement" will be filed with STATE itemizing all costs incurred by PUBLIC ENTITY for PROJECT.

7. PUBLIC ENTITY agrees that all money received from STATE for PROJECT in excess of actual cost of project shall be returned to STATE to be applied to the loan principal to accelerate the repayment of the loan.

8. PUBLIC ENTITY may make additional payments of any or all of the principal amount of the loan at any time with the accrued interest without penalty. However, prepayments shall not relieve PUBLIC ENTITY of its obligation to make the annual payments in accordance with Exhibit A and accrued interest on the loan anniversary date until the loan is repaid in full.

9. Payments shall be made payable to the order of the Division of Aeronautics and sent to the Department of Transportation, Division of Accounting — Cashiering Unit, MS# 58, P. O. Box 168019, Sacramento, California 95816-8019.

10. PUBLIC ENTITY agrees to complete the construction of the PROJECT not later than May 30, 2006. This date may be extended by the written approval of STATE.

11. PUBLIC ENTITY agrees to complete the PROJECT in accordance with the plans and specifications or with any revisions to such plans which have been reviewed and accepted by State.

12. STATE shall have the right to inspect the PROJECT at any time during the life of this agreement.

13. PUBLIC ENTITY agrees not to relocate, sell, transfer, exchange, mortgage, hypothecate, or encumber in any way whatsoever all or any portion of the PROJECT or any real or other property necessarily connected or used in conjunction therewith without prior permission of STATE.

14. PUBLIC ENTITY agrees that all books, records, and accounts relating to this agreement shall be available for examination by STATE and shall be retained for at least three (3) years after retirement of the loan.

15. Neither STATE nor any officer or employee thereof shall be responsible for any damage or liability occurring by reason of anything done or omitted to be done by PUBLIC ENTITY under or in connection with any work, authority, or jurisdiction delegated to STATE under this agreement. Pursuant to Government Code, Section 895.4, PUBLIC ENTITY shall indemnify, hold harmless, and defend STATE, its officers, agents, and employees against any and all claims, demands, damages, costs, expenses or liability costs arising out of the construction, operation, or maintenance of the PROJECT.

16. This agreement and all of its provisions shall apply to and bind the successors and assigns of the parties hereto.

17. PUBLIC ENTITY shall execute this agreement before June 30, 2005, or this agreement shall be deemed null and void.

IN WITNESS THEREOF, the parties hereto have caused this agreement to be executed by their respective officers, duly authorized, the provisions of which agreement are effective as of the day, month, and year hereinabove written.

Page 2 of 3 (R)
PUBLIC ENTITY'S ACCEPTANCE

CITY OF PORTERVILLE
Public Entity

By __________________________
Authorized Signature

Title _________________________

Date _________________________

STATE OF CALIFORNIA
DEPARTMENT OF TRANSPORTATION
Division of Aeronautics

I hereby certify that all conditions for exemptions set forth in State Administrative Manual, Section 1209, have been complied with and this document is exempt from review by the Department of Finance.

______________________________
R. AUSTIN WISWELL, Chief
Division of Aeronautics

Date _________________________

Amount Encumbered: $118,000
Porterville Municipal Airport

PUC Code Section: 21602
Chapter 901; Statutes of 1986
Local Airport Loans

I hereby certify upon my own personal knowledge that budgeted funds are available for this encumbrance.

______________________________
Signature of Accounting Officer
Department of Transportation

Date _________________________

FOR DEPARTMENT OF GENERAL SERVICES USE ONLY
EXHIBIT A
Schedule for Repayment of Principal on Airport Loan

Department of Transportation
Division of Aeronautics
Airport Loan Program

Airport Name: Porterville Municipal

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<th>Principal Due</th>
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Department of Transportation
Division of Aeronautics
Airport Loan Program
Revenue Generating Loan - Hangars

Airport: Porterville Municipal

Loan #: Tul-5-04-L-1

Cost per Hangar: $118,000
Local Contribution: 0

Number of Hangars: 1
Total Loan Amount: $118,000

Monthly Rent - Initial: $1,583
Interest Rate: 4.4477%

Annual Rent Increase: 1.00%
Years of Loan: 12

Monthly Rent, 12th Yr: $1,766

Date of Worksheet: 5/24/05

Date of SCO Warrant: enter when known

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<th>Year</th>
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Total: $118,000 $39,130 $157,130 $240,917 $83,787
SUBJECT: TRANSIT CENTER LEASES

SOURCE: Administration (Transit)

COMMENT: The two commercial leases for the Transit Center expire June 30, 2005. The tenant with the largest amount of leased space is Sierra Management, with monthly rental payable to the City in the amount of $600.

Orange Belt Stages leases office space on the north side of the Transit Center at a monthly rental of $125.

Attached are Leases for each of the tenants, with basically the same terms and conditions as the current Lease.

RECOMMENDATION: That the City Council:

1. Approve the Leases with Sierra Management and Orange Belt Stages; and

2. Authorize the Mayor to execute the Leases which will go into effect July 1, 2005.

ATTACHMENTS: 1. Commercial Lease (Sierra Management)
2. Commercial Lease (Orange Belt Stages)
COMMERCIAL LEASE

The City of Porterville ("Lessor"), hereby offers to lease to Sierra Management ("Lessee") the Property situated in the County of Tulare, State of California, that certain space outlined on the plat map attached and marked as Exhibit "A" in the City of Porterville’s Transit Building located at 61 West Oak, Porterville, California, 93257 (the "Property") upon the following TERMS and CONDITIONS:

1. **TERM:** The tenancy shall be for one year, commencing July 1, 2005 and ending June 30, 2006.

2. **RENT:** The rent shall be $600.00 per month plus Lessee’s share of utility and maintenance costs as described in Paragraph 12 below, payable as follows: $600.00 plus Lessee’s share of utility costs on or before the fifteenth day of each month. All rents shall be paid to Lessor, at the following address: 291 North Main Street, Porterville, California 93257. In the event rent is not paid by the date due, Lessee agrees to pay a **late charge** of $30.00. Lessee further agrees to pay $18.00 for each dishonored bank check. The late charge period is **not** a grace period, and shall be considered "additional rent," and Lessor is entitled to make written demand for any rent, including "additional rent," if not paid when due. Any unpaid balances remaining after termination of occupancy are subject to 12% interest per month or the maximum rate allowed by law.

3. **USE:** The Premises are to be used for Lessee’s operational and management services for Fixed Route and Dial-A-Ride public transit services.

4. **USES PROHIBITED:** Lessee shall not use any portion of the Premises for purposes other than those specified hereinabove, and no use shall be made or permitted to be made upon the Premises, nor acts done, which will increase the existing rate of insurance upon the property, or cause cancellation of insurance policies covering said property.

5. **ASSIGNMENT AND SUBLetting:** Lessee shall not assign this Lease or sublet any portion of the Premises without prior written consent of the Lessor. Lessor is entitled to withhold such consent for any reason it deems appropriate. Any such assignment or subletting without consent shall be void and, at the option of the Lessor, may terminate this Lease.

6. **ORDINANCES AND STATUTES:** Lessee shall comply with all statutes, ordinances and requirements of all municipal, state and federal authorities now in force, or which may hereafter be in force, pertaining to the Premises, occasioned by or affecting the use thereof by Lessee. The commencement or pendency of any state or federal court abatement proceeding affecting the use of the Premises shall, at the option of the Lessor, be deemed a breach hereof.

7. **MAINTENANCE, REPAIRS, ALTERATIONS:** Lessee acknowledges having inspected the Premises and hereby accepts the Premises in their present condition. Lessee shall, at its own expense and at all times, maintain the Premises in good and safe condition, including plate glass, electrical wiring, plumbing and heating installations, and any other system or equipment upon the Premises and shall surrender the same, at termination hereof, in as good condition as received, normal wear and tear excepted. Lessee shall be responsible for all repairs required as a result of inappropriate usage or behavior of Lessee or any of its employees. Lessor shall be responsible for other repairs to the plate glass, electrical wiring, plumbing and heating installations, due to normal wear and tear or mechanical malfunctions, or acts of vandalism.

No improvement or alteration of the Premises shall be made without the prior written consent of the Lessor. Prior to the commencement of any substantial repair, improvement, or alterations, Lessee shall give Lessor at least two (2) weeks written notice in order that Lessor may post appropriate notices to avoid any liability for liens.

Lessee shall not commit any waste upon the Premises, or any nuisance or act which may disturb the quiet enjoyment of any tenant in the building.
8. ENTRY AND INSPECTION: Lessee shall permit Lessor or Lessor's agents to enter upon the Premises at reasonable times and upon reasonable notice, for the purpose of inspecting the same and will permit Lessor at any time within sixty (60) days prior to the expiration of this Lease, to place upon the Premises any usual "To Let" or "For Lease" signs or "For Sale" signs and permit persons desiring to lease or purchase the same to inspect the Premises thereafter.

9. INDEMNIFICATION OF LESSOR: Lessor shall not be liable for any damage or injury to Lessee, or any other person, or to any property, occurring on the leased portions of the premises or any part thereof, and Lessee agrees to hold Lessor harmless from any claims for damages, no matter how caused, save and excepting only those caused solely by the gross negligence of Lessor.

10. POSSESSION: If Lessor is unable to deliver possession of the Premises at the commencement hereof, Lessor shall not be liable for any damage caused thereby, nor shall this Lease be void or voidable, but Lessee shall not be liable for any rent until possession is delivered. Lessee may terminate this Lease if possession is not delivered within ten (10) days of the commencement of the term hereof.

11. INSURANCE: Lessee, at its expense, shall procure and maintain for the mutual benefit of Lessor and Lessee, throughout the term of this Lease, public liability insurance including bodily injury and property damage insuring Lessee and Lessor with minimum coverage as follows: $5,000,000.00 for personal injury or death for each person and $5,000,000.00 for personal injury or death of two or more persons in each accident or event. Lessor shall be named as an additional insured and the policy shall contain cross-liability endorsements. Lessor 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. Furthermore, Lessor shall maintain, for the mutual benefit of Lessor and Lessee, general public liability and property damage insurance covering the common areas against claims for personal injuries, death, or property damage, in the amounts determined by Lessor at its sole discretion.

12. UTILITIES AND SERVICES: Lessee agrees that it shall pay its proportionate share of utilities. Lessee shall be responsible for 85% of the costs of electricity, gas, refuse, and the electronic security system. Lessee shall be responsible for its own telephone and communications services, and domestic water service. Lessor shall be responsible for water service for landscaping.

13. COMMON AREAS: Lessor shall make available at all times during the term of this lease in any portion of the Building that Lessor from time to time designates or relocates, automobile parking and common areas (jointly referred to as "common areas," as that term is defined below) as Lessor shall from time to time deem appropriate. Lessee shall have the nonexclusive right during the term of this lease to use the common areas for itself, its employees, agents, customers, clients, invitees, and licensees. The term "common areas" means the portions of the Building that, at the time in question, have been designated and improved for common use by or for the benefit of more than one tenant of the Building, including the parking areas; access and perimeter roads; landscaped areas; exterior walks, stairways, elevators, escalators and/or ramps; interior corridors, elevators, stairs, and balconies; directory equipment; the main entry lobby; restrooms; and drinking fountains. Lessor reserves the right to redesignate a common area for a non-common use or to designate as a common area a portion of the Building not previously designated a common area. All common areas shall be subject to the exclusive control and management of Lessor or those designated by Lessor to exercise management and control. Lessor shall have the right to establish, modify, amend and enforce reasonable rules and regulations with respect to the common areas and the Building. Lessee shall fully and faithfully comply with and observe the rules and regulations for the common areas and the Building of which the leased space is a part. Lessor shall not be liable in any way for failure of any other occupant of the Building of which the leased space is a part to comply with and observe these rules and regulations.
14. **TRADE FIXTURES:** Any and all improvements made to the Premises during the Lessee’s occupancy hereof shall belong to the Lessor, except trade fixtures of the Lessee. Lessee may, upon termination hereof, remove all its trade fixtures, but shall repair or pay for all repairs necessary for damages to the Premises occasioned by removal.

15. **DESTRUCTION OF PREMISES:** In the event of a partial destruction of the Premises during the term hereof, from any cause, Lessor shall forthwith repair the same to the extent that proceeds of insurance are available to Lessor, provided that such repairs can be made within sixty (60) days under existing governmental laws and regulations, but such partial destruction shall not terminate this Lease, except that Lessee shall be entitled to a proportionate reduction of rent while such repairs are being made, based upon the extent to which the making of such repairs shall interfere with the business of Lessee on the Premises. If such repairs cannot be made within said sixty (60) days, Lessor, at its option, may make the same within a reasonable time, this Lease continuing in effect with the rent proportionately abated as aforesaid, and in the event that Lessor shall not elect to make such repairs which cannot be made within sixty (60) days, this Lease may be terminated at the option of either party.

In the event the building in which the demised Premises may be situated is destroyed to an extent of not less than one-third of the replacement costs thereof, Lessor may elect to terminate this Lease whether the demised Premises be injured or not. A total destruction of the building in which the Premises may be situated shall terminate this Lease. In either case the election of Lessor shall be without regard to the availability of insurance proceeds available to Lessor.

16. **HAZARDOUS MATERIALS:** Lessee shall not use, store, or dispose of any hazardous substances upon the Premises, except use and storage of such substances if they are customarily used in Lessee’s business, and such use and storage complies with all environmental laws. Hazardous substances means any hazardous waste, substance or toxic materials regulated under any environmental laws or regulations applicable to the property.

17. **INSOLVENCY:** In the event a receiver is appointed to take over the business of Lessee, or in the event Lessee makes a general assignment for the benefit of creditors, or Lessee takes or suffers any action under any solvency or bankruptcy act, the same shall constitute breach of this Lease by Lessee.

18. **BREACH OF LEASE/DEFAULT:** The following are deemed to be breaches of this Lease: 1) failure to pay rent for a period of two months; 2) failure of Lessee to maintain the property in a good and safe condition, and in the same condition existing at the time this agreement was executed; 3) failure of Lessee to comply with any provision in this lease; 4) the execution, attachment or other judicial seizure of substantially all of Lessee’s assets located at the leased premises or of Lessee’s interest in the lease, when the seizure is not discharged within 15 days; or 5) the breach of this lease and abandonment of the lease premises before the expiration of the term of this lease.

19. **REMEDIES OF LESSOR ON DEFAULT:** In the event of any breach of this Lease by Lessee, Lessee may, at its option, terminate the Lease by hand delivering written notice of termination specifying the alleged default, and recover from Lessee: (a) the worth at the time of award of the unpaid rent which was earned at the time of termination; (b) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of the award exceeds the amount of such rental loss that Lessee proves could have been reasonably avoided; (c) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that Lessee proves could be reasonably avoided; and (d) any other amount necessary to compensate Lessee for all detriment proximately caused by Lessee’s failure to perform his obligations under the Lease or which in the ordinary course of things would be likely to result therefrom. Upon receiving such notice of termination, Lessee shall vacate the premises. In lieu of, or in addition to, bringing an action for any or all of the recoveries described
above, Lessor may bring an action to recover and regain possession of the leased premises in the manner provided by the California law of unlawful detainer then in effect.

Lessor may, in the alternative, continue this Lease in effect, as long as Lessor does not terminate Lessee's right to possession, and Lessor may enforce all its rights and remedies under the Lease, including the right to recover the rent, including "additional rent", as it becomes due under the Lease. If said breach of Lease continues, Lessor may, at any time thereafter, elect to terminate the Lease.

The remedies set forth in this enumerated section are not exclusive; they are cumulative in addition to any remedies now or later allowed by law.

20. WAIVER OF RIGHT TO JURY TRIAL: In the event there shall be a dispute between Lessor and Lessee and either party shall file an action against the other party to enforce their rights under this Lease, to interpret the Lease terms, or arising out of their relationship as Lessee and Lessor, the parties agree that the matter shall be tried by the court without a jury and each party specifically waives the right to a jury trial in any such action.

21. ATTORNEY'S FEES AND COSTS: In any action or proceeding involving a dispute between Lessor, and Lessee, arising out of the execution of this lease, or to enforce the terms and conditions of this lease, the prevailing party shall be entitled to receive from the other party reasonable attorney's fees, expert fees, appraisal fees, and all other costs incurred in connection with such action or proceedings, to be determined by the court or arbitrator(s).

22. WAIVER: No failure of Lessor to enforce any term hereof shall be deemed to be a waiver.

23. NOTICES: Any notice which either party may or is required to give other than as otherwise provided in this Lease, shall be given by hand delivery or by mailing the same, postage prepaid, to Lessee or Lessor at the addresses shown below, or at such other places as may be designated by the parties, by notice in writing to the other party, from time to time.

24. TIME: Time is of the essence of this Lease.

25. HEIRS, ASSIGNS, SUCCESSORS: This Lease is binding upon and inures to the benefit of the heirs, assigns and successors in interest to the parties.

26. LESSOR'S LIABILITY: The term "Lessor," as used in this paragraph, shall mean only the owner of the real property. In the event of any transfer of such title or interest, the Lessor named herein (or the grantor in case of any subsequent transfers) shall be relieved of all liability related to Lessor's obligations to be performed after such transfer. Provided, however, that any funds in the hands of Lessor or Grantor at the time of such transfer shall be delivered to Grantee. Lessor's obligations hereunder shall be binding upon Lessor's successors and assigns only during their respective periods of ownership.

27. INDEPENDENT COUNSEL: Lessee acknowledges it has been advised by all other parties and counsel to seek independent legal counsel to assist in reviewing this document before executing it and ask said legal counsel to explain its import and meaning. Any signature by Lessee represents, inter alia, that it has had independent counsel assistance, or that it has personally reviewed and studied the Lease, understands each and every term, chooses not to avail itself to the assistance of independent legal counsel, and agrees fully with each and every term of this Lease. All parties acknowledge and understand that this agreement was a freely, openly negotiated document and that those attorneys that did assist in negotiation represented the interests only of their clients and not those of the parties who have chosen to waive the assistance of independent legal counsel.
DATED: ________________

LESSOR:

CITY OF PORTERVILLE

By: _______________________
   Mayor

__________________________
   City Manager

DATED: ________________

LESSEE:

SIERRA MANAGEMENT

_____________________
Steven Tree, Owner
COMMERCIAL LEASE

The City of Porterville ("Lessor"), hereby offers to lease to Orange Belt Stages ("Lessee") the Property situated in the County of Tulare, State of California, that certain space outlined on the plat map attached and marked as Exhibit "A" in the City of Porterville’s Transit Building located at 61 West Oak, Porterville, California, 93257 (the "Property") upon the following TERMS and CONDITIONS:

1. **TERM:** The tenancy shall be for one year, commencing July 1, 2005 and ending June 30, 2006.

2. **RENT:** The rent shall be $125.00 per month plus Lessee’s share of utility costs as described in Paragraph 12 below, payable as follows: $125.00 plus Lessee’s share of utility costs on or before the fifth day of each month. All rents shall be paid to Lessor, at the following address: 291 North Main Street, Porterville, California 93257. In the event rent is not paid by the date due, Lessee agrees to pay a late charge of $30.00. Lessee further agrees to pay $18.00 for each dishonored bank check. The late charge period is not a grace period, and shall be considered "additional rent", and Lessor is entitled to make written demand for any rent, including "additional rent," if not paid when due. Any unpaid balances remaining after termination of occupancy are subject to 1½% interest per month or the maximum rate allowed by law.

3. **USE:** The Premises are to be used for Lessee’s operation and management of transportation and bus services.

4. **USES PROHIBITED:** Lessee shall not use any portion of the Premises for purposes other than those specified hereinabove, and no use shall be made or permitted to be made upon the Premises, nor acts done, which will increase the existing rate of insurance upon the property, or cause cancellation of insurance policies covering said property.

5. **ASSIGNMENT AND SUBLETTING:** Lessee shall not assign this Lease or sublet any portion of the Premises without prior written consent of the Lessor. Lessor is entitled to withhold such consent for any reason it deems appropriate. Any such assignment or subletting without consent shall be void and, at the option of the Lessor, may terminate this Lease.

6. **ORDINANCES AND STATUTES:** Lessee shall comply with all statutes, ordinances and requirements of all municipal, state and federal authorities now in force, or which may hereafter be in force, pertaining to the Premises, occasioned by or affecting the use thereof by Lessee. The commencement or pendency of any state or federal court abatement proceeding affecting the use of the Premises shall, at the option of the Lessor, be deemed a breach hereof.

7. **MAINTENANCE, REPAIRS, ALTERATIONS:** Lessee acknowledges having inspected the Premises and hereby accepts the Premises in their present condition. Lessee shall, at its own expense and at all times, maintain the Premises in good and safe condition, including plate glass, electrical wiring, plumbing and heating installations, and any other system or equipment upon the Premises and shall surrender the same, at termination hereof, in as good condition as received, normal wear and tear excepted. Lessee shall be responsible for all repairs required as a result of inappropriate usage or behavior of Lessee, or any of its employees. Lessor shall be responsible for other repairs to the plate glass, electrical wiring, plumbing and heating installations, due to normal wear and tear or mechanical malfunctions, or acts of vandalism.

No improvement or alteration of the Premises shall be made without the prior written consent of the Lessor. Prior to the commencement of any substantial repair, improvement, or alterations, Lessee shall give Lessor at least two (2) weeks written notice in order that Lessor may post appropriate notices to avoid any liability for liens.

Lessee shall not commit any waste upon the Premises, or any nuisance or act which may disturb the quiet enjoyment of any tenant in the building.
8. **ENTRY AND INSPECTION:** Lessee shall permit Lessor or Lessor’s agents to enter upon the Premises at reasonable times and upon reasonable notice, for the purpose of inspecting the same and will permit Lessor at any time **within sixty (60) days** prior to the expiration of this Lease, to place upon the Premises any usual "To Let" or "For Lease" signs or "For Sale" signs and permit persons desiring to lease or purchase the same to inspect the Premises thereafter.

9. **INDEMNIFICATION OF LESSOR:** Lessor shall not be liable for any damage or injury to Lessee, or any other person, or to any property, occurring on the leased portions of the premises or any part thereof, and Lessee agrees to hold Lessor harmless from any claims for damages, no matter how caused, save and excepting only those caused solely by the gross negligence of Lessor.

10. **POSSESSION:** If Lessor is unable to deliver possession of the Premises at the commencement hereof, Lessor shall not be liable for any damage caused thereby, nor shall this Lease be void or voidable, but Lessee shall not be liable for any rent until possession is delivered. Lessee may terminate this Lease if possession is not delivered **within ten (10) days** of the commencement of the term hereof.

11. **INSURANCE:** Lessee, at its expense, shall procure and maintain for the mutual benefit of Lessor and Lessee, throughout the term of this Lease, public liability insurance including bodily injury and property damage insuring Lessee and Lessor with minimum coverage as follows: $5,000,000.00 for personal injury or death for each person and $5,000,000.00 for personal injury or death of two or more persons in each accident or event. Lessor shall be named as an additional insured and the policy shall contain cross-liability endorsements. Lessor 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. Furthermore, Lessor shall maintain, for the mutual benefit of Lessor and Lessee, general public liability and property damage insurance covering the common areas against claims for personal injuries, death, or property damage, in the amounts determined by Lessor at its sole discretion.

12. **UTILITIES AND SERVICES:** Lessee agrees that it shall pay its proportionate share of utilities. Lessee shall be responsible for 15% of the costs of electricity, gas, refuse, and the electronic security system. Lessee shall be responsible for its own telephone and communications services, and its domestic water service. Lessor shall be responsible for water service for landscaping.

13. **COMMON AREAS:** Lessor shall make available at all times during the term of this lease in any portion of the Building that Lessor from time to time designates or relocates, automobile parking and common areas (jointly referred to as “common areas,” as that term is defined below) as Lessor shall from time to time deem appropriate. Lessee shall have the nonexclusive right during the term of this lease to use the common areas for itself, its employees, agents, customers, clients, invitees, and licensees. The term “common areas” means the portions of the Building that, at the time in question, have been designated and improved for common use by or for the benefit of more than one tenant of the Building, including the parking areas; access and perimeter roads; landscaped areas; exterior walks, stairways, elevators, escalators and/or ramps; interior corridors, elevators, stairs, and balconies; directory equipment; the main entry lobby; restrooms; and drinking fountains. Lessor reserves the right to redesignate a common area for a non-common use or to designate as a common area a portion of the Building not previously designated a common area. All common areas shall be subject to the exclusive control and management of Lessor or those designated by Lessor to exercise management and control. Lessor shall have the right to establish, modify, amend and enforce reasonable rules and regulations with respect to the common areas and the Building. Lessee shall fully and faithfully comply with and observe the rules and regulations for the common areas and the Building of which the leased space is a part. Lessor shall not be liable in any way for failure of any other occupant of the Building of which the leased space is a part to comply with and observe these rules and regulations.
14. **TRADE FIXTURES:** Any and all improvements made to the Premises during the Lessee’s occupancy hereof shall belong to the Lessor, except trade fixtures of the Lessee. Lessee may, upon termination hereof, remove all its trade fixtures, but shall repair or pay for all repairs necessary for damages to the Premises occasioned by removal.

15. **DESTRUCTION OF PREMISES:** In the event of a partial destruction of the Premises during the term hereof, from any cause, Lessor shall forthwith repair the same to the extent that proceeds of insurance are available to Lessor, provided that such repairs can be made **within sixty (60) days** under existing governmental laws and regulations, but such partial destruction shall not terminate this Lease, except that Lessee shall be entitled to a proportionate reduction of rent while such repairs are being made, based upon the extent to which the making of such repairs shall interfere with the business of Lessee on the Premises. If such repairs cannot be made **within said sixty (60) days,** Lessor, at its option, may make the same within a reasonable time, this Lease continuing in effect with the rent proportionately abated as aforesaid, and in the event that Lessor shall not elect to make such repairs which cannot be made **within sixty (60) days,** this Lease may be terminated at the option of either party.

In the event the building in which the demised Premises may be situated is destroyed to an extent of not less than one-third of the replacement costs thereof, Lessor may elect to terminate this Lease whether the demised Premises be injured or not. A total destruction of the building in which the Premises may be situated shall terminate this Lease. In either case the election of Lessor shall be without regard to the availability of insurance proceeds available to Lessor.

16. **HAZARDOUS MATERIALS:** Lessee shall not use, store, or dispose of any hazardous substances upon the Premises, except use and storage of such substances if they are customarily used in Lessee’s business, and such use and storage complies with all environmental laws. Hazardous substances means any hazardous waste, substance or toxic materials regulated under any environmental laws or regulations applicable to the property.

17. **INSOLVENCY:** In the event a receiver is appointed to take over the business of Lessee, or in the event Lessee makes a general assignment for the benefit of creditors, or Lessee takes or suffers any action under any solvency or bankruptcy act, the same shall constitute breach of this Lease by Lessee.

18. **BREACH OF LEASE/DEFAULT:** The following are deemed to be breaches of this Lease: 1) failure to pay rent for a period of two months; 2) failure of Lessee to maintain the property in a good and safe condition, and in the same condition existing at the time this agreement was executed; 3) failure of Lessee to comply with any provision in this lease; 4) the execution, attachment or other judicial seizure of substantially all of Lessee’s assets located at the leased premises or of Lessee’s interest in the lease, when the seizure is not discharged within 15 days; or 5) the breach of this lease and abandonment of the lease premises before the expiration of the term of this lease.

19. **REMEDIES OF LESSOR ON DEFAULT:** In the event of any breach of this Lease by Lessee, Lessor may, at its option, terminate the Lease by hand delivering written notice of termination specifying the alleged default, and recover from Lessee: (a) the worth at the time of award of the unpaid rent which was earned at the time of termination; (b) the worth at the time of award of the amount by which the unpaid rent which would have been earned after termination until the time of the award exceeds the amount of such rental loss that the Lessee proves could have been reasonably avoided; (c) the worth at the time of award of the amount by which the unpaid rent for the balance of the term after the time of award exceeds the amount of such rental loss that Lessee proves could be reasonably avoided; and (d) any other amount necessary to compensate Lessor for all detriment proximately caused by Lessee’s failure to perform its obligations under the Lease or which in the ordinary course of things would be likely to result therefrom. Upon receiving such notice of termination, Lessee shall vacate the premises. In lieu of, or in addition to, bringing an action for any or all of the recoveries described
above, Lessor may bring an action to recover and regain possession of the leased premises in the manner provided by the California law of unlawful detainer then in effect.

Lessor may, in the alternative, continue this Lease in effect, as long as Lessor does not terminate Lessee’s right to possession, and Lessor may enforce all its rights and remedies under the Lease, including the right to recover the rent, including "additional rent", as it becomes due under the Lease. If said breach of Lease continues, Lessor may, at any time thereafter, elect to terminate the Lease.

The remedies set forth in this enumerated section are not exclusive; they are cumulative in addition to any remedies now or later allowed by law.

20. **WAIVER OF RIGHT TO JURY TRIAL:** In the event there shall be a dispute between Lessor and Lessee and either party shall file an action against the other party to enforce their rights under this Lease, to interpret the Lease terms, or arising out of their relationship as Lessee and Lessor, the parties agree that the matter shall be tried by the court without a jury and each party specifically waives the right to a jury trial in any such action.

21. **ATTORNEY’S FEES AND COSTS:** In any action or proceeding involving a dispute between Lessor, Lessee, arising out of the execution of this lease, or to enforce the terms and conditions of this lease, the prevailing party shall be entitled to receive from the other party a reasonable attorney's fees, expert fees, appraisal fees and all other costs incurred in connection with such action or proceedings, to be determined by the court or arbitrator(s).

22. **WAIVER:** No failure of Lessor to enforce any term hereof shall be deemed to be a waiver.

23. **NOTICES:** Any notice which either party may or is required to give other than as otherwise provided in this Lease, shall be given by hand delivery or by mailing the same, postage prepaid, to Lessee or Lessor at the addresses shown below, or at such other places as may be designated by the parties, by notice in writing to the other party, from time to time.

24. **TIME:** Time is of the essence of this Lease.

25. **HEIRS, ASSIGNS, SUCCESSORS:** This Lease is binding upon and inures to the benefit of the heirs, assigns and successors in interest to the parties.

26. **LESSOR’S LIABILITY:** The term "Lessor," as used in this paragraph, shall mean only the owner of the real property. In the event of any transfer of such title or interest, the Lessor named herein (or the grantor in case of any subsequent transfers) shall be relieved of all liability related to Lessor's obligations to be performed after such transfer. Provided, however, that any funds in the hands of Lessor or Grantor at the time of such transfer shall be delivered to Grantee. Lessor's obligations hereunder shall be binding upon Lessor's successors and assigns only during their respective periods of ownership.

27. **INDEPENDENT COUNSEL:** Lessee acknowledges it has been advised by all other parties and counsel to seek independent legal counsel to assist in reviewing this document before executing it and ask said legal counsel to explain its import and meaning. Any signature by Lessee represents, inter alia, that it has had independent counsel assistance, or that it has personally reviewed and studied the Lease, understands each and every term, chooses not to avail itself to the assistance of independent legal counsel, and agrees fully with each and every term of this Lease. All parties acknowledge and understand that this agreement was a freely, openly negotiated document and that those attorneys that did assist in negotiation represented the interests only of their clients and not those of the parties who have chosen to waive the assistance of independent legal counsel.
DATED: ________________  LESSOR:

CITY OF PORTERVILLE

By: ______________________
    Mayor

_______________________
    City Clerk

DATED: ________________  LESSEE:

Orange Belt Stages

_______________________
    Mike Haworth, President
COUNCIL AGENDA: June 7, 2005

SUBJECT: APPROVAL OF CITY SPONSORSHIP FOR THE “NUTRITION ON THE GO” PROGRAM TO BE ADMINISTERED BY FOOD LINK

SOURCE: Department of Parks and Leisure Services

COMMENT: The Parks and Leisure Services Department is interested in assisting Food Link with the “Nutrition on the Go” program.

“Nutrition on the Go” is a food distribution program based on the 5 A Day concept. Food Link is a non-profit food bank for Tulare and Kings Counties. In conjunction with their partners, they provide health and nutrition information, and distribution of food commodities (fruits & vegetables) to families. Any family is eligible to receive services, there are no income requirements or forms to complete. The program will operate two afternoons per month.

Parks and Leisure would like to sponsor these events by allowing the use of park facilities for the events. Murry Park and Veterans Park represent good locations for both “East” and “West” side services. The proposed events will take place on the first and third Thursday of each month from 3:00 - 5:00 p.m.

The program will be operated by Food Link of Tulare County. City commitment would include use of park facilities and assistance with the promotion of the program. Staff time and promotional expenses for the year are estimated to be less than $500.00.

RECOMMENDATION: Approve sponsorship of the “Nutrition on the Go” program, and appoint the Director of Parks and Leisure Services as agent of the City for this purpose.

ITEM NO.: 12
SUBJECT: CONSIDER COMMITTEE ATTENDANCE RECORDS

SOURCE: Parks and Leisure Services Commission

COMMENT: The City Council recently requested attendance records for the various committees, boards and commissions that are appointed by, and advisory to, the City Council. The Parks and Leisure Services Department has compiled the records of the three advisory bodies that the department is involved with. Attached to this report are the attendance records for the Parks and Leisure Services Commission, Library Board of Trustees, and the Zalud House Revenue Recommendation Committee.

These records are compiled from the minutes of the meetings. Staff has not been attempting to record excused absences until recently. It is staff’s interpretation that excused absences generally result from work, illness, and family related obligations that conflict with the meeting time, and for which the Chair, or staff have been informed of the inability of the member to attend the meeting.

RECOMMENDATION: Consider committee attendance records and file for reference when terms of appointment elapse.

ATTACHMENTS: Attendance Record of Parks & Leisure Services Commission
Attendance Record of Library Board of Trustees
Attendance Record of Zalud House Revenue Recommendation Committee

ITEM NO.: 13
### Library Board of Trustees Record of Attendance

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Term Ended Oct 2003

Term Ended Oct 2003

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Resigned May '04

Term began Nov '04

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X = Attended Meeting  E = Excused Meeting

No Meetings are held during the months of June, July and August
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X = Attended meeting  E = Excused Absence
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**First Meeting**

**Two Meetings Held**

### Zalud House Revenue Recommendation Committee-Record of Attendance

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*Came as guest

### Zalud House Revenue Recommendation Committee-Record of Attendance

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X = Attended Meeting
E = Excused Absence

Moved out of Town
Resigned

Added Apr '05

*Added Jan '04
SUBJECT: INTENT TO SET A PUBLIC HEARING FOR REIMBURSEMENT AGREEMENTS FOR CONCRETE IMPROVEMENT CONSTRUCTION BY THE CITY - ORANGE AVENUE RECONSTRUCTION PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: The concrete improvements for the Orange Avenue Reconstruction Project are complete. City Council accepted the Orange Avenue Project during the May 3, 2005 Council meeting. 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 also stipulates that remodeling permits exceeding a $15,000 valuation will also trigger the reimbursement.

The City has complied with Section 20-40.8 of the Municipal Code on the Orange Avenue Reconstruction Project by notifying affected property owners and holding Public Hearings addressing the City’s intentions to seek reimbursement for the concrete improvements constructed as a part of this project. Section 20-40.8 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 will 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.

Staff has calculated the cost of the concrete improvements constructed along the frontages of undeveloped properties and/or developed properties that lacked these public improvements for the Orange Avenue Reconstruction Project. The calculations are based on actual costs incurred by the City. A map of the affected property owners and the associated concrete reimbursement fee is attached for Council’s reference.

RECOMMENDATION: That the City Council:

1. Set a Public Hearing for July 5, 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.

ATTACHMENTS: Locator Map
Fee Spreadsheet
### Exhibit "B"

#### Orange Avenue Reconstruction Project

**Reimbursement for City Installed Improvements**

<table>
<thead>
<tr>
<th>APN</th>
<th>OWNER</th>
<th>Owner Address</th>
<th>Curb/Gutter</th>
<th>Sidewalk</th>
<th>Driveway</th>
<th>Water Ser.</th>
<th>Total</th>
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<tr>
<td>261-150-015</td>
<td>Gomez, Reuben Torres</td>
<td>202 E. Orange Ave.</td>
<td>$601.00</td>
<td>$911.25</td>
<td>$0.00</td>
<td>$1,003.45</td>
<td>$2,515.70</td>
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<td>261-150-045</td>
<td>Hearne, Albert L. &amp; Bertha</td>
<td>PO Box 8806</td>
<td>$0.00</td>
<td>$874.80</td>
<td>$0.00</td>
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<tr>
<td>261-165-001 &amp; Olbera, Luther &amp; Mary B.</td>
<td>272 S. Howard</td>
<td>Porterville, Ca. 93257</td>
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<td>$173.74</td>
<td>$392.70</td>
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<td>261-165-002</td>
<td>Olbera, Luther &amp; Mary B.</td>
<td>272 S. Howard</td>
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<td>$120.28</td>
<td>$369.60</td>
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<td>261-165-004</td>
<td>Carrillo, Thomas Andrew</td>
<td>311 S. Plano St.</td>
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<td>Padilla, Alberta c/o Alice Guzman</td>
<td>568 S. W St.</td>
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<td>261-166-001</td>
<td>JCH Family Limited Pttnshp</td>
<td>5917 W. Elowin Dr.</td>
<td>Visalia, Ca. 93291</td>
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<td>$4,486.99</td>
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<td>Comision Honorifica Mexicana Americ</td>
<td>PO Box 2043</td>
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<td>261-322-067</td>
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**Totals**
SUBJECT: 100% ATTENDANCE PROGRAM

SOURCE: Administrative Services

COMMENT: During the 1978-79 fiscal year, the City of Porterville implemented the 100% Attendance Program. This program is designed to recognize those employees who do not take any sick leave during the course of the calendar year. This achievement is significant as it represents no lost productivity and a high level of dedication.

The recognition for the program in years past has been a City-sponsored dinner for the employee and a guest. During the dinner, the employees were presented with a Certificate of Appreciation for their accomplishment by members of the City Council.

The program has had very steady results, with approximately 35 employees annually achieving 100% attendance. When analyzing the attendance at the recognition dinner, it has been determined that several employees that have achieved 100% attendance for several years in a row do not participate in the actual recognition. When asked why these employees have opted not to attend the recognition dinner, many indicated that they felt uncomfortable in that setting. Based on this response, it has been determined that some program modifications could be overdue.

Out of the discussion, the concept of a drawing for a more desirable prize was developed. This concept would provide that every employee with 100% attendance for the calendar year would be able to enter a drawing during a much more low-keyed dinner, perhaps a Bar-B-Que. At the end of the dinner, one name would be drawn and the winner would receive a cruise for two to Mexico. This program could be provided at or near the cost of the existing program and could stimulate participation by a larger segment of the employees. This concept was discussed at a recent City Employee meeting, and received strong support from those employees in attendance.

RECOMMENDATION: That the Council approve the proposed modifications to the 100% Attendance Program, effective for the calendar year ended December 31, 2005.

Dir. Appro./Funded CM

Item No. 15
SUBJECT: STATUS REPORT OF $458,000 RESERVE BUDGETED FOR GENERAL FUND DEBT COVERAGE

SOURCE: Administrative Services

COMMENT: The 2004-05 budget was prepared with some contingency provisions to provide General Fund security in an unstable financial environment. The single largest contingency was the establishment of a reserve in the General Fund that would provide debt service coverage on the $20 million Certificates of Participation (COP’s) that is usually provided by Gas Tax Transportation Impact fees.

This contingency was created with the understanding that the current development boom will not last forever, and some cushion would provide for a smooth transition into a period when the General Fund would be required to make up the shortage that could result if development activities begin to slow.

The reserve has been established as a reservation of Fund Balance in the General Fund, and is backed by cash in the bank. To date, real estate development activities remain vigorous, providing for adequate resources from which to make debt service payments. Although the Federal Reserve has continued to raise the primary lending rates, most mortgage rates remain very reasonable, allowing for continued growth in the real estate market. Budget development for the next fiscal year provides for steady development to continue through 2005-06, which will prevent the need to draw on the reserve to make debt service payments.

RECOMMENDATION: That the Council accept the status report on the reserve, and allow for the maintenance of the reserve into the next fiscal year.
PUBLIC HEARING

SUBJECT: SEWER RATE AND TREATMENT PLANT FEE INCREASE

SOURCE: Public Works Department - Field Services Division

COMMENT: The City of Porterville is operating its Wastewater Treatment Facility under a cease and desist order issued by the Regional Water Quality Control Board (RWQCB) on April 27, 2001. The cease and desist order requires that the City construct various projects and purchase additional property as outlined in Carollo Engineer's "Wastewater and Reuse Facilities" report.

The City's consultant, Bartle Wells & Associates, reviewed Carollo's report and prepared a revenue program addressing the needs identified in the report. The revenue program called for residential sewer rates to be increased 10% on July 1, 2003, 6% on July 1, 2004 and 6% on July 1, 2005. Rate increases for all other users are noted in Table A6 which is attached herein for Council's reference. The consultant's analysis also indicated that treatment plant fees needed to be increased by 7% each year for the next three years beginning August 1, 2003, refer to attachment 4, Table 21.

On July 1, 2003, Council adopted resolutions increasing the commercial and residential sewer fees, and the treatment plant fees for two years, leaving year three "to be considered later."

The sewer operating budget for 2004/2005 has a deficit of $388,526 requiring transfer of funds from the Wastewater Treatment Facility Capital Reserve (WWTFCR) to cover the budget. A 6% rate increase for fiscal year 2005/2006 will increase the sewer operating revenues by approximately $300,000. The single family sewer rate would increase from $25.39 per month to $26.87 per month.

With the 6% increase, a transfer in the amount of $285,792 will still be required from the WWTFCR for the 2005/2006 budget year.

Based on the projected revenue and expenditures, staff recommends adoption of the 6% sewer rate increase and the 7% treatment plant fee increase recommended in the consultant's report.

Dir  Appropriated/Funded  CM  Lasting  Item No. 17
The Public Notice for the proposed rate increase was conducted with the local newspaper as well as a notice placed in the City utility bill.

RECOMMENDATION: That the City Council:

1. Open the Public Hearing and accept public comments;

2. Adopt a resolution increasing the Sewer monthly rates as shown in Table A6; and

3. Adopt a resolution to amend Exhibit “H” - Connection Fees, to include the Treatment Plant Fees.

ATTACHMENTS: 1. Resolution adopting new Residential and Commercial Sewer Rates
2. Table A6
3. Resolution amending the City’s Fee Schedule and adopting new Treatment Plant Fees
4. Table 21
RESOLUTION NO.____________

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF PORTERVILLE
ADOPTING NEW RESIDENTIAL AND COMMERCIAL SEWER RATES

WHEREAS, the California Regional Water Quality Control Board (RWQCB) has issued a cease and desist order requiring the City of Porterville to make improvements to its Wastewater Treatment Facility and its reclamation area; and

WHEREAS, in order to finance the needed improvements required by the RWQCB, the City had to borrow approximately $5,300,000. Monthly sewer rates and treatment plant fees had to be raised in order for the City to successfully borrow the $5,300,000; and

WHEREAS, to ease the burden of a lump sum increase in the sewer rates to residential and commercial customers, increases were scheduled by percentage over a period of two years, with a potential third year percentage increase to be determined.

NOW, THEREFORE, BE IT RESOLVED, that the City Council of the City of Porterville adopt the following sewer rates on the effective date listed:

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<th>Rate</th>
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<td>Single Family (per unit)</td>
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<td>$26.87</td>
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<tr>
<td>Multiple Family (per unit)</td>
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<td>$25.52</td>
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<tr>
<td>Mobile Homes Park (per space)</td>
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<td>$25.52</td>
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<tr>
<td>Commercial - per hcf * (per 748 gal)</td>
<td>7-01-05</td>
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<tr>
<td>Bars, Hotels without Dining</td>
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<td>$1.22</td>
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<tr>
<td>Restaurants</td>
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<td>$2.97</td>
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<tr>
<td>Retail Stores, Offices</td>
<td></td>
<td>$1.04</td>
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<tr>
<td>Auto Repair, Service Station</td>
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<td>$1.36</td>
</tr>
<tr>
<td>Car Wash, Laundry</td>
<td></td>
<td></td>
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</tbody>
</table>
Packing House $ 0.96  
Hospital, Rest Homes $ 1.09  
Mortuaries $ 1.95  
Schools $ 0.30  
Churches $ 0.42  
City of Porterville $ 0.83  
State Hospital $ 1.09  
Multi-unit with consumption $ 1.19  
Industrial- per hcf (per 748 gal) $ 0.93  

Septic Tank Pumper’s Discharge  
(per 1000 gal) $22.65  

* hundred cubic feet

PASSED AND ADOPTED this 7th day of June, 2005.

______________________________  
Kelly E. West, Mayor

ATTEST:

JOHN LONGLEY, CITY CLERK

______________________________  
By: Georgia Hawley, Chief Deputy City Clerk
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<th>Residential</th>
<th>Number of Customers</th>
<th>Current Monthly Charge</th>
<th>2003/04</th>
<th>2004/05</th>
<th>2005/06</th>
<th>3-Year Rate Increase</th>
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<td>$23.91</td>
<td>$25.39</td>
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<td>23.6%</td>
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<td>Multiple family - per unit</td>
<td>593</td>
<td>20.68</td>
<td>22.75</td>
<td>24.13</td>
<td>25.52</td>
<td>23.4%</td>
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<td>Mobile Home Park - per space</td>
<td>153</td>
<td>20.68</td>
<td>22.75</td>
<td>24.13</td>
<td>25.52</td>
<td>23.4%</td>
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<tr>
<td>Commercial - per hcf</td>
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<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Bars, Hotels without dining</td>
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<td>2.61</td>
<td>2.97</td>
<td>58%</td>
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<td>Retail stores, offices</td>
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<td>0.88</td>
<td>0.96</td>
<td>1.04</td>
<td>31%</td>
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<tr>
<td>Auto repair, service stations</td>
<td>55</td>
<td>1.10</td>
<td>1.19</td>
<td>1.27</td>
<td>1.36</td>
<td>24%</td>
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<td>Car wash, laundry, packing house</td>
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<td>0.93</td>
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<td>0.96</td>
<td>5%</td>
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<td>Hospitals, rest homes</td>
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<td>1.07</td>
<td>1.09</td>
<td>3%</td>
</tr>
<tr>
<td>Mortuaries</td>
<td>2</td>
<td>1.05</td>
<td>1.35</td>
<td>1.65</td>
<td>1.95</td>
<td>85%</td>
</tr>
<tr>
<td>Schools</td>
<td>41</td>
<td>0.23</td>
<td>0.25</td>
<td>0.28</td>
<td>0.30</td>
<td>32%</td>
</tr>
<tr>
<td>Churches</td>
<td>59</td>
<td>0.29</td>
<td>0.33</td>
<td>0.37</td>
<td>0.42</td>
<td>44%</td>
</tr>
<tr>
<td>City of Porterville</td>
<td>17</td>
<td>0.29</td>
<td>0.47</td>
<td>0.65</td>
<td>0.83</td>
<td>187%</td>
</tr>
<tr>
<td>State Hospital</td>
<td>1</td>
<td>0.75</td>
<td>0.86</td>
<td>0.97</td>
<td>1.09</td>
<td>45%</td>
</tr>
<tr>
<td>Multi-unit with cons</td>
<td>1</td>
<td>NA</td>
<td>1.00</td>
<td>1.09</td>
<td>1.19</td>
<td></td>
</tr>
<tr>
<td>Industrial - per hcf</td>
<td>17</td>
<td>0.60</td>
<td>0.71</td>
<td>0.82</td>
<td>0.93</td>
<td>57%</td>
</tr>
<tr>
<td>Septic tanks - per 1000 gallons</td>
<td>9</td>
<td>15.00</td>
<td>17.55</td>
<td>20.10</td>
<td>22.65</td>
<td>51%</td>
</tr>
</tbody>
</table>
RESOLUTION NO.____________

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF PORTERVILLE
AMENDING THE CITY’S FEE SCHEDULE
AND ADOPTING NEW TREATMENT PLANT FEES

WHEREAS, the California Regional Water Quality Control Board (RWQCB) has issued a cease and desist order requiring the City of Porterville to make improvements to its Wastewater Treatment Facility and its reclamation area; and

WHEREAS, in order to finance the needed improvements required by the RWQCB, the City had to borrow approximately $5,300,000. Monthly sewer rates and treatment plant fees had to be raised in order for the City to successfully borrow the $5,300,000; and

WHEREAS, to ease the burden of a lump sum increase to customers, increases were scheduled by percentage over a period of two years, with a potential third year percentage increase to be determined.

NOW, THEREFORE, BE IT RESOLVED:

2. That the City Council of the City of Porterville adopt the following treatment plant fees, and amend the City’s Fee Schedule (Exhibit “H”) to include said Treatment Plant Fees, on the effective dates listed:

<table>
<thead>
<tr>
<th>Treatment Plant Fees</th>
<th>Effective Date</th>
</tr>
</thead>
<tbody>
<tr>
<td>Single Family and Multiple Family - Per Unit</td>
<td>7-01-05</td>
</tr>
<tr>
<td></td>
<td>$2,500</td>
</tr>
<tr>
<td>Commercial/Industrial Per Sewer Connection</td>
<td>$ 8.93</td>
</tr>
<tr>
<td></td>
<td>(per gpd)</td>
</tr>
<tr>
<td></td>
<td>($2,500 min)</td>
</tr>
</tbody>
</table>
3. Said fees shall be paid as a condition of connection.
4. The fees set forth above shall be further adjusted annually, beginning July 1, 2006, by the appropriate City staff, in accordance with the “ENGINEERING NEWS RECORD 20-CITY CONSTRUCTION COST INDEX”.
5. City staff will report the proposed fee increase to the City Council not later than the City Council meeting prior to the effective date of the increase.
6. Said fees shall be reviewed, to the extent applicable, in accordance with the Fee Mitigation Act (Government Code Section 66000, et seq.)
7. The City hereby adopts the above fees, amending Exhibit "H", effective July 1, 2005.

PASSED AND ADOPTED this 7th day of June, 2005

______________________________
Kelly E. West, Mayor

ATTEST:

JOHN LONGLEY, CITY CLERK

By: Georgia Hawley, Chief Deputy City Clerk
<table>
<thead>
<tr>
<th></th>
<th>Current</th>
<th>03/04</th>
<th>04/05</th>
<th>05/06</th>
</tr>
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<tr>
<td>Single Family Residence</td>
<td>$2,040</td>
<td>$2,183</td>
<td>$2,336</td>
<td>$2,500</td>
</tr>
<tr>
<td>Percent Increase</td>
<td>7.0%</td>
<td>7.0%</td>
<td>7.0%</td>
<td></td>
</tr>
<tr>
<td>Commercial/Industrial (per gpd)</td>
<td>$7.29</td>
<td>$7.80</td>
<td>$8.35</td>
<td>$8.93</td>
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<tr>
<td>Percent Increase</td>
<td>7.0%</td>
<td>7.0%</td>
<td>7.0%</td>
<td></td>
</tr>
<tr>
<td></td>
<td>(2183 min)(2336 min)(2500 min)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>
COUNCIL AGENDA: JUNE 7, 2005

PUBLIC HEARING

SUBJECT: CHARITABLE CAR WASH ORDINANCE

SOURCE: CITY ATTORNEY

COMMENT: Per direction given at the City Council Meeting of May 17, 2005, attached is the draft Ordinance regulating charitable car wash activities for a public hearing and consideration by the City Council for first reading.

Per the specific direction given by the City Council, permits per charitable organization would be limited to 4 in a calendar year, and car washes per specific location are limited to 3 in a calendar year. Permit holders would also be required to use biodegradable soaps (this requirement was already in the draft ordinance).

The draft before the Council maintains the permit requirement for the charitable organization (which is tied to a tax-exempt i.d. number), and also requires a statement from the property owner (the “sponsor.”)

With regard to enforcement, a requirement that operators of a noncompliant car wash immediately cease the activity has been added. Additionally, a sign regulation has been added, but changed to reflect that any signs utilized must be compliant with the City’s existing regulations.

RECOMMENDATION: The City Attorney makes the following recommendations:

1) That the Council hold a public hearing to receive public input; and

2) That Council consider the ordinance for first reading and publication.

Attachment: 1) Draft Ordinance Adding Article VI, Sections 15-70 through 15-170 to Porterville City Code Chapter 15, Entitled “Charitable Car Wash Permit Procedure”
ORDINANCE NO. ______

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ADDING ARTICLE VI, SECTIONS 15-70 THROUGH 15-170 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;

NOW THEREFORE 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:

15-70 Definitions.
15-80 Permit required for charitable car wash.
15-90 Applications for permits.
15-100 Issuance and form of permits.
15-110 Term of permits.
15-120 Nontransferability of permits.
15-130 Manner of car wash.
15-140 Fund raising as a business.
15-150 Revocation of permit.
15-160 Violations.
15-170 Car washing as a business.
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 Car wash,” for the purposes of this Article, shall mean a temporary vehicle washing operation conducted by members of a charitable organization for organization fundraising purposes. It shall not be deemed to include the operation of an authorized permanent vehicle washing business or service station authorized to wash vehicles on its premises, although a car wash, as defined above, may be conducted on such premises.

“Charitable” means benevolent, civil, religious, educational, fraternal, patriotic, political, philanthropic or other similar purposes.

“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.

“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.

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 permit application shall include a written application to sponsor the charitable car wash by the owner or lessee of the property upon which the car wash is to be held.
C. 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.

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 name and address of the sponsor, with a statement by the sponsor that he/she is the owner or lessee of the property where the car wash is to be held or is an employee or agent of the owner or lessee who has been delegated control of the premises by the owner or lessee, and that the sponsor assumes all liability regarding the car wash.

3. 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;

4. 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;

5. 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;

6. Proof evidencing that the permit holder is a bonafide charitable organization;
7. The number of car washes that have been held by the charitable organization in that particular calendar year, and the number of car washes that have been held at that particular location in that particular calendar year;

8. 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.

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 number of charitable car washes by the charitable organization applying for said permit exceeds four in a calendar year, or the number of charitable car washes held at a particular location exceeds three per calendar year.

5. 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 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;
4. A permit number; and
5. The signature of the finance director or his/her designee.

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.

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.

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 3 prior car washes in the calendar year;

10. Shall take place at a distance of more than 25 feet from the street curb, or from the near edge of the travel lane or lanes of any uncurbed street or road.

11. Shall utilize temporary signs, if any signs are utilized, in compliance with the City’s applicable regulations concerning temporary signs.

12. Shall not be conducted by a charitable organization which has held 4 prior car washes in the calendar year. Four applications per Tax-exempt Identification Number, and four permits per Tax-exempt Identification Number, will be allowed in the calendar year.

B. It is unlawful for a permit holder, as defined herein, to:

1. Refuse to provide their name and a copy of the permit issued under this chapter, if requested by City representatives;

2. Misrepresent their identity or the identity of the charitable organization conducting the charitable car wash for which he or she is an agent;

3. 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.

15-140 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, 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.

15-150 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. Upon determination by an authorized representative of the City that a car wash is being conducted without a valid permit or in violation of the requirements of this Article, said unlawful activity shall cease immediately,
and all person associated with said car wash shall be dispersed within one hour after the
giving of said notice. Failure or refusal by the charitable organization and/or the
owner/sponsor to cause a car wash in violation of these regulations to cease operations,
after receiving such notification from the City official, shall constitute a separate violation of
this article. Furthermore, any organization that violates this Article shall be ineligible for the
issuance of a permit for a period of one year.

15-160 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.

15-170 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 ____________, 2005.

_________________________________________________________

President of the Council and
Mayor of the City of Porterville

ATTEST:

_________________________________________________________

Chief Deputy City Clerk and Clerk
of the Council of the City of Porterville
PUBLIC HEARING

SUBJECT: WATER CONSERVATION PHASE II, WATER SYSTEM STATUS

SOURCE: Public Works Department - Field Services Division

COMMENT: Phase II water conservation efforts for 2005 began in May. In June of this year, letters requesting that water only be served upon customer request will be mailed to restaurants. Letters will also be mailed to large apartment complexes urging conservation and to avoid watering landscape between 5 am to 10 am and 5 pm to 10 pm. Utility bill notices with conservation tips and avoid watering between 5 am to 10 am and 5 pm to 10 pm will also be delivered. The City promoted May as water awareness month and provided water conservation information and water saving kits to the public during the Porterville Fair. A media campaign began in May with newspaper, radio messages and web site information provided.

The water system status is marginally improved from last year. Well yields show some improvement. One small well was successfully rehabilitated and will be returned to active status. Well No. 27 is complete and will be in operation later this summer upon Department of Health Services permit approval.

Phase III of the water conservation plan provides for a 20% rate increase on residential and landscape accounts to encourage conservation during times of severe water supply shortage.

RECOMMENDATION: That City Council:

1. Continue with Phase II of the Water Conservation Plan; and

2. Continue this Public Hearing to July 19, 2005, to consider moving into Phase III of the Water Conservation Plan.
Monthly Production 2003 - 2005
(Primary Water System)
CONTINUED PUBLIC HEARING

SUBJECT: ZONING ORDINANCE AMENDMENT 1-2005

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: On January 18, 2005, The City Council directed staff to prepare a General Zoning Ordinance Amendment to require the construction of a masonry block wall between residential and non-residential uses. Further, the Code would specify the fencing requirement to be a masonry block wall. The amended zoning ordinance would provide Staff with clear direction in responding to proposed new developments when such development would place a non-residential use adjacent to a residential use regardless of whether either use exists at the time of approval and ultimate development.

The Porterville City Council, at its regularly scheduled meeting of May 3, 2005, conducted a public hearing to consider the proposed ordinance amendment. Due to concerns expressed by the Building Industry Association (BIA) late in the process, the City Council continued the public hearing until May 17, 2005, and directed City Staff to meet with the BIA to discuss issues of concern to the BIA.

Subsequently, Staff met with the BIA on Monday, May 9, 2005. On May 17, 2005 the Council continued the matter to June 7, 2005 to allow additional time for staff to meet with representatives of the BIA to discuss the proposal. Based on Staff’s discussions with the BIA, there does not appear to be any disagreement on whether it is appropriate to have a block wall separating residential and non-residential uses. The concern is more specifically that it is the non-residential development that creates the greatest impact on the immediate environment; therefore, the non-residential use should have the obligation to construct the separation wall. In response to this concern, the BIA representatives offered a few suggestions to address the issue.

Representatives suggested that when the non-residential property is developed, the masonry block wall should be constructed by the developer of the non-residential development regardless of whether the residential units and perimeter fences already exist. It should be noted that the common trend in residential development in Porterville is to construct wooden fences separating residential units (side and rear) and when adjacent to other sites. Walls within residential developments are typically constructed when there is an area abutting public streets.

DD_____ APPROPRIATED/FUNDED ______ CM______ ITEM NO. 20
Staff expressed the concern that if the residential development is constructed prior to the non-residential, then there would be a parallel wooden fence adjacent to a new block wall. In response to this, the BIA suggested that a fencing easement be recorded on the new subdivision maps, therefore, allowing the non-residential developer to have access to the residential properties at the time of the non-residential development to remove the existing residential wooden fences and replace with a masonry block wall.

Staff evaluated this proposal and is concerned that a fencing easement is very uncommon and anticipates that the process would place the burden of enforcement of such easements solely upon the City at the time of non-residential development because of the City requiring it as a condition of the development. Coordination of this effort is complicated by two primary factors; 1) the owners of the residential properties abutting the proposed non-residential development would be individual property owners, not the original residential developer, and 2) these property owners may have invested in landscaping or other personal amenities to their yard and may be reluctant to coordinate with the developer.

Another option would be to have the residential developer provide for the construction of the masonry block wall at time of residential development with the anticipation of recovering ½ of the cost of that wall once a non-residential development abuts their property. Although the Engineering Department provides for a similar type of reimbursement program for first developer of curb, gutter, sidewalk or utility lines, these projects are in the public right of way and not on private property.

The burden to provide and monitor a reimbursement program for the masonry block wall constructed on private property would fall on the City’s Planning Department.

In order to avoid the potential of individual challenges to the fencing construction at the time of build out and burdening the City Staff with additional conditions of development and reimbursement programs, Staff maintains its recommendation to the City Council to require the construction of the masonry block wall with whichever development occurs first.

**RECOMMENDATION:** That the City Council:

1. Adopt the draft resolution approving the Negative Declaration of Environmental Impact prepared for Zoning Ordinance Amendment 01-2005.
2. Approve the proposed Zoning Ordinance Amendment and give first reading to the draft ordinance.
3. Waive further reading of the draft ordinance approved Zoning Ordinance Amendment 1-2005 and order to print.

**ATTACHMENT:**

1. Exhibit A, Outlining proposed changes
2. Draft Ordinance
Exhibit A

SECTION 1: Article 33 is hereby amended as follows:

Section 3302: Definitions and Construction

A. The following definition shall be used to clarify terms and words used within the context of this Ordinance:

(67) Non-Residential Uses

Any building utilized for purposes other than a place of permanent residential habitation such as a family unit and those uses identified in Sections 600, 700, 800, 900, 1000, and 1100 (P-O, C-1, C-2, C-3, H-C, and M-1). For the purposes of this Code, non-residential includes institutional uses such as but not limited to, convalescent homes, rest homes, nursing homes, sanitariums, independent living and assisted living care facilities. While residential in nature, the aforementioned uses require auxiliary services and provide special needs to its residents/inhabitants.

Numbers (67) through (95) are hereby renumbered (68) through (96).

SECTION 1: Article 22 is hereby amended as follows:

SECTION 2206: Design and Improvements; Parking Lots Generally.

A. Access: Each parking lot or area shall be provided with suitable drives or aisles, and safe exit and entrances to and from a public street or thoroughfare. Access to parking spaces from aisles or drives shall be such as not to interfere with the use of other required parking spaces on the lot and no parking area, except for residential uses normally permitted in R-1 and R-2 zoned districts, shall be located so as to require or encourage the back of automobiles or other vehicles across any front or side lot line adjacent to a dedicated street to effect egress from the places of parking.

B. Surfacing: The parking area, aisles and access drives shall be surfaced with an asphalt concrete surfacing of 2" minimum thickness on a 4" untreated, compacted rock base. The subgrade shall be compacted to a minimum relative compaction of 90%. The minimum slope of asphalt paved surface in the direction of drainage shall be 12 inches per 100 feet and the minimum slope of concrete gutters shall be three (3) inches per 100 feet. The 4" untreated compacted rock base may be modified on basis of an “R: value test of the existing soil. The test to be made with a traffic index of 5.0. On major developments service roads shall be designed to carry the traffic loads anticipated.
C. Fences: Where any parking lot or area in an R-3, R-4, P-0, and all Commercial and Manufacturing Zoning abuts property in an R-A, R-E, R-1, R-1-8 or R-2 Zone, it shall be separated from such property by a screen fence or wall not less than six (6) feet high, provided that such be forty-two (42) inches high from the property line to a depth equal to the required front yard on the abutting R-A, R-E, R-1, R-1-8 or R-2 Zone. Where a non-residential use abuts residential use property, it shall be separated from such property by a masonry block wall not less than six (6) feet high, provided that the masonry block wall be forty-two (42) inches high from the property line to a depth equal to the required front yard setback on the abutting residential use.

SECTION 2: Article 26 is hereby amended as follows:


A. Rear Yard abutting and “R” zone, and where there is no alley a masonry wall six (6) feet in height shall be erected and maintained on the rear lot line. A masonry block wall six (6) feet in height shall be constructed and maintained on the side and/or rear lot line where a non-residential use abuts a residential use or zone where there is no alley.

B. Side yard abutting any “R” zone and where there is no alley a masonry wall six (6) feet in height shall be erected and maintained on the side lot line. In locations where a residential use is being developed adjacent to an existing non-residential development, the residential development shall construct a wall with the residential development. The property line between residential and non-residential use shall be developed with a six (6) foot high masonry block wall. Subject masonry block wall shall step down to 36" in height from the side property line intersecting the front property line to a depth equal to the required front or side yard setback of the abutting residential use in order to provide for safe line of sight for vehicular traffic. The design of such improvements shall be approved by the City Engineer.

C. Where residentially zoned parcels a residential use abuts State Highway rights-of-way or State Highway frontage road rights-of-way, a masonry block fencing wall at least eight (8) feet in height from finished grade shall be installed along that frontage, unless an acoustical analysis indicates that a greater height is warranted subject to the approval of any conditional use permit, parcel or subdivision map or any applicable development identified in Section 2619 A-3 of this chapter. The design of such improvements shall be approved by the City Engineer.

D. Wall height separating residential uses from non-residential uses and public rights-of-way may be increased in height to accommodate adequate sound
attenuation as required through the findings of an acoustical analysis by a licensed acoustical engineer. The design of such improvements shall be approved by the City Engineer.

E. If using an alley to access a non-residential use or property, line of sight visibility must be incorporated through the proper design of a masonry block wall and approved by the City Engineer. If such wall abuts the side or front yard of an adjacent residential use or property, the masonry block wall will need to be stepped down to 36" from the property line to a depth equal to the required front yard setback abutting the residential use in order to provide for safe line of site for traffic. If such wall abuts the rear property line of a residential lot, then there will be no requirement to reduce the height of the masonry block wall. If alley access is not required to access the commercial property, a masonry block wall shall be constructed between the residential and non-residential properties.

Note:
Existing Language to remain appears in normal print.
Proposed language to be added appears in underline print.
Existing language proposed to be removed is shown crossed out.
ORDINANCE NO. _________

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
AMENDING THE ZONING ORDINANCE
PERTAINING TO BLOCK WALL REQUIREMENTS
SEPARATING RESIDENTIAL AND NON-RESIDENTIAL USES

WHEREAS, on January 18, 2005, the City Council of the City of Porterville requested Staff to prepare a General Zoning Ordinance Amendment requiring the construction of a masonry block wall between residential and non-residential uses and that the masonry wall; and

WHEREAS, the City Council of the City of Porterville at its regularly scheduled meeting of May 3, 2005, conducted a public hearing to consider General Zoning Ordinance Amendment 1-2005, but continued the hearing to May 17, 2005, in order to provide staff the time to meet with the Building Industry Association (BIA) and address their concerns regarding the proposed amendment; and

WHEREAS, the City Council of the City of Porterville at its regularly scheduled meeting of May 17, 2005, conducted a public hearing on Zoning Ordinance Amendment 1-2005, but continued the public hearing to June 7, 2005, to allow Staff time to adequately prepare a report to the Council on the suggestions of the BIA and possible solutions.

NOW THEREFORE BE IT ORDAINED, that the City Council of the City of Porterville does hereby amend Article 33 - Section 3302 and Article 22 – Section 2206, Article 26 - Section 2606 C, and Article 26, Section 2617 A, B, D, and E as follows:

SECTION 1: Article 33 is hereby amended as follows:

SECTION 3302: Definitions and Construction

A. The following definition shall be used to clarify terms and words used within the context of this Ordinance:

(67) Non-Residential Uses
Any building utilized for purposes other than a place of permanent residential habitation such as a family unit and those uses identified in Sections 600, 700,
800, 900, 1000, and 1100 (P-O, C-1, C-2, C-3, H-C, and M-1). For the purpose of this Code, non-residential includes institutional uses such as, but not limited to, convalescent homes, rest homes, nursing homes, sanitariums, independent living and assisted living care facilities. While residential in nature, the aforementioned uses require auxiliary services and provide special needs to its residents/inhabitants.

Numbers (67) through (95) are hereby renumbered (68) through (96).

SECTION 2: Article 22 is hereby amended as follows:

SECTION 2206: Design and Improvements; Parking Lots Generally.

A. Access: Each parking lot or area shall be provided with suitable drives or aisles, and safe exit and entrances to and from a public street or thoroughfare. Access to parking spaces from aisles or drives shall be such as not to interfere with the use of other required parking spaces on the lot and no parking area, except for residential uses normally permitted in R-1 and R-2 zoned districts, shall be located so as to require or encourage the back of automobiles or other vehicles across any front or side lot line adjacent to a dedicated street to effect egress from the places of parking.

B. Surfacing: The parking area, aisles and access drives shall be surfaced with an asphalt concrete surfacing of 2" minimum thickness on a 4" untreated, compacted rock base. The subgrade shall be compacted to a minimum relative compaction of 90%. The minimum slope of asphalt-paved surface in the direction of drainage shall be 12 inches per 100 feet and the minimum slope of concrete gutters shall be three (3) inches per 100 feet. The 4" untreated compacted rock base may be modified on basis of an “R: value test of the existing soil. The test to be made with a traffic index of 5.0. On major developments, service roads shall be designed to carry the traffic loads anticipated.

SECTION 3: Article 26 is hereby amended as follows:

SECTION 2617: Fence Requirements for Separation of Residential Uses from Non-residential Uses.

A. A masonry block wall six (6) feet in height shall be constructed and maintained on the side and/or rear lot line where a non-residential use abuts a residential use or zone where there is no alley.

B. In locations where a residential use is being developed adjacent to an existing non-residential development, the residential development shall construct a wall with the residential development. The property line between residential and non-residential use shall be developed with a six (6) foot high masonry block wall. Subject masonry block wall shall step down to 36" in height from the side property line intersecting the front property line to a depth equal to the required front or side yard set back of the abutting residential use in order to provide for...
safe line of sight for vehicular traffic. The design of such improvements shall be approved by the City Engineer.

C. Where a residential use abuts State Highway rights-of-way or State Highway frontage road rights-of-way, a masonry block wall at least eight feet (8’) in height from finished grade shall be installed along that frontage, unless an acoustical analysis indicates that a greater height is warranted subject to the approval of any conditional use permit, parcel or subdivision map or any applicable development identified in Section 2619 A-3 of this chapter. The design of such improvements shall be approved by the City Engineer.

D. Wall height separating residential uses from non-residential uses and public right-of-ways may be increased in height to accommodate adequate sound attenuation as required through the findings of an acoustical analysis by a licensed acoustical engineer. The design of such improvements shall be approved by the City Engineer.

E. If using an alley to access a non-residential use or property, line of sight visibility must be incorporated through the proper design of a masonry block wall and approved by the City Engineer. If such wall abuts the side or front yard of an adjacent residential use or property, the masonry block wall will need to be stepped down to 36" from the property line to a depth equal to the required front yard setback abutting the residential use in order to provide for safe line of site for traffic. If such wall abuts the rear property line of a residential lot, then there will be no requirement to reduce the height of the masonry block wall. If alley access is not required to access the commercial property, a masonry block wall shall be constructed between the residential and non-residential properties.

SECTION 4: This ordinance shall be in full force and effect thirty (30) days from and after its publication and passage.

___________________________
Kelly E. West, Mayor

ATTEST:

John Longley, City Clerk

By __________________________
Georgia Hawley, Chief Deputy City Clerk
SUBJECT: PROVIDE DIRECTION ON DEVELOPMENT OF AN OAK TREE PRESERVATION ORDINANCE

SOURCE: Parks and Leisure Services Department

COMMENT: The Parks and Leisure Services Commission has provided a letter to the City Council making inquiry regarding the interest of the City Council to have the Commission investigate and provide recommendations regarding an Oak Tree Preservation Ordinance. The Commission is aware that an effort was undertaken in 1995 that resulted in a Commission recommended Ordinance. That Ordinance was not adopted by the City Council. The Commission is now seeking guidance from the City Council to avoid investing time and effort in developing a new ordinance that would not be well received by City Council. Commission Vice Chair Jeff Keele has been designated to represent the Commission, and will be in attendance at the City Council meeting to supplement this staff report.

Currently, the Municipal Code regulates planting and removal of ‘Parkway Trees’, those located within the public right-of-way or planned right-of-way. The code also provides for the approval by the Parks and Leisure Services Commission for planting or maintaining of trees on private property within ten feet of existing or planned street right-of-way lines. Private property trees, located without Commission approval, within ten feet of right-of-way lines would be in violation of the current code. No provisions exist for regulating the preservation or removal of private property trees.

When the City Council considered the Commission’s recommended Oak Tree Preservation Ordinance in 1995, the matter was referred back to the Commission for further study. This resulted in the Commission developing an ‘Oak Tree Program’, which was adopted by the City Council in 1996. The ‘Oak Tree Program’ consists of four components. 1) Ongoing education and promotion of the importance of oak tree preservation. 2) Distribution of pruning standards. 3) A reforestation plan for promoting the planting of oak trees by the citizens of the City. 4) An annual Arbor Day proclamation promoting oak tree preservation and education.

At the request of a member of the City Council, staff have obtained copies of the ordinances in effect for other jurisdictions within our area. The City of Visalia ordinance for ‘Oak Tree Preservation’ was the model upon which the 1995 Ordinance was drafted by the Porterville Parks and Leisure Services Commission. The City of Tulare ordinance for ‘Preservation of Heritage Trees’ pertains to Valley Oak trees, as well as any tree designated by the City Council for its historic importance or aesthetic quality.

ITEM NO.: 21
Staff estimates that it would take at least three months for discussion and development of an oak tree preservation ordinance prior to the Commission forwarding a recommendation to the City Council.

**RECOMMENDATION:** Provide direction on whether the Parks & Leisure Services Commission should undertake efforts towards development of an oak tree preservation ordinance for recommendation to the City Council.

**ATTACHMENTS:** Letter from Jeff Keele, dated May 10, 2005
Chapter 19, Article II, Parkway Trees
1995 draft Tree Ordinance
Council Minutes Excerpts from 11/21/95, 12/5/95 and 10/01/96
Visalia Oak Tree Preservation Ordinance
Tulare Preservation of Heritage Trees Ordinance
May 10, 2005

Honorable Mayor and Council Members
Porterville City Council
291 North Main Street
Porterville, CA 93257

Subject: Interest in Oak Tree Preservation

Dear Mayor and City Council Members:

At the May 5, 2005 Parks and Leisure Services Commission, I was appointed to be the Commission's representative for purposes of communicating to the City Council regarding interest in considering an oak tree preservation policy.

The Commission desired me to inquire about the City Council’s interest in having the Commission study and prepare a recommendation to the Council regarding policy for the future preservation of healthy “heritage” oak trees within the City of Porterville planning area. The Commission expressed that it is not their intent in raising this issue to target the preservation of any particular tree, or to interject the Commission into previous development approvals.

On behalf of the Parks and Leisure Services Commission, I respectfully request that the City Council place the Commission’s inquiry on a future City Council agenda for consideration and response to the Commission. I am prepared to attend the City Council meeting and further elaborate upon the Commission’s inquiry.

Sincerely,

Jeff Keele, Vice Chair
Porterville Parks & Leisure Services Commission
ARTICLE II. PARKWAY TREES

Sec. 19-31. Definitions.

For the purposes of this article the following words and phrases shall have the meanings respectively ascribed to them by this section:

City: The City of Porterville.

Commission: The parks and leisure services commission of the city.

Director: The director of parks and leisure services, or his authorized agent, or such other official as may be designated by the city council.

Parkway tree. Any tree or other plant, other than ground cover, located within the public right-of-way or planned right-of-way as defined in section 19-32(b) of this Code.

Person: Any natural person, partnership, corporation, firm or combination of the foregoing.

Public improvement: Any street paving, curbs, gutters, sidewalks, water pipes and appurtenances, sewer pipes and appurtenances, driveways or any other publicly owned facility located in a publicly owned street right-of-way, easement, or in private property.

Street: Any public street, way, place, alley or other public property owned or controlled by the city for the present or future use of pedestrians or vehicles. (Ord. No. 902, § A, 5-7-68; Ord. No. 1114, § C, 8-5-77)

Sec. 19-32. Tree plan.

(a) Trees on private property. It is unlawful for any person to plant or maintain any tree within ten (10) feet of any street right-of-way line exclusive of alleys or planned street right-of-way line exclusive of alleys, without approval of the commission. Any person planting or maintaining trees contrary to this section may be required, after notice and hearing by the commission, to remove said tree, or in the case of trees existing prior to April 1, 1968, perform such corrective measures as may be deemed necessary by the commission.

It shall also be the obligation of any person maintaining a tree contrary to this section to repair any damage caused by said tree to any public improvement. All repairs, removals or other corrective measures referred to herein shall be at the sole cost and expense of the property owner on whose property said tree is located, unless otherwise specified by the commission.

(b) Parkway trees. The commission shall adopt a list of approved parkway trees, said list to be kept on file with the city clerk. Said list shall be reviewed from time to time, with at least one review per year, and shall be updated as the commission deems necessary. (Ord. No. 902, § A, 5-7-68; Ord. No. 1114, § C, 8-5-77)

Sec. 19-33. Tree planting.

No parkway tree shall be planted by any person without prior approval in writing of the commission.

http://66.113.195.234/CA/Porterville/docbar.htm

5/19/05
The commission may delegate all or any part of the power of approval granted in this section to the director. The director shall exercise said power of approval in accordance with any limitations thereto by the commission. Approval granted under this section shall be valid for a period of thirty (30) days following the date of said approval. (Ord. No. 902, § A, 5-7-68; Ord. No. 1114, § C, 8-5-77)

Sec. 19-34. Tree removalGeneral.

No person shall severely prune, remove, injure or interfere with any parkway tree without a permit therefor from the director or commission, as specified in sections 19-35 and 19-36 of this article. (Ord. No. 902, § A, 5-7-68; Ord. No. 1114, § C, 8-5-77)

Sec. 19-35. SamePublic utilities and others.

Any person maintaining any overhead wires, pipes, or underground conduits or appurtenances along or across any street desiring to have any parkway tree trimmed, pruned or removed in connection with the maintenance of its facilities may file with the director a written request that such work be done. Such request shall describe the work desired to be done and it shall be within the discretion of the director to require a written agreement upon the part of the petitioner to pay the cost thereof and to do such work in the way stipulated by the director before the issuance of any permit hereunder, including the replacement of any trees removed hereunder. (Ord. No. 902, § A, 5-7-68; Ord. No. 1114, § C, 8-5-77)

Sec. 19-36. SameProcedure.

(a) The director may remove parkway trees at city expense for the following reasons:

(1) Trees threatening an immediate hazard to persons or property;

(2) Trees directly in the way of the construction of public improvements;

(3) Dead trees.

(b) The director may authorize the removal or alteration of parkway trees at the property owner's expense or at the expense of other than the city when said removal or alteration is, in the opinion of the director, necessary to permit the alteration, repair, demolition or moving of any structure.

(c) The commission may authorize the removal of parkway trees at city expense for the following reasons:

(1) Dying, decayed or potentially hazardous trees;

(2) Trees diseased beyond reclamation;

(3) Trees causing a visual hazard to the traveling public;

(4) Trees hosting economically undesirable insects or diseases.

(d) The commission may authorize the removal of parkway trees at the expense of the property owner.
owner, or other than the city, for the following reasons:

(1) For property improvement when the commission finds that a better or more suitable planting may be developed;

(2) For thinning to proper spacing;

(3) When the removal is for the purpose of repairing public improvements;

(4) For a more desirable planting or conformance with the approved tree list.

(e) The director shall advise the commission of all removals authorized by the director under this section.

(f) It is the intention of the city council to encourage the planting of new trees whenever trees are removed, and to bring about the repair of public improvements damaged by parkway trees. In order to effect these purposes the commission or director shall, whenever practicable, require the following actions to be performed by the affected person as part of any removal authorization:

(1) Replacement of tree with a new tree of appropriate size pursuant to section 19-33 of this article;

(2) Repair of any public improvements damaged by the tree to be removed.

The said replacement of tree or repair of public improvements specified in (a) and (b) above shall be agreed upon in writing by the affected person prior to any removals hereunder, in a form approved by the city attorney.

(g) The director may refer any matter within the scope of subsections (a) and (b) of this section to the commission as he deems appropriate.

(h) All authorization for tree removals granted under this section shall be valid for thirty (30) days following the date of said authorization.

(i) As an alternative to the preceding procedures, the commission may require a fee equal to the cost of replanting a parkway tree or trees that have been approved for removal by the commission equal to the sum of the cost of materials and labor for said replacement. (Ord. No. 902, § A, 5-7-68; Ord. No. 1114, § C, 8-5-77; Ord. No. 1278, 3-1-83)


(a) The owners of lots or portions of lots fronting on any portion of a public right-of-way or parkway who has removed, or caused to be removed, any parkway tree shall, within thirty (30) days following notice to replace, cause said tree to be replaced with a variety of tree approved by this chapter.

(b) Notice to replace may be given by delivering a written notice personally to the owner or to the
person in possession of the property facing upon the parkway where said tree has been removed, or
by mailing said written notice, postage prepaid, to the person in possession of such property, or
to the owner thereof, at his last known address as the same appears on the last equalized
assessment records of the City of Porterville or to the name and address of the person owning
such property as shown in the records of the city clerk. Said written notice shall contain a notice
to replace said tree and the director shall immediately upon mailing of the notice cause a copy
thereof, printed on a card of not less than eight (8) inches by ten (10) inches in size, to be posted
in a conspicuous place on the property.

(c) The notice shall particularly specify the types of trees that are permitted for replacement and in
the event any public improvement has been damaged by the tree removal, the notice shall
specify the work of public improvement that is to be done, how it is to be done and what
materials shall be used in the repair; it shall further specify that if the tree is not replaced and the
repair is not commenced within thirty (30) days after notice is given and diligently and without
interruption prosecuted to completion, the director shall make such repair and replacement and
the cost of the same shall be a lien on the property.

(d) Upon completion of the replacement and repair by the City of Porterville, the director shall cause
notice of the cost of repair and replacement to be given in the manner specified in this section for
the giving of written notice, which notice shall specify the day, hour and place when the city
council will hear and pass upon a report of the director of the cost of repair and replacement,
together with any objections or protests, if any, which may be raised by any property owner liable
to be assessed by the provisions of this section or any other interested person.

(e) Upon completion of the repair and replacement, the director shall prepare and file with the city
council a report specifying the trees which have been replaced and the public improvements
which have been repaired, the cost of the tree replacement, the cost of the repairs, a description
of the real property in front of which the repairs have been made or trees replaced, and the
assessment against each lot or parcel of real property to be levied to pay the cost thereof. Any
such report may include the cost of repairs or tree replacement of any number of parcels of
property whether contiguous to each other or not.

(f) Upon the day and hour fixed for the hearing, the city council shall hear and pass upon the report
of the director together with any objections or protests which may be raised by any of the
property owners liable to be assessed for the replacement of a parkway tree and for the work of
making such repair and any other interested person. Thereupon the city council may make
revision, correction or modification in the report as it may deem just, after which by motion or
resolution, the report as submitted or as revised, corrected or modified shall be confirmed. The
city council may adjourn the hearing from time to time. The decision of the city council on all
protests and objections that may be made shall be final and conclusive.

(g) The cost of tree replacement and the cost of repair, if any, may be assessed by the city council
against the parcel of property fronting upon the parkway where such tree has been replaced and
repairs made, and cost so assessed, and if not paid within five (5) days after its confirmation by
the legislative body, shall constitute a special assessment against that parcel of property and
shall be a lien on the property for the amount thereof, which lien shall continue until the
assessment and all interest thereon is paid or until it is discharged of record.

(h) The director may file in the office of the county recorder of Tulare a certificate giving notice of the
lien and a description of the real property so assessed and the amount of the lien.
(i) The lien shall be collected at the time and in the manner as ordinary city taxes are collected and shall be subject to the same penalties and interest and to the same procedure under foreclosure and sale in case of delinquency as provided for ordinary city taxes. All laws applicable to the levy, collection and enforcement of city taxes and county taxes are hereby made applicable to such special assessment and lien. (Ord. No. 1074, § A, 2-3-76; Ord. No. 1114, § C, 8-5-77)

**Sec. 19-37. Actions deleterious to trees prohibited.**

No person shall procure, authorize or cause any brine water, oil, liquid dye or other substance deleterious to tree life to lie, leak, pour, flow or drip upon or into the soil about the base of any parkway tree of the city or onto any sidewalk, road or pavement within said city at a point which such substance may be flowing, dripping or seeping into such soil [so as to] injure such tree or to otherwise harm or kill any such tree. No person without the approval of the director shall place or maintain any stone, cement or other substance so that it shall impede the free access of water or air to the roots of any parkway tree. (Ord. No. 902, § A, 5-7-68; Ord. No. 1114, § C, 8-5-77)

**Sec. 19-38. Attachments to trees regulated.**

No person, without the permission of the director, shall attach or keep attached to any parkway tree, or to the guard or stake intended for the protection thereof, any wire, rope, sign or any other device whatsoever. (Ord. No. 902, § A, 5-7-68; Ord. No. 1114, § C, 8-5-77)

**Sec. 19-39. Interference with director prohibited.**

No person shall interfere with the director or persons acting under his authority while engaged in planting, mulching, pruning, trimming, spraying, or treating or removing any parkway tree of the city, or in the removing of any stone, cement or other substance from about the trunk of any parkway tree. (Ord. No. 902, § A, 5-7-68; Ord. No. 1114, § C, 8-5-77)

**Sec. 19-40. Appeals.**

An applicant may appeal a decision of the director on any matter except those falling within the scope of subsections (a) and (b) of section 19-36 to the commission if a request therefor is filed with the city clerk within ten (10) days of notice of the director's decision.

An applicant may appeal a decision of the commission to the city council if a request therefor is filed with the city clerk within ten (10) days after notice of the commission's decision.

It shall be the duty of the director to notify the property owner or other affected person of the time and place any appeal will be heard, such notice to be given at least ten (10) days prior to said hearing. (Ord. No. 902, § A, 5-7-68; Ord. No. 1114, § C, 8-5-77)

**Sec. 19-41. Abatement of trees causing obstruction.**

(a) *Generally.* It shall be the duty of any person or persons owning or occupying real property bordering on any street upon which property there may be trees, to prune such trees in such manner that they will not obstruct or shade the street lights, obstruct the passage of pedestrians on sidewalks, obstruct vision of traffic signs, or obstruct view of any street or alley intersection. The minimum clearance of any overhanging portion thereof shall be ten (10) feet over sidewalks,
and twelve (12) feet over all streets except truck thoroughfares which shall have a clearance of sixteen (16) feet.

(b) \textit{Notice to prune}. Should any person or persons owning real property bordering on any street fail to prune trees as hereinabove provided, the director shall order such person or persons, within ten (10) working days after receipt of written notice, to so prune such trees.

(c) \textit{Order required}. The order required herein shall be served by mailing a copy of the order to the last known address of the property owner, by certified mail.

(d) \textit{Failure to comply}. When a person to whom an order is directed shall fail to comply within the specified time, it shall be lawful for the municipality to prune such trees, and the exact cost thereof shall be assessed to the owner. The Administrative Services Director or designee shall, at the appropriate time each year, cause to be filed with the tax assessor of the county a description of the property together with the name of the owner or reputed owner thereof against which such special assessment shall be made, and the installment then due and unpaid with accruing interest, may be assessed as taxes against the owner or reputed owner of the real property, and the amount of money so assessed shall bear the same penalties and interest as taxes regularly assessed on default of payment thereof. (Ord. No. 1432, 3-20-90; Ord. No. 1614, § 1, 9-17-02)
ORDINANCE NO. _____


THE COUNCIL OF THE CITY OF PORTERVILLE DO ORDAIN AS FOLLOWS:

ARTICLE III  PRESERVATION OF VALLEY OAK TREES.

SECTION 19-42  DEFINITIONS

(a) "Director" means the Parks and Leisure Services Director of the City of Porterville or his or her designated representative.

(b) "Oak tree" means Valley Oak Tree (Quercus lobata), with a trunk diameter of 2 inches or greater at a point 4 1/2 feet above the root crown (Also referred to as "2 inches D.B.H.")

(c) "Person" means individuals, associations, corporations, public agencies, joint ventures, partnerships, independent contractors, and other agents and employees.

(d) "Pruning standards" means those pruning standards established by the Western Chapter of the International Society of Arboriculture dated May 9, 1988, as revised by organization from time to time, and as amended by this Ordinance.

(e) "Commission" means Parks and Leisure Services Commission.

SECTION 19-43  PERMIT REQUIRED TO REMOVE OR DESTROY TREES

No person shall destroy or remove any Oak Tree growing on private or public property within the City limits of Porterville without a permit, except as provided in this Ordinance.

SECTION 19-44  PERMIT APPLICATIONS

Any person desiring to destroy or remove an Oak Tree on private or public property must first obtain a permit application at the City of Porterville Parks and Leisure Services Department, 291 North Main. The permit
application shall be forwarded to the Parks and Leisure Services Commission for consideration. The permit application shall contain the number, size and location of the Oak Trees and a brief statement showing good cause as the reason of the requested action.

Within ten (10) working days of receipt of such application, the Director shall inspect the premises whereon such Oak Trees are located, and shall issue an intended decision in writing as to whether or not the application will be approved, with or without conditions. Failure to render a decision within such period shall not be deemed approval.

The intended decision of the Director shall be based upon reasonable standards, including, but not limited to, the following:

(a) The condition of the Oak Tree with respect to its general health, status as a public nuisance, danger of falling, proximity to existing or proposed structures, interference with utility services, and its status as host for plant, pest, or disease endangering other species of trees or plants with infection or infestations.

(b) The necessity of the requested action to allow construction of improvements or otherwise allow economic or other reasonable enjoyment of property.

(c) The topography of the land and the effect of the requested action on soil retention, water retention, and diversion or increased flow of surface waters.

(d) The number, species, size, and location of existing trees in the area and the effect of the requested action on shade areas, air pollution, historic values, scenic beauty, and the general welfare of the City as a whole.

(e) Good forestry practices such as, but not limited to, the number of healthy trees the subject parcel of land will support.

In the intended decision on an application for a permit, the Director may attach reasonable conditions to insure compliance with the stated purposes of this Ordinance, such as, but not limited to, a condition requiring up to three (3) twenty-four inch box trees of appropriate species to be planted in a suitable location as substitutes for the removed tree or trees, at the sole expense of the applicant. Any such intended decision shall include a statement for the reasons for the decision.
SECTION 19-45 APPEALS

An applicant may appeal a decision of the Director to the Commission if a request is filed with the City Clerk within ten (10) days of notice of the Director's decision.

An applicant may appeal a decision of the Commission to the City Council if a request is filed with the City Clerk within ten (10) days after notice of the Commission's decision.

It shall be the duty of the Director to notify the property owner or other affected person of the time and place an appeal will be heard, such notice to be given at least ten (10) days prior to said hearing.

SECTION 19-46 EMERGENCIES

(a) In case of emergency caused by the dangerous condition of an Oak Tree requiring immediate action for the protection of life or property, a tree may be cut down in whole or in part on the order of the Director or any on-duty member of the Park Division.

(b) Public Utilities subject to the jurisdiction of the Public Utilities Commission of the State of California may also take such action as may be necessary to maintain a safe operation of their facilities.

SECTION 19-47 NOTICE OF INTENT TO PRUNE

Except in cases of emergencies as described in Section 19-46, no person shall prune or cause to be pruned any Oak Tree limb of a diameter of 2" or greater within the City of Porterville without first submitting a completed Oak Tree Intent To Prune Notice with the Director, as provided herein.

(a) The Notice shall be delivered to the Director prior to the start of the work to be performed.

(b) The Notice shall be in a form as provided by the Director and shall include the following information:

(1) The name, address and telephone number of the property owner.
(2) The name, address, telephone number and contractor's license number of the person's intending to prune the tree if other than the property owner.

(3) The date(s) of the pruning.

(4) A description of the tree(s) to be pruned, including the approximate size and location of the tree with sufficient specificity to enable the Director to precisely locate and identify the subject tree(s).

(5) If the work is to be performed in any public right-of-way, proof of insurance coverage for general liability, property damage, and workers' compensation in case of injury or damage to person or property.

(6) Proof of the possession of a valid City of Porterville Business License.

(c) A copy of the Notice must be in the possession of the person pruning the Oak Tree at all times during the course of the work being performed.

SECTION 19-48  I.S.A. PRUNING STANDARDS

That certain document known and designated as Pruning Standards, dated May 9, 1988, as revised dated June 6, 1988, as prepared by the Western Chapter of the International Society of Arboriculture Certification Committee, is hereby adopted by the Council of the City of Porterville as the standards for pruning Oak Trees located within the City of Porterville to all intents and purposes and to the same effect as if each and every section, paragraph, sub-paragraph, word, phrase, clause or illustration contained therein were fully set forth herein except for the deletion of any provisions as provided for in this Article.

SECTION 19-49  COPIES OF STANDARDS ON FILE

Reference is hereby made to three (3) copies of said Standards filed in the office of the City Clerk of the City of Porterville which are now so filed for full particulars of said Pruning Standards.

SECTION 19-50  ENFORCEMENT

Except as otherwise provided herein, the provisions of this Article shall be administered and enforced by the Director in his capacity as Enforcement Officer.
In the enforcement of this Article such Enforcement Officer and his deputies may enter upon private or public property to examine any Oak Tree, and may issue citations for any violations of this Article.

SECTION 19-51 PRESERVATION AND MAINTENANCE OF EXISTING OAK TREE

(a) When proposed developments encroach into the dripline area of any Oak Tree, special construction to allow the roots to breathe and obtain water, as determined by the Director, shall be required with respect to any application for building or zoning permit.

(b) The existing ground surface within six (6) feet (Measured horizontally) of the trunk of any Oak Tree shall not be cut, filled, compacted or paved. Tree wells may be used when advisable. Excavation adjacent to any Oak Tree shall not be permitted where material damage to the root system will result.

(c) The City Council shall, by resolution, adopt guidelines for commercial, industrial, and residential development and construction on property within the City of Porterville where any Oak Tree is located. Such guidelines adopted pursuant to this subdivision shall be made a part of this subdivision and shall be enforced as hereinafter set forth.

SECTION 19-52 BUILDING PERMITS

When any building permit or zoning permit is applied for pursuant to the City Code and a proposed structure would require the destruction, removal, or pruning of an Oak Tree, the official issuing the permit shall take into consideration the provisions of this Ordinance and the granting or denying of such permit; and, the applicant shall be required to either obtain the requisite permit or file the requisite notice in accordance with the provisions of this Ordinance.

In the event a permit to destroy or remove an Oak Tree is issued in order to enable the applicant to carry out some project of development or improvements of his property, such permit shall be valid and effective only in connection with the actual accomplishment of such project.

SECTION 19-53 WILFUL DESTRUCTION OF OAK TREES

It shall be unlawful for any person to wilfully destroy, mutilate, poison, or attempt to kill an Oak Tree in the city of Porterville. Exceptions to this Section are to be found in Section 19-46 which provides for emergency destruction, removal, or pruning of an Oak Tree.
SECTION 19-54 SEVERABILITY

(a) If any section, subsection, paragraph, sentence, clause, or phase of this Ordinance is held to be unconstitutional or invalid or ineffective by any Court or tribunal of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance, or any part thereof.

(b) If the application of any provision of this Ordinance or any person, property, or circumstance is found to be unconstitutional or invalid or ineffective in whole or in part by any Court or tribunal of competent jurisdiction, the effect of such decision shall be limited to the person, property, or circumstance immediately involved in the controversy, and the application of any such provision to other persons, properties or circumstances shall not be affected.

SECTION 19-55 PENALTIES

(a) It shall be unlawful and a misdemeanor for any person to remove an Oak Tree without a permit or to fail to have a removal permit in one’s immediate possession during the course of removing an Oak Tree, or for any person to violate any of the construction guidelines as provided by resolution as described in Section 19-51. Notwithstanding the classification of a violation of this Article as a misdemeanor, at the time an action is commenced to enforce the provisions of this Article, the trial Court, upon recommendation of the prosecuting attorney, may reduce the charged offense from a misdemeanor to an infraction pursuant to Section 19c of the California Penal Code.

(b) Any violation of any provision of Sections 19-47 and 19-48 shall be deemed an infraction and be punishable upon conviction as hereinafter set forth.

(c) Any person convicted of a misdemeanor under this Article shall be punished by a fine not to exceed One Thousand Dollars ($1,000.00) and/or six months in the County jail. Each day that a violation continues shall be regarded as a separate offense.

Any person convicted of an infraction of this Article shall be punished by a fine not to exceed Five Hundred Dollars ($500.00). Each day the violation continues shall be regarded as a new and separate offense.

Upon a person being convicted of any violation under this Article, the Court may, in addition to, or in lieu of, any other penalty provided and imposed under the Article, order the Defendant to pay a penalty assessment. Under no circumstances, however, shall the sum total of any fines and penalty assessments exceed the maximum fine allowable for the violation under this Article.
SECTION 19-56  NUISANCES

It is hereby declared a public nuisance for any person owning, leasing, occupying or have charge of any premises in the City of Porterville which has one or more Oak trees located thereon to intentionally, negligently, accidentally, or otherwise maintain said premises in such a manner so as to cause harm to and of said Oak Trees, by reason of any of the following conditions.

(1) Water saturation or deprivation;

(2) Nailing, screwing, stapling, bolting, or otherwise attaching boards, fences, signs, placards, posters, or any other material which might cause injury to the Oak Tree;

(3) Neglect in the pruning or trimming of overgrown, diseased, decaying, dead, or rotting limbs, branches and foliage.

Whenever any premises or Oak Tree or Oak Trees exist, or are permitted to exist, within the City of Porterville contrary to these provisions the City Council, by resolution, may declare the same to be a public nuisance; said Resolution shall declare the intention of the City Council to commence abatement proceedings, as herein provided, and shall refer to the street and number under which it is officially or commonly known and describe the property upon which such nuisance exists by giving the legal description of the land.

APPROVED AND ADOPTED this ______ day of __________, 1995.

__________________________________________
William E. Clark, Mayor

ATTEST:

__________________________________________
C.G. Huffaker, City Clerk
“Oak Tree” City Council Minutes

11-07-95
18. OAK TREE ORDINANCE

Recommendation: That the City Council approve the Oak Tree Ordinance.

Disposition: Approved.
Document No.: Ordinance No. 1517
File No.: 700-23

11-21-95
SECOND READING

21. ORDINANCE NO. 1517, OAK TREE ORDINANCE

The City Manager stated that this item was pulled from the agenda as it was found that it would take a public hearing to consider the ordinance. The City Manager stated that it would be set for December 5, 1995.

Disposition: Rescheduled for December 5, 1995. File 700-23

12-05-95
10. OAK TREE ORDINANCE

Recommendation: That the City Council approve the Oak Tree Ordinance.

The City Manager presented the item and gave the staff report. He also read into the record that the Council had received a letter from Dan Weisenberger concerning the Oak Tree Ordinance.

Mayor Clark opened the public hearing at 7:21 p.m.

Teresa Stump, 259 S. Lotas, Porterville, addressed the Council as a representative of the Parks & Leisure Services Commission and stated that they had worked on this ordinance for about 2 years and felt that it was a good ordinance. She felt the questions on the penalty phase were minimal, and she asked the Council to pass the ordinance.

After no further comments were received, Mayor Clark closed the hearing to the public at 7:22 p.m.

Council Member Gibbons stated she had a problem with the "threat of government" in the ordinance.

Council Member Gurrola stated she also had a problem with the City or neighbors policing people when they’re pruning a tree.
Council Member Nicholson stated he was concerned about the oak tree that was chopped down in the Mervyn's shopping center and felt that if we had the ordinance in effect at that time, possibly the developer would have sought to take care of the tree legally and the tree could have been included in that development.

Mayor Pro Tem Coleman stated he didn't like the ordinance and felt it would cause trouble. He felt it would create a lot of work to monitor the ordinance.

Mayor Clark stated that one business did a remodel and preserved an oak tree that is still alive and viable and felt it was an asset to the community.

The Director of Parks & Leisure Services, Gil Meachum, responded to the Council's question of fees, and stated that there were no fees in relation to this ordinance.

The City Attorney stated that the Notice of Intent to Prune was not a permit - the permit phase was only for destroying or removing an oak tree. Also, the person doing the work on the oak trees does not have to be a licensed contractor, but would have to have a business license, if he does the work as a business in Porterville.

Council Member Nicholson expressed his concern that someone would have to be available on the day the permit was valid or it would be easy for someone to circumvent the intent of the ordinance. He also expressed his satisfaction that the ordinance was so user friendly. He stated he felt that the stately oak in this valley is something that improves the quality of life in our area. There might be little minor things that trouble him in the ordinance, but he did support the intent of the ordinance.

After comments from the Council were completed, Mayor Clark closed the public hearing at 7:41 p.m.

**COUNCIL ACTION**

MOVED by Council Member Gibbons, SECONDED by Council Member Gurrola that the Council refer the Ordinance back to the Parks & Leisure Services Commission for further study.

AYES: Coleman, Gibbons, Gurrola, Clark
NOES: Nicholson
ABSENT: None
ABSTAIN: None

**Disposition:** Referred to Parks and Leisure Services Commission.

**10-01-96**

17. OAK TREE PROGRAM

Recommendation: That the City Council approve the Oak Tree Program.

**Disposition:** Approved.
**Document No.:** Minute Order 14-100196
Chapter 12.24
OAK TREE PRESERVATION

Sections:

12.24.010 Purpose.
12.24.030 Permit applications.
12.24.050 Emergencies.
12.24.060 Notice of intent to prune.
12.24.090 Enforcement.
12.24.100 Public assistance for property owners.
12.24.110 Oak maintenance fund.
12.24.120 Preservation and maintenance of existing oak trees.
12.24.130 Building permits.
12.24.140 Willful destruction of oak trees.
12.24.150 City projects.
12.24.170 Abatement.
12.24.180 Notice of hearing to abate.
12.24.190 Form of proper service of notice.
12.24.200  Hearing by city council.
12.24.210  Service on owner of resolution to abate.
12.24.220  Record of cost for abatement.
12.24.230  Hearing and proceedings.
12.24.240  Assignment of costs against property--Lien.
12.24.250  Authority.
12.24.270  Severability.

12.24.010  Purpose.

A.  In order to promote the public health, safety and general welfare, to enhance the beauty of Visalia and to complement and strengthen zoning, subdivision and land use standards and regulations, while at the same time recognizing individual rights to develop private property, the city council finds it necessary to establish basic standards, measures and compliance requirements for the preservation and protection of native Valley oak trees and landmark trees.

B.  The provisions of this chapter are enacted to:

1.  Enhance natural scenic beauty;

2.  Assist in the overall goal of preservation, maintenance and regeneration of a healthy urban forest and tree cover;

3.  Promote the conservation of energy resources and regulation of temperature through the provision of shade, evaporative cooling and wind break provided by trees;

4.  Improve the quality of air, water, and soil resources;

5.  Sustain and enhance property values;

6.  Promote the well-being of the community;

7.  Provide for recreational settings, wildlife habitat, and ecological balance;

8.  Provide for safety through responsible and safe standards for the trimming and/or removal of oak trees;


As used in this chapter, the following terms are defined in this section:

"Director" means the public works director of the city his or her designated representative.

"Crown-drip-line" means the outer perimeter of an oak tree's canopy.

"Oak tree" means Valley Oak Tree (Quercus lobata), with a trunk diameter of two inches or greater at a point 4.5 feet above the root crown (Also referred to as "2 inches Diameter Breast Height (D.B.H.).") "Oak tree" may also mean a "landmark tree." "Landmark tree" means any native or non-native tree recognized by city council resolution for its age, size, location, outstanding habitat value, superior beauty, historical, and/or cultural significance.

"Person" means individuals, associations, corporations, public agencies, joint ventures, partnerships, independent contractors, and other agents and employees.

"Pruning standards" means those pruning standards established by the Western Chapter of the International Society of Arboriculture dated 1995, as revised by the Society from time to time, and as amended by this chapter. (Ord. 2003-07 § 1, 2003; Ord. 9907 § 2 (part), 1999)

12.24.030 Permit applications.

A. Any person desiring to destroy or remove an oak tree on private or public property must first obtain a removal permit by applying in writing to the city clerk for such a permit, who shall forward such application to the public works director of the city. The application shall contain the number, size and location of the oak trees and a brief statement of the reason of the requested action. The director shall charge a fee for said permit, to be established by the city council's annual designation of city fees. The initial removal permit fee shall not exceed twenty-five dollars ($25.00).

B. Within seven days of receipt of such application, the director shall inspect the premises whereon such oak trees are located, and shall issue an intended decision in writing as to whether or not the application will be approved, with or without conditions; provided, however, that failure to render an intended decision within such period shall not be deemed approval.

C. The intended decision of the director shall be based upon reasonable standards, including, but not limited to, the following:

1. The condition of the oak tree with respect to its general health, status as a public nuisance, danger of falling, proximity to existing or proposed structures, interference with utility services, and its status as host for plant, pest, or disease endangering other species of trees or plants with infection or infestations.

2. The necessity of the requested action to allow construction of improvements or otherwise allow economic or other reasonable enjoyment of property.
3. The topography of the land and the effect of the requested action on soil retention, water retention, and diversion or increased flow of surface waters.

4. The number, species, size, and location of existing trees in the area and the effect of the requested action on shade areas, air pollution, historic values, scenic beauty, and the general welfare of the city as a whole.

5. Good forestry practices such as, but not limited to, the number of healthy trees the subject parcel of land will support.

D. In the intended decision on an application for a permit, the director may attach reasonable conditions to insure compliance with the stated purposes of this chapter. Issuance of such permits may be conditioned upon mitigation consisting of the planting of replacement trees at the sole expense of the applicant as determined by the director to mitigate the removal of any oak trees and/or the payment by the applicant into the oak maintenance fund. The number and type of replacement trees or the amount of the funds in mitigation shall be provided corresponding to the loss or diminution of economic, aesthetic environmental, and property values, and in relation to the age, size, and location of existing oak trees to be removed, but in no case shall said replacement trees be less than three trees, of a minimum fifteen (15) gallon size, for each six inches at D.B.H. of each tree removed. Any such intended decision shall include a statement for the reasons for the decision. (Ord. 9907 § 2 (part), 1999)


A. Notice of the director's intended decision shall be given by personal delivery or first class mail to the applicant and to any person filing a written request with the director for notice of all permit approvals under this ordinance.

B. Any person aggrieved or affected by the director's intended decision, or any member of the city council, may appeal the intended decision to the city council by filing a written notice of appeal with the city clerk within five days, excluding weekends and holidays, after the delivery or mailing of the notice. Any such notice of appeal shall be accompanied by an appeal fee in the amount specified by the city council.

C. If no appeal is filed within such time, the director shall promptly implement the intended decision by denying or issuing the permit, with or without conditions. An appeal automatically stay execution of the implementation of the intended decision until the appeal has been considered and decided by the city council. (A member of the city council shall be exempt from the requirement of an appeal fee).

D. The city clerk shall place all such appeals on the agenda of the next regular council meeting and shall give notice to the applicant and/or appellant. The city council shall consider and decide all issues raised in the appeal, and the decision of the council shall be final. (Ord. 9907 § 2 (part), 1999)

12.24.050 Emergencies.
A. In the case of emergency caused by the dangerous condition of an oak tree requiring immediate action for the protection of life or property, a tree may be cut down in whole or in part on the order of the director or any on-duty member of the public works/traffic safety department.

B. Public utilities subject to the jurisdiction of the Public Utilities Commission of the state of California may also take such action as may be necessary to maintain a safe operation for their facilities. (Ord. 9907 § 2 (part), 1999)

12.24.060 Notice of intent to prune.

A. Except in cases of emergencies as described in Section 12.24.050, no person shall prune or cause to be pruned any oak tree limb of a diameter of two inches or greater within the city without first submitting a completed oak tree intent to prune notice with the director, as provided herein.

B. The notice shall be delivered to the director prior to the start of the work to be performed.

C. The notice shall be in a form as provided by the director and shall include the following information:

1. The name, address and telephone number of the property owner.

2. The name, address and telephone number of the person(s) intending to prune the tree.

3. The date(s) of the pruning.

4. A description of the tree(s) to be pruned including the approximate size and location of the tree with sufficient specificity to enable the director to precisely locate and identify the subject tree(s).

5. If the work is to be performed in any public right-of-way, proof of insurance coverage for general liability, property damage, and workers' compensation in case of injury or damage to person or property.

6. Proof of the possession of a valid city business license.

D. A copy of the notice must be in the possession of the person pruning the oak tree at all times during the course of the work being performed. (Ord. 9907 § 2 (part), 1999)


That certain document known and designated as Pruning Standards, dated 1995, as prepared by the Western Chapter of the International Society of Arboriculture Certification Committee, and all subsequent updates as and when adopted by the Society, is adopted by the council of the city as the standards for pruning trees located within the city to all intents and purposes and to the same effect as if each and every section, paragraph, sub-paragraph, word, phrase, clause or illustration contained therein were fully set forth herein except for the deletion of any provisions as provided for in the chapter. (Ord. 9907 § 2 (part), 1999)

Reference is made to three copies of said standards filed in the office of the city clerk of the city which are now so filed for full particulars of said pruning standards. (Ord. 9907 § 2 (part), 1999)

12.24.090 Enforcement.

Except as otherwise provided herein, the provisions of this chapter shall be administered and enforced by the director in his or her capacity as enforcement officer. In the enforcement of this chapter such enforcement officer and his or her deputies may enter upon private or public property to examine any oak tree, and may issue citations for any violations of this chapter. (Ord. 9907 § 2 (part), 1999)

12.24.100 Public assistance for property owners.

A. If the director determines that a property owner, who has submitted a notice of intent to prune an oak tree, cannot properly prune his or her oak tree without the assistance of a professional tree trimmer, and that said property owner cannot afford to hire a professional tree trimmer because he or she does not have the financial resources to pay for such services, the director may provide financial assistance to said property owner for the purpose of pruning the tree or trees, if all the following conditions are met and funds are available:

1. The property owner uses the property where the tree(s) is located as his or her principal place of residence;

2. The aggregate gross income of all persons eighteen (18) years of age or older residing on the property does not exceed the minimum amount as may be set from time to time, by resolution of the city council, pursuant to this subdivision; and

3. The director determines that it is necessary to prune the tree to remove hazardous conditions, remove disease, rot, pests, other harmful conditions, or promote healthy growth of the tree(s).

B. Such financial assistance may include, but not be limited to, low interest loans, work done by the city with the cost borne in part or in whole by the property owner, work done by the city with the cost borne by the city to be repaid by the property owner upon such terms as the city and property owner shall agree, or any combination thereof. (Ord. 9907 § 2 (part), 1999)

12.24.110 Oak maintenance fund.

For purposes of providing such financial assistance as described in Section 12.24.100 it is established the "oak maintenance fund" which shall be funded either in part or in whole by those portions of fines which may be assessed by the courts, known as "penalty assessments" for violations of this chapter. (Ord. 9907 § 2 (part), 1999)
12.24.120 Preservation and maintenance of existing oak trees.

A. When proposed developments encroach into the crown-drip-line area of any oak tree, special construction to allow the roots to breathe and obtain water, as determined by the director, shall be required with respect to any application for building or development permit.

B. The existing ground surface within crown-drip-line (measured horizontally) of the trunk of any oak tree shall not be cut, filled, compacted or paved without the consent of the Director. Tree wells may be used when advisable. Excavation adjacent to any oak tree shall not be permitted where material damage to the root system will result.

C. The city council shall, by resolution adopt guidelines for commercial, industrial, and residential development and construction on property within the city, and city-initiated projects, where any oak tree is located. Such guidelines adopted pursuant to this subsection shall be made a part of this subsection and shall be enforced as hereinafter set forth. (Ord. 2003-07 § 2, 2003; Res. 2003-61 (part), 2003; Ord. 9907 § 2 (part), 1999)

12.24.130 Building permits.

A. When any building permit, grading permit, or development permit is applied for pursuant to the city code and a proposed structure would require the destruction, removal, or pruning of an oak tree, said permit shall not issue until all requirements of this chapter are met. In no event shall any disturbance of the premises be allowed until all requirements of the chapter are met and the permit is issued.

B. In the event a permit to destroy or remove an oak tree is issued in order to enable the applicant to carry out some project of development or improvement of the property, such permit shall be valid and effective only in connection with the actual accomplishment of such project. (Ord. 9907 § 2 (part), 1999)

12.24.140 Willful destruction of oak trees.

It is unlawful for any person to willfully destroy, mutilate, poison, or attempt to kill an oak tree in the city. Exceptions to this section are to be found in Section 12.24.050 which provides for emergency destruction, removal, or pruning of an oak tree. (Ord. 9907 § 2 (part), 1999)

12.24.150 City projects.

City-initiated projects should comply with the guidelines for road construction and improvement. (Ord. 9907 § 2 (part), 1999)

A. It is declared a public nuisance for any person owning, leasing, occupying or having charge of any premises in the city which has one or more oak trees located thereon to intentionally, negligently accidentally, or otherwise maintain said premises in such a manner so as to cause harm to and of said oak trees, by reason of any of the following conditions:

1. Water saturation or deprivation;

2. Nailing, screwing, stapling, bolting, or otherwise attaching boards, fences, signs, placards, posters, or other material which might cause injury to the oak tree;

3. Neglect in the pruning or trimming of overgrown, diseased, decaying, dead, or rotting limbs, branches and foliage.

B. Whenever any premises or oak tree or oak trees exist, or are permitted to exist, within the city contrary to these provisions the city council, by resolution, may declare the same to be a public nuisance; said resolution shall declare the intention of the city council to commence abatement proceedings, as herein provided, and shall refer to the street and number under which it is officially or commonly known and describe the property upon which such nuisance exists by giving the legal description of the land. (Ord. 9907 § 2 (part), 1999)

12.24.170 Abatement.

All premises or oak trees declared to be such public nuisances and ordered to be abated may be abated by watering, conditioning the soil, constructing berms, pruning or trimming, or removing offending materials affixed to the tree which might cause injury to said tree, pursuant to the procedures set forth in this code. (Ord. 9907 § 2 (part), 1999)

12.24.180 Notice of hearing to abate.

A. Within thirty (30) days of the passage of said resolution, the city clerk shall cause to be conspicuously posted on the premises, where the oak tree(s) are located, a certified copy of the resolution of the city council, which said notices shall be titled: "NOTICE OF HEARING" in letters of not less than one inch in height and shall be substantially in the following form:

NOTICE OF HEARING

TO ABATE NUISANCE

Notice is hereby given that on the ___ day of ___, ___, the City Council of the City of Visalia passed a resolution declaring that certain Oak Tree(s) located or standing upon that certain lot, piece or parcel of land, situated in the City of Visalia, State of California, known and designated as, in said City, and more particularly described as Lot No., Tract No., or name of subdivision in said City, constitutes a public nuisance and must be abated by the rehabilitation of such premises by the watering, pruning, trimming, or other methods; otherwise said nuisance will be abated by the municipal authorities of the City, in which case the cost of such rehabilitation, watering, pruning or trimming will be assessed upon the land on which said Oak Tree(s) is or are located and such cost
will constitute a lien upon such land until paid. (Reference is hereby made to said resolution for further particulars.)

B. The city clerk shall cause to be served upon the owner of each of the oak tree(s) declared to be a public nuisance and sought to be rehabilitated by watering, pruning or trimming one copy of said notice and a certified copy of the resolution of the city council, in accordance with these provisions.

C. Said notices and resolutions must be posted and served as aforesaid, at least thirty (30) days before the time fixed for the hearing before the city council and proof of posting and service of such notices and resolutions shall be made by affidavit which shall be filed with the city council. (Ord. 9907 § 2 (part), 1999)

12.24.190 Form of proper service of notice.

Proper service of said notice and resolution shall be by personal service upon the person owning the property as such person's name and address appears on the last equalized assessment roll, if he is found within the city limits, or if he is not to be found within the city limits, by depositing a copy of said notice and resolution in the U.S. post office properly enclosed in a sealed envelope and with the posting thereon fully prepaid. Said mail shall be registered or certified and addressed to said owner at the last known address of said owner. The service is complete at the time of deposit. (Ord. 9907 § 2 (part), 1999)

12.24.200 Hearing by city council.

A. At the time stated in the notices, the city council shall hear and consider all objections or protests, shall receive testimony and other evidence from owners, witnesses and parties interested relative to such alleged public nuisance and as to rehabilitation of such premises by the watering, pruning or trimming, or by other abatement thereof, and may continue the hearing from time to time.

B. Upon the conclusion of said hearing, the city council shall allow or overrule any or all of said protests. If the city council finds that good and sufficient cause does exist why said premises should be rehabilitated, or oak tree(s) should be watered pruned, trimmed, or treated, the city council shall prepare and file a report of such findings with the city clerk.

C. Following said public hearing, the city council may by resolution order the director to abate said nuisance, after a period of thirty (30) days, by having the oak tree(s) watered, pruned, trimmed, treated, or the nuisance otherwise abated, and the director and his or her authorized representatives are hereby expressly authorized to enter upon private property for that purpose. (Ord. 9907 § 2 (part), 1999)

12.24.210 Service on owner of resolution to abate.

A copy of said resolution ordering the director to abate said nuisance shall be served upon the owner of said property in accordance with the provisions of this chapter and shall contain a detailed list of needed corrections. Any property owner shall have the right to have any such oak tree(s) watered, pruned, trimmed, treated, or the nuisance otherwise abated at his or her own expense,
provided the same is completed prior to the expiration of the time set forth in said resolution. (Ord. 9907 § 2 (part), 1999)

12.24.220 Record of cost for abatement.

The director shall keep an account of the cost (including incidental expenses) of abating such nuisance on each separate lot, or parcel of land where the work has been done and shall render an itemized report in writing to the city council showing the cost of watering, pruning, trimming, or treating said oak tree(s), and incidental expenses, on each separate lot or parcel of land; provided, that before said report is submitted to the city council, a copy of the same shall be posted for at least five days upon the premises or property upon which such oak tree(s) are situated, or the nuisance committed, together with a notice of the time when said report shall be submitted to the city council for confirmation; and a copy of said report and notice shall be served upon the owner of said property, in accordance with the provisions of this chapter at least five days prior to submitting the same to the council; proof of said posting and service shall be made by affidavit and filed with city clerk. The term "incidental expenses" shall include, but not be limited to the expenses and costs of the city in the preparation of notices, specifications and contacts, and in inspecting the work, and the costs of printing and mailing required hereunder. (Ord. 9907 § 2 (part), 1999)

12.24.230 Hearing and proceedings.

At the date and time fixed for receiving and considering said report the city council shall hear and pass upon the report of the director, together with any objection or protests which may be raised by any of the owners of property liable to be assessed for the work of abating such nuisance any other interest persons. Thereupon, the city council may make such revision, correction or modification in the report as it may deem just, after which by resolution the report, as submitted, or as revised, corrected or modified, shall be confirmed; provided that said hearing or consideration may be continued from time to time. The decision of the city council on all protests and objections which may be made, shall be final and conclusive. (Ord. 9907 § 2 (part), 1999)

12.24.240 Assignment of costs against property--Lien.

The amount of the costs of abating such nuisance upon any lot or parcel of land, as confirmed by the city council, shall constitute a special assessment against the respective lot or parcel of land, and as thus keep a lien on said property for the amount of such assessment. After the confirmation of said report, a copy shall be turned over to the assessor and the tax collector of the county of Tulare, acting on behalf of the city, whereupon it shall be the duty of said assessor and tax collector to add the amounts of the respective assessments to the next regular bills of taxes levied against the said respective lots and parcels for land for municipal purposes, and thereafter said amounts shall be collected at the same time and in the same manner as other municipal taxes are collected, and shall be subject to the same penalties and the same procedure under foreclosure and sale in case of delinquency as provided for other municipal taxes. (Ord. 9907 § 2 (part), 1999)

12.24.250 Authority.
Any and all nuisances declared and abated hereunder shall be processed pursuant to the authority
described herein above. (Ord. 9907 § 2 (part), 1999)


A. Any person violating any abatement order provided in this chapter shall be deemed guilty of
a misdemeanor and upon conviction thereof shall be punished by a fine of not more than five hundred
dollars ($500.00) or by imprisonment in the city jail or county jail for a period of not more than six
months, or by both such fine and imprisonment.

B. It is unlawful and a misdemeanor for any person to remove an oak tree without a permit or to fail to have a removal permit in one's immediate possession during the course of removing an oak
tree, or for any person to violate any of the construction guidelines as provided by resolution as
described in Section 12.24.120(C). Notwithstanding the classification of a violation of this chapter as
a misdemeanor, at the time an action is commenced to enforce the provisions of this chapter, the trial
court, upon recommendation of the prosecuting attorney, may reduce the charged offense from a
misdemeanor to an infraction pursuant to Section 19c of the California Penal Code.

C. Any violation of any provision of Sections 12.24.060 and 12.24.070 shall be deemed an
infraction and be punishable upon conviction as hereinafter set forth.

D. Any person convicted of a misdemeanor under this chapter shall be punished by a fine not to exceed one thousand dollars ($1,000.00) and/or six months in the county jail. Each day that a violation continues shall be regarded as a separate offense.

E. Any person convicted of an infraction of this chapter shall be punished by a fine not to exceed five hundred dollars ($500.00). Each day the violation continues shall be regarded as a new and separate offense.

F. Upon a person being convicted of any violation under this chapter, the court, shall in addition
to, or in lieu of, any other penalty provided and imposed under the chapter, order the defendant to pay
a civil penalty assessment to the oak maintenance fund as described in Section 12.24.110 herein,
which is designed as restitution to compensate the city and the community for the loss or diminution
of economic, aesthetic, environmental, and property values resulting from the loss of any oak tree or
portion thereof, and for the city's costs and attorney's fees in prosecuting the matter. Such civil
penalty shall reflect true value of the oak tree based upon such factors as size, location, and age.

G. Such assessments will be used to provide financial assistance to those property owners
qualifying for such assistance under Section 12.24.100 herein.

H. Any violation of any provision of this chapter may result in the immediate suspension of any
permit previously issued for the construction and/or development of property upon which said
violation occurred, until compliance with all mitigation measures required by this ordinance is
demonstrated to the satisfaction of the director. (Ord. 9907 § 2 (part), 1999)
12.24.270 Severability.

A. If any section, subsection, paragraph, sentence, clause, or phrase of this chapter is held to be unconstitutional or invalid or ineffective by any court or tribunal of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this chapter, or any part thereof.

B. If the application of any provision of this chapter or any person, property, or circumstance is found to be unconstitutional or invalid or ineffective in whole or in part by any court or tribunal of competent jurisdiction, the effect of such decision shall be limited to the person, property, or circumstance immediately involved in the controversy, and the application of any such provision to other persons, properties or circumstances shall not be affected. (Ord. 9907 § 2 (part), 1999)

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ORDINANCE NO. 1622


BE IT ORDAINED BY THE COUNCIL OF THE CITY OF TULARE, TO WIT:

Section 1. Chapter 13 of Title 8 entitled "Preservation of Heritage Trees" consisting of Section 8-13-1 through 8-13-26 of the City Code of Tulare, California, is hereby adopted and shall read as follows:

8-13-1 DEFINITIONS.

(a) "Committee" shall mean the City Tree Committee established by the City Council.

(b) "Director" means the Parks and Community Services Director of the City of Tulare or his or her designated representative.

(c) "Dripline" shall mean the circumference of a circle drawn around the tree with the radius being a line beginning at the center of the trunk of the tree and ending at a point directly below the outermost branch tips of the tree.

(d) "Heritage Tree" means any Valley Oak Tree (Quercus lobata), with a trunk diameter of 2 inches or greater at a point 4 1/2 feet above the root crown (Also referred to as "2 inches D.B.H.") or any living tree designated by Resolution of the Council as a historic tree because of an association of some event or person of historical significance to the community or because of special recognition due to the size, condition, or aesthetic qualities. Qualification as a Heritage Tree, except a Valley Oak Tree (Quercus Lobata), will require the consent of the persons owning the property as of the date of the designation, and shall be based upon standards, including, but not limited to the following:
(1) Any tree which is indigenous to the area or which has adapted exceptionally well to the climatic conditions of the Tulare area, or is one of a kind;

(2) Any stand of trees the native of which makes each of its species dependent upon others for survival;

(3) Any tree which has an exceptional size for its species or is a representative of a species, or outstanding specimen;

(4) Any tree which has an exceptional age or size for its species; and

(5) Any tree which has distinctive structural interest or is genetically different.

(e) "Person" means individuals, associations, corporations, public agencies, joint ventures, partnerships, independent contractors, and other agents and employees.

(f) "Preservation" shall mean acts to promote the life, growth, health or beauty of trees, shrubs, or plants, including but not limited to, pruning, trimming, topping, root pruning, spraying, mulching, watering, fertilizing, cultivating, supporting and treating for disease and injury.

(g) "Pruning standards" means those pruning standards established by the Western Chapter of the International Society of Arboriculture dated May 9, 1988, as revised by the Organization from time to time, and as amended by this Ordinance.

8-13-2 PERMIT REQUIRED TO REMOVE OR DESTROY TREES.

No person shall destroy or remove any Heritage Tree growing on private or public property within the City limits of Tulare without a permit, except as provided in this Ordinance.

8-13-3 PERMIT APPLICATIONS.

Any person desiring to destroy or remove a Heritage Tree on private or public property must first obtain a removal permit by applying in writing to the Director for such a permit.
Within seven (7) days of receipt of such application, the Director shall inspect the premises whereon such Heritage Trees are located, and shall issue an intended decision in writing as to whether or not the application will be approved, with or without conditions; provided, however, that failure to render an intended decision within such period shall not be deemed approval.

The intended decision of the Director shall be based upon reasonable standards, including, but not limited to, the following:

(a) The condition of the Heritage Tree with respect to its general health, status as a public nuisance, danger of falling, proximity to existing or proposed structures, interference with utility services, and its status as host for plant, pest, or disease endangering other species of trees or plants with infection or infestations.

(b) The necessity of the requested action to allow construction of improvements or otherwise allow economic or other reasonable enjoyment of property.

(c) The topography of the land and the effect of the requested action on soil retention, water retention, and diversion or increased flow of surface waters.

(d) The number, species, size, and location of existing trees in the area and the effect of the requested action on shade areas, air pollution, historic values, scenic beauty, and the general welfare of the City as a whole.

(e) Good forestry practices such as, but not limited to, the number of healthy trees the subject parcel of land will support.

In the intended decision on an application for a permit, the Director may attach reasonable conditions to insure compliance with the stated purposes of this Ordinance, such as, but not limited to, a condition requiring up to two (2) replacement trees from fifteen (15) gallon containers or larger, in a suitable location as substitutes for the removed tree or trees, at the sole expense of the applicant. Any such intended decision shall include a statement for the reasons for the decision.
8-13-4    APPEALS.

The decision of the Director may be appealed by any person aggrieved or affected by the decision. The appeal shall be in writing, signed by the applicant with a statement of reasons supporting the appeal. The appeal shall be filed with the City Tree Committee not later than the tenth (10th) day following the decision being appealed. The City Tree Committee shall hear the appeal and render an opinion within forty-five (45) days. Any person excepting to any decision rendered by the City Tree Committee may appeal to the Council in writing, within thirty (30) days of the date of mailing of the decision to the appellant.

If no appeal is filed within such time, the Director shall promptly implement his intended decision by denying or issuing the permit, with or without conditions. An appeal shall automatically stay execution of the implementation of the intended decision until the appeal has been considered and decided by the City Council.

The City Clerk shall place all such appeals on the agenda of the next regular Council meeting and shall give notice to the applicant and/or appellant. The City Council shall consider and decide all issues raised in the appeal, and the decision of the Council shall be final.

8-13-5    EMERGENCIES; PUBLIC UTILITY LINE CLEARANCE.

(a) In the case of emergency caused by the dangerous condition of a Heritage Tree requiring immediate action for the protection of life or property, a tree may be cut down in whole or in part on the order of the Director or any on-duty member of the Tulare Police Department.

(b) Public Utilities subject to the jurisdiction of the Public Utilities Commission of the State of California may also take such action as may be necessary to maintain a safe operation or their facilities. Any action so taken must comply with Sections 8-13-6 and 8-13-7 of this Chapter.

8-13-6    NOTICE OF INTENT TO PRUNE.

Except in cases of emergencies as described in Section 8-13-5, no person shall prune or cause to be pruned any Heritage Tree limb of a diameter of 6" or greater, or any Valley Oak tree limb of a diameter of 2" or greater, within the City of Tulare without first
submitting a completed Heritage Tree Intent to Prune Notice or Oak Tree Intent to Prune Notice, with the Director as provided herein.

(a) The Notice shall be delivered to the Director prior to the start of the work to be performed.

(b) The Notice shall be in a form as provided by the Director and shall include the following information:

(1) The name, address and telephone number of the property owner.

(2) The name, address and telephone number of the person's intending to prune the tree.

(3) The date(s) of the pruning.

(4) A description of the tree(s) to be pruned, including the approximate size and location of the tree with sufficient specificity to enable the Director to precisely locate and identify the subject tree(s).

(5) If the work is to be performed in any public right-of-way, proof of insurance coverage for general liability, property damage, and workers' compensation in case of injury or damage to person or property.

(6) Proof of the possession of a valid City of Tulare Business License.

(c) A copy of the Notice must be in the possession of the person pruning the Heritage or Oak Tree at all times during the course of the work being performed.

8-13-7 I.S.A. PRUNING STANDARDS.

That certain document known and designated as Pruning Standards, dated May 9, 1988, as revised dated June 6, 1988, as prepared by the Western Chapter of the International Society of Arboriculture Certification Committee, is hereby adopted by the Council of the City of Tulare as the standards for pruning Heritage Trees, including Valley Oaks located within the City of Tulare, to all intents and purposes and to the same effect as if
each and every section, paragraph, sub-paragraph, word, phrase, clause or illustration contained therein were fully set forth herein except for the deletion of any provisions as provided for in this chapter.

8-13-8 COPIES OF STANDARDS ON FILE.

Reference is hereby made to three (3) copies of said Standards filed in the office of the Director of Parks and Community Services of the City of Tulare which are now so filed for full particulars of said Pruning Standards.

8-13-9 PUBLIC ASSISTANCE FOR PROPERTY OWNERS.

If the Director determines that a property owner, who has submitted a Notice of Intent to Prune pursuant to Section 8-13-6 herein, cannot properly prune his or her Heritage Tree without the assistance of a professional tree trimmer, and that said property owner cannot afford to hire a professional tree trimmer because he or she does not have the financial resources to pay for such services, the City may provide financial assistance to said property owner for the purpose of pruning the tree or trees, if the following conditions are met:

(a) The property owner either:

   (1) Uses the property where the tree(s) is located as his or her principal place of residence; or

   (2) Is a non-profit group, agency or organization and uses the property where the tree(s) is located in the conduct of its business or operations as such an organization;

(b) In the case of a property owner described in sub-section (a)(1) above, the aggregate gross income of all persons eighteen (18) years of age or older residing on the property does not exceed the minimum amount as may be set from time to time, by resolution of the City Council, pursuant to this subdivision; and

(c) The Director determines that it is necessary to prune the tree to remove hazardous conditions, remove disease, rot, pests, other harmful conditions, or promote healthy growth of the tree(s).
Such financial assistance shall include, but not be limited to the following: low interest loans; work performed by the City, or ordered by the City, with the cost borne in part or in whole by the property owner; work performed by the City, or ordered by the City, with the cost borne by the City to be repaid by the property owner upon such terms as the City and Property Owner shall agree; or any combination thereof.

8-13-10  PRESERVATION AND MAINTENANCE OF EXISTING HERITAGE TREE.

(a) When proposed developments encroach into the dripline area of any Heritage Tree, special construction to allow the roots to breathe and obtain water, as determined by the Director, shall be required with respect to any application for building or zoning permit.

(b) The existing ground surface within six (6) feet (measured horizontally) of the trunk of any Heritage Tree shall not be cut, filled, compacted or paved. Tree wells may be used when advisable. Excavation adjacent to any Heritage Tree shall not be permitted where material damage to the root system will result.

(c) The City Council shall, by resolution, adopt guidelines for commercial, industrial, and residential development and construction on property within the City of Tulare where any Heritage Tree is located. Such guidelines adopted pursuant to this subdivision shall be made a part of this subdivision and shall be enforced as hereinafter set forth.

8-13-11  BUILDING PERMITS.

When any building permit or zoning permit is applied for pursuant to the City Code and a proposed structure would require the destruction, removal, or pruning of a Heritage Tree, the official issuing the permit shall take into consideration the provisions of this Ordinance and the granting or denying of such permit; and, the applicant shall be required to either obtain the requisite permit or file the requisite notice in accordance with the provisions of this Ordinance.

In the event a permit to destroy or remove a Heritage Tree is issued in order to enable the applicant to carry out some project of development or improvement of his property, such permit shall be valid and effective only in connection with the actual accomplishment of such project.
8-13-12  WILFUL DESTRUCTION OF HERITAGE TREES.

It shall be unlawful for any person to wilfully destroy, mutilate, poison, or attempt to kill a Heritage Tree in the City of Tulare. Exceptions to this Section are to be found in Section 8-13-5 which provides for emergency destruction, removal, or pruning of a Heritage Tree.

8-13-13  ENFORCEMENT.

Except as otherwise provided herein, the provisions of this Chapter shall be administered and enforced by the Director. In the enforcement of this Chapter the Director and his or her designated representative may enter upon private or public property to examine any Heritage Tree after first having obtained permission from property owner or occupant except the Director and his or her designated representative in the exercise of the City's enforcement responsibility, may enter upon private or public property to inspect and examine the property in the case of a violation observable from a point located off the said public or private property, and may enter upon private or public property in the event there exists, in the opinion of the Director or his or her designated representative, a situation considered an emergency where the integrity of the Heritage Tree is threatened, or a situation exists which may lead to injury to person or property due to the condition of the Heritage Tree and/or the property upon which the Heritage Tree is located. In either case the Director or his or her designated representative need not obtain permission from the property. The Director and his or her designated representative may issue citations for any violation of this Chapter.

Conditions giving rise for entry upon private or public property by the Director or his or her designated representative to examine any Heritage Tree, with the permission of the property owner or occupant, include, but are not limited to, the following:

(a) When the Director or his or her designated representative has reasonable cause to believe a violation to this Chapter exists on the property;

(b) Where the property owner or occupant has made application to remove a Heritage Tree pursuant to Sections 8-13-2 and 8-13-3 of this Chapter;
(c) To monitor any activities taken pursuant to Section 8-13-6 of this Chapter; and

(d) In cases of routine inspections, inventory of Heritage Trees, and the gathering of survey data which may be initiated by the City.

8-13-14 SEVERABILITY.

(a) If any section, subsection, paragraph, sentence, clause, or phrase of this Ordinance is held to be unconstitutional or invalid or ineffective by any Court or tribunal of competent jurisdiction, such decision shall not affect the validity or effectiveness of the remaining portions of this Ordinance, or any part thereof.

(b) If the application of any provision of this Ordinance to any person, property, or circumstance is found to be unconstitutional or invalid or ineffective in whole or in part by any Court or tribunal of competent jurisdiction, the effect of such decision shall be limited to the person, property, or circumstance immediately involved in the controversy, and the application of any such provision to other persons, properties or circumstances shall not be affected.

8-13-15 PENALTIES.

(a) It shall be unlawful and a misdemeanor for any person to remove a Heritage Tree without a permit or to fail to have a removal permit in one's immediate possession during the course of removing a Heritage Tree, or for any person to violate any of the construction guidelines as provided by resolution as described in Section 8-13-10(c). Notwithstanding the classification of a violation of this Chapter as a misdemeanor, at the time an action is commenced to enforce the provisions of this Chapter, the trial Court, upon recommendation of the prosecuting attorney, may reduce the charged offense from a misdemeanor to an infraction pursuant to Section 19c of the California Penal Code.

(b) Any violation of any provision of Sections 8-13-6 and 8-13-7 shall be deemed an infraction and be punishable upon conviction as hereinafter set forth.

(c) Any person convicted of a misdemeanor under this Chapter shall be punished by a fine not to exceed One Thousand Dollars ($1,000.00) and/or six months in the County jail. Each day that a violation continues shall be regarded as a separate offense.
Any person convicted of an infraction of this Chapter shall be punished by a fine not to exceed Five Hundred Dollars ($500.00). Each day the violation continues shall be regarded as a new and separate offense.

8-13-16 NUISANCES.

It is hereby declared a public nuisance for any person owning, leasing, occupying or having charge of any premises in the City of Tulare which has one or more Heritage trees located thereon to intentionally, negligently, accidentally, or otherwise maintain said premises in such a manner so as to cause harm to and of said Heritage Trees, by reason of any of the following conditions.

(1) Water saturation or deprivation;

(2) Nailing, screwing, stapling, bolting, or otherwise attaching boards, fences, signs, placards, posters, or any other material which might cause injury to the Heritage Tree;

(3) Neglect in the pruning or trimming of overgrown, diseased, decaying, dead, or rotting limbs, branches and foliage.

Whenever any premises or Heritage Tree(s) exist, or are permitted to exist, within the City of Tulare contrary to these provisions the City Council, by resolution, may declare the same to be a public nuisance; said Resolution shall declare the intention of the City Council to commence abatement proceedings, as herein provided, and shall refer to the street and number under which it is officially or commonly known and describe the property upon which such nuisance exists by giving the legal description of the land.

8-13-17 ABATEMENT.

All premises or Heritage Trees declared to be such public nuisances and ordered to be abated may be abated by watering, conditioning the soil, constructing berms, pruning or trimming, or removing offending materials affixed to the Heritage Tree which might cause injury to said tree, pursuant to the procedures set forth in this Code.
8-13-18  NOTICE OF HEARING TO ABATE.

Within 30 days after the passage of said resolution, the City Clerk shall cause to be conspicuously posted on the premises, where the Heritage Tree(s) are located, a certified copy of the resolution of the City Council, declaring the same to be a public nuisance; said resolution shall declare the intention of the City Council to commence abatement proceedings, as herein provided, it shall refer to the street and number under which it is officially or commonly known to describe the upon which such nuisances exist by giving the legal description of the land, and shall be substantially in the following form:

NOTICE OF HEARING TO ABATE NUISANCE

Notice is hereby given that on the ___ day of ____________, 19_____, the City Council of the City of Tulare passed a resolution declaring that certain Heritage Tree(s) located or standing upon that certain lot, piece or parcel of land, situated in the City of Tulare, State of California, known and designated as __________________________, in said City, and more particularly described as Lot No.____, Tract No.____ in said City, constitutes a public nuisance and must be abated by the rehabilitation of such premises by the watering, pruning, trimming, or other methods; otherwise said nuisance will be abated by the municipal authorities of the City, in which case the cost of such rehabilitation, watering, pruning or trimming will be assessed upon the land on which said Heritage Tree(s) is or are located and such cost will constitute a lien upon such land until paid. (Reference is hereby made to said resolution for further particulars.)

The City Clerk shall cause to be served upon the owner of each of the Heritage Tree(s) declared to be a public nuisance and sought to be rehabilitated by watering, pruning or trimming one copy of said notice and a certified copy of the resolution of the City Council, in accordance with these provisions.

Said notices and resolutions must be posted and served as aforesaid, at least thirty (30) days before the time fixed for the hearing before the City Council and proof of posting and service of such notices and resolutions
shall be made by affidavit which shall be filed with the City Council.

8-13-19 FORM OF PROPER SERVICE OF NOTICE.

Proper service of said notice and resolution shall be by personal service upon the person owning the property as such person's name and address appears on the last equalized assessment roll, if he is found within the city limits, or if he is not to be found within the city limits, by depositing a copy of said notice and resolution in the U.S. Post Office properly enclosed in a sealed envelope and with the posting thereon fully prepaid. Said mail shall be registered or certified and addressed to said owner at the last known address of said owner. The service is complete at the time of deposit.

8-13-20 HEARING BY CITY COUNCIL.

At the time stated in the notices, the City Council shall hear and consider all objections or protests, shall receive testimony and other evidence from owners, witnesses and parties interested relative to such alleged public nuisance and as to rehabilitation of such premises by the watering, pruning or trimming, or by other abatement thereof, and may continue the hearing from time to time.

Upon the conclusion of said hearing, the City Council shall allow or overrule any or all of said protests. If the City Council finds that good and sufficient cause does exist why said premises should be rehabilitated Heritage Tree(s) should be watered, pruned, trimmed, or treated, the City Council shall prepare and file a report of such findings with the City Clerk.

Following said public hearing, the City Council may by resolution order the Director to abate said nuisance, after a period of thirty (30) days, by having the Heritage Tree(s) watered, pruned, trimmed, treated, or the nuisance otherwise abated, and he and his authorized representatives are hereby expressly authorized to enter upon private property for that purpose.

8-13-21 SERVICE ON OWNER OF RESOLUTION TO ABATE.

A copy of said resolution ordering the Director to abate said nuisance shall be served upon the owner of said property in accordance with the provisions of this ordinance and shall contain a detailed list of needed corrections. Any property owner shall have the right to have any such Heritage Tree(s) watered, pruned, trimmed,
treated, or the nuisance otherwise abated at his own expense, provided the same is completed prior to the expiration of the time set forth in said resolution.

8-13-22  RECORD OF COST FOR ABATEMENT.

The Director shall keep an account of the cost (including incidental expenses) of abating such nuisance on each separate lot, or parcel of land where the work has been done and shall render an itemized report in writing to the City Council showing the cost of watering, pruning, trimming, or treating said Heritage Tree(s), and incidental expenses, on each separate lot or parcel of land; provided, that before said report is submitted to the City Council, a copy of the same shall be posted for at least five (5) days upon the premises or property upon which such Heritage Tree(s) are situated, or the nuisance committed, together with a notice of the time when said report shall be submitted to the City Council for confirmation; and a copy of said report and notice shall be served upon the owner of said property, in accordance with the provisions of this ordinance at least five (5) days prior to submitting the same to the Council; proof of said posting and service shall be made by affidavit and filed with the City Clerk. The term "incidental expenses" shall include, but not be limited to the expenses and costs of the City in the preparation of notices, specifications and contacts, and in inspecting the work, and the costs of printing and mailing required hereunder.

8-13-23  HEARING AND PROCEEDINGS.

At the date and time fixed for receiving and considering said report the City Council shall hear and pass upon the report of the Director, together with any objections or protests which may be raised by any of the owners of property liable to be assessed for the work of abating such nuisance any other interested persons. Thereupon the City Council may make such revision, correction or modification in the report as it may deem just, after which by resolution the report, as submitted, or as revised, corrected or modified, shall be confirmed; provided that said hearing or consideration may be continued from time to time. The decision of the City Council on all protests and objections which may be made, shall be final and conclusive.
8-13-24  ASSIGNMENT OF COSTS AGAINST PROPERTY-LIEN.

The amount of the costs of abating such nuisance upon any lot or parcel of land, as confirmed by the City Council, shall constitute a special assessment against the respective lot or parcel of land, and as thus keep a lien on said property for the amount of such assessment. After the confirmation of said report, a copy shall be turned over to the Assessor and the Tax Collector of the County of Tulare, acting on behalf of the City of Tulare, whereupon it shall be the duty of said Assessor and Tax Collector to add the amounts of the respective assessments to the next regular bills of taxes levied against the said respective lots and parcels for land for municipal purposes, and thereafter said amounts shall be collected at the same time and in the same manner as other municipal taxes are collected, and shall be subject to the same penalties and the same procedure under foreclosure and sale in case of delinquency as provided for other municipal taxes.

8-13-25  AUTHORITY.

Any and all nuisances declared and abated hereunder shall be processed pursuant to the authority set forth in Sections 38771 et. seq., of the Government Code of the State of California, in the manner described hereinabove.

8-13-26  PENALTY.

Any person violating any abatement order provided in this ordinance shall be deemed guilty of a misdemeanor and upon conviction thereof shall be punishable by a fine of not more than $500 or by imprisonment in the City Jail or County Jail for a period of not more than six (6) months, or by both such fine and imprisonment.

Section 2. This Ordinance shall become effective thirty (30) days after passage.

PASSED AND ADOPTED this 4th day of June, 1991.

[Signature]
Mayor

ATTEST: [Signature]
Chief Deputy City Clerk
STATE OF CALIFORNIA 
COUNTY OF TULARE 
CITY OF TULARE 

I, W. LYNN DREDGE, City Clerk of the City of Tulare, and Clerk of the Council of said City, do hereby certify that at a regular meeting of said City Council, held on the 21st day of May 1991, the foregoing Ordinance was duly and regularly introduced, passed to print and ordered published in the Tulare Advance Register, a newspaper of general circulation published in the City of Tulare, by the following vote:

AYES: Council Members

Claude Retherford

Jerry Magoon

Ty Holscher

Diane Mathis

Maurice M. Green, Mayor

NOES: Council Members

None

ABSENT: Council Members

None

ABSTAINING: Council Members

None

W. LYNN DREDGE, City Clerk

By: [Signature] 
Chief Deputy City Clerk and Clerk of the Council of the City of Tulare
STATE OF CALIFORNIA
COUNTY OF TULARE
CITY OF TULARE

I, W. LYNN DREDGE, City Clerk of the City of Tulare, and Clerk of the Council of said City, do hereby certify that the foregoing Ordinance was duly adopted by the City Council of said City, and was signed by the President of said Council, at a regular meeting of said City Council held on the 4th day of June, 1991, and was approved by the following vote:

AYES: Council Members
Claude Retherford
Diane Mathis
Ty Holscher
Jerry Magoon
Maurice M. Green, Mayor

NOES: Council Members
None

ABSENT: Council Members
None

ABSTAINING: Council Members
None

W. LYNN DREDGE, CITY CLERK

By: [signature]
Chief Deputy City Clerk and Clerk of the Council of the City of Tulare
SUBJECT: CONSIDER SKATE PARK DESIGN CONCEPT

SOURCE: Parks and Leisure Services Department

COMMENT: The City Council has previously provided direction on the criteria for design of the skate park. In doing so, the Council indicated that a new community input meeting was to be held, and that design concept options developed from that process were to be returned to the Council for consideration. A community meeting was held on Thursday, May 19, 2005, and the designer was provided with the community comments as well as the City Council criteria. The designer is in the process of preparing two new concept plans and expects to have those available by the end of the day of Friday, June 3, 2005.

The designer has also provided change orders to the design contract totaling $5,696 in additional cost for the new concept plans and additional engineering for a full concrete skate park. The revised project schedule optimistically indicates that the project could be fast-tracked to completion by the end of November, 2005.

As of the writing of this report, the new concept plans do not exist. Therefore, staff will distribute those separately, and be prepared to present and review the options to the Council at the meeting.

RECOMMENDATION: Authorize design of the skate park in accordance with one of the two design concept options, along with the required additional design services.

ATTACHMENTS: Additional services request, conceptual and schematic design
Additional services request, geo-tech report, grading and drainage
Skate Park Project Schedule, revised 5/24/05
Date: 5/24/05
To: Jim Perrine
City of Porterville
291 N. Main Street
Porterville, CA 93257

Phone: 559/782-7461
Fax: 559/791-7854

E-Mail x
Fax & Mail x

Project Name: Porterville Skate Park

This agreement confirms our discussion regarding the services as described herein. The following services will be provided upon receipt of this signed agreement. These services will be identified on your billing by the Task Code and Name assigned below.

Task Code: 1.4, 1.5, 2.1, 2.2, 2.3, 2.4, 2.5
Task Name: Conceptual and Schematic Design

Request for Additional Services from Prime Consultant:

- Develop a new conceptual plan for the skatepark based on design criteria as recently determined by the City Council and the Community as documented in an e-mail from Jim Perrine dated 5/20/05 (see attached).

Task One Fees: $980.00
Task Two Fees: $3,715.00

Cost $4,696.00
Type of Billing: Time & Materials
Impact on Schedule: (see revised schedule attached)
(+ Working Days)

If this meets with your approval, please sign in the space provided below and return the original to me so that these services may be scheduled. Please keep a copy of this for your records.

SITE Design Group, Inc.

By: Michael R. McIntyre
Title: Principal
Date: 

CLIENT APPROVAL:

By: 
Title: 
Date: 

SITE Design Group, Inc.

By: 
Title: 
Date: 

24 West 5th Street, Suite 202
Tempe, Arizona 85281 480/801-6707 phone 480/801-6702 fax
Jim Perrine

From: Jim Perrine
Sent: Friday, May 20, 2005 11:15 AM
To: 'Brad Siedlecki'; 'Lisa Saylan'
Cc: 'Mike McIntyre'; Jeannie Greenwood; John Longley
Subject: Porterville Skate Park new concept plan

Importance: High

Brad,

You are to provide me with a change order for additional design cost to develop new skate park concepts and design of a concrete skate park. The new design is to meet the City Council and community input design criteria. I understand that you will get me the proposed additional design cost by Tuesday, May 24, 2005. I will also need an updated schedule for the project, which should assume that a design concept is approved on June 7, 2005, and construction design work can then commence.

The criteria which the City Council has specified is:

- all concrete - no modular components
- 15,000 square feet within the fenced enclosure.
- no bowls with restricted visibility
- half pipes are encouraged
- street plaza elements are encouraged
- elements meeting community requests to the extent possible
- design within budget limits - (no source for additional design cost has been provided, so we must anticipate that the additional cost will be deducted from the $330,000 portion of the project budget)

The community input meeting held yesterday provided support for a facility similar to the Orange Cove Skate Park. The input supports having roughly proportionate street plaza and vertical elements, with the ability for skaters from beginner through skilled levels to enjoy the park. The priority of the elements to be included, within the size and budget constraints, was asked to be:

- a shallow bowl to approximately 3 feet below grade, provided with visibility from the street, and with ramps/half pipe provisions in the rear above the grade - a total height of approximately 9 feet from bottom of the bowl should be considered, if possible.
- 8 stairs, with hand rails, and hubba ledges with hips on the side
- a pyramid
- a key hole - Del Mar style or web cam for monitoring the bowl area.
- a spine with roller
- a corner pyramid (bottom left corner of the Orange Cove plan), with rail and ledge
- bank to ledge
- big 5
- stages
- volcano

You have indicated that you will provide to this office two concept plans based upon this criteria. The target date for providing these concepts is June 1, 2005, but they will be provided no later than by the morning of June 3, 2005. The concept plans will be placed onto the Site Design, Porterville web page when available, but no later than the end of the day of June 3, 2005.

It appears to me that the Poplar trees and oleanders along the existing fence at the eastern edge of the Skate Park site may cause interference with the new concrete skate facility. It may be beneficial to plan the removal of these plants and locate the park in close proximity to this fence line - thus avoiding two fences along this side. There is also an existing
storm drain pipe within approx. 50 feet of the northerly line of the Skate Park area - it crosses from west to east under the area of the proposed parking lot.

I will separately forward to you the contact information for the engineers designing the parking lot once I obtain that information from the City Public Works Department. You will then be able to coordinate directly with them the limits and layout of the Skate Park, pathways, and parking lot. I will also check to see what geotechnical information the parking lot designer has obtained so that it can be forwarded to you for the skate park.

Jim P.
Date: 5/24/05
Phone: 559/782-7461

To: Jim Perrine
City of Porterville
291 N. Main Street
Porterville, CA 93257

Fax: 559/791-7854
E-mail X
Fax, Mail X

Project Name: Porterville Skate Park

This agreement confirms our discussion regarding the services as described herein. The following services will be provided upon receipt of this signed agreement. These services will be identified on your billing by the Task Code and Name assigned below.

Task Code: Sub-Consultant Services Geo-Tech & Civil Engineering
Task Name: Geo-Tech Report, Grading & Drainage

Request for Additional/Change in Services:

-City will provide the Geo-Tech report for the skatepark, negating the need for SITE to hire this sub (-$1,500)

-The Civil Engineer, Blair Church & Flynn will now provide the grading and drainage plan for an in-ground concrete skatepark as opposed to a slab on grade. Their original fees for the services were $1,500. The total fees for their services will now be $4,000

-The total cost difference from the original contract, if we subtract the Geo-Tech fees and add the increase in Civil fees is $1,000. The fees for the Electrical Engineer remain unchanged.

Cost Increase + $1,000.
Impact on Schedule
Type of Billing: Time & Materials (+ Working Days)

If this meets with your approval, please sign in the space provided below and return the original to me so that these services may be scheduled. Please keep a copy of this for your records.

SITE Design Group, Inc.

Signature:
By: Michael R. McIntyre
Title: Principal
Date: 

CLIENT APPROVAL:

Signature:
By: 
Title: 
Date: 

24 West 5th Street, Suite 202
Tempe, Arizona 85281
480/831-6703 phone
480/831-6703 fax
Porterville Skatepark Project Schedule

<table>
<thead>
<tr>
<th>Task Name</th>
<th>Duration</th>
<th>Start</th>
<th>Finish</th>
</tr>
</thead>
<tbody>
<tr>
<td>TASK 1.0 PROGRAMMING &amp; CONCEPTUAL DESIGN</td>
<td>40 days</td>
<td>Mon 4/1/06</td>
<td>Fri 6/3/06</td>
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<tr>
<td>TASK 1.1 Initial Skate Park Data Sheet to Client</td>
<td>1 day</td>
<td>Mon 4/1/06</td>
<td>Mon 4/1/06</td>
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<tr>
<td>TASK 1.2 Data Collection</td>
<td>1 day</td>
<td>Tue 4/2/06</td>
<td>Tue 4/2/06</td>
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<tr>
<td>TASK 1.3 Skatepark Conceptual Layout Plan</td>
<td>2 days</td>
<td>Wed 4/3/06</td>
<td>Thu 4/4/06</td>
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<tr>
<td>TASK 1.4 New Concept Meeting (Phone Conference)</td>
<td>1 day</td>
<td>Fri 4/1/06</td>
<td>Fri 4/1/06</td>
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<tr>
<td>TASK 1.5 Update Project Specific Skatepark Website</td>
<td>1 day</td>
<td>Fri 6/3/06</td>
<td>Fri 6/3/06</td>
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<tr>
<td>Milestone - Task 1.0 Complete</td>
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<td>Fri 6/3/06</td>
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<tr>
<td>TASK 2.0 SCHEMATIC DESIGN</td>
<td>20 days</td>
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<td>Wed 6/1/06</td>
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<tr>
<td>TASK 2.1 Skate Park Schematic Design/Master Plan</td>
<td>12 days</td>
<td>Thu 5/1/06</td>
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<td>TASK 2.2 Project Mlg #2</td>
<td>2 days</td>
<td>Fri 6/3/06</td>
<td>Mon 6/6/06</td>
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<tr>
<td>TASK 2.3 Preferred Skate Park Master Plan</td>
<td>3 days</td>
<td>Tue 6/7/06</td>
<td>Thu 6/9/06</td>
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<tr>
<td>PROJECT 2.4 Preliminary Cost Estimate for Skate Park</td>
<td>1 day</td>
<td>Fri 6/10/06</td>
<td>Fri 6/10/06</td>
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<tr>
<td>PROJECT 2.5 Deliver Final Skate Park Master Plan</td>
<td>3 days</td>
<td>Mon 6/13/06</td>
<td>Wed 6/15/06</td>
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<td>0 days</td>
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<td>TASK 3.0 DESIGN DEVELOPMENT - 60%</td>
<td>7 days</td>
<td>Thu 6/16/06</td>
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<td>TASK 3.1 Project Mlg. #3 - DO Coordination - Ph. Conference</td>
<td>1 day</td>
<td>Thu 6/16/06</td>
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<td>TASK 3.2 Materials Research</td>
<td>2 days</td>
<td>Fri 6/17/06</td>
<td>Mon 6/20/06</td>
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<td>TASK 3.3 Prepare Base Information</td>
<td>2 days</td>
<td>Fri 6/17/06</td>
<td>Mon 6/20/06</td>
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<td>TASK 3.4 Site Plan</td>
<td>2 days</td>
<td>Tue 6/21/06</td>
<td>Wed 6/22/05</td>
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<tr>
<td>TASK 3.5 Preliminary Skate Park Materials Plan</td>
<td>2 days</td>
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<td>TASK 3.6 Preliminary Skate Park Layout Plan</td>
<td>2 days</td>
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<td>Wed 6/22/05</td>
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<tr>
<td>TASK 3.7 Asan Plan</td>
<td>2 days</td>
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<td>Wed 6/22/05</td>
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<tr>
<td>TASK 3.8 Preliminary Grading &amp; Drainage Plan</td>
<td>2 days</td>
<td>Tue 6/21/06</td>
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<tr>
<td>TASK 3.9 Preliminary General Lighting Plan</td>
<td>1 day</td>
<td>Tue 6/21/06</td>
<td>Tue 6/21/06</td>
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<td>TASK 3.10 Sections/Profile Plan</td>
<td>2 days</td>
<td>Tue 6/21/06</td>
<td>Wed 6/22/05</td>
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<td>TASK 3.11 60% Construction Details</td>
<td>2 days</td>
<td>Tue 6/21/06</td>
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<td>TASK 3.12 60% Specifications</td>
<td>2 days</td>
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<td>Wed 6/22/05</td>
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<tr>
<td>TASK 3.13 Preliminary Statement of Probable Construction Costs</td>
<td>1 day</td>
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<td>Wed 6/23/06</td>
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<tr>
<td>TASK 3.14 60% Client Submit &amp; Review</td>
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<td>Fri 6/24/06</td>
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<td>TASK 3.15 60% Client Review Meeting #4</td>
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<td>Milestone - Task 3.0 Complete</td>
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<td>Wed 6/22/06</td>
<td>Wed 6/22/05</td>
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<tr>
<td>TASK 4.0 - CONSTRUCTION DOCUMENTS 90% &amp; 100%</td>
<td>7 days</td>
<td>Thu 6/23/06</td>
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<td>TASK 4.1 Design Team Meeting #5 - CO Overview &amp; Coordination</td>
<td>1 day</td>
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<td>Thu 6/23/06</td>
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<td>TASK 4.2 Biddable Construction Documents</td>
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<td>Thu 6/23/05</td>
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<tr>
<td>TASK 4.3 Statement of Probable Construction Cost</td>
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<td>Thu 6/23/05</td>
<td>Fri 7/1/05</td>
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<tr>
<td>TASK 4.4 Specificities</td>
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<td>Fri 7/1/05</td>
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<td>Milestones - Task 4.0 Complete</td>
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<td>TASK 5.0 - BIDDING/CONSTRUCTION OBSERVATION</td>
<td>106 days</td>
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<td>TASK 5.1 Pre-Bid Conference</td>
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<td>TASK 5.2 Bidding Questions/Clarifications</td>
<td>29 days</td>
<td>Wed 7/8/06</td>
<td>Mon 8/15/06</td>
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<td>TASK 5.3 Substitutions Review</td>
<td>29 days</td>
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<td>TASK 5.4 Alternate</td>
<td>29 days</td>
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<td>TASK 5.5 Pre-Construction Conference (contract award 8/6)</td>
<td>1 day</td>
<td>Mon 8/9/06</td>
<td>Mon 8/29/06</td>
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<td>TASK 5.6 Progress Review/Inspections</td>
<td>65 days</td>
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<td>TASK 5.7 Substantial Completion Review</td>
<td>1 day</td>
<td>Mon 11/22/05</td>
<td>Mon 11/28/05</td>
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<tr>
<td>TASK 5.8 Project Closeout</td>
<td>1 day</td>
<td>Tue 11/29/05</td>
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<td>Milestone - Task 5.0 Complete</td>
<td>0 days</td>
<td>Tue 11/29/05</td>
<td>Tue 11/29/05</td>
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SUBJECT: ESTABLISHMENT OF A BANNER POLICY

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: During the March 2, 2004 City Council meeting, Council approved the establishment of a banner policy that includes the frequency of banner replacement and design of banners. The banner policy as provided in Attachment 1 establishes guidelines for both City and non-City provided banners, including cross-street banners which were approved by Council during the City Council meeting held September 21, 2004 and the Porterville Redevelopment Agency during the Agency meeting held February 1, 2005. Included in the banner policy are guidelines for:

- Banner replacement
- Banner Application procedure for non-City provided banners
- Approval of design for both City and non-City banners
- Standards for banner size and materials

RECOMMENDATION: That the City Council approve the Banner Policy and Banner Standards as provided in Attachments 1 and 2.

ATTACHMENTS: 1) Banner Policy
2) Banner Standards
BANNER POLICY

Banners installed in the City of Porterville right of way shall adhere to the Banner Policy guidelines as listed below:

- Lamppost banners owned by the City of Porterville shall be replaced at a frequency of no more than annually and no less than every ten years, depending on wear.
- Cross-street banners shall be governed by the Special Event Banner portion of this policy.
- Faded, soiled, and tattered banners shall be replaced or removed within 48 hours of notification.
- Change in design of City banners shall be submitted to City Council for approval prior to purchase.
- Banners, other than those designed and provided by the City, shall be reviewed and approved by the Community Development Director, or designee, on a case-by-case basis.

SPECIAL EVENT BANNERS

A Banner Application must be approved by the Community Development Director, or designee, prior to any banner allowed to be suspended from the lampposts or at cross-street banner locations. A complete application must be filed and approved a minimum of thirty (30) working days prior to the date of display. Application will include:

- Location and size of banner to be displayed.
- Banner material type, including manufacturer information and warranty. All lamppost banners displayed for a period in excess of three (3) weeks, shall incorporate a weighted bottom pocket. The preferred method for weighting of the banner shall be a sand-filled, PVC rod, sewn into the bottom pocket.
- Photo or other illustration that shows graphics on the banner.
- Exact wording to be displayed on banners. A statement indicating the sponsor of the event may be shown on the banner; provided, it is of limited size and there is only one statement or logo per banner, and that the sponsor is a non-commercial organization.
- Certificate of Public Liability Insurance in the amount of one million dollars ($1,000,000) naming the City as additionally insured.
1. Upon receipt of a complete application, the Community Development Director, or designee, shall render an approval or denial of the Banner Application within fifteen (15) working days prior to the date of display.

2. Only those banners that promote the community or community events sponsored wholly by the City or in part by the City and noncommercial organizations/groups may be displayed on lampposts.
   - Noncommercial organizations are defined as follows: “The organization must have applied for and received documentation from the United States Internal Revenue Service or from the California Franchise Tax Board that the Permit holder is tax exempt under federal or state income tax laws.”
   - Requesting noncommercial organizations shall have offices within Porterville city limits.
   - A copy of the organization’s By-laws or Articles of Incorporation shall be submitted to the Community Development Department prior to any Banner Application approval to determine the noncommercial status of the organization.

3. No Banner Applications will be accepted more than one year in advance. Applications will be approved on a “first-come-first-served” basis. Wholly sponsored City events will take precedence in the event of conflicting date request.

4. Non-City owned, special event banners shall be displayed no more than 30 calendar days, with one 30-calendar-day extension.

5. Political statements, commercial advertising, and general religious messages will not be accepted.

6. The Application will specify requested dates for banner to be displayed.

7. Applicant is responsible for the installation and removal of the banner as approved by the Community Development Director, or designee. The storage and repair of banners is the responsibility of the applicant. Banners damaged during the period of display shall be removed within 48 hours upon notification to the applicant.

8. Banners not removed as in the time period referenced within the Banner Application or upon notification of damaged banners will be removed by the City and Permit Holder will be billed for removal at actual costs incurred by the City.

9. Anyone so desiring may appeal the decision of the Community Development Director, or designee, to the City Council in writing. Specific issues to be
considered for appeal shall be identified in the written request. The appeal request shall be submitted to the Chief Deputy City Clerk within fifteen (15) days after the Banner Application is denied.

10. Whenever it shall be shown that any Permit holder has violated any of the provisions of these requirements, the Community Development Director, or designee, may suspend or revoke the Permit by serving written notice on the Permit holder not less than ten (10) business days prior to the suspension or revocation. The notice shall state the reasons for the suspension or revocation, how it can be remedied or appealed. In the case of suspension, the Permit will be revoked unless, within ten (10) days after the notice of suspension is personally served or deposited in the United States mail, the violation is either remedied or appealed. It shall be the responsibility of the Permit holder to provide evidence to the satisfaction of the Community Development Director, or designee, that the violation has been remedied; otherwise, the Permit shall be deemed revoked without further notice.
BANNER APPLICATION

NAME OF ORGANIZATION: ____________________________________________

ADDRESS OF ORGANIZATION: ________________________________________

_____________________________________________________________

CONTACT NAME: __________________________________________________

TELEPHONE: ______________________ FAX: __________________________

EMAIL: __________________________________________________________

BUSINESS LICENSE NUMBER: ______________________________________

LOCATION(S) BANNERS TO BE DISPLAYED: __________________________

DATE BANNERS TO BE DISPLAYED:

INSTALLATION: ____________________________________________________

REMOVAL: _______________________________________________________

BANNERS TO BE INSTALLED BY:

NAME: ___________________________________________________________

ADDRESS: _______________________________________________________

TELEPHONE: ____________________________________________________

To be included with this application form:

- Photo or other illustration that shows graphics on banner.
- Exact wording to be displayed on banners.
- Statement of banner size.
- Statement of banner material. If substitution of recommended banner material is being requested, a sample and manufacturer’s specifications must be submitted with this application.
- Copy of the Public Liability Insurance in the amount of one million dollars ($1,000,000) naming the City as additionally insureds.
LAMPPOST BANNER STANDARDS

APPLICATION: Complete the “Banner Application”.

INSTALLATION: The Applicant will arrange for banner installation and shall submit the name of the organization/individual that will be responsible for the installation.

BANNER MATERIAL: 100% solution dyed acrylic marine canvas. Any substitute material must be submitted to the Community Development Director for approval.

SIZE:
- Main Street Banners: 30” x 48”
- Olive Avenue Banners: 30” x 84”
- Henderson Avenue Banners: 30” x 84”

ATTACHMENT DEVICES: Heavy-duty solid brass grommets to be installed near bracket pockets to secure banners to pole. Hem pocket size to be three (3”) inches. Banners shall be constructed in such a manner as to be attached utilizing the hardware as shown in Attachment “A”.

SAFETY FEATURES: Double stitch hemming throughout the banner and reinforced corners.
CROSS-STREET BANNER STANDARDS

**APPLICATION:** Complete the “Banner Application”.

**INSTALLATION:** The Applicant will arrange for banner installation and shall submit the name of the organization/individual that will be responsible for the installation.

**BANNER MATERIAL:** 100% solution dyed acrylic marine canvas. Any substitute material must be submitted to the Community Development Director for approval.

**SIZE:** Up to 30 feet long, with maximum width of 48 inches.

**SPECIFICATIONS:** Banner shall have one (1) ring and snap every five (5) feet, top and bottom and 5/8” grommets at each corner. The banner shall have 12-14, four (4”) inch diameter half circles outside lettering areas for wind egress.

**SAFETY FEATURES:** Double stitch hemming throughout the banner and reinforced corners.
SUBJECT: PUBLIC NOTIFICATION GUIDELINES FOR PROPOSED CONSTRUCTION PROJECTS

SOURCE: Public Works Department - Engineering Division

COMMENT: From time to time, the City's Engineering Division prepares plans and specifications for the construction of public works throughout the City. Staff recognizes the need to inform the public regarding the type, limits and duration of each project, and to this end, has prepared the following project notification guidelines:

At least two weeks prior to the Council's authorization to advertise for bids staff shall, at a minimum, perform the following notification tasks:

1. Place a notice in the local paper alerting the public of the pending project. The notice shall clearly state the nature of construction and the project limits. The notice will set the time and place for a public meeting to discuss the project in greater detail and shall inform the public that engineering staff will be available to answer any questions relevant to the project.

2. Prepare and mail letters to all property owners whose residence or business is located adjacent to the project, informing said property owners of the pending project. The letter shall clearly state the nature of the project, the proposed limits of construction, where plans are available for public review, and shall invite the property owners to the public meeting when the Council considers going to bid.

3. One week prior to construction beginning, the Public Works Department or contractor shall provide a point of contact within the Public Works Department for additional information about the project.

RECOMMENDATION: That City Council adopt the "Public Notification Guidelines For Proposed Construction Projects" as described herein and direct staff to commit said guidelines to policy form and direct staff to implement said policy on all future construction projects.

ATTACHMENT: Memo - Project Notification Guidelines - Legal Requirements
This is prepared to supplement the staff report for the review of the City's project notification procedures.

With regard to public works projects, the notice legally required depends on the type of project and how the project affects the community. For example, concerning street improvement projects involving the installation of curb, gutter, sidewalk, and/or piping, advance notice is given, both generally via publication and directly to the adjacent property owners, once at least ten days prior to the initial public hearing held before or at the time the Council is considering authorizing that the project go out to bid, and once at least fifteen days prior to the public hearing on establishing the costs per owner (the latter public hearing in accordance with the noticing requirements under the Mitigation Fee Act pursuant to Gov. Code §66000).

For those residences and businesses affected by public works construction projects (e.g. the property owners adjacent to a project involving the construction or rehabilitation of a public street), while no notice is legally required to those property owners at the time the City Council is considering whether or not to undertake the project, the City's standard project contract and specifications (standard supplementary conditions) require that the contractor prepare a written notice to all property owners/occupants adjacent to and/or affected by the project. This notice must be prepared and submitted to the City for approval 5 days prior to the start of the project, must have the name and phone number of the contractor’s contact person, and must be delivered to the affected property owners not less than 48 hours prior to the start of the construction. The contractor is also required to notify all affected properties at least 48 hours prior to any temporary traffic obstruction of access (similar notice is provided prior to any interruption in water or sewer service).

In addition to the noticing required above, if review under CEQA is required, public hearings (with varying notice periods) and review periods are required in conjunction with the environmental determinations that precede the project.
SUBJECT: ENVIRONMENTAL REVIEW OF THE CITY OF PORTERVILLE HILLSIDE/EASTSIDE WATER DEVELOPMENT PROJECT

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: City Staff, in conjunction with the City’s on-call environmental consulting team, have completed the preparation of an Initial Study and Mitigated Negative Declaration for the City of Porterville Hillside/Eastside Water Development Project. The project consists of the construction of four water reservoirs and related appurtenances throughout the easterly portion of the City. In addition, the environmental review also considers construction of a surface water treatment facility and a granular activated carbon filtration system in the City.

The Initial Study prepared for the project identified several environmental factors which could be affected by the project, but determined that each of the factors could be mitigated to a less than significant level. The reservoir tanks are located on the hillsides in eastern Porterville and could result in an aesthetic impact, but mitigation measures such as paint color, berms and landscaping will reduce these impacts to less than significant. Mitigation measures have also been identified for impacts to Air Quality, Cultural Resources, Geology, Noise, and Traffic. All impacts, with incorporation of the defined mitigation measures, will be reduced to less than significant.

Notice of the proposed action has been sent to all interested agencies and otherwise distributed as required by law. Responses were received from the San Joaquin Valley Air Pollution Control District and Tulare County Resource Management Agency. The San Joaquin Valley Air Pollution Control District noted the requirement to comply with existing regulations. Tulare County Resource Management Agency commented on confusion over the total number of tanks included in the project, aesthetics and the location of the Martin Hill Tank located in the County and thus requiring an encroachment permit for construction of pipelines, etc. These comments have been appropriately noted.

The Draft Resolution approving the Negative Declaration includes findings acknowledging the City’s regulatory responsibilities and intent to comply.

ENVIRONMENTAL: On April 15, 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, individuals and the State.
RECOMMENDATION: That the City Council:

1. Adopt the attached resolution approving a Negative Declaration for the City of Porterville Hillside/Eastside Water Development Project.

ATTACHMENTS:

1. Letter dated May 21, 2005, from the San Joaquin Valley Air Pollution Control District
2. Letter dated May 19, 2005, from the Tulare County Resource Management Agency
3. Draft Environmental Resolution
4. Draft Initial Study and Notice of Intent to Adopt a Mitigated Negative Declaration of Environmental Impact, available for public review in the Community Development Department or the City’s website, www.ci.porterville.ca.us.
May 21, 2005

Mr. Bradley D. Dunlap
Community Development Director
291 N Main Street
Porterville, CA 93257

Subject: Initial Study and Negative Declaration, City of Porterville Hillside/Eastside Water Development Project

Dear Mr. Dunlap,

The entire San Joaquin Valley Air Basin is designated non-attainment for ozone and fine particulate matter (PM10 and PM2.5). The development of the City of Porterville Hillside/Eastside Water Development Project (Project) would contribute to the overall decline in air quality due to initial construction (earthmoving operations related to pipelines, storage tanks, and storage reservoirs, and potential traffic delays caused when the wastewater and recycled water pipeline distribution system is constructed). However, we acknowledge the need for the project and recognize that short-term effects can be substantially minimized with the full implementation of fugitive dust control measures.

The staff of the San Joaquin Valley Air Pollution Control District (District) have reviewed the Initial Study and Negative Declaration and offer the following comments:

**Regulation VIII** (Fugitive PM10 Prohibitions) is a series of rules (Rules 8011-8081) designed to reduce PM10 emissions (predominantly dust/dirt) generated by human activity, including construction, road construction, bulk materials storage, earthmoving operations, etc. Current District rules can be found at [http://www.valleyair.org/rules/1ruleslist.htm](http://www.valleyair.org/rules/1ruleslist.htm). The Initial Study and Negative Declaration (Attachment C Regulation VIII Control Measures for Construction Emissions of PM10) contains a limited discussion of Regulation VIII requirements. In order to avoid District compliance action, it would behoove the City of Porterville to thoroughly comprehend the full extent of Regulation VIII requirements. Also, any contractor involved in the construction of the project should also have a thorough understanding of Regulation VIII. In many instances requirements of Regulation VIII have been paraphrased and do not fully convey the minimal requirements of the rules. For example, one control measure states "Any site with 150 or more vehicle trips..." whereas Rule 8041, section 5.2 states "...any site with ... 20 or more vehicle trips per day by vehicles with three or more axles shall take the actions for carryout and trackout as specified in section 5.8" (of Rule 8041). Sections 5.8 and 5.9 specify techniques that prevent or mitigate carryout and trackout. Also, a glaring omission is the requirement for a Dust Control Plan. Rule 8021, section 6.3 Dust Control Plans, essentially requires a non-residential project 5.0 or more acres in area to submit a Dust Control Plan to the District as specified in Section 6.3.1 of Rule 8021. If a non-residential site is 1.0 to less than 5.0 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 6.4.2). 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](http://www.valleyair.org/busind/comply/PM10/forms/DCP-Form%20-%2010-14-2004.pdf).

**Rule 4101** (Visible Emissions) This rule prohibits emissions of visible air contaminants to the atmosphere and applies to any source operation that emits or may emit air contaminants. The City of...
Porterville should contact the District’s Small Business Assistance Office at (559) 230-5888 to receive additional information/instructions.

**Rule 4102** (Nuisance) applies to any source operation that emits or may emit air contaminants or other materials. In the event that the project or construction of the project creates a public nuisance, it could be in violation and be subject to District enforcement action.

**Rule 4641** (Cutback, Slow Cure, and Emulsified Asphalt, Paving and Maintenance Operations). If asphalt paving will be used, then paving operations of this project will be subject to Rule 4641. This rule applies to the manufacture and use of cutback asphalt, slow cure asphalt and emulsified asphalt for paving and maintenance operations.

The Initial Study and Negative Declaration did not indicate if any emergency standby generators would be included as part of the project. If such equipment is necessary, Rule 4701 (Internal Combustion Engines - Phase 1) and/or Rule 4702 (Internal Combustion Engines - Phase 2) may apply. This project may be subject to additional District Rules not enumerated above. To identify additional rules or regulations that apply to this project, the City of Porterville is strongly encouraged to contact the District’s Small Business Assistance Office at (559) 230-5888.

There are a number of measures that can be incorporated into the construction phase of the project to provide additional reductions to construction emissions. The measures listed below should not be considered all-inclusive and remain options that the project proponent should consider:

From Table 6-4 of the District’s Guide to Assessing and Mitigating Air Quality Impacts 2002 (GAMQI) which can be found at: http://www.valleyair.org/transportation/ceqa_guidance_documents.htm:

- **Use of Alternative fueled or catalyst equipped diesel construction equipment.**
- The City of Porterville should identify a minimum of catalyst-equipped diesel construction equipment that will be used for this project. Low-sulfur diesel should be used in place of regular diesel when possible. Alternative fuel may not be readily available in the project area. If biodiesel is used, the applicant should use only CARB certified fuels as 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.

- **Minimize idling time** (e.g. 10 minute maximum)
- City of Porterville could require a contractor to institute idling limits to prevent unnecessary diesel emissions. Engines should be shut off when not in use, including during breaks and lunches.

- **Limit the hours of operation of heavy duty equipment and/or the amount of equipment in use**
- The City of Porterville should specify the conditions of reduced hours or reduced amount of equipment. Hours can be reduced under certain circumstances such as during levels of high ambient air pollution or during peak travel on nearby roads.

- **Construction equipment should have engines that are Tier II** (if available as certified by the Air Resources Board). The City of Porterville could require a contractor to utilize Tier I and Tier II (2.5 gram) engines which have significantly less PM and NOx emissions compared to uncontrolled engines. Onsite equipment should be equipped with 1998 or newer engines. Engines built after 1998 are cleaner Tier II engines. To find engines certified by the Air Resources Board, see 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. For more information on heavy-duty engines, please contact Mr. Kevin McCaffrey, Air Quality Specialist, at (559) 230-5831.

- Off road trucks should be equipped with on-road engines when possible.

- Light Duty Cars and Trucks should be alternative fueled or hybrids.
  - www.fueleconomy.gov
  - http://www.eere.energy.gov/cleancities/index.html (Clean Cities Program) and
  - www.driveclean.ca.gov have resources to find alternative fueled or hybrid vehicles.

District staff is available to meet with you 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 (559) 230-5820 and provide the reference number at the top of this letter.

Sincerely,

Hector R. Guerra
Senior Air Quality Planner
Central Region

c: file
May 19, 2005

Mr. Brad Dunlap, Community Development Director
City of Porterville
291 North Main Street
Porterville CA 93257

RE: Proposed Mitigated Negative Declaration for the Hillside/Eastside Water Development Project

Dear Mr. Dunlap:

The staff of the Tulare County Resource Management Agency appreciates the opportunity to comment upon the above referenced document. Below are comments and recommendations as to the scope, content of information and analysis of the proposed document.

Discrepancies related to the number of proposed water tanks exist throughout the document. The project description describes four proposed water storage tanks. However, this is inconsistent with what several of the figures and maps show. For example, Figure 4 shows four tanks while the “Tank and Viewpoint Site Map” and Map 4 shows three tanks in the project area.

Section I. Aesthetics

The document should summarize the views of the existing residences for each of the proposed tank sites. Although the city may anticipate urbanization of the areas surrounding the potential tank sites within the General Plan timeframe, it is still important to address impacts to the existing baseline setting. A possible format would be to list the proposed tank site, distance from nearest residence the type of residence, and a description of the visual impact the tank will have.

While the city has proposed mitigation measures to lessen the impact the water storage tanks will have on the scenic vista, other options should be explored. One option would be to consider the use of partially or completely buried concrete tanks. This approach could completely or partially avoid an otherwise unsightly and unappealing landmark from the view shed of surrounding County and city residential areas.

Section IX. Land Use and Planning

The proposed Martin Hill Tank (tank #1) is located in an unincorporated area south of the existing city limits of Porterville. While the placement of the tank on a city-owned parcel would be exempt from the County’s use permit process, the placement of water lines along county right-of-way might
require the approval of an encroachment permit. Please contact the Tulare County Resource Management Agency – Engineering Division to clarify this.

Thank you for the opportunity to comment on the proposed Mitigated Negative Declaration for the Hillside/Eastside Water Development Project. If you have any questions, please feel free to contact me or Alison Anderson at (559)733-6291.

Sincerely,

[Signature]

Gabriel Gutierrez, Planner II
Tulare County Resource Management Agency
RESOLUTION NO. ______

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS IN SUPPORT OF APPROVAL OF A NEGATIVE DECLARATION FOR THE CITY OF PORTERVILLE HILLSIDE EASTSIDE WATER DEVELOPMENT PROJECT

WHEREAS: On April 15, 2005, the City of Porterville circulated an Initial Study and Notice of Intent to Adopt a Negative Declaration; and

WHEREAS: Comments regarding the project were received from two agencies, prior to the close of the public comment period; and

WHEREAS: Following the close of the public comment period for the proposed project, the Environmental Coordinator made a preliminary determination that a Mitigated Negative Declaration would be appropriate for the project; and

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of June 7, 2005 considered the potential environmental impact of the proposed City of Porterville Hillside Eastside Water Development 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 in accordance with the California Environmental Quality Act.

2. That the subject project will not create adverse environmental impacts. The approved Negative Declaration was evaluated in light of the prepared environmental initial study with studies, comments from interested parties and the public, as well as responses to written comments received during the review period. It was determined that potential impacts associated with the proposed project could be mitigated to a less than significant level through the implementation of the attached mitigation measures.

3. That the City Council is the decision-making body for the project.

4. That the Negative Declaration prepared for the City of Porterville Hillside Eastside Water Development Project was transmitted to the State Clearinghouse and interested agencies, groups and individuals for review and comment. The review period ran for thirty (30) days from April 26, 2005 to May 26, 2005.

5. That two agencies, the San Joaquin Valley Air Pollution Control District, and the Tulare County Resource Management Agency provided comments with regard to
the project. The San Joaquin Valley Air Pollution Control Board noted the requirement to comply with District Regulation VIII (construction management to reduce fugitive dust). The Tulare County Resource Management Agency commented pertaining to inconsistencies in the total number of tanks proposed, Aesthetics, and Land Use and Planning.

The City of Porterville will comply with Regulation VIII of the San Joaquin Valley Air Pollution Control District. In addition, the Tulare County Resource Management Agency’s comments have been evaluated, and noted where appropriate.

6. That review of the environmental circumstances regarding the project indicates that no adverse impacts would accrue to wildlife resources from implementation of this project. A reconnaissance Level Biological Survey was completed on October 26, 2004, which concluded that there were no special status plant or animal species identified in the project areas. In addition, no native vegetation communities of concern were observed.

7. That the mitigation measures contained in the Negative Declaration were incorporated into a Mitigation Monitoring Program attached hereto as Attachment A.

8. That the environmental assessment and analysis prepared for the 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 prepared for the City of Porterville Hillside Eastside Water Development Project.

__________________________
Kelly E. West, Mayor

ATTEST:

John Longley, City Clerk

By ________________________________
Georgia Hawley, Chief Deputy City Clerk
# Summary of Potential Impacts, Mitigation Measures, and Mitigation Monitoring Program

<table>
<thead>
<tr>
<th>Impact No.</th>
<th>Impact Description</th>
<th>Page Number in Initial Study</th>
<th>Mitigation Number</th>
<th>Mitigation Measure</th>
<th>Level of Significance After Mitigation</th>
<th>Monitoring Agency</th>
</tr>
</thead>
<tbody>
<tr>
<td>I. AESTHETICS</td>
<td>a, c Visual Compatibility</td>
<td>11</td>
<td>a, c</td>
<td>The proposed tanks shall be painted beige, a color that blends with the landscape and has been used to help camouflage other similar tanks in the City. Trees and shrubs shall be planted of a maturity and type that will provide at least 50 percent coverage of the visibly portion of the tank within 5 years of construction. Landscaping materials shall include a variety of trees and shall not appear to have an artificial or regimented spacing. A landscape/berming plan shall be proposed by a licensed landscape architect.</td>
<td>Less than Significant</td>
<td>City of Porterville</td>
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</table>

### III. AIR QUALITY

<table>
<thead>
<tr>
<th>Impact No.</th>
<th>Impact Description</th>
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<th>Monitoring Agency</th>
</tr>
</thead>
<tbody>
<tr>
<td>b</td>
<td>Violation of Air Quality Standards</td>
<td>13</td>
<td>a, b, c, d</td>
<td>PM$<em>{10}$ and PM$</em>{2.5}$ air quality impacts will be mitigated with implementation of the applicable Regulation VIII procedures of the SJVAPCD. These provisions are:</td>
<td>Less than Significant</td>
<td>City of Porterville</td>
</tr>
</tbody>
</table>

1. All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizers/ suppressants, covered with a tarp or other similar cover, or vegetative ground cover.

2. All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer suppressant.

3. All land clearing, grubbing, scraping, excavating, land leveling, grading, demolition and cut and fill activities shall be effectively controlled to minimize fugitive dust emissions utilizing application of water or by pre-soaking.

4. When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of...
<table>
<thead>
<tr>
<th>Impact No.</th>
<th>Mitigation Number</th>
<th>Mitigation Measure</th>
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<tr>
<td></td>
<td></td>
<td>freeboard space from top of the container shall be maintained.</td>
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<td>5.</td>
<td></td>
<td>All operations shall limit the use of, or expeditiously remove the accumulation</td>
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<td></td>
<td>of mud or dirt from, adjacent public streets at the end of each workday when</td>
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<td>operations are occurring (the use of dry rotary brushes is expressly prohibited</td>
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<td></td>
<td></td>
<td>except where preceded or accompanied by sufficient wetting to limit visible dust</td>
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<td></td>
<td></td>
<td>emissions; use of blower devices is expressly forbidden).</td>
</tr>
<tr>
<td>6.</td>
<td></td>
<td>Following the addition of materials to, or the removal of materials from, the</td>
</tr>
<tr>
<td></td>
<td></td>
<td>surface of outdoor storage piles, said piles shall be effectively stabilized of</td>
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<td></td>
<td></td>
<td>fugitive dust emissions utilizing sufficient water or chemical stabilizer/</td>
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<td></td>
<td></td>
<td>suppressant.</td>
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<td></td>
<td>The following measures are appropriately enhanced and additional dust control</td>
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<td></td>
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<td>strategies that are to be implemented beyond the requirements of SJVAPCD</td>
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<td></td>
<td></td>
<td>Regulation VIII:</td>
</tr>
<tr>
<td>7.</td>
<td></td>
<td>Limit construction traffic speeds on unpaved roads to 15 mph.</td>
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<tr>
<td>8.</td>
<td></td>
<td>Suspend excavation and grading activities when winds exceed 20 mph.</td>
</tr>
<tr>
<td>9.</td>
<td></td>
<td>Limit area subject to excavation, grading or other construction activity at any</td>
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<td></td>
<td></td>
<td>one time.</td>
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<tr>
<td>10.</td>
<td></td>
<td>Install wheel washers for all exiting trucks or wash off all trucks and</td>
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<tr>
<td></td>
<td></td>
<td>equipment leaving the site.</td>
</tr>
</tbody>
</table>

V. CULTURAL RESOURCES

<table>
<thead>
<tr>
<th>Impact</th>
<th>Cultural and Historic Resources</th>
<th>Mitigation Number</th>
<th>Mitigation Measure</th>
<th>Level of Significance After Mitigation</th>
<th>Monitoring Agency</th>
</tr>
</thead>
<tbody>
<tr>
<td>a, b, c, d</td>
<td>Cultural and Historic Resources</td>
<td>a, b, c, d</td>
<td>According to a cultural assessment completed by the Center for Archaeological Research at California State University, Bakersfield, the proposed water nitrate treatment facility location is within a historic district and adjacent to a historic</td>
<td>Less than Significant</td>
<td>City of Porterville</td>
</tr>
</tbody>
</table>

City of Porterville
Porterville Water Tank Mitigation Monitoring Program
March 2005
VI. GEOLOGY, SOILS AND MINERAL RESOURCES

Soils underlying the proposed tank sites are subject to run-off and erosion. A Geotechnical Investigation Report will provide design recommendations for soil preparation and foundation construction that are site specific. Design elements that will reduce the risks of landslides, erosion, and slope instability include use of aggregate base rock rather than pavement for the area adjacent to the tank, concrete foundation design, tank anchoring and welding criteria necessary to withstand the Maximum Credible Earthquake. Control measures will be followed to reduce loss of topsoil and erosion. Such measures include the implementation of a SWPPP and the use of straw bales. Additionally, the soil gradients at the end of the construction period will be no greater than 1:1.

A continuous footing foundation system with a sand asphalt mat is the preferred foundation design for this type of structure. The foundation would be anchored to bed rock as specified by a structural engineer. The number of anchors would be determined based on the Maximum Credible Earthquake. To insure stability of the tank foundation, pressure grouting would be introduced to the bed rock if fractures are discovered by the Geotechnical Investigation Report or during the anchor drilling process.

The tanks will be designed to withstand the Maximum Credible Earthquake from the nearest fault expected to produce the most significant ground motions at the proposed tanks sites. Past studies have considered the Kern Front Fault as the nearest fault meeting said criteria. A 1990 study identifies a 6.25 magnitude earthquake from Kern Front Fault as the Maximum Credible Earthquake. The California Division of Mines and Geology is the seismic information source for the 1990 study. A consultant will provide up to date seismic information and the

City of Porterville
Porterville Water Tank Mitigation Monitoring Program

March 2005
tank will be designed to withstand a minimum 6.25 seismic event or higher, depending on recent data, without damage.

The tank itself will have welded seams and every weld will be inspected by personnel qualified in the field. Each weld will also receive a radiograph (x-ray) as a quality control measure. Deficient welds will be immediately dealt with during the erection of the tanks. Metal thickness and welding requirements will be specified by a structural engineer and they will be capable of withstanding all loading/movements created by said Maximum Credible Earthquake.

### VIII. HYDROLOGY AND WATER QUALITY

<table>
<thead>
<tr>
<th>Impact No.</th>
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<th>Monitoring Agency</th>
</tr>
</thead>
<tbody>
<tr>
<td>i</td>
<td>Dam Failure</td>
<td>24</td>
<td>i</td>
<td>In the event of the failure of Success Dam, the City’s Emergency Preparedness Plan outlines evacuation routes (Safety Element of the General Plan, 1998, p 6-16). The maintenance of the structural soundness of the tanks will reduce the potential impacts of flooding to less than significant. City staff performs visual weekly inspections of the outside welds for corrosion and leakage. The City also hires a consultant to inspect the inside of all water reservoir tanks. These inspections occur once every five years. The consultant prepares a report on the condition of all inside welds and any evidence of corrosion. If there is excessive corrosion discovered during the inspection, the report will include recommended corrective measures. In addition, the project design will include drainage facilities that will carry the water to a City drainage system in the event the tanks are overfilled. These facilities may include ditches, concrete swales, pipelines or the water may be contained within an access road until it reaches a City system.</td>
<td>Less than Significant</td>
<td>City of Porterville</td>
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</tbody>
</table>

City of Porterville
Porterville Water Tank Mitigation Monitoring Program

March 2005
<table>
<thead>
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</tr>
</thead>
<tbody>
<tr>
<td>XI. NOISE</td>
<td>Exceedance of Applicable Noise Standards</td>
<td>28</td>
<td>a, d</td>
<td>With the exception of constructing the proposed facilities, there will be minimal noise created from operation. Construction noise will be mitigated by scheduling activities during daytime hours (between 7:00 a.m. and 7:00 p.m., Monday through Friday, and between 9:00 a.m. and 6:00 p.m., Saturday and Sunday), and use of equipment mufflers.</td>
<td>Less than Significant</td>
</tr>
<tr>
<td>XV. TRANSPORTATION/TRAFFIC</td>
<td>Substantial Traffic Increase vs. Road Capacity/Exceedance of Level of Service Standard</td>
<td>32</td>
<td>a, b</td>
<td>During the construction period, traffic will be temporarily disrupted. None of the proposed activities would require complete closure of a road, nor would detours be required. However, lanes may be closed and traffic may be controlled. The City will develop a Traffic Management Plan to reduce construction-related traffic impacts.</td>
<td>Less than Significant</td>
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</tbody>
</table>
INITIAL STUDY
and
NOTICE OF INTENT TO ADOPT A
MITIGATED NEGATIVE DECLARATION

CITY OF PORTERVILLE
HILLSIDE/EASTSIDE
WATER DEVELOPMENT PROJECT

March 2005

Lead Agency: City of Porterville
c/o Bradley Dunlap, AICP
Community Development Director
291 N. Main Street
Porterville, CA 93257

Consultant: Quad Knopf, Inc.
P. O. Box 3699
Visalia, CA 93278

Contact Person: Stephen J. Peck, AICP
Phone: (559) 733-0440
Fax: (559) 733-7821
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Evaluation of Environmental Impacts...............................................7
Environmental Checklist.....................................................................8

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2  Location Map................................................................................5

LIST OF ATTACHMENTS

Attachment A  Detailed Maps of Proposed Improvements
Attachment B  Hillside/Eastside Reservoirs, Digital Renderings and Photographs
Attachment C  Regulation VIII Control Measures for Construction Emissions of PM$_{10}$
Attachment D  Reconnaissance Level Biological Survey Results
Attachment E  Cultural Resources Assessment
NOTICE OF INTENT TO ADOPT
A MITIGATED NEGATIVE DECLARATION
NOTICE OF INTENT TO ADOPT A NEGATIVE DECLARATION

To:

(Agency)

(Address)

Subject: Notice of Intent to Adopt a Mitigated Negative Declaration

Lead Agency: Consulting Firm (if applicable):
City of Porterville Quad Knopf, Inc.
(Agency Name) (Firm Name)
City Hall, 291 N. Main Street 5110 W. Cypress Avenue
(Street Address) (Street Address)
Porterville, CA 93257 Visalia, CA 93277
(City/State/Zip) (City/State/Zip)
Bradley D. Dunlap, AICP Stephen J. Peck, AICP
Community Development Director Principal Planner
(Contact) (Contact)

The City of Porterville will be the Lead Agency and will prepare a Mitigated Negative Declaration for the project identified below. We need to know the views of your agency as to the scope and content of the environmental information which is germane to your agency’s statutory responsibilities in connection with the proposed project. Your agency may need to use the Negative Declaration prepared by our agency when considering permits or other approvals for the project.

The project description, location and the potential environmental effects are contained in the attached materials. A copy of the Initial Study (☑ is ☐ is not) attached.

Due to the time limits mandated by State law, your response must be sent at the earliest possible date but not later than 30 days after receipt of this notice.

Opportunity for Comments: This Notice of Intent and Initial Study will be circulated for a period of 30 days starting on April 22, 2005 and ending on May 23, 2005.

The Porterville City Council will consider this matter at a public meeting on Tuesday, June 7 in the council chambers at City Hall.

Please send your response to Bradley D. Dunlap, Community Development Director at the address shown above. We will need the name for a contact person in your agency.

Project Title: City of Porterville Hillside/Eastside Water Development Project

Project Location: City of Porterville Tulare County
(City-nearest) (County)

Project Description: (brief)

The proposed Hillside/Eastside Water Development Project proposes various improvements in multiple areas of town to meet water production criteria as outlined in the Water System Master Plan. The following infrastructure upgrades are proposed: above ground storage reservoirs (tanks) of various size and related appurtenances including pipelines to interconnect to the existing water supply system; construction of a granular activated carbon filtration system for treating wells; construction of a surface water treatment facility approximately 800 square feet in size, including small storage reservoirs (± 50,000 gallons) adjacent to the building; construction of three booster pump stations approximately 15 feet in diameter (or 15’ by 15’ square) and approximately 10 to 15 feet tall.

Date __________________ Signature __________________
Title __________________ Telephone __________________
INITIAL STUDY
Introduction

This Initial Study has been prepared under the direction of the City of Porterville (City), the lead agency under the California Environmental Quality Act (CEQA), to analyze the potential effects of constructing and implementing the improvements approved in the Hillside/Eastside Water Development Plan. In March 2004, the City Council approved plans to pursue funding and to continue planning efforts needed to comply with the Water System Master Plan.

Project Description

The proposed project is located in the City of Porterville in Tulare County (Figure 1). The City of Porterville Water System Master Plan (2001), stipulates that water production, via wells, meet maximum day demands plus an additional 3,000 gallons per minute for standby purposes. Meeting maximum day demands requires effective system operations, such as filling tanks when demand fluctuations occur during the day. Currently, the City’s water well production is nearly 12,500 gallons per minute. Maximum day demand for a city the size of Porterville is approximately 16,000 gallons per minute. Therefore, water production capabilities should be about 19,000 gallons per minute. In order to meet the criteria of the Master Plan, the City is considering a number of options to increase production.

The proposed Hillside/Eastside Water Development Project proposes various improvements in multiple areas of town to meet water production criteria as outlined in the Water System Master Plan (Figure 2). The following infrastructure upgrades are proposed: a surface water treatment facility, granulated activated carbon filtration system, and four water storage reservoirs, as well as related appurtenances and pipelines required to interconnect with the existing water supply system. Specifically, the project elements include:

- Construction of a granular activated carbon filtration system and related appurtenances for treating wells high in PCE (Tetrachloroethylene), including installation of approximately 945 lineal feet of 12-inch pipeline. (Appendix A, Map 1)
- Construction of a surface water treatment facility and related appurtenances for diluting wells high in nitrates. The project will include the installation of approximately 2,250 lineal feet of 12-inch pipeline. (Appendix A, Map 2)
- Construction of a 3 million gallon storage reservoir (tank) referenced as the Martin Hill Tank and related appurtenances. The tank size is approximately 35 feet tall and 124 feet in diameter. The project would include the installation of approximately 9,750 lineal feet of 16-inch pipeline, 3,000 lineal feet of 12-inch pipeline and a booster pump station. (Appendix A, Map 3)

City of Porterville

March 2005

Initial Study and Notice of Intent to Adopt a Mitigated Negative Declaration
• Construction of two (2) 200,000-gallon storage reservoirs (tanks) within Rocky Hill Pressure Zone 1 & related appurtenances. These tanks would be approximately 30 feet tall and 35 feet in diameter. The project would include the installation of approximately 3,800 lineal feet on 12-inch pipeline and a booster pump station. These pipelines will interconnect the existing East Porterville Pressure Zone with Rocky Hill Pressure Zone 1 and convey water to the new tanks. (Appendix A, Map 4)

• Construction of one (1) 250,000 gallon storage reservoir (tank) within Rocky Hill Pressure Zone 2 and related appurtenances. This tank would be approximately 35 feet tall and 30 feet in diameter. The project would include the installation of approximately 6,600 lineal feet of 12-inch pipeline and a booster pump station. These pipelines will interconnect the Rocky Hill Pressure Zone 1 with the Rocky Hill Pressure Zone 2 and convey water to the new tank. (Appendix A, Map 4)

Construction of the granular activated carbon filtration system (GAC) does not require property acquisition. The location of the PCE treatment facility requires only minimal grading. The footprint of the GAC is approximately 25' by 50', and is currently undeveloped land. The Surface Water treatment facility requires property acquisition from the Redevelopment Agency. More significant grading would occur at this site to construct the 50' by 50' facility; effects of construction activities are described in the environmental checklist.

The reservoir locations as proposed require acquisition of property. Although some of the associated pipelines and booster pumps would be located within existing City right-of-way, construction of most of the pipelines and new booster pumps will require easements, and potentially, property acquisitions. To the extent practicable, tanks would be recessed into the hill to result in a level grade, as opposed to the tank sitting atop stilts. Construction of the water storage reservoirs would require major grading activities associated not only with the building of the reservoirs themselves, but also the roadways required to access the remote locations. Each of the four tanks are planned in areas located away from existing access roads, and would need access points in order to construct and maintain the water reservoirs. Road improvement standards require a minimum 20-foot paved access easement for such uses. Approximately 1,500 feet of roadway is necessary to provide access to all four of the proposed reservoirs. Construction equipment staging areas can be located on site for tank construction. This environmental analysis includes specific areas proposed to be approved as shown on Appendix A, plus an Area of Potential Effect (APE) equal to 200 feet around the proposed tank locations.

**Environmental Factors Potentially Affected**

The attached environmental checklist and description indicates that the following environmental impacts will be less than significant or mitigated to be less than significant for reasons provided in the checklist narrative:

*City of Porterville*  
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*Initial Study and Notice of Intent to Adopt a Mitigated Negative Declaration*
Mitigation measures required to reduce impacts to less than significant include:

- Camouflaging tanks using paint, berms and vegetation.
- Implementation of SJVAPCD Regulation VIII Control Measures (see Attachment C).
- Archaeological Monitor must be present during construction activities at the Nitrate Treatment Facility site.
- Tank design elements to withstand the Maximum Credible Earthquake.
- Regular tank maintenance.
- Daytime scheduled construction activities and equipment mufflers on construction equipment.
- Traffic Management Plan.

These measures are defined in greater detail in the Environmental Checklist.

In compliance with the California Environmental Quality Act, appropriate environmental regulations will be met. The following list provides reference to some of these regulations.

Air Quality: 42 U.S.C. 7401 40 CFR, 6, 51, 93, CAA §176 c) d), 17 CCR § 90700; and San Joaquin Valley Air Pollution Control District regulations

Cultural Resources: 14 CCR § 4852, 36 CFR 800

Water Quality: Clean Water Act § 101a), § 303, § 401, § 510; Clean Water Counsel, Division 7, Chapter 4, Article 3, § 13247; Clean Water Counsel § 13000, The Porter-Cologne Act, 23 CCR § 640

Biology: 14 CCR 6 § 2050-2116, 50 CFR 402

City of Porterville
Initial Study and Notice of Intent to Adopt a Mitigated Negative Declaration
Opportunity for Comments

This Notice of Intent to Adopt a Negative Declaration will be circulated for a period of 30 days starting on April 22, 2005 and ending on May 23, 2005. Comments on the Notice of Intent and Initial Study should be made in writing to the following:

Bradley Dunlap, AICP
Community Development Director
City of Porterville
291 N. Main Street
Porterville, CA 93257
Fax (559) 784-4569

Determination

I find that the proposed will not have a significant effect(s) on the environment, and a Mitigated Negative Declaration will be prepared.

____________________________________
Signature

Name: Stephen J. Peck, AICP
Date: April 15, 2005
For: Quad Knopf, Inc.
Consultants to the City of Porterville

City of Porterville
Initial Study and Notice of Intent to Adopt a Mitigated Negative Declaration
Evaluation of Environmental Impacts

An Environmental Evaluation and checklist is attached. A brief explanation is included for all answers except "No Impact" answers that are adequately supported by the information sources cited. 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 is 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).

All answers 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.

Earlier analyses have been used where, pursuant to tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or other environmental document prepared pursuant to CEQA.

City of Porterville

Initial Study and Notice of Intent to Adopt a Mitigated Negative Declaration
ENVIRONMENTAL CHECKLIST

1. **Project title:**
   City of Porterville Hillside/Eastside Water Development Project

2. **Lead agency name and address:**
   City of Porterville  
   291 North Main Street  
   Porterville, CA 93257

3. **Contact person and phone number:**
   Bradley Dunlap, AICP  
   Community Development Director  
   (559) 782-7460

4. **Project location:**
   The proposed Project is located in the City of Porterville in Tulare County. The area of improvements is within the City of Porterville Urban Development Boundary at various locations as shown in Figure 2.

5. **Project sponsor's name and address:**
   City of Porterville  
   291 North Main Street  
   Porterville, CA 93257

6. **General plan designation:**
   Current General Plan designation varies throughout the project area. The reservoir sites are located in low density and rural residential areas, and the treatment facilities are designated commercial and medium density residential.

7. **Zoning:**
   Zoning designations vary in accordance with the General Plan designations discussed above.

8. **Description of Project:**
   The proposed Hillside/Eastside Water Development Project proposes various improvements in multiple areas of town to meet water production, storage and treatment criteria as outlined in the Water System Master Plan. The following infrastructure upgrades are proposed: above ground storage reservoirs (tanks) of various size and related appurtenances including pipelines to interconnect to the existing water supply system; construction of a granular activated carbon filtration system for treating wells; construction of a surface water treatment facility approximately 800 square feet in size, including small storage reservoirs (±50,000 gallons) adjacent to the building; construction of three booster pump stations approximately 15 feet in diameter (or 15' by 15' square) and approximately 10 to 15 feet tall.

City of Porterville  
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9. Other public agencies whose approval is required (e.g., permits, financing approval, or participation agreement.)

<table>
<thead>
<tr>
<th>Agency</th>
<th>Coordination Required</th>
</tr>
</thead>
<tbody>
<tr>
<td>State Water Resources Control Board</td>
<td>NPDES Permit, SWPPP</td>
</tr>
</tbody>
</table>

10. Sources and previous Environmental Documents relied upon:

- City of Porterville Land Use, Open Space, Conservation and Safety Elements of the General Plan, 1998
- Porterville General Plan Amendment 1-89 Environmental Impact Report, 1990
- City of Porterville Water System Master Plan, 2001

ENVIRONMENTAL FACTORS POTENTIALLY AFFECTED:

The environmental factors checked below could be potentially affected by this project. However, mitigation measures for each factor as indicated by the narrative within the checklist on the following pages will result in a less than significant impact.

- ☒ Aesthetics
- ☐ Biological Resources
- ☒ Cultural Resources
- ☒ Air Quality
- ☒ Geology /Soils
- ☐ Hazards & Hazardous Materials
- ☐ Hydrology / Water Quality
- ☐ Land Use / Planning
- ☐ Mineral Resources
- ☒ Noise
- ☐ Recreation
- ☒ Transportation / Traffic
- ☐ Public Services
- ☐ Mandatory Findings of Significance
- ☐ Utilities / Service Systems

City of Porterville
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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 revisions in the project have been made by or agreed to by the project proponent. A MITIGATED NEGATIVE DECLARATION will be prepared.

☒

I find that the proposed project MAY have a significant effect on the environment, and an ENVIRONMENTAL IMPACT REPORT is required.

☐

I find that the proposed project MAY have a "potentially significant impact" or "potentially significant unless mitigated" impact on the environment, but at least one effect 1) has 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. 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, because all potentially significant effects (a) have been analyzed adequately in an earlier EIR or NEGATIVE DECLARATION pursuant to applicable standards, and (b) 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, nothing further is required.

☐

Signature                                                  Date

Signature                                                  Date

City of Porterville                                         March 2005
Initial Study and Notice of Intent to Adopt a Mitigated Negative Declaration 10
I. AESTHETICS -- Would the project:

a) Have a substantial adverse effect on a scenic vista?  
☐ ☒ ☐ ☐  ☐

b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?  
☐ ☐ ☐ ☐ ☒

c) Substantially degrade the existing visual character or quality of the site and its surroundings?  
☐ ☒ ☐ ☐ ☐

d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?  
☐ ☐ ☐ ☐ ☒

Response:

a) None of the proposed project locations are within a designated scenic vista. Although the undeveloped hillsides in northeastern Porterville are called out in the City’s Open Space element as providing significant scenic resource, the General Plan classifies the scenic hillsides as those 1,200 feet or higher (Open Space Element, July 1998). The proposed tank locations are at 600 – 800 foot elevations. Mitigation measures include painting the tanks beige, a color that blends with the landscape and has been used to help camouflage other similar tanks in the City, and landscaping the area surrounding the tanks with berms, trees and shrubs. Where practicable, berms equal to one-fourth the height of the tank should be provided. Trees and shrubs shall be planted of a maturity and type that will provide at least 50 percent coverage of the visible portion of the tank within 5 years of construction. Landscaping materials shall include a variety of trees and shall not appear to have an artificial or regimented spacing. A landscape/berming plan shall be proposed by a licensed landscape architect. There are no aesthetic impacts related to the project elements in the other areas of the City. Digital renderings of the proposed tanks are included in Attachment B.

b) None of the proposed tank sites are located adjacent to State Route 190 (an area eligible to be designated a State scenic highway.)

c) At the time of development, the proposed tank facilities will be landscaped. Visual impact to surrounding properties will, therefore, be mitigated to a level of insignificance.

d) Water tank facility lighting will consist of manually operated emergency lighting. The facility will not be illuminated on an ongoing basis.
II. AGRICULTURE RESOURCES -- Would the project:

a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use?

b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?

c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of farmland, to non-agricultural use?

Response:

a) Construction of the proposed project will not occur on prime or unique farmland or Farmland of Statewide Importance as shown on Farmland Mapping and Monitoring Program maps; however, the proposed tank site located northeast of Morton Street and Conner Street is adjacent to unique farmland, and care will be taken in the site selection process to avoid impacts to unique farmland. Integration of the proposed water storage tanks and related improvements into the City master planned water conveyance system will only facilitate build out of the City within the adopted Urban Development Boundary. Loss of prime agricultural land as the result of City build out within the Urban Development Boundary has been addressed through adoption of General Plan Amendment 1-89 and the Final EIR approved for said action.

b) None of the proposed project areas are under any agricultural easement or contract.

c) The Project would only facilitate ultimate development of the City to urban uses, as planned by the City’s General Plan. The proposed facilities will provide water supply to the existing City water main network to support development prescribed by the City General Plan. The proposed tank sites and related improvements are near or within areas developed for urban uses. Development of the project will not result in the direct conversion of farmland.

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quality impacts resulting from City build out within the Urban Development Boundary has
been addressed through adoption of General Plan Amendment 1-89 and the Final EIR
approved for said action, and the subsequent adoption of General Plan Amendment 1-95
and the final EIR approved for said action.

e) Development and operation of the municipal water system improvements will not result in
odors because water storage is not an odor-generating function.
<table>
<thead>
<tr>
<th>Issues</th>
<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>a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>b) Have a substantial adverse effect on any riparian habitat or other sensitive natural community identified in local or regional plans, policies, and regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>c) Have a substantial adverse effect on federally protected wetlands as defined by Section 404 of the Clean Water Act (including, but not limited to, marsh, vernal pool, coastal, etc.) through direct removal, filling, hydrological interruption, or other means?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>d) Interfere substantially with the movement of any native resident or migratory fish or wildlife species or with established native resident or migratory wildlife corridors, or impede the use of native wildlife nursery sites?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>f) Conflict with the provisions of an adopted Habitat Conservation Plan, Natural Community Conservation Plan, or other approved local, regional, or state habitat conservation plan?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

City of Porterville

Initial Study and Notice of Intent to Adopt a Mitigated Negative Declaration

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15
Attachment A

Detailed Maps of Proposed Improvements
GRANULAR ACTIVATED CARBON FILTRATION SYSTEM
Attachment B

Hillside/Eastside Reservoirs
Digital Renderings and Photographs
Hillside/Eastsise Reservoirs

Digital Renderings and Photographs
Tank and Viewpoint Sites
Martin Hill Tank
3,000,000 gallon capacity

From Worth Avenue at Plano
(Camera 1)
Martin Hill Tank

From Plano Road - a cross-sectional view showing the tank recessed into Martin Hill (Camera 2)

From Martin Hill looking down from approximate elevation of houses (Camera 3)
Rocky Hill Tanks
250,000 gallon capacity

From Olive and Connor Avenues looking northeast
(Camera 5)
North Tank
From Connor Avenue at Morton Avenue
(Camera 6)

South Tank
From southwest of Putnam and Tulsa Avenues-Granite Hills High School campus
(Camera 7)
Attachment C

Regulation VIII Control Measures for Construction Emissions of PM$_{10}$
Attachment C
Regulation VIII Control Measures for Construction Emissions of PM$_{10}$

Regulation VIII Control Measures: The following controls are required to be implemented at all construction sites:

- All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

- All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.

- All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

- With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition.

- When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

- All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. (The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.)

- Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.

- With urban areas, trackout shall be immediately removed when it extends 50 or more feet from the site and at the end of each workday.

- Any site with 150 or more vehicle trips per day shall prevent carryout and trackout.
Attachment D

Reconnaissance Level
Biological Survey Results
October 26, 2004

Julie Boyle
Environmental Planner
Quad Knopf, Inc.
5110 W. Cypress Avenue
Visalia, California 93277

RE: Reconnaissance Level Biological Survey Results for the Hillside/Eastside Water Development Improvement Sites Located in Porterville, California

Dear Julie:

The City of Porterville (City) is proposing to implement improvements outlined in the Hillside/Eastside Water Development Plan. These improvements are new structures that include a surface water treatment facility, granulated activated carbon treatment facility, and four water storage tanks. Project activities are located within four separate areas in and around the City. For simplicity, these areas are identified as Area A, B, C, and D in this report (Figures 1 & 2).

Quad Knopf, Inc. biologists conducted a reconnaissance level biological survey of each project site and surrounding vicinity in an effort to determine whether special-status plant and animal species or their habitats exist in the project areas. Prior to conducting the field surveys, a query of the California Department of Fish and Game Natural Diversity Data Base (NDDB) (CDFG 2004) was conducted for the Porterville, Success Dam, Fountain Springs, Ducor, Sausalito School, Woodville, Cairns Corner, Lindsay, and Frazier Valley USGS 7.5-minute quadrangles. A review of literature and the NDDB query indicated that ten special-status animal species, twelve special-status plant species, and two natural vegetation communities of concern have been reported for these quadrangles. In addition to these reviews, a query of the California Native Plant Society’s Electronic Inventory (CNPS 2004) was conducted for the same quadrangles to provide information on additional plant species of concern that have the potential to occur in the project area and surrounding vicinity. This review resulted in two additional plant species. Table 1 lists the results of these reviews.

AREA A

This project site is located in the southeast ¼ of Section 22, Township 21 South, Range 27 East, in the Porterville 7.5-minute USGS quadrangle (Figure 3). Construction at this
project site includes the construction of a granular activated carbon filtration system and other related appurtenances for treating wells high in PCE (Tetrachloroethylene), including the installation of approximately 945 lineal feet of 12-inch and 16-inch pipeline (Figure 3).

Area A was surveyed on October 7, 2004. This project site is located on existing disturbed and developed lands along two major roadways, Henderson Avenue and Highway 65 (Photographs 1 - 3). No habitat for special-status plants or animals was observed in the project area. All construction and pipeline installation will occur on previously disturbed and developed land. The only plant species occurring in this project area consists of ornamental plants associated with the roadways, commercial businesses, and Hay’s Field (a small youth softball/baseball field), and ruderal weedy species growing along fence lines. A list of plant and animal species observed during the field survey is provided in Table 2.

AREA B

Area B was surveyed on October 7, 2004. This project site is located in the southwest ¼ of Section 25, and southeast ¼ of Section 26, Township 21 South, Range 27 East, in the Porterville 7.5-minute USGS quadrangle (Figure 4). Construction at this project site includes the construction of a surface water treatment facility and related appurtenances for diluting wells high in nitrates. In addition, approximately 2,250 lineal feet of 12-inch pipeline will be required (Figure 4). The entire pipeline route is located within existing paved streets within the City from Hockett Street, eastward in Harrison Avenue to Fourth Street (Photographs 4 – 7). The water treatment facility will be constructed on an abandoned railroad right of way vacant lot at the northeast corner of Harrison Avenue and Fourth Street (Photograph 8). The vacant lot had a sparse cover of ruderal weedy herbaceous vegetation. The ground appeared to be heavily compacted from past usage by the railroad and no dens or burrows were observed. No habitat for special-status plants or animals was observed in the project area. A list of plant and animal species observed during the field survey is provided in Table 2.

AREA C

Area C was surveyed on October 19, 2004. This project site is located in the southwest ¼ of Section 6, Township 22 South, Range 28 East, and Section 1, Township 22 South, Range 27 East, in the Porterville 7.5-minute USGS quadrangle (Figure 5). Construction at this project site includes the installation of a 3 million gallon storage tank (approximately 35 feet tall and 135 feet in diameter), and related appurtenances. Additional work includes the installation of approximately 9,750 lineal feet of 16-inch pipeline, 3,000 lineal feet of 12-inch pipeline, and a booster pump station. The booster pump station will be constructed within a 40-foot by 40-foot area along the pipeline route on the south side of Worth Avenue (Figure 4). The entire pipeline route is located within existing paved streets within the City from a tie-in location on Yates Avenue near the intersection with Second Street, eastward on Yates Avenue to South Roche Street, northward on South Roche Street to Worth Avenue, eastward on Worth Avenue to Plano
Street where the 12-inch pipeline will branch off the 16-inch pipeline northward on Plano Street to a another tie-in location, the remainder of the 16-inch pipeline then continues eastward on Worth Avenue to the proposed water tank site (Figure 5 and Photographs 8 – 12).

The water tank site (Tank Site 1) is located on an existing oat field on the north side of Worth Drive. The site has been disked in the past and supports an herbaceous cover of oats (*Avena* spp.), ripgut (*Bromus diandrus*), and other non-native herbaceous species. Several California ground squirrel (*Spermophilus beecheyi*) burrows were observed scattered throughout the oat field. All burrows showed evidence of recent/present use by ground squirrels (Photographs 13 & 14).

As indicated above, the booster pump site is located along the pipeline route on the south side of Worth Avenue. This location is on a disked field adjacent to the roadway (Photograph 15).

No special-status plant or animal species were observed in Area C during the field survey. Table 2 provides a list of all plant and animal species observed during the field survey.

**AREA D**

Area D is composed of three separate water tank sites (Tank Sites 2, 3, and 4) and their associated pipelines (Figure 6). Each site and pipeline route was surveyed on October 19, 2004. For simplicity, each site will be discussed independently.

**Tank Site 2** construction will consist of the installation of a 200,000-gallon storage tank and related appurtenances along with a booster pump station and approximately 3,800 lineal feet of 12-inch pipeline. This project site is located in the southwest ¼ of Section 29 and southeast ¼ of Section 30, Township 21 South, Range 28 East, and Section 1, Township 22 South, Range 27 East, in the Porterville 7.5-minute USGS quadrangle (Figure 6).

The water tank site is located within an existing disked oat field (Photograph 16). This location is across the street (Putnam Avenue), just northeast of Granite Hills High School. The pipeline route will head south from the tank site along an existing dirt roadway and then turn west a short distance to the intersection of Putnam Avenue and Holcomb Street (both are paved streets) to a tie-in location (Photograph 17). The booster pump station is located on the north side of Putnam Avenue, across the street from the high school, on an existing developed site (Photograph 18). No special-status species were observed during the field survey, a list of observed plant and animal species is provided in Table 2.

**Tank Site 3** and **Tank Site 4** construction activities include the installation of one 200,000-gallon storage tank (Tank Site 3) and one 250,000-gallon tank (Tank Site 4) and related appurtenances. In addition, approximately 6,600 lineal feet of 12-inch pipeline
will be required to complete the projects. These project sites are in close proximity to one-another and they will share a large portion of the proposed pipeline and a common tie-in location. These project sites are located in the east ½ of Section 30, Township 21 South, Range 28 East, and Section 1, Township 22 South, Range 27 East, in the Porterville 7.5-minute USGS quadrangle (Figure 6).

Tank Site 3 is located at the edge of an existing dirt roadway in an oat field that has been disked in the past (Photograph 19). Dominant plant species at this site include cultivated and wild oats, ripgut, and several other non-native herbaceous species (Table 2). The pipeline route heads west through the disked field and adjacent to some residences to Morton Avenue (Photograph 20), then turns south on Conner Street and terminates at a tie-in location near the intersection of Conner Street and Putnam Avenue (Photograph 21).

Tank Site 4 is located near an existing orange grove, northwest of Tank Site 3 (Photograph 22). The pipeline route heads south near the orange grove and ties into the pipeline route for Tank Site 3 described above, at a location just east of Morton Avenue (Photograph 20). No special-status species were observed during the field survey, a list of observed plant and animal species is provided in Table 2.

In conclusion, no special-status plant or animal species were observed in the project areas. In addition, no native vegetation communities of concern (e.g., riparian habitats, wetlands, vernal pools, etc.) were observed. Because the project areas are located within existing developed and disturbed lands, no significant adverse effects to special-status species or their habitats are anticipated as a result of the implementation of the proposed project.

If you have any questions or require further information, please do not hesitate to contact me.

Sincerely,

James W. Jones, Jr.
Biologist

Attachments
References

California Department of Fish and Game. 2004. California Natural Diversity Data Base, California Department of Fish and Game, Sacramento, CA.

Hillside/Eastside Water Development Improvement
Project Areas

Quad Knopf
Figure 2
<table>
<thead>
<tr>
<th>Species</th>
<th>Habitat</th>
<th>Status</th>
<th>Potential Occurrence in Project Area</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Branchinecta lynchi</em></td>
<td>Vernal pools.</td>
<td>FT</td>
<td>None. No habitat present.</td>
</tr>
<tr>
<td><em>(Vernal pool fairy shrimp)</em></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>Buteo swainsoni</em></td>
<td>Stands with few trees in juniper-sage flats, riparian, and oak savannah habitats. Requires adjacent suitable foraging areas such as grasslands, grain fields, or alfalfa, that support rodent populations.</td>
<td>MBTA, CT</td>
<td>Low. Project sites are located within a highly urbanized setting with very limited foraging and nesting opportunities for this species.</td>
</tr>
<tr>
<td><em>(Swainson’s hawk)</em></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>Desmocerus californicus</em></td>
<td>Elderberry shrubs in the Sacramento and San Joaquin Valleys.</td>
<td>FT</td>
<td>None. No habitat present.</td>
</tr>
<tr>
<td><em>dimorphis</em></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>(Valley elderberry longhorn beetle)</em></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>Dipodomys nitratoides</em></td>
<td>Saltbrush scrub and sink scrub communities in the Tulare Lake Basin of the southern San Joaquin Valley. Requires soft, friable soils which escape seasonal flooding.</td>
<td>FE, CE</td>
<td>None. No habitat present.</td>
</tr>
<tr>
<td><em>nitratoides</em></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>(Tipton kangaroo rat)</em></td>
<td></td>
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</tr>
<tr>
<td><em>Gymnogyps californianus</em></td>
<td>Requires vast expanses of open savannah, grasslands, and foothill chaparral in mountain ranges of moderate altitude. Deep canyons containing cliffs in the rocky walls provide nesting sites.</td>
<td>FE, MBTA, CE</td>
<td>None. No nesting or foraging habitat present.</td>
</tr>
<tr>
<td><em>(California condor)</em></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>Lytta molest</em></td>
<td>Inhabits the Central Valley, from Contra Costa to Kern and Tulare Counties.</td>
<td>---</td>
<td>Low. Not reported in the area for many years. Project sites are located on disturbed and developed lands.</td>
</tr>
<tr>
<td><em>(Molestan blister beetle)</em></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>Perognathus inornatus</em></td>
<td>Typically found in grasslands and blue oak savannas. Requires friable soils.</td>
<td>---</td>
<td>None. No habitat present.</td>
</tr>
<tr>
<td><em>inornatus</em></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>(San Joaquin pocket mouse)</em></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>Rana boylii</em></td>
<td>Partly shaded, shallow streams and riffles with a rocky substrate in a variety of habitats. Requires at least some cobble-sized substrate for egg-laying.</td>
<td>CSC</td>
<td>None. No habitat present.</td>
</tr>
<tr>
<td><em>(Foothill yellow-legged frog)</em></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>Spea hammondii</em></td>
<td>Vernal pools and other wet areas within grasslands.</td>
<td>CSC</td>
<td>None. No habitat present.</td>
</tr>
<tr>
<td><em>(Western spadefoot)</em></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Species</td>
<td>Habitat</td>
<td>Status</td>
<td>Potential Occurrence in Project Area</td>
</tr>
<tr>
<td>-------------------------------</td>
<td>------------------------------------------------------------------------</td>
<td>--------</td>
<td>--------------------------------------</td>
</tr>
<tr>
<td><em>Vulpes macrotus mutica</em></td>
<td>Chenopod scrub, grasslands, sometimes forage in agricultural areas. Requires a suitable prey base.</td>
<td>FE, CT</td>
<td>Low. Area is highly developed, open areas are disked or actively cultivated, and no potential dens observed during field survey.</td>
</tr>
<tr>
<td><em>Atriplex cordulata</em> (Heartscale)</td>
<td>Alkaline flats and scalds with sandy soils, within chenopod scrub, grasslands, and meadows.</td>
<td>1B</td>
<td>None. No habitat present. All project sites are located on disturbed lands.</td>
</tr>
<tr>
<td><em>Atriplex erecticaulis</em> (Earlimart orache)</td>
<td>Grasslands.</td>
<td>1B</td>
<td>None. No habitat present. All project sites are located on disturbed lands.</td>
</tr>
<tr>
<td><em>Atriplex persistens</em> (Vernal pool smallscale)</td>
<td>Vernal pools.</td>
<td>1B</td>
<td>None. No habitat present. All project sites are located on disturbed lands.</td>
</tr>
<tr>
<td><em>Atriplex subtilis</em> (Subtle orache)</td>
<td>Grasslands.</td>
<td>1B</td>
<td>None. No habitat present. All project sites are located on disturbed lands.</td>
</tr>
<tr>
<td><em>Caulanthus californicus</em> (California jewel-flower)</td>
<td>Sandy soils within chenopod scrub, pinyon and juniper woodland, and grasslands.</td>
<td>FE, CE, 1B</td>
<td>None. No habitat present. All project sites are located on disturbed lands.</td>
</tr>
<tr>
<td><em>Delphinium recurvatum</em> (Recurved larkspur)</td>
<td>Alkaline soils in chenopod scrub, cismontane woodlands, and grasslands.</td>
<td>1B</td>
<td>None. No habitat present. All project sites are located on disturbed lands.</td>
</tr>
<tr>
<td><em>Eryngium spinosepalum</em> (Spiny-sepaled button-celery)</td>
<td>Vernal pools, depressions within grasslands.</td>
<td>1B</td>
<td>None. No habitat present. All project sites are located on disturbed lands.</td>
</tr>
<tr>
<td><em>Fritillaria striata</em> (Striped adobe-lily)</td>
<td>Cismontane woodland, grasslands with heavy clay adobe soils.</td>
<td>CT, 1B</td>
<td>None. No habitat present. All project sites are located on disturbed lands.</td>
</tr>
<tr>
<td><em>Linanthus serrulatus</em> (Madera linanthus)</td>
<td>Dry slopes, often on decomposed granite in cismontane woodlands or lower montane coniferous forests.</td>
<td>1B</td>
<td>None. No habitat present. All project sites are located on disturbed lands.</td>
</tr>
<tr>
<td><em>Mimulus pictus</em> (Calico monkeyflower)</td>
<td>Bare ground around gooseberry bushes or around granite rock outcrops within broad-leafed upland forests or cismontane woodlands.</td>
<td>1B</td>
<td>None. No habitat present. All project sites are located on disturbed lands.</td>
</tr>
<tr>
<td>Species</td>
<td>Habitat</td>
<td>Status</td>
<td>Potential Occurrence in Project Area</td>
</tr>
<tr>
<td>-------------------------------</td>
<td>----------------------------------------------</td>
<td>--------</td>
<td>--------------------------------------</td>
</tr>
<tr>
<td>Pseudobahia peirsonii</td>
<td>Adobe clay soils within foothill woodlands and grasslands.</td>
<td>FT, CE, 1B</td>
<td>None. No habitat present. All project sites are located on disturbed lands.</td>
</tr>
<tr>
<td>(San Joaquin adobe sunburst)</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sidalcea keckii</td>
<td>Grassy slopes in blue oak woodlands and grasslands.</td>
<td>FE, 1B</td>
<td>None. No habitat present. All project sites are located on disturbed lands.</td>
</tr>
<tr>
<td>(Keck’s checkerbloom)</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

**Natural Vegetation Communities of Concern**

<table>
<thead>
<tr>
<th>Community</th>
<th>Status</th>
</tr>
</thead>
<tbody>
<tr>
<td>Northern Claypan Vernal Pool</td>
<td>Not present.</td>
</tr>
<tr>
<td>Sycamore Alluvial Woodland</td>
<td>Not present.</td>
</tr>
</tbody>
</table>

Abbreviations:

- **FE**: Federal Endangered Species
- **FT**: Federal Threatened Species
- **MBTA**: Species fully protected by the Migratory Bird Treaty Act
- **CE**: California Endangered Species
- **CT**: California State Threatened Species
- **CSC**: California Department of Fish and Game Species of Special Concern
- **1B**: Plants categorized by the California Native Plant Society as Rare, Threatened, or Endangered in California and elsewhere.
- **---**: None

Sources:

- California Department of Fish and Game, 2004. *California Natural Diversity Data Base*, California Department of Fish and Game, Sacramento, CA.
<table>
<thead>
<tr>
<th>AREA A</th>
<th>Scientific Name</th>
<th>Common Name</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Animals</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Canis familiaris</td>
<td>Domestic dog</td>
</tr>
<tr>
<td></td>
<td>Plants</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Berberis sp.</td>
<td>Barberry</td>
</tr>
<tr>
<td></td>
<td>Carya illinoensis</td>
<td>Pecan</td>
</tr>
<tr>
<td></td>
<td>Cercis occidentalis</td>
<td>Western redbud</td>
</tr>
<tr>
<td></td>
<td>Chamaesyce maculata</td>
<td>Spotted spurge</td>
</tr>
<tr>
<td></td>
<td>Conyza bonariensis</td>
<td>Flax-leaved ficabane</td>
</tr>
<tr>
<td></td>
<td>Conyza canadensis</td>
<td>Horseweed</td>
</tr>
<tr>
<td></td>
<td>Cyperus esculentus</td>
<td>Yellow nutsedge</td>
</tr>
<tr>
<td></td>
<td>Fraxinus velutina “Modesto”</td>
<td>Modesto ash</td>
</tr>
<tr>
<td></td>
<td>Helianthus annuus</td>
<td>Annual sunflower</td>
</tr>
<tr>
<td></td>
<td>Lactuca serriola</td>
<td>Prickly lettuce</td>
</tr>
<tr>
<td></td>
<td>Poa annua</td>
<td>Annual bluegrass</td>
</tr>
<tr>
<td></td>
<td>Rhus ovata</td>
<td>Sugar bush</td>
</tr>
<tr>
<td></td>
<td>Rosa sp.</td>
<td>Miniature rose</td>
</tr>
<tr>
<td></td>
<td>Sequoia sempervirens</td>
<td>Coast redwood</td>
</tr>
<tr>
<td></td>
<td>Sonchus oleraceus</td>
<td>Common sowthistle</td>
</tr>
<tr>
<td></td>
<td>Taraxacum officinale</td>
<td>Dandelion</td>
</tr>
<tr>
<td></td>
<td>Tribulus terrestris</td>
<td>Puncture vine</td>
</tr>
</tbody>
</table>

<table>
<thead>
<tr>
<th>AREA B</th>
<th>Scientific Name</th>
<th>Common Name</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Animals</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Aphelocoma coerulescens</td>
<td>Scrub jay</td>
</tr>
<tr>
<td></td>
<td>Canis familiaris</td>
<td>Domestic dog</td>
</tr>
<tr>
<td></td>
<td>Corvus brachyrhynchos</td>
<td>American crow</td>
</tr>
<tr>
<td></td>
<td>Plants</td>
<td></td>
</tr>
<tr>
<td></td>
<td>Amaranthus blitoides</td>
<td>Prostrate pigweed</td>
</tr>
<tr>
<td></td>
<td>Ambrosia acanthicarpa</td>
<td>Annual bur-sage</td>
</tr>
<tr>
<td></td>
<td>Avena fatua</td>
<td>Wild oat</td>
</tr>
<tr>
<td></td>
<td>Avena sativa</td>
<td>Cultivated oat</td>
</tr>
<tr>
<td></td>
<td>Bromus diandrus</td>
<td>Ripgut</td>
</tr>
<tr>
<td></td>
<td>Centaurea solstitialis</td>
<td>Yellow star-thistle</td>
</tr>
<tr>
<td></td>
<td>Cynodon dactylon</td>
<td>Bermuda grass</td>
</tr>
<tr>
<td></td>
<td>Eremocarpus setigerus</td>
<td>Dove weed</td>
</tr>
<tr>
<td></td>
<td>Erodium cicutarium</td>
<td>Red-stem filaree</td>
</tr>
<tr>
<td></td>
<td>Helianthus annuus</td>
<td>Annual sunflower</td>
</tr>
<tr>
<td></td>
<td>Heterotheca grandiflora</td>
<td>Telegraph weed</td>
</tr>
</tbody>
</table>
Hordeum murinum ssp. leporinum  | Wild barley  
Lactuca serriola           | Prickly lettuce  
Malva parviflora           | Cheeseweed  
Quercus lobata             | Valley oak  
Salsola tragus             | Russian thistle  
Sisymbrium irio            | London rocket  
Sorghum halepense          | Johnson grass  
Tribulus terrestris        | Puncture vine  

**AREA C**  
**Tank Site 1**  
**Scientific Name**  
**Common Name**  
**Animals**  
Canis familiaris           | Domestic dog  
Spermophilus beecheyi      | California ground squirrel  
Sturnella neglecta         | Western meadowlark  
**Plants**  
Asclepias speciosa         | Showy milkweed  
Avena fatua                | Wild oat  
Avena sativa               | Cultivated oat  
Brassica nigra             | Black mustard  
Bromus diandrus            | Ripgut  
Bromus hordeaceus          | Soft chess  

**AREA D**  
**Tank Site 2**  
**Scientific Name**  
**Common Name**  
**Animals**  
Canis familiaris (tracks)  | Domestic dog  
Canis latrans (tracks)    | Coyote  
Corvus brachyrhynchos     | American crow  
Corvus corax              | Common raven  
Minus polyglottos         | Northern mockingbird  
Spermophilus beecheyi      | California ground squirrel  
Zenaida macroura          | Mourning dove  
**Plants**  
Ailanthus altissima        | Tree of Heaven  
Amsinckia menziesii var. intermedia | Fiddleneck  
Asclepias speciosa        | Showy milkweed  
Avena barbata              | Slender wild oat  
Avena fatua                | Wild oat  
Avena sativa               | Cultivated oat  
Brassica nigra             | Black mustard  
Bromus hordeaceus          | Soft chess  
Centaurea solstitialis     | Yellow star-thistle  
Chamaesyce maculata        | Spotted spurge
<table>
<thead>
<tr>
<th>Scientific Name</th>
<th>Common Name</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Datura wrightii</em></td>
<td>Jimson weed</td>
</tr>
<tr>
<td><em>Eremocarpus setigerus</em></td>
<td>Dove weed</td>
</tr>
<tr>
<td><em>Hordeum murinum ssp. leporinum</em></td>
<td>Wild barley</td>
</tr>
<tr>
<td><em>Nicotiana glauca</em></td>
<td>Tree tobacco</td>
</tr>
<tr>
<td><em>Silybum marianum</em></td>
<td>Milk thistle</td>
</tr>
<tr>
<td><em>Sorghum halepense</em></td>
<td>Johnson grass</td>
</tr>
<tr>
<td><strong>Tank Site 3</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Animals</strong></td>
<td></td>
</tr>
<tr>
<td><em>Aphelocoma coerulescens</em></td>
<td>Scrub jay</td>
</tr>
<tr>
<td><em>Canis familiaris</em></td>
<td>Domestic dog</td>
</tr>
<tr>
<td><em>Spermophilus beecheyi</em></td>
<td>California ground squirrel</td>
</tr>
<tr>
<td><em>Sturnella neglecta</em></td>
<td>Western meadowlark</td>
</tr>
<tr>
<td><strong>Plants</strong></td>
<td></td>
</tr>
<tr>
<td><em>Amsinckia menziesii var. intermedia</em></td>
<td>Fiddleneck</td>
</tr>
<tr>
<td><em>Asclepias speciosa</em></td>
<td>Showy milkweed</td>
</tr>
<tr>
<td><em>Avena barbata</em></td>
<td>Slender wild oat</td>
</tr>
<tr>
<td><em>Avena fatua</em></td>
<td>Wild oat</td>
</tr>
<tr>
<td><em>Avena sativa</em></td>
<td>Cultivated oat</td>
</tr>
<tr>
<td><em>Bromus hordeaceus</em></td>
<td>Soft chess</td>
</tr>
<tr>
<td><em>Centaurea solstitialis</em></td>
<td>Yellow star-thistle</td>
</tr>
<tr>
<td><em>Chamaecyce maculata</em></td>
<td>Spotted spurge</td>
</tr>
<tr>
<td><em>Datura wrightii</em></td>
<td>Jimson weed</td>
</tr>
<tr>
<td><em>Eremocarpus setigerus</em></td>
<td>Dove weed</td>
</tr>
<tr>
<td><em>Hordeum murinum ssp. leporinum</em></td>
<td>Wild barley</td>
</tr>
<tr>
<td><em>Melia azedarach</em></td>
<td>China berry</td>
</tr>
<tr>
<td><em>Silybum marianum</em></td>
<td>Milk thistle</td>
</tr>
<tr>
<td><em>Sorghum halepense</em></td>
<td>Johnson grass</td>
</tr>
<tr>
<td><strong>Tank Site 4</strong></td>
<td></td>
</tr>
<tr>
<td><strong>Animals</strong></td>
<td></td>
</tr>
<tr>
<td><em>Aphelocoma coerulescens</em></td>
<td>Scrub jay</td>
</tr>
<tr>
<td><em>Canis familiaris</em></td>
<td>Domestic dog</td>
</tr>
<tr>
<td><em>Geococcyx californianus</em></td>
<td>Greater roadrunner</td>
</tr>
<tr>
<td><strong>Plants</strong></td>
<td></td>
</tr>
<tr>
<td><em>Citrus sp.</em></td>
<td>Orange</td>
</tr>
<tr>
<td><em>Sorghum halapense</em></td>
<td>Johnson grass</td>
</tr>
</tbody>
</table>

Source: Quad Knopf, Inc. reconnaissance level biological surveys conducted on October 7 & 19, 2004.
Photograph 1: Approximate tie-in location along near Hay’s field (Highway 65 in background)

Photograph 2: Approximate pipeline route along Highway 65 heading south to Henderson Avenue

Photograph 3: Approximate tie-in location on Henderson Avenue
Photograph 4: Looking north on Hockett Street at approximate tie-in location

Photograph 5: Looking east down Harrison Avenue along pipeline route

Photograph 6: Looking west across Fourth Street, down Harrison Avenue
Photograph 7: Looking south at proposed water treatment facility site on abandoned railroad right of way

Photograph 8: Looking east on Yates Avenue from Second Street tie-in location

Photograph 9: Looking north on South Roche Street from Yates Avenue
Photograph 10: Looking east on Worth Avenue from South Roche Street

Photograph 11: Looking north on Plano Street from intersection with Worth Avenue

Photograph 12: Looking northeast at Tank Site 1, Worth Avenue is on right
Photograph 13: Typical active California ground squirrel in oat field

Photograph 14: Fresh California ground squirrel scat (observed at all burrow locations)

Photograph 15: Looking south across Worth Avenue at booster pump site
Photograph 16: Looking southwest at Tank Site 2 location, Granite Hills High School visible in background

Photograph 17: Looking west at pipeline route along dirt roadway to intersection at Holcomb Street

Photograph 18: Looking east down Putnam Avenue at booster pump site
Photograph 19: Looking west at approximate Tank Site 3 location in oat field near existing roadway

Photograph 20: Looking east from Morton Avenue at Tank 3 and Tank 4 pipeline route

Photograph 21: Looking south down Conner Street from Morton Avenue at pipeline route
Photograph 22: Looking west at approximate Tank Site 4 location near orange grove
Attachment E

Cultural Resources Assessment
A CULTURAL RESOURCES ASSESSMENT FOR THE
HILLSIDE WATER DEVELOPMENT PLAN IN PORTERVILLE,
TULARE COUNTY, CALIFORNIA

Prepared by:
Audry Williams
Senior Staff Archaeologist
Center for Archaeological Research
California State University
9001 Stockdale Highway
Bakersfield CA 93311-1099

Dr. Mark Q. Sutton, Director
CAR Project No. 04-36

Prepared for:
George Colvin
PSOMAS
28470 Avenue Standford, Suite 300
Santa Clarita CA 91355

December 2004
EXECUTIVE SUMMARY

In November 2004, a cultural resources assessment was conducted in four locations in the city of Porterville on behalf of Quad Knopf for the City of Porterville to construct storage reservoirs, a carbon filtration system, a surface water treatment facility, and booster pump station in various locations. The project is split into four areas, designated A, B, C, and D. The assessment, the purpose of which was to satisfy California Environmental Quality Act (CEQA) requirements regarding cultural resources on lands proposed for development, consisted of an historical resources records search at the Southern San Joaquin Valley Historical Resources Information Center at California State University, Bakersfield, and a pedestrian survey of the subject property. In areas A, C, and D no significant prehistoric or historical cultural resources were identified on the subject property. In Area B one historic district and one historic site exists, and these sites may be impacted by the proposed project. If the project is to go forward it will require the presence of an archaeological monitor in Area B during construction. No known cultural resources will be impacted in areas A, C, and D by the proposed project and no further cultural resources work is recommended in these areas.
INTRODUCTION

At the request of Quad Knopf, the Center for Archaeological Research (CAR), at California State University, Bakersfield (CSUB) conducted a cultural resources assessment of four areas in Porterville. The purpose of this assessment is to determine if any significant cultural resources are present that would be impacted by the proposed project and to comply with California Environmental Quality Act (CEQA) requirements regarding the identification and protection of significant cultural resources on lands proposed for development.

PROJECT LOCATION

The subject property is located on the floor of the San Joaquin Valley in the City of Porterville. The project is located in four separate areas of Porterville. Area A is located in the northeast ½ of Section 22, T21S, R27E, MDBM, and Area B is located in the southwest ¼ of Section 25, T21S, R27E as shown on the USGS Porterville, California, 7.5' series topographic quadrangles (Fig. 1). Area C is located in Sections 1 and 6, T22S, R28E, MDBM as shown on the USGS Porterville and Success Dam, California, 7.5' series topographic quadrangles (Fig. 2). Area D is located in Sections 30 and 29, T 21S, R28E, MDBM as shown on the USGS Success Dam, California, 7.5' series topographic quadrangles (Fig. 2).

RECORDS SEARCH

A cultural resources records search (RS No. 04-378) for the project was conducted in October 2004 at the Southern San Joaquin Valley Historical Resources Information Center (SSVIC) at CSUB. The project is split into four areas, designated A, B, C, and D. The results of the records search are discussed below by area.

In Area A, the results of the records search indicate that no cultural resource studies have been conducted directly on the subject property, although four have been conducted within about a mile of the property. None of these studies reported any archaeological resources on or within a half mile of Area A.

In Area B, three cultural resource studies have been conducted directly within the subject property, and one has been conducted within about a mile. Two historic properties have been documented immediately adjacent to Area B and one about a quarter of a mile south of the southernmost end of Area B. Those properties include the First Congregational Church, the Zalud House, and the Porterville Santa Fe Railroad Station, the former two being listed on the National Register of Historic Places. In addition, the area is part of a historic district (P-54-002799), with properties listed on the Historical Resources Inventory. Furthermore, much of the vicinity within about a one- to two-mile radius of Area B is listed as multiple districts due to the presence of numerous historic structures.

In Area C, one cultural resource study has been conducted within the property, and two prehistoric sites have been recorded on the eastern end of this area. Those two sites are CA-TUL-1441, a large boulder that was known ethnographically as an aboriginal look-out station,
and CA-TUL-1482, a bedrock mortar (BRM) complex.

In Area D, three cultural resource studies have been conducted on or near the property, and four prehistoric sites (CA-TUL-34, -43, -312, and -313) have been recorded within less than a half mile east of the southeastern end of this area.
Fig. 2. Area C and D Project location, and Survey location. Adapted from the Porterville, and Success Dam CA, USGS 7.5° series topographic quadrangle.
ENVIRONMENTAL BACKGROUND

The proposed project is located on the nearly flat floor of the southern San Joaquin Valley, at an elevation of 325 feet above sea level. Today, the study area is utilized for agriculture. In pre-agricultural times, the principal plant communities dominating the valley would have been Lower Sonoran Grassland and Freshwater Marsh (Twisselman 1967:91). The southern San Joaquin Valley is recognized as a true desert (Twisselman 1967), receiving less than six inches of precipitation per year. The most common and widespread perennial shrub is the common saltbush (Atriplex spp.), which thrives throughout much of the southern valley (Preston 1981:24). The balance of the Lower Sonoran Grassland Community primarily is comprised of winter annuals, many of which are introduced. The plants that made up the Freshwater Marsh Community were extremely important to the aboriginal inhabitants of the southern San Joaquin Valley. The marshlands in general were often referred to as the "tules," "tulares," or in Spanish, "los tulares" (Bolton 1935:7). This is derived from the name of the common tule (Scirpus acutis), one of the most utilized plants in the community. Other species of Scirpus, as well as cat-tail (Typha spp.), spike rush (Eleocharis spp.), and sedges (Carex spp.) were also prominent in the environment (Preston 1981:22).

In the past, a large variety of fauna lived in the project area. Many species that were important to the aboriginal resource base are no longer found in this region. Environmental pressures brought about after European contact (ca. 1770) and created primarily through hunting, mining, and farming have radically altered the faunal makeup of the area.

Huge herds of tule elk (Cervus elaphus nannoides) and pronghorn (Antilocapra americana) were once a common sight in the southern San Joaquin, as were black and grizzly bears (Ursus americanus, U. arctos). The bears are now absent from the valley and the elk are present only in a small reintroduced herd at the Tupman State Reserve. A limited population of pronghorn can be found on the Carrizo Plain, west of the San Joaquin Valley.

Desiccation of the lakes, rivers, and sloughs either eradicated or greatly reduced the numbers of mollusks, fishes, amphibians, and waterfowl indigenous to the area.

CULTURAL BACKGROUND

The San Joaquin Valley has been occupied by Native American groups for thousands of years. Unfortunately, the chronological and cultural developments in the San Joaquin Valley are poorly understood. The following description is derived from Moratto (1984:181-193), and should be viewed as only tentative.

Cultural Chronology of the San Joaquin Valley

During the Paleo-Indian Horizon (11,000 to 8,000 B.P.) the evidence for the occupation of lakeshores in the San Joaquin Valley dates to 11,000 years ago. To date, there are only a few sites that have been identified as being occupied at this time. Perhaps the most notable is the
Witt Site located on the shore of Tulare Lake.

During the Early Horizon (8,000-4,000 B.P.) it is believed that populations were nomadic and that their subsistence was based primarily on the hunting of large game and fishing. Ground stone implements are infrequent in the archaeological record at this time and this provides corroborating evidence that populations of this period relied more heavily on hunting that on gathering of plant foods. Notable artifact found during the Early Horizon include Olivella and Haliotis shell beads, heavy stemmed projectile points, and baked clay net weights.

The Middle Horizon (4,000-1,500 B.P.) was characterized by a broad-based subsistence pattern that included hunting, fishing, and increase use of plants. An increased use of plants at this time is indicated by the appearance of such seed grinding implements as cobble mortars, and chisel-ended pestles in the archaeological record. Use of shell beads and ornaments, as well as heavy stemmed projectile points, continues from the Early Horizon, but utilization of bone tools, such as fish spears tips, saws, and awls becomes more important at this time.

In the Late Horizon (1,500 B.P. to Historic Contact), subsistence strategy shifted to focus on the processing of acorns and other plant foods, with less emphasis on hunting, fowling, and fishing. Artifacts include Olivella beads, Haliotis ornaments, stone beads and cylinders, clamshell disk beads, tubular smoking pipes of schist and Steatite, arrow-shaft straighteners and small side-notched projectile points inferring use of the bow and arrow, flat-bottomed mortars, and cylindrical pestles.

**Southern Valley Yokuts Ethnography**

The native population that inhabited the San Joaquin Valley during ethnographic times was the Yokuts. There were over 40 Yokuts tribes that spoke a distinct dialect, and occupied a distinct area. The Yokuts are separated into three geographical divisions, Northern Valley Yokuts, Southern Valley Yokuts, and Foothill Yokuts. The following summary will focus on the Southern Valley Yokuts that occupied the project area. Information was obtained from Kroeber (1925), Latta (1977), and Wallace (1978).

Southern Valley Yokuts tribes were organized in single large village settlements or in several smaller settlements grouped together, with one settlement being larger and dominant. Each group consisted of as many as 350 to 1,000 people. Availability of resources, such as fish, waterfowl, shellfish, roots and seeds, enabled the Southern Valley Yokuts to occupy permanent villages most of the year. Relations between Yokuts tribes and their neighbors were generally friendly.

The Southern Valley Yokuts practiced a mixed subsistence strategy that emphasized fishing, fowling, and collecting shellfish, roots, and seeds. Fishing provided the primary food resource and generally was done by netting either in large nets dragged by a tule raft, or by diving with small hand nets. Waterfowl were snared or shot with arrows. Seeds and roots, including tule, grassnaps, clover, fiddleneck, and other flowering herbs, provided a large portion of their diet. Rabbits were hunted in communal drives. Elk and pronghorn were shot from blinds near the lakes or sloughs. Acorns, which were the staple of most other native
Californians, were not readily available to the Southern Valley Yokuts. Some tribes traded fish for acorns with neighboring tribes to the east.

Tule grass was an important commodity for the Southern Valley Yokuts. They used the grass in their basket making, to fashion mats for use in and on their houses, and to lash together to make canoes, the preferred means of moving from place to place. Tule roots were used to make starchy flour for mush and the seeds were ground into meal.

Basket weaving was the predominant technological skill. Conical baskets were used for cooking, and burden baskets, flat winnowing trays, seed beaters, and necked water bottles were also used. Knives, scraping tools, and projectile points were made from lithic materials imported from other areas. Wooden mortars, stone mortars, and pestles were secured in trade. Marine shells were obtained in their natural state from coastal peoples and were manufactured into disks, beads, cylinders, pendants and so forth, for use as money and personal adornment.

European contact with the Southern Valley Yokuts was first recorded in 1772 when a band of Spanish soldiers ventured through Tejon Pass into the San Joaquin Valley. No further contact is indicated until Francisco Garces arrived in 1776. In the early 1800s, the Catholic Church made an attempt to establish missions but failed. The southern valley became a haven for the runaways of missions outside the area, and the infiltration of different customs led to the breakdown of local cultural practices.

When California was annexed by the United States, the San Joaquin Valley was overrun with settlers, and Indian lands passed into Euroamerican hands. The few remaining Southern Valley people went to the Tejon reservation established at the base of the Tehachapi Mountains or to the Fresno reservation near Madera. These reservations failed to prosper, and the Indians who remained on them were moved to the Tule River reservation in 1859.

By the 1870s, Euroamericans occupied most of the southern San Joaquin Valley. The primary draws in the vicinity of the project have been agriculture and oil development.

**FIELD PROCEDURES**

A field survey of the project was conducted by the author and one associates on November 3, 2004 (See Appendix A for qualifications). Transects spaced ten to fifteen meters apart were walked over all areas of the subject property, where the ground was not covered by cement or blacktop. Area A was covered in cement or blacktop. The majority of Area B was covered in cement or blacktop, except for one vacant lot. The lot was covered in grass. Area C The majority of Area C was covered in cement and blacktop. Areas that were not included the proposed locations of the booster pump station and the storage reservoir area. The booster pump area was an agricultural field, which was devoid of vegetation with excellent visibility. The storage reservoir area was an area covered in high grass with limited visibility. The majority of Area D was not covered in cement or blacktop. The area was composed of dirt roads and fields covered in high grass with limited visibility.
RESULTS AND RECOMMENDATIONS

A historic site (P-54-004309; Fig. 1) was located and recorded during the inventory in Area B (see Appendix B). The site is part of the old Santa Fe railroad tracks. The majority of the tracks have been previously removed, and therefore, the site is likely not eligible to the National Register of Historic Places. Area B also contains a historical district (P-54-002799; Fig. 1), which is eligible to the National Register of Historic Places. If the project is to go forward it will require the presence of an archaeological monitor in Area B during construction.

In Areas A, C, and D no prehistoric or historically significant cultural resources were found on the subject property in the course of the field survey. No known significant cultural resources will be impacted by the development of the subject property. If, however, any cultural remains are unearthed on the property during construction, work in the immediate vicinity should be stopped or diverted until a qualified archaeologist can be consulted to evaluate the find.
REFERENCES

Bolton, Herbert E.
1935 In the South San Joaquin Ahead of Garces. Bakersfield: Kern County Historical Society.

Gayton, Anna H.
1948 Yokuts and Western Mono Ethnography I: Tulare Lake, Southern Valley, and Central Foothill Yokuts. University of California Anthropological Records 10(1).

Kroeber, Alfred L.

Latta, Frank F.

Moratto, Michael J.

Osborne, Richard H., and Mark Q. Sutton
1993 Archaeological Inventory and Assessment of the Proposed Pacificana Project, Kern County, California. Report on file at Southern San Joaquin Valley Information Center at California State University, Bakersfield.

Parr, Robert
1999 An Archaeological Assessment of Borba Farms Dairy No. 2 West of Old River, Kern County, California. Report on file at Southern San Joaquin Valley Information Center at California State University, Bakersfield.

Preston, William L.

Twisselman, Ernest C.
1967 A Flora of Kern County, California. San Francisco: The University of San Francisco.

Wallace, William J.
APPENDIX A
VITAE OF PROJECT PERSONNEL
Linda Baker, Archaeological Technician
Center for Archaeological Research
California State University, Bakersfield
9001 Stockdale Highway
Bakersfield, California 93311-1099

EDUCATION:

B.A.  Anthropology, CSU Bakersfield (in progress)

SPECIALTY:

Archaeology of southern California, in particular the southern San Joaquin Valley and western Mojave Desert.

AREAS OF FIELDWORK:

Field survey and excavation experience in the western Mojave Desert and San Joaquin Valley.

SUMMARY OF EXPERIENCE:

Over two years of field experience, and participation in several surveys and excavation projects.

A complete vita is available upon request.
Audry Williams, Senior Staff Archaeologist
Center for Archaeological Research
California State University, Bakersfield
9001 Stockdale Highway
Bakersfield, California 93311-1099

EDUCATION:

M.A. Anthropology, CSU Bakersfield (in progress)
B.A. Anthropology, CSU Bakersfield

SPECIALTY:

Archaeology of southern California, in particular the southern San Joaquin Valley and western Mojave Desert.

AREAS OF FIELDWORK:

Field survey and excavation experience in the western Mojave Desert, southern San Joaquin Valley, San Bernardino National Forest, and the Los Padres National Forest.

SUMMARY OF EXPERIENCE:

Over 6 years of field experience, and participation in numerous surveys and excavation projects.

A complete vita is available upon request.
APPENDIX B
SITE RECORD
P1. Other Identifier:

*Resource Name or #: Santa Fe RR

P2. Location: ☐ Not for Publication ☐ Unrestricted ☐ County:

and (P2b and P2c or P2d. Attach a Location Map as necessary.)

*b. USGS 7.5' Quad: Porterville Date: 1969 T 21 S; R 27 E; NE ¼ of NW ¼ of Sec 25; MDBM

c. Address: City:

d. UTM: Zone: 11; 318841 mE/ 3993501 mN

e. Other Locational Data: (e.g., parcel #, directions to resource, elevation, etc., as appropriate)

The railroad tracks run between Henderson Street and 4th Street, in a north-south direction. This record deals only with the tracks between Harrison and Thurmin.

P3a. Description: (Describe resource and its major elements. Include design, materials, condition, alterations, size, setting, and boundaries)

The site is the remnants of the old Santa Fe railroad tracks, and cement partition. The majority of the tracks have been removed in this area. However, the foundations of cement partitions still exist, along with some artifacts from the era (1917-1940 at least). They include a fragmented railroad tie, cement fragments, brick fragments, etc..


P4. Resources Present: ☐ Building ☐ Structure ☐ Object ☐ Site ☐ District ☐ Element of District ☐ Other (Isolates, etc.)

P5b. Description of Photo: (View, date, accession #) View south of Track 1 (F-1) with depot in the background. (Acc. No. CAR-04-31-PB030161)

P6. Date Constructed/Age and Sources: ☐ Prehistoric ☐ Historic ☐ Both

P7. Owner and Address:

Unknown

P8. Recorded by: (Name, affiliation, and address)

Audry Williams and Linda Baker Center for Archaeological Research, 9001 Stockdale Hwy Bakersfield, CA 93311

P9. Date Recorded: 11/3/04

P10. Survey Type: (Describe) General Reconnaissance

P11. Report Citation: (Cite survey report and other sources, or enter "none.") A Cultural Resource Assessment for the Hillside Water Development Plan in Porterville, Tulare County, CA.

Attachments: ☐ NONE ☐ Location Map ☐ Sketch Map ☐ Continuation Sheet ☐ Building, Structure, and Object Record ☐ Archaeological Record ☐ District Record ☐ Linear Feature Record ☐ Milling Station Record ☐ Rock Art Record ☐ Artifact Record ☐ Photograph Record ☐ Other (List):

DPR 523A (1/95)

*Required information
State of California — The Resources Agency  
DEPARTMENT OF PARKS AND RECREATION  
ARCHAEOLOGICAL SITE RECORD  
Page 2 of 6  
*Resource Name or #: Santa Fe RR

Method of Measurement: □ Paced □ Taped □ Visual estimate □ Other:  
Method of Determination (Check any that apply): □ Artifacts □ Features □ Soil □ Vegetation □ Topography  
□ Cut bank □ Animal burrow □ Excavation □ Property boundary □ Other (Explain):  
Reliability of Determination: □ High □ Medium □ Low □ Explain:  
Limitations (Check any that apply): □ Restricted access □ Paved/built over □ Site limits incompletely defined □ Disturbances □ Vegetation □ Other (Explain): None

A2. Depth: □ None □ Unknown Method of Determination:

*A3. Human Remains: □ Present □ Absent □ Possible □ Unknown (Explain): Unlikely

*A4. Features (Number, briefly describe, indicate size, list associated cultural constituents, and show location of each feature on sketch map.):  
F-1 = Track #1 located at the west edge of the site.  
F-2 = Cement partition/wall that runs E-W from F-1 to F-3.  
F-3 = Track #2 located at the eastern edge of the site.  
F-4 = Cement partition/wall that is located 4 meters west of and runs parallel to F-3 (Track -2). It is approximately 47 meters in length.  
F-5 = Another cement partition/wall is located 2 meters from F-4 and begins at approximately 42 meters from Harrison St. and continues at least 83 meters to Thurman Rd. and continues out of project area.

*A5. Cultural Constituents (Describe and quantify artifacts, ecofacts, cultural residues, etc., not associated with features.): Artifacts noted to be on the surface include; railroad tie, red brick, and cement fragments.

*A6. Were Specimens Collected? □ No □ Yes (If yes, attach Artifact Record or catalog and identify where specimens are curated.)

*A7. Site Condition: □ Good □ Fair □ Poor (Describe disturbances.): Most of the railroad tracks have been removed. It is also unclear if the cement partitions/walls are the remaining foundations of once higher walls. Also it looks as if sections of the cement partitions/walls may have been removed or may be buried and not visible at the present time

*A8. Nearest Water (Type, distance, and direction.):


A10. Environmental Setting (Describe culturally relevant variables such as vegetation, fauna, soils, geology, landform, slope, aspect, exposure, etc.): The remnants of the railroad are located in a now vacant lot in the center of downtown Porterville. The area is now overgrown with grass. However, one can still see a depression of where the tracks once were.

A11. Historical Information: This particular Santa Fe line was constructed in 1917 and ran from Porterville to Lindsay. In 1920 the Santa Fe line was connected to the Southern Pacific line in Ducor. By 1940 the line was closed to passenger travel. At some date the line closed completely, most likely in the 1980s when the tracks most of the tracks were removed. The Santa Fe Depot Station of Porterville is located amidst the south of the section of a tracks discussed in this record. The depot has been restored and is now a Senior Citizens center. For additional information see reports TU-00539 and Historic Resources Inventory Ser. No. 3257 at the Southern San Joaquin Information Center, CSUB.

*A12. Age: □ Prehistoric □ Protohistoric □ 1542-1769 □ 1769-1848 □ 1848-1880 □ 1880-1914 □ 1914-1945 □ Post 1945 □ Undetermined Describe position in regional prehistoric chronology or factual historic dates if known:

A13. Interpretations (Discuss data potential, function[s], ethnic affiliation, and other interpretations): Not much of the site remains. However, it would be useful of the entire track from Porterville to Lindsay was evaluated.

A14. Remarks: None

A15. References (Documents, informants, maps, and other references):  

A16. Photographs (List subjects, direction of view, and accession numbers or attach a Photograph Record.): See Photo Record Original Media/Negatives Kept at: Center for Archaeological Research

*A17. Form Prepared by: Audry Williams  
Affiliation and Address: Center for Archaeological Research, 9001 Stockdale Hwy., Bakersfield, CA 93311  
Date: 11/30/04  
*DPR 523C (1/95) *Required Information
*Recorded by: Audry Williams
*Date: 11/03/04

Feature 3, facing north (Acc. No. CAR-03-23-PB030151).

Close up view of cement partition (Acc. No. CAR-03-23-PB030153)
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_SITE MAP_

*Resource Name or #  Santa Fe RR

*Drawn By:  Audry Williams  *Date:  11/03/04

**SITE MAP**

**Harrison**

Feature 1
Track 1

Feature 2

Feature 3
Track 2

Feature 4

Feature 5

4th St.

Thurmin Rd.

To Santa Fe Depot

---

# = cement partitions/walls

**SITE MAP**

**Harrison**

Feature 1
Track 1

Feature 2

Feature 3
Track 2

Feature 4

Feature 5

4th St.

Thurmin Rd.

To Santa Fe Depot

---

# = cement partitions/walls

**SITE MAP**

**Harrison**

Feature 1
Track 1

Feature 2

Feature 3
Track 2

Feature 4

Feature 5

4th St.

Thurmin Rd.

To Santa Fe Depot

---

# = cement partitions/walls
COUNCIL AGENDA: JUNE 7, 2005

SUBJECT: SET ADJOURNED MEETING - CITY-WIDE OVERHEAD COST ALLOCATION PLAN AND FEE STUDY

SOURCE: City Clerk Division


It is proposed to consider the final report at an adjourned meeting so that Council may review the report in depth.

RECOMMENDATION: That Council set a date and time for the review of the final overhead cost allocation plan and fee study.

Approp/Funded: DCM: ITEM NO. 26