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:
   3- Government Code Section 54956.9(a) – Conference with Legal Counsel – Existing Litigation: Kincheloe v. City of Porterville.
   4- 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 Eddie Hernandez
Invocation

**PROCLAMATION**
Filipino-American Week – September 29 through October 6, 2007

**PRESENTATION**
City Managers Featured Projects for September 2007
Introduction of New City Employees

**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 September 4, 2007

2. Purchase of Specialized Equipment
   Re: Authorizing the purchase of two Fire Department vehicles with funds from the Equipment Replacement Fund and Measure H.

3. Award of Contract – Oak Avenue Improvement Project
   Re: Awarding contract to Halopoff & Sons, Inc. in the amount of $259,427.01 for project consisting of street and parking lot improvements on Oak Avenue between Hockett and Division Streets.

   Re: Considering authorization of City’s participation and funding options, and authorizing payment to Ennis Commercial in the amount of $1,366,581.94, for City’s share project costs.

5. Acceptance of Improvements – Meadow Breeze, Phase Two (Gary Smee – Smee Builders)
   Re: Accepting public improvements for Subdivision located generally south of Castle Avenue, between Mathew and Salisbury Streets; and authorizing staff to file the Notice of Completion.

6. Right of Entry Form Approval for the Construction of Public Improvements Related to the Jaye Street Corridor Project
   Re: Approving Right of Entry form between Home Depot U.S.A., Inc. and the City of Porterville related to construction of public improvements in vicinity of Jaye Street and Highway 190.

7. Initiate Process for Library Board of Trustees and Parks and Leisure Services Commission Appointments
   Re: Announcing two term expirations on the Library Board and three term expirations on the Parks & Leisure Services Commission; directing staff to advertise said availabilities; and setting October 16, 2007 as the time for Council’s consideration of appointments.

   Re: Authorizing expenditure of $2,300, funded from the Park Ranger Program, to provide portable restrooms at various sport practice fields; and approving a “Food For Fines” food drive from October 29th through November 15th to assist local food pantries.

9. Approval of Street Closure for ‘Music on Main Street’ Events
   Re: Approving the closure of Cleveland Avenue between Main Street and Second Street from 5:00 p.m. to 8:30 p.m. each Friday evening from September 7, 2007 through October 26, 2007.

10. NIMS/SEMS/EOC Training
    Re: Setting a study session for Thursday, September 27, 2007 at 6:00 p.m. for Council Member training pertaining to emergency and incident management.
   Re: Approving annual event to take place at Veterans’ Park from 7:00 a.m. to 9:00 p.m., subject to stated requirements.

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

PUBLIC HEARINGS
12. Construction of Concrete Improvements on Date Avenue Reconstruction Project
   Re: Receiving public commentary on proposed concrete improvements, pursuant to Municipal Code § 20-40.1-2, for which the City will seek reimbursement from property owners who pull a building permit with a valuation of $16,984 or more within a two year period.

13. Initiation of Preliminary Proceedings and Resolution of Application for Annexation No. 461
   Re: Considering the initiation of preliminary proceedings and the filing of application with the Local Agency Formation Commission for the annexation of the area commonly known as the “Fairways Tract” generally located at the southeast corner of East Olive Ave. and Leggett St.

14. Sequoia Village at River’s Edge – Modification to Conditional Use Permit 1-2006 Resolution 34-2006
   Re: Considering approval of a CUP to allow the construction of a six-foot wrought iron fence, in lieu of a six-foot masonry wall, along the eastern property line for the development east of ‘E’ Street, between Date and River Avenues.

SCHEDULED MATTERS
15. Project Proposal for Infrastructure and Operational Enhancements
   Re: Consideration of options available regarding proposal by Johnson Controls for energy conservation enhancements.

16. Consider Implementing a Dog Park
   Re: Considering Parks & Leisure Services Commission’s recommendation, and potential locations, for a dog park in the City.

17. Enforcement Issues Regarding Yard Sale Signs
   Re: Considering enforcement of Section 2014A of the Zoning Ordinance pertaining to yard sale signs.

18. Authorization to Participate in Joint Powers Agreement Success Dam Seismic Remediation Project
   Re: Authorizing the City’s continued participation in JPA, at cost of $6,250, to fund joint legal, technical and lobbying services to ensure the prioritization of the Success Dam Project by the Army Corps of Engineers.

19. Award of Add Alternate A – Date Avenue Reconstruction – ‘A’ Street Reconstruction & Storm Drain Project
   Re: Awarding Add Alternate A to Mitch Brown Construction, Inc. in the amount of $89,680.47 for curb, gutter, sidewalks and drive approaches associated with Date Avenue/A Street reconstruction.
20. **Final Contract Amounts – Riverwalk Marketplace**  
Re: Authorizing payment of $1,231,004 to Ennis Commercial Properties, LLC for the City’s share of construction costs associated with reconstruction of Jaye St. and Springville, Vandalia, and Poplar Avenues, as set forth in Public Improvement Agreement dated January 16, 2007.

Re: Considering request by Council Member.

Adjourn to a Meeting of the Porterville Redevelopment Agency.

**PORTERVILLE REDEVELOPMENT AGENCY AGENDA**

Roll Call: Agency Members/Chairperson

**WRITTEN COMMUNICATIONS**

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

**REDEVELOPMENT SCHEDULED MATTERS**

PRA-1. **Porterville Pacific Associates Regulatory Agreement for Redevelopment Affordability Covenants on Units in Sequoia Village at River’s Edge Multifamily Development**  
Re: Considering authorization to enter into Regulatory Agreement for the development located generally east of E Street, between Date and River Avenues.

Adjourn the Redevelopment Agency Meeting to a meeting of the Porterville Public Improvement Corporation.

**PORTERVILLE PUBLIC IMPROVEMENT CORPORATION**

Roll Call: Directors/President

**WRITTEN COMMUNICATIONS**

**ORAL COMMUNICATIONS**

**PUBLIC IMPROVEMENT SCHEDULED MATTER**

PIC-1. **Annual Meeting of the Porterville Public Improvement Corporation**  
Re: Election of officers and the approval of the 2007 Status Report for Certificates of Participation Projects.

Adjourn to a Meeting of the Porterville City Council.

**ORAL COMMUNICATIONS**

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

ADJOURNMENT - to the meeting of September 25, 2007 at 5:30 p.m.

It shall be the policy of the City Council to complete meetings, including closed sessions, by 11:00 p.m. unless, upon consensus, Council elects to continue past the adjournment hour.

In compliance with the Americans with Disabilities Act and the California Ralph M. Brown Act, if you need special assistance to participate in this meeting, or to be able to access this agenda and documents in the agenda packet, please contact the Deputy City Clerk at (559) 782-7464. Notification 48 hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting and/or provision of an appropriate alternative format of the agenda and documents in the agenda packet.
CITY MANAGER’S FEATURED PROJECTS
FOR SEPTEMBER 2007

1. Re-Codification of Porterville Municipal Code
2. Development Agreement Ordinance
Call to Order at 6:00 p.m.
Roll Call: Council Member McCracken, Council Member Pedro Martinez (arrived immediately after roll call), Mayor Pro Tem Felipe Martinez, Council Member Hernandez, Mayor Hamilton

ORAL COMMUNICATIONS
None

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

7:00 P.M. RECONVENE OPEN SESSION

REPORT ON ANY ACTION TAKEN IN CLOSED SESSION
   City Attorney Julia Lew reported that no action took place.

Pledge of Allegiance Led by Council Member Pete V. McCracken
Invocation – a moment of silence was observed.

PROCLAMATION
   Central California Family Crisis Center Day - September 11, 2007

PRESENTATION
   Employee of the Month - Fred Beltran

ORAL COMMUNICATIONS
   • Donnette Silva Carter, Porterville Chamber of Commerce, 93 North Main Street, congratulated Mr. Beltran, acknowledging his contributions to the City and the Community; spoke of the return of Music on Main Street, inviting the Council to attend the event that Friday at Centennial Park; and advised everyone of the Sierra Business
Conference scheduled for September 14, 2007 at the Galaxy Theater.

- Dick Eckhoff, 197 North Main Street, spoke of a “Pond Party” fundraising event for the City of Hope to take place approximately ½ mile east of Poplar on Highway 190 on September 29, 2007; lauded the efforts of the Chamber with regard to the Music on Main Street event; and requested clarification with regard to proposed Section 5-2.1 in Item No. 23.

CONSENT CALENDAR

Item Nos. 10, 17, 19 and 20 were removed for further discussion.

1. CITY COUNCIL MINUTES OF JULY 17, 2007

Recommendation: That the City Council approve the City Council Minutes of July 17, 2007.

Documentation: M.O. 01-090407
Disposition: Approved.

2. BUDGET ADJUSTMENT FOR THE 2007-2008 FISCAL YEAR

Recommendation: That the City Council approve the budget adjustment presented, and authorize staff to modify revenue and expenditure estimates as described on the schedule provided.

Documentation: M.O. 02-090407
Disposition: Approved.

3. REQUEST FOR APPROVAL TO PURCHASE SPECIALIZED EQUIPMENT (POLICE DEPARTMENT)

Recommendation: That the City Council approve the purchase of the FlashCAM-880 from Q-Star Technology, LLC.

Documentation: M.O. 03-090407
Disposition: Approved.

4. REQUEST FOR APPROVAL TO PURCHASE SPECIALIZED EQUIPMENT (WASTEWATER TREATMENT FACILITY)

Recommendation: That the City Council approve the sole source purchase of the Sanitaire membrane diffusers and base plates.

Documentation: M.O. 04-090407
Disposition: Approved.

5. CITY OF PORTERVILLE UNSOLVED HOMICIDES
Recommendation: That the City Council authorize the use of Police Department Federal asset forfeiture funds to implement a cold case team.

Documentation: M.O. 05-090407
Disposition: Approved.

6. THIS ITEM HAS BEEN REMOVED.

7. REQUEST FOR COUNCIL STUDY SESSION ON THE SOUTH JAYE STREET PROJECT (STATE ROUTE 190 TO GIBBONS)

Recommendation: That the City Council direct staff to schedule a study session on the South Jaye Street Renovation Project.

Documentation: M.O. 06-090407
Disposition: Approved.

8. GENERAL PLAN CONTRACT AMENDMENT – REQUEST FOR APPROVAL OF A TIME EXTENSION

Recommendation: That the City Council:
1. Authorize the changed scope of services, to be paid for from the identified source;
2. Authorize the Mayor to sign an addendum to the original contract for services with Dyett and Bhatia; and
3. Authorize the establishment of a $20,000 contingency to be utilized for any essential modifications to the scope of work as determined by the Community Development Director.

Documentation: M.O. 07-090407
Disposition: Approved.

9. GRANT APPLICATION – STATE OFF HIGHWAY MOTOR VEHICLE RECREATION GRANTS PROGRAM

Recommendation: That the City Council:
1. Adopt the draft resolution approving the grant application for the 2007-2008 California OffHighway Motor Vehicle Recreation Grants Program; and
2. Authorize the Director of Parks and Leisure Services to sign the grant application and act as agent for the City of Porterville for this grant.

Documentation: Resolution 86-2007
Disposition: Approved.

11. 2006/2007 ANNUAL RECLAMATION AREA COST RECOVERY PROGRAM REPORT
12. CONSOLIDATED WASTE MANAGEMENT AUTHORITY MEMBERSHIP AGREEMENT PAYMENT

Recommendation: That the City Council authorize:
1. Payment to CWMA in the amount of $53,708 for the City’s membership contribution; and
2. Forward a check to CWMA in the amount of $12,018 for the City’s portion of CWMA’s awarded funds received from California Department of Conservation.

Documentation: M.O. 08-090407
Disposition: Approved.

13. CITY/COUNTY JOINT PROJECT

Recommendation: That the City Council:
1. Accept Tulare County’s offer for the City/County Joint Project on Date Avenue; and
2. Authorize the Public Works Director to write a letter to Tulare County stating that the County’s offer to pay for $14,300 worth of cold mix asphalt is acceptable to the City of Porterville.

Documentation: M.O. 09-090407
Disposition: Approved.

14. APPROVAL OF MEASURE ‘R’ SUPPLEMENTAL AGREEMENT SCRANTON AVENUE & INDIANA STREET RECONSTRUCTION PROJECT

Recommendation: That the City Council:
1. Approve the draft resolution affirming the City Council’s support of the Scranton Avenue & Indiana Street Reconstruction Project;
2. Authorize the Mayor and City Manager to execute the Scranton Avenue & Indiana Supplemental Agreement;
3. Direct the City Clerk to transmit the executed Supplemental Agreement to the Tulare County Authority;
4. Direct the Public Works Director to proceed with design, completion of CEQA and preparation of a City/County right of way agreement per Section 1810 of the Streets and Highway Code; and
5. Direct the Public Works Director to proceed with right of way appraisals and initiate right of way negotiations once the right of way agreement is executed by both agencies.
15. AIRPORT LIABILITY INSURANCE RENEWAL

Recommendation: That the City Council approve the renewal of the Airport Liability Insurance Policy under the same terms, conditions, and exclusions as the prior year.

Documentation: M.O. 10-090407
Disposition: Approved.

16. APPROVAL OF ANNUAL TRANSPORTATION AGREEMENT WITH TULARE COUNTY

Recommendation: That the City Council enter into an Agreement with the County of Tulare for FY 2007-2008 to provide service to County residents within the Service Area Boundary Map, and authorize the Mayor to execute the Agreement on behalf of the City.

Documentation: M.O. 11-090407
Disposition: Approved.

18. STATUS REPORT ON NEW FIRE STATION LOCATION

Recommendation: Information Only.

Disposition: Report received.

COUNCIL ACTION: MOVED by Mayor Pro Tem Felipe Martinez, SECONDED by Council Member Hernandez that the Council approve Item Nos. 1 through 9; 11 through 16, and 18. The motion carried unanimously.

10. ACCEPTANCE OF ARTWORK DONATION

Recommendation: That the City Council accept the donation of a Louis Velasquez artwork from Mike and Judy Cahill, and authorize its proper presentation within City Hall until such time as an appropriate and proper presentation can be accommodated within the City Library.

City Manager John Longley presented the item, and Parks & Leisure Services Director Jim Perrine presented the staff report. It was noted that the work of art was distinctive in that it was a historical piece painted by a local artist.

The Council requested that thank you letters be sent to the donors and the artist. The Council also evinced an interest in inviting the artist to City Hall for a re-dedication ceremony.
COUNCIL ACTION: MOVED by Council Member Hernandez, SECONDED by Mayor Pro Tem Felipe Martinez that the Council accept the donation of a Louis Velasquez artwork from Mike and Judy Cahill, and authorize its proper presentation within City Hall until such time as an appropriate and proper presentation can be accommodated within the City Library. The motion carried unanimously.

Disposition: Approved.

17. CODE ENFORCEMENT OFFICER UPDATE

Recommendation: Information Only.

City Manager John Longley presented the item, and Fire Chief Mario Garcia presented the staff report.

COUNCIL ACTION: MOVED by Council Member Hernandez, SECONDED by Mayor Pro Tem Felipe Martinez that the Council accept the report. The motion carried unanimously.

M.O. 13-090407

Disposition: Approved.

19. REVIEW OF FINAL CONTRACT QUANTITIES BY CITY STAFF RIVERWALK MARKETPLACE – REQUEST FOR ADDITIONAL TIME

Recommendation: That the City Council extend the date for acceptance or rejection of final construction costs by Ennis Commercial Properties, LLC for the Riverwalk and Jaye Street Corridor Project to September 18, 2007.

City Manager John Longley noted a conflict of interest and exited the Council Chambers.

Deputy City Manager John Lollis presented the item, and City Engineer Mike Reed presented the staff report, elaborating on the status of the project.

COUNCIL ACTION: MOVED by Mayor Hamilton, SECONDED by Council Member Pedro Martinez that the Council extend the date for acceptance or rejection of final construction costs by Ennis Commercial Properties, LLC for the Riverwalk and Jaye Street Corridor Project to September 18, 2007. The motion carried unanimously.

Disposition: Approved.

20. AGREEMENT BETWEEN THE CITY OF PORTERVILLE AND THE PORTERVILLE CHAMBER OF COMMERCE

Recommendation: That the Council approve the Agreement as presented between the City of
Porterville and the Porterville Chamber of Commerce.

City Manager John Longley presented the item.

Mayor Pro Tem Felipe Martinez apologized for missing the meeting with the Chamber and voiced concern with proceeding with the item without having met. Mayor Hamilton advised that he had met with the Chamber. Mayor Pro Tem Felipe Martinez then voiced an interest in seeing a quantitative measurement of the Chamber’s efforts with regard to its contractual obligations, such as with the Iris Festival.

- Donnette Silva Carter, CEO, Chamber of Commerce, came forward and indicated that figures regarding the Iris Festival had been included in the Chamber’s Annual Report previously provided to the Council.

COUNCIL ACTION: MOVED by Mayor Pro Tem Felipe Martinez, SECONDED by Council Member Pedro Martinez that the Council approve the Agreement as presented between the City of Porterville and the Porterville Chamber of Commerce. The motion carried unanimously.

Disposition: Approved.

SECOND READING

21. ORDINANCE 1724, AMENDING CONTRACT WITH CALIFORNIA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM

Recommendation: That the City Council give Second Reading to Ordinance No. 1724, waive further reading, and adopt said Ordinance.

City Manager John Longley presented the item and staff report.

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Council Member Hernandez that the Council give Second Reading to Ordinance No. 1724, waive further reading, and adopt said Ordinance, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AUTHORIZING AN AMENDMENT TO THE CONTRACT BETWEEN THE CITY COUNCIL OF THE CITY OF PORTERVILLE AND THE BOARD OF ADMINISTRATION OF THE CALIFORNIA PUBLIC EMPLOYEES’ RETIREMENT SYSTEM. The motion carried unanimously.

The City Manager read the Ordinance by title only.

Disposition: Approved.

SCHEDULED MATTERS

22. AWARD OF CONTRACT – REMODEL OF FIRE STATION NO. 1 RESTROOM

Recommendation: That the City Council:
1. Inform Mr. Vargas that his bid is non-responsive to the project requirements and therefore must be rejected;
2. Award the Fire Station No. 1 Bathroom Remodel Project to Gary Interrante Construction in the amount of $75,630.00;
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 City Engineer Mike Reed presented the staff report.

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Mayor Pro Tem Felipe Martinez that the Council direct staff to inform Mr. Vargas that his bid is non-responsive to the project requirements and therefore must be rejected; award the Fire Station No. 1 Bathroom Remodel Project to Gary Interrante Construction in the amount of $75,630.00; authorize progress payments up to 90% of the contract amount; and authorize a 10% contingency to cover unforeseen construction costs. The motion carried unanimously.

Disposition: Approved.

23. ANIMAL CONTROL REGULATIONS – STATUS REPORT

Recommendation: That the Council consider the report and attachments; provide any further direction; and authorize the setting of a public hearing for the October 2, 2007 City Council Meeting, pending the development of the administrative citation regulations as a part of the ordinance.

City Manager John Longley presented the item, and City Attorney Julia Lew presented the staff report and updated the Council on the recent meeting with the City of Lindsay.

COUNCIL ACTION: MOVED by Mayor Pro Tem Felipe Martinez, SECONDED by Council Member Hernandez that the Council accept the status report; and authorize the setting of a public hearing for the October 2, 2007 City Council Meeting, pending the development of the administrative citation regulations as a part of the ordinance. The motion carried unanimously.

Disposition: Approved.

24. REQUEST BY COUNCIL MEMBER - CONSIDERATION OF APPROPRIATION FOR PORTERVILLE BOYS & GIRLS

Recommendation: None.

City Manager John Longley presented the item, and Parks & Leisure Services Director Jim Perrine presented the staff report, which included some options for the Council’s consideration.

Council Member Hernandez spoke favorably of the Boys and Girls Club, commented on the needs of community youth, and of the importance for City involvement. He then moved that the Council
approve an annual allocation of $15,000 to the Youth Services Foundation.

Council Member McCracken agreed with Council Member Hernandez’s comments with regard to the merit of the Boys and Girls Club, yet voiced caution in financially supporting the organization. He commented that the Council should proceed fairly, and that in the event the Council chose to approve funding for the organization, other non-profits would undoubtedly come to the Council for the same consideration. He then noted that the Youth Services Foundation had not yet received its non-profit status, and that the provision of City funds to that organization would be premature. He then questioned whether the role of the City Council was to select a specific sub-group of the City and fund that group with taxpayers’ dollars.

In response to questions posed by Mayor Pro Tem Felipe Martinez, Mr. Perrine spoke of the status of the Youth Services Foundation and its efforts to finalize its 501(c)(3) documentation. A discussion ensued as to the possibility of the organization raising funds through participating in the Fireworks Booth Lottery.

Mayor Pro Tem Felipe Martinez seconded Council Member Hernandez’s motion, amending the motion to direct the funds though another non-profit in the event the Youth Services Foundation was unable to receive its non-profit status in time. In response to a question posed by Council, City Attorney Julia Lew indicated that, if needed, her office could provide assistance to the Youth Services Foundation in completing the 501(c)(3) documentation.

Council Member McCracken questioned why the Youth Services Foundation was better than the Boy Scouts, Rotary Club, Kiwanis, etc., noting that those organizations currently had non-profit status. He then reiterated his comments against the distribution of public funds to a private organization. He stated that prior to any action, the Council needed to thoroughly consider the issue in a manner that would protect the Council and future Councils, and treated everyone fairly, rather than singling out one group to receive a special advantage. He agreed that youth organizations were worthy, but voiced concern with the City funding them. Council Member McCracken then commented that the Boys and Girls Club was not yet even a member of the Youth Services Foundation, and that a contribution to the Youth Services Foundation on behalf of the Boys and Girls Club would be premature.

Mayor Pro Tem Felipe Martinez noted that the concept of the Youth Services Foundation was that it would be a conglomerate of local youth groups. He then spoke of the importance of positive role models on youth, and spoke of a mentor in his youth.

Council Member Pedro Martinez questioned how the item changed from a one-time allocation to the Boys and Girls Club to an annual allocation to the Youth Services Foundation. He then spoke in favor of including “Council Good Works Funds” in the City budget, such as the City of Tulare and the Board of Supervisors had. Council Member Martinez then stated that if the Council did choose to provide funding to the Boys and Girls Club he wanted to make certain it would be sufficient enough to ensure the success of the organization.

• Joe Inglebreck, Executive Director of the Boys and Girls Clubs of the Sequoias, came forward. He stated that currently, there were Clubs in Exeter and Farmersville. He stated that his organization was a 501(c)(3), and that the suggested amount of $15,000 would represent approximately 15% of its annual operating budget. He then spoke of
the group’s efforts in assessing the needs in the Porterville community and in fundraising. He commented that the organization had raised approximately $8,000 to $9,000 in the last 45 days. He stated that those funds were on deposit with the Kiwanis Club of Porterville, since technically, the Boys and Girls Club of Porterville did not yet exist. He stated that it could become an extension of an existing Boys and Girls Club. He then voiced his appreciation for the Council’s consideration of funding the organization, and stated that the Cities of Tulare, Visalia, Exeter, and Farmersville have all contributed to the local Boys and Girls Clubs. In response to a question posed by the Council, Mr. Inglebreck stated that the Porterville Club was currently in its chartering process and could complete the process in a matter of weeks once the fundraising was completed, perhaps by the end of the month. He stated that the goal was to open the Club’s doors by late October, 2007, and have 100 members by November 1, 2007.

Council Member Pedro Martinez clarified with the City Attorney that conditions could be placed on the funds. A discussion ensued as to the various options before the Council. Mr. Longley emphasized the need to fully consider the process. He stated that from a budget standpoint, staff encouraged proceeding in a planned fashion, thereby placing consideration in either January or June when the Budget was routinely reviewed. He stated that the Budget should be the master of the process.

Mayor Hamilton noted that Council Member Hernandez’s motion would make the donation a structural budget line item forever. He recalled that the impetus of the item had actually been a challenge put forth for the City to make a contribution towards the start-up fundraising of which Mr. Inglebreck spoke. He commented on the merit of the organization, yet voiced concern with the direction the Council was heading.

Council Member McCracken moved that the Council continue consideration of the item until the budget review in January 2008. The motion died for lack of a second.

Council Member Hernandez withdrew his motion.

Council Member Pedro Martinez clarified with Mr. Inglebreck that his organization would need the start-ups funds by January 2008.

A discussion ensued as to the DOJ Grant the Boys and Girls Club was seeking. Mayor Hamilton noted the importance of the community supporting the Club, yet spoke against proceeding with an annual allocation.

• Mr. Inglebreck elaborated on the grant, stating that continuing grant funding was based on results. He stated that the burden of support would fall on the shoulders of the community. He then suggested that the Council consider a challenge donation. He stated that the City could challenge the community to match the donation up to $15,000. He commented that the City of Exeter did so, and it was quite effective.

Council Member Hernandez moved that the City Council approve a one-time contribution to the Boys and Girls Club in the amount of $15,000, and also direct staff to review the non-profit status of the Youth Services Foundation, and schedule a study session to consider a process for channeling future contributions through Youth Services Foundation.
Mayor Pro Tem Felipe Martinez seconded the motion.

Council Member Pedro Martinez amended Council Member Hernandez’s motion to approve a one-time contribution to the Boys and Girls Club, matching the funds raised by the Boys and Girls Club as of December 31, 2007, in an amount up to $15,000, from City reserves; to direct staff to review the non-profit status of the Youth Services Foundation; and to schedule a study session in January 2008 to consider the process for channeling future contributions through Youth Services Foundation.

- Mr. Inglebreck came forward and introduced Boys and Girls Club Alumna Katie Garrett.
- Katie Garrett came forward and shared with the Council the positive influence the Boys and Girls Club has had on her life.

The Council thanked Ms. Garrett for sharing her story and praised her eloquence.

Council Member Hernandez and Mayor Pro Tem Felipe Martinez accepted the amendment put forth.

Mr. Longley clarified that the Council’s action that evening, if the motion carried, would constitute a pledge. He stated that the amount of the donation would be established the last day of 2007, with the actual check being written in January 2008.

Council Member McCracken reiterated his concerns with the procedure and proposed action, commenting that the action was fiscally irresponsible and would create future problems. He suggested that the Council take the time to research the issue before taking any action. A brief discussion ensued.

COUNCIL ACTION:

MOVED by Council Member Hernandez, SECONDED by Mayor Pro Tem Felipe Martinez, AS AMENDED by Council Member Pedro Martinez that

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the Council approve a one-time contribution to the Boys and Girls Club, matching the funds raised by the Boys and Girls Club as of December 31, 2007, in an amount up to $15,000, from City reserves; to direct staff to review the non-profit status of the Youth Services Foundation; and to schedule a study session in January 2008 to consider the process for channeling future contributions through the Youth Services Foundation.

AYES: P. Martinez, F. Martinez, Hernandez, Hamilton
NOES: McCracken
ABSTAIN: None
ABSENT: None

Disposition: Approved.

The Council recessed for ten minutes.

The Council adjourned at 9:03 p.m. to a Meeting of the Porterville Redevelopment Agency.
Roll Call: Member McCracken, Member Pedro Martinez, Vice-Chairman Felipe Martinez, Member Hernandez, Chairman Hamilton

WRITTEN COMMUNICATIONS
None

ORAL COMMUNICATIONS
None

REDEVELOPMENT SCHEDULED MATTERS

PRA-1. AUTHORIZATION TO NEGOTIATE A CONTRACT FOR DESIGN SERVICES FOR THE HOCKETT/MILL/OAK PARKING LOT RENOVATION

Recommendation: That the Redevelopment Agency:
1. Authorize staff to negotiate a contract with Dee Jaspar & Associates, Inc.;
2. Authorize staff to negotiate a contract with the second and third ranked firm if staff is unable to negotiate an acceptable contract with Dee Jaspar & Associates, Inc.;
3. Authorize the Public Works Department to sign all contract documents; and
4. Authorize staff to make payments up to 100% upon satisfactory completion of the work.

Agency Member McCracken noted a conflict of interest, recused himself from the discussion, and exited the Council Chambers.

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

AGENCY ACTION: MOVED by Agency Member Pedro Martinez, SECONDED by Agency Member Hernandez that the Agency authorize staff to negotiate a contract with Dee Jaspar & Associates, Inc.; authorize staff to negotiate a contract with the second and third ranked firm if staff is unable to negotiate an acceptable contract with Dee Jaspar & Associates, Inc.; authorize the Public Works Department to sign all contract documents; and authorize staff to make payments up to 100% upon satisfactory completion of the work.

AYES: P. Martinez, F. Martinez, Hernandez, Hamilton
NOES: None
ABSTAIN: McCracken
ABSENT: None

Disposition: Approved.

The Redevelopment Agency adjourned at 9:05 p.m. to a Meeting of the City Council.

ORAL COMMUNICATIONS
• Donnette Silva Carter, address on record, spoke of the Chamber’s new Business Directory and distributed copies of same to the Council.
• Joe Guererro, 332 South F Street, commended the Council on its decision with regard to the Boys and Girls Club, noting the need to support and engage Porterville’s youth.
• Dick Eckhoff, thanked the Council for its action on Item PRA-1 and Item 24.
• Roy Crabtree, 485 W. Montgomery, spoke of Item No. 18, and inquired as to the status of the South Jaye Street Improvement Project. Mr. Crabtree was informed by Council and staff that funding had not yet been identified for that particular project, but that staff had been working on concepts which would be reviewed at an upcoming study session. Mr. Longley stated that if Mr. Crabtree provided his contact information, the Clerk’s office would advise him of the study session, once scheduled.

OTHER MATTERS

• Council Member Pedro Martinez:
  1. Spoke of the large number of new employees at the City and requested that the new employees come before the Council, perhaps on a rotating basis; and
  2. Thanked the Chamber for its hard work and commended its new Business Directory.
• Council Member Hernandez:
  1. Congratulated the Chamber for its hard work; and
  2. Spoke of his personal satisfaction in helping Porterville’s youth by assisting the Boys and Girls Club.
• Mayor Pro Tem Felipe Martinez spoke of:
  1. His recent meeting in San Bernardino with legislators; and
  2. A meeting he attended that day with legislative staff members to address issues pertaining to the Sierra and Sequoia National Forests.

ADJOURNMENT

The Council adjourned at 9:19 p.m. to the meeting of September 10, 2007 at 6:00 p.m.

Patrice Hildreth, Acting Chief Deputy City Clerk

Cameron Hamilton, Mayor
SUBJECT: PURCHASE OF SPECIALIZED EQUIPMENT

SOURCE: FIRE DEPARTMENT

COMMENT: With the anticipated changes within our Department and one additional position of an Arson Investigator through Measure H, the Fire Department has outgrown its current fleet. In order to meet our daily operational needs, City staff is requesting an increase of two vehicles to our current Fire Department fleet. One of the vehicles will be used as a command vehicle and the other will be assigned to the new Arson Investigator. In 2003, the Fire Department was authorized to purchase two (2) command vehicles but purchased only one. City staff is requesting permission to purchase the second previously approved command vehicle.

Funds for the purchase of the Command Vehicle are available in the Equipment Replacement Fund. This funding was made possible through the sale of the ladder truck in 2005 to the City of Lindsay. Since the new Arson Investigator is funded through Measure H funding, with Council's approval, City staff requests that the funding source for the second vehicle be allocated through the use of Measure H funds.

RECOMMENDATIONS: That the City Council:

1) Authorize purchase by negotiation of the specialized equipment and authorize payment for said equipment upon satisfactory delivery.

2) Approve a modification to the existing Measure H 5-year Plan and appropriate the necessary funds to purchase the said equipment.

ATTACHMENTS: None
SUBJECT: AWARD OF CONTRACT – OAK AVENUE IMPROVEMENT PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: On September 13, 2007, staff received three (3) bids for the Oak Avenue Improvement Project. The Base Bid includes improvements to the parking lot on the south side of Oak Avenue between Hockett Street and Division. This is the former location of the Singer Building, which was purchased by the City and demolished. Completing the parking lot includes new paving, median island with stamped concrete, landscaping, lighting and striping. Add Alternate A is street improvements along Oak Avenue from Hockett Street to Division including new paving, curb and gutter, stamped crosswalks, stamped sidewalks, disabled ramps, nostalgic street lights, landscaping, irrigation, signing and striping. An additional four (4) parking stalls will be provided on the north side of Oak Avenue.

The Engineer’s estimate of probable cost for the entire project is $269,790. The low bid is 3.8% below the Engineer’s estimate. An additional $38,914 is required for construction contingency (10%), staff time and construction engineering for a total project cost of $298,341. Funding for this project is from FTA grant/LTF and was approved in the 2007/2008 Annual Budget for transit facility pedestrian mall. The remainder will be funded from the transit professional services account.

The bids are as follows:

<table>
<thead>
<tr>
<th>Contractor</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Halopoff &amp; Sons, Inc.</td>
<td>$259,427.01</td>
</tr>
<tr>
<td>Porterville, CA</td>
<td></td>
</tr>
<tr>
<td>2. American Paving, Co.</td>
<td>$330,442.20</td>
</tr>
<tr>
<td>Fresno, CA</td>
<td></td>
</tr>
<tr>
<td>3. Lee’s Paving, Inc.</td>
<td>$382,735.05</td>
</tr>
<tr>
<td>Visalia, CA</td>
<td></td>
</tr>
</tbody>
</table>

Staff has found the low bid acceptable.

RECOMMENDATION: That City Council:

1. Award the Oak Avenue Improvement Project Base Bid and Add Alternate A to Halopoff & Sons, Inc. in the amount of $259,427.01;

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

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

ATTACHMENT: Locator Map
SUBJECT: AUTHORIZATION TO PARTICIPATE FINANCIALLY WITH ENNIS COMMERCIAL PROPERTIES, LLC, - HIGHWAY 190 & SOUTH JAYE ST. CONSTRUCTION PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: On September 6, 2007, the City received three (3) bids for the Highway 190 and South Jaye Street Reconstruction project. The project includes the addition of lanes within the State’s right of way, significant shoulder augmentation and removal and replacement of traffic signals.

This project is the next component of work included in the existing “Public Improvement Agreement” (PIA) between the City and Ennis Commercial Properties, LLC (ECP). This work must be completed before Lowes or any other commercial facility located along Jaye Street between the Tule River and Hwy 190 can open for business. The three bids are as follows:

<table>
<thead>
<tr>
<th>Contractor</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Teichert Construction</td>
<td>$2,817,236.00</td>
</tr>
<tr>
<td>2. Granite Construction</td>
<td>$2,869,989.00</td>
</tr>
<tr>
<td>3. Lees Paving</td>
<td>$3,202,591.38</td>
</tr>
</tbody>
</table>

Staff reviewed the low bid and found it acceptable. Based on the PIA, the City’s and ECP’s financial responsibilities are as follows:

<table>
<thead>
<tr>
<th>Contract Amount</th>
<th>City’s Responsibility</th>
<th>ECP’s Responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>$2,817,236.00</td>
<td>$1,366,581.94</td>
<td>$1,450,654.06</td>
</tr>
</tbody>
</table>

There is only $1,235,000 available for this project which means that additional funding from another source is necessary. The $1,366,581.94 represents the base bid. Staff believes that an additional $336,600 is necessary to cover the 10% contingency and funding for construction management. Two options are presented herein for Council’s consideration:

Option 1: Transfer, via a budget entry, $103,600 from the S. Jaye Street Roundabout (RA) project. Allocate the additional $233,000 of Transportation Impact Fees received as part of the requirement for the Lowes building permit. The transfer will leave approximately $152,000 in the RA fund for design purposes. Reimburse the RA fund with new transportation impact fees generated by new businesses located within the Jaye Corridor area when these fees become available.

Appropriated/Funded: 

Item No. 4
Pros: Enough funds remain in the RA project to design the project. The project is not slated for construction until the 2nd quarter 2008. It is expected that the City will collect new transportation impact fees from new businesses within the Jaye Street Corridor area to reimburse the RA fund prior to the start of construction of the RA.

Con: The RA construction may be delayed if new transportation impact fees are not collected in time to reimburse the RA fund. If this scenario becomes reality, staff recommends that the funds necessary to construct the RA be allocated from the “Lock Box” account. The Lock Box fund would be reimbursed when transportation impact fees are generated as a result of new businesses locating within the Jaye Street Corridor area.

Option 2: Transfer, via a budget entry, $336,600 from the “Lock Box” account. Reimburse the “Lock Box” account with new transportation impact fees generated by new businesses located within the Jaye Street Corridor area when these fees become available.

Pros: The “Lock Box” account has enough funds to “lend” $336,600 to the Hwy 190 & S. Jaye Street Construction Project with the understanding that the lock box account will be reimbursed when new transportation impact fees are collected.

Cons: The “Lock Box” account was originally set up to pay for emergency or unforeseen events requiring immediate action by the City. The scenario presented herein may or may not fit either of these descriptions.

RECOMMENDATION: That the City Council:

1. Authorize the City to participate with Ennis Commercial Properties, LLC in the Hwy 190 & South Jaye Street Reconstruction project;

2. Authorize the City to pay ECP in the amount of $1,366,581.94 upon proof of payment by ECP to Teichert Construction;

3. Authorize the transfer of $336,600 from the Roundabout Project (#89-9133) and the additional received transportation impact fees to cover the 10% construction contingency, staff construction management time and incidentals thereof;

4. Authorize a 10% contingency to cover unforeseen construction costs;
5. Authorize staff to make progress payments up to 90% of the contract amount;

6. Direct the Deputy City Manager to reimburse the Roundabout Project fund (89-9133) with transportation impact fees generated from new businesses that locate within the Jaye Street Corridor project area. The Jaye Street Corridor Project area is defined as Jaye Street from the Tule River south to Hwy 190; and

7. In the event transportation impact fees are not generated in a timely manner, direct the Deputy City Manager to reimburse the Roundabout Project fund (89-9133) with funds from the “Lock Box” should the City need funds for construction of the roundabout.

ATTACHMENT: Locator Map

P:\pub\work\Engineering\Council Items\Award of Contract-Hwy 190 S Jaye.doc
COUNCIL AGENDA: SEPTEMBER 18, 2007

SUBJECT:  ACCEPTANCE OF IMPROVEMENTS – MEADOW BREEZE, PHASE TWO (GARY SMEE – SMEE BUILDERS)

SOURCE:  Public Works Department - Engineering Division

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

The subdivider has submitted the required one (1) year maintenance guarantee.

RECOMMENDATION:  That City Council:

1.  Accept the public improvements of Meadow Breeze, Phase Two 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:\PUB\WORKS\ENGINEERING\COUNCIL ITEMS\ACCEPTANCE OF IMPROVEMENTS MEADOW BREEZE, PH 2 DOC

[Signatures]

Item No. 5
COUNCIL AGENDA: SEPTEMBER 18, 2007

SUBJECT: RIGHT OF ENTRY FORM APPROVAL FOR THE CONSTRUCTION OF PUBLIC IMPROVEMENTS RELATED TO THE JAYE STREET CORRIDOR PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: In January 2007, the City entered into a Public Improvement Agreement (PIA) with Ennis Commercial Properties (ECP) for the purpose of constructing improvements along Jaye Street from Springville Avenue south to approximately Montgomery Avenue. The PIA includes substantial reconstruction work in State right of way and an eastern Jaye Street connection to Poplar Avenue via Vandalia Avenue and Kessing Street. Ennis Commercial Properties’ contractor, Granite Construction has been hired to construct these improvements, excluding the State Route 190 improvements and the Jaye Street improvements south of the highway.

Caltrans for many years has insisted that the Poplar Avenue/Jaye Street connection be discontinued. This intersection is too close to Hwy 190 and any left turn movement entering or exiting the intersection typically disrupts the flow of traffic. The construction plans call for the abandonment of Poplar Avenue at Jaye Street and connecting Poplar Avenue to Kessing Street. Most of the Kessing Street improvements are in place, with the exception of the southerly 200 feet. A full eastern Jaye Street connection will be accomplished upon completion of street improvements within said southerly section of Kessing Street. However, the owner has yet to dedicate the property or provide a right to entry to the perform this work. A sketch of this design (L1) and the unimproved area (L2) are included in Council’s packet.

Home Depot U.S.A., Inc is the owner of the property that staff is seeking a right to enter upon for the purpose of constructing the improvements described herein. The City Attorney’s office has prepared a “Right of Entry” form that further stipulates the City’s and Home Depot’s understanding of Jaye Street Corridor work and the eventual maintenance of improvements adjacent to their property. Specific language also addresses current and future functionality of their property. The “Right of Entry” form requires that 1) Home Depot
U.S.A., Inc. will dedicate the property necessary to connect Jaye Street to Poplar Avenue, 2) City will assure that construction activities will minimally interfere with Home Depot store operations, 3) City will notify the Home Depot store prior to commencing with construction activities on their property, and 4) City will also assure that commercial occupancy permits will be issued pursuant to the Porterville Riverwalk Marketplace Commercial Center’s Environmental Impact Report (completion of the Jaye Street Corridor improvements) The “Right of Entry” form is attached (L3) for Council’s review.

RECOMMENDATION: That the City Council;

1. Approve the Right of Entry form;

2. Authorize the City Engineer to sign the document on behalf of the Council and authorize the City Attorney to obtain signature(s) from Home Depot U.S.A., Inc.

ATTACHMENTS: Design Sketch (L1)
Unimproved Area Sketch (L2)
Right of Entry Form (L3)
Engineering Division  
City of Porterville  
291 North Main Street  
Porterville, CA 93257  

APN 260-300-016  
ADDRESS NA  
PROJECT Jaye Street Corridor Construction  

RIGHT OF ENTRY  
FORM  
Grantor/Owner  

Owner grants to the City of Porterville, its permittees, contractors, agents or assigns, a right to enter upon, over, across and under Grantor's property, shown on attached Exhibit "A" and Exhibit "B", during the period of construction for the purpose of constructing public improvements and accomplishing all necessary incidents thereto, including, but not limited to, the repair, replacement, restoration, removal, and/or disposal of existing improvements.  

This permission is granted in consideration of the location, improvement and construction of such public improvements and appurtenances which are required by the City and will benefit the Owner, with the understanding that the subject property is to ultimately be dedicated to the City.  

Any actual damage or substantial interference with the possession or use of the adjacent land caused by City, its permittees, contractors, agents or assigns shall be cured by same. The City agrees to provide notice to the Home Depot store prior to the commencement of construction activities on the subject property, and agrees to minimize any interference with the Home Depot store's operations with regard to the construction activities. It is understood that the Jaye Street Corridor construction project will be completed prior to the issuance of any occupancy permit, as required pursuant to the Porterville Riverwalk Marketplace Commercial Center Project Environmental Impact Report. In addition, the City of Porterville agrees to indemnify the Owner and hold said Owner harmless from any loss of, or damage to any property or injury or death of any person whomsoever arising out of or connected with their performance of any work authorized under this agreement.  

This Right of Entry shall terminate at the time that the City acquires legal title of the subject property (by dedication), or on June 30, 2008, whichever occurs earlier.  

IN WITNESS WHEREOF, the parties have executed this agreement on this ___ day of ________________, 2007.  

HOME DEPOT U.S.A., INC.  
Property Owner  

CITY OF PORTERVILLE, a  
Municipal Corporation  

By ___________________________  

City Engineer
EXHIBIT "A"
LEGAL DESCRIPTION

That portion of Parcel ‘A’ of Lot Line Adjustment 15-2002, recorded January 24, 2003 as Document No. 2003-0006709 in the Official Records of Tulare County, situated in the Southeast Quarter of Section 35, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, more particularly described as follows:

COMMENCING AT the South quarter corner of said Section 35;

THENCE, North 13° 56’ 21” East, 267.89 feet, to a point in the northerly right of way line of State Highway 190 as shown on that certain unrecorded State Highway Map dated February 1965 on file at the Tulare County Surveyor’s Office;

THENCE, South 81° 04’ 48” East, along said northerly right of way line, 291.15 feet, to the southeast corner of Parcel ‘B’ of said Lot Line Adjustment 15-2002, said point also being the POINT OF BEGINNING;

THENCE, North 00° 18’ 04” East, along the east line of said Parcel ‘B’, 198.68 feet,

THENCE, South 89° 41’ 56” East, 60.00 feet to a point in a line being 60.00 feet East of and parallel with the easterly line of said Parcel “B”;

THENCE, South 00° 18’ 04” West, along said easterly parallel line, 138.99 feet, to the beginning of a curve concaved northeasterly, having a radius of 80.00 feet;

THENCE, southerly, southeasterly and easterly along said curve through a central angle of 81° 22’ 50”, an arc length of 113.63 feet, to a point of tangency on said northerly right of way line of State Highway 190;
THENCE, North 81° 04' 48" West, along said northerly right of way line, 129.47 feet, to the POINT OF BEGINNING.

CONTAINING 13,151.51 square feet (0.30 acres), more or less.

BASIS OF BEARINGS for the parcel described herein is the south line of the Southeast quarter of Section 35, Township 21 South, Range 27 East taken to be North 89° 49' 16" West as shown on that certain unrecorded State Highway Map dated February 1965 on file at the Tulare County Surveyor's Office.

End of Description

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

Signature: [Signature]
Licensed Land Surveyor

Date: 9/12/07
COUNCIL AGENDA: SEPTEMBER 18, 2007

SUBJECT: INITIATE PROCESS FOR LIBRARY BOARD OF TRUSTEES AND PARKS AND LEISURE SERVICES COMMISSION APPOINTMENTS

SOURCE: PARKS & LEISURE SERVICES DEPARTMENT

COMMENT: Two positions on the Library Board of Trustees have terms expiring in October 2007. One member, Vicky Trueblood, will complete her second full three-year term and is not eligible for reappointment. It is customary for the City Council to announce the pending term expirations and ask interested residents to submit to the City Clerk’s Office a ‘Request for Appointment.’ All submitted ‘Requests,’ including the two currently on file from the other recent appointment process, could then be considered by the Council at the October 16, 2007 regular meeting. The Trustees on the Library Board have three-year regular terms of appointment.

Four positions on the Parks & Leisure Services Commission have terms expiring in October 2007. All of these particular incumbents were appointed to serve out the remainder of unexpired terms and are eligible for reappointment. One of these incumbents, Cathy Capone, is a designee of the Porterville Unified School District. Dr. John Snavely has written to re-designate Mrs. Capone. Again it is customary for the City Council to announce the pending term expirations and ask interested residents to submit to the City Clerk’s Office a ‘Request for Appointment’.

Consideration of the appointments could then be scheduled for the October 16, 2007 regular meeting. The Members of the Commission have four-year regular terms of appointment.

RECOMMENDATION: Announce the two pending term expirations on the Library Board of Trustees and the three pending term expirations on the Parks & Leisure Services Commission. Direct staff to advertise for interested residents to submit a ‘Request for Appointment’ by October 9, 2007 for City Council consideration of appointments at the October 16, 2007 meeting.
COUNCIL AGENDA: SEPTEMBER 18, 2007

SUBJECT: PARKS & LEISURE SERVICES DEPARTMENT MATTERS - SPORT PRACTICE FIELD RESTROOM PROVISIONS & LIBRARY FINE WAIVERS FOR FOOD DONATIONS

SOURCE: PARKS & LEISURE SERVICES DEPARTMENT

COMMENT: Restrooms Various sport field facilities provided by the City do not have public restrooms. We are currently expending at least $2,850 per year for portable restrooms that we supply to three sport field locations during league game seasons. If postseason tournaments occur the restrooms remain and additional expenditure is incurred. The units at each of the fields are serviced once per week for a fee of $75.00 each per month. We presently are providing:

- 6 portable units at the Sports Complex during the September through December soccer & football season at $1,800.
- 4 portable units at the Burton Ballfields during Little League’s April through May season at $600.
- 2 portable units at the Municipal Ballpark during Babe Ruth’s May through July season at $450.

To better accommodate practice and alternative season restroom needs would require another $2,850 of annual expenditure, again for once per week servicing of the units. This would provide:

- 2 portable units at the Sports Complex during the March through June season and during the August practice period at $750.
- 2 portable units at Burton Ballfields during the August through November football practice period at $600.
- 3 portable units at Municipal Ballpark during the August through November football practice period at $900.
- 3 portable units at the Municipal Ballpark during the February through April Arena Soccer season at $600.

While sport league representatives have not requested additional restrooms, staff does support the need for the purposes of sustaining sanitation and enhancing the utilization of the sport fields. For the balance of the current fiscal year it will cost $2,300 for the portable restrooms. It is proposed that this cost can be absorbed by savings from deferred implementation of the Park Ranger Program. With Council’s authorization, increased portable restroom availability at the sports practice fields can be immediately implemented.

Director / Appropriated/Funded / City Manager

ITEM NO.: 8
**Library fines**  
Staff proposes to conduct a ‘Food for Fines’ drive to assist local food pantries. The program will be conducted from October 29, 2007 through November 15, 2007. Canned food collected will be distributed to the same local food pantries which the local ‘Letter Carriers’ assist (Helping Hands, Saint Vincent DePaul, and Porterville Gleaning Seniors).

- For every can of food submitted during the drive, $1.00 of overdue fees will be waived, up to $10.00 per account.
- The cans of food received must not be damaged.
- Staff will track the transactions by how many cans were donated and how much of the fines were received.

The Library Board of Trustees considered this matter at their September 11, 2007 regular meeting and took action to recommend that the City Council authorize the “Food for Fines” program.

Parks & Leisure Staff will also participate in a community care package drive located at the main Library for the U.S. Troops abroad. The National Association of Letter Carriers Branch 1469 has agreed to sponsor the shipping of materials to the overseas U.S. Military point of contact.

**RECOMMENDATION:** That the City Council authorize:

1. $2,300 of the savings from the funding previously allocated to the Park Ranger Program be utilized for the provision of portable restrooms at various sport practice field facilities, and
2. A ‘Food for Fines’ program for overdue Library fine credits.
COUNCIL AGENDA: SEPTEMBER 18, 2007

SUBJECT: APPROVAL OF STREET CLOSURE FOR ‘MUSIC ON MAIN STREET’ EVENTS

SOURCE: PARKS & LEISURE SERVICES DEPARTMENT

COMMENT: The Parks & Leisure Services Department is facilitating the fall season series of ‘Music on Main Street’ events on Friday evenings during September and October 2007. The venue for the community musical entertainment is Centennial Plaza. The Porterville Chamber of Commerce is scheduling the musical performances and organizing additional activities to enhance the events. A portion of this effort includes the solicitation and set up of craft and art vendors. The desire and expectation of the Chamber of Commerce is for the vendors to utilize Cleveland Avenue from Main Street east to the first alley for the vendor displays. The closure of the street to vehicular traffic is required to accommodate this activity.

RECOMMENDATION: That the City Council authorize the Parks & Leisure Services Department to sign Cleveland Avenue from Main Street easterly one-half block for ‘No-Parking’, and to close the same portion of the street to vehicular traffic from the hours of 5:00 PM to 8:30 PM each Friday evening from September 7, 2007 through October 26, 2007.
SUBJECT: NIMS/SEMS/EOC Training

SOURCE: Fire Department

COMMENT: The Fire Department has been tasked to provide awareness and training to Council Members as it pertains to an overview of NIMS/SEMS/EOC protocols. This training will provide an understanding, knowledge and familiarization of what the federal and state government requires from a City and its representatives in the event of a man-made or natural emergency disaster.

NIMS – National Incident Management System
SEMS – Standardized Emergency Management System
EOC – Emergency Operational Center

RECOMMENDATIONS: That the City Council:

1. Approve the study session in NIMS/SEMS/EOC set for 6:00 p.m. on Thursday, September 27, 2007 and direct Department Staff to make the necessary arrangements to provide the training.

ATTACHMENT: None

SOURCE: Administrative Services, Finance Division

COMMENT: The Filipino-American Association of California is requesting approval to hold a Filipino-American Weekend at Veterans’ Park Veterans’ on Saturday and Sunday, September 29 and 30, 2007 from 7:00 a.m. to 9:00 p.m. The event is being held as a weekend cultural celebration of the Filipino-American heritage with displays of folkdances, folksongs and foods. No street closures are requested.

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

RECOMMENDATION: That the Council approve the attached Community Civic Event Application and Agreement submitted by the Filipino-American Association of California, subject to the stated requirements contained in Exhibit “A.”

ATTACHMENT: Community Civic Event Application, Agreement and Exhibit “A”, Outside Amplifier Permit.

DD / Appropriated/Funded / C.M. / Item No. /
CITY OF PORTERVILLE
APPLICATION AND AGREEMENT FOR A PERMIT TO HOLD A
COMMUNITY CIVIC EVENT OR OTHER ACTIVITY TO BE HELD ON PUBLIC PROPERTY

Application date: August 6, 2007  Event date: Sept. 29 & 30, 2007
Rec'd 9-4-07
Name of Event: Filipino American Weekend

Sponsoring organization: Ful-Amer Assn of CA PHONE # (559) 782-3639
968 W Cleo Ave, Porterville, CA 93257
Authorized representative: MARILOU A. AGPARA PHONE # (559) 782-3639
Address: 968 W Cleo Ave, Porterville, CA 93257
Event chairperson: Marilou A. Agpara

Location of event (location map must be attached): Veterans Memorial Park
On Henderson, Porterville, CA 93257

Type of event/method of operation: Display of Folkdances, Folk Songs in celebration of Filipino American Heritage
Nonprofit status determination: Skill on Process Approved

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

Barricades (quantity): NONE  Street sweeping Yes ___ No ___
Police protection: Yes ___ No ___ Refuse pickup Yes ___ No ___
Other: ________________

Parks facility application required: Yes ___ No ___
Assembly permit required: Yes ___ No ___

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

Approve Deny
______ ____ Bus Lic Spvr
______ ____ Pub Works Dir
______ ____ Comm Dev Dir
______ ____ Field Svcs Mgr
______ ____ Fire Chief
______ ____ Parks Dir
______ ____ Police Chief
______ ____ Deputy City Mgr
CITY OF PORTERVILLE

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

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

City Code requirements:

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

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

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

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

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

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

Fil: Amer Assn. of CA  Marlow A. Agnew  Aug. 6, 2007
(Name of organization)  (Signature)  (Date)
CITY OF PORTERVILLE

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

Name of event: **Filipino-American Weekend**

Sponsoring organization: **Fil-Amer Assn. of CH**

Location: **Veterans Park, Henderson Porterville 1**

Event date: **September 29-30, 2007**

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

<table>
<thead>
<tr>
<th>Vendor name</th>
<th>Address</th>
<th>Telephone</th>
<th>Type of Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Marian's Foods</td>
<td></td>
<td>782-3639</td>
<td>Selling cooked Filipino Food</td>
</tr>
<tr>
<td>Delanie's Foods</td>
<td></td>
<td>781-1523</td>
<td>Selling cooked Filipino Food</td>
</tr>
<tr>
<td>Selecta Foods</td>
<td></td>
<td>793-1190</td>
<td>Selling cooked Filipino Food</td>
</tr>
<tr>
<td>Basil's Native Expositions</td>
<td></td>
<td>782-8873 (do not sell)</td>
<td>just to display Filipino attire, customers are also Filipino</td>
</tr>
<tr>
<td>FIL-PAM dessert Festival</td>
<td></td>
<td></td>
<td>782-3639 Sells Filipino desserts</td>
</tr>
</tbody>
</table>
CITY OF PORTERVILLE

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

Name of event: ____________________________________________________________

Sponsoring organization: __________________________________________________

Event date: ___________________________   Hours: ___________________________

ATTACH MAP MARKING AREAS TO BE CLOSED OR USED

<table>
<thead>
<tr>
<th>Street Name</th>
<th>Closed</th>
<th>From</th>
<th>To</th>
<th>Activity</th>
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<tbody>
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<table>
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<tr>
<th>Sidewalks</th>
<th>From</th>
<th>To</th>
<th>Activity</th>
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</tbody>
</table>

<table>
<thead>
<tr>
<th>Parking lots and spaces</th>
<th>Location</th>
<th>Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
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</tbody>
</table>

2 of 4
REQUIREMENTS FOR COMMUNITY CIVIC EVENT

FILIPINO-AMERICAN ASSOCIATION OF CALIFORNIA

FILIPINO-AMERICAN WEEKEND

SEPTEMBER 29-30, 2007

Business License Supervisor:  
   S. Perkins  
   No comments

Public Works Director:  
   B. Rodriguez  
   No comments

Community Development Director:  
   B. Dunlap  
   No comments.

Field Services Manager:  
   B. Styles  
   No comments

Fire Chief:  
   M.G. Garcia  
   No comments.

Parks and Leisure Services Director:  
   J. Perrine  
   Vendors need to provide their own generator for power. Facility use fee required. No vehicles on lawn without separate approval by Parks & Leisure.

Police Chief:  
   C. McMillan  
   Amplifier permit from 7:00 a.m. to 9:00 p.m.

Deputy City Manager, Interim:  
   J.D. Lollis  
   See Exhibit A, Page 2.
REQUIREMENTS FOR COMMUNITY CIVIC EVENT

Sponsor: Filipino-American Association of California
Event: Filipino-American Weekend
Event Chairman: Marilou A. Agpaoa
Location: Veterans' Park
Date of Event: September 29-30, 2007

RISK MANAGEMENT: Conditions of Approval

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

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

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

OUTSIDE AMPLIFIER PERMIT
(City Ordinances #18-14 & 18-9)

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

1. Name and home address of the applicant:
   Fil-Amer Assn. of CA
   968 W Cleo Ave Porterville CA 93257
   Phone # (559) 782-3639

2. Address where amplification equipment is to be used:
   #1 Veterans Park Henderson Porterville
   Phone #

3. Names and addresses of all persons who will use or operate the amplification equipment:
   Crisanto Agpaoa 968 W Cleo Ave Porterville CA 93257
   Alejandro Remigio Jay R. Remigio

4. Type of event for which amplification equipment will be used:
   Filipino American Weekend Celebration

5. Dates and hours of operation of amplification equipment:
   Sept 29-30, 2007 10:00 am - 9:00 pm

6. A general description of the sound amplifying equipment to be used:
   Amplified sound system consisting of 4 speakers, 1 receiver and a player.
I hereby certify that all statements and answers on this registration form are true and correct.

[Signature]

[Date]

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

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

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

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

cc:


3/27/01
PUBLIC HEARING

SUBJECT: CONSTRUCTION OF CONCRETE IMPROVEMENTS ON DATE AVENUE RECONSTRUCTION PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: This is the time and place for a Public Hearing to discuss the proposed construction of concrete improvements for the subject project.

The Date Avenue Reconstruction Project includes the construction of curbs, gutters, sidewalks and drive approaches in front of undeveloped properties and/or developed properties that lack these public improvements. Section 20-40.1 of the Municipal Code stipulates that these improvements, once constructed, shall be reimbursed to the City of Porterville upon the issuance of a new building permit. Section 20-40.2 of the Municipal Code allows the City to recover the cost of the concrete improvements when the owner pulls a building permit(s) from the City and said permit(s) has a valuation of $16,984 or more within a two (2) year period.

The Date Avenue Reconstruction Project also includes the removal and replacement of concrete improvements. The removal and replacement of concrete improvements will not cause an assessment to the fronting property owners.

Section 20-40.8 of the Municipal Code requires that each property owner affected by the project be notified of this Public Hearing. The notification clearly describes the City's intent to seek reimbursement for the concrete improvements constructed by the City. This section also requires that City Council hold at least one additional Public Hearing prior to the establishment of a fee. Once the fee is established, the City shall record a general notice of "reimbursement fee" with the office of the Tulare County Recorder. The recorded document will officially notify the current owner and potential buyers that the property is subject to a concrete reimbursement fee.

RECOMMENDATION: That the City Council:

1. Take public comments, concerns and questions;

2. Consider the benefits and detriments of including the concrete improvements in the Date Avenue Project but; defer Council action in this matter until item #19 is presented for Council's action; and
3. Authorize staff to schedule a Public Hearing prior to the establishment of a fee for the concrete improvements, in accordance with the Mitigation Fee Act, upon completion of the stated project.

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

**Date Ave. Reconstruction Project**

**Reimbursement for City Installed Improvements**

<table>
<thead>
<tr>
<th>APN</th>
<th>OWNER</th>
<th>Owner Address</th>
<th>Curb/Gutter</th>
<th>Sidewalk</th>
<th>Driveway</th>
<th>Total</th>
</tr>
</thead>
<tbody>
<tr>
<td>761-080-032</td>
<td>Domingo Gil D &amp; Louisa A</td>
<td>560 N Ryan Terrace</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$0.00</td>
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<tr>
<td>761-080-037</td>
<td>Benavidez Alejandro &amp; Teresa</td>
<td>33 E Date Ave</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$0.00</td>
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<tr>
<td>761-080-007</td>
<td>Tenberge Bryan C &amp; Maria</td>
<td>4549 Lomina Ave.</td>
<td>$0.00</td>
<td>$0.00</td>
<td>$0.00</td>
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<tr>
<td>761-080-038</td>
<td>Lambarena Joe F &amp; Belen</td>
<td>1394 N. Lime #B</td>
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<td>$0.00</td>
<td>$0.00</td>
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<tr>
<td>761-080-039</td>
<td>Lambarena Lila</td>
<td>79 E. Date Ave.</td>
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<td>$0.00</td>
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<tr>
<td>761-092-009</td>
<td>Medrano Arturo &amp; Della</td>
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<td>$0.00</td>
<td>$0.00</td>
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<td>761-093-007</td>
<td>Ruiz Jose A</td>
<td>2202 White Chapel Way</td>
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<td>$0.00</td>
<td>$0.00</td>
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<tr>
<td>761-093-019</td>
<td>Cruz Jose M &amp; Evalina B (TRS)</td>
<td>25126 Avenue 124</td>
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<td>$0.00</td>
<td>$0.00</td>
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<tr>
<td>761-094-009</td>
<td>Morales Clementine</td>
<td>369 South H St.</td>
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<td>$0.00</td>
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<tr>
<td>761-094-008</td>
<td>Ortiz Rogelio N &amp; Joandrew Zeleny</td>
<td>1370 W. Jean Ave.</td>
<td>$0.00</td>
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<tr>
<td>761-169-019</td>
<td>Alcantar Miguel &amp; Orfalinda</td>
<td>182 E. Date Ave.</td>
<td>$0.00</td>
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<td>761-169-005</td>
<td>Rodriguez Javier</td>
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<td>761-168-008</td>
<td>Ramirez Bernabe S &amp; Luz M G</td>
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<td>761-168-006</td>
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<td>761-060-036</td>
<td>Montoya Sarah R</td>
<td>492 N Belmont</td>
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</tbody>
</table>

**Totals** | **$0.00**
INITIATION OF PRELIMINARY PROCEEDINGS AND RESOLUTION OF APPLICATION FOR ANNEXATION NO. 471

COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

On January 16, 2007, the Porterville City Council opened the public hearing for Annexation 461. As a result of that hearing, the Porterville City Council requested that the hearing be carried over to the next regular City Council meeting.

On February 6, 2007, the City Council continued this item to a latter City Council meeting.

In accordance with the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000, the City Council may authorize filing of the necessary application and proposal for presenting Annexation No. 471 to the Local Agency Formation Commission (LAFCo) for its review and approval.

Annexation 471 (inhabited – twelve (12) registered voters or more) proposes the incorporation of 18.54± acres of land into the City of Porterville. The subject area is generally located at the southeast corner of East Olive Avenue and Leggett Street.

The project area includes an existing subdivision tract of 61 homes, commonly known as Fairways Tract, which was originally constructed in the 1940s. The homes are currently provided water through a private water system, known as the Fairways Tract Mutual Water Company, which is owned and operated by property owners in the tract. The purpose for the annexation is to facilitate an opportunity for the Fairways Tract Mutual Water Company (Company) to receive a grant of Proposition 84 funds from the State Revolving Fund, Safe Drinking Water Program. The State Revolving Fund has approved a pre-application for the project, but the Company must continue the process in order to be approved for the construction funding, which would amount to approximately $500,000. The grant application lists Fairways Tract Mutual Water Company and the City of Porterville as joint applicants. This applicant status serves to provide the City of Porterville with the authority needed to move forward with the operation of the water system and to be involved with the improvements needed; the Company will hold responsibility to prepare all application materials for City Staff's review and input. In addition, the Company will pay a proportional share of the conversion or construction of a well to provide the Fairways Tract with sufficient water supplies. Prior to acceptance of the completed system, the new water source must be on line and fully functional.
The problem, which would be resolved upon completion of the project, is that the existing water distribution system is deteriorated and prone to failures, and test results in the project area indicate high nitrate levels in the source groundwater, it is largely due to the excessive nitrates that the proposed project is a prime candidate for the SRF funding. The proposed solution is multi-faceted. Upon approval of funding from the State Revolving Fund, the Fairways Tract annexation will be considered by LAFCO. It is important to note that if for an unforeseen reason the funding is not allocated to the project, the annexation will not be recorded. However, in order to complete the grant application process, the annexation must be moving forward toward completion. Once the annexation is approved by LAFCO, the Company will begin construction on the new system. The applicant's engineering team has met with City Staff and the Project Review Committee regarding necessary infrastructure improvements, and those conditions will be upheld as part of the project.

Current water lines are located in the rear yards of some residences, and therefore to replace the pipes in the same location is impractical. The existing 4” and 6” steel water lines will be abandoned and new 8” PVC water lines will be constructed in the road right-of-way. The change in size will accommodate a higher water pressure in order to meet City standards. The increased pipe size is not expected to increase capacity. The existing wells will be sealed and abandoned, one of the two wells onsite is non-operational but would still require formal abandonment.

In addition to replacement of the water lines throughout the project area, proposed improvements include addition of ¾-inch water meters for each residence and fire hydrants at 500-foot intervals throughout the project area. The new water distribution system will be integrated into and made part of the City of Porterville’s water distribution network. The new system will be operated and maintained by the City. If the project is not approved by Council as proposed, the Company will still need to seal and abandon the wells, replace significant portions of the water distribution system, and purchase water from the City of Porterville. The annexation simply allows the Company to qualify for funding to make the necessary improvements, and simplifies the overall process.

Approval of the annexation would incorporate 18.54± acres of land into the City of Porterville. All of the subject land is currently developed, and as the land will maintain a low-density residential designation and an R-1 (One-Family) zone designation; there is no capacity for infill development. It is important to note that the subdivision created 61 lots, but only 59 of those lots have homes. However, two lots have two homes each, consistent with second unit development standards in the County. The remaining lots contain wells, drainage basins, or other public utilities, and are not buildable. In addition to the 59 homes within the Fairways Tract, the area to be annexed includes roads internal to the subdivision, specifically Doree Street, which is approximately 800 lineal feet of 50’ right of way, Dixie Drive, which is approximately 1400 lineal feet of 60’ right of way, and 200 lineal feet of Maurer Street with a 50’ right of way. External road segments included in the annexation
include approximately 800 lineal feet of the 30 foot wide eastern (northbound) lane of Leggett Drive, and a 250 lineal foot segment of Isham Street, which has a 50 foot right of way. All the roads are currently in moderate condition, and patches resulting from the water system improvements will be compliant with City standards. After annexation, maintenance responsibility for the roads (beyond the aforementioned patches) will transfer from the County to the City.

The subject area is located within the Urban Improvement Area Boundary. The Porterville General Plan designates this site for Low Density Residential uses. Upon consummation of the proposed annexation, the subject site will automatically be zoned City R-1 (One-Family Residential) Zone pursuant to Section 110 A-4 of the Porterville Zoning Ordinance and in support of the General Plan.

The Assessor’s roll indicates that approximately 91± property owners are assessed to the 59 lots. Consent from approximately 67%± of the property owners have been given and no consents from the remaining 33%.

The subject site is not located in an agricultural preserve.

Pursuant to Section 15302 c, and 15319 a, of the California Environmental Quality Act (CEQA), the proposed annexation is categorically exempt.

Conditions have been added to the resolution that basically states that prior to having the annexation recorded, the new water system shall be in place and approved by the City Council. Additionally, an agreement will be required to be executed between the Fairways Tract Water Company and the City of Porterville which will outline the requirements and responsibilities of both parties.

RECOMMENDATION: That the City Council:

1. Adopt a resolution authorizing initiation of preliminary proceedings and filing of the necessary application with LAFCo.

ATTACHMENTS:

1. Annexation No. 471 Map

2. Notice of Exemption

3. Draft Resolution authorizing initiation of preliminary proceedings and filing of the necessary application with LAFCo
NOTICE OF EXEMPTION

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

Tulare County Clerk
County Civic Center
Visalia, CA 93291

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

Jim Pinney
Fairways Tract Water Company
P.O. Box 1953
Porterville, CA 93258

Annexation 471
Project Title

Generally the southeast corner of West Olive Avenue and Leggett Street.
Project Location (Specific)

City of Porterville
Tulare
Project Location (City)
Project Location (County)

Proposed initiation for Annexation 471 (Fairways Tract Subdivision) consisting of 18.5± acres developed with single-family residential dwellings. In addition to the annexation, replacement of a deteriorated water system constructed for the subdivision in the 1940's is also proposed.
Description of Nature, Purpose, and Beneﬁciaries of Project

City of Porterville
Name of Public Agency Approving Project

JimPenney, Fairways Tract Water Company, P.O. Box 1953, Porterville, CA 93258
Name of Person or Agency Carrying Out Project

Exempt Status: (Check One)

Ministerial (Section 15073)
Declared Emergency (Section 15071 (a))
Emergency Project (Section 15071 (b) and (c))
X Categorical Exemption. State type and section number: 15302 c, and 15319 a.

Section 15302 c: Replacement or reconstruction of existing utility systems and/or facilities involving negligible or no expansion of capacity. Section 15319 a: Annexations of a city or special district of areas containing existing public or private structures developed to the density allowed by current zoning or pre-zoning.
Reasons why project is exempt

(continued)
Bradley D. Dunlap, AICP, Community Development Director
Contact Person

If Filed by Applicant:

1. Attached certified document of exemption finding.
2. Has a Notice of Exemption been filed by the public agency approving the Project? Yes: ______ No: ______

Date Received for filing: __________

Signature

Community Development Director
Title
RESOLUTION NO.________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE, COUNTY OF TULARE, STATE OF CALIFORNIA MAKING APPLICATION FOR CHANGE OF ORGANIZATION OF TERRITORY KNOWN AS ANNEXATION NO. 471

WHEREAS, the California State Legislature finds and declares that it is the policy of the State to encourage orderly growth and development which is essential to the social, fiscal, and economic well-being of the State, and recognizes that the logical formation and determination of City boundaries is an important factor in promoting the orderly development of urban areas; and

WHEREAS, the legislature recognizes that population density and intensive residential, commercial, and industrial development necessitate a broad spectrum and high level of community services and controls. The legislature also recognizes that when areas become urbanized to the extent that they need the full range of community services, priorities must be established regarding the type and levels of such services that the residents of an urban community need and desire; that community service priorities be established by weighing the total community service needs against total financial resources available for securing community services; and that such community service priorities must reflect local circumstances, conditions, and limited financial resources. The legislature finds and declares that a single government agency, rather than several limited purpose agencies, is better able to assess and be accountable for community service needs and financial resources and, therefore, is the best mechanism for establishing community service priorities; and

WHEREAS, the City Council of the City of Porterville desires to initiate proceedings for a change of organization of the hereinafter described territory.

NOW, THEREFORE, IT IS HEREBY RESOLVED, DETERMINED AND ORDERED AS FOLLOWS:

1. Application is hereby made to the Executive Officer of the Local Agency Formation Commission of the County of Tulare, State of California, as follows:

   A. This proposal is made pursuant to the Cortese-Knox-Hertzberg Local Government Reorganization Act of 2000 of the State of California.

   B. The nature of the proposal is a change of organization as follows:

      A description of the exterior boundaries of the territory to be annexed is attached hereto and marked Exhibit "A" and made a part hereof by reference as though set forth herein.

   C. The reasons for this proposal are as follows:
To provide municipal services including sanitary sewer, water, and storm drainage services, increased police and fire protection, and other municipal services as so required. To provide proper control, orderly development, and logical growth in accordance with the City of Porterville General Plan, LAFCo’s Sphere of Influence Boundary, and the Urban Development Boundary as adopted by the County of Tulare and the City of Porterville.

D. Pursuant to Section 15302 c, and 15319 a, the proposed annexation is categorically exempt from the California Environmental Quality Act (CEQA).

E. The subject site is an inhabited annexation and is not located within an agricultural preserve.

F. The Assessor’s roll indicates that approximately 91± property owners are assessed to the 59 lots. Consent from approximately 67%± of the property owners have been given and no consents from the remaining 33%.

G. That the subject site consists of 18.54± acres developed with a single-family residential dwellings.

H. The subject site is located within Porterville's Urban Development Boundary and LAFCo’s Sphere of Influence Boundary.

I. Porterville's General Plan designates the site for Low Density Residential uses.

J. Upon consummation of the proposed annexation, the subject site will automatically be zoned City R-1 (One-Family Residential) Zone pursuant to Section 110 A-4 of the Porterville Zoning Ordinance.

K. Prior to the recordation of the annexation, the new water system shall be fully functional, constructed in accordance with City standards and specifications and system improvements accepted by the City Council. Additional conditions area as follows:

1. The two (2) existing wells will be sealed and abandoned.

2. The Fairways Tract Water Company, in order to comply with the City’s Wholesale Water Policy, shall pay a proportional share of the City’s cost to convert an agricultural well to a municipal well located near the City’s Municipal Airport. The proportional share has been calculated to be $96,000.00. In the event that the agricultural cannot be converted, the City will use the $96,000.00 fee toward another well or alternate water source.

3. Reconstruct the existing distribution water system to meet City Standards and pay all applicable water related fees.
4. Maintenance of the new water system will require City Council acceptance.

5. An agreement will be required to be executed between the Fairways Tract Water Company and the City of Porterville which will outline the requirements and responsibilities of both parties.

L. It is hereby requested that proceedings be taken for the change of organization proposed herein.

2. The City Clerk (or other official) of the City of Porterville is hereby authorized and directed to file a certified copy of this resolution with the Executive Officer of the Local Agency Formation Commission of the County of Tulare, State of California.

__________________________
Cameron Hamilton, Mayor

ATTEST:

John Longley, City Clerk

By _______________________
Patrice Hildreth, Chief Deputy City Clerk
LEGAL DESCRIPTION
(Fairways Tract Annexation)

That certain real property situated in the Northwest Quarter of the Northwest Quarter of Section 31, Township 21 South, Range 28 East, Mount Diablo Base and Meridian, County of Tulare, State of California, according to the official plat thereof, being more particularly described as follows:

**Beginning** at the Northwest corner of section 31; thence

A. South 00° 00’ 00” East a distance of 30 feet, along the westerly line of said Section 31, to a point on the westerly prolongation of the southerly right of way line of Olive Avenue, said point also being an angle point in the existing City Limit Line, and the **True Point of Beginning**; thence

1) North 89° 46’ 00” East, a distance of 665.70 feet, along the existing City Limit Line, and southerly right of way line of Olive Avenue, to a point on the southerly right-of-way line of Olive Avenue, and the westerly line of the Porterville Cemetery District, said point also being an angle point in the existing City Limit Line; thence

2) South 00° 08’ 30” West, a distance of 435.00 feet, along a portion of the westerly limit line of the Porterville Cemetery District, to the Southwest Corner of the Porterville Cemetery District; thence

3) North 89° 46’ 00” East, a distance of 660.00 feet, parallel to, and 465.00 feet south of the existing City Limit Line; thence

4) South 00° 08’ 30” West, a distance of 394.10 feet, to the Southeast Corner of Tract 74, as recorded in Volume 19 of Maps, at Page 118, Tulare County Records; thence

5) North 90° 00’ 00” West, a distance of 633.64 feet; thence

6) South 00° 00’ 00” East, a distance of 50.00 feet; thence

7) North 90° 00’ 00” West, a distance of 280.00 feet, along the southerly right of way line of Isham Street; thence

8) North 00° 00’ 00” West, a distance of 50.00 feet, to a point along the easterly prolongation of the northerly right of way line of Isham Street, said point also being an angle point in the existing City Limit Line; thence

9) North 90° 00’ 00” West, a distance of 420.00 feet, to a point on the westerly line of Said Section 31, said point also being the Southwest Corner of said Tract 74, and an angle point in the existing City Limit Line; thence

10) North 00° 00’ 00” East, a distance of 823.70 feet, along the existing City Limit Line, to the **True Point of Beginning**

Containing 18.54 +/- acres

END OF DESCRIPTION

"EXHIBIT "A"
CITY COUNCIL AGENDA: SEPTEMBER 18, 2007

PUBLIC HEARING

TITLE: SEQUOIA VILLAGE AT RIVERS EDGE – MODIFICATION TO CONDITIONAL USE PERMIT 1-2006 RESOLUTION 34-2006

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: The Sequoia Village at Rivers Edge apartment project is a 100% low-income housing project that qualifies for certain development concessions and incentives upon request by the developer. As per Section 65915(a) and Section 65915(d-1) of the Government Code ... “the local government shall provide the applicants incentives or concessions...” Although not always consistent with local ordinances, the local government is mandated to grant one to three of these certain concessions or incentives defined as:

- Reductions in site development standards and modifications of zoning and architectural design requirements, including reduced setback and parking standards that result in “identifiable, financially sufficient and actual cost reductions.”
- Mixed use zoning that will reduce the cost of the housing, if the non-residential uses are compatible with the housing development and other development in the area.
- Other regulatory incentives or concessions that result in “identifiable, financially sufficient, and actual cost reductions.”

As a part of the conditions of approval, for CUP 1-2006, the applicant was to construct a six foot masonry wall along the eastern property line where the newly amended zone would require the developer to install the masonry wall to separate the residential (R-2 – Medium Density) zone from the non-residential (M-1 Light Industrial) zone (see Attachment 1) as per Section 2617 of the Zoning Ordinance. The project proponent is requesting a development concession from the required conditions of approval to install a six foot wrought iron fence in lieu of a six foot masonry wall. The owners’ concerns, stated in his letter of request (Attachment 2), are that there are currently homeless individuals in the area who are using block walls and other solid structures to form temporary shelters. In clarifying, the wall is not required to provide a sound barrier (as the developers’ letter states) but rather separate a residential zone from a non-residential zone. In the developers’ experience, block walls also provide a pallet for graffiti artists that are out of the Developers control causing long term problems for the City.

DD APPROPRIATED/FUNDED CM ITEM NO. 14
This is the only request for concession or incentive that the Developer has made to the City for the 64 unit low-income apartment complex project. Although staff does agree that the wall will create nuisance problems associated with the block wall, walls do provide value in attenuating sound. The property is set back approximately 100 feet from the westerly boundary of the nearest industrial or commercial property and the railroad is not in operation. Therefore the provision of the wall is not essential to providing noise attenuation.

Additionally, in exchange for the concession to construct a wrought iron fence in lieu of the six foot masonry wall, the project proponent has offered and is working with the City of Porterville Redevelopment Agency to record a regulatory agreement against the property concurrent with Redevelopment Agency affordable housing covenants on all 64 units. The concession will allow the Redevelopment Agency to count the production of the affordable units against its production goals.

RECOMMENDATION: That the City Council adopt the Draft Resolution approving the modification to Conditional Use Permit 1-2006 Resolution 34-2006 allowing request to construct a six foot wrought iron fence in lieu of a six foot masonry wall along the eastern property line.

ATTACHMENTS:

1. Site Plan
2. Locator Map
3. Letter from Developer requesting concession
4. 34-2006 Resolution approving CUP 1-2006
August 31, 2007

Mr. Bradley Dunlap
Community Development Director
City of Porterville
291 N. Main Street
Porterville, California 93257

Dear Mr. Dunlap,

It continues to be a pleasure working with the City of Porterville to develop our affordable housing project, Sequoia Village at Rivers Edge. I'm writing to request that Condition No. 13, which deals with the construction of a 6 foot high masonry wall along our eastern property line, be removed from our project requirements for the following reasons:

1. There currently are various homeless individuals in the area who are using block walls and other solid structures to form temporary shelters.

2. One of the uses for this block wall is to provide a sound barrier from the railroad tracks located adjacent to our project. Two issues with this are:
   a. The railroad tracks sit approximately 6 feet high. The wall if constructed will provide no sound barrier benefit whatsoever.
   b. The railroad is currently not in use nor are there any future plans to use the tracks.

3. In our experience, block walls provide a pallet for graffiti artists. We obviously can control our side of the block wall but we will have no control over the outside of the wall thus causing a long term problem for the City.

In exchange for the removal of the requirement to build this wall, we would invite the City of Porterville to record a Redevelopment Agency Regulatory Agreement against our property without any financial contribution from the City, thus allowing the City to count our project in its Redevelopment Agency goals.

ATTACHMENT
ITEM NO. 3
Thank you for considering our request, and please contact me if you should have any questions or need additional information.

Sincerely,

[Signature]

Caleb Roope  
President / C.E.O.
RESOLUTION NO. 34-2006

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS IN SUPPORT OF APPROVAL OF CONDITIONAL USE PERMIT 1-2006, FOR A 64 UNIT APARTMENT COMPLEX ON A 4.48± ACRE VACANT SITE LOCATED GENERALLY ON THE SOUTHEAST CORNER OF DATE AVENUE AND “E” STREET

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of March 7, 2006, opened the public hearing to consider Conditional Use Permit 1-2006 for a 4.48± acre vacant site consisting of two (2) parcels located on the southeast corner of Date Avenue and “E” Street; and

WHEREAS: A conceptual plan for a 64 unit apartment complex was reviewed by the Project Review Committee on August 10, 2005 and December 7, 2005. The project proposes development of nine (9) buildings, eight (8) of which are for 64 residential units, one of which would serve for community use; and

WHEREAS: All but one (1) of the residential units (which will be reserved for an on-site manager) would provide low-income rental units. All 64 units in the proposed project would be considered assisted units under the HOME Program; and

WHEREAS: The City Council made the following findings with respect to the subject project:

1. The General Plan designates the subject site as Medium Density Residential.

   The subject site is zoned R-2 (Four Family Residential) which is supported by the General Plan. The proposed use is allowed pursuant to approval of a Conditional Use Permit.

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

   The site is generally level. The soil is not highly expansive and therefore will not create any barriers to the proposed project.

3. Due to the location of a cluster of elderberry shrubs located at the southwest corner of the site, a minor change in the location of the apartment(s) proposed for this area may be required. The Environmental Coordinator made a determination that a Mitigated Negative Declaration would be appropriate for the proposed project. The Initial Study includes the proposed Mitigation Measures (Exhibit 1).

4. That the proposed location of the project and the conditions under which it will be operated and maintained will not be detrimental to the public health, safety or welfare, or materially injurious to properties or improvements in the vicinity. Project
will comply with the United States Wildlife Services Conservation Guidelines for the Valley Elderberry Longhorn Beetle.

Conditions of approval are included to ensure adequate development standards are met.

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

6. The project as proposed complies with all design standards of the Zoning Ordinance.

WHEREAS: The Project Review Committee has dictated the following conditions:


2. The DEVELOPER/APPLICANT shall pay all applicable fees in accordance with the Municipal Code and State law. 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 comply with Appendix Chapter 33, “Excavation and Grading” of the California Building Code by providing a soils engineering report and a grading and drainage plan signed by a civil engineer or architect. 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.

4. The DEVELOPER/APPLICANT shall construct drainage facilities as required to serve the property (Ord. No. 1306). The City has infrastructure in place that will accept the runoff from the proposed development. The site must surface drain to City streets, otherwise an on-site drainage will be required. On-site drainage reservoirs shall be landscaped and maintained as part of a development association.

5. 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 the City Council and property necessary for disabled ramp(s) (Ord. 1306). It will be the burden of this development to dedicate additional right of way and improve a full width public street between River Avenue
and the southerly property line. A sketch of the "E" Street alignment (Exhibit 2) is attached and made a part of these conditions.

6. The DEVELOPER/APPLICANT shall construct street paving (half street, if necessary to match existing grades), curb, gutter, sidewalk, wheelchair ramp(s), water, sewer, etc. along the frontage of the parcel north of River Avenue, except where they exist and are in good condition in the opinion of the City Engineer. Complete street improvements, including curb, gutter and sidewalk on both sides, shall be installed for that segment of "E" Street, south of River Avenue.

7. 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).

8. The DEVELOPER/APPLICANT shall provide streetlights on marbelite poles complying with Southern California Edison Company specifications, as approved by the City Engineer. Use of wood poles is prohibited without prior written approval of the City Engineer. 9500 lumen streetlights shall be installed along the east-side of "E" Street at 320 foot intervals. Site plans shall illustrate the nearest existing lights for determining appropriate spacing.

9. The DEVELOPER/APPLICANT shall, under City inspection, remove all existing abandoned and unnecessary items, to the satisfaction of the City Engineer, prior to the issuance of an occupancy permit (e.g., foundations, septic tanks, irrigation pipes, etc.).

10. The DEVELOPER/APPLICANT shall abandon existing wells, if any, after first obtaining an abandonment permit from the County Department of Environmental Health, and shall provide the City Engineer with proof of compliance with County regulations prior to performing any grading.

11. The DEVELOPER/APPLICANT shall provide off-site improvements, easements, permits, calculations, etc. if, in the opinion of the City Engineer, they are needed for the proper functioning or phasing of the improvements or an adjacent development (e.g. water, sewer, drainage, etc.).

12. The DEVELOPER/APPLICANT shall design and improve the parking lot in conformance with Section 2206 and 2211 (Exhibit A) of the Zoning Ordinance.

13. The DEVELOPER/APPLICANT shall construct a masonry wall along the easterly property line. The wall shall match one of the colors in the color palette approved by the City Council and maintained by the Community Development Department.
14. The DEVELOPER/APPLICANT shall construct the pipe connecting to on-site fire hydrants to City water main standards and shall provide easements for maintenance of the fire hydrants.

15. The DEVELOPER/APPLICANT shall install all required refuse container enclosures according to City standards. The DEVELOPER/APPLICANT shall also sign a waiver of liability for refuse truck damage to the parking lot if the refuse container locations require refuse trucks to travel on the parking lot.

16. The DEVELOPER/APPLICANT shall comply with City standard for “back-flow” prevention pursuant to Resolution No. 9615.

17. The DEVELOPER/APPLICANT is hereby notified that the installation of an additional water meter, servicing the irrigation system would be beneficial for monitoring actual water usage. The City will monitor actual water usage for one year and will bill the owner the impact fees based on the actual water usage.

18. Submit three (3) complete sets of plans, signed by a licensed Architect or Engineer, to include two (2) sets of energy calculations and structural calculations.

19. Compliance with access laws (both State and Federal) is required.

20. Plan check fees are required at the time of building permit submittal.

21. School Development fees and all other City fees are due at the time of building permit issuance.

22. DEVELOPER/APPLICANT will obtain approval from the Tulare County Health Department prior to issuance of the building permit for public swimming pool.

23. The number of required disabled accessible units will be in compliance with State and Federal law.

24. Fire suppression system required.

25. Demolition permit required prior to removal of existing structures and/or foundations.

26. Signs require a separate permit.

27. Eliminate interior property lines.

28. Comply with latest applicable codes.
29. Based on the occupancy classification, a fire sprinkler and/or fire alarm may be required.

30. When a fire sprinkler system is required all valves controlling the water supply for automatic sprinkler systems and water-flow switches on all sprinkler systems shall be electrically monitored where the number of sprinklers are:
   a. Twenty or more in Group I, Divisions 1.1 and 1.2 Occupancies.
   b. One hundred or more in all other occupancies.

31. Submit two (2) complete sets of sprinkler and/or fire alarm plans to Fire Department for review prior to installation.

32. When any portion of the building to be protected is in excess of 150 feet from a water supply on a public street, there shall be installed on-site fire hydrants capable of supplying the required flow.

33. Additional fire hydrants will be required. All hydrants must be in place and accepted by the Fire Department prior to any combustibles being brought onto the site.

34. Hydrants must be placed within 50 feet of the Fire Department Connection for the fire sprinkler system.

35. The City will test and maintain all fire hydrants in the City whether on private property or not. An "easement" is required from the owner.

36. Fire hydrants spacing shall be as follows: In **Residential development**, one (1) hydrant shall be installed at every 500 feet intervals.

37. Access roads shall be provided for every facility, building or portion of a building, when any portion of the facility or portion of an exterior wall is located more than 150 feet from a fire apparatus access as measured by an approved route around the exterior of the building.

38. All dead-end access roads in excess of 150 feet must be provided with an approved turn-around complying with City Standards.

39. All turns on driveways must meet the minimum radius allowed set by City standards.

40. Project must meet minimum fire flow requirements per table in appendix III-A & III-B of the California Fire Code. Fire Flow for this project as proposed is 2000 GPM, requiring a minimum of two (2) hydrants.
41. Areas identified as “Fire Lanes” must be identified as such by red painted curbs and identified per requirements set forth in the California Vehicle Code Sec. 22500.1.

42. Any gates installed in the project that restrict access must be fitted with a Knox Key. Knox box will be required. Application may be obtained from the Fire Department.

43. The wrought iron fence shown on the site plan must be six feet tall and shall meet the following standards:

   a. The wall(s) shall match one of the colors in the color palette approved by the City Council and maintained by the Community Development Director.
   b. The wall(s) shall include articulation at intervals of approximately 80 feet except where such articulation is precluded by design constraints. In no case shall a wall exceed 160 feet without articulation. Methods of articulation may include the following:
   c. A minimum planting of six (6) feet in width to a minimum of 24 inch change of plane.
   d. A minimum of an 18 inch change in height.
   e. A section of semi-open fence, except where such a feature would interfere with required sound protection.
   f. A change of material.

44. The Developer/Applicant will provide a water feature (fountain) at the entrance from “E” Street.

45. The Development shall conform to the approved site plan, building elevations and colors and materials as indicated on Exhibits 3-5.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve the Conditional Use Permit 1-2006, and that the mitigation measures defined in attachment 4 of General Plan Amendment 1-2006 (B) and Zone Change 2-2006 (Pacific West Architecture) shall be implemented by the applicant or his/her successors with project implementation.

[Signature]
Pedro R. Martinez, Mayor

ATTEST:
John Longley, City Clerk

By [Signature]
Georgia Hawley, Chief Deputy City Clerk
INITIAL STUDY

Sequoia Village at River’s Edge

Pacific West Communities, Inc.

Porterville, California

JANUARY 2006
City of Porterville
Initial Study/Environmental Checklist

1. **Project title:** Sequoia Village at River’s Edge

2. **Lead agency name and address:**
   City of Porterville
   Community Development Department, Planning
   291 N. Main Street
   Porterville, CA 93257

3. **Contact person and phone number:**
   Julie Boyle, Senior Planner
   (559) 782-7460

4. **Project location:**
   424 South E Street
   Porterville, CA 93257
   APN 260-260-001 and 260-250-017 (See Figures 1 and 2)

5. **Project sponsor’s name and address:**
   Pacific West Communities, Inc.
   13 – 12th Ave. South
   Nampa, Idaho 83651

6. **General plan designation:** Industrial

7. **Zoning:** (M-1) Light Manufacturing

8. **Description of project:**

   **Overview**
   The project proposes redevelopment of an approximately 4.48 acre parcel (APN 260-260-001), located in the City of Porterville, Tulare County. The project site is located at 424 South E Street, near the corner of South E Street and River Avenue. The project consists of two major components: a) the construction of 64 dwelling units and; b) on-site amenities, including a community building, a pool/spa, a play area, and a barbecue area. The project also includes a 0.39 gross acre area proposed for street dedication along the southern portion of the project site at E Street (APN 260-250-017).

   The project involves a request for an amendment to the City of Porterville’s General Plan land use designation from Industrial to High Density Residential and a zoning change from M-1 to R-3. The High Density Residential land use designation allows for 15 to 43 residential units per acre and must be accommodated by available infrastructure services. The R-3 zoning designation permits multiple dwellings, groups of dwellings, and accessory buildings.
Figure 2
Aerial Photo
Figure 3
Project Site Plan
Existing Site Setting, Conditions and Background

The project site is located on the east side of South E Street at River Avenue in the southeastern part of the City of Porterville. The property is a level, upland site consisting of approximately 4.48 acres. The project site lies approximately 450 feet above mean sea level, is relatively flat, and slopes slightly to the south. The southern boundary of the project site is approximately 100 yards north of the Tule River and is separated from the river by unimproved, dry land.

Although the project site is not currently in use, the following improvements occupy the property: 1) two large foundation slabs; and 2) an abandoned, concrete water tank. The existing improvements were associated with a pallet manufacturing and citrus processing facility which operated from 1967 to July 2003, when a fire damaged the building. Before 1967, the structure was utilized as a feed store.

In 1986, a 550 gallon tank was removed from the northwest corner of the property under the oversight of the Tulare County Environmental Health Services (TCEHS). TCEHS issued a “no further investigation” letter that same year.

Residential Low-income Housing Units

The primary land use component of the project is multi-family residential use. The 64-unit apartment buildings would be constructed on approximately 0.88 acres of the 4.48 acre site (20% site coverage). The project proposes development of 9 buildings, 8 of which are for residential use and one of which would serve for community use.

The 8 residential buildings consist of 64 residential units (density of approximately 15 units per acre). The residential buildings are designed as two-story, walk-up structures in a garden-style setting. The buildings will be oriented appropriately throughout the site with the intent to create a community concept. Carports and uncovered parking spaces will be located throughout the project site with access to and from the residential buildings by concrete walkways. The carports and uncovered parking spaces are designed to accommodate approximately 128 parking spaces.

The project includes three (3) residential unit plans ranging in size from approximately 904 square feet per unit (2 bedroom/1 bath) to 1,401 square feet (4 bedroom/2 bath). All units are designed to include a covered patio or a balcony. Four handicap accessible units would be designed to serve the disabled and two additional units would be designed for individuals with sensory impairments. The two-story structures will have a maximum building height of 26 feet from the ground surface elevation.

All but one of the residential units (which would be reserved for an on-site manager) would provide low-income rental units. All 64 units in the proposed project would be considered assisted units under the HOME Program. The project is intended to further redevelopment of the project site with multi-family residential uses in accordance with the Porterville Redevelopment Strategic Plan.

Community Building and other on-site amenities

Proposed on-site amenities include a 2,500 square foot community building consisting of an office, maintenance room, computer center, laundry facilities, exercise room, and a common room. Barbecue areas with tables and benches would be situated throughout the project site and surrounded by open space. The project also includes a 2,500 square foot playground/recreation area with equipment and a pool/spa.
**On-Site Circulation Improvements**
The project proposes to dedicate to the City of Porterville a 0.39 gross acre area along the southern portion of the project site at E Street. Following dedication, APN 260-250-017 would result in a net area of 0.10 acres. The project also includes on-site circulation improvements and site access as shown in Figure 3, Project Site Plan. Access would be available from E Street.

**Demolition and Grading**
The project would involve demolition of the existing concrete building foundations that previously supported the former warehouse uses. Although the project site is level, site grading is proposed to allow development of the eight two-story apartment buildings, the community building and on-site recreational areas. The project also involves trenching and excavation to install on-site circulation improvements and utilities. The cut and fill needed for grading is expected to be balanced on site.

**Subdivision**
The project does not include any subdivision approvals.

**Planning Applications**
The following applications have been filed for approval by the City of Porterville:

- **General Plan Amendment:** request for an amendment to the General Plan land use designation on project site from Industrial to High Density Residential.

- **Zoning Ordinance Amendment:** request to rezone the project site from M-1 Light Manufacturing to R-3 Multiple Family Zone.

- **Design Review:** request for Design Review for approval of the project site plan and architecture.

9. **Surrounding land uses and setting:**

The proposed project site is located in a light manufacturing – residential interface area within the City of Porterville. The parcels to the north and south are unimproved open lots. A railroad right-of-way and light manufacturing of wood products and a warehouse characterize the area east of the project site. Apartments and single-family dwellings occupy the area to the west. The Tule River is located approximately 100 yards south of the project site. Areas south of the project site and the Tule River consist of vacant industrial buildings.

The site is within 1 mile of area services, including shopping, banks, post office, library, elementary school, senior high school, bus stops, parks and local hospital. “Big box” retailers, including Wal-Mart, Target, and Mervyn’s, are located about 2.6 miles from the site.

10. **Other public agencies whose approval may be required:**
- **California Department of Housing and Community Development (in partnership with US Department of Housing and Urban Development):** award of HOME loan to provide construction financing for the project.

- **Central Valley Regional Water Quality Control Board:** filing of a Notice of Intent to construct pursuant to NPDES General Construction Permit.
EVALUATION OF ENVIRONMENTAL IMPACTS:

1) A brief explanation is required for all answers except "No Impact" answers that are adequately supported by the information sources a lead agency cites in the parentheses following each question. A "No Impact" answer is adequately supported if the referenced information sources show that the impact simply does not apply to projects like the one involved (e.g., the project falls outside a fault rupture zone). A "No Impact" answer should be explained where it is based on project-specific factors as well as general standards (e.g., the project will not expose sensitive receptors to pollutants, based on a project-specific screening analysis).

2) All answers must take account of the whole action involved, including off-site as well as on-site, cumulative as well as project-level, indirect as well as direct, and construction as well as operational impacts.

3) Once the lead agency has determined that a particular physical impact may occur, then the checklist answers must indicate whether the impact is potentially significant, less than significant with mitigation, or less than significant. "Potentially Significant Impact" is appropriate if there is substantial evidence that an effect may be significant. If there are one or more "Potentially Significant Impact" entries when the determination is made, an EIR is required.

4) "Negative Declaration: Less Than Significant With Mitigation Incorporated" applies where the incorporation of mitigation measures has reduced an effect from "Potentially Significant Impact" to a "Less Than Significant Impact." The lead agency must describe the mitigation measures, and briefly explain how they reduce the effect to a less than significant level (mitigation measures from Section XVII, Earlier Analyses, may be cross-referenced).

5) Earlier analyses may be used where, pursuant to the tiering, program EIR, or other CEQA process, an effect has been adequately analyzed in an earlier EIR or negative declaration. Section 15063(c)(3)(D). In this case, a brief discussion should identify the following:
   a) Earlier Analysis Used. Identify and state where they are available for review.
   b) Impacts Adequately Addressed. Identify which effects from the above checklist were within the scope of and adequately analyzed in an earlier document pursuant to applicable legal standards, and state whether such effects were addressed by mitigation measures based on the earlier analysis.
   c) Mitigation Measures. For effects that are "Less than Significant with Mitigation Measures Incorporated," describe the mitigation measures which were incorporated or refined from the earlier document and the extent to which they address site-specific conditions for the project.

6) Lead agencies are encouraged to incorporate into the checklist references to information sources for potential impacts (e.g., general plans, zoning ordinances). Reference to a previously prepared or outside document should, where appropriate, include a reference to the page or pages where the statement is substantiated.

7) Supporting Information Sources: A source list should be attached, and other sources used or individuals contacted should be cited in the discussion.

8) This is only a suggested form, and lead agencies are free to use different formats; however, lead agencies should normally address the questions from this checklist that are relevant to a project's environmental effects in whatever format is selected.

9) The explanation of each issue should identify:
   a) the significance criteria or threshold, if any, used to evaluate each question; and
   b) the mitigation measure identified, if any, to reduce the impact to less than significance
ENVIRONMENTAL FACTORS POTentially AFFECTED:
The environmental factors checked below would be potentially affected by this project, involving at least one impact that is “Less Than Significant with Mitigation Incorporation” as indicated by the checklist on the following pages.

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

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 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.

Date 1/10/06

Signature

Title COMMUNITY DEVELOPMENT DIRECTOR

SEQUOIA VILLAGE INITIAL STUDY
JANUARY 2006
<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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**I. AESTHETICS** – Would the project:

a) Have a substantial adverse effect on a scenic vista?

  ☐ ☐ ☐ ☒

b) Substantially damage scenic resources, including, but not limited to, trees, rock outcroppings, and historic buildings within a state scenic highway?

  ☐ ☐ ☒ ☐

c) Substantially degrade the existing visual character or quality of the site and its surroundings?

  ☐ ☐ ☒ ☐

d) Create a new source of substantial light or glare which would adversely affect day or nighttime views in the area?

  ☐ ☐ ☒ ☐

**Response to a):** The project site is located in a primarily industrial area, with industrial uses to the north, east, and south of the site and residential uses to the west. Approximately 100 yards south of the project site is the Tule River. The primary component of the project would be the construction of 8, two-story residential buildings and 1, one-story community building.

The proposed project would consist of infill development within a predominantly industrial and residential area. The project site is not surrounded by or located near any designated scenic vistas. Consequently, the project would not have a substantial adverse effect on a scenic vista.

**Response to b), c), d):** As described above, the project site is surrounded primarily by industrial uses and some residential use. The site does not contain any rock outcroppings, or buildings of historic significance that would be damaged or lost as a result of site development and is not within the vicinity of a state scenic highway. One existing oak tree is located on the northern property line of the project and the project incorporates measures to preserve the oak tree.

The existing visual character and quality of the site and its surroundings is generally poor due to the fact that building foundations for the former warehouse use characterize the site. The resulting residential development would change the visual appearance and character of the site and its surroundings by introducing high quality two-story residential structures clustered in building complexes throughout the site. Building heights would range from approximately 17 feet for the community building to a maximum building height of 26 feet for the apartment buildings. Although the change in visual character would be
apparent and dramatic, this change in appearance would not result in further degradation of the visual character or quality of the site and its surroundings because it would replace the existing foundations and building remnants with new residential construction. It is expected that the project would result in an improvement over the current appearance of the site and its surroundings, and the proposed residential development would be compatible with residential uses to the west. For these reasons, the project would result in a less than significant visual and aesthetic impact.

No uses currently occupy the project site. No site improvements currently generate excessive amounts of light and glare. The proposed construction of residential units on the project site with areas of glazing (windows), exterior lighting, illuminated directory signage and vehicle parking lots potentially could introduce new sources of light and glare.

The City of Porterville Zoning Ordinance establishes performance standards that are required to ensure that all uses and activities are developed and conducted in a manner so as to not produce impacts on surrounding properties or the neighborhood at large. The project would be required to comply with the provisions of the City of Porterville Zoning Ordinance limiting light and glare impacts. Specifically, the project would be required to implement the following light and glare controls:

Section 2618(F). Performance standards – Glare.
   (1) No direct or reflected glare, whether produced by floodlight, high-temperature processes such as combustion or welding, or other processes, so as to be visible from any boundary line of property on which the same is produced, shall be permitted. Sky-reflected glare from buildings or portions thereof shall be so controlled by such reasonable means as are practical to the end that the said sky-reflected glare will not inconvenience or annoy persons or interfere with the use and enjoyment of property in and about the area where it occurs.

Therefore, either through initial design, or through conditions of project approval, light and glare-reducing measures will be included in the approved project design.

As the project is required to comply with the provisions of the City of Porterville Zoning Ordinance, compliance with these provisions would reduce impacts to less-than-significant levels.

*Supporting Sources:* HOME Narrative, General Plan, Zoning Ordinance, A.L.T.A. Survey, Phase I
II. AGRICULTURE RESOURCES – In determining whether impacts to agricultural resources are significant environmental effects, lead agencies may refer to the California Agricultural Land Evaluation and Site Assessment Model (1997) prepared by the California Dept. of Conservation as an optional model to use in assessing impacts on agriculture and farmland. Would the project:

a) Convert Prime Farmland, Unique Farmland, or Farmland of Statewide Importance (Farmland), as shown on the maps prepared pursuant to the Farmland Mapping and Monitoring Program of the California Resources Agency, to non-agricultural use? ☐ ☐ ☐ ☑

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

c) Involve other changes in the existing environment which, due to their location or nature, could result in conversion of Farmland, to non-agricultural use? ☐ ☐ ☐ ☑

Response to a), b), c): As noted above, the project site is developed with minor site improvements (two foundation slabs and a concrete water tank) and is located in an urban area in Porterville. No agricultural uses or production-related activities currently occur on the project site. The site is currently zoned M-1 Light Manufacturing. The existing zoning is not intended for agricultural use and the site is not subject to a Williamson Act contract. The project would not result in the conversion of prime or unique farmland.

The project would redevelop an existing, developed but unoccupied site with new residential buildings. The project site is located in a developed area, which does not include farmland. The project would result in no impacts to the environment which could result in the conversion of farmland.

Supporting Sources: HOME Narrative, Phase I, A.L.T.A. Survey

SEQUOIA VILLAGE INITIAL STUDY  
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A-10
III. AIR QUALITY – Where available, the significance criteria established by the applicable air quality management or air pollution control district may be relied upon to make the following determinations. Would the project:

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<tr>
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<tbody>
<tr>
<td>a) Conflict with or obstruct implementation of the applicable air quality plan?</td>
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<tr>
<td>b) Violate any air quality standard or contribute substantially to an existing or projected air quality violation?</td>
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<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>
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<tr>
<td>d) Expose sensitive receptors to substantial pollutant concentrations?</td>
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<tr>
<td>e) Create objectionable odors affecting a substantial number of people?</td>
<td>☐</td>
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Response to a, b, c, e: Tulare County is located within the San Joaquin Valley Air Basin (SJVAB), which is under the jurisdiction of the San Joaquin Valley Air Pollution Control District (SJVAPCD). Air quality in the San Joaquin Valley is among the poorest in the state and the Valley experiences 35 to 40 days when it exceeds the federal health based ground level ozone standard and more than 100 days per year when the Valley exceeds the State ozone standard. Currently, the San Joaquin Valley is designated as extreme non-attainment for the federal 1-hour ground-level ozone levels and in serious non-attainment for the federal 8-hour ground-level ozone standards.¹

To meet federal Clean Air Act requirements, the SJVAPCD adopted an Ozone Attainment Demonstration Plan (1994) and a PM10 Attainment Demonstration Plan (1997). In addition, to meet California Clean Air Act requirements, the District adopted an Air Quality Attainment Plan (1991) and corresponding updates to address the California ozone standard.

¹ http://www.valleyair.org/general_info

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The SJVAPCD Clean Air Plan is prepared and based, in part, on land use forecasts presented in local general plans. Projected air quality conditions for the City of Porterville are based on the land uses assumed under the City of Porterville General Plan. These projections are reflected in the SJVAPCD Air Quality Plan.

The project includes a request for a General Plan amendment and rezoning, which would change the General Plan land use designation to High Density Residential and rezone the project site from M-1 Light Manufacturing zoning to R-3 Multiple Family Zone. The conversion of industrial uses to residential uses on the project site is consistent with the City of Porterville’s adopted Redevelopment Strategic Plan which contemplated redevelopment of the project site in accordance with the Porterville Housing Element.

Residential use results in significantly lower impacts on air quality than do manufacturing uses because manufacturing and industrial uses often generate stationary source pollutant emissions. Under the existing City of Porterville General Plan projections, the project site could be occupied by approximately 98,000 square feet of industrial/manufacturing uses which would be a source of stationary and mobile source emissions. Development of the residential uses would result in minimal stationary source emissions due to HVAC mechanical equipment. Consequently, the project would not conflict with the SJVAPCD Air Quality Plan. In addition, the change from a light manufacturing zoning designation to a residential use designation allowing 64 apartments would not violate any air quality standard or contribute substantially to an existing or projected air quality violation.

The proposed project would result in a redevelopment of this site with up to 64 residential units and a community building. This proposed land use would generate an increase in mobile source emissions when compared to existing conditions associated with the vacant site. The introduction of these emissions is not expected to significantly change air quality on or around the site in that the land uses that are proposed would generate low emissions. In addition, the project is of a size (up to 64 residential units) that would generate only 422 average daily vehicle trips. The projected average daily vehicle trips for the proposed project falls far below the recommended assessment threshold set by the District Guidelines. It is anticipated that the project will not result in significant air quality impacts to surrounding land uses due to project development and operations.

Construction and operation of the project would not be expected to create objectionable odors affecting a number of people because the project involves typical residential building construction.

Response to d):

Construction Impacts

The SJVAPCD does not require the quantitative analysis of air pollutant emissions generated by construction activities if recommended mitigation measures are implemented by the project. These mitigation measures would be implemented during project construction; therefore, a qualitative rather than quantitative evaluation of construction emissions was conducted.
Although construction-generated emissions are typically short-term and temporary in duration, they have the potential to represent a significant air quality impact, particularly for PM$_{10}$ and PM$_{2.5}$ emissions. Construction emissions may potentially result in substantial increases in localized PM$_{10}$ and PM$_{2.5}$ concentrations; adverse health effects; and nuisance concerns.

The area west of the project site is developed with residential land uses (single-family dwellings) which are considered sensitive air quality receptors. Residents of the area could be exposed to dust and similar air pollutants during the grading and construction phases of the proposed project. The project also has the potential to result in generating air pollutant emissions and dust during the grading and construction phases of the development. Because the project incorporates standard measures to control air pollutant emissions during construction and elevated emissions due to construction will be temporary, the project will have less than significant impact on exposing sensitive receptors to substantial pollutant concentrations. As required by regulations of the SJVAPCD, the following measures will be implemented to ensure that the project results in less-than-significant construction air quality impacts:

- All disturbed areas, including storage piles, which are not being actively utilized for construction purposes, shall be effectively stabilized of dust emissions using water, chemical stabilizer/suppressant, covered with a tarp or other suitable cover or vegetative ground cover.

- All on-site unpaved roads and off-site unpaved access roads shall be effectively stabilized of dust emissions using water or chemical stabilizer/suppressant.

- All land clearing, grubbing, scraping, excavation, land leveling, grading, cut & fill, and demolition activities shall be effectively controlled of fugitive dust emissions utilizing application of water or by presoaking.

- With the demolition of buildings up to six stories in height, all exterior surfaces of the building shall be wetted during demolition.

- When materials are transported off-site, all material shall be covered, or effectively wetted to limit visible dust emissions, and at least six inches of freeboard space from the top of the container shall be maintained.

- All operations shall limit or expeditiously remove the accumulation of mud or dirt from adjacent public streets at the end of each workday. (The use of dry rotary brushes is expressly prohibited except where preceded or accompanied by sufficient wetting to limit the visible dust emissions.) (Use of blower devices is expressly forbidden.)

- Following the addition of materials to, or the removal of materials from, the surface of outdoor storage piles, said piles shall be effectively stabilized of fugitive dust emissions utilizing sufficient water or chemical stabilizer/suppressant.

- Within urban areas, trackout shall be immediately removed when it extends 50 or more feet.
from the site and at the end of each workday.

- Any site with 150 or more vehicle trips per day shall prevent carryout and trackout.

With the implementation of the above-listed measures, the project would result in a less than significant air quality impact.

In addition to the required control measures discussed above, the following control measures will be implemented to the extent feasible.

**Enhanced Control Measures** – The following measures should be implemented at construction sites to mitigate significant construction emissions of PM-10:

- Limit traffic speeds on unpaved roads to 15 mph; and
- Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent.

**Additional Control Measures** – The following measures are encouraged at construction sites that are large in area, located near sensitive receptors, or which for any other reason warrant additional emissions reductions:

- Install wheel washers for all exiting trucks, or wash off all trucks and equipment leaving the site;
- Install wind breaks at windward side(s) of construction areas;
- Suspend excavation and grading activity when winds exceed 20 mph; and
- Limit area subject to excavation, grading, and other construction activity at any one time.

### IV. BIOLOGICAL RESOURCES –

Would the project:

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<thead>
<tr>
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<tr>
<td>a) Have a substantial adverse effect, either directly or through habitat modifications, on any species identified as a candidate, sensitive, or special status species in local or regional plans, policies, or regulations, or by the California Department of Fish and Game or U.S. Fish and Wildlife Service?</td>
<td>☐</td>
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<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>
<td>☐</td>
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<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>
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<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>
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<tr>
<td>e) Conflict with any local policies or ordinances protecting biological resources, such as a tree preservation policy or ordinance?</td>
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<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 to el. e.** Based on available information, review of aerial photographs and a property A.L.T.A. survey, approximately four elderberry shrubs, which potentially provide habitat for the valley elderberry longhorn beetle (VELB), have been detected along the southwest corner of the property. However, focused surveys for elderberry shrubs have not been conducted throughout the project site, so the condition of the shrubs is unknown.

The valley elderberry longhorn beetle is listed as a threatened species under the Endangered Species Act (16 U.S.C. 1531 et seq.). It is dependent on its host plant, elderberry (Sambucus species), which is a common component of riparian forests and adjacent upland habitats of California’s Central Valley. Loss of elderberry shrubs would be considered a significant impact on valley elderberry longhorn beetle. The project is designed to avoid removal and disturbance elderberry shrubs present on the project site. These areas will be protected from disturbance during the construction and operation of the project. Accordingly, the following avoidance and protective measures for the valley elderberry longhorn beetle will be implemented as part of the project:

- Before project construction, conduct a survey for elderberry shrubs where elderberries could occur on the project site.
- Fence and flag all areas to be avoided during construction activities. Provide a minimum setback of at least 20 feet from the dripline of each elderberry plant.
- Brief contractors on the need to avoid damaging the elderberry plants. Instruct work crews about the status of the beetle and the need to protect its elderberry host plant.
- Erect signs every 50 feet along the edge of the avoidance areas with the following information: “This area is habitat of the valley elderberry longhorn beetle, a threatened species, and must not be disturbed. This species is protected by the Endangered Species Act of 1973, as amended. Violators are subject to prosecution, fines, and imprisonment.” The signs should be clearly readable from a distance of 20 feet, and must be maintained for the duration of construction.
- Protect buffer areas after construction from adverse effects of the project. Measures such as fencing, signs, weeding, and trash removal are usually appropriate.
- No insecticides, herbicides, fertilizers, or other chemicals that might harm the beetle or the host elderberry plants should be used in the setback/buffer areas.

Implementation of these measures would reduce impacts on the valley elderberry longhorn beetle to a less-than-significant level.

In the event an elderberry shrub cannot be avoided by the proposed project, the following measures will be implemented:

- All elderberry shrubs with one or more stems measuring 1.0 inch or greater in diameter at...
ground level will be searched for beetle exit holes (external evidence of beetle presence). In addition, all elderberry stems one inch or greater in diameter at ground level must be tallied by diameter size class. In conformance with the USFWS Conservation Guidelines for the Valley Elderberry Longhorn Beetle (1999) (CGVELB), this information will be used to determine planting ratios for replacement vegetation.

- Elderberry plants with one or more stems measuring 1.0 inch or greater in diameter at ground level must be transplanted to a conservation area, as defined in the CGVELB.

- Elderberry stems measuring 1.0 inch or greater in diameter at ground level that are adversely affected (i.e. transplanted or destroyed) must be replaced, in the conservation area, with elderberry seedlings or cuttings at a ratio ranging from 1:1 to 8:1 (new plantings to affected stems), as listed and explained in Table 1 of the CGVELB.

- As outlined in Table 1 of the CGVELB, a mix of native plants associated with the elderberry plants at the project site or similar sites will be planted at ratios ranging from 1:1 to 2:1 (native tree/plant species to each elderberry seedling or cutting).

- Transplanting will be conducted in accordance with the CGVELB transplanting procedures and will be monitored by a qualified biologist as described in the CGVELB.

- Transplanting of elderberry plants will conform to the transplanting procedures outlined in the CGVELB. In addition, planting of additional elderberry seedlings or cuttings and planting of associated native plants will be in accordance with the CGVELB.

- Monitoring of the population of valley elderberry longhorn beetles, the general condition of the conservation area, and the condition of the elderberry and associated native plantings in the conservation area will be conducted as described in the CGVELB.

Implementation of these avoidance and protective measures would ensure impacts on the valley elderberry longhorn beetle would remain less than significant.

The City of Porterville General Plan Open Space and Conservation Element includes goals and policies encouraging the protection of biological resources with which the project is consistent. Below are the primary open space and conservation goals and policies that are pertinent to the subject property and project:

Open Space
1.1 Natural resources conserved and preserved.
1.2 Balanced mix of open space uses and development throughout the urban area for the enhancement of visual resources, recreation opportunities, avoidance of hazards, and conservation of natural resources.
3.1 Different kinds of open space have different functions. Wherever possible, the City of Porterville shall include in its open space plan, lands that can be used for at least two of the
six major open space functions: preservation of natural resources, managed production of resources, recreation, protection of public health and safety, preservation of significant archaeological or cultural sites, and provision of access to water courses and natural habitats.

3.10 The City shall require maximum open space in all community land developments consistent with the needs of residents and economic feasibility.

Conservation

1.1 Significant biological resources conserved and preserved.

3.1 The City shall protect the Tule River corridor within the Urban Area Boundary in order to reduce flood hazards, protect significant biological resources, and provide for recreational uses and scenic viewsheds.

3.4 The City shall use appropriate flood control measures to assure the safety of residents while emphasizing maintenance of natural wildlife habitats and vegetation.

3.14 Adequate mitigation measures (e.g., selective preservation, replanting, sensitive site planning, etc.) shall be required of all developments that will adversely impact significant biological resources.

There is no evidence of the presence of any regionally-occurring special-status plant species on the project site. However, one existing 3’ diameter oak tree is located along the northern boundary of the project site, just west of an existing concrete slab. The project proposes to preserve the existing 3’ diameter oak tree along the northern project site boundary. This mitigation measure would bring the project into conformance with local policies protecting biological resources. Therefore, the impact would be less than significant.

(Response to b), c), d): While the project site is located approximately 100 yards north of the Tule River, the project site is completely developed and is located in a light manufacturing — residential interface portion of the City of Porterville. Before a fire consumed the prior structures on the project site in July 1993, the project site was actively used as a pallet manufacturing and citrus processing facility. At present, light manufacturing facilities, warehouses, unimproved lots and residential units surround the project site.

Although the project site is located approximately 100 yards north of the Tule River, no evidence of riparian or wetland habitat is present on the project site. An undeveloped, open lot separates the project site from the Tule River. Based on a site visit and aerial photograph review, the project site does not contain evidence of the presence of wetlands that are subject to Section 404 of the Clean Water Act. Given existing site conditions, the project will not interfere with the movement of any native or resident or migratory fish found in the Tule River nor would it result in the loss of riparian or wetland habitat. In addition, as the site is located in a light manufacturing — residential area of Porterville, and the site has been heavily damaged due to a fire, the potential for wildlife movement through the site is minimal. For these reasons, project development would result in less-than-significant impacts to biological resources.
Response to f): The project site is located in the southeastern portion of the City of Porterville, approximately 100 yards north of the Tule River. A local, regional, or state habitat conservation plan has not been adopted for this area.

Supporting Sources: HOME Narrative, A.I.T.A. Survey, 1994 and 2005 aerial photographs, Phase I, General Plan, Clean Water Act, Relevant CDFG and USFWS regulations, USFWS Conservation Guidelines for the Valley Elderberry Longhorn Beetle (July 9, 1999), National Wetlands Inventory Map
### V. CULTURAL RESOURCES – Would the project:

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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 to a), c):** Minor improvements, including two foundation slabs and a concrete water tank, are located on the project site. However, no buildings or other structures remain on the site. Because there are no existing buildings on the site, the project would not result in any impacts to a historic resource, as defined in CEQA Guidelines Section 15064.5.

The project site is developed and is relatively flat. It lacks unique geologic features or conditions that would be characteristic of a unique paleontological resource. No impact is expected on a unique geologic feature or a unique paleontological resource.

**Response to b), d):** The project site is level and composed of sandy loam soil. In 1986, the site was disturbed to complete the removal of a 550 gallon underground gasoline tank; no evidence of archaeological resources or human remains was detected at the time of removal. Moreover, the site has been developed since the early 1980's and was consumed by fire in July 2003. The fire consumed all of the structures on the property and all of the pallets and some of the bins. No evidence of tribal lands has been identified within one mile of the project site. Accordingly, the presence of potential archaeological resources or human remains on the project site is extremely unlikely.

Nevertheless, although there is very limited potential for impacts to subsurface cultural resources and human remains during project construction, the project would implement the following standard measures during construction to minimize disturbance:
- **Undiscovered/Unrecorded Archaeological Sites.** Before the initiation of construction or ground-disturbing activities associated with the proposed project, all construction personnel shall be alerted to the possibility of buried cultural resources. If artifacts or unusual amounts of stone, bone, or shell are uncovered during construction activities, work within 50 feet of the specific construction site at which the suspected resources have been uncovered shall be suspended, and the City of Porterville Planning Department shall be immediately contacted. At that time, the City shall retain a professional archaeological consultant. The archaeologist shall conduct a field investigation of the specific site and recommend mitigation deemed necessary for the protection or recovery of any cultural resources concluded by the archaeologist to represent significant or potentially significant resources as defined by CEQA. The City shall implement the mitigation prior to the resumption of construction activities at the construction site.

- **Undiscovered/Unrecorded Human Remains.** If human remains are discovered on the project site during construction, work within 50 feet of the remains shall be suspended immediately, and the City of Porterville Planning Department and the county coroner shall be immediately notified. If the remains are determined by the county coroner to be Native American, the Native American Heritage Commission (NAHC) shall be notified within 24 hours, and the guidelines of the NAHC shall be adhered to in the treatment and disposition of the remains. The City of Porterville shall also retain a professional archaeological consultant. The archaeologist shall conduct a field investigation of the specific site and consult with the Most Likely Descendant identified by the NAHC. As necessary, the archaeological consultant may provide professional assistance to the Most Likely Descendant including the excavation and removal of the human remains. The City shall implement any mitigation prior to the resumption of activities at the site where the remains were discovered.

*Supporting Sources:* HOME Narrative, A.L.T.A. Survey, Phase I, CEQA Guidelines § 15064.5
VI. GEOLGY 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.

   □ □ □ □ ❌

ii) Strong seismic ground shaking?

   □ □ □ □ ❌

iii) Seismic-related ground failure, including liquefaction?

   □ □ □ □ ❌

iv) Landslides?

   □ □ □ □ ❌

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

   □ □ ❌ □ ❌

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?

   □ □ □ □ ❌

d) Be located on expansive soil, as defined in Table 18-1-B of the Uniform Building Code (2001), creating substantial risks to life or property?

   □ □ □ □ ❌

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

   □ □ □ □ ❌
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</table>

**Response to a(i), a(ii), a(iii), a(iv), c), d), e):** The project site is not located within any geologic special study zone, such as the Alquist Priolo zone. Furthermore, there are no active or inactive earthquake faults on or near the project site.

The project site is located within the Great Valley geomorphic province. The dominant soil type in the general area of the project site is San Emigdio loam, a very deep, well-drained soil on alluvial fans. The soil is well-suited to building sites. The site is unlikely to be subject to strong ground shaking during a seismic event. In addition, given site conditions, the soil found on the site is not expected to be subject to liquefaction during a seismic event.

The project site is level and does not contain any steep hillsides, nor is it adjacent to any steep slopes. The site, therefore, is not susceptible to landslides or mudflows that would adversely affect the project site.

Soil conditions characterizing the site are unlikely to result in differential settlement of site improvements. The potential for damage to buildings and site improvements and the risk to the safety of residents is slight. Soil conditions on the project site will be stabilized for site development and residential occupancy in accordance with standard foundation recommendations.

The project would be served by the public sanitary sewer system, as required by the City of Porterville Municipal Code, Section 25-34.1. No septic tanks or alternative wastewater treatment system are proposed.

The Project applicant will conduct a soils investigation to confirm the soils condition and foundation recommendations as part of the final design and grading permit process for review and approval by the City of Porterville prior to the commencement of any grading activities. Soils and foundation recommendations will be implemented in accordance with the City of Porterville Grading Ordinance and Uniform Building Code requirements. Implementation of these measures ensures that the project would not result in significant geotechnical impacts.

**Response to b):** The project would result in site grading and some soil disturbance for site preparation and development. Grading on the project site would result in the removal of two, large foundation slabs on the project site. However, San Emigdio loam, the dominant soil type on the project site, is characterized by slow surface runoff and slight potential for erosion. Given level site conditions and the dominant soil type on the project site, the potential for soil erosion or the loss of topsoil is expected to be minimal.

**Supporting Sources:** HOME Narrative, A.L.T.A. Survey, Phase I, Porterville Municipal Code, Soil Survey of Tulare County, California, Central Part (USDA Soil Conservation Service)
**VII. HAZARDS AND HAZARDOUS MATERIALS** – Would the project:

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<tr>
<th>Issues</th>
<th>Potentially Significant Impact</th>
<th>Less Than Significant with Mitigation Incorporation</th>
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<tr>
<td>a) Create a significant hazard to the public or the environment through the routine transport, use, or disposal of hazardous materials?</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>
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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>
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<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>
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<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>
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<tr>
<td>g) Impair implementation of or physically interfere with an adopted emergency response plan or emergency evacuation plan?</td>
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</table>
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?

Response to a), b), c), d), e), f), g), h): The project proposes a redevelopment of a former light industrial site with residential uses. The proposed project will not involve hazardous materials. The project would not result in the routine transport, use or disposal of hazardous materials. In addition, it does not have the potential to encounter contaminated soil and groundwater or to emit hazardous materials. The project would also not be located on a site that is listed as a hazardous materials site.

In August 2005, RNC Environmental conducted a Phase I environmental assessment of the project site. RNC's report, Phase I Environmental Site Assessment (August 9, 2005), disclosed the following findings:

1. The project site is presently occupied by concrete foundations and pads of a former wooden frame facility and the remaining bins and burned debris that remain from a fire that occurred in July 2003. Prior to the 2003 fire, the property had been utilized for pallet manufacturing and citrus processing since 1967. Before 1967, the structure was utilized as a feed store. Buildings were reportedly constructed in the early 1900s on the project site.

2. Records found at the Tulare County Environmental Health Services (TCEHS) office show that a 550 gallon underground gasoline tank was located 77 feet east of the intersection of South E Street and Date Avenue on the project site. On July 31, 1986, this tank was removed and a soil sample collected beneath the tank site by Consolidated Testing Laboratory and submitted for analysis to BC Laboratories, Inc. in Bakersfield, CA. There were no detectable results using the Purgeable Aromatics test method. On September 3, 1986 the TCEHS office issued a "no further evaluation" letter to the then owner of the project site, Mr. George Steib. Copies of these documents are found in Appendix F of the Phase I Environmental Site Assessment (August 9, 2005) conducted by RNC Environmental for the project site.

3. The fire of July 2003 consumed all of the structures on the property and all of the pallets and bins (except for some bins on the east portion of the property). The fire burned extremely hot and likely consumed the types of hazardous materials typically used at the facility. The only known releases of hazardous materials during the fire were ammonia gas and perhaps ethylene gas. Approximately one-half of the surface of the soil over the entire project site was obscured from view by burned and unburned debris, equipment, or weeds. The contents of the debris-soil piles were not clearly ascertainable because they were burned and collected into large mounds. At that time, the facility was undergoing debris removal.
4. The project site is located at a residential/industrial property interface area of the City. As such, there are numerous sites within one-half mile which contain underground storage tanks. Unclosed, leaking storage tank cases found on a nearby property were of sufficient distance to not be an impact to residential development on the project site. In addition, cleanup and remediation sites in areas surrounding the property are sufficiently well-defined, under agency control and of sufficient distance to not cause an impact on the project site.

RNC concluded that, in conformance with the scope and limitations of ASTM Practice E1527-00 and of the proposed US Environmental Protection Agency All Appropriate Inquiry rules, the assessment of the project site revealed no evidence of recognized environmental conditions affecting development of the site.

The project site is not located within the boundaries of an adopted airport land use plan, or within two (2) miles of an airport or in the vicinity of a private airstrip. As the project site is not located within such areas, development of the site would not result in any airport safety hazard impacts for people residing or working in the area.

The project site contains approximately 4.48 acres of developed land approximately 100 yards north of the Tule River. The site is located in a light manufacturing – residential interface portion of the City of Porterville. The parcels to the north and south are unimproved open fields. To the east is a railroad right-of-way, light manufacturing of wood products, and a warehouse. To the west are single-family dwellings. Access to the project is proposed from South E Street, a fully-developed public street. The location of and access to the site allow for ingress and egress to the area during a major emergency. The Porterville General Plan identifies evacuation routes that are to be used in the event of a major emergency. The project site is consistent with this emergency response plan. As such, the project would not impact emergency access to the project site or its surrounding area or impact the City’s ability to implement the City’s Emergency Preparedness Plan.

The project site is developed and predominately surrounded by industrial uses, with some residential use. The site is not located in an areas of wild lands, subject to wild land fires. The project and future residents would not be exposed to risk of loss, injury or death involving wildfires.

Supporting Sources: HOME Narrative, A.L.T.A. Survey, Phase I, City of Porterville Emergency Operations Plan
VIII. HYDROLOGY AND WATER QUALITY — Would the project:

a) Violate any water quality standards or waste discharge requirements? ☐ ☐ ☒ ☐

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)? ☐ ☐ ☒ ☐

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? ☐ ☐ ☒ ☐

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? ☐ ☐ ☒ ☐

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? ☐ ☐ ☒ ☐

f) Otherwise substantially degrade water quality? ☐ ☐ ☒ ☐

g) Place housing within a 100-year flood hazard area as mapped on a federal Flood...
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<tr>
<td>Hazard Boundary or Flood Insurance Rate Map or other flood hazard delineation map?</td>
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<tr>
<td>h) Place within a 100-year flood hazard area structures which would impede or redirect flood flows?</td>
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<tr>
<td>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?</td>
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<tr>
<td>j) Inundation by seiche, tsunami, or mudflow?</td>
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Response to a), b), c), d), e), f), g), h), i): At present, the project site drains into the City of Porterville storm water drainage system. The potential water quality impacts from the project would include non-point source pollutants, such as runoff from additional parking and landscaping areas, soil sediments, petroleum products, and fertilizers associated with project landscaping.

The City of Porterville is required to comply with the National Clean Water Act regulations, which are administered through the National Pollutant Discharge Elimination System (NPDES) permit regulations administered by the Central Valley Regional Water Quality Control Board (RWQCB). Furthermore, the City is required to obtain a Citywide NPDES permit. Development of any site that is larger than one (1) acre in size, such as the project site, requires the filing of a Notice of Intent to construct the project under the NPDES Construction Activity Storm Water Permit. The project will be required to develop a Storm Water Pollution Prevention Plan (SWPPP). Development and implementation of a SWPPP would reduce the project's water quality impacts to less than significant. The SWPPP would include standard best management practices (BMPs) regarding the control of the discharge of surface runoff and associated water quality impacts.

The proposed project will not utilize groundwater. The Phase I Environmental Site Assessment by RNC Environmental (August 9, 2003) reported groundwater levels in a well located approximately one-half mile west of the project site ranged from 52 to 100 feet below the ground surface from 1999 to 2004. It is unlikely that during the site grading and construction phases, groundwater will be encountered. Consequently, the project would not significantly alter groundwater recharge.

The project site at present is developed and consists of two, large foundation slabs and a concrete water tank. The proposed development of 64 residential units and ancillary structures potentially may alter existing drainage patterns of the project site and the surrounding area which could alter the rate or amount of surface runoff. The site will be graded to allow for discharge of stormwater into the City of Porterville’s storm drainage system. The City of Porterville has concluded that the existing, public storm water drainage system in this area is adequate to serve the project site.
As discussed above, although the project has the potential to alter existing drainage patterns and water quality, the resulting impacts would be less-than-significant.

The project site is located approximately 450 feet above mean sea level. The site does not have the potential to be exposed to tidal flooding. The project site is not located within the Federal Emergency Management Agency (FEMA) Flood Zone A-1, where lands are subject to flooding during a 100-year storm event. The majority of the project site is located within Zone C, areas of minimal flooding. The southern portion of the project site is located in Zone B, area between the limits of the 100-year flood and 500-year flood, or certain areas subject to 100-year flooding with an average depth of less than 1 foot or where the contributing drainage area is less than one square mile. While construction of residential units is proposed for the site, such housing would be located within FEMA Zone C and outside of a 100-year flood hazard area. Additionally, given the project site location and developed conditions, redevelopment of the site would not likely impede or redirect flood water flows or expose people or structures to a significant risk of loss, injury or death involving flooding.

Response to j: The project site is located in a relatively flat, developed, industrial/residential area and is approximately 100 yards north of the Tule River in the southeastern portion of the City of Porterville. As such, the potential for impacts to the project site and future residents from a seiche, tsunami, or mudflow would be extremely low. Therefore, the project would not result in a significant impact.

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<tr>
<td>IX. LAND USE AND PLANNING -- Would the project:</td>
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<tr>
<td>a) Physically divide an established community?</td>
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<tr>
<td>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?</td>
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<tr>
<td>c) Conflict with any applicable habitat conservation plan or natural community conservation plan?</td>
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**Response a), b), c)**: The project site is presently developed and is located adjacent to existing industrial uses to the north, south and east and residential development to the west. Redevelopment of the site with residential units would not physically divide an established community as the project site would enable infill residential development of a former industrial site. Redevelopment of the site as proposed would appear as an extension to the existing residential community west of the project site.

The project proposes an amendment to the General Plan land use designation adopted for the project site. The proposed General Plan amendment would redesignate the project site Industrial to High Density Residential consistent with the City’s plans to convert industrial uses in this area to multi-family residential development as set forth in the Redevelopment Strategic Plan. The High Density Residential designation allows for 15 to 43 residential units per acre and must be accommodated by available infrastructure services. The General Plan further provides:

The High Density Residential designation is also intended to provide incentive for the redevelopment of certain existing dilapidated buildings and parcels, and the infill of vacant parcels. Thus, it expands the overall housing opportunities in the community by allowing a higher net yield of units per acre of development with consequent higher economic returns.

Additionally, the project proposes to rezone the project site from the existing M-1 Light Manufacturing zoning designation to R-3. The R-3 zoning allows for multiple dwellings, groups of dwellings and accessory buildings. The proposed General Plan Amendment, rezoning and project development, as designed, would not conflict with the pertinent policies of the General Plan which encourage multi-family housing opportunities in Porterville.
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The project site is not subject to or a part of an adopted habitat conservation plan or natural community conservation plan.

Supporting Sources: HOME Narrative, A.L.T.A. Survey, General Plan, Phase I, Redevelopment Strategic Plan
X. MINERAL RESOURCES – Would the project:

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?  

☐ ☐ ☐ ☒

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?  

☐ ☐ ☐ ☒

Response a), b): The project site is level and developed. The site does not contain any known mineral resources or mineral resource recovery sites. Therefore, the project would not result in a significant impact to mineral resources.

Supporting Sources: HOME Narrative, A.L.T.A. Survey, Phase I
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? ☐ ☒ ☐ ☐

b) Exposure of persons to or generation of excessive groundborne vibration or groundborne noise levels? ☐ ☒ ☐ ☐

c) A substantial permanent increase in ambient noise levels in the project vicinity above levels existing without the project? ☐ ☐ ☐ ☒

d) A substantial temporary or periodic increase in ambient noise levels in the project vicinity above levels existing without the project? ☐ ☒ ☐ ☐

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? ☐ ☐ ☐ ☒

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? ☐ ☐ ☐ ☒

Response to a), b), d): The project site is located in an area that is developed with industrial land uses, including manufacturing facilities and railroad tracks, and residential dwellings. The City of Porterville includes policies, which identify standards and maximum noise limits for these land uses. The City of Porterville General Plan Noise Element establishes the following noise standards and limits for apartments and multi-family residential uses:

- Policy 3.3.1 – Areas within the City of Porterville shall be designated as noise-impacted if exposed to existing or projected future noise levels at the exterior of buildings which exceed 60 dB Ldn (or CNEL).
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- Policy 3.3.2 – New development of residential or other noise-sensitive land uses will not be permitted in noise-impacted areas unless effective mitigation measures are incorporated into the specific design of such projects to reduce noise levels to 60 dB Ldn (or CNEL) or less within outdoor activity areas and 45 dB Ldn (or CNEL) or less within interior living spaces. Where it is not possible to reduce exterior noise levels within outdoor activity areas to 60 dB Ldn (or CNEL) or less after the practical application of the best available noise reduction technology, an exterior noise level of up to 65 dB Ldn (or CNEL) will be allowed. Under no circumstances will an interior noise level exceeding 45 dB Ldn be allowed with the windows and doors closed. It should be noted that in instances where the windows and doors must remain closed to achieve acoustical isolation, mechanical ventilation or air conditioning must be provided.

- Policy 3.3.5 – The City of Porterville shall enforce the State Noise Insulation Standards (California Administrative code, Title 24) and Chapter 35 of the Uniform Building Code (UBC). Title 24 requires that interior noise levels not exceed 45 dB Ldn (or CNEL) with the windows and doors closed within new developments of multi-family dwellings, condominiums, hotels or motels. UBC Chapter 35 requires that common wall and floor/ceiling assemblies within multi-family dwellings comply with minimum standards concerning the transmission of airborne sound and structure-borne impact noise. Title 24 requires conformance with the above-described standards be documented by the submission of an acoustical analysis whenever new multi-family dwellings, condominiums, hotels or motels are proposed for areas within the 60 dB Ldn (or CNEL) contour of a major noise source as determined by the local jurisdiction.

**Operational Noise**

The project proposes multi-family residential uses and a community building for the apartment residents. This land use is a low noise generator and would be designed to comply with the standards of the General Plan and the City Zoning Ordinance. Although project-generated traffic would increase noise levels along E Street and River Avenue in the vicinity of the project site, elevated noise levels would not be expected to be significant due to the minor increase in traffic generated by the project and the industrial nature of the surrounding land uses. The potential for long-term elevated noise levels is extremely low and compliance with applicable noise standards is expected.

The proposed apartment buildings may be exposed to elevated noise levels associated with railroad operations near the eastern border of the project site. Pursuant to the City’s Municipal Code Section 2617, in locations where a residential use is being developed adjacent to an existing nonresidential use, the residential development shall construct a wall if one does not already exist. The property line between residential and nonresidential use shall be developed with a six foot (6') high masonry block wall. Subject masonry block wall shall step down to forty two inches (42") in height from the side property line intersecting the front property line to a depth equal to the required front or side yard setback of the abutting residential use in order to provide for safe line of sight for vehicular traffic. Wall height separating residential uses from nonresidential uses and public rights of way may be increased in height to accommodate adequate sound
attenuation as required through the findings of an acoustical analysis prepared by an acoustical professional. The wall design shall be approved as part of the project by the city engineer to ensure that adequate line of sight distance is provided. The city engineer may approve new wall/fencing materials that become available in the future for use as an alternative to a masonry block wall based on its proven comparable properties for durability, sound, light, and glare attenuation. Topography, berming, and other alternative methods of mitigating the nuisance of noise might be considered at time of project review. Compliance with the City’s Municipal Code would ensure that noise levels associated with railroad operations would be less than significant.

**Construction Noise**

Construction activities would have the potential to generate noise levels, on a temporary basis, in excess of the City’s established standards. Implementation of the following standard construction measures would result in less than significant impact on temporary noise levels:

- **Increases in Short-Term Construction-Generated Noise.** Per the City of Porterville Municipal Code, Section 20-35, excavation activities involving the use of any tool, appliance or equipment producing noise of sufficient volume to disturb the sleep or repose of occupants of the neighboring property shall be reduced to the fullest extent possible between 10 p.m. and 7 a.m., except with the express written permission of the administrative authority, or in case of an emergency as otherwise provided in that article.

- In addition, all construction vehicles or equipment, fixed or mobile, shall be equipped with properly operating and maintained mufflers and acoustical shields or shrouds, in accordance with manufacturers’ recommendations. Construction equipment and truck routes shall be arranged to minimize travel adjacent to occupied residences. Stationary construction equipment and staging areas shall be located as far as possible from sensitive receptors, and temporary acoustic barriers may be installed around stationary equipment if necessary.

As described above, project construction has the potential to result in temporary groundborne noise and in temporary increases in ambient noise levels associated with construction activities. Implementation of the mitigation measures described above would reduce such impacts to a less than significant level. The construction-related mitigation measures identified above would minimize the project’s impact to such temporary increase in ambient noise levels in the project vicinity to less than significant.

**Response to c), e), f):** The residential units and associated residential uses proposed for the project site would not result in any substantial permanent increases in ambient noise levels in the vicinity of the project site. The project site is not located within the boundaries or the planning area of an airport land use plan or within the vicinity of a private airstrip, where noise levels are expected to be higher due to frequent aircraft use of airspace. Residents, therefore, would not be exposed to excessive noise levels associated with such areas.

**Supporting Sources:** HOME Narrative, A.L.T.A. Survey, Phase I, General Plan Noise Element, Porterville Municipal Code

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**SEQUOIA VILLAGE INITIAL STUDY**

**JANUARY 2006**

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XII. POPULATION AND HOUSING – Would the project:

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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)? ☐ ☐ ☒ ☐

b) Displace substantial numbers of existing housing, necessitating the construction of replacement housing elsewhere? ☐ ☐ ☐ ☒

c) Displace substantial numbers of people, necessitating the construction of replacement housing elsewhere? ☐ ☐ ☐ ☒

Response to a): The project site is developed and served by an existing, public street. The project proposes an amendment to the Porterville General Plan land use designation for the project site. The amendment would permit a residential use that is currently not permitted for the site. The project proposes 64-residential units on a 4.48 acre site, which would serve as an extension to an already existing residential area immediately west of the project site. The project proposal for a General Plan amendment, while allowing for a higher residential density than currently permitted for the project site, would result in a less than significant impact on population growth in the area because the project would provide affordable housing opportunities in accordance with the City’s General Plan policies encouraging improvements to the City’s housing supply.

Response to b), c): The project site is currently developed with two large foundation slabs and a concrete water tank. The site is vacant and not in use. No impacts, loss of existing housing, or displacement of people, necessitating the construction of replacement housing, would occur.

Supporting Sources: HOME Narrative, A.L.T.A. Survey, General Plan, Phase I
### XIII. PUBLIC SERVICES

Would the project 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, response times or other performance objectives 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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*Response*: The City of Porterville Fire Department would serve the project site. At present, the City of Porterville operates two fire stations. The County of Tulare also operates three fire stations within the City of Porterville. The buildings to be constructed under the project would be required to meet Uniform Housing Code, Building Code, and Uniform Fire Code standards. Given the level of existing fire protection services and compliance with housing, building and fire code standards, the project is not expected to require an extension or expansion of this public service.

The City of Porterville Police Department would serve the project site. Police Department beat officers are assigned to serve the area. At present, the City of Porterville operates one police station. The County of Tulare also operates a Sheriff’s Substation within the City of Porterville. The residential component of the project is designed to be accessed from an existing street, which would be accessible to the public. However, the buildings, parking areas and landscaped grounds would be secured, so police surveillance service of the site would not be significant. With the introduction of up to 64 residential units, calls for service will increase in the area, but the increase would not significantly impact current police service operations.

The City of Porterville imposes a Utility Users Tax to fund basic City services. In addition, adequate infrastructure to provide sewer, water, storm drainage, and streets services to the subject sites have been accounted for in the Master Plans and funding mechanisms have been implemented.
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The Porterville Unified School District (PUSD) would serve the project site. The school district uses a student-per-household enrollment formula to determine estimated students and district capacity. The State law provisions for addressing school impacts are limited. For assessing new residential development that would result in an increase in student enrollment, local school districts are limited to levying impact fees. The residential component of the project would be required to pay a School Facilities Development Fee, which is paid at the time a building permit is issued. As the project includes a General Plan Amendment, which would permit a residential development, the number of estimated students would increase. The limited increase in student enrollment associated with 64 new residential units, however, would result in a less than significant impact on public school services for the project.

See Section XIV for a discussion of parks and recreation impacts.

See Section XVI for a discussion of other public facilities and services.

**Supporting Sources**: HOME Narrative, A.L.T.A. Survey, General Plan, Phase I, City of Porterville Fire Department, City of Porterville Police Department, Porterville Unified School District
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) Include recreational facilities or require the construction or expansion of recreational facilities which might have an adverse physical effect on the environment?

Response to a), b): The project site is located in an area that has access to public parks and open space. Orange Street Mini Park is located less than one-quarter mile from the project site. Additionally, the Tule River Walk, a trail system along the Tule River, is located approximately 100 yards to the south of the project site. The project proposes the construction of 64 residential units for the site. The limited size and scope of the project will have less than significant impact on the use of existing neighborhood and regional parks and recreational facilities.

The project includes the development of a 2,500 square foot playground/recreation area with equipment, a pool/spa, barbecue areas with tables and benches surrounded by open space. These recreational facilities would serve 64 residential units and occupy less than 0.1 acres. The limited size and scope of these proposed recreational facilities would serve the proposed development and result in a less than significant physical effect on the environment.

Supporting Sources: HOME Narrative, A.L.T.A. Survey, Site Plan, General Plan, Phase I
<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>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</td>
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<tr>
<td>the existing traffic load and capacity of the street system (i.e.,</td>
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<td>result in a substantial increase in either the number of vehicle</td>
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<tr>
<td>trips, the volume to capacity ratio on roads, or congestion at</td>
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<td>intersections)?</td>
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<tr>
<td>b) Exceed, either individually or cumulatively, a level of service</td>
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<td>standard established by the county congestion management agency for</td>
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<tr>
<td>designated roads or highways?</td>
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<tr>
<td>c) Result in a change in air traffic patterns, including either an</td>
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<tr>
<td>increase in traffic levels or a change in location that results in</td>
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<tr>
<td>substantial safety risks?</td>
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<tr>
<td>d) Substantially increase hazards due to a design feature (e.g.,</td>
<td>☐</td>
<td>☐</td>
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<tr>
<td>sharp curves or dangerous intersections) or incompatible uses (e.g.,</td>
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<tr>
<td>farm equipment)?</td>
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<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>
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<tr>
<td>g) Conflict with adopted policies, plans, or programs supporting</td>
<td>☐</td>
<td>☐</td>
<td>☒</td>
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<tr>
<td>alternative transportation (e.g., bus turnouts, bicycle racks)?</td>
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</tbody>
</table>

*Response to a): The project site is situated in the southeastern portion of the City of Porterville. The site is currently accessed from South E Street, Date Avenue and River Avenue. At present, the site is developed with minor improvements and is unoccupied. Although the project site previously generated traffic, no uses that generate traffic currently occupy the project site.*
Based on observations, it appears that South E Street, Date Avenue, and River Avenue intersections operate at acceptable levels of service during daytime and peak hour conditions. The project proposes redevelopment of the site with up to 64 residential units. Additional traffic would be generated by this project but, given the limited size and scope of the development, a total of approximately 320 daily trips are anticipated to be generated. The project would generate fewer than approximately 30 peak hour trips based on standard trip generation rates. The increase in traffic would be less than significant in relation to existing traffic load and capacity of the street system.

Response to b). c). d). e). f). g): Given the minor increase in traffic described above, the project is unlikely to exceed, either individually or cumulatively, established level of service standards.

The proposed project development of 64 residential units and on-site amenities on a currently developed site would not impact air traffic patterns.

The project is designed to utilize South E Street, an existing street, to access the proposed residential units. With the addition of 64 residential units to the area, there is the need to widen South E Street to accommodate the proposed project. The project includes dedication of an approximately 0.29 acre area in the southern portion of the project site to enable reconfiguration of E Street in the vicinity of the River Avenue intersection. The project therefore would not substantially increase hazards due to design features.

As proposed, the project is designed to provide adequate emergency access to all buildings and storage areas. The project would be served by an existing residential street, South E Street, for emergency access to and from the project site.

The project proposes the construction of carports and designated parking areas on the project site for use by project residents. The project is designed to meet or exceed the minimum off-street parking requirements of the City of Porterville Zoning Ordinance.

Transit access is available in the vicinity of the project site via three bus stops located within one-quarter mile of the site. The project is not expected to result in any impacts to alternative transportation programs as the project has limited transit access nor will the project conflict with adopted policies, plans, or programs supporting alternative transportation.

Supporting Sources: HOME Narrative, A.L.T.A. Survey, Site Plan, Phase I, General Plan, Porterville Zoning Ordinance
<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 sufficient permitted capacity to accommodate the project's solid waste disposal needs?</td>
<td>☐</td>
<td>☐</td>
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<td>☐</td>
</tr>
<tr>
<td>g) Comply with federal, state, and local statutes and regulations related to solid waste?</td>
<td>☐</td>
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</table>

SEQUOIA VILLAGE INITIAL STUDY
JANUARY 2006

A-42
<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>
</table>

Response to a), b), c), d), e), f), g): The project site would be served by the City of Porterville. The project site is included within the City of Porterville Sewer, Water and Storm Drain Master Plans. In 1994, the capacity of the City of Porterville Wastewater Treatment Plant was increased from 4 million gallons per day to 8 million gallons per day. Current use is 4.6 million gallons per day. At this rate, sufficient capacity is available to handle a population of approximately 71,000 people. The City's population as of January 2005 was 44,496 people. The project's proposed construction of 64 residential units is extremely unlikely to exceed wastewater treatment requirements of the City of Porterville Sewer, Water and Storm Drain Master Plans.

The City of Porterville recently reviewed and concluded that redevelopment of the site with residential use and project construction would be adequately served by existing wastewater treatment facilities and the storm water drainage system. Therefore, impacts to wastewater treatment and system capacity and storm water drainage facilities would be less than significant. Moreover, the City of Porterville has determined that, in addition to its existing commitments, it has adequate capacity to serve the project's projected demand.

Domestic water service to the subject property is provided by the City of Porterville. The City provides water through groundwater pumping, recharged through annual precipitation and recharge programs operated by local irrigation companies. Per the Master Plan, new wells are developed as demand for water increases. Redevelopment of the site with residential use would be adequately served by the existing water facilities. While the project proposes an amendment to the Porterville General Plan, a Rezoning and development of up to 64 residential units, this action would not result in a significant change in solid waste generation. The City of Porterville will be responsible for providing solid waste services for the project site. The City will make use of the Teapot Dome Landfill operated by the County of Tulare. Adequate capacity exists in that landfill for additional development in the City. Impacts to solid waste service and landfill capacity would therefore be less-than-significant. The project would also comply with federal, state, and local statutes and regulations related to solid waste.

Supporting Sources: HOME Narrative, A.L.T.A. Survey, Site Plan, Phase I, General Plan, Zoning Ordinance/Municipal Code, City of Porterville
XVII. MANDATORY FINDINGS OF SIGNIFICANCE—Would the project:

a) Does the project have the potential to degrade the quality of the environment, substantially reduce the habitat of a fish or wildlife species, cause a fish or wildlife population to drop below self-sustaining levels, threaten to eliminate a plant or animal community, reduce the number or restrict the range of a rare or endangered plant or animal or eliminate important examples of the major periods of California history or prehistory?

☐ ☐ ☒ ☐

b) Does the project have impacts that are individually limited, but cumulatively considerable? ("Cumulatively considerable" means that the incremental effects of a project are considerable when viewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects)?

☐ ☐ ☒ ☐

c) Does the project have environmental effects which will cause substantial adverse effects on human beings, either directly or indirectly?

☐ ☐ ☒ ☐

*Response to a), b), c)*: While the project site is located in proximity to the Tule River, the site currently has limited potential to provide wildlife movement through the site due to the site’s disturbed condition. Thus, redevelopment of the project site would not significantly reduce, threaten or eliminate an animal or plant community. This impact would be less-than-significant.

The project includes a General Plan Amendment, which would permit residential development in lieu of the industrial uses that are currently permitted. However, the limited size and scope of the project, which proposes 64, new residential units on approximately 4.48 acres of property, along with above-identified mitigation measures, would result in less than significant cumulative impacts on items such as air quality, traffic, public services, and utilities/service systems. Such impacts were identified in the Porterville General Plan EIR and adequate mitigation measures have been adopted. Additionally, as proposed, the project is unlikely to result in adverse effects, direct or indirect, on human beings and no such impacts have been identified in the preceding environmental analysis.

*Supporting Sources:* HOME Narrative, A.L.T.A. Survey, Phase I, General Plan EIR

SEQUOIA VILLAGE INITIAL STUDY
JANUARY 2006
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 7th day of March, 2006.

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

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

[Signature]

by Patrice Hildreth, Deputy City Clerk
RESOLUTION

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDING IN SUPPORT OF CONDITIONAL USE PERMIT 1-2006 MODIFICATION NO. 1 TO MODIFY ORIGINALLY APPROVED CONDITIONS FOR THE SEQUOIA VILLAGE AT RIVERS EDGE LOCATED AT THE SOUTH EAST CORNER OF DATE AVENUE AND “E” STREET

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of March 7, 2006, approved CUP 1-2006 Resolution 34-2006 for a 64-unit low-income apartment complex to be generally located at the south east corner of Date Avenue and “E” Street.

WHEREAS: The City Council made the following findings with respect to the subject project:

1. The General Plan designates the site as Medium Density Residential.

   The subject site is in the R-2 (Four Family) Zone and is consistent with the General Plan. The existing and proposed uses are allowed pursuant to approval of a Conditional Use Permit.

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

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

   The modification is to allow the installation of a six foot wrought iron fence in lieu of a six foot masonry wall along the eastern property line, originally conditioned as No. 13 of Resolution 34-2006.

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

5. That the standard of project’s development will produce an environment of stable and desirable character consistent with the objectives of the Zoning Ordinance.

6. As mandated by Sections 65915(a) and Section 65915(d-1) of the Government Code ... “the local government shall provide the applicants incentives or concessions...” The local government is mandated to grant one to three of these certain concessions or incentives defined as:

   • Reductions in site development standards and modifications of zoning and architectural design requirements, including reduced setback and parking standards, that result in “identifiable, financially sufficient and actual cost
reductions.”

- Mixed use zoning that will reduce the cost of the housing, if the non-residential uses are compatible with the housing development and other development in the area.
- Other regulatory incentives or concessions that result in “identifiable, financially sufficient, and actual cost reductions.”

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve Modification No. 1 to Conditional Use Permit 4-2007, subject to the following conditions:

1. That the conditions contained in City Council Resolution 34-2006 shall remain in full force and effect except as modified herein.

2. The City Council of the City of Porterville modifies original condition #13 of Resolution 34-2006 to construct a six foot masonry wall along the eastern property line and in lieu allow the construction of a six foot rod iron fence along the eastern property line and adapt a landscaping plan along the eastern property line to include trees and shrubs to the satisfaction of the Community Development Director.

_________________________
Cameron Hamilton

ATTEST:

John Longley, City Clerk

By ______________________
Patrice Hildreth, Acting Chief Deputy City Clerk
COUNCIL AGENDA: SEPTEMBER 18, 2007

SUBJECT: PROJECT PROPOSAL FOR INFRASTRUCTURE AND OPERATIONAL ENHANCEMENTS

SOURCE: Administrative Services

COMMENT: For the past two years, the City has been in consideration of entering into an infrastructure and operational enhancement project with Johnson Controls that would be implemented at City facilities, and would include Outdoor Lighting Retrofits (including Street, Safety, and Recreational Parks), Indoor Lighting Retrofits and HVAC Retrofits/Control Improvements at City facilities, and Renewable Energy Supplemental Power Systems. A refined business case for the project has recently been provided by Johnson Controls, which reflects that the project would provide the City with expected annual water and energy savings of at least $85,000 based on current base levels of energy and water use, which when combined with anticipated annual maintenance cost avoidance measures, total City savings is forecasted to be at least $125,000 annually.

Johnson Controls proposes this project on the basis of performance contracting, whereby the project would be self-funding through experienced savings that would exceed the project cost (including financing interest, but not an annual service contract). Johnson Controls has defined the project cost at $1,495,923, which according to the Johnson Controls business case provides a simple payback from savings at 11.9 years.

From the meeting of the City Council on August 4, 2007, it was the interest of the Council for staff to define potential financing models for the project, should it be approved to proceed. Accordingly, staff has currently identified at least four (4) funding options:

1. The California Energy Commission (CEC) has more than $25 million in allocated funds available to provide financing for governmental agency energy efficiency projects, with financing terms established at a fixed rate of 3.95%, not to exceed a 15-year payback. Given current financing terms, the estimated debt service for the project would be $1,555,012. The CEC offers the most competitive financing
rate for the project which could save the City more than $22,000 in interest over the project term. However, significantly more paperwork in project documentation and justification is required in comparison to private lenders, which could considerably impact both City and Johnson Controls staff. Although more paper intensive, CEC funding could be secured without extra fees and charges that derive through private lending.

2. Johnson Controls has previously submitted a proposal from CitiGroup to finance the project, with financing terms then established at a fixed rate of 4.37% for an estimated debt service being $1,561,295. Given a challenge by the City to offer the most competitive financing rate possible, as well as favorable financial market forces, CitiGroup has proposed the fixed rate of 4.15%, good through the month of October 2007 should the City proceed with the proposed project. CitiGroup would be willing to work with the City to “smooth” the annual debt service payments in an effort for the project to be budget neutral over the payback period. The additional interest expense of the twenty point difference between CitiGroup and CEC over the project term would be approximately $22,584.

3. A local lender could also be utilized in the financing of the project. Both Citizens Business Bank and Bank of the Sierra have funded similar projects with other cities in the past and have expressed an interest in assisting with such financing, with Citizens proposing a fixed rate of 4.15% similar to CitiGroup, while Bank of the Sierra proposing a comparable fixed rate. Similar to CitiGroup, both lenders would be willing to work with the City to “smooth” the annual debt service payments in an effort for the project to be budget neutral over the payback period. The additional interest expense of the percentage point differences between these lenders and CEC over the project term would be approximately $22,584 (Citizens). From a community relations perspective, there would exist non-quantified value in partnering with a local lender for the project.

4. A final option for project financing was pursued involving the refunding of municipal certificates of participation from 1997 and 2002, and in the refund of the COP’s additional monies could be secured to finance the project. However, due to current market volatility, a current analysis of such opportunity for funding is not available at this time.
In the refined project business case provided by Johnson Controls, and though it can be revisited on an annual basis, it is proposed that the City maintain the annual service contract for at least the first four years of the project at a total cost of $146,427, which would “guarantee” the project was performing as designed and the City would benefit from a systemic relamping of project lighting elements in the fourth year. In the initial business case, the cost of maintaining the annual service contract with Johnson Controls was proposed at an expense of $705,491 to maintain the annual savings guarantee and equipment extended warranties.

The financing options provide the parameters for the project. The least expensive is the program provided by the CEC while the other options are somewhat more expensive. The total difference in cost over the term of the project between the lesser and higher cost options is $22,584 over the life of the borrowing.

Earlier analyses provided by Johnson Controls indicated that in the initial years of the project, the cost of the project would exceed the savings. Most of the additional cost would be in terms of the annual service contract. Though this was submitted for review, it appears inconsistent with the original commitment of Johnson Controls where the project developed would perform in paying for itself in fifteen (15) years with an annual savings greater than or equal to $110,000 per year. In neither the first business case nor the refined version, the “guaranteed” annual savings of $110,000 defined in the Project Development Agreement is not achieved within the first four (4) years of the project.

Technical spreadsheets do not necessarily reflect the complete financial report. It is suggested that the “feel” of the project will be the requirement to pay an annual debt service of approximately $135,000 in addition to an annual payment to Johnson Controls of at least $35,000 for the initial years of the agreement. There is no disagreement that there will be some savings experienced in terms of reduced energy costs, however, other savings will not be readily perceived, including the operational savings.

The City Manager has reviewed the numbers throughout the course of this project’s development, but has never felt confident about the conclusions. Though it is important that the City must move towards replacing its more costly energy-based infrastructure, there needs to be an assurance as to how this will be accomplished and the savings must equal the amount defined in the Project Development Agreement.
It remains important to note that should the City not proceed with the proposed project, and if the Council determines that Johnson Controls has met the terms of the Project Development Agreement, then in good faith the City would need to remit the amount of **$62,000** to Johnson Controls for their expenses in designing the project. Another consideration of the Council in this prospect might be to undertake its own energy program. There are not currently with the City’s employ sufficient staff resources to complete the program. For a successful energy program, new personnel would have to be added with the specific purpose of initiating and completing a comprehensive energy program for the City. A budget has not been prepared for such a program, however, it is estimated the annual staff expense would be $100,000. The savings potential could be significant, since a full-time employee would be dedicated to reviewing energy issues for the City and developing programs to implement them. Undoubtedly, many of the specific decisions suggested by Johnson Controls would be presented by a City energy program employee. The advantage will be that the local program would be continuous.

It is suggested by staff that three (3) main options exist:

1) Proceed with the proposed Johnson Controls project with private financing;
2) Proceed with the proposed Johnson Controls project with California Energy Commission financing;
3) Consider the project and have presented a budget for a City energy program at the upcoming mid-year budget review.

**RECOMMENDATION:** That the City Council provide direction to staff concerning the project proposed by Johnson Controls and next steps.

**ATTACHMENTS:**

"Business Case" Worksheet  
"Business Cash Flow" Worksheet  
Project Development Agreement
City of Porterville  
Business Case: Johnson Controls Energy Efficiency Project  
31-Aug-07

Total Project Cost: $1,495,923
Total Project Savings: $2,688,603
Simple Payback: 11.9 yrs

Assumptions
- Rate of Financing: 4.2%
- Term of Financing: 15 yrs
- Annual Utility Rate Increase: 5.0%
- Annual Operational Savings Increase: 5.0%
- Annual Service Cost Increase: 3.0%
- Term of Service: 4 yrs

Project Cashflow

<table>
<thead>
<tr>
<th>Year</th>
<th>Year 1</th>
<th>Year 2</th>
<th>Year 3</th>
<th>Year 4</th>
<th>Year 5</th>
<th>Year 6</th>
<th>Year 7</th>
<th>Year 8</th>
<th>Year 9</th>
<th>Year 10</th>
<th>Year 11</th>
<th>Year 12</th>
<th>Year 13</th>
<th>Year 14</th>
<th>Year 15</th>
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<tbody>
<tr>
<td>Energy Yearly savings</td>
<td>$84,415</td>
<td>$88,636</td>
<td>$93,068</td>
<td>$97,721</td>
<td>$102,607</td>
<td>$107,737</td>
<td>$107,737</td>
<td>$113,124</td>
<td>$118,780</td>
<td>$130,955</td>
<td>$137,503</td>
<td>$144,378</td>
<td>$151,597</td>
<td>$159,177</td>
<td>$167,136</td>
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<td>M&amp;O Yearly savings</td>
<td>$40,968</td>
<td>$43,016</td>
<td>$45,167</td>
<td>$47,426</td>
<td>$49,797</td>
<td>$52,287</td>
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<td>$70,069</td>
<td>$73,573</td>
<td>$77,251</td>
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<td>Total Yearly savings</td>
<td>$125,383</td>
<td>$131,652</td>
<td>$138,235</td>
<td>$145,146</td>
<td>$152,404</td>
<td>$160,024</td>
<td>$162,638</td>
<td>$170,770</td>
<td>$179,309</td>
<td>$194,510</td>
<td>$204,236</td>
<td>$214,447</td>
<td>$225,170</td>
<td>$236,428</td>
<td>$248,250</td>
</tr>
</tbody>
</table>

Yearly maintenance and other recurring costs

| Service | $35,000 | $36,650 | $37,132 | $38,245 | $0 | $0 | $0 | $0 | $0 | $0 | $0 | $0 | $0 | $0 | $0 |

Net yearly savings (savings minus maintenance and other recurring costs)

-1,495,923

<table>
<thead>
<tr>
<th>Parameter</th>
<th>Value</th>
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<tr>
<td>Cum. 15-Yr. Savings</td>
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<tr>
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<td>NPV</td>
<td>$1,760,979</td>
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<tr>
<td>B/C Ratio</td>
<td>1.16</td>
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Explanation
- Total Project Savings plus annual Cost for Service (4yrs)
- Rate used to calculate time value of money
- Net Present Value of Yearly Savings
- Ratio of NPV of all savings to NPV of all costs

*SPB based on average yearly savings over 15-year period
City of Porterville

Base Cash Flow

(Draft: March 4, 2007)

Total Project Cost: $1,371,524
Rebate: $29,000
Capital Cost Avoidance: $201,287
Energy Savings: $81,168
Operational Savings: $22,760
Total Savings Over Term: $2,458,676
Rate of Financing: 4.5%
Term of Financing: 15 Years
Annual Utility Rate Increase: 5.0%
Annual Operational Savings Increase: 5.0%
Annual Service Cost Increase: 3.0%
Total Cash Flow: $83,214
Simple Payback: 13.20 Years

SAMPLE CASH FLOW ANALYSIS

<table>
<thead>
<tr>
<th>Year</th>
<th>Annual Energy Savings</th>
<th>Annual Operational Savings</th>
<th>Annual Program Savings</th>
<th>Annual Program Cost</th>
<th>Annual Service Cost</th>
<th>Annual Cash Flow</th>
<th>Cumulative Cash Flow</th>
</tr>
</thead>
<tbody>
<tr>
<td>2008</td>
<td>81,168</td>
<td>22,760</td>
<td>103,928</td>
<td>104,373</td>
<td>35,000</td>
<td>(35,445)</td>
<td>(35,445)</td>
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<tr>
<td>2009</td>
<td>85,226</td>
<td>23,898</td>
<td>109,124</td>
<td>104,373</td>
<td>36,050</td>
<td>(31,299)</td>
<td>(66,744)</td>
</tr>
<tr>
<td>2010</td>
<td>89,488</td>
<td>25,093</td>
<td>114,581</td>
<td>104,373</td>
<td>37,132</td>
<td>(26,924)</td>
<td>(93,668)</td>
</tr>
<tr>
<td>2011</td>
<td>93,962</td>
<td>26,348</td>
<td>120,340</td>
<td>104,373</td>
<td>38,245</td>
<td>(22,309)</td>
<td>(115,977)</td>
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<td>2012</td>
<td>98,660</td>
<td>27,665</td>
<td>126,325</td>
<td>104,373</td>
<td>39,393</td>
<td>(17,441)</td>
<td>(133,418)</td>
</tr>
<tr>
<td>2013</td>
<td>103,593</td>
<td>29,048</td>
<td>132,641</td>
<td>104,373</td>
<td>40,575</td>
<td>(12,306)</td>
<td>(145,724)</td>
</tr>
<tr>
<td>2014</td>
<td>108,773</td>
<td>30,501</td>
<td>139,273</td>
<td>104,373</td>
<td>41,792</td>
<td>(6,892)</td>
<td>(152,616)</td>
</tr>
<tr>
<td>2015</td>
<td>114,212</td>
<td>32,026</td>
<td>146,237</td>
<td>104,373</td>
<td>43,046</td>
<td>(1,182)</td>
<td>(153,798)</td>
</tr>
<tr>
<td>2016</td>
<td>119,922</td>
<td>33,627</td>
<td>153,549</td>
<td>104,373</td>
<td>44,337</td>
<td>4,839</td>
<td>(148,959)</td>
</tr>
<tr>
<td>2017</td>
<td>125,918</td>
<td>35,308</td>
<td>161,226</td>
<td>104,373</td>
<td>45,667</td>
<td>11,186</td>
<td>(137,773)</td>
</tr>
<tr>
<td>2018</td>
<td>132,214</td>
<td>37,074</td>
<td>169,288</td>
<td>104,373</td>
<td>47,037</td>
<td>17,877</td>
<td>(119,895)</td>
</tr>
<tr>
<td>2019</td>
<td>138,825</td>
<td>38,927</td>
<td>177,752</td>
<td>104,373</td>
<td>48,448</td>
<td>24,931</td>
<td>(94,964)</td>
</tr>
<tr>
<td>2021</td>
<td>153,054</td>
<td>42,917</td>
<td>195,972</td>
<td>104,373</td>
<td>51,399</td>
<td>40,200</td>
<td>(22,399)</td>
</tr>
<tr>
<td>2022</td>
<td>160,707</td>
<td>45,063</td>
<td>205,770</td>
<td>104,373</td>
<td>52,941</td>
<td>48,456</td>
<td>26,057</td>
</tr>
</tbody>
</table>

Total $1,920,231 $538,445 $2,458,676 $1,669,971 $705,491

1. Simple Payback: 13.20 2. ROI: 8% 3. NPV (15yrs): ($4,775)

City of Porterville
Sample Cash Flow
PROJECT DEVELOPMENT AGREEMENT

BETWEEN

The City of Porterville
291 N. Main St.
Porterville, CA 93257

AND

Johnson Controls, Inc.
12393 Slauson Ave.
Whittier, CA 90606

The purpose of this Project Development Agreement (PDA) is to confirm the intent of Johnson Controls, Inc. and the City of Porterville (Customer) to develop a City-wide Energy Retrofit/Revenue Enhancement Performance Contracting Program. This agreement serves as the basis for the PDA scope, the obligations of parties, the financial metrics to be met, the intended outcomes and timeline.

1. Scope of Work
It is the Parties’ mutual understanding that this Project Development Agreement will:

- Provide for the development of Facility improvements at all of the Customer’s facilities that will fund themselves out of energy and operational savings and/or projected revenue increases over a period not to exceed 15 years.
  Attachment 1 includes a preliminary list of those Improvements that will be developed.
- Provide a final financial Project pro forma wherein Johnson Controls will deliver the following results using mutually agreed upon economic assumptions from this assessment.
  Required Financial Criteria:
  A. Financing provided to support full capital requirements
  B. As a base option, the Project Developed under this agreement will pay for itself in 15-years with annual savings greater than or equal to $110,000 per year.
  C. Procurement and financing consistent with requirements of Government Code 4217

2. Guarantee
Johnson Controls, Inc. will guarantee units of energy saved. Johnson Controls and the City of Porterville will mutually agree upon the base cost per utility and whether to apply an annual escalation factor over the term of the contract. If there is a energy savings shortfall, subject to the Customer’s instruction, Johnson Controls will offer a variety of options: install additional measures equal to the shortfall amount, upgrade existing measures, write a check to the customer, or provide services-in-kind for the mutually agreed upon shortfall amount.

3. Records and Data
During the Study, Customer will furnish to Johnson Controls, upon its request, accurate and complete data concerning current costs, budgets, facilities requirements, future projected loads, facility operating requirements, etc. Johnson Controls will provide a separate document with the required information and Customer shall make every effort to provide that information within seven (7) work days of request.

4. Preparation of Implementation Contract
Along with the other Scope of Work required under this Agreement, Johnson Controls will develop the framework of the subsequent Implementation Agreement. This Agreement shall be co-developed by Johnson Controls and Customer during the PDA. This document will vary dependant on the Customer desired structure, but where possible shall be standardized Johnson Controls document for most expedient delivery.

This document is proprietary and confidential to Johnson Controls, Inc.
5. Price and Payment Terms

In consideration of engineering services, Customer agrees to pay to Johnson Controls the sum of $62,000 within 60 days after the delivery to the Customer of the documentation described under paragraph 1 of this Agreement. However, Customer will have no obligation to pay this amount if:

1. Johnson Controls and the Customer enter into the Implementation Agreement (outlined in Section 3) within 60 days after the delivery to the Customer of the documentation described under paragraph 1 of this Agreement. Costs for the Study will be transferred to the total cost of the implementation Contract and will be subject to the payment terms outlined in the Contract.

2. The project fails to meet the Financial Criteria as described in Section 1.

6. Indemnity

Johnson Controls and the Customer agree that Johnson Controls shall be responsible only for such injury, loss, or damage caused by the intentional misconduct or the negligent act or omission of Johnson Controls. Johnson Controls and the Customer agree that the Customer shall be responsible only for such injury, loss, or damage caused by the intentional misconduct or the negligent act or omission of the Customer. To the extent permitted by law, Johnson Controls and the Customer agree to indemnify and to hold each other, including their officers, agents, directors, and employees, harmless from all claims, demands, or suits of any kind, including all legal costs and attorney's fees, resulting from the intentional misconduct of their employees or any negligent act or omission by their employees or agents. Neither Johnson Controls nor the Customer will be responsible to the other for any special, indirect, or consequential damages.

7. Confidentiality

To the extent allowed by law, this agreement creates a confidential relationship between Johnson Controls and the Customer. Both parties acknowledge that while performing this Agreement, each will have access to confidential information, including but not limited to systems, services or planned services, suppliers, data, financial information, computer software, processes, methods, knowledge, ideas, marketing promotions, current or planned activities, research, development, and other information relating to the other party ("Proprietary Information"). Except as authorized in writing both parties agree to keep all Proprietary Information confidential. Johnson Controls may only make copies of Proprietary Information necessary for performing its services. Upon cessation of services, termination, or expiration of this Agreement, or upon either party’s request, whichever is earlier, both parties will return all such information and all documents, data and other materials in their control that contain or relate to such Proprietary Information.

8. Timeline

It is the intent and commitment of all parties identified in this Agreement to work diligently, and cause others under their direction to work diligently toward meeting the following timeline:

- Signed Project Development Agreement (PDA): 09/01/06
- Johnson Controls completes Project Development, and provides firm costs and savings: 11/01/06
- Finalize Agreements and begin Implementation: 02/01/07
- Anticipated Completion and System Operation initiated: Approximately 12 to 18 months from actual implementation

This document is proprietary and confidential to Johnson Controls, Inc.

This document represents the business intent of both parties and should be executed by the parties who would ultimately be signatory to a final agreement.

JOHNSON CONTROLS, INC.

By: CLAUDIO AMORETTA
Signature: [Signature]
Title: REGIONAL SOLUTIONS MGR
Date: 08 29 06

CITY OF PORTERVILLE

By: Cameron Hamilton
Signature: [Signature]
Title: Mayor
Date: August 17, 2006
This Project Development Agreement will provide a detailed analysis to include Preliminary Design Engineering and Guaranteed Savings / Revenue Enhancement Strategies, for the following seven (7) improvement measures as identified in the preliminary analysis presented on May 22, 2006, and others as may be identified in the detailed analysis:

Base Option:

1. Waste Treatment Plant -
   *Scope of Work:*
   - Retrofit selected existing lighting systems.
   - Performance monitoring and reporting.

2. Water Pumping Stations-
   *Scope of Work:*
   - Design and Engineering
   - Supply and install all lighting systems
   - Commissioning of all systems
   - Performance monitoring and reporting

3. Street, Safety, and Recreational Park Lighting Retrofit-
   *Scope of Work:*
   - Implement leading technology for Street lighting offering significant savings
   - Implement leading technology for Park lighting offering significant savings

4. Indoor Lighting Retrofit-
   *Scope of Work:*
   - Replacement of all existing T12 fluorescent fixtures with T8 lighting
   - Magnetic ballasts will be replaced with electronic units
   - Installation of compact fluorescent lamps
   - Installation of occupancy sensors where applicable

5. HVAC Retrofits Improvements-
   *Scope of Work:*
   - Design and Engineering
   - Supply and install all lighting systems.
   - Commissioning of all systems.
   - Performance monitoring and reporting.
6. HVAC Controls Enhancements-
   Scope of Work:
   - Provide and install new DDC controls
   - Provide two classes of training for two people as selected by owner, to be conducted at the Johnson Controls Training Institute in Cypress, CA.
   - Provide all required startup, testing, checkout, commissioning for a complete and proper operational system. Provide on-site training for engineering staff on systems and controls.

7. Renewable Energy Supplemental Power Systems
   Scope of Work:
   - Develop self generation capabilities for the City to include Photovoltaic (Solar) capabilities.
COUNCIL AGENDA: SEPTEMBER 18, 2007

SUBJECT: CONSIDER IMPLEMENTING A DOG PARK

SOURCE: PARKS AND LEISURE SERVICES DEPARTMENT

COMMENT: The City Council previously has evaluated preliminary information compiled by staff of possible dog park locations. The matter was then referred to the Parks & Leisure Services Commission for input. The Commission considered the matter at their September 6, 2007 regular meeting and prioritized a list of seven possible locations for a dog park.

1. Olivewood Park – On the west side of Lime Street one block north of Henderson, this is a completely fenced facility, a former park with trees & playground facility within a drainage basin. Park access was restricted as a budgetary savings two years ago after the playground equipment was removed for safety reasons the previous year. The cost to ready this facility for a dog park is estimated at $10,000, and an annual cost for maintenance is estimated at $5,000.

2. Trailhead Park - A drainage basin that currently anchors the southerly leg of the Tule River Parkway at Indiana and Hwy. 190 is fully fenced and could serve as a dog park. Trees exist around the perimeter of the basin. The cost to ready this facility is estimated at $10,000, and an annual cost for maintenance is estimated at $5,000.

3. Veterans Park, Tule River Parkway, or Rails to Trails – Virtually equally rated by the Commission, these three locations would need to fenced. The cost to ready each of these facilities is estimated at $25,000 to $30,000. An annual cost for maintenance is estimated at $3,000 to $5,000 for these locations.

6. Murry Park, or Zalud Park – Again virtually rated the same by the Commission, these locations would also need to be fenced. The cost to ready each of these facilities is estimated at $25,000 to $30,000. An annual cost for maintenance is estimated at $3,000 to $5,000 for these locations.

Should the Council wish to implement a dog park at one of the suggested locations, staff requests Council direction on the following:

- The funding source for the improvement and annual maintenance of the facility.
- The priority of implementing this new facility in view of the many capital projects and numerous deferred maintenance work projects currently awaiting Parks & Leisure staff availability.

[Signature]

Appropriated/Funded
City Manager

ITEM NO.: 16
**RECOMMENDATION:** That the City Council consider the input from the Parks and Leisure Services Commission, and provide direction regarding the implementation of a 'Dog Park'.

**ATTACHMENT:** Locator Map
STAFF REPORT

TITLE: ENFORCEMENT ISSUES REGARDING YARD SALE SIGNS

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT-PLANNING DIVISION

SPECIFIC REQUEST:

Section 2014 A of the Porterville Zoning Ordinance states that:

"Restrictions: No person, except a public officer or city employee in the performance of his duty, shall paste, post, paint or erect any flag, pennant, sign, banner or notice of any kind or cause the same to be done upon public property, street, bridge or sidewalk within the city of Porterville, and no person shall attach any item to private utility company poles without prior written approval from the utility company to which the poles belong."

Section 2014 B exempts certain signs from this requirement, including construction signs, special event advertising (approved by the City Council), and Political Signs.

With this ordinance in place, it is unlawful for anyone to display yard sale signs on public property. However, all over the community there is a proliferation of such signage in public right-of-ways. This signage constitutes a public nuisance.

Responsibility for enforcement of this regulation has been shared with the Planning Division of the Community Development Department and the City’s Code Compliance Officer. Past efforts to abate non-conforming signage have included the Officer, and at times a Planner, removing yard sale signs that have been left or are not in use and disposing of them.

Active abatement of yard sale signs displayed on public property was discontinued by a previous administration, and currently only occurs as resources and staffing permit.

RECOMMENDATION: That the City Council:

Consider alternatives to address the issue.

ATTACHMENTS: None
COUNCIL AGENDA: SEPTEMBER 18, 2007

SUBJECT: AUTHORIZATION TO PARTICIPATE IN JOINT POWERS AGREEMENT SUCCESS DAM SEISMIC REMEDIATION PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: In 1998, the City of Porterville entered into a “Joint Powers Agreement” to enlarge the Success Reservoir by raising the spillway and to acquire, manage, maintain, protect and enhance facilities necessary to provide flood protection and water conservation.

In the course of these duties, it became apparent that the enlargement project could not proceed forward because of seismic safety concerns related to the condition of the dam. In 2004, the City agreed to participate financially as a member of the JPA to ensure that seismic remediation issues were resolved so that the business of enlarging the reservoir could proceed without too much delay.

Three years later, the Army Corps of Engineers is still modeling the effects that a credible earthquake may have on the dam. The Corps has announced that a decision will be made in October 2007 on the appropriate seismic mitigation. The JPA is asking all participants of the JPA to renew the “seismic remediation” program for another 3 years in the amount of $50,000. The seismic remediation program will pay for legal, technical and lobbying services to make sure that the Success Dam Seismic Mitigation program remains at the forefront of the Corps of Engineer’s priorities.

The requested $50,000 will be borne by all the members of the JPA. The City’s share is $6,250 and is retroactive to July 1, 2007.

Funding ($6,250) is available in the Success Reservoir Enlargement Project Fund (Acct. #89-9063).

RECOMMENDATION: That City Council authorize the Mayor to execute the attached Seismic Remediation Agreement.

ATTACHMENT: Tule River Improvement Joint Powers Project Agreement for the Success Dam Seismic Remediation Project

Page 1
P:\pub\works\Engineering\Council Items\Authorization to Participate in Joint Powers Agreement - 2007-09-18.doc

Dir Appropriated/Funded Item No. 18
TULE RIVER IMPROVEMENT JOINT POWERS
PROJECT AGREEMENT FOR THE
SUCCESS DAM SEISMIC REMEDIATION PROJECT

This Project Agreement is entered into this 1st day of July 2007 between the
Lower Tule River Irrigation District (hereinafter the “LTRID”), the Tulare County Flood
Control District (hereinafter the “TCFCD”), the County of Kings (hereinafter the
“County”), the Tulare Lake Basin Water Storage District (hereinafter the “TLBWSD”)
and the City of Porterville (hereinafter “Porterville”), all hereinafter sometimes
collectively referred to as the “Parties”. The parties to this Project Agreement are parties
to the Tule River Improvement Joint Powers Agreement (“JPA”), a joint powers
agreement entered into on February 17, 1998.

RECIPIALS

WHEREAS, the Tule River Improvement Joint Powers Agreement was executed
on February 17, 1998; and

WHEREAS, the LTRID is an irrigation district duly organized under the
provisions of Division 11 of the California Water Code; and

WHEREAS, the TCFCD is organized pursuant to Division 5 of the California
Water Code, and is a party to the JPA; and

WHEREAS, the County is a political subdivision of the State of California, and a
party to the JPA; and

WHEREAS, the TLBWSD is organized under the provisions of Division 14 of the
California Water Code, and is a party to the JPA; and

WHEREAS, Porterville is a charter city organized under the laws of the State of
California, and a party to the JPA; and

WHEREAS, Article 3 of the JPA authorizes the Parties to exercise their powers in
common to acquire, manage, maintain, protect and enhance facilities necessary to provide
flood protection and water conservation; contract with public agencies and private entities
or parties to achieve such objectives; and to promote cooperation and preliminary
planning among the Parties under agreements for implementation of specific projects, as appropriate, to improve flood protection along the Tule River and to perform all acts necessary or proper to carry out fully the purposes of the flood control objectives of Success Dam and of this Project Agreement; and,

WHEREAS, Article 8 of the JPA provides the mechanism for parties to enter into project agreements to accomplish these purposes; and

WHEREAS, during the course of implementation of the Success Reservoir Enlargement Project (hereinafter the "SREP") it became apparent that seismic remediation measures for Success Dam were necessary to be completed prior to completion of the SREP; and

WHEREAS, it is the Parties’ desire to assist in coordinating and furthering the development and implementation of such seismic remediation measures, which measures have become known as the Success Dam Seismic Remediation Project (hereinafter the "SDSRP"), and to enter into this Project Agreement to ensure the success of both the SREP and the SDSRP.

NOW, THEREFORE, in consideration of the mutual promises, covenants and conditions hereinafter set forth, it is agreed by and among the parties as follows:

1. PROJECT. The parties enter into this Project Agreement for the purposes of financing the costs for coordination, administration and meetings with the United States Army Corps of Engineers (hereinafter the "Corps") for expediting the design and construction of the Success Dam Seismic Remediation Project and with the United States Congress in the budgeting and appropriation of funds for the Corps design and construction of the SDSRP. This local coordination effort with the Corps and the Congress for the SDSRP will hereinafter be referred to as the "Project". For the purposes of this Project Agreement, the Parties do not assume responsibility for financial obligations for the SDSRP itself.
2. **TERM.** This Project Agreement shall commence on July 01, 2007 and shall continue for a term of three (3) years, terminating on June 30, 2010. The Parties may agree to extend the term of this Project Agreement subject to the provisions set forth in Paragraph 9 hereof.

3. **PROJECT AGREEMENT STATUS/ADOPTION OF JPA AGREEMENT.**
   It is the purpose of the Parties to enter this Project Agreement under the provisions of the JPA. For the purposes of this Project Agreement, the terms, conditions and provisions of the JPA, except to the extent that they may be inconsistent with the express provisions hereof, are hereby referred to and incorporated herein as though set forth herein at length, and the Parties to this Project Agreement agree to be bound thereby.

4. **COMMITTEE/MEETINGS.** Each of the Parties to this Project Agreement shall appoint one representative to the Project committee (hereinafter the “Seismic Committee”). The Seismic Committee shall meet at least quarterly for the dissemination of information pertaining to the Project and the SDSRP, for the evaluation of the activities and effectiveness of the Project and for determination of assessments and adoption of an annual budget for implementation of the Project.

5. **PROJECT IMPLEMENTATION.** Implementation and management of the Project, as developed and agreed upon by the Parties to this Project Agreement, shall be conducted by LTRID on behalf of the Parties. LTRID agrees to provide, or contract with consultants and other parties as may be required to provide, the services necessary to implement the purposes of the Project in a timely and efficient manner, subject to the limitations set forth herein and in the Project Budget. The Project Budget shall be adopted on an annual basis by the Seismic Committee under the provisions of Section 5.04 of the JPA.

6. **PARTICIPATION AND COST REIMBURSEMENT.** Each of the Parties hereto agrees to be responsible for the Project costs as incurred by LTRID, pursuant to the
terms of this Project Agreement, which shall be shared by the following percentages:

<table>
<thead>
<tr>
<th>Entity</th>
<th>Percentage</th>
</tr>
</thead>
<tbody>
<tr>
<td>LTRID</td>
<td>60.0%</td>
</tr>
<tr>
<td>Tulare County Flood Control District</td>
<td>12.5%</td>
</tr>
<tr>
<td>County of Kings</td>
<td>2.5%</td>
</tr>
<tr>
<td>Tulare Lake Basin Water Storage District</td>
<td>12.5%</td>
</tr>
<tr>
<td>City of Porterville</td>
<td>12.5%</td>
</tr>
</tbody>
</table>

LTRID shall conduct the Project, and each of the other Parties shall each be obligated to reimburse LTRID all costs incurred for implementing the Project as set forth hereinabove. Such reimbursement shall be made no more than 30 days after receipt of an invoice for costs incurred by LTRID.

Unless approved in advance by unanimous approval of the Seismic Committee during a JPA Committee meeting, total expenditures by LTRID in each year of the term of this Project Agreement shall not exceed $50,000.00.

7. OTHER COSTS AND EXPENSES. None of the Parties to this Project Agreement shall be responsible for reimbursement or payment of any costs or expenses which are voluntarily incurred in the furtherance of this Project Agreement which are not a part of implementation of the Project unless there is a prior written agreement by the Parties to incur such expenses.

8. LIABILITY. The parties to this Project Agreement recognize that all assets, rights, benefits, debts, liabilities, obligations and indebtedness incurred in the furtherance of this Project Agreement are and shall remain, those of the Parties to this Project Agreement and shall not become the assets, rights, benefits, debts, liabilities, obligations and indebtedness of any other party to the JPA who is not a party to this Project Agreement.

9. AMENDMENT. This Project Agreement may be amended only by an agreement approved by all the Parties.
10. NOTICES. Notices authorized or required to be given pursuant to this Project Agreement shall be in writing and shall be deemed to have been given when mailed, postage prepaid, or delivered during working hours to the following addresses:

Lower Tule River Irrigation District  
357 E. Olive Ave.  
Tipton, CA  93272

Tulare County Flood Control District  
5961 South Mooney Blvd.  
Visalia, CA  93277

City of Porterville  
Community Development and Services  
291 North Main Street  
P. O. Box 432  
Porterville, CA  93258

County of Kings  
Public Works Department  
Kings County Government Center  
1400 W. Lacey Blvd.  
Hanford, CA  93230

Tulare Lake Basin Water Storage District  
1001 Chase Ave.  
Corcoran, CA  93212

11. APPLICABLE LAW AND VENUE. This Project Agreement shall be governed by the laws of the State of California, and venue of any action to enforce the provisions hereof shall be in the Superior Court of the County of Tulare.

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

Date: ____________  

LOWER TULE RIVER IRRIGATION DISTRICT

BY: ____________________________

Date: ____________  

TULARE COUNTY FLOOD CONTROL DISTRICT

BY: ____________________________

ATTEST: Tulare County  
Administrative Officer/Clerk  
of the Board of Supervisors of the  
County of Tulare

By: ____________________________
SUBJECT: AWARD OF ADD ALTERNATE A - DATE AVENUE RECONSTRUCTION – ‘A’ STREET RECONSTRUCTION & STORM DRAIN PROJECT

SOURCE Public Works Department - Engineering Division

COMMENTS: On August 7, 2007, City Council awarded the Base Bid for the Date Avenue Reconstruction – ‘A’ Street Reconstruction & Storm Drain Project to Mitch Brown Construction, Inc. The project consists of the reconstruction of Date Avenue to collector standards (60’ wide right of way) from Main Street to Cornell Street including one lane of traffic in each direction with on street parking, sewer and water services where applicable, storm drain, fire hydrants, 8” water main crossings at all street intersections, street intersection curb returns and street lighting.

Included in this project is the reconstruction of ‘A’ Street from Date Avenue south to its terminus. Also included with this segment of work is an 18” storm drain pipe extended through Porterville Concrete Pipe property to the river.

Curbs, gutters, sidewalks and drive approaches were included as an alternate bid.

The Engineer’s Estimate for constructing the full project is $724,447.80. The low bid is $648,103.46 and is 11.8% below the Engineer’s Estimate. An additional $111,445.77 is necessary for construction contingency (10%), SCE street lights and Construction Management for a total of $759,549.23. Funding for this project, with an available balance of $797,281.68, is approved in the 2007/2008 fiscal year budget from Certificates of Participation Refinance (COP), Local Transportation Funds (LTF) and Carryover.

The City has obtained a CMAQ grant to install the concrete improvements in fiscal year 2008/2009. Due to the favorable bid, concrete improvements can be installed without the prevailing wage requirements and the CMAQ grant could potentially be used on another CMAQ project, if allowed by the Tulare County Association of Governments.

Section 20-40.8 of the Municipal Code requires that each property owner affected by the project be notified of a Public Hearing. The notification clearly describes the City’s intent to seek reimbursement for the concrete improvements constructed by the City. For this reason staff postponed the award of the alternate bid at the August 7, 2007 City Council meeting.
The favorable bid makes it desirable to construct the concrete improvements now. This will allow the street to drain properly, prevent damage to an unprotected edge of pavement, provide sidewalks for pedestrians and allow a complete and better project constructed at one time.

RECOMMENDATION: That City Council:

1. Award Add Alternate A to Mitch Brown Construction, Inc. in the amount of $89,680.47;

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

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

ATTACHMENT: Locator Map

P:\pubwork\Engineering\Council Items\Award of Add Alternate A-Date Ave Reconstruction-A St Reconstruction & Storm Drain Project-2007-09-18.doc
SUBJECT: FINAL CONTRACT AMOUNTS – RIVERWALK MARKETPLACE

SOURCE: Public Works Department - Engineering Division

COMMENT: On July 31, 2007, the City Council entered into a contract with Ennis Commercial Properties, LLC, (ECP) to participate financially in the reconstruction of Jaye Street from Hwy 190 to approximately 400’ north of Springville Avenue and the reconstruction of Springville east of Jaye and the reconstruction of Vandalia & Poplar Avenues east of Jaye Street.

Staff informed Council that Ennis Commercial Properties (ECP) still needed to review the final costs; and that the City’s estimated share in the amount of $1,224,574 could change. ECP has completed their review and staff agrees that an increase to the contract in the amount of $6,430 (0.5%) is warranted. A separate “line item” identified as an “adjustment” figure will be added to the City’s contract with ECP to account for the $6,430.

On July 31, 2007, the City entered into a contract with ECP to participate financially in the reconstruction of Vandalia Avenue and Springville Avenue west of Jaye Street. The City’s share of cost ($1,615,572) noted in staff’s July 31st report remains unchanged.

On July 31, 2007, the City entered into a contract with ECP to participate financially in the installation of traffic signals at Orange & Jaye and the removal and replacement of traffic signals at Olive & Jaye. The City’s share of cost ($477,092) noted in staff’s July 31st report remains unchanged.

The Jaye Street Corridor & Riverwalk Project was budgeted in the 2007/2008 Annual Budget.

RECOMENDATION: That the City Council:

1. Authorize the City to pay Ennis Commercial Properties, LLC, the amount of $1,231,004, which includes $25,000 for surveying services as the City’s fair and equitable share of construction costs to reconstruct Jaye Street from Hwy 190 to approximately 400’ north of Springville Avenue and for the reconstruction of Springville, Vandalia and Poplar Avenues east of Jaye Street and as stipulated in the Public Improvement Agreement between Ennis Commercial Properties, LLC and the City of Porterville dated 16, January, 2007;
2. Authorize progress payments to Ennis Commercial Properties, LLC, up to 90% of the contract amount upon proof of payments by Ennis Commercial Properties LLC, to Granite Construction;

3. Authorize a 10% contingency to cover unforeseen costs; and

4. Authorize the Mayor to execute a revised contract with Ennis Commercial Properties, LLC in the amount of $1,231,004.

ATTACHMENT: Adjustment of Construction Cost Sharing
## Adjustment to Cost Sharing presented to City Council on July 31, 2007

Note: Adjustments based upon information provided by CEI on August 29, 2007 and mutually agreed upon by both parties.

### Jaye Street, North of Springville Avenue

<table>
<thead>
<tr>
<th>COST SHARING AS PRESENTED TO COUNCIL</th>
<th>COST SHARING AS DEFINED BY PUBLIC WORKS AGREEMENT</th>
</tr>
</thead>
<tbody>
<tr>
<td>ESTIMATE OF IMPROVEMENT COSTS IS $42,631.45</td>
<td>ESTIMATE OF IMPROVEMENT COSTS IS $42,631.45</td>
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<tr>
<td>City Fair Share - 29.7%</td>
<td>City Fair Share - 46.2%</td>
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<tr>
<td>Ennis Fair Share - 70.3%</td>
<td>Ennis Fair Share - 53.8%</td>
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<tr>
<td>$30,110.51</td>
<td>$23,043.32</td>
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Additional Amount Due Ennis Commercial Properties is: $7,067.19

### Jaye Street, Synchronization of Springville Avenue and Vandalia Avenue Traffic Signals

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<thead>
<tr>
<th>COST SHARING AS PRESENTED TO COUNCIL</th>
<th>COST SHARING AS DEFINED BY PUBLIC WORKS AGREEMENT</th>
</tr>
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<tr>
<td>ESTIMATE OF JAYE/SPRINGVILLE SYNCHRONIZATION COST IS $14,832.17</td>
<td>ESTIMATE OF JAYE/SPRINGVILLE SYNCHRONIZATION COST IS $14,832.17</td>
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<td>City Fair Share - 85%</td>
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<td>Ennis Fair Share - 15%</td>
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<tr>
<td>$12,607.34</td>
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<td>City Fair Share</td>
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<tr>
<td>$14,832.17</td>
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<tr>
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<tr>
<td>$2,224.83</td>
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</table>

Ennis Commercial Properties Fair Share

Additional Amount Due City of Porterville is: $5,191.26

### Jaye Street/Vandalia Synchronization

<table>
<thead>
<tr>
<th>COST SHARING AS PRESENTED TO COUNCIL</th>
<th>COST SHARING AS DEFINED BY PUBLIC WORKS AGREEMENT</th>
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<td>ESTIMATE OF JAYE/VANDALIA SYCHRONIZATION COST IS $14,832.17</td>
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<tr>
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<td>$7,416.09</td>
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</table>

Ennis Commercial Properties Fair Share

Additional Amount Due Ennis Commercial Properties is: $4,553.48

Additional Amount Due Ennis Commercial Properties is: $6,429.41
SUBJECT:  REQUEST BY COUNCIL MEMBER – CONSIDERATION OF RESOLUTION IN SUPPORT OF THE GANG ABATEMENT AND PREVENTION ACT OF 2007

SOURCE:  ADMINISTRATION

COMMENT:  A request has been made by a Council Member to add the above subject matter to this agenda for discussion and potential referral to staff for further action.

RECOMMENDATION:  None.

ATTACHMENTS:  Draft Resolution
A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF PORTERVILLE IN SUPPORT OF THE
GANG ABATEMENT AND PREVENTION ACT OF 2007

WHEREAS, gangs through their criminal activity deter the development of healthy
eighborhoods that provide security and opportunity to their residents; and

WHEREAS, gangs create a social structure of coercion and oppression that attack the
peace and quiet enjoyment of home and family; and

WHEREAS, gangs redirect youth from progressive lives of constructive opportunity and
health; and

WHEREAS, gangs are purveyors of drugs, a cancer to American society; and

WHEREAS, the policing of gangs diverts critical governmental spending from programs
of service and development; and

WHEREAS, the existence of gangs within a community are a bane to the economic
development of a city and its environs; and

WHEREAS, community awareness, involvement, and commitment are the critical factors
to overcome gangs and the gang culture,

WHEREAS, legislation which provides enforcement tools is a critical component of the
community’s battle against gangs and the gang culture,

WHEREAS, the Gang Prevention Act of 21007 addresses gangs issues in a three pronged
approach of prevention, intervention, and suppression,

WHEREAS, the Act provides new tools for law enforcement allowing the option of
federal prosecution for criminal street gang participation,

NOW, THEREFORE BE IT RESOLVED that the Porterville City Council extends its
full support of the “Gang Abatement and Prevention Act of 2007” and supports the passage
of the legislation in the Congress of the United States.

ATTEST:

Cameron Hamilton, Mayor

John Longley, City Clerk

By: Patrice Hildreth, Acting Chief Deputy
SUBJECT: PORTERVILLE PACIFIC ASSOCIATES REGULATORY AGREEMENT FOR REDEVELOPMENT AFFORDABILITY COVENANTS ON UNITS IN SEQUOIA VILLAGE AT RIVER’S EDGE MULTIFAMILY DEVELOPMENT

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: The City of Porterville was awarded a $1 million HOME grant in 2006 for the development of a 64 unit affordable multifamily development known as Sequoia Village at River’s Edge which is located on South “E” Street within the Porterville Redevelopment Project Area #1. Later that year, the development also received an allocation of 9% federal tax credits for the project. Both of these sources of funding assistance require recorded affordability covenants to remain on the property for 55 years.

However, in order for these units to be counted toward the required Redevelopment production requirements for affordable housing, there also has to be a recorded agreement between the Redevelopment Agency and the developer which restricts the units to certain levels of affordability for the 55 years. The developer, Porterville Pacific Associates, has agreed to enter into such an agreement with essentially no consideration on part of the Redevelopment Agency.

The Regulatory Agreement has been prepared and is attached.

RECOMMENDATION: That the Redevelopment Agency approve the draft resolution to enter into a Regulatory Agreement with Porterville Pacific Associates for the Sequoia Village at River’s Edge development and authorize the Chairman to execute said Agreement.

ATTACHMENTS: 1. Draft Resolution
               2. Regulatory Agreement

DD Appropriated/Funded ___  CM ___  ITEM NO. PRA-01
RESOLUTION NO. ________________

A RESOLUTION OF THE PORTERVILLE REDEVELOPMENT AGENCY APPROVING AND AUTHORIZING THE EXECUTION OF THE REGULATORY AGREEMENT WITH PORTERVILLE PACIFIC ASSOCIATES

WHEREAS, Porterville Pacific Associates ("Owner") is the owner of that certain parcel of real property legally described in Exhibit A attached hereto (the "Subject Property"); and

WHEREAS, Owner is developing a 64 unit affordable multifamily apartment complex within the Redevelopment Project Area #1 ("Project Area") with occupancy restricted to certain levels of Very Low and Low Income households through recorded agreements secured by HOME or tax credit financing; and

WHEREAS, the Redevelopment Agency desires to count these units toward the required production requirements for affordable housing within the Project Area as found in Health and Safety Code Section 33413; and

WHEREAS, the Owner is willing to enter into a Regulatory Agreement with the Redevelopment Agency to restrict these units to certain levels of affordability for Very Low and Low Income households that meet Health and Safety Code Section 33413 requirements;

NOW, THEREFORE, BE IT RESOLVED:

1. The Regulatory Agreement between the Porterville Redevelopment Agency and Porterville Pacific Associates is hereby approved by the Redevelopment Agency;

2. Owner and Agency declare and agree that the Subject Property will be held, transferred, encumbered, used, sold, conveyed, leased, and occupied, subject to the covenants and restrictions set forth in the Regulatory Agreement expressly and exclusively for the use and benefit of the property and of each and every person or entity who now or in the future owns any portion or portions of the Subject Property; and

3. That the Chairman is authorized to execute the Agreement in the name of the Redevelopment Agency.

____________________________
Cameron Hamilton, Chairman

Attest: _______________________
Bradley Dunlap, Executive Director

____________________________
By Patrice Hildreth, Deputy City Clerk
REGULATORY AGREEMENT

This REGULATORY AGREEMENT ("Agreement") is entered into as of __________, 200_, by and between the PORTERVILLE REDEVELOPMENT AGENCY, a public body, corporate and politic ("Agency"), and PORTERVILLE PACIFIC ASSOCIATES, a California limited partnership ("Developer").

RECITALS

A. Developer is the owner of an unimproved parcel of real property located at 424 South "E" Street within the City of Porterville ("Site"), as particularly described in the Legal Description attached hereto as Exhibit A, which is incorporated herein by reference.

B. The Site is located within the Porterville Redevelopment Project Area #1 (the "Project Area") adopted pursuant to the Porterville Redevelopment Plan (the "Redevelopment Plan").

C. Developer desires to construct and operate an apartment complex on the Site ("Apartment Complex"), with sixty-four (64) apartment units, including one manager unit ("Housing Units").

D. Health and Safety Code Section 33413 requires, in relevant part, that at least 15% of all new dwellings developed within the Project Area will be available at affordable housing costs to and, occupied by, persons and families of low or moderate income.

NOW, THEREFORE, the parties hereto agree, for good and valuable consideration the receipt and adequacy of which are hereby acknowledged, as follows:

1. Development of the Apartment Complex. Developer agrees to develop the Site in accordance with the provisions of the Redevelopment Plan, the City Municipal Code, and all other applicable local codes, ordinances and zoning ordinances, the Federal Housing Quality Standards, 24 CFR §92.251, 24 CFR §882.109, the City Municipal Code, the lead based paint requirements of 24 CFR part 35, and the accessibility standards pursuant to 24 CFR part 8 ("development of the Apartment Complex").
2. Affordable Units.

a. Number of Affordable Units. Developer agrees to make available, restrict occupancy to, and rent seven (7) of the Housing Units to 30% AMI Very Low Income Households at an Affordable Rent, ten (10) of the Housing Units to 45% AMI Very Low Income Households at an Affordable Rent, and thirty-two (32) of the Housing Units to 50% AMI Very Low Income Households at an Affordable Rent and fourteen (14) of the Housing Units to 60% AMI Low Income Households at an applicable rent.

b. Duration of Affordability Requirements; Affordability Period. The Apartment Complex and all the Housing Units thereon shall be subject to the requirements of this Section 2 et seq. for the full term of not less than fifty-five (55) years from the date that the Apartment Complex is completed and the first certificate of occupancy is issued by the City’s building official. The duration of these covenants and this requirement shall be known as the “Affordability Period.”

c. Selection of Tenants. Developer shall be responsible for the selection of tenants for the Housing Units in compliance with the HOME Program and the Agreement. Preference shall be given to tenants who are currently residents of the City, or currently work in the City, or who have been displaced by redevelopment activities of Agency in the implementation of the Redevelopment Plan or any other redevelopment plan of Agency, to the extent authorized by applicable federal, state or local laws or regulations. Developer shall adopt a tenant selection system in conformance with Section 92.253(d) of the HOME Regulations, which shall be approved by Agency Executive Director in his/her reasonable discretion, which establishes a chronological waiting list system for selection of tenants. Developer shall not refuse to lease to a holder of a certificate of family participation under 24 CFR part 882 (Rental Certificate Program) or a rental voucher under 24 CFR part 887 (Rental Voucher Program) or to the holder of a comparable document evidencing participation in a HOME Program, Section 8 program or other tenant-based assistance program, who is otherwise qualified to be a tenant in accordance with the approved tenant selection criteria.

d. Household Income Requirements. Following the initial lease-up of the Apartment Complex’ Housing Units, and annually thereafter, Developer shall submit to Agency, at Developer’s expense, a written summary of the income, household size and rent payable by each of the tenants of the Housing Units. At Agency’s request, Developer shall also provide to Agency completed income computation and certification forms, in a form reasonably acceptable to Agency, for any such tenant or tenants. Developer shall obtain, or shall cause to be obtained by the Project’s Property Manager, a certification from each household leasing an Affordable Unit demonstrating that such household is a 30% AMI Very Low Income Household, 45% AMI Very Low Income Household, 50% AMI Very Low Income Household, or 60% AMI Low Income Household, as applicable, and meets the eligibility requirements established for the Housing Unit. Developer shall verify, or shall cause to be verified by the Property Manager, the income certification of the household.

e. Relationship to Tax Credit Requirements. Notwithstanding any other provisions of this Agreement, to the extent that the regulatory agreement executed by the Developer as a requirement of receiving the Tax Credits (“Tax Credit Regulatory Agreement”) is less restrictive with respect to the requirements applicable to tenant selection, tenant income levels and unit rent

REGULATORY AGREEMENT
Page 2 of 13
levels than as provided in this Agreement and the Regulatory Agreement, this Agreement and the Agency’s Regulatory Agreement shall control;

f. Affordable Rent; Household Income Categories/Definitions.

“30% AMI Very Low Income Households” means those households earning not greater than thirty percent (30%) of Tulare County area median income, adjusted for household size, which is set forth by regulation of HUD.

“45% AMI Very Low Income Households” means those households earning not greater than forty five percent (45%) of Tulare County area median income, adjusted for household size, which is set forth by regulation of HUD.

“50% AMI Very Low Income Households” means those households earning not greater than fifty percent (50%) of Tulare County area median income, adjusted for household size, which is set forth by regulation of HUD.

“60% AMI Low Income Households” means those households earning not greater than sixty percent (60%) of Tulare County area median income, adjusted for household size, which is set forth by regulation of HUD.

“Very Low Income Households” means 30% AMI Very Low Income Households, 45% AMI Very Low Income Households, and 50% AMI Very Low Income Households.

“Lower Income” “Low Income” or shall mean those person(s) or households as defined in the HOME Regulations whose annual incomes are between fifty-one percent (51%) and eighty percent (80%) of the Tulare County median income adjusted for family size as determined by the United States Department of Housing and Urban Development.

3. Affordable Rent. The maximum Monthly Rent chargeable for the Affordable Units shall be annually determined by Agency in accordance with the following requirements. The Monthly Rent for the Affordable Units to be rented to 30% AMI Very Low Income Households shall not exceed one-twelfth (1/12) of thirty percent (30%) of thirty percent (30%) of Tulare County Median Income for a family of a size appropriate to the unit. The Monthly Rent for the Affordable Units to be rented to 45% AMI Very Low Income Households shall not exceed one-twelfth (1/12) of thirty percent (30%) of forty-five percent (45%) of Tulare County Median Income for a family of a size appropriate to the unit. The Monthly Rent for the Affordable Units to be rented to 50% AMI Very Low Income Households shall not exceed one-twelfth (1/12) of thirty percent (30%) of fifty percent (50%) of Tulare County Median Income for a family of a size appropriate to the unit. The Monthly Rent for the Affordable Units to be rented to 60% AMI Low Income Households shall not exceed one-twelfth (1/12) of thirty percent (30%) of sixty percent (60%) of Tulare County

For purposes of this Agreement, “Monthly Rent” means the total of monthly payments for (a) use and occupancy of each Affordable Unit and land and facilities associated therewith, (b) any separately charged fees or service charges assessed by the Developer which are required of all tenants, other than security deposits, (c) a reasonable allowance for an adequate level of service of utilities not included in (a) or (b) above, including garbage collection, sewer, water, electricity, gas and other heating, cooking and refrigeration fuels, but not including telephone service, and
(d) possessory interest, taxes or other fees or charges assessed for use of the land and facilities associated therewith by a public or private entity other than Developer. In the event that all utility charges are paid by the landlord rather than the tenant, no utility allowance shall be deducted from the rent.

4. **Compliance With Laws.** The Developer shall carry out the design, development and operation of the Apartment Complex in conformity with all applicable laws, including all applicable state labor standards, City zoning and development standards, building, plumbing, mechanical and electrical codes, and all other provisions of the City Municipal Code, and all applicable disabled and handicapped access requirements, including without limitation the Americans With Disabilities Act, 42 U.S.C. Section 12101, et seq., Government Code Section 4450, et seq., Government Code Section 11135, et seq., and the Unruh Civil Rights Act, Civil Code Section 51, et seq.

5. **Non-Discrimination Covenants.** Developer covenants by and for itself, its successors and assigns, and all persons claiming under or through them that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, religion, sex, marital status, familial status, disability, national origin, or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure, or enjoyment of the Site, nor shall Developer itself or any person claiming under or through it, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees in the Site. The Developer shall refrain from restricting the rental, sale or lease of the Site on the basis of race, color, creed, religion, sex, marital status, familial status, disability, national origin or ancestry of any person. All such deeds, leases or contracts shall contain or be subject to substantially the following nondiscrimination or nonsegregation clauses:

(a) In deeds: "The grantee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through them, that there shall be no discrimination against or segregation of, any person or group of persons on account of race, color, creed, religion, sex, marital status, familial status, disability, national origin or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the land herein conveyed, nor shall the grantee himself or herself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees in the land herein conveyed. The foregoing covenants shall run with the land."

(b) In leases: "The lessee herein covenants by and for himself or herself, his or her heirs, executors, administrators and assigns, and all persons claiming under or through him or her, and this lease is made and accepted upon and subject to the following conditions:

"There shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, marital status, familial status, disability, ancestry or national origin in the leasing, subleasing, transferring, use, occupancy, tenure or enjoyment of the premises herein leased nor shall the lessee himself or herself, or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location,
number, use or occupancy of tenants, lessees, sublessees, subtenants or vendees in the premises herein leased.”

(e) In contracts: “There shall be no discrimination against or segregation of, any person, or group of persons on account of race, color, creed, religion, sex, marital status, familial status, disability, ancestry or national origin, in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the premises, nor shall the transferee himself or herself or any person claiming under or through him or her, establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the premises.”

The covenants established in this section 15 shall, without regard to technical classification and designation, be binding for the benefit and in favor of the Agency and its successors and assigns, and shall remain in effect in perpetuity.

6. Monitoring and Recordkeeping. Throughout the Affordability Period, Developer shall comply with all applicable recordkeeping and monitoring requirements set forth in Section 92.508 (or successor regulation) of the HOME Regulations and shall annually complete and submit to Agency a Certification of Continuing Program Compliance in the form provided by the Agency. Representatives of the Agency shall be entitled to enter the Site, upon at least twenty-four (24) hours notice, to monitor compliance with this Agreement, to inspect the records of the Site, and to conduct an independent audit or inspection of such records. The Developer agrees to cooperate with the Agency in making the Site available for such inspection or audit. Developer agrees to maintain records in businesslike manner, and to maintain such records for the term of this Agreement.

7. Defaults and Remedies. In the event that either party commits a default pursuant to the terms of this Agreement, the non-defaulting party shall give the defaulting party written notice of such default. The defaulting party shall have thirty (30) days within which to cure such default. In the event that the defaulting party fails to cure the default within such thirty (30) day period, that non-defaulting party may pursue all legal and equitable remedies.

8. Waiver of Terms and Conditions. Any party may, in its sole discretion, waive in writing any of the terms and conditions of this Agreement. Waivers of any covenant, term, or condition contained herein shall not be construed as a waiver of any subsequent breach of the same covenant, term, or condition.

9. Non-Liability of Agency Officials and Employees. No member, official, employee or agent of the Agency shall be personally liable to the Developer, or any successor in interest, in the event of any default or breach by the Agency or for any amount which may become due to the Developer or its successors, or on any obligations under the terms of this Agreement.

10. Time. Time is of the essence in this Agreement.

11. Notices. Any approval, disapproval, demand, document or other notice (“Notice”) which either party may desire to give to the other party under this Agreement must be in writing and may be given either by (i) personal service, (ii) delivery by reputable document delivery service such as Federal Express that provides a receipt showing date and time of delivery, or (iii) mailing in the United States mail, certified mail, postage prepaid, return receipt requested, addressed to the address of the party as set forth below, or at any other address as that party may later designate by Notice:

REGULATORY AGREEMENT
Page 5 of 13

DOCSOC/1241800v1/022643-0000
Developer: Porterville Pacific Associates
430 E. State Street, Suite 100
Eagle, Idaho 83616
Attention: Caleb Roope
Fax No. (208) 461-3267

With Copies to: Central Valley Coalition for Affordable Housing
3351 M Street, Suite 100
Merced, California 95348
Attention: Christina Alley
Fax No. (209) 385-3770

To Agency: Porterville Redevelopment Agency
291 N. Main Street
Porterville, California 93257
Attention: Bradley Dunlap
Fax No. (559) 781-6437

Such addresses may be changed by notice to the other party given in the same manner as provided above.

12. Successors and Assigns. This Agreement shall run with the land, and all of the terms, covenants and conditions of this Agreement shall be binding upon the Developer and the Agency and the permitted successors and assigns of the Developer and the Agency. Whenever the term “Developer,” or “Agency” is used in this Agreement, such term shall include any other successors and assigns as herein provided.

13. Except City, No Third Parties Benefited. Except as to the City of Porterville who Developer agrees is an intended third party beneficiary of this Regulatory Agreement, this Regulatory Agreement is made and entered into for the sole protection and benefit of the Agency (and City) and their successors and assigns and Developer and its successors and assigns, and no other person or persons shall have any right of action hereon.

14. Partial Invalidity. If any provision of this Agreement shall be declared invalid, illegal, or unenforceable, the validity, legality, and enforceability of the remaining provisions hereof shall not in any way be affected or impaired.

15. Governing Law. This Agreement and the Agency Loan Documents and other instruments given pursuant hereto shall be construed in accordance with and be governed by the laws of the State of California. Any references herein to particular statutes or regulations shall be deemed to refer to successor statutes or regulations, or amendments thereto.

16. Amendment. This Agreement may not be changed orally, but only by agreement in writing signed by Developer and the Agency.
IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date and year set forth below.

DEVELOPER:

PORTERVILLE PACIFIC ASSOCIATES, a California Limited Partnership

By: Roope, LLC., an Idaho LLC, GP

Caleb Roope, Manager

Dated: ________, 2007

By: ______________________________

______________________

By: Central Valley Coalition for Affordable Housing, a California public benefit corporation, GP

Christina Alley, Chief Executive Officer

Dated: ________, 2007

By: ______________________________

______________________

[Signature block continued on next page]
AGENCY:

PORTERVILLE REDEVELOPMENT AGENCY,
a public body, corporate and politic

____________________________________
Executive Director
Dated: ____________, 2007

ATTEST:

____________________, AGENCY SECRETARY

____________________________________
Agency Secretary
Dated: ____________, 2007

APPROVED AS TO FORM:

Julia Lew, CITY ATTORNEY

____________________________________

____________________
____________________________________
Dated: ____________, 2007

____________________
Stradling Yocca Carlson & Rauth,
Agency Special Counsel
Dated: ____________, 2007
That real property located in the State of California, County of Tulare, City of Porterville, and described as follows:
STATE OF CALIFORNIA

COUNTY OF TULARE

On ______________ before me, ____________________________, Notary Public, personally appeared ____________________, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal

SIGNATURE OF NOTARY PUBLIC
STATE OF CALIFORNIA
COUNTY OF TULARE

On __________________ before me, __________________, Notary Public, personally appeared __________________, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal

SIGNATURE OF NOTARY PUBLIC
STATE OF CALIFORNIA

COUNTY OF TULARE

On _____________ before me, ____________________________, Notary Public, personally appeared ____________________________, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

WITNESS my hand and official seal

________________________________
SIGNATURE OF NOTARY PUBLIC
STATE OF CALIFORNIA
)
COUNTY OF TULARE
)

ss

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WITNESS my hand and official seal

__________________________________________
SIGNATURE OF NOTARY PUBLIC
AGENDA: SEPTEMBER 18, 2007

PORTERVILLE PUBLIC IMPROVEMENT CORPORATION

SUBJECT: ANNUAL MEETING OF THE PORTERVILLE PUBLIC IMPROVEMENT CORPORATION

SOURCE: PUBLIC WORKS DEPARTMENT

COMMENT: In 1988, the Porterville Public Improvement Corporation was formed, designating the City Council members as Directors. An annual meeting is required to be held each year.

Action by the Board of Directors is required to approve the election of new officers in accordance with Article III, Section 2 of the Bylaws of the Corporation. Article III, Section 1 of the Bylaws provides that the Mayor shall act ex officio as President, the Mayor Pro Tem shall act ex officio as Vice President, the City Clerk shall act ex officio as Secretary, the Deputy City Manager shall act ex officio as the Treasurer, and the City Attorney shall act ex officio as Legal Counsel to the corporation.

In addition to the election of officers, a report on the progress of the Certificates of Participation (COP) projects is to be submitted to the Board of Directors at the time of the annual meeting. In accordance with Corporation Bylaws and Resolution No. 89-2, a public meeting (not a public hearing) is required prior to approving the annual report. A status report for COP projects is provided as an attachment to this agenda item.

RECOMMENDATION: That the City Council, sitting as the Porterville Public Improvement Corporation;

1. Approve the election of officers as indicated in the attached draft resolution;
2. Accept public comment; and
3. Approve the 2007 Status Report for Certificates of Participation Projects.

ATTACHMENTS:
1. Draft Resolution for Election of Officers
2. 2007 Status Report for Certificates of Participation Projects

DD: Appropriated/Funded CM: 

ITEM NO. PIC-1
RESOLUTION NO. PIC ______

A RESOLUTION OF THE PORTERVILLE PUBLIC IMPROVEMENT CORPORATION ELECTING OFFICERS FOR THE PORTERVILLE PUBLIC IMPROVEMENT CORPORATION

BE IT HEREBY RESOLVED by the Directors of the Porterville Public Improvement Corporation, that the following persons are elected to the offices set forth opposite their names below, as officers of the Corporation, to serve until succession, or election and qualification of the successors, as provided in Article III, Section 2 of the Bylaws of the Corporation.

<table>
<thead>
<tr>
<th>Name</th>
<th>Office</th>
</tr>
</thead>
<tbody>
<tr>
<td>Cameron J. Hamilton</td>
<td>President</td>
</tr>
<tr>
<td>Felipe A. Martinez</td>
<td>Vice President</td>
</tr>
<tr>
<td>John Longley</td>
<td>Secretary</td>
</tr>
<tr>
<td>John Lollis</td>
<td>Treasurer</td>
</tr>
<tr>
<td>Julia Lew</td>
<td>Legal Counsel</td>
</tr>
</tbody>
</table>

__________________________
Cameron J. Hamilton, President

ATTEST:

__________________________
John Longley, Secretary
CITY OF PORTERVILLE
Certificates of Participation
Status Report

As of September 1, 2007

1998 ISSUE:

On May 5, 1998, City Council authorized the issuance of Certificates of Participation to finance major components of the City Circulation Element. The Certificates were issued on July 16, 1998, for $20,000,000 with an average interest rate of 4.94%.

Total Certificates of Participation Issue: $20,000,000

<table>
<thead>
<tr>
<th>Project</th>
<th>Percentage of Design Complete</th>
<th>Percentage of Const. Complete</th>
</tr>
</thead>
<tbody>
<tr>
<td>BRIDGES:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Plano - Tule River Widening</td>
<td>100%</td>
<td>10%</td>
</tr>
<tr>
<td>Jaye - Tule River Widening</td>
<td>25%</td>
<td>0%</td>
</tr>
<tr>
<td>STREETS:</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Jaye - Springville to 190</td>
<td>100%</td>
<td>5%</td>
</tr>
<tr>
<td>Prospect St. Reconstruction (match)</td>
<td>0%</td>
<td>0%</td>
</tr>
<tr>
<td>Westwood St. Henderson Past Slough</td>
<td>75%</td>
<td>0%</td>
</tr>
<tr>
<td>Main - Henderson to Linda Vista</td>
<td>10%(Shelved after design - lack of funding)</td>
<td></td>
</tr>
<tr>
<td>Jaye - 190 to Gibbons</td>
<td>100%(Shelved after design - lack of funding)</td>
<td></td>
</tr>
<tr>
<td>Gibbons - Main to Indiana</td>
<td>100%(Shelved after design - lack of funding)</td>
<td></td>
</tr>
<tr>
<td>Main - Yates to Gibbons</td>
<td>75%(Shelved after design - lack of funding)</td>
<td></td>
</tr>
</tbody>
</table>