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:
   2. 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

pledge of Allegiance Led by Council Member Stadtherr
invocation

PRESENTATIONS
Employee of the Month - Linda Clark
Kent Delperdang, representing WalMart

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 for October 18, 2005 and November 22, 2005

2. Budget Adjustment - Fire Department
Re: Authorizing staff to accept donation, in an amount to be revealed at the meeting, from WalMart to the Fire Department for the purchase of rescue equipment, and to make the necessary budget adjustments to reflect the donation.
3. **Acceptance of Improvements - Williams Ranch, Phase One (Brian Ennis - Ennis Homes)**  
   Re: Accepting public improvements made by Ennis Homes for development located south of Westfield Avenue, east of Westwood Street, for maintenance by the City.

   Re: Approving intent to vacate easements dedicated to the City as shown on “The Ford Estates, Unit No. 1" Final Map, filed in Book 37 of Maps, at page 99 in the Office of the Tulare County Recorder, and setting January 17, 2006, or as soon thereafter for the public hearing.

5. **Amalene Estates Tentative Subdivision Map - Extension of Time**  
   Re: Approving a two-year extension of time for the tentative map to divide a 19.7 acre site into a 62 lot single-family residential subdivision, generally located on the southwest corner of Olive Avenue and Westwood Street.

6. **Airport Lease Lot 12**  
   Re: Approving option to extend the lease with Mr. Harry R. Dellicker for a term of twenty years for Lot 12 at the Porterville Municipal Airport.

7. **Airport Lease Lot 33**  
   Re: Approving option to extend the lease with Dr. Creager for a term of twenty years for Lot 33 at the Porterville Municipal Airport.

8. **Airport Lease - Restaurant**  
   Re: Approving the assignment of the lease agreement between the City and Mr. Michel Adams to Mr. Richard A. Chilcutt, to be effective December 1, 2005, or close of escrow, whichever is later.

9. **City of Porterville Trolley**  
   Re: Approving Charter Service Policy for the trolley, establishing trolley fare at $.50 per ride, effective December 1, 2005, and establishing guidelines for trolley’s usage within the fleet.

10. **Implementation Actions for Measure H: Measure H Sales Tax Ordinance and Board of Equalization Agreements**  
    Re: Accepting official results of election from County; reaffirming Ordinance 1684 for one-half cent sales tax; approving agreements with State Board of Equalization; authorizing expenses charged by the State for implementation and administration of Measure H; and directing staff to return to Council with detailed plan by February 7, 2006 for the promotion and selection of the Citizens’ Oversight Committee, to be accomplished by May 1, 2006.

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

11. Cost Allocation Plan and User Fee Study
   Re: Opening the public hearing on the Plan and Fee Study and continuing the item to January 17, 2006.

12. Consideration of Recreation Fee Adjustments
   Re: Considering fee adjustments for the Golf Course, to be effective February 1, 2006, and the Sports Complex parking fees, to be effective January 7, 2006; obtaining direction as to other recreational program fee adjustments; and establishing benchmarks for cost recovery by which fees should be developed.

13. This Item is being considered as a part of Item No. 11.

   Re: Considering interim urgency ordinance restricting construction of communications towers within a 300 foot radius of residentially zoned areas, until such time as a permanent ordinance can be drafted.

15. Airport Water Inter-tie and Well System Improvements Project
   Re: Approving Mitigated Negative Declaration for project consisting of the placement of 33,920 linear feet of 12 inch water main and 1,310 linear feet of 16 inch water main along route surrounding Porterville Municipal Airport to tie in with existing City infrastructure.

16. Reaffirmation of the Disadvantaged Business Enterprise Program (DBE)
   Re: Reaffirming the DBE, and directing staff to submit the program to Caltrans for approval.

SCHEDULED MATTERS

17. Report about Audit of Farm Operation
   Re: Scheduling a Study Session for 5:00 p.m. on December 20, 2005 to discuss with the City Auditor his review of the financial accounts regarding the Farm Operation.

18. Consideration of a Revised Property Tax Revenue Sharing Agreement
   Re: Adoption of resolutions approving methodology for property tax sharing for County Island Annexations and Contiguous Area Annexations between the City and the County of Tulare.

19. Authorization to Discuss "Ownership" of the Indiana Street and Scranton Avenue Project with Tulare County
   Re: Authorizing staff to meet with Tulare County Public Works Department to determine whether the City can take over all aspects of the Indiana/Scranton Project.

20. Hillside Development Ordinance Update Status Report
   Re: Considerations of options to proceed with the hiring of the consulting firm of TRG Land, Inc. to draft a permanent Hillside Development Ordinance at the approximate cost of $122,000.
21. Consideration of Draft Ordinance Repealing City Code Section 19-5, Ex-Officio Members on the Parks and Leisure Services Commission  
Re: Considering eliminating ex-officio membership on Parks & Leisure Services Commission.

22. Consideration of Proposed Legislative Programs for the City of Porterville  
Re: Considering legislative priorities for the Porterville Area to be set forth in letter to Assemblyman Bill Maze.

23. Consideration of Flag Lowering Policy  
Re: Consideration of City policy regarding the lowering of the United States Flag to recognize the death of a community member.

24. Report on Implementation of License Agreement for Operation of Senior Citizen Programs at the Santa Fe Depot  
Re: Update on the implementation of the agreement between the Porterville Senior Council and the Kings/Tulare Area Agency on Aging related to the operations of senior programs at Santa Fe Depot.

**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 December 20, 2005

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 Chief Deputy City Clerk at (559) 782-7442. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting and/or provision of an appropriate alternative format of the agenda and documents in the agenda packet.
Call to Order at 6:00 p.m.
Roll Call: Council Member Irish, Council Member Martinez (arrived late), Mayor Pro Tem Hamilton, Council Member Stadtherr, Mayor West

ORAL COMMUNICATIONS
City Manager John Longley indicated that there had been an interest in removing an item from Scheduled Matters to Closed Session.

City Attorney Julia Lew noted that personnel issues had been raised regarding Item 21 after the Agenda had been distributed. She clarified that a 4/5ths vote would be required to remove the item from Scheduled Matters to Closed Session, and that the new item would be entitled “A-5 - Government Code Section 54957 - Public Golf Course Manager and Interim Manager.”

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Stadtherr that the Council move Item 21- Golf Course Management from M.O. 01-101805 Scheduled Matters to Closed Session.

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

Disposition: Approved to move Item 21 to Closed Session.

Council Member Stadtherr confirmed with Ms. Lew that a discussion pertaining to Golf Course Operations could still take place during Scheduled Matters.

CLOSED SESSION:
A. Closed Session Pursuant to:
1- Government Code Section 54956.9(b) - Conference with Legal Counsel - Anticipated Litigation: One Case.
5- Government Code Section 54957 - Public Employment - Golf Course Manager and Interim Manager.
7:00 P.M. RECONVENE OPEN SESSION
REPORT ON ANY ACTION TAKEN IN CLOSED SESSION
City Attorney Julia Lew reported that no action had been taken. She then informed everyone that Item 21 had been moved from Scheduled Matters to Closed Session, citing the new item number and title.

Pledge of Allegiance Led by Council Member Ron Irish
Invocation - a moment of silence was observed.

ORAL COMMUNICATIONS
• Carolyn Giddings, spoke of obstacles she had encountered in attempting to gain City approval for a proposed business at 25 West Bellview. Staff was directed to meet with Ms. Giddings and apprise the Council of the situation.
• Tiffany Ross, 8 South Park, voiced concerns regarding potential closure of the Golf Course.
• Dot Broome, 863 South Crystal, agreed with Ms. Ross’ comments and voiced concern with what she perceived was short notice for the General Plan Update Meeting held the previous week.
• Fernando Martinez, 292 South Plano, spoke in opposition to the potential closure of the Golf Course, and questioned why it was suddenly losing money when it had been successful in the past.
• Doug Johnston, 35 Fairway Drive, voiced concerns with the potential closure of the Golf Course and posed questions to the Council regarding the Golf Course’s budget, funding sources and capital improvements. He then opined that the City only spent money on the west side of Porterville.

Mayor West stated that the Council was not looking into selling the Golf Course property to developers, and indicated that the Council represented everyone in the City, both east and west.

Council Member Irish commented that while rumors of selling the Golf Course to developers were rampant, he had never seen documents, nor had he had any conversations with any developers. He then clarified that the City of Porterville had spent far more money in the previous 15 years on the eastside than on the westside.

CONSENT CALENDAR
Item 3 was removed for further discussion.

1. CITY COUNCIL MINUTES OF AUGUST 2, 2005; SEPTEMBER 20, 2005; OCTOBER 11, 2005 AND OCTOBER 11, 2005


Documentation: M.O. 02-101805
Disposition: Approved.
2. **CLAIM - JERRY BALLEW**

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

**Documentation:** M.O. 03-101805

**Disposition:** Approved.

4. **CONTRACT FOR STREET TREE TRIMMING AND MAINTENANCE SERVICES**

**Recommendation:** That the City Council authorize the City Purchasing Agent to enter into the agreement effective November 1, 2005 until October 31, 2006 with West Coast Arborists, Inc. for maintenance of street trees throughout the City at the unit costs contained in the City of Visalia Agreement, at a total cost not to exceed $90,000.

**Documentation:** M.O. 04-101805

**Disposition:** Approved.

5. **AUTHORIZATION TO AWARD A CONTRACT FOR ENGINEERING SERVICES FOR THE AIRPORT WATER INTER-TIE PROJECT**

**Recommendation:** That the City Council:
1. Authorize the Mayor to execute the “Service Agreement” for the Airport Water Inter-Tie Project, to the firm of Dee Jaspar & Associates at an agreed fee of $81,952.00; and
2. Authorize staff to make payments up to 100% upon satisfactory completion of the work.

**Documentation:** M.O. 05-101805

**Disposition:** Approved.

6. **ACCEPTANCE OF THE SLUDGE BED EXPANSION PROJECT**

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

**Documentation:** M.O. 06-101805

**Disposition:** Approved.

7. **ACCEPTANCE OF THE PUTNAM AVENUE RECONSTRUCTION PROJECT (FOURTH STREET TO HENRAHAN STREET)**

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

Documentation: M.O. 07-101805
Disposition: Approved.

8. PROGRAM SUPPLEMENT TO THE LOCAL AGENCY-STATE MASTER AGREEMENT - PREPARATION OF ONE SULEV HYBRID VEHICLE

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.

Documentation: Resolution 152-2005
Disposition: Approved.

9. INITIATION OF PRELIMINARY PROCEEDINGS AND RESOLUTION OF APPLICATION FOR ANNEXATION 461

Recommendation: That the City Council adopt a resolution authorizing initiation of preliminary proceedings and the filing of the necessary application with LAFCo.

Documentation: Resolution 153-2005
Disposition: Approved.

10. THIS ITEM WAS PULLED AT THE REQUEST OF THE APPLICANT

11. APPROVAL FOR COMMUNITY CIVIC EVENT - VETERANS’ HOMECOMING COMMITTEE, VETERANS’ DAY PARADE - NOVEMBER 11, 2005

Recommendation: That the Council approve the Community Civic Event Application and Agreement submitted by the Veteran’s Homecoming Committee, subject to the stated requirements contained in Exhibit A.

Documentation: M.O. 08-101805
Disposition: Approved.

12. PORTERVILLE MUNICIPAL AIRPORT RENTAL - ATMOSPHERICS, INC.

Recommendation: That the Council approve the temporary rental of a portion of Lot 7 to Atmospherics, Inc. for a rental fee of $150 per month, as well as compliance with the City’s policy on liability insurance.

Documentation: M.O. 09-101805
Disposition: Approved.
COUNCIL ACTION: MOVED by Council Member Stadtherr, SECONDED by Mayor Pro Tem Hamilton that the Council approve Item Nos. 1, 2, and 4 through 12. The motion carried unanimously.

3. RESCIND SKATEBOARD PARK PARKING LOT CONTRACT AND AWARD CONTRACT TO NEXT LOW BIDDER

Recommendation: That the City Council:
1. Rescind the contract to Sierra Range Construction of Visalia for the Skate Board Park Parking Lot Project;
2. Award the Skate Board Park Parking Lot Project to Black Stone Asphalt Construction, Inc. of Bakersfield in the amount of $103,831.00;
3. Authorize progress payments up to 90% of the contract amount; and
4. Authorize a 10% contingency to cover unforeseen construction costs.

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

Council Member Irish clarified with staff that the 7 additional parking spaces was a part of the first bid and would not be included in the Sierra Range Construction bid.

Mayor Pro Tem Hamilton commented that several months before, the Council had authorized an additional $25,000 so that an additional 7 parking spaces could be constructed. Now, he stated, the $25,000 would still be utilized yet the 7 additional parking spaces would not be constructed.

COUNCIL ACTION: MOVED by Council Member Irish, SECONDED by Mayor Pro Tem Hamilton that the Council rescind the contract to Sierra Range Construction M.O. 10-101805 of Visalia for the Skate Board Parking Lot Project. The motion carried unanimously.

M.O. 10-101805 MOVED by Council Member Stadtherr, SECONDED by Council Member Martinez that the Council award the Skate Board Park Parking Lot Project to Black Stone Asphalt Construction, Inc. of Bakersfield in the amount of $103,831.00; authorize progress payments up to 90% of the contract amount; and authorize a 10% contingency to cover unforeseen construction costs.

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

Disposition: Approved.

PUBLIC HEARINGS

Recommendation: That the City Council hold a public hearing, and adopt the Ordinance of the City of Porterville Extending Interim Ordinance for the Protection of the Hillside Area of the Community.

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

The public hearing opened at 7:32 p.m.

- Jim Winton, business address of 150 W. Morton Avenue, spoke against the Interim Ordinance, citing concerns with: 1) additional costs to applicants by the filing of Conditional Use Permit Application along with a Tentative Subdivision Map; 2) requiring a comprehensive grading and drainage plan; and 3) requiring applicants to submit information on residential units and amenities.
- Greg Shelton, 888 N. Williford Drive, voiced opposition to the Interim Ordinance, alleging that the Ordinance targeted only a few, and spoke in general against the increasing use of Conditional Use Permits and “D” Overlays.

The public hearing closed at 7:40 p.m.

Ms. Lew clarified that an alternative course available to the City was to have prohibited all hillside development until such time as a permanent standards could be established. She stated that staff had not wanted to proceed in that fashion, and therefore proceeded with the Interim Urgency Ordinance placing restrictions on development, rather than outright prohibiting it.

City Engineer Mike Reed came forward and addressed the concerns raised by Mr. Winton as to the comprehensive grading and drainage requirement. It was stated that the elevation or degree of slope at which the requirements would be triggered had not yet been determined, and therefore the Interim Ordinance required the grading and drainage plan on all development until the permanent standards were established. A discussion ensued as to the merits and demerits of placing such restrictions on development of all parcels despite the degree of slope, during which it was clarified that the “hillside area” in question encompassed the area from Olive Avenue north, east of Granite Hills High School.

Next, a discussion ensued as to the degree of slope that would trigger the specific grading and drainage work. Staff indicated that the exact degree had not been determined and that emphasized that in the meantime, until those parameters could be set, it was imperative that the hillside developments worked comprehensively.

Council Member Irish commented that he had believed “hillside development” constituted development occurring on a slope of at least 6%. Mr. Reed confirmed that in the development meetings, conversations had taken place in which a 7.5% cutoff had been discussed, but that a comprehensive
approach needed to be taken. It was noted that if the higher elevations were not developed properly, the lower elevations might be negatively affected.

Mayor Pro Tem Hamilton proposed setting the moratorium on only higher elevations.

Mayor West commented that staff’s concerns made sense, yet he too believed “hillside” pertained to a 6% slope. He then noted the duration of the issue to date and indicated that it needed to progress.

A discussion as to the term of the Interim Urgency Ordinance ensued next, during which City Attorney Julia Lew clarified the extension process and requirements. She indicated that the Council could only extend the term once more after that evening, elaborating that the term could be extended up to 10 months and 15 days that evening, and then 1 more year after that.

Council Member Irish voiced concern with straying from the cooperative effort of working with the developers. He then invited Mr. Greg Woodard to come forward and offer his comments.

- Greg Woodard, Woodard Homes, 1055 West Morton Avenue, commented that if the Council proceeded with the same requirements as they had in the past, they could expect the same results. He voiced support for participation in the field trip to Southern California scheduled for October 31, 2005, and spoke in favor of taking the time necessary to develop appropriate standards for the City’s hillside development. He then voiced support for reevaluating the progress in 45 days.

Mayor Pro Tem Hamilton voiced concern with the Ordinance, as drafted, asserting that it stopped development rather than restricted it. He then spoke in favor of a 45 day extension, rather than a 10 month extension.

Mayor West agreed with Mayor Pro Tem Hamilton’s concerns and invited Ms. Donna Shamley of Roberts Engineering to come forward and offer her comments.

- Donna Shamley, Roberts Engineering, voiced support for an Ordinance that provided the City some control, while at the same time did not unduly encumber the developers with paperwork. She commented that the City ought to take its time in adopting a permanent Ordinance so that hillside developments in other cities could be examined. Ms. Shamley then voiced agreement with Mr. Woodard’s comments in terms of a 45 day extension.

City Manager John Longley noted the lengthy projected timeframe for drafting and adopting a permanent Ordinance, pointing to the technicalities of writing the document and meeting the procedural requirements. He suggested that the process might be expedited if City Attorney Julia Lew were to employ an individual to draft the document on a full-time basis.

City Attorney Julia Lew indicated that information was still being gathered for the Ordinance, and elaborated on various specific elements, pointing out the complexities involved. She estimated that 90 days would be the soonest, yet warned it might not be realistic.

Mr. Longley estimated 10 months to be more realistic and cautioned over creating expectations that could not be met.
A discussion then ensued as to staff’s recommendation pertaining to the Conditional Use Permit requirement. Ms. Lew indicated that it had been included so as to ensure that a proposed Tentative Map would comply with the regulations, and to keep the process distinguishable. Mr. Longley stated that the Council had only limited discretion with a Tentative Map in the event the applicant met all City standards, which was why staff had recommended approval of the Canyon Springs Subdivision. He added that a CUP would provide additional discretion to the Council that it would not otherwise have.

With regard to the concerns raised as to submitting designs of units and amenities, Ms. Lew indicated that explicit detailed plans would not sought. She stated that the requirement would be flexible, depending on what the proposed development entailed.

- Jim Winton, address on record, came forward and spoke on the grading and drainage plan requirement. He agreed with staff’s comments regarding the special requirements for hillside development, and suggested that the first sentence in Section 6(c) be stricken. He then questioned the necessity of also requiring a CUP, and inquired why the Council could not make modifications to the Ordinance that evening. (It was later noted that the subsections in Section 6 were misnumbered, and listed two (b)s. Section 6(c) to which Mr. Winton referred should have actually read Section 6(d).)

The discussion concerning grading issues on the hillside continued. City Engineer Mike Reed spoke of the types of issues specific to hillside development, such as how slope degree affected lot size and circulation patterns, and the subdivision as a whole. He then reemphasized the complex nature of hillside development.

The Council next returned to staff’s estimation of time needed to draft the permanent Ordinance. Ms. Lew indicated that she would do what she could to complete the task in 120 days, noting the uncertainty of issues that might arise during the process. She then pointed out that the Interim Ordinance had been drafted so as to provide the Council with flexibility to end the restrictions and/or to modify them. She cautioned, however, any modification would constitute one of the two extensions.

Council Member Irish moved that the Council approve staff’s recommendation, amended to extend the Ordinance for 120 days, and direct staff to return to the Council with a status report in 45 days.

Council Member Stadtherr seconded Council Member Irish’s motion.

Council Member Martinez noted Mr. Winton’s comments regarding the Council’s ability to make appropriate modifications to the Ordinance that evening and evinced an interest in establishing a degree of slope by which “hillside” could be defined. He inquired whether Mr. Woodard believed there to be some middle ground in determining what degree of slope should trigger the drainage and grading plan requirements.

- Greg Woodard, address on record, came forward and voiced agreement with staff’s assessment that a comprehensive approach must be taken. He pointed out that the grading and drainage plans of higher lots greatly affected the lots situated below.
Mayor Pro Tem Hamilton questioned the process for addressing drainage and grading on higher lots that were situated above already-developed lots. City Engineer Mike Reed indicated that the drainage and grading would be planned so as to accommodate everyone, yet emphasized that such a circumstance might constrain proper development of the hillside and was not ideal.

Council Member Irish noted his edification on the issue gained from serving on the Development Committee and voiced agreement with staff’s assessment that planning and development of both the higher and lower elevation lots in a comprehensive fashion was optimal.

COUNCIL ACTION: MOVED by Council Member Irish, SECONDED by Council Member Stadtherr that the Council adopt the Ordinance of the City of Porterville M.O. 12-101805 Extending Interim Ordinance for the Protection of the Hillside Area of the Community, as amended to extend the term for 120 days, and to direct staff to return to the Council with a status report in 45 days.

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

Mayor Pro Tem Hamilton moved that the Council adopt the Ordinance of the City of Porterville Extending Interim Ordinance for the Protection of the Hillside Area of the Community, as amended to extend the term for 120 days and to strike the first sentence in Section 6, being “[c]oncurrently with the processing and consideration of a tentative or vesting tentative subdivision map, proposed projects will require discretionary approval of a conditional use permit (CUP) to address factors related to protecting the public health, safety and general welfare of the community.”

After some discussion as to the numbering of Sections 6, Mayor Pro Tem Hamilton continued with his motion, stating that he would like to also strike reference to the comprehensive grading and drainage plan requirement set forth in Sections 6(b) and 6(c) of the draft Ordinance (renumbered as Sections 6(c) and 6(d)).

Mr. Longley clarified with Ms. Lew that the Ordinance was not technically a moratorium. Ms. Lew stated that development would actually be allowed provided the standards set forth in the Interim Ordinance had been met. She indicated that a statement to that effect should be included in the Ordinance. Mr. Longley then questioned whether the Ordinance, with the amendments proposed by Mayor Pro Tem Hamilton, would accomplish anything. A discussion ensued as to the intent of the restrictions included by staff in the Interim Ordinance.

Mayor Pro Tem Hamilton voiced displeasure with the Interim Ordinance as presented by staff, asserting that none of the provisions would have been included in a permanent Ordinance and that staff had intended to stop development.

Mr. Longley indicated that the purpose was to provide more control by the Council over hillside development until such time as permanent standards were set. He stated that the two main control devices providing the Council discretion were the comprehensive grading and drainage plan and the Conditional Use Permit, which Mayor Pro Tem proposed to strike.
Ms. Lew clarified that comprehensive drainage plans, as well as other extensive additional information, were often required by other cities during the early stages of hillside development, adding that, conceivably, such requirement could ultimately be provisions in a permanent Ordinance. She then stated that if modifications as proposed by Mayor Pro Tem Hamilton were made, she recommended that language be included stating that “the new property uses shall not be permitted in the area unless these following criteria are met.”

Mayor Pro Tem Hamilton conceded that the language proposed by the City Attorney could be added to the Ordinance. At his request, Ms. Lew then restated Mayor Pro Tem Hamilton’s motion for clarification.

Council Member Irish confirmed that if the Council so desired, language could be added back in at a later time. He then pointed out that staff would be returning to the Council in 45 days with a status report.

**COUNCIL ACTION:** MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Martinez that the Council adopt the Ordinance of the City of Porterville Extending Interim Ordinance for the Protection of the Hillside Area of the Community, as amended to extend the term for 120 days; to strike the first two sentences in Section 6, and replace them with “[t]he new property uses shall not be permitted in the area unless the following criteria are met. In addition Ordinance 1680 to the existing Municipal Code standards for development, the following criteria are required to address the issues unique to hillside development within the community.”; to strike the renumbered Sections 6(c) and 6(d) referencing the comprehensive grading and drainage plan requirement; and to direct staff bring a status report to the Council in 45 days.

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

Disposition: Approved, as amended.

**14. REIMBURSEMENT AGREEMENT FOR CONCRETE IMPROVEMENTS CONSTRUCTED BY CITY - WILLIFORD DRIVE STREET RECONSTRUCTION AND DRAINAGE PROJECT**

Recommendation: That the City Council:
1. Open the public hearing, take public comments, concerns and questions;
2. Approve the Resolution Implementing Development Charges for Construction of Curbs, Gutters, Sidewalks, Drive Approaches, Water Services and Sewer Services; and
3. Authorize staff to record a general notice of “Reimbursement Fee” with the Office of the Tulare County Clerk-Recorder.
City Manager John Longley presented the item, and Public Works Director Baldo Rodriguez presented the staff report. He noted a typographical error in staff’s recommendation and stated that No. 2 should be amended to remove reference to “Water Services and Sewer Services.”

The public hearing opened at 8:30 p.m.

- Greg Shelton, address on record, came forward and thanked the staff for their efforts.
- Debbie Keeler, 840 North Second Street, voiced opposition to the reimbursement fee and spoke of problems with the project and the cost to residents.

The public hearing closed at 8:34 p.m.

Mayor Pro Tem Hamilton reminded everyone that the reimbursement fee would not need to be paid, unless $15,000 of improvements were done over a 2-year period.

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Irish that the Council approve the resolution, as amended to strike reference Resolution 154-2005 to “Water Services and Sewer Services,” and authorize staff to record a general notice of “Reimbursement Fee” with the Office of the Tulare County Recorder. The motion carried unanimously.

Disposition: Approved, as amended.

15. CONSIDERATION OF DRAFT ORDINANCE ADDRESSING NEGLECT OF REAL PROPERTY

Recommendation: That the City Council hold a public hearing concerning proposed regulations, and approve and give first reading to the draft ordinance.

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

The public hearing opened at 8:51 p.m.

- Dick Eckhoff, 180 N. Main Street, came forward and spoke in favor of the proposed Ordinance.
- Dorothy Broome, address on record, voiced support for the Ordinance.
- Greg Shelton, address on record, spoke against the Ordinance, citing vagueness and the subjective nature of defining “neglected.” He hypothesized of potential situations that could arise and suggested placing limitations on the Ordinance so as to avoid abuse and frivolous complaints.

The public hearing closed at 8:55 p.m.

City Attorney Julia Lew indicated that she did not interpret the Ordinance to govern situations in which somebody intentionally peered over a fence and then complained, but rather to apply to situations...
in which neglected property was clearly visible from an adjoining property. Ms. Lew then clarified that if the Council so desired, that language could be modified.

Mayor Pro Tem Hamilton suggested that “separated by a fence in good repair” could be included in the definition.

Council Member Irish voiced concern with Section 18-26(b) (2) (a) in which the improvements on real property to which the Ordinance would apply were set forth. He commented that the Ordinance might be too restrictive and could potentially harm individuals who simply could not afford to paint, for example. He then noted that somebody would need to enforce the Ordinance.

Mayor Pro Tem Hamilton agreed with Council Member Irish’s concerns and stated that some individuals might be able to abuse the Ordinance in order to harm another.

Ms. Lew suggested that, if the Council so desired, the definition of neglected could be amended to pertain to items “…visible from a public street or sidewalk, or from adjoining property unless separated by fence at the height otherwise required pursuant to City regulations and standards.”

COUNCIL ACTION: MOVED by Council Member Stadtherr, SECONDED by Mayor Pro Tem Hamilton that the Council approve the draft ordinance, as amended to change the definition of neglected, set forth in Section 18-26(b)(2)(d) to read “[p]roperty with excessive trash and debris, visible from a public street or sidewalk, or from adjoining property unless separated by fence at the height otherwise required pursuant to City regulations and standards.”; waive further reading and order the Ordinance to print, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ADDING SECTION 18-26 TO CHAPTER 18, OFFENSES – MISCELLANEOUS OF THE PORTERVILLE MUNICIPAL CODE CONCERNING NEGLECT OF REAL PROPERTY.

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

M.O. 13-101805 MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Stadtherr that the Council waive further reading and order the ordinance to print.

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

City Manager John Longley read the Ordinance by title only.
Disposition: Approved, as amended.

SECOND READINGS

16. ORDINANCE 1671, ZONE CHANGE 4-2005 (ANNEXATION 446)

Recommendation: That the Council give Second Reading to Ordinance No. 1671, waive further reading, and adopt said Ordinance.

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

COUNCIL ACTION: MOVED by Council Member Martinez, SECONDED by Mayor Pro Tem Hamilton that the Council give Second Reading to Ordinance 1671, waive further reading, and adopt said Ordinance, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE APPROVING ZONE CHANGE 04-2005 (PRE-ZONING) CONSISTING OF 73.3± ACRES AND CONTAINING APPROXIMATELY 113 PARCELS LOCATED GENERALLY AT THE NORTHEAST CORNER OF STATE ROUTE 190 AND MAIN STREET. The motion carried unanimously.

City Manager John Longley read the Ordinance by title only.

Disposition: Approved.

17. ORDINANCE 1677, ZONE CHANGE 10-2005 (ANNEXATION 460)

Recommendation: That the Council give Second Reading to Ordinance No. 1677, waive further reading, and adopt said Ordinance.

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

COUNCIL ACTION: MOVED by Council Member Martinez, SECONDED by Mayor Pro Tem Hamilton that the Council give Second Reading to Ordinance 1677, waive further reading, and adopt said Ordinance, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE APPROVING ZONE CHANGE 10-2005 (PRE-ZONING) CONSISTING OF 87± ACRES AND CONTAINING SIX (6) PARCELS LOCATED GENERALLY EAST AND WEST OF INDIANA STREET AND NORTH OF GIBBONS AVENUE. The motion carried unanimously.

City Manager John Longley read the Ordinance by title.

Disposition: Approved.
SCHEDULED MATTERS

18. APPOINTMENT TO PARKS AND LEISURE SERVICES COMMISSION AND LIBRARY BOARD OF TRUSTEES

Recommendation: That the City Council consider the Requests for Appointment and take action to:
1. Appoint four (4) residents to the Parks & Leisure Services Commission;
2. Appoint Joe Moreno to the 3-year term on the Library Board of Trustees; and
3. Offer the remaining position on the Library Board to the un-appointed Commission applicant, or direct that further advertisement effort be made for the Library Board.

City Manager John Longley presented the item, and Parks & Leisure Services Director Jim Perrine presented the staff report. He advised that two additional applications had been received subsequent to the distribution of the Agenda. Mr. Perrine stated the additional applications were from Ms. Ellen Nichols and Ms. Cathy Capone and that copies of their applications had been provided to the Council.

Council Member Stadtherr proposed that each Council Member simply write down their top choices, and then have staff ascertain the top selections. City Attorney Julia Lew pointed out that deliberations were required to be public and that the Council could not proceed in the manner proposed by Council Member Stadtherr due to the requirements of the Brown Act.

Council Member Stadtherr moved that Mr. Tom O’Sullivan, Mr. Christopher Edwards, Ms. Ellen Nichols and Ms. Cathy Capone be appointed to the Parks & Leisure Services Commission. The motion died for a lack of a second.

Council Member Irish suggested that each applicant be considered one at a time.

COUNCIL ACTION: MOVED by Council Member Irish, SECONDED by Mayor Pro Tem Hamilton that the Council appoint Mr. Tom O’Sullivan to the Parks & M.O. 14-101805 Leisure Services Commission.

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

Council Member Martinez suggested that the Council begin with the first applicant listed in the staff report and work their way down from there.

M.O. 15-101805 MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Irish that the Council reappoint Mr. Greg Shelton to the Parks & Leisure Services Commission.

AYES: Irish, Martinez, Hamilton, West
NOES: Stadtherr
ABSTAIN: None
Council Member Irish confirmed that Mr. Joe Ruiz currently served as Chairperson on the Parks and Leisure Services Commission.

M.O. 16-101805 MOVED by Council Member Martinez, SECONDED by Council Member Stadtherr that the Council appoint Ms. Cathy Capone to the Parks & Leisure Services Commission.

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

M.O. 17-101805 MOVED by Council Member Stadtherr, SECONDED by Council Member Martinez that the Council appoint Ms. Ellen Nichols to the Parks & Leisure Services Commission.

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

M.O. 18-101805 MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Irish that the Council reappoint Mr. Joe Ruiz to the Parks & Leisure Services Commission.

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

M.O. 19-101805 MOVED by Council Member Irish, SECONDED by Mayor Pro Tem Hamilton that the Council appoint Mr. Christopher Edwards to the Parks & Leisure Services Commission.

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

M.O. 20-101805 MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Irish that the Council appoint Ms. Ellen Nichols to the Library Board for a 3-year term. The motion carried unanimously.
Mayor Pro Tem Hamilton moved that the Council also appoint Mr. Joe Moreno to a 3-year term on the Library Board. Staff clarified that there was only a 1-year term remaining. As such, Mayor Pro Tem indicated that he would like to retract his previous action of appointing Ms. Nichols to the 3-year term.

City Attorney Julia Lew clarified that Mayor Pro Tem Hamilton could move to rescind the previous action.

M.O. 21-101805 MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Irish that the Council rescind the Council action appointing Ms. Ellen Nichols to the 3-year term seat on the Library Board.

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

M.O. 22-101805 MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Martinez that the Council appoint Ms. Ellen Nichols to the Library Board for a one-year term. The motion carried unanimously.

M.O. 23-101805 MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Irish that the Council appoint Mr. Joe Moreno to the Library Board for a three-year term. The motion carried unanimously.

Disposition: Mr. Tom O’Sullivan, Mr. Greg Shelton, Mr. Joe Ruiz and Mr. Christopher Edwards appointed to the Parks & Leisure Services Commission; and Ms. Ellen Nichols and Mr. Joe Moreno to the Library Board, for a one-year term and three-year term, respectively.

19. REQUEST TO ADDRESS CONCERNS IN REGARD TO PROPERTY LOCATED AT 379 N. HOCKETT STREET

Recommendation: That the City Council direct staff to provide the property owner with one of the following options for resolution of the matter:
1. Continue enforcement of the City Standards for PO use at 379 N. Hockett Street, which would allow non-medical uses with the existing number of parking spaces;
2. Provide property owner with the option to remodel the garage to allow access to/from the alley. This action may require improvements to alley per City Standards, but would increase the available parking spaces to seven (7) and suit the existing Zoning Ordinance;
3. Recommend application for a variance to allow one (1) less parking space than required by the City’s Zoning Ordinance.

City Manager John Longley presented the item, and called on Acting Community Development Director Susan Duke for the staff report. Ms. Duke introduced Senior Planner Julie Boyle, who presented the staff report.
Mayor Pro Tem Hamilton moved that the Council approve staff’s recommendation, pointing out that Ms. McClure could apply for a variance if she so chose.

Council Member Martinez seconded Mayor Pro Tem Hamilton’s motion.

Mayor West clarified with staff that Ms. McClure currently met the parking requirements for a PO use – other than for medical or financial, in which case she would need one additional parking space.

Council Member Irish noted the close proximity of the City parking lot to Ms. McClure’s property and inquired if the Police Department had depended on use of a City lot to meet its parking requirement. A discussion ensued during which it was stated that the Council would not be denying Ms. McClure’s use of her property, but rather requiring her to submit an application for a variance.

**COUNCIL ACTION:** MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Martinez that the Council direct staff to continue enforcement of the City Standards for PO use at property located at 379 North Hockett Street, which would allow non-medical uses with the existing number of parking spaces; provide the property owner with the option to remodel the garage to allow access to/from the alley, which might require improvements to the alley per City Standards, but would increase the available parking spaces to seven and suit the existing Zoning Ordinance; and recommend application for a variance to allow one less parking spaces than required by the City’s Zoning Ordinance. The motion carried unanimously.

Disposition: Approved.

Mayor West requested that staff provide the Council with an update as to whether the church located on the northeast corner of Hockett Street and Harrison Avenue complied with parking requirements. City Manager John Longley confirmed that a memorandum would be provided to the Council.

**20. CONSIDERATION OF DRAFT ORDINANCE FOR CONSTRUCTION AND DEMOLITION RECYCLING**

Recommendation: That the City Council review and provide comment on the Consolidated Waste Management Authority’s model Construction and Demolition Recycling Ordinance.

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

Council Member Irish spoke against the proposed Ordinance, suggesting it was additional bureaucracy.
Mayor Pro Tem Hamilton spoke against the Ordinance, particularly as to Sections C&D-3 through C&D-8, noting the substantial documentation requirements. He suggested that the Ordinance was a revenue-generating mechanism for the Consolidated Waste Management Authority.

Disposition: No action was taken.

21. GOLF COURSE MANAGEMENT

Recommendation: That the Council consider the Golf Course management issues and take action to:
1. Authorize the recruitment of a new PGA Golf Pro; and

(This item was moved to Closed Session pursuant to M.O. 01-101805. See Closed Session Item A-5.)

22. QUARTERLY PORTFOLIO SUMMARY

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

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

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Irish that the Council accept the Quarterly Portfolio Summary for period ended September 30, 2005 in accordance with SB 564 and SB 866. The motion carried unanimously.

Disposition: Approved.

23. INTERIM FINANCIAL STATUS REPORT AND GRANT STATUS SUMMARY

Recommendation: That the City Council accept the Interim Financial Status Report for the First Fiscal Quarter ended September 30, 2005.

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

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Martinez that the Council accept the Interim Financial Status Report for the First Fiscal Quarter ended September 30, 2005. The motion carried unanimously.

Disposition: Approved.
24. CONSIDERATION OF SPONSORSHIP FOR SISTER CITY VISIT

Recommendation: That the City Council authorize the expenditure of $750 from the City’s Community Promotion Budget to support a BBQ for the La Barca visit.

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

Mayor Pro Tem Hamilton clarified with staff that less money had been spent on the Mikkabi Sister City visit. It was pointed out that the reception for the Mikkabi group was impromptu and involved less people. A discussion then ensued as to the generous hospitality shown by LaBarca representatives during the Porterville contingent’s visit to Mexico.

- Felipe Martinez, 195 East Putnam Avenue, informed everyone of the generosity and respect shown by LaBarca representatives and indicated that the Porterville group had been treated as dignitaries. He spoke in favor of spending the $750 for the BBQ.

Council Member Martinez noted the graciousness with which the Porterville group had been treated and offered an anecdote of the trip. He then requested that an additional several hundred dollars be added to the $750 figure in order to purchase an official gift from the City of Porterville to the City of LaBarca.

Mayor Pro Tem Hamilton noted that the City had recently donated a surplus vehicle from the Fire Department.

Council Member Stadtherr questioned if the Council wished to add an additional $250 for the purchase of a gift. It was suggested that any additional money for a gift could come out of the City Manager’s discretionary funds.

Council Member Irish commented that the gesture was nice, yet suggested that the BBQ/reception should be sponsored by the community, stating that the effort would be more meaningful.

- Aaron Burgin, Porterville Recorder reporter, came forward and stated that The Recorder could assist in getting the word out to the community.

A discussion ensued during which it was stated that if the community were involved, a genuine cultural exchange could take place, on a much larger scale. Mr. Longley pointed out that the $750 request only represented one meal during the LaBarca contingent’s visit, and that other meals could be sponsored by different entities.

COUNCIL ACTION: MOVED by Mayor Pro Tem Hamilton, SECONDED by Council Member Stadtherr that the Council authorize the expenditure of $750 from the City’s Community Promotion Budget to support a BBQ for the La Barca visit.
AYES: Martinez, Hamilton, Stadtherr, West
NOES: Irish
ABSTAIN: None
ABSENT: None

Disposition: Approved.

25. UPDATE ON PROPOSED LONGS DRUG STORE


City Manager John Longley presented the item, and Acting Community Development Director Susan Duke presented the staff report.

Disposition: Informational item only.

ORAL COMMUNICATIONS

• An individual came forward and informed the Council of the efforts of Noon Rotary regarding support for Sister City La Barca.

OTHER MATTERS

• Council Member Stadtherr stated that he had asked the City Manager to consider the possibility of making Thurman Avenue between Main Street and Second Street a two-hour parking zone. He stated that Mayor Pro Tem Hamilton had approached him earlier about trying to make parking available, especially in light of the new business going in there—to make sure the new business had available on street parking to try and encourage people who park there all day to move over to the City lot.
• Mayor Pro Tem Hamilton thanked Mr. Guerrero for his application and interest in serving on the Parks & Leisure Services Commission and commented that his service would be considered in the future.
• Council Member Martinez agreed with Mayor Pro Tem Hamilton’s comments and encouraged to Mr. Guerrero to look into applying for the Leadership Porterville Class.

The Council reconvened at 10:10 p.m. to the continuation of the Closed Session.

CLOSED SESSION

A. Closed Session pursuant to:
   5 - Government Code Section 54957/Public Employment-Golf Course Manager and Interim Manager.

   The Council approved the week-to-week Agreement with Mr. R. Dale Bartlett, amended to reflect that the Agreement could be terminated for any reason with at least seven days notice.

Documentation: M.O. 28-101805
Disposition: Approved.
ADJOURNMENT
The Council adjourned at 10:11 p.m. to the meeting of October 31, 2005

______________________________  Patrice Hildreth, Deputy City Clerk

SEAL

______________________________
Kelly West, Mayor
Roll Call: Council Member Irish, Council Member Martinez (arrived late), Mayor Pro Tem Hamilton, Mayor West
Absent: Council Member Stadtherr

Pledge of Allegiance Led by Mayor Pro Tem Cameron Hamilton
Invocation - a moment of silence was observed.

ORAL COMMUNICATIONS
None

The Council convened to Closed Session at 6:35 p.m.

CLOSED SESSION
A. Closed Session Pursuant to:

The Council reconvened at 7:15 p.m. and reported that no action had been taken.

ADJOURNMENT
The Council adjourned at 7:16 p.m. to the meeting of December 6, 2005 at 6:00 p.m.

____________________
Patrice Hildreth, Deputy City Clerk

SEAL

____________________
Kelly West, Mayor
SUBJECT: BUDGET ADJUSTMENT - FIRE DEPARTMENT

SOURCE: FIRE DEPARTMENT

COMMENT: The Wal-Mart Corporation will be at this City Council meeting to present a cash donation to the Fire Department for the purchase of new rescue equipment. The amount will be revealed during the public comment session.

RECOMMENDATION: That the City Council:

1) Authorize staff to accept the donation.

2) Authorize a budget adjustment to the Fire Department in the amount of the donation.

ATTACHMENTS: None
SUBJECT: ACCEPTANCE OF IMPROVEMENTS - WILLIAMS RANCH, PHASE ONE
(BRIAN ENNIS - ENNIS HOMES)

SOURCE: Public Works Department - Engineering Division

COMMENT: The subdivider has requested that the public improvements, constructed
for their subdivisions, be accepted by the City for maintenance. All
required improvements, including sidewalks, have been completed,
inspected by City staff, and found to be acceptable.

The subdivider has submitted a one (1) year maintenance guarantee for
five percent of the total cost of improvements.

RECOMMENDATION: That City Council:

1. Accept the public improvements of Williams Ranch,
Phase One Subdivision for maintenance;

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

3. Release the payment guarantee thirty-five (35) days
after recordation, provided no liens have been filed.

ATTACHMENT: Locator Map

P:\pubworks\Engineering\Council Items\Acceptance of Improvements Williams Ranch, Phase One.wpd
LANDSCAPE & LIGHTING DISTRICT NO.

City of Porterville


LEGEND

- STREET LIGHTS (11 ea.)
- FIRE HYDRANT
- LANDSCAPE AREA (13,910 S.F.)
- 6 FT MASONRY WALL (933 L.F.)

SCALE: 1" = 200'
SUBJECT: INTENT TO VACATE PUBLIC EASEMENTS FOR ACCESS AND MAINTENANCE OF UNDERGROUND UTILITIES, SLOPES AND PAVEMENT RELATED TO THE DEVELOPMENT OF AMALENE ESTATES, PHASE ONE SUBDIVISION (Bechara Construction)

SOURCE: Public Works Department - Engineering Division

COMMENT: The City has received a request to vacate easements for access and maintenance of underground utilities, slopes and pavement shown on "The Ford Estates, Unit No. 1" Final Map. The easements were necessary for the orderly development of said subdivision, which is next to the southerly boundary of the Amalene Estates, Phase One Subdivision. Construction of the public improvements for this subdivision ends the need for these easements. The City has authority to vacate these easements under Section 8320, Part 3, Division 9 of the Streets and Highways Code of the State of California.

Staff believes that there are no problems with any reversionary rights since these easements are in favor of the City of Porterville. Abandonment of these easements do not affect other agencies or other utility companies. The need for additional public utility easements will be addressed during the processing of the "Amalene Estates, Phase One Subdivision" Final Map.

RECOMMENDATION: That the City Council:

1. Pass a Resolution of Intent to Vacate easements dedicated to the City of Porterville as shown on "The Ford Estates, Unit No. 1" Final Map, filed in Book 37 of Maps, at page 99 in the Office of the Tulare County Recorder; and

2. Set the Council Meeting of January 17, 2006, or as soon thereafter, as the time and place for a public hearing.

ATTACHMENTS: Resolution
Legal Descriptions
Locator Maps

P:\pubworks\Engineering\Council items\Intent to Vacate Public Streets, etc Related to Amalene Estates Ph 1-Bechara.wpd

Appropriated/Funded CM

Item No. 4
RESOLUTION NO. _______ -2005

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
OF INTENTION TO VACATE AND CLOSE TO PUBLIC USE,
EASEMENTS FOR ACCESS AND MAINTENANCE OF UNDERGROUND UTILITIES,
SLOPES AND PAVEMENT

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

That it is the intention of the Council of the City of Porterville to vacate, abandon, and close to public use those certain easements for access and maintenance of underground utilities, slopes and pavement in the City of Porterville, County of Tulare, State of California, and known as easements no longer necessary due to the orderly development Amalene Estates, Phase One Subdivision, of which easements are generally located within the southern portion of said proposed development.

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

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

SECTION 4: Notice is further given that on Tuesday, the 17th day of January, 2006, at 7:00 p.m., or as soon thereafter as the matter can be heard, in the Council Chambers in the City Hall in the City of Porterville, at 291 North Main Street, is hereby fixed for the time and place for hearing any objections to the vacation, abandonment and closing to public use of said easements way.

______________________________
Kelly West, Mayor

ATTEST:

John Longley, City Clerk

______________________________
By: Georgia Hawley, Chief Deputy City Clerk
APN 240-110-059

Exhibit “A”

(Parcel 1)

An easement for access and maintenance of underground utilities, slopes and pavement, over, across, through and within a portion of the Remainder parcel of “The Ford Estates”, Unit No. 1, in the City of Porterville, County of Tulare, State of California, as shown on map filed in Book 37 of Maps, at Page 99 in the office of the Recorder of said County, more particularly described as follows:

BEGINNING AT the northeast corner of Lot 13 of said “The Ford Estates”, Unit No. 1;

THENCE, North 00°15’22” East, 30.50 feet;

THENCE, South 89°56’25” East, 60.00 feet;

THENCE, South 00°15’22” West, 30.50 feet, to the northwest corner of Lot 14 of said “The Ford Estates”, Unit No. 1;

THENCE, North 89°56’25” West, 60.00 feet, to the POINT OF BEGINNING.

CONTAINING 1,830 square feet.

(Parcel 2)

An easement for access and maintenance of underground utilities, slopes and pavement, over, across, through and within a portion of the Remainder parcel of “The Ford Estates”, Unit No. 1, in the City of Porterville, County of Tulare, State of California, as shown on map filed in Book 37 of Maps, at Page 99 in the office of the Recorder of said County, more particularly described as follows:

BEGINNING AT the northwest corner of Lot 1 of said “The Ford Estates”, Unit No. 1;

THENCE, North 00° 15’ 22” East, 30.50 feet;

THENCE, North 89° 56’ 25” West, 60.00 feet;

THENCE, South 00°15’22” West, 30.50 feet;

THENCE, South 89°56’25” West, 60.00 feet, to the POINT OF BEGINNING.

CONTAINING 1,830 square feet.

(Parcel 3)

A 20 foot slope easement over, across, through and within a portion of the Remainder parcel of “The Ford Estates”, Unit No. 1, in the City of Porterville, County of Tulare, State of California, as shown on map filed in Book 37 of Maps, at Page 99 in the office of the Recorder of said County, more particularly described as follows:
BEGINNING AT the northwest corner of Lot 18 of said "The Ford Estates", Unit No. 1;

THENCE, North 00°15'22" East, 20.00 feet;

THENCE, South 89°56'25" East, 42.00 feet;

THENCE, North 00°15'22" East, 30.00 feet;

THENCE, South 89°56'25" East, 105.00 feet;

THENCE, North 00°15'22" East, 72.22 feet;

THENCE, South 89°56'25" East, 100.00 feet;

THENCE, South 00°15'22" West, 30.50 feet;

THENCE, South 89°56'26" East, 85.00 feet, more or less, to the west right of way line of Westwood Street;

THENCE, South 00°15'22" West along said west right of way line, 20.00 feet, to the northeast corner of Lot 1 of said "The Ford Estates", Unit No. 1;

THENCE, North 89°56'25" West, along the north line of said Lot 1, 105.00 feet, to the northwest corner thereof;

THENCE, North 00°15'22" East, 30.50 feet;

THENCE, North 89°56'25" West, 60.00 feet;

THENCE, South 00°15'22" West, 72.22 feet, to the northeast corner of Lot 20 of said "The Ford Estates", Unit No. 1;

THENCE, North 89°56'25" West, along the north line of said Lot 20, 105.00 feet, to the northwest corner thereof;

THENCE, South 00°15'22" West, 30.00 feet, to the northeast corner of said Lot 18;

THENCE, North 89°56'25" West, along the north line of said Lot 18, 62.00 feet, to the POINT OF BEGINNING.

CONTAINING 9,294 square feet.

END OF DESCRIPTION

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

Signature: [Signature]
Licensed Land Surveyor

Date: 1/27/05
EXHIBIT "B-1"

EASEMENT VACATION MAP

NORTH

OLIVE AVE

32' 33"

12' 28"

SUBJECT EASEMENT ABANDONMENTS

PARCEL 1

PARCEL 2

JENNIFER DR.

CITY CO.

DUGWOOD STREET

ROBY AVE.

Amalene Estates

Phase One

INDICATES EASEMENTS FOR UTILITIES, ACCESS & MAINTENANCE OF UNDERGROUND UTILITIES, SLOPES & PAVEMENT TO BE ABANDONED.

SCALE: 1"=200'

City of Porterville

291 N. MAIN ST.
PORTERVILLE, CA. 93257
559 7827462

THE NORTH HALF OF THE NORTHEAST QUARTER OF SECTION 32, T 21 S,
RANGE 27 E, M.D.B. & M., IN THE CITY OF PORTERVILLE, COUNTY OF TULARE,
STATE OF CALIFORNIA.

OWNER: BECHARA CONSTRUCTION
APN: 240-110-059
DRAWN BY TJ
CHC'K BY MKR
EXHIBIT "B-2"
EASEMENT VACATION MAP

Olive Ave

Amalene Estates
Phase One

Subject Easement Abandonment

Parcel 3

Dogwood Street

Jennifer Dr.

Roby Ave.

City Co.

INDICATES 20' WIDE EASEMENT FOR SLOPE TO BE ABANDONED.

Scale: 1"=200'

City of Porterville
291 N. Main St.
Porterville, CA 93257
559 782-7462

The North Half of the Northeast Quarter of Section 32, T21S,
Range 27 E, M.D.B. & M., in the City
of Porterville, County of Tulare,
State of California.

Owner: Bechara Construction
APN: 240-110-059
Drawn By: TJ
Chck By: MKR
SUBJECT: AMALENE ESTATES TENTATIVE SUBDIVISION MAP - EXTENSION OF TIME

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

APPLICANT: Antoine Bechara
P.O. Box 1268
Porterville, CA 93258

COMMENT: The applicant is requesting approval of a two (2) year extension of time for the tentative subdivision map.

ORDINANCE CHARACTERISTICS: Section 66452.6 (e) of the State Map Act allows the City Council to grant extensions of time for tentative maps (both subdivisions and parcel maps) for a period not to exceed a total of five (5) years.

HISTORY: The subject tentative subdivision map to divide a 19.7± acre site into a sixty-two (62) lot single family residential subdivision was originally approved on January 20, 2004. The extension of time will allow the developer an opportunity to keep the map active and fulfill the development requirements for the tentative map. The project is currently under construction.

RECOMMENDATION: That the City Council

1. Adopt the draft resolution approving a two (2) year extension of time for Amalene Estates Tentative Subdivision.

ATTACHMENT:

1. Complete Staff Report
CITY COUNCIL AGENDA: DECEMBER 6, 2005

STAFF REPORT

SUBJECT: AMALENE ESTATES TENTATIVE SUBDIVISION MAP - EXTENSION OF TIME

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

APPLICANT: Antoine Bechara
P.O. Box 1268
Porterville, CA 93258

PROJECT LOCATION: The site is generally located on the west side of Westwood Street, approximately 170± feet south of Olive Avenue.

SPECIFIC REQUEST: The applicant is requesting approval of a two (2) year extension of time for the tentative subdivision map.

ORDINANCE CHARACTERISTICS: Section 66452.6 (e) of the State Map Act allows the City Council to grant extensions of time for tentative maps (both subdivisions and parcel maps) for a period not to exceed a total of five (5) years.

HISTORY: The subject tentative subdivision map to divide a 19.7± acre site into a sixty-two (62) lot single family residential subdivision was originally approved on January 20, 2004. The extension of time will allow the developer an opportunity to keep the map active and fulfill the development requirements for the tentative map. The project is currently under construction.

RECOMMENDATION: That the City Council

1. Adopt the draft resolution approving a two (2) year extension of time for Amalene Estates Tentative Subdivision.

ATTACHMENT:

1. Tentative Subdivision Map
2. Letter requesting the Extension of Time
3. City Council Environmental Resolution 5-2004
4. City Council Resolution 6-2004 (approval)
5. Draft Resolution approving the extension of time
November 22, 2005

Brad Dunlap
Community Development Director
City of Porterville
291 North Main Street
Porterville, CA 93257

RE: Amalene Estates

Dear Mr. Dunlap,

Our files indicate that Amalene Estates will expire on or about January 20, 2006. The subdivider, Antoine Bechara, is requesting a two year time extension. I have enclosed a check in the mount of $225 to cover the time extension fee.

In the event you have any questions, please let me know.

Very Truly Yours,

James S. Winton
Civil Engineer

cc: Antoine Bechara

JSW/bg
Encls.
RESOLUTION NO. 5-2004

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS IN SUPPORT OF APPROVAL OF A NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT FOR AMALENE ESTATES TENTATIVE SUBDIVISION MAP

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of January 20, 2004, conducted a public hearing to consider approval of Amalene Estates Tentative Subdivision Map, being a division of a 19.7± acre site into sixty-two (62) single family residential lots in two (2) phases, generally located on the west side of Westwood Street, 170± feet south of Olive Avenue; and

WHEREAS: The City Council considered the following findings in its review of the environmental circumstances for this project:

1. That a Negative Declaration was prepared for the project in accordance with the California Environmental Quality Act;

2. That the proposed project will not create adverse environmental impacts;

3. That the City Council is the decision-making body for the project;

4. That the Negative Declaration prepared for this project was made available for public review and comment;

5. That the mitigation measures contained in the Negative Declaration were incorporated into a Mitigation Monitoring Program attached hereto as Attachment A;

6. That review of the environmental circumstances regarding this project indicates that no adverse impacts would accrue to wildlife resources from implementation of the project;

7. That the project may proceed subsequent to approval and/or conditional approval of the State Department of Fish and Game relative to said State Department’s consideration of a “de minimis impact” pursuant to Section 711.2 et. seq. of the Fish and Game Code; and

8. That the environmental assessment and analysis prepared for this project supporting the Negative Declaration reflects the independent judgement of the City of Porterville.

ATTACHMENT
ITEM NO. 3
NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve the Negative Declaration and Mitigation Monitoring Report for Amalene Estates Tentative Subdivision Map as described herein, and commits to carry out those items identified as City responsibilities within the Mitigation Monitoring Report.

Richard M. Stadtherr, Mayor

ATTEST:

John Longley, City Clerk

By Georgia Hawley, Deputy
## Attachment A

**Mitigation Monitoring Program**

<table>
<thead>
<tr>
<th>Potential Impact</th>
<th>Mitigation Measures</th>
<th>Monitoring</th>
<th>Agency Responsible</th>
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</thead>
<tbody>
<tr>
<td>Geologic Problems</td>
<td>Mitigation measures include the enforcement of site development plan or other development related conditions of approval requiring erosion control plans, and the conservation of vegetation, with soil disturbances to be limited to dry seasons. In addition, conformance with the City Storm Drain Master Plan, and requirements relative to grading, the Uniform Building Code, etc., will be required.</td>
<td>Conformance with the City Storm Drain Master Plan (2001) and requirements relative to grading, the Uniform Building Code, etc., will be required.</td>
<td>City of Porterville</td>
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<td>Water</td>
<td>Compliance with Federal, State and local regulations requiring that storm water runoff be monitored and maintained free of heavy concentrations of pollutants will mitigate this potential impact to a level of insignificance (NPDES standards).</td>
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<td>Air Quality</td>
<td>Mitigation of the effects resulting from increased vehicle trips must be accomplished through proper vehicle smog inspections and related efforts to reduce petroleum fueled transit. Additional mitigation measures include adequate circulation of vehicles to lessen concentrations of carbon monoxide in the area, promotion of car pooling and public transportation in the area, and the encouragement of non-motorized transportation modes (i.e. bicycles and walking). Mitigation through construction management.</td>
<td>The State of California, California Air Resources Board (CARB) and San Joaquin Valley Unified Air Pollution Control District (SJVUAPCD) are expected to maintain their commitment to this program.</td>
<td>State of California CARB, SJVUAPCD, City of Porterville</td>
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<tr>
<td>5.a Violate any air quality standard or contribute to an existing or projected air quality violation.</td>
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<tr>
<td>Air Quality</td>
<td>a. The prevention of dust from leaving the construction site during clearing, grading and excavation will be accomplished through regular truck spraying with water, sprinkling systems or emulsion sprays.</td>
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<td>5. a (continued)</td>
<td>b. Watering or spraying will be required to be done in the late morning and again at the end of the work day, with increased frequency throughout the day whenever wind is sustained or gusting at speeds in excess of 10 MPH. If winds or gusting exceed 20 MPH, vehicular activity will be required to cease.</td>
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<td>c. One or more of the following means of dust control should be employed after the completion of earth grading operations:</td>
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<td>i. Seeding and watering of new vegetation.</td>
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<td>ii. Hydromulching or spreading of soil binders.</td>
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<td>iii. Maintenance of the site's soil surface crust through repeated soakings.</td>
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<td>Air Quality</td>
<td>2. Trees should be carefully selected and located to shade the structures during the hot summer months. This measure should be implemented on southern and western exposures. Deciduous trees should be considered since they provide shade in the summer and allow the sun to reach the commercial building during the cold winter months.</td>
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<td>3. As many energy-conserving features as possible should be included in the design/construction of new commercial buildings. Examples include (but are not limited to) increased wall and ceiling insulation (beyond building code requirements), energy efficient lighting, high efficiency appliances and solar-assisted water heating.</td>
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<td>5. a (continued)</td>
<td>4. Electric or low nitrogen oxide (NOx) emitting appliances should comply with California NOx Emission Rule #1121.</td>
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<td>5. Electrical outlets should be installed around the exterior of the units to encourage the use of electric landscape maintenance equipment.</td>
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<td>6. Limit engine idling at the project site.</td>
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<td>Air Quality</td>
<td>7. Construction equipment needs to be equipped with catalysts/particulate traps to reduce particulate and NOX emissions.</td>
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<td>5. a (continued)</td>
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<td>Utilities and Service Systems</td>
<td>Mitigation: Compliance with Federal, State and local regulations requiring that storm water runoff monitored and maintained free of heavy concentrations of pollutants will mitigate this potential impact to a level of insignificance (NPDES standards). Any future installation of storm drain lines will be in conformance with Federal, State, and local environmental protection requirements and the City's Storm Drainage Master Plan.</td>
<td>The City of Porterville and the effected utility companies.</td>
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<td>12.e Storm water drainage.</td>
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<td>Aesthetics 13.c Create light and glare.</td>
<td>Any future development of the subject site with Neighborhood commercial uses require the installation of low profile exterior lighting will be directed away from adjacent properties, as required by the City Zoning Ordinance, and will reduce the impact of outside lighting. Minimal glare is anticipated from street lights and on-site lighting facilities accruing from the site's eventual development. This will serve to reduce potential hazards for autos, bicyclists, and pedestrians, as well as provide a secure environment for the occupants.</td>
<td>Section 2618 F (Glare) of the Porterville Zoning Ordinance will be enforced.</td>
<td>City of Porterville</td>
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STATE OF CALIFORNIA  
CITY OF PORTERVILLE  
COUNTY OF TULARE  

I, JOHN LONGLEY, the duly appointed City Clerk of the City of Porterville do hereby certify and declare that the foregoing is a full, true and correct copy a resolution passed and adopted by the Council of the City of Porterville at a regular meeting of the Porterville City Council duly called and held on the 20th day of January, 2004.

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

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JOHN LONGLEY, City Clerk  

by Georgia Hawley, Deputy City Clerk
RESOLUTION NO. 6-2004

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS AND CONDITIONS IN SUPPORT OF APPROVAL FOR AMALENE ESTATES TENTATIVE SUBDIVISION MAP

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of January 20, 2004, conducted a public hearing to consider approval of Amalene Estates Tentative Subdivision Map, being a division of a 19.7± acre site into sixty-two (62) single family residential lots in two (2) phases, generally located on the west side of Westwood Street, 170± feet south of Olive Avenue; and

WHEREAS: The City Council received testimony from all interested parties relative to the proposed tentative subdivision map; and

WHEREAS: The City Council made the following findings:

1. That the design and improvements of the proposed project are consistent with the General Plan.

2. That the site is physically suitable for the type and density of the proposed development.

3. That the Negative Declaration prepared for this project is in compliance with the California Environmental Quality Act indicating that such will not have a significant effect on the environment.

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

5. That the proposed location of the project and the conditions under which it would be operated or maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the area.

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

7. That the Condition of Approval requiring a fence to be constructed along the entire northerly boundary of the subject site constitutes a regulation of the City of Porterville for the purposes of compliance with Zoning Ordinance Section 2611.
NOW, THEREFORE, BE IT RESOLVED: That the Porterville City Council does hereby approve Amalene Estates Tentative Subdivision Map subject to the following conditions:


2. The developer/applicant shall pay all applicable fees in accordance with the Municipal Code and State law, prior to approval of the final map by City Council. Fees are subject to change annually. The developer/applicant is hereby notified that you have the right to pay fees, dedications, reservations or other exactions, under protest, pursuant to Government Code Section 66020(a). You have 90 days from the date fees are paid to file a written protest.

3. The developer/applicant shall dedicate right-of-way adequate for a street width that matches the ultimate width in the adopted Land Use and Circulation Element and/or the width established by City Council. The developer/applicant shall dedicate and improve a right-of-way adequate for a minimum of two lanes of traffic and on-street parking, on one side, on streets adjacent to the property lines as well as dedication of property required for disabled ramp(s) (C.C. Sec. 21-23).

4. The developer/applicant shall provide and show all required utility easements on the Final Map.

5. The developer/applicant shall dedicate a one foot (1') limitation of access strip at locations where, in the opinion of the City Engineer, it is undesirable to allow access.

6. The developer/applicant shall install a six (6) foot tall concrete masonry (CMU) wall and a five foot wide landscape strip along the Westwood Street frontage of all lots. Landscaping shall be designed to obscure open views of the wall and/or to discourage access to the wall.

7. Prior to approval of the improvement plans, the developer/applicant shall have completed and approved, landscaping and/or lighting improvement plans, legal descriptions, etc. The developer/applicant shall petition, on a form provided by the City, to have said subdivision placed in a Lighting and Landscape Maintenance District at the time the final map is approved. Landscape and lighting improvements shall be completed and accepted concurrently with the other improvements in the subdivision. The following shall be included in said annex to the district: (1) Lighting, (2) Public Landscaping, if any (3) Public walls/fences, if any, (4) Drainage reservoir, if any, etc.
8. The developer/applicant shall comply with Chapter 7, Article XIII of the City Code and Appendix Chapter 33 of the Uniform Building Code and provide a Preliminary Soils Report (C.C. Sec. 7-126 & Res. 4997) including results of "R-Value" tests and recommendations regarding construction of public improvements that address City Standard C-13, satisfactory to the City Engineer, prior to the approval of the improvement plans or start of grading, whichever comes first. The developer/applicant shall provide the reports indicated below:

a. Final Grading, Drainage and Soils Report, prior to issuance of building permits (C.C. Sec. 7-133).

b. Erosion Control Plan in conformance with the *California Storm Water Best Management Practice Handbook for Construction Activity*, prior to start of grading (CBC Sec. 7013). The provisions of the approved Erosion Control Plan shall be incorporated into the Improvement Plans.

9. The developer/applicant shall comply with City Retaining Wall Standards (adopted by City Council January 3, 1989) at lot lines where such standards are applicable.

10. Prior to recording the final map for each phase, the developer/applicant shall enter into an agreement that provides for completion of improvements within twelve (12) months.

11. Prior to start of grading on any unit, the developer/applicant shall abandon and cap existing wells in that unit. Prior to approval of the improvement plans, the developer/applicant shall obtain an abandonment permit from the County Department of Environmental Health. Prior to acceptance of improvements, the developer/applicant shall provide the City Engineer with proof of completion in compliance with County regulations.

12. The developer/applicant shall replace or provide surety for replacement of irrigation pipes in the right-of-way, if, in the opinion of the City Engineer, replacement is warranted. The developer/applicant shall provide easements for irrigation pipes across lots created, if pipes will continue in use. The developer/applicant shall also cure leaks in any irrigation pipe that will continue in use.

13. Prior to recording the final map, the developer/applicant shall provide surety for off-site improvements and provide easements, permits, calculations, etc. if, in the opinion of the City Engineer, they are needed for the proper functioning or phasing of the subdivision (e.g. water, sewer, drainage, etc.).

14. The developer/applicant shall coordinate with the U.S. Postal Service regarding the kind of mail facilities that will be utilized. If neighborhood box units (NBUs) are to be used, construct sidewalks in a timely manner to facilitate NBU installation.

15. The developer/applicant shall obtain a City demolition permit prior to approval of the improvement plans and, under City inspection, remove all existing, abandoned and unnecessary items, to the satisfaction of the City Engineer, prior to acceptance of the improvements (e.g. buildings, foundations, septic tanks, irrigation pipes, etc.).
16. The developer/applicant shall assure compliance with applicable San Joaquin Valley Unified Air Pollution Control District Rules (e.g., Numbers 8010, 8020 and 8030), regarding fugitive dust, as well as Section 7-8, Project Site Maintenance of the Standard Specifications. The developer/applicant shall provide a street sweeper as necessary to comply. During grading operations the "Supervising Civil Engineer" shall be responsible for enforcing the dust control provisions of Section 7-8 or the developer/applicant shall pay inspection fees on the grading cost to compensate the City for dust control inspection. The improvement plans shall show a designated wash out area for concrete trucks, and a sign designating it as such. The developer/applicant shall remove and properly dispose of waste concrete deposited in this area.

17. The developer/applicant shall construct or provide surety for construction of curb, gutter, sidewalk, water, sewer, street paving to the center of the street (if necessary), etc. along the full frontage of all proposed subdivision lots except where they exist to City standards and are in good condition in the opinion of the City Engineer. The developer/applicant shall stub improvements to the property line if, in the opinion of the City Engineer, they will be needed for connection to development on the adjacent property.

18. Building or foundation permits shall not be issued until all of the following items are accepted as complete:

a. The storm drain system is functional so that it will accept water from fire hydrant and/or water main flushing;
b. The water system is functional from the source of water past the lots on which permits are being requested (i.e. all services and the sampling station, if required, are installed, valves are functional and accessible, bacteria testing is completed, etc.);
c. Street base rock for accessibility by the public safety officials and building inspectors;
d. Lots are graded in accordance with the approved grading plan. Prior to receipt of the Final Grading, Drainage and Soils Report a letter from the "Supervising Civil Engineer" is required validating that the grading has been done in accordance with the approved grading plan and in accordance with the recommendations contained in the Preliminary Soils Report; and
e. Lot corners are marked;
f. Fire hydrants are accepted by the Fire Department and the Engineering Division.

19. The developer/applicant shall construct a drainage reservoir to serve the proposed Tentative Subdivision that satisfies one of the following conditions:

a. Construct Drainage Reservoir No. 50 within the Urban Development Boundary complying with the intent of the Storm Drain Master Plan. In accordance with Section 21-50 of the City Code, the acquisition of land and development of the drainage reservoir is reimbursable. Acquisition of property will be in accordance with the City’s adopted Property Acquisition Procedures.
b. Acquire property outside of the proposed subdivision and within the Urban Development Boundary for the construction of a drainage reservoir as intended by the adopted Storm Drain Master Plan; or

c. Provide temporary on-site drainage reservoir in accordance with City Standards and Specifications; or

d. Obtain rights and convey an easement to the City of Porterville for a drainage reservoir as shown on the Tentative Subdivision Map, which is outside the Urban Development Boundary. This off-site drainage reservoir shall comply with CEQA, be improved/designed in accordance with City Standard Plans, and approved by Tulare County Resource Management Agency.

20. The developer/applicant is advised that he is obligated to comply with the National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002 for discharge of Storm Water Associated with construction activity will be required (except operations that result in disturbance of less than one acre of total land area and which are not a part of a larger common plan of development or sale). Before construction begins, the proponent must submit a Notice of Intent (NOI) to comply with the permit, a site map, and appropriate fee to the State Water Resources Control Board (SWRCB). The proponent must also prepare a Storm Water Pollution Prevention Plan (SWPPP) for the entire project before construction begins. The SWPPP must contain at a minimum all items listed in Section A of the permit, including descriptions of measures to be taken to prevent or eliminate unauthorized non-storm water discharges and both temporary (e.g., fiber rolls, silt fences, etc.) and permanent (e.g., vegetated swales, detention basins, etc.) best management practices that will be implemented to prevent pollutants from discharging with storm water into water of the United States. If portions of the project area are to be sold off before the entire project is completed, the proponent must submit to the California Regional Water Quality Control Board a change of information form identifying the new owners along with a revised site map clearly depicting those portions that were sold and those that are remaining. The proponent is also responsible for informing each new owner of their responsibility to submit their own NOI, site map, and appropriate fee to the SWRCB and to prepare their own SWPPP.

21. To accommodate refuse vehicles and street sweepers, the developer/applicant shall construct, dedicate and improve, to City standards, temporary turn-arounds at such time that phased development of the subdivision results in creation of dead end streets. These temporary turn-arounds are to be enclosed with chain link fencing.

22. The developer/applicant shall construct all weather alternative vehicular access road equipped with a double 2.5" pipe security gate to accommodate emergency service vehicles at such time that phased development of the subdivision results in creation of dead end cul-de-sac streets in excess of 600 feet long.

23. The developer/applicant shall cause all regulatory and street name signs to be installed prior to occupancy of any house located where its occupants will utilize a street that does not have them.
24. The developer/applicant shall construct two City standard barricades at the end of all dead end streets.

25. The developer/applicant shall cause the sewer system to be completed, tested, and accepted by the City prior to residential occupancy of any house in the subdivision.

26. The developer/applicant shall move existing utility structures (For example, poles, splice boxes, vaults, etc.) to a position that provides a minimum of four feet (4') of clear space in the sidewalk area and a minimum of two feet (2') of clear space from the curb face to the structure, unless they are below grade (Title 24 OSA) or provide surety in lieu of (Section 2616.b of the Zoning Ordinance).

27. Prior to acceptance of improvements, the developer/applicant shall provide street lights on Marbelite poles complying with Southern California Edison Company specifications as required by the City Engineer. Use of wood poles is prohibited without prior written approval of the City Engineer.

28. The developer/applicant shall construct the water system in a maximum of two sections for each phase of the subdivision. One section for the model homes and one section for the remainder of the phase. The number of model homes shall not exceed one for each 10 lots in the subdivision or four, whichever is greater. The model homes shall be clustered.

29. The developer/applicant shall comply with the City Flood Damage Prevention Ordinance No. 1397, and the requirements of the State Reclamation Board where applicable. In all areas of special flood hazards (i.e., Zones A, AO, A1-A30, AE, A99 or AH), the following conditions are required: (1) All preliminary subdivision proposals shall identify the flood hazard area and the elevation of the base flood; (2) All final subdivision plans shall provide the elevation of proposed structures and pads. If the site has to be filled to be above the base flood, the final pad elevation shall be certified by a registered professional engineer or surveyor and said certification shall be provided to the local administrator in the form of an elevation certificate.

30. The developer/applicant is hereby notified that reimbursement for Master Plan facilities is made when funds are available and is contingent upon the work being done by the approved low bidder of at least two bona fide bidders. The bids must be approved by the City prior to construction.

31. The developer/applicant is hereby notified that in order to comply with Section 66499.35 of the Subdivision Map Act, Phase 1, Lot 1 must be included as a lot within the Final Map for the first phase and developed in accordance with City Standards, Specifications and these conditions of approval. Vine Avenue is the only acceptable access to this parcel.
32. The developer/applicant shall construct a six (6) foot high fence of greater durability than a typical wood fence, to the satisfaction of the City Engineer, along the westerly boundary of Phase 1, Lot Nos. 27 and 28, thence westerly along the northerly boundary of Phase 1, Lots 22, 23 and 24, thence southerly along the westerly boundary of Phase 1, Lot 22 and continuing to the easterly prolongation of the northerly boundary of Phase 1 Lot 21, thence westerly along the northerly boundary of the Amalene Estates Subdivision to the northwest corner of Phase 2, Lot 23. If any portion of this fence does not border on a lot within the Amalene Estates Subdivision, that portion shall be included within the Landscape and Lighting District.

33. The developer/applicant shall provide 77 street trees, or payment in lieu, for the sixty-two (62) lot subdivision.

34. A building setback line of 12 feet shall be shown on the south side of Phase 1, Lot No. 9, the east side of Phase 1, Lot No. 10, the west side of Phase 1, Lot No. 14, the east side of Phase 1, Lot No. 20, the east side of Phase 1, Lot No. 26, and the west side of Phase 1, Lot No. 32.

35. The developer/applicant shall relinquish access rights to Westwood Street and indicate such on the final map(s) for the seven (7) lots which have frontage along both Westwood Street and Jennifer Street or Jennifer Drive. The developer/applicant shall relinquish vehicular access rights to Dogwood Street for Phase 1, Lot 21.

36. All concrete block walls shall match one of the colors in the approved color palate approved by the City Council and maintained by the Community Development Department.

37. All model home landscaping must conform to the City's Water Efficient Landscape.

38. The developer/applicant shall comply with all mitigation measures adopted as a component of the approval of the Mitigated Negative Declaration for this project. Prior to the submittal of the final map, the developer/applicant shall submit a signed document committing to comply with the adopted mitigation measures.

Richard M. Stadtherr, Mayor

ATTEST:

John Longley, City Clerk

By Georgia Hawley, Deputy
STATE OF CALIFORNIA  
CITY OF PORTERVILLE  
COUNTY OF TULARE  

I, JOHN LONGLLEY, the duly appointed City Clerk of the City of Porterville do hereby certify and declare that the foregoing is a full, true and correct copy a resolution passed and adopted by the Council of the City of Porterville at a regular meeting of the Porterville City Council duly called and held on the 20th day of January, 2004.

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

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JOHN LONGLLEY, City Clerk

[Signature]

by Georgia Hawley, Deputy City Clerk
RESOLUTION NO. _________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS IN SUPPORT OF THE APPROVAL OF A TWO (2) YEAR EXTENSION OF TIME FOR AMALENE ESTATES TENTATIVE SUBDIVISION MAP GENERALLY LOCATED ON THE WEST SIDE OF WESTWOOD STREET, APPROXIMATELY 170± FEET SOUTH OF OLIVE AVENUE

WHEREAS: The Porterville City Council at its regularly scheduled meeting of December 6, 2005, considered a two (2) year extension of time request for Amalene Estates Tentative Subdivision Map, generally located on the west side of Westwood Street, approximately 170± feet south of Olive Avenue; and

WHEREAS: The Council made the following findings:

1. That the proposed project is consistent with the State Map Act.

2. That the site is physically suitable for the type of development proposed.

3. That a Negative Declaration was approved for the project.

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

5. That the design of the project or the proposed improvements are not likely to cause health problems.

6. Section 66452.6 (e) of the State Map Act allows the City Council to grant extensions of time for tentative maps (both subdivisions and parcel maps) for a period not to exceed a total of five (5) years.

7. That the additional life of the subject map is to provide the developer an opportunity to keep the map active and fulfill the development requirements.
NOW, THEREFORE, BE IT RESOLVED: That the Porterville City Council does hereby approve a two (2) year extension of time for Amalene Estates Tentative Subdivision Map and that the conditions specified in City Council Resolution 6-2004 shall remain in full force and effect. Said extension of time shall commence January 20, 2006, and shall expire on January 20, 2008.

__________________________
Kelly West, Mayor

ATTEST:

John Longley, City Clerk

By _______________________
  Georgia Hawley, Chief Deputy City Clerk
SUBJECT: AIRPORT LEASE LOT 12

SOURCE: FIRE DEPARTMENT/AIRPORT

COMMENT: Mr. Harry R. Dellicker is the current lease holder of lot 12 at the Porterville Municipal Airport. The lease is scheduled to expire on January 31, 2006. The lease has a twenty year “option to extend” which Mr. Dellicker wishes to execute.

RECOMMENDATION: That the City Council:

1. Approve the option to extend the lease on Lot 12 pursuant to the terms and conditions of the current lease.

ATTACHMENTS: 1- None
COUNCIL AGENDA: DECEMBER 6, 2005

SUBJECT: AIRPORT LEASE LOT 33

SOURCE: FIRE DEPARTMENT/AIRPORT

COMMENT: Dr. Creager is the current lease holder of lot 33 at the Porterville Municipal Airport. The lease is scheduled to expire on February 28, 2006. The lease has a twenty year “option to extend” which Dr. Creager wishes to execute.

RECOMMENDATION: That the City Council:

1. Approve the option to extend the lease on Lot 33 pursuant to the terms and conditions of the current lease.

ATTACHMENTS: 1- None
SUBJECT: AIRPORT LEASE - RESTAURANT

SOURCE: Fire Department/Airport

COMMENT: Mr. Michel Adams currently leases the restaurant at the Porterville Municipal Airport. He has extended a purchase option of his business assets to Mr. Richard A. Chilcutt. Mr. Chilcutt is requesting council authorization to assume the existing operating and lease agreement between the City of Porterville and Michel Adams dated January 9, 2002.

RECOMMENDATION: That the City Council approve the assigning of the lease agreement between the City of Porterville and Mr. Michel Adams to Mr. Richard A. Chilcutt, with the agreement becoming effective on December 1, 2005, or at the close of escrow, whichever is the latest.

Attachment: (1) Locator Map
(2) Assignment of Lease Agreement
(3) Lessor's Consent to Assignment of Lease Agreement
(4) Request to Transfer Letter, Adams
(5) Request to Transfer Letter, Chilcutt
ASSIGNMENT OF LEASE
(PORTERVILLE MUNICIPAL AIRPORT)

THIS AGREEMENT, made this 1st day of December, 2005, by and between Mr. Michel Adams, lease holder of Michel's Restaurant at the Porterville Municipal Airport, as the Assignor, and Mr. Richard A. Chilcutt, Porterville, as the Assignee.

In consideration of the mutual covenants herein contained, each act to be performed hereunder, and for other valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. Effective December 1, 2005, Assignor hereby assigns, transfers and conveys to Assignee all of their right, title and interest as Lessee, in, to and under a certain Lease Agreement dated January 9, 2002 (hereinafter "Lease"), executed by and between the City of Porterville, as Lessor, and Michel Adams as Lessee, providing for the letting of certain premises located at the Porterville Municipal Airport, Porterville, California, being more particularly described as follows:

   An operating and lease agreement to operate a public restaurant at the Porterville Municipal Airport.

2. Effective December 1, 2005, Assignee hereby accepts and assumes all of the obligations, responsibilities and liabilities of Assignor under said Lease, and agrees to perform said Lease Agreement according to its terms, covenants and conditions, without exception, and Assignee understands and agrees that Landlord makes no warranty or representation that either Assignor or Assignee would be given an exclusive use in the Porterville Municipal Airport for the use thereof by Assignor and/or Assignee, except as provided in the Lease.

3. Upon execution of this Assignment of Lease and Landlord's consent hereto, Assignee's Noticed Address and Assignee's Billing Address shall be as set forth herein above.

4. Assignor hereby covenants said Lease as valid and existing and Landlord is not default as of the date of this Assignment.

5. This Assignment shall be binding upon and shall inure to the benefit of the respective parties, their successors and assigns.

IN WITNESS WHEREOF, the parties hereto have executed this Assignment of Lease as of the date first above written.

ASSIGNOR

BY: [Signature]

Michel Adams

ASSIGNEE

BY: [Signature]

Richard A. Chilcutt
LESSOR'S CONSENT TO ASSIGNMENT OF LEASE AGREEMENT
(PORTERVILLE MUNICIPAL AIRPORT)

The City of Porterville, a municipal corporation of the State of California, being the Landlord under the Lease described in the foregoing Assignment, hereby consents to the foregoing Assignment of Lease upon the expressed condition, however, that there shall be no further assignment without the prior written consent of the Landlord.

Dated this 6th day of December, 2005.

CITY OF PORTERVILLE

BY: __________________________
    Kelly West
    MAYOR, CITY OF PORTERVILLE

"LESSOR"

ATTEST: _______________________
         John Longley, CITY CLERK

APPROVED AS TO FORM:

BY: _______________________
    Julia Lew
    City Attorney
November 15, 2005

Airport Manager, City of Porterville

I, Michel Adams, currently lease the restaurant at the Porterville Municipal Airport. I am aware in the process of selling the business assets to Mr. Richard A. Chilcutt. I am requesting the City of Porterville allow Mr. Richard A. Chilcutt to assume our current lease. I am also aware of the City’s fee of $150 which is designed to recover the City’s cost for processing any changes to the current lease agreement with the City. Please bill me accordingly.

Sincerely,

[Signature]

Michel Adams

Date 11/17/05
To the City of Porterville,

November 15, 2005

I, Richard A. Chilcutt, am purchasing the liquor license and business assets of Michel’s Restaurant from Michel Adams. I hereby request to assume the existing operating and lease agreement between the City of Porterville and Michel Adams.

Sincerely,

Richard A. Chilcutt
COUNCIL AGENDA: December 6, 2005

SUBJECT: CITY OF PORTERVILLE TROLLEY

SOURCE: Administration (Transit)

COMMENT: The trolley has arrived! After seven months of construction time, the trolley is now a part of our transit fleet; and as such, it is necessary for us to implement a Charter Policy and set the regulations for its use.

As we have discussed previously, staff does not plan to use the trolley on a daily basis as a permanent part of Fixed Route. Not only is the trolley not conducive to daily transit use, it is also a “specialty” vehicle, and one we would like to protect against the hazards of daily use and extend its pristine condition as long as possible.

The main regulation under which the City must abide is the Charter Service regulation of the Federal Transit Administration. The principle behind this regulation is that federally funded equipment and facilities may not be used to compete unfairly with private Charter operators.

For our purposes, the definition of a Charter service is “Any transportation service other than regularly scheduled public transit services, provided to the general public, as published in the Porterville Transit Bus Schedule and Dial-A-COLT Brochure.”

Staff anticipates that service groups and other interested parties may approach the City to use its trolley; however, in most cases, outside use to a private entity for a special group of people will not be permitted under Federal Charter regulations. If the trolley were to be used to go to a specified destination, not regularly accessed by the local public transit system, under the control of another party (not the City), and not open to the general public, it would be classified as a Charter operation, and thus be competing with other Charter companies in existence in our area. Additionally, because it is a public transit vehicle, the driver will be required to have a Class B License with Passenger Endorsement. Also, the trolley will be insured by the City as part of its transit fleet, so any questionable liability issues will be closely monitored.

We have attached a Charter Policy for approval by the City Council. This policy is patterned after that used in the City of Visalia, and does abide by the Federal Transit Administration Charter regulations.

DD  

APPROPRIATED/FUNDED  

CM  

Item No. 9
Additionally, there is the question of what type of fare should be allocated for use of the trolley by the general public. The City of Visalia operates their trolley free of charge; however, they finance that operation from the sale of bus ads, which they have been receiving for several years. From meeting with other agencies, generally it is not recommended that any transit vehicles be operated free of charge since operating costs are so expensive, and the subsidy already so great just in meeting regular public transit service.

The City of Porterville is beginning to receive some bus ad revenue, and although minimal at present, it will hopefully increase somewhat substantially over the next couple of years. One ad effective October 1, 2005, is a seven-month contract with the Tulare County District Attorney’s Office advertising awareness for “elder abuse,” and each month of the seven-month contract the City will receive $217.50 per month. Another ad effective December 1, 2005, is with Tucoemas Federal Credit Union, a one-year contract, and the City will receive $290 per month for the twelve months of the contract.

Since the ad revenue at present is not substantial enough to offset the costs of operating the trolley, staff recommends that $.50 per trip be the fare implemented effective December 1, 2005; however, that the ad revenue be monitored closely and staff be directed to return to the Council with an update prior to July 1, 2006, to see if any modifications to the fare should be considered (either up or down depending on the first six months of operation of the trolley).

Some of the uses for the trolley considered by staff include:

- Parades – also an opportunity to advertise public transportation;
- Shuttle from the downtown area to the Band-A-Rama at Porterville College;
- Shuttle to health clinics or health fairs;
- Shuttle around Main Street when festivals or downtown promotions are in effect (shuttle could be circular from Transit Center on Hockett Street to either Olive Avenue or Morton Avenue, for example, crossing over Main Street to Second Street, and back to Transit Center);
- When downtown events create parking difficulties, the shuttle could be used from outlying City parking lots to the downtown area;
- Shuttle during holidays to transport people from shopping centers to the downtown area, and the downtown area to the shopping centers; (Would be limited to certain days and times during the holiday periods)
- Most events where public transportation can accommodate the general public and alleviate traffic impacts.
RECOMMENDATION: That the City Council approve:

1. The Charter Service Policy for the City of Porterville;

2. The fare for the use of the trolley at $.50 per ride, effective December 1, 2005;

3. Uses for the trolley compatible with the guidelines prepared by staff, all in an effort to accommodate the general public, alleviate traffic congestion, and abide by the regulations of the Charter Service Policy of the City of Porterville.
PORTERVILLE C.O.L.T.
(City-Operated Local Transit)

CHARTER SERVICE POLICY

The Porterville C.O.L.T. Charter Service Policy is:


The principle behind this regulation is that federally funded equipment and facilities may not be used to compete unfairly with private charter operators, in keeping with 49 U.S.C. 5323(d) and 5302(a)(7) of the Federal transit laws.

Charter service definition. Any transportation service(s) other than regularly scheduled public transit services, provided to the general public, as published in the Porterville Transit Bus Schedule and Dial-A-COLT Brochure.

FTA’s Charter Service Exceptions

Pursuant to 49 CFR part 604, recipients of Federal funds are prohibited from providing charter service using federally funded equipment or facilities except on an incidental basis if there is at least one private charter operator willing and able to provide the service.

- A public operator may provide incidental charter service if it determines on an annual basis that there are no private charter operators willing and able to provide the service, and located within a 125 mile radius of the recipient’s service area. The public operator must conduct an annual public participation process. The FTA recipient would be required to inform FTA of its basis for concluding that a private operator responding to its annual notification is unwilling or unable to provide the service specified.

The City of Porterville certified to the Federal Transit Administration on 12/22/03 that it does not provide charter service.

C.O.L.T. Special Service Policy

The Porterville C.O.L.T. may, on occasion, temporarily modify existing routes and/or schedules in order to provide transportation services to the general public for special public/community events. Special service route and/or schedule modifications must be designed for minimal impact on regularly scheduled service. The general public must be notified at least two weeks in advance of special service route and schedule information.
CITY COUNCIL AGENDA - December 6, 2005

SUBJECT: IMPLEMENTATION ACTIONS FOR MEASURE H: MEASURE H SALES TAX ORDINANCE AND BOARD OF EQUALIZATION AGREEMENTS

SOURCE: Administration

COMMENT: During the 2004/2005 Budget year, the City Council began a review process to determine the best vehicle by which to designate a revenue stream to fund increased levels of public safety. After detailed analyses, surveys and input by community members, the Council conducted a public hearing and adopted a resolution which included a proposed Ordinance to be implemented by the People of the City of Porterville, with Program Guidelines and the Expenditure Plan as an attachment. The action of the Council authorized the submission of a proposition for a special sales tax increase to the City’s Transaction and Use Tax by a rate of 0.50% to the qualified voters of the City at the special election to be held on November 8, 2005. The special sales tax increase required a two-thirds (2/3), or sixty-six percent affirmative vote of the voting electors to pass. The election has now been held and the measure, known as Measure H, has been certified by the Tulare County Registrar of Voters Election Division Manager as receiving seventy point twenty-eight percent affirmative votes. With the Council’s approval of the Certification of Election Results, the Ordinance implementing Measure H shall go into effect in ten days, or December 16, 2005.

To enact the new legislation, an ordinance specifying the basis in law for the sales tax needs to be passed, allowing the State Board of Equalization (BOE) to then enter into an agreement with the City to administer the tax. The ordinance simply points to the sections of law authorizing the City to collect the tax and specifies April 1, 2006 as the effective date of the implementation. Two agreements from BOE are all that are required to begin the sales tax collection process. The implementation agreement allows BOE to act as the City’s agent taking the necessary steps to start the tax. The agreement also allows BOE to recover its costs in implementing the new tax. The administration agreement then becomes operative, specifying how the tax will be collected over time. Both agreements are standard agreements used by BOE throughout the State of California.

At this time, the City Council is faced with the welcome task of implementing the plan authorized by the voters. This item outlines the tasks that need to be accomplished in enacting the voters’ will. The proposed action list includes the following:

1. Certify the election results and enact the sales tax with the appropriate ordinance and other actions required by the State Board of Equalization, enabling the ½ cent sales tax.
2. Adjust the 2005/06 budget to implement the Measure H plan as outlined in the ballot measure for Fiscal Year 2005/06. A Public Safety Sales Tax Fund will be created to account for all Measure "H" revenues and expenditures. This will provide a separate balance sheet for all Measure "H" activities, and will include separate divisions for Police, Fire, and Literacy program expenditures.

4. Direct Finance to ensure that Measure H accountability elements are executed.

5. Direct staff to initiate the process of public notification in order to proceed toward the appointment of a Citizens Oversight Committee prior to May 1, 2006.

6. Direct Staff to prepare an informational mailer to be distributed via the utility bills explaining the first and second year implementation program

Recommendation: That the City Council approve the enactment of the Measure H Sales Tax Measure with the following action:

1. Accept the Tulare County Registrar of Voters Official Statement of Votes Cast and Certification of Results, and adopt the draft resolution accepting the Official Canvass;

2. Reaffirm the adoption of Ordinance 1684, An Ordinance Adding Article IIA to Chapter 22 of the Porterville Municipal Code to Provide for an Additional One-half of One Percent Transactions and Use Tax to Fund Public Safety, Police and Fire Protection Services and Related Capital Projects and to Be Administered by the State Board of Equalization, by the Declaration of the Vote;

3. Approve two proposed agreements on behalf of the City of Porterville with the State Board of Equalization by:
   a. Implementing an agreement which authorizes BOE to implement the tax and authorizes BOE to be reimbursed for costs associated with implementing the measure;
   b. Approving an ongoing administration agreement to administer and collect the sales tax; and,
   c. Adopting the draft resolution authorizing the City Manager to sign said agreements;

4. Authorize the expenses charged by the State Board of Equalization for the implementation and administration of Measure "H" to be paid from current year Measure "H" proceeds to be budgeted in the Public Safety Sales Tax Fund, and the FY 2005/06 budget adjusted accordingly;

5. Direct staff to bring back to Council a detailed plan by February 7, 2006, for the promotion and selection of a Citizens’ Oversight Committee, as stated in Ordinance 1684, to be accomplished by May 1, 2006.
6. Direct Staff to prepare an informational mailer to be distributed via the utility bills thanking the citizens for their support and explaining the first and second year implementation of the program.

Attachments:
1) Statement of Votes Cast and Certification of Results
2) Resolution Accepting Official Canvas of Votes
3) Ordinance No. 1684 Imposing a Transaction and Use Tax
4) Resolution Authorizing City Manager to Execute State Board of Equalization (BOE) Agreements
5) BOE Sales Tax Administration Agreement
6) BOE Preparation Agreement
CERTIFICATION OF RESULTS
SPECIAL CONSOLIDATED STATEWIDE ELECTION
NOVEMBER 8, 2005

STATE OF CALIFORNIA )
 )ss
COUNTY OF TULARE )

I, Jerry T. Messinger, Registrar of Voters of said County, do hereby certify that, pursuant to section 15301 and following sections of the Elections Code, I did canvass the returns of the votes cast in the said County at the Special Statewide Consolidated Election held on November 8, 2005, and that the Statement of Votes Cast, to which this certificate is attached, shows the total number of votes cast in said County and in each of the respective precincts therein, and that the totals as shown for and against the measure are full, true, and correct.

WITNESS my hand and Official Seal this 21st day of November 2005.

JERRY T. MESSINGER
REGISTRAR OF VOTERS

Hiley Wallis
Election Division Manager
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RESOLUTION NO. ___-2005

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ACCEPTING THE OFFICIAL CANVASS OF THE NOVEMBER 8, 2005, SPECIAL CONSOLIDATED STATEWIDE ELECTION AS CONDUCTED REGARDING CITY OF PORTERVILLE SALES TAX MEASURE H

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Porterville that the City of Porterville does hereby accept the Official Canvass of Votes from the Special Consolidated Statewide Election of November 8, 2005, by the County Registrar of Voters, as follows:

CITY OF PORTERVILLE SALES TAX MEASURE H

"PORTERVILLE POLICE, FIRE AND EMERGENCY RESPONSE/9-1-1 SAFETY MEASURE. In order to increase the number of police and firefighters, expand neighborhood crime prevention efforts, improve 9-1-1 response times and communication, upgrade the 9-1-1 dispatch center, build a new fire station, and expand and improve anti-gang, anti-drug and anti-bullying programs, shall the sales tax be increased by one-half cent with citizens oversight and independent annual performance and financial audits?"

Yes — 4362 - 70.28%
No — 1845 - 29.72%

Registered Voters - 13,369
Total voters voting - 6,310
Total Percentage voting - 45.7%

Adopted this 6th day of December, 2005.

__________________________________________
Kelly West, Mayor

ATTEST:

__________________________________________
Georgia Hawley, Chief Deputy City Clerk
ORDINANCE NO. 1684

AN ORDINANCE ADDING ARTICLE IIA TO CHAPTER 22 OF THE PORTERVILLE MUNICIPAL CODE TO PROVIDE FOR AN ADDITIONAL ONE-HALF OF ONE PERCENT TRANSACTIONS AND USE TAX TO FUND PUBLIC SAFETY, POLICE AND FIRE PROTECTION SERVICES AND RELATED CAPITAL PROJECTS AND TO BE ADMINISTERED BY THE STATE BOARD OF EQUALIZATION

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

SECTION I. AMENDMENT OF CODE.

Porterville Municipal Code Chapter 8 is hereby amended by the addition of a new Article to read as follows:

ARTICLE IIA. TRANSACTIONS AND USE TAX FOR PUBLIC SAFETY, POLICE AND FIRE PROTECTION

Sec. 22-8.1 Title/Purpose:

This ordinance shall be known as the Transactions and Use Tax for Public Safety, Police and Fire Protection. The City of Porterville hereinafter shall be called “City.” This ordinance shall be applicable in the incorporated territory of the City. This Ordinance of the Porterville Municipal Code has been adopted for the following (and other) purposes, and directs that the provisions hereof be interpreted in order to accomplish those purposes:

(a) To impose a retail transactions and use tax in accordance with the provisions of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code and Section 7285.91 of Part 1.7 of Division 2 which authorizes the City to adopt this tax ordinance which shall be operative if at least two-thirds of the electors voting on the measure vote to approve the imposition of the tax at an election called for that purpose.

(b) To adopt a retail transactions and use tax ordinance that incorporates provisions identical to those of the Sales and Use Tax Law of the State of California insofar as those provisions are not inconsistent with the requirements and limitations contained in Part 1.6 of Division 2 of the Revenue and Taxation Code.

(c) To adopt a retail transactions and use tax ordinance that imposes a tax and provides a measure therefore that can be administered and collected by the State Board of Equalization in a manner that adapts itself as fully as practical to, and requires the least possible deviation from, the existing statutory and administrative procedures followed by the State Board of Equalization in administering and collecting the California State Transactions and Use Taxes;

(d) To adopt a retail transactions and use tax ordinance that can be administered in a manner that will, to the degree possible consistent with the provisions of Parts 1.6 and 1.7 of Division 2 of the said Revenue and Taxation Code, minimize the cost of collecting City
transactions and use taxes, and at the same time, minimize the burden of record keeping upon persons subject to taxation under the provisions thereof.

(e) To provide a source of revenue to be used to provide additional public safety, police, fire protection services and undertake necessary capital projects to support those services, and to restore and maintain literacy programs and services. The revenue generated by the tax provided for herein shall be restricted to those uses. The tax is, therefore, a special tax.

Sec. 22-8.2. Operative Date:

"Operative date" means the first day of the first calendar quarter commencing more than 110 days after the adoption of this Ordinance, the date of such adoption being set forth below.

Sec. 22-8.3. Contract with State:

Prior to the operative date, the City shall contract with the State Board of Equalization to perform all functions incident to the administration and operation hereof. If the City has not contracted with the State Board of Equalization prior to the operative date, it shall nevertheless so contract and in such a case the operative date shall be the first day of the first calendar quarter following the execution of such a contract. The Council may make any technical amendments to this ordinance required by the State Board of Equalization, except for any changes affecting the tax rate, its manner of collection, or the purpose for which the revenue from the tax may be used.

Sec. 22-8.4. Imposition of Transactions Tax:

For the privilege of selling tangible personal property at retail, a tax is hereby imposed upon all retailers in the incorporated territory of the City at the rate of one-half of one percent (0.50%) of the gross receipts of the retailer from the sale of all tangible personal property sold at retail in the City of Porterville on and after the operative date of this Ordinance. The City Council is authorized to establish a tax rate of one-half of one percent by resolution.

Sec. 22-8.5. Presumption as to Place of Sales:

For the purposes of this Ordinance, all retail sales are consummated at the place of business of the retailer, unless the tangible personal property sold is delivered by the retailer or his agent to an out-of-state destination or to a common carrier for delivery to an out-of-state destination. The gross receipts from such sales shall include delivery charges, when such charges are subject to the State sales and use tax, regardless of the place to which delivery is made. In the event a retailer has no permanent place of business in the State or has more than one place of business, the place or places at which the retail sales are consummated shall be determined under rules and regulations to be prescribed and adopted by the Board of Equalization.
Sec. 22-8.6. Imposition of Use Tax:

An excise tax is hereby imposed on the storage, use, or other consumption in the City of Porterville of tangible personal property purchased from any retailer on or after the operative date of this Ordinance for storage, use or other consumption in said territory, at the rate of one-half of one percent (0.50%) of the sales price of the property subject to the tax. The sales price shall include delivery charges when such charges are subject to State transactions or use tax regardless of the place to which delivery is made. The City Council is authorized to establish a tax rate of one-half of one percent by resolution.

Sec. 22-8.7. Adoption of Certain Sections of California Revenue & Taxation Code by Reference:

Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of Parts 1.6 and 1.7 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of said Code, as amended and in force and effect on the operative date of this Ordinance, applicable to use taxes are hereby adopted and made a part of this section as though fully set forth herein.

Sec. 22-8.8. Limitations on Adoption of State Law and Collection of Use Taxes:

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

(a) Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefor. However, the substitution shall not be made when:

(1) The word “State” is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California;

(2) The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this Ordinance.

(3) In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

(A) Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;
Sec. 22-8.6. Imposition of Use Tax:

An excise tax is hereby imposed on the storage, use, or other consumption in the City of Porterville of tangible personal property purchased from any retailer on or after the operative date of this Ordinance for storage, use or other consumption in said territory, at the rate of one-half of one percent (0.50%) of the sales price of the property subject to the tax. The sales price shall include delivery charges when such charges are subject to State transactions or use tax regardless of the place to which delivery is made. The City Council is authorized to establish a tax rate of one-half of one percent by resolution.

Sec. 22-8.7. Adoption of Certain Sections of California Revenue & Taxation Code by Reference:

Except as hereinafter provided, and except insofar as they are inconsistent with the provisions of Parts 1.6 and 1.7 of Division 2 of the Revenue and Taxation Code, all of the provisions of Part 1 (commencing with Section 6001) of Division 2 of said Code, as amended and in force and effect on the operative date of this Ordinance, applicable to use taxes are hereby adopted and made a part of this section as though fully set forth herein.

Sec. 22-8.8. Limitations on Adoption of State Law and Collection of Use Taxes:

In adopting the provisions of Part 1 of Division 2 of the Revenue and Taxation Code:

(a) Wherever the State of California is named or referred to as the taxing agency, the name of this City shall be substituted therefor. However, the substitution shall not be made when:

(1) The word “State” is used as a part of the title of the State Controller, State Treasurer, State Board of Control, State Board of Equalization, State Treasury, or the Constitution of the State of California;

(2) The result of that substitution would require action to be taken by or against this City or any agency, officer, or employee thereof rather than by or against the State Board of Equalization, in performing the functions incident to the administration or operation of this Ordinance.

(3) In those sections, including, but not necessarily limited to sections referring to the exterior boundaries of the State of California, where the result of the substitution would be to:

(A) Provide an exemption from this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not otherwise be exempt from this tax while such sales, storage, use or other consumption remain subject to tax by the State under the provisions of Part 1 of Division 2 of the Revenue and Taxation Code, or;
(B) Impose this tax with respect to certain sales, storage, use or other consumption of tangible personal property which would not be subject to tax by the state under the said provision of that code.

(4) In Sections 6701, 6702 (except in the last sentence thereof), 6711, 6715, 6737, 6797 or 6828 of the Revenue and Taxation Code.

(b) The word “City” shall be substituted for the word “State” in the phrase “retailer engaged in business in this State” in Section 6203 and in the definition of that phrase in Section 6203.

**Sec. 22-8.9. Permit Not Required:**

If a seller’s permit has been issued to a retailer under Section 6067 of the Revenue and Taxation Code, an additional transactor’s permit shall not be required by this Ordinance.

**Sec. 22-8.10. Exemptions and Exclusions:**

(a) There shall be excluded from the measure of the transactions tax and the use tax the amount of any sales tax or use tax imposed by the State of California or by any city, city and county, or county pursuant to the Bradley-Burns Uniform Local Sales and Use Tax Law or the amount of any state-administered transactions or use tax.

(b) There are exempted from the computation of the amount of transactions tax the gross receipts from:

1. Sales of tangible personal property, other than fuel or petroleum products, to operators of aircraft to be used or consumed principally outside the County in which the sale is made and directly and exclusively in the use of such aircraft as common carriers of persons or property under the authority of the laws of this State, the United States, or any foreign government.

2. Sales of property to be used outside the City which is shipped to a point outside the City, pursuant to the contract of sale, by delivery to such point by the retailer or his agent, or by delivery by the retailer to a carrier for shipment to a consignee at such point. For the purposes of this paragraph, delivery to a point outside the City shall be satisfied:

   (A) With respect to vehicles (other than commercial vehicles) subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, and undocumented vessels registered under Chapter 2 of Division 3.5 (commencing with Section 9840) of the Vehicle Code by registration to an out-of-City address and by a declaration under penalty of perjury, signed by the buyer, stating that such address is, in fact, his or her principal place of residence; and
(B) With respect to commercial vehicles, by registration to a place of business out-of-City and declaration under penalty of perjury, signed by the buyer, that the vehicle will be operated from that address.

(3) The sale of tangible personal property if the seller is obligated to furnish the property for a fixed price pursuant to a contract entered into prior to the operative date of this Ordinance.

(4) A lease of tangible personal property which is a continuing sale of such property, for any period of time for which the lessor is obligated to lease the property for an amount fixed by the lease prior to the operative date of this Ordinance.

(5) For the purposes of subsections (3) and (4) of this section, the sale or lease of tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

(c) There are exempted from the use tax imposed by this Ordinance, the storage, use or other consumption in this City of tangible personal property:

(1) The gross receipts from the sale of which have been subject to a transactions tax under any state-administered transactions and use tax ordinance.

(2) Other than fuel or petroleum products purchased by operators of aircraft and used or consumed by such operators directly and exclusively in the use of such aircraft as common carriers of persons or property for hire or compensation under a certificate of public convenience and necessity issued pursuant to the laws of this State, the United States, or any foreign government. This exemption is in addition to the exemptions provided in Sections 6366 and 6366.1 of the Revenue and Taxation Code of the State of California.

(3) If the purchaser is obligated to purchase the property for a fixed price pursuant to a contract entered into prior to the operative date of this Ordinance.

(4) If the possession of, or the exercise of any right or power over, the tangible personal property arises under a lease which is continuing purchase of such property for any period of time for which the lessee is obligated to lease the property for an amount fixed by a lease prior to the operative date of this Ordinance.

(5) For the purposes of subsections (3) and (4) of this section, storage, use, or other consumption, or possession of, or exercise of any right or power over, tangible personal property shall be deemed not to be obligated pursuant to a contract or lease for any period of time for which any party to the contract or lease has the unconditional right to terminate the contract or lease upon notice, whether or not such right is exercised.

(6) Except as provided in subparagraph (7), a retailer engaged in business in the City shall not be required to collect use tax from the purchaser of tangible personal property, unless the retailer ships or delivers the property into the City or participates within the City in making the sale of the property, including, but not limited to, soliciting or receiving
the order, either directly or indirectly, at a place of business of the retailer in the City or through any representative, agent, canvasser, solicitor, subsidiary, or person in the City under the authority of the retailer.

(7) “A retailer engaged in business in the City” shall also include any retailer of any of the following: vehicles subject to registration pursuant to Chapter 1 (commencing with Section 4000) of Division 3 of the Vehicle Code, aircraft licensed in compliance with Section 21411 of the Public Utilities Code, or undocumented vessels registered under Chapter 2 of Division 3.5 (commencing with Section 9840) of the Vehicle Code. That retailer shall be required to collect use tax from any purchaser who registers or licenses the vehicle, vessel, or aircraft at an address in the City.

(d) Any person subject to use tax under this Ordinance may credit against that tax any transactions tax or reimbursement for transactions tax paid to a district imposing, or retailer liable for a transactions tax pursuant to Part 1.6 of Division 2 of the Revenue and Taxation Code with respect to the sale to the person of the property the storage, use or other consumption of which is subject to the use tax.

Sec. 22-8.11. Amendments to Revenue and Tax Code:

All amendments subsequent to the effective date of this Ordinance to Part 1 of Division 2 of the Revenue and Taxation Code relating to sales and use taxes and which are not inconsistent with Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, and all amendments to Part 1.6 and Part 1.7 of Division 2 of the Revenue and Taxation Code, shall automatically become a part of this ordinance, provided however, that no such amendment shall operate so as to affect the rate of tax imposed by this Ordinance.

Sec. 22-8.12. Enjoining Collection Prohibited:

No injunction or writ of mandate or other legal or equitable process shall issue in any suit, action, or proceeding in any court against the State or this City, or against any officer of the State or this City, to prevent or enjoin the collection hereunder, or Parts 1.6 and 1.7 of Division 2 of the Revenue and Taxation Code, of any tax or any amount of tax required to be collected.

SECTION II: USE OF TAX PROCEEDS AND EXPENDITURE PLAN.

All proceeds of the tax levied and imposed hereunder shall be accounted for and paid into a special fund or account designated for use for Public Safety Services only. The City hereby adopts the Program Guidelines and Public Safety Expenditure Plan for the administration and expenditure of the tax proceeds, attached to this Ordinance as Exhibit “A.” The Public Safety Expenditure Plan may be amended from time to time by a majority vote of the City Council, so long as the funds are utilized for public safety, police and fire protection services. For the purposes of this Ordinance, “Public Safety Services” means (a) obtaining, furnishing, operating, and/or maintaining police protection equipment or apparatus, paying the salaries and benefits of police protection personnel, and such other police protection service expenses as are deemed necessary by the City Council for the benefit of the residents of the City; (b) obtaining, furnishing, operating, and/or maintaining fire
protection equipment or apparatus, paying the salaries and benefits of fire protection personnel, and such other fire protection service expenses, including capital expenses, as are deemed necessary by the City Council for the benefit of the residents of the City; and (c) with the use of no more than 15% of the revenue generated from the special tax, restoration and maintenance of literacy programs due to the established connection between illiteracy and crime.

SECTION III: STATUTORY AUTHORITY FOR TAX; SEVERABILITY.

This ordinance is adopted pursuant to Revenue and Taxation Code Section 7285.91. In any provision of this ordinance or the application thereof to any person or circumstance is held invalid, the remainder of the ordinance and the application of such provision to other persons or circumstances shall not be affected thereby.

SECTION IV: ELECTION REQUIRED.

This ordinance shall not become operative unless and until at least a two-thirds majority of the electors voting on this measure vote to approve the imposition of the tax at the election to be held on November 8, 2005.

SECTION V: EFFECTIVE DATE.

If this ordinance is approved by two-thirds of the voters voting on the issue at the November 8, 2005 election, pursuant to Elections Code Section 9217, the tax shall become effective ten (10) days after the Council certifies the results of the election.

APPROVED by the following vote of the People of the City of Porterville on November 8, 2005:

Yes — 4362 - 70.28%
No — 1845 - 29.72%

ADOPTED by Declaration of the vote by the City Council of the City of Porterville City on December 6, 2005:

____________________________
Kelly West, Mayor

ATTEST

____________________________
John Longley, City Clerk
Exhibit “A”

Porterville Police, Fire, and Emergency Response 9-1-1 Measure
Program Guidelines and Expenditure Plan

This measure will provide a secure, local revenue stream to the City of Porterville that will be used entirely to provide additional public safety police and fire personnel and services to protect our community. Porterville residents deserve to know how the funds will be spent. Detailed spending plans have been developed so voters can have a clear understanding of how the monies will be spent if the ½ cent sales tax is approved. Program guidelines have also been established to govern how the money can be spent, to specify the accounting, audit and oversight guidelines that will be implemented to make certain that the funds are spent according to the voter’s direction, and to ensure the public is well-informed of the progress and process.

Fiscal Accountability Protections

An Independent Auditor will annually review and audit expenditures of funds specifically derived from the Public Safety Measure, to ensure compliance with the expenditure plans and with prudent, established accounting regulations and practices.

The City will establish an Independent Citizen’s Oversight Committee to annually review revenues and expenditures, providing a second independent verification that all expenditures are being made as promised to Porterville residents. The findings of both the Independent Citizens Oversight Committee and the Independent Auditor will be reviewed by the City Council and made available to the public.

Each May or June, as the City’s budget is adopted following public hearings, the City Manager will re-certify the plan to the City Council, stating what monies have been received, what monies have been spent and what monies are available. The financial consequences of these changes will be reflected in the re-certified plan.

Dedicated Accounting Structure

The Expenditure Plan specifies that all revenues from the Measure are to be utilized for the sole purpose of improving our community’s public safety, with the revenue to be directed to the police and fire departments respectively, and with a small portion (not more than 15%) dedicated to the restoration and maintenance of literacy programs due to the established connection between illiteracy and crime. The funding proportions have been mutually agreed upon by the Police Chief and Fire Chief.

The City will establish separate funds into which these specific monies shall be deposited. These accounts shall be separate for police and fire and shall be the source of their respective expenditures as established in the approved expenditure plans. Any balances in these funds, positive or negative, shall earn or pay interest accordingly.

Based on public safety needs, the City Council may determine to advance funds from the City’s General Fund into the individual Public Safety Sales Tax Fund in order to most effectively accomplish the objectives of the program.
Priorities if additional revenues are available

In the event that the contingency/reserve fund is fully funded and all annual planned expenditures have been implemented, the use of the additional unanticipated sales tax revenues will be used first to accelerate the implementation of the plan and then to provide additional public safety facilities, personnel, and new equipment based on specific needs of the community.

Review and Modification of Expenditure Plan

The proposed Expenditure Plan may be amended from time to time by a majority vote of the City Council.
NOVEMBER 2005 BALLOT MEASURE EXPENDITURE PLAN

Proposed Expenditure Plan for the City of Porterville Public Safety Sales Tax Measure Based on ½ Cent Sales Tax availability

The City Council has evaluated Porterville’s safety needs with input from the public in developing the attached Public Safety Expenditure Plan, which shall be amended from time to time, at the projected/estimated costs shown:

| Fiscal Year 2005-06 Sales Tax Revenue available (partial year) | $600,000 |
| Additional Supplemental Resources (General Fund) | $50,903 |
| **Total Resources Available** | **$650,903** |
| Increase Police Sworn by 5 positions to the base and outfit (partial year) | $412,803 |
| Increase Fire Sworn by 7 positions to the base and outfit (partial year) | $148,100 |
| Restore Literacy Programs/hours (partial year) | $90,000 |
| **Total 2005-06 Fiscal Year Expenditures** | **$650,903** |

| Fiscal Year 2006-07 Additional Sales Tax Revenues (First full F/Y) | $1,792,000 |
| Increase Police Sworn by 1 additional position to the base | $85,000 |
| Maintain and Expand Patrol Operations | $405,000 |
| Maintain and Expand Gang Suppression and Narcotics Operations | $215,000 |
| Maintain 7 additional Sworn Fire personnel | $521,156 |
| Purchase additional Fire Rescue Apparatus | $140,000 |
| Purchase Rescue Equipment for new Fire Apparatus | $25,000 |
| Purchase Personal Safety Equipment for additional Fire Fighters | $14,000 |
| Maintain Literacy Program/hours | $180,000 |
| Expand Homework Assistance and Creative Expression Program | $80,000 |
| Establish Capital Reserve Fund for New Fire Station | $126,844 |
| **Total 2006-07 Fiscal Year Expenditures** | **$1,792,000** |

| Fiscal Year 2007-08 Additional Sales Tax Revenues (Second full F/Y) | $1,863,680 |
| Increase Police Sworn by 1 additional position to the base | $87,000 |
| Maintain Expanded Patrol Operations | $508,000 |
| Maintain Expanded Gang Suppression and Narcotics Operations | $255,250 |
| Maintain 7 additional Sworn Fire personnel | $557,637 |
| Hire 1 additional Fire Investigator | $74,167 |
| Station and Equipment | $20,000 |
| Maintain Literacy Programs/hours | $187,200 |
| Expand Homework Assistance and Creative Expression Program | $83,200 |
| Increase Established Capital Reserve Fund for New Fire Station | $91,226 |
| **Total 2007-08 Fiscal Year Expenditures** | **$1,863,680** |

<p>| Fiscal Year 2008-09 Additional Sales Tax Revenues (Third full F/Y) | $1,938,227 |
| Additional Supplemental Resources (General Fund) | $50,000 |
| <strong>Total Resources Available</strong> | <strong>$1,988,227</strong> |</p>
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<thead>
<tr>
<th>Item</th>
<th>Cost</th>
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<tr>
<td>Increase Police Sworn by 1 additional position to the base</td>
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<td>Maintain Expanded Patrol Operations</td>
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<td>Maintain Expanded Gang Suppression and Narcotics Operations</td>
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<td>Safety Equipment</td>
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<td>Maintain Literacy Programs/hours</td>
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<td>Expand Homework Assistance and Creative Expression Program</td>
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<td>Increase Established Capital Reserve Fund for New Fire Station</td>
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<td>Fiscal Year 2009-10 Additional Sales Tax Revenues (Fourth full F/Y)</td>
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<td>Additional Supplemental Resources (General Fund)</td>
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<td>Maintain 8 additional Sworn Police personnel</td>
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<td>Maintain Expanded Patrol Operations</td>
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<td>Maintain Expanded Gang Suppression and Narcotics Operations</td>
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<td>Maintain Literacy Programs/hours</td>
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<td>Expand Homework Assistance and Creative Expression Program</td>
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<td>Additional Supplemental Resources (General Fund)</td>
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<td><strong>Total Resources Available</strong></td>
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<td><strong>Total 2010-11 Fiscal Year Expenditures</strong></td>
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* Total Reserve Cash Available for Real Property Acquisition for New Fire Station in Fiscal Year 2008/09.
1. Assumes 4% growth rate in annual sales tax revenue.

2. Current General Fund monies and State and School Subventions provide for 44.5 Sworn Police Officers. Additional grant funding has provided for 2.5 additional Sworn Police Officers. Additional positions funded through this sales tax measure will add positions to the base of 45 Sworn Police Officers.

3. Additional General Fund Utility User’s Taxes generated from annexation activity during the course of this expenditure plan will be proposed to be specifically earmarked for additional Police positions. These additional positions will modify the base above the 45 positions as described in Note 2.

4. Literacy programs delivered through the Library will annually receive up to 15% of the new revenue provided by this sales tax measure.

5. The City will use base budget amounts established and approved under the Expenditure Control Budget System in determining additional funding for Police, Fire, and Literacy programs delivered through the Library to prevent erosion of existing General Fund support for these activities.
RESOLUTION NO. ____ - 2005

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AUTHORIZING THE CITY MANAGER TO EXECUTE AGREEMENTS WITH THE STATE BOARD OF EQUALIZATION FOR IMPLEMENTATION OF A LOCAL TRANSACTIONS AND USE TAX.

WHEREAS, on December 6, 2005, the City Council approved Ordinance No. 1684 amending the City Municipal Code and providing for a local transactions and use tax; and

WHEREAS, the State Board of Equalization (Board) administers and collects the transactions and use taxes for all applicable jurisdictions within the state; and

WHEREAS, the Board will be responsible to administer and collect the transactions and use tax for the City; and

WHEREAS, the Board requires that the City enter into a “Preparatory Agreement” and an “Administration Agreement” prior to implementation of said taxes, and

WHEREAS, the Board requires that the City Council authorize the agreements;

NOW, THEREFORE BE IT RESOLVED by the City Council of the City of Porterville that the “Preparatory Agreement” attached as Exhibit A and the “Administrative Agreement” attached as Exhibit B are hereby approved and the City Manager is hereby authorized to execute each agreement.

ADOPTED this 6th day of December, 2005.

ATTEST:

Kelly West, Mayor

John Longley, City Manager

By: Georgia Hawley, Chief Deputy City Clerk
AGREEMENT FOR STATE ADMINISTRATION
OF CITY TRANSACTIONS AND USE TAXES

The City Council of the City of Porterville has adopted, and the voters of the City of Porterville (hereafter called “City” or “District”) have approved by the required majority vote, the City of Porterville Transactions and Use Tax Ordinance (hereafter called “Ordinance”), a copy of which is attached hereto. To carry out the provisions of Part 1.6 of Division 2 of the Revenue and Taxation Code and the Ordinance, the State Board of Equalization, (hereinafter called the “Board”) and the City do agree as follows:

ARTICLE I
DEFINITIONS

Unless the context requires otherwise, wherever the following terms appear in the Agreement, they shall be interpreted to mean the following:

1. "District taxes" shall mean the transactions and use taxes, penalties, and interest imposed under an ordinance specifically authorized by Revenue and Taxation Code Section 7285.91, and in compliance with Part 1.6, Division 2 of the Revenue and Taxation Code.

2. "City Ordinance" shall mean the City's Transactions and Use Tax Ordinance referred to above and attached hereto, Ordinance No. 1684, amended from time to time, or as deemed to be amended from time to time pursuant to Revenue and Taxation Code Section 7262.2.

ARTICLE II
ADMINISTRATION AND COLLECTION
OF CITY TAXES

A. Administration. The Board and City agree that the Board shall perform exclusively all functions incident to the administration and operation of the City Ordinance.
B. **Other Applicable Laws.** City agrees that all provisions of law applicable to the administration and operation of the State Sales and Use Tax Law which are not inconsistent with Part 1.6 of Division 2 of the Revenue and Taxation Code shall be applicable to the administration and operation of the City Ordinance. City agrees that money collected pursuant to the City Ordinance may be deposited into the State Treasury to the credit of the Retail Sales Tax Fund and may be drawn from that Fund for any authorized purpose, including making refunds, compensating and reimbursing the Board pursuant to Article IV of this Agreement, and transmitting to City the amount to which City is entitled.

C. **Transmittal of money.**

1. For the period during which the tax is in effect, and except as otherwise provided herein, all district taxes collected under the provisions of the City Ordinance shall be transmitted to City periodically as promptly as feasible, but not less often than twice in each calendar quarter.

2. For periods subsequent to the expiration date of the tax whether by City’s self-imposed limits or by final judgment of any court of the State of California holding that City’s ordinance is invalid or void, all district taxes collected under the provisions of the City Ordinance shall be transmitted to City not less than once in each calendar quarter.

3. Transmittals may be made by mail or electronic funds transfer to an account of the City designated and authorized by the City. A statement shall be furnished at least quarterly indicating the amounts withheld pursuant to Article IV of this Agreement.

D. **Rules.** The Board shall prescribe and adopt such rules and regulations as in its judgment are necessary or desirable for the administration and operation of the City Ordinance and the distribution of the district taxes collected thereunder.

E. **Preference.** Unless the payor instructs otherwise, and except as otherwise provided in this Agreement, the Board shall give no preference in applying money received for state sales and use taxes, state-administered local sales and use taxes, and district transactions and use taxes owed by a taxpayer, but shall apply moneys collected to the satisfaction of the claims of the State, cities, counties, cities and counties, redevelopment agencies, other districts, and City as their interests appear.
F. Security. The Board agrees that any security which it hereafter requires to be furnished by taxpayers under the State Sales and Use Tax Law will be upon such terms that it also will be available for the payment of the claims of City for district taxes owing to it as its interest appears. The Board shall not be required to change the terms of any security now held by it, and City shall not participate in any security now held by the Board.

G. Records of the Board.

When requested by resolution of the legislative body of the City under Section 7056 of the Revenue and Taxation Code, the Board agrees to permit authorized personnel of the City to examine the records of the Board, including the name, address, and account number of each seller holding a seller’s permit with a registered business location in the City, pertaining to the ascertainment of transactions and use taxes collected for the City. Information obtained by the City from examination of the Board's records shall be used by the City only for purposes related to the collection of transactions and use taxes by the Board pursuant to this Agreement.

H. Annexation. City agrees that the Board shall not be required to give effect to an annexation, for the purpose of collecting, allocating, and distributing District transactions and use taxes, earlier than the first day of the calendar quarter which commences not less than two months after notice to the Board. The notice shall include the name of the county or counties annexed to the extended City boundary. In the event the City shall annex an area, the boundaries of which are not coterminous with a county or counties, the notice shall include a description of the area annexed and two maps of the City showing the area annexed and the location address of the property nearest to the extended City boundary on each side of every street or road crossing the boundary.

ARTICLE III

ALLOCATION OF TAX

A. Allocation. In the administration of the Board's contracts with all districts that impose transactions and use taxes imposed under ordinances, which comply with Part 1.6 of Division 2 of the Revenue and Taxation Code:
1. Any payment not identified as being in payment of liability owing to a designated district or districts may be apportioned among the districts as their interest appear, or, in the discretion of the Board, to all districts with which the Board has contracted using ratios reflected by the distribution of district taxes collected from all taxpayers.

2. All district taxes collected as a result of determinations or billings made by the Board, and all amounts refunded or credited may be distributed or charged to the respective districts in the same ratio as the taxpayer’s self-declared district taxes for the period for which the determination, billing, refund or credit applies.

B. Vehicles, Vessels, and Aircraft. For the purpose of allocating use tax with respect to vehicles, vessels, or aircraft, the address of the registered owner appearing on the application for registration or on the certificate of ownership may be used by the Board in determining the place of use.

ARTICLE IV
COMPENSATION

The City agrees to pay to the Board as the Board’s cost of administering the City Ordinance such amount as is provided for by law. Such amounts shall be deducted from the taxes collected by the Board for the City.

ARTICLE V
MISCELLANEOUS PROVISIONS

A. Communications. Communications and notices may be sent by first class United States mail to the addresses listed below, or to such other addresses as the parties may from time to time designate. A notification is complete when deposited in the mail.
Communications and notices to be sent to the Board shall be addressed to:

State Board of Equalization
P.O. Box 942879
Sacramento, California 94279-0073
Attention: Executive Director

Communications and notices to be sent to the City shall be addressed to:

City of Porterville
291 N. Main Street
Porterville, CA 93257-3727
Attention: City Clerk

Unless otherwise directed, transmittals of payment of District transactions and use taxes will be sent to the address above.

B. Term. The date of this Agreement is the date on which it is approved by the Department of General Services. The Agreement shall take effect on April 1, 2006. This Agreement shall continue until December 31 next following the expiration date of the City Ordinance, and shall thereafter be renewed automatically from year to year until the Board completes all work necessary to the administration of the City Ordinance and has received and disbursed all payments due under that Ordinance.

C. Notice of Repeal of Ordinance. City shall give the Board written notice of the repeal of the City Ordinance not less than 110 days prior to the operative date of the repeal.
ARTICLE VI
ADMINISTRATION OF TAXES IF THE
ORDINANCE IS CHALLENGED AS BEING INVALID

A. Impoundment of funds.

1. When a legal action is begun challenging the validity of the imposition of the tax, the
City shall deposit in an interest-bearing escrow account, any proceeds transmitted to it under
Article II. C., until a court of competent jurisdiction renders a final and non-appealable judgment that
the tax is valid.

2. If the tax is determined to be unconstitutional or otherwise invalid, the City shall
transmit to the Board the moneys retained in escrow, including any accumulated interest, within ten
days of the judgment of the trial court in the litigation awarding costs and fees becoming final and
non-appealable.

B. Costs of administration. Should a final judgment be entered in any court of the State of
California, holding that City’s Ordinance is invalid or void, and requiring a rebate or refund to
taxpayers of any taxes collected under the terms of this Agreement, the parties mutually agree that:

1. Board may retain all payments made by City to Board to prepare to administer the City
Ordinance.

2. City will pay to Board and allow Board to retain Board’s cost of administering the City
Ordinance in the amounts set forth in Article IV of this Agreement.

3. City will pay to Board or to the State of California the amount of any taxes plus interest
and penalties, if any, that Board or the State of California may be required to rebate or refund to
taxpayers.

4. City will pay to Board its costs for rebating or refunding such taxes, interest, or
penalties. Board’s costs shall include its additional cost for developing procedures for processing the
rebates or refunds, its costs of actually making these refunds, designing and printing forms, and
developing instructions for Board’s staff for use in making these rebates or refunds and any other costs
incurred by Board which are reasonably appropriate or necessary to make those rebates or refunds.
These costs shall include Board’s direct and indirect costs as specified by Section 11256 of the
Government Code.

5. Costs may be accounted for in a manner, which conforms to the internal accounting,
and personnel records currently maintained by the Board. The billings for such costs may be presented
in summary form. Detailed records will be retained for audit and verification by City.

6. Any dispute as to the amount of costs incurred by Board in refunding taxes shall be
referred to the State Director of Finance for resolution and the Director’s decision shall be final.

7. Costs incurred by Board in connection with such refunds shall be billed by Board on or
before the 25th day of the second month following the month in which the judgment of a court of the
State of California holding City’s Ordinance invalid or void becomes final. Thereafter Board shall bill
City on or before the 25th of each month for all costs incurred by Board for the preceding calendar
month. City shall pay to Board the amount of such costs on or before the last day of the succeeding
month and shall pay to Board the total amount of taxes, interest, and penalties refunded or paid to
taxpayers, together with Board costs incurred in making those refunds.

CITY OF PORTERVILLE                      STATE BOARD OF EQUALIZATION

By ________________________________  By ________________________________
     (Signature)                      (Executive Director)

    John Longley                       ________________________________
       (Typed Name)                    Dated

    ________________________________
      City Manager                     ________________________________
       (Title)                        Dated: December 6, 2005

Rev. 1/05 7
AGREEMENT FOR PREPARATION TO ADMINISTER AND OPERATE
CITY’S TRANSACTIONS AND USE TAX ORDINANCE

In order to prepare to administer a transactions and use tax ordinance adopted in accordance with the provision of Part 1.6 (commencing with Section 7251) of Division 2 of the Revenue and Taxation Code, the CITY OF PORTERVILLE, hereinafter called City, and the STATE BOARD OF EQUALIZATION, hereinafter called Board, do agree as follows:

1. The Board agrees to enter into work to prepare to administer and operate a transactions and use tax in conformity with Part 1.6 of Division 2 of the Revenue and Taxation Code which has been approved by a majority of the electors of the City and whose ordinance has been adopted by the City.

2. City agrees to pay to the Board at the times and in the amounts hereinafter specified all of the Board’s costs for preparatory work necessary to administer the City’s transactions and use tax ordinance. The Board’s costs for preparatory work include costs of developing procedures, programming for data processing, developing and adopting appropriate regulations, designing and printing forms, developing instructions for the Board’s staff and for taxpayers, and other appropriate and necessary preparatory costs to administer a transactions and use tax ordinance. These costs shall include both direct and indirect costs as specified in Section 11256 of the Government Code.

3. Preparatory costs may be accounted for in a manner which conforms to the internal accounting and personnel records currently maintained by the Board. The billings for costs may be presented in summary form. Detailed records of preparatory costs will be retained for audit and verification by the City.

4. Any dispute as to the amount of preparatory costs incurred by the Board shall be referred to the State Director of Finance for resolution, and the Director’s decision shall be final.

5. Preparatory costs incurred by the Board shall be billed by the Board periodically, with the final billing within a reasonable time after the operative date of the ordinance. City shall pay to the Board the amount of such costs on or before the last day of the next succeeding month following the month when the billing is received.

6. The amount to be paid by City for the Board’s preparatory costs shall not exceed one hundred seventy-five thousand dollars ($175,000) (Revenue and Taxation Code Section 7272.)
7. Communications and notices may be sent by first class United States mail. Communications and notices to be sent to the Board shall be addressed to:

STATE BOARD OF EQUALIZATION  
P. O. BOX 942879  
SACRAMENTO, CALIFORNIA 94279-0073  
ATTENTION: EXECUTIVE DIRECTOR

Communications and notices to be sent to City shall be addressed to:

CITY OF PORTERVILLE  
291 NORTH MAIN STREET  
PORTERVILLE, CA 93257-3727  
ATTENTION: CITY CLERK

8. The date of this agreement is the date on which it is approved by the Department of General Services. This agreement shall continue in effect until the preparatory work necessary to administer City’s transactions and use tax ordinance has been completed and the Board has received all payments due from City under the terms of this agreement.

CITY OF PORTERVILLE  

By ________________________________  
(Signature)

John Longley  
(Typed Name)

City Manager  
(Title)

Dated: December 6, 2005

STATE BOARD OF EQUALIZATION  

By ________________________________  
(Executive Director)

Dated: ________________________________

(Rev. 11/02)
SUBJECT: COST ALLOCATION PLAN AND USER FEE STUDY

SOURCE: City Manager's Office

COMMENT: Maximus Inc., has completed the Cost Allocation Plan and User Fee Study and has submitted their recommendations to Council for consideration. A public hearing had been previously scheduled for December 6, 2005. City staff has attempted to facilitate a meeting with the Building Industry Association without success. Staff will continue their efforts to schedule a meeting with the BIA to discuss the contents of the report and is requesting the public hearing be continued until the January 17, 2006 Council meeting.

Under separate cover, a copy of the report has been delivered to the BIA and to the City Council. A copy is also located at the office of the Deputy City Clerk and can be viewed by the public.

Notice has been given to the BIA that the complete report will be presented to the City Council on January 17, 2006 for review and adoption.

RECOMMENDATION:

To open the public hearing on the Cost Allocation Plan and User Fee Study and continue the item to the City Council meeting of January 17, 2006.

Attachments: None
COUNCIL AGENDA: DECEMBER 6, 2005

PUBLIC HEARING

SUBJECT: CONSIDERATION OF RECREATION FEE ADJUSTMENTS

SOURCE: Parks and Leisure Services Department

COMMENT: The Cost Allocation Plan & User Fee Study prepared by Maximus has provided a spreadsheet on Recreation Cost Recovery Rates. The data utilized for the study is mainly from the 2004/2005 fiscal year, which is the most recent audited data available. The spreadsheet provides an illustration of three measurements by which cost recovery can be monitored. Policy direction is needed on which measurement method we should subject each different area of recreation programs. Cost recovery goals then need to be established for each recreation program area. With these determinations, the cost recovery model provided by Maximus can be utilized to annually determine fees based upon the program area expenditures. Existing recreation fees are tabulated in an attachment to this report.

The spreadsheet provides the total program revenue for each recreation program area, with detail on revenue for some of the subprogram activities. This program revenue is then compared to the direct program expenditures to determine a program cost recovery rate. Department administration cost is then allocated to each program area, and a resulting departmental cost recovery rate is then indicated. The city administrative cost is then added to each program area for the calculation of a total cost recovery rate.

Recreation fees typically do not recover total cost for services. Tax revenues are viewed as contributing towards the provision of recreation services. If recreational fees are viewed as excessive the intended program patrons will not participate. This requires setting of a benchmark for cost recovery for each program area. Such benchmarks need to specify by which means of measurement (direct cost, departmental cost, or total city cost) the program fees should be established.

The Parks and Leisure Services Commission began review of the recreation cost recovery rates at their November 3, 2005 meeting. Due to some confusion with the spreadsheet, recommendations have not been generated on all of the program areas. The Golf Course and the Sports Complex parking fees are the two areas for which the Commission has provided specific recommendations. The Commission’s recommendations are incorporated into the Resolutions provided for Council’s consideration with this report.

RECOMMENDATION: That the City Council conduct a public hearing on the recreation fees and:

1. Adopt Resolution setting golf course fees to be effective February 1, 2006;

ITEM NO: 12

[Signatures]

Dir. Appropriated/Funded C.M.
2. Adopt Resolution setting Sports Complex parking fees to be effective January 7, 2006;
3. Provide direction on which of the three cost recovery measurement methods should be utilized for each area of recreational programs;
4. Establish benchmarks for cost recovery by which fees should be developed for each area of recreational programs.

ATTACHMENTS:

1. Spreadsheet on Recreation Cost Recovery Rates
2. Existing recreation fees
3. Draft Resolution setting golf course fees
4. Draft Resolution setting Sports Complex parking fees
RESOLUTION NO. -2005

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ADOPTING FEES AND CHARGES FOR THE CITY OF PORTERVILLE MUNICIPAL GOLF COURSE

BE IT HEREBY RESOLVED by the City Council of the City of Porterville that the following fees and charges are hereby adopted to become effective on February 1, 2006, and that such fees and charges replace all previous fees and charges for the Porterville Municipal Golf Course.

GREEN FEE

Weekdays

| Adult 9-hole | $12.00 |
| Adult 18-hole | $17.00 |
| Youth 9-hole | $6.00 |

Weekends & Holidays

| Adult 9-hole | $12.00 |
| Adult 18-hole | $17.00 |
| Youth 9-hole | $8.00 |

Unlimited Play Passes

| Monthly Single, Sr. Citizen (62 years & older) | $60.00 |
| Monthly Single | $70.00 |
| Monthly Family | $85.00 |
| Annual Senior Citizen | $600.00 |
| Annual Single | $700.00 |
| Annual Family | $850.00 |

Play surcharge

| 9-hole | $1.00 |
| 18-hole | $2.00 |

GOLF CARTS

| 9-hole | $11.00 |
| 18-hole | $20.00 |

LOCKERS

| Small (annual rental) | $60.00 |
| Large (annual rental) | $80.00 |

Dated this 6th day of December 2005.

______________________________________________
Kelly West, Mayor

ATTEST:
John Longley, City Clerk

By: ____________________________
    Georgia Hawley, Deputy
RESOLUTION NO. –2005

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ADOPTING PARKING FEES FOR THE CITY OF PORTERVILLE SPORTS COMPLEX

BE IT HEREBY RESOLVED by the City Council of the City of Porterville that the following parking fees are hereby adopted to become effective on January 7, 2006, and that such fees replace all previous parking fees and charges for the Porterville Sports Complex.

<table>
<thead>
<tr>
<th>Description</th>
<th>Fee</th>
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<tr>
<td>Recreational Vehicle or Bus</td>
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<td>Other motor vehicles</td>
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<td>Seasonal pass per game fee</td>
<td>$1.50</td>
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</table>

Dated this 6th day of December 2005.

____________________________________
Kelly West, Mayor

ATTEST:
John Longley, City Manager

By: ________________________________
Georgia Hawley, Deputy
# City of Porterville
## Recreation Cost Recovery Rates

<table>
<thead>
<tr>
<th>Division/Program</th>
<th>Subprogram</th>
<th>Total Program Fee Revenue</th>
<th>Total Direct Program Cost (includes all direct and labor expenses)</th>
<th>Program Cost Recovery Rate</th>
<th>Division/Program Prorated Administration Costs</th>
<th>Program Expense Subtotal (including department admin)</th>
<th>Departmental Cost Recovery Rate</th>
<th>Total City Cost (includes city admin)</th>
<th>Total City Cost Recovery Rate</th>
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</thead>
<tbody>
<tr>
<td>OHV Park (065)</td>
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<td>Direct Activity Revene/Expenses</td>
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<td>Pitch hit &amp; Run</td>
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<td>Spring Fishing Derby</td>
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<td>Winter Trout Derby</td>
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<td>Photos with Santa</td>
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<td>Movies in the Park &amp; Drive In</td>
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<td>Ladies Luncheon</td>
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<td>Direct Activity Revene/Expenses</td>
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MAXIMUS, INC
Porterville Recreation
11/10/2006
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<th>Division/Program</th>
<th>Subprogram</th>
<th>Total Program Fee Revenue</th>
<th>Total Direct Program Cost (includes all direct and labor expenses)</th>
<th>Program Cost Recovery Rate</th>
<th>Division/Program Prorated Administration Costs</th>
<th>Program Expense Subtotal (including department admin)</th>
<th>Departmental Cost Recovery Rate</th>
<th>Total City Cost (includes city admin)</th>
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<td>Winter Day Camp</td>
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<td>Municipal Swimming Pool (060)</td>
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<td>Recreation Afterschool Program (056)</td>
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<td>Kindergarten Enrichment</td>
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<td>Golf Course</td>
<td>Direct Program Expenses</td>
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<td>$ 283,084</td>
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<td>YES Grant - Elementary (063)</td>
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<td>YES Grant - Jr. High (064)</td>
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<td>$ 10,888</td>
<td>$ 38,714</td>
<td>0%</td>
<td>$ 44,708</td>
<td>0%</td>
</tr>
</tbody>
</table>

**Legend:**
- **Division/Program**: The general program category.
- **Subprogram**: Specific recreation programs within the category.
- **Total Program Fee Revenue**: Total revenue generated from fees.
- **Program Cost Recovery Rate**: The rate of cost recovery at the program level without regard to either department or city overhead.
- **Program Expense Subtotal**: Total program cost with department overhead allocated.
- **Total City Cost**: Total program cost at the city level. Includes both department and city overhead.
- **Total City Cost Recovery Rate**: The rate of cost recovery to the city. Includes program direct expenses, plus departmental and city overhead.
### Leisure Services - Administrative Functions

<table>
<thead>
<tr>
<th>Services</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Personnel Services</td>
<td>$153,062</td>
</tr>
<tr>
<td>Maintenance</td>
<td>$1,081</td>
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<td>Aervices</td>
<td>$7,757</td>
</tr>
<tr>
<td>Supplies and Materials</td>
<td>$5,357</td>
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<tr>
<td>Other Operating Costs</td>
<td>$7,214</td>
</tr>
<tr>
<td>Other Expenses</td>
<td>$1,076</td>
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<tr>
<td>Capital Outlay</td>
<td>-</td>
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<tr>
<td><strong>Admin Expenditures (050)</strong></td>
<td>$175,547</td>
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<tr>
<td>City Overhead Assigned to 050</td>
<td>$42,208</td>
</tr>
<tr>
<td><strong>Total Admin Cost (050)</strong></td>
<td>$217,755</td>
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</tbody>
</table>

### Supported Divisions or Subsets

<table>
<thead>
<tr>
<th>Program</th>
<th>Direct Expenses</th>
<th>Staff Percentage</th>
<th>Admin (050) Allocation</th>
<th>Total Departmental Cost</th>
<th>City Overhead Allocation</th>
<th>Total Cost</th>
</tr>
</thead>
<tbody>
<tr>
<td>Leisure Services Special Programs (055)</td>
<td>$141,395</td>
<td>30%</td>
<td>65,326</td>
<td>$206,721.42</td>
<td>$40,987</td>
<td>$247,709</td>
</tr>
<tr>
<td>After School Program - Rap (056)</td>
<td>$99,475</td>
<td>10%</td>
<td>21,775</td>
<td>118,250.69</td>
<td>49,123</td>
<td>167,373</td>
</tr>
<tr>
<td>Jr. High Afterschool Program (057)</td>
<td>$1,627</td>
<td>5%</td>
<td>10,888</td>
<td>12,514.73</td>
<td>350</td>
<td>12,865</td>
</tr>
<tr>
<td>Swimming Pool (050)</td>
<td>$148,822</td>
<td>10%</td>
<td>21,775</td>
<td>170,597.45</td>
<td>19,966</td>
<td>190,564</td>
</tr>
<tr>
<td>Doyal Elem Grant Program (061)</td>
<td>$456,321</td>
<td>10%</td>
<td>21,775</td>
<td>478,096.37</td>
<td>195,159</td>
<td>673,255</td>
</tr>
<tr>
<td>YES Grant - Elementary (063)</td>
<td>$19,579</td>
<td>5%</td>
<td>10,888</td>
<td>30,466.26</td>
<td>10,650</td>
<td>41,116</td>
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<tr>
<td>OHV Park (065)</td>
<td>$139,916</td>
<td>20%</td>
<td>43,551</td>
<td>183,466.44</td>
<td>41,920</td>
<td>225,387</td>
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<tr>
<td>Jim Maples Academy (067)</td>
<td>$27,826</td>
<td>5%</td>
<td>10,888</td>
<td>38,714.21</td>
<td>5,994</td>
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<tr>
<td>Adventure Camp (059)</td>
<td>$31,123</td>
<td>5%</td>
<td>10,888</td>
<td>42,010.73</td>
<td>10,133</td>
<td>52,144</td>
</tr>
<tr>
<td>Total Supported Divisions</td>
<td>$1,063,084</td>
<td>100%</td>
<td>$217,755</td>
<td>$1,280,838</td>
<td>$374,262</td>
<td>$1,655,120</td>
</tr>
</tbody>
</table>

---

**Notes:**
- June 30 budget document, page 46.
- We need to assign this admin overhead to its functional receiving divisions.
- Pool was open a partial year. Unaudited data from Jim.

**Source documentation:**
June 30 budget document, page 46.
<table>
<thead>
<tr>
<th>Program</th>
<th>Fee</th>
<th>Frequency</th>
<th>Description</th>
<th>Late Fees</th>
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<tbody>
<tr>
<td>Recreation Afterschool Program</td>
<td>80.00</td>
<td>monthly</td>
<td>full time rate</td>
<td>Each 10 min. 5.00</td>
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<tr>
<td></td>
<td>35.00</td>
<td>monthly</td>
<td>little brother/sister program</td>
<td>6-10 days $5.00</td>
</tr>
<tr>
<td></td>
<td>10.00</td>
<td>per day</td>
<td>drop in rate</td>
<td>11-15 days $10.00</td>
</tr>
<tr>
<td></td>
<td>5.00</td>
<td>per day</td>
<td>one hour drop in rate</td>
<td>16-20 days $15.00</td>
</tr>
<tr>
<td></td>
<td>25.00</td>
<td>one time</td>
<td>one time admin fee per family</td>
<td>21-25 days $20.00</td>
</tr>
<tr>
<td>Kindergarten Enrichment Program</td>
<td>75.00</td>
<td>monthly</td>
<td>full time rate</td>
<td>26+days $25.00</td>
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<tr>
<td></td>
<td>25.00</td>
<td>one time</td>
<td>one time admin fee per family</td>
<td></td>
</tr>
<tr>
<td>Tiny Tots</td>
<td>145.00</td>
<td>monthly</td>
<td>5 days/week</td>
<td></td>
</tr>
<tr>
<td></td>
<td>85.00</td>
<td>monthly</td>
<td>3 days/week</td>
<td></td>
</tr>
<tr>
<td></td>
<td>60.00</td>
<td>monthly</td>
<td>2 days/week</td>
<td></td>
</tr>
<tr>
<td></td>
<td>25.00</td>
<td>one time</td>
<td>annual registration fee</td>
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<tr>
<td>Day Camp</td>
<td>65.00</td>
<td>weekly</td>
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<td></td>
</tr>
<tr>
<td></td>
<td>60.00</td>
<td>weekly</td>
<td>second child discount</td>
<td></td>
</tr>
<tr>
<td></td>
<td>50.00</td>
<td>weekly</td>
<td>4 day weeks</td>
<td></td>
</tr>
<tr>
<td></td>
<td>45.00</td>
<td>weekly</td>
<td>second child discount</td>
<td></td>
</tr>
<tr>
<td></td>
<td>15.00</td>
<td>per day</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>35.00</td>
<td>weekly</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>8.00</td>
<td>per day</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Excursions</td>
<td>30.00</td>
<td>one time</td>
<td>per event</td>
<td></td>
</tr>
<tr>
<td>Youth Basketball</td>
<td>45.00</td>
<td>one time</td>
<td></td>
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<td></td>
<td>40.00</td>
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<td>early registration discount</td>
<td></td>
</tr>
<tr>
<td></td>
<td>5.00</td>
<td>one time</td>
<td>special request fee</td>
<td></td>
</tr>
<tr>
<td>Youth Baseball</td>
<td>45.00</td>
<td>one time</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>40.00</td>
<td>one time</td>
<td>early registration discount</td>
<td></td>
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<tr>
<td></td>
<td>5.00</td>
<td>one time</td>
<td>special request fee</td>
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<td>Arena Soccer</td>
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<td></td>
<td>5.00</td>
<td>one time</td>
<td>special request fee</td>
<td></td>
</tr>
<tr>
<td>Sweetheart’s Run</td>
<td>15.00</td>
<td>one time</td>
<td>running events, pre registration rate</td>
<td></td>
</tr>
<tr>
<td></td>
<td>20.00</td>
<td>one time</td>
<td>running events, day of event registra</td>
<td></td>
</tr>
<tr>
<td></td>
<td>10.00</td>
<td>one time</td>
<td>walking event, pre registration rate</td>
<td></td>
</tr>
<tr>
<td></td>
<td>15.00</td>
<td>one time</td>
<td>walking event, day of event registra</td>
<td></td>
</tr>
<tr>
<td>Veterans Run</td>
<td>15.00</td>
<td>one time</td>
<td>running events, pre registration rate</td>
<td></td>
</tr>
<tr>
<td></td>
<td>20.00</td>
<td>one time</td>
<td>running events, day of event registra</td>
<td></td>
</tr>
<tr>
<td></td>
<td>10.00</td>
<td>one time</td>
<td>walking event, pre registration rate</td>
<td></td>
</tr>
<tr>
<td></td>
<td>15.00</td>
<td>one time</td>
<td>walking event, day of event registra</td>
<td></td>
</tr>
<tr>
<td>First Aid / CPR Classes</td>
<td>40.00</td>
<td>per class</td>
<td></td>
<td></td>
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<td>Etiquette Class</td>
<td>40.00</td>
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<td></td>
</tr>
<tr>
<td>Spring Teen Fling</td>
<td>3.00</td>
<td>one time</td>
<td>advance ticket</td>
<td></td>
</tr>
<tr>
<td></td>
<td>5.00</td>
<td>one time</td>
<td>at the event</td>
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</tr>
<tr>
<td>Egg Hunt</td>
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<td>advance ticket</td>
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<td></td>
<td>5.00</td>
<td>one time</td>
<td>at the event</td>
<td></td>
</tr>
<tr>
<td>Spring Fishing Derby</td>
<td>3.00</td>
<td>one time</td>
<td>advance ticket</td>
<td></td>
</tr>
<tr>
<td></td>
<td>5.00</td>
<td>one time</td>
<td>at the event</td>
<td></td>
</tr>
<tr>
<td>Winter Fishing Derby</td>
<td>3.00</td>
<td>one time</td>
<td>advance ticket</td>
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</tr>
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<td></td>
<td>5.00</td>
<td>one time</td>
<td>at the event</td>
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</tr>
<tr>
<td>Kids Day in the Park</td>
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<td>advance ticket</td>
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</tr>
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<td></td>
<td>5.00</td>
<td>one time</td>
<td>at the event</td>
<td></td>
</tr>
<tr>
<td>Lifeguard Certification Course</td>
<td>85.00</td>
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<td>Swim Lessons</td>
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<td>per session</td>
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<td></td>
<td>25.00</td>
<td>one time</td>
<td>second child discount</td>
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</tr>
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<td>Event</td>
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<td>Type</td>
<td>Description</td>
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<td>--------------------------------------------</td>
<td>-------</td>
<td>-----------------</td>
<td>---------------------------</td>
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<tr>
<td>Swim Admissions</td>
<td>1.00</td>
<td>per entry</td>
<td>child rate</td>
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</tr>
<tr>
<td></td>
<td>2.00</td>
<td>per entry</td>
<td>adults</td>
<td></td>
</tr>
<tr>
<td></td>
<td>30.00</td>
<td>per month</td>
<td>monthly pass</td>
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<tr>
<td>Family Swim</td>
<td>1.50</td>
<td>per entry</td>
<td>adult fee</td>
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<td></td>
<td>0.50</td>
<td>per entry</td>
<td>child with parent</td>
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<tr>
<td></td>
<td>1.50</td>
<td>per entry</td>
<td>child without parent</td>
<td></td>
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<tr>
<td>Developmentally Disabled Swim</td>
<td>1.00</td>
<td>per entry</td>
<td>per disabled person</td>
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<tr>
<td>Adult Lap &amp; Aerobic Swim</td>
<td>2.00</td>
<td>per entry</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>30.00</td>
<td>per month</td>
<td></td>
<td></td>
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<tr>
<td>Water Aerobics</td>
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<td>per entry</td>
<td></td>
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</tr>
<tr>
<td></td>
<td>30.00</td>
<td>per month</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Junior Golf Clinic</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Drive Pitch &amp; Putt Competition</td>
<td>No Fee</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Punt Pass &amp; Kick Competition</td>
<td>No Fee</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Pitch Hit &amp; Run Competition</td>
<td>No Fee</td>
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<tr>
<td>Kids Night Out</td>
<td>12.00</td>
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<tr>
<td>Movies in the Park</td>
<td>No Fee</td>
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<tr>
<td>Dive In Theater</td>
<td>5.00</td>
<td>per entry</td>
<td>for a family of 6 or less</td>
<td></td>
</tr>
<tr>
<td></td>
<td>1.00</td>
<td>per entry</td>
<td>additional family members</td>
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<tr>
<td>Zalud House Candlelight Tours</td>
<td>2.00</td>
<td>per entry</td>
<td>adults</td>
<td></td>
</tr>
<tr>
<td></td>
<td>0.50</td>
<td>per entry</td>
<td>children</td>
<td></td>
</tr>
<tr>
<td>Senior Citizens' Christmas Dinner</td>
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<td>advance ticket</td>
<td></td>
</tr>
<tr>
<td></td>
<td>10.00</td>
<td>one time</td>
<td>at the event</td>
<td></td>
</tr>
<tr>
<td>Thursday Night Dance</td>
<td>5.00</td>
<td>one time</td>
<td></td>
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</tr>
<tr>
<td>New Year's Eve Dance</td>
<td>7.00</td>
<td>one time</td>
<td></td>
<td></td>
</tr>
<tr>
<td>OHV</td>
<td>15.00</td>
<td>per entry</td>
<td>adults</td>
<td></td>
</tr>
<tr>
<td></td>
<td>15.00</td>
<td>per entry</td>
<td>children</td>
<td></td>
</tr>
<tr>
<td></td>
<td>2.00</td>
<td>per entry</td>
<td>spectator</td>
<td></td>
</tr>
</tbody>
</table>
THIS ITEM IS BEING CONSIDERED AS A PART OF ITEM NO. 11.
SUBJECT: INTERIM URGENCY ORDINANCE PROHIBITING CONSTRUCTION, OPERATION AND MAINTENANCE OF WIRELESS COMMUNICATIONS TOWERS

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: Over the course of the past few months the City Council has considered the approval of three separate wireless communications towers, one of which was located in the Single-Family Residential Zone. During consideration of these conditional use permits, the Council expressed concerns over the aesthetic affects of the towers particularly in residential areas, the newly established availability of communications tower sites outside of residential zones, and land use conflicts between towers and residential uses. The Council has requested that staff bring back an interim urgency ordinance to preclude such applications pending the adoption of a permanent ordinance to regulate wireless communications towers in residential zones.

This interim ordinance would temporarily prohibit this use until staff has had time to study and address these issues and develop permanent standards for Council consideration. City staff understands the growing need for these wireless communications services and intends to introduce permanent standards to the City Council within approximately the next three months.

Based on the issues raised by Council in the November 15, 2005, Council meeting regarding the appropriate placement of these towers, staff recommends that the Council also restrict construction of these facilities within a 300 foot radius of residentially zoned properties. In essence the restriction would read, "on or within 300 feet of residentially zoned property".

RECOMMENDATION: That the City Council:

1. Hold a public hearing and adopt the attached Interim Urgency Ordinance Prohibiting the Use of residentially zoned land for construction, operation, and maintenance of towers for wireless communications

2. Consider the option to expand the land use limitation to include the area within 300 feet of residentially zoned properties.

Attachment: 1) Interim Ordinance of the City of Porterville Prohibiting the Use of residentially zoned land for the construction, operation, and maintenance of towers for wireless communications

Item No. 14
ORDINANCE NO.

AN INTERIM ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE PROHIBITING THE USE OF RESIDENTIALLY ZONED LAND FOR THE CONSTRUCTION, OPERATION AND MAINTENANCE OF NEW TOWERS FOR WIRELESS COMMUNICATIONS

BE IT ORDAINED by the City Council of the City of Porterville, as follows, to wit:

SECTION 1: The City Council of the City of Porterville herewith finds that there is a current and immediate threat to the public health, safety, or welfare, arising from the lack of procedures for determining the appropriateness of locations for wireless communications towers, and from a lack of sufficient authority and controls to allow the City to impose appropriate and necessary conditions and regulations upon wireless communications towers within the City of Porterville.

SECTION 2: The City Planning staff is presently studying the potential and appropriate City zoning locations, procedures and policies for the approval of the use of land for the purpose of constructing, operating and maintaining new wireless communications towers, and are developing proposed ordinances concerning the zoning, permitting, and regulation of wireless communications towers.

SECTION 3: The City of Porterville does further herewith find and determine that allowing the use of residentially zoned land for the purpose of constructing, maintaining and operating a new wireless communication tower prior to the adoption of procedures concerning the zoning and regulation of wireless communications towers will result in that threat to public health, safety or welfare being exacerbated.

SECTION 4: That the City of Porterville does further herewith find and determine that there are significant public health, safety or welfare concerns relating to issues concerning:

(a) Appropriate locations for wireless communications towers;

(b) Appropriate availability of sites for the development of wireless communications towers;

(c) Appropriate procedures to provide for public input and comment on the siting of wireless communications towers;

(d) Appropriate mechanisms being in place to impose appropriate and necessary conditions upon wireless communications towers; and

(e) Appropriate opportunities for the public, and the City Council to consider and address all impacts upon the immediate neighborhood and the community at large resulting from wireless communications towers.

All of which gives rise to a need to complete the study, within a reasonable time, of the potential and appropriate City zoning procedures and policies for approving the use of land for the purpose of constructing and operating a wireless communications tower, and in order to protect the public safety, health or welfare it is necessary to prohibit the use of residentially zoned land for the purpose of constructing and operating a wireless communications tower until such time as said study is
completed and the City Council has determined, what new and additional, if any, procedures and policies are necessary and appropriate to put in place.

**SECTION 5:** This Ordinance shall remain in full force and effect for a period of forty-five (45) days from and after its passage and adoption.

**SECTION 6:** The City Council does herewith direct the City staff to prepare and submit to the City Council, for consideration of approval and issuance by the City Council, a written report describing the measures taken and to be taken to alleviate the conditions which led to the adoption of this Ordinance; and that said report shall be submitted to the City Council at least 10 days prior to the expiration of this Ordinance.

**SECTION 7:** For the reasons set forth hereinabove, the City Council of the City of Porterville does herewith declare and determine that it is necessary to protect the public safety, health or welfare by adopting this Ordinance as an urgency measure to take effect immediately upon passage and adoption.

PASSED, ADOPTED AND APPROVED this ___ day of ______________, 20____

______________________________________
Mayor

ATTEST:

______________________________________
Chief Deputy City Clerk
COUNCIL AGENDA: DECEMBER 6, 2005

PUBLIC HEARING

SUBJECT: AIRPORT WATER INTER-TIE AND WELL SYSTEM IMPROVEMENTS PROJECT

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: City staff, with assistance from the City’s on-call consultant, has prepared and circulated an Initial Study and Mitigated Negative Declaration for the Airport Water Inter-tie and Well System Improvements project. The project will place approximately 33,920 linear feet of 12” water main and 1,310 linear feet of 16” water main along the route surrounding the airport and tie it in with existing City infrastructure. The project area is shown in Attachment 1. The project includes well exploration activities and the potential addition of up to five wells and related appurtenances within 300 feet of the pipeline. It will also involve crossing Poplar Ditch, a non-jurisdictional waterway, by means of boring beneath the creek bed.

The environmental document circulated for a period of 20 days from November 3, 2005 to November 23, 2005. During that time, two agencies, the San Joaquin Valley Air Pollution Control District and the Tulare County Resource Management Agency, commented on the report. The comment letters are included as Attachment 4 and 5. Both agencies offered standard comments and generally support the project with implementation of the mitigation measures identified in the environmental document. Those comments pertaining to the environmental aspect of the project have been incorporated into the Mitigation Monitoring Program Attachment A of the draft environmental resolution.

RECOMMENDATION: That the City Council adopt the draft resolution approving the Mitigated Negative Declaration for the Airport Water Inter-tie and Well System Improvements project.

ATTACHMENTS:
1. Vicinity map
2. Initial Study and Notice of Intent to Adopt a Mitigated Negative Declaration, available for public review in the Community Development Department or the City’s website, www.ci.porterville.ca.us.
3. Negative Declaration
4. Letter from the San Joaquin Valley Air Pollution Control District
5. Letter from the Tulare County Resource Management Agency
6. Draft Environmental Resolution

Item No. 15
City of Porterville
Initial Study and Notice of Intent to Adopt a Mitigated Negative Declaration
Airport Water Inter-tie and Well System Improvements Project

October 2005

ATTACHMENT
ITEM NO. 1
INITIAL STUDY AND NOTICE OF INTENT TO ADOPT A MITIGATED NEGATIVE DECLARATION

for the

City of Porterville
Airport Water Inter-tie and Well System Improvements Project

Submitted by

Quad Knopf
5110 West Cypress Avenue
P.O. Box 3699
Visalia, California 93278
(559) 733-0440

October 2005
INITIAL STUDY
and
NOTICE OF INTENT TO ADOPT A
MITIGATED NEGATIVE DECLARATION

CITY OF PORTERVILLE
AIRPORT WATER INTER-TIE AND
WELL SYSTEM IMPROVEMENTS PROJECT

October 2005

Lead Agency: City of Porterville
c/o Bradley Dunlap
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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<td>4 Flood Zones</td>
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# LIST OF ATTACHMENTS

Attachment A – Reconnaissance Level Biological Survey  
Attachment B – Cultural Resources Records Search
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:
City of Porterville
City Hall, 291 N. Main Street
Porterville, CA 93257
Bradley D. Dunlap, AICP
Community Development Director

Consulting Firm (if applicable):
Quad Knopf, Inc.
5110 W. Cypress Avenue
Visalia, CA 93277
Stephen J. Peck, AICP
Principal Planner

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 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 20 days after receipt of this notice.

Opportunity for Comments: This Notice of Intent and Initial Study will be circulated for a period of 20 days starting on November 3, 2005 and ending on November 23, 2005.

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 Airport Water Inter-tie and Well System Improvements Project

Project Location: City of Porterville Tulare County
(City-nearest) (County)

Project Description: (brief)

The City of Porterville, in order to implement the improvements outlined in the 2001 Water System Master Plan, proposes to extend approximately 33,920 linear feet of 12” diameter waterline and 1,310 linear feet of 16” water main to an area in the southwestern part of the City in the vicinity of the airport. The project includes well exploration activities and the potential addition of up to five wells and related appurtenances within 300 feet of either side of the pipeline. It will also involve crossing a non-jurisdictional water—Poplar Ditch—by means of boring beneath the creek bed.

Date ____________

Signature

Title
COMMUNITY DEVELOPMENT DIR.

Telephone 559-782-7460
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 extending 33,920 linear feet of 12" diameter water main and 1,310 linear feet of 16" water main to an area in the southwestern part of the City in the vicinity of the Porterville Municipal airport.

Project Description

The proposed project is located in the City of Porterville in Tulare County (Figure 1). The project lies within the City of Porterville's Urban Development Boundary, mostly west of State Highway 65 and south of the Tule River as represented in Figure 2.

The project will require placement of approximately 33,920 linear feet of 12" water main and 1,310 linear feet of 16" water main along the route shown in Figure 2. The project will include well exploration activities and the potential addition of up to five wells and related appurtenances within 300 feet of the pipeline. It will also involve crossing Poplar Ditch, a non-jurisdictional water, by means of boring beneath the creek bed.

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:

- Aesthetics
- Agricultural Resources
- Air Quality
- Biological Resources
- Cultural Resources
- Geology/Soils
- Hazards & Hazardous Materials
- Hydrology/Water Quality
- Land Use/Planning (including socio-economic)
- Mineral Resources
- Noise
- Population / Housing
- Public Services
- Recreation
- Transportation/Traffic
- Utilities/Service Systems

City of Porterville
Initial Study and Notice of Intent to Adopt a Mitigated Negative Declaration
Airport Water Inter-tie and Well System Improvements Project

October 2005
In compliance with the California Environmental Quality Act, appropriate environmental regulations will be met. The following list provides locations of 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*  
*Airport Water Inter-tie and Well System Improvements Project*  
*October 2005*
Opportunity for Comments

This Notice of Intent to Adopt a Negative Declaration will be circulated for a period of 20 days starting on November 3, 2005 and ending on November 23, 2005. Comments on the Notice of Intent and Initial Study should be made in writing to the following:

Bradley Dunlap, Community Development Director
City of Porterville
291 N. Main Street
Porterville, CA 93257
Fax (559) 781-6437

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: 10-31-05
For: Quad Knopf, Inc.
Consultants to the City of Porterville
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.
ENVIRONMENTAL CHECKLIST

1. **Project title:**
   City of Porterville Southwest Water System Extension 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 and in unincorporated County land
immediately outside Porterville city limits in Tulare County. The area of improvements is
within the City of Porterville Urban Development Boundary, located mostly west of State
Highway 65 and south of the Tule River, 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 area affected by the Southwest
   Water System Extension (project). The area adjacent to the project is designated for the
   following uses by the General Plan Land Use Element: Agriculture; Industrial; Recreation
   and Open Space; Rural Density Residential; Low Density Residential; Public and Quasi-
   Public; and Highway Commercial.

7. **Zoning:**
   Zoning designations vary in accordance with the General Plan designations discussed above.

8. **Description of Project:**
The Southwest Water System Extension Project is located within the City of Porterville
Urban Development Boundary, west of State Highway 65 and south of the Tule River as
shown in Figure 2.

   The project will require placement of approximately 33,920 linear feet of 12" water main
   and 1,310 linear feet of 16" water main along the route shown in Figure 2. The Project
   includes well exploration activities and the potential addition of up to five wells and related
   appurtenances within 300 feet of either side of the pipeline. It will also involve crossing

City of Porterville
Initial Study and Notice of Intent to Adopt a Mitigated Negative Declaration
Airport Water Inter-tie and Well System Improvements Project

October 2005
Poplar Ditch, a non-jurisdictional water, by means of boring beneath the creek bed.

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>California Department of Health Services</td>
<td>Water Well Permit</td>
</tr>
<tr>
<td>Tulare County Department of Environmental Health</td>
<td>Water Well Permit</td>
</tr>
</tbody>
</table>

10 **Sources and previous Environmental Documents relied upon:**

- Porterville General Plan Amendment 1-89 Environmental Impact Report, 1990
- Porterville General Plan Amendment 1-95 Environmental Impact Report, 1995
- City of Porterville Water System Master Plan, 2001
- City of Porterville Waste Water Treatment Plant Expansion Project EIR, 1986
  Community Panel Number 060407 0015C, October 15, 1985
  Community Panel Number 065066 0845B, September 29, 1986;
  Community Panel Number 065066 1035B, September 29, 1986;

**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.

- [x] Aesthetics
- [ ] Agriculture Resources
- [ ] Air Quality
- [x] Biological Resources
- [x] Cultural Resources
- [ ] Geology /Soils
- [ ] Hazards & Hazardous Materials
- [ ] Hydrology / Water Quality
- [ ] Land Use / Planning
- [ ] Mineral Resources
- [x] Noise
- [ ] Population / Housing
- [ ] Public Services
- [ ] Recreation
- [ ] Transportation / Traffic
- [ ] Utilities / Service Systems
- [x] Mandatory Findings of Significance

*City of Porterville*

*Initial Study and Notice of Intent to Adopt a Mitigated Negative Declaration*  
*Airport Water Inter-tie and Well System Improvements Project*  

*October 2005*  
*8*
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  11/1/05

Signature  11/1/05
<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>
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<tbody>
<tr>
<td>I. AESTHETICS -- Would the project:</td>
<td></td>
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<tr>
<td>a) Have a substantial adverse effect on a scenic vista?</td>
<td>☐</td>
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<tr>
<td>b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
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</tr>
<tr>
<td>c) Substantially degrade the existing visual character or quality of the site and its surroundings?</td>
<td>☐</td>
<td>☒</td>
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<tr>
<td>d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?</td>
<td>☐</td>
<td>☒</td>
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</table>

Response:

a) The project area is not within a designated scenic vista. (Land Use Element, Porterville General Plan Amendment, 1995.)

b) The proposed water pipeline will not affect any state scenic highways.

c) The waterline itself will not degrade the visual quality of the site because it will run below ground along its entire length. At the time of development, any proposed well facilities will be fenced and/or landscaped in situations where surrounding conditions warrant. Visual impact to surrounding properties will, therefore, be mitigated to a level of insignificance.

d) Any well facility lighting would consist of manually operated emergency lighting. The well facility will not be illuminated on an ongoing basis.

City of Porterville
Initial Study and Notice of Intent to Adopt a Mitigated Negative Declaration
Airport Water Inter-tie and Well System Improvements Project

October 2005
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?

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<tr>
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<th>Less Than Significant Impact</th>
<th>No Impact</th>
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</thead>
<tbody>
<tr>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
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</table>

b) Conflict with existing zoning for agricultural use, or a Williamson Act contract?

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<tr>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
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</thead>
<tbody>
<tr>
<td>X</td>
<td>X</td>
<td>X</td>
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</table>

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?

<table>
<thead>
<tr>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporation</th>
<th>Less Than Significant Impact</th>
<th>No Impact</th>
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<tbody>
<tr>
<td>X</td>
<td>X</td>
<td>X</td>
<td>X</td>
</tr>
</tbody>
</table>

Response:

a), b) Construction of the proposed waterline will occur under public rights-of-way, but the potential addition of up to five wells within 300 feet of either side of the waterline may impinge on prime farmland, or farmland under Williamson Act, if any of the wells are placed along the parts of the line that are bordered by such lands (see Figure 3). The well pads (total built area required for the well and related appurtenances) will be about 80 feet by 80 feet. The total area occupied by five such pads would be less than an acre, and would not constitute a significant taking of land. Also, these five wells would 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. Impacts to land zoned for agricultural use or under Williamson Act contract will therefore be less than significant.

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 “infill” water supply to the existing City water main network to accomplish efficient community development as supported by the City General Plan. Impacts related to conversion of farmland to non-agricultural use will therefore be less than significant.

City of Porterville

Initial Study and Notice of Intent to Adopt a Mitigated Negative Declaration

Airport Water Inter-tie and Well System Improvements Project

October 2005
### III. AIR QUALITY -- Would the project:

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<th>Less Than Significant Impact</th>
<th>No Impact</th>
</tr>
</thead>
<tbody>
<tr>
<td>a) Conflict with or obstruct implementation of the applicable air quality plan?</td>
<td>☐</td>
<td>☐</td>
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</tr>
<tr>
<td>b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>✗</td>
</tr>
<tr>
<td>c) Result in a cumulatively considerable net increase of any criteria pollutant for which the project region is non-attainment under an applicable federal or state ambient air quality standard (including releasing emissions which exceed quantitative thresholds for ozone precursors)?</td>
<td>☐</td>
<td>☐</td>
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<tr>
<td>d) Expose sensitive receptors to substantial pollutant concentrations?</td>
<td>☐</td>
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<tr>
<td>e) Create objectionable odors affecting a substantial number of people?</td>
<td>☐</td>
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</tbody>
</table>

**Response:**

*a), b), c), d)* The Project site is located in the San Joaquin Valley Air Pollution Control District (SJVAPCD). This portion of the Valley is designated as a non-attainment area for Particulate Matter smaller than 10 microns in diameter (PM$_{10}$) and Ozone. Ozone precursors include Oxides of Nitrogen (NOx) and Reactive Organic Compounds (ROC). The primary contributor to such emissions is indirect activities such as vehicle trips.

The addition of 41,400 linear feet of 12" water main and up to five new wells to the City municipal water system will not have a significant, direct, permanent impact on air quality. Minor air quality impacts will result from project construction activities such as excavation and exhaust from equipment and vehicles, but these impacts will be temporary and less than significant. All SJVAPCD Regulation VIII mandatory dust control measures will be followed during project construction.

Operational air quality impacts will be less than significant. The project may add as many as five wells to the City’s water supply system, but the pumps used to operate them will run off electric power and therefore not directly produce air pollution.

City of Porterville

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Airport Water Inter-tie and Well System Improvements Project

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The project will accommodate future City growth called for under the City's General Plan. Air quality impacts resulting from overall community growth will be addressed through compliance with State and Federal regulations governing the generation of pollutants. Air quality impacts resulting from City build out within the Urban Development Boundary has been addressed through adoption of General Plan Amendment 1-89 on 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 project will not result in odors because waterline and well operation is not an odor-generating function.

City of Porterville
Initial Study and Notice of Intent to Adopt a Mitigated Negative Declaration
Airport Water Inter-tie and Well System Improvements Project
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<table>
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<tr>
<td>IV. BIOLOGICAL RESOURCES  -- Would the project:</td>
</tr>
<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>
</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, regulations or by the California Department of Fish and Game or US Fish and Wildlife Service?</td>
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<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>
</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>
</tr>
<tr>
<td>e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?</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>
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</table>
Response:

a), b), d), Surveys completed by a Quad Knopf biologist did not identify any species listed 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 (CDFG) or U.S. Fish and Wildlife Service (USFWS). There is potential, however, for project construction activities, especially the operation of heavy equipment, to impact Swainson's Hawks that may nest in any of the large trees on lands near the project site. The project will not interfere with the movement of any fish or wildlife species or impede the use of native wildlife nursery sites.

A pre-construction nest survey for avian predators and other resident and migratory birds shall be conducted prior to project construction if any heavy equipment operations are to occur during the breeding season (February 15 through September 15). The survey shall include all large trees on the project site and all large trees on adjacent lands. If any occupied nests are observed, heavy equipment operations shall be minimized or avoided until the young have fledged and nesting has ceased. If this is not feasible, the USFWS (and CDFG, if State-listed species, e.g., Swainson's hawks are involved) shall be contacted for guidance on how to proceed. The USFWS would prescribe specific mitigation dependant upon the particular species involved and the manner in which heavy equipment operations are to be conducted. These measures will reduce potential impacts to a less than significant level.

c) The proposed waterline will cross Poplar Ditch, a non-jurisdictional water, by means of boring beneath the creek bed; therefore, this waterway will not be disturbed. A National Wetlands Inventory Map referenced for the Reconnaissance Level Biological Survey (Attachment B) identified one wetland located within the project area. It is a drainage basin at the corner of West Road and Tea Pot Dome Avenue, identified as Palustrine Unconsolidated Bottom Semi-permanently Flooded Excavated (PUBF). A drainage basin would not be an appropriate or feasible location for a well, and a well will not be placed there. Therefore the project will have no impacts on Federally protected wetlands.

e) The City of Porterville does not have a policy regarding tree preservation.

f) Presently, there are no Habitat Conservation Plans (HCP) adopted in the City. The project does not conflict with any other habitat conservation plan.

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### Issues

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### V. CULTURAL RESOURCES -- Would the project:

- **a)** Cause a substantial adverse change in the significance of a historical resource as defined in §15064.5?

- **b)** Cause a substantial adverse change in the significance of an archaeological resource pursuant to §15064.5?

- **c)** Directly or indirectly destroy a unique paleontological resource or site or unique geologic feature?

- **d)** Disturb any human remains, including those interred outside of formal cemeteries?

### Response:

- **a)** According to a record search completed by the Center for Archaeological Research at California State University, Bakersfield, no recorded historic resources exist within the general area of the project (Attachment B).

- **b), c), d)** A cultural resources record search was conducted by Rebecca Orfila of CSU Bakersfield for the Project area. Results of the records search indicate that there are no recorded archaeological sites within the Project area. Prior archaeological surveys within the City of Porterville Urban Area Boundary have revealed that Native American activity was confined to locations upstream along the Tule River corridor from Murry Hill (the Chokowisho Village). Because the areas of archaeological importance are to the east of the proposed waterline and well sites and the major portion of the City’s Water Master Planned area, no impacts to archaeological resources are anticipated. However, in the event that any as-yet undetected (i.e., buried) cultural resources are encountered on this property at a future time, work shall cease within a 50-foot area of the find, and a qualified archaeologist shall be contacted to evaluate any such discoveries.
VI. GEOLOGY AND SOILS -- Would the project:

a) Expose people or structures to potential substantial adverse effects, including the risk of loss, injury, or death involving:

   i) Rupture of a known earthquake fault, as delineated on the most recent Alquist-Priolo Earthquake Fault Zoning Map issued by the State Geologist for the area or based on other substantial evidence of a known fault? Refer to Division of Mines and Geology Special Publication 42.

   ![Checkbox]

   ![Checkbox]

   ![Checkbox]

   ![Checkbox]

   ![Checkbox]

   ii) Strong seismic ground shaking?

   ![Checkbox]

   ![Checkbox]

   ![Checkbox]

   ![Checkbox]

   ![Checkbox]

   iii) Seismic-related ground failure, including liquefaction?

   ![Checkbox]

   ![Checkbox]

   ![Checkbox]

   ![Checkbox]

   ![Checkbox]

   iv) Landslides?

   ![Checkbox]

   ![Checkbox]

   ![Checkbox]

   ![Checkbox]

   b) Result in substantial soil erosion or the loss of topsoil?

   ![Checkbox]

   ![Checkbox]

   ![Checkbox]

   ![Checkbox]

   ![Checkbox]

   c) Be located on a geologic unit or soil that is unstable, or that would become unstable as a result of the project, and potentially result in on- or off-site landslide, lateral spreading, subsidence, liquefaction or collapse?

   ![Checkbox]

   ![Checkbox]

   ![Checkbox]

   ![Checkbox]

   ![Checkbox]

   d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (1994), creating substantial risks to life or property?

   ![Checkbox]

   ![Checkbox]

   ![Checkbox]

   ![Checkbox]

   ![Checkbox]

   e) Have soils incapable of adequately supporting the use of septic tanks or alternative wastewater disposal systems where sewers are not available for the disposal of wastewater?

   ![Checkbox]

   ![Checkbox]

   ![Checkbox]

   ![Checkbox]

   ![Checkbox]

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Response:

a(i), ii), iv) The proposed project site is located in a relatively seismically quiet area of California. Neither the City of Porterville nor Tulare County are affected by Alquist-Priolo Earthquake Fault Zones. No faults are known to exist within the Project area, and the wells and related structures will be reinforced in accordance with local building codes and ordinances. Thus, the Project will not expose people or structures to the adverse effects of earthquakes, seismic ground shaking, or seismic ground failure. The topography of the proposed project is relatively flat and not subject to landslides.

a(iii), c), d) Soil at the proposed project site is located on soils that are well drained and typically underlain with hardpan. Landslides, lateral spreading, subsidence, liquefaction, and expansion will not occur with this type of soil.

b) The proposed project will not cause substantial erosion or loss of topsoil. The following mandatory requirements will be followed: San Joaquin Valley Air Pollution Control District (SJVAPCD) Regulation VIII mandatory dust control measures will be followed, appropriate National Pollutant Discharge Elimination System (NPDES) permits will be acquired prior to construction, and a Stormwater Pollution Prevention Plan (SWPPP) or Small Linear Under/Above Ground General Construction Permit (Small LUP General Permit) will be filed. Because of these required measures, project impacts with respect to substantial erosion or the loss or topsoil will be less than significant.

e) The Project does not include the use of septic tanks or alternate wastewater disposal systems.
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<tbody>
<tr>
<td>a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?</td>
<td>☐</td>
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<tr>
<td>b) Create a significant hazard to the public or the environment through reasonably foreseeable upset and accident conditions involving the release of hazardous materials into the environment?</td>
<td>☐</td>
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<tr>
<td>c) Emit hazardous emissions or handle hazardous or acutely hazardous materials, substances, or waste within one-quarter mile of an existing or proposed school?</td>
<td>☐</td>
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<tr>
<td>d) Be located on a site which is included on a list of hazardous materials sites compiled pursuant to Government Code Section 65962.5 and, as a result, would it create a significant hazard to the public or the environment?</td>
<td>☐</td>
<td>☐</td>
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</tr>
<tr>
<td>e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project result in a safety hazard for people residing or working in the project area?</td>
<td>☐</td>
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</tr>
<tr>
<td>f) For a project within the vicinity of a private airstrip, would the project result in a safety hazard for people residing or working in the project area?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
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<tr>
<td>g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
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</table>

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<tbody>
<tr>
<td>h) Expose people or structures to a significant risk of loss, injury or death involving wildland fires, including where wildlands are adjacent to urbanized areas or where residences are intermixed with wildlands?</td>
<td></td>
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</tbody>
</table>

Response:

a), b), c) The project is not expected to process hazardous materials as defined by the State Department of Health Services (project description). Chlorine injection equipment used at each well site will be designed and regularly inspected to preclude release of hazardous gases. Chlorine solution is created on site on an as-needed basis (Richard Bartlett Water Utilities Superintendent). The nearest schools are approximately one mile from the project area.

d) The proposed well sites are not listed on the hazardous materials sites list indicated above.

e) The project area is located within Compatibility Zones A, C, D, and E of the Porterville Municipal Airport Master Plan Report. However, no impacts to waterline or well functionality would result from being located within these Zones and neither waterlines nor wells are a prohibited use. The height of a well is about eight feet, and will not exceed fifteen feet. No well will be sited in conflict with the standards applicable to the airport compatibility zone in which it is located (City of Porterville Community Development Department). No impact.

f) The project is not located in the vicinity of a private airstrip. (Porterville Municipal Airport Master Plan Report, 1990.)

g) Movement of emergency vehicles and pedestrians will not be affected by development of the project (Project Description).

h) No significant risks of wildfire are anticipated in the project area.

The 2 fully staffed fire stations in the City of Porterville have been strategically located to provide response times of 5 minutes, or less, to all areas of the City. Growth and population will be monitored to ensure that the number of stations in Porterville is sufficient to maintain acceptable standards of fire suppression and control. Reserve firefighters assist full time firefighters on routine grass and structural calls. Fire dispatch is handled by the City Police Department by 9-1-1 calls (Safety Element of the General Plan, 1998, P.6-6).
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<tr>
<td>VIII. HYDROLOGY/WATER QUALITY -- Would the project:</td>
<td></td>
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<tr>
<td>a) Violate any water quality standards or waste discharge requirements?</td>
<td>☐</td>
<td>☐</td>
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<tr>
<td>b) Substantially deplete groundwater supplies or interfere substantially with groundwater recharge such that there would be a net deficit in aquifer volume or a lowering of the local groundwater table level (e.g., the production rate of pre-existing nearby wells would drop to a level which would not support existing land uses or planned uses for which permits have been granted)?</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
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</tr>
<tr>
<td>c) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, in a manner which would result in substantial erosion or siltation on- or off-site?</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
<td>☐</td>
</tr>
<tr>
<td>d) Substantially alter the existing drainage pattern of the site or area, including through the alteration of the course of a stream or river, or substantially increase the rate or amount of surface runoff in a manner which would result in flooding on- or off-site?</td>
<td>☐</td>
<td>☐</td>
<td>☑</td>
<td>☐</td>
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<tr>
<td>e) Create or contribute runoff water which would exceed the capacity of existing or planned stormwater drainage systems or provide substantial additional sources of polluted runoff?</td>
<td>☐</td>
<td>☐</td>
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<td>☐</td>
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<tr>
<td>f) Otherwise substantially degrade water quality?</td>
<td>☐</td>
<td>☐</td>
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<tr>
<td>g) Place housing within a 100-year flood hazard area as mapped on a federal Flood Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?</td>
<td>☐</td>
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<thead>
<tr>
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</table>
h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows? | ☐                             | ☐                                                 | ☐             | ☒         |
i) Expose people or structures to a significant risk of loss, injury or death involving flooding, including flooding as a result of the failure of a levee or dam? | ☐                             | ☐                                                 | ☐             | ☒         |
j) Inundation by seiche, tsunami, or mudflow?                         | ☐                             | ☐                                                 | ☐             | ☒         |

Response:

a), f) New well water quality will be ensured through compliance with Regional Water Quality Control Board (RWQCB) guidelines. Preliminary Water Quality Assessments will be completed by City staff for any proposed well sites to determine if there are any possible contaminating activities in the vicinity of the drill sites and, if there are, determine what level of risk they would pose to the water supply. At the time of drilling, risks and possible contaminates would be more clearly determined; however, all wells would be required to meet Department of Health Services (DHS) and RWQCB thresholds for safety before water from the wells could be added to the City's supply.

b) Integration of up to five new wells into the City municipal water supply system to accommodate planned City growth will not result in substantial depletion of groundwater supplies. The Porterville area is underlain by an unconfined aquifer, which is part of the Tule Sub-Basin of the San Joaquin Valley Watershed. The source of recharge for the Tule Sub-Basin is the Tule River, which crosses through the City of Porterville and has an annual runoff of 136,000 acre-feet. Given that estimated groundwater usage by the City of Porterville municipal system is approximately 7,890 acre-feet per year and that change in groundwater storage is plus 870,000 acre-feet in a wet year, negative 1,893,000 acre-feet in an average year, and negative 4,318,000 acre-feet in a dry year (Water Supply Assessment for the Riverwalk Marketplace Commercial Center Project, September 2005), recharge capacity of the Tule Sub-Basin aquifer appears adequate to accommodate the project with a less than significant impact.

c) The project will not alter drainage patterns in such a way that substantial erosion or siltation occurs. Topography of the project area is relatively flat (Porterville Quad, USGS Topo map).

d), e) The project will not result in an increase of the rate of surface runoff because it will not significantly increase impermeable ground area.

g) The project does not involve the construction of housing (Project Description).

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h) Although a small part of the project area is located within the 100-year floodplain (Figure 4), no structures would be placed in a way that would impede or redirect flood flows.

i) In the event of the failure of Success Dam, the City’s Emergency Preparedness Plan outlines evacuation routes (Safety Element to the General Plan, 1998, p.6-16).

j) The project area is not within an area subject to these hazards.
IX. LAND USE AND PLANNING - Would the project:

a) Physically divide an established community?

b) Conflict with any applicable land use plan, policy, or regulation of an agency with jurisdiction over the project (including, but not limited to the general plan, specific plan, local coastal program, or zoning ordinance) adopted for the purpose of avoiding or mitigating an environmental effect?

c) Conflict with any applicable habitat conservation plan or natural community conservation plan?

d) Would the project result in impacts to other commercial land uses within the meaning of Section 15131 of the CEQA guidelines; more specifically, will the project cause substantial physical impact on existing commercial districts including excessive vacancies, blight, relocation of existing anchor tenants to the project?

Response:

a) The proposed project area is primarily adjacent to low density residential and agricultural areas, as well as the Porterville Municipal Airport, but would not separate those areas from any other part of that community. (Project Description, Location Map, Figure 2).

b) The proposed development of a new waterline and up to five new wells will only facilitate future development as supported by the City of Porterville General Plan. (Porterville General Plan, July 1998).

c) Currently there is no Habitat Conservation or Natural Community Conservation Plan in the City. (See Response IV.f).

d) Potential socio-economic impacts will not result from development of a new waterline and up to five well sites.

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<td>X. MINERAL RESOURCES -- Would the project:</td>
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<tr>
<td>a) Result in the loss of availability of a known mineral resource that would be of value to the region and the residents of the state?</td>
<td>☐</td>
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<tr>
<td>b) Result in the loss of availability of a locally important mineral resource recovery site delineated on a local general plan, specific plan or other land use plan?</td>
<td>☐</td>
<td>☐</td>
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<td>Response:</td>
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<tr>
<td>a), b) No mineral resources are known to exist in the proposed project area. (Porterville General Plan, Conservation Element, 5-10, July 1998.)</td>
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</table>
XI. NOISE -- Would the project result in:

- a) Exposure of persons to or generation of noise levels in excess of standards established in the local general plan or noise ordinance, or applicable standards of other agencies?
  - Potentially Significant Impact: ☐
  - Less Than Significant with Mitigation Incorporation: ☒
  - Less Than Significant Impact: ☐
  - No Impact: ☐

- b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels?
  - Potentially Significant Impact: ☐
  - Less Than Significant with Mitigation Incorporation: ☐
  - Less Than Significant Impact: ☒
  - No Impact: ☒

- c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project?
  - Potentially Significant Impact: ☐
  - Less Than Significant with Mitigation Incorporation: ☐
  - Less Than Significant Impact: ☒
  - No Impact: ☐

- d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project?
  - Potentially Significant Impact: ☐
  - Less Than Significant with Mitigation Incorporation: ☒
  - Less Than Significant Impact: ☐
  - No Impact: ☐

- e) For a project located within an airport land use plan or, where such a plan has not been adopted, within two miles of a public airport or public use airport, would the project expose people residing or working in the project area to excessive noise levels?
  - Potentially Significant Impact: ☒
  - Less Than Significant with Mitigation Incorporation: ☐
  - Less Than Significant Impact: ☐
  - No Impact: ☒

- f) For a project within the vicinity of a private airstrip, would the project expose people residing or working in the project area to excessive noise levels?
  - Potentially Significant Impact: ☒
  - Less Than Significant with Mitigation Incorporation: ☐
  - Less Than Significant Impact: ☒
  - No Impact: ☐

Response:

- a), d) The project will generate some noise associated with construction of the project, including digging trenches under roadways for the waterline boring beneath Poplar Ditch, and digging and installing up to five wells. 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.

- b), c) Operation of the waterline and wells would not result in excessive groundborne vibration or groundborne noise levels, and will not result in a significant permanent increase in ambient noise levels.

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e), f) The Project would not increase exposure of excessive noise levels due to airport or air strip operations. (Porterville Municipal Airport Master Plan Report, 1990)
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<tr>
<td>a) Induce substantial population growth in an area, either directly (for example, by proposing new homes and businesses) or indirectly (for example, through extension of roads or other infrastructure)?</td>
<td>☐</td>
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<tr>
<td>b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere?</td>
<td>☐</td>
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<tr>
<td>c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere?</td>
<td>☐</td>
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**Response:**

a) Population growth will not be induced by the proposed municipal water line extension, including the addition of as many as five wells. Population growth that will be facilitated through expanded municipal water system capability has been addressed in the EIR prepared for General Plan Amendment 1-89 adopting the Urban Development Boundary, and General Plan Amendment 1-95 which modified that boundary.

b), c) No displacement of persons or housing will occur as the result of proposed project.
### XIII. PUBLIC SERVICES -- Would the project:

a) Result in substantial adverse physical impacts associated with the provision of new or physically altered governmental facilities, need for new or physically altered governmental facilities, the construction of which could cause significant environmental impacts, in order to maintain acceptable service ratios for any of the public services:

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<tr>
<td>Fire protection?</td>
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<td>Police protection?</td>
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<td>Schools?</td>
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<td>Parks?</td>
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<td>Other public facilities?</td>
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</table>

**Response:**

*The project may result in an increased demand on public services only to the extent that an increased supply of potable water facilitates future development activity. The City has planned for expansion of all public services commensurate with anticipated population growth.*
XIV. RECREATION -- Would the project:

a) Increase the use of existing neighborhood and regional parks or other recreational facilities such that substantial physical deterioration of the facility would occur or be accelerated?

b) Does the project include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

Response:

a), b) Development of the proposed municipal waterline extension and addition of as many as five wells will not have a direct impact on recreational opportunities or facilities.
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<tr>
<td>XV. TRANSPORTATION/TRAFFIC – Would the project:</td>
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<tr>
<td>a) Cause an increase in traffic which is substantial in relation to the existing traffic load and capacity of the street system (i.e., result in a substantial increase in either the number of vehicle trips, the volume to capacity ratio on roads, or congestion at intersections)?</td>
<td>☐</td>
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<tr>
<td>b) Exceed, either individually or cumulatively, a level of service standard established by the county congestion management agency for designated roads or highways?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
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</tr>
<tr>
<td>c) Result in a change in air traffic patterns, including either an increase in traffic levels or a change in location that results in substantial safety risks?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>d) Substantially increase hazards due to a design feature (e.g., sharp curves or dangerous intersections) or incompatible uses (e.g., farm equipment)?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>e) Result in inadequate emergency access?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>f) Result in inadequate parking capacity?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>g) Conflict with adopted policies, plans, or programs supporting alternative transportation (e.g., bus turnouts, bicycle racks)?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

Response:

a) - g) The proposed municipal waterline extension and addition of as many as five new wells will not have a direct impact on transportation and traffic factors. Development activity that could be facilitated by the proposed improvements and traffic/transportation issues related to such has been addressed in the EIR prepared for General Plan Amendment 1-89 which adopted the current Urban Development Boundary, and General Plan Amendment 1-95 which modified that boundary.
### XVI. UTILITIES/SERVICE SYSTEMS - Would the project:

<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) Exceed wastewater treatment requirements of the applicable Regional Water Quality Control Board?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>b) Require or result in the construction of new water or wastewater treatment facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>c) Require or result in the construction of new storm water drainage facilities or expansion of existing facilities, the construction of which could cause significant environmental effects?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>d) Have sufficient water supplies available to serve the project from existing entitlements and resources, or are new or expanded entitlements needed?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>e) Result in a determination by the wastewater treatment provider which serves or may serve the project that it has adequate capacity to serve the project's projected demand in addition to the provider's existing commitments?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>f) Be served by a landfill with insufficient permitted capacity to accommodate the project's solid waste disposal needs?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>g) Comply with federal, state, and local statutes and regulations related to solid waste?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

**Response:**

a) - g) The proposed municipal waterline extension and addition of as many as five new wells, will enhance an existing utility to accommodate planned growth of the City. The project will only impact other municipal services to the extent that said services are needed to accommodate...
planned future development of the community, which is addressed in the EIR prepared for General Plan Amendment 1-89 that adopted the current Urban Development Boundary, and General Plan Amendment 1-95 that modified that boundary.
### XVII. MANDATORY FINDINGS OF SIGNIFICANCE -- Would the project:

<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) Does the project have the potential to: substantially degrade the quality of the environment; substantially reduce the habitat of a fish or wildlife species; cause a fish or wildlife population to drop below self-sustaining levels; threaten to eliminate a plant or animal community; reduce the number or restrict the range of an endangered, rare, or threatened plant or animal species; or eliminate important examples of the major periods of California history or prehistory?</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
<td>☐</td>
</tr>
<tr>
<td>b) Does the project have impacts that are individually limited, but cumulatively considerable? (&quot;Cumulatively considerable&quot; means that the incremental effects of a project are significant when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects).</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
<td>☐</td>
</tr>
<tr>
<td>c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?</td>
<td>☐</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
<tr>
<td>d) Does the project have the potential to achieve short-term environmental goals to the disadvantage of long-term environmental goals?</td>
<td>☒</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
</tr>
</tbody>
</table>

**Response:**

a) Potential for the project to impact Swainson’s Hawks that may nest in any of the large trees on lands near the project site was identified by this Initial Study, but incorporated mitigation measures (IV a), b), d)) will reduce these impacts to a less than significant level.

b) The project will lead to increased withdrawals from the Tule Sub-Basin of the San Joaquin Valley Watershed. Recharge capacity of this aquifer is more than enough to accommodate
project withdrawals at the project level, but cumulatively will be part of all withdrawals made on the aquifer, which is estimated to be in overdraft in years of both average and below average precipitation (VIII b). Project withdrawals will represent such a small portion of overall demand on the aquifer, however, that this cumulative impact will be less than significant.

c), d) The project will not have environmental effects that will cause substantial adverse effects on human beings, and it will not achieve short-term environmental goals to the disadvantage of long-term environmental goals (project description).
APPENDICES
APPENDIX A

Reconnaissance Level Biological Survey
RECONNAISSANCE LEVEL BIOLOGICAL SURVEY

FOR THE

SOUTHWEST WATER SYSTEM

CITY OF
PORTERVILLE
CALIFORNIA

The Good Life

Prepared By:

Quad Knopf
5110 West Cypress Avenue
Visalia, California 93278
(559) 733-0440

October 2005
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   USGS 7.5-minute quadrangles .................................................................................... 3
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Appendix A Photoplates
Appendix B U.S. Fish and Wildlife Service List of Special-Status Species
INTRODUCTION

A reconnaissance-level biological survey was requested for the construction of the Southwest Water System. The City of Porterville, in order to implement the improvements outlined in the 2001 Water System Master Plan, proposes to extend approximately 41,400 linear feet of 12 inch pipeline to an area in the southwestern part of the City in the vicinity of the Porterville Municipal Airport. The project includes well exploration activities and the potential addition of up to five wells and related appurtenances within 300 feet of either side of the proposed pipeline. It will also involve crossing the Poplar Ditch, a non-jurisdictional water, by means of boring beneath the creek bed. The proposed pipeline will connect to an existing pipeline at the south side of the Tule River and an existing pipeline at the Gibbons Avenue and Indiana Street intersection. The proposed project will be constructed along the perimeter of the Porterville Airport, north on Newcomb Avenue to the existing pipeline located to the south of the Tule River, and east to the existing pipeline located at the Gibbons Avenue and Indiana Street intersection. The project area is in Sections 33 and 34 of Township 21 South and Range 27 East; and Sections 2 through 5, 8 through 11, and 15 through 17 of Township 22 South, Range 27 East in the Porterville USGS 7.5-minute quadrangle MDB & M (Figure 1).

EXISTING CONDITIONS

The proposed project area is located in a rural area of the City of Porterville. The majority of the project will be developed on agricultural or routinely disked land. Portions of the project area are located on residential land or land along the perimeter of the Porterville Municipal Airport. The northern portion of the project will cross the Poplar Ditch and will connect to an existing pipeline on the south side of the Tule River. There are two drainage basins located within the project boundaries; one is located at the southeast corner of West Street and Scranton Avenue and the other is located on the east side of West Street, just south of the Industrial Park. Attachment A provides photographs of the project area (Photoplates 1-3).
METHODOLOGY

Prior to conducting the field survey, a query of the California Department of Fish and Game Natural Diversity Data Base (CNDDB) (CDFG 2005) 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 CNDDB 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. A query of the California Native Plant Society’s Electronic Inventory (CNPS 2005) was also 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 special-status plant species. Table 1 lists the results of these reviews. Figure 2 illustrates observed locations for special-status species. As part of the database research, a species list was obtained from the U.S. Fish and Wildlife Service (USFWS) website for the Porterville USGS 7.5-minute quadrangle to provide information on additional special-status species that have the potential to occur in the vicinity of the proposed project; this list is provided in Attachment B. Please note that only those species with the potential to occur on the project site were given consideration.

Table 1
Sensitive Species Reported on the Porterville, Success Dam, Fountain Springs, Ducor, Sausalito School, Woodville, Cairns Corner, Lindsay, and Frazier Valley USGS 7.5 Minute Quadrangles

<table>
<thead>
<tr>
<th>Species</th>
<th>Habitat</th>
<th>Status</th>
<th>Potential Occurrence in project area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Animals</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Branchinecta lynchii (Vernal pool fairy shrimp)</td>
<td>Vernal pools.</td>
<td>FT</td>
<td>Absent. No habitat present.</td>
</tr>
<tr>
<td>Buteo swainsoni (Swainson’s hawk)</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>Possible. The project area is located in an agricultural setting with several large nesting trees. The species could potentially be using the land for foraging or nesting, however, none were observed during the field survey.</td>
</tr>
<tr>
<td>Desmocerus californicus dimorphis (Valley elderberry longhorn beetle)</td>
<td>Elderberry shrubs in the Sacramento and San Joaquin Valleys.</td>
<td>FT</td>
<td>Absent. No habitat present.</td>
</tr>
</tbody>
</table>

The City of Porterville Southwest Water System  
Reconnaissance-Level Biological Survey  
October 2005
<table>
<thead>
<tr>
<th>Species</th>
<th>Habitat</th>
<th>Status</th>
<th>Potential Occurrence in project area</th>
</tr>
</thead>
<tbody>
<tr>
<td>Dipodomys nitratoides nitratoides (Tipton kangaroo rat)</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>Absent. No habitat present.</td>
</tr>
<tr>
<td>Gymnogyps californianus (California condor)</td>
<td>Requires vast expanses of open savannah, grasslands, and foothill chaparral in mountain ranges of moderate altitude. Deep canyons containing clefts in the rocky walls provide nesting sites.</td>
<td>FE, MBTA, CE</td>
<td>Unlikely. The project area could potentially provide foraging and nesting opportunities for this species; however, this species has not been observed in this region for a number of years.</td>
</tr>
<tr>
<td>Lytta molest (Molestan blister beetle)</td>
<td>Inhabits the Central Valley, from Contra Costa to Kern and Tulare Counties.</td>
<td>---</td>
<td>Unlikely. Not reported in the area for many years. Project site is located on disturbed lands.</td>
</tr>
<tr>
<td>Perognathus inornatus inornatus (San Joaquin pocket mouse)</td>
<td>Typically found in grasslands and blue oak savannahs. Requires friable soils.</td>
<td>---</td>
<td>Absent. No habitat present.</td>
</tr>
<tr>
<td>Rana boyli (Foothill yellow-legged frog)</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>Absent. No habitat present.</td>
</tr>
<tr>
<td>Spea hammondii (Western spadefoot)</td>
<td>Vernal pools and other wet areas within grasslands.</td>
<td>CSC</td>
<td>Absent. No habitat present.</td>
</tr>
<tr>
<td>Vulpes macrotus mutica (San Joaquin kit fox)</td>
<td>Chenopod scrub, grasslands, sometimes forage in agricultural areas. Requires a suitable prey base.</td>
<td>FE, CT</td>
<td>Unlikely. Area is highly disturbed, open areas are disked or actively cultivated, and no potential dens observed during field survey.</td>
</tr>
<tr>
<td>Plants</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Atriplex cordulata (Heartscale)</td>
<td>Alkaline flats and scalds with sandy soils, within chenopod scrub, grasslands, and meadows.</td>
<td>1B</td>
<td>Absent. No habitat present. The project site is located on highly disturbed lands.</td>
</tr>
<tr>
<td>Atriplex erecticaulis (Earlimart orache)</td>
<td>Grasslands.</td>
<td>1B</td>
<td>Absent. No habitat present. The project site is located on highly 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><em>Atriplex persistens</em></td>
<td>Vernal pools.</td>
<td>1B</td>
<td><em>Absent</em>. No habitat present. The project site is located on highly disturbed lands.</td>
</tr>
<tr>
<td><em>(Vernal pool smallscale)</em></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>Atriplex subtilis</em></td>
<td>Grasslands.</td>
<td>1B</td>
<td><em>Absent</em>. No habitat present. The project site is located on highly disturbed lands.</td>
</tr>
<tr>
<td><em>(Subtle orache)</em></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>Caulanthus californicus</em></td>
<td>Sandy soils within chenopod scrub, pinyon and juniper woodland, and grasslands.</td>
<td>FE, CE, 1B</td>
<td><em>Absent</em>. No habitat present. The project site is located on highly disturbed lands.</td>
</tr>
<tr>
<td><em>(California jewel-flower)</em></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>Delphinium recurvatum</em></td>
<td>Alkaline soils in chenopod scrub, cismontane woodlands, and grasslands.</td>
<td>1B</td>
<td><em>Absent</em>. No habitat present. The project site is located on highly disturbed lands.</td>
</tr>
<tr>
<td><em>(Recurved larkspur)</em></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>Eryngium spinosepalum</em></td>
<td>Vernal pools, depressions within grasslands.</td>
<td>1B</td>
<td><em>Absent</em>. No habitat present. The project site is located on highly disturbed lands.</td>
</tr>
<tr>
<td><em>(Spiny-sepaled button-celery)</em></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>Fritillaria striata</em></td>
<td>Cismontane woodland, grasslands with heavy clay adobe soils.</td>
<td>CT, 1B</td>
<td><em>Absent</em>. No habitat present. The project site is located on highly disturbed lands.</td>
</tr>
<tr>
<td><em>(Striped adobe-lily)</em></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>Linanthus serrulatus</em></td>
<td>Dry slopes, often on decomposed granite in cismontane woodlands or lower montane coniferous forests.</td>
<td>1B</td>
<td><em>Absent</em>. No habitat present. The project site is located on highly disturbed lands.</td>
</tr>
<tr>
<td><em>(Madera linanthus)</em></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>Mimulus pictus</em></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><em>Absent</em>. No habitat present. The project site is located on highly disturbed lands.</td>
</tr>
<tr>
<td><em>(Calico monkeyflower)</em></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>Pseudobahita peirsonii</em></td>
<td>Adobe clay soils within foothill woodlands and grasslands.</td>
<td>FT, CE, 1B</td>
<td><em>Absent</em>. No habitat present. The project site is located on highly disturbed lands.</td>
</tr>
<tr>
<td><em>(San Joaquin adobe sunburst)</em></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td><em>Sidalcea keckii</em></td>
<td>Grassy slopes in blue oak woodlands and grasslands.</td>
<td>FE, 1B</td>
<td><em>Absent</em>. No habitat present. The project site is located on highly disturbed lands.</td>
</tr>
<tr>
<td><em>(Keck’s checkerbloom)</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>Natural Vegetation Communities of Concern</td>
<td>Absent</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Northern Claypan Vernal Pool</td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Sycamore Alluvial Woodland</td>
<td></td>
<td>Absent</td>
<td></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
IB  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, 2005  California Natural Diversity Data Base, California Department of Fish and Game, Sacramento, CA
California Native Plant Society  2005  Inventory of Rare and Endangered Plants of California (online edition, v6-04b)  Rare Plant Scientific Advisory Committee  California Native Plant Society  Sacramento, CA  http://www.cnps.org/inventory

Potential Occurrence Definitions:
Present:  Species or sign of their presence observed on the sites at time of field surveys.
Likely:  Species not observed on the sites, but may reasonably be expected to occur there on a regular basis.
Possible:  Species not observed on the sites, but could occur there from time to time.
Unlikely:  Species not observed on the sites, and would not be expected to occur there except, perhaps, as a transient.
Absent:  Species or sign of their presence not observed on the sites, and precluded from occurring there because habitat requirements not met.
Lastly, a query of the USFWS National Wetland Inventory (NWI) Map for the Porterville USGS 7.5-minute quadrangle was conducted for information regarding known wetlands in the project area (Figure 3).

On September 13, 2005, Quad Knopf, Inc. biologist, Jacquelyn Neuffer conducted a reconnaissance level biological survey to determine whether special-status plant and animal species or their habitats exist in the project areas. A map with the proposed pipeline location was identified and a 300 foot buffer zone was created prior to conducting the field survey. The project area was surveyed by vehicle and areas of concern were surveyed by foot. Special effort was made to identify San Joaquin kit fox (*Vulpes macrotis mutica*) sign of presence (e.g., scat, tracks, dens, prey remains, etc.) and blue elderberry (*Sambucus mexicana*) in the project area.

**RESULTS**

A review of the CNPS and CNDDB query indicated that ten special-status animal species, twelve special-status plant species, and two natural vegetation communities of concern have been reported for the Porterville and eight surrounding quadrangles; however, no special-status animal or plant species or their habitats were observed in the project area (Table 2).

<table>
<thead>
<tr>
<th>Scientific Name</th>
<th>Common Name</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Avena fatua</em></td>
<td>wild oat</td>
</tr>
<tr>
<td><em>Avena sativa</em></td>
<td>cultivated oats</td>
</tr>
<tr>
<td><em>Bromus diandrus</em></td>
<td>ripgut brome</td>
</tr>
<tr>
<td><em>Casuarina equisetifolia</em></td>
<td>Australian pine</td>
</tr>
<tr>
<td><em>Claytonia perfoliata</em></td>
<td>miner’s lettuce</td>
</tr>
<tr>
<td><em>Hordeum murinum ssp. leporinum</em></td>
<td>wild barley</td>
</tr>
<tr>
<td><em>Populus fremontii</em>’s</td>
<td>Fremont cottonwood</td>
</tr>
<tr>
<td><em>Lactuca serriola</em></td>
<td>prickly lettuce</td>
</tr>
<tr>
<td><em>Medicago sativa</em></td>
<td>Alfalfa</td>
</tr>
<tr>
<td><em>Washingtonia filifera</em></td>
<td>California fan palm</td>
</tr>
</tbody>
</table>

**Animals**

<table>
<thead>
<tr>
<th>Scientific Name</th>
<th>Common Name</th>
</tr>
</thead>
<tbody>
<tr>
<td><em>Corvus brachyrhynchos</em></td>
<td>American crow</td>
</tr>
<tr>
<td><em>Corvus corax</em></td>
<td>raven</td>
</tr>
<tr>
<td><em>Euphagus cyanoccephalus</em></td>
<td>brewers blackbird</td>
</tr>
<tr>
<td><em>Cyprinidae family</em></td>
<td>shiner</td>
</tr>
</tbody>
</table>

Source: Quad Knopf, Inc. reconnaissance level field survey conducted on September 13, 2005
No sign (e.g., tracks, scat, dens, prey remains, etc.) of San Joaquin kit fox presence was observed during the field survey. The project site is not identified in the *Recovery Plan for Upland Species of the San Joaquin Valley, California* (USFWS 1998), as an area of connectivity or linkage between meta populations of San Joaquin kit fox. Furthermore, the proposed project site is not identified as an area of critical importance to the recovery of the San Joaquin kit fox in the Valley.

The Poplar Ditch, a non-jurisdictional water, flows under Newcomb Avenue, in the northern portion of the project area. Riparian vegetation was observed to the west and a residence with agriculture surrounded the ditch to the east. A number of cyprinids (family *Cyprinidae*) were observed swimming in the ditch.

There were no nests for raptors or other special-status birds observed during the field survey; however, the project area does have a number of large trees that could provide nesting for raptors and migratory bird species. Bird species observed during the field survey included numerous house sparrows (*Passer domesticus*), American crows (*Corvus brachyrhynchos*), ravens (*Corvus corax*) and brewers blackbirds (*Euphagus cyanocephalus*). A complete list of animals and plants observed in and around the project site are provided in Table 2.

The NWI Map query illustrated one wetland area located within the project site; it is described as Palustrine Unconsolidated Bottom Semipermanently Flooded Excavated (PUBFx) (Figure 3). This area is identified as a drainage basin.

**IMPACTS**

Because the proposed project site is in an area that is surrounded by both an airport, and highly disturbed agricultural land with portions that have been routinely disked for a number of years, the project site provides limited opportunities for special-status species to utilize the property. In addition, the project will not remove a significant amount of foraging area or habitat for sensitive species since well exploration and future wells will remain with 300 feet of either side of the proposed 12-inch pipeline. Therefore, the potential for the project to impact special-status species is likely very low. Finally, Poplar Ditch will not be impacted by this project since the proposed pipeline will be bored under the ditch. As proposed, no impacts to Poplar Ditch are anticipated.

**Swainson’s Hawk & Other Avian Predators**

Several nest trees for Swainson’s hawks were observed on the project site. The CNDDB review indicated a known nest site approximately 12 miles south of the City of Visalia. Therefore, it is reasonable to conclude that there is a potential for nesting Swainson’s hawks to be present within 10 miles of the project area. The 10-mile radius standard is the flight distance between active nest sites (used during one or more of the last 5 years) and suitable foraging habitats, as documented in telemetry studies identified in the *Staff Report regarding Mitigation for Impacts to Swainson’s Hawks (Buteo swainsoni) in the Central Valley of California* (CDFG 1994). Because project construction will remain
within 300 feet from either side of a 12-inch pipeline, the project would not impact any foraging habitat for this species. However, project construction activities, especially heavy equipment operations could potentially impact Swainson’s hawks that may nest in any of the large trees on lands near the project site.

RECOMMENDATIONS

Swainson’s Hawk & Other Avian Predators

A pre-construction nest survey for avian predators and other resident and migratory birds should be conducted prior to project construction if any heavy equipment operations are to occur during the breeding season (February 15 through September 15). The survey should include all large trees on the project site and all large trees on adjacent lands. If any occupied nests are observed, heavy equipment operations should be minimized or avoided until the young have fledged and nesting has ceased. If this is not feasible, the USFWS (and CDFG, if State-listed species, e.g., Swainson’s hawk are involved) would need to be contacted for guidance on how to proceed. The USFWS would prescribe specific mitigation dependant upon the particular species involved and the manner in which heavy equipment operations are to be conducted.
LITERATURE CITED

California Department of Fish and Game. 2004. California Natural Diversity Data Base, California Department of Fish and Game, Sacramento, CA.


Photograph 1: Looking south from the Gibbons Avenue and Indiana Street intersection.

Photograph 2: Looking southeast at Indiana Street and Scranton Avenue intersection.

Photograph 3: Looking northwest from the Scranton Avenue and Newcomb Street intersection.
Photograph 4: Looking west at the Newcomb Street and Scranton Avenue intersection.

Photograph 5: Looking west along Scranton Avenue. The airport is located south.

Photograph 6: Looking east along Teapot Dome Avenue. The airport is located to the north.
Photograph 7: Looking north along Newcomb Street. The airport is located to the west.

Photograph 8: Looking east at Poplar Ditch from Newcomb Street.

Photograph 9: Looking west at Poplar Ditch from Newcomb Street.

Quad Knopf

Photoplate

3
ATTACHMENT B

U.S. FISH AND WILDLIFE SERVICE LIST OF SPECIAL-STATUS SPECIES
Federal Endangered and Threatened Species that Occur in or may be Affected by Projects in the PORTERVILLE (310D) U.S.G.S. 7 1/2 Minute Quad

Database Last Updated: August 22, 2005

Document Number: 050922123907

Listed Species

**Invertebrates**

*Branchinecta lynchii* - vernal pool fairy shrimp (T)

*Desmocerus californicus dimorphus* - valley elderberry longhorn beetle (T)

**Fish**

*Hypomesus transpacificus* - delta smelt (T)

**Amphibians**

*Rana aurora draytonii* - California red-legged frog (T)

**Reptiles**

*Gambelia (=Crotaphytus) siicola* - blunt-nosed leopard lizard (E)

*Thamnophis gigas* - giant garter snake (T)

**Birds**

*Haliaeetus leucocephalus* - bald eagle (T)

**Mammals**

*Dipodomys nitratoides nitratoides* - Tipton kangaroo rat (E)

*Vulpes macrotes mutica* - San Joaquin kit fox (E)

**Plants**

*Pseudobahia peirsonii* - San Joaquin adobe sunburst (T)
Species of Concern

**Invertebrates**

*Cicindela tranquebarica ssp.* - San Joaquin tiger beetle (SC)

*Linderiella occidentalis* - California linderiella fairy shrimp (SC)

*Lytta molestia* - molestan blister beetle (SC)

**Fish**

*Lampetra hubbsi* - Kern brook lamprey (SC)

*Pogonichthys macrolepidotus* - Sacramento splittail (SC)

*Spirinchus thaleichthys* - longfin smelt (SC)

**Amphibians**

*Rana boylii* - foothill yellow-legged frog (SC)

*Spea hammondii (was Scaphiopus h.)* - western spadefoot toad (SC)

**Reptiles**

*Anniella pulchra pulchra* - silvery legless lizard (SC)

*Clemmys marmorata marmorata* - northwestern pond turtle (SC)

*Clemmys marmorata pallida* - southwestern pond turtle (SC)

*Masticophis flagellum ruddocki* - San Joaquin coachwhip (=whipsnake) (SC)

*Phrynosoma coronatum frontale* - California horned lizard (SC)

**Birds**

*Agelaius tricolor* - tricolored blackbird (SC)

*Athene cunicularia hypugaea* - western burrowing owl (SC)

*Branta canadensis leucopareia* - Aleutian Canada goose (D)

*Buteo regalis* - ferruginous hawk (SC)

*Buteo swainsoni* - Swainson's hawk (CA)
Calypte costae - Costa’s hummingbird (SC)

Carduelis lawrencei - Lawrence’s goldfinch (SC)

Chaetura vauxi - Vaux’s swift (SC)

Cypseloides niger - black swift (SC)

Elanus leucurus - white-tailed (=black shouldered) kite (SC)

Empidonax traillii brewsteri - little willow flycatcher (CA)

Falco peregrinus anatum - American peregrine falcon (D)

Grus canadensis tabida - greater sandhill crane (CA)

Lanius ludovicianus - loggerhead shrike (SC)

Melanerpes lewis - Lewis’ woodpecker (SC)

Numenius americanus - long-billed curlew (SC)

Picoides nuttallii - Nuttall’s woodpecker (SLC)

Plegadis chihi - white-faced ibis (SC)

Selasphorus rufus - rufous hummingbird (SC)

**Mammals**

Ammospermophilus nelsoni - San Joaquin (=Nelson’s) antelope squirrel (CA)

Corynorhinus (=Plecotus) townsendii townsendii - Pacific western big-eared bat (SC)

Euderma maculatum - spotted bat (SC)

Eumops perotis californicus - greater western mastiff-bat (SC)

Myotis ciliolabrum - small-footed myotis bat (SC)

Myotis thysanodes - fringed myotis bat (SC)

Myotis volans - long-legged myotis bat (SC)

Myotis yumanensis - Yuma myotis bat (SC)

Onychomys torridus ramona - Southern grasshopper mouse (SC)

Onychomys torridus tularensis - Tulare grasshopper mouse (SC)
Perognathus inornatus - San Joaquin pocket mouse (SC)

Plants

Fritillaria striata - Greenhorn adobe-lily (CA)

Mimulus pictus - calico monkeyflower (SC)

Key:

- (E) Endangered - Listed (in the Federal Register) as being in danger of extinction.
- (T) Threatened - Listed as likely to become endangered within the foreseeable future.
- (P) Proposed - Officially proposed (in the Federal Register) for listing as endangered or threatened.
- (NMFS) Species under the Jurisdiction of the National Marine Fisheries Service. Consult with them directly about these species.
- Critical Habitat - Area essential to the conservation of a species.
- (PX) Proposed Critical Habitat - The species is already listed. Critical habitat is being proposed for it.
- (C) Candidate - Candidate to become a proposed species.
- (CA) Listed by the State of California but not by the Fish & Wildlife Service.
- (D) Delisted - Species will be monitored for 5 years.
- (SC) Species of Concern (SLC) Species of Local Concern - Other species of concern to the Sacramento Fish & Wildlife Office.
- (X) Critical Habitat designated for this species.

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**Important Information About Your Species List**

**How We Make Species Lists**

We store information about endangered and threatened species lists by U.S. Geological Survey 7½ minute quads. The United States is divided into these quads, which are about the size of San Francisco.

The animals on your species list are ones that occur within, or may be affected by projects within, the quads covered by the list.

- Fish and other aquatic species appear on your list if they are in the same watershed as your quad or if water use in your quad might affect them.
- Amphibians will be on the list for a quad or county if pesticides applied in that area may be carried to their habitat by air currents.
- Birds are shown regardless of whether they are resident or migratory. Relevant birds on the county list should be considered regard-less of whether they appear on a quad list.
Plants

Any plants on your list are ones that have actually been observed in the quad or quads covered by the list. Plants may exist in an area without ever having been detected there. You can find out what’s in the nine surrounding quads through the California Native Plant Society’s online Inventory of Rare and Endangered Plants.

Surveying

Some of the species on your list may not be affected by your project. A trained biologist or botanist, familiar with the habitat requirements of the species on your list, should determine whether they or habitats suitable for them may be affected by your project. We recommend that your surveys include any proposed and candidate species on your list.

For plant surveys, we recommend using the Guidelines for Conducting and Reporting Botanical Inventories. The results of your surveys should be published in any environmental documents prepared for your project.

State-Listed Species

If a species has been listed as threatened or endangered by the State of California, but not by us nor by the National Marine Fisheries Service, it will appear on your list as a Species of Concern. However you should contact the California Department of Fish and Game Wildlife and Habitat Data Analysis Branch for official information about these species.

Your Responsibilities Under the Endangered Species Act

All plants and animals identified as listed above are fully protected under the Endangered Species Act of 1973, as amended. Section 9 of the Act and its implementing regulations prohibit the take of a federally listed wildlife species. Take is defined by the Act as "to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect" any such animal.

Take may include significant habitat modification or degradation where it actually kills or injures wildlife by significantly impairing essential behavioral patterns, including breeding, feeding, or shelter (50 CFR §17.3).

Take incidental to an otherwise lawful activity may be authorized by one of two procedures:

- If a Federal agency is involved with the permitting, funding, or carrying out of a project that may result in take, then that agency must engage in a formal consultation with the Service.

  During formal consultation, the Federal agency, the applicant and the Service work together to avoid or minimize the impact on listed species and their habitat. Such consultation would result in a biological opinion by the Service addressing the anticipated effect of the project on listed and proposed species. The opinion may authorize a limited level of incidental take.

- If no Federal agency is involved with the project, and federally listed species may be taken as part of the project, then you, the applicant, should apply for an incidental take permit. The Service may
issue such a permit if you submit a satisfactory conservation plan for the species that would be affected by your project.

Should your survey determine that federally listed or proposed species occur in the area and are likely to be affected by the project, we recommend that you work with this office and the California Department of Fish and Game to develop a plan that minimizes the project’s direct and indirect impacts to listed species and compensates for project-related loss of habitat. You should include the plan in any environmental documents you file.

**Critical Habitat**

When a species is listed as endangered or threatened, areas of habitat considered essential to its conservation may be designated as critical habitat. These areas may require special management considerations or protection. They provide needed space for growth and normal behavior; food, water, air, light, other nutritional or physiological requirements; cover or shelter; and sites for breeding, reproduction, rearing of offspring, germination or seed dispersal.

Although critical habitat may be designated on private or State lands, activities on these lands are not restricted unless there is Federal involvement in the activities or direct harm to listed wildlife.

If any species has proposed or designated critical habitat within a quad, there will be a separate line for this on the species list. Boundary descriptions of the critical habitat may be found in the Federal Register. The information is also reprinted in the Code of Federal Regulations (50 CFR 17.95). See our [critical habitat](#) page for maps.

**Candidate Species**

We recommend that you address impacts to candidate species. We put plants and animals on our candidate list when we have enough scientific information to eventually propose them for listing as threatened or endangered. By considering these species early in your planning process you may be able to avoid the problems that could develop if one of these candidates was listed before the end of your project.

**Species of Concern**

Your list may contain a section called Species of Concern. This is an informal term that refers to those species that the Sacramento Fish and Wildlife Office believes might be in need of concentrated conservation actions. Such conservation actions vary depending on the health of the populations and degree and types of threats. At one extreme, there may only need to be periodic monitoring of populations and threats to the species and its habitat. At the other extreme, a species may need to be listed as a Federal threatened or endangered species. Species of concern receive no legal protection and the use of the term does not necessarily mean that the species will eventually be proposed for listing as a threatened or endangered species.

**Wetlands**

If your project will impact wetlands, riparian habitat, or other jurisdictional waters as defined by section 404 of the Clean Water Act and/or section 10 of the Rivers and Harbors Act, you will need to obtain a permit from the U.S. Army Corps of Engineers. Impacts to wetland habitats require site specific mitigation and monitoring. For questions regarding wetlands, please contact Mark Littlefield of this office at (916) 414-6580.
Updates

Our database is constantly updated as species are proposed, listed and delisted. If you address proposed, candidate and special concern species in your planning, this should not be a problem. However, we recommend that you get an updated list every 90 days. That would be December 21, 2005.
Appendix B

Cultural Resources Records Search
September 13, 2005

Gregory Martin
Quad Knopf
PO Box 3699
Visalia CA 93278

Re: Cultural Resources Records Search for the project titled “Southwest Water System Extension,” for land in Sections 33 and 34, T21S, R27E, and Sections 2, 3, 4, 5, 8, 9, 10, 11, 15, 16, 17, T22S, R27E, of the Porterville, CA, 7.5' USGS Topographic Quadrangle, on behalf of the City of Porterville

Dear Mr. Martin:

Per your request, a cultural resources records search (RS No. 05-496; CAR Project No. 05-47) was conducted for the above-referenced project on September 13, 2005 at the Southern San Joaquin Valley Historical Resources Information Center at California State University, Bakersfield, by myself. The purpose of this records search is for the City of Porterville and encompasses 300 feet either side of approximately 41,400 linear feet of city streets.

The results of the records search indicate that eight cultural resource studies have been conducted directly on the subject property, or within about a half mile of the property. No cultural resources have been reported on the subject property or within about a half-mile radius of the subject property.

There are no known cultural resources within the subject property or within a half-mile radius that are listed in the National Register of Historic Places, the California Register of Historical Resources, California Points of Interest, California Inventory of Historic Resources, or the California State Historic Landmarks.

As noted above, there are no recorded cultural resources within the subject property, and it is not known if resources exist there. In addition, no cultural resource survey has been conducted on the subject property or within about a half mile of the project area. As such, the possibility remains that resources exist there, and as such, further investigation may be warranted.
The invoice for this records search is enclosed. If you have any further questions or concerns, please feel free to contact me at 661-654-6161 or by email at rorfila@csub.edu.

Sincerely,

[Signature]

Rebecca S. Orfila, M.A., RPA
Senior Staff Archaeologist
NOTICE OF INTENT TO ADOPT A NEGATIVE DECLARATION

To:                             
                                
(Agency)                       
                                
(Address)                      

Subject: Notice of Intent to Adopt a Mitigated Negative Declaration

Lead Agency: City of Porterville  
(City of Porterville)          
(Agency Name)                  
                                 
City Hall, 291 N. Main Street   
(City Hall, 291 N. Main Street)  
(Street Address)               
                                 
Porterville, CA 93257           
(Porterville, CA 93257)         
(City/State/Zip)                
                                 
Bradley D. Dunlap, AICP         
(Bradley D. Dunlap, AICP)       
(Contact)                      
                                 
Consulting Firm (if applicable): Quad Knopf, Inc.  
(Quad Knopf, Inc.)              
(Firm Name)                     
                                 
5110 W. Cypress Avenue         
(5110 W. Cypress Avenue)       
(Street Address)               
                                 
Visalia, CA 93277               
(Visa1ia, CA 93277)             
(City/State/Zip)                
                                 
Stephen J. Peck, AICP           
(Stephen J. Peck, AICP)         
(Principal Planner)            
                                 
Community Development Director   
(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 20 days after receipt of this notice.

Opportunity for Comments: This Notice of Intent and Initial Study will be circulated for a period of 20 days starting on November 3, 2005 and ending on November 23, 2005.

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 Airport Water Inter-tie and Well System Improvements Project

Project Location: City of Porterville Tulare County
(City-nearest) (County)

Project Description: (brief)

The City of Porterville, in order to implement the improvements outlined in the 2001 Water System Master Plan, proposes to extend approximately 33,920 linear feet of 12" diameter waterline and 1,310 linear feet of 16" water main to an area in the southwestern part of the City in the vicinity of the airport. The project includes well exploration activities and the potential addition of up to five wells and related appurtenances within 300 feet of either side of the pipeline. It will also involve crossing a non-jurisdictional water—Poplar Ditch—by means of boring beneath the creek bed.

Date 11/1/05

Signature

Title COMMUNITY DEVELOPMENT DIR.

Telephone 559-782-7460

ATTACHMENT
ITEM NO. 3
San Joaquin Valley
Air Pollution Control District

November 14, 2005

Bradley Dunlap
Community Development
City of Porterville
291 N Main Street
Porterville, CA 93257

Subject: Initial Study and Intent to Adopt a Mitigated Negative Declaration,
City of Porterville Southwest Water System Extension

Dear Mr. Dunlap,

The San Joaquin Valley Unified Air Pollution Control District (District) has reviewed the project referenced above and offers the following comments:

The entire San Joaquin Valley Air Basin is designated non-attainment for ozone and particulate matter (PM10 and PM2.5). This project would contribute to the overall decline in air quality due to construction emissions. In the short term, the project will increase traffic and generate pollutants from mobile sources.

The IS/MND, page 13, Air Quality states: "No Impact", but further states: "The addition of 41,400 linear feet of 12" water main and up to five new wells ... will not have a significant, direct, permanent impact on air quality. Minor air quality impacts will result from project construction activities such as excavation and exhaust from equipment and vehicles, but these impacts will be temporary and less than significant." The IS/MND, page 14, references "General Plan Amendment 1-89 and the Final EIR approved for said action" and "General Plan Amendment 1-95 and the final EIR approved for said action". The City of Porterville, as Lead Agency on this project, must determine if the General Plan contains enough project-specific information to accurately assess the environmental impacts associated with this development project. Typically, a General Plan does not contain project-specific information, and acts as a general policy document. Projects developed under the General Plan usually require additional environmental review as site-specific information is developed. The District concurs that the potential impacts identified in the Initial Study are less than significant with mitigation incorporation.

Based on the information provided, the proposed project will be subject to the following District rules. The following items are rules that have been adopted by the District to reduce emissions throughout the San Joaquin Valley, and are required. This project may be subject to additional District Rules. To identify additional rules or regulations that apply to this project, or for further information, the City or its contractor is strongly encouraged to contact the District’s Small Business Assistance Office at (559) 230-5888. Current District rules can be found at http://www.valleyair.org/rules/1ruleslist.htm.

Regulation VIII (Fugitive PM10 Prohibitions)- Regulation VIII (Rules 8011-8081) is a series of rules designed to reduce PM10 emissions (predominantly dust/dirt) generated by human activity, including construction and demolition activities, road construction, bulk materials storage, paved and unpaved roads, carryout and track out, etc. The District’s compliance assistance bulletin for construction sites can be found at: http://www.valleyair.org/busind/comply/PM10/Reg%20VIII%20CAB.pdf

If a non-residential project is 6.0 or more acres in area or will include moving, depositing, or relocating more than 2,500 cubic yards per day of bulk materials on at least three days, a Dust Control Plan must be submitted as specified in Section 6.3.1 of Rule 8021.
If a non-residential site is 1.0 to less than 5.0 acres, the City or its contractor must provide written notification to the District at least 48 hours prior to their intent to begin any earthmoving activities as specified in Section 6.4.2 of Rule 8021. A template of the District’s Construction Notification Form is available at: http://www.valleymd.org/busind/comply/PM10/forms/Reg%20VIII%20Notification%20-%2011-17-2004.pdf.

The project may be subject to provisions within Rule 8021 (Construction, Demolition, Excavation, Extraction and Other Earthmoving Activities), Rule 8031 (Bulk Materials), Rule 8041 (Carryout and Trackout), Rule 8051 (Open Areas), Rule 8061 (Paved and Unpaved Roads), and Rule 8071 (Unpaved Vehicle/Equipment Traffic Areas). Rule 8061 places new thresholds and requirements on limiting Visible Dust Emissions (VDE) from unpaved road segments. Rule 8071 also contains new thresholds and requirements. Regulation VIII rules can be found at http://www.valleymd.org/rules/1ruleslist.htm. Compliance questions should be directed to the District’s Compliance Division at (559) 230-5950 or (800) 870-1037.

**Rule 3135** (Dust Control Plan Fee) The District Governing Board recently approved Rule 3135 – Dust Control Plan Fee, which will require the applicant to submit a fee in addition to a Dust Control Plan. The purpose of this fee is to recover the District’s cost for reviewing these plans and conducting compliance inspections. Information on the fee and a Dust Control Plan template are available at the following District website: http://www.valleymd.org/busind/comply/PM10/compliance_PM10.htm

**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 4103** (Open Burning) regulates the use of open burning and specifies the types of materials that may be open burned. Agricultural material shall not be burned when the land use is converting from agriculture to non-agricultural purposes (e.g., commercial, industrial, institutional, or residential uses). Section 5.1 of this rule prohibits the burning of trees and other vegetative (non-agricultural) material whenever the land is being developed for non-agricultural purposes. In the event that the project applicant burned or burns agricultural material, it would be in violation of Rule 4103 and be subject to District enforcement action.

As of May 1, 1994, all portable emission units (including portable drilling rigs) are required to register with the District or the California Air Resources Board. Should this project require the installation of an air stripping operation, and/or an auxiliary diesel or natural gas engine greater than fifty (50) brake horse power, application for an Authority to Construct may be required. Any questions pertaining to District permitting or registration requirements should be directed to our Permit Services division at (559) 230-6000.

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 or its contractor is strongly encouraged to contact the District’s Small Business Assistance Office at (559) 230-5888.

The District encourages innovation in measures to reduce air quality impacts. There are a number of features that could be incorporated into the design/operation of this project to provide additional reductions of the overall level of emissions. (Note: Some of the measures may already exist as City development standards. Any measure selected should be implemented to the fullest extent possible.) The suggestions listed below should not be considered all-inclusive and remain options that the agency with the land-use authority should consider for incorporation into the project.

- The District encourages the applicant and fleet operators using the facility to take advantage of the District’s Heavy-Duty Engine program to reduce project emissions. The Heavy Duty program provides incentives for the replacement of older diesel engines with new, cleaner, fuel-efficient diesel engines.
The program also provides incentives for the re-power of older, heavy-duty trucks with cleaner diesel engines or alternative fuel engines. New alternative fuel heavy-duty trucks also qualify. For more information regarding this program, contact the District at (559) 230-5858 or visit our website at http://www.valleyair.org/transportation/heavydutyidx.htm.

- The City or its contractor should require that all diesel engines be shut off when not in use on the premises to reduce emissions from idling.

- Diesel equipment should use verified alternative diesel fuel blends or Ultra Low Sulfur Diesel (ULSD). The California Air Resources Board (CARB) has verified specific alternative diesel fuel blends for NOx and PM emission reduction. Only fuels that have been certified by CARB should be used. For more information on alternative diesel blends, please call Mr. Chris Acree, Senior Air Quality Specialist, at (559) 230-5829. Information on biodiesel can also be found at CARB’s website http://www.arb.ca.gov/fuels/diesel/aldiealtdiealtdie.htm and the EPA’s website http://www.epa.gov/oms/models/biodis.htm.

- Enhanced construction activity mitigation measures include:
  - Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent
  - Limit area subject to excavation, grading, and other construction activity at any one time
  - Limit the hours of operation of heavy duty equipment and/or the amount of equipment in use
  - Replace fossil-fueled equipment with electrically driven equivalents (provided they are not run via a portable generator set)
  - Curtail construction during periods of high ambient pollutant concentrations; this may include ceasing of construction activity during the peak-hour of vehicular traffic on adjacent roadways, and “Spare the Air Days” declared by the District.
  - Implement activity management (e.g. rescheduling activities to reduce short-term impacts)
  - During the smog season (May through October), lengthen the construction period to minimize the number of vehicles and equipment operating at the same time.
  - Off road trucks should be equipped with on-road engines when possible.
  - Minimize obstruction of traffic on adjacent roadways.

- Construction equipment should have engines that meet the current off-road engine emission standard (as certified by the CARB), or be re-powered with an engine that meets this standard. Tier I and Tier II engines have significantly less NOx and PM emissions compared to uncontrolled engines. To find engines certified by the CARB, 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.

District staff is available to meet with you and/or the applicant to further discuss the regulatory requirements that are associated with this project. If you have any questions or require further information, please call me at (559) 230-5800 or Mr. Hector R. Guerra, Senior Air Quality Planner, at (559) 230-5820 and provide the reference number at the top of this letter.

Sincerely,

Georgia A Stewart
Air Quality Specialist
Central Region

C: File
November 17, 2005

City of Porterville  
Attn: Bradley Dunlap  
291 N. Main Street  
Porterville, CA 93257

Subject: City of Porterville Airport Water Inter-tie and Well System Improvements Project

Dear Mr. Dunlap:

The subject project’s initial study has been reviewed by Tulare County Resource Management Agency. Any construction within county road rights-of-way will require an encroachment permit issued by the Resource Management Agency.

Should you have any questions or require additional information, please do not hesitate to contact the undersigned at 733-6291.

Yours very truly,

Craig Anderson, P.E.  
Engineer III
RESOLUTION NO. ___________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS IN SUPPORT OF APPROVAL OF A NEGATIVE DECLARATION OF ENVIRONMENTAL IMPACT FOR THE AIRPORT WATER INTER-TIE AND WELL SYSTEM IMPROVEMENTS PROJECT.

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of December 6, 2005, conducted a public hearing to consider approval of the Airport Water Inter-tie and Well System Improvements Project and

WHEREAS: On November 1, 2005, the Environmental Coordinator made a preliminary determination that a Mitigated Negative Declaration would be appropriate for the proposed project; and

WHEREAS: The City Council considered the following findings in its review of the environmental circumstances for this project:

1. That a Negative Declaration was prepared for the project in accordance with the California Environmental Quality Act.

2. That the Negative Declaration prepared for this project was made available for public review and comment. The 20 day review period was from November 3, 2005 to November 23, 2005. The only agencies that responded were the San Joaquin Valley Air Pollution Control District and the Tulare County Resource Management Agency.

3. That the proposed project will not create adverse environmental impacts.

The proposed Negative Declaration was evaluated in light of the prepared environmental initial study and comments from interested parties received during the review period. It was determined that potential impacts associated with the proposed project could be mitigated to a less than significant level through the implementation of the attached mitigation measures.

4. That the City Council is the decision-making body for the project.

5. That the mitigation measures contained in the Negative Declaration were incorporated into a Mitigation Monitoring Program attached hereto as Attachment "A"

6. That review of the environmental circumstances regarding this project indicates that no adverse impacts would accrue to wildlife resources from implementation of the project.
7. That the project will be reviewed by the State Department of Fish and Game to determine whether the project qualifies for a finding of De minimis impact. The project mitigation measures result in the potentially significant impacts being mitigated to a level of insignificance.

8. That the environmental assessment and analysis prepared for this project supporting the Negative Declaration reflects the independent judgment of the City of Porterville.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve the Negative Declaration for the Airport Water Inter-tie and Improvements Project as described herein.

____________________
Kelly 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>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>Degradation of the existing visual character of the site and its surroundings</td>
<td>10  c</td>
<td>At the time of development, any proposed well facilities will be fenced and/or landscaped in situations where surrounding conditions warrant. Visual impact to surrounding properties will, therefore, be mitigated to a level of insignificance.</td>
<td>Less than Significant</td>
<td>City of Porterville</td>
</tr>
<tr>
<td>IV. BIOLOGICAL RESOURCES</td>
<td>Substantial adverse effect on sensitive or special status species; or interfere substantially with native resident or migratory fish or wildlife movement; or interfere with or impede the use of established native resident or migratory wildlife corridors or native wildlife nursery sites</td>
<td>16  a, b, d</td>
<td>A pre-construction nest survey for avian predators and other resident and migratory birds shall be conducted prior to project construction if any heavy equipment operations are to occur during the breeding season (February 15 through September 15). The survey shall include all large trees on the project site and all large trees on adjacent lands. If any occupied nests are observed, heavy equipment operations shall be minimized or avoided until the young have fledged and nesting has ceased. If this is not feasible, the USFWS (and CDFG, if State-listed species, e.g., Swainson's hawks are involved) shall be contacted for guidance on how to proceed. The USFWS would prescribe specific mitigation dependant upon the particular species involved and the manner in which heavy equipment operations are to be conducted. These measures will reduce potential impacts to a less than significant level.</td>
<td>Less than Significant</td>
<td>City of Porterville</td>
</tr>
<tr>
<td>Impact No.</td>
<td>Impact Description</td>
<td>Page Number in Initial Study</td>
<td>Mitigation Number</td>
<td>Mitigation Measure</td>
<td>Level of Significance After Mitigation</td>
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<tr>
<td>b, c, d</td>
<td>Cause a substantial adverse change in the significance of an archaeological resource, directly or indirectly destroy a unique paleontological resource or site or unique geologic feature, or disturb any human remains including those interred outside of formal cemeteries</td>
<td>17</td>
<td>b, c, d</td>
<td>In the event that any as-yet undetected (i.e., buried) cultural resources are encountered on this property at a future time, work shall cease within a 50-foot area of the find, and a qualified archaeologist shall be contacted to evaluate any such discoveries.</td>
<td>Less than Significant</td>
</tr>
</tbody>
</table>

**XI. NOISE**

<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>a, d</td>
<td>Exceedance of Applicable Noise Standards and substantial temporary or periodic increase in ambient noise levels above those existing without the project</td>
<td>28</td>
<td>a, d</td>
<td>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>
<td>City of Porterville</td>
</tr>
</tbody>
</table>
PUBLIC HEARING

SUBJECT: REAFFIRMATION OF THE DISADVANTAGED BUSINESS ENTERPRISE PROGRAM (DBE)

SOURCE: Public Works Department - Engineering Division

COMMENT: This is the time and place set for the hearing on the City’s revised Disadvantaged Business Enterprise (DBE) Program. In order to continue to secure Federal Highway Administration (FHWA) funds, the California Department of Transportation (Caltrans) requires that Porterville reaffirm its DBE Program.

Advertisement for 30 days to review the City’s DBE Program and another 15 days to receive comments concluded on November 21, 2005. Written comments and comments received during the Public Hearing will be analyzed by staff with appropriate comments incorporated into the City’s DBE Program.

Porterville’s current DBE goal is 11%, the 2005/2006 DBE goal as calculated by staff and accepted by Caltrans is 11%. Additionally, Caltrans reviewed the methodology used in calculating the 11% DBE involvement and found it acceptable.

RECOMMENDATION: That City Council:

1. Open the public hearing;

2. Take testimony and written comments; and

3. Direct staff to consider the comments, finalize the revised DBE Program and submit the program to Caltrans for approval.

ATTACHMENT: 2005/2006 DBE Program
PREAPPROVED DISADVANTAGED BUSINESS ENTERPRISE (DBE) PROGRAM

City of Porterville, County of Tulare

I Definitions of Terms

The terms used in this program have the meanings defined in 49 CFR §26.5.

II Objectives/Policy Statement (§§26.1, 26.23)

The City of Porterville (hereinafter referred to as "City") has established a Disadvantaged Business Enterprise (DBE) Program in accordance with regulations of the U.S. Department of Transportation (DOT), 49 CFR Part 26. The City has received Federal financial assistance from the DOT, and as a condition of receiving this assistance, the City will sign an assurance that it will comply with 49 CFR Part 26.

It is the policy of the City to ensure that DBEs, as defined in Part 26, have an equal opportunity to receive and participate in DOT-assisted contracts. It is also our policy:

1. To ensure nondiscrimination in the award and administration of DOT-assisted contracts;
2. To create a level playing field on which DBEs can compete fairly for DOT-assisted contracts;
3. To ensure that the DBE Program is narrowly tailored in accordance with applicable law;
4. To ensure that only firms that fully meet 49 CFR Part 26 eligibility standards are permitted to participate as DBEs;
5. To help remove barriers to the participation of DBEs in DOT-assisted contracts; and
6. To assist the development of firms that can compete successfully in the marketplace outside the DBE Program.

The Public Works Director has been delegated as the DBE Liaison Officer. In that capacity, the Public Works Director is responsible for implementing all aspects of the DBE Program. Implementation of the DBE Program is accorded the same priority as compliance with all other legal obligations incurred by the City in its financial assistance agreements with the California Department of Transportation (Caltrans).

The City has disseminated this policy statement to the City Council and all the components of our organization. We have distributed this statement to DBE and non-DBE business communities that perform work for us on DOT-assisted contracts by publishing this statement in general circulation, minority-focused and trade association publications.

Effective 10-01-05
III Nondiscrimination (§26.7)

The City will never exclude any person from participation in, deny any person the benefits of, or otherwise discriminate against anyone in connection with the award and performance of any contract covered by 49 CFR Part 26 on the basis of race, color, sex, or national origin.

In administering its DBE Program, the City will not, directly or through contractual or other arrangements, use criteria or methods of administration that have the effect of defeating or substantially impairing accomplishment of the objectives of the DBE Program with respect to individuals of a particular race, color, sex, or national origin.

IV DBE Program Updates (§26.21)

Methodology

The City elected to use the California Department of Transportation (CalTrans) database to determine the number of ready, willing and able businesses available within a five countywide area. A list of all certified DBEs from these five counties was compiled. A dollar amount was calculated based on the anticipated work that will be performed by the DBEs and this figure was divided by the total funds the City expects to receive from FHWA. The “Base Figure” computation enclosed herein as Exhibit ‘A’ reflects a “weighted” analysis to better reflect anticipated DBE involvement. Exhibit ‘B’ enclosed herein represents the actual data used in computing the weighted overall DBE goal. No adjustment to the “Base Figure” of 11% was made due to the City’s past experience which indicates that an 11% DBE is realistic.

Breakout of Estimated Race-Neutral and Race-Conscious Participation

Of the overall annual 11% goal for DBE participation, the City of Porterville projects meeting 1% of the goal utilizing race-neutral methods. These methods include efforts to assure that bidding and contract requirements facilitate participation by DBEs and other small businesses; unbundling large contracts to make them more accessible to small businesses; encouraging prime contractors to subcontract portions of the work that they otherwise perform themselves; and providing technical assistance and other support services to facilitate consideration of DBEs and other small businesses. The remaining 10% of the goal is anticipated to be accomplished through race-conscious measures. These measures include establishing contract specific goals on contracts with contracting possibilities, when needed, to meet the City of Porterville's overall annual DBE goal.

V Quotas (§26.43)

The City will not use quotas or set asides in any way in the administration of this DBE Program.
VI  DBE Liaison Officer (DBELO) (§26.45)

The City has designated the following individual as the DBE Liaison Officer: Baldomero Rodriguez, 291 N. Main St., Porterville, CA, 93257, (559) 782-7462, brodriguez@ci.porterville.ca.us. In that capacity, Mr. Rodriguez is responsible for implementing all aspects of the DBE Program and ensuring that the City complies with all provisions of 49 CFR Part 26. This is available on the Internet at www.osdhuweb.dot.gov/main.cfm. The DBE Liaison Officer has direct, independent access to the City Manager concerning DBE Program matters. The DBELO has a staff of 3 professional employees assigned to the DBE Program on a full-time basis. An organization chart displaying the DBELO's position in the organization is found in Attachment A to this program.

The DBELO is responsible for developing, implementing and monitoring the DBE Program, in coordination with other appropriate officials. Duties and responsibilities include the following:

1. Gathers and reports statistical data and other information as required.
2. Reviews third party contracts and purchase requisitions for compliance with this program.
3. Works with all departments to set overall annual goals.
4. Ensures that bid notices and requests for proposals are available to DBEs in a timely manner.
5. Identifies contracts and procurements so that DBE goals are included in solicitations (both race-neutral methods and contract specific goals) and monitor results.
6. Analyzes the City’s progress toward goal attainment and identifies ways to improve progress.
7. Participates in pre-bid meetings.
8. Advises the CEO/governing body on DBE matters and achievement.
9. Chairs the DBE Advisory Committee.
10. Participates with the legal counsel and project director to determine contractor compliance with good faith efforts.
11. Provides DBEs with information and assistance in preparing bids, obtaining bonding and insurance.
12. Plans and participates in DBE training seminars.
13. Provides outreach to DBEs and community organizations to advise them of opportunities.


The City will sign the following assurance, applicable to all DOT-assisted contracts and their administration as part of the program supplement agreement for each project:

The recipient shall not discriminate on the basis of race, color, national origin, or sex in the award and performance of any DOT-assisted contract or in the administration of its DBE Program or the requirements of 49 CFR Part 26. The recipient shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and
administration of DOT-assisted contracts. The recipient’s DBE Program, as required by 49 CFR Part 26 and as approved by DOT, is incorporated by reference in this agreement. Implementation of this program is a legal obligation and failure to carry out its terms shall be treated as a violation of this agreement. Upon notification to the recipient of its failure to carry out its approved program, the Department may impose sanctions as provided for under Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

VIII DBE Financial Institutions

It is the policy of the City to investigate the full extent of services offered by financial institutions owned and controlled by socially and economically disadvantaged individuals in the community, to make reasonable efforts to use these institutions, and to encourage prime contractors on DOT-assisted contracts to make use of these institutions.

Information on the availability of such institutions can be obtained from the DBE Liaison Officer. The Caltrans Disadvantaged Business Enterprise Program may offer assistance to the DBE Liaison Officer.

IX Directory (§26.31)

The City will refer interested persons to the DBE directory available from the Caltrans Disadvantaged Business Enterprise Program website at www.dot.ca.gov/hq/bep.

X Over Concentration (§26.33)

The City has not identified any types of work in DOT-assisted contracts that have an over concentration of DBE participation. If in the future the City identifies the need to address over concentration, measures for addressing over concentration will be submitted to the DLAE for approval.

XI Business Development Programs (§26.35)

The City does not have a business development or mentor-protégé program. If the City identifies the need for such a program in the future, the rationale for adopting such a program and a comprehensive description of it will be submitted to the DLAE for approval.

XII Require Contract Clauses (§§26.13, 26.29)

Contract Assurance

The City ensures that the following clause is placed in every DOT-assisted contract and subcontract:


Effective 10-01-05
The contractor or subcontractor shall not discriminate on the basis of race, color, national origin, or sex in the performance of this contract. The contractor shall carry out applicable requirements of 49 CFR Part 26 in the award and administration of DOT-assisted contracts. Failure by the contractor to carry out these requirements is a material breach of this contract, which may result in the termination of this contract or such other remedy as recipient deems appropriate.

Prompt Payment

The City ensures that the following clauses or equivalent will be included in each DOT-assisted prime contract:

Prompt Progress Payment to Subcontractors

A prime contractor or subcontractor shall pay to any subcontractor no later than 10 days of receipt of each progress payment in accordance with the provision in Section 7108.5 of the California Business and Professions Code concerning prompt payment to subcontractors. The 10 days is applicable unless, a longer period is agreed to in writing. Any delay or postponement of payment over 30 days may take place only for good cause and with the agency’s prior written approval. Any violation of Section 7108.5 shall subject the violating contractor or subcontractor to the penalties, sanctions and other remedies of that Section. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise, available to the contractor or subcontractor in the event of a dispute involving late payment, or nonpayment by the contractor, or deficient subcontractor performance, or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.

Prompt Payment of Withheld Funds to Subcontractors

No retainage will be held by the agency from progress payments due the prime contractor. Any retainage kept by the prime contractor or by a subcontractor must be paid in full to the earning subcontractor in 30 days after the subcontractor’s work is satisfactorily completed. Any delay or postponement of payment may take place only for good cause and with the City’s prior written approval. Any violation of these provisions shall subject the violating contractor or subcontractor to the penalties, sanctions, and remedies specified in Section 7108.5 of the California Business and Professions Code. This requirement shall not be construed to limit or impair any contractual, administrative, or judicial remedies otherwise, available to the prime contractor or subcontractor in the event of a dispute involving late payment, or nonpayment by the contractor, or deficient subcontractor’s performance, or noncompliance by a subcontractor. This clause applies to both DBE and non-DBE subcontractors.
XIII Monitoring and Enforcement Mechanisms (§26.37)

The City will assign a Resident Engineer (RE) or Contract Manager to monitor and track actual DBE participation through contractor and subcontractor reports of payments in accordance with the following:

After Contract Award

After the contract award the City will review the award documents for the portion of items each DBE and first tier subcontractors will be performing and the dollar value of that work. With these documents the RE/Contract Manager will be able to determine the work to be performed by the DBEs or subcontractors listed.

Preconstruction Conference

A preconstruction conference will be scheduled between the RE and the contractor or their representative to discuss the work each DBE subcontractor will perform.

Before work can begin on a subcontract, the local agency will require the contractor to submit a completed “Subcontracting Request,” Exhibit 16-B of the "Local Assistance Procedures Manual" (LAPM), or equivalent. When the RE receives the completed form it will be checked for agreement of the first tier subcontractor and DBEs. The RE will not approve the request when it identifies someone other than the DBE or first tier subcontractor listed in the previously completed “Local Agency Bidder DBE Information,” Exhibit 15-G of the LAPM. The “Subcontracting Request” will not be approved until any discrepancies are resolved. If an issue cannot be resolved at that time, or there is some other concern, the RE will require the contractor to eliminate the subcontractor in question before signing the subcontracting request. A change in the DBE or first tier subcontractor may be addressed during a substitution process at a later date.

Suppliers, vendors, or manufacturers listed on the “Local Agency Bidder DBE Information” will be compared to those listed in the completed Exhibit 16-I of the LAPM or equivalent. Differences must be resolved by either making corrections or requesting a substitution.

Substitutions will be subject to the Subletting and Subcontracting Fair Practices Act (FPA). Local agencies will require contractors to adhere to the provisions within Subletting and Subcontracting Fair Practices Act (State Law) Sections 4100-4144. FPA requires the contractor to list all subcontractors in excess of one half of one percent (0.5%) of the contractor’s total bid or $10,000, whichever is greater. The statute is designed to prevent bid shopping by contractors. The FPA explains that a contractor may not substitute a subcontractor listed in the original bid except with the approval of the awarding authority.
The RE will give the contractor a blank Exhibit 17-F, “Final Report Utilization of Disadvantaged Business Enterprises,” and will explain to them that the document will be required at the end of the project, for which payment can be withheld, in conformance with the contract.

Construction Contract Monitoring

The RE will ensure that the RE’s staff (inspectors) know what items of work each DBE is responsible for performing. Inspectors will notify the RE immediately of apparent violations.

When a firm other than the listed DBE subcontractor is found performing the work, the RE will notify the contractor of the apparent discrepancy and potential loss of payment. Based on the contractor’s response, the RE will take appropriate action: The DBE Liaison Officer will perform a preliminary investigation to identify any potential issues related to the DBE subcontractor performing a commercially useful function. Any substantive issues will be forwarded to Caltrans Disadvantaged Business Enterprise Program. If the contractor fails to adequately explain why there is a discrepancy, payment for the work will be withheld and a letter will be sent to the contractor referencing the applicable specification violation and the required withholding of payment.

If the contract requires the submittal of a monthly truck document, the contractor will be required to submit documentation to the RE showing the owner’s name; California Highway Patrol CA number; and the DBE certification number of the owner of the truck for each truck used during that month for which DBE participation will be claimed. The trucks will be listed by California Highway Patrol CA number in the daily diary or on a separate piece of paper for documentation. The numbers are checked by inspectors regularly to confirm compliance.

Providing evidence of DBE payment is the responsibility of the contractor.

Substitution

When a DBE substitution is requested, the RE/Contract Manager will request a letter from the contractor explaining why substitution is needed. The RE/Contract Manager must review the letter to be sure names and addresses are shown, dollar values are included, and reason for the request is explained. If the RE/Contract Manager agrees to the substitution, the RE/Contract Manager will notify, in writing, the DBE subcontractor regarding the proposed substitution and procedure for written objection from the DBE subcontractor in accordance with the Subletting and Subcontracting Fair Practices Act. If the contractor is not meeting the contract goal with this substitution, the contractor must provide the required good faith effort to the RE/Contract Manager for local agency consideration.

If there is any doubt in the RE/Contract Manager’s mind regarding the requested substitution, the RE/Contract Manager may contact the DLAE for assistance and direction.

Effective 10-01-05
Record Keeping and Final Report Utilization of Disadvantaged Business Enterprises

The contractor shall maintain records showing the name and address of each first-tier subcontractor. The records shall also show:

1. The name and business address, regardless of tier, of every DBE subcontractor, DBE vendor of materials and DBE trucking company.
2. The date of payment and the total dollar figure paid to each of the firms.
3. The DBE prime contractor shall also show the date of work performed by their own forces along with the corresponding dollar value of the work claimed toward DBE goals.

When a contract has been completed the contractor will provide a summary of the records stated above. The DBE utilization information will be documented on Exhibit 17-F and will be submitted to the DLAE attached to the Report of Expenditures. The RE will compare the completed Exhibit 17-F to the contractor’s completed Exhibit 15-G and, if applicable, to the completed Exhibit 16-B. The DBEs shown on the completed Exhibit 17-F should be the same as those originally listed unless an authorized substitution was allowed, or the contractor used more DBEs and they were added. The dollar amount should reflect any changes made in planned work done by the DBE. The contractor will be required to explain in writing why the names of the subcontractors, the work items or dollar figures are different from what was originally shown on the completed Exhibit 15-G when:

• There have been no changes made by the RE.
• The contractor has not provided a sufficient explanation in the comments section of the completed Exhibit 17-F.

The explanation will be attached to the completed Exhibit 17-F for submittal. The RE will file this in the project records.

The local agency’s Liaison Officer will keep track of the DBE certification status on the Internet at www.dot.ca.gov/hq/bep and keep the RE informed of changes that affect the contract. The RE will require the contractor to act in accordance with existing contractual commitments regardless of decertification.

The DLAE will use the PS&E checklist to monitor the City's commitment to require bidders list information to be submitted to the City from the awarded prime and subcontractors as a means to develop a bidders list. This monitoring will only take place if the bidders list information is required to be submitted as stipulated in the special provisions.

The City will bring to the attention of the DOT through the DLAE any false, fraudulent, or dishonest conduct in connection with the program, so that DOT can take the steps (e.g. referral to the Department of Justice for criminal prosecution, referral to the DOT Inspector General, action under suspension and debarment or Program Fraud and Civil Penalties rules) provided in
§26.109. The City also will consider similar action under our own legal authorities, including responsibility determinations and future contracts.

XIV Overall Goals (§26.45)

Amount of Goal

The City's overall goal for the Federal fiscal year FY 2005/2006 is the following: 11% of the Federal financial assistance in FHWA-assisted contracts. This overall goal is broken down into 10% race-conscious and 1% race-neutral components.

Process

Starting with the Federal fiscal year 2003, the amount of overall goal, the method to calculate the goal, and the breakout of estimated race-neutral and race-conscious participation will be required annually by June 1 in advance of the Federal fiscal year beginning October 1 for FHWA-assisted contracts. Submittals will be to the Caltrans' DLAE. An exception to this will be if FTA or FAA recipients are required by FTA or FAA to submit the annual information to them or a designee by another date. FHWA recipients will follow this process:

Once the DLAE has responded with preliminary comments and the comments have been incorporated into the draft overall goal information, the City will publish a notice of the proposed overall goal, informing the public that the proposed goal and its rationale are available for inspection during normal business hours at the City's principal office for 30 days following the date of the notice, and informing the public that City comments will be accepted on the goals for 45 days following the date of the notice. Advertisements in newspapers, minority focus media, trade publications, and websites will be the normal media to accomplish this effort. The notice will include addresses to which comments may be sent and addresses (including offices and websites) where the proposal may be reviewed.

The overall goal resubmission to the Caltrans' DLAE, will include a summary of information and comments received during this public participation process and the City's responses. This will be due by September 1 to the Caltrans' DLAE. The DLAE will have a month to make a final review so the City may begin using the overall goal on October 1 of each year.

XV Contract Goals (§26.51)

The City will use contract goals to meet any portion of the overall goal the City does not project being able to meet by the use of race-neutral means. Contract goals are established so that, over the period to which the overall goal applies, they will cumulatively result in meeting any portion of the overall goal that is not projected to be met through the use of race-neutral means.
Contract goals will be established only on those DOT-assisted contracts that have subcontracting possibilities. Contract goals need not be established on every such contract, and the size of contract goals will be adapted to the circumstances of each such contract (e.g., type and location of work, availability of DBEs to perform the particular type of work). The contact work items will be compared with eligible DBE contractors willing to work on the project. A determination will also be made to decide which items are likely to be performed by the prime contractors and which ones are likely to be performed by the subcontractor(s). The goal will then be incorporated into the contract documents. Contract goals will be expressed as a percentage of the total amount of a DOT-assisted contract.

**XVI Transit Vehicle Manufacturers (§26.49)**

If DOT-assisted contracts will include transit vehicle procurements, the City will require each transit vehicle manufacturer, as a condition of being authorized to bid or propose on transit vehicle procurements, to certify that it has complied with the requirements of 49 CFR Part 26, Section 49. The City will direct the transit vehicle manufacturer to the subject requirements located on the Internet at http://osdbuweb.dot.gov/programs/dbe/dbe.htm.

**XVII Good Faith Efforts (§26.53)**

**Information to be Submitted**

The City treats bidders'offerors' compliance with good faith effort requirements as a matter of responsiveness. A responsive proposal is meeting all the requirements of the advertisement and solicitation.

Each solicitation for which a construction contract goal has been established will require the bidders'offerors' to submit the following information to the City no later than 4:00 p.m. on or before the fourth day, not including Saturdays, Sundays and legal holidays, following bid opening:

1. The names and addresses of DBE firms that will participate in the contract;
2. A description of the work that each DBE will perform;
3. The dollar amount of the participation of each DBE firm participation;
4. Written and signed documentation of commitment to use a DBE subcontractor whose participation it submits to meet a contract goal;
5. Written and signed confirmation from the DBE that it is participating in the contract as provided in the prime contractor’s commitment; and
6. If the contract goal is not met, evidence of good faith efforts.
Demonstration of Good Faith Efforts

The obligation of the bidder/offeror is to make good faith efforts. The bidder/offeror can demonstrate that it has done so either by meeting the contract goal or documenting good faith efforts. Examples of good faith efforts are found in Appendix A to Part 26 which is attached.

The following personnel are responsible for determining whether a bidder/offeror who has not met the contract goal has documented sufficient good faith efforts to be regarded as responsive: City Engineer, DBELO.

The City will ensure that all information is complete and accurate and adequately documents the bidders/offeror's good faith efforts before a commitment to the performance of the contract by the bidder/offeror is made.

Administrative Reconsideration

Within 10 days of being informed by the City that it is not responsive because it has not documented sufficient good faith efforts, a bidder/offeror may request administrative reconsideration. Bidder/offerors should make this request in writing to the following reconsideration official: Bradley D. Dunlap, AICP, Community Development Director, 291 N. Main Street, Porterville, CA 93257, bdunlap@ci.porterville.ca.us. The reconsideration official will not have played any role in the original determination that the bidder/offeror did not make document sufficient good faith efforts.

As part of this reconsideration, the bidder/offeror will have the opportunity to provide written documentation or argument concerning the issue of whether it met the goal or made adequate good faith efforts to do so. The bidder/offeror will have the opportunity to meet in person with the reconsideration official to discuss the issue of whether it met the goal or made adequate good faith efforts to do so. The City will send the bidder/offeror a written decision on reconsideration, explaining the basis for finding that the bidder did or did not meet the goal or make adequate good faith efforts to do so. The result of the reconsideration process is not administratively appealable to Caltrans, FHWA or the DOT.

Good Faith Efforts when a DBE is Replaced on a Contract

The City will require a contractor to make good faith efforts to replace a DBE that is terminated or has otherwise failed to complete its work on a contract with another certified DBE, to the extent needed to meet the contract goal. The prime contractor is required to notify the RE immediately of the DBE's inability or unwillingness to perform and provide reasonable documentation.

In this situation, the prime contractor will be required to obtain the City's prior approval of the substitute DBE and to provide copies of new or amended subcontracts, or documentation of good
faith efforts. If the contractor fails or refuses to comply in the time specified, the City's contracting office will issue an order stopping all or part of payment/work until satisfactory action has been taken. If the contractor still fails to comply, the contracting officer may issue a termination for default proceeding.

XVIII Counting DBE Participation (§26.55)

The City will count DBE participation toward overall and contract goals as provided in the contract specifications for the prime contractor, subcontractor, joint venture partner with prime or subcontractor, or vendor of material or supplies. See the Caltrans' Sample Boiler Plate Contract Documents previously mentioned. Also, refer to XIII "After Contract Award."

XIX Certification (§26.83(a))

The City ensures that only DBE firms currently certified on the Caltrans' directory will participate as DBEs in our program.

XX Information Collection and Reporting

Bidders List

The City will create a bidders list, consisting of information about all DBE and non-DBE firms that bid or quote on DOT-assisted contracts. The bidders list will include the name, address, DBE/non-DBE status, age, and annual gross receipts of firms.

Monitoring Payments to DBEs

Prime contractors are required to maintain records and documents of payments to DBEs for three years following the performance of the contract. These records will be made available for inspection upon request by any authorized representative of the City, Caltrans or FHWA. This reporting requirement also extends to any certified DBE subcontractor.

Payments to DBE subcontractors will be reviewed by the City to ensure that the actual amount paid to DBE subcontractors equals or exceeds the dollar amounts stated in the schedule of DBE participation.

Reporting to Caltrans

The City - Final utilization of DBE participation will be reported to the DLAE using Exhibit 17-F of the Caltrans' LAPM.
Confidentiality

The City will safeguard from disclosure to third parties information that may reasonably be regarded as confidential business information, consistent with Federal, state, and local laws.

______________________________
Kelly West, Mayor

Date:_________________________

This Preapproved Disadvantaged Business Enterprise Program is accepted by:

______________________________
[Signature of Caltrans' District Local Assistance Engineer]

Date:_________________________
APPENDIX A TO PART 26 – GUIDANCE CONCERNING GOOD FAITH EFFORTS

I When, as a recipient, you establish a contract goal on a DOT-assisted contract, a bidder must, in order to be responsible and/or responsive, make good faith efforts to meet the goal. The bidder can meet this requirement in either of two ways. First, the bidder can meet the goal, documenting commitments for participation by DBE firms sufficient for this purpose. Second, even if it doesn’t meet the goal, the bidder can document adequate good faith efforts. This means that the bidder must show that it took all necessary and reasonable steps to achieve a DBE goal or other requirement of this part which, by their scope, intensity, and appropriateness to the objective, could reasonably be expected to obtain sufficient DBE participation, even if they were not fully successful.

II In any situation in which you have established a contract goal, part 26 requires you to use the good faith efforts mechanism of this part. As a recipient, it is up to you to make a fair and reasonable judgment whether a bidder that did not meet the goal made adequate good faith efforts. It is important for you to consider the quality, quantity, and intensity of the different kinds of efforts that the bidder has made. The efforts employed by the bidder should be those that one could reasonably expect a bidder to take if the bidder were actively and aggressively trying to obtain DBE participation sufficient to meet the DBE contract goal. Mere pro forma efforts are not good faith efforts to meet the DBE contract requirements. We emphasize, however, that your determination concerning the sufficiency of the firm’s good faith efforts is a judgment call: meeting quantitative formulas is not required.

III The Department also strongly cautions you against requiring that a bidder meet a contract goal (i.e., obtain a specified amount of DBE participation) in order to be awarded a contract, even though the bidder makes an adequate good faith efforts showing. This rule specifically prohibits you from ignoring bona fide good faith efforts.

IV The following is a list of types of actions which you should consider as part of the bidder’s good faith efforts to obtain DBE participation. It is not intended to be a mandatory checklist, nor is it intended to be exclusive or exhaustive. Other factors or types of efforts may be relevant in appropriate cases.

A. Soliciting through all reasonable and available means (e.g. attendance at pre-bid meetings, advertising and/or written notices) the interest of all certified DBEs who have the capability to perform the work of the contract. The bidder must solicit this interest within sufficient time to allow the DBEs to respond to the solicitation. The bidder must determine with certainty if the DBEs are interested by taking appropriate steps to follow up initial solicitations.
B. Selecting portions of the work to be performed by DBEs in order to increase the likelihood that the DBE goals will be achieved. This includes, where appropriate, breaking out contract work items into economically feasible units to facilitate DBE participation, even when the prime contractor might otherwise prefer to perform these work items with its own forces.

C. Providing interested DBEs with adequate information about the plans, specifications, and requirements of the contract in a timely manner to assist them in responding to a solicitation.

D. (1) Negotiating in good faith with interested DBEs. It is the bidder's responsibility to make a portion of the work available to DBE subcontractors and suppliers and to select those portions of the work or material needs consistent with the available DBE subcontractors and suppliers, so as to facilitate DBE participation. Evidence of such negotiation includes the names, addresses, and telephone numbers of DBEs that were considered; a description of the information provided regarding the plans and specifications for the work selected for subcontracting; and evidence as to why additional agreements could not be reached for DBEs to perform the work.

(2) A bidder using good business judgment would consider a number of factors in negotiating with subcontractors, including DBE subcontractors, and would take a firm's price and capabilities as well as contract goals into consideration. However, the fact that there may be some additional costs involved in finding and using DBEs is not in itself sufficient reason for a bidder's failure to meet the contract DBE goal, as long as such costs are reasonable. Also, the ability or desire of a prime contractor to perform the work of a contract with its own organization does not relieve the bidder of the responsibility to make good faith efforts. Prime contractors are not, however, required to accept higher quotes from DBEs if the price difference is excessive or unreasonable.

E. Not rejecting DBEs as being unqualified without sound reasons based on a thorough investigation of their capabilities. The contractor's standing within its industry, membership in specific groups, organizations, or associations and political or social affiliations (for example union vs. non-union employee status) are not legitimate causes for the rejection or non-solicitation of bids in the contractor's efforts to meet the project goal.

F. Making efforts to assist interested DBEs in obtaining bonding, lines of credit, or insurance as required by the recipient or contractor.

G. Making efforts to assist interested DBEs in obtaining necessary equipment, supplies, materials, or related assistance or services.
H. Effectively using the services of available minority/women community organizations; minority/women contractors' groups; local, state, and Federal minority/women business assistance offices; and other organizations as allowed on a case-by-case basis to provide assistance in the recruitment and placement of DBEs.

V. In determining whether a bidder has made good faith efforts, you may take into account the performance of other bidders in meeting the contract. For example, when the apparent successful bidder fails to meet the contract goal, but others meet it, you may reasonably raise the question of whether, with additional reasonable efforts, the apparent successful bidder could have met the goal. If the apparent successful bidder fails to meet the goal, but meets or exceeds the average DBE participation obtained by other bidders, you may view this, in conjunction with other factors, as evidence of the apparent successful bidder having made good faith efforts.
Disadvantaged Business Enterprise (DBE) Program
Reporting Structure/Support Staff

DUTIES OF:

Public Works Director: DBE Liaison Officer and General Administrator of the DBE Program. DBE Program(s) Compliance Officer. Compliance Officer reviews all matters related to contractor’s adherence to the City’s DBE Program.

Resident Engineer and Public Works Inspector: Verifies and documents field conditions related to contractor’s adherence to minority hiring policies.

Construction Inspector: Assists the Resident Engineer.
CITY COUNCIL AGENDA

December 6, 2006

SUBJECT:  Report about Audit of Farm Operation

SOURCE:  City Manager’s Office

The City’s auditor has reviewed the papers compiled regarding the City’s farming operation. There has been discussion about the best way to present the review to assure that the Council receives full and adequate comment on Farm Operation’s accounting.

It is recommended that a report on the review might best be presented by the City’s Auditor directly in discussion with the City Council. Therefore, it is suggested that this item be continued to as a study session prior to the next City Council meeting on December 20, 2005.

Because of a prior engagement, the City Auditor was not available to attend this meeting of the City Council.

RECOMMENDATION:

Schedule a City Council study session for 5:PM on December 20, 2005 before the next regular meeting to discuss with the City Auditor his review of financial accounts regarding the Farm Operation.

Item No. 17
CONSIDERATION OF A REVISED PROPERTY TAX REVENUE SHARING AGREEMENT

SOURCE: Administrative Services

COMMENT: At the Council Meeting of July 20, 2004, the City Council approved Property Tax Revenue Sharing Agreements between the City of Porterville and the County of Tulare. These were revised agreements that would supersede the original Property Tax Revenue Sharing Agreement in place since 1979.

This action was initiated by the County of Tulare, and was modeled after agreements that had been reached with the City of Visalia a few months earlier. Prior County Administration had indicated that the Visalia model was a boiler plate that the County wanted to enact uniformly throughout the County. After the City Council approved the agreements, the executed documents were returned to the County for Board ratification. Shortly thereafter, the County Executive Officer retired, and a new Executive was hired. This project sat on a back burner for several months.

During this period of County staff turnover, the City of Porterville was moving forward with the Island Annexation Project. As staff prepared for Council adoption of the annexations, and the preparation of LAFCO documentation, calls were made to the County on the status of the revised revenue sharing agreement. Several meetings were held at which County Administrators and City Staff met to bring the new County Staff Members up to speed on the revised agreements. At this time, both agencies agree on the numbers in the analysis of the impact of the agreements.

At the Board of Supervisor’s meeting of November 22, 2005, the Board chose not to ratify the agreements adopted by the Porterville City Council. Instead, the Board directed County Administrative Staff to begin negotiations on a modification to those agreements by which the County would retain the Property Tax allocation for County Fire Services and the City would cover the impact of the ERAF Property Tax Shift created by the annexations. This new twist comes in light of the County looking for alternatives to their existing contract with the California Department of Forestry for fire protection.
As the Council is very much aware, the City's annexation project is to be on the LAFCO agenda on Wednesday, December 7, 2005 for approval. Staff's initial concern was that this attempt on the part of the Board of Supervisors to renegotiate a revenue sharing agreement at this late date would result in substantial delays in the annexation process. LAFCO has recently utilized some policy language which would allow for a continued negotiation period for up to one year after LAFCO approval of the annexations. The proposed language is attached for Council review.

With several questions remaining unanswered, staff believes that it would be premature to approve the proposed revenue sharing agreement without additional discussion with the Council and County Staff. One element requiring additional discussion with the County is the final disposition of County Fire Services.

Staff recognizes three possible options for action at this time. The options are as follows:

1. Take no action and allow the annexations to move forward under the 1979 agreement. This would result in less than $5,000.00 in property tax revenue being delivered to the City in the first year, and would grow at a rate of approximately 3% annually.

2. Approve the modification to the agreement adopted by Council in July of 2004. This would result in approximately $57,500.00 in property tax revenue to the City in the first year, growing at a rate of approximately 3% annually.

3. Continue to negotiate with the County.

Any of the options listed above will not result in delays in the LAFCO process.

RECOMMENDATION: That the City Council direct staff on the preferred course of action.

ATTACHMENTS: Council Agenda Items from July 2004. Spreadsheet from the County of Tulare.
Separate Property Tax Agreement:

As permitted by California Revenue and Taxation Code section 99(d), the County of Tulare and City of Porterville are negotiating but have not yet agreed to a separate property tax transfer agreement. LAFCO Policy C-9.4 which sets forth rules for projects submitted to the Commission while a city and the County are in negotiations for a separate property tax transfer agreement would be applicable to this project. A condition of approval is included for the project regarding the resolution of the tax sharing agreement being completed before the Certificate of Completion is recorded.

Effective Date

Since a Certificate of Completion can not be recorded until the resolution of the tax sharing agreement, the effective date will be the recording date of the Certificate of Completion.

Taxes and Assessments

The City of Porterville has a 6% utility tax that is applied to domestic water, sewer, cable, gas, electric and telephone services. The City will extend the utility tax to the area upon annexation.

Approve the annexation, to be known as LAFCO Case No. 1341-P-296, City of Porterville Annexation No. 446, subject to the following conditions:
From 2003/04 Tax Roll

80/20% split on base:

**County Island proposed annexation by City of Porterville**

80/20% split on base:

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<th>Base Tax</th>
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| Total    |                      |            | 479,304  | 282,144       |                      | 0        | 0             |

Note: The table shows the percentage of ERAF lost for each agency and the adjusted ERAF values for both original and proposed annexation bases.
Memo

To: John Longley, City Manager
From: Bradley D. Dunlap, AICP, Community Development Director
Date: December 1, 2005
Subject: Effective Date of Island Annexations – Tax Sharing Agreements

In response to our conversation, I contacted LAFCo in order to determine what the effective date of the island annexations would be in the event the Tax Sharing Agreements are not finalized prior to action by LAFCo. LAFCo Staff indicated that the condition of approval on the islands annexations would allow for up to one year for the City and County to negotiate such agreement, however, the annexations would not become effective until after the agreements are finalized. Once the agreements are finalized, LAFCo Staff would record the Notice of Completion and the annexations would become final.
SUBJECT: CITY AND COUNTY PROPERTY TAX SHARING AGREEMENTS FOR ANNEXATIONS

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: In November 1979, the City of Porterville and the County of Tulare entered into a standard agreement for sharing property taxes in areas annexed to the City. While that agreement was acceptable for many years, the cost associated with providing services to these areas has increased dramatically over the years. Staff has been coordinating with the City of Visalia and the County of Tulare on their preparation of an updated standard agreement. Visalia and the County hammered out two model agreements intended to serve as the standard for other cities to follow suit and adopt. The standard agreements apply to two different types of annexations, one for islands and one for contiguous non-island areas.

Unlike the current agreement, the draft agreements acknowledge that these areas are annexed into the City with an pre-existing demand for services that becomes the City’s responsibility. The draft agreement addresses this fact and provides for an allocation of the base tax to the City where the current agreement does not. Staff has discussed the adoption of the model agreements with the County Administrative Officer and he is aware that Porterville is following suit.

RECOMMENDATION: That City Council:

1. Adopt a resolution approving the methodology for property tax sharing for County Island Annexations;

2. Adopt a resolution approving the methodology for property tax sharing for Contiguous Area Annexations; and

3. Authorize the Mayor to sign all necessary paperwork to implement the agreements.

2. Draft Property Tax Agreement for County Island Annexations
3. Draft Property Tax Agreement for Contiguous Area Annexations

ITEM NO. 19
RESOLUTION NO. 9327

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF PORTERVILLE IN THE MATTER OF
SHARING PROPERTY TAXES IN AREAS ANNEXED
TO THE CITY OF PORTERVILLE

WHEREAS, Section 99 of the Revenue and Taxation Code added
by AB8 (Chapter 282) enacted in 1979 provides that in the case
of a jurisdictional change (annexation) the governmental bodies
of all agencies whose service areas or service responsibilities
are altered by the change shall determine the amount of property
tax revenues to be exchanged between them; and

WHEREAS, Annexations after July 25, 1979, cannot become
effective until such agreement is reached; and

WHEREAS, Representatives of the County and City of Porterville
have met and discussed the exchange of property tax; and

WHEREAS, The County and City of Porterville wish to encourage
annexation of urban areas into existing city; and

WHEREAS, Annexation will decrease the County's responsibilities
for providing services in the areas of building inspection, libraries,
planning, roads, police patrol and fire; and

WHEREAS, The City of Porterville will gain service responsi-
bilities for these and other services; and

WHEREAS, Annexation causes certain revenues to automatically
shift from the County to City such as sales tax, motor vehicle
in-lieu tax, trailer coach in-lieu tax, alcohol license fees, tran-
sient occupancy tax, real property transfer tax, cigarette tax and
other fees and licenses; and

WHEREAS, A portion of the property taxes to support libraries
and fire service will automatically be shifted to the City of
Porterville, and a portion of the vehicle code fines, gasoline tax
and sales tax on gasoline, will be transferred to the City; and

WHEREAS, It is the desire of the County and City to establish
a uniform method of exchanging property taxes that will apply to
all annexations commencing on January 1, 1978, and continuing until
changed by a new agreement, or until the County or City gives
written notice that this Resolution shall not apply to future
annexations in general, or to a particular future annexation.

NOW, THEREFORE, BE IT RESOLVED THAT for each annexation the
City of Porterville shall receive the additional allocation of prop-
terty taxes automatically provided for by Sections 96-98 of the
Revenue and Taxation Code, as added by AB8, and no additional adjust-
ment will be made pursuant to Revenue and Taxation Code 99 as added
by AB8; and

BE IT FURTHER RESOLVED THAT all other agencies involved shall
receive the tax increment attributable to that agency pursuant to
Sections 96-98 of the Revenue and Taxation Code; and
BE IT FURTHER RESOLVED THAT property taxes in future years for the annexed territory shall be computed in accordance with Revenue and Taxation Code Sections 96-98 without any further adjustments pursuant to Revenue and Taxation Code Section 99; and

BE IT FURTHER RESOLVED THAT this resolution shall take effect with respect to the City of Porterville immediately upon the adoption of this resolution by the County and the City of Porterville.

Theodore G. Ensslin, Mayor

ATTEST:

C. G. Huffaker, City Clerk

STATE OF CALIFORNIA)
CITY OF PORTERVILLE

I, C. G. Huffaker, the duly appointed City Clerk of the City of Porterville do hereby certify and declare that the foregoing is a full, true and correct copy of a resolution duly and regularly passed and adopted at a regular meeting of the Porterville City Council regularly called and held on the 6th day of November, 1979.

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

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

C. G. Huffaker, City Clerk

By:    
Deputy
PROPERTY TAX AGREEMENT
(County Island Annexations)

INTRODUCTION

This Agreement is entered into and effective on this ______ day of _____________ 2004 by and between the County of Tulare ("County") and the City of Porterville ("City").

RECITALS

WHEREAS, the County is a political subdivision of the State of California and recognized under the general laws of the State of California;

WHEREAS, the City is a charter law city organized under the laws of the State of California;

WHEREAS, there exists adjacent to the city limits of the City of Porterville a number of unincorporated county islands, which are identified on attached Exhibit 1 incorporated by reference herein;

WHEREAS, pursuant to the requirements of California Government Code Section 56375.3 and other relevant provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (A.B. 720), the City is authorized to propose, and the Tulare County Local Agency Formation Commission ("Tulare LAFCo") is authorized to approve, annexations of unincorporated islands subject to certain streamlined terms and conditions;

WHEREAS, the City and the County are authorized to enter into property tax sharing agreements pursuant to California Revenue and Taxation Code Section 99 (d);
WHEREAS, the City and the County have a Master Property Tax Agreement that applies to the division of property tax revenues between the City and the County when and after property is annexed to the City;

WHEREAS, upon annexation of the unincorporated county islands identified in Exhibit 1, the City will assume certain obligations with respect to the provision of public services to such unincorporated county islands;

WHEREAS, such unincorporated county islands have been developed to a large extent and will require the immediate provision of public services when annexed by the City; and

WHEREAS, special provisions are necessary for allocation of the base tax for the City to provide necessary public services upon annexation of the unincorporated county islands identified in Exhibit 1.

NOW, THEREFORE, BE IT RESOLVED, that the County and the City agree as follows:

1. DEFINITIONS.

   a. Base Tax. The base tax shall be that amount of property tax revenues collected by the County of Tulare from the property in the affected county island in the tax year of the annexation prior to any adjustment for the Education Revenue Augmentation Fund ("ERAF").

   b. Tax Rate Area. The tax rate area ("TRA") shall be an area as defined in California Revenue and Taxation Code Section 95 within the existing city limits of the City of Porterville determined by the Tulare County Auditor to
be most similar in terms of property tax allocation characteristics to the area to be annexed.

c. Education Revenue Augmentation Fund. ERAF shall refer to the property tax revenue adjustment authorized by California Revenue and Taxation Code Sections 97 et seq.

2. EXISTING MASTER PROPERTY TAX AGREEMENT INAPPLICABLE.

The City and the County agree that with respect to those unincorporated islands within the existing city limits identified in Exhibit 1, the existing Master Property Tax Agreement between the City and the County shall not be applicable. The existing agreement was adopted by the City pursuant to Resolution 79-9327 and by the County pursuant to Resolution 79-48. The City and the County desire to make a new property tax agreement to become applicable upon annexation of the unincorporated areas identified in Exhibit 1. The City and the County have made this determination because they have mutually determined that such parcels identified in Exhibit 1 are in various states of development, and that annexation would create the immediate need for the City to provide services, which could not be provided without some portion of the base tax being allocated to the City.

3. TERM.

This agreement shall apply to annexations initiated by resolution of the City and completed by the affected public entities pursuant to California Government Code Section 56375.3 on or before January 1, 2007. This Agreement shall expire by the close of business on January 1, 2007.
4. ADJUSTED PROPERTY TAX.

The City and the County agree that the base tax shall be allocated according to the procedure described herein for the unincorporated islands identified in Exhibit 1 upon their completed annexation to the City. The specific procedures are set forth as follows:

a. Upon filing an application with the Tulare LAFCo to annex each of the unincorporated areas identified in Exhibit 1, the City and the County will request that the Tulare County Auditor identify a TRA within the existing incorporated area of the City with similar property tax allocation characteristics. Determination of the allocation of the base tax shall be a condition of annexation and the allocation shall be applied to the base tax and tax revenues resulting from any future assessed valuation change.

b. In the event the Tulare County Auditor does not provide the City and County with an allocation of the base tax determined by identification of a similar TRA prior to action by the Tulare LAFCo on the application for annexation, the City and the County agree that the City shall receive thirteen and seven tenths percent (13.7%) base tax prior to application of any adjustment for ERAF.

c. The City and the County agree further that after annexation of the unincorporated areas, the base tax and tax revenues resulting from any future assessed valuation change shall be allocated between the City and the County according to the property tax revenue allocations set forth in subparagraphs (a) or (b) of this paragraph.
d. To the extent that California Revenue and Taxation Code Section 99(b)(5) is applicable to any of the parcels identified in Exhibit 1, the Board of Supervisors of the County, prior to entering into negotiation on behalf of any affected special district for the exchange of property tax revenue, shall consult with such district. The consultation shall include, at a minimum, notification to each member and executive officer of the district board of the pending consultation and provision of adequate opportunity to comment on the negotiation.

5. PROCEDURES RELATED TO ERAF IMPLEMENTATION AND FUTURE ERAF ADJUSTMENTS.

a. In order to provide the City with the agreed upon portion of base tax, any share of the base tax previously shifted to the County Fire Fund will be shifted to the City share of base tax revenue. The County general share will then be reduced to achieve the agreed upon share for the City. This will preserve the allocated share of any ERAF adjustment at pre-annexation levels.

b. If at any time in the future, the State of California determines that the ERAF share from any annexed territory subject to this agreement should have been increased by the share previously accruing to the County Fire Fund, the adjustment shall be made from the City's allocated share of base tax.

c. In the event that the State of California modifies the ERAF adjustment applied to the base tax, the City shall share proportionately in such adjustment. For example, if the ERAF adjustment for the base tax is reduced, thereby increasing the net base tax, the
City and County portions of the base tax would be increased in proportion to their respective share of the base tax revenues.

6. **CONDITION PRECEDENT.**

Subject to the requirements of paragraph 4 herein, the only condition to implementation of this Agreement is the City's filing with the Tulare LAFCo an application for annexation of all or any portion of the unincorporated islands identified in Exhibit 1. However, nothing in this Agreement shall be construed to relieve, diminish, or in any way alter either the City's or the County's exercise of its independent responsibilities and obligations to review, comment on, support, oppose, or act on any application for annexation of the unincorporated areas identified in Exhibit 1, as such responsibilities and obligations may be allowed by law.

7. **SPECIFIC PERFORMANCE.**

In addition to any other provision of law, either party may undertake any action to have the terms and conditions of this Agreement specifically enforced.

8. **GENERAL PROVISIONS.**

a. **Entire Agreement.** This Agreement, including the exhibit incorporated herein, constitutes the entire agreement of the parties hereto with respect to the matters contained herein, and no prior agreement or understanding concerning such matter shall be effective for any purpose. No provisions hereof may be amended or modified in any manner whatsoever, except by agreement in writing signed by the duly authorized representative of each of the parties hereto.
b. Successors. The terms, covenants and conditions hereof shall be binding upon, and shall inure to the benefit of, the successors and assigns of the parties hereto.

c. Further Action. The parties hereto agree to perform all necessary further acts to effectuate this Agreement, and to execute, acknowledge, and deliver any documents that may be necessary, appropriate, or desirable to carry out the purposes of this Agreement.

d. Waiver. A waiver of any breach of this Agreement by any parties shall not constitute a continuing waiver or a waiver of any subsequent breach of the same or any other provisions of this Agreement.

e. Termination of Agreement. This Agreement may be terminated upon material breach by any party hereto, and the affected party may pursue all rights and remedies allowed by law.

f. Choice of Laws. This Agreement shall be governed by the laws of the State of California and any questions arising hereunder shall be construed or determined according to such law.

g. Construction. This Agreement is a product of negotiation and compromise on the part of each party, and each party agrees that, notwithstanding Civil Code Section 1654, any ambiguity or uncertainty concerning the language of this Agreement will not be construed against the party causing the ambiguity or uncertainty to exist.

h. Headings. Headings at the beginning of each numbered section of this
Agreement are solely for the convenience of the parties and are not part of this Agreement.

i. Authority to Execute Agreement. Each signatory to this Agreement represents that such party has the authority to bind each party to this Agreement.

j. Effective Date of Agreement. After execution of this Agreement by the authorized representative of the City, the effective date of this Agreement shall commence on the date that the authorized representative of the County executes this Agreement. The effective date shall be reflected in the Introduction of this Agreement.
City of Porterville:  

Pedro R. Martinez, Mayor

County of Tulare:  

Bill Sanders, Chairman
Board of Supervisors

APPROVED AS TO FORM:

Julia Lew  
City Attorney

Kathleen Bales-Lange  
Deputy County Counsel
PROPERTY TAX AGREEMENT
(Contiguous Area Annexations)

INTRODUCTION

This Agreement is entered into and effective on this _____ day of ___________ 2004 by and
between the County of Tulare ("County") and the City of Porterville ("City").

RECITALS

WHEREAS, the County is a political subdivision of the State of California and recognized under
of the general laws of the State of California;

WHEREAS, the City is a charter law city organized under the laws of the State of California;

WHEREAS, there exists adjacent to the city limits of the City of Porterville a number of
unincorporated county areas, which are identified on attached Exhibit 1 incorporated by reference
herein;

WHEREAS, pursuant to the requirements of California Government Code Section 56741 and other
relevant provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000
(A.B. 720), the City is authorized to propose, and the Tulare County Local Agency Formation
Commission ("Tulare LAFCo") is authorized to approve annexations of unincorporated areas within
or contiguous to its boundaries, subject to certain terms and conditions;

WHEREAS, the City and the County are authorized to enter into property tax sharing agreements
pursuant to California Revenue and Taxation Code Section 99(d);
WHEREAS, the City and the County have a Master Property Tax Agreement that applies to the division of property tax revenues between the City and the County when and after property is annexed to the City;

WHEREAS, upon annexation of the unincorporated county areas identified in Exhibit 1, the City will assume certain obligations with respect to the provision of public services to such unincorporated county areas;

WHEREAS, such unincorporated county areas have been developed to a large extent and will require the immediate provision of public services when annexed by the City; and

WHEREAS, special provisions are necessary for allocation of the base tax for the City to provide necessary public services upon annexation of the unincorporated county areas identified in Exhibit 1.

NOW, THEREFORE, BE IT RESOLVED, that the County and the City agree as follows:

1. DEFINITIONS.
   a. Base Tax. The base tax shall be that amount of property tax revenues collected by the County of Tulare from the property in the affected county area in the tax year of the annexation prior to any adjustment for the Education Revenue Augmentation Fund ("ERA F").
   b. Tax Rate Area. The tax rate area ("TRA") shall be an area as defined in California Revenue and Taxation Code Section 95 within the existing city limits of the City of Porterville determined by the Tulare County Auditor to
be most similar in terms of property tax allocation characteristics to the area to be annexed.

c. Education Revenue Augmentation Fund. ERAF shall refer to the property tax revenue adjustment authorized by California Revenue and Taxation Code Sections 97 et seq.

2. EXISTING MASTER PROPERTY TAX AGREEMENT INAPPLICABLE.

The City and the County agree that with respect to those unincorporated areas adjacent to the city limits identified in Exhibit 1, the existing Master Property Tax Agreement between the City and the County shall not be applicable. The existing agreement was adopted by the City pursuant to Resolution 9327 and by the County pursuant to Resolution 79-48. The City and the County desire to make a new property tax agreement to become applicable upon annexation of the unincorporated areas identified in Exhibit 1. The City and the County have made this determination because they have mutually determined that such parcels identified in Exhibit 1 are in various states of development, and that annexation would create the immediate need for the City to provide services, which could not be provided without some portion of the base tax being allocated to the City.

3. TERM.

This Agreement shall apply to annexations initiated by resolution of the City and completed by the affected public entities pursuant to California Government Code Section 56741 on or before January 1, 2007 unless it is extended beyond that date by mutual agreement of the parties.

4. ADJUSTED PROPERTY TAX.

The City and the County agree that the base tax shall be allocated according to the procedure
described herein for the unincorporated areas identified in Exhibit 1 upon their completed annexation to the City. The specific procedures are set forth as follows:

a. Upon filing an application with the Tulare LAFCo to annex each of the unincorporated areas identified in Exhibit 1, the City and the County will request that the Tulare County Auditor identify a TRA within the existing incorporated area of the City with similar property tax allocation characteristics. Determination of the allocation of the base tax shall be a condition of annexation and the allocation shall be applied to the base tax and tax revenues resulting from any future assessed valuation change.

b. In the event the Tulare County Auditor does not provide the City and County with an allocation of the base tax determined by identification of a similar TRA prior to action by the Tulare LAFCo on the application for annexation, the City and the County agree that the City shall receive thirteen and seven tenths percent (13.7%) base tax prior to application of any adjustment for ERAF.

c. The City and the County agree further that after annexation of the unincorporated areas, the base tax and tax revenues resulting from any future assessed valuation change shall be allocated between the City and the County according to the property tax revenue allocations set forth in subparagraphs (a) or (b) of this paragraph.

d. To the extent that California Revenue and Taxation Code Section 99(b)(5) is applicable to any of the parcels identified in Exhibit 1, the Board of
Supervisors of the County, prior to entering into negotiation on behalf of any affected special district for the exchange of property tax revenue, shall consult with such district. The consultation shall include, at a minimum, notification to each member and executive officer of the district board of the pending consultation and provision of adequate opportunity to comment on the negotiation.

5. PROCEDURES RELATED TO ERAF IMPLEMENTATION AND FUTURE ERAF ADJUSTMENT

a. In order to provide the City with the agreed upon portion of base tax, any share of the base tax previously shifted to the County Fire Fund will be shifted to the City share of base tax revenue. The County general share will then be reduced to achieve the agreed upon share for the City. This will preserve the allocated share of any ERAF adjustment at pre-annexation levels.

b. If at any time in the future, the State of California determines that the ERAF share from any annexed territory subject to this agreement should have been increased by the share previously accruing to the County Fire Fund, the adjustment shall be made from the City's allocated share of base tax.

c. In the event that the State of California modifies the ERAF adjustment applied to the base tax, the City shall share proportionately in such adjustment. For example, if the ERAF adjustment for the base tax is reduced, thereby increasing the net base tax, the City and County portions of the base tax would be increased in proportion to their
respective share of the base tax revenues.

6. CONDITION PRECEDENT.

Subject to the requirements of paragraph 4 herein, the only condition to implementation of this Agreement is the City's filing with the Tulare LAFCo an application for annexation of all or any portion of the unincorporated islands identified in Exhibit 1. However, nothing in this Agreement shall be construed to relieve, diminish, or in any way alter either the City's or the County's exercise of its independent responsibilities and obligations to review, comment on, support, oppose, or act on any application for annexation of the unincorporated areas identified in Exhibit 1, as such responsibilities and obligations may be allowed by law.

7. SPECIFIC PERFORMANCE.

In addition to any other provision of law, either party may undertake any action to have the terms and conditions of this Agreement specifically enforced.

8. GENERAL PROVISIONS.

a. Entire Agreement. This Agreement, including the exhibit incorporated herein, constitutes the entire agreement of the parties hereto with respect to the matters contained herein, and no prior agreement or understanding concerning such matter shall be effective for any purpose. No provisions hereof may be amended or modified in any manner whatsoever, except by agreement in writing signed by the duly authorized representative of each of the parties hereto.
b. Successors. The terms, covenants and conditions hereof shall be binding upon, and shall inure to the benefit of, the successors and assigns of the parties hereto.

c. Further Action. The parties hereto agree to perform all necessary further acts to effectuate this Agreement, and to execute, acknowledge, and deliver any documents that may be necessary, appropriate, or desirable to carry out the purposes of this Agreement.

d. Waiver. A waiver of any breach of this Agreement by any parties shall not constitute a continuing waiver or a waiver of any subsequent breach of the same or any other provisions of this Agreement.

e. Termination of Agreement. This Agreement may be terminated upon material breach by any party hereto, and the affected party may pursue all rights and remedies allowed by law.

f. Choice of Laws. This Agreement shall be governed by the laws of the State of California and any questions arising hereunder shall be construed or determined according to such law.

g. Construction. This Agreement is a product of negotiation and compromise on the part of each party, and each party agrees that, notwithstanding Civil Code Section 1654, any ambiguity or uncertainty concerning the language of this Agreement will not be construed against the party causing the ambiguity or uncertainty to exist.

h. Headings. Headings at the beginning of each numbered section of this
Agreement are solely for the convenience of the parties and are not part of this Agreement.

i. Authority to Execute Agreement. Each signatory to this Agreement represents that such party has the authority to bind each party to this Agreement.

j. Effective Date of Agreement. After execution of this Agreement by the authorized representative of the City, the effective date of this Agreement shall commence on the date that the authorized representative of the County executes this Agreement. The effective date shall be reflected in the Introduction of this Agreement.
City of Porterville:

Pedro R. Martinez, Mayor
City of Porterville

APPROVED AS TO FORM:

Julia Lew
City Attorney

County of Tulare:

Bill Sanders, Chairman
Board of Supervisors

Kathleen Bales-Lange
Deputy County Counsel
SUBJECT: AMENDMENT TO EXHIBIT A OF CITY AND COUNTY PROPERTY TAX SHARING AGREEMENTS FOR ANNEXATIONS

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: On July 6, 2004, the City Council considered the adoption of two – City/County Tax Sharing Agreements, one for substantially developed islands and one for contiguous non-island areas that are substantially developed. When the Council considered the two new agreements on July 6, the accompanying maps included areas that are not substantially developed. As such, they would not be considered under either of these agreements but would be subject to the existing Master Property Tax Sharing Agreement approved in November, 1979. Staff has amended the exhibits to more accurately reflect the areas affected by the new tax sharing agreements.

With the adoption of the two agreements with the amended exhibits, there will be three property tax sharing agreements in effect. The term "substantially developed" is subject to a certain degree of interpretation and negotiation. When the agreements are reviewed for consideration and adoption by the County, additional revisions to the exhibits may be requested. In the event this occurs, staff is seeking authorization for the City Manager to approve the change of exhibits.

RECOMMENDATION: That City Council:

1. Approve revised Exhibits A for each of the property tax sharing agreements considered at the July 6, 2004, City Council meeting;

2. Adopt a resolution approving the agreement for property tax sharing for contiguous non-island annexations;

3. Adopt a resolution approving the agreement for property tax sharing for island annexations; and

4. Authorize the City Manager to negotiate and approve necessary changes to the exhibits attached to each property tax sharing agreement.

ATTACHMENT:

2. Resolution approving Property Tax Sharing Agreement for Substantially Developed County Island Areas
3. Draft Property Tax Agreement for County Island Annexations with amended Exhibit A
4. Resolution approving Property Tax Sharing Agreement for Substantially Developed Contiguous County Areas
5. Draft Property Tax Agreement for Contiguous Area Annexations with amended Exhibit A
RESOLUTION NO. 9377

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE IN THE MATTER OF SHARING PROPERTY TAXES IN AREAS ANNEXED TO THE CITY OF PORTERVILLE

WHEREAS, Section 99 of the Revenue and Taxation Code added by AB8 (Chapter 282) enacted in 1979 provides that in the case of a jurisdictional change (annexation) the governmental bodies of all agencies whose service areas or service responsibilities are altered by the change shall determine the amount of property tax revenues to be exchanged between them; and

WHEREAS, Annexations after July 25, 1979, cannot become effective until such agreement is reached; and

WHEREAS, Representatives of the County and City of Porterville have met and discussed the exchange of property tax; and

WHEREAS, The County and City of Porterville wish to encourage annexation of urban areas into existing city; and

WHEREAS, Annexation will decrease the County's responsibilities for providing services in the areas of building inspection, libraries, planning, roads, police patrol and fire; and

WHEREAS, The City of Porterville will gain service responsibilities for these and other services; and

WHEREAS, Annexation causes certain revenues to automatically shift from the County to City such as sales tax, motor vehicle in-lieu tax, trailer coach in-lieu tax, alcohol license fees, transient occupancy tax, real property transfer tax, cigarette tax and other fees and licenses; and

WHEREAS, A portion of the property taxes to support libraries and fire service will automatically be shifted to the City of Porterville, and a portion of the vehicle code fines, gasoline tax and sales tax on gasoline, will be transferred to the City; and

WHEREAS, It is the desire of the County and City to establish a uniform method of exchanging property taxes that will apply to all annexations commencing on January 1, 1978, and continuing until changed by a new agreement, or until the County or City gives written notice that this Resolution shall not apply to future annexations in general, or to a particular future annexation.

NOW, THEREFORE, BE IT RESOLVED THAT for each annexation the City of Porterville shall receive the additional allocation of property taxes automatically provided for by Sections 96-98 of the Revenue and Taxation Code, as added by AB8, and no additional adjustment will be made pursuant to Revenue and Taxation Code 99 as added by AB8; and

BE IT FURTHER RESOLVED THAT all other agencies involved shall receive the tax increment attributable to that agency pursuant to Sections 96-98 of the Revenue and Taxation Code; and
BE IT FURTHER RESOLVED THAT property taxes in future years for the annexed territory shall be computed in accordance with Revenue and Taxation Code Sections 96-98 without any further adjustments pursuant to Revenue and Taxation Code Section 99;

BE IT FURTHER RESOLVED THAT this resolution shall take effect with respect to the City of Porterville immediately upon the adoption of this resolution by the County and the City of Porterville.

[Signature]
Theodore G. Ensslin, Mayor

ATTEST:

[Signature]
C. G. Huffaker, City Clerk

* * * * * * *

STATE OF CALIFORNIA)

COUNTY OF TULARE

I, C. G. HUFFAKER, the duly appointed City Clerk of the City of Porterville do hereby certify and declare that the foregoing is a full, true and correct copy of a resolution duly and regularly passed and adopted at a regular meeting of the Porterville City Council regularly called and held on the 6th day of November, 1979.

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

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

C. G. HUFFAKER, City Clerk

By: [Signature]
Deputy
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE IN THE MATTER OF SHARING PROPERTY TAXES IN AREAS OF DEVELOPED COUNTY ISLANDS ANNEXED INTO THE CITY OF PORTERVILLE

WHEREAS, Section 99(d) of the Revenue and Taxation Code authorizes Cities and Counties to enter into property tax sharing agreements;

WHEREAS, the City of Porterville and the County of Tulare currently have a Master Property Tax Agreement that applies to division of property tax revenues between the City and the County when and after property is annexed to the City;

WHEREAS, the City and the County acknowledge that upon annexation of the unincorporated county islands identified in Exhibit 1 attached to the Property Tax Agreement (County Island Annexations), the City will assume certain obligations with respect to the provision of public services to such substantially developed unincorporated islands;

WHEREAS, such unincorporated islands have been developed to a large extent and will require the immediate provision of public services when annexed by the City; and

WHEREAS, special provisions are necessary for allocation of the base tax for the City to provide necessary public services upon annexation of the unincorporated county islands identified in Exhibit 1 attached to the Property Tax Sharing Agreement.

NOW THEREFORE BE IT RESOLVED, that the City and the County agree as follows:

SECTION 1: The City and County agree to a distribution of property taxes as outlined in the Property Tax Sharing Agreement for annexation of County Islands attached hereto.

SECTION 2: That the existing Master Property Tax Sharing Agreement will remain in effect on undeveloped islands (namely those covered under existing Williamson Act Contracts).

SECTION 3: That this resolution shall take effect with respect to the City of Porterville immediately upon the adoption of this resolution by the City of Porterville and County of Tulare.

__________________________________________
Pedro R. Martinez, Mayor

Attest:

John Longley, City Clerk

__________________________________________
Georgia Hawley, Deputy City Clerk
PROPERTY TAX AGREEMENT
(County Island Annexations)

INTRODUCTION

This Agreement is entered into and effective on this _______ day of ____________ 2004 by and between the County of Tulare ("County") and the City of Porterville ("City").

RECITALS

WHEREAS, the County is a political subdivision of the State of California and recognized under the general laws of the State of California;

WHEREAS, the City is a charter law city organized under the laws of the State of California;

WHEREAS, there exists adjacent to the city limits of the City of Porterville a number of unincorporated county islands, which are identified on attached Exhibit 1 incorporated by reference herein;

WHEREAS, pursuant to the requirements of California Government Code Section 56375.3 and other relevant provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (A.B. 720), the City is authorized to propose, and the Tulare County Local Agency Formation Commission ("Tulare LAFCo") is authorized to approve, annexations of unincorporated islands subject to certain streamlined terms and conditions;

WHEREAS, the City and the County are authorized to enter into property tax sharing agreements pursuant to California Revenue and Taxation Code Section 99 (d);
WHEREAS, the City and the County have a Master Property Tax Agreement that applies to the division of property tax revenues between the City and the County when and after property is annexed to the City;

WHEREAS, upon annexation of the unincorporated county islands identified in Exhibit 1, the City will assume certain obligations with respect to the provision of public services to such unincorporated county islands;

WHEREAS, such unincorporated county islands have been developed to a large extent and will require the immediate provision of public services when annexed by the City; and

WHEREAS, special provisions are necessary for allocation of the base tax for the City to provide necessary public services upon annexation of the unincorporated county islands identified in Exhibit 1.

NOW, THEREFORE, BE IT RESOLVED, that the County and the City agree as follows:

1. DEFINITIONS.
   a. Base Tax. The base tax shall be that amount of property tax revenues collected by the County of Tulare from the property in the affected county island in the tax year of the annexation prior to any adjustment for the Education Revenue Augmentation Fund ("ERAF").
   b. Tax Rate Area. The tax rate area ("TRA") shall be an area as defined in California Revenue and Taxation Code Section 95 within the existing city limits of the City of Porterville determined by the Tulare County Auditor to
be most similar in terms of property tax allocation characteristics to the area to be annexed.

c. Education Revenue Augmentation Fund. ERAF shall refer to the property tax revenue adjustment authorized by California Revenue and Taxation Code Sections 97 et seq.

2. **EXISTING MASTER PROPERTY TAX AGREEMENT INAPPLICABLE.**

The City and the County agree that with respect to those unincorporated islands within the existing city limits identified in Exhibit 1, the existing Master Property Tax Agreement between the City and the County shall not be applicable. The existing agreement was adopted by the City pursuant to Resolution 79-9327 and by the County pursuant to Resolution 79-48. The City and the County desire to make a new property tax agreement to become applicable upon annexation of the unincorporated areas identified in Exhibit 1. The City and the County have made this determination because they have mutually determined that such parcels identified in Exhibit 1 are in various states of development, and that annexation would create the immediate need for the City to provide services, which could not be provided without some portion of the base tax being allocated to the City.

3. **TERM.**

This agreement shall apply to annexations initiated by resolution of the City and completed by the affected public entities pursuant to California Government Code Section 56375.3 on or before January 1, 2007. This Agreement shall expire by the close of business on January 1, 2007.
4. ADJUSTED PROPERTY TAX.

The City and the County agree that the base tax shall be allocated according to the procedure described herein for the unincorporated islands identified in Exhibit 1 upon their completed annexation to the City. The specific procedures are set forth as follows:

a. Upon filing an application with the Tulare LAFCo to annex each of the unincorporated areas identified in Exhibit 1, the City and the County will request that the Tulare County Auditor identify a TRA within the existing incorporated area of the City with similar property tax allocation characteristics. Determination of the allocation of the base tax shall be a condition of annexation and the allocation shall be applied to the base tax and tax revenues resulting from any future assessed valuation change.

b. In the event the Tulare County Auditor does not provide the City and County with an allocation of the base tax determined by identification of a similar TRA prior to action by the Tulare LAFCo on the application for annexation, the City and the County agree that the City shall receive thirteen and seven tenths percent (13.7%) base tax prior to application of any adjustment for ERAF.

c. The City and the County agree further that after annexation of the unincorporated areas, the base tax and tax revenues resulting from any future assessed valuation change shall be allocated between the City and the County according to the property tax revenue allocations set forth in subparagraphs (a) or (b) of this paragraph.
d. To the extent that California Revenue and Taxation Code Section 99(b)(5) is applicable to any of the parcels identified in Exhibit 1, the Board of Supervisors of the County, prior to entering into negotiation on behalf of any affected special district for the exchange of property tax revenue, shall consult with such district. The consultation shall include, at a minimum, notification to each member and executive officer of the district board of the pending consultation and provision of adequate opportunity to comment on the negotiation.

5. PROCEDURES RELATED TO ERAF IMPLEMENTATION AND FUTURE ERAF ADJUSTMENTS.

a. In order to provide the City with the agreed upon portion of base tax, any share of the base tax previously shifted to the County Fire Fund will be shifted to the City share of base tax revenue. The County general share will then be reduced to achieve the agreed upon share for the City. This will preserve the allocated share of any ERAF adjustment at pre-annexation levels.

b. If at any time in the future, the State of California determines that the ERAF share from any annexed territory subject to this agreement should have been increased by the share previously accruing to the County Fire Fund, the adjustment shall be made from the City's allocated share of base tax.

c. In the event that the State of California modifies the ERAF adjustment applied to the base tax, the City shall share proportionately in such adjustment. For example, if the ERAF adjustment for the base tax is reduced, thereby increasing the net base tax, the
City and County portions of the base tax would be increased in proportion to their respective share of the base tax revenues.

6. CONDITION PRECEDENT.

Subject to the requirements of paragraph 4 herein, the only condition to implementation of this Agreement is the City's filing with the Tulare LAFCo an application for annexation of all or any portion of the unincorporated islands identified in Exhibit 1. However, nothing in this Agreement shall be construed to relieve, diminish, or in any way alter either the City's or the County's exercise of its independent responsibilities and obligations to review, comment on, support, oppose, or act on any application for annexation of the unincorporated areas identified in Exhibit 1, as such responsibilities and obligations may be allowed by law.

7. SPECIFIC PERFORMANCE.

In addition to any other provision of law, either party may undertake any action to have the terms and conditions of this Agreement specifically enforced.

8. GENERAL PROVISIONS.

a. Entire Agreement. This Agreement, including the exhibit incorporated herein, constitutes the entire agreement of the parties hereto with respect to the matters contained herein, and no prior agreement or understanding concerning such matter shall be effective for any purpose. No provisions hereof may be amended or modified in any manner whatsoever, except by agreement in writing signed by the duly authorized representative of each of the parties hereto.
b. Successors. The terms, covenants and conditions hereof shall be binding upon, and shall inure to the benefit of, the successors and assigns of the parties hereto.

c. Further Action. The parties hereto agree to perform all necessary further acts to effectuate this Agreement, and to execute, acknowledge, and deliver any documents that may be necessary, appropriate, or desirable to carry out the purposes of this Agreement.

d. Waiver. A waiver of any breach of this Agreement by any parties shall not constitute a continuing waiver or a waiver of any subsequent breach of the same or any other provisions of this Agreement.

e. Termination of Agreement. This Agreement may be terminated upon material breach by any party hereto, and the affected party may pursue all rights and remedies allowed by law.

f. Choice of Laws. This Agreement shall be governed by the laws of the State of California and any questions arising hereunder shall be construed or determined according to such law.

g. Construction. This Agreement is a product of negotiation and compromise on the part of each party, and each party agrees that, notwithstanding Civil Code Section 1654, any ambiguity or uncertainty concerning the language of this Agreement will not be construed against the party causing the ambiguity or uncertainty to exist.

h. Headings. Headings at the beginning of each numbered section of this
Agreement are solely for the convenience of the parties and are not part of this Agreement.

i. Authority to Execute Agreement. Each signatory to this Agreement represents that such party has the authority to bind each party to this Agreement.

j. Effective Date of Agreement. After execution of this Agreement by the authorized representative of the City, the effective date of this Agreement shall commence on the date that the authorized representative of the County executes this Agreement. The effective date shall be reflected in the Introduction of this Agreement.
City of Porterville:

Pedro R. Martinez, Mayor

County of Tulare:

Bill Sanders, Chairman
Board of Supervisors

APPROVED AS TO FORM:

Julia Lew
City Attorney

Kathleen Bales-Lange
Deputy County Counsel
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE IN THE MATTER OF SHARING PROPERTY TAXES IN AREAS OF DEVELOPED CONTIGUOUS COUNTY AREAS ANNEXED INTO THE CITY OF PORTERVILLE

WHEREAS, Section 99(d) of the Revenue and Taxation Code authorizes Cities and Counties to enter into property tax sharing agreements;

WHEREAS, the City of Porterville and the County of Tulare currently have a Master Property Tax Agreement that applies to division of property tax revenues between the City and the County when and after property is annexed to the City;

WHEREAS, the City and the County acknowledge that upon annexation of the contiguous unincorporated county areas within the Urban Development Boundary identified in Exhibit 1 attached to the Property Tax Agreement (Contiguous Area Annexations), the City will assume certain obligations with respect to the provision of public services to such substantially developed unincorporated islands;

WHEREAS, such contiguous unincorporated areas have been developed to a large extent and will require the immediate provision of public services when annexed by the City; and

WHEREAS, special provisions are necessary for allocation of the base tax for the City to provide necessary public services upon annexation of the contiguous unincorporated county areas identified in Exhibit 1 attached to the Property Tax Sharing Agreement.

NOW THEREFORE BE IT RESOLVED, that the City and the County agree as follows:

SECTION 1: The City and County agree to a distribution of property taxes as outlined in the Property Tax Sharing Agreement for annexation of Contiguous County Areas attached hereto.

SECTION 2: That the existing Master Property Tax Sharing Agreement will remain in effect on undeveloped contiguous areas.

SECTION 3: That this resolution shall take effect with respect to the City of Porterville immediately upon the adoption of this resolution by the City of Porterville and County of Tulare.

__________________________________________
Pedro R. Martinez, Mayor

Attest:

John Longley, City Clerk

__________________________________________
Georgia Hawley, Deputy City Clerk
PROPERTY TAX AGREEMENT
(Contiguous Area Annexations)

INTRODUCTION

This Agreement is entered into and effective on this _____ day of ___________ 2004 by and between the County of Tulare ("County") and the City of Porterville ("City").

RECITALS

WHEREAS, the County is a political subdivision of the State of California and recognized under the general laws of the State of California;

WHEREAS, the City is a charter law city organized under the laws of the State of California;

WHEREAS, there exists adjacent to the city limits of the City of Porterville a number of unincorporated county areas, which are identified on attached Exhibit 1 incorporated by reference herein;

WHEREAS, pursuant to the requirements of California Government Code Section 56741 and other relevant provisions of the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 (A.B. 720), the City is authorized to propose, and the Tulare County Local Agency Formation Commission ("Tulare LAFCo") is authorized to approve annexations of unincorporated areas within or contiguous to its boundaries, subject to certain terms and conditions;

WHEREAS, the City and the County are authorized to enter into property tax sharing agreements pursuant to California Revenue and Taxation Code Section 99(d);
WHEREAS, the City and the County have a Master Property Tax Agreement that applies to the
division of property tax revenues between the City and the County when and after property is
annexed to the City;

WHEREAS, upon annexation of the unincorporated county areas identified in Exhibit 1, the City
will assume certain obligations with respect to the provision of public services to such
unincorporated county areas;

WHEREAS, such unincorporated county areas have been developed to a large extent and will
require the immediate provision of public services when annexed by the City; and

WHEREAS, special provisions are necessary for allocation of the base tax for the City to provide
necessary public services upon annexation of the unincorporated county areas identified in Exhibit
1.

NOW, THEREFORE, BE IT RESOLVED, that the County and the City agree as follows:

1. DEFINITIONS.

a. Base Tax. The base tax shall be that amount of property tax revenues
   collected by the County of Tulare from the property in the affected county area
   in the tax year of the annexation prior to any adjustment for the Education
   Revenue Augmentation Fund ("ERAf").

b. Tax Rate Area. The tax rate area ("TRA") shall be an area as defined in
   California Revenue and Taxation Code Section 95 within the existing city
   limits of the City of Porterville determined by the Tulare County Auditor to
be most similar in terms of property tax allocation characteristics to the area to be annexed.

c. Education Revenue Augmentation Fund. ERAF shall refer to the property tax revenue adjustment authorized by California Revenue and Taxation Code Sections 97 et seq.

2. **EXISTING MASTER PROPERTY TAX AGREEMENT INAPPLICABLE.**

The City and the County agree that with respect to those unincorporated areas adjacent to the city limits identified in Exhibit 1, the existing Master Property Tax Agreement between the City and the County shall not be applicable. The existing agreement was adopted by the City pursuant to Resolution 9327 and by the County pursuant to Resolution 79-48. The City and the County desire to make a new property tax agreement to become applicable upon annexation of the unincorporated areas identified in Exhibit 1. The City and the County have made this determination because they have mutually determined that such parcels identified in Exhibit 1 are in various states of development, and that annexation would create the immediate need for the City to provide services, which could not be provided without some portion of the base tax being allocated to the City.

3. **TERM.**

This Agreement shall apply to annexations initiated by resolution of the City and completed by the affected public entities pursuant to California Government Code Section 56741 on or before January 1, 2007 unless it is extended beyond that date by mutual agreement of the parties.

4. **ADJUSTED PROPERTY TAX.**

The City and the County agree that the base tax shall be allocated according to the procedure
described herein for the unincorporated areas identified in Exhibit 1 upon their completed annexation to the City. The specific procedures are set forth as follows:

a. Upon filing an application with the Tulare LAFCo to annex each of the unincorporated areas identified in Exhibit 1, the City and the County will request that the Tulare County Auditor identify a TRA within the existing incorporated area of the City with similar property tax allocation characteristics. Determination of the allocation of the base tax shall be a condition of annexation and the allocation shall be applied to the base tax and tax revenues resulting from any future assessed valuation change.

b. In the event the Tulare County Auditor does not provide the City and County with an allocation of the base tax determined by identification of a similar TRA prior to action by the Tulare LAFCo on the application for annexation, the City and the County agree that the City shall receive thirteen and seven tenths percent (13.7%) base tax prior to application of any adjustment for ERAF.

c. The City and the County agree further that after annexation of the unincorporated areas, the base tax and tax revenues resulting from any future assessed valuation change shall be allocated between the City and the County according to the property tax revenue allocations set forth in subparagraphs (a) or (b) of this paragraph.

d. To the extent that California Revenue and Taxation Code Section 99(b)(5) is applicable to any of the parcels identified in Exhibit 1, the Board of
Supervisors of the County, prior to entering into negotiation on behalf of any affected special district for the exchange of property tax revenue, shall consult with such district. The consultation shall include, at a minimum, notification to each member and executive officer of the district board of the pending consultation and provision of adequate opportunity to comment on the negotiation.

5. PROCEDURES RELATED TO ERAF IMPLEMENTATION AND FUTURE ERAF ADJUSTMENT

a. In order to provide the City with the agreed upon portion of base tax, any share of the base tax previously shifted to the County Fire Fund will be shifted to the City share of base tax revenue. The County general share will then be reduced to achieve the agreed upon share for the City. This will preserve the allocated share of any ERAF adjustment at pre-annexation levels.

b. If at any time in the future, the State of California determines that the ERAF share from any annexed territory subject to this agreement should have been increased by the share previously accruing to the County Fire Fund, the adjustment shall be made from the City’s allocated share of base tax.

c. In the event that the State of California modifies the ERAF adjustment applied to the base tax, the City shall share proportionately in such adjustment. For example, if the ERAF adjustment for the base tax is reduced, thereby increasing the net base tax, the City and County portions of the base tax would be increased in proportion to their
6. **CONDITION PRECEDENT.**

Subject to the requirements of paragraph 4 herein, the only condition to implementation of this Agreement is the City's filing with the Tulare LAFCo an application for annexation of all or any portion of the unincorporated islands identified in Exhibit 1. However, nothing in this Agreement shall be construed to relieve, diminish, or in any way alter either the City's or the County's exercise of its independent responsibilities and obligations to review, comment on, support, oppose, or act on any application for annexation of the unincorporated areas identified in Exhibit 1, as such responsibilities and obligations may be allowed by law.

7. **SPECIFIC PERFORMANCE.**

In addition to any other provision of law, either party may undertake any action to have the terms and conditions of this Agreement specifically enforced.

8. **GENERAL PROVISIONS.**

   a. **Entire Agreement.** This Agreement, including the exhibit incorporated herein, constitutes the entire agreement of the parties hereto with respect to the matters contained herein, and no prior agreement or understanding concerning such matter shall be effective for any purpose. No provisions hereof may be amended or modified in any manner whatsoever, except by agreement in writing signed by the duly authorized representative of each of the parties hereto.
b. Successors. The terms, covenants and conditions hereof shall be binding upon, and shall inure to the benefit of, the successors and assigns of the parties hereto.

c. Further Action. The parties hereto agree to perform all necessary further acts to effectuate this Agreement, and to execute, acknowledge, and deliver any documents that may be necessary, appropriate, or desirable to carry out the purposes of this Agreement.

d. Waiver. A waiver of any breach of this Agreement by any parties shall not constitute a continuing waiver or a waiver of any subsequent breach of the same or any other provisions of this Agreement.

e. Termination of Agreement. This Agreement may be terminated upon material breach by any party hereto, and the affected party may pursue all rights and remedies allowed by law.

f. Choice of Laws. This Agreement shall be governed by the laws of the State of California and any questions arising hereunder shall be construed or determined according to such law.

g. Construction. This Agreement is a product of negotiation and compromise on the part of each party, and each party agrees that, notwithstanding Civil Code Section 1654, any ambiguity or uncertainty concerning the language of this Agreement will not be construed against the party causing the ambiguity or uncertainty to exist.

h. Headings. Headings at the beginning of each numbered section of this
Agreement are solely for the convenience of the parties and are not part of this Agreement.

i. Authority to Execute Agreement. Each signatory to this Agreement represents that such party has the authority to bind each party to this Agreement.

j. Effective Date of Agreement. After execution of this Agreement by the authorized representative of the City, the effective date of this Agreement shall commence on the date that the authorized representative of the County executes this Agreement. The effective date shall be reflected in the Introduction of this Agreement.
City of Porterville:  
Pedro R. Martinez, Mayor  
City of Porterville  

County of Tulare:  
Bill Sanders, Chairman  
Board of Supervisors  

APPROVED AS TO FORM:  
Julia Lew  
City Attorney  

Kathleen Bales-Lange  
Deputy County Counsel
SUBJECT: AUTHORIZATION TO DISCUSS “OWNERSHIP” OF THE INDIANA STREET AND SCRANTON AVENUE PROJECT WITH TULARE COUNTY

SOURCE: Public Works Department - Engineering Division

COMMENT: At a recent Tulare County Association of Governments (TCAG) meeting, City staff was informed that State Transportation Improvement Project (STIP) funds in the amount of $2,650,000 might be available as early as FY 2006/2007 for the Scranton Avenue and Indiana Street Widening Project. This project includes the purchase of right of way and the widening to 4 lanes of Scranton Avenue from Highway 65 east to Indiana Street and Indiana Street from Scranton Avenue north to Gibbons Avenue.

The sections of roadway described above are in the County and as such, right of way purchase, design, bidding, construction management and matching fund obligations fall under the jurisdiction of Tulare County Public Works.

The County is well aware of the importance of widening this corridor as it pertains to the City’s plans for commercial development along Jaye Street and Scranton Avenue at Highway 65. Unfortunately, the senior engineering staff assigned to this project are no longer with Tulare County. Because of the County’s current staffing concerns, it is unlikely that the County will continue with any significant effort on this project. If the County drops this project and the City is unable or unwilling to accept the project, the funds will be distributed to other County agencies who have viable projects.

Public Works requests authorization to enter into discussions with Tulare County Public Works to determine if this project can be managed by Porterville’s Engineering Division. Points of discussion will include design concept, environmental status, right of way alignments and most importantly, whether the local match will be borne by the City or by the County. A summary of staff’s discussions with a recommendation will be brought back to Council for direction.

RECOMMENDATION: That City Council authorize the Public Works Director to:

1. Meet with Tulare County Public Works for the purpose of determining whether the City can take over all aspects of the Indiana/Scranton Project; and

2. Prepare a staff report for Council’s consideration that addresses the project’s current design and environmental status and identifies funding requirements and agency obligations related to said funding requirements.
SUBJECT: HILLSIDE DEVELOPMENT ORDINANCE UPDATE STATUS REPORT

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT/CITY ATTORNEY

COMMENT: At the City Council meeting of October 18, 2005, the City Council approved an extension to the Hillside Development Ordinance and directed the City Attorney to solicit a firm to prepare a draft ordinance within 120 days. Staff attended a field trip to Southern California for a presentation by a hillside development consultant and to tour a number of hillside developments that represent both good and bad examples.

In response to the Council’s direction to the City Attorney, TRG Land, Inc., the consulting firm that made the presentation and provided the tour, was asked to submit a proposal to prepare a Hillside Development Ordinance for the City of Porterville. Attached is a copy of the proposal. The consultant provided a detailed breakdown of the steps to preparing an ordinance as well as a cost for each of the steps that would lead to approval by the Council. It should be noted that the work effort, as outlined, consists of approximately 1000 hours. It is anticipated that this effort would extend significantly beyond the life of the current interim urgency ordinance which was approved October 18, 2005 and is due to expire at the end of the work day on February 15, 2006. Although some of the tasks outlined by the consultant may be able to overlap relative to work effort, Staff is anticipating the effort as outlined will require approximately 9 to 12 months to complete. If it is the Council’s desire to proceed with the ordinance, a time extension of the Interim Urgency Ordinance will be necessary.

There are a number of options for the Council to consider in this matter as follows:

1. Move forward with the hiring of TRG Land, Inc. to prepare a Hillside Development Ordinance and allocate $122,000 for the project (this includes a 10% contingency but no allocation of funds for staff time). If this is the Council’s desire, funding needs to be appropriated to contract with the firm. Options available to fund the effort are as follows:
   a. Delay the ordinance development effort until next fiscal year to determine if monies are available within the 2006/07 budget.
   b. Move forward with the ordinance and borrow funds from the equipment replacement fund and establish a repayment schedule.
   c. It would appear that any other option would result in a General Fund deficit for the Fiscal Year 2005/06.

2. Direct the City Attorney and Staff to meet with the consultant to modify the scope of work and reduce the overall cost and time of the project. To keep with the objectives of ordinance development and the Council’s schedule, there will likely be minor changes.
3. Direct the City Attorney to solicit other proposals from consultants to prepare a hillside development ordinance.

RECOMMENDATION: That the City Council direct the City Attorney and Staff accordingly.

Attachments: 1) Proposal from TRG Land, Inc.
November 14, 2005

Bradley D. Dunlap, AICP
Community Development Director
City of Porterville
Porterville City Hall
291 N. Main Street
Porterville, CA. 93257

Re: City of Porterville Hillside Ordinance

Dear Ms. Lew,

TRG Land, Inc. is pleased to submit this initial Scope of Services for purposes of writing a Hillside Management Ordinance for the hillside areas in the City of Porterville and its Sphere of Influence.

It is assumed that information gathered and generated from the Hillside Visioning Workshop and Process will be used as background and supplementary material for the Hillside Management Ordinance document.

A. Assessment of developable areas, land use, and circulation alternatives

Task: Analyze Opportunities & Constraints and other background information to determine areas of developable land and development mitigations.

Product: Development Opportunities and Mitigation exhibit

Hours: 100

Cost: $11,000

B. Preliminary Hillside Management Ordinance

Task: Write a Preliminary Hillside Management Ordinance outline and document based on information gathered from team meetings, public input, Opportunities & Constraints, Slope analysis, and Development Opportunities and Mitigation exhibits. Visionary goals and development standards will be articulated in this stage.

Product: Draft Hillside Management Ordinance

Hours: 250

Cost: $27,500
C. Illustrative Ordinance Graphics

Task: Based on goals and standards of the City, draw illustrative graphics representing goals and standards of the Hillside Management Ordinance.

Product: Graphics showing goals and standards of ordinance. These graphics will be placed in the appropriate sections of the ordinance.

Hours: 60
Cost: $6,600

D. Draft Hillside Management Ordinance

Task: Write a Draft Hillside Management Ordinance revision based on City review, project team review, and public input.

Product: Draft Hillside Management Ordinance

Hours: 180
Cost: $19,800

E. Final Hillside Management Ordinance

Task: Revise Hillside Management Ordinance into final form based on City review and public comment and prepare for approval process.

Product: Final Hillside Management Ordinance

Hours: 100
Cost: $11,000

F. Public information meetings and review process

Task: Present exhibits and documents to the general public for review and answer questions from public.

Product: 2 Public Information Meetings, 2 Planning Commission Meetings, and 2 City Council Meetings

Hours: 216
Cost: $23,760

G. Coordination with the Client.

Task: Meetings and coordination with the Client. Meetings will discuss topics such as development goals and standards.

Product: Meetings and coordination with Client regarding project direction.

Hours: 100
Cost: $11,000
In order to proceed with this scope of services, we would anticipate a time and materials contract not to exceed $110,660. Direct expenses (reprographics, travel, delivery services) will be billed at cost. The travel time will be split between client and consultant.

Thank you very much for your consideration of TRG Land, Inc. in this effort. We look forward to working with you.

Best regards,

TRG Land, Inc.

Mark Rogers, Principal

Cc: Julia Lew, City of Porterville
SUBJECT: CONSIDERATION OF DRAFT ORDINANCE REPEALING CITY CODE SECTION 19-5, EX-OFFICIO MEMBERS ON THE PARKS AND LEISURE SERVICES COMMISSION

SOURCE: Parks & Leisure Services Department

COMMENT: City Code Section 19-5 provides for ex-officio membership on the Parks and Leisure Services Commission by representatives of the Porterville School District and the Porterville High School District. The two school districts have unified since the adoption of this City Code Section.

The School District has not participated in the Commission meetings in a significant manner within the past few years. At the November 15, 2005 meeting, the City Council indicated that it would be appropriate to amend the City Code to repeal Section 19-5, Ex-Officio Members.

A letter to the Superintendent of the Porterville Unified School District was sent to inform him of the consideration for repealing Section 19-5 set for the December 6, 2005 City Council agenda. The Superintendent sent a letter the same date appointing a new representative to the ex-officio role. The two letters crossed in the mail. The Superintendent called staff upon receipt of the City letter to make inquiry about the history of City deliberations regarding ex-officio representation. The Superintendent has subsequently provided another letter requesting that the school district be allowed to continue having representation on the Parks and Leisure Services Commission.

An option to approving the first reading of the Ordinance at this time would be referring the matter to the City and School Districts’ Coordinating Committee for discussion.

RECOMMENDATION: Consider the request of the Porterville Unified School District Superintendent, and if appropriate:

Approve the first reading of the draft ordinance, being an Ordinance of the City Council of the City of Porterville Amending Chapter 19, Article I, of the City Code of the City of Porterville by Repealing Section 19-5, Ex-Officio Members.

ATTACHMENTS: 1. Draft Ordinance
2. Copy of November 17, 2005 letter to Dr. Snavely
3. Copy of November 17, 2005 letter from Dr. Snavely
4. Copy of November 22, 2005 letter from Dr. Snavely

ITEM NO.: 21
ORDINANCE NO. ______

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING CHAPTER 19, ARTICLE I, OF THE CITY CODE OF THE CITY OF PORTERVILLE, BY REPEALING SECTION 19-5, EX OFFICIO MEMBERS

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

Section 1: Chapter 19, Parks, Article I, In General, is hereby amended by the repeal of the following section:

Sec. 19-5. Ex officio members.

One representative of the elementary school board of trustees and one representative of the high school board of trustees shall be selected annually by their respective agencies [to serve as ex officio members of the commission].

Section 2: This ordinance shall be in full force and effect thirty (30) days from and after its publication and passage.

PASSED AND ADOPTED this _____ day of ___________, 2005.

________________________________________

Kelly West, Mayor

ATTEST:

John Longley, City Clerk

________________________________________

Georgia Hawley, Chief Deputy City Clerk
Dr. John Snavely  
Superintendent  
Porterville Unified School District  
600 West Grand Avenue  
Porterville, CA 93257

Dear Dr. Snavely:

The Porterville Parks and Leisure Services Commission and Porterville City Council have both recently discussed the provisions for a school district representative to serve as an ex-officio member on the Parks and Leisure Services Commission. At the November 15, 2005 City Council meeting direction was given for the preparation of an Ordinance to repeal Section 19-5 of the Porterville Municipal Code.

The City Council is scheduled to consider the first reading of an Ordinance to repeal this code section at their regular meeting of December 6, 2005. The proposed ordinance is attached to this letter for your information.

This letter is to advise you of the matter. Should the proposed ordinance be adopted the school district would not have the ability to designate an official ex-officio member to the Parks and Leisure Services Commission. The Commission would remain open and receptive to communication and participation by the school district at the meetings of the Commission.

Sincerely,

Jim Perrine  
Director  
Parks & Leisure Services

Attachment: Proposed Ordinance

JP:lw
November 17, 2005

Jim Perrine, Director
Parks and Leisure Services
City of Porterville
291 No. Main Street
Porterville, CA 93257

Dear Mr. Perrine:

The Porterville Unified School District would like to appoint Catherine Capone as the School District’s representative to the Parks and Leisure Services Commission effective immediately. Ms. Capone’s home address is 806 West Westfield Avenue. Please forward any communications on behalf of the Commission to this address.

We appreciate the opportunity to have a representative for the Commission, and I know Ms. Capone will represent the Porterville Unified School District well.

Should you have any questions, I may be reached at 793-2455.

Sincerely,

John Snavely, Ed.D.
Superintendent

cc: Catherine Capone
Recommendations
C Capone
November 22, 2005

Kelly West, Mayor
City of Porterville
291 No. Main Street
Porterville, CA 93257

Dear Mayor West:

It was recently brought to my attention that the Porterville City Council directed city staff to draft an ordinance that would repeal Section 19-5 of the Porterville Municipal Code regarding school district representatives serving as ex-officio members on the Parks and Leisure Services Commission. While we recognize that this section should be revised because of the restructuring of the Porterville Unified School District, we respectfully request that this provision not be repealed.

Over the last several years, we have made great strides in improving the relationship and communication between city government and the school district. As we continue to consider future relationships and joint projects, we believe it remains important that a representative of the Porterville Unified School District be allowed to serve on the Parks and Leisure Services Commission. It would be our preference that this position be an appointed member, as opposed to ex-officio; however, we are comfortable with ex-officio, if that is the preference of the City Council.

I would be happy to answer any questions you may have regarding this matter. I may be reached at 793-2455.

Sincerely,

John Snavely, Ed.D.
Superintendent
SUBJECT: Consideration of State Legislative Programs for the City of Porterville

SOURCE: City Manager’s Office

At the November 1, 2005 City Council Meeting, a letter from Assemblyman Maze was presented asking for legislative proposals from the City. The Council determined at that meeting to hold the request over until the first meeting in December.

Direction was given that a proposal should be presented to expand the level of grant defined in AB 1280. This legislation makes available each year, two $50,000 one-time grants for the purpose of establishing the California Community College Baccalaureate Partnership Program.

In addition to the Local Bachelor Degree legislation, the Council in 2005 prepared legislative priorities including:

- Highway 190 Improvement
- Local CCC Facility
- CDF Fire Attack Base
- Enterprise Legislation
- Prevailing Wages
- Standardized Requirements
- Proposition 1-A Follow-Up
- Island Annexations

The staff suggests that there is currently Enterprise Zone legislation pending which would be beneficial to Porterville. The bill would allow applications to be considered for a second, five year extension to an enterprise zone designation. The City’s Enterprise Zone expires October, 2006.

RECOMMENDATION:

- Request expansion of AB 1280
- Request Enterprise Zone Legislation permitting a second 5 year extension
- Propose other Legislation at the direction of the City Council.

Attachments: 1) Letter dated Oct. 11, 2005 from Bill Maze
  2) Jan. 11, 2005 Recommendations to the California State Legislature

Item No. 22
October 11, 2005

John Longley  
City Manager  
City of Porterville  
291 N. Main Street  
Porterville, CA 93257

Dear John,

The Legislature has adjourned until January 2006. During the fall interim, I once again turn to the local representatives in Assembly District 34 for their legislative priorities, ideas and needs.

As the representative for the City of Porterville, I am interested in learning if there are any legislative remedies necessary for the City of Porterville. If you require legislation for a particular situation, or have a legislative idea that would benefit the cities and counties of Assembly District 34, I am most interested in hearing from you.

Please contact my Capitol Office with any information that would be helpful regarding your legislative need or idea. Any background or substantiating statistics or evidence of the need is always tremendously helpful in drafting legislation.

Before I meet my bill limit, I want to be quite sure that I have met the needs of my district. If you would kindly respond to this query as soon as possible, I would sincerely appreciate it. There are many requests to introduce legislation; obviously requests from my district must receive top priority and first consideration. To do this, I must be in receipt of your requests by early December.

While I cannot guarantee that I can introduce every piece of legislation that I am presented with, I want to assure you that the cities and counties I represent will once again be given top priority.

I look forward to hearing from you. It is an honor to represent you in the California State Assembly.

Sincerely,

BILL MAZE  
Assemblyman, 34th District
January 11, 2005

PORTERVILLE CITY COUNCIL RECOMMENDATIONS TO THE CALIFORNIA STATE LEGISLATIVE

On December 7, 2004, the City of Porterville City Council unanimously approved City Council Agenda Item No. 25 by Minute Order No. 16-120704. The City Council Agenda Item set forth the following proposals for submittal for the 2005 State of California Legislative season:

- **Highway 190 Improvement**: There is great importance in having a 4-lane highway serving the community. Funding for Highway 190 improvements is crucial and to date Porterville has not been embraced by an agency with funding sufficient to support such an improvement. Porterville is one of the few cities in California of more than 40,000 people served by only two-lane highway segments.

- **Local C.C.C. Facility**: Porterville asks for consideration of legislation to initiate a pilot program for a locally managed C.C.C. facility near Porterville. The concept would be a locally formed program with State block grant assistance. The C.C.C. earns a high proportion of its cost. That would be the concept under which the program operates.

- **C.D.F. Fire Attack Base**: The joint U.S.F.S./C.D.F. base is a critical institution at the Porterville Airport. It has provided vital support for fire attack in Central California. It is strategically situated and serves the State, region and community well. Porterville recommends that the legislature work to maintain its active operation.

- **Local Bachelor Degrees**: Porterville asks that the Legislature consider establishing a task force of educators and community members to investigate either the U.C. or C.S.U. headquarters creating a separate (statewide) college with the mission of starting educational centers in remote and rural areas. The mission of the centers would be to provide bachelor level opportunities for local residents. A collaborative effort between the U.C. or C.S.U. statewide college, the State Community College Chancellor, community colleges located in the area, and the communities in which centers may be located would be the foundation for this effort. Likely sites would be selected by factors of isolation, poverty and education in the specific area. A portion of the cost to establish centers should be provided by the State, but community-based resources could also be part of the funding mix.

- **Enterprise Legislation**: Porterville’s important enterprise zone is expected to expire in 2006. Because of State-level staffing issues, it is not likely to be renewed. This likelihood will be
very detrimental to the Porterville community and will exacerbate challenges from the areas high levels of unemployment. Porterville asks the Legislature to extend the term of the current Porterville Enterprise Zone designation until 2010.

- **Prevailing Wages**: SB 975 has required that when State monies are used for economic development in a community, that prevailing wages must be paid by the private entity which has received a grant or loan. The City of Porterville asks consideration of a concept whereby a City Council may override the prevailing wage requirement if the community has an unemployment rate in excess of 10% and the Council takes the action for a specific project by a 4/5ths vote. The opportunity might only be available in charter cities.

- **Standardized Requirements**: Californian’s pay significantly more for many products because we often have unique standards inconsistent with prevailing national standards. Such is the case for playground equipment. This would greatly assist California cities in stretching dollars to improve the safety of local playgrounds.

- **Proposition 1A Follow-Up**: With the recent victory of Proposition 1A, there are a few actions which may improve accountability. One is to extend Proposition 1A to redevelopment agencies. At this time, significant funding has been taken from the Porterville RDA project by State action. The result is that the Agency cannot now cover its debt service. City of Porterville reserves may be exhausted this fiscal year. On a related matter, it may be very beneficial to create a Proposition 1A Task Force, made up of State and Local leaders to monitor progress with the implementation of this measure. This could greatly improve accountability and intergovernmental coordination.

- **Island Annexations**: Regarding streamlined island annexation procedures, Porterville would like to introduce the concept of ministerial island annexations in cases where the County and City jointly sign a memorandum of understanding. In that case, a specific contiguous, developed area could be transferred when they are defined in a memorandum of understanding between a City and County. The purpose of the M.O.U. would be to transfer service responsibilities for an area. The process after jointly signing the M.O.U. would be to file the agreement with the L.A.F.C.O. The property transfer would be processed by the L.A.F.C.O. ministerially on a very streamlined application. This could be an important tool to maintain service responsibilities with diminishing governmental resources.

Prepared by the City of Porterville Office of the City Clerk
Georgia Hawley, Chief Deputy City Clerk
291 N. Main Street
Porterville, CA 93257
Telephone: (559) 782-7442
Fax: (661) 362-4009
SUBJECT: Consideration of Flag Lowering Policy

SOURCE: City Manager’s Office

From time to time, requests are received to lower the United States Flag to recognize the death of a community member. Only recently was such a request approved. To assure consistency, the recommended policy regarding the review of such requests is presented below:

A member of the community may apply to the City Clerk requesting the lowering of the United States flag to recognize the death of another community member.

The Mayor may consider and approve the request when documentation of any of the following is provided through the City Clerk’s Office:

• The recognized individual has served on the Porterville City Council;

• The recognized individual has served as an elected member on another local governmental board or district with representation within the City of Porterville;

• The recognized individual has served for a period of more than three years as the organizer or the leader of a continuing community event in Porterville which was open to the general public. Documentation of said service shall be provided to the City Clerk if not otherwise available in the City Clerk’s office.

The approval of the Mayor shall direct the lowering of the City Hall Flag to half-mast for the day prior to the final services of the recognized individual and on the day of the services until Noon at which time, the City Hall Flag shall be returned to full-mast.

RECOMMENDATION: Approve the policy as presented.
SUBJECT: REPORT ON IMPLEMENTATION OF LICENSE AGREEMENT FOR
OPERATION OF SENIOR CITIZEN PROGRAMS AT THE SANTA FE DEPOT

SOURCE: CITY MANAGER and PARKS & LEISURE SERVICES DIRECTOR

COMMENT: In September 2005 a License Agreement was approved between the Porterville Senior Council and the Kings/Tulare Area Agency on Aging related to the use of the Santa Fe Depot for operations of certain senior citizen programs at that site. A member of the City Council has requested this report regarding the implementation of the Agreement.

The Area Agency on Aging relocated their local operations to the Santa Fe Depot on October 3, 2005. The City and the Area Agency on Aging have jointly conducted several meetings with senior citizen program participants. Issues discussed have been related to both the change of program location as well as the desire by the senior citizens to have changes in the programs and services available. The City Manager and Parks & Leisure Services Director have also met separately with a committee of senior citizens regarding the program site relocation. The meetings have provided good dialogue on many issues, including the desires of senior citizens to obtain enhanced services, the numerous challenges related to transportation and parking, as well as fiscal limitations of all parties.

Through the terms of the Agreement, the City has committed to fund $800 per month to the Senior Council for assistance with insurance, facility management, building and grounds maintenance, and utility service expenses. The City also historically provides some furnishings and incidental maintenance assistance to assure the adequacy of the Santa Fe Depot, as well as the ability for this facility to serve senior citizen groups within the community. For the period of September 2005 through November 2005 the City has expended $2,867.09. City funding is through the Parks & Leisure Department general fund budget. Research by staff was unable to locate any record of grant funding that the City has utilized in support of the Santa Fe Depot.

The Area Agency on Aging provides programs for similar senior citizen needs at sixteen locations within the counties of Kings and Tulare. Their annual budget for the two-county program is $3,972,000. It is estimated that the annual Porterville site expenditures are approximately $275,000. The funding sources for their program are approximately 65% federal, 20% state, 3% donations, 3% USDA, and 10% County. The K/T Area Agency on Aging is a part of a statewide organization, which constantly monitors grant opportunities available to governmental agencies.

RECOMMENDATION: Accept Report

ATTACHMENTS: License Agreement and Agreement Concerning Rights and Obligations
PROPERTY LICENSE AGREEMENT
AND
AGREEMENT CONCERNING RIGHTS AND OBLIGATIONS
OF THE PARTIES

Parties

1. This License agreement is entered into by and between the Porterville Senior Council ("Licensor"), sub-lessee of the Porterville Santa Fe Depot, and the Kings/Tulare Area Agency on Aging ("Licensee"), and with the consent of the City of Porterville ("City"), lessee/sublessee of said property.

Description of Property

2. Licensor is rightful possessor of certain real property situated in the city of Porterville, and more particularly described as the Porterville Santa Fe Depot ("Depot").

Grant of License

3. In consideration for and in accordance with the terms and conditions of this agreement, Licensor and the City grant to Licensee a License ("the License") to perform the following acts on the Property:

   a. The Licensee shall have exclusive use of the lower level of the Santa Fe Depot on the Monday, Wednesday, Thursday, and Friday of each week between the hours of 8:30 a.m. and 2:30 p.m. for senior programs.

   b. The large dining room and kitchen area will be available to the Licensee for food services and programs.

   c. The Licensee will be permitted to place a refrigerator in the east alcove of the large dining room.

   d. The Licensee shall have exclusive use of the kitchen cupboards above and below the pass-thru counter.

   e. The small room at the south end of the building will be available for Licensee activities; the Licensee may place a lockable desk and file cabinets in the southeast
corner of this room for office and counseling purposes and may install partition walls to enclose said area. Exclusive use, by the Licensee, of this room and office space may continue until 4:30 p.m. on the days provided for under term 3(a).

f. The east-side ticket booth will be available exclusively to the Licensee for storage; the adjacent, east-side exterior covered storage area will also be available for shared use between the Licensor and Licensee.

Incidental Rights and Obligations

4. The following incidental rights and obligations accompany the Licensee and the use of the property:

a. The Licensee shall provide regular senior citizen meal programs and services commensurate with services provided elsewhere in the Kings/Tulare Area Agency on Aging service area.

b. The Licensee shall have full and exclusive management authority over the program areas during the times of program use, and shall assume full responsibility for the timely cleaning of all areas used after all Licensee activities.

c. The Licensee shall assume full responsibility for refuse service and pest control of the entire Santa Fe Depot.

d. The Licensee shall be permitted to install telephone services and assume all responsibility for installation, control of use, and service cost.

e. The Licensee and the Licensor shall each provide an insurance certificate naming all above-mentioned parties as additional insured.

f. The Licensor shall also provide facility management oversight, routine building and grounds maintenance, utility services, and schedule use of the building.

g. The City shall provide $800 monthly to the Licensor to be used for fulfillment of its obligations under terms 4(e) and 4(f).

h. The Licensee will be responsible for interior modifications, up to $1,500 in cost, for the removal of partitions and installation of handicap grab bars in the lower-level restrooms, as well as installation of lever door operating hardware for the lower restroom doors, lower hallway door, and kitchen door.
In exercising these rights and obligations, Licensee must use reasonable care and may not unreasonably increase the burden on the Property.

License Non-assignable

5. This License is personal to the Licensee and shall not be assigned. Any attempt to assign the License shall automatically terminate it. No legal title or leasehold interest in the Property is created or vested in Licensee by the grant of this License.

Term of License

6. This License shall be for a term of one year, commencing on October 1, 2005, and terminating on October 1, 2006. The parties may agree to extend this Agreement, with the terms of said Agreement to be reviewed and adjusted as the parties deem to be appropriate prior to renewal.

Termination of Occupancy

7. On or before the termination date for this License specified in paragraph 6 of this agreement, Licensee shall remove all of Licensee’s personal property from the Property and shall surrender possession of the Property to the Licensor in good order and repair to the reasonable satisfaction of the Licensor, normal wear and tear excepted.

Default

8. In the event Licensee fails to comply with any of the material terms of this Agreement, in addition to any and all other remedies available under the law, this License may be revoked by Licensor or the City, upon Licensee’s receipt of written notice of the violation to the parties and its failure to cure within ten (10) days. More time may be granted for the cure of any violations if agreed to in writing by the parties.

Termination

9. The parties understand that the City and Licensor have let/sublet the premises, and said lease and sublease are not scheduled to expire during the term of this Agreement. However, in the event the property is no longer available to the City or Licensor, the License herein granted shall lease to be in effect, and the parties’ obligations to each other under this Agreement also lease.
Entire Agreement

10. This Agreement constitutes the entire agreement between Licensor and Licensee relating to the License. Any prior agreements, promises, negotiations, or representations not expressly set forth in this Agreement are of no force and effect. Any amendment to this Agreement shall be of no force and effect unless it is in writing and signed by all parties named above.

Executed on Sept. 12, 2005, 2005 at Porterville, California.

PORTERVILLE SENIOR COUNCIL, LICENSOR

[Signature]

KINGS/TULARE AREA AGENCY ON AGING, LICENSEE

[Signature]

CITY OF PORTERVILLE

[Signature]