Call to Order
Roll Call

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

CLOSED SESSION:
A. Closed Session Pursuant to:
   1- Government Code Section 54956.8 – Conference with Real Property Negotiators/ Property:
   2- Government Code Section 54957.6 - Conference with Labor Negotiator. Agency Negotiator:
      John Lollis.  Employee Organizations: Porterville City Employees Association, and Porterville
      City Firefighters Association.

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

Pledge of Allegiance Led by Mayor Cameron Hamilton
Invocation

PROCLAMATION
“Porterville Chamber of Commerce Day” – November 3, 2007

PRESENTATIONS
Employee Service Awards
Introduction of New City Employees
City Manager’s Featured Projects
Library Board of Trustees’ Semi-Annual Report

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

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

1. Approval of City Council Minutes of July 9, 2007 and August 27, 2007
2. **Claim – Dennis E. Connor**  
Re: Considering rejection of a claim for $234.41 for damages claimant alleges were sustained when the arm of a City refuse vehicle struck his mailbox while emptying his trash on July 1, 2007 at 1331 North Highland Drive.

3. **Claim – Maria Oliveros**  
Re: Considering rejection of a claim for $2,720 for property loss claimant alleges incurred when Porterville police officers executed a search warrant at her home on September 11, 2007 at 379 South B Street.

4. **Claim – Ajit Pannu**  
Re: Considering rejection of a claim for $802.47 for property damages claimant alleges were sustained when Porterville police officers forced entry into his rental unit to execute a search warrant on August 16, 2007 at 1923 West Roby, Apt. B.

5. **Claim – Gary Meeks**  
Re: Considering rejection of claim for $315 for fees associated with the towing and impound of claimant’s vehicle on July 28, 2007 at 1776 W. Olive Avenue, for which claimant has already been fully reimbursed by Porterville Police Department.

6. **Approval for Community Civic Event – Mariachi Academy Foundation – Fabulous Music Jam**  
Re: Approving civic event to take place on November 10, 2007 at Centennial Plaza on Main Street, from 10:00 a.m. to 8:00 p.m.

7. **Authorization to Advertise for Bids – ‘C’ Street Water Main and Miscellaneous Fire Hydrant Project**  
Re: Approving staff’s recommended plans and project manual, and authorizing staff to advertise for bids for project consisting of installing a new water main and hydrants on C Street between Date Avenue and Walnut Avenue at an estimated cost of $154,535.

8. **Authorization to Advertise for Bids – Traffic Signal No. 11 (Indiana Street and Putnam Avenue)**  
Re: Approving staff’s recommended plans and project manual, and authorizing staff to advertise for bids for project with an estimated cost of $304,393.50.

9. **Reject All Bids – WWTF Screening and Grit Equipment Upgrade 2007 Project**  
Re: Rejecting bids, authorizing re-advertisement of project, and authorizing staff to allocate funds to the Effluent Pipeline and Land Leveling Project, including $910,000 from the Waste Water Treatment Facility’s Capital Reserve Fund.

Re: Authorizing the opening of escrow and payment to property owner in the amount of $26,340, after completion of escrow, for 1,317 sq. ft. of real property needed for right-of-way purposes.
Re: Authorizing staff to open escrow and make payment to property owner in the amount of $80,000 after completion of escrow, for 5,040 sq. ft. of real property needed for right-of-way purposes.

12. **Acceptance of Improvements – Sierra Meadows (Gary Smee – Smee Builders)**  
Re: Accepting public improvements for subdivision located generally at the north east corner of Gibbons Avenue and Indiana Street, and authorizing staff to file a notice of completion.

13. **Acceptance of the HVAC Replacement Project**  
Re: Accepting the Project, consisting of HVAC installations at City Hall and Porterville Community Center on Putnam Avenue, from Morris Levin and Son as complete, and authorizing the filing of the Notice of Completion.

14. **Program Supplement to the Local Agency-State Master Agreement – Traffic Signal No. 9 (Olive Avenue and Mathew Street) Project**  
Re: Approving the Program Supplement to Local-State Master Agreement No. 06-5122 with the Department of Transportation to account for the new traffic signal.

15. **Augmentation Funds for the West Street Industrial Park Project – Additional Storm Drain Funds**  
Re: Considering the appropriation of $246,762.07 from the Storm Drain Master Plan Payback account to finance the extension of master plan storm drain facilities to the OHV Track and Drainage Reservoir.

16. **Open Escrow – Davick Dev. Corp. (James Choate) Property**  
Re: Authorizing the opening of escrow, and payment in the amount of $195,000 from the Water Replacement Fund for the purchase of a 1.9 acre site and pipeline easements located generally north of Putnam Avenue, and east of Tulsa Street, bounded by the City/County line to the north.

17. **Proposal for GASB 34 City Infrastructure Inventory and Valuation Services**  
Re: Authorizing staff to utilize the solicitation of proposals conducted by the City of Tulare in the selection of the firm of CBIZ Accounting, Tax & Advisory, LLC to perform the appraisal and reporting as required by the Governmental Accounting Standards Board (“GASB”).

18. **Amendments to Employee Pay and Benefit Plan, and Employee Retirement System**  
Re: Adopting resolution approving amendments covering matters pertaining to wages, benefits and working conditions with the Porterville City Employees Association (“PCEA”) representing the General Series employees.

19. **Brown Act and Ethics Seminar for Public Officials**  
Re: Confirming the scheduling of a refresher seminar on ethics, the California Public Records Act, financial conflict of interest laws, and open meeting laws to be conducted by Michael Jenkins, and authorizing the approximate expenditure of $3,000 for same.

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

20. **Budget Adjustment/Citizens’ Option for Public Safety (COPS) Program Funding**  
Re: Considering the authorization of the use of grant funds in the approximate amount of $100,000 to off-set the costs for a full-time sworn officer, the community services officer, and all necessary training and equipment costs.

Re: Considering the approval of a zone change, “D” Overlay, CUP and vacation associated with a proposed CVS Pharmacy with a drive-through to be located on the southeast corner of Olive Avenue and C Street.

22. **Conditional Use Permit 9-2007 (Mr. Iqbal Singh and Mr. Parmjit Kaur, Friendly Liquor)**  
Re: Considering the approval of a CUP to allow for the construction of a new 2,400 sq. ft. liquor/convenience store located at 814 West Olive Avenue.

23. **Conditional Use Permit 8-2007 and Tentative Parcel Map 4-2007 for that Site Located on the Southeast Corner of Main Street and Thurman Avenue (Ennis Commercial)**  
Re: Considering the approval of a CUP and TPM to allow for a four unit “air space” condominium complex in the existing two-story building located on the southeast corner of Main Street and Thurman Avenue.

24. **Authorization to Form an Underground Utility District (Rule 20B and Rule 32) – Jaye Street Corridor**  
Re: Considering the establishment an Underground Utility District along Jaye Street from State Route 190 to a point 500 feet north of Springville Avenue.

25. **Ordinance Setting Forth Comprehensive Changes to the City’s Animal Control Regulations**  
Re: Consideration of ordinance containing extensive modifications to the City’s animal control regulations including licensing requirements, vicious/dangerous dog procedures, repeat offenders, and penalties.

SCHEDULED MATTERS

26. **Youth Group Field Use Fees**  
Re: Considering report on current Field Use Fees for youth group activities in consideration of costs associated with the City providing portable toilets at sports practice fields.

27. **Appointments to Library Board of Trustees and Parks and Leisure Services Commission**  
Re: Considering submitted Requests for Appointments, and appointing two residents to the Library Board of Trustees, and three residents to the Parks & Leisure Services Commission.

28. **Acceptance of the Rails to Trails Parkway Project**  
Re: Accepting the project as complete from Central Valley Asphalt, conditioned upon staff retaining $10,991.40 for the remediation of drainage issues, and $5,000 in liquidated damages; and authorizing the filing of the Notice of Completion.
29. Intent to Vacate Sanitary Sewer and Water Easements Related to Target Store Expansion
Building Permit
Re: Considering an intent to vacate easements described in Tulare County Recorder Document
No. 92-011075 necessary for the expansion of the Target Store located on Henderson Avenue.

30. Award of Contract – “Banking Services”
Re: Considering the recommendation of the Audit Committee to set aside the merchant services
aspect of the Banking Services RFP, and selecting a banking services provider from the list of
responders.

31. Council Member Request for an Agenda Item – Consideration of Support in the Formation of
a Tulare County Cities Association
Re: Considering the request of a Council Member to support the formation of a Tulare County
Cities Association.

32. Council Member Request for an Agenda Item – Consideration of the Creation of a Youth
Commission
Re: Considering the request of a Council Member to create a Youth Commission.

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 October 30, 2007 at 6:00 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 Chief Deputy City Clerk at (559) 782-7442. Notification 48
hours prior to the meeting will enable the City to make reasonable arrangements to ensure accessibility
to this meeting and/or provision of an appropriate alternative format of the agenda and documents in the
agenda packet.
CITY MANAGER’S FEATURED PROJECTS
FOR OCTOBER 2007

1. Airport Water Inter-Tie
2. Porter – Lay Down Yard Grading
3. Completion of HVAC Installation –
   City Hall & Putnam Community Center
ORAL COMMUNICATIONS
None

SCHEDULED MATTER
1. PROJECT PROPOSAL FOR INFRASTRUCTURE AND OPERATIONAL ENHANCEMENTS

Recommendation: That the City Council provide direction to staff as to whether to proceed with the project proposed by Johnson Controls.

Deputy City Manager John Lollis presented the item and the staff report. Mr. Lollis indicated that approximately two years prior, the City had engaged with Johnson Controls in conducting a preliminary energy use analysis to determine whether the City could realize better energy efficiency. He spoke of the various components initially included, and stated that in August of 2006, the City and Johnson Controls had entered into Project Development Agreement limiting the scope to energy and water conservation issues. He stated that the proposed project was based on performance contracting, which he stated essentially meant that whatever costs were incurred in implementing the project would be paid for through realized savings due to the project, thereby making the project “cost neutral.” He went on to review the project costs and projections as identified by Johnson Controls, and elaborated further on the service contract, which Mr. Lollis indicated would be required to continue to maintain the annual savings guarantee. He stated that the guarantee was initially placed at $110,000 with the water pump component included.

He then outlined the various project components, including the following:

1. Outdoor Lighting Retrofit, including Street, Safety, and Recreational Parks;
2. Indoor Lighting Retrofit of City Facilities;
3. HVAC Retrofits and Control Improvements of City Facilities; and

Mr. Lollis indicated that if the City elected not to proceed with the proposed project, then the City would be required to remit $62,000 to Johnson Controls for the expenses incurred by them in designing the project. He stated that because there was significant expense in the project’s debt service, estimated at approximately $1.7 million per year, staff felt that the Council should consider
the project in the context of the current budget. He stated that the City had defined four options for Council’s consideration, and briefly reviewed each as follows:

1. That the City proceed with the project as proposed by Johnson Controls, identifying the cost of project financing as an individual expense in the budget (“above the line”);
2. That the City proceed with the project as proposed by Johnson Controls, with utilities expense/savings and project financing segmented by some proportion to the departments that benefit from the project;
3. That the City defer making a determination on the proposed project until January 2008, when City finances for the new fiscal year can be analyzed for feasibility (Riverwalk, building slowdown, “Freeze,” etc.); and
4. That the city make a determination to vacate the proposed project, remitting the amount of $62,000 to Johnson Controls for its expense in designing the project.

In response to a question posed by Council Member Pedro Martinez, staff elaborated on Option No. 2. It was stated that allocations pertaining to energy costs at City Hall would be the only facility that would be handled differently. A discussion ensued as to how the costs distribution between the departments would be handled.

Mr. Lollis then elaborated on the initial funding for the project. He indicated that funds had already been allocated for certain energy costs, and that the concept was that the savings that came with the efficiencies from the implementation of the project would be at least what the financing cost would be.

Council Member Pedro Martinez inquired as to when the City would realize any savings.

- Ralph Tyrell, Johnson Controls, spoke of the savings, using the example of changing a lightbulb. He stated that savings would begin immediately after screwing in the new energy efficient lightbulb, and that savings would be realized when the first electric bill was received. He stated that Johnson Controls would take a measurement of the City facilities to obtain a snapshot of its usage and to create a baseline. Upon completion of the project, another measurement would be taken. He stated those measurements would be Johnson Control’s point of reference. He stated that even prior to the end of the project, the City would be realizing savings.

In response to an inquiry made by Council Member McCracken, Deputy City Manager Lollis elaborated on the service contract. He indicated that it was optional and that in the event the City chose not to continue with it, it would give up the savings guarantee and Johnson Control’s maintenance of the system. A discussion ensued as to replacement costs for equipment. Mr. Tyrell indicated that the equipment, such as an HVAC unit, would carry a warranty. He stated that all of the City’s contact would be with Johnson Controls, and that the City would never have to deal with a manufacturer. Mr. Lollis clarified that even in the event that the City did not proceed with the service contract, Johnson Controls would still be the City’s contact for warranty issues. Mr. Lollis then stated that there were two benefits to carrying the service contract. The first being that if the City’s energy savings did not meet the $110,000 threshold, the City would be owed the amount it was short. He stated that the City could either request a check from Johnson Controls, or request
improvements to the system in that amount. Mr. Lollis suggested that the greatest risk to Johnson Controls would be in the first several years, noting that as energy costs increased, their risk would likely decrease as time went on.

Council Member McCracken then posed a hypothetical question as to what would happen if three of the City’s HVAC units became inoperable on the last day of the contract. He questioned whether Johnson Controls would replace that equipment.

- Mr. Tyrell elaborated on Johnson Control’s service contract. He indicated that annual and/or periodic maintenance would be undertaken on the systems. He stated that in the event that equipment became inoperable as a part of normal wear and tear, replacement would be covered as a part of the service contract. Mr. Tyrell stated that he would have to check further as to the exact requirements, but that his understanding was that the equipment covered by the contract would be covered for the life of the contract, and that Johnson Controls took on the risk.

Council Member McCracken indicated that this issue was substantial and he would need further confirmation. A discussion ensued as to several possible ways in which the hypothetical situation could be handled.

- Mr. Tyrell contacted a Johnson Controls engineer and inquired as to how the service contract would apply to Council Member McCracken’s hypothetical situation. He was advised that while under the full maintenance contract, Johnson Controls would replace an inoperable system, up to the end of the contract period. Mr. Tyrell then spoke of the reputation of Johnson Controls and of the science involved in the work his company performed. He stated that while the contract was the guarantee, the real guarantee was the credentials of Johnson Controls.

In response to a question from Mayor Pro Tem Felipe Martinez, Mr. Lollis confirmed that during the first year, there was a negative cash flow with the project. He noted that the savings in the first year was slightly less than the cost of the financing. He stated that the financing in the documentation before the Council was at 4.5%, yet staff was confident that a better rate could be secured, such as 4.25%.

- Mr. Tyrell then introduced Jake Pierson from Citibank. He stated that Johnson Controls worked very closely with Citibank, and that he had brought him along that evening to review a financing structure that would eliminate any negative cash flow.

- Jake Pierson, Vice President of Healthcare/Energy Finance with Citibank, indicated that Citibank had evaluated the credit of the City of Porterville, and that his bank had no problem with underwriting the transaction for $1.3 million, even up to $10 million. He stated that the rate of 4.25% was good about two months before, and that rates had since increased. He stated that if the transaction was funded that day, the rate would be approximately 4.37%. He stated that Citibank anticipated further increases in the future. He indicated that the 4.5% figure would likely be valid for approximately 30 to 60 days, and that if there was a commitment on the part of the City in the very near future, Citibank would reserve the $1.3 million, and the rate
would be 4.37%. He stated that the transaction could be structured as budget neutral from Day 1, by structuring the payments smaller in Years 1 through 7, or as needed. He stated for example that payments would be $1 in those years in which there was negative cash flow. He stated that the amount would be funded into escrow, and that the escrow earnings were approximately 4.72%, which would allow the City to accrue additional funds to help to pay down principal, and the payment schedule readjusted accordingly. Mr. Pierson indicated that Citibank had structured something similar on three different transactions, one being the City of Compton.

Mr. Lollis indicated that the California Utilities Commission was also doing those types of projects, and he recalled that if the project was completed by December 31, 2007, the rate was 4.00%; if completed by either April or July 1, 2007, the rate would be 4.25%, and if completed by December 31, 2008, the rate would be 4.5%.

- Mr. Peirson indicated that if the Council elected that evening to move forward, he would send the City a proposal in writing containing everything that had been discussed that evening. If that proposal was signed by the City by the end of the week, Citibank would reserve funds on the day he received a verbal or faxed commitment by the City. He clarified that once the funds were reserved with Treasury, that rate was locked in. Mr. Peirson then noted the volatility of the market during the past three weeks.

- Mr. Lollis suggested that another way to make the cash flow positive was to abandon the service contract, indicating that there were a number of cities that did that. It was noted that there were real costs to the services that Johnson Controls would be providing in the service contract, and that those costs would need to be absorbed someplace.

- Mr. Tyrell indicated that the service contract simply regarded how much risk the City was willing to take on. He suggested that during the first three to five years of the contract it would not be prudent for the City to go it alone. He stated that within three to five years, staff would likely have some idea as to how the enhancements were operating, and at that point, it could be feasible to terminate the service contract.

In response to a question posed by Council Member Pedro Martinez, a discussion ensued as to whether the City could self-execute the project. Parks & Leisure Services Director Jim Perrine indicated that certainly staff could change light bulbs, but spoke of challenges with staffing and expertise for tasks such as changing light fixtures, HVAC units, duct work, etc. He indicated the expertise and staff time would include design and specification work, placing the projects out to bid, awarding contracts, and performing project management during the construction period. Mr. Perrine pointed out that Johnson Controls’ proposal was turn-key and guaranteed.

- Mr. Tyrell then addressed concerns raised by Council Member Pedro Martinez with regard to adjustments to staffing levels during the construction phase of the enhancements. He stated that Johnson Controls routinely worked with the military, hospitals, prisons, airports, and other municipalities, such as their current project with the City of Tulare. He stated that Johnson Controls adjusts its schedule to accommodate their clients so as be the least intrusive as possible. He stated that
prior to commencing the work, Johnson Controls representatives would meet with City staff and determine when the work should be performed to be the least disruptive to staff.

• Mr. Peirson spoke of the relationship between Citibank and Johnson Controls. He stated that Citibank was a very conservative bank and that the only reason it was in the energy performance market was due to Johnson Controls track record and guarantee record. He indicated that there were not many banks in the energy financing business, and that Citibank had been in that business for approximately 20 to 25 years. He stated that Citibank’s credit team would not have underwritten the transaction if they believed that Johnson Controls would not guarantee the savings.

Mr. Lollis returned to reviewing the options for the Council’s consideration, pointing out that Option Nos. 1 and 2 were similar in that they both entailed proceeding with the project as proposed and differed only in terms of how the expenditures were handled, with Option 1 being handled as a City-wide expense, and Option 2 being proportioned on a department level basis. He stated that Option No. 3 proposed to defer making the decision until January 2008 during the budget review. Mr. Lollis indicated that Mr. Longley was primarily concerned with three different factors: the impact of the freeze relative to sales tax revenue over the next six to eight months; the progress of Riverwalk; and the building/construction slowdown in the community.

Council Member McCracken suggested that Mr. Longley’s concerns and preference to wait until January 2008 were based on the belief that there would be negative cash flow. He pointed out that with Citibank’s proposal, this was no longer the case. Mr. Lollis indicated that Mr. Longley’s recommendation came from a more philosophical standpoint. He stated that Mr. Longley preferred working in the concrete. He stated that while one knew what things cost, savings were more ambiguous. He indicated that Mr. Longley’s concern was that when savings were achieved, something else would fill that void. He stated that the feeling was that the project would have a cost impact because while the savings should offset the financing costs, those monies would likely find their way elsewhere. Mr. Lollis indicated that the financing cost was a real cost, despite it not having a true $100,000 or so impact.

Council Member Pedro Martinez noted that the project should allow the City to achieve some things that it could not do before. Mr. Lollis agreed, and noted that if the City did nothing, which he stated was Option No. 4, this would not be the case. An analogy of receiving a tax return was cited as an example, wherein an individual used a tax return for a down payment on a vehicle, without contemplating the future payments of that vehicle. Mr. Lollis stated that he did not think there was an argument that the savings was not going to be there, but that the concern was more of what would happen to that savings.

• Mr. Tyrell disagreed with the analogy presented. He stated that in the case of the Johnson Controls’ guarantee, it was a known annual amount of, for example, $100,000. He stated that if that amount was coming in every year, one could depend on that amount. In the case of the income tax return, the amount is variable and one could not depend on receiving the same amount. He then suggested that the discussion of the savings being intangible was confusing the issue. He stated that the City would have new lights, new HVAC units, and other tangible items. He stated
that every year those items would yield savings that the City could recognize. Mr. Tyrell went on to speak of the benefits in contracting with Johnson Controls. He stated that he understood the concern of Mr. Longley with regard to the commitment in the future for the payment for the performance contract.

Mr. Perrine stated that Southern California Edison would be receiving less compensation from the City, but that the money might be spent on something else, because there was the opportunity to spend it.

In response to a question posed by Council Member Hernandez with regard to the water meter aspect of the Johnson Controls proposal, staff indicated that the City of Porterville was approximately 98 to 99% metered, as opposed to the City of Tulare, which was the reason Tulare included the water meter portion in its project. A discussion ensued as to the higher efficiency of newer meters. Mr. Tyrell stated that Johnson Controls was available in the event that the Council wished to expand the scope of services.

Seeing that the Council had no further questions, Mr. Lollis stated that staff viewed the item as a budgetary item, and again briefly reviewed the options before the Council that evening.

Council Member Pedro Martinez requested that the item be brought back to the Council at the next Council Meeting so as to give the Mayor and Mr. Longley an opportunity to review the new information brought forward that evening. He then commented that the new financing information changed the way in which he viewed the item.

• Mr. Tyrell requested that the Council not consider Option No. 4. Mr. Lollis clarified that staff had not recommended that option. Mr. Tyrell then suggested that the City was in “analysis paralysis” and that if it elected to move forward immediately, it would not even see a bill until January 2008 anyway. He then indicated that Option No. 2 might prove to be an administrative nightmare. He stated that unless every area had a separate meter, breaking it down departmentally might be very challenging. He then suggested a hybrid idea, on perhaps a one-year trial basis, in which different areas were broken out. Mr. Tyrell then spoke in favor of the Council proceeding with Option No. 1, and reiterated his statements with regard to the benefits and savings the City would realize if it moved forward.

Mr. Perrine indicated that he understood the reasoning behind Option No. 3, but that he was uncertain as to what other equipment in City Hall would be in need of repairs in the next six months. He stated that light fixtures were becoming inoperable, and HVAC units could also follow suit. He noted that there could be real costs in keeping the equipment operational in the next six months. Mr. Rodriguez spoke of the pending award of contract to replace an HVAC unit at City Hall and inquired as to Mr. Perrine’s intentions with regard to that item if the council moved forward with the Johnson Controls Project. Mr. Perrine spoke of the benefits in having Johnson Controls perform the work, but that it depended on Council’s action, noting the need for the unit’s replacement. He indicated that items could not continue to stack up while waiting for the Johnson Controls project to address them.
Ms. Lew inquired whether Citibank would hold that rate until July 17, 2007, so as to allow for a full Council, as well as the City Manager, to be a part of the discussion and decision. Mr. Pierson indicated that he could draft a proposal which could lock in that rate until July 18, 2007. He stated that after July 18th, the rate would float upward or downward, based on the index.

Mr. Lollis indicated, that the City might also wish to determine whether the City might be able to obtain a better rate from another lender, including the California Utilities Commission.

- Mr. Tyrell spoke of the need to compare apples to apples.
- Mr. Pierson spoke of the services Citibank would provide, which he indicated would likely exceed that of other lenders, based on Citibank’s relationship with Johnson Controls. He then stated that Citibank might be able to syndicate portions of the financing to a local bank in Porterville to assist the community. In response to a question posed by Council, Mr. Pierson elaborated on the process to initiate the financing, which began with a written agreement. He then suggested that the City confirm that the funds were actually available from the Commission, stating that several cities had been committed funds, yet no funds had been released. Mr. Pierson indicated that he would draft the proposal and get it to Mr. Tyrell who would then provide it to the City.

The Council concurred that the item would be brought back before the Council at its meeting on July 17, 2007.

ORAL COMMUNICATIONS
None

OTHER MATTERS
None

ADJOURNMENT
The Council adjourned at 6:50 p.m. to the Council Meeting of July 10, 2007 at 6:00 p.m.

Patrice Hildreth, Deputy City Clerk

SEAL

Cameron Hamilton, Mayor
Call to Order at 7:00 p.m.
Roll Call: Council Member McCracken, Mayor Pro Tem Felipe Martinez, Council Member Hernandez, Mayor Hamilton
Absent: Council Member Pedro Martinez

Pledge of Allegiance led by Mayor Cameron Hamilton
Invocation – a moment of silence was observed.

**ORAL COMMUNICATIONS**

- Ralph Herrera, a resident of Visalia and paramedic with AMR, voiced support for the consolidation in ambulance services. He stated that the current system was company-based rather than patient-based and in dire need of change. He suggested that many problems existed with the current system, such as by-passing the 9-1-1 system for seven-digit numbers, which he alleged hindered the response time for personnel to the emergency. He stated that patients did not receive the closest ambulance, but rather received the ambulance next up on rotation. He suggested that patients did not receive the best care, and often times received care with used equipment. He stated that the system was currently based on revenue rather than patient care. He requested that the Council support the proposed change.

- Dick Eckhoff, business address of 197 North Main Street, spoke against the proposed consolidation of ambulance services. He voiced concern with the government dictating where a business could operate. Mr. Eckhoff inquired as to whether there were response time issues, and suggested that if issues existed in the current system, they could likely be addressed in a multi-provider system. He spoke in favor of finding a resolution in the current system, rather than creating a monopoly and depriving other companies the ability to operate in the area.

- Brett Ketchings, 1897 West Tomah, spoke of his experience in emergency services most currently as a part-time employee with an ambulance provider in Porterville. He spoke in favor of consolidation and of its benefits, noting his experience in Kings County. He voiced concern with response times and commented that the decision should be patient-based, not company-based. He then questioned the ability of creating faster response times with the current system. He requested that the Council base its decision on what’s best for the patients and not what’s best for any particular company.

- Scott Scheer, Human Resource Manager with Imperial Ambulance Company, came forward and reiterated his comments previously made to the Council at its meeting on August 21, 2007. He spoke of efforts underway in the current system to provide for response by the closest available unit. In response to comments made previously that evening, he stated that Imperial Ambulance only re-used equipment that could be properly cleaned and sanitized, and this practice was common in the industry. He
requested the Council’s continued support of Imperial Ambulance Company, noting its presence in the community since 1960.

SCHEDULED MATTERS

1. PROPOSED CONSOLIDATION OF AMBULANCE SERVICES IN TULARE COUNTY

Recommendation: That the Council provide direction to the Council.

City Manager John Longley presented the item and the staff report. Mr. Longley noted the presence of Tulare County Director of Health & Human Services Ray Bullick, and suggested that Mr. Bullick might be interested in coming forward to address the Council. He indicated that the City currently had in place certificates of necessity for ambulance provision which were administered through the Fire Chief’s office. He stated that this system had been in place for some time and how it related to State law was currently being researched by the City Attorney, and that within the next week, a report including options for the Council’s consideration would be provided.

Mayor Pro Tem Felipe Martinez commented that he had received numerous telephone calls on the issue and that he could not see how the City could benefit from consolidating ambulance services. He inquired as to the areas currently covered by ambulances in Porterville.

• Scott Scheer, Imperial Ambulance, came forward and indicated that due to the change in the City of Lindsay, the northern boundary for initial response was Avenue 216. He stated that the eastern boundary went to the mountain ridge line, the southern boundary was approximately to the County line, and the western boundary was approximately to Road 152. He confirmed that the Woodville was covered by Porterville based ambulances.
• Ralph Herrera, AMR, came forward and indicated that AMR’s boundaries were the same as Mr. Scheer had stated.

Council Member McCracken noted that the proposed resolution requested that the County exclude the City limits of Porterville, and inquired what would happen with the outlying areas.

Council Member Hernandez voiced dismay with what he perceived was a double standard with regard to the County’s actions regarding medical service. He noted that the County was quick to dictate ambulance services under the guise of benefitting patients, but had no difficulty in closing Porterville’s Clinic over financial concerns.

Mayor Pro Tem Felipe Martinez inquired about how patients redirected from the Clinic to Sierra View would be handled, and requested that Mr. Bullick come forward to address his and Council Member McCracken’s questions.

• Ray Bullick, Tulare County Director of Health & Human Services, indicated that the County’s Medical Director had been having discussions with the medical staff in Porterville to discuss the transfers of Tulare County Medical Services patients. With regard to Council Member McCracken’s question pertaining to services for outlying areas, Mr. Bullick requested that Mr. Dan Lynch of CCEMSA come forward.
Dan Lynch, Director of Emergency Medical Services for Central California Emergency Services Agency, indicated this one of the things that his Agency looked at was looking for a single provider who had the resources available to provide services to areas that normally wouldn’t get those level of services. He stated that if Porterville were cut out of the equation, as was suggested, providing services to its surrounding areas would prove very difficult. He stated that when a single provider system was initiated, the County, with input from the cities, would indicate what it wanted the EMS system to look like. He then spoke of the ability of the single provider to subcontract with other providers.

Mayor Hamilton voiced concern with forced compliance through monopolization, and State legislation that made that monopoly legal. He then suggested that if one provider was awarded the contract with the County, that provider could dictate any terms and conditions to a subcontractor, since it already had a monopoly. He inquired how the other ambulance providers would be protected from that type of manipulation.

Mr. Lynch indicated that with regard to the Mayor’s comment on monopolization, Health & Safety Code Section 1797.224 provided the County, through referral to the EMS Agency, to create an “exclusive operating area.” He stated that an exclusive operating area was a legal term for a legal monopoly, and it essentially provided that if the County went through a competitive bid process, it could license only one ambulance for a geographical area. He then spoke of the process, indicating that it was first submitted to the State prior to County approval, and that the State then reviewed its terms, and if it met all the State’s requirements, the plan was then protected by the State by anti-trust law.

Mayor Hamilton noted that if the County moved forward, many smaller providers would be excluded, and that the County knew that. He reiterated his concerns with the single provider manipulating the smaller providers through sub-contracting and inquired how those smaller companies would be protected.

Mr. Lynch indicated that the smaller companies were not protected from that. He stated that it was not a problem, indicating that when the County issued the RFP, it would be for the system the County wished to have. He stated that only those companies that could provide that level of service should apply, and that Tulare County would never meet the required level of service under the current system.

Mayor Hamilton commented that under the current system Porterville residents were experiencing great coverage, and suggested that under the proposed system, service levels could drop. He suggested that Porterville would likely be funding service to smaller communities, and inquired whether the City would have a guarantee that its level of service would not drop.

Mr. Lynch stated that there was no guarantee in the current system. He then went on to speak of the volatile nature of the business, noting the effects of loss of revenues for ambulance providers due to changes in Medicare reimbursements. He commented
that a problem with the current system was that it was built around what the providers could provide to the system rather than what the County required from the providers. He stated that CCEMSA wanted to implement a system in which a company would be required to perform at a certain level, and that the billing rates would support that service level. He spoke of the State standard of responding within eight minutes, ninety percent of the time, and the need for providers to meet that standard. He stated that currently there were no response time standards in Tulare County. Mr. Lynch spoke of the antiquated systems in Tulare County and of the significant issues CCEMSA had to initially address. He stated Tulare County was the only County in the State that did not have paramedics, and had multiple dispatch centers for ambulance services. He stated that with the assistance of the ambulance providers, paramedics were put into place as of February, noting that there were no longer EMT IIs, only paramedics on the Valley floor. He stated that additionally, all EMS calls presently went through one dispatch center, and noted the significance of that accomplishment. He stated that one issue that could not be addressed was the structure of the ambulance contracts. He stated that the contracts provide exclusivity in many areas of the County and that some providers currently held monopolies in many jurisdictions in Tulare County. He suggested that the contracts locked in a level of service at that time, and spoke of the complexity with regard to the contracts. Mr. Lynch indicated that no contracts in the County of Tulare had any requirements for response time. He stated that the Porterville providers had not met their response times in May and June of that year, and indicated that there were no consequences, since there was no contractual obligation to do so. In response to a question posed by Mayor Hamilton, Mr. Lynch indicated that CCEMSA collected the statistics from the Tulare County Consolidated Ambulance Dispatch Center, and that the information was available to the public.

Council Member McCracken commented that Mr. Lynch spoke of the volatility in ambulance services due to government involvement related to Medicare reimbursements, yet pointed out that CCEMSA was proposing further government involvement. He stated that this bothered him. He stated that he had yet to hear that a single ambulance provider would solve all of the problems. He then inquired about what would happen if the response times decreased with a single provider.

Mayor Hamilton suggested that fines would be imposed, and the revenue generated would be utilized in areas more favored by the County.

- Mr. Lynch responded that Mayor Hamilton’s suggestion was incorrect. He stated that the proposed system was used in most areas in the State of California, and throughout the United States. He stated that with the proposed performance-based contract, it didn’t matter how hard the provider tried to meet the standards, the provider simply needed to meet the standards. He stated that if the provider’s level of service fell below the standard, it would be fined. If there was continued lack of performance, then the provider’s contract would be terminated. He stated that there were large ambulance companies that would love to get into Tulare County. He suggested that the providers would likely comply and not readily relinquish their contracts. Mr.
Lynch indicated that in Kings County providers were fined up to $15 for every minute late to a call. He stated that if they dropped below 95%, they were charged $100 for every 10th of a percentage they fell below. He stated that if they failed their percentage marks for a period of three consecutive months, the provider would be in material breach of the contract. He stated that had never happened in his jurisdiction, which was Fresno and Kings Counties. He stated that the revenue generate from those fines were disbursed to the first responder agencies, like the Fire Departments, which had a burden of cost in providing some first responder services.

Mayor Hamilton commented that the revenue from the fines belonged to the tax payers and not to the Fire Departments.

Mayor Pro Tem Felipe Martinez inquired as whether other options were being considered with regard to the proposed consolidation of ambulance services.

- Mr. Lynch indicated that CCEMSA had only looked at a single provider system because it believed it would be the strongest, most efficient way to provide the best level of care to the people of Tulare County. He stated that there were areas in the County that performed better than other areas in the County, but he was uncertain as to whether the Council was aware that Porterville might not be one of those areas that performed at the same level as other areas of the County. He stated that this might be one of the areas that had poor response times, and that it possibly had not been brought to the Council’s attention. He suggested that other areas of the County might be getting better service than the residents of Porterville, and that his Agency believed that the City of Porterville deserved a higher level of service. He stated that his job as the Director of CCEMSA to ensure that all areas received a high quality of service.

Mayor Hamilton spoke of the lack of communication with regard to the proposal, indicating that Porterville had not been included in the process. He stated that if Porterville did in fact have inadequate levels of service as Mr. Lynch alluded might be the case, this was also a problem, since this would be the first that the Council had heard of it. He stated that he was advised by Supervisor Ishida a few months prior that the ambulance providers were to have met to work on ways to resolve the issues with the current system, but that the item before the Board of Supervisors was not what had been represented. He then inquired as to how many ambulance providers would be able to handle Tulare County as a single provider.

- Mr. Lynch indicated that his Agency was aware of approximately 12 ambulance companies in the State of California that could handle Tulare County quite easily.
- Mr. Bullick came forward and indicated that he had made an effort to contact all of the cities, and stated that he had initial meetings with local City Managers. He stated that because he had not heard from the City of Porterville, he had contacted the City to determine whether the City would be interested in having a presentation. He stated that he never received a response, until his office received word about the meeting that evening. He apologized that the City had not heard an advance presentation, but that he thought they had made every effort to inform the City of Porterville. He stated
that with regard to his recommendation to the Board, he stated that if read closely, it did not exclude the Board from giving direction to work with the existing nine companies to come up with a joint plan that would meet the level of standard. He stated that if the companies could meet and work together, the Board could possibly entertain that. He stated that during the meeting with the ambulance providers and Supervisor Ishida, it was made clear that if the providers did not work together, the Board would have only one other option.

Mayor Hamilton spoke of a Fresno Bee article in which Mr. Bullick was quoted as wanting to go to the RFP as soon as September.

• Mr. Bullick stated that his comments at the Visalia City Council Meeting related to a proposed time frame. He stated that he was speaking in terms of how quickly the expectations could be defined for the system, of which the RFP would be a part.

Mayor Hamilton indicated that Supervisor Ishida indicated to him that the Board would not be taking any action at their upcoming meeting, and that perhaps the City might be premature in presenting a resolution opposing or supporting the program at that time.

Council Member McCracken spoke of the proposed resolution which requested excluding the City of Porterville. He inquired whether limiting Porterville’s two providers to the area of the City limits would allow the companies to continue to function.

• Ralph Herrera, AMR, came forward and indicated that approximately only 44% of the calls were in the City of Porterville, leaving 66% of the calls outside of the City limits. He then stated that because of the City’s ordinance, AMR was restricted to only responding to 33% of the calls in the City of Porterville, which he stated was part of the problem that AMR had. He stated that the City’s ordinance prohibited AMR’s growth.

Mayor Hamilton spoke against the proposed consolidation, stating that it went against the American dream.

• Scott Scheer, Imperial Ambulance, stated that while he was not a shareholder in the company, he indicated that Imperial would likely not be opposed to the idea of working within the city limits. He then rebutted the comments made by Mr. Lynch with regard to service levels in May and June. He spoke of allowed exemptions due to circumstances beyond the control of the ambulance providers, and stated that according to the report that he had on his person, Imperial and AMR were both meeting the standards. He stated that in May, Imperial Ambulance’s response rate was 85% before exemption, and 95.32% after exemptions. In June, Imperial’s response rate was 92.31% after exemptions. He stated that AMR’s rate, after exemptions, for May was 93.69%, and 92.5% in June. He stated that Porterville’s ambulance providers were making their times.
In response to a request for clarification as to the recommendation before the Board of Supervisors at the upcoming meeting, a discussion ensued during which Mr. Bullick indicated that one of the possibilities was proceeding on a dual track as had been previously discussed by Supervisor Ishida. Mr. Bullick stated that Supervisor Ishida had suggested that if the current ambulance providers wished to get together to form some type of a coalition to act in unison as a single provider and could meet all of the requirements that CCEMSA was seeking, that would certainly be an option. He stated that concurrently CCEMSA would continue working on development of the standards, which would be needed in any case.

Mayor Hamilton inquired why CCEMSA could not directly contract with the various ambulance operators and require those same standards without going to a single provider system. Mr. Lynch spoke of the limitations due to current monopolies existing in various areas, and other contracts in place. A discussion ensued during which Mayor Hamilton voiced concern that the proposed change was primarily driven by a desire to force coverage in rural areas. Mr. Bullick commented that coverage was a factor, as was response times and billing rates. Mr. Bullick then spoke of challenges in requiring the ambulance providers to sign contracts with CCEMSA as was suggested by Mayor Hamilton, noting that in many cases, if the providers signed a contract with CCEMSA, they would lose the exclusivity of the area they currently served. Mayor Hamilton then voiced concern with the fact that the option of having the ambulance providers work together for a solution was not included as an option in the County staff’s recommendation.

Council Member Hernandez moved that the Council adopt a resolution opposing the consolidation of ambulance services in the City of Porterville.

Mayor Pro Tem Felipe Martinez seconded the motion.

Council Member McCracken inquired whether the Council wished to amend the motion to include that other alternatives be considered.

Mayor Hamilton commented that he did not believe that language needed to be added to the resolution, but that he would convey that message at the Board of Supervisors’ Meeting.

Council Member McCracken moved to amend the motion to revise the resolution to require that other alternatives be considered other than a single provider system.

Mr. Longley indicated that the insertion of such language would completely change the resolution before the Council. He stated that the draft resolution requested that the County exclude the City limits of Porterville from any action taken towards the consolidation of ambulance services. He stated that the resolution did not address what occurred outside of the City limits, and noted that the title of the resolution should be amended to read, “A Resolution of the City Council of the City of Porterville Opposing the Consolidation of Ambulance Services in the City of Porterville.”

Council Member McCracken withdrew his motion.

Council Member Hernandez restated his motion to be that the Council approve the resolution opposing the consolidation of ambulance services in the City of Porterville.
COUNCIL ACTION: MOVED by Council Member Hernandez, SECONDED by Mayor Pro Tem Felipe Martinez moved that the Council approve the resolution opposing the consolidation of ambulance services in the City of Porterville.

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

Disposition: Approved.

ORAL COMMUNICATIONS
• Dick Eckhoff, address on record, clarified that his home address was 33352 Globe Drive in Springville, and commented that he had not encountered any problems with response times by the local ambulance providers there. He then spoke favorably of both providers, and voiced opposition to the government dictating a monopoly. He voiced concern with the suggestion made that evening that Porterville area response times were lacking, when it appeared that documentation proved otherwise. He spoke against a single provider system, stating that it would likely average response times, with some areas improving, and others decreasing.

OTHER MATTERS
• Mayor Hamilton thanked all of the emergency services personnel for the work that they did and indicated that they all had his support.
• Mayor Pro Tem Felipe Martinez also thanked the emergency services personnel for their hard work.
• Elisia Florez, 32012 Success Valley Drive, came forward and commented that appreciation was shown by pay.
• Council Member McCracken spoke of the difficulties in averages in that they didn’t recognize the extremes.
• Council Member Hernandez also acknowledged the hard work of the emergency services personnel.
• Mayor Hamilton stated that the City of Porterville had given its first responders a 46% increase in the last seven years, and that the City of Porterville did appreciate them.

ADJOURNMENT
The Council adjourned at 8:15 p.m. to the Council Meeting of September 4, 2007.

Patrice Hildreth, Acting Chief/Deputy City Clerk

Cameron Hamilton, Mayor
SUBJECT: CLAIM - DENNIS E. CONNOR

SOURCE: Administration

COMMENT: Mr. Dennis E. Connor has filed a claim against the City in an amount of $234.41 for reimbursement for damage to his mailbox. Claimant alleges that his mailbox was stuck by the arm of a City refuse vehicle while his trash was being emptied on July 1, 2007 at 1331 North Highland Drive.

RECOMMENDATION: After consideration and investigation, staff recommends that the Council reject said claim; refer the matter to the City's insurance adjustor; and direct the City Clerk to give the Claimant proper notification.
CLAIM AGAINST (Name of Entity: CITY OF PORTERVILLE)

Claimant's Name: DENNIS E. CONNER
Claimant's Address: [redacted]
Claimant's Telephone No. (Home): [redacted] (Work): retired

Address where notices about claim are to be sent, if different from above:

Date of incident/accident: Monday, July 1, 2007
Date injuries, damages, or losses were discovered: Monday, July 1, 2007
Location of incident or accident: mailbox at curb of 1331 N. Highland Dr.

What did entity or employee do to cause this loss, damage, or injury? top of mailbox struck by hydraulic arm of garbage truck

What are the names of the entity's employees who caused this injury, damage, or loss (if known): not known

What specific injuries, damages, or losses did claimant receive? new mailbox (2 weeks old) was damaged by blow to top of box-bent and difficult to open and close.

What amount of money is claimant seeking or, if the amount is in excess of $10,000, which is the appropriate court of jurisdiction. Note: If Superior and Municipal Courts are consolidated, you must represent whether it is a "limited civil case" [see Government Code 910(f)].

$234.41 (box only, plus tax) - custom ordered mailbox

How was this amount calculated (please itemize): From invoice (see copy of billing) plus tax - 7.8%

Date Signed: 7/18/07 Signature: DENNIS CONNER

If signed by representative:
Representative’s Name __________________________ Telephone: __________________________
Address # __________________________
Relationship to Claimant __________________________
**SPECIAL ORDER #955249**

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**TAXABLE** 610.85
**NON-TAXABLE** 0.00
**SUBTOTAL** 610.85

658.19 **PRIOR DEPOSIT**

**TERMS & CONDITIONS ON REVERSE OF THIS INVOICE OR BID**
**TAX AMOUNT** 47.34
**TOTAL AMOUNT** 658.19
SUBJECT: CLAIM - MARIA OLIVEROS

SOURCE: Administration

COMMENT: Ms. Maria Oliveros has filed a claim against the City in an amount of $2,720 for reimbursement for property loss. Claimant alleges that officers from the City of Porterville Police Department caused damages to her home on September 11, 2007 at 379 South B Street during the execution of a search under a Search Warrant.

RECOMMENDATION: After consideration and investigation, staff recommends that the Council reject said claim; refer the matter to the City's insurance adjustor; and direct the City Clerk to give the Claimant proper notification.
CLAIM AGAINST (Name of Entity: CITY OF PORTERVILLE)

Claimant's Name: Maria Oliveros
Claimant's Address:
Claimant's Telephone No. (Home) (Work)

Address where notices about claim are to be sent, if different from above: Same

Date of incident/accident: 09/11/07
Date injuries, damages, or losses were discovered: 09/12/07 - 09/14/07
Location of incident or accident: 399 S. B St. ENTRANCE HOME

What did entity or employee do to cause this loss, damage, or injury? OFFICERS ISSUED SEARCH WARRANT AT MY HOME AND DESTROYED NUMEROUS ITEMS PLEASE SEE ATTACHMENT.

What are the names of the entity's employees who caused this injury, damage, or loss (if known):

PORTERVILLE POLICE

What specific injuries, damages, or losses did claimant receive? LOSS OF LOTS OF PROPERTY PLEASE SEE ATTACHMENT

What amount of money is claimant seeking or, if the amount is in excess of $10,000, which is the appropriate court of jurisdiction. Note: If Superior and Municipal Courts are consolidated, you must represent whether it is a "limited civil case" [see Government Code 910(f)].

$2,720.00

How was this amount calculated (please itemize): PLEASE SEE ATTACHMENT

Date Signed: 09/14/07 Signature: Case # 07-7869

If signed by representative:
Representative's Name Telephone:
Address #
Relationship to Claimant
Property Damage. case #01- 7862

DVD/VCR $80.00
Direct TV Box Receiver $300.00
Playstation Control (1) $50.00
Nintendo 64 control (1) $50.00
Motor Trend™ Battery Charger $150.00

10) Playstation 2 Games $300.00

1) Rim Low Rider Bike $60.00

Cracked Body Mini Ninja Motorcycle $150.00
Black & Decker Jigsaw $60.00
600° children's clothing w/gas $600.00

2) FANS

1) Front Fender Low Rider Bike $40.00

Bratz Collection broken $200.00

Pictures Destroyed price less

Board Games (4) $80.00
TimeLine CD Collection (have Bill) $280.00
Remote Control Truck & Remote $100.00

PlayStation 1 $140.00

$ 2,720.00
SUBJECT: CLAIM - AJIT PANNU

SOURCE: Administration

COMMENT: Mr. Ajit Pannu has filed a claim against the City in an amount of $802.47 for reimbursement for property damages. Claimant alleges that officers from the City of Porterville Police Department caused damages to his property on August 16, 2007 when they forced entry into his rental unit at 1923 West Roby, Apt. B, to execute a search warrant.

RECOMMENDATION: After consideration and investigation, staff recommends that the Council reject said claim; refer the matter to the City's insurance adjustor; and direct the City Clerk to give the Claimant proper notification.
CLAIM AGAINST (Name of Entity): CITY OF PORTERVILLE

Claimant's Name: AJIT S. PANNU

Claimant's Address: PORTERVILLE, CA 93257

Claimant's Telephone No. (Home) (Work)

Address where notices about claim are to be sent, if different from above: SAME

Date of incident/accident: 8-16-2007

Date injuries, damages, or losses were discovered: 8-17-2007

Location of incident or accident: 1993 W. ROBY AVE APT. 1 B, PORTERVILLE, CA.

What did entity or employee do to cause this loss, damage, or injury? PORTERVILLE POLICE AP RAIDED THE APT. AND BUSTED ENTRY DOOR AND BEDROOM DOOR

(Use back of this form or separate sheet if necessary to answer this question in detail.)

What are the names of the entity's employees who caused this injury, damage, or loss (if known):

PORTERVILLE POLICE

What specific injuries, damages, or losses did claimant receive? POLICE RAIDED THE APT. AND BUSTED ENTRY DOOR AND BEDROOM DOOR (SEE ATTACHED)

(Use back of this form or separate sheet if necessary to answer this question in detail.)

What amount of money is claimant seeking or, if the amount is in excess of $10,000, which is the appropriate court of jurisdiction. Note: If Superior and Municipal Courts are consolidated, you must represent whether it is a "limited civil case" [see Government Code 910(f)].

$ 802.47

How was this amount calculated (please itemize): SEE HOME DEPOT ESTIMATE

ATTACHED

(Use back of this form or separate sheet if necessary to answer this question in detail.)

Date Signed: 8-22-2007 Signature: AJIT S. PANNU

If signed by representative:
Representative's Name Telephone:

Address:

Relationship to Claimant
### MERCHANDISE AND SERVICE SUMMARY

**INSTALLER DELIVERY #1**

**STOCK MERCHANDISE TO BE DELIVERED:**

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**DELIVERY INFORMATION:**

- **DELIVERY DATE: INSTALLER WILL SCHEDULE**
- **INSTALLER WILL DELIVER MDSE TO:** SITE OF INSTALLATION #103 AT TIME OF INSTALLATION

**MERCHANDISE TOTAL:**

$236.00

### INSTALLATION #1

**NOTE: THESE SERVICES ARE LINKED TOGETHER**

**MERCHANDISE TO BE INSTALLED:**

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**NOT VALID FOR MERCHANDISE CALL-OUT**

**THIS SERVICE IS PART OF THE FOLLOWING INSTALL**

---

***CONTINUED ON NEXT PAGE***
INSTALLATION #1
(Continued)

INSTALLATION SITE NAME: PANNU, AJIT
ADDRESS: 2474 W. MEMORY LANE
CITY: PORTERVILLE
STATE: CA
ZIP: 93257
COUNTY: TULARE
SALES TAX RATE: 8.250
TAX: Merchandise - Y
LABOR - N
PHONE: (559) 784-0575
ALTERNATE PHONE: (559) 788-9073

INSTALLER DELIVERY CHARGE: $50.00
INSTALL LABOR CHARGE: $367.00
TRIP CHARGE: $0.00
CREDIT FOR DEPOSIT/MEASURE: $0.00
INSTALL TOTAL DUE: $417.00

BASIC INSTALLATION LABOR INCLUDES:

...REMOVE EXISTING DOOR UNIT
...INSTALL NEW SLAB OR PRE-HUNG EXTERIOR DOOR UNIT
...INSTALLER TO PROVIDE NECESSARY FASTENERS, SHIMS AND
   CAULKING
...INSTALL LOCKSET, DEADBOLT AND/OR HANDLESET (CUSTOMER
   PROVIDES) NOTE: SOME HARDWARE CANNOT BE INSTALL ON
   SPECIFIC DOORS OR STEEL DOOR UNITS
...ADJUST DOOR TO ENSURE PROPER OPERATION

...INSTALL NEW INTERIOR CASING AND EXTERIOR TRIM/BRICKMOLD
   (CUSTOMER PROVIDES)
...INCLUDE NON-COLORED STUCCO PATCH UP TO 8" FROM JAMB, WHEN
   APPLICABLE
...JOBSITE CLEAN-UP AND INSPECTION OF FINISHED JOB WITH
   CUSTOMER
...JOBSITE CLEAN-UP AND INSPECTION OF FINISHED JOB WITH
   CUSTOMER

UNLESS STATED ABOVE THIS INSTALLATION DOES NOT INCLUDE:

...INSTALL DOORS OVER 96" IN HEIGHT OR 72" IN WIDTH
...INSTALL FIXED ARCHED TRANSOM LITE IN EXISTING OPENING
...REPAIR CARPENTRY TO EXISTING OPENING (LIMITATIONS APPLY -
   SEE SPECIAL NOTES)
...FERRY OR TOLL CHARGE

...STRUCTURAL WORK
...PAINTING OR STAINING
...PLASTER, DRYWALL OR SIDING WORK
...RE-INSTALL EXISTING CASING OR BRICKMOLD
...DISCONNECT AND RECONNECT SECURITY SYSTEMS/WIRING

SPECIAL NOTES:

***HOW THE PROCESS OF PURCHASING AN INSTALLATION WORKS:

1. SELECT NEEDED MERCHANDISE WITH A HOME DEPOT ASSOCIATE.
2. BASED ON YOUR ESTIMATE OF THE DOOR'S DIMENSIONS, WE WILL
   ESTIMATE THE TOTAL COST OF YOUR INSTALLATION. IF
   ACCEPTABLE, YOU WILL PAY A FEE FOR AN INSTALLER TO
   CONDUCT A SITE INSPECTION PRIOR TO PROCESSING YOUR ORDER.
3. THE INSTALLER WILL SCHEDULE THE JOBSITE INSPECTION TO
   *** CONTINUED ON NEXT PAGE ***

...YOU WILL HAVE TO IMMEDIATELY PAINT OR STAIN ALL DOORS AND
TRIM SURFACES TO MANUFACTURER'S SPECIFICATIONS ON
UNFINISHED OR PRIMED MATERIAL.
...UNFINISHED WOOD OR OTHER DOOR MATERIAL CAN SPLIT, WARP,
OR DETERORIATE IF NOT PROPERLY FINISHED. FAILURE TO DO
THIS CAN VOID THE PRODUCT WARRANTY AND WE CANNOT
GUARANTEE THE INSTALLATION. REFER TO PRODUCT MANUAL FOR
SPECIFIC WARRANTY AND MAINTENANCE INFORMATION.
VERIFY THE WORK AND MATERIAL REQUIRED. AFTER THE
INSPECTION, WE WILL UPDATE YOUR QUOTE. NOTE: THIS AMOUNT
CAN CHANGE DUE TO SPECIFIC CONDITIONS WITH YOUR
INSTALLATION.

4. WE WILL ORDER YOUR MATERIAL (IF IT IS SPECIAL ORDER)
AFTER YOU PAY THE BALANCE OF THE PRICE FOR MATERIAL AND
INSTALLATION. WE WILL GIVE YOU AN ESTIMATED LEAD-TIME
THAT MAY CHANGE BASED ON THE AVAILABILITY OF THE PRODUCT.

5. ONCE THE MERCHANDISE IS AVAILABLE FOR INSTALLATION, THE
INSTALLER WILL CONTACT YOU WITHIN TWO WORK DAYS AND SET
A DATE FOR THE INSTALLATION.

***BEFORE YOUR INSTALLATION:

...IF YOU HAVE AN ALARM SYSTEM, YOU MUST HAVE IT
DISCONNECTED BEFORE THE INSTALLATION BEGINS. ALSO, IT
WILL NOT BE RECONNECTED AS PART OF THIS INSTALLATION
...ELECTRICITY MUST BE ACCESSIBLE TO THE WORK AREA.

***DURING YOUR INSTALLATION:

...AN ADULT OVER 18 YEARS OF AGE WITH THE AUTHORITY TO MAKE
DECISIONS ABOUT YOUR INSTALLATION MUST BE PRESENT DURING
THE JOBSITE INSPECTION AND INSTALLATION
...CHILDREN AND PETS MUST BE KEPT AWAY FROM THE WORK AREA.
...IT MAY BE NOISY DURING THE INSTALLATION OF YOUR DOORS.
...THE INSTALLER WILL BROOM CLEAN THE IMMEDIATE WORK AREA
BEFORE COMPLETING THE INSTALLATION. AIRBORNE DUST IN
OTHER PARTS OF THE HOME IS A NATURAL OCCURRENCE AND IS
THE RESPONSIBILITY OF THE CUSTOMER.

***OTHER INSTALLATION EXPECTATIONS:

...CANCELLING APPOINTMENTS WITH INSTALLERS OR MISSING
SCHEDULED APPOINTMENTS WILL LEAD TO ADDITIONAL CHARGES.

...IF UNFORESEEN LABOR IS NEEDED (E.G., REPAIR DAMAGE FROM
WATER OR TERMITES, ELECTRICAL OR PLUMBING PROBLEMS),
THERE WILL BE EXTRA CHARGES. IN SOME CASES, THIS LABOR
MAY NOT BE AVAILABLE FROM HOME DEPOT AND THE CUSTOMER
MUST HIRE THEIR OWN CONTRACTOR TO COMPLETE THE WORK.

...THE INSTALLER WILL PROVIDE THE MANUFACTURER'S PRODUCT
MANUAL AND WARRANTY CARD TO THE CUSTOMER. PLEASE REFER
TO THIS FOR WARRANTY REQUIREMENTS AND MAINTENANCE
RECOMMENDATIONS.

***SERVICES NOT AVAILABLE WITH THIS INSTALLATION PROGRAM:

...ELECTRICAL WORK
...PAINTING OR STAINING OF DOORS AND TRIM MOLDINGS
...WORK ON SUNDAYS OR HOLIDAYS
...RE-INSTALL EXISTING INTERIOR OR EXTERIOR FINISH MOLDINGS
...STRUCTURAL WORK - REPAIR, INCREASE OPENING SIZE, ETC.
### INSTALLATION #1

<table>
<thead>
<tr>
<th>SKU</th>
<th>DESCRIPTION</th>
<th>QTY</th>
<th>UM</th>
<th>TAX</th>
<th>PRICE EACH</th>
<th>EXTENSION</th>
</tr>
</thead>
<tbody>
<tr>
<td>219-66B</td>
<td>INTERIOR DOORS (NATIONAL) PRE-HUNG - UP TO 36&quot;x96&quot;x13/8&quot;</td>
<td>1.00</td>
<td>EA</td>
<td>N</td>
<td>$130.00</td>
<td>$130.00</td>
</tr>
</tbody>
</table>

**Installation Site Name:** PANNU, AJIT

**Address:** 2474 W. MEMORY LANE

**City:** PORTERVILLE  **State:** CA  **Zip:** 93257

**County:** TULARE  **Sales Tax Rate:** 8.250  **Tax:** Merchandise - Y  **Labor** - N

**Phone:** (559) 784-0575  **Alternate Phone:** (559) 788-9073

**Basic Installation Labor includes:**
- Removal of existing interior door
- Installation of new interior pre-hung or slab door-up to
- 36"x96"x13/8" on ground floor or second story
- Normal install includes hollow core, solid core, French and specialty wood doors
- Install new moulding on pre-hung unit (customer provides same size and style as existing moulding being replaced)
- For slab doors, install of hinges, non mortise hardware

**BASIC INSTALLATION LABOR INCLUDES:**
- And boring lockset (customer provides hardware and new hinges if desired)
- For pre-hung doors, install non-mortise hardware/lockset
- Adjust door to ensure proper operation
- Jobsite clean up and inspection of finished job with customer

**UNLESS STATED ABOVE THIS INSTALLATION DOES NOT INCLUDE:**
- Plaster, drywall or siding work
- Re-install existing casing on interior and exterior of opening
- Disconnect and reconnect security systems/wiring
- Major cutdown to top or bottom of door in excess manufacturer’s specifications

---

***CONTINUED ON NEXT PAGE***
SPECIAL NOTES:

...YOU WILL HAVE TO IMMEDIATELY PAINT OR STAIN ALL DOOR AND TRIM SURFACES TO MANUFACTURER’S SPECIFICATIONS ON UNFINISHED OR PRIMED MATERIAL. UNFINISHED WOOD OR OTHER DOOR MATERIAL CAN SPLIT, WARP, OR DETERIORATE IF NOT PROPERLY FINISHED. FAILURE TO DO THIS CAN VOID THE PRODUCT WARRANTY AND WE CANNOT GUARANTEE THE INSTALLATION REFER TO PRODUCT MANUAL FOR SPECIFIC WARRANTY AND MAINTENANCE INFORMATION.

***OTHER INSTALLATION EXPECTATIONS:

...CANCELLING APPOINTMENTS WITH INSTALLERS OR MISSING SCHEDULED APPOINTMENTS WILL LEAD TO ADDITIONAL CHARGES.

...IF UNFORESEEN LABOR IS NEEDED (E.G., REPAIR DAMAGE FROM WATER OR TERMITES, ELECTRICAL OR PLUMBING PROBLEMS), THERE WILL BE EXTRA CHARGES. IN SOME CASES, THIS LABOR MAY NOT BE AVAILABLE FROM HOME DEPOT AND THE CUSTOMER MUST HIRE THEIR OWN CONTRACTOR TO COMPLETE THE WORK.

...THE INSTALLER WILL PROVIDE THE MANUFACTURER’S PRODUCT MANUAL AND WARRANTY CARD TO THE CUSTOMER. PLEASE REFER TO THIS FOR WARRANTY REQUIREMENTS AND MAINTENANCE RECOMMENDATIONS.

***SERVICES NOT AVAILABLE WITH THIS INSTALLATION PROGRAM:

...ELECTRICAL WORK

...PAINTING OR STAINING OF DOORS AND TRIM MOLDINGS.

...WORK ON SUNDAYS OR HOLIDAYS.

...REINSTALL EXISTING INTERIOR OR EXTERIOR FINISH MOLDINGS.

...STRUCTURAL WORK - REPAIR, INCREASE OPENING SIZE, ETC.

*** CONTINUED ON NEXT PAGE ***
...AN ADULT OVER 18 YEARS OF AGE WITH THE AUTHORITY TO MAKE
DECISIONS ABOUT YOUR INSTALLATION MUST BE PRESENT DURING
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...CHILDREN AND PETS MUST BE KEPT AWAY FROM THE WORK AREA.

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...THE INSTALLOW WILL BROOM CLEAN THE IMMEDIATE WORK AREA
BEFORE COMPLETING THE INSTALLATION. AIRBORNE DUST IN
OTHER PARTS OF THE HOME IS A NATURAL OCCURRENCE AND IS
THE RESPONSIBILITY OF THE CUSTOMER.

***AFTER YOUR INSTALLATION:

TOTAL CHARGES OF ALL MERCHANDISE & SERVICES

| ORDER TOTAL    | $783.00 |
| SALES TAX      | $19.47  |
| TOTAL          | $802.47 |
| BALANCE DUE    | $802.47 |
SUBJECT: CLAIM - GARY MEEKS

SOURCE: Administration

COMMENT: Mr. Gary Meeks has filed a claim against the City in an amount of $315 for reimbursement of towing and impound fee associated with the towing and storage of his vehicle. Claimant alleges that his vehicle was towed and impounded in error by the Porterville Police Department on July 28, 2007 at 1776 W. Olive Avenue. The Police Department has acknowledged its error in towing Claimant's vehicle and has already reimbursed the claimant in the amount of his claim.

RECOMMENDATION: After consideration and investigation, staff recommends that the Council reject said claim; refer the matter to the City's insurance adjustor; and direct the City Clerk to give the Claimant proper notification.
CLAIM AGAINST (Name of Entity: CITY OF PORTERVILLE

Claimant's Name: Gany Weeks
Claimant's Address: 
Claimant's Telephone No. (Home) 
(Work) 
Address where notices about claim are to be sent, if different from above: Same Date of incident/accident: 7-28-2007
Date injuries, damages, or losses were discovered: 7-28-2007
Location of incident or accident: 1776 W. Ocasey
What did entity or employee do to cause this loss, damage, or injury? 
Car From Off Private Property
(Use back of this form or separate sheet if necessary to answer this question in detail.)

What are the names of the entity's employees who caused this injury, damage, or loss (if known): Unknown

What specific injuries, damages, or losses did claimant receive? Tow Fee $315.00
as of 8-1-2007 $50.00 per qtr after that
(Use back of this form or separate sheet if necessary to answer this question in detail.)

What amount of money is claimant seeking or, if the amount is in excess of $10,000, which is the appropriate court of jurisdiction. Note: If Superior and Municipal Courts are consolidated, you must represent whether it is a "limited civil case" [see Government Code 910(f)]. $315.00

How was this amount calculated (please itemize): Tow & Storage

Date Signed: 8-1-2007 Signature: 
If signed by representative: Representative's Name Telephone:
Address:
Relationship to Claimant:

(Please Type Or Print)
**STATE OF CALIFORNIA**
**DEPARTMENT OF CALIFORNIA HIGHWAY PATROL**

**VEHICLE REPORT**

**CHP 180 (Rev. 12-06)** CPI 062

**REPORTING DEPARTMENT**
Porterville P.D.

**LOCATION CODE**
5405

**DATE / TIME OF REPORT**
7-28-07 07:20

**NOTICE OF STORED VEHICLE**
DELIVERED PERSONALLY

**FILE NO**
07-0265

**LOCATION TOWED / STOLEN FROM**
1776 W. OLIVE AVE.

**ODOMETER READING**
M.K.

**VIN CLEAR IN SVST**
X

**VIN CLEAR IN SVST**
X

**DIE CLEAR IN SVST**
X

**DATE / TIME DISPATCH NOTIFIED**
7-28-07 07:20

**LOG NO**

**YEAR**
BY CHEVY

**MAKE**
CAMERO

**MODEL**
Z28

**BODY TYPE**
WH1

**LICENSE NO**
1W461

**COLOR**
X

**ENGINE NO**

**ONE MONTH / YEAR STATE**

**VEHICLE IDENTIFICATION NO**
1G1AP81724E127032

**REGISTERED OWNER**

**SAME AS R/O**

**LEGAL OWNER**

**PAISANO MOTORS**

**TOWED TO / STORED AT**
Porterville, CA. 93257

**TOWING / STORAGE CONCERN (NAME, ADDRESS, PHONE)**

**STORAGE AUTHORITY / REASON**

**Towed To / Stored At**

**SAME CONDITION**

WRECKED

SEAT (FRONT)

REGISTRATION

ITEMS

YES

NO

ITEMS

YES

NO

TIRES / WHEELS

FLAT

LEFT FRONT

RIGHT FRONT

LEFT REAR

RIGHT REAR

SPARE

HUB CAPS

SPECIAL WHEELS

**RELEASE VEHICLE TO:**

**VALID REGISTRATION**

**EMBEZZLED VEHICLE**

**PLATE(S) REPORT**

**STOLEN VEHICLE / COMPONENT**

**SIGNATURE OF OFFICER TAKING REPORT**

**DATE / TIME OCCURRENCE**

**LAST DRIVER OF VEHICLE**

**REMARKS**

**DRIVER'S NAME**

**ARRESTED / SECTION?**

**REPORTED BY**

**CARGO / TYPE?**

**VALUE $**

**BILL OF LADING ATTACHED**

**SIGNSitures OF OFFICER TAKING REPORT**

**I.D. NO**
153

**SUPERVISOR**
18-90

**REQUIRED NOTICES SENT TO REGISTERED AND LEGAL OWNERS PER 22852 VC?**

**DATE NOTIFIED**

**NOTE:** CHP 180 IS FURNISHED TO ALL PEACE OFFICERS BY THE CALIFORNIA HIGHWAY PATROL
SUBJECT: APPROVAL FOR COMMUNITY CIVIC EVENT
MARIACHI ACADEMY FOUNDATION – FABULOUS MUSIC JAM

SOURCE: Administrative Services - Purchasing Division

COMMENT: The Mariachi Academy Foundation is requesting approval to hold an entertainment and music event at Centennial Plaza on Saturday, November 10, 2007, from 10 a.m. to 8 p.m. This application is submitted in accordance with the Community Civic Events Ordinance No. 1326, as amended.

The application has been routed according to the ordinance regulations and reviewed by all the departments involved. All requirements are listed on the attached copy of the Application, Agreement and Exhibit “A.”

RECOMMENDATION: That the Council approve the Community Civic Event Application and Agreement from the Mariachi Academy Foundation, subject to the Restrictions and Requirements contained in the Application, Agreement and Exhibit “A” of the Community Civic Event Application.

ATTACHMENT: Community Civic Event Application and Agreement, Exhibit “A”, map and outside amplifier permit.

D.D. Appropriated/Funded C.M. Item No. 16
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: September 27, 2007 Event date: November 10, 2007

Name of Event: Fabulous Music Jam

Sponsoring organization: Mariachi Academy Foundation
Address: 11645 South Orange Belt Drive
Authorized representative: Johnny Orduno
Address: 11645 South Orange Belt Drive
Event chairperson: Robert Roman

Location of event (location map must be attached):
Centennial Plaza

Type of event/method of operation:
Public Event - Entertainment, Food, & Other

Nonprofit status determination: EIN: 91-202719

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

Barricades (quantity): Street sweeping Refuse pickup
Yes ___ No ___ Yes ____ No ___

Police protection Other:
Yes ____ No ____

Parks facility application required: 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.

Mariachi Academy Foundation (Name of organization)  
(Signature)  
9-27-07 (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: Fabulous Music Jam

Sponsoring organization: Mariachi Academy Foundation

Location: Centennial Plaza  Event date: November 10, 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>*List will be provided 10 days prior to event</td>
<td></td>
<td></td>
<td></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: Fabulous Music Jam

Sponsoring organization: Mariachi Academy Foundation

Event date: November 10, 2007          Hours: 8AM - 10PM

ATTACH MAP MARKING AREAS TO BE CLOSED OR USED

<table>
<thead>
<tr>
<th>Street Name</th>
<th>From</th>
<th>To</th>
<th>Activity</th>
</tr>
</thead>
<tbody>
<tr>
<td>Main Street</td>
<td>Thurman Avenue</td>
<td>Cleveland Avenue</td>
<td>Public</td>
</tr>
<tr>
<td>Cleveland Avenue</td>
<td>Main Street</td>
<td>Second Street</td>
<td>Public</td>
</tr>
</tbody>
</table>

Sidewalks

| Parking lots and spaces | Location | Activity |
|-------------------------|----------|----------|----------|
REQUIREMENTS FOR COMMUNITY CIVIC EVENT
MARIACHI ACADEMY FOUNDATION

NOVEMBER 10, 2007

Business License Supervisor:
  S. Perkins

Vendor list required prior to event.

Public Works Director:
  B. Rodriguez

Community Development Director:
  B. Dunlap

No comments.

Field Services Manager:
  B. Styles

No comments.

Fire Chief, acting:
  G. Irish

No comments

Parks and Leisure Services Director:
  J. Perrine

Facility use request, portable toilet, and trash cans are event organizers responsibility unless City co-sponsorship is approved.

Police Chief:
  C. McMillan

Amplifier permit valid to 9:00 p.m.

Deputy City Manager, Interim:
  J.D. Lollis

See attached exhibit “A”, page 2.
REQUIREMENTS FOR COMMUNITY CIVIC EVENT

Sponsor: Mariachi Academy Foundation  
Event: Fabulous Music Jam  
Event Chairman: Robert Roman  
Location: Centennial Plaza, Main Street  
Date of Event: November 10, 2007  
Time of Event: 10 a.m. to 8:00 p.m.

RISK MANAGEMENT: Conditions of Approval

That the Mariachi Academy Foundation 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.

A. 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:

   Robert Roman  
   Phone # 920-6481

   16321 Palomino Drive, Springville, CA

2. Address where amplification equipment is to be used:

   Centennial Plaza (Main Street)  
   Phone # N/A

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

   Robert Roman & Javier Rodriguez  
   846 North Main Street Suite #3, Porterville, CA

4. Type of event for which amplification equipment will be used:

   Public Event - Various Musical Bands

5. Dates and hours of operation of amplification equipment:

   Saturday, November 10, 2007

6. A general description of the sound amplifying equipment to be used:

   2-2,000 watt amplifiers, 4-speakers, 16-microphones
I hereby certify that all statements and answers on this registration form are true and correct.

[Signature]
Applicant

[Signature]
Chief of Police

September 27, 2007
Date

10-07
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 URGE YOU TO REMAIN CONSIDERATE OF THE GENERAL PEACE AND ORDER OF THE NEIGHBORS IN THE AREA. FAILURE TO ABIDE BY THESE REGULATIONS CAN RESULT IN REVOCATION OF THE PERMIT.

cc: ________________________________

__________________________________

3/27/01
Memorandum

To: John Lollis, Assistant City Manager/ Administrative Services Manager

From: Karen Ball, Co-Chair of Time Marches On Committee

Date: 10/9/2007

Re: City sponsorship for “Fabulous Music Jam” Event November 10, 2007

This information is to supplement the Application for Community Civic Event previously submitted.

**Beer Garden - Alcohol Sales:**
Approval for a Beer Garden to be included in the event is requested. The Beer Garden is proposed to be operated within a portion of the closed Cleveland Avenue roadway, closer in proximity to Second Street than to Main Street. Requisite alcohol sales permits and insurance certificates will be obtained.

**City Co-Sponsorship:**
The Time Marches On Committee would like to request the City of Porterville co-sponsor the following items for the event:
- Use of Centennial Plaza from 10AM – 8PM, including electrical power & gazebo light
- Use of 125 chairs & 12 tables
- Use of personnel: before event setup of tables & chairs/after event remove table & chairs
- Use of personnel: The Explorers and/or Police Officers (enough to cover the event in rotating shifts & as determined to be necessary by the City for security)
- Use of personnel: clean up & sweeping of streets, litter clean up in Centennial Plaza, empty trash cans & replace liners.
- Provide Port-A-Potties for public use during the event
- Provide barricades for street closure and remove barricades
- Provide trash cans, liners & refuse service.
August 15, 2007

Linda Camarena  
Mariachi Academy for  
P.O. Box 2011  
Porterville CA 93257

Re: General & Liquor Liability Insurance  
#SCP 059981

Dear Linda:

It's that time of year again! Accompanying this letter is an updated summary of coverage for your above captioned package policy with the Western Heritage Ins Co, due to expire on 09/13/07. In order to renew your coverage properly we need your approval and deposit premium of $907.28 or full annual premium of $2,660.03. In the past you have paid in full but still have a monthly pay option.

Please take a moment to review the attached summary with special attention to the four (4) additional insured listed on renewal. If we need to delete or add some, please let us know.

If you have a question or wish to discuss your coverage feel free to contact me or Lloyd anytime.

Thank you for the opportunity to be of service. Your business is very important to us.

Sincerely,

Turner & Associates Insurance Agency

Bill Armor  
Commercial Lines Manager

Enclosure
TURNER & ASSOCIATES INSURANCE AGENCY
246 E. Honolulu • P. O. Box 757 • Lindsay, CA 93247
(559) 562-2527 • FAX (559) 562-2273 • Lic. #0747522
61 S. Main St. • Porterville, CA 93257
(559) 794-8313 • FAX (559) 794-8367

August 16, 2007

Insured: Mariachi Academy for Performing Arts Foundation
c/o Linda Camarena
P.O. Box 2011
Porterville, CA 93258

RENEWAL INSURANCE SUMMARY
Policy Dates 9/13/07-08

GENERAL LIABILITY COVERAGE:

General Aggregate Limit $1,000,000
Products & Completed Operation $1,000,000
Personal & Advertising Injury $1,000,000
Each Occurrence $1,000,000
Fire Damage Limit (any one fire) $ 100,000
Liquor Liability $1,000,000
Medical Expense (any one person) $ 5,000

Some Policy Exclusions:

Total Pollution, Punitive Damages, Asbestos, Silica Dust, Toxic Substance,
Aircraft, Auto, Watercraft, Lead Based Paint, Nuclear Energy Liability,
Hazardous Materials, Employment Related Practices, Fungi, & Virus Bacteria,
War or Terrorism, Professional Services.

PERMIUM:

<table>
<thead>
<tr>
<th>Type</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Premium</td>
<td>$1,187.00</td>
</tr>
<tr>
<td>Liquor Liability</td>
<td>$ 750.00</td>
</tr>
<tr>
<td>Additional Insured’s</td>
<td>$ 400.00</td>
</tr>
<tr>
<td>Policy Fee &amp; Taxes</td>
<td>$ 223.03</td>
</tr>
<tr>
<td>Broker Fee (Turner &amp; Associates)</td>
<td>$ 100.00</td>
</tr>
<tr>
<td>Total Premium</td>
<td>$2,660.03</td>
</tr>
</tbody>
</table>

DISCLAIMER: This form is for illustration purposes only. For exact terms &
conditions, please refer to the proper policy forms.
COMMENTS & RECOMMENDATIONS

#1) This renewal quote has been provided by Western Heritage Insurance Company through Pacific Coast E & S. They are a non-admitted insurance carrier for the State of California and have a Best’s Key rating of A+.

#2) In order to issue renewal as quoted, we will need the following original Forms returned to our office:

   a) Total premium as quoted, or, down payment of $907.28 with balance due by 9/15/07. Please make check payable to Turner & Associates Insurance.

   b) Signed terrorism rejection form, attached. Signed application, attached. Bill financed, please sign agreement attached.

#3) Additional Insured’s listed on policy as follows:

   Porterville USD – Tulare County Fairgrounds, Porterville Fair and Moon Broadcasting. PLEASE CONFIRM.
Time Marches On

Fundraiser for Porterville Town Clock
Honoring Buck Shaffer

Fabulous Music Jam

November 10, 2007 10:00am - 8:00pm
Porterville Centennial Park

Fun For all Ages
Local Bands
All Types of Music

We need every "Little Gal" and every
"Little Fella" to make Buck's dream a reality
Come out and show your support!!
### CITY OF PORTERVILLE
### JOURNAL ENTRY

#### SUBSIDIARY LEDGER

<table>
<thead>
<tr>
<th>ACCOUNT DESCRIPTION</th>
<th>ACCOUNT NO.</th>
<th>DEBIT</th>
<th>CREDIT</th>
</tr>
</thead>
<tbody>
<tr>
<td>Expenditure</td>
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<tr>
<td>Expenditure</td>
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#### GENERAL LEDGER

<table>
<thead>
<tr>
<th>ACCOUNT NO.</th>
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<tbody>
<tr>
<td>01-2001-11</td>
<td>18,977.46</td>
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<td>01-1101-11</td>
<td>18,977.46</td>
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</tr>
<tr>
<td>01-2001-23</td>
<td>572.00</td>
<td></td>
</tr>
<tr>
<td>01-2020-23</td>
<td>572.00</td>
<td></td>
</tr>
</tbody>
</table>

To correct posting of JE# 3.24 for shop, fuel, and warehouse billing for September 2007.

To correct posting of ck# 501732 dated 9/28/07 for landscape maintenance.
COUNCIL AGENDA: OCTOBER 16, 2007

SUBJECT: AUTHORIZATION TO ADVERTISE FOR BIDS – ‘C’ STREET WATER MAIN AND MISCELLANEOUS FIRE HYDRANT PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: Plans and Project Manual have been prepared for the ‘C’ Street Water Main & Miscellaneous Fire Hydrant Project. The Base Bid includes installation of approximately 1337 lineal feet of 8-inch water main including new fire hydrants on ‘C’ Street between Date Avenue and Walnut Avenue. Add Alternate A includes relocation of two existing fire hydrants, one on Porter Road south of Tomah Avenue and one on Mulberry Avenue west of Plano Street, and a new fire hydrant on Walnut Avenue and B Street.

The Plans and Project Manual have been completed and are available in the La Barca Conference Room for Council’s review.

The estimate of probable cost for the entire project is $154,535.00 with $15,453.50 required for the construction contingency (10%). An additional $7,726.75 is required for construction management, quality control and inspection. The total estimated cost associated with the project is $177,715.25. An Estimate of Probable Cost is attached for Council’s review.

Funding for the project is approved in the 2007/2008 Annual Budget under Deficient Fire Flow and Miscellaneous Water Projects and the funding source is water reserve. Additional funds will be re-appropriated from the Water Replacement fund, if necessary, to satisfy the lowest responsible bid.

RECOMMENDATION: That City Council:

1. Approve staff’s recommended plans and project manual; and

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

ATTACHMENTS: Estimate of Probable Cost
Locator Map

P:\pubwork\Engineering\Council items\Authorization to Advertise for Bids - ‘C’ St Watermain & Misc FH Project - 2007-10-16.doc

Dir Appropriated/Funded [Signature] CM Item No. 7
## "C" STREET WATER MAIN & MISCELLANEOUS FIRE HYDRANT PROJECT
**ENGINEER'S ESTIMATE - October 2, 2007**

<table>
<thead>
<tr>
<th>ITEM</th>
<th>QTY</th>
<th>UNIT</th>
<th>DESCRIPTION</th>
<th>UNIT PRICE</th>
<th>AMOUNT</th>
</tr>
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<tbody>
<tr>
<td>BASE BID</td>
<td></td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>1.</td>
<td>1</td>
<td>L.S.</td>
<td>Mobilization &amp; Demobilization</td>
<td>$5,000.00</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>2.</td>
<td>1</td>
<td>L.S.</td>
<td>Traffic Control</td>
<td>$5,000.00</td>
<td>$5,000.00</td>
</tr>
<tr>
<td>3.</td>
<td>1337</td>
<td>L.F.</td>
<td>8&quot; Class 150 PVC (AWWA C-900) or Class 150 Ductile Iron Pipe, including Tracing Wire</td>
<td>$30.00</td>
<td>$40,110.00</td>
</tr>
<tr>
<td>4.</td>
<td>4</td>
<td>EA.</td>
<td>Fire Hydrant Assembly per City Std. W-6 including removal/replacement of concrete improvements</td>
<td>$6,500.00</td>
<td>$26,000.00</td>
</tr>
<tr>
<td>5.</td>
<td>2</td>
<td>EA.</td>
<td>6&quot; Tapping Sleeve &amp; 8&quot; Valve including Hot Tap</td>
<td>$5,000.00</td>
<td>$10,000.00</td>
</tr>
<tr>
<td>6.</td>
<td>6</td>
<td>EA.</td>
<td>8&quot; 45 Degree Bends</td>
<td>$500.00</td>
<td>$3,000.00</td>
</tr>
<tr>
<td>7.</td>
<td>1</td>
<td>EA.</td>
<td>8&quot; Cross</td>
<td>$1,500.00</td>
<td>$1,500.00</td>
</tr>
<tr>
<td>8.</td>
<td>3</td>
<td>EA.</td>
<td>8&quot; Gate Valve</td>
<td>$1,500.00</td>
<td>$4,500.00</td>
</tr>
<tr>
<td>9.</td>
<td>1337</td>
<td>L.F.</td>
<td>Trench Patch - 3&quot; Asphalt Concrete over 5&quot; Class II Aggregate Base</td>
<td>$25.00</td>
<td>$33,425.00</td>
</tr>
<tr>
<td>10.</td>
<td>1</td>
<td>EA.</td>
<td>8&quot; Tapping Sleeve &amp; Valve including Hot Tap</td>
<td>$5,000.00</td>
<td>$5,000.00</td>
</tr>
<tr>
<td><strong>BASE BID TOTAL</strong></td>
<td></td>
<td></td>
<td></td>
<td><strong>$133,535.00</strong></td>
<td></td>
</tr>
</tbody>
</table>

**ADD ALTERNATE A**

| 1. | 1 | EA. | Install Fire Hydrant on Walnut Ave. & B St. including Hot Tap, removal/replacement of concrete improvements and pave-out. | $7,000.00 | $7,000.00 |
| 2. | 1 | EA. | Abandon Existing & Install New Fire Hydrant on Mulberry Ave. including Hot Tap & removal/replacement of concrete improvements | $7,500.00 | $7,500.00 |
| 3. | 1 | EA. | Remove Existing & Install New Fire Hydrant on Porter Road including removal/replacement of concrete improvements | $6,500.00 | $6,500.00 |
| **ADD ALTERNATE A TOTAL** | | | | **$21,000.00** |

**TOTAL BASE BID PLUS ADD ALTERNATE A BID**

| 15% Construction Contingency, Staff Time, Testing | **$23,180.25** |

**Total Estimated Probable Cost of Project**

**$177,715.25**

---

**ESTIMATE CERTIFIED**

- **Project Manager**: [Signature] 10/5/07
- **City Engineer**: [Signature] 10/5/07
- **Public Works Director**: [Signature] 10/5/07
- **City Manager**: [Signature] 10-11-07
SUBJECT: AUTHORIZATION TO ADVERTISE FOR BIDS – TRAFFIC SIGNAL #11 (INDIANA STREET AND PUTNAM AVENUE)

SOURCE: Public Works Department - Engineering Division

COMMENT: Plans and Project Manual have been prepared for Traffic Signal #11 at the intersection of Indiana Street and Putnam Avenue. The project includes intersection improvements and the construction of a new traffic signal.

The Plans and Project Manual have been completed and are available in the La Barca Conference Room for Council’s review.

The estimate of probable cost for the project is $264,690 with $26,469 required for the construction contingency (10%). An additional $13,234.50 is required for construction management, quality control and inspection. The total estimated cost associated with the project is $304,393.50. An Estimate of Probable Cost is attached for Council’s review.

Funding for the project is approved in the 2007/2008 Annual Budget under Indiana-Putnam Traffic Signal and the funding source is local transportation and work force housing funds.

RECOMMENDATION: That City Council:

1. Approve staff’s recommended plans and project manual; and

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

ATTACHMENTS: Estimate of Probable Cost Locator Map
<table>
<thead>
<tr>
<th>ITEM</th>
<th>QTY.</th>
<th>UNIT</th>
<th>DESCRIPTION</th>
<th>UNIT PRICE</th>
<th>AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1</td>
<td>L.S.</td>
<td>Mobilization &amp; Demobilization</td>
<td>$10,000.00</td>
<td>$10,000.00</td>
</tr>
<tr>
<td>2</td>
<td>1</td>
<td>L.S.</td>
<td>Traffic Control</td>
<td>$15,000.00</td>
<td>$15,000.00</td>
</tr>
<tr>
<td>3</td>
<td>8</td>
<td>EA.</td>
<td>Remove/Salvage Roadside Sign</td>
<td>$180.00</td>
<td>$1,440.00</td>
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<tr>
<td>4</td>
<td>1</td>
<td>L.S.</td>
<td>Excavation/Grading</td>
<td>$12,000.00</td>
<td>$12,000.00</td>
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<tr>
<td>5</td>
<td>185</td>
<td>Tons</td>
<td>Type B Asphalt Concrete</td>
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<td>$27,750.00</td>
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<tr>
<td>6</td>
<td>135</td>
<td>C.Y.</td>
<td>Class II Aggregate Base</td>
<td>$80.00</td>
<td>$10,800.00</td>
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<tr>
<td>7</td>
<td>3</td>
<td>EA.</td>
<td>Remove &amp; Replace Handicap Ramp</td>
<td>$3,000.00</td>
<td>$9,000.00</td>
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<tr>
<td>8</td>
<td>1</td>
<td>EA.</td>
<td>Install Handicap Ramp</td>
<td>$2,700.00</td>
<td>$2,700.00</td>
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<td>9</td>
<td>2</td>
<td>EA.</td>
<td>Adjust Manhole to Grade</td>
<td>$500.00</td>
<td>$1,000.00</td>
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<tr>
<td>10</td>
<td>1</td>
<td>EA.</td>
<td>Monument Restoration</td>
<td>$1,000.00</td>
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<tr>
<td>11</td>
<td>1</td>
<td>EA.</td>
<td>Complete Traffic Signal</td>
<td>$160,000.00</td>
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<tr>
<td>12</td>
<td>1</td>
<td>L.S.</td>
<td>Signing Striping &amp; Markings</td>
<td>$14,000.00</td>
<td>$14,000.00</td>
</tr>
</tbody>
</table>

Sub-total $264,690.00
15% Construction Contingency, Staff Time, Testing $39,703.50
**Total Estimated Probable Cost of Project** $304,393.50

---

ESTIMATE CERTIFIED

Project Manager 10/5/07
City Engineer 10/6/07

Public Works Director 10/9/07
City Manager Date
SUBJECT: REJECT ALL BIDS - WWTF SCREENING AND GRIT EQUIPMENT UPGRADE 2007 PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: On September 25, 2007, staff received two (2) bids for the WWTF Screening and Grit Equipment Upgrade 2007 project. The City's consulting engineer, Carollo Engineer's, provided an estimate of probable cost of $690,924. Kaweah Construction of Visalia submitted the low bid at $1,008,000. This bid is approximately 46% higher than the estimate of probable cost.

The WWTF Screening and Grit Equipment Upgrade 2007 project and the Effluent Pipeline and Land Leveling project are the two remaining projects in the sewer CIEDB loan. The screening and grit equipment project, although included in the CIEDB loan, is not a Cease & Desist Order (CDO) project. The pipeline and land leveling project is included in the CDO and must be completed before the California Regional Water Quality Control Board (CRWQCB) will consider removing the CDO.

Presently, there is not enough money left in the CIEDB loan to award the screening and grit equipment project and award the pipeline and land leveling project currently out to bid. The pipeline and land leveling project is estimated at $1,560,584. Staff recognizes the importance of both projects but feels that the pipeline and land leveling project must take priority. At this time, staff feels it prudent to reject all bids for the WWTF Screening and Grit Equipment Upgrade 2007 project and allocate all remaining funds to the Effluent Pipeline and Land Leveling project. Any remaining CIEDB funds after the award of the Effluent Pipeline and Land Leveling project should be used to reimburse the City for design incurred costs.

The grit tower and bar screen equipment is in poor to extremely poor condition and must be replaced. Staff recommends that the plans and specifications be modified to reflect the use of Wastewater Treatment Revolving funds to pay for the new equipment and that Council authorize staff to re-advertise for bids for the WWTF Screening and Grit Equipment Upgrade 2007 project. By using local funds the project will not require payment of prevailing wage. Staff estimates the project cost at $910,000.

Item No. 9
RECOMMENDATION: That the City Council

1. Reject all bids for the WWTF Screening and Grit Equipment Upgrade 2007 Project;

2. Authorize staff to re-advertise the WWTF Screening and Grit Equipment Upgrade 2007 project;

3. Authorize staff to use Wastewater Treatment Facility Capital Reserve funds to pay for the WWTF Screening and Grit Equipment Upgrade 2007 project;

4. Authorize the Finance Director to make a budget adjustment in the amount of $910,000 from the WWTF Capital Reserve fund to the FY 2007/2008 budget; and

5. Authorize staff to use all remaining Sewer CIEDB funds to pay for the Effluent Pipeline and Land Leveling project, and to seek reimbursement for design related costs from the CIEDB loan.

SOURCE: PUBLIC WORKS DEPARTMENT

COMMENT: Lawrence E. Coleman, as Trustee of the Lawrence E. Coleman 2004 Revocable Trust, Dated March 10, 2004, owner of property located at APN’s 260-208-21, 260-208-023, 260-208-012, has accepted the appraised value of $26,340.00 for the 1,317 square feet of right-of-way needed for the Jaye Street Widening Project.

The City recently had the property appraised by Tim Simon, MAI, a Certified General Real Estate Appraiser. The appraisal came in at $26,340.00 for the 1,317 square feet of property needed for the project. This appraisal is available in the Community Development Department for your review.

RECOMMENDATION: That City Council:

1. Authorize staff to begin escrow, with the City paying escrow fees;
2. Authorize staff to make payment to Lawrence E. Coleman, as Trustee of the Lawrence E. Coleman 2004 Revocable Trust, Dated March 10, 2004, in the amount of $26,340.00 after completion of escrow;
3. Authorize the Mayor to sign all necessary documents; and
4. Authorize staff to record all documents with the County Recorder.

ATTACHMENTS:

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

DD 992 APPROPRIATED/FUNDED CM ITEM NO. 10
RESOLUTION NO. _____________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
ACCEPTING A GRANT DEED IN FEE FOR REAL PROPERTY FROM
LAWRENCE E. COLEMAN, AS TRUSTEE OF THE LAWRENCE E. COLEMAN 2004
REVOCABLE TRUST, DATED MARCH 10, 2004

BE IT RESOLVED by the City Council of the City of Porterville, that the City of Porterville
hereby accepts a Grant Deed in fee from Lawrence E. Coleman, as trustee of the Lawrence E.
Coleman 2004 Revocable Trust, Dated March 10, 2004 for real property, in the City of
Porterville, County of Tulare, State of California, to-wit:

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

BE IT FURTHER RESOLVED that the purchase price of $26,340.00 is hereby approved with
the City to open escrow account, pay the normal and customary escrow fees, authorize Mayor to
sign all necessary documents, and said deed to be recorded in the office of the Tulare County
Recorder. The foregoing has been accepted by the City Council for the City of Porterville.

____________________________________
Cameron Hamilton, Mayor

ATTEST:

John Longley, City Clerk

____________________________________
Patrice Hildreth, Acting Chief Deputy City Clerk
EXHIBIT "A"

LEGAL DESCRIPTION
RIGHT-OF-WAY DEDICATION

Portions of Lots 27, 28, 29, 30, 31, 32 and 33 of Sickles Addition as recorded in Book 9 at Page 45 of the Official Records of Tulare County, California being more particularly described as follows:

Commencing at the North Quarter Corner of Section 35, Township 21 South, Range 27 East, Mount Diablo Base and Meridian;

Thence, along the east line of the Northwest Quarter of said Section 35, South 01°02'04” West a distance of 265.01 feet;

Thence, leaving said section line, South 88°57'56” East a distance of 26.00 feet to a point on the easterly Right-of-Way line of Jaye Street, said point also being the POINT OF BEGINNING;

Thence, along said easterly Right-of-Way line, North 01°02'04” East a distance of 146.10 feet to a point of tangency;

Thence, leaving said easterly Right-of-Way line, northeasterly 36.78 feet along a curve to the right, having a radius of 20.00 feet, through a central angle of 105°21'50” and having a chord bearing and distance of North 53°42'59” East, 31.81 feet to a point of compound curvature on the southerly Right-of-Way line of Olive Avenue;

Thence, along said southerly Right-of-Way line, southeasterly 5.15 feet along a curve to the right, having a radius of 1145.00 feet, through a central angle of 0°15'27” and having a chord bearing and distance of South 73°28'23” East, 5.14 feet to a point from which a radial line bears South 16°39'21” West;

Thence, leaving said southerly Right-of-Way line, South 54°30'54” West a distance of 28.94 feet to a line parallel with and 33.00 feet east of, as measured normal to, said Section line;

Thence along said parallel line, South 01°02'04” West a distance of 146.79 feet;

Thence North 88°57'56” West a distance of 7.00 feet to the POINT OF BEGINNING.

The above described parcel contains 1,317 square feet or 0.0302 acres, more or less.
Basis of Bearings: the east line of the Northwest Quarter of said Section 35 taken to bear South 01°02'04" West based on California State Plane Grid bearings for Zone 4, NAD83, which is based on a field survey tied to the south line of the Southwest Quarter of Section 35, T21S, R27E, M.D.B. & M as shown on a Record of Survey recorded in Book 21 of licensed surveys at page 68. All distances are ground distances.
SUBJECT: ACCEPTANCE OF APPRAISED VALUE OF RIGHT OF WAY FOR PROPERTY LOCATED AT APN 259-050-054 – PORTERVILLE SM, LLC, & VIC-NIC IV, LLC – WELL #31 PROJECT

SOURCE: PUBLIC WORKS DEPARTMENT

COMMENT: Porterville SM, LLC, a California Limited Liability Company, and VIC-NIC IV, LLC, a California Limited Liability Company, owners of property located at APN 259-050-054, have accepted the appraised value of $80,000.00 for the 5,040 square feet of right-of-way needed for the Well #31 project.

The City recently had the property appraised by Tim Simon, MAI, a Certified General Real Estate Appraiser. The appraisal came in at $80,000.00 for the 5,040 square feet of property needed for the project. This appraisal is available in the Community Development Department for your review.

RECOMMENDATION: That City Council:

1. Authorize staff to begin escrow, with the City paying escrow fees;
2. Authorize staff to make payment to Porterville SM, LLC, a California Limited Liability Company, as to an undivided one-half interest; and VIC-NIC IV, LLC, a California Limited Liability Company, as to an undivided one-half interest in the amount of $80,000.00 after completion of escrow;
3. Authorize the Mayor to sign all necessary documents; and
4. Authorize staff to record all documents with the County Recorder.

ATTACHMENTS:

1. Right-Of-Way Take Map
2. Resolution
LOT B SUMMIT EST. PH. ONE - R/M 42/48
SEE LOT B DETAIL

City of Porterville
291 N. MAIN ST.
PORTERVILLE, CA. 93257
559 782-6462

Lot B of Summit Estates Subdivision, Phase One
situated in the City of Porterville, County of Tulare,
State of California per map recorded in Book 42,
Page 48 of Maps in the Office of the County Recorder
of said County.

OWNER: Smee Builders
APN: 259-050-054
AREA: 5,040 S.F.
DRAWN BY: TJ
CH'K BY: MKR
RESOLUTION NO. ______________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
ACCEPTING A GRANT DEED IN FEE FOR REAL PROPERTY FROM
PORTERVILLE SM, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY,
VIC-NIC IV, LLC, A CALIFORNIA LIMITED LIABILITY COMPANY

BE IT RESOLVED by the City Council of the City of Porterville, that the City of Porterville
hereby accepts a Grant Deed in fee from Porterville SM, LLC, a California Limited Liability
Company, as to an undivided one-half interest; and VIC-NIC IV, LLC, a California Limited
Liability Company, as to an undivided one-half interest, for real property, in the City of
Porterville, County of Tulare, State of California, to-wit:

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

BE IT FURTHER RESOLVED that the purchase price of $80,000 is hereby approved with the
City to open escrow account, pay the normal and customary escrow fees, authorize Mayor to
sign all necessary documents, and said deed to be recorded in the office of the Tulare County
Recorder. The forgoing has been accepted by the City Council for the City of Porterville.

_____________________________________
Cameron Hamilton, Mayor

ATTEST:

John Longley, City Clerk

_____________________________________
Patrice Hildreth, Acting Chief Deputy City Clerk
EXHIBIT "A"

Lot B of Summit Estates, Phase One Subdivision in the City of Porterville, County of Tulare, State of California, as shown on map recorded in Book 42 of Maps, at page 48 in the Office of the County Recorder of said County.

Containing 5,040 square feet.

END OF DESCRIPTION

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

Signature: [Signature]
Licensed Land Surveyor

Date: 6/09/07
Lot B of Summit Estates Subdivision, Phase One situated in the City of Porterville, County of Tulare, State of California per map recorded in Book 42, Page 48 of Maps in the Office of the County Recorder of said County.

OWNER: Snee Builders
APN: 259-050-054
AREA: 5,040 S.F.
DRAWN BY: TJ
CH'K'D BY: MKR
COUNCIL AGENDA: OCTOBER 16, 2007

SUBJECT: ACCEPTANCE OF IMPROVEMENTS – SIERRA MEADOWS (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, excepting sidewalks, have been completed, inspected by City staff and found to be acceptable.

The subdivider has submitted the required one (1) year maintenance guarantee. The original guarantee will remain on file with the City Clerk until the remaining segments of sidewalk are constructed and/or will be released upon receipt of a sidewalk construction guarantee.

RECOMMENDATION: That City Council:

1. Accept the public improvements of Sierra Meadows Subdivision for maintenance;

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

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

ATTACHMENT: Locator Map

P:\PUBWORKS\ENGINEERING\COUNCIL ITEMS\ACCEPTANCE OF IMPROVEMENTS SIERRA MEADOWS 2007-10-16 DOC

Dir Appropriated/Funded CM Item No. 12
SIERRA MEADOWS
BEING A SUBDIVISION OF THE NORTHWEST 1/4 OF THE SOUTHWEST 1/4 OF SECTION 2, T.5S., R.7E., M.O.B.M., CITY OF PORTERVILLE, COUNTY OF TULARE, STATE OF CALIFORNIA.
GROSS AREA: 39.35 AC

Subdivider: SME BUILDERS INC.
Surveyor: JAMES WINTON & ASSOCIATES

CITY ENGINEER'S STATEMENT
I certify that I have examined this map and I am satisfied that it is technically correct that all requirements of all parts of the subdivision map are met and that this map is in conformance with the requirements of Chapter 56 of the Subdivision Map Act, and that all legal, engineering and construction requirements of Chapter 56 have been met as required by the City of Porterville.
Dated this _______ day of ________, 20__
[Signature]

MICHAEL A. REED, CITY ENGINEER, P.E.

SURVEYOR'S STATEMENT
This map has been prepared to be in conformance with the requirements of the Subdivision Map Act and all legal, engineering and construction requirements of Chapter 56 of the Subdivision Map Act have been met as required by the City of Porterville.
Dated this _______ day of ________, 20__
[Signature]

JAMES S. PATE, R.L., K.C.S.

SOIL ENGINEER'S STATEMENT
I certify that the report associated with this map was submitted by me on _______ day of ________, 20__, and that all legal, engineering and construction requirements of Chapter 56 of the Subdivision Map Act have been met as required by the City of Porterville.
Dated this _______ day of ________, 20__
[Signature]

DALE N. MUSS, K.C.S.

CITY PLANNER'S STATEMENT
I hereby state that this map conforms to the approved tentative map
Dated this _______ day of ________, 20__
[Signature]

SHAWN L. DRAKE, Community Development Director

CITY COUNCIL'S STATEMENT
This is to state that the regular meeting of the City Council of the City of Porterville was held on the _______ day of ________, 20__, and at which meeting the approval of this map was considered, and the following resolution was adopted:
Dated this _______ day of ________, 20__,
[Signature]

CITY CLERK
SUBJECT: ACCEPTANCE OF THE HVAC REPLACEMENT PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: Morris Levin & Son has completed the HVAC Replacement Project per plans and specifications. The project consisted of one 10-ton HVAC unit for City Hall and one 7.5-ton HVAC unit at the Porterville Community Center.

City Council authorized expenditure of $33,278.30. Final construction cost is $30,253.00.

Morris Levin & Son requests that the City accept the project as complete. Staff reviewed the work and found it acceptable.

RECOMMENDATION: That City Council:

1. Accept the project as complete;
2. Authorize the filing of the Notice of Completion; and
3. Authorize the release of the 10% retention thirty-five (35) days after recordation, provided no stop notices have been filed.

P:\pubworks\Engineering\Council Items\Acceptance of Project - HVAC Replacement Project - 2007-10-16.doc

Dir Appropriated/Funded CM Item No. 13
SUBJECT: PROGRAM SUPPLEMENT TO THE LOCAL AGENCY-STATE MASTER AGREEMENT – TRAFFIC SIGNAL #9 (OLIVE AVENUE AND MATHEW STREET) PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: The Department of Transportation has submitted Program Supplement Agreement Number M032, and requests that the City execute said agreement. The executed agreement becomes a part of the Local-State Master Agreement No. 06-5122.

The Program Supplement attached is for the Traffic Signal #9 (Olive Avenue & Mathew Street) Project. Said agreement describes the special covenants with which the City must comply.

RECOMMENDATION: That the City Council:

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

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

ATTACHMENTS: Program Supplement Agreement No. M032 Resolution
This Program Supplement hereby incorporates the Administering Agency-State Agreement for Federal Aid which was entered into between the Administering Agency and the State on 02/20/07 and is subject to all the terms and conditions thereof. This Program Supplement is executed in accordance with Article I of the aforementioned Master Agreement under authority of Resolution No. 06-927994, approved by the Administering Agency on September 07, 2007.

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

PROJECT LOCATION:
construct full phase traffic signal, signing and striping.

TYPE OF WORK: Install New Signals

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<tr>
<th>Estimated Cost</th>
<th>Federal Funds</th>
<th>Matching Funds</th>
<th>OTHER</th>
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<tr>
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<td>$285,000.00</td>
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CITY OF PORTERVILLE

STATE OF CALIFORNIA
Department of Transportation

By
Chief, Office of Project Implementation
Division of Local Assistance

Date ____________________________

Attest
Title

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

Accounting Officer

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Statutes</th>
<th>Item</th>
<th>Year</th>
<th>Program</th>
<th>BC</th>
<th>Category</th>
<th>Fund Source</th>
<th>AMOUNT</th>
</tr>
</thead>
</table>
SPECIAL COVENANTS OR REMARKS

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

2. Award information shall be submitted by the ADMINISTERING AGENCY to the District Local Assistance Engineer within 60 days after the project contract award. A copy of the award package shall also be included with the submittal of the ADMINISTERING AGENCY's first invoice for the construction contract to:
   Department of Transportation
   Division of Accounting
   Local Programs Accounting Branch, MS #33
   P. O. Box 942874
   Sacramento, CA 94274-0001.

   Failure to do so will cause a delay in the State processing invoices for the construction phase. Please refer to Section 15.7 "Award Package" of the Local Assistance Procedures Manual.

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

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

   Notwithstanding the unliquidated sums of project specific State and Federal funding remaining and available to fund project work, any invoice for reimbursement that is not submitted to the Department on or before 60 days after that applicable fixed fund
SPECIAL COVENANTS OR REMARKS

reversion date will not be paid from that fiscal year's encumbered funds because all of these unexpended funds will be irrevocably reverted by the Department's Division of Accounting on that date.

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

5. ADMINISTERING AGENCY agrees, as a minimum, to submit invoices at least once every six months commencing after the funds are encumbered for each phase by the execution of this Project Program Supplement Agreement, or by STATE's approval of an applicable Finance Letter. STATE reserves the right to suspend future authorizations/obligations, and invoice payments for any on-going or future federal-aid project by ADMINISTERING AGENCY if PROJECT costs have not been invoiced by ADMINISTERING AGENCY for a six-month period.

If no costs have been invoiced for a six-month period, ADMINISTERING AGENCY agrees to submit for each phase a written explanation of the absence of PROJECT activity along with target billing date and target billing amount.

ADMINISTERING AGENCY agrees to submit the final report documents that collectively constitute a "Report of Expenditures" within one hundred eighty (180) days of PROJECT completion. Failure of ADMINISTERING AGENCY to submit a "Final Report of Expenditures" within 180 days of PROJECT completion will result in STATE imposing sanctions upon ADMINISTERING AGENCY in accordance with the current Local Assistance Procedures Manual.
RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AUTHORIZING THE MAYOR TO SIGN PROGRAM SUPPLEMENT NO. M032 TO ADMINISTER THE AGENCY-STATE AGREEMENT FOR FEDERAL-AID PROJECTS NO. 06-5122

BE IT RESOLVED by the City Council of the City of Porterville that the Mayor is hereby authorized to execute the document known as Program Supplement No. M032 to Local Agency-State Master Agreement No. 06-5122, for the Traffic Signal #9 (Olive Avenue and Mathew Street) Project.

ADOPTED this 16th day of October, 2007.

________________________________________
Cameron Hamilton, Mayor

ATTEST:

John Longley, City Clerk

________________________________________
By Patrice Hildreth, Deputy City Clerk
OCTOBER 16, 2007

SUBJECT: AUGMENTATION FUNDS FOR THE WEST STREET INDUSTRIAL PARK PROJECT – ADDITIONAL STORM DRAIN FUNDS

SOURCE: Public Works Department – Engineering Division

COMMENT: The West Street Industrial Park Project has progressed to the point where staff feels it is necessary to reevaluate project design and project objectives. Staff is proposing a change to the storm drain system serving the 74 acre industrial park. Staff designed a piping system and a temporary drainage reservoir to collect storm water from all parcels within the industrial park and store the water in a 21 acre-foot temporary drainage reservoir located north of Edison Court, please refer to attachment “D-1”. The temporary reservoir occupies about 4.5 acres of the northern City owned parcel.

Staff's design anticipated the need to excavate the reservoir in order to meet the lines and grades shown on the construction plans. As the grading process progressed, it became obvious that excavation of the reservoir was no longer needed and to date the contractor has left this area untouched. The dirt quantities relatively balanced without excavating the dirt from the drainage reservoir. Staff feels the outcome is beneficial to the City. The funds, about $109,000, for constructing the temporary drainage reservoir can now be redirected to install additional master plan facilities, while at the same time opening an additional 4.5 acres of marketable property on the north side of Edison Court.

Staff originally prepared a conceptual design that would extend master plan facilities to a storm drain pipe entering the OHV track area. The OHV track area is currently a dual use facility similar to other parks within the City. However, the original fill quantity estimates and the conceptual design proved to be too costly at the time. This is no longer true if the temporary drainage reservoir is deleted from the construction project.

If the temporary drainage reservoir is not constructed, the following additional Storm Drain Master Plan improvements are needed to provide a functional drainage system for the West Street Industrial Park:

- 1018 lineal feet of 60" storm drain pipe in West Street, from project limits to Youlume Avenue.
- 660 lineal feet of 30" storm drain pipe in Youlume Avenue, from West Street to an existing storm drain pipe draining to OHV Park/Drainage Reservoir.

Item No. 15
• 3-60" Storm Drain Manholes.
• 1710 lineal feet of asphalt concrete trench patch.

The Contractor has provided the City with a quote of $355,962.07 for the above stated work.

PROS:

1) Excavation of a temporary drainage reservoir is no longer needed;

2) The contract bid items related to this work can be redirected to building infrastructure identified by the City’s Storm Drain Master Plan ($109,000); and

3) Approximately 4.5 acres of additional industrial properties becomes marketable.

CONS:

1) Approximately $248,230.94 of additional funds will be required to complete the work.

Attachment “D-2” is a spreadsheet that illustrates how the redirection of funds from the contract and re-appropriation of storm drain funds from the Storm Drain Master Plan Payback account will finance the extension of master plan facilities to said OHV Track/Drainage Reservoir. There may be additional cost savings should staff choose to utilize the same storm drain trench for the planned off-site gas main and telephone line extensions.

The Master Plan Payback account is set aside to reimburse developers for constructing anticipated storm drain master plan facilities during each fiscal year. The 07/08 Fiscal Year Budget has slated $390,000 for this purpose. Currently, staff is anticipating developers to request reimbursements in the amount of $111,000. Therefore, a balance of about $279,000 will remain in the payback account. The decrease in residential development has curtailed the funding reimbursement need.

The available funding within the Storm Drain Master Plan account will finance the additional funds ($248,230.94) necessary to implement the contract change.

The 10% contingency will not be used to finance the proposed changes. Staff is recommending that the Storm Drain Master Plan Account truly pay for the Storm Drain Master Plan facilities and the original contingency amount ($141,000) will remain for the duration of the project to cover
unforeseen costs that may arise during the construction phase.

The project is subject to utility service fees and taxation costs. SCE and The Gas Company have provided these fees to the City but as of this writing, the City has not received a firm number from AT&T. Once all costs associated with utility company fees are known, staff will forward said costs to City Council for review and define funding sources. These costs are subject to the proportional cost sharing agreement between the City and SCE.

RECOMMENDATION: That City Council:

1. Authorize the appropriation $246,762.07 from the Storm Drain Master Plan Payback account to finance the extension of storm drain facilities to the dual use drainage facility within the Sports Complex;

2. Authorize staff to execute a Change Order that redirects the temporary drainage reservoir contract cost items to help finance the installation of the proposed storm drain facilities;

3. Authorize the staff to continue with a 10% contingency in the amount of $144,000 for the duration of the project; and

4. Authorize staff to issue payments to utility companies within the allocated budget and as depicted in the agreement dated June 5, 2007 between the City of Porterville and SCE.

ATTACHMENTS: D-1 – Design Plan
D-2 – Illustration of Redirected Funds
# ATTACHMENT "D-2"
WEST STREET INDUSTRIAL PARK - PROPOSED OFF-SITE STORM DRAIN CHANGE ORDER
PROJECT NO: 89-9162-88
BID NO.: 06/07 – CP 1638

## OFF SITE STORM DRAIN CHANGE ORDER - ESTIMATE

<table>
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<th>ITEM</th>
<th>QUANTITY</th>
<th>UNIT</th>
<th>DESCRIPTION</th>
<th>UNIT PRICE</th>
<th>AMOUNT</th>
<th>Halopoff &amp; Sons’ Proposal</th>
<th>City Share</th>
<th>Edison Share</th>
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<tbody>
<tr>
<td>1B</td>
<td>1</td>
<td>L.S.</td>
<td>Connect to Existing 48&quot; RCP</td>
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<td>2B</td>
<td>169</td>
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<td>60&quot; Class III RCP Storm Drain Pipe</td>
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<td>Ea.</td>
<td>60&quot; Storm Drain Manholes</td>
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<td>$60,106.50</td>
<td>$35,817.85</td>
<td>$24,288.65</td>
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**Total** | $355,962.07 | $302,913.46 | $53,048.62

## Bid Items Removed from Contract

<table>
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<tr>
<th>ITEM</th>
<th>QUANTITY</th>
<th>UNIT</th>
<th>DESCRIPTION</th>
<th>UNIT PRICE</th>
<th>AMOUNT</th>
<th>Halopoff &amp; Sons’ Bid</th>
<th>City Share</th>
<th>Edison Share</th>
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<td>4</td>
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<td>L.S.</td>
<td>Drainage Reservoir (Borrow Area) Grading, Maintenance Road Construction &amp; all other appurtenances necessary to provide an operable storm water retention area</td>
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<td>$75,000.00</td>
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<td>Storm Drain Outlet Structure per Plan Details</td>
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<td>$1,245.00</td>
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<td>$11,852.40</td>
<td>$11,947.60</td>
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</table>

**Total** | $109,804.25 | $54,682.52 | $55,121.73

## Funding Summary

- **Storm Drain Master Plan Payback 07/08 Budget**: $390,000.00
- **Projected Maximum Payback Request**: $111,000.00
- **Remaining Available funds**: $279,000.00
- **Proposed Change Order**: $355,962.07
- **Proposed Bid Item Deduct (City Share)**: $54,682.52
- **Difference**: $301,279.55
- **Remaining Available funds**: $279,000.00
- **Payback Account Balance After Project Change**: $22,279.55
- **Edison Contribution to Change**: $53,048.52
- **Adjusted Storm Drain Account Balance**: $30,769.06
SUBJECT: OPEN ESCROW – DAVICK DEV. CORP. (JAMES CHOATE) PROPERTY

SOURCE: Public Works Department - Engineering Division

COMMENT: On May 21, 2007, the City entered into an "option to buy" with DAVICK DEV. CORP to purchase 1.9 acres in real property along with easements for the purpose of constructing a 550,000 gallon reservoir, pipeline and other appurtenances. A locator map is attached for Council's reference. The option was prepared by the City Attorney's office and called for the immediate payment of $10,000 until such time that the City secured a CIEDB loan to pay for the property in its entirety ($200,000) or until November 15, 2007, whichever occurred first. The option language stated that 50% of the "down payment" ($5,000) would apply to the purchase price if the City exercised its option. The agreement also stipulated that the City could extend the option for up to an additional 6 months at a cost of $2,000 per month.

As indicated above, the City has endeavored to secure a $9,000,000 loan from the California Infrastructure & Economic Development Bank to pay for the property referenced above as well as pay for three other pieces of property and for the construction of four capital projects. Recent conversations with the CIEDB suggest that they are not comfortable lending the City the $9,000,000 until March 2008. Staff has requested a meeting with CIEDB principals to discuss this matter in greater detail but to date, have not been successful in securing a meeting date. If the City does not secure the CIEDB loan before November 15, 2007, the City will have to extend the option at a cost of $2,000 per month or purchase the DAVICK property with Water Replacement Funds. It is staff's recommendation that the City purchase the 1.9 acre DAVICK property now using Water Replacement funds.

CIEDB's reluctance to lend the money stems from their concern that the City will not be able to complete all four capital projects within the 3 year timeline included in the CIEDB conditions. CIEDB recommends that the City continue its design efforts on the four capital projects. It is CIEDB's hope that all design work will be completed on or before March 2008 so the loan coincides with the beginning of construction. This strategy insures the City has the maximum 3 years to complete all construction projects. Design costs incurred prior to the execution of the CIEDB loan can be included in the loan for reimbursement. Unfortunately, the purchase of property prior to the execution of the loan cannot be reimbursed through the CIEDB loan.
RECOMENDATION: That the City Council:

1. Authorize staff to use Water Replacement funds to purchase the 1.9 acre site and pipeline easements from DAVICK DEV. CORP. in the amount of $195,000;

2. Authorize the Finance Director to initiate a budget adjustment in the amount of $195,000 from the Water Replacement Fund to the FY 2007/2008 budget;

3. Authorize staff to begin escrow, with the City paying escrow fees;

4. Authorize staff to make payment to DAVICK DEV. CORP. in the amount of $195,000 after completion of escrow;

5. Authorize the Mayor to sign the attached resolution; and

6. Authorize staff to record all documents with the County Recorder.

ATTACHMENTS: Resolution
Locator Map
RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
ACCEPTING A GRANT DEED IN FEE FOR
REAL PROPERTY AND AN EASEMENT FROM THE DAVICK DEV. CORP

BE IT RESOLVED by the City Council of the City of Porterville that the City of Porterville
hereby accepts a Grant Deed in fee from DAVICK DEV. CORP to-with:

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

BE IT FURTHER RESOLVED that the purchase price of $195,000 is hereby approved
with the City to open escrow account, pay the normal and customary escrow fees,
authorize Mayor to sign all necessary documents, and said deed to be recorded in the
office of the Tulare County Recorder. The forgoing has been accepted by the City
Council for the City of Porterville.

ADOPTED this 16th day of October, 2007.

______________________________
Cameron Hamilton, Mayor

ATTEST:

John Longley, City Clerk

______________________________
By Patrice Hildreth, Deputy City Clerk
Access & Pipeline Easement - Choate Property

A strip of land 20 feet in width lying within the Southwest quarter of Section 29, Township 21 South, Range 28 East, Mount Diablo Base and Meridian, in the City of Porterville, County of Tulare, State of California, the Easterly line of said 20 foot strip being described as follows:

Commencing at a point in the South line of the Northeast quarter of said Southwest quarter, said point being North 89°29'05" East, 1,063.89 feet of the Southwest corner of the Northeast quarter of said Southwest quarter, the South line of the Northeast quarter of said Southwest quarter being the basis of bearings for the purpose of this description;

Thence, North 00°30'55" West, 735.14 feet;

Thence, North 65°26'15" East, 236.55 feet to the TRUE POINT OF BEGINNING of the line to be described;

Thence, South 11°59'56" East, 179.88 feet to a point in the East line of said Southwest quarter, said East line also being the East line of Lot' 26 of Monache Tract per map recorded in Book 8, page 39 of Maps in the Office of the County Recorder of said County;

Thence, South 00°41'28" East, 630.25 feet along said East line to the Southeast corner of said Lot 26, and the terminus of the line being described.

Said 20 foot strip is bounded on the South by the South line of said Lot 26 and on the North by a line bearing South 65°26'15" West.
Tank Site - Choate Property

That portion of the Southwest quarter of Section 29, Township 21 South, Range 28 East, Mount Diablo Base and Meridian, in the City of Porterville, County of Tulare, State of California, described as follows:

Commencing at a point in the South line of the Northeast quarter of said Southwest quarter, said point being North 89°29'05" East, 1,063.89 feet of the Southwest corner of the Northeast quarter of said Southwest quarter, the South line of the Northeast quarter of said Southwest quarter being the basis of bearings for the purpose of this description;

Thence, North 00°30'55" West, 735.14 feet to the TRUE POINT OF BEGINNING of the parcel to be described;

Thence, North 24°33'45" West, 261.19 feet;

Thence, North 66°05'50" East, 253.21 feet;

Thence, North 89°18'32" East, 124.57 feet to a point in the East line of said Southwest quarter;

Thence, South 00°41'28" East, 227.30 feet along the East line of said Southwest quarter to a point being North 65°26'15" East, of the TRUE POINT OF BEGINNING,

Thence, South 65°26'15" West, 275.12 feet to the TRUE POINT OF BEGINNING.
SUBJECT: PROPOSAL FOR GASB 34 CITY INFRASTRUCTURE INVENTORY AND VALUATION SERVICES

SOURCE: Administrative Services

COMMENT: Beginning with the Consolidated Annual Financial Report (CAFR) for the current 2006-2007 fiscal year which has begun preparation for a due date of January 1, 2008, the City must begin reporting the value of its infrastructure capital assets, including roads, bridges, drainage system, lighting systems, and water and sewer facilities. To comply with this new reporting requirement, the City will need to undertake significant efforts to define appropriate policies, develop consistent methodologies, deploy asset management systems, and assemble necessary documentation.

The City of Tulare solicited proposals during Spring 2007 from professional consultants to perform the necessary appraisal activities, and selected the firm of CBIZ Accounting, Tax & Advisory, LLC, to conduct their infrastructure valuation. The approximate cost of the infrastructure valuation is $25,000, and would take approximately six (6) weeks to complete and sufficiently in time to meet the January 1 CAFR timeline. The City has received written permission from the City of Tulare to utilize the results of their recent solicitation for proposals in the selection of a professional consultant to perform the City’s GASB 34, and the City Attorney has opinioned that the City may utilize the process used by Tulare in the selection of a consultant. Funds are available in the Finance division of the Administrative Services Department to pay for the valuation services due to the salary savings of not having a full-time Chief Financial Officer during the 2006-2007 fiscal year.

RECOMMENDATION: That the Council authorize staff to utilize the solicitation of proposals conducted by the City of Tulare in the selection of CBIZ to perform the City’s GASB 34 appraisal services, and proceed with the GASB 34 valuation in compliance with CAFR requirements, utilizing carryover funds allocated to the Finance division during the 2006-2007 fiscal year.

ATTACHMENT: CBIZ Proposal for Infrastructure Inventory and Valuation Services

Dir. Appropriated/Funded C/M Item No. 17
October 10, 2007

Mr. John D. Lollis
Administrative Services
City of Porterville
291 N. Main Street
Porterville, California 93257

RE: PROPOSAL TO PROVIDE INFRASTRUCTURE INVENTORY AND VALUATION SERVICES

Dear Mr. Lollis:

In accordance with your request, CBIZ Accounting, Tax and Advisory Services, LLC (CBIZ) would be pleased to provide infrastructure inventory and valuation services for the City of Porterville. CBIZ is the ideal firm to provide these services for the following reasons, which are set forth in greater detail in our proposal:


- CBIZ has performed numerous infrastructure inventories and valuations in accordance with the requirements of Governmental Accounting Standards Board (GASB) Statement Number 34.

- The professional staff of CBIZ is highly specialized in governmental accounting and consulting. The firm devotes significant time and resources to continuing professional education related to governmental accounting and financial reporting.

- We believe our approach is one that recognizes the need for close coordination and communication with the City of Porterville.
CBIZ has a pool of personnel that are qualified to perform the work required in this proposal. All work to be performed would be done so by full-time employees in our Irvine, California office.

This proposal shall remain valid for a period of ninety (90) days from the date of submittal.

Mr. Marcus D. Davis, Managing Director, is authorized to bind our firm in contractual matters with the City of Porterville. He is the contact person during the period of proposal evaluation and can be reached at the address on our letterhead or the telephone number below.

Our firm thanks the City of Porterville for the opportunity to provide infrastructure inventory and valuation services. Should you have any questions or need additional information, please call me at (949) 474-2020, extension 244 or by email at mddavis@cbiz.com.

Sincerely,

CBIZ ACCOUNTING, TAX AND ADVISORY SERVICES, LLC

Marcus D. Davis
Managing Director
CITY OF PORTERVILLE
Proposal to Provide
Infrastructure Inventory and Valuation Services

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CITY OF PORTERVILLE
Proposal to Provide
Infrastructure Inventory and Valuation Services

QUALIFICATIONS

CBIZ Accounting, Tax and Advisory Services, LLC (CBIZ) was incorporated in March 1999 from the consulting portion of the practice of Conrad and Associates, L.L.P., a 35-year old local CPA firm. In January 2006, Conrad and Associates, L.L.P. merged with Mayer Hoffman McCann P.C., a national CPA firm. CBIZ is a wholly-owned subsidiary of CBIZ, Inc., a publicly-traded company on the New York Stock Exchange (NYSE: CBZ). CBIZ, Inc. offers a variety of services to small and medium-sized business and government. Services provided include accounting, consulting, insurance, employee benefits, retirement planning and administration, actuarial services, payroll, litigation support, information technology software sales and implementation, medical billing, tax and business valuation. The following map identifies the locations of the various CBIZ, Inc. offices.

Performing the infrastructure inventory and valuation services for the City of Porterville will be managed and staffed by the CBIZ office located in Irvine, California. The services offered from our Irvine office include:

- GASB 34 infrastructure valuations;
- Fixed asset inventories;
- User fee studies;
- Cost allocation plans;
- Performance-based budgets;
CITY OF PORTERVILLE
Proposal to Provide
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QUALIFICATIONS

- Management and organizational reviews;
- Payroll;
- GASB 45 actuarial valuations;
- Employee benefits; and
- Tax and advisory services.

Our Irvine office has a staff of 85 individuals. For the past 35 years, the firm has been performing accounting, audit and consulting services to the private and public sectors as well as not-for-profit organizations. A breakdown of our firm's personnel by level of experience is as follows:

<table>
<thead>
<tr>
<th>Classification</th>
<th>Number of Employees</th>
</tr>
</thead>
<tbody>
<tr>
<td>President</td>
<td>1</td>
</tr>
<tr>
<td>Directors</td>
<td>9</td>
</tr>
<tr>
<td>Managers</td>
<td>25</td>
</tr>
<tr>
<td>Senior Associates</td>
<td>26</td>
</tr>
<tr>
<td>Associates</td>
<td>17</td>
</tr>
<tr>
<td>Administrative Support</td>
<td>7</td>
</tr>
<tr>
<td><strong>Total personnel</strong></td>
<td><strong>85</strong></td>
</tr>
</tbody>
</table>

CBIZ is dedicated to rendering outstanding professional service of the highest quality. We employ highly qualified individuals and provide them with on-going training and education, contributing to the professional growth and development of each individual.

CBIZ is fully qualified to complete the services in this proposal. The key personnel identified in the section entitled Project Team (see page 11) have extensive local government experience, from both the consultant/audit and municipal employee perspectives. We believe that this unique combination of experience enables CBIZ to deliver a product to the City of Porterville that will not only accomplish the objectives of this project, but also be user-friendly.

Our approach to providing infrastructure inventory and valuation services is one of a joint effort between CBIZ and the City of Porterville. We believe that this partnership will help to set the project up for success. The effort required of the City will be minimal and consist primarily of assigning a project liaison to coordinate meetings with departments, and to discuss and resolve outstanding issues. All remaining work to be performed will be conducted and coordinated by CBIZ. We will keep appropriate City staff informed as to the status of the
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QUALIFICATIONS

project through periodic briefings. This will ensure that the project stays on time and on budget.

CBIZ has completed infrastructure inventories and valuations in accordance with the requirements of GASB 34 for the following agencies.

- City of Alhambra
- City of American Canyon (1)
- City of Arroyo Grande
- City of Atascadero
- City of Camarillo
- City of Cerritos
- City of Dinuba
- City of Escalon
- City of Fowler
- City of Hawaiian Gardens
- City of Highland
- City of La Palma
- City of La Quinta
- County of Los Alamos, NM
- County of Los Angeles
- City of Lynwood
- City of Moreno Valley
- City of Morro Bay
- City of National City
- City of Newport Beach
- City of Palm Springs
- City of Paso Robles
- City of Pismo Beach
- City of Rancho Cucamonga
- City of Redlands
- City of Rialto
- City of San Clemente
- City of San Marcos
- City of Santa Ana
- City of Santa Maria
- City of Soledad
- City of Temple City
- City of Torrance
- City of Tulare (1)
- City of West Covina
- City of Yuba City (2)
- Southern California Regional Rail Authority

(1) Infrastructure inventory and valuation in progress.
(2) Infrastructure inventory and valuation fieldwork completed and draft report issued.

The scope of services provided under each of these engagements included complete infrastructure valuations, including right-of-way, in accordance with the provisions of GASB 34. The various types of infrastructure we have inventoried and valued for these cities has included streets (pavement and right-of-way), curbs/gutters, sidewalks, medians, storm drains, traffic signals, street lights, bus shelters, trees, sewer systems, water systems, beaches and harbors, airports, dams, public art, sound walls, retention basins, off-road trails, paseos, library materials and fiber optic networks.
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There are two primary approaches to providing infrastructure inventory and valuation services in accordance with the provisions of GASB 34. These approaches would be to either conduct a complete physical inventory of all infrastructure assets, or to utilize existing records as the basis for the inventory, and estimate the data that is missing. In our experience, a combination of both of these approaches provides the best alternative.

The benefit of performing a complete physical inventory of all of the infrastructure assets is that this approach will provide the most accurate information. However, this approach is also the most costly to complete. GASB 34 is broad in its allowances of estimates and judgments in compiling infrastructure data. As such, most governments that have implemented GASB 34 have not chosen this approach as it can represent overkill in relation to the benefit received. This approach would only be recommended if the City had some other need or use for the complete physical inventory.

The approach of utilizing existing infrastructure inventory records from which the inventory will be compiled is by far the most cost effective to complete. This is also supported by the fact that many of the City’s infrastructure assets are already maintained in other systems. Additionally, utilizing this approach also meets the spirit of GASB 34. The disadvantage of this approach is that estimates are used. As long as the City is not using this data for future planning purposes, i.e. budgeting for construction of missing sidewalks based upon this report, then the exactness of the report can be estimated. This is the approach we would recommend for the City of Porterville. Our approach is described in detail in the sub-section entitled Detailed Work Plan (see page 7).

In order to value the infrastructure assets, we would first review for actual cost data. It has been our experience that due to the age of the assets, actual cost data is often times not available. Under these circumstances, we would value the infrastructure asset at its current replacement cost, and trend it back through the use of indices to the date of acquisition.

The City will need to make three other decisions as part of their implementation of the infrastructure provisions of GASB 34. Those decisions are:

- Whether to depreciate the infrastructure assets, or account for them using the modified approach;

- Whether to include all infrastructure assets in the inventory, or only those acquired after June 30, 1980; and
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- Whether to track the assets individually or in networks and subsystems.

**Depreciation vs. Modified Approach**

This issue has been the source of much debate between finance departments and public works departments. Most finance departments prefer to depreciate the infrastructure assets, whereas most public works departments would prefer to account for them using the modified approach. Of the cities, counties and agencies we have assisted with their GASB 34 infrastructure valuations, all but one has elected to depreciate. This election has been based primarily upon the additional cost required for the modified approach, as well as a perceived increase in liability exposure. The only agency electing to use the modified approach was the Southern California Regional Rail Authority. They elected to do so based upon their good internal ability to evaluate the condition of their railroad track.

Depreciation is the easiest method to implement. In most cases, cities are already set up to depreciate assets, especially if they have any enterprise funds, as they are already performing depreciation calculations. Under this method, the City will need to enter all of its infrastructure assets into its asset management system in order for depreciation to be calculated. There is generally no other work required.

Under the modified approach, the City will need to establish a condition level to which it will maintain its infrastructure assets. This initial condition level must be presented to and adopted by the City Council. The City will conduct an initial condition assessment to determine whether or not it is in compliance with the established condition level. This initial condition assessment will result in an additional cost to the City if the City does not have the capability of performing the assessment in house. Additionally, a condition assessment must be performed every three years to ensure that the City is maintaining its infrastructure assets at the prescribed condition level. This will also result in an additional cost to the City. The modified approach also requires additional disclosures in the Comprehensive Annual Financial Report.

It is acceptable for the City to elect the modified approach for some, but not all, of its infrastructure assets. This split in methods is acceptable provided an entire network of assets is tracked similarly. For example, the City may choose to track its streets under the modified approach, and depreciate all other infrastructure assets. CBIZ does not endorse one method over the other. Some of the agencies we have assisted have initially adopted the depreciation method, but have indicated they may convert to the modified approach for some of their infrastructure assets.
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We understand the City of Porterville will depreciate its infrastructure assets using the straight-line method of depreciation.

All Assets versus Infrastructure Acquired/Constructed after June 30, 1980

In a compromise effort, the GASB allows agencies to only capitalize those infrastructure assets acquired or constructed after June 30, 1980, as opposed to capitalizing all infrastructure assets. The City will need to make a decision regarding this issue early in the implementation. The advantage of only capitalizing those infrastructure assets acquired/constructed after June 30, 1980 is that fewer assets will need to be tracked for improvements. The disadvantages to this are that in most cases, the City will need to review the asset anyway in order to determine whether it was pre or post-June 30, 1980. Furthermore, as improvements are made, the City will have to analyze whether the item being improved was originally capitalized or not. By capitalizing all assets, the City will have a complete listing of its infrastructure, and the guesswork/analysis as described for update purposes will be minimized.

One additional factor the City should consider when determining whether to capitalize all assets or only those acquired/constructed after June 30, 1980, is the amount of liabilities being brought onto the Statement of Net Assets for GASB 34 purposes. If the City is highly leveraged, and chooses to capitalize only the post-June 30, 1980 infrastructure assets, the Statement of Net Assets may result in a deficit position. All of the agencies we have assisted to date have elected to capitalize all assets, just to avoid this potential reporting issue.

Based upon previous discussions with City staff, we understand the City will inventory all material infrastructure assets, regardless of the date of acquisition, construction or donation.

Track Infrastructure Assets Individually versus Networks/Subsystems

A final decision the City will need to make is whether it will track assets individually in its records, or group the assets into networks and subsystems. Generally, tracking assets individually means at the same level as replacements occur. For example, if the City has broken its streets down into segments for its pavement management system, then the City may want to capitalize the streets by those same segments. The rationale being that as replacements/improvements occur, they are generally performed to the segment as a whole. This makes the recordkeeping easier. Some of the larger cities we have assisted have opted to capitalize assets by network or subsystem due to the large volume of individual assets. The
CITY OF PORTERVILLE
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difficulty of this election comes with calculating the amount of asset replaced, and thus what
amount should be removed from the books.

Detailed Work Plan

We propose to provide an infrastructure inventory and valuation to the City of Porterville as
described below. This detailed work plan has been used successfully on previous
infrastructure inventory and valuation projects for other jurisdictions. This plan is general, and
will be tailored to meet the specific facts and circumstances facing the City of Porterville.

- Project kick-off – we would meet with appropriate City Finance, Public Works, and other
department staff as determined necessary by the City, to discuss the timing of the
project, records required and expectations of City staff. During the project kick-off, we
will discuss in more detail the types of infrastructure assets that may be owned by the
City, and attempt to refine this list. As previously described, the expectations of City
staff will be minimal, and only require designation of an overall project liaison with
decision-making authority, and designation of a contact for each infrastructure type to
answer technical questions that may arise during the course of the project. Our project
team is committed to be as minimally disruptive to ongoing City operations as possible.

During this task, we will also coordinate with the City’s independent auditors to ensure
that the final product will be acceptable from an audit perspective. It has been our past
experience that our proposed methodology and approach are reasonable and
acceptable by every independent auditing firm that has reviewed our work. As such, we
anticipate that there should be no issue obtaining approval from the City’s independent
auditors.

- Fieldwork – During this stage, we would refine and agree on the major classes of
infrastructure assets to be inventoried and valued. We would use the existing records
to compile the inventory and determine what information needed for valuation purposes
is missing. Our approach to developing an inventory of infrastructure is to first identify
all sources of existing inventory records that the City may have. These records often
times take the form of a pavement management system, assessor’s parcel maps,
construction plans, zoning maps, detailed listings maintained by departments
responsible for a type of asset, etc.
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Once we have identified the inventory records, we test the records to ensure they are reasonable, accurate and complete. This will be accomplished through random field visits to verify that assets exist and are at the location specified in the records. After we are confident that the records are reasonable, accurate and complete, we compile the inventory of infrastructure and identify any missing data that is necessary in order for us to value the assets. When existing inventory information is not available, we would create the inventory through whatever means necessary. This could include working from aerial maps, assessor's parcel maps, construction plans, or driving the City and physically inspecting the assets.

We will inquire as to whether the City has actual cost data relative to the infrastructure items. If the City does, we would need to review whatever documentation the City has to support the historical cost. This documentation may include summary spreadsheets, capital projects ledgers, City Council agenda reports, or actual invoices. It has been our experience, however, that the actual cost data is generally not available.

Other historical information required will include access to the various existing inventory records maintained by the City. Copies are not required at the outset of the project. We will determine which specific documents we plan to use and make copies of just those documents for our files.

- Determination of assumptions – this task would involve determining and documenting certain assumptions to be made in order to complete the missing data required for each infrastructure asset for valuation purposes. GASB 34 allows for estimations and assumptions to be made in gathering prior infrastructure data. It has been our experience that due to the age of many of the infrastructure assets, and the condition of records, assumptions are an integral part of the infrastructure valuation process. All assumptions made will be presented to the City's project liaison for approval. At the completion of the project, we will document all assumptions and ask the City to represent that the assumptions are logical and reasonable.

- Valuation of infrastructure assets – this task would involve reviewing accounting records to determine if historical cost data is available. If historical cost data is not available, then we will estimate historical cost by determining current replacement cost and trending it back to the date of acquisition through the use of indices. We will establish the current replacement cost by using a combination of recent bids or contract awards for similar projects within the City, and data cost information we have gathered by
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TECHNICAL APPROACH

performing infrastructure valuations for other municipalities. The indices to be used will include the Construction Cost Index for all constructed assets, and the Consumer Price Index for all purchased assets.

In valuing the infrastructure fixed assets, CBIZ also values the right-of-way beneath the streets. We believe that this service sets us apart from the other GASB 34 valuation firms. It has been noted by both GASB and the Government Finance Officers Association (GFOA), that land and land rights should be recorded on the City's books as capital assets. Easements upon which a street is constructed, although not City-owned, are considered to be land rights and should be valued. CBIZ values the right-of-way utilizing comparable land sales within and adjacent to the City, which are of a similar zoning. For purposes of valuation, we view the zoning of the adjacent property to be the zoning of the land and land rights to be valued. Although the right-of-way does not represent infrastructure, we include it as part of the project as it is closely related to the streets being inventoried.

- Status reports – we recommend communicating to the City on a weekly basis as to the status of the project. The format of this communication may take the form of a formal report, meeting, telephone conversation or email. This will give both Finance and Public Works staff an opportunity to review the work in progress and provide input as necessary.

- Quality control – In order to ensure that we are providing the City with the information requested, our staff will communicate daily with our Project Manager. This constant, ongoing communication will ensure that the project stays on time and on budget.

- Preparation of draft report – a draft report would be prepared and submitted to Finance and Public Works staff for their review and comment.

- Preparation of final report – any comments received from Finance and Public Works staff on the draft report will be incorporated into the final report. The final report will be delivered in both hard copy and electronic (Excel) format.
CITY OF PORTERVILLE
Proposal to Provide
Infrastructure Inventory and Valuation Services

PROJECT TIMELINE

Our proposed timeline for completion of the project is as follows:

<table>
<thead>
<tr>
<th>Task</th>
<th>Estimated Duration</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project kick-off</td>
<td>Within two weeks after notice to proceed.</td>
</tr>
<tr>
<td>Fieldwork</td>
<td>Immediately following the project kick-off and lasting one week.</td>
</tr>
<tr>
<td>Determination of assumptions</td>
<td>Performed immediately after the completion of fieldwork and lasting less than one week.</td>
</tr>
<tr>
<td>Valuation of infrastructure assets</td>
<td>Performed immediately after the assumptions are determined and lasting two weeks.</td>
</tr>
<tr>
<td>Preparation of draft report</td>
<td>Performed immediately after the valuation of infrastructure assets and lasting one week.</td>
</tr>
<tr>
<td>Preparation of final report</td>
<td>Performed immediately after receipt of City comments on draft report and lasting less than one week.</td>
</tr>
</tbody>
</table>

Based upon our analysis, we anticipate that the total duration of this project will be approximately 6 weeks from the award of the contract. We anticipate that all work related to the inventory and valuation of infrastructure assets will be completed by December 1, 2007, at which time a draft report will be issued to the City for review. The final report will be issued after the City’s approval of the draft report.
CITY OF PORTERVILLE
Proposal to Provide
Infrastructure Inventory and Valuation Services

PROJECT TEAM

CBIZ proposes to use the following key personnel on this engagement.

Project Organization Chart

![Diagram showing organization chart]

CBIZ states that the key personnel identified above will be available to the extent proposed for the duration of the project, and no person designated as “key” to the project will be removed or replaced without the prior written concurrence of the City of Porterville. Résumés of our proposed personnel are included on the following pages. Once the project begins, we will assign one Associate to assist Ms. Smidt with the fieldwork portion of the project.
CITY OF PORTERVILLE
Proposal to Provide
Infrastructure Inventory and Valuation Services

PROJECT TEAM

MARC DAVIS, CPA

ROLE ON PROJECT:

Mr. Davis will serve as the Project Manager on this project. He will serve as the contract liaison with the City of Porterville, oversee the project, provide technical assistance, and perform a quality review of the inventory and valuation before it is released. Mr. Davis has in excess of 23 years of local government accounting, auditing and consulting experience.

EXPERIENCE:

• Managing Director, CBIZ. September 1998 to Present. Mr. Davis currently is a Managing Director with the Firm. His responsibilities include directing the municipal specialized projects unit of the Firm. He has been responsible for coordinating the preparation of user fee studies, cost allocation plans, GASB 34 infrastructure valuations, fixed asset inventories, management and organizational reviews and performance-based budgeting. Mr. Davis has served as the Engagement Manager on all infrastructure inventory and valuation services provided by the Firm.

• Acting Director of Finance, City of Costa Mesa. May 1990 to September 1998. During Mr. Davis’ tenure with the City of Costa Mesa, he served as the City’s Deputy Treasurer, Assistant Director of Finance and Acting Director of Finance. His responsibilities included directing the efforts of a department of twenty-three (23) employees. Mr. Davis was instrumental in developing an in-house program to calculate citywide user fees.

• Acting Director of Finance, City of Buena Park. October 1988 to May 1990. Mr. Davis served as the City’s Deputy Treasurer and Acting Director of Finance during his tenure with the City of Buena Park. Services provided included investments, accounting, accounts payable, payroll, water billing, purchasing, budget, and management information services. During his tenure with the City, Mr. Davis developed several programs to bring audit-related functions in-house.
CITY OF PORTERVILLE
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PROJECT TEAM

MARC DAVIS, CPA (CONTINUED)

EDUCATION:
Bachelor of Arts in Business Administration, with Emphasis in Accounting
California State University Fullerton

PROFESSIONAL CERTIFICATIONS:
Certified Public Accountant, State of California, Certificate No. 46491

PROFESSIONAL AFFILIATIONS:
American Institute of Certified Public Accountants
California Society of Certified Public Accountants
California Society of Municipal Finance Officers
CITY OF PORTERVILLE
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PROJECT TEAM

ALISON SMIDT

ROLE ON PROJECT

Ms. Smidt will serve as the Senior Associate on this project. She has nearly three years of governmental auditing and consulting experience. She has performed several infrastructure inventories and valuations for clients. Ms. Smidt will perform the day-to-day work under the direction of the Project Manager.

EXPERIENCE

Senior Associate, CBIZ. 2005 to Present. Ms. Smidt is currently a Senior Associate with the firm. In this capacity, she has assisted in the completion of several infrastructure inventories and valuations in accordance with GASB 34. Additionally, Ms. Smidt has performed several audits on behalf of governmental agencies and non-profit organizations. Ms. Smidt has also assisted in the preparation of a cost allocation plan for a municipality.

EDUCATION:
Bachelor of Arts in Business Administration, with an emphasis in Accounting
Vanguard University
IMPACT ON CITY STAFF

As discussed in our Technical Approach, the impact on City staff will be minimal. We anticipate the requirements on City staff will be as follows:

- Attendance at a project kick-off meeting.

- Providing existing inventories of infrastructure assets. These could be electronic copies of the City's pavement management system and copies of other listings of infrastructure assets maintained.

- Providing copies of recent bid documents to assist with cost of constructing infrastructure assets in current dollars.

- Copy of a zoning map to assist in determining zoning classifications for the right-of-way valuation.

- Remain available for questions on specific infrastructure asset types based upon our physical inspections. We keep the questions to a minimum and group them so that we are not constantly disrupting the City's provision of service.
CITY OF PORTERVILLE
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COST OF SERVICES

CBIZ Accounting, Tax and Advisory Services, LLC (CBIZ) will provide infrastructure inventory and valuation services for the City of Porterville for a fixed fee of $24,500. This fixed fee is inclusive of all travel and out-of-pocket expenses.

Should the City require attendance at meetings after the draft report has been issued, CBIZ will attend those meetings at the City’s direction. The cost for attendance at a one day meeting, inclusive of travel and out-of-pocket expenses is $1,200 per day.

Should the scope of the project change, or should additional work be required that is beyond the scope of the RFP and this proposal, CBIZ will invoice for these additional services at our standard hourly rates. No work that is beyond the scope of the RFP or this proposal will be performed without the prior written consent of the City of Porterville.

<table>
<thead>
<tr>
<th>Classification</th>
<th>Hourly Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Manager</td>
<td>$175</td>
</tr>
<tr>
<td>Senior Associate</td>
<td>95</td>
</tr>
<tr>
<td>Associate</td>
<td>85</td>
</tr>
</tbody>
</table>
SUBJECT: AMENDMENTS TO EMPLOYEE PAY AND BENEFIT PLAN, AND EMPLOYEE RETIREMENT SYSTEM

SOURCE: Administrative Services/Human Resources

COMMENT: City representatives have recently concluded Meet and Confer Sessions on matters within the scope and purview of the Meyers-Milius-Brown Act with the Porterville City Employees Association (PCEA), representing the General Series employees, and a written Memorandum of Understanding (M.O.U.) has been executed with representatives of the PCEA. The protracted M.O.U. (Two-year Agreement) covers matters pertaining to wages, benefits and working conditions.

City Council acceptance and approval of an executed M.O.U. is most commonly demonstrated by Council authorization to change or amend, when applicable, those documents as are necessarily known to implement the points of agreement contained in the M.O.U.

RECOMMENDATION: That the City Council adopt the attached resolution amending the Employee Pay and Benefit Plan for Fiscal Years 2007-08 and 2008-09, and the Employee Retirement System, and authorize the Mayor to execute these and other documents necessary to implement the provisions thereof.

ATTACHMENT: Draft Resolution

DCM [Signature] Appropriated/Funded [Signature] CM [Signature] Item No. 18
RESOLUTION NO. _____-2007

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING THE EMPLOYEE PAY AND BENEFIT PLAN, AND THE EMPLOYEE RETIREMENT SYSTEM

WHEREAS: The City Council has determined and reiterated that an Employee Pay and Benefit Plan, Classification Plan, Personnel System Rules and Regulations, Health Plan, and Retirement Plan are essential for the proper administration of the City’s affairs, including employee recruitment and retention, and for proper supervision of City Employees; and

WHEREAS: The City Council recognizes the necessity of amending and/or changing the contents of such plans and regulations from time to time, and of executing instruments to implement and to keep the provisions thereof current, and to maintain the relevancy of same; and,

WHEREAS: There has been concurrence on a Memorandum of Understanding with the Porterville City Employees' Association for Fiscal Years 2007-08 and 2008-09, covering provisions to amend the Employee Pay and Benefit Plan, and the Employee Retirement System, as they relate to employees holding positions represented by such recognized employee organization.

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Porterville that the Employee Pay and Benefit Plan and the Employee Retirement System, for employees holding positions designated in the General Series are hereby amended as follows:

I. EMPLOYEE PAY AND BENEFIT PLAN.

A. COST OF LIVING INCREASE.

The Employee Pay and Benefit Plan, Section II, A., Position Pay Plan Schedule, shall be amended to increase the base pay for all General Series employees as follows:

   Effective 09-01-07: 4%
   Effective 07-01-08: 3%
B. SALARY ADJUSTMENTS.

In addition to the cost of living increases as stated above, the Employee Pay and Benefit Plan, Section II, A, Position Pay Plan Schedule, shall be amended to adjust the salaries of certain classifications within the General Series employee group as follows:

Effective 01-01-08: Communications Dispatcher and Senior Communications Dispatcher classifications shall receive a 5% salary adjustment.

Effective 04-01-08: Specified certified classifications shall receive salary adjustments as noted on Exhibit A, attached hereto, and made a part hereof, as though set forth herein.

Effective 10-01-08: Specified other classifications shall receive salary adjustments as noted on Exhibit B, attached hereto, and made a part hereof, as though set forth herein.

II. CALIFORNIA PUBLIC EMPLOYEES RETIREMENT SYSTEM (CalPERS)

Effective 10-01-07, the employee’s 8% share of the monthly CalPERS contribution shall be converted to salary for all General Series employees, providing said employees participate in paying the employee’s pre-taxed monthly retirement contribution of 8% on the same date as the salary conversion.

III. POTENTIAL RECOGNITION OF NON-SWORN PUBLIC SAFETY SUPPORT UNIT.

It is the understanding of the City that there may be a petition for recognition by non-sworn Public Safety Support Unit employees, and the City would be receptive to this petition. Should such recognition occur, the salaries and benefits for the second year of this MOU, i.e., from July 1, 2008 through June 30, 2009, shall become null and void for those employees holding positions recognized by the non-sworn Public Safety Support Unit.

BE IT FURTHER RESOLVED that the Mayor of the City of Porterville is hereby authorized to execute those documents as are necessary to implement the provisions hereof.

____________________________
Cameron Hamilton, Mayor

Attest:

____________________________
Patrice Hildreth, Acting Chief Deputy City Clerk
EXHIBIT A

CITY OF PORTERVILLE
Classification Adjustments: 2007-2008
GENERAL SERIES

<table>
<thead>
<tr>
<th>Classification</th>
<th>Range Increase:</th>
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<td>Building Inspector I</td>
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</tr>
<tr>
<td>Building Inspector II</td>
<td>5</td>
</tr>
<tr>
<td>Communications Dispatcher</td>
<td>5</td>
</tr>
<tr>
<td>Communications Dispatcher, Senior</td>
<td>5</td>
</tr>
<tr>
<td>Electrician/Instrument Technician</td>
<td>5</td>
</tr>
<tr>
<td>Field Services Worker I</td>
<td>2</td>
</tr>
<tr>
<td>Field Services Worker II</td>
<td>5</td>
</tr>
<tr>
<td>Field Services Worker III</td>
<td>3</td>
</tr>
<tr>
<td>Laboratory Attendant (Assistant)</td>
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<tr>
<td>Laboratory Technician I</td>
<td>11</td>
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<tr>
<td>Laboratory Technician II</td>
<td>10</td>
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<tr>
<td>Laboratory Technician III</td>
<td>6</td>
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<tr>
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* Classification change for Field Services Workers in the Water/Sewer Sections
### CITY OF PORTERVILLE

Classification Adjustments: 2008-2009

#### GENERAL SERIES

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CITY COUNCIL AGENDA: October 16, 2007

TITLE:  BROWN ACT AND ETHICS SEMINAR FOR PUBLIC OFFICIALS

SOURCE:  CITY ATTORNEY

COMMENT:  Pursuant to direction by the City Council at the August 7, 2007 City Council Meeting, attorney Michael Jenkins has been contacted for the scheduling of a "refresher" seminar on the topics generally covered by AB 1234, including ethics issues, the California Public Records Act, financial conflict of interest laws, and open meeting laws. As was previously discussed, Michael Jenkins (an attorney with Jenkins & Hogin LLP and City Attorney for the cities of Diamond Bar, Hermosa Beach, Rolling Hills and West Hollywood) has been extremely active in the California League of Cities with regard to these areas of the law. He was the Chair of the Editorial Board for the League's most recent published guide to the Brown Act, and he is available for such presentations. Michael has also been involved with legislative advocacy on behalf of the League, in attempting to preserve the current provisions of and exceptions to these laws.

Since all of the City Council Members, and most of the City's committee members, have already received the training required by AB 1234, this office recommends that the seminar not be held as an "official" AB 1234 seminar, and rather that it be conducted in a more open format that would allow for hypotheticals, "Q and A," and more open discussion. (AB 1234 sessions are generally more restricted given that a vast number of topics must be covered in a two-hour time period.) "Official" AB 1234 training is available via other mechanisms (e.g. free, on-line courses, etc.)

The City Council also expressed an interest in inviting other local agencies to the seminar. Therefore, once a date and time has been determined, the City can send written invitations to the neighboring cities. City staff will coordinate with the Council Members to schedule the date and time for the seminar.

Finally, Mr. Jenkins has provided a cost estimate of $2,000 - $3,000, including the travel and hotel expenses, and it is requested that the City Council appropriate $3,000 for this purpose.

RECOMMENDATION:  That City Council confirm its authorization of the scheduling of the seminar per the report above, and appropriate $3,000 for activity.

[Signature]  [Signature]

Approved  Funded  CM

ITEM NO.  19
PUBLIC HEARING

SUBJECT: BUDGET ADJUSTMENT/CITIZENS' OPTION FOR PUBLIC SAFETY (COPS) PROGRAM FUNDING

SOURCE: Police Department

COMMENT: In the past few years the City of Porterville has annually received funding from the State of California through the Citizens’ Option for Public Safety (COPS) Grant Program. The amount we are approved to receive this year from this grant is approximately $100,000. In the past, the Police Department has used these funds in support of a full-time sworn police officer, a community services officer, and all necessary training, equipment, and overtime costs. The expenditure of these funds in this manner is in proper adherence with the requirements as specified in the Assembly Bill.

RECOMMENDATION: That City Council:
1. Conduct the public hearing to receive public comment; and
2. Authorize use of these funds to offset costs for the full-time sworn officer, the community services officer, and all necessary training, equipment, and overtime costs; and
3. Approve an increase to the Police Department’s 2007-2008 budget, in the amount of $100,000.

Attachment: Draft Resolution
RESOLUTION NO. __________-2007

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF PORTERVILLE ACCEPTING CITIZENS’ OPTION FOR
PUBLIC SAFETY (COPS) GRANT FUNDS AND APPROVING A BUDGET
ADJUSTMENT TO THE POLICE DEPARTMENT BUDGET

BE IT HEREBY RESOLVED by the City Council of the City of Porterville as follows:

1. That the City of Porterville accept the 2007/2008 Citizens’ Option for Public Safety (COPS) Grand Funds; and

2. That the Police Department appropriation be increased by the amount of the grant from COPS Funds received for Fiscal Year 2007/2008 to allow for the expenditure of those Grant Funds in support of a full-time Sworn Officer and a Community Services Officer and their operational costs.

APPROVED AND ADOPTED this 16th day of October, 2007.

______________________________
Cameron Hamilton, Mayor

ATTEST:

John Longley, City Clerk

______________________________
By: Patrice Hildreth, Acting Chief Deputy City Clerk
SUBJECT: ZONE CHANGE 4-2007, DESIGN REVIEW (D) OVERLAY 7-2007, CONDITIONAL USE PERMIT 10-2007 & VACATION OF A PORTION OF “C” STREET (CVS PHARMACY)

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: The applicant is requesting approval of Zone Change 4-2007 to change the present zoning for the subject three (3) parcel site from C-3 (Heavy Commercial) and R-4 (Multiple Family) to C-3(D) (Heavy Commercial with Design Review Overlay). The Design Review (D) Overlay 7-2007 is being submitted to facilitate the development of a new 13,225± square foot CVS Pharmacy with a drive-through. Also required is Conditional Use Permit 10-2007 to allow the off-sale alcohol license within 600 feet of two sensitive uses; The First Assembly of God Church at 105 E. Olive Ave to the east and Vine Street Community School to the south. As part of the off-sale alcohol license the City is required to provide an approval letter of public convenience and necessity because of the over-concentration of liquor licenses in the area.

As part of considering the referenced applications, the City Council must approve the vacation of a portion of “C” Street between Olive Avenue and approximately 200 feet north of Vine Avenue. The westerly portion of the vacation is a strip of land approximately 25 feet in width and 250 feet in length and is adjacent to property currently owned by Main Olive, LLC. The easterly portion of the vacation is a strip of land approximately 15 feet in width and 250 feet in length and is adjacent to property currently owned by the Camacho Family Trust. Together they represent the proprietary interest to all the property fronting the proposed street vacation and are hereby the requesting parties. The subject site is located at the southeast corner of Olive Avenue and “C” Street.

The Zone Change is being proposed to bring the current zoning of the proposed parcels into consistency and compliance with the current and already approved general plan for development of the proposed pharmacy. The applicant is requesting approval of a D-Overlay to facilitate the proposed construction of a new 13,225± square foot CVS Pharmacy with a drive-through. The conditional use permit is required because of the proximity to sensitive uses and sale of alcohol. The Pharmacy itself, is an allowed use in the C-3 Zone. The project lies in Tract 41.1, which currently has 9 other alcohol licenses. Eight (8) licenses are allowed in each tract area before the area is deemed over concentrated by the Department of Alcohol and Beverage Control. Once an area is over-concentrated, an approving letter of public convenience and necessity is required from the local governing body to be submitted to the ABC for new off-sale licenses.

At the October 2, 2007 City of Porterville City Council meeting the Council authorized Staff to negotiate a “Property Exchange & Development Agreement,” for abandonment of a portion of “C” Street to allow for additional parking and landscape while requiring appropriate

DD ___ APPROPRIATED/FUNDED ___ CM ___ ITEM NO. 21
compensation. The developer has proposed a number of public improvements with a public
benefit exceeding the value of the abandonment area including a new median and turning lane in
Olive Avenue and a portion of “C” Street, a public space area at Second Street and Olive
Avenue, relocation of underground utilities, nostalgic street lights and the alignment of Second
Street with the proposed north entrance to the proposed CVS Pharmacy.

The colors and finish of the proposed development will match the scheme of the downtown
buildings. A metromont stone (similar to brick but larger) finish building in terra cotta and pale
yellow colored plaster panels with soft clay, beige and red tones accenting rooftops, signage and
awnings. There will be some additional modern architectural features at the entrance and at the
drive-through of the proposed CVS Pharmacy building that will enhance downtown theme and
its visual appearance. Additionally, landscaping and ADA parking stalls will be constructed
throughout the parking lot and median areas of the store.

The project is Categorically Exempt pursuant to “General Rule” Section 15061 b(3) of the
CEQA Guidelines as it brings the zoning into consistency with the General Plan. The D-Overlay
and Conditional Use Permit is Categorically Exempt pursuant to “In-fill Development” Section
15332 of the CEQA Guidelines.

RECOMMENDATION: That the City Council:

1. Adopt the draft ordinance approving Zone Change 4-2007; and
2. Waive further reading of the draft ordinance, approving the
Zone Change 4-2007, and order it to print; and
3. Adopt the draft resolution containing findings and conditions in
support of approval of Design Overlay Site Review 7-2007
contingent upon Zone Change 4-2007 and Vacation for a
portion of “C” Street; and
4. Adopt the draft resolution containing findings and conditions in
support of approval of Conditional Use Permit 10-2007
contingent upon Zone Change 4-2007, Vacation of a portion of
“C” Street and approval of D-Overlay 7-2007; and
5. Approve letter supporting the issuance of a type 21 off-Sale
Alcohol License within Census Tract 41.1 for the proposed
CVS Pharmacy at the southeast corner of Olive Avenue and
“C” Street.
6. Approve the “Property Exchange & Development Agreement; and
7. Adopt the Resolution of Vacation, including reservation, for a
portion of “C” Street between Olive Avenue and Vine Avenue; and
8. Authorize the City Clerk to record the Resolution of Vacation and Easement Deed upon execution of the "Property Exchange and Development Agreement" with the County Recorder; and
9. Authorize the Mayor to sign all documents related to the CVS Pharmacy project.

ATTACHMENTS:

Complete Staff Report
CITY COUNCIL AGENDA: OCTOBER 16, 2007

STAFF REPORT

TITLE: ZONE CHANGE 4-2007, CONDITIONAL USE PERMIT 10-2007, DESIGN REVIEW SITE OVERLAY 7-2007 (CVS PHARMACY)

OWNER/APPLICANT: Jorge Camacho
451 Ruma Rancho Ct.
Porterville, CA 93257

REPRESENTATIVE: Bill McDermott
Armstrong Development
2377 Gold Meadow Way Suite 100
Gold River, CA 95670

PROJECT LOCATION: Southeast corner of Olive Avenue and “C” Street.

SPECIFIC REQUEST: The applicant is requesting approval of Zone Change 4-2007 to change the present zoning for the subject three (3) parcel site from C-3 (Heavy Commercial) and R-4 (Multiple Family) to C-3(D) (Heavy Commercial with Design Review Overlay). The Design Review (D) Overlay 7-2007 is being submitted to facilitate the development of a new 13,225± square foot CVS Pharmacy with a drive-through. Also required is Conditional Use Permit 10-2007 to allow the off-sale alcohol license within 600 feet of two sensitive uses; The First Assembly of God Church at 105 E. Olive Ave to the east and Vine Street Community School to the south. As part of the off-sale alcohol license the City is required to provide an approval letter of public convenience and necessity because of the over-concentration of liquor licenses in the area.

Prior to considering the referenced applications, the City Council must approve the vacation of a portion of “C” Street between Olive Avenue and approximately 200 feet north of Vine Avenue. The westerly portion of the vacation is a strip of land approximately 25 feet in width and 250 feet in length and is adjacent to property currently owned by Main Olive, LLC. The easterly portion of the vacation is a strip of land approximately 15 feet in width and 250 feet in length and is adjacent to property currently owned by the Camacho Family Trust. Together they represent the proprietary interest to all the property fronting the proposed street vacation and are hereby the requesting parties. The subject site is located at the southeast corner of Olive Avenue and “C” Street. The subject site is located at the southeast corner of Olive Avenue and “C” Street.

HISTORY: The City Council at its regularly scheduled meeting of December 19 2006, reviewed an initial request to vacate the northern portion of “C” Street between Vine and Olive Avenue. The applicant at that time submitted a preliminary site plan, different from what is being proposed today. Because staff had not had a chance to review the project at that time and make recommendations to City Council prior to considering the vacation of “C” Street, Council asked that the item be reviewed by staff and formally presented with recommendations.
At the October 2, 2007 City of Porterville City Council meeting the Council authorized Staff to negotiate a “Property Exchange & Development Agreement,” for abandonment of a portion of “C” Street to allow for additional parking and landscape while requiring appropriate compensation. The developer has proposed a number of public improvements with a public benefit exceeding the value of the abandonment area including a new median and turning lane in Olive Avenue and a portion of “C” Street, a public space area at Second Street and Olive Avenue, relocation of underground utilities, nostalgic street lights and the alignment of Second Street with the proposed northern entrance to the proposed CVS Pharmacy.

PROJECT DETAILS: The site selected for a proposed CVS Pharmacy with a drive-through and an off-sale alcohol license is currently vacant and located on multiple parcels that will require a lot merger to consolidate the parcels.

The colors and finish of the proposed development will match the scheme of the downtown buildings. A metromont (stone block) building with a brick veneer and pale yellow colored plaster panels with soft clay, beige and red tones accenting rooftops, signage and awnings. There will be some additional modern architectural features at the entrance and at the drive-through of the proposed CVS Pharmacy building that will enhance downtown theme and its visual appearance. Additionally, landscaping and ADA parking stalls will be constructed throughout the parking lot and median areas of the store.

The CVS store’s parking demand is being met by including a row of diagonal parking across “C” Street in the area proposed for abandonment. Easements will be reserved for existing utilities of record. The City has water facilities within this segment of “C” Street and will want to have the right to remove, replace and maintain these facilities. The proposed building design, required landscape, loading and parking have required creative design and negotiation between City Staff and the developer to comply with city ordinances and building requirements. The building design, as proposed, cannot meet parking demand and landscape requirements to meet City standards without the abandonment of a portion of “C” Street. Therefore the entire project depends upon the approval of the “C” Street abandonment and a negotiated “Property Development & Exchange Agreement.”

STAFF ANALYSIS: The proposed pharmacy requires a conditional use permit because of its proximity to sensitive uses and sale of alcohol. The development is within 600 feet (but not less than 500 feet) of two sensitive uses; The First Assembly Church at 105 E. Olive Ave to the east and Vine Street Community School, located at the northeast corner of “C” Street and Olive Avenue. The commercial pharmacy and drive-through is an allowed use in the C-3 Zone. The project lies in Tract 41.1 impacted by 9 other alcohol licenses. The project will require a letter from the City Council approving a Letter of Public Convenience and necessity from the City for the off-sale alcohol license to be submitted to the Department of Alcohol and Beverage Control.

The City has authority to summarily vacate these street segments under Section 8330, Part 3, Division 9 of the Streets and Highways Code of the State of California.
SURROUNDING LAND USES AND ZONING:

NORTH – City – C-2 (Central Commercial) Vacant Multi-Family Apartments and Parking Facility
EAST – City – C-2 (Central Commercial) Commercial uses – Barbershop and Church
WEST – City – C-3 (Heavy Commercial Zone) Commercial uses – Drive-through Coffee and vacant commercial buildings
South – City – R-4 (Multi-family Residential Zone) Residential/Commercial/ Public – one home, commercial storage, and Public School

GENERAL PLAN DESIGNATION AND ZONING: The subject site is designated Heavy Commercial and zoned C-3 Heavy Commercial (northern two parcels are C-3) and the southern single parcel is zoned R-4 (multi-family residential).

ENVIRONMENTAL: The project is Categorically Exempt pursuant to “General Rule” Section 15061 b(3) of the CEQA Guidelines as it brings the zoning into consistency with the General Plan. The D-Overlay and Conditional Use Permit is Categorically Exempt pursuant to “In-fill Development” Section 15332 of the CEQA Guidelines.


RECOMMENDATION: That the City Council:

1. Adopt the draft ordinance approving Zone Change 4-2007; and
2. Waive further reading of the draft ordinance, approving the Zone Change 4-2007, and order it to print; and
3. Adopt the draft resolution containing findings and conditions in support of approval of Design Overlay Site Review 7-2007 contingent upon Zone Change 4-2007 and Vacation for a portion of “C” Street; and
4. Adopt the draft resolution containing findings and conditions in support of approval of Conditional Use Permit 10-2007 contingent upon Zone Change 4-2007, Vacation of a portion of “C” Street and approval of D-Overlay 7-2007; and
5. Approve letter supporting the issuance of a type 21 off-Sale Alcohol License within Census Tract 41.1 for the proposed CVS Pharmacy at the southeast corner of Olive Avenue and “C” Street.
6. Approve the “Property Exchange & Development Agreement; and
7. Adopt the Resolution of Vacation, including reservation, for a portion of “C” Street between Olive Avenue and Vine Avenue; and
8. Authorize the City Clerk to record the Resolution of Vacation and Easement Deed upon execution of the “Property Exchange and Development Agreement” with the County Recorder; and
9. Authorize the Mayor to sign all documents related to the CVS Pharmacy project.

ATTACHMENTS:

1. Site Plan, Zone Change (Exhibit “A”), Elevation Plan
2. Notice of Exemption
3. Conditional Use Permit Application
4. D-Overlay Site Review Application
5. Draft Ordinance for Zone Change 4-2007
8. Letter of Request for City Council approval of Letter of Public Convenience and Necessity
9. Draft Resolution of Approval for the Vacation of a Portion of “C” Street
12. Exhibit “C-1”, “C-2” - Reservations and Exceptions
13. Draft “Property and Development Agreement”
ZONE CHANGE #4-2007

PROPOSED ZONING CHANGE

C-3 & R-4 TO C-3 (D)

CITY COUNCIL
ORDINANCE NO. _________

EXHIBIT "A"
NOTICE OF EXEMPTION

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

X Tulare County Clerk
County Civic Center
Visalia, CA 93291

FROM: City of Porterville
291 North Main Street
Porterville, CA 93257

Bradley D. Dunlap, Community Development Director
291 N.Main Street
Porterville, CA 93257

Zone Change 4-2007 and Conditional Use Permit 7-2007
Project Title

Southeast Corner of Olive Avenue and “C” Street
Project Location (Specific)

City of Porterville
Project Location (City)

Tulare
Project Location (County)

Zone Change of proposed project site from C-3 and R-4 to C-3(D) and Conditional Use Permit to allow construction of new CVS Pharmacy with a drive-through and an off-sale alcohol license.

Description of Nature, Purpose, and Beneficiaries of Project

City of Porterville
Name of Public Agency Approving Project

Bradley Dunlap, Community Development Director
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: “In-fill Development” Section 15332 Class 32

The Zone Change is exempted by “General Rule” section 15061 b(3) as there is no potential impact on the environment, and the project is characterized as in-fill development meeting the conditions described in section 15332 Class 32 Project is not subject to CEQA.
Reasons why project is exempt

Bradley D. Dunlap, 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____

Signature: [Signature]

Community Development Director
Title

p:comdev\jose\planning\NoticeExemptionDevelopmentAgmt.

ATTACHMENT ITEM NO. 2
CITY OF PORTERVILLE

APPLICATION FOR CONDITIONAL USE PERMIT

NOTE: The basic purpose of the Conditional Use Permit Article 29 of the City Zoning Ordinance is to assure that the design and subsequent operation of a conditional use will be reviewed in order to carry out the purposes of the Ordinance and to protect the public health, safety and welfare, due to the unique and special characteristics of such uses.

PROJECT NAME: CVS/PHARMACY AT SEC OLIVE AND MAIN

NAME, MAILING ADDRESS AND TELEPHONE NUMBER OF PROPERTY OWNER(S):
JORGE CAMACHO, 451 ROMA RANCHO CT, PORTERVILLE, CA 93257

NAME, MAILING ADDRESS AND TELEPHONE NUMBER OF APPLICANT/CONTACT PERSON:
BILL MCDERMOTT, ARMSTRONG DEVELOPMENT, 2377 GOLD MEADOW WAY, SUITE 100, GOLD RIVER, CA 95670, (916) 524-2704

PROJECT ADDRESS AND NEAREST CROSS STREETS:
OLIVE & C STREET

The applicant requests a Conditional Use Permit to use the above described property for the following purposes:

TYPE 21 LIQUOR LICENSE

Date of most recent sale of property: TBD

If applicant is the lessee, give date property was leased: PROPOSED DATE OCT 14, 2007

List below the original deed restrictions pertaining to the type of improvements permitted:

NONE AT THIS TIME

Date said restrictions expire: N/A

(Please attach a copy of original printed restrictions in answer to this question. Properly underline those features controlling the type and class of uses permitted.)
A Plot Plan and 300’ radius property owners map, and corresponding mailing list are attached and made a part of this application. (See detailed instructions on Page 4 of this form).

1. State how the proposed use will not be materially detrimental to the public welfare or pose injury to property or improvements in such vicinity and zone in which the use is proposed. THE CUS/PHARMACY IS A CONSUMER VALUABLE STORE WHICH PROVIDES A VARIETY OF GOODS FROM HEALTH AND BEAUTY AIDS, HOUSEHOLD GOODS, TO PHARMACEUTICAL PRODUCTS. CURRENTLY THE CUS/PHARMACY IS A PERMITTED USE WITHIN THE ZONING STANDARDS. ALSO DURING CONSTRUCTION CUS/PHARMACY WILL FOLLOW CURRENT FEDERAL, STATE AND LOCAL BUILDING STANDARDS.

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

   344 PEOPLE

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

   25 - 30 EMPLOYEES ON PAYROLL

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

   150 OFF-STREET PARKING STALLS

   (d) Maximum height of buildings or structures.

   25’ - BUILDING HEIGHT

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

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

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OWNER'S DECLARATION

STATE OF CALIFORNIA  
COUNTY OF TULARE  

I, **Jorge Camacho**, being duly sworn, declare and say that I am the owner of part (or all) of the property involved and that this application has been prepared in compliance with the requirements of the Porterville City Council as printed herein and that the foregoing information thoroughly and completely, to the best of my ability, presents the argument in behalf of the application except as to the matters stated to be on my information and belief.

I declare under penalty of perjury that the foregoing is true and correct, executed at

**Porterville, CA**

this 3rd day of October, 2007

Telephone (559) 781-5621

Signed

Mailing Address

451 Puma Rancho Ct.

**Porterville, CA 93257**

This is to certify that the foregoing application has been inspected by me and found to be complete and acceptable for filing with the Porterville City Council.

Received

Date

Receipt No.

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

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OWNER'S DECLARATION

STATE OF CALIFORNIA )

COUNTY OF TULARE )

I, MAXIMO CAMACHO/CAMACHO TRUST, being duly sworn, declare and say that I am the owner of part (or all) of the property involved and that this application has been prepared in compliance with the requirements of the Porterville City Council as printed herein and that the foregoing information thoroughly and completely, to the best of my ability, presents the argument in behalf of the application except as to the matters stated to be on my information and belief.

I declare under penalty of perjury that the foregoing is true and correct, executed at PORTERVILLE, CA this 30th day of OCTOBER, 2007.

Signed MAXIMO CAMACHO

Mailing Address 451 RIMOA RANCHO CT.
PORTERVILLE, CA 93257

This is to certify that the foregoing application has been inspected by me and found to be complete and acceptable for filing with the Porterville City Council.

Received __________________________ Date __________________________

Receipt No. __________

By __________________________
APPLICATION FOR DESIGN REVIEW APPROVAL  D-OVERLAY

NOTE: The basic purpose of the supplemental "D" zone as described in Article 8 of The City Zoning Ordinance is to assure that the design and development of property will be performed giving maximum protection to the surrounding community while allowing for alternative development standards if necessary due to the unique and special characteristics of the property.

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CHECK ALL BEING APPLIED FOR:
- [x] Conditional Use Permit
- [ ] Building Permit
- [ ] Grading/Development Plan
- [ ] Other

Project Name: CVS/PHARMACY AT SEC OLIVE & MAIN, PORTERVILLE

Name of Applicant /Agent: BILL McDEWITT

Address of Applicant /Agent: 2377 GOLD RIVER WAY SUITE 100, GOLD RIVER, CA 95671

Name of Property Owner: CAMACHO

Address of Owner: 451 RUMA RANCHO CT. PORTERVILLE, CA 93257

Project Location (address, cross street): OLIVE & "E" STREET

Assessors Parcel Number(s): 

The applicant requests Design Review Approval using the above described property for the following purposes:

DRIVE-THRU AND 24 HOUR USE

Date of most recent sale of property: TBD

If applicant is the lessee, give date property was leased: PROPOSED OCT. 14, 2007

List below the original deed restrictions pertaining to the type of improvements permitted.

NONE KNOWN

Date said restrictions expire: N/A

(Please attach a copy of original printed restrictions in answer to this question. Properly underline those features controlling the type and class of uses permitted.)
1. State how the proposed use will not be materially detrimental to the public welfare or pose injury to property or improvements in such vicinity and zone in which the use is proposed. The Cus/Pharmacy is a consumer valued store which opposes the community health and beauty aid to household goods and pharmaceutical products. Currently the Cus/Pharmacy is a permitted use within the city zoning. Also during construction the Cus/Pharmacy will follow all federal, state and local building requirements.

2. Principal requirements of intended use (Please answer the following statements as completely as possible).

   (a) Total number of people that the building can accommodate at one time, or grounds if the use is not conducted in the building at one time (Occupancy Capacity).

      344 PEOPLE

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

      25 - 30 EMPLOYEES

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

      24 PARKING STALLS

   (d) Maximum height of buildings or structures.

      25' BUILDING HEIGHT

3. State how the design of the project does not comply with the any codes and ordinances.

   N/A

I declare under penalty of perjury that the foregoing is true and correct, executed at

Jorge Camacho this 8th day of October, 2007

Telephone 559-733-2465 Signed

Mailing Address 151 Ruspa Ranch Court

Porterville, CA 93257

This is to certify that the foregoing application has been inspected by me and found to be complete and acceptable for filing with the Porterville City Council.

Received ____________________________ Receipt No. ____________

By ____________________________
1. State how the proposed use will not be materially detrimental to the public welfare or pose injury to property or improvements in such vicinity or zone in which the use is proposed. The CUS/PHARMACY is a consumer valued store which offers the community health and beauty aid to household goods and pharmaceutical products. Currently the CUS/PHARMACY is a permitted use within the city zoning, also during construction the CUS/PHARMACY will follow all federal, state and local building requirements.

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

   344 People

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

   25-30 Employees

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

   Low Parking Stalls

   (d) Maximum height of buildings or structures.

   25' Building Height

3. State how the design of the project does not comply with any codes and ordinances.

   N/A

I declare under penalty of perjury that the foregoing is true and correct, executed at

Maximo Canacho/Lima

this 9th day of October, 2007.

Telephone (559) 393-2465

Signed X Melcio Canacho

Mailing Address

451 Rumi Road GC

Porterville, CA 93257

This is to certify that the foregoing application has been inspected by me and found to be complete and acceptable for filing with the Porterville City Council.

Received________________________  Receipt No.________________________

Date

By ________________________________
Ordinance No. _____

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
APPROVING FINDINGS SUPPORTING FACTS THAT SUBSTANTIAL FACTS HAVE
OCCURRED FOR ZONE CHANGE 4-2007 ON PROPERTY LOCATED ON THE
SOUTHEAST CORNER OF OLIVE AVENUE AND “C” STREET

WHEREAS: The City Council of the City of Porterville at its regularly scheduled
meeting of October 16, 2007, conducted a public hearing to approve findings and consider Zone
Change 4-2007, being a change of zone from C-3 (Heavy Commercial Zone) and R-4 (Multi-
Family Residential Zone) to C-3 (D) – Heavy Commercial Zone with Design Review Site
Overlay for those three (3) lots located at the southeast corner of Olive Avenue and “C” Street; and

WHEREAS: The City Council of the City of Porterville, after proceedings duly had and
taken, and after due and legal notice having been given, as prescribed by Ordinance 1198 of the
City of Porterville, and the laws of the State of California, has determined that the public interest
would best be served by approval of the proposed Zone Change 4-2007: and

WHEREAS: The City Council made the following findings in support of the approval
of Zone Change 4-2007:

That a portion of the current zoning is split zoned and not consistent with the intended
use of the subject site.

That the City of Porterville desires that the current land use be consistent.

That the proposed land uses and General Plan Designation give cause and support for the
zone change.

That the subject zone change will not create significant environmental impacts.

That the Land Use Element of the General Plan designates the subject parcels as Heavy
Commercial.

That the proposed C-3(D) (Heavy Commercial with Design Review Site Overlay) Zoning
will conform to the land use designation (Heavy Commercial) of the General Plan.

That in accordance with the “General Rule” Exemption of California Administrative
Code 15061 b(3), the proposed zone change classification to C-3(D) is categorically
exempt from CEQA.

That this zoning designation will ensure that any future development of the subject site
will be in conformance with existing plans and policies and will not adversely impact
the surrounding area.

That the City Council is the decision making-body for the project.
NOW, THEREFORE, BE IT ORDAINED: That the City Council of the City of Porterville does ordain as follows:

Section 1: That the following described property in the City of Porterville, County of Tulare, State of California, known as Zone Change 4-2007, is hereby rezoned from C-3 (Heavy Commercial) and R-4 (Multi-family Residential) to C-3(D) (Heavy Commercial with Design Review Site Overlay) for those lots described as Lots 23-24 of block 44, lots 25-26 of L.S. 19-59 and lot 1 of P.M. 24-85 of the official records, located at the southeast corner of East Olive Avenue and South “C” Street, more particularly shown on the attached map, incorporated herein by this reference as Exhibit “A”; and

Section 2: It is further ordained that all records of the City of Porterville, together with the official zoning map of the City of Porterville, shall be changed to show that all of the above described real property is zoned from C-3 (Heavy Commercial Zone) and R-4 (Multi-Family Residential Zone) to C-3 (D) – Heavy Commercial Zone with Design Review Site Overlay for those three (3) lots described as Lots 23-24 of block 44, lots 25-26 of L.S. 19-59 and lot 1 of P.M. 24-85 of the official records, located at the southeast corner of East Olive Avenue and South “C” Street, more particularly shown on the attached map, incorporated herein by this reference as Exhibit “A”; and

Section 3: This ordinance shall be in full force and effective thirty (30) days from and after its publication and passage.

______________________________
Cameron Hamilton, Mayor

ATTEST:
John Longley, City Clerk

By ____________________________
Patrice Hildreth, Acting Chief Deputy City Clerk
RESOLUTION NO. \_______\n
A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS IN SUPPORT OF APPROVAL FOR “D” OVERLAY SITE REVIEW TO ALLOW THE CONSTRUCTION OF THE CVS PHARMACY, DRIVE-THROUGH AND OFF-SALE ALCOHOL LICENSE LOCATED AT SOUTHEAST CORNER OF OLIVE AVENUE AND C STREET

WHEREAS: The City Council at its regularly scheduled meeting of October 16, 2007, reviewed “D” Overlay Site Review 7-2007 to allow the construction of a new CVS Pharmacy with a drive-through and authorization for a off-sale alcohol license at the southeast corner of Olive Avenue and “C” Street; and

WHEREAS: Pursuant to Article 18 (Supplemental “D” – Design Review Overlay Zone) of the Porterville Ordinance, the City Council made the following findings:

1. That the proposed project is consistent with the General Plan, zoning and land use for the site.
2. That the design and architectural features of the project are compatible with that of proximately situated similar developments, and that the proposed commercial structure is internally architecturally compatible with the shopping center and exhibits a consistent and transitioning design.
3. That the site area, dimensions, site coverage, yard spaces, height of structures, distance between structures, off-street parking facilities, and landscaping areas will produce an environment of stable and desirable character consistent with the objectives of the Zoning Ordinance.
4. That a Notice of Exemption was prepared and is appropriate for the project in accordance with the California Environmental Quality Act.
5. That the construction of the new CVS Pharmacy building will not create significant environmental impacts.
6. That the City Council is the decision-making body for the project.

NOW, THEREFORE, BE IT RESOLVED: That the Porterville City Council does hereby approve “D” Overlay Site Review 7-2007 under the “D” Zone regulations subject to the following conditions:

1. Standard parking spaces are 9’x20’.

2. A Lot Line Adjustment will be required for the project to consolidate the parcels included in the project (city fee of $616.00).

3. Zone Change will be required to allow for appropriate zoning (currently C-3 and R-3 zone change to C-3 (D).).

4. Reciprocal easement agreement will be required for ingress/egress with the adjacent property to the west.

ATTACHMENT
ITEM NO. /6
5. A 6' block wall will be required along the southern property line separating the residential use from the non-residential.

6. All mechanical equipment will be required to be screened from public view in a manner architecturally compatible with the building.

7. The subject site is located in Census Tract 41.02. The number of off-sale alcoholic beverages that are allowed is eight (8). The number of existing licenses is nine (9). Any number of licenses that exceeds the allowed limit, is considered as an over concentration and requires the City Council to approve a Letter of Public Convenience or Necessity. Staff will require a letter to be submitted to the Planning Division from the applicant/agent requesting the letter of public convenience or necessity.


9. The developer/applicant shall pay all applicable fees according to the Municipal Code and State law. 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.

10. The developer/applicant shall follow Appendix Chapter 33 of the California Building Code including provision of a grading and drainage plan signed by a licensed 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.

11. Developer/applicant shall provide a Soils Report in conformance with Chapter 18 of the California Building Code. The Soils Report shall include R-Value testing, expansion indexes, etc required for the construction of public improvements.

12. The developer/applicant shall construct and/or repair street, curb, gutter, sidewalk, etc. along the full frontage of the parcel except where they exist and are in good condition in the opinion of the City Engineer (Ord. No. 1306).

13. The developer/applicant shall install an additional sidewalk necessary to comply with City Standards (9.5 feet wide) along the full frontage of the proposed development.

14. The developer/applicant shall install an alley approach per City Standard Plan C-5 or street intersection returns per City Standard Plan C-7 for all driveways utilized for accessing the site.

15. The Olive Avenue driveway shall align with Second Street and the developer/applicant shall appropriately modify the traffic signal. The traffic signal modification shall be
designed by a Traffic Engineer and the new driveway shall become an integral part of a four intersection.

16. The developer/applicant shall construct a medial island, designed by a traffic engineer, that prevent north bound C Street vehicles from making a left turn onto Olive Avenue.

17. The developer/applicant shall cause the vacation of a portion of the alley if it becomes necessary to appropriately align the Olive Avenue driveway with Second Street.

18. The developer/applicant shall construct drainage facilities as required to serve the property (Ord. No. 1306). Staff is requesting that the parking lot be designed to convey water to the City drainage system without crossing driveways.

19. Easements shall be in place that allow for mutual ingress, egress and maintenance of the parking lot.

20. Easements shall be in place that allow for mutual use of sewer and water, if applicable.

21. The developer/applicant shall have a registered Civil Engineer or Land Surveyor prepare and submit a Lot Line Adjustment that will reconfigure property lines to meet the requirements of all applicable codes. The following information is required at the time of submittal:

- Three copies of a Map and Legal Descriptions

- Processing fee in the amount of $616.

- Adequate title information (deed, etc.) to verify current ownership and the method of creation of the effected parcels.

22. The Lot Line Adjustment shall be approved prior to the issuance of a building permit.

23. The developer/applicant shall have a registered Civil Engineer or Land Surveyor prepare and submit legal descriptions necessary to request for the vacation of a portion of the alley right of way, if applicable. The following information is required at the time of submittal:

Three copies of a Map and Legal Descriptions.

Processing fee in the amount of $637.

Adequate title information (deed, etc.) to verify true rights of ways interests, if necessary in the opinion of the City Engineer.

The vacation shall be approved prior to the issuance of a building permit

24. The developer/applicant shall dedicate right-of-way 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 dedication of required property for disabled ramp(s).

25. 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).

26. The developer/applicant shall provide streetlights on Marbelite poles following Southern California Edison Company specifications, as approved by the City Engineer. Do not use wood poles without prior written approval of the City Engineer. Nostalgic lights matching the City downtown theme shall be installed along the Olive Avenue frontage. Spacing shall be 40 feet and 50 feet on center.

27. The developer/applicant shall design and improve the parking lot in conformance with Section 2206 and 2211 (Exhibit A) of the Zoning Ordinance.

28. The developer/applicant shall, under City inspection, remove all existing abandoned and unnecessary items, to the satisfaction of the City Engineer, before the issuance of a certificate of occupancy (For example, foundations, septic tanks, irrigation pipes, etc.).

29. The developer/applicant shall abandon existing wells, if any, after first getting an abandonment permit from the County Department of Environmental Health, and providing the City Engineer with proof of compliance with County regulations before performing any grading or issuance of the building permit, whichever comes first. The existing well may remain in service if proper backflow prevention is installed pursuant to Resolution No. 9615.

30. The developer/applicant shall assure compliance with applicable San Joaquin Valley Unified Air Pollution Control District Rules (e.g., Numbers 8010, 8020 and 8030), regarding fugitive dust, as well as Section 7-8, Project Site Maintenance of the Standard Specifications. The developer/applicant shall provide a street sweeper as necessary to comply.

31. The developer/applicant shall comply with Ordinance No. 1636 regarding Waste Water Discharge requirements and shall complete and submit the following:

   a. Wastewater Discharge Permit Application, Part “A”; and

   If monitoring is required, based on the responses to questions in Part “A” of the Wastewater Discharge Permit, then the developer/applicant shall complete and submit the remainder of the application along with the Permit Fee, and provide monitoring facilities to allow inspection, sampling, and flow measurement of the flows in the sewer and drainage system.

32. The developer/applicant shall install a refuse container enclosure according to City standards. Enclosure location to be approved by City prior to issuance of building permit.
Enclosure should be oriented for direct pick up. The developer/applicant shall also sign a waiver of liability for refuse truck damage to the parking lot if the refuse container location requires refuse trucks to travel on the parking lot. Developer is encouraged to install an enclosure that would accommodate a solid waste and recyclable container for collection.

33. The developer/applicant shall construct the pipe connecting to on-site fire hydrants to City water main standards and shall provide easements for maintenance to the on-site water mains.

34. 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.

35. Additional conditions may become necessary as the proposed site development plan may change.

36. The developer/applicant shall comply with the City standard for "backflow" prevention pursuant to Resolution No. 9615.

37. If "C Street is abandoned. "C" street dead end should have ample room for refuse trucks to turn around. Parking restrictions may have to be imposed.

38. A minimum five (5) foot wide screen-planting strip shall be provided and permanently maintained adjacent to any property line separating a parking area from a public street.

39. A minimum of 5% of parking lot and driveway areas are to be landscaped with live plant materials. The parking lot and driveway areas are to be shaded with trees planted on the property at a minimum ratio of one tree per 8 parking spaces distributed throughout the paved area. Parking lot tree wells are recommended to be a minimum of twenty (20) square-feet in size.

40. The owner/applicant shall incorporate areas of public right-of-way between the back of sidewalk and property line into the site landscape areas. Landscape planting of the right-of-way areas shall be consistent with the site landscaping.

41. The owner/applicant is to install trees, approved as City Street Trees, along all public roadway frontages of the property. The number of trees to be planted shall be equivalent to a minimum of one tree per 35 feet of roadway frontage. The trees are to be a minimum of #15 size specimens incorporated into the designated landscape areas. Root barriers are required for all trees planted within ten feet of public sidewalks. The selection of planting locations, and performance of canopy maintenance for the trees shall be conducted to minimize vehicular sight safety conflicts.

42. The owner/applicant shall provide an automatic irrigation system for all landscape planting, including trees and right of way planting. All landscaping shall be installed
prior to occupancy and be permanently maintained by the owner/applicant in a healthy and vigorous growing condition, and cleanly appearance.

43. Pedestrian walkways with a minimum of 50% shading are to be provided to link Olive Avenue and ‘C’ Street public sidewalks to the building entrance.

44. Bicycle parking provisions are to be incorporated into the building & site design.

45. 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.

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

47. Compliance with all applicable codes is required.

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

49. Soils compaction test may be required.

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

51. Approval from the Tulare County Health Department prior to issuance of the building permit.

52. Restrooms and main entrance must comply with ADA access laws.

53. All construction offices, storage containers, etc. for temporary use must receive City Council approval.

54. Signs require separate permit.

55. The developer/applicant shall pay all fees according to the Municipal Code and State Law.

56. Based on the occupancy classification, a fire alarm and/or an automatic sprinkler system may be required.

57. When a 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:

   Twenty or more in Group I Divisions 1.1 and 1.2 occupancies.
   One hundred or more in all other occupancies.

58. Submit three (3) complete sets of sprinkler and/or fire alarm plans to the Fire Department for review prior to installation.
59. For automatic sprinkler systems, underground plans must be submitted and approved prior to submittal of the above ground plans. A hydrant will be required within 50 feet of the Fire Department connection.

60. 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 fire flow.

61. Depending on the location of the existing fire hydrant(s), additional fire hydrants may be required. All hydrants must be in place and accepted by the Fire Department prior to any combustibles being brought onto the site.

62. 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.

63. Fire hydrant spacing shall be as follows:
   In Commercial development, one hydrant shall be installed at 300-foot intervals.

64. 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.

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

66. Project must meet minimum fire flow requirements per the table in Appendix III-A & III-B of the California Fire Code. Fire flow for this project as proposed would be 1625 GPM.

67. 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 Section 22500.1.

68. A Knox box may be required. An application may be obtained from the Fire Department. Unless otherwise noted, the developer/applicant shall obey the City Master Plans, Standard Specifications for Public Works Construction (2000 Edition), Standard Plans and Specifications (Rev. 8-20-02), the Tulare County Hazardous Waste Management Plan, the Caltrans Traffic Manual, the Porterville Circulation Element, and the Tulare County Congestion Management Program.

69. Approval of the Design Review Site Overlay 7-2007 is conditioned upon the effective date of Zone Change 4-2007.

70. At all times, the existing building shall be operated and maintained to comply with State Law, the City of Porterville Municipal Code, adopted Building Codes and all other applicable laws and ordinances.
71. That the subject site will be developed/maintained in accordance with the interior plan labeled EXHIBIT “A”.

72. That D-Overlay 7-2007 is conditioned upon approval of the Vacation of a portion of “C” Street related to the Development of the CVS Pharmacy.

__________________________________________
Cameron Hamilton, Mayor

ATTEST:

John Longley, City Clerk

By: ________________________________
Patrice Hildreth, Acting Chief Deputy City Clerk
RESOLUTION NO. ________


WHEREAS: The City Council at its regularly scheduled meeting of October 16, 2007, reviewed Conditional Use Permit 10-2007 to allow the construction of a new CVS Pharmacy with a drive-through and authorization for a off-sale alcohol license at the southeast corner of Olive Avenue and “C” Street; and

WHEREAS: Pursuant to Article 29 (Conditional Use Permits) of the Porterville Ordinance, the City Council made the following findings:

That the proposed project is consistent with the General Plan, zoning and land use for the site.
That the design and architectural features of the project are compatible with that of proximately situated similar developments, and that the proposed commercial structure is internally architecturally compatible with the shopping center and exhibits a consistent and transitioning design.
That the site area, dimensions, site coverage, yard spaces, height of structures, distance between structures, off-street parking facilities, and landscaping areas will produce an environment of stable and desirable character consistent with the objectives of the Zoning Ordinance.
That a Notice of Exemption was prepared and is appropriate for the project in accordance with the California Environmental Quality Act.
That the construction of the new CVS Pharmacy building will not create adverse environmental impacts.
That the City Council is the decision-making body for the project.

NOW, THEREFORE, BE IT RESOLVED: That the Porterville City Council does hereby approve Conditional Use Permit 10-2007 subject to the following conditions:

1. Standard parking spaces are 9’x20’.
2. A Lot Line Adjustment will be required for the project to consolidate the parcels included in the project (city fee of $616.00).
3. Zone Change will be required to allow for appropriate zoning (currently C-3 and R-3 zone change to C-3 (D).).
4. Reciprocal easement agreement will be required for ingress/egress with the adjacent property to the west.
5. A 6' block wall will be required along the southern property line separating the residential use from the non-residential use.

6. All mechanical equipment will be required to be screened from public view in a manner architecturally compatible with the building.

7. The subject site is located in Census Tract 41.02. The number of off-sale alcoholic beverages that are allowed is eight (8). The number of existing licenses is nine (9). Any number of licenses that exceeds the allowed limit, is considered as an over concentration and requires the City Council to approve a Letter of Public Convenience or Necessity. Staff will require a letter to be submitted to the Planning Division from the applicant/agent requesting the letter of public convenience or necessity.


9. The developer/applicant shall pay all applicable fees according to the Municipal Code and State law. 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.

10. The developer/applicant shall follow Appendix Chapter 33 of the California Building Code including provision of a grading and drainage plan signed by a licensed 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.

11. Developer/applicant shall provide a Soils Report in conformance with Chapter 18 of the California Building Code. The Soils Report shall include R-Value testing, expansion indexes, etc required for the construction of public improvements.

12. The developer/applicant shall construct and/or repair street, curb, gutter, sidewalk, etc. along the full frontage of the parcel except where they exist and are in good condition in The opinion of the City Engineer (Ord. No. 1306).

13. The developer/applicant shall install an additional sidewalk necessary to comply with City Standards (9.5 feet wide) along the full frontage of the proposed development.

14. The developer/applicant shall install an alley approach per City Standard Plan C-5 or street intersection returns per City Standard Plan C-7 for all driveways utilized for accessing the site.

15. The Olive Avenue driveway shall align with Second Street and the developer/applicant shall appropriately modify the traffic signal. The traffic signal modification shall be
designed by a Traffic Engineer and the new driveway shall become an integral part of a four-way intersection.

16. The developer/applicant shall construct a medial island, designed by a traffic engineer, that prevent north bound C Street vehicles from making a left turn onto Olive Avenue.

17. The developer/applicant shall be cause the vacation of a portion of the alley if it becomes necessary to appropriately align the Olive Avenue driveway with Second Street.

18. The developer/applicant shall construct drainage facilities as required to serve the property (Ord. No. 1306). Staff is requesting that the parking lot be designed to convey water to the City drainage system without crossing driveways.

19. Easements shall be in place that allows for mutual ingress, egress and maintenance of the parking lot.

20. Easement shall be in place that allow for mutual use of sewer and water, if applicable.

21. The developer/applicant shall have a registered Civil Engineer or Land Surveyor prepare and submit a Lot Line Adjustment that will reconfigure property lines to meet the requirements of all applicable codes. The following information is required at the time of submittal:

- Three copies of a Map and Legal Descriptions
- Processing fee in the amount of $616.
- Adequate title information (deed, etc.) to verify current ownership and the method of creation of the affected parcels.

The Lot Line Adjustment shall be approved prior to the issuance of a building permit.

22. The developer/applicant shall have a registered Civil Engineer or Land Surveyor prepare and submit legal descriptions necessary to request for the vacation of a portion of the alley right of way, if applicable. The following information is required at the time of submittal:

a. Three copies of a Map and Legal Descriptions.

b. Processing fee in the amount of $637.

c. Adequate title information (deed, etc.) to verify true rights of ways interests, if necessary in the opinion of the City Engineer.

The vacation shall be approved prior to the issuance of a building permit

23. The developer/applicant shall dedicate right-of-way 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 dedication of required property for disabled ramp(s).

24. 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).

25. The developer/applicant shall provide streetlights on Marbelite poles following Southern California Edison Company specifications, as approved by the City Engineer. Do not use wood poles without prior written approval of the City Engineer. Nostalgic lights matching the City downtown theme shall be installed along the Olive Avenue frontage. Spacing shall be 40 feet and 50 feet on center.

26. The developer/applicant shall design and improve the parking lot in conformance with Section 2206 and 2211 (Exhibit A) of the Zoning Ordinance.

27. The developer/applicant shall, under City inspection, remove all existing abandoned and unnecessary items, to the satisfaction of the City Engineer, before the issuance of a certificate of occupancy (For example, foundations, septic tanks, irrigation pipes, etc.).

28. The developer/applicant shall abandon existing wells, if any, after first getting an abandonment permit from the County Department of Environmental Health, and providing the City Engineer with proof of compliance with County regulations before performing any grading or issuance of the building permit, whichever comes first. The existing well may remain in service if proper backflow prevention is installed pursuant to Resolution No. 9615.

29. The developer/applicant shall assure compliance with applicable San Joaquin Valley Unified Air Pollution Control District Rules (e.g., Numbers 8010, 8020 and 8030), regarding fugitive dust, as well as Section 7-8, Project Site Maintenance of the Standard Specifications. The developer/applicant shall provide a street sweeper as necessary to comply.

30. The developer/applicant shall comply with Ordinance No. 1636 regarding Waste Water Discharge requirements and shall complete and submit the following:

   a. Wastewater Discharge Permit Application, Part “A”; and

   If monitoring is required, based on the responses to questions in Part “A” of the Wastewater Discharge Permit, then the developer/applicant shall complete and submit the remainder of the application along with the Permit Fee, and provide monitoring facilities to allow inspection, sampling, and flow measurement of the flows in the sewer and drainage system.
31. The developer/applicant shall install a refuse container enclosure according to City standards. Enclosure location to be approved by City prior to issuance of building permit. Enclosure should be oriented for direct pick up. The developer/applicant shall also sign a waiver of liability for refuse truck damage to the parking lot if the refuse container location requires refuse trucks to travel on the parking lot. Developer is encouraged to install an enclosure that would accommodate a solid waste and recyclable container for collection.

32. The developer/applicant shall construct the pipe connecting to on-site fire hydrants to City water main standards and shall provide easements for maintenance to the on-site water mains.

33. 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.

34. Additional conditions may become necessary as the proposed site development plan may change.

35. The developer/applicant shall comply with the City standard for "backflow" prevention pursuant to Resolution No. 9615.

36. If "C Street is abandoned. "C" street dead end should have ample room for refuse trucks to turn around. Parking restrictions may have to be imposed.

37. A minimum five (5) foot wide screen-planting strip shall be provided and permanently maintained adjacent to any property line separating a parking area from a public street.

38. A minimum of 5% of parking lot and driveway areas are to be landscaped with live plant materials. The parking lot and driveway areas are to be shaded with trees planted on the property at a minimum ratio of one tree per 8 parking spaces distributed throughout the paved area. Parking lot tree wells are recommended to be a minimum of twenty (20) square-feet in size.

39. The owner/applicant shall incorporate areas of public right-of-way between the back of sidewalk and property line into the site landscape areas. Landscape planting of the right-of-way areas shall be consistent with the site landscaping.

40. The owner/applicant is to install trees, approved as City Street Trees, along all public roadway frontages of the property. The number of trees to be planted shall be equivalent to a minimum of one tree per 35 feet of roadway frontage. The trees are to be a minimum of #15 size specimens incorporated into the designated landscape areas. Root barriers are required for all trees planted within ten feet of public sidewalks. The selection of planting locations, and performance of canopy maintenance for the trees shall be conducted to minimize vehicular sight safety conflicts.
41. The owner/applicant shall provide an automatic irrigation system for all landscape planting, including trees and right of way planting. All landscaping shall be installed prior to occupancy and be permanently maintained by the owner/applicant in a healthy and vigorous growing condition, and cleanly appearance.

42. Pedestrian walkways with a minimum of 50% shading are to be provided to link Olive Avenue and ‘C’ Street public sidewalks to the building entrance.

43. Bicycle parking provisions are to be incorporated into the building & site design.

44. 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.

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

46. Compliance with all applicable codes is required.

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

48. Soils compaction test may be required.

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

50. Approval from the Tulare County Health Department prior to issuance of the building permit.

51. Restrooms and main entrance must comply with ADA access laws.

52. All construction offices, storage containers, etc. for temporary use must receive City Council approval.

53. Signs require separate permit.

54. The developer/applicant shall pay all fees according to the Municipal Code and State Law.

55. Based on the occupancy classification, a fire alarm and/or an automatic sprinkler system may be required.

56. When a 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:

   Twenty or more in Group I Divisions 1.1 and 1.2 occupancies.
   One hundred or more in all other occupancies.
57. Submit three (3) complete sets of sprinkler and/or fire alarm plans to the Fire Department for review prior to installation.

58. For automatic sprinkler systems, underground plans must be submitted and approved prior to submittal of the above ground plans. A hydrant will be required within 50 feet of the Fire Department connection.

59. 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 fire flow.

60. Depending on the location of the existing fire hydrant(s), additional fire hydrants may be required. All hydrants must be in place and accepted by the Fire Department prior to any combustibles being brought onto the site.

61. 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.

62. Fire hydrant spacing shall be as follows:
   In Commercial development, one hydrant shall be installed at 300-foot intervals.

63. 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.

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

65. Project must meet minimum fire flow requirements per the table in Appendix III-A & III-B of the California Fire Code. Fire flow for this project as proposed would be 1625 GPM

66. 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 Section 22500.1.

67. A Knox box may be required. An application may be obtained from the Fire Department. Unless otherwise noted, the developer/applicant shall obey the City Master Plans, Standard Specifications for Public Works Construction (2000 Edition), Standard Plans and Specifications (Rev. 8-20-02), the Tulare County Hazardous Waste Management Plan, the Caltrans Traffic Manual, the Porterville Circulation Element, and the Tulare County Congestion Management Program.

68. Approval of Conditional Use Permit 10-2007 is conditioned upon the effective date of Zone Change 4-2007.

69. At all times, the existing building shall be operated and maintained to comply with State Law, the City of Porterville Municipal Code, adopted Building Codes and all other
applicable laws and ordinances.

70. That the subject site will be developed/maintained in accordance with the interior plan labeled EXHIBIT “A”.

71. The Conditional Use Permit shall become null and void if not undertaken and actively and continuously pursued within one (1) year.

72. The Conditional Use Permit is conditioned upon approval of D-Overlay 7-2007.

73. The Conditional Use Permit is conditioned upon approval of the Vacation of a portion of “C” Street related to the Development of the CVS Pharmacy.

______________________________
Cameron Hamilton, Mayor

ATTEST:

John Longley, City Clerk

By: ____________________________
Patrice Hildreth, Acting Chief Deputy City Clerk
October 16, 2007

California Alcoholic Beverage
Control Board
Fresno District Office
3640 East Ashlan
Fresno, CA 93726

Attention: Joyce Knodel

RE: CVS Pharmacy – Southeast corner of Olive Avenue and “C” Street

Dear Ms. Knodel:

The City Council of the City of Porterville has voted to approve this letter regarding the public convenience or necessity to be served through issuance of a Type 21 off-sale alcoholic beverage sales license for the proposed CVS Pharmacy generally located at the southeast corner of Olive Avenue and “C” Street.

Approval of this letter was based on the following:

1. That under the regulations of the “Business and Professions Code”, the application of an off-sale beer and wine license where applications are filed in a Census Tract that exceeds the average ratio and creates an “undue concentration,” requires a Letter of Public Convenience or Necessity.

2. That the proposed outlet for the off-sale of alcohol beverages would enhance or facilitate the vitality of an existing commercial area without presenting a significant impact on public health or safety.

3. The proposed off-sale of sale alcoholic beverages is incidental and appurtenant to a larger retail use and provides for a more complete and convenient shopping experience.

4. That on October 16, 2007, the Porterville City Council conditionally approved Conditional Use Permit 10-2007, to regulate the new development within 600ft of two sensitive uses; The First Assembly of God located at 105 E. Olive (to the west) and Vine Street School located at the northeast corner of “C” Street and Vine Avenue (to the south).

In consideration of the above four (4) findings, the City Council determined that public convenience...
and necessity would be served by the issuance of the requested Type 21 off-sale licenses.

Further, issuance of an off-sale license allowing beer, wine and distilled spirit sales represents a viable economic asset to the community which will contribute tax revenues to the local economy. The majority of the alcohol sales from the Sunshine Handy Market (existing gas station and mini mart) are to be in small quantities in conjunction with the purchase of food and other supplies.

For these reasons, the City Council of the City of Porterville supports issuance of a Type 21, off-sale license for beer, wine and distilled spirits for generally located at the southeast corner of Olive Avenue and "C" Street.

Cameron Hamilton
Mayor
RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE ORDERING THE VACATION AND CLOSING TO PUBLIC USE, A PORTION OF "C" STREET BETWEEN OLIVE AVENUE AND VINE AVENUE

WHEREAS, by Resolution No. 152-2006, passed on December 19, 2006, the Council of the City of Porterville declared its intention to vacate a portion of "C" Street between Olive Avenue and Vine Avenue, hereinafter more particularly described, and set the hour of 7:00 p.m. on the 16th day of October, 2007, in the Council Chambers of said City as the time and place for hearing all persons objecting to the proposed vacation; and

WHEREAS, such public hearing has been held at said time and place, and there were no protests, oral or written, to such vacation;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Porterville as follows:

SECTION 1: The Council hereby finds, from all the evidence submitted, that the street right of way hereinafter described is unnecessary for present or prospective right of way, and the City Council hereby makes its order vacating said portions of "C" Street between Olive Avenue and Vine Avenue which are described in the legal descriptions attached hereto, marked Exhibit "A-1" and "A-2", shown on the maps of right of way abandonment, marked Exhibit "B-1" and "B-2" and by reference made a part hereof.

SECTION 2: The subject street vacation shall be subject to the reservations and exceptions set forth in Exhibit "C-1" and "C-2" which are attached hereto and by reference made a part hereof.

SECTION 3: The City Clerk shall cause a copy of this resolution to be recorded in the office of the County Recorder of Tulare County, California.

SECTION 4: The City Clerk shall certify to the passage and adoption of this resolution and it shall thereupon take effect and be in force.

ATTEST:

Cameron Hamilton, Mayor

John Longley, City Clerk
EXHIBIT "A-1"

"C" STREET

RIGHT-OF-WAY VACATION

LEGAL DESCRIPTION

That portion of "C" Street between Olive Avenue and Vine Avenue as shown in the Map of the
Town of Porterville recorded in Book 3 of Maps at Page 18, Tulare County Records, situated in
the Northwest quarter of Section 36, Township 21 South, Range 27 East, Mount Diablo Base
and Meridian, according to the Official United States Government Township Plat thereof, in the
City of Porterville, County of Tulare, State of California, more particularly described as follows:

Beginning at the Northeast corner of Block 53 of said Map of the Town of Porterville; thence
North 89°59'32" East, along the Easterly prolongation of the North line of said Block 53, a
distance of 19.98 feet, to the beginning of a non-tangent curve concave to the Southwest, with
a radial bearing of North 53°44'43" East; thence Southeasterly along the arc of said non-
tangent curve, with a radius of 20.00 feet, through a central angle of 36°15'17", an arc distance
of 12.66 feet; thence South 00°00'00" East tangent to last said curve a distance of 13.81 feet;
thence South 04°31'25" East a distance of 28.09 feet; thence South 00°01'13" East a distance
of 157.50 feet, to the beginning of a tangent curve concave to the Northwest; thence
Southwesterly, along the arc of said tangent curve, with a radius of 5.00 feet, through a central
angle of 90°01'31", an arc distance of 7.86 feet; thence South 90°00'00" West a distance of
0.57 feet; thence South 00°00'00" East a distance of 31.27 feet, to the beginning of a tangent
curve concave to the West; thence Southerly along the arc of last said tangent curve, with a
radius of 40.00 feet, through a central angle of 03°49'59", an arc distance of 2.68 feet, to a
point of intersection thereof with the Westerly prolongation of the South line of Lot 23 of Block
44 of said Map of the Town of Porterville; thence South 89°59'39" West, along said Westerly
prolongation line, a distance of 20.26 feet, to a point of intersection thereof with the East line of
said Block 53; thence North 00°02'59" West, along said East line, a distance of 250.08 feet to
the POINT OF BEGINNING.

Containing as area of 6,203 square feet, more of less.

ATTACHMENT
ITEM NO. 10

October 9, 2007
EXHIBIT "A - 2"

"C" STREET

RIGHT-OF-WAY VACATION

LEGAL DESCRIPTION

That portion of "C" Street between Olive Avenue and Vine Avenue as shown in Record of Survey recorded in Book 19 of Licensed Surveys at Page 59, Tulare County Records, situated in the Northwest quarter of Section 36, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, according to the Official United States Government Township Plat thereof, in the City of Porterville, County of Tulare, State of California, more particularly described as follows:

Beginning at the Southwest corner of Lot 23 of Block 44 of the Map of the Town of Porterville recorded in Book 3 of Maps at Page 18, Tulare County Records; thence North 00°02'59" West, along the West line of said Block 44, a distance of 230.06 feet, to the beginning of a tangent curve concave to the Southeast; thence Northeasterly, along the arc of said tangent curve, with a radius of 20.00 feet, through a central angle of 90°02'32", an arc distance of 31.43 feet; thence South 89°59'32" West along the Westerly prolongation of the North line of said Block 44 a distance of 32.12 feet; thence South 00°00'00" East a distance of 18.82 feet, to the beginning of a tangent curve concave to the Northwest; thence Southwesterly, along the arc of last said tangent curve, with a radius of 2.50 feet, through a central angle of 38°29'12", an arc distance of 1.68 feet; thence South 00°00'00" East a distance of 26.44 feet; thence South 07°46'20" West a distance of 15.55 feet; thence South 00°00'00" East a distance of 152.31 feet; thence South 00°00'21" East a distance of 35.54 feet, to a point of intersection thereof with the Westerly prolongation of the South line of Lot 23 of Block 44 of said Map of the Town of Porterville; thence North 89°59'39" East, along said Westerly prolongation line, a distance of 14.96 feet to the POINT OF BEGINNING.

Containing as area of 3,676 square feet, more of less.
OLIVE AVENUE

N89°39'32"E
19.99'

POINT OF BEGINNING

N94°44'42"W
350'00"00"E
12.31'

NORTH EAST CORNER
OF BLOCK 33

500'00"00"E
25.09'

50°41'25"E
28.09'

EAST LINE OF
BLOCK 33

CURVE DATA

R=20.00'
L=12.68'
\[ \Delta = 16°15'11" \]

R=5.00'
L=7.88'
\[ \Delta = 9°01'31" \]

R=40.00'
L=2.68'
\[ \Delta = 0°49'59" \]

BASIS OF Bearings
THE CENTERLINE OF VINE AVENUE, TAKEN AS S93°53'44"W AS SHOWN ON RECORD OF SURVEY RECORDED IN BOOK 19 OF LICENSED SURVEYS AT PAGE 59, TULARE COUNTY RECORDS.

NOTES
THE BEARINGS AND DISTANCES WERE DERIVED FROM FIELD SURVEY CONDUCTED BY BLAIR, CHURCH AND FLYNN CONSULTING ENGINEERS.

MAP OF RIGHT OF WAY ABANDONMENT
BEING A PORTION OF C STREET, IN THE CITY OF PORTERVILLE, COUNTY OF TULARE, STATE OF CALIFORNIA, ACCORDING TO THE MAP THEREOF RECORDED IN BOOK 3, PAGE 18 OF MAPS, IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY, IN THE NORTHWEST QUARTER OF SECTION 36, TOWNSHIP 21 SOUTH, RANGE 27 EAST, MOUNT DIABLO BASE AND MERIDIAN.

EXHIBIT "B-1"
OCTOBER 9, 2007

City of Porterville
291 N. MAIN ST.
PORTERVILLE, CA. 93257
(559) 782-7462

THE NORTHWEST QUARTER OF SECTION 36, T 21 S, RGE 27 E, M.O.B. & M., IN THE CITY OF PORTERVILLE, COUNTY OF TULARE, STATE OF CALIFORNIA

OWNER: CITY OF PORTERVILLE
APN: 261-128-1, 8, 9 & 3
SHEET 1 OF 1
DRAWN BY: JRS
CHC: 4379-13

ATTACHMENT
ITEM NO. 11
MAP OF RIGHT OF WAY ABANDONMENT
BEING A PORTION OF C STREET, IN THE CITY OF
PORTERVILLE, COUNTY OF TULARE, STATE OF CALIFORNIA,
ACCORDING TO THE MAP THEREOF RECORDED IN BOOK 3,
PAGE 19 OF MAPS, IN THE OFFICE OF THE COUNTY
RECORDER OF SAID COUNTY; IN THE NORTHWEST QUARTER
OF SECTION 36, TOWNSHIP 21 SOUTH, RANGE 27 EAST,
MOUNT DIABLO BASE AND MERIDIAN.

LEGEND:
- SECTION LINE OR CENTERLINE
- PROPERTY OR RIGHT OF WAY LINE
- BOUNDARY OF AREA TO BE VACATED
- AREA TO BE VACATED

BASIS OF BEARINGS
THE CENTERLINE OF VINE AVENUE AXED
AS S89°39'4.7"W AS SHOWN ON RECORD
OF SURVEY RECORDED IN BOOK 19 OF
LICENSED SURVEYS AT PAGE 59, TULARE
COUNTY RECORDS.

NOTES
THE BEARINGS AND DISTANCES WERE
DERIVED FROM FIELD SURVEY CONDUCTED
BY BLAIR, CHURCH AND FLYNN CONSULTING
ENGINEERS.

CURVE DATA
R=20.00'
L=31.43'
Δ=90°02'12"

R=2.50'
L=1.58'
Δ=38°29'12"

PREPARED BY:
Blair, Church & Flynn
CONSULTING ENGINEERS

EXHIBIT "B-2"

OCTOBER 9, 2007

City of Porterville
291 N. MAIN ST.
PORTERVILLE, CA 93257
(559) 782-7462

THE NORTHWEST QUARTER OF SECTION
36, T 21 S, R 27 E, M.D.B. & M.,
IN THE CITY OF PORTERVILLE, COUNTY
OF TULARE, STATE OF CALIFORNIA

OWNER: CITY OF PORTERVILLE
APN: 261-127-19, 20, & 11
SHEET 1 OF 1
DRAWN BY: IRS
CHART No. 37

ATTACHMENT
ITEM NO. A1
Reservations and Exceptions:

The City reserves and excepts from the vacation the permanent public utility easement and right at any time, or time to time, to construct, maintain, operate, replace, remove, renew, enlarge, and expand public utilities, and/or appurtenant structures in, upon, over and across any street or alley or part thereof proposed to be vacated and pursuant to any existing franchises or renewals thereof, or otherwise, to construct, maintain, operate, replace, remove, renew and enlarge lines of pipe, conduits, cables, wires, poles, and other convenient structures, equipment and fixtures for the operations of gas pipe lines, telegraphic and telephone lines, railroad lines, and for the transportation or distribution of electric energy, petroleum and its products, ammonia, water, and incidental purposes, including access and the right to keep the property free from inflammable materials, and wood growth, and otherwise protect the same from all hazards in, upon, and over the street or alley or part thereof proposed to be vacated.
Reservations and Exceptions:

The City reserves and excepts from the vacation the permanent public utility easement and right at any time, or time to time, to construct, maintain, operate, replace, remove, renew, enlarge, and expand public utilities, and/or appurtenant structures in, upon, over and across any street or alley or part thereof proposed to be vacated and pursuant to any existing franchises or renewals thereof, or otherwise, to construct, maintain, operate, replace, remove, renew and enlarge lines of pipe, conduits, cables, wires, poles, and other convenient structures, equipment and fixtures for the operations of gas pipe lines, telegraphic and telephone lines, railroad lines, and for the transportation or distribution of electric energy, petroleum and its products, ammonia, water, and incidental purposes, including access and the right to keep the property free from inflammable materials, and wood growth, and otherwise protect the same from all hazards in, upon, and over the street or alley or part thereof proposed to be vacated.
PROPERTY EXCHANGE AND DEVELOPMENT AGREEMENT
(Porterville, California)

THIS PROPERTY EXCHANGE AND DEVELOPMENT AGREEMENT (this "Agreement") is made and entered into as of this ___ day of ______ 2007, by and between the CITY OF PORTERVILLE (the "City"), a municipal corporation, GARFIELD BEACH CVS, L.L.C., a California limited liability company ("CVS") and Main Olive, LLC, a California limited liability company ("Main"). CVS and Main are hereafter collectively referred to as the "Developer."

RECITALS

A. City is the owner in fee simple of an approximate 9,880 square feet of land, located in the City of Porterville, County of Tulare, State of California, more particularly described on Exhibits A-1 and A-2 attached hereto and depicted as the "Property" on Exhibit A attached hereto. The Property is currently dedicated to public use as a right of way (the "ROW").

B. Main is the owner in fee simple of the parcel of land located to the west of the Property and depicted as the "Main Property" on Exhibit A.

C. CVS desires to acquire the parcels of land located to the east of the Property and depicted as the "CVS Property" on Exhibit A and develop thereon a commercial development, including a building totaling 13,225+ square feet, a landscaped public area, and infrastructure improvements more particularly described in the plans and specifications entitled Design Overlay 2-2007 and Conditional Use Permit 10-2007, prepared by Blair, Church & Flynn, dated August 14, 2007 (the "Project Plans") that were duly approved by the City Council of the City on __________ (the "Project").

D. In connection with securing its approvals for the Project, CVS has requested, and the City has agreed, that the City shall abandon the ROW and transfer the Property to CVS and Main on the following terms and conditions.

NOW, THEREFORE, in consideration of the mutual covenants and agreements contained herein, the parties hereto agree as follows:

I

PROPERTY EXCHANGE

1.1 Property Exchange.
(a) CVS hereby agrees to acquire from the City and City hereby agrees to convey to CVS that portion of the Property described in Exhibit A-1 attached and incorporated into this Agreement by this reference, together with all rights, privileges and easements appurtenant thereto including all development rights and air rights. City retains rights to and ownership of all minerals, oil, gas and other hydrocarbon substances thereon including water, water rights, and water stock relating thereto.
(b) Main hereby agrees to acquire from the City and City hereby agrees to convey to Main that portion of the Property described in Exhibit A-2 attached and incorporated into this Agreement by this reference, together with all rights, privileges and easements appurtenant thereto including all development rights and air rights. City retains rights to and ownership of all minerals, oil, gas and other hydrocarbon substances thereon including water, water rights, and water stock relating thereto.

(c) CVS hereby agrees to acquire from Main and Main hereby agrees to convey to CVS that portion of the Property described in Exhibit A-2 attached and incorporated into this Agreement by this reference, together with all rights, privileges and easements appurtenant thereto including all development rights and air rights. The City retains rights to and ownership of all minerals, oil, gas and other hydrocarbon substances thereon including water, water rights, and water stock relating thereto.

1.2 Value Consideration. The value placed on the Property shall be the sum of $148,200 (the “Property Value”). Property Value is based on 9,880 square feet at a price of $15.00 per square foot. Acreage is subject to final parcel map preparation. City Acreage Fees, including Water Acreage Fees, Sewer Acreage Fees, Storm Drainage Acreage Fees, Building Permit Fees and other fees associated with the Project are not included in the Property Value and shall be due and payable to the City prior to the issuance of a building permit.

1.3 Payment of Property Value. As part of the Project but subject to taking title to the CVS Property, CVS has agreed to construct certain improvements which are of a public benefit. The value of the improvements is determined to be $448,677, and the public benefit of the improvements is valued at $336,539. The parties hereto agree that the value of the public benefit shall be considered as full and just compensation for the exchange of the Property.

1.4 Public Improvements. CVS agrees to install the Public Improvements (defined in Section VI below). At the Transfer (defined below), CVS shall post a bond in a form acceptable to the City in the amount of $500,000 as security that the Public Improvements will be constructed in accordance with the Project Plans, which bond will be released by the City upon satisfactory installation of the Public Improvements.

II

CONDITIONS TO PROPERTY EXCHANGE: ACTIONS PENDING TRANSFER OF PROPERTY

2.1 The following are conditions precedent to the transfer of the Property and to Developer's obligation to accept the Property:

2.1.1 At the Transfer, City shall convey to CVS marketable fee simple title to the portion of Property described on Exhibit A-1, by a duly executed and acknowledged grant deed (the "CVS Grant Deed").
2.1.2 At the Transfer, City shall convey to Main marketable fee simple title to the portion of Property described on Exhibit A-2, by a duly executed and acknowledged grant deed (the "Main Grant Deed"). The CVS Grant Deed and the Main Grant Deed are hereinafter collectively referred to as the "Grant Deeds."

2.1.3 At the Transfer, Main shall convey to CVS marketable fee simple title to the portion of Property described on Exhibit A-2, by a duly executed and acknowledged grant deed, subject to a perpetual easement for access, ingress and egress over the portions thereof designated as "Main Easement Areas" on Exhibit A.

2.1.4 The City represents to Developer that as of the Transfer, all real estate taxes that constitute a lien on the Property which are then currently due and payable have been paid, and there are no matters affecting title which will substantially or unreasonably interfere with CVS's intended development of the Project, as reasonably determined by CVS.

2.1.5 Pending the Transfer, City shall not take any action or commit or suffer any acts which would give rise to a variance from the current legal description of the Property, or cause the creation of any exception or encumbrance against or respecting the Property.

2.2 In addition to the conditions precedent set forth in Section 2.1, the Transfer and Developer's obligation to perform hereunder are conditioned upon the fulfillment of each and all of the following, any of which Developer may waive in whole or in part:

2.2.1 Performance by City of all of its obligations hereunder and the truthfulness of each representation and warranty by City contained in this Agreement at the time the same is made and at the date of Transfer.

2.2.2 That no moratorium, statute, regulation, ordinance or federal, state, county or local legislation, or order, judgment, ruling or decree of any governmental agency or of any court is enacted, adopted, issued, entered or pending which would materially and adversely affect the Property or Developer's proposed use thereof.

2.2.3 That City has complied with all applicable federal, state or local laws, regulations, ordinances or orders and has completed all proceedings, hearings, publications or other actions necessary to abandon the ROW and complete the transfer of the Property to Developer and all of the transactions contemplated by this Agreement and the Property Value reflects the fair market value of the Property as of the date of this Agreement and as of the date of the Transfer.

2.2.4 That all required governmental land use approvals, site plans and architectural approvals, all wetlands, conservation commission, and/or any other environmental approvals, and any other discretionary governmental approval, necessary for the construction of the Project on the CVS Property pursuant to the Project Plans, have been obtained or will be pursued in accordance with City regulations.

2.2.5 That CVS has taken title in fee simple to the CVS Property.
2.3 Transfer. The transfer of the Property and delivery of the Grant Deed (the "Transfer") shall occur on such date and at such time as CVS may determine by written notice to City within ten (10) days after CVS has notified City that all conditions to the Transfer as set forth herein (other than conditions which can only be satisfied at Transfer) have been satisfied. At Transfer, City shall deliver the Grant Deed to the Developer subject only to the real estate taxes which constitute a lien on the Property but which are not yet due and payable. Each of the parties shall deliver such other documents and perform such other conditions as are required of them by the terms of this Agreement or which may reasonably be required in order to complete the transaction, including the following:

(a) City shall deliver evidence of the abandonment of the ROW to Developer in recordable form and otherwise in form, and substance acceptable to Developer's title insurance company in order for Developer to obtain, at Developer's cost, an ALTA policy of title insurance insuring Developer as the owner of fee simple title to the Property, without standard exceptions and subject only as set forth above.

(b) City shall comply with all requirements of Developer's title insurance company contained in the Title Commitment for delivery of the title policy referenced in (a).

(c) City shall deliver an Owner's Affidavit or lien waivers as may be satisfactory and required by Developer's title Company to deliver the title policy referenced in (a).

(d) City shall deliver a duly executed non-foreign Seller certification in the form prescribed by IRC §1445 if required.

III
NOTIFICATIONS

3.1 All notices or other communications required or permitted hereunder shall be in writing, and may be personally delivered or sent by United States registered or certified mail, postage prepaid, return receipt requested, addressed as follows:

To City: City of Porterville
291 N. Main Street
Porterville, CA 93257
Attn: City Clerk

To Main: c/o Sansome Pacific Properties, Inc.
500 Washington Street, Suite 475
San Francisco, CA 94111
Attn: Tom Souza

To CVS: c/o CVS Caremark Corporation
One CVS Drive
Woonsocket, RI 02895
Attn: Property Administration (#2944)

With a copy to: Armstrong Development Properties, Inc.
2377 Gold Meadow Way, Suite 100
Gold River, CA 95670
Attn: Christopher T. Bernard

subject to the right of a party to designate a different address for itself by notice similarly given. Any notice so given by United States mail shall be deemed to have been given on the second business day after the same is deposited in the United States mail as above provided. Any notice not so given by registered or certified mail shall be deemed given upon receipt of the same by the party to whom the same is given.

3.2 Failure to insist upon strict compliance with any of the terms, covenants or conditions hereof shall not be deemed a waiver of such terms, covenant or condition, nor shall any waiver or relinquishment of any rights or powers hereunder at any one time or more times be deemed a waiver or relinquishment of such other right of power at any other time or times by any party hereto.

3.3 Possession of the Property shall be delivered to Developer upon Transfer.

IV
REPRESENTATIONS AND WARRANTIES OF CITY

City hereby makes the following representations and warranties to and agreements with Developer, which are true as of the date hereof, which shall be true as of the Transfer, which are not intended to replace or limit in any manner any express or implied warranty provided under the applicable law and which, except to the extent they relate to events or circumstances occurring or arising after the Transfer, shall survive the Transfer. Developer shall be entitled to rely upon said representations and warranties notwithstanding Developer's inspections and investigations:

4.1 As of the date of transfer, City has complied or will comply with all applicable federal, state or local laws, regulations, ordinances or orders and has completed all proceedings or other actions necessary to complete the transfer of the Property to Developer and all of the transactions contemplated by this Agreement and the Property Value reflects the fair market value of the Property as of the date of this Agreement and as of the date of the Transfer. There are no unrecorded liens or encumbrances affecting the Property and no person or entity has any right, title or interest in or to the Property other than City.

4.2 City has not received notice of, nor does City have any knowledge of, any pending or threatened action of governmental proceeding in eminent domain, zoning change or other proposed change, with the exception of the application for zone change and other applications made by the Developer and related to this Project, which would directly or indirectly affect the Property (save and except such notices of violation which have been disclosed to Developer and complied with by City), nor does City know of any fact which might give rise to any such
proceeding, nor does City know of any other type of existing or intended use of any adjacent or nearby real property which might adversely affect the use of value of the Property commercial purposes.

4.3 There are not presently pending any assessments by any governmental entity or public utility (other than for annual ad valorem real property taxes) of any nature with respect to the Property or any part of the Property. No property tax with respect to the Property is delinquent, and all requirements of all insurance policies with respect to the Property have been, and are being, fully complied with.

4.4 As of the date of the Transfer, there shall be no easements, licenses, leases or tenancies of any type on the Property or any portion of the Property except those approved by Developer in accordance with this Agreement.

4.5 There are no encroachments upon the Property or any portion of the Property or any easement, appurtenance or other interest in the Property except those identified in the title report for utilities. No improvements located on the Property encroach upon any property adjacent to the Property or upon any easement, building setback line, appurtenance or other interest in real property except as shown on the Project Plans.

4.6 City has good merchantable and insurable fee simple title to the Property. At the Transfer, each of the portions of the Property described on Exhibits A-1 and A-2 shall constitute separate legal parcels for purposes of conveyance and title insurance as described herein.

4.7 There are no liens or encumbrances against the Property for work performed or commenced, or material supplied with respect to the Property nor can there be claimed against the Property any such lien.

4.8 There is no suit or arbitration, bond issuance or proposal for bond issuance, proposals for public improvement assessment, pay-back agreement, paving agreement, road expansion or improvement agreement, utility moratorium, use moratorium, improvement moratorium, rental increase moratorium, or legal, administrative or other proceeding or governmental investigation or requirement, formal or informal, existing or pending or threatened which affects the Property or which adversely affects Developer's ability to develop the Property for commercial purposes, or which imposes any other charge or expense upon, or relating to, the Property, which has not been disclosed to Developer in writing prior to the date of this Agreement, or, in the case of any such requirement, fully complied with.

4.9 City has no knowledge, nor has City received notice of any environmental rule, order or regulation which would adversely affect the commercial development on the Property.

4.10 This Agreement is a valid obligation of City and is binding upon City in accordance with its terms.
4.11 This Agreement, when executed by City, shall have been duly and properly executed and neither the execution of this Agreement nor the consummation of the transactions contemplated by this Agreement will constitute:

(i) a default or an event which with notice or the passage of time or both would constitute a default under, or a violation or breach of, any indenture, license, lease, franchise, mortgage, deed of trust or other instrument or agreement to which City is a party or by which City, or City's property, including without limitation, the Property, may be bound, or

(ii) an event which would permit any party to any agreement or instrument affecting the Property or affecting City's ability to perform its obligations under this Agreement to terminate it, or permit the holder of any indebtedness to accelerate its maturity, or

(iii) a violation of any statute, order, rule or regulation applicable to City or any portion of the Property.

4.12 After the date of this Agreement, City shall not undertake any work on the Property which may result in the creation of a mechanic's lien on the Property or any portion of this Property.

4.13 City has no knowledge of any adverse geological or soil condition affecting the Property.

4.14 No portion of the Property lies within a flood plain designated by the federal, state or local government.

V

REPRESENTATIONS AND WARRANTIES OF DEVELOPER

5.1 CVS represents and warrants to City that CVS is conducting business as a limited liability company and is in good standing under the laws of the State of California and that the individual executing this Agreement has the requisite authority to enter into this Agreement on behalf of CVS.

5.2 Main represents and warrants to City that Main is conducting business as a limited liability company and is in good standing under the laws of the State of California and that the individual executing this Agreement has the requisite authority to enter into this Agreement on behalf of Main.

VI

DEVELOPMENT OBLIGATIONS

6.1 Development of Site.
6.1.1 CVS shall construct the Public Improvements substantially in accordance with the Project Plans. CVS and City agree to the following timing for installation of improvements.

6.1.1(a) CVS will submit complete plans for issuance of building permit within six (6) months from date of agreement.

6.1.1(b) City hereby agrees to expedite the issuance of the building permit for the Project in order that the building permit issues within twenty-one (21) days of submittal of complete building plans, inclusive of electrical and plumbing plans.

6.1.1(c) CVS will construct the Project as described in Recital C and all Public Improvements within twenty-four (24) months (the “Construction Period”) from issuance of building permit. The Construction Period may be extended for and throughout such period of time as the commencement or completion of construction is prevented or delayed due to strikes, lockouts, acts of government, acts of God, war, riots, and insurrection or abnormal force of elements, by written notice by Developer to City, delivered not less than thirty (30) days prior to end of the Construction Period.

6.1.2 The site is zoned C-3 with a Design Review (D) Overlay. Site layout and design of improvements is subject to the approval of the Porterville City Council, which was granted on ____________.

6.1.3 “Public Improvements” shall include the following which CVS shall construct substantially in accordance with the Project Plans:

6.1.3(a) Realignment of the alley on the east boundary of the property resulting in a properly designed signalized intersection at Second Street.

6.1.3(b) Installation of new traffic poles and arms, interconnect loop, and conduit for the Second Street traffic signal.

6.1.3(c) Installation of a concrete and landscaped median island in Olive Avenue at Main Street.

6.1.3(d) Installation of nostalgic lighting as detailed in the Redevelopment Streetscape Guidelines.

6.1.3(e) Installation of decorative approaches at both ends of “C” Street into the Project.

6.1.3(f) Undergrounding of aerial utility lines on the Project site.

6.1.3(g) Repaving of entire width of “C” Street and the alley along both property boundaries.

6.1.3(h) Landscaping and public improvements along “C” Street that do not currently exist.
6.1.3(i) Installation of a public space area at the northeast portion of the site. Public space shall include landscaping, trenching, irrigation, and a minimum of one bench or seating area.

6.1.3(j) All easements required for the Project are shown on the Project Plans and shall be granted by CVS for the benefit of the City in due course prior to issuance of the building permit. The form of the easements shall be subject to the review and approval of City.

6.1.3(k) Preparation and payment of all civil engineering, traffic engineering, construction, and landscaping drawings in conjunction with the Project for City's review and approval.

6.2 On-site Improvements and Landscaping. CVS shall landscape the Project in accordance with the Project Plans. All landscaping shall be subject to the approval of the Community Development Director, which approval shall not be unreasonably withheld. Such landscaping shall include an automatic sprinkler system and adequate maintenance to maintain the landscaping as approved free of diseased, dead or damaged materials.

6.3 Offsite Improvements. CVS shall at its own cost and expense take all necessary steps to secure water service, underground electrical service, the installment of access facilities and sewer service for the Project, with all improvements to be in accordance with City standards.

VII
REVERSION OPTION

7.1 Reversion Option. Subject to the conditions set forth in Section 7.2 below, and in consideration of the City entering into this Agreement, Developer hereby grants the City an option (the "Option") to repurchase the Property from Developer upon the terms and conditions set forth in this Agreement.

7.2 Conditions of Option. Developer's grant of the Option pursuant to Section 7.1 above is expressly conditioned upon each of the following:

7.2.1 The consummation of the Transfer pursuant to Section 2.3 above, for the Property.

7.2.2 The continuing performance by City of all its obligations under this Agreement and the truthfulness of each representation and warranty by City contained within this Agreement.

7.2. The failure of CVS to proceed with and construct the Development Project described in Recital C and the Public Improvements, including facility(ies), parking areas and landscaping pursuant to the timelines set forth in Sections 6.1.1(a) through 6.1.1(c). The Construction Period may be extended for and throughout such period of time as the commencement or completion of construction is prevented or delayed due to strikes, lockouts,
acts of God, wars, riots, and insurrection or abnormal force of elements, by written notice by Developer to City, delivered not less than thirty days prior to the end of the Construction Period, setting forth the facts giving rise to the necessity for the extension and the date to which the Developer is requesting the extension, and written approval of the notice/request by the City, which approval shall not be unreasonably withheld. The Construction Period may be extended by the City as many times as the grounds for such extension occur.

7.2.4 The option period shall be one hundred and eighty days (180) days from expiration of the Construction Period as extended (the “Option Period”).

7.3 Exercise of Option. As its sole remedy at law and in equity for CVS’s failure to construct the Public Improvements as set forth herein, City may exercise the Option at any time during the Option Period by delivering written notice to Developer pursuant to Article III, referring to this Agreement and stating that City is exercising the Option and recording such notice with the Tulare County Recorder.

7.4 Option Purchase Price. The purchase price (the "Option Purchase Price") of the Property if the Option is exercised by City shall be $1.00.

7.5 Lapse of Option. As of (i) the date CVS completes construction of the improvements described in Section 6.1.1 above, provided such completion occurs on or before the expiration of the Construction Period, as extended, or (ii) the expiration of the Option Period if City fails to exercise the Option prior thereto, the Option shall automatically terminate and it shall be the ministerial act and duty of the applicable officials or officers of City to execute, deliver and record such documents and instruments, including without limitation a Quitclaim Deed, requested by Developer to relinquish all of City’s rights to the Option and to the Property.

7.6 Memorandum of Option. Concurrently with the execution of this Agreement, Developer and City shall execute a memorandum of option (the "Memorandum of Option") in the form attached hereto as Exhibit B and made a part hereof. The Memorandum of Option shall be recorded by Chicago Title Insurance Company, 7330 N. Palm Ave., #101, Fresno, CA 93711 Attn. Judy Robinson ("Escrow Holder") at the Transfer pursuant to Section 2.3 above.

7.7 Purchase and Sale. In the event City exercises the Option within the time and in the manner specified in this Agreement, then the parties shall open an escrow (the "Option Escrow") with the Escrow Holder. The Escrow shall close fifteen days after the date of the exercise of the Option (the "Option Closing Date"). Prior to the Option Closing Date, Developer shall deposit a fully executed and acknowledged Grant Deed conveying the Property to the City. If the Option Escrow is in a position to close on the Option Closing Date (or as soon thereafter as is possible but in no event later than 30 days following the option Closing Date) Escrow Holder shall deliver to City the Grant Deed by depositing the same with the County Recorder of the County of Tulare, California, with instructions to record the same and thereafter to mail the same to City and shall deliver to Developer funds in the amount of the Option Purchase. City shall bear the fee for recordation of the Grant Deed, one-half of the Escrow Holder's fee and any additional charges customarily charged to purchasers in Tulare County. Developer shall bear the
documentary transfer tax required, one-half of Escrow Holder's fee and any additional costs and charges customarily charged to sellers in Tulare County. In the event City exercises the Option, then as soon as practicable after the Option Closing Date, City shall either (1) complete the Public Improvements or (2) rededicate the Property to public use as a right of way and shall reinstate South C Street to substantially the same condition and configuration as in existence prior to the Transfer such that ingress and egress of the Main Property to and from South C Street shall be substantially the same as in existence prior to the Transfer.

VIII
MISCELLANEOUS PROVISIONS

8.1 Legal Fees. In the event that an action shall be instituted by either party hereto for the enforcement of any of its rights or remedies in or under this Agreement, the party in whose favor judgment shall be rendered therein shall be entitled to recover from the other party all costs and expenses incurred by said prevailing party in said action, including reasonable attorney's fees as fixed by the court therein.

8.2 Representations of Authority. Each party executing this Agreement represents and warrants to the other parties that the party has full power and authority to execute and deliver this Agreement in the manner contemplated hereby and that this Agreement is binding upon the party in accordance with its terms.

8.3 Brokers. Each party represents and warrants to the other parties that it has not hired, retained or dealt with any real estate broker, firm or salesman in connection with the transaction contemplated by this Agreement, and each party will defend, indemnify and hold the other parties harmless from and against any and all claims for brokerage fees or other commissions which may at any time be asserted against the indemnified party founded upon a claim that the aforesaid representation and warranty of indemnifying party is untrue, together with any and all losses, damages, costs and expenses (including reasonable attorney's fees and disbursements) relating to such claims or arising therefrom or incurred by the indemnified party in connection with the enforcement of this indemnification provision. The provisions of this paragraph shall survive the Transfer and any termination of this Agreement.

8.4 Entire Agreement. This Agreement contains the entire integrated agreement between the parties respecting the matters herein set forth and supersedes all prior agreements between the same respecting such matters. In that connection, Developer specifically acknowledges that it has not received any promises, representations or assurances from City or any of City's agents or employees which are not contained herein. No addition or modification of any term or provision hereof shall be effective unless set forth in writing, signed by both City and Developer.

8.5 Severability. If any term, covenant, condition or provision of this Agreement, or the application thereof to any person or circumstance, shall to any extent to be held by a court of competent jurisdiction to be invalid, void or unenforceable, the remainder of the terms, covenants, conditions or provisions of this Agreement, or the application thereof to any person or
circumstance, shall remain in full force and effect and shall in no way be affected, impaired or invalidated thereby.

8.6 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original, but all of which, taken together, shall constitute one and the same instrument.

8.7 Further Assurances. Each party hereby agrees that it shall, upon request of the other, execute and deliver such further documents (in form and substance reasonably acceptable to the party to be charged) and do such other acts and things as are reasonably necessary and appropriate to effectuate the terms and conditions of this agreement, without cost, including (without limitation) the execution and delivery of such documents, and the doing of such acts or things as may be required to satisfy the requirements of the Developer's title insurance company to issue title insurance in accordance with this Agreement and for Developer to fully and adequately perform its investigations of the Property. City hereby grants to Developer, its agents and employees, the right and license to go on to the Property for the purpose of performing any activity necessary or appropriate to the satisfaction of the conditions of this Agreement or to Developer’s performance of its duties, obligations and responsibilities hereunder; provided, however, that City shall have the right to have one or more of its agents or representatives accompany Developer, or Developer's agents and employees, while on the Property.

8.8 Heirs and Assignment. This Agreement shall not be assigned without written consent of all parties, and said consent may be withheld for any reason. This Agreement shall bind and inure to the benefit of the heirs, executors, successors, or assigns of Developer or any other person or firm that may now be or hereafter be an owner of the Property.

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

8.10 Counsel. The parties represent and warrant that this Agreement has been freely negotiated and has been reviewed by each party’s respective legal counsel.
IN WITNESS WHEREOF, the parties have executed this Agreement as of the day and year first written above.

APPROVED AS TO FORM:  

__________________________________________
Julia Lew  
City Attorney  

Cameron Hamilton, Mayor  

CITY:  

CITY OF PORTERVILLE  
a Municipal Corporation  

BY: ____________________________  

John Longley, City Clerk  

MAIN:  

Main Olive, LLC,  
a California limited liability company  

BY: ____________________________  

Tom Souza  
Principal  

CVS:  

GARFIELD BEACH CVS, L.L.C.,  
a California limited liability company  

BY: ____________________________  

Mark J. Miller  
Vice President  

CVS LEGAL APPROVAL:  

BY: ____________________________  

PROPERTY EXCHANGE AND DEVELOPMENT AGREEMENT – CVS AND MAIN  
13
EXHIBIT A

SITE PLAN
EXHIBIT “A”-1

LEGAL DESCRIPTION
CVS PORTION OF PROPERTY
This MEMORANDUM OF OPTION (the "Memorandum") is made and entered into as of the ___ day of ________, 20___, by and between GARFIELD BEACH CVS, L.L.C. (the "Optionor"), and the CITY OF PORTERVILLE (the "Optionee"), a municipal corporation.

1. Optionor is the owner in fee simple of approximately 9,980 square feet of land located in the City of Porterville, County of Tulare, State of California (see attached description).

2. Pursuant to an unrecorded property exchange and development agreement (the "Exchange Agreement") between Optionor and Optionee of even date herewith, Optionor hereby grants, and Optionee accepts, an option (the "Option") for Optionee to purchase and for Optionor to sell, grant, convey and deliver the property upon the terms and conditions set forth therein.

3. The Option may be exercised during the Option Period as defined in section 7.2.4 of the Exchange Agreement.

4. As of (i) the date Optionor completes construction of the improvements described in the Exchange Agreement, provided such completion occurs on or before the expiration of the Construction Period, as extended, or (ii) the expiration of the Option Period if Optionee fails to exercise the Option by a written notice recorded with Tulare County Registry the Option prior thereto, the Option shall automatically terminate and it shall be the ministerial act and duty of the applicable officials or officers of Optionee to execute, deliver and record such documents and instruments, including without limitation a Quitclaim Deed, requested by Optionor to relinquish all of City's rights to the Option and to the Property.

5. This Memorandum is intended only to provide record notice of the Option and the Exchange Agreement, which contains additional terms and conditions agreed upon by Optionor and Optionee.

6. Capitalized terms referred to herein but not defined herein shall have the meanings ascribed thereto in the Exchange Agreement.

7. A complete copy of the Exchange Agreement is on file with:
IN WITNESS WHEREOF, the parties have executed this Memorandum as of the day and year first written above.

OPTIONOR:

__________________________________________
By:                                         By:

OPTIONEE:

CITY OF PORTERVILLE,
A Municipal Corporation

__________________________________________
By: Cameron Hamilton, Mayor                By: John Longley, City Clerk
Attachment

Legal Description
PUBLIC HEARING

SUBJECT:          CONDITIONAL USE PERMIT 9-2007 (MR. IQBAL
                   SINGH & MR. PARMIJIT KAUR, FRIENDLY LIQUOR)

OWNER APPLICANT:  COMMUNITY DEVELOPMENT AND SERVICES
                   DEPARTMENT – PLANNING DIVISION

COMMENT: The applicants are requesting approval of a Conditional Use Permit
         (CUP) to allow the construction of a new 2400± square foot
         liquor/convenience store to continue the existing use and add
         gasoline/fuel islands. An existing convenience store operates on
         the property that will remain until the new building is constructed.
         Once the new building is constructed, the old building will be
         demolished and removed so that the new fuel pumps and canopy
         can be installed. In the future, the applicants may add a carwash as
         noted on the proposed site plan. The subject site is situated in a C-
         3 (Heavy Commercial) Zone, located at 814 W. Olive Avenue on
         the northwest corner of Olive Avenue and Indiana Street.

         All requirements of the Zoning Ordinance have been met on the
         proposed site plan (parking, loading zone, setbacks, block walls,
         signage, etc.). Conditions of approval have been added to facilitate
         compliance with pertinent codes and to address the relationship
         between the project and adjacent uses.

         The self-service fuel operation will consist of two islands
         containing four (4) gas pumps. The proposed canopy will be
         architecturally compatible with the existing building. Hours of
         operation are weekdays 8:30am to 11:00pm seven days a week.

RECOMMENDATION: Staff recommends that the City Council adopt the draft
                  resolution approving Conditional Use Permit 9-2007,
                  subject to conditions of approval.

ATTACHMENT:

   1. Complete Staff Report
CITY COUNCIL AGENDA OCTOBER 16, 2007

PUBLIC HEARING

SUBJECT: CONDITIONAL USE PERMIT 9-2007 (FRIENDLY LIQUOR)

OWNER APPLICANT: MR. IQBAL SINGH & MR. PARMJIT KAUR,
814 W. OLIVE AVENUE
PORTERVILLE, CA 93257

REPRESENTATIVE: DONNA SHAMELY, ROBERTS ENGINEERING
263 N. THIRD STREET
PORTERVILLE, CA 93257

PROJECT LOCATION: 814 W. OLIVE AVENUE – NORTHWEST CORNER OF OLIVE AVENUE AND INDIANA STREET

SPECIFIC REQUEST: The applicants are requesting approval of a Conditional Use Permit (CUP) to allow the construction of a new 2400± square foot liquor/convenience store to continue the existing use and add gasoline/fuel islands with a canopy. The applicants may, in the future, add a carwash. The subject site is situated in a C-3 (Heavy Commercial) Zone, located at 814 W. Olive Avenue on the northwest corner of Olive Avenue and Indiana Street.

PROJECT DETAILS: The subject site encompasses approximately .38± acres and has an existing 2100± square foot convenience market that fronts Olive Avenue (on the south side of the property) and has an active liquor license. The site is long and narrow and currently allows vehicular access via a driveway on Olive Avenue and two driveways along Indiana Street. As part of the Indiana Street Project, 17,349± square feet of right-of-way were purchased from the property owners that included the entire parcel to the east and a portion of the parcel that the current store occupies.

The new convenience market will be constructed in the center of the parcel along the west property line. Parking will be at the gas pumps and at both the front and rear of the new building. The proposed canopy and self-service gas pumps consist of one (1) island containing four (4) gas pumps situated where the current market exists today. A trash enclosure will be located at the rear of the lot between the new building and the future proposed carwash. A loading zone is located at the rear or north side of the building in an area adjacent to where the future carwash is being proposed. This area will be clearly marked and open for loading or unloading. Ingress and egress to the site is by way of three (3) drive approaches, located on the south side of the property along the Olive Avenue frontage (one) and two (2) along the east side of the property on Indiana Street.

GENERAL PLAN AND ZONING: The subject site is zoned C-3 and is designated for Heavy Commercial uses by the Land Use Element of the General Plan. Convenience markets are allowed in the C-3 zones. However, the City Zoning Ordinance requires approval of a Conditional Use Permit when automobile fuel dispensing is associated with the market.
SURROUNDING ZONING AND LAND USE:

North:    City R-3 – Vacant undeveloped land that is disked annually
South:    City C-3 – Olive Avenue and commercial uses
East:     City C-3 – Cottage Street and commercial uses
West:     City C-3 - Commercial uses

STAFF ANALYSIS: Approval of CUP 9-2007 would allow construction of a new 2400± square foot building to continue the existing use, add a proposed canopy for a gasoline/fuel island and, in the future, add a carwash. The trim and stucco finish will be soft tones with stone veneer finishes matching the design of the building. Any deviation from this design will require Zoning Administrator or City Council approval.

At this time, the applicant has no timeframe or certainty that the carwash will be a second phase component of the project but have provided preliminary information of possible development because it was initially the intent to make it part of the project. If the applicant decides in the future to proceed with the carwash, additional plans and information regarding specifications, grading and drainage will be required for plan check and compliance with city standards. If constructed, the proposed canopy will be consistent in architectural design with the convenience market materials.

The presence of on-site personnel operating the market will ensure the proper maintenance and cleanliness of the site. At present the City does not have design standards in place and notes that the developer has designed a project with unique characteristics and architectural features while meeting all ordinance requirements. The proposal makes additional use of a viable commercial parcel and should continue to be consistent with the existing development along the north and south side of Olive Avenue in the area. Being located in a highly visible location, the proposed landscaping theme of grass, small shrubs and one street tree per 35 feet of frontage, should greatly enhance the subject development.

ALTERNATIVES TO THE PROJECT AND EFFECT OF ALTERNATIVES:

1. No project. Denial of the conditional use permit would preclude the demolition of the existing structure and construction of the new building, canopy and fuel station at the subject site. The convenience store could continue its use without a new structure and gas pumps as permitted in the C-3 Zone.

2. Approve the project. Approval of the proposed CUP would allow the demolition of the existing convenience market and construction of the new building, canopy and fuel island as proposed.

ENVIRONMENTAL: The subject proposal is categorically exempt pursuant to Class 2, Section 15302(b) (replacement or reconstruction of existing structures) of the CEQA Guidelines.
RECOMMENDATION: Staff recommends that the City Council adopt the draft resolution approving Conditional Use Permit 9-2007, subject to conditions of approval.

ATTACHMENTS:
1. Land Use, Zoning and General Plan Map
2. Site Plan (Exhibit “A”)
3. Rendering (Exhibit “B”)
4. Application
5. Notice of Exemption
6. Draft Resolution
Land Use/Zoning
General Plan Map

Landuse/Zoning -
C-3 = Heavy Commercial Zone
R-3 = Multiple Family Zone
O-A = Open Area Zone

General Plan Designation -
● Heavy Commercial
■ High Density Residential
▲ Public & Quasi Public
APPLICATION FOR CONDITIONAL USE PERMIT
(See Page 3 of this form for information on preparing and filing this application)

The Applicant __IQBAL SINGH__ and __PARMJIT KAUR__ is the owner of property situated at __817 West Olive____ Avenue between __Indiana and Wisconsin Streets__. Exact legal description of said property being ___SEE ATTACHED LEGAL DESCRIPTION___

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

1. Above described property is owned by __Iqbal Singh__ and __Parmjit Kaur__
   Date acquired ____________________________

2. If applicant is the lessee, give date property was leased: __Not applicable__

3. List below the original deed restrictions, if any, that were placed on the property which pertain to the type of improvements permitted.
   Give date said restrictions expire __Not applicable__
   (You may attach a copy of the original printed restrictions in answer to this question after properly underlining those features controlling the type and class of uses permitted thereby).

   There are no known deed restrictions.

4. REQUEST: The applicant requests a Conditional Use Permit to USE the above described property for the following purposes:
   (Use this space ONLY to state exactly what is intended to be done on, or with, the property).

   The applicant is requesting a conditional use permit to allow the demolish of an existing liquor/convenience store to make room for a new building to continue the existing use and add gasoline/fuel islands and, in the future, add a car wash.
NOTE: The basic purpose of the Conditional Use Permit Article of the City Zoning Ordinance is to assure that the design and subsequent operation of a conditional use will be reviewed in order to carry out the purposes of the Ordinance and to protect the public health, safety and welfare, due to the unique and special characteristics of such uses.

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

The construction of the new building with the addition of gasoline/fuel islands and a carwash will not be detrimental to the public at this location. There is an existing liquor/convenience store which has been on the site for at least 40 years. The addition of the gasoline/fuel islands will add a needed service to this area. With the construction of Indiana Street and the installation of the traffic signal, this area will need these items to prevent longer trips to purchase fuel for vehicles. The improvement to this corner will only enhance the area.

2. Principal requirements of intended use (Please answer the following statements, if applicable):

(a.) Total number of people that the building (or grounds, if the use is not conducted in a building) can accommodate at one time (seating capacity).

Not applicable.

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

2 per shift x 3 shifts = 6 employees.

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

As required by City Ordinance

(d.) Maximum height of buildings or structures.

25 feet

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

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

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APPLICANT'S DECLARATION

STATE OF CALIFORNIA)

COUNTY OF TULARE )

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

I declare under penalty of perjury that the foregoing is true and correct, executed at __Porterville, CA__ this __9th__ day of __August__, 2007.

Signature: __Donna Shamley___

Mailing Address: __Roberts Engineering__
P. O. Box 908, Porterville, CA 93258

Telephone No.: (559) 784-6326

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

By: ______________________________ Date Received: ______________________________
REQUIREMENTS FOR FILING APPLICATION FOR CONDITIONAL USE PERMIT

1. Conditional Use Permit Application Form
2. 300 foot radius map
3. Property owners' list
4. Plot plan, drawings, or photographs
5. Filling fee $ 700.00

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

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

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

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

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

This application is NOT a permit. A public hearing will be held on your application.
NOTICE OF EXEMPTION

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

X Tulare County Clerk
County Civic Center
Visalia, CA 93291

FROM: City of Porterville
291 North Main Street
Porterville, CA 93257

Bradley D. Dunlap, Community Development Director
291 N. Main Street
Porterville, CA 93257

Condition Use Permit 9-2007
Project Title

291 N. Main Street
Project Location (Specific)

City of Porterville

Tulare

Project Location (City)
Project Location (County)

The Demolition of an existing liquor/convenience store to make room for a new building to continue the existing use and add gasoline/fuel islands and future car wash.

Description of Nature, Purpose, and Beneficiaries of Project

City of Porterville
Name of Public Agency Approving Project

Bradley Dunlap, Community Development Director
Name of Person or Agency Carrying Out Project

Exempt Status: (Check One)

_____ Ministerial (Section 15073)
_____ Declared Emergency (Section 15071 (a) )
_____ Emergency Project (Section 15071 (b) and (c))

Categorical Exemption. State type and section number: "In-fill Development" Section 15332 Class 32

X "Replacement or Reconstruction" Exemption - 14 Ca. Admin. Code 15302 Class 2

The project is characterized Section 15302 (b) as replacement reconstruction of existing structures where the new structure will be located on the same site and have substantially the same purpose and capacity as the structure replaced.

Project is not subject to CEQA.

Reasons why project is exempt

Bradley D. Dunlap, 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 _____

Signature:

Community Development Director
Title

p:\comdev\jose\planning\NoticeExemptionDevelopmentAgmt.

ATTACHMENT
ITEM NO. 5
Resolution No. ____________


WHEREAS: The City Council at its regularly scheduled meeting of October 16, 2007, conducted a Public Hearing to consider Conditional Use Permit 9-2007 to allow the development of a new 2400± square foot building to continue the existing use, a canopy for an addition of a gasoline/fuel island and, in the future, add a carwash. The subject site is situated in a C-3 (Heavy Commercial) Zone, located at 814 W. Olive Avenue on the northwest corner of Olive Avenue and Indiana Street.; and

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

1. That the proposed project is consistent with the site’s General Plan Land Use (Heavy Commercial) and Zoning (C-3 Heavy Commercial Zone) Designations.
2. That the site is physically suitable for the type of development proposed. The proposed use will have basically the same purpose and capacity as the existing use with the exception of the proposed fuel island and canopy.
3. That the design of the project, or the proposed improvements are not likely to cause substantial environmental damage.
4. That the subject project per “Reconstruction or Replacement” Exemption Class 3, Section 15302 (b) of the CEQA Guidelines is Categorically Exempt.
5. That the proposed location of the project and the conditions under which it will be operated and maintained will not be detrimental to the public health, safety, or welfare, or materially injurious to properties or improvements in the vicinity.
6. That the standards of the site area dimensions, site coverage, height of 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.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve Conditional Use Permit 9-2007 subject to the following conditions:

Code and State law. 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 construct and/or repair curbs, gutters, sidewalk, etc. along the full frontage of the parcel except where they exist and are in good condition in the opinion of the City Engineer (Ord. No. 1306).

4. The developer/applicant is hereby notified that the property is subject to $8,427.27 development fees per Resolution No. 14-2007. The fee is associated with the construction of concrete improvements along Indiana Street by City.

5. The developer/applicant shall have a registered Civil Engineer or Land Surveyor prepare and submit a Lot Line Adjustment that will reconfigure property lines to meet the requirements of all applicable codes. The following information is required at the time of submittal:
   - Three copies of a Map and Legal Descriptions
   - Processing fee in the amount of $616.
   - Adequate title information (deed, etc.) to verify current ownership and the method of creation of the effected parcels.

6. The Lot Line Adjustment shall be approved prior to the issuance of a building permit.

7. The developer/applicant shall follow Appendix Chapter 33 of the California Building Code including provision of a grading and drainage plan signed by a licensed 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.

8. The developer/applicant shall construct drainage facilities as required to serve the property (Ord. No. 1306). Staff is requesting that the parking lot be designed to convey water to the City drainage system without crossing driveways.

9. Developer/applicant shall provide a Soils Report in conformance with Chapter 18 of the California Building Code The Soils Report shall include R-Value testing, expansion indexes, etc required for the construction of public improvements.

10. The developer/applicant shall design and improve the parking lot in conformance with Section 2206 and 2211 (Exhibit A) of the Zoning Ordinance.

11. The developer/applicant shall, under City inspection, remove all existing abandoned and unnecessary items, to the satisfaction of the City Engineer, before the issuance of a certificate of occupancy (For example, foundations, septic tanks, irrigation pipes, etc.).

12. 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).

13. The developer/applicant shall abandon existing wells, if any, after first getting an abandonment permit from the County Department of Environmental Health, and providing the City Engineer with proof of compliance with County regulations before performing any grading or issuance of the building permit, whichever comes first.

14. The developer/applicant shall insure compliance with applicable San Joaquin Valley Unified Air Pollution Control District Rules (e.g., Numbers 8010, 8020 and 8030), regarding fugitive dust, as well as Section 7-8, Project Site Maintenance of the Standard Specifications. The developer/applicant shall provide a street sweeper as necessary to comply.

15. The developer/applicant shall comply with Ordinance No. 1636 regarding Waste Water Discharge requirements and shall complete and submit the following:

Wastewater Discharge Permit Application, Part “A”; and if monitoring is required, based on the responses to questions in Part “A” of the Wastewater Discharge Permit, then the developer/applicant shall complete and submit the remainder of the application along with the Permit Fee, and provide monitoring facilities to allow inspection, sampling, and flow measurement of the flows in the sewer and drainage system.

16. If hazardous materials are to be stored in jurisdictional quantities anywhere on the property, the developer/applicant shall develop and maintain a Hazardous Materials Business Plan Program, follow Chapter 6.95 of the Health and Safety Code, and shall tell the Hazardous Materials Unit of the Tulare County Division of Environmental Health. The developer/applicant shall provide proof of compliance with County requirements before issuance of a certificate of occupancy.

17. If underground storage tank(s) are to be used for storage of hazardous substances, the developer/applicant shall follow California Health and Safety Code, Division 20, Chapter 6.7, Section 25280 through 25299.6, governing the underground storage of hazardous substances.

18. The developer/applicant shall install a refuse container enclosure according to City standards. The enclosure location shall be approved by the City prior to issuance of building permit. The developer/applicant shall also sign a waiver of liability for refuse truck damage to the parking lot if the refuse container location requires refuse trucks to travel on the parking lot. The trash enclosure location shall be oriented to provide direct pick up (facing east).

19. A back-flow device is required on the water meter. The developer/applicant shall comply with City standard for “backflow” prevention pursuant to Resolution No. 9615.
20. 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.

21. A minimum five (5) foot wide screen-planting strip shall be provided and permanently maintained adjacent to any property line separating a parking area from a public street.

22. A minimum of 5% of parking lot and driveway areas are to be landscaped with live plant materials. The parking lot and driveway areas are to be shaded with trees planted on the property at a minimum ratio of one tree per 8 parking spaces distributed throughout the paved area.

23. The owner/applicant shall incorporate areas of public right-of-way between the back of sidewalk and property line into the site landscape areas. Landscape planting of the right-of-way areas shall be consistent with the site landscaping.

24. The owner/applicant shall install tree wells within the sidewalk area and provide and maintain city-approved street trees along Indiana Street. The selection of planting locations, and performance of canopy maintenance for street trees shall be conducted in manners to minimize vehicular sight safety conflicts.

25. The owner/applicant is to install trees, approved as City Street Trees, along all public roadway frontages of the property. The number of trees to be planted shall be equivalent to a minimum of one tree per 35 feet of roadway frontage. The trees are to be a minimum of #15 size specimens incorporated into the designated landscape areas. Root barriers are required for all trees planted within ten feet of public sidewalks. The selection of planting locations, and performance of canopy maintenance for the trees shall be conducted to minimize vehicular sight safety conflicts.

26. The owner/applicant shall provide an automatic irrigation system for all landscape planting, including trees and right of way planting. All landscaping shall be installed prior to occupancy and be permanently maintained by the owner/applicant in a healthy and vigorous growing condition, and cleanly appearance. Concrete mow strips shall be installed at the base of all fencing adjoining or crossing turfed-landscaping.

27. 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.

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

29. Compliance with all applicable codes is required.
30. Soils compaction test shall be required.

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

32. Restrooms and main entrance must comply with disabled access laws.

33. Signs requires separate permit.

34. Gas canopy structure shall require engineered stamp set of plans.

35. A demolition permit will be needed for demolition of existing structures.

39. The project must comply with latest applicable codes.

40. 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 fire flow.

41. Depending on the location of the existing fire hydrant(s), additional fire hydrants may be required. All hydrants must be in place and accepted by the Fire Department prior to any combustibles being brought onto the site.

42. 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.

Fire hydrant spacing shall be as follows:

In Commercial development, one hydrant shall be installed at 300-foot intervals.

43. Project must meet minimum fire flow requirements per the table in Appendix III-A & III-B of the California Fire Code.

44. Additional requirements for compliance with the Uniform Fire code may be added at the time of building permit review when more information regarding the building type and use are provided.

45. All roof-top and wall mounted mechanical equipment shall be screened from view in a manner that is architecturally compatible with building.

46. The future carwash, if constructed, will match the proposed building in design, materials, colors etc.

47. Lighting from the fuel island canopy and parking lot will be designed to minimize glare and light spillover onto adjacent properties.

48. At all times, the existing building shall be operated and maintained to comply with State Law, the City of Porterville Municipal Code, adopted Building Codes and all other applicable laws and ordinances.
49. That the subject site will be developed/maintained in accordance with the interior plan labeled EXHIBIT “A” & “B”.

50. The Conditional Use Permit shall become null and void if not undertaken and actively and continuously pursued within one (1) year.

______________________________
Cameron Hamilton, Mayor

ATTEST:
John Longley, City Clerk

By ________________________________
    Patrice Hildreth, Acting Chief Deputy City Clerk
CITY COUNCIL AGENDA: OCTOBER 16, 2007
PUBLIC HEARING

TITLE: CONDITIONAL USE PERMIT 8-2007 AND TENTATIVE PARCEL MAP 4-2007 FOR THAT SITE LOCATED ON THE SOUTHEAST CORNER OF MAIN STREET AND THURMAN AVENUE (ENNIS COMMERCIAL)

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: The applicant is requesting approval of Conditional Use Permit 8-2007 to allow for a four (4) unit "air space" condominium complex in an existing two (2) story building. In conjunction with the conditional use permit, the applicant is also requesting approval of Tentative Parcel Map 4-2007 to allow for the creation of four (4) condominium parcels and a common area remainder parcel within Parcel One (1). The subject site is located at the southeast corner of Main Street and Thurman Avenue in the C-2 (Central Commercial Zone).

PROJECT DETAILS: The proposed development will create four (4) "air space" office units, plus a common area within the envelope of the proposed parcel map. The office units will be individually owned in Fee Title, and will include the air space envelope. The common area and all improvements to the property will be owned in common by all owners of the units. Site development, specifically, the configuration of the units, will be based upon Conditional Use Permit 8-2007 site plan and will not be reflected by the single lot parcel map (Tentative Parcel Map 4-2007).

Pursuant to Section 210 A.14 of the Porterville Zoning Ordinance, condominiums are allowed via approval of a conditional use permit.

ENVIRONMENTAL: This project is Categorically Exempt pursuant to Section 15332 Class 32 of the CEQA Guidelines - construction of in-fill development and 15315 Class 15 of the CEQA Guidelines – minor land divisions. Under the Permit Streamlining Act (Section 65950 of the Government Code), the City has 60 days from the date the project was accepted as complete to reach a determination regarding this project.

RECOMMENDATION: That the City Council:

1. Adopt the draft resolution approving Conditional Use Permit 8-2007
2. Adopt the draft resolution approving Tentative Parcel Map 4-2007.

ATTACHMENT:
1. Complete Staff Report

[Signature] APPROPRIATED/FUNDED ITEM NO. 23
CITY COUNCIL AGENDA: OCTOBER 16, 2007

PUBLIC HEARING - STAFF REPORT

TITLE: Conditional Use Permit 8-2007 and Tentative Parcel Map 4-2007

APPLICANT: Ennis Commercial
643 N. Westwood Street
Porterville, CA 93257

PROJECT LOCATION: Southeast corner of Main Street and Thurman Avenue.

SPECIFIC REQUEST: The applicant is requesting approval of Conditional Use Permit 8-2007 to allow for a four (4) unit “air space” condominium complex in an existing two (2) story building. In conjunction with the conditional use permit, the applicant is also requesting approval of Tentative Parcel Map 4-2007 to allow for the creation of four (4) condominium parcels and a common area remainder parcel within Parcel One (1). The subject site is located at the southeast corner of Main Street and Thurman Avenue in the C-2 (Central Commercial Zone).

PROJECT DETAILS: The proposed development will create four (4) “air space” office units, plus a common area within the envelope of the proposed parcel map. The office units will be individually owned in Fee Title, and will include the air space envelope. The common area and all improvements to the property will be owned in common by all owners of the units. Site development, specifically, the configuration of the units, will be based upon Conditional Use Permit 8-2007 site plan and will not be reflected by the single lot parcel map (Tentative Parcel Map 4-2007).

Pursuant to Section 210 A.14 of the Porterville Zoning Ordinance condominiums are allowed via approval of a conditional use permit.

GENERAL PLAN DESIGNATION: C-2 (Central Commercial Zone).

SURROUNDING ZONING AND LAND USE:

North: C-2 – Thurman Avenue and professional office
South: OA – Centennial Park and Cleveland Avenue
East: C-2 – Professional office and Second Street
West: C-2 – Main Street and City Hall

On October 10, 2007, the Parcel Map Committee reviewed conditions relative to Tentative Parcel Map 4-2007 and the associated CC & R’s and recommended that the City Council approve Tentative Parcel Map 4-2007.
STAFF ANALYSIS: Pursuant to Section 210 A.14 of the Porterville Zoning Ordinance
condominiums are allowed via approval of a conditional use permit. The applicant has elected an
“air space” condominium subdivision of the site, in lieu of a conventional land division. A
condominium consists of an undivided interest in common in a portion of the property coupled
with a separate interest in a space called a unit. In the subject proposal, there are four (4) spaces
(units) and a common area – that portion consisting of the entire site, exclusive of the units.

As an “air space” condominium, certain specific requirements are imposed by the State, for State
review only. Specifically, “Covenants, Conditions and Restrictions” (CC & R’s) and the “air space”
map (both reviewed by the California Department of Real Estate) are the components
establishing the proposal’s geometric layout and performance Guidelines.

ALTERNATIVES TO THE PROJECT AND THEIR EFFECT:

1. Denial of the proposed project would prohibit the use of the building as a commercial
   condominium. Additionally, no action to the tentative parcel map would be required.

2. Approval of the conditional use permit and tentative parcel map would allow for the building
to be utilized as a commercial condominium.

ENVIRONMENTAL: This project is Categorically Exempt pursuant to Section 15332 Class 32
of the CEQA Guidelines - construction of in-fill development and 15315 Class 15 of the CEQA
Guidelines – minor land divisions. Under the Permit Streamlining Act (Section 65950 of the
Government Code), the City has 60 days from the date the project was accepted as complete to
reach a determination regarding this project.


DATE ACCEPTED AS COMPLETE: October 5, 2007

RECOMMENDATION: That the City Council:

1. Adopt the draft resolution approving Conditional Use Permit 8-2007.

2. Adopt the draft resolution approving Tentative Parcel Map 4-2007.
ATTACHMENTS:

1. Locator map
2. Conditional Use Permit Application
3. Tentative Parcel Map 4-2007
4. Notice of Exemption
5. Draft resolution approving Conditional Use Permit 8-2007 to include Exhibit "A" - Site Plan, and Exhibit "B" - CC & R’s
APPLICATION FOR CONDITIONAL USE PERMIT
(See Page 3 of this form for information on preparing and filing this application)

The Applicant(s) ___ENNIS COMMERCIAL PROPERTIES___ Is/are the owner(s) or tenant(s)
of property situated at ___SE CORNER OF MAIN & THURMAN___ between ___-___ Street/Avenue
and ___-___ Street/Avenue. Exact legal description of said property being ___See Attached___.

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

(A) Above described property is owned by: ___ENNIS COMMERCIAL PROPERTIES___
    Date acquired: ___NOVEMBER 2005___

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

(C) List below the original deed restrictions, if any, that were placed on the property which
    pertain to the type of improvements permitted.
    Give date said restrictions expire: ___SEE ATTACHED DEED___
    (You may attach copy of original printed restrictions in answer to this question after property underlining those features
    controlling the type and class of uses permitted thereby).

(D) REQUEST: The applicant requests a Conditional Use Permit to use the above described
    property for the following purposes:
    (Use this space ONLY to state exactly what is intended to be done, on or, with the property).

    CREATION OF FOUR CONDOMINIUM PARCELS AND A COMMON AREA
    REMAINDER

_______

ATTACHMENT
ITEM NO. 2
NOTE: The basic purpose of the Conditional Use Permit Article of The City Zoning Ordinance is to assure that the design and subsequent operation of a conditional use will be reviewed in order to carry out the purposes of the ordinance and to protect the public health, safety and welfare, due to the unique and special characteristics of such uses.

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

THE USE PERMIT IS TO ALLOW AN AIR SPACE DIVISION OF A BUILDING PRESENTLY UNDER CONSTRUCTION. THE DIVISION WILL HAVE NO IMPACT ON THE PHYSICAL STRUCTURE OR SURROUNDING PROPERTIES.

2. Principal requirements of intended use: (Please answer the following statements, if applicable)

A. Total number of people that the building (or grounds if the use is not conducted in a building) can accommodate at one time (seating capacity):

NO INCREASE IN THE ALLOWABLE OCCUPANT LOAD WILL RESULT BY APPROVAL OF THE USE PERMIT

B. Total number of employees that will work on the property:

NOT DETERMINED AT THIS TIME

C. Total number of off-street parking spaces provided or planned:

NONE. WITHIN PARKING DISTRICT #2

D. Maximum height of buildings or structures:

30 FEET

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

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

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**APPLICANT'S DECLARATION**

STATE OF CALIFORNIA  
COUNTY OF TULARE

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

I declare under penalty of perjury that the foregoing is true and correct, executed at ________________ this 11 day of April, 2007.

Telephone No. 768-6000

**Signature**

649 N. Westwood St Porterville Ca 93257

Mailing Address

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

By __________________________

Date received __________________
NOTICE OF EXEMPTION

TO: ______ Office of Planning and Research ______ Tulare County Clerk
1400 Tenth Street, Room 121 County Civic Center
Sacramento, CA 95814 Visalia, CA 93291

FROM: City of Porterville Ennis Commercial
291 N. Main Street 643 N. Westwood
Porterville, California 93257 Porterville, CA 93257

Conditional Use Permit 8-2007 & Tentative Parcel Map 4-2007
Project Title

Southeast corner of Main Street and Thurman Avenue.
Project Location (Specific)

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

The division of “air space” in a newly constructed building to create for condominium parcels and a common area.

Description of Nature, Purpose, and Beneficiaries of Project

City of Porterville
Name of Public Agency Approving Project

Ennis Commercial
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: 15315 Class 15
[ X ] Categorical Exemption. State type and section number: 15332 Class 32

Minor Land Divisions and Construction of in-fill development.
Reasons why project is exempt

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

U/NoticeExemptCUP8-2007&TPM4-2007

ATTACHMENT
ITEM NO. 4
RESOLUTION NO.________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS IN SUPPORT OF CONDITIONAL USE PERMIT 8-2007 TO ALLOW FOR A FOUR (4) UNIT "AIR SPACE" CONDOMINIUM COMPLEX IN AN EXISTING TWO (2) STORY BUILDING LOCATED ON THE SOUTHEAST CORNER OF MAIN STREET AND THURMAN AVENUE

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of October 16, 2007, conducted a public hearing to consider Conditional Use Permit 8-2007, being a request for the approval of Conditional Use Permit 8-2007 to allow for a four (4) unit "air space" condominium complex in an existing two (2) story building located at the southeast corner of Main Street and Thurman Avenue; and

WHEREAS: Pursuant to Section 210 A.14 of the Porterville Zoning Ordinance condominiums are allowed via approval of a conditional use permit.

WHEREAS: Pursuant to Section 15332 Class 32 of the CEQA Guidelines -- construction of in-fill development and 15315 Class 15 of the CEQA Guidelines -- minor land divisions. Under the Permit Streamlining Act (Section 65950 of the Government Code), the City has 60 days from the date the project was accepted as complete to reach a determination regarding this project.

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

1. The General Plan designates the subject site General Commercial.

   The subject site is zoned C-2 (Central Commercial) 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 has an existing two (2) story building. Barriers associated with new development will not occur due to the conversion of the existing building to a condominium use.
3. That the design of the project or the proposed improvements are not likely to cause substantial environmental damage.

The subject site has an existing building. Staff conducted an on-site inspection. No natural habitat was observed. As such, no endangered, threatened or rare species or habitats exist and no impact will occur.

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.

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.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve Conditional Use Permit 8-2006, subject to the following conditions:

1. Compliance with all applicable codes is required.

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

3. Restrooms and main entrances must comply with ADA access laws.

4. Signs require a separate permit.

5. The landscaped area will be on an automatic water system.

6. The developer/applicant shall comply with City standard for “backflow” prevention pursuant to Resolution No. 9615.

7. At all times, the existing building shall be operated and maintained to comply with State Law, the City of Porterville Municipal Code, adopted Building Codes and all other applicable laws and ordinances.
8. A grease trap or grease interceptor is required.

9. Approval from the Tulare County Health Department will be required.

10. That all conditions referenced in the Disposition and Development Agreement between the Porterville Redevelopment Agency and Ennis Commercial properties, LLC. including that a restaurant be located on the bottom floor shall remain in full force and effect.

11. Subsequent building improvements shall be in conformance with fire and building code standards.

12. That the subject site will be developed/maintained in accordance with the interior plan labeled EXHIBIT “A”.

13. The Conditional Use Permit shall become null and void if not under taken and actively and continuously pursued within one (1) year.

________________________________________
Cameron Hamilton, Mayor

ATTEST:

John Longley, City Clerk

By ________________________________
Patrice Hildreth, Acting Chief Deputy City Clerk
Recording requested by and
When recorded return to:

WILLIAMS, JORDAN & BRODERSEN LLP
2222 West Main Street
Visalia, California 93291
(559) 635-9000

DECLARATION FOR CENTENNIAL PLAZA

THIS DECLARATION is made on July _____, 2007, by ENNIS COMMERCIAL PROPERTIES, LLC, a California limited liability company and SMITH COMMERCIAL PROPERTIES, LLC, a California limited liability company (jointly “Declarant”).

RECITALS

A. Declarant is the owner of that certain real property located in the City of Porterville, County of Tulare, State of California, and more particularly described on Exhibit “A” attached to and made a part of this Declaration (“Property”).

B. Declarant intends to subdivide the Property into condominium estates subject to the provisions of the Davis-Stirling Common Interest Development Act contained in Division II, Part 4, Title 6 of the California Civil Code, and to establish a plan of condominium ownership for the benefit of all the condominium estates created.

C. In furtherance of this intent, Declarant hereby declares that all of the Property is and shall continue to be held, conveyed, hypothecated, encumbered, leased, rented, used, occupied, and improved subject to the declarations, limitations, covenants, conditions, restrictions, reservations, rights, and easements set forth in this Declaration, as this Declaration may be amended from time to time, all of which are declared and agreed to be in furtherance of a plan established for the purpose of enhancing and perfecting the value, desirability, and attractiveness of the Property. All provisions of this Declaration shall constitute covenants running with the land and enforceable equitable servitudes upon the Property, and shall be binding on and for the benefit of all of the Property and all parties having or acquiring any right, title, or interest in all or any part of the Property, including the heirs, executors, administrators, and assigns of these parties and all subsequent owners and lessees of all or any part of a Condominium.

EXHIBIT "B"
ARTICLE I. DEFINITIONS

Section 1.01. "Association" means CENTENNIAL PLAZA, a nonprofit association.

Section 1.02. "Board" means the Board of Directors of the Association.

Section 1.03. "Bylaws" means the Bylaws of the Association and amendments thereto that are or shall be adopted by the Board.

Section 1.04. "Common Area" means the entire Project except all Units as defined in this Declaration or as shown on the Condominium Plan.

Section 1.05. "Condominium" means an estate in real property consisting of a fee interest in a Unit, the boundaries of which are shown and described on the Condominium Plan, a fractional undivided interest as a tenant in common in the Common Area of the Project, a Membership in the Association, and any Exclusive Use Common Area appurtenant to the Unit. The fractional undivided interest appurtenant to each Unit shall be an undivided 25% percent interest in the Common Area.

Section 1.06. "Condominium Plan" means that condominium plan described in Recital A of this Declaration and any amendments thereto.

Section 1.07. "Declarant" means Ennis Commercial Properties, LLC and Smith Commercial Properties, LLC and their successors and assigns.

Section 1.08. "Declaration" means this Declaration and any amendments thereto.

Section 1.09. "Exclusive Use Common Area" means those portions of the Common Area reserved for the exclusive use of one or more of the Owners pursuant to this Declaration.

Section 1.10. "Governing Instruments" means this Declaration, the Articles and Bylaws of the Association, and any Rules and Regulations of the Project.

Section 1.11. "Manager" means any person or entity appointed by the Board to manage the Project.

Section 1.12. "Member" means every person or entity entitled to membership in the Association as provided in this Declaration.

Section 1.13. "Mortgage" means a mortgage or deed of trust encumbering a Condominium or any other portion of the Project. "First Mortgage" means a mortgage that has priority over all other mortgages encumbering the same Condominium or other portions of the Project.

Section 1.14. "Mortgagee" means a Person to whom a Mortgage is made and includes the beneficiary of a deed of trust and any guarantor or insurer of a mortgage. "Institutional Mortgagee" means a mortgagee that is a financial intermediary or depository, such as a bank, savings and loan, or mortgage company, that is chartered under federal or state law and that lends money on
the security of real property or invests in such loans, or any insurance company or governmental agency or instrumentality, including the Federal National Mortgage Association (FNMA), the Federal Home Loan Mortgage Corporation (FHLMC), and the Government National Mortgage Association (GNMA). “First Mortgagee” means a mortgagor that has priority over all other mortgages or holders of mortgages encumbering the same Condominium or other portions of the Project. The term “Beneficiary” shall be synonymous with the term “Mortgagor.”

Section 1.15. “Mortgagor” means a Person who mortgages his, her, or its property to another (i.e., the maker of a mortgage), and shall include the trustor of a deed of trust. The term “Trustor” shall be synonymous with the term “Mortgagor.”

Section 1.16. “Owner” means the record holder or holders of record fee title to a Condominium, including Declarant, and any contract sellers under recorded contracts of sale. “Owner” shall not include any persons or entities who hold an interest in a Condominium merely as security for performance of an obligation.

Section 1.17. “Person” means a natural individual, a corporation, or any other entity with the legal right to hold title to real property.

Section 1.18. “Plan” means the condominium plan entitled “CENTENNIAL PLAZA”, filed in the records of Tulare County, California, in Book _______________ of Maps at Pages _______________ through _______________.

Section 1.19. “Project” means the entire parcel of real property described on the Plan and all improvements thereon.

Section 1.20. “Property” means the real property described in the Recitals.

Section 1.21. “Rules and Regulations” means any Rules and Regulations for CENTENNIAL PLAZA regulating the use of the Common Area and adopted by the Association pursuant to this Declaration.

Section 1.22. “Subdivision Map” means the recorded map described in the Recitals.

Section 1.23. “Unit” means that portion of a Condominium that consists of a fee interest in a Unit. “Unit” does not include the other elements of a Condominium. Each Unit shall be a separate freehold estate, as separately shown, numbered, and designated in the Condominium Plan [or any Supplemental Declaration recorded pursuant to Article XI of this Declaration]. Each Unit consists of a commercial space or spaces bounded by and contained within the interior unfinished surfaces of the perimeter walls, floors, ceilings, windows, and doors (including the wall coverings and floor coverings), as shown on the Condominium Plan.
ARTICLE II. THE PROPERTY

Section 2.01. Project Subject to Declaration.
The entire Project shall be subject to this Declaration.

Section 2.02. Intentionally omitted.

Section 2.03. Common Area.
The following provisions govern the use and enjoyment of the Common Area:

(a) The Association shall have an easement in, to, and throughout the Common Area and its improvements to perform its duties and exercise its powers.

b) Except as provided in this Declaration, there shall be no judicial partition of the Common Area, nor shall Declarant or any person acquiring an interest in all or any part of the Project seek any judicial partition.

c) Subject to the provisions of this Declaration, each Owner has nonexclusive rights of ingress, egress, and support through the Common Area. These rights shall be appurtenant to and shall pass with title to every Condominium. However, these rights shall not interfere with, and shall be subordinate to, any exclusive right to use an Exclusive Use Common Area.

d) The Members' rights of use and enjoyment of the Common Area shall be subject to the restrictions set forth in the Governing Instruments, including the following:

(1) The right of the Association to adopt and enforce Rules and Regulations for the use of the Common Area.

(2) The right of the Association to reasonably limit the number of guests and tenants using the Common Area.

(3) The right of the Association to assign or otherwise control the use of any unassigned parking spaces within the Common Area.

(4) The right of the Association to suspend the right of any Owner, and the Persons deriving rights from any Owner, to use and enjoy the Common Area for any period during which the Owner is delinquent in the payment of any assessment.

(5) The right of the Association to cause the construction of additional improvements in the Common Area, or to cause the alteration or removal of existing improvements on the Common Area.
(6) The right of the Association to grant, consent to, or join in the grant or conveyance of easements, licenses, or rights-of-way in, on, or over the Common Area.

(7) The right of each Owner to the exclusive use of any Exclusive Use Common Area appurtenant to the Owner's Unit.

(8) The rights of Declarant as described in this Declaration.

(9) The right of the Association to reasonably restrict access to roofs, maintenance facilities or areas, landscaped areas, and similar areas of the Project.

(10) The right of the Architectural Control Committee to approve any proposed alteration or modification to the Common Area or any Unit.

(e) Declarant hereby reserves easements for common driveway purposes, for drainage and encroachment purposes, and for ingress to and egress from the Common Area.

(f) The Association may grant to third parties easements in, on, and over the Common Area for the purpose of constructing, installing, or maintaining necessary utilities and services, and each Unit Owner, in accepting his or her deed to the Unit, expressly consents to these easements. However, no such easement can be granted if it would interfere with any exclusive easement, or with any Owner's use, occupancy, or enjoyment of his or her Unit or any Exclusive Use Common Area appurtenant to the Unit.

(g) An Owner who has sold his or her Condominium to a contract purchaser or who has leased or rented the Condominium shall be entitled to delegate his or her rights to use and enjoy the Common Area to any contract purchaser, tenant, or subtenant who occupies the Owner's Condominium, subject to reasonable regulation by the Board. If the Owner makes such a delegation of rights, the Owner and the Owner's family, guests, employees, and invitees shall not be entitled to use and enjoy the Common Area for so long as the delegation remains effective.

(h) Each Owner shall be liable to the Association for any damage to the Common Area or to Association-owned property, to the extent that the damage is not covered by insurance, if the damage is sustained because of the negligence, willful misconduct, or unauthorized or improper installation or maintenance of any improvement by the Owner or the Owner's family, guests, tenants, contract purchasers, or invitees. In the case of joint ownership of a Condominium, the liability of the co-owners shall be joint and several, unless the co-owners and the Association have agreed in writing to an alternative allocation of liability.

Section 2.04 Partition.

There shall be no judicial partition of the Project or any part of it, nor shall Declarant or any person acquiring an interest in the Project or any part of it seek any judicial partition, except as follows:

(a) If two or more persons own any Condominium as tenants in common or as joint ten-
ants they may maintain a partition action as to their cotenancy.

(b) The Owner of a Condominium may maintain a partition action as to the entire Project, as if all of the Owners in the Project were tenants in common in the Project in the same proportion as their interests in the Common Area, and an appropriate court shall order partition by sale of the entire Project, upon a showing of any of the following:

(1) The Project has been in existence for more than 50 years and is obsolete and uneconomical, and owners holding (in the aggregate) more than a 50 percent interest in the common area oppose repair or restoration of the Project.

(2) The Project has been damaged or destroyed and the other criteria set forth in this Declaration have been satisfied.

Section 2.05 Exclusive Use Common Areas.

The portions of the Common Area listed below are or shall be for the exclusive use of certain Owners of Units and shall be appurtenant to those Units. An Exclusive Use Common Area may not be transferred independently of any other interest of the Owner. Additional Exclusive Use Common Areas may be designated in the future by the Association, provided that the designation is not inconsistent with the rights of any Owner.

(a) Each Owner shall have the exclusive right to use, for parking purposes only, any parking space or spaces that have been allocated to the Owner's Unit on the Condominium Plan attached to this Declaration.

(c) All of the following fixtures and items designed to serve a single Unit, but located outside the boundaries of the Unit, are Exclusive Use Common Areas allocated exclusively to that separate interest: doorsteps, balconies, patios, exterior doors, door frames, and hardware incident thereto, screens, and windows. These items are to be maintained in good condition and repair by the Owner. However, the Owner shall not be responsible for periodic structural repairs, including resurfacing, sealing, caulking, replacement, or painting of the Exclusive Use Common Area unless the repairs are necessitated by the willful or negligent acts of the Owner or the Owner's guests or invitees. Any maintenance costs shall be the responsibility of the Owner and shall be added to the Owner's regular monthly assessment.

(d) All internal and external telephone wiring designed to serve a single Unit, but located outside the boundaries of the Unit, are Exclusive Use Common Areas allocated exclusively to that Unit. The Owner of the Unit shall be entitled to reasonable access to the Common Area for the purpose of maintaining this wiring, subject to the consent of the Association and to any other conditions reasonably imposed by the Association. The Association's consent shall not be unreasonably withheld.

Section 2.06 Maintenance by Owners.

Each Owner shall maintain the Owner's Unit, including the equipment and fixtures in the Unit and the interior surfaces of the walls, ceilings, floors, and doors, in a clean, sanitary, and attractive condition. This maintenance shall be at the Owner's expense. However, the Owner shall not
take any actions that would impair or otherwise alter the structural integrity or mechanical systems or lessen the support of the Unit or any other portion of the Project, without the prior written approval of the Architectural Control Committee, as provided in Article VI of this Declaration.

Section 2.07 Presumption Regarding Boundaries of Units.
In interpreting deeds, declarations, and plans, the existing physical boundaries of a Unit, including any Unit reconstructed in substantial accordance with the Condominium Plan and the original construction plans for the Project, shall be conclusively presumed to be its boundaries, rather than the description expressed in the deed, Condominium Plan, or Declaration. This presumption applies regardless of settling or lateral movement of the building and regardless of minor variances between boundaries, as shown on the Condominium Plan or described in the deed and Declaration, and the boundaries of the building as constructed or reconstructed.

Section 2.08 Prohibition Against Severance of Elements.
Any conveyance, judicial sale, or other voluntary or involuntary transfer of a Unit shall include the undivided interest in the Common Area [and any Exclusive Use Common Areas appurtenant to the Unit]. Any conveyance, judicial sale, or other voluntary or involuntary transfer of the Owner's entire estate shall also include the Owner's Membership interest in the Association, as provided in this Declaration. Any transfer that attempts to sever those component interests [except a transfer of an Exclusive Use Common Area pursuant to this Declaration] shall be void.

ARTICLE III. OWNERS' ASSOCIATION

Section 3.01 Organization of the Association.
The Association is an unincorporated association under the name of CENTENNIAL PLAZA. The Association shall be charged with the duties and invested with the powers prescribed by law and set forth in this Declaration and the Bylaws.

Section 3.02 Membership.
Every Owner, upon becoming an Owner, shall automatically become a Member of the Association. Ownership of a Unit is the sole qualification for membership. Each Member shall have the rights, duties, privileges, and obligations set forth in the Governing Instruments. Membership shall automatically cease when the Owner no longer holds an ownership interest in a Condominium. All memberships shall be appurtenant to the Condominium conveyed, and cannot be transferred, assigned, conveyed, hypothecated, pledged, or alienated except as part of a transfer of the Owner's entire ownership interest, and then only to the transferee. Any transfer of the Owner's title to his or her Condominium shall automatically transfer the appurtenant membership to the transferee.

Section 3.03 Classes of Membership.
The Association shall have one class of voting members.
Section 3.04 Voting Rights.

All voting rights of the Owners shall be subject to the following restrictions, limitations, and requirements:

(a) Except as provided in this Article, on each matter submitted to a vote of the Owners, each Owner shall be entitled to cast one vote for each Condominium owned.

(b) Fractional votes shall not be allowed. When there is more than one record Owner of a condominium ("co-owners"), all of the co-owners shall be Members, but only one of them shall be entitled to cast the single vote attributable to the Condominium. Co-owners should designate in writing one of their number to vote. If no such designation is made or if it is revoked, the co-owners shall decide among themselves, by majority vote, how that Condominium's vote is to be cast. Unless the Board receives a written objection in advance from a co-owner, it shall be conclusively presumed that the voting co-owner is acting with the consent of his or her co-owners. No vote shall be cast for the Condominium on a particular matter if a majority of the co-owners present in person or by proxy cannot agree on a vote.

(c) The Board shall fix, in advance, a record date or dates for the purpose of determining the Owners entitled to notice of, and to vote at, any meeting of Owners. The record date for notice of a meeting shall not be more than 90 or less than 10 days before the date of the meeting. The record date for voting shall not be more than 60 days before the date of the meeting or before the date on which the first written ballot is mailed or solicited. The Board may also fix, in advance, a record date for the purpose of determining the Owners entitled to exercise any rights in connection with any other action. Any such date shall not be more than 60 days prior to the action.

(d) Every Owner entitled to vote at any election of the Directors may cumulate the Owner's votes and give one candidate a number of votes equal to the number of Directors to be elected multiplied by the number of votes to which the Owner is entitled, or distribute the Owner's votes on the same principle among as many candidates as the Owner thinks fit. No Owner shall be entitled to cumulate votes for a candidate or candidates unless the candidate's name or candidates' names have been placed in nomination prior to voting and a Owner has given notice at the meeting prior to the voting of the Owner's intention to cumulate votes. If any one Owner has given such notice, all Owners may cumulate their votes for candidates in nomination.

Section 3.05 Membership Meetings.

The provisions of the Bylaws governing meetings of the Members is hereby incorporated by reference.

Section 3.06 General Powers and Authority.

The Association shall have all the powers of a nonprofit association, subject to any limitations set forth in this Declaration or in the Articles and Bylaws of the Association. It may perform all acts that may be necessary for or incidental to the performance of the obligations and duties im-
posed upon it by this Declaration or the other Governing Instruments. Its powers shall include, but are not limited to, the following:

(a) The Association shall have the power to establish, fix, levy, collect, and enforce the payment of assessments against the Owners in accordance with the procedures set out in Article IV of this Declaration.

(b) The Association shall have the power to adopt reasonable Rules and Regulations governing the use of the Common Area and its facilities, and of any other Association property. These Rules and Regulations may include, but are not limited to: reasonable restrictions on use by the Owners and their families, guests, employees, tenants, and invitees; rules of conduct; and the setting of reasonable fees for the use of recreational facilities. A copy of the current Rules and Regulations, if any, shall be given to each Owner and shall be posted at conspicuous places in the Common Area. If any provision of the Rules and Regulations conflicts with any provision of this Declaration, the Articles, or the Bylaws, the Declaration, Articles, or Bylaws shall control to the extent of the inconsistency.

(c) The Association shall have the right to institute, defend, settle, or intervene in litigation, arbitration, mediation, or administrative proceedings in its own name as the real party in interest and without joining with it the Owners, in matters pertaining to the following:

(1) Enforcement of this Declaration, the Articles, Bylaws, and Rules and Regulations.

(2) Damage to the Common Area.

(3) Damage to the Units that the Association is obligated to maintain or repair.

(4) Damage to the Units that arises out of, or is integrally related to, damage to the Common Area or Units that the Association is obligated to maintain or repair.

The Association may enforce payment of assessments in accordance with the provisions of Article IV of this Declaration.

(d) In addition to the general power of enforcement described above, the Association may discipline its Owners for violation of any of the provisions of the Governing Instruments or Rules and Regulations by suspending the violator's voting rights and privileges for use of the Common Area, or by imposing monetary penalties, subject to the following limitations:

(1) The accused Owner shall be given notice and an opportunity to be heard with respect to the alleged violation in accordance with the provisions of Civil Code Section 1363(h).

(2) Any suspension of an Owner's association privileges shall not exceed 90 days for each violation.
(3) If the Association imposes a monetary penalty, the Board shall distribute to each Owner, by personal delivery or first-class mail, a schedule of the monetary penalties that may be assessed for those violations.

(4) Except as provided in Article IV of this Declaration, relating to foreclosure for failure to pay assessments, or as a result of the judgment of a court or a decision arising out of arbitration, the Association shall in no way abridge the right of any Owner to the full use and enjoyment of his or her Unit.

(e) The Association, acting through the Board, shall have the power to delegate its authority, duties, and responsibilities to its officers, employees, committees, or agents, including a professional management agent. The term of any agreement with a manager or the Declarant for the furnishing of maintenance, repair, and related services shall not exceed one year, renewable by agreement of the parties for successive one-year periods. Such an agreement shall be terminable by either party (1) for cause on 30 days' written notice and (2) without cause or the payment of a termination fee on 90 days' written notice.

(f) The Association's agents or employees shall have the right to enter any Unit when necessary in connection with any maintenance, landscaping, or construction work for which the Association is responsible. This entry shall be made only upon notice to the Owner (except in the case of an emergency) and with as little inconvenience to the Owner as is practicable, and the Association shall repair any resulting damage at its own expense.

Section 3.07 Duties of the Association.

In addition to the duties delegated to the Association or its agents and employees elsewhere in the Governing Instruments, the Association shall be responsible for the following:

(a) The Association, acting through the Board, shall operate, maintain, repair, and replace the Common Area and its improvements, all landscaping, and the exterior surfaces of all structures and Units in the Project, or contract for the performance of that work, subject to the provisions of Article VIII of this Declaration relating to destruction of improvements, Article IX of this Declaration pertaining to eminent domain, and Section 2.03(h) of this Declaration relating to damage caused by Owners. The foregoing areas and improvements shall be kept in a clean, sanitary, and attractive condition. Further, the Association shall keep the Common Areas free of infestation by wood-destroying pests or organisms. If infestation is present, the Association shall have the right to cause the temporary, summary removal of any occupant of the Project while the Association has the infestation treated. The temporary relocation must be preceded by notice provided by the Association pursuant to Civil Code Section 1364. The Association shall also be responsible for maintaining Exclusive Use Common Areas. The Association shall also have the exclusive right and duty to acquire and maintain any furnishings and equipment for the Common Area that it determines are necessary and proper. As a general rule, maintenance costs shall be included in the regular assessments. However, if additional work is required for a particular Unit, the expenses of that additional work shall be charged solely to the Owner of the Unit in the month in which the work is performed. Further, the
Owner of a Unit shall pay the costs of any temporary relocation of any occupant of the Unit occasioned by the presence of wood-destroying pests or organisms. If the Owner does not pay for the additional work within 30 calendar days after receiving the bill, the Association shall institute appropriate collection actions and shall recover the reasonable costs of collection, including attorneys' fees and interest from the due date until paid at the rate of 12 percent per annum.

(b) The Association shall use the maintenance fund described in Section 4.03 of this Declaration to, among other things, acquire and pay for the following:

(1) Water, sewer, garbage, electrical, telephone, gas, elevator, and other necessary utility service for the Common Area and, to the extent not separately metered and charged, for the Units;

(2) The insurance policies described in Article VII of this Declaration;

(3) The services of any personnel that the Board determines are necessary or proper for the operation of the Common Area; and

(4) Legal and accounting services necessary or proper in the operation of the Common Area or the enforcement of this Declaration.

(c) If the Association is obligee under a bond or other arrangement to secure the performance of Declarant as to any Common Area improvements that were not completed prior to the issuance of the final public report on the Project, the following provisions shall govern the initiation of action to enforce the bond:

(1) The Board of Directors of the Association shall consider and vote on the question of action by the Association to enforce the obligations under the bond with respect to any improvement for which a Notice of Completion has not been filed within 60 days after the completion date specified for the improvement in the Planned Construction Statement appended to the bond. If the Association has given an extension in writing for the completion of any Common Area improvement, the Board shall consider and vote on the above question if a Notice of Completion has not been filed within 30 days after the expiration of the extension.

(2) If the Board votes not to initiate action to enforce the obligations under the bond, or if it fails to consider and vote on the matter as required, a special meeting of the Owners of the Association shall be called for the purpose of overriding the Board's decision or for taking action on the matter, on receipt of a petition calling for such a meeting signed by Owners representing at least 5 percent of the total voting power of the Association. The meeting shall be held not less than 35 days or more than 45 days after receipt of the petition by the Board. At the special meeting, only the Owners other than Declarant shall be allowed to vote on the matter. A vote by a majority of the voting power of the Association residing in Owners other than Declarant to take action to enforce the obligations under the bond shall be deemed to be the decision of the Association, and the Board shall implement this decision by initiating and pursuing appropriate action in the name
of the Association.

(d) The Association shall prepare a pro forma operating budget for each fiscal year, and shall distribute a copy of the budget to each Owner not less than 45 and not more than 60 days before the beginning of the fiscal year. As an alternative to the foregoing distribution of the budget, the Association may elect to do all of the following in the manner required by statute: distribute a summary of the budget to each Owner, make the budget available for inspection at a designated location, and provide copies of the budget to Owners on request and at the expense of the Association. The budget shall contain at least the following:

(1) The estimated revenue and expenses on an accrual basis;

(2) A summary (printed in bold type) of the Association's reserves that is based on the most recent review or study conducted pursuant to Civil Code Section 1365.5. This summary shall include the following: (i) the current estimated replacement cost, estimated remaining life, and estimated useful life of each major component that the Association is obligated to maintain (hereafter referred to as the "major components"); (ii) the current estimate, as of the end of the fiscal year for which the study is prepared, of the amount of cash reserves necessary to repair, replace, restore, or maintain the major components; (iii) the current amount, as of the end of the fiscal year for which the study is prepared, of accumulated cash reserves actually set aside to repair, replace, restore, or maintain the major components; and (iv) the percentage that the amount described in (iii), above, is of the amount determined for purposes of (ii), above (that is, the percentage obtained by dividing the amount described in (iii), above, by the amount described in (ii), above).

(3) A statement as to whether the Board has determined or anticipates that the levy of one or more special assessments will be required to repair, replace, or restore any major component or to provide adequate reserves for such work.

(4) A general statement addressing the procedures used for the calculation and establishment of reserves to defray the future repair, replacement, or additions to the major components.

(e) Within 120 days after the close of each fiscal year, the Association shall prepare and distribute to the Owners an annual report consisting of the following:

(1) A balance sheet as of the end of the fiscal year;

(2) An operating (income) statement for the fiscal year;

(3) A statement of changes in financial position for the fiscal year; and,

(4) For any fiscal year in which the gross income to the Association exceeds $75,000, a copy of the review of the annual report prepared in accordance with generally accepted accounting principles by a licensee of the California State Board of Accountancy. If this report is not prepared by an independent account-
ant, it shall be accompanied by the certificate of an authorized officer of the Association that the statement was prepared without independent audit or review from the books and records of the Association.

(f) Within 60 days before the beginning of each fiscal year, the Association shall prepare and distribute to the Owners a statement describing the Association's policies and practices in enforcing lien rights or other legal remedies for default in payment of assessments against Owners.

(g) The Association shall prepare a balance sheet, as of an accounting date that is the last day of the month closest in time to six months from the date of closing of the first sale of a Unit in the Project, and an operating statement for the period from the date of the first closing to the foregoing accounting date. The Association shall distribute this statement to the Owners within 60 days after the accounting date. This operating statement shall include a schedule of assessments received and receivable identified by the number of the Unit and the name of the Owner assessed.

(h) Each year, the Association must provide the Owners with a summary of the provisions of Civil Code Sections 1369.510 through 1369.590. These statutes require that alternative dispute resolution be pursued before a civil action may be filed in connection with certain disputes related to enforcement of the governing documents, or the Davis-Stirling Common Interest Development Act (Civ. Code § 1350 et seq.). The required summary must include a specific reference to Civil Code Sections 1369.510 through 1369.590, and the statutory language set forth in Civil Code Section 1369.590(a). This summary must be provided either (1) at the time the pro forma operating budget described in Section 3.07(d) of this Declaration is distributed, or (2) in the manner specified in Corporations Code Section 5016.

(i) The Association shall provide any Owner with the following documents within 10 days of the mailing or delivery of a written request therefor:

2. A copy of the most recent financial statement distributed pursuant to this Declaration.
3. A written statement from an authorized representative of the Association specifying (i) the amount of any assessments levied on the Owner's Unit that are unpaid on the date of the statement; and (ii) the amount of late charges, interest, and costs of collection that, as of the date of the statement, are or may be made a lien on the Owner's Unit pursuant to this Declaration. The Association may charge the Owner a reasonable fee to cover its cost to prepare and reproduce those requested items.

(j) The Association shall pay all real and personal property taxes and assessments levied against it, its personal property, the Common Area, and Exclusive Use Common Areas.
Section 3.08 Board of Directors.

The affairs of the Association shall be managed and its duties and obligations performed by an elected Board of Directors, as provided in the Bylaws, which is hereby incorporated by reference.

Section 3.09 Inspection of Books and Records.

The provisions of the Bylaws governing the duty of the Association to maintain certain books and records and the rights of Owners and Directors to obtain and inspect those books and records are hereby incorporated by reference.

Section 3.10 Resolution of Disputes.

As required by Civil Code Section 1363.820(a), the Association shall offer a fair, reasonable, and expeditious procedure for resolving any dispute between the Association and a member involving their rights, duties, or liabilities under the Davis-Stirling Common Interest Development Act ( Civil Code Section 1350 et seq. ) or under the Association's governing documents. This dispute resolution procedure is supplementary to the alternative dispute resolution procedure prescribed by Civil Code Section 1369.510 et seq. as a prerequisite to commencing civil action. The dispute resolution procedure shall consist of the following:

(a) Either party may initiate the procedure by making a written request to the other party to meet and confer in an effort to resolve the dispute. If the request is by the Association, the member may refuse to participate. However, if the request is by a member, the Association may not refuse to participate.

(b) Within 5 days of the written request, the Board of Directors shall designate a member of the Board to meet and confer with the other party.

(c) Within 10 days of the Board member's designation, the parties shall meet at a mutually convenient time and place, explain their positions to each other, and confer in good faith in an effort to resolve the dispute.

(d) If the parties reach agreement on a resolution of the dispute, that resolution shall be memorialized in writing and signed by the parties with the Board designee signing on behalf of the Association.

(e) An agreement reached by the parties is binding on them and may be judicially enforced provided the agreement is consistent with the authority granted by the Board of Directors to its designee, and further provided the agreement is not in conflict with law or the Association's governing documents.

(f) A member of the Association may not be charged a fee to participate in the dispute resolution procedure.
ARTICLE IV. ASSESSMENTS AND COLLECTION PROCEDURES

Section 4.01 Covenant to Pay.

The Declarant covenants and agrees, for each Unit owned by it in the Project, and each Owner by acceptance of the deed to the Owner's Unit is deemed to covenant and agree to pay to the Association the regular and special assessments levied pursuant to the provisions of this Declaration. A regular or special assessment and any late charges, reasonable costs of collection, and interest, as assessed in accordance with the provisions of this Article, shall be a debt of the Owner of the Unit at the time the assessment or other sums are levied. The Owner may not waive or otherwise escape liability for these assessments by nonuse of the Common Area or abandonment of the Owner's Unit.

Section 4.02 Exemptions From Assessments.

The obligation to pay assessments shall be subject to the following exemptions:

(a) Any Owner (including Declarant) of a unit in the Project shall be exempted from that portion of any assessment that is for the purpose of defraying expenses and reserves directly attributable to the existence and use of a common facility that is not complete at the time the assessment commences. This exemption shall be in effect only until a notice of completion of the common facility is recorded or the common facility is placed into use, whichever occurs first.

Section 4.03 Purpose of Assessments.

The assessments levied by the Association shall be used exclusively for the operation, replacement, improvement, and maintenance of the Property, and to discharge any other obligations of the Association under this Declaration. All assessment payments shall be put into a maintenance fund to be used for the foregoing purposes.

Section 4.04 Assessment Period.

The fiscal year for the Association shall be a calendar year, unless the Board decides otherwise. The regular assessment period shall commence on January 1 and terminate on December 31 of each year; provided, however, that the first regular assessment period for all Condominiums in the Project shall commence on the date of the first conveyance of a Unit in the Project or first day of the month following the conveyance of a Unit in the Project, and shall terminate on December 31 of that year.

Section 4.05 Regular Assessments.

Within 60 days prior to the beginning of each fiscal year of the Association, the Board shall estimate the net charges to be paid during that year, including a reasonable provision for contingencies and replacements, with adjustments made for any expected income and surplus from the prior year's fund. The estimated cash requirement shall be assessed to each Owner according to the ratio of the number of Units owned by that owner to the total number of Units in the Project subject to assessment. Regular assessments for fractions of any month shall be prorated. Each Owner is obligated to pay assessments to the Board in equal monthly installments on or before the first day of each month unless the Board adopts an alternative method for payment.
Section 4.06 Special Assessments.

If the Board determines that the amount to be collected from regular assessments will be inadequate to defray the common expenses for the year due to the cost of any construction, unexpected repairs or replacements of capital improvements upon the Common Area, or any other reason, it shall make a special assessment for the additional amount needed. Special assessments shall be levied and collected in the same manner as regular assessments.

Section 4.07 Intentionally omitted.

Section 4.08 Late Charges.

Late charges may be levied by the Association against an Owner for the delinquent payment of regular and special assessments. An assessment is delinquent 15 days after its due date. If an assessment is delinquent the Association may recover all of the following from the Owner:

(a) Reasonable costs incurred in collecting the delinquent assessment, including reasonable attorneys' fees.

(b) A late charge not exceeding 10 percent of the delinquent assessment or $10, whichever is greater.

(c) Interest on the foregoing sums, at an annual percentage rate of 12 percent, commencing 30 days after the assessment becomes due.

No late charge may be imposed more than once for the delinquency of the same payment. However, the imposition of a late charge on any delinquent payment shall not eliminate or supersede charges imposed on prior delinquent payments.

Section 4.09 Enforcement of Assessments and Late Charges.

At least 30 days before the Association can place a lien on a Unit for a past due debt for a regular or special assessment, the Association must notify the Owner by certified mail of the following:

(1) A general description of the Association's collection and lien enforcement procedures.

(2) The method of calculation of the amount due.

(3) A statement that the Owner has the right to inspect the Association records.

(4) A statement informing the Owner that the Owner's Unit may be subject to foreclosure and sale without court action.

(5) An itemized statement of the charges owed by the Owner, including items on the statement that indicate the amount of any delinquent assessments, the fees and reasonable costs of collection, reasonable attorney's fees, and any late charges and interest.
(6) A statement that the Owner will not be liable to pay the charges, interest, and costs of collection, if it is determined the assessment was paid on time.

(7) The Owner's right to request a meeting with the Board if the Owner disputes the debt.

An Owner may dispute the debt by submitting to the Board a written explanation within 15 days of the mailing of the Association's notice. The Board must respond to an Owner's timely explanation within 15 days of the mailing of the Owner's explanation.

An Owner also may submit a written request to meet with the Board to discuss a payment plan for the debt. The request must be mailed within 15 days of the mailing of the Board's notice. The Board must then meet with the Owner in executive session within 45 days of the mailing of the Owner's request. If there is no regularly scheduled Board meeting within that time period, the Board may designate a committee of one or more members to meet with the Owner.

Any partial payments made toward the debt will first be applied to the assessments owed, and only after the principal owed is paid in full will the payments be applied to the fees and costs of collection, attorneys' fees, late charges, or interest. When an Owner makes a payment, the Owner may request a receipt and the Association shall provide it. The receipt shall indicate the date of payment and the person who received it. The Association shall provide a mailing address for overnight payment of assessments.

A debt for a delinquent regular or special assessment and any late charges, reasonable fees and costs of collection, reasonable attorneys' fees, and interest shall become a lien on the Unit when a notice of delinquent assessment is duly recorded and mailed as provided in Section 1367.1 of the California Civil Code.

Except as provided below regarding debts arising from delinquent assessments when the debt arose on or after January 1, 2006, and the delinquent amount is less than $1,800, any such lien may be enforced in any manner permitted by law, including judicial foreclosure or nonjudicial foreclosure. Any nonjudicial foreclosure shall be conducted by the trustee named in the notice of delinquent assessment or by a trustee substituted pursuant to Section 2934a of the California Civil Code, in accordance with the provisions of Sections 2924, 2924b, and 2924c of the California Civil Code.

If the sums specified in the notice of delinquent assessment are paid before the completion of any judicial or nonjudicial foreclosure, the Association shall record a notice of satisfaction and release of the lien. Upon receipt of a written request by the Owner, the Association shall also record a notice of rescission of any declaration of default and demand for sale.

In accordance with Section 1367.4 of the California Civil Code, a lien securing a debt arising from a delinquent regular or special assessment when the debt arose on or after January 1, 2006, and the delinquent amount is less than $1,800, excluding accelerated assessments, late charges, fees and costs of collection, attorney's fees, and interest, shall not be enforced by judicial or nonjudicial foreclosure unless and until either (1) the debt equals or exceeds $1,800, excluding accelerated assessments, late charges, fees and costs of collection, attorney's fees, and interest, or (2) the debt secured by the lien is more than 12 months delinquent.
Section 4.10 Statement Regarding Assessments.

The Association shall provide any Owner, on written request, with a statement specifying (1) the amounts of the Association's current regular and special assessments and fees, and (2) the amounts of any delinquent assessments and related late charges, interest, and costs levied against the Owner's Unit, as provided in this Declaration.

ARTICLE V. USE RESTRICTIONS AND COVENANTS

Section 5.01 General Restrictions on Use.

In exercising the right to occupy or use a Unit or the Common Area and its improvements, the Owner and the Owner's guests, employees, tenants, and invitees shall not do any of the following:

(a) Attempt to further subdivide a Unit without obtaining the prior approval of the Association.

(b) Occupy or use a Unit, or permit all or any part of a Unit to be occupied or used, for any purpose other than as a commercial office. Nothing in this Declaration shall prevent an Owner from leasing or renting out his or her Unit, provided that it is not for transient or hotel purposes, is for a period of at least 60 days, and is subject to the Governing Instruments.

(c) Permit anything to obstruct the Common Area or store anything in the Common Area without the prior consent of the Board, except as otherwise provided in the Governing Instruments.

(d) Perform any act or keep anything on or in any Unit or Exclusive Use Common Area or in the Common Area that will increase the rate of insurance on the Common Area without the Board's prior written consent. Further, no Owner shall permit anything to be done or kept in his or her Unit, in any Exclusive Use Common Area appurtenant to the Unit, or in the Common Area that would result in the cancellation of insurance on any Unit or Exclusive Use Common Area or on any part of the Common Area or that would violate any law.

(e) Store gasoline, kerosene, cleaning solvents, or other flammable liquids in the Common Area or in any Unit; provided, however, that reasonable amounts of these liquids may be placed in metal containers and stored in the storage spaces.

(f) Display any sign to the public view on or from any Unit or the Common Area without the prior written consent of the Board, except a sign advertising the property for sale, lease, or exchange, or advertising directions to the property, as provided in Section 712 of the California Civil Code.
(g) Raise, breed, or keep animals, livestock, or poultry of any kind in a Unit or in the Common Area, except dogs, cats, or other household pets, which may be kept in Units, subject to the Rules and Regulations (if any).

(h) Engage in any noxious or offensive activity in any part of the Project.

(i) Alter or modify the exterior of any improvements located in a Unit without first obtaining the written consent of the Architectural Control Committee.

(j) Install a solar energy system in a Unit owned by another without first obtaining the written consent of the Architectural Control Committee.

(k) Alter, construct, or remove anything on or from the Common Area, except upon the written consent of the Board.

(l) Park any automobile or other motor vehicle in the Common Area or in any Exclusive Use Common Area except in a space designated for the Owner by the Board or the Governing Instruments.

(m) Install any video or television antenna, including a satellite dish, with a diameter or diagonal measurement greater than 36 inches. Association reserves the right to impose reasonable restrictions on the installation of any video or television antenna, including a satellite dish with a diameter or diagonal measurement of 36 inches or less.

Section 5.02 Damage Liability.

Each Owner shall be liable to the Association for all damage to the Common Area or other Association property that is sustained by reason of the negligence or willful misconduct of that Owner guests, employees, tenants, and invitees, to the extent that the damage is not covered by the casualty insurance obtained and maintained by the Association pursuant to this Declaration. Each Owner, by accepting his or her deed, agrees to provide insurance to the extent required by this Declaration.

Section 5.03 Intentionally omitted.

Section 5.04 Equitable Servitudes.

The covenants and restrictions set forth in this Declaration shall be enforceable equitable servitudes and shall inure to the benefit of and bind all Owners. These servitudes may be enforced by the Association.

ARTICLE VI. ARCHITECTURAL AND DESIGN CONTROL

Section 6.01 Architectural and Design Approval.

No building, addition, wall, fence, or alteration shall be commenced, constructed, maintained, or permitted to remain on any Unit, or on the Common Area, until complete plans and specifications of the proposed work have been submitted to and approved by the Architectural Control
Committee. The Committee shall review the plans and specifications to determine whether they are compatible with the standards of design, construction, and quality of the Project and, if they are not, shall require that changes be made before approval.

Section 6.02 Architectural Control Committee.

The Architectural Control Committee shall consist of three members, formed as follows:

(a) The Board shall have the right to appoint all of the members of the Committee.

(b) All members of the Committee shall serve at the will of the party that appointed them, and may be removed by that party at any time with or without cause.

(c) The Committee shall meet as often as it deems necessary to properly carry out the obligations imposed upon it, unless otherwise directed by the Board.

Section 6.03 The Board of Directors.

All decisions of the Architectural Control Committee are subject to review by the Board of Directors and may be appealed to the Board. The Committee shall notify the Board of all violations of this Article and of any noncompliance with its rulings or with the plans and specifications submitted to and approved by it. Thereafter, the Board shall take any actions it deems necessary, in accordance with the provisions of this Declaration.

ARTICLE VII. INSURANCE

Section 7.01 Fire and Casualty Insurance.

The Association shall obtain and maintain a policy or policies of fire and casualty insurance with an extended coverage endorsement for the full insurable replacement value of the improvements in the Project. The amount of coverage shall be determined by the Board. This insurance shall be maintained for the benefit of the Association, the Owners, and their Mortgagees, as their interests may appear as named insured, subject, however, to any loss payment requirements set forth in this Declaration.

Section 7.02 General Liability and Individual Liability Insurance.

The Association shall obtain and maintain one or more policies of insurance that must include coverage for (1) general liability of the Association, and (2) individual liability of Officers and Directors of the Association for negligent acts or omissions in that capacity. Both of the foregoing types of coverage shall not be less than $1,000,000 covering all claims for death, personal injury, and property damage arising out of a single occurrence. The limits and coverage shall be reviewed at least annually by the Board and increased in its discretion.

Section 7.03 Trustee for Policies.

The Association, acting through its Board, is hereby appointed and shall be deemed trustee of the interests of all named insureds under all insurance policies purchased and maintained by the Association. All insurance proceeds under any of those policies shall be paid to the Board as trus-
tee. The Board shall use the proceeds for the repair or replacement of the property for which the insurance was carried or for the purposes described in Article VIII of this Declaration. The Board also is authorized to negotiate loss settlements with the appropriate insurance carriers, to compromise and settle any claim or enforce any claim by any lawful action, and to execute loss claim forms and release forms in connection with such settlements.

Section 7.04 Individual Insurance.

Each Owner shall provide fire and casualty insurance for the improvements in his or her Unit. An Owner may separately insure his or her personal property, and may obtain and maintain personal liability and property damage liability insurance for his or her Unit, provided that the insurance contains a waiver of subrogation rights by the carrier as to the other Owners, the Association and the institutional First Mortgagees of the Owner's Unit.

Section 7.05 Insurance Premiums.

Insurance premiums for any insurance coverage obtained by the Association shall be included in the regular assessments. That portion of the regular assessments necessary for the required insurance premiums shall be used solely for the payment of the premiums when due.

ARTICLE VIII. DAMAGE OR DESTRUCTION

Section 8.01 Duty to Restore and Replace.

If any of the improvements in the Project are destroyed or damaged, the Association shall restore and replace the improvements, using the proceeds of insurance maintained pursuant to Article VII of this Declaration, subject to the provisions of this Article.

Section 8.02 Proceeds Justifying Automatic Restoration and Repair.

If the proceeds of any insurance maintained pursuant to Article VII of this Declaration for reconstruction or repair of the Property are equal to at least 85 percent of the estimated cost of restoration and repair, the Board shall use the insurance proceeds for that purpose, shall levy a special assessment to provide the necessary additional funds, and shall have the improvements promptly rebuilt, unless the Owners by the vote or written consent of not less than 75 percent of the total voting power of Owners object to the restoration or repair work within 60 days of the damage or destruction.

Section 8.03 Approval by Owners of Special Assessment for Certain Restorations and Repairs.

If the proceeds of any insurance maintained pursuant to Article VII of this Declaration for reconstruction or repair of the Property are less than 85 percent of the estimated cost of restoration and repair, any restoration and repair work must be authorized by the vote or written consent of Owners representing at least 75 percent of the total voting power of each class of Owners and beneficiaries of at least 75 percent of the First Mortgages on Units in the Project. This authorization must be given within 60 days of the damage or destruction, and must authorize the Board to levy a special assessment to provide the necessary funds over and above the amount of any insurance proceeds available for the work.
Section 8.04 Ordering Reconstruction or Repair.

If reconstruction or repair work is to take place pursuant to this Article, the Board shall take the following steps:

(a) Prepare the necessary documents, including an executed and acknowledged certificate stating that damage has occurred, describing it, identifying the improvement suffering the damage, the name of any insurer against whom claim is made, and the name of any insurance trustee, stating (if applicable) that the consent described in Section 8.03 has been obtained, and reciting that the certificate is recorded pursuant to this paragraph. That declaration shall be recorded with the Recorder of Tulare County within 90 days from the date of the damage or destruction.

(b) Obtain firm bids (including the obligation to obtain a performance bond) from two or more responsible contractors to rebuild the Project in accordance with its original plans and specifications and, as soon as possible thereafter, call a special meeting of the voting Owners to consider the bids. If the Board fails to do so within 60 days after the casualty occurs, any Owner may obtain the bids and call and conduct the special meeting in the manner required by this paragraph. At the meeting, Owners representing at least 67 percent of the total voting power may elect to reject all of the bids and thus not to rebuild, or Owners representing at least 51 percent of the total voting power may elect to reject all bids requiring amounts exceeding the available insurance proceeds by more than $500. Failure to reject all bids shall authorize the Board to accept the unrejected bid it considers most favorable. Failure to call the special meeting or to repair the casualty damage within 12 months from the date the damage occurred shall be deemed for all purposes to be a decision not to rebuild.

(c) If a bid is accepted, the Board shall let the contract to the successful bidder and distribute the insurance proceeds to the contractor as required by the contract.

(d) Levy a special assessment to make up any deficiency between the total insurance proceeds and the contract price for the repair or rebuilding, with the assessment and all insurance proceeds, whether or not subject to liens of mortgagees, to be used solely for the rebuilding. This assessment shall be apportioned equally to each Unit for any damage or destruction to the Common Area. For any damage or destruction to improvements on one or more Units, every Owner shall pay a proportionate share based on the relative square footage of the Unit. If any Owner fails to pay the special assessment within 15 days after it is levied, the Board shall enforce the assessment in the manner described in this Declaration.

Section 8.05 Election Not to Rebuild.

Upon an election not to rebuild, the Board, as soon as reasonably possible and as agent for the Owners, shall execute and record a certificate stating that the Association shall not rebuild. The Board shall also sell the entire Project on terms acceptable to the Board and free from the effect of this Declaration, which shall terminate upon the sale. The net proceeds shall then be distributed to the Owners and their respective Mortgagees proportionately according to the respective fair market values of the Units at the time of the destruction as determined by an independent
appraisal. That appraisal shall be performed by an independent appraiser who shall be selected by the Association and who shall be a member of, and apply the standards of, a nationally recognized appraiser organization.

All insurance proceeds for damage or destruction to Units shall be distributed to the Owners of the damaged Units according to the relative fair market value of the Units. This value shall be as of the date immediately preceding the damage or destruction, and shall be determined by an appraisal by an independent appraiser who shall be selected in the manner described above. Any proceeds from damage or destruction to the Common Area shall be distributed to the Owners equally.

Section 8.06 Minor Restoration and Repair Work.

The Association shall order restoration or repair work without complying with the other provisions of this Article whenever the estimated cost of the work does not exceed $10,000. If insurance proceeds are unavailable or insufficient, the Association shall levy a special assessment for the cost of the work. The Assessment shall be levied in the manner described in this Declaration.

ARTICLE IX. EMINENT DOMAIN

Section 9.01 Definition of Taking.

As used in this Article, "taking" means condemnation by any governmental agency having the power of eminent domain or by sale under threat of the exercise of that power.

Section 9.02 Sale to Condemning Authority.

If a governmental agency proposes to condemn all or a portion of the Project, the Association may sell all or any portion of the Project to the condemning authority if all Owners and institutional Mortgagees consent in writing to the sale. Any such sale shall be made by the Association in the capacity of attorney-in-fact for the Owners, acting under an irrevocable power of attorney which each Owner grants to the Association by accepting a Condominium. The sales price shall be any amount deemed reasonable by the Board.

Section 9.03 Total Sale or Taking.

A total sale or taking occurs when (1) there is a permanent taking or a sale to a condemning authority by the Association pursuant to Section 9.02 of an interest in all or part of the Common Area or of all or part of one or more Units, which substantially and adversely affects the ownership, operation, and use of the Project in accordance with the provisions of this Declaration; and (2) 120 days have passed since the effective date of the taking and the Owners whose Units remain habitable after the taking ("Remaining Units") have not by affirmative vote of a majority of their entire voting interest approved the continuation of the Project and the repair, restoration, and replacement to the extent feasible of the Common Area and the Remaining Units. Within 60 days after the effective date of any sale or taking which in the opinion of the Board would constitute a total sale or taking, the Board shall call a special meeting to determine whether or not the Owners of the remaining units will continue the Project as provided in this Section. If there is a total sale or taking, the Board shall distribute the proceeds of the total sale or taking and the
proceeds of any sale pursuant to a partition action, after deducting all incidental fees and expenses related to the taking or partition, to all Owners and their Mortgagees in accordance with the court judgment or the agreement between the condemning authority and the Association, if any such judgment or agreement exists. In all other cases, the proceeds shall be distributed among the Owners and their respective Mortgagees according to the relative values of the Condominiums affected by the condemnation as determined by independent appraisal. That appraisal shall be performed by an independent appraiser who shall be selected by the Association and who shall be a member of, and apply the standards of, a nationally recognized appraiser organization.

Section 9.04 Partial Sale or Taking.

A partial sale or taking occurs if there is a sale or taking that is not a total sale or taking as defined in Section 9.03. The proceeds from any sale or taking shall be disbursed in the following order of priority, which shall be incorporated into any court judgment of condemnation or agreement between a condemning authority and the Association:

(a) To the payment of related fees and expenses.

(b) To Owners of Condominiums that have been sold or taken and their respective Mortgagees, as their interests may appear, in an amount up to the fair market value of the Condominium as that value is determined by the court in the condemnation proceeding or, in the absence of such a determination, by an appraiser selected in the manner described in Section 9.03. Such a payment shall immediately terminate the recipient's status as an Owner, and the Board, acting as the attorney-in-fact of the remaining Owners, shall amend this Declaration and any other documents, as appropriate, to delete the sold or taken Condominiums from the Project and to allocate the former Owner's undivided interest in the Common Area to the remaining Owners, on the basis of their relative ownership of the Common Area. Each Owner whose interest is terminated pursuant to this Section shall, at the request of the Board and expense of the Association, execute and acknowledge any deed or other instrument that the Board deems necessary to evidence the termination.

(c) To the payment of severance damages to First Mortgagees of record of remaining units affected by the partial sale or taking, to the extent that the Mortgagees can prove that their security has been impaired by the taking.

(d) To the repair, restoration, and replacement of the Common Area and any portions of the Remaining Units that the Owners are not obligated to restore, to the extent feasible.

ARTICLE X. RIGHTS OF MORTGAGEES

Section 10.01 Warranty.

Mortgagees of Units in the Project shall be entitled to the rights and guaranties set forth in this Article. No amendment of this Article shall affect the rights of the holder of any First mortgage
recorded prior to the recordation of the amendment who does not join in the execution of the amendment.

Section 10.02 Subordination.

Notwithstanding any other provision of this Declaration, liens created under this Declaration upon any Unit shall be subject and subordinate to, and shall not affect the rights of the holder of, the indebtedness secured by any recorded First Mortgage upon such an interest made in good faith and for value, provided that any transfer of a Unit as the result of a foreclosure or exercise of a power of sale shall not relieve the new Owner from liability for any assessments that become due after the transfer. Such a transfer shall extinguish the lien of assessments that were due and payable prior to the transfer of the Unit.

Section 10.03 Inapplicability of Right of First Refusal.

Should any of the Association's Governing Instruments provide for a “right of first refusal,” this right shall not impair the rights of a First Mortgagee to:

(a) Foreclose or take title to a Unit pursuant to the remedies provided in the Mortgage;

(b) Accept a deed (or assignment) in lieu of foreclosure in the event of default by a Mortgagor; or

(c) Interfere with a subsequent sale or lease of a Unit so acquired by the Mortgagor.

Section 10.04 Notice of Default.

A First Mortgagee, upon request, will be entitled to written notification from the Association of any default in the performance by the Mortgagor of any obligation under the Association's Governing Instruments that is not cured within 60 days.

Section 10.05 Unpaid Assessments.

Any First Mortgagee who obtains title to a Unit pursuant to the remedies provided in the Mortgage or foreclosure of the Mortgage shall not be liable for the Unit's unpaid assessments that accrue prior to the acquisition of title to the Unit by the Mortgagor.

Section 10.06 Mortgagee Approval of Material Amendments.

Notwithstanding Article XII of this Declaration, any amendments governing any of the following shall require the prior written approval of at least 51 percent of the First Mortgagees and at least 67 percent of the total voting power of the Owners:

(a) Voting;

(b) Rights to use the Common Area;

(c) Reserves and responsibility for maintenance, repair, and replacement of the Common Area;

(d) Boundaries of any Unit;
(e) Owners' interests in the Common Area;

(f) Conversion of Units into Common Area or Common Area into Units;

(g) Leasing of Units;

(h) Establishment of self-management by the Association, when professional manage-
ment has been previously required by any First Mortgagor or any insurer or governmental
guarantor of a First Mortgage;

(i) Annexation, addition, or withdrawal of real property to or from the Project;

(j) Assessments, assessment liens, or the subordination of these liens;

(k) Casualty and liability insurance or fidelity bonds; or

(l) Any provisions expressly benefitting First Mortgagors or insurers or governmental
 guarantors of first mortgages.

Notwithstanding the foregoing, any first Mortgagor who receives a written request from the
Board to approve a proposed amendment or amendments requiring consent under this Section
who does not deliver a negative response to the Board within 30 days of the receipt of the request
shall be deemed to have approved the proposed amendment or amendments.

Section 10.07 Mortgagee Approval of Other Actions.

Unless at least 67 percent of the First Mortgagees (based upon one vote for each First Mortgage
owned), or 67 percent of the Owners have given their prior written approval, the Association
shall not be entitled to:

(a) By act or omission, seek to abandon or terminate the Project;

(b) Change the pro rata interest or obligations of any individual Unit for either of the fol-
lowing purposes, unless the change is due to an annexation pursuant to Article XI of this
Declaration:

(1) Levying assessments or charges, or allocating distributions of hazard insur-
ance proceeds or condemnation awards, or

2 Determining the pro rata share of ownership of each Unit in the Common Area
and the improvements thereon;

(c) Partition or subdivide any Unit;

(d) By act or omission, seek to abandon, partition, subdivide, encumber, sell, or transfer
the Common Area unless due to an annexation pursuant to Article XI of this Declaration
(the granting of easements for public utilities or for other public purposes consistent with
the intended use of the Common Area shall not be deemed a transfer within the meaning
of this clause); or
(e) Use hazard insurance proceeds for losses to any Project property (whether to Units or to the Common Area) for other than the repair, replacement, or reconstruction of that property, except as provided by statute in case of substantial loss to the Units and/or Common Area of the Project.

Section 10.08 Liens.
All taxes, assessments, and charges that may become liens prior to the First Mortgage under local law, shall relate only to the individual Units and not to the Project as a whole.

Section 10.09 Priority.
No provision of the Governing Instruments of the Association gives any Owner, or any other party, priority over any rights of the First Mortgagee of the Unit pursuant to its Mortgage in the case of a distribution to the Owner of insurance proceeds or condemnation awards for losses to, or a taking of, all or a portion of a Unit or Units and/or the Common Area.

Section 10.10 Reserve Fund.
Association assessments shall be large enough to provide for an adequate reserve fund for maintenance, repairs, and replacement of those common elements that must be replaced on a periodic basis. The reserve fund shall be funded by the regular assessments rather than by special assessments.

Section 10.11 Management.
Any agreement for professional management of the Project shall not exceed three years and shall provide that either party may terminate the agreement, with or without cause and without the imposition of a termination fee, on 90 days' written notice. The approval of holders of at least 75 percent of First Mortgages shall be obtained before the Association terminates a professional management agreement.

Section 10.12 Right to Inspect Books and Records.
Institutional First Mortgagees, upon written request, shall have the right to (1) examine the books and records of the Association during normal business hours and (2) require the submission of any financial data furnished to the Owners by the Association.

Section 10.13 Payments by Mortgagees.
First Mortgagees may, jointly or severally, pay taxes or other charges that are in default and that may or have become a charge against the Common Area, and may pay any overdue premiums on hazard insurance policies, or secure new hazard insurance coverage on the lapse of a policy, for the Common Area, and First Mortgagees making these payments shall be entitled to immediate reimbursement from the Association.

Section 10.14 Right to Furnish Mortgage Information.
Each Owner hereby authorizes the First Mortgagee of a First Mortgage on the Owner’s Condominium to furnish information to the Board concerning the status of the First Mortgage and the loan that it secures.
ARTICLE XI. INTENTIONALLY OMITTED.

ARTICLE XII. AMENDMENTS

Section 12.01 Intentionally Omitted.

Section 12.02 Amendments by Owners.

This Declaration may be amended by the vote or written consent of Owners representing not less than 50 percent of the voting power the Owners of the Association. Notwithstanding any contrary provision in this Section, the percentage of the voting power necessary to amend a specific clause or provision of this Declaration shall not be less than the percentage of affirmative votes prescribed for action to be taken under that clause or provision. An amendment becomes effective after (1) the approval of the required percentage of Owners has been given, (2) that fact has been certified in a writing executed and acknowledged by the President of the Association, and (3) that writing has been recorded in the county in which this Project is located.

Section 12.03 Amendments Pursuant to Court Order.

If this Declaration requires a proposed amendment to be approved by the affirmative vote of a specified percentage (exceeding 50 percent) of the votes in the Association, and more than 50 percent but less than the required supermajority of the votes approve the amendment, the Association or any Owner may petition the Superior Court of Tulare County, subject to the requirements, limitations, and exceptions set forth in Civil Code Section 1356, for an order reducing the percentage of the affirmative votes necessary for the amendment or approving the amendment. If such an order is issued, the amendment shall be acknowledged by the President of the Association, and that person shall have the amendment and the court order recorded in Tulare County. Upon recordation, the amended provision or provisions of this Declaration shall have the same force and effect as if the amendment were adopted in compliance with every requirement imposed by this Declaration and the other governing documents. Within a reasonable time after recordation, the Association shall mail a copy of the amendment and a statement regarding the amendment to each Owner.

Section 12.04. Prior Approval of Commissioner.

When required under Business and Professions Code Section 11018.7, the prior written consent of the Real Estate Commissioner shall be obtained prior to submitting a proposed amendment to this Declaration to the vote of the Owners.

ARTICLE XIII. GENERAL PROVISIONS

Section 13.01 Term.

The provisions of this Declaration shall continue in effect for a term of 50 years from the date of execution. Thereafter, it shall be automatically extended for successive periods of 10 years, until the membership of the Association decides to terminate it.
Section 13.02 Nonwaiver of Remedies.

Each remedy provided for in this Declaration is separate, distinct, and nonexclusive. Failure to exercise a particular remedy shall not be construed as a waiver of the remedy.

Section 13.03 Attorneys' Fees.

In any action to enforce this Declaration, the prevailing party shall be entitled to recover reasonable attorneys' fees and costs.

Section 13.04 Severability.

The provisions of this Declaration shall be deemed independent and severable, and the invalidity or partial invalidity or unenforceability of any one provision shall not affect the validity or enforceability of any other provision.

Section 13.05 Binding.

This Declaration, any amendment to it, and any valid action or directive made pursuant to the Declaration, shall be binding on the Owners and their heirs, grantees, tenants, successors, and assigns.

Section 13.06 Interpretation.

The provisions of this Declaration shall be liberally construed and interpreted to effectuate its purpose of creating a uniform plan for the development and operation of a condominium project. Failure to enforce any provision of this Declaration shall not constitute a waiver of the right to enforce that provision or any other provision of this Declaration.

Section 13.07 Limitation of Liability.

The liability of any Owner for performance of any of the provisions of this Declaration shall terminate upon sale, transfer, assignment, or other divestment of the Owner's entire interest in his or her Unit with respect to obligations arising from and after the date of the divestment.

Section 13.08 Number and Headings.

As used in this Declaration, the singular shall include the plural, unless the context requires the contrary. The headings are not a part of this Declaration, and shall not affect the interpretation of any provision.

Executed on ______________, 2007, at Porterville, Tulare County, California.
DECLARANT

ENNIS COMMERCIAL PROPERTIES, LLC
A California Limited Liability Company

By ____________________________________________
   Ben Ennis, its managing member

SMITH COMMERCIAL PROPERTIES, LLC
A California Limited Liability Company

By ____________________________________________
   Dan Smith, its managing member
Acknowledgment

State of California
County of Tulare

On ____________, before me, ________________________, personally appeared Ben Ennis, proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacities, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.
WITNESS my hand and official seal.

Signature __________________________

Acknowledgment

State of California
County of Tulare

On ____________, before me, ________________________, personally appeared Dan Smith, proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacities, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument.
WITNESS my hand and official seal.

Signature __________________________
RESOLUTION NO. ________

TENTATIVE PARCEL MAP 4-2007

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
CONTAINING FINDINGS IN SUPPORT OF APPROVAL OF TENTATIVE
PARCEL MAP 4-2007 LOCATED ON THE SOUTHEAST CORNER OF MAIN STREET
AND THURMAN AVENUE

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting
of October 16, 2007, conducted a public hearing to consider Tentative Parcel Map 4-2007 to allow
for the creation of four (4) condominium parcels and a common area remainder parcel within Parcel
One (1). The subject site is located at the southeast corner of Main Street and Thurman Avenue in
the C-2 (Central Commercial Zone); and

WHEREAS: On October 10, 2007, the Parcel Map Committee reviewed conditions
relative to Tentative Parcel Map 4-2007 and the associated CC & R’s; and

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

1. That the proposed parcelization conforms to the land use designation of the General
   Plan.

2. That the design or improvements of the proposed project is consistent with the
   General Plan.

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

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

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

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

7. That the City Council is the decision - making body.
WHEREAS: Pursuant to Section 15332 Class 32 of the CEQA Guidelines – construction of in-fill development and 15315 Class 15 of the CEQA Guidelines – minor land divisions. Under the Permit Streamlining Act (Section 65950 of the Government Code), the City has 60 days from the date the project was accepted as complete to reach a determination regarding this project.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve Tentative Parcel Map 4-2007, creating four (4) condominium parcels and a common area remainder parcel within Parcel One (1) subject to the following conditions:

1. Approval of Tentative Parcel Map 4-2007 is contingent upon the approval of Conditional Use Permit 8-2007.

2. That Conditional Use Permit 8-2007 shall become null and void upon the expiration of Tentative Parcel Map 4-2007.

3. That the developer/applicant shall comply with the conditions of Conditional Use Permit 8-2007.

4. That the subject site will be developed/maintained in accordance with the maps labeled EXHIBIT “A”.

______________________________
Cameron Hamilton, Mayor

ATTEST:

John Longley, City Clerk

By ______________________________
Patrice Hildreth, Acting Chief Deputy City Clerk
PUBLIC HEARING

SUBJECT: AUTHORIZATION TO FORM AN UNDERGROUND UTILITY DISTRICT (RULE 20B & RULE 32) – JAYE STREET CORRIDOR

SOURCE: Public Works Department - Engineering Division

COMMENT: Staff is requesting that the City Council hold a public hearing to consider the establishment of an Underground Utility District along Jaye Street from State Route 190 to a point 500 feet north of Springville Avenue.

The Developer of the Riverwalk Marketplace Commercial Center on the west side of Jaye Street between State Route 190 and Springville Avenue is required by the City to widen and improve Jaye Street along their frontage. The widening and subsequent limited space between proposed building pads will require the power lines be placed underground as opposed to simply relocating the power poles.

Southern California Edison Company's (SCE) Rule 20B and Pacific Bell's Rule 32 under the Public Utility Commission procedures allows for a certain portion of their revenues to fund the cost difference between relocating power poles and undergrounding them. Since the Riverwalk Marketplace Commercial Center is already incurring significant costs associated with the required improvements to Jaye Street, the developer is asking that an underground public utility district be established to allow them to utilize Rule 20B and Rule 32. The developer would only be required to pay the equivalent costs of relocating the existing power poles. The additional costs of placing the lines underground would be paid through Rule 20B and Rule 32 funds.

It has been determined that Charter Communications also has facilities on the existing poles. Notice of this public hearing was mailed to all property owners within the area shown on Exhibit "A".

It is the recommendation of the Engineering Department that the City Council establish the subject underground utility district. Upon Council approval, staff will mail the resolutions to all affected property owners and utility companies within 10 days.

RECOMMENDATION: That City Council adopt the attached Resolution establishing an underground district.

ATTACHMENT: Locator Map
Resolution

P:\pub\work\Engineering\Council Items\Public Hearing - Jaye Street Underground Utility District.doc
Dir BR Appropriated/Funded CM J Item No. 24
RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF
PORTERVILLE ESTABLISHING AN UNDERGROUND UTILITY
DISTRICT ON JAYE STREET BETWEEN STATE ROUTE 190
AND FIVE HUNDRED FEET NORTH OF SPRINGVILLE AVENUE

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

WHEREAS, a public hearing was called for October 16, 2007, at the hour of 7:00 p.m., in the Council Chambers of City Hall, 291 North Main Street, Porterville, California, to ascertain whether the public necessity, health, safety or welfare requires the removal of poles, overhead wires and associated overhead structures and the underground installation of wires and facilities for supplying electric, communications or similar or associated service in Jaye Street between State Route 190 and Springville Avenue (see Exhibit “A” attached); and

WHEREAS, notice of such hearing has been given to all affected property owners as shown on the last equalized assessment roll and utilities concerned in the manner and for the time required by law; and

WHEREAS, such hearing has been duly and regularly held and all persons interested have been given an opportunity to be heard.

NOW, THEREFORE, BE IT RESOLVED that the Council of the City of Porterville hereby finds and determines that the public necessity, health, safety and welfare require the removal of poles, overhead wires and associated structures and the underground installation of wires and facilities for supplying electric, communications or similar or associated service in the area described herein and such area is hereby established as Jaye Street between State Route 190 and a point 500 feet to the north of Springville Avenue.

BE IT FURTHER RESOLVED that the Council of the City of Porterville finds:

(A) That such undergrounding will avoid or eliminate an unusually heavy concentration of overhead facilities.

(B) The street or road right-of-way is extensively used by the general public and carries a heavy volume of pedestrian or vehicular traffic.

(C) That such undergrounding is necessary to clear the street right-of-way for future street improvements.

BE IT FURTHER RESOLVED that all poles, overhead wires and associated overhead structures shall be removed and underground installations made in said Underground Utility District with the following times and conditions:

(A) Installation of underground conduits and structures by utility companies not later than February 1, 2008.
(B) Installation and reconnection of property owner services to underground facilities by utility companies not later than February 1, 2008.

(C) Removal of poles, overhead wires and other associated overhead structures not later than February 1, 2008.

BE IT FURTHER RESOLVED that the City Clerk, within ten (10) days after the adoption of this resolution, shall mail a copy hereof to affected property owners as such are shown on the last equalized roll and to the affected utilities.

PASSED, ADOPTED AND APPROVED this 16th day of October 2007.

________________________________________
Cameron Hamilton, Mayor

ATTEST:
John Longley, City Clerk

By: Patrice Hildreth, Acting Chief Deputy City Clerk
PUBLIC HEARING (CONTINUED)

TITLE: ORDINANCE SETTING FORTH COMPREHENSIVE CHANGES TO CITY’S ANIMAL CONTROL REGULATIONS

SOURCE: CITY ATTORNEY

COMMENT: This item is being brought back for a continued public hearing from the October 2nd City Council Meeting. Several issues were raised at that meeting during the public hearing and are addressed below.

As noted, any references to the County have been changed to reflect the City as the appropriate jurisdiction.

Section 5-1.4 intentionally only prohibits dogs running at large. Other animals, such as cats for example, are generally considered nomadic and are generally permitted to roam, but at their (and their owner’s) own risk.

Contrary to concerns raised at the hearing, visiting dogs/animals are not required to obtain a license during their stay within the City. Dogs are required to be licensed within 30 days of coming to reside within the City limits per Section 5-2.3. Therefore, dogs that are present for a shorter period of time would not require a license.

There appeared to be some confusion over the meaning of Section 5-2.17(b). Subsection (a) allows for redemption of an animal from the Shelter at any time prior to sale or destruction (generally a six day period). However subsection (b) provides that after the six day period, owners may redeem their animals only if 1) the owner has not received a notice that the animal has been declared dangerous, or 2) there has been a hearing and the animal has been ordered to be returned to the owner. This simply makes clear that owners cannot redeem an animal determined to be dangerous. Therefore, the language has not been modified.

There was also some confusion over the wording in Section 5-2.20(a), and Sections 5-2.19 and 5-2.20 have been modified to clarify that these sections deal with limitations of the sale and destruction of impounded dangerous dogs or animals.

With regard to Section 5-2.22(a), there is not much the City can do with regard to the purchase of animals and their relocation outside the City. Attempting to monitor the licensing of animals in other jurisdictions would be highly problematic at the administrative level. Therefore, no additional changes are proposed.

Item No. 25
Questions were also raised concerning whether the regulations should require that the administrative hearings be recorded. Given the nature of the proceeding, the City will be keeping a record of the proceedings, and it is not necessary to specify this in the regulations.

There were also questions concerning the processes for kennels versus the other proceedings. The procedures for permit revocation and appeal are separate from the dangerous animal determination/appeal process, and per the regulations could involve proceedings before the City Council. This is similar to the City’s other permit revocation processes for other property uses. As was noted in comments from the public, “kennels” are viewed as dogs held permanently or indefinitely (often for breeding purposes). The County and City (as well as a minimal amount of State law) appear to make a distinction between these types of facilities and those used for temporary boarding of animals. The City covers use restrictions for both in its Zoning Ordinance. The City requires that for either type of facility, it be completely enclosed in a building of soundproof construction. Kennels and animal boarding were not the primary focus of the revisions; however this may be an area that the Council may wish to explore further modifications in the future. However, I recommend that the regulations be adopted as presented.

Finally there were concerns that the regulations were not specific as to the requirement that dogs must be licensed, and wearing their tags, to be in compliance. While the provisions of 5-2.1 clearly cover the requirement that all dogs residing in the City must be licensed, a sentence has been added to Section 5-2.2 providing that the tags issued must be securely worn by the animals.

RECOMMENDATION: That the City Council hold the continued public hearing concerning the proposed ordinance, consider the draft regulations, and approve and give first reading to the Ordinance of the City Council of the City of Porterville Repealing Chapter 5, Sections 5-1 through 5-4.6, and Replacing it with Chapter 5, Sections 5-1 through 5-5.1 of the Porterville Municipal Code Pertaining to Animal Control

ATTACHMENTS: Ordinance No. 1726, An Ordinance of the City Council of the City of Porterville Repealing Chapter 5, Sections 5-1.0 through 5-4.6, and Replacing it with Chapter 5, Sections 5-1 through 5-5.1 of the Porterville Municipal Code Pertaining to Animal Control
ORDINANCE NO. 1726

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF
PORTERVILLE REPEALING CHAPTER 5, SECTIONS 5-1
THROUGH 5-4.6, AND REPLACING IT WITH CHAPTER 5,
SECTIONS 5-1.0 THROUGH 5-5.1, OF THE PORTERVILLE
MUNICIPAL CODE PERTAINING TO ANIMAL CONTROL

WHEREAS, the City desires to adopt comprehensive modifications to it regulations pertaining to animal control within the City; and

WHEREAS, in adopting this ordinance the City Council desires to clarify the requirements, violations, and remedies regarding the control of animals and dogs with the City limits;

NOW, THEREFORE, THE CITY COUNCIL OF THE CITY OF PORTERVILLE DO
ORDAIN, AS FOLLOWS:

SECTION 1: Chapter 5, Sections 5-1 through 5-4.6, of the Porterville Municipal Code is repealed in its entirety and replaced with the following:

Chapter 5
ANIMAL CONTROL

Article I
General Provisions

Sections:
5-1.0 Definitions
5-1.1 Shelter Supervisor
5-1.2 Records
5-1.3 Animal Shelter
5-1.4 Impounding Animals
5-1.5 Right to Enter Premises
5-1.6 Interference with Duties

5-1.0 DEFINITIONS.

(a) The term "owner," as used in this Chapter, means any person, firm or corporation owning, harboring, having an interest in, or having control, custody or possession of an animal. In the case of an animal, which is owned by a minor, the parent or guardian of the minor shall constitute the "owner" of such animal for the purposes of this Chapter.

(b) The term "at large," as used in this Chapter, means an animal off the premises of its owner which is not under restraint by leash and which is not under the control and in the immediate presence of the owner.
(c) The term "dangerous animal," as used in this Chapter, means a dog or other animal which has attacked, bitten or injured any human being or other animal without reasonable provocation, or which has been so declared pursuant to this Chapter, or under the facts and circumstances has acted in a threatening manner towards any human being or displayed characteristics of being trained for fighting, or there is other evidence to show such training or fighting.

(d) The term "attack," as used in this Chapter means any unprovoked aggressive behavior toward a person or animal. Aggressive behavior in defense of property or territory of the owner shall constitute an attack unless the dog or other animal is securely contained within an enclosure sufficient to prevent physical contact with a person or animal outside such enclosure.

(e) The term "field officer" as used in this Chapter shall mean the animal control agents or peace officers that respond to any complaint or incident.

5-1.1 SHELTER SUPERVISOR/DEPARTMENT OF ANIMAL CONTROL. The office of Shelter Supervisor shall be established. The Shelter Supervisor shall be appointed or contracted by the City Council and may be either a person, firm, association, corporation, public entity or joint powers authority. The Shelter Supervisor shall serve for such period of time and shall receive such compensation as shall be established by the City Council by ordinance or by contract. If an association or corporation is appointed as Shelter Supervisor, each officer and employee authorized by such association or corporation to perform duties under this Chapter shall be deemed to be a Shelter Supervisor and shall have all of the rights and duties of the Shelter Supervisor which are set forth in this Chapter. The Police Department shall carry out the duties of a Department of Animal Control, and the Chief of Police shall serve as the ex-officio Director. The Director shall perform all duties of the Shelter Supervisor unless the City Council has entered into a contract with another person, firm, association, corporation, or public entity, or has otherwise provided for such services via a joint powers authority, to furnish animal control services, in which case the Director shall administer said contract on behalf of the City Council.

5-1.2 RECORDS. The Shelter Supervisor shall keep a record of every animal impounded pursuant to this Chapter which shall include a description of the animal, the date of receipt, the date and manner of disposal, the name of the person redeeming or purchasing, and the fees, charges and proceeds of sales received on account of said animal, and such additional records as may be required by the City Council from time to time.

5-1.3 ANIMAL SHELTER. There shall be provided by the Shelter Supervisor, upon such terms and conditions as may be mutually agreed upon by the Shelter Supervisor and the City Council, a suitable building or enclosure to keep and safely hold all animals to be impounded pursuant to the provisions of this Chapter, and said building or enclosure shall be known and designated as the "Shelter."
5-1.4 IMPOUNDING ANIMALS. The Shelter Supervisor shall take up, impound and safely keep any dog that is found running at large contrary to the provisions of this Chapter within the incorporated territory of the City.

5-1.5 RIGHT TO ENTER PREMISES. The Shelter Supervisor, and his or her agents, shall be authorized to enter upon any premises for the purpose of enforcing the provisions of this Chapter.

5-1.6 INTERFERENCE WITH DUTIES. It shall be unlawful for any person to interfere with the Shelter Supervisor in the performance of his/her official duties.

Article II
Dogs

Sections:
5-2.1 License Required
5-2.2 Issuance of License and Tag
5-2.3 Time Limits
5-2.4 Vaccination Certificate Required
5-2.5 Term of License
5-2.6 License Fees
5-2.7 License Fees: Spayed or Neutered Dogs
5-2.8 Exemption: Service or Assistance Dog
5-2.9 Delinquent Penalties
5-2.10 Extension of Time: Dogs too Ill to be Vaccinated
5-2.11 Replacing Lost or Stolen Tags
5-2.12 License Transferable
5-2.13 Affixing Dog Tag
5-2.14 Impounding Dogs without Tags
5-2.15 Impounding Biting or Attacking Animals
5-2.16 Notice to Owner of Licensed Dog or Other Animal
5-2.17 Redemption of Impounded Dogs or Other Animals
5-2.18 Fees for Impounding and Keeping Dogs and Other Animals
5-2.19 Sale and Destruction of Impounded Dogs and Other Animals Wearing Tags
5-2.20 Sale and Destruction of Impounded Dogs and Other Animals Not Wearing Tags
5-2.21 Sale of Impounded Dogs
5-2.22 Licensing Impounded Dogs
5-2.23 Removal of Tag
5-2.24 Display of Tag
5-2.25 Keeping Dangerous Dogs or Other Animals
5-2.26 Interference with Highways
5-2.27 Permitting Dogs to Run At Large
5-2.28 Barking Dogs
5-2.29 Hearing to Determine if Animal is Dangerous
5-2.30 Hearing: Conduct
5-2.31 Hearing: Decision
5-2.32 Disposition of Dangerous Animal
5-2.33 Dog or Other Animal Declared Not Dangerous

5-2.1 LICENSE REQUIRED. Every owner of a dog, within the City, shall secure a license from the Shelter Supervisor, or from the City Finance Department, for each such dog within the time limits set forth in this Chapter. It shall be unlawful for any owner to fail to secure said license in accordance with the provisions of this Chapter. A license need not be secured for a dog which is brought into the City for the sole purpose of being entered in a dog show or dog exhibition, provided that such dog is entered in such show or exhibition and is removed from the City within thirty (30) days after the date on which the dog was brought into the City.

5-2.2 ISSUANCE OF LICENSE AND TAG. Application for a license required by this Chapter shall be filed with the Shelter Supervisor, Finance Department, or Police Department, on a form prescribed by the Shelter Supervisor. Upon payment of the required fee and upon compliance with the other requirements of this Chapter, the Shelter Supervisor shall issue a dog license. Either the application or the license shall contain a brief description of the dog including the age, sex, color and breed of the dog, and the name and address of the owner. The license shall contain a serial number, the expiration date of the license and such other information as the Shelter Supervisor may determine. The Shelter Supervisor shall keep a copy of the application and license on file in his office and the application and license shall be open to public inspection. With each license issued, the Shelter Supervisor shall also issue a tag made of some durable material. Said tag shall bear the words “City of Porterville,” the serial number on the dog license, the date of expiration of the license, and such other information as the Shelter Supervisor may determine. Said tag shall be securely worn by the animal for which the license was issued.

5-2.3 TIME LIMITS.

(a) An owner of a dog shall secure a license for his dog within thirty (30) days after s/he acquires ownership of the dog. However, if a dog is less than four (4) months of age when the owner acquires it, the owner shall secure a license for the dog within thirty (30) days after the dog becomes four (4) months of age.

(b) Any person who enters the City and dwells in the City for a period of thirty (30) days or more, and who has brought a dog with him from outside the City, shall secure a license for the dog within thirty (30) days after the person first enters the City.

(c) Prior to the time that a license is issued, the dog shall not be allowed to run at large, and any dog found running at large shall be impounded pursuant to this section, even though the time limits for securing the license which are set forth herein above have not expired.
5-2.4 VACCINATION CERTIFICATE REQUIRED.

(a) A license for a dog shall not be issued unless the owner of the dog presents for filing a certificate signed by a veterinarian or other professional as authorized pursuant to applicable State law showing that said dog has been vaccinated against rabies, which indicates that the period of time elapsing from the date of the vaccination to the date of expiration of the license does not exceed thirty (30) months in the case of vaccination with live virus rabies vaccine or eighteen (18) months in the case of vaccination with killed virus rabies vaccine, as those types of vaccines are defined in section 2606 et seq. of Chapter 17 of the California Code of Regulations. During any period when the City is designated as a rabies area pursuant to sections 1900-1921 of the Health and Safety Code of the State of California, no killed virus vaccine shall be used other than vaccine of bovine nerve tissue origin.

(b) Every duly licensed veterinarian or other authorized professional, after vaccinating any dog owned by a resident of the City of Porterville, shall sign a certificate in triplicate containing the following information:

(1) The type of vaccination used.
(2) The date of the vaccination.
(3) The breed, age, color and sex of the vaccinated dog.
(4) The serial number of the vaccination tag issued.
(5) The name and address of the owner of the dog.

The veterinarian or other authorized professional shall immediately present the original vaccination certificate to the owner of the dog, and shall deliver the duplicate copy to the Shelter Supervisor. The veterinarian or other authorized professional shall keep the triplicate copy.

5-2.5 TERM OF LICENSE. Dog licenses shall be issued on a fiscal year basis, commencing on July 1st and terminating on the next June 30th. The owner of a dog shall secure a license for his dog annually after the expiration of the original license. During the period from July 1st through August 31st of each year, an owner who has secured a license for his dog for the prior fiscal year shall not be in violation of this Chapter, and such dog shall not be impounded pursuant to this Chapter if the dog is wearing the tag issued for the prior fiscal year.

5-2.6 LICENSE FEES.

(a) This section applies only to dogs, which have not been spayed or neutered, and to dogs which are not otherwise unable, for physical or medical reasons, to bear or produce offspring.

(b) The annual license fee for each dog shall be established by the City Council as adopted from time to time. Such Resolution may provide for the proration of fees depending upon length of ownership of the dog and portion of year remaining on the license.
5-2.7 LICENSE FEES: SPAYED OR NEUTERED DOGS.
(a) This section applies only to dogs which have been spayed or neutered, or which are unable to bear or produce offspring for physical or medical reasons.

(b) A certificate from a licensed veterinarian that the dog comes within one of the provisions in subsection (a) of this Section shall accompany the application for a license or the fees set forth in this Section shall be paid.

(c) The annual license fee for each dog shall be established by Resolution of the City Council as adopted from time to time. Such Resolution may provide for the proration of fees depending upon length of ownership of the dog and portion of year remaining on the license.

5-2.8 EXEMPTION: SERVICE OR ASSISTANCE DOG. Any other provision of this Chapter notwithstanding, no charge shall be made for a license issued for a seeing eye dog used as a service or assistance dog, guide dog, or signal dog as defined by applicable State law, or being trained for such use. Proof of such use or training shall be provided by the applicant at the time of license application in a form satisfactory to the City.

5-2.9 DELINQUENT PENALTIES. Commencing on the 1st day of September each year, a delinquent penalty shall be collected in an amount equal to the regular license fee, in addition to the regular license fee, before issuing a license if the time limits for securing licenses which are set forth in this Chapter have expired at the time that the license is issued.

5-2.10 EXTENSION OF TIME: DOGS TOO ILL TO BE VACCINATED. If a dog is too ill to be vaccinated against rabies at the time that the time limits, set forth in this Chapter, expire, then the date for securing the dog license is extended until thirty (30) days after the date on which the dog is well enough to be vaccinated, and no delinquent penalties shall be charged for issuance of the dog license during said thirty (30) day period. However, an extension of time shall not be granted pursuant to this section unless the application for the license is accompanied by a certificate signed by a veterinarian setting forth facts, which show that the dog comes within the provisions of this chapter. Prior to the time that a license is issued for a dog pursuant to this section, the dog shall not be allowed to run at large and any such dog found running at large shall be impounded pursuant to this Chapter.

5-2.11 REPLACING LOST OR STOLEN TAGS. Whenever a tag issued for the then current year has been stolen or lost, the owner of the dog for which the tag was issued may, upon the payment of a fee to the Shelter Supervisor, receive a duplicate tag. The fee for a duplicate tag shall be set by Resolution of the City Council as adopted from time to time.
5-2.12 LICENSE TRANSFERABLE. The license and tag issued pursuant to this Chapter may be transferred when the ownership of the dog is transferred. The new owner or the previous owner of the dog shall notify the Shelter Supervisor in writing of the change in ownership of the dog and the name and address of the new owner. If such written notice is not given the Shelter Supervisor shall send all required notices concerning said dog to the person whose name and address are on file with the Shelter Supervisor.

5-2.13 AFFIXING DOG TAG. It shall be unlawful for the owner of the dog to permit the dog to run at large without the tag issued pursuant to this Chapter being securely affixed to the dog by means of a collar, harness or other suitable device. It shall be unlawful for any person to affix the tag required by this Chapter to any dog except the dog for which it was issued and it shall be unlawful for the owner of a dog to allow the dog to wear a tag other than the tag issued for the current year.

5-2.14 IMPOUNDING DOGS WITHOUT TAGS. The Shelter Supervisor, and any peace officer, shall take up every dog which is not wearing the required tag and which is found running at large within the City of Porterville. When such a dog is taken up by a peace officer, he shall deliver the dog to the Shelter Supervisor. All such dogs shall be impounded in the Porterville Shelter.

5-2.15 IMPOUNDING BITING OR ATTACKING ANIMALS.

(a) The Shelter Supervisor, any of its authorized agents, and any peace officer, shall have the power to summarily and immediately impound a dog or other animal where there is evidence it has attacked, bitten or injured any human being or other animal, or where there is evidence that a dog has acted in a threatening manner towards any human being, a dog has exhibited characteristics of being trained for fighting or attacking, or there is other evidence to show such training or fighting, pending any court proceeding or dog license or animal permit revocation proceeding arising from the attack, bite or injury; or pending a hearing pursuant to Section 5-2.29 and 5-2.30 of this Chapter. The Shelter Supervisor may enter and inspect private property to enforce the provisions of this section. Failure to surrender to the Shelter Supervisor upon demand a dog or other animal which is being impounded pursuant to this section is a misdemeanor. The Shelter Supervisor shall also, as soon as reasonably possible, notify the bite victim of the rabies vaccination status of the biting dog.

A dog or other animal wearing a license tag, impounded pursuant to the authority of this Chapter, shall be returned to the owner or custodian as provided by this Chapter or when it is no longer required as evidence, or if a notice that the Shelter Supervisor has declared the dog or other animal dangerous has not been served on the owner or custodian within six days after the impoundment provided that, within those six days, the owner has made application to redeem the dog or other animal.
A dog or other animal not wearing a license tag, impounded pursuant to the
authority of this section shall be destroyed in a humane manner if, within six
business days after being impounded, the owner has failed to make application to
redeem the dog or other animal. If, within six business days after being
impounded, the owner has applied to redeem the dog or other animal, then the
dog or other animal shall be returned to the owner as provided by this Chapter or
when it is no longer required as evidence, or if a notice that the Shelter Supervisor
has declared the dog or other animal dangerous has not been served on the
owner within six days of the filing of the application to redeem the dog or other
animal.

(b) In lieu of impound, the Shelter Supervisor may permit the dog or other animal to
be confined at the owner's or custodian's expense in a licensed dog kennel or
veterinary facility approved by the Shelter Supervisor, or at the owner's or
custodian's residence provided that the owner or custodian:

(1) Shall not remove the dog or other animal from the kennel, veterinary facility
or residence without the prior written approval of the Shelter Supervisor.
(2) Shall make the dog or other animal available for observation and inspection
by the Shelter Supervisor or members of law enforcement or their authorized
representatives.

(c) The Shelter Supervisor may have a dog or other animal impounded or confined as
provided in (a) or (b) above, permanently identified by means of photo
identification prior to release from impound or confinement.

5-2.16 NOTICE TO OWNER OF LICENSED DOG OR OTHER ANIMAL. Within two (2)
days after a dog or other animal which is wearing a license tag is impounded, the Shelter
Supervisor shall mail a notice of the impounding to the owner at the address shown on the
application for the license which is on file with the Shelter Supervisor, and advise the owner
of the procedure whereby he or she may apply to regain custody of the dog or other
animal.

5-2.17 REDEMPTION OF IMPOUNDED DOGS OR OTHER ANIMALS.

(a) The owner of any dog or other animal impounded other than pursuant to this
Chapter may redeem the dog or other animal at any time prior to its sale or
destruction. A person desiring to redeem a dog or other animal shall deliver to the
Shelter Supervisor an application for redemption and a statement in a form
prescribed by the Shelter Supervisor which shall contain a description of the dog
or other animal to be redeemed, the name and address of the claimant, and the
statement that he or she is the owner of the dog or other animal. The Shelter
Supervisor shall issue to such person a written statement containing the name
and address of the claimant, a description of the dog or other animal redeemed,
the date on which the dog or other animal was impounded, and the accrued fees,
and said statement shall serve as a certificate of redemption and receipt for the
fees paid.
(b) The owner of any dog or other animal impounded pursuant to this Chapter may redeem the dog or other animal pursuant to (a) above only after six days from impoundment if he or she has not received notice that the dog or other animal has been declared a dangerous animal and of the right to a hearing pursuant to this Chapter or if, after a hearing, an order is made to return the dog or other animal to the owner.

5-2.18 FEES FOR IMPOUNDING AND KEEPING DOGS AND OTHER ANIMALS. The owner of a dog which has been impounded shall pay to the Shelter Supervisor an impounding fee and shall also pay a fee for keeping said dog for each day, or portion thereof, that said dog has been impounded. The owner of an animal other than a dog, which has been impounded, shall also pay an impoundment fee and a fee per day for keeping said animal unless the amount required to keep the animal is higher in which case the owner shall pay the actual cost of keeping the animal. Impoundment fees and the fees per day for keeping animals will be set by Resolution of the City Council as adopted from time to time.

5-2.19 SALE AND DESTRUCTION OF IMPOUNDED DOGS AND OTHER ANIMALS WEARING TAGS.

(a) Unless a dog or other animal wearing a license tag has been redeemed within six (6) days after being impounded or unless it is being held for evidence in a hearing pursuant to this Sections 5-2.29 through 5-2.33 of this Article, it may be sold by the Shelter Supervisor to the person other than the owner offering to pay the highest cash amount therefore. But no dog or other animal which has been declared a dangerous animal pursuant to Sections 5-2.29 through 5-2.33 of this Article shall be sold pursuant to this section nor shall any dog or other animal which has been impounded pursuant to Section 5-2.15 and subsequently found not dangerous but improperly trained, handled or maintained be sold except to a person who is willing to properly train, handle and maintain the dog or other animal, as determined by the Shelter Supervisor.

(b) Unless a dog or other animal wearing a license tag has been redeemed within six (6) business days after being impounded or unless it is being held for evidence in a hearing pursuant to Sections 5-2.29 through 5-2.33, and it has not been sold pursuant to (a) above, it may be destroyed by the Shelter Supervisor in a humane manner. A dog or other animal not wearing a license tag impounded pursuant to section 5-2.15 shall be humanely destroyed by the Shelter Supervisor if, within six days after it is impounded, the owner has failed to make application to redeem the dog or other animal.

(c) If the owner of a dog or other animal gives permission in writing to do so, the dog or other animal may be sold or destroyed at any time after it is delivered to the Shelter, provided that no dog or other animal pursuant to Sections 5-2.29 through 5-2.33 of this Article shall be sold even with the permission of the owner.
5-2.20 SALE AND DESTRUCTION OF IMPOUNDED DOGS AND OTHER ANIMALS NOT WEARING TAGS.

(a) Unless a dog or other animal which is not wearing a license tag has been redeemed within six (6) business days after being impounded or unless it is being held for evidence in a hearing pursuant to Sections 5-2.29 through 5-2.33 of this Article, it may be sold by the Shelter Supervisor to the person offering to pay the highest cash amount therefore. But no dog or other animal not wearing a license tag impounded pursuant to Section 5-2.15, for which no application for redemption has been made by the owner, shall be sold pursuant to this section.

(b) If any impounded dog or other animal which is not wearing a license tag has not been redeemed within six (6) business days after being impounded or unless it is being held for evidence in a hearing pursuant to Sections 5-2.29 through 5-2.33 of this Article, and it has not been sold pursuant to (a) above, it may be destroyed by the Shelter Supervisor in a humane manner. A dog or other animal not wearing a license tag impounded pursuant to Section 5-2.15 shall be destroyed by the Shelter Supervisor in a humane manner if, within six business days after it is impounded, the owner has failed to make application to redeem the dog or other animal.

(c) If the owner of a dog or other animal given permission in writing to do so, the dog or other animal may be sold or destroyed in accordance with subsections (a) and (b) above at any time after it is delivered to the Shelter.

5-2.21 SALE OF IMPOUNDED DOGS. When a dog is sold by the Shelter Supervisor pursuant to the provisions of this Chapter, the Shelter Supervisor shall deliver to the purchaser of said dog a statement in writing containing a description of the dog, the date of sale, and the amount of the purchase price. All sales shall convey a good and valid title to the purchaser, and the previous owner of the dog shall thereafter be barred from all right to recover said dog.

5-2.22 LICENSING IMPOUNDED DOGS.

(a) The Shelter Supervisor shall not release an unlicenced dog to its owner or sell an unlicenced dog to any person who resides in the City, unless the owner or purchaser, respectively, signs an agreement that he or she will secure the required license within ten (10) days after he or she is given possession of the dog and pays a deposit in an amount set by the City Council by Resolution. Said deposit shall be refundable to the owner if the owner submits evidence of compliance with this section. It shall be unlawful to fail to secure said license within said ten (10) day period. If the owner or purchaser fails to secure said license within said ten (10) day period, he shall be required to return the dog to the Shelter Supervisor, and the dog may be impounded.
(b) The Shelter Supervisor shall not release to the owner or purchaser any dog whose license has been revoked after a hearing pursuant to this Chapter unless the owner or purchaser shows proof that he or she has enrolled the dog in a class to re-train the dog or proof that he or she is qualified to re-train the dog and the owner or purchaser signs an agreement that, until the dog is re-trained as evidenced by a certificate of successful completion of the training program, it will be securely confined when not under the immediate control of a responsible attendant and that he or she will secure the required license within ten (10) days after he or she is given possession of the dog. It shall be unlawful for the owner or purchaser to not keep the dog securely confined as agreed and to fail to secure said license with said ten (10) day period and any dog which is not so confined or for which said license is not secured within the required ten (10) day period shall be immediately impounded by the Shelter Supervisor and, without further notice, humanely destroyed or sold to a person willing to comply with the above requirements for re-training and confinement of the dog.

5-2.23 REMOVAL OF TAG. It shall be unlawful for any person to remove from a dog, without authority from the owner, any collar, harness, or other device to which is attached a license tag for the current year, or to remove such tag there from.

5-2.24 DISPLAY OF TAG. It shall be unlawful for any person to refuse to show the Shelter Supervisor or any peace officer, on request, the license certificate and the tag for any dog kept or remaining within his home or upon any enclosed premises under his immediate control.

5-2.25 KEEPING DANGEROUS DOGS OR OTHER ANIMALS. It shall be unlawful for a person to keep a dangerous dog or other animal. Any dog which has been found to be a dangerous or vicious animal pursuant to this Chapter, or the ordinance code of any other county or city or pursuant to any state statute, shall be conclusively presumed to be dangerous.

5-2.26 INTERFERENCE WITH HIGHWAYS. It shall be unlawful for the owner to allow or permit a dog to habitually or repeatedly attack pedestrians, cyclists, vehicles or other users of the public highways.

5-2.27 PERMITTING DOGS TO RUN AT LARGE. It shall be unlawful for the owner or other person in lawful possession or control of a dog to allow or permit the dog to run at large in any public park, public square, school or school grounds in any area of the City; or upon any property, whether public or private, except with the consent of the property owner, where such property is located within the City limits. Every dog found running at large in violation of the provisions of this section shall be seized and impounded.

5-2.28 BARKING DOGS. It shall be unlawful for any owner of a dog to keep said dog in the City, which dog shall by loud or excessive barking, howling, whining or making any other noise disturb the comfort or quiet of any neighborhood or any person; provided that said owner has been made aware of the disturbance created by the dog.
5-2.29 HEARING TO DETERMINE IF ANIMAL IS DANGEROUS.

(a) The Field Officers shall declare any dog or other animal to be a dangerous animal whenever it has attacked, bitten or caused injury to any human being or other animal, or where there is evidence that a dog has acted in a threatening manner towards any human being, a dog has exhibited characteristics of being trained for fighting or attacking, or there is other evidence to show such training or fighting. Within two (2) days after a dog or other animal, which is wearing a license tag, is impounded pursuant to this section, the Shelter Supervisor shall mail a notice of the finding that the dog or other animal is dangerous and of the owner’s right to a hearing on the issue of whether or not the animal is dangerous.

(b) The owner of an animal confined or impounded pursuant to this section may, within the six (6) day time period provided for application for redemption of the dog or other animal, request a hearing to determine whether or not the dog or other animal is a dangerous animal. Requests must be received by the Shelter Supervisor no more than six (6) days after impoundment.

(c) When a hearing is requested pursuant to subsection (b) above, a date and time for such a hearing shall be set, and notice thereof shall be sent by regular mail at least five (5) business days, including Saturday, before such date to the owner at the address set forth on his or her request and shall notify the victim of such hearing.

5-2.30 HEARING: CONDUCT.

(a) A hearing requested in accordance with this chapter shall be conducted before the Director or a person appointed as a hearing officer by the Director.

(b) The hearing shall be open to the public. The owner may be represented by counsel. The hearing officer shall hear all pertinent evidence offered by all interested persons. The technical rules of evidence shall not be applicable to the hearing, except that the hearing officer’s decision may not be based wholly on hearsay evidence. All persons giving evidence shall be sworn before testifying. The owner may employ a shorthand reporter to report the hearing.

(c) Any dog or other animal which has attacked, bitten or caused injury to a human being or other animal is presumed to be dangerous and the burden is on the owner to present evidence that the animal is not dangerous.

(d) In making a determination that a dog or other animal is or is not dangerous, evidence of the following shall be considered:

   (1) Any previous history of the dog or other animal attacking, biting or causing injury to a human being or other animal.
   (2) The nature and extent of injuries inflicted and the number of victims involved.
(3) The place where the bite, attack or injury occurred.
(4) The presence or absence of any provocation for the bite, attack or injury.
(5) The extent to which property has been damaged or destroyed.
(6) Whether the dog or other animal exhibits any characteristics of being trained for fighting or attack or other evidence to show such training or fighting.
(7) Whether the dog or other animal exhibits characteristics of aggressive or unpredictable temperament or behavior in the presence of human beings or dogs or other animals.
(8) Whether the dog or other animal can be effectively trained or re-trained to change its temperament or behavior.
(9) The manner in which the dog or other animal had been maintained by its owner or custodian.
(10) Any other relevant evidence concerning the maintenance of the dog or other animal.
(11) Any other relevant evidence regarding the ability of the owner or custodian to protect the public safety in the future if the dog is permitted to remain in the City.
(12) Any other relevant evidence concerning the characteristics or behavior of the dog, or concerning the circumstances of the incident.

5-2.31 HEARING: DECISION.

(a) At the conclusion of the hearing the hearing officer may determine:

(1) That the dog or other animal is not a dangerous animal and should be returned to its owner; or
(2) That the dog or other animal is not dangerous but that the attack, bite or injury was the result of improper or negligent training, handling or maintenance and that the license or animal permit should be revoked; or
(3) That the dog or other animal is a dangerous animal and that it should be humanely destroyed no sooner than the sixth business day following the mailing of notice of the hearing officer's decision.

(b) The decision of the hearing officer shall be in writing and shall be delivered personally to the owner or mailed to him or her by regular mail at the address appearing on the request for hearing.

(c) The owner may, within ten (10) days of the mailing of the hearing officer's written decision to the owner, appeal the hearing officer's decision to the Tulare County Superior Court pursuant to California Code of Civil Procedure Section 1094.6.

5-2.32 DISPOSITION OF DANGEROUS ANIMAL.

(a) It shall be unlawful for any person to own, possess, harbor or keep any dog or other animal declared to be dangerous.
(b) Any dog or other animal declared to be dangerous, if not already impounded, shall be immediately surrendered to the Shelter Supervisor, and it is the duty of the Shelter Supervisor to take up and impound any such dog or other animal.

(c) Any dog or other animal declared to be a dangerous animal shall be humanely destroyed as permitted pursuant to this Chapter or otherwise prescribed by law.

5-2.33 DOG OR OTHER ANIMAL DECLARED NOT DANGEROUS.

(a) If it is determined that the dog or other animal is not dangerous, but that the bite, attack, injury, or other behavior was the result of improper or negligent training, handling or maintenance, the dog license or animal permit shall be revoked.

(b) The dog license or animal permit may be reissued with reasonable terms, conditions or restrictions imposed for the training, handling or maintenance of the dog or other animal to protect the public health, safety and welfare only if it is determined that the owner or custodian is able and willing to properly train, handle or maintain the dog or other animal and a similar incident is not likely to occur in the future with proper training, handling or maintenance.

(c) If it is determined that the dog or other animal is not dangerous, but that the bite, attack or injury was the result of improper or negligent training, handling or maintenance and that the owner is unable or unwilling to properly train, handle or maintain the dog or other animal and that a similar incident is not likely to occur in the future with proper training, handling or maintenance, the dog or other animal will be disposed of pursuant to section 5-2.32.

Article III
Kennels

Sections:
5-3.1 Kennel Defined
5-3.2 Kennel Permit and Application Fee
5-3.3 Vaccination Certificate Required
5-3.4 Preliminary Inspection
5-3.5 Permit
5-3.6 Term of Permit
5-3.7 Delinquent Penalties, Securing Individual Licenses if Kennel Permit Denied, Time Limits
5-3.8 Permitting Dogs to Run At Large
5-3.9 Inspection of Kennel
5-3.10 Vaccination of Additional Dogs
5-3.11 Delivery of Vaccination Certificates to Purchasers
5-3.12 Effect of Revocation of Kennel Permit

5-3.1 KENNEL DEFINED. The term "kennel," as used in this Chapter, means a building or enclosure where five (5) or more dogs over four (4) months of age are kept.
5-3.2 KENNEL PERMIT AND APPLICATION FEE. In lieu of securing the permit required by this Chapter for each of the dogs in a kennel, a person owning or operating a kennel may obtain a kennel permit covering all of the dogs maintained in the kennel. It shall be unlawful to fail to secure either the permit required by this Chapter or the permit authorized by this chapter. The application for a kennel permit shall be filed with the Shelter Supervisor on a form prescribed by the him/her. The fees for kennel permits shall be set by Resolution of the City Council as adopted from time to time.

5-3.3 VACCINATION CERTIFICATE REQUIRED. The Shelter Supervisor shall not issue a kennel permit unless the person applying for the permit files with him a certificate or certificates signed by a licensed veterinarian showing that all of the dogs in the kennel which are over four (4) months of age have been vaccinated against rabies and which indicates that the period of time elapsing from the dates of the vaccinations to the date of expiration of the kennel permit does not exceed thirty (30) months in the case of vaccination with live virus rabies vaccine or eighteen (18) months in the case of vaccination with killed virus rabies vaccine, as those types of vaccines are defined in section 2606 et seq. of Chapter 17 of the California Code of Regulations. During any period when the City of Porterville is designated as a rabies area pursuant to sections 1900-1921 of the Health and Safety Code of the State of California, no killed virus vaccine shall be used other than vaccine of bovine nerve tissue origin.

However, if one or more dogs in the kennel are too ill to be vaccinated against rabies at the time the application for the kennel permit is filed with the Shelter Supervisor, and the application for the kennel permit is accompanied by a certificate signed by a veterinarian which so states, the Shelter Supervisor shall process and issue the kennel permit in compliance with this Chapter. The owner of the kennel shall thereafter have each such dog vaccinated within thirty (30) days after the date on which it becomes well enough to be vaccinated and, within ten (10) days after such dog has been vaccinated, the owner of the kennel shall file the vaccination certificate with the Shelter Supervisor. If satisfactory evidence is presented to the City Council that a person holding a kennel permit has failed to have a dog vaccinated pursuant to this section, the City Council shall direct the Shelter Supervisor to immediately revoke the kennel permit and to give the holder of the kennel permit written notice of such revocation.

5-3.4 PRELIMINARY INSPECTION: The Shelter Supervisor shall inspect the kennel and determine whether the kennel is constructed and operated in such a manner as to prevent the dogs confined therein from running at large.

5-3.5 LICENSE. If the Shelter Supervisor has determined that the kennel is constructed and operated in such a manner as to prevent dogs confined therein from running at large, and if the required vaccination certificates have been filed in compliance with the provisions of this Chapter, the Shelter Supervisor shall issue a kennel permit to the applicant. Otherwise, the Shelter Supervisor shall refuse to issue the kennel permit. The kennel permit issued by the Shelter Supervisor shall contain a serial number, the expiration date of the permit, the address of the kennel, and such other information as the Shelter Supervisor may require. The Shelter Supervisor shall not issue individual permit tags for the dogs in the kennel.
5-3.6 TERM OF PERMIT. Kennel permits shall be issued on a City fiscal year basis, commencing on July 1st and terminating on the next June 30th. During the period from July 1st through August 31st of each year, an owner who has secured a kennel permit for his dogs for the prior fiscal year shall not be in violation of this Chapter.

5-3.7 DELINQUENT PENALTIES: SECURING INDIVIDUAL PERMITS IF KENNEL PERMIT DENIED: TIME LIMITS. Commencing on the 1st day of September each year, the Shelter Supervisor shall collect a delinquent penalty, in addition to the regular permit fee, before issuing any kennel permit if the time limits set forth in this Chapter have expired for any dog in the kennel at the time that the application for the permit is filed. The delinquent penalty shall be in an amount equal to the regular permit fee as set forth in this Chapter. If an application for a kennel permit is filed before the time limits set forth in this Chapter have expired and if, after the expiration of such time limits, the Shelter Supervisor determines that a kennel permit shall not be issued, the Shelter Supervisor shall send the owner of the kennel written notice that the kennel permit shall not be issued. It shall be unlawful for the owner of the kennel to fail to secure individual permits for each of the dogs in the kennel, pursuant to the provisions of this Chapter, within thirty (30) days after receipt of such written notice of such violation. During the period between the date on which the application for the kennel permit is filed with the Shelter Supervisor until thirty (30) days after receipt of said written notice, the owner of the kennel shall not be in violation of this chapter.

5-3.8 PERMITTING DOGS TO RUN AT LARGE. It shall be unlawful for any person who has secured a kennel permit to allow or permit any dog in his kennel to run at large at any time. Every dog found running at large in violation of the provisions of this section shall be seized and impounded. If satisfactory evidence is presented to the City Council that a person holding a kennel permit has allowed or permitted a dog housed in said kennel to run at large, the City Council shall direct the Shelter Supervisor to immediately revoke the kennel permit and to give the holder of the kennel permit written notice of such revocation.

5-3.9 INSPECTION OF KENNEL. The Shelter Supervisor may from time to time inspect any kennel for which a kennel permit has been issued. If the Shelter Supervisor determines that the kennel is not constructed or operated in such a manner as to prevent the dogs confined therein from running at large, s/he shall immediately revoke the kennel permit and give the holder of the kennel permit written notice of such revocation.

5-3.10 VACCINATION OF ADDITIONAL DOGS. After a kennel permit has been issued, the owner of the kennel shall thereafter have each additional dog which is maintained in said kennel vaccinated against rabies by a permitted veterinarian within thirty (30) days after he acquires ownership of the dog. However, if the dog is less than four (4) months of age when it is acquired, it shall be vaccinated within thirty (30) days after the dog becomes four (4) months of age. If a dog is too ill to be vaccinated against rabies at the time that the time limits set forth above expire, then the owner of the kennel shall thereafter have each such dog vaccinated within thirty (30) days after the date on which it becomes well enough to be vaccinated. Within ten (10) days after a dog has been vaccinated in accordance with this section, the owner of the kennel shall file the vaccination certificate with the City Shelter
Supervisor. If satisfactory evidence is presented to the City Council that a person holding a kennel permit has failed to comply with the provisions of this section, the City Council shall direct the Shelter Supervisor to immediately revoke the kennel permit and to give the holder of the kennel permit written notice of such revocation.

5-3.11 DELIVERY OF VACCINATION CERTIFICATES TO PURCHASERS. Whenever a person holding a kennel permit sells any dog in the kennel, he shall deliver his copy of the vaccination certificate for the dog to the purchaser. If satisfactory evidence is presented to the City Council that a person holding a kennel permit has failed to comply with the provisions of this section, the City Council shall direct the Shelter Supervisor to immediately revoke the kennel permit and to give the holder of the kennel permit written notice of such revocation.

5-3.12 EFFECT OF REVOCATION OF KENNEL PERMIT. If the Shelter Supervisor revokes a kennel permit pursuant to the provisions of this chapter, it shall be unlawful for the owner of the kennel to fail to secure individual dog permits for each of the dogs in the kennel, pursuant to this Chapter, within thirty (30) days after receipt of written notice of such revocation from the Shelter Supervisor. Any person whose kennel permit has been revoked by the Shelter Supervisor shall not be permitted to apply for a kennel permit until the next ensuing fiscal year.

Article IV
Rabies Control

Sections:
5-4.1 Application of Article
5-4.2 Animal Showing Signs of Rabies
5-4.3 Isolation of Rabid Animals and Clinically Suspected Rabid Animals
5-4.4 Animals Biting Persons
5-4.5 Animals in Contact with Rabid Animals
5-4.6 Violation of Quarantine

5-4.1 APPLICATION OF ARTICLE. This Chapter shall be in effect only at those times when the City of Porterville is not designated as a rabies area pursuant to sections 1900-1921 of the Health and Safety Code of the State of California. During those periods when the City of Porterville is designated as a rabies area, the provisions of said sections 1900-1921 of the Health and Safety Code, and the rules and regulations adopted pursuant thereto, are applicable rather than the provisions of this Article.

5-4.2 ANIMAL SHOWING SIGNS OF RABIES. Whenever the owner of an animal observes or learns that such animal shows symptoms of rabies or acts in a manner which would lead to a reasonable suspicion that it may have rabies, such person shall immediately notify the Shelter Supervisor. Said person shall thereafter allow the Shelter Supervisor, or his/her representative to make an inspection or examination of said animal.
5-4.3 ISOLATION OF RABID ANIMALS AND CLINICALLY SUSPECTED RABID ANIMALS. The owner of any rabid animal or clinically suspected rabid animal shall isolate the animal in strict confinement under proper care and under the observation of a veterinarian, in a Kennel, veterinary hospital, or other adequate facility in a manner approved by the Shelter Supervisor, and said animal shall not be destroyed or released from confinement for at least ten (10) days after the onset of symptoms suggestive of rabies and until the Shelter Supervisor gives written authorization for the release of the animal, with the exception that such animal may be sacrificed with the permission of the Shelter Supervisor for the purpose of a laboratory examination for rabies using the fluorescent rabies antibody test in an approved public health laboratory.

5-4.4 ANIMALS BITING PERSONS. Whenever the owner of an animal has knowledge that such animal has bitten any person, the owner shall immediately report that fact to the Shelter Supervisor and report the name and address of the person bitten and the time and place that such person was bitten. Upon order of the Shelter Supervisor, the owner shall quarantine the animal for the period of time specified in section 2606 of Chapter 17 of the California Administrative Code with regard to rabies areas, and shall allow the Shelter Supervisor or his/her representative to make inspections and examinations of the animal from time to time during such period. The Shelter Supervisor shall quarantine said animal upon the premises of the owner. However, if the owner of the animal so desires, the Shelter Supervisor shall place the animal in quarantine in a veterinary hospital, at the expense of the owner, in lieu of quarantine of the animal on the premises of the owner. Quarantine shall be made by written notice delivered to the owner of said animal stating that the animal is quarantined and the instructions to be followed. If the quarantine is upon the premises of the owner of the animal, the animal shall be confined within a locked enclosure so constructed that the animal cannot escape or have contact with any other animal or human being other than the person responsible for its care or, at the discretion of the Shelter Supervisor, the animal may be kept under restraint by leash in charge of a responsible person, or under such restrictions as the Shelter Supervisor may prescribe. Said animal shall be kept in quarantine until the Shelter Supervisor gives written authorization for the release of the animal from quarantine. Notwithstanding the foregoing provisions, such animal may be sacrificed with the permission of the Shelter Supervisor for the purpose of a laboratory examination for rabies using the fluorescent rabies antibody test in an approved public health laboratory.

5-4.5 ANIMALS IN CONTACT WITH RABID ANIMALS. Any animal of a species subject to rabies which has been bitten by a known rabid or suspected rabid animal or has been in intimate contact with a rabid or suspected rabid animal shall be quarantined by the owner in a place and manner approved by the Shelter Supervisor, for a period of six (6) months or destroyed; provided, however, that the following alternatives are permitted in the case of dogs and cats: If the dog or cat has been vaccinated against rabies within two (2) years but not less than thirty (30) days with a live virus vaccine, or within one (1) year but not less than thirty (30) days with a killed virus vaccine, as those types of vaccines are defined in section 2606 et seq. of Chapter 17 of the California Administrative Code, the dog or cat may be re-vaccinated in a manner approved by the Shelter Supervisor and quarantined in a place and manner approved by the Shelter Supervisor for a period of thirty (30) days.
The provisions of this Chapter concerning quarantine shall also apply to the quarantine of animals pursuant to this section.

5-4.6 VIOLATION OF QUARANTINE. When any animal is quarantined by the Shelter Supervisor, it shall be unlawful for the owner of the animal to violate the quarantine by removing said animal from the premises where it is quarantined, allowing it to run at large, destroying it without authorization from the Shelter Supervisor, concealing it from the Shelter Supervisor or disobeying any of the quarantine restrictions which have been imposed by the Shelter Supervisor.

Article V
Violations

Sections:
5-5.1 Violations

5-5.1 VIOLATIONS.

(a) Misdemeanor. Any person violating any of the provisions of section this Chapter shall be guilty of a misdemeanor and upon conviction thereof shall be punished by a fine not exceeding one thousand dollars ($1,000.00) or by imprisonment for a term not exceeding six (6) months or by both such fine and imprisonment.

(b) Separate Offense. Each day that any provision of this chapter is violated is a separate and distinct offense and shall be punishable as separate and distinct offense.

(c) Infraction. Notwithstanding the classification of a violation of this Chapter as a misdemeanor, at the time an action is commenced to enforce the provisions of this Chapter, the trial court, upon recommendation of the prosecuting attorney, may reduce the charged offense from a misdemeanor to an infraction. Any person convicted of an infraction under this Chapter shall be punished by:

(1) A fine not exceeding one hundred dollars ($100.00) for a first violation;
(2) A fine not exceeding two hundred dollars ($200.00) for a second violation of this Chapter within one (1) year; and
(3) A fine not exceeding five hundred dollars ($500.00) for each additional violation of this Chapter within one (1) year.

(d) Administrative Citation. Upon a finding by the city official or representative vested with the authority to enforce the various provisions of this Chapter, that a violation exists, he or she may issue an Administrative Citation and proceed with enforcement pursuant to Chapter 2, Article XIV, of the Municipal Code.

(e) Civil Action. The City Attorney, or an Attorney hired for such purposes by and at the request of the City Council, may institute an action in any court of competent jurisdiction to restrain, enjoin or abate the condition found to be in violation of the provisions of the Chapter, or State Codes specifically adopted by reference, as provided by law, and the City shall be entitled to its attorneys fees and costs.

(f) These remedies shall not supplant or replace the procedures concerning dangerous animals as specified in Sections 5-2.15, and 5-2.29 through 5-2.33.
SECTION 2: This Ordinance shall be in full force and effect thirty (30) days from and after its passage, adoption, and approval.

Mayor

ATTEST:

City Clerk
SUBJECT: YOUTH GROUP FIELD USE FEES

SOURCE: PARKS AND LEISURE SERVICES DEPARTMENT

COMMENT: The City Council has requested the review of field use fees for youth group activities with consideration of the cost for the City providing portable toilets. The fees were last considered by the Council on October 3, 2006. Currently the fees are $5.00 per day per facility for each youth group scheduling the use of fields. By Resolution No. 129-2006 the fees will adjust to $10.00 on June 1, 2008 and to $15.00 on June 1, 2009.

Staff has reviewed the impact of the additional portable toilet rentals and evaluated the possible distribution of that cost to the field users. The attached table illustrates that the increased rental cost equates to approximately $9.83 per field use day. The previously established and specified fee increases already implemented for 2007 and scheduled for 2008 will provide $10 per field use day by June 1, 2008. Although the field use fees are not intended to solely offset toilet facility cost, they do represent a new revenue source that was not being captured before 2007.

OPTIONS: The current field use fee implementation schedule can be maintained, the fee implementation program could be accelerated by one year, or further exploration could be given to directly charging each program/league for their share of the toilet rental charges in addition to the current field use fee implementation schedule.

A public hearing would need to be conducted to increase the fees or create new charges.

RECOMMENDATION: That the City Council accept this report on the Youth Group Field Use Fees and take no further action to consider modifications to the fees.

ATTACHMENTS: Youth group field use toilet cost distribution
Resolution No. 129 - 2006
Staff Report on Youth Group Field Rental Fees of 10/3/06

Director Appropriated/Funded City Manager

ITEM NO.: 36
# Youth Group Field Use Toilet Cost Distribution

<table>
<thead>
<tr>
<th>Facility</th>
<th>User</th>
<th>time period of use</th>
<th>current # days of use</th>
<th>current rental cost</th>
<th>current cost/use day</th>
<th>new # use days</th>
<th>increased rental cost</th>
<th>increased cost/use day</th>
<th>total # of use days</th>
<th>proposed total rental cost</th>
<th>total cost/use day</th>
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<tbody>
<tr>
<td>SPORTS COMPLEX</td>
<td>various leagues</td>
<td>Sept. - December</td>
<td>100</td>
<td>1,800 $</td>
<td>18.00</td>
<td>76</td>
<td>750 $</td>
<td>9.87</td>
<td>176 $</td>
<td>2,550 $</td>
<td>14.49</td>
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<tr>
<td></td>
<td>various leagues</td>
<td>August</td>
<td>100</td>
<td>1,800 $</td>
<td>18.00</td>
<td>0</td>
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<td>18.00</td>
<td>100 $</td>
<td>1,800 $</td>
<td>18.00</td>
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<tr>
<td></td>
<td>CYSA</td>
<td>March - June</td>
<td>25</td>
<td>150 $</td>
<td>6.00</td>
<td>25</td>
<td>150 $</td>
<td>6.00</td>
<td>25 $</td>
<td>150 $</td>
<td>6.00</td>
</tr>
<tr>
<td></td>
<td>City Baseball</td>
<td>May &amp; June</td>
<td>35</td>
<td>450 $</td>
<td>12.66</td>
<td>35</td>
<td>450 $</td>
<td>12.66</td>
<td>35 $</td>
<td>450 $</td>
<td>12.66</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>16</td>
<td>150 $</td>
<td>9.38</td>
<td>16</td>
<td>150 $</td>
<td>9.38</td>
<td>16 $</td>
<td>150 $</td>
<td>9.38</td>
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<td>BURTON BALLFIELDS</td>
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<td>April &amp; May</td>
<td>52</td>
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<td>11.54</td>
<td>60</td>
<td>600 $</td>
<td>10.00</td>
<td>112 $</td>
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<td></td>
<td>Porterville Youth Football</td>
<td>August - November</td>
<td>52</td>
<td>600 $</td>
<td>11.54</td>
<td>0</td>
<td>600 $</td>
<td>10.00</td>
<td>52 $</td>
<td>600 $</td>
<td>11.54</td>
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<tr>
<td></td>
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<td>60 $</td>
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<td>10.00</td>
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<tr>
<td>MUNICIPAL BALLPARK</td>
<td>City Arena Soccer</td>
<td>February - April</td>
<td>40</td>
<td>450 $</td>
<td>11.25</td>
<td>154</td>
<td>1,500 $</td>
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<td>154 $</td>
<td>1,950 $</td>
<td>12.66</td>
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<tr>
<td></td>
<td>Babe Ruth</td>
<td>May - July</td>
<td>40</td>
<td>450 $</td>
<td>11.25</td>
<td>32</td>
<td>675 $</td>
<td>21.09</td>
<td>32 $</td>
<td>675 $</td>
<td>21.09</td>
</tr>
<tr>
<td></td>
<td>Porterville Youth Football</td>
<td>August - November</td>
<td>40</td>
<td>450 $</td>
<td>11.25</td>
<td>40</td>
<td>225 $</td>
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<td>40 $</td>
<td>675 $</td>
<td>16.88</td>
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<td></td>
<td></td>
<td>82</td>
<td>600 $</td>
<td>7.32</td>
<td>82</td>
<td>600 $</td>
<td>7.32</td>
<td>82 $</td>
<td>600 $</td>
<td>7.32</td>
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<tr>
<td>ALL FACILITIES</td>
<td></td>
<td></td>
<td>192</td>
<td>2,850 $</td>
<td>14.84</td>
<td>290</td>
<td>2,850 $</td>
<td>9.83</td>
<td>442 $</td>
<td>5,700 $</td>
<td>12.90</td>
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</table>
RESOLUTION NO. 129-2006

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
APPROVING AN ADJUSTMENT TO YOUTH GROUP
FIELD RENTAL FEES

BE IT HEREBY RESOLVED, by the City Council of the City of Porterville, that
the Youth Group Field Rental Fees by adjusted as follows:

<table>
<thead>
<tr>
<th>Date</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>Effective October 4, 2006</td>
<td>no fee</td>
</tr>
<tr>
<td>Effective June 1, 2007</td>
<td>$ 5.00 per day per facility</td>
</tr>
<tr>
<td>Effective June 1, 2008</td>
<td>$10.00 per day per facility</td>
</tr>
<tr>
<td>Effective June 1, 2009</td>
<td>$15.00 per day per facility</td>
</tr>
</tbody>
</table>

Dated this 3rd day of October, 2006

Cameron J. Hamilton, Mayor

ATTEST:
John Longley, City Clerk

By: Georgia Hawley, Chief Deputy City Clerk
SUBJECT: YOUTH GROUP FIELD RENTAL FEES

SOURCE: PARKS AND LEISURE SERVICES COMMISSION

COMMENT: Recently, several sports leagues have contacted the Parks & Leisure Services Department to reserve fields at various sports fields for practice and/or league games. League representatives have indicated that their leagues had not been charged field-use fees and had only been charged fees for lights in the past.

Staff has researched the records over the past two years for youth event organizations that utilize various fields. Fees have not been collected for field use, with only one exception, at fields other than the Sports Complex. The fees for the Sports Complex were established separately from the fees for other fields, and organizations have regularly paid fees for use of the Sports Complex for practice days. Attachment 'A' is a recent staff memorandum providing records on the past two years. Attachment 'B' is a copy of a portion of Resolution No. 56-88 establishing the 'Youth Group Field Rental Fees' as fee number S-106.

RECOMMENDATION: That the City Council adopt the Resolution approving an adjustment to Youth Group Field Rental Fees.

ATTACHMENTS: Resolution approving an adjustment to Youth Group Field Rental Fees
Staff memorandum of August 30, 2006
Excerpted portions of Resolution No. 56-88
RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
APPROVING AN ADJUSTMENT TO YOUTH GROUP
FIELD RENTAL FEES

BE IT HEREBY RESOLVED, by the City Council of the City of Porterville, that the Youth Group Field Rental Fees by adjusted as follows:

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<tr>
<th>Effective Date</th>
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</tr>
<tr>
<td>Effective June 1, 2008</td>
<td>$10.00 per day per facility</td>
</tr>
<tr>
<td>Effective June 1, 2009</td>
<td>$15.00 per day per facility</td>
</tr>
</tbody>
</table>

Dated this 3rd day of October, 2006

Cameron J. Hamilton, Mayor

ATTEST:
John Longley, City Clerk

By: __________________________
Georgia Hawley, Chief Deputy City Clerk
MEMORANDUM

TO: JOHN LONGLEY, CITY MANAGER
FROM: JIM PERRINE, PARKS & LEISURE SERVICES DIRECTOR
DATE: AUGUST 30, 2006
SUBJECT: MUNICIPAL BALLPARK YOUTH EVENT FIELD USE CHARGES

Resolution No. 56-88, adopted in June 1988 established a fee (S-106) entitled ‘Youth Group Field Rental Fees’. These fees included a charge for lights per field per night, and a separate charge for maintenance per day per facility. The purpose of the fees was stated as, “Fee to defray cost of field maintenance and operation”. Resolution No. 66-94 in July 1994 updated the charge for lights. No other changes have occurred to the originally established S-106 fee. Separate fees were established for the Sports Complex use in 2002, which were modified in several actions during 2006.

Apart from the Sports Complex, the Council adopted fees for youth event field uses currently are $15 per day per facility, plus $15 per field per night for lights. A supervision fee of $15 per hour has also been established for personnel needing to respond to unlock or lock gates, turn lights on & off, or otherwise monitor the facility. The Municipal Ballpark consists of one field, and thus charges should amount to about $37.50 per evening of regular event use.

Staff has researched the fees assessed and collected for youth events during the years of 2005 and 2006 for the four fields operated by the Parks & Leisure Services Department. The Burton ballfields is the single facility not owned by the City, with the use of the field controlled by the Burton School District. The lights at this location are City property and City fees are assessed for their use. Field use fees have been charged for scheduled practice use at the Sports Complex. For the other two facilities, with one exception, charges have been collected only for the use of lights, as well as the supervision to operate the lights, during this two-year period.

Errors seem to have resulted from the 2002 shorthand summary of all facility fees compressed onto the back of the facility reservation form. This summary of fees seems to imply that one fee applies if lights are utilized and a different fee is applicable when lights are not required. Examining the original fee resolution is required to understand that the facility use (maintenance fee) is required for all uses, with the lighting charge being in addition for the use of the lights. An attempt to list the fees in a less confusing manner was made earlier this year when adjustments to the facility use fees were proposed. When no fee adjustments were authorized we stopped work on redesign and reprinting of the facility reservation forms.

Attached is a summary of the youth event fees assessed and collected during 2005 and thus far during 2006.

From the Desk of
Jim Perrine, Director
Parks & Leisure Services
Phone: 559.782.7536

Attachment 'A'
### Sports Complex

<table>
<thead>
<tr>
<th>Date</th>
<th>Name/League</th>
<th>Event</th>
<th>Use</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>1/1/05</td>
<td>CYSA</td>
<td>Games</td>
<td>Field</td>
<td>$70</td>
</tr>
<tr>
<td>2/20/05</td>
<td>Wal-Mart</td>
<td>Flag Football</td>
<td>Field</td>
<td>$380</td>
</tr>
<tr>
<td>2/23/05</td>
<td>Devin Wilson</td>
<td>Practice</td>
<td>Field</td>
<td>$27</td>
</tr>
<tr>
<td>2/24/05</td>
<td>Mike Dohrman</td>
<td>Practice</td>
<td>Diamond</td>
<td>$58</td>
</tr>
<tr>
<td>3/28/05</td>
<td>Devin Wilson</td>
<td>Practice</td>
<td>Diamond</td>
<td>$45</td>
</tr>
<tr>
<td>4/5-6/15/05</td>
<td>Nazarene Church</td>
<td>Practices/Games</td>
<td>Diamond</td>
<td>$640</td>
</tr>
<tr>
<td>4/11/05</td>
<td>Mike Dohrman</td>
<td>Practice</td>
<td>Diamond</td>
<td>$33</td>
</tr>
<tr>
<td>4/25-12/31/05</td>
<td>Juventus</td>
<td>Practices/Games</td>
<td>Field</td>
<td>$375</td>
</tr>
<tr>
<td>4/20/05</td>
<td>Mike Dohrman</td>
<td>Practice</td>
<td>Diamond</td>
<td>$33</td>
</tr>
<tr>
<td>5/16/05</td>
<td>AYSO</td>
<td>Season</td>
<td>Parking</td>
<td>$2,400</td>
</tr>
<tr>
<td>8/27/05</td>
<td>Flag Football</td>
<td>Season</td>
<td>Parking</td>
<td>$2,495</td>
</tr>
<tr>
<td>9/9/05</td>
<td>CYS A</td>
<td>Season</td>
<td>Parking/Field</td>
<td>$555</td>
</tr>
<tr>
<td>1/21/06</td>
<td>Brett Simmons</td>
<td>Practice</td>
<td>Diamond</td>
<td>$43</td>
</tr>
<tr>
<td>2/23/06</td>
<td>Devin Wilson</td>
<td>Practice</td>
<td>Diamond</td>
<td>$13</td>
</tr>
<tr>
<td>3/2/06</td>
<td>J.R. Flores</td>
<td>Practice</td>
<td>Diamond</td>
<td>$68</td>
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<tr>
<td>3/15/06</td>
<td>Mike Watson</td>
<td>Practice</td>
<td>Diamond</td>
<td>$23</td>
</tr>
<tr>
<td>3/23/06</td>
<td>Chad Davis</td>
<td>Practice</td>
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<tr>
<td>4/3-12/31/06</td>
<td>Juveztus</td>
<td>Practices/Games</td>
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</tr>
<tr>
<td>8/5-6/1-27/07</td>
<td>Steve Silver</td>
<td>Games</td>
<td>Field</td>
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<tr>
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<td>AYSO</td>
<td>Practices/Games</td>
<td>Field</td>
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</tr>
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<td>Games</td>
<td>Field</td>
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<tr>
<td>7/4-8/30/06</td>
<td>Youth Tackle Football</td>
<td>Practices</td>
<td>Lights</td>
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### Hayes Field

<table>
<thead>
<tr>
<th>Date</th>
<th>Name/League</th>
<th>Event</th>
<th>Use</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>3/1/05</td>
<td>PAYS A</td>
<td>Practices/Games</td>
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<td>Pay VA Valley</td>
<td>Tournament</td>
<td>Lights</td>
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<td>10/3/05</td>
<td>Grizzlies Football</td>
<td>Practice</td>
<td>Lights</td>
<td>$28</td>
</tr>
<tr>
<td>10/13/05</td>
<td>Grizzlies Football</td>
<td>Practice</td>
<td>Lights</td>
<td>$28</td>
</tr>
<tr>
<td>10/25/05</td>
<td>Grizzlies Football</td>
<td>Practice</td>
<td>Lights</td>
<td>$28</td>
</tr>
<tr>
<td>10/31/05</td>
<td>Grizzlies Football</td>
<td>Practice</td>
<td>Lights</td>
<td>$28</td>
</tr>
<tr>
<td>11/3/05</td>
<td>Mejia DDS</td>
<td>Practice</td>
<td>Lights</td>
<td>$56</td>
</tr>
<tr>
<td>11/7/05</td>
<td>Sherri Newsom</td>
<td>Practice</td>
<td>Lights</td>
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<tr>
<td>3/1-5/31/06</td>
<td>PAYS A</td>
<td>Practices/Games</td>
<td>Lights</td>
<td>$1,398 (NP)</td>
</tr>
</tbody>
</table>

### Municipal Ballpark

<table>
<thead>
<tr>
<th>Date</th>
<th>Name/League</th>
<th>Event</th>
<th>Use</th>
<th>Fee</th>
</tr>
</thead>
<tbody>
<tr>
<td>1/25/05</td>
<td>Lorraine Zorn</td>
<td>Practice</td>
<td>Lights</td>
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<tr>
<td>6/29/05</td>
<td>Babe Ruth</td>
<td>Season</td>
<td>Lights</td>
<td>$1,493</td>
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<tr>
<td>7/3-11/30/05</td>
<td>Youth Tackle Football</td>
<td>Practices</td>
<td>Lights</td>
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<tr>
<td>12/13/05</td>
<td>Soccer</td>
<td>Practice</td>
<td>Lights</td>
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<tr>
<td>1/9/06</td>
<td>Soccer</td>
<td>Practice</td>
<td>Lights</td>
<td>$33</td>
</tr>
<tr>
<td>1/24/06</td>
<td>Soccer</td>
<td>Practice</td>
<td>Lights</td>
<td>$28</td>
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<tr>
<td>4/22/06</td>
<td>Celebrates Reading</td>
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<td>5/22/06</td>
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<td>Season</td>
<td>Lights</td>
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<tr>
<td>9/1-11/30/06</td>
<td>Youth Tackle Football</td>
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<td>Lights</td>
<td>$585 (NP)</td>
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<tr>
<td>9/1-11/30/06</td>
<td>Youth Tackle Football</td>
<td>Practices</td>
<td>Field</td>
<td>$583 (NP)</td>
</tr>
<tr>
<td>Date</td>
<td>Name/League</td>
<td>Event</td>
<td>Use</td>
<td>Fee</td>
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<td>------</td>
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<tr>
<td>3/17-6/30/05</td>
<td>Little League</td>
<td>Games</td>
<td>Lights</td>
<td>$1,380</td>
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<tr>
<td>8/3-11/30/05</td>
<td>Youth Tackle Football</td>
<td>Practices</td>
<td>Lights</td>
<td>$990</td>
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<tr>
<td>10/27/05</td>
<td>Grizzlies Football</td>
<td>Practice</td>
<td>Lights</td>
<td>$28</td>
</tr>
<tr>
<td>11/9/05</td>
<td>Flag Football</td>
<td>Practices</td>
<td>Lights</td>
<td>$56</td>
</tr>
<tr>
<td>11/14/05</td>
<td>Flag Football</td>
<td>Practices</td>
<td>Lights</td>
<td>$97</td>
</tr>
<tr>
<td>11/30/05</td>
<td>Flag Football</td>
<td>Practices</td>
<td>Lights</td>
<td>$135</td>
</tr>
<tr>
<td>12/9/05</td>
<td>Flag Football</td>
<td>Practices</td>
<td>Lights</td>
<td>$28</td>
</tr>
<tr>
<td>4/6-7/6/06</td>
<td>Little League</td>
<td>Games</td>
<td>Lights</td>
<td>$1,335</td>
</tr>
<tr>
<td>9/1-11/30/06</td>
<td>Youth Tackle Football</td>
<td>Practices</td>
<td>Lights</td>
<td>$585 (NP)</td>
</tr>
</tbody>
</table>

(NP) = Have not paid
RESOLUTION NO. 56-88


WHEREAS, the City Council of the City of Porterville adopted Ordinance #1402 on June 7, 1988, adding Article XII Entitled Fees and Service Charges/Cost Control System to Chapter 2 of the Municipal Code; and

WHEREAS, Section 2-112. Fees and Service Charges, of said Ordinance calls for the adoption of annual fees and service charges by the City Council; and

WHEREAS, the City Council held a public hearing on June 14, 1988, to discuss the proposed fees and service charges;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Porterville that the fees and service charges set forth in Exhibit "A" shall be adopted for fiscal year 1988/89.

John T. Rankin, Jr., Mayor

ATTEST:

C. G. Huffaker, City Clerk

STATE OF CALIFORNIA) (SS
COUNTY OF TULARE )

I, C. G. HUFFAKER, the duly appointed City Clerk of the City of Porterville, do hereby certify and declare that the foregoing is a full, true and correct copy of a resolution duly and regularly passed and adopted at an adjourned meeting of the Porterville City Council called and held on the 14th day of June, 1988.

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

AYES: COUNCILMEN: Pruitt, Bonds, Leavitt, Ensslin, Rankin
NOES: COUNCILMEN: None
ABSENT: COUNCILMEN: None

C. G. HUFFAKER, City Clerk

Georgia Hawley, Deputy City Clerk

Attachment 'B'
<table>
<thead>
<tr>
<th>Number</th>
<th>Title &amp; Description</th>
<th>Effective Date</th>
<th>Amount</th>
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<tr>
<td>S-103</td>
<td>CITY YOUTH SPORTS FEES</td>
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<td></td>
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<td></td>
<td>Fee to defray cost of administering</td>
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<td>City youth sports leagues.</td>
<td></td>
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<td>S-104</td>
<td>ADULT GROUP FIELD RENTAL FEES</td>
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<td></td>
<td>Lights per field per night</td>
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<td></td>
<td>Hayes Field</td>
<td>7-1-88</td>
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<td></td>
<td>Municipal Ball Park</td>
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<td>Porterville College</td>
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<td>Pioneer Jr. High</td>
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<td>Maintenance per day per facility</td>
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<td>Tournament &amp; Other Uses without</td>
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<td>Commercial Uses of Fields per hour</td>
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<td>Fee to defray cost of field</td>
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<td>maintenance and operation</td>
<td>10-1-88</td>
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<tr>
<td>S-105</td>
<td>BALLPARK USE RENTALS</td>
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<td>See S-104/106</td>
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<td>S-106</td>
<td>YOUTH GROUP FIELD RENTAL FEES</td>
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<td>Lights per field per night</td>
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<td>maintenance and operation</td>
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<td>S-107</td>
<td>TRIPS AND EXCURSIONS FEES</td>
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<td>100% of cost</td>
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<td>GOLF COURSE FEES</td>
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<td>18 Holes</td>
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<td>Weekends &amp; Holidays</td>
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<td>9 Holes</td>
<td>5.50</td>
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COUNCIL AGENDA: OCTOBER 16, 2007

SUBJECT: APPOINTMENTS TO LIBRARY BOARD OF TRUSTEES AND PARKS AND LEISURE SERVICES COMMISSION

SOURCE: PARKS AND LEISURE SERVICES DEPARTMENT

COMMENT: The City Council has announced the expiration of two terms on the Library Board of Trustees. Notice has been distributed that interested individuals should submit a ‘Request for Appointment’ to the City Clerk’s office. Six individuals have requested consideration for the two terms expiring in October 2010.

The interested individuals for Library Board of Trustees are:
Margaret Stinson
Rebecca L. Carley
Hector T. Villicana
Mary M. (Meg) Hansen
Herbert D. Bonds
Obdulia Guzman Alvarado

The City Council has also announced the expiration of four terms on the Parks & Leisure Services Commission. One of the positions is the representative of the Porterville Unified School District. Dr. Snively has corresponded that it is his desire for Mrs. Cathy Capone to continue to serve as the PUSD representative. Notice has been distributed that interested individuals could submit a ‘Request for Appointment’ to the City Clerk’s office for the remaining three positions. Five individuals have requested consideration for the three terms expiring in October 2011.

The interested individuals for Parks & Leisure Commission are:
George Luna
Grace Munoz-Rios
Donald W. Beardsley
Charles F. Webber
Obdulia Guzman Alvarado

RECOMMENDATION: Consider the submitted Requests for Appointment and appoint two residents to the Library Board of Trustees, and three residents to the Parks & Leisure Services Commission.

ATTACHMENTS: Letter from Dr. Snively
Requests for Appointments

[Signatures]

ITEM NO.: 27
August 22, 2007

Jim Perrine, Director
Parks and Leisure Services
City of Porterville
251 No. Main Street
Porterville, CA 93257

Dear Mr. Perrine:

Mrs. Cathy Capone brought to my attention that her term on the Parks and Leisure Services Commission for the City of Porterville will end in September 2007. We would like for Mrs. Capone to continue her appointment on this Commission as the representative for the Porterville Unified School District.

Should you have any questions or need further information, I may be reached at 793-2455.

Sincerely,

John Snavely, Ed.D.
Superintendent

J/Snavely
Cc: Cathy Capone
     Correspondence – Misc
     CDP – PLBG Rep 2
CITY OF PORTERVILLE
REQUEST FOR APPOINTMENT

Please complete all blanks.

Name: Margaret Stinson
(Please Print)

Appointment to: Library Board
(Name of Board, Commission, or Committee)

☐ Reappointment; or IF NEW, please provide:

Street Address: 1111 N. Patsy Dr.
Porterville, CA 93257

Mailing Address: 1111 N. Patsy Dr
Porterville, CA 93257

Name of Business:

☐ Own ☐ Operate

Business Address:

Telephone: Home 559-782-3512
Message
Week 559-789-7842.
FAX
E-mail

City of Porterville resident: ☐ Yes ☐ No
Registered Voter: ☐ Yes ☐ No
Qualifications: Member Friends of the Library Porterville. For 20 yrs member S. El Monte Friends of Library. President for 10 yrs. Founded and sponsored Junior Friends group, City Commissioner to Los Angeles County Library Board, Lobbyist in Sacramento for Libraries. Represented the library at Co-ordinating Council, was on board for eight years. Worked with various other groups in S. El Monte and Azusa, and also city personnel, both in planning and fund raising.

☐ Resume attached
☐ Letter of request attached

Submitted By: Mrs. Margaret Stimson 01-10-07 Date

Received by: [Signature] Clerk's office - received continue interest 8/10/07.

Forwarded to: City Clerk ☐ Date: ____________________

City Council ☐ Date: ____________________

City Manager ☐ Date: ____________________

Applicable Dept. ☑ Date: Jim Service/PR

Tentative Council Mtg Date: ____________________

Page 2 of 2
CITY OF PORTERVILLE
REQUEST FOR APPOINTMENT

Please complete all blanks.

Name: Rebecca L. Carley
(Please Print)

Appointment to: Library Board
(Name of Board, Commission, or Committee)

☐ Reappointment; or IF NEW, please provide:

Street Address: 858 W. Cleo Avenue
Porterville, CA 93257

Mailing Address: Same

Name of Business: ________________________________

☐ Own ☐ Operate

Business Address: ________________________________

Telephone: Home (559) 781-4061
Work (559) 791-2319
FAX ________________________________
E-mail rlearley@gmail.com

City of Porterville resident: ☒ Yes ☐ No

Registered Voter: ☒ Yes ☐ No
Qualifications: BS in Education with minors in Music and English. Taught 4-5 grade for 2.5 years. Taught adults in community education as well as at Fresno City College and the Institute of Technology for over 9 years. Working with the Porterville College Foundation has allowed me to work closely with community members and participate in the planning and execution of their major fundraiser the Wine Auction. I was employed by the Fresno County Library System while in high school and continued on to work in my college library for four years. As a voracious reader, I feel the public library system is indispensable and must continue to be available to and provide services for our community.

☐ Resume attached
☐ Letter of request attached

Submitted By: [Signature] 7-25-07 Date

Received by: [Signature] 7/25/07

Forwarded to: City Clerk ☐ Date: __________________________
City Council ☐ Date: __________________________
City Manager ☐ Date: __________________________
Applicable Dept. ☑ Date: 7/25/07 Jim Perrine

Tentative Council Mtg Date: __________________________

Page 2 of 2
Rebecca L. Carley

Summary of Qualifications

- Strong teaching background in both public and private post-secondary vocation
- ACCSCT and BPPVE submission, documentation, and response authoring
- Administrative experience as a mentor instructor, dean, student success leader, and operations liaison in a private, post-secondary institution
- Wide-based computer skills encompassing both office and design applications

Application Knowledge

- MS Windows, All Versions
- MS Office, All Versions and Programs
- Corel WordPerfect Suite
- Adobe Photoshop, 3.0 and higher
- Adobe Acrobat, 4.0 and higher
- Macromedia FreeHand MX
- Macintosh OS, 7.5 and higher
- Lotus 1-2-3, 5.0
- Corel Draw
- Adobe Illustrator, 7.0 and higher
- Macromedia Dreamweaver MX
- Macromedia Fireworks MX

Professional Experience

October 2005 – Present

Porterville College Foundation

Administrative Secretary

- Participated in the planning, organization and execution of the annual Wine Auction fundraiser as well as maintaining and analyzing the financial records associated with the event
- Created graphic materials for the Wine Auction including mailers and the redesign and maintenance of the website
- Managed information pertinent to the scholarship award process including the criteria, student eligibility records and candidate pools
- Provided support for the SMART lab by liaising with schools, billing for visits, updating the website and keeping statistics to be provided to the Tulare County Office of Education
- Produced and distributed minutes and agendas for all of the Board Meetings

April 2005 – July 2005

Porterville Community College

CalWORKs Program Technician

- Designed and created an Access database to track students, employers, and job orders
- Aided students in preparation of resumes and cover letters
- Performed job searches using a variety of traditional and online resources
- Maintained a job board which utilized color-coding to identify jobs by location or type

Fall Semester, 2000 – Spring Semester 2004

Fresno City College

Adjunct Professor

- Associated with the FCC business department
- Taught classes in Internet use and research
- Taught basic operating systems and Microsoft Office

Mar 1998 – Feb 2005

Institute of Technology, Inc.

Instructor/Mentor Instructor

- Taught adult learners in both business and technical courses including Microsoft Office instruction, operating systems, computer support and web and graphic design concepts and applications
- Authored curriculum for both the computer support and web and graphic design programs
- Created a curriculum support delivery web site for use by the web and graphic design students
- Supported instructors in my department with teaching technique information including classroom management, records management, and content delivery methods
- Acted as a master mentor for all other mentor instructors in the technical department

Dean/College Director’s Assistant
- Responsible for all supervisory tasks associated with the evening instructional staff including hiring, performance reviews and dismissals
- Performed academic and behavioral advising for at-risk students
- Supported College Director in managing all aspects of a private, post-secondary college

Student Success Leader
- Created and implemented programs to increase student retention including student-to-student mentoring and success training
- Taught a college survival skills class which encompassed study skills, life skills, and success skills to every entering cohort
- Aided at-risk students in obtaining aid from appropriate government or private programs to help them stay in school

Operations Liaison
- Created and participated in submissions and responses to both the ACCSCT and BPPVE
- Maintained electronic and paper records of all approvals from accrediting agencies
- Produced and updated the school catalog to reflect changes in programs, staffing, or student regulations
- Managed intranet content including curriculum, forms, and announcements
- Co-authored standards and procedures for campus departments
- Researched and maintained performance overviews for all campuses including admissions, retention, placement, outstanding cash, 90/10 and other compliance issues

June 1997 – November 1997
New Horizons Computer Learning Center

Senior Instructor
- Taught classes on a multitude of business-related software programs
- Maintained a student determined satisfaction standard of a 9.5 or higher on a scale of 10
- Developed classes based on student or software requirements

June 1995 to July 1997
Clovis Adult School

Certified Employee, Teacher
- Development and enhancement of curriculum for Word Power, a spelling and vocabulary class for adults
- Prepared lecture materials utilizing handouts and both visual and aural mediums

Aug 1993 – Feb 1995
St. Lucas Lutheran Church & School, Kewaskum, WI

Educator/Music Director/Church Organist
- Taught in multi-subject, multi-level classrooms
- Set objectives and evaluated student progress
- Developed curriculum
- Initiated a comprehensive choral program

Education
BS in Education – Concentration in Music and English
1987-1991, Dr. Martin Luther College, New Ulm, MN
CITY OF PORTERVILLE
REQUEST FOR APPOINTMENT

Please complete all blanks.

Name: Hector T. Villicana
(Please Print)

Appointment to: City Library Board of Trustee
(Name of Board, Commission, or Committee)

☑ Reappointment; or IF NEW, please provide:

Street Address: 701 Palm Place
Porterville, Ca. 93257

Mailing Address: Same as above

Name of Business: School Principal

☐ Own ☐ Operate

Business Address: 285 W. Olive Street School
Porterville, Ca. 93257

Telephone: Home (559) 784-6077
Work (559) 782-7190
FAX
E-mail Avillicana@sbcglobal.net

City of Porterville resident: ☑ Yes
☐ No

Registered Voter: ☑ Yes
☐ No
Please review my lost application

Resume attached

Letter of request attached

Submitted By: [Signature]

Date: 9-16-07

Received by: ____________________________

Forwarded to: City Clerk

Date: ____________________________

City Council

Date: ____________________________

City Manager

Date: ____________________________

Applicable Dept.

Date: ____________________________

Tentative Council Mtg Date: ____________________________

Page 2 of 2
REQUEST FOR APPOINTMENT

Name:   Mary M. (Meg) Hansen  
(Please Print)

Appoint to:  Porterville City Library Board  
(Name of Board, Commission, or Committee)

☐ Reappointment; or

IF NEW, please provide:

Street Address:  309 E. Mill Avenue  
Porterville, CA 93257

Mailing Address:  ____________________________

Name of Work:  Self-Employed (Hansen Land Appraisal)

Work Address:  309 E. Mill, Porterville, CA

Telephone:   Home 784-8087  
Work  Same  
FAX 784-8950  
E-mail mmhansen@sbcglobal.net

City of Porterville registered voter:
☒ Yes  
☐ No

City of Porterville resident:
☒ Yes  
☐ No

Date Submitted:  9/27/07  
Council Mtg Date:  

☒ Resume attached  
☐ Letter of request attached
Meg Hansen
309 E. Mill Avenue
784-8087, mmhansen@sbcglobal.net

Objective
Application to be a member of the Porterville City Library Board

Background
Retired from the U.S. Forest Service, where I held the position of Lands Officer, responsible for the Lands Program of the Sequoia National Forest. This responsibility included negotiating rights-of-way, land purchases, and land exchanges with private landowners, and organizations such as Trust for Public Lands, The Nature Conservancy and Save the Redwoods.

After holding this position for several years, because of my land appraisal education and experience, I joined the U.S. Forest Service South Zone Land Adjustment Team, and became the Zone Appraiser, responsible for projects on seven National Forests in California.

After retirement in 1997, I joined the Friends of the Porterville Public Library, and have held the offices of Vice President and President (I am the current President).

Libraries have been an important part of my life since I was a very small child. My Father, being a member of the Springfield Missouri Friends of the Library, and a member of the Greene County Missouri Library Board, encouraged this interest.

As a member of the Friends of the Porterville Public Library I personally have been instrumental in the establishment and ongoing success of our bookstore, located in the Santa Fe Senior Center.

Monthly proceeds from this store have contributed greatly to helping our library and literacy center. Our most recent contribution was $25,000 to help facilitate the purchase of the automated self-checkout and security system.

I designed and composed our brochure, produce our newsletters, established and maintain our directory, and am a community advocate for the Friends of the Library.

Education
AA Degree in Social Psychology from Porterville College, plus additional courses in accounting, business, surveying, and real estate appraising.
CITY OF PORTERVILLE
REQUEST FOR APPOINTMENT

Please complete all blanks.

Name: **HERBERT D BONDS**
(Please Print)

Appointment to: **LIBRARY BOARD OF TRUSTEES**
(Name of Board, Commission, or Committee)

☐ Reappointment; or IF NEW, please provide:

Street Address: **339 LINDLEY AVE.**
PORTERVILLE, CA 93257

Mailing Address: **SAME**

Name of Business: **LICTURED**
☐ Own  ☐ Operate

Business Address: **NONE**

Telephone: 
Home **784-5915**
Work
FAX **784-4198**
E-mail **DROOTS @ AOL.COM**

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Page 1 of 2
Qualifications:

Teacher
Principal
Sup't of Schools
City Councilman
Trustee - Kerr Comm College Dist

AB - Ph, Ed, etc.
MA - Admin & Supervision
EdD, Admin / Supervision

☐ Resume attached
☐ Letter of request attached

Submitted By: [Signature] Herbert D. Bonds 10/9/07

Received by:

Forwarded to: City Clerk ☐ City Council ☐ City Manager ☐ Applicable Dept. ☐

Tentative Council Mtg Date: ______________________

Page 2 of 2
CITY OF PORTERVILLE
REQUEST FOR APPOINTMENT

Please complete all blanks.

Name: Obdalia Guzman Alvarado
(Please Print)

Appointment to: Library Board of Trustees
(Name of Board, Commission, or Committee)

☐ Reappointment; or IF NEW, please provide:

Street Address:

Mailing Address: 475 N. Newcomb
Porterville, CA 93257

Name of Business: NA

☐ Own ☐ Operate

Business Address: NA

Telephone: Home (559) 791-1296
Work (559) 782-7350
FAX
E-mail

City of Porterville resident: ☒ Yes
☐ No

Registered Voter: ☒ Yes
☐ No

Page 1 of 2
Qualifications:

School Teacher for 28 years.
6 years Board of Trustees Burton School District
5 years California Mini-Corps Butte County Schools Board
3 years City of Porterville Library Board of Trustees

March 12, 1991

18 years Burton School Site Council

3 years Curriculum Advisory Committee Porterville Public Schools Monte Vista

2001-2002 PTO President

2000-present Monte Vista Bilingual Advisory Committee

Monte Vista School Site Council

Porterville District Advisory Committee

many other Advisory Committees

Resume attached

Letter of request attached

Submitted By: ___________________________ Date ____________

Received by: ___________________________

Forwarded to: City Clerk Date: ____________

City Council Date: ____________

City Manager Date: ____________

Applicable Dept. Date: ____________

Tentative Council Mtg Date: ____________

Page 2 of 2
REQUEST FOR APPOINTMENT

Name: George Luna

(Appoint to: Parks & Leisure Commission

(Name of Board, Commission, or Committee)

☐ Reappointment; or

IF NEW, please provide:

Street Address: 1221 N. Lotus Way
Porterville, CA 93254

Mailing Address: same

Name of Work: Tulare County Probation
Probation Officer

Work Address: 425 E. Kern
Tulare, CA 93257

Telephone: Home 784-9269
Work 685-2562
FAX 685-2647
E-mail jorge.moon.man.luna@sbcglobal.net

City of Porterville registered voter:
☐ Yes
☐ No

City of Porterville resident:
☐ Yes
☐ No

Date Submitted: 09/06/07 Council Mtg Date:

Resume attached
Letter of request attached
Qualifications: Currently on the Commission with Porterville Parks & Leisure

☐ Resume attached
☐ Letter of request attached

Submitted By: [Signature] 10/4/07 Date

Received by:

Forwarded to: City Clerk ☐ Date:

City Council ☐ Date:

City Manager ☐ Date:

Applicable Dept. ☐ Date:

Tentative Council Mtg Date:

Page 2 of 2
CITY OF PORTERVILLE
REQUEST FOR APPOINTMENT

Please complete all blanks.

Name: Grace Muñoz-Rios
(Please Print)

Appointment to: Parks & Leisure
(Name of Board, Commission, or Committee)

☑️ Reappointment; or IF NEW, please provide:

Street Address: ________________________________

Mailing Address: ________________________________

Name of Business: ________________________________

☐ Own  ☐ Operate

Business Address: ________________________________

Telephone:  Home ________________________________
            Work ________________________________
            FAX ________________________________
            E-mail ________________________________

City of Porterville resident:  ☑️ Yes  ☐ No

Registered Voter:  ☑️ Yes  ☐ No
Qualifications: **Current Commissioner**

□ Resume attached

□ Letter of request attached

Submitted By: ____________

Date: ____________

Received by: ____________

Forwarded to: City Clerk □ Date: 10/05/07

□ City Council Date: ____________________________

□ City Manager Date: ____________________________

□ Applicable Dept. Date: ___________________________

Tentative Council Mtg Date: __________________________

Page 2 of 2

P:\public\Admin Services\Carol Bodine\Appointee_Form.wpd
CITY OF PORTERVILLE
REQUEST FOR APPOINTMENT

Please complete all blanks.

Name: Donald W. Beardsley
(Please Print)

Appointment to: Parks and Leisure Services Commission
(Name of Board, Commission, or Committee)

☐ Reappointment; or IF NEW, please provide:

Street Address: 910 N. Williford Pk.
Porterville Pk. 93257

Mailing Address: Same

Name of Business: State of California Department of Corrections
☐ Own ☐ Operate

Business Address: North Kern State Prison
Delano CA.

Telephone: Home 559-721-0532
Work 661-721-2345
FAX N/A
E-mail N/A

City of Porterville resident: ☑ Yes
☐ No

Registered Voter: ☑ Yes
☐ No
Qualifications:________________________________________________________________________

__________________________________________________________________________________

__________________________________________________________________________________

__________________________________________________________________________________

__________________________________________________________________________________

☐ Resume attached
☑ Letter of request attached

Submitted By: DONALD W. BEARDSLEY ______________________________ 9-10-07

Date

Received by: _________________________________________________________________

Forwarded to: City Clerk ☐ Date: ______________________________

City Council ☐ Date: ______________________________

City Manager ☐ Date: ______________________________

Applicable Dept. ☐ Date: ______________________________

Tentative Council Mtg Date: ______________________________

Page 2 of 2

P:\public\Admin Services\Appointee Form.wpd
FROM: DONALD W BEARDSLEY  
910 N. WILLIFORD DR.  
PORTERVILLE CA. 93257

TO: CITY COUNCIL MEMBERS  
C/O PORTERVILLE CITY HALL

Dear sirs: Please except this correspondence as my request to be considered for the vacant position on the Parks and Leisure Commission. I have lived and worked in and around Porterville for all my 44 years. I am married and have four daughters ranging from the ages of 7 to 12 years of age. I have been involved with many of my daughters youth activities including, soccer, Hurricanes swimming, and basketball programs. I have seen the great amount of time and effort the city has gone through to make these programs the success that they are. I would like the opportunity to help continue the journey in meeting the needs of our community. Thank you for your time and I am looking forward to hearing you soon.

Respectfully,  [Signature]
CITY OF PORTERVILLE
REQUEST FOR APPOINTMENT

Please complete all blanks.

Name: CHARLES F. WEBBER
(Please Print)

Appointment to: PARKS AND LEISURE COMMISSION
(Name of Board, Commission, or Committee)

☐ Reappointment; or IF NEW, please provide:

Street Address: 346 N. OHIO STREET
PORTERVILLE CA 93257

Mailing Address: ______________________________________________________

Name of Business: ______________________________________________________

☐ Own ☐ Operate

Business Address: ______________________________________________________

Telephone: Home 559-781-2005
Work ______________________________________________________
FAX ______________________________________________________
E-mail MANPAWEBBER@OCSWET.NET

City of Porterville resident: ☒ Yes ☐ No
Registered Voter: ☒ Yes ☐ No

Page 1 of 2
Qualifications:

FORMER VICE PRESIDENT & GENERAL MANAGER OF
MANUFACTURING COMPANY

FORMER MEMBER TULARE COUNTY GRAND JURY
MEMBER INTERNAL CITY AUDIT COMMITTEE

☐ Resume attached
☐ Letter of request attached

Date

Received by:

Forwarded to: City Clerk  ☐ Date:________________________

City Council  ☐ Date:________________________

City Manager  ☐ Date:________________________

Applicable Dept.  ☐ Date:________________________

Tentative Council Mtg Date:________________________

Page 2 of 2
CITY OF PORTERVILLE
REQUEST FOR APPOINTMENT

Please complete all blanks.

Name: Obdulia Guzman Alvarado
(Please Print)

Appointment to: Parks and Leisure Services
(Name of Board, Commission, or Committee)

☐ Reappointment; or IF NEW, please provide:

Street Address: 475 N. Newcomb
Porterville, CA 93257

Mailing Address: Same

Name of Business:

☐ Own ☐ Operate

Business Address:

Telephone: Home (559) 791-2960 789-1026 cell
Work (559) 782-7350 Montovista
FAX
E-mail

City of Porterville resident: ☐ Yes ☐ No
Registered Voter: ☐ Yes ☐ No
Qualifications: School Teacher for 28 years
6 years Board Member of Burton Elementary District
5 years California Mini-Corps
July 1, 1986 Butte County Schools
3 years Porterville Library Board
March 12, 1991 of Trustees
1980-1982 Burton School Site Council
2001-2002 PTO President
2000-present Porterville Public School Advisory Committee

☐ Resume attached
☐ Letter of request attached

Submitted By: Obediah Alvarado 10-10-07

Date

Received by:

Forwarded to: City Clerk  ☐ Date:
City Council  ☐ Date:
City Manager  ☐ Date:
Applicable Dept.  ☐ Date:

Tentative Council Mtg Date:

Page 2 of 2
SUBJECT: ACCEPTANCE OF THE RAILS TO TRAILS PARKWAY PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: Central Valley Asphalt has completed the Rails to Trails Parkway Project. The project consisted of construction of the landscape, paved pedestrian and bike trail and site furnishings from the south edge of Henderson Avenue to the north end of Olive Avenue.

City Council authorized expenditure of $416,568.12. Final construction cost is $396,479.08.

Central Valley Asphalt requests that the City accept the project as complete. Staff reviewed the work and was unable to accept the project as complete for the following reasons: 1) Along Henrahan Street, north of Putnam Avenue, exists approximately 278 feet of paved trail which was not constructed per plan and will not properly drain; and 2) The contracted working days overrun resulting in $5,000 of liquidated damages. Staff has been unable to resolve these issues with Central Valley Asphalt. Staff recommends that the remaining funds be used to remediate the drainage issue and that any remainder go to satisfy liquidated damages.

RECOMMENDATION: That City Council:

1. Accept the project as complete under the following conditions: (A) Authorize staff to retain the $10,991.40 remaining from Purchase Order #06-03495 to remediate the drainage issue. (B) Any remaining funds go to satisfy liquidated damages; and

2. Authorize the filing of the Notice of Completion.

ATTACHMENT: Locator Map

P:\PubWorks\Engineering\Council Items\Acceptance of the Rails to Trails Parkway Project - 2007-10-15.doc

Dir [Signature] Appropriated/Funded [Signature] CM [Signature] Item No. 28
SUBJECT: INTENT TO VACATE SANITARY SEWER AND WATER EASEMENTS RELATED TO TARGET STORE EXPANSION BUILDING PERMIT

SOURCE: Public Works Department - Engineering Division

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

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

RECOMMENDATION: That City Council:

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

2. Set the Council meeting of November 20, 2007 as the time and place for a public hearing.

ATTACHMENTS: Resolution
Document No. 92-011075
Proposed Easements w/ Locator Map

P:\PLW\WORK\ENGINEERING\COUNCIL ITEMS\INTENT TO VACATE PUBLIC EASEMENT RELATED TO THE TARGET STORE EXPANSION 2007-10-16 DOC

Dir Appr. Appropriated/Funded CM Item No. 29
RESOLUTION NO. ___-2007

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

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

That it is the intention of the Council of the City of Porterville to abandon and
close to public use that certain public easements located in the City of Porterville,
County of Tulare, State of California, and known generally as easements necessary for
the orderly development of the Target Store and Porterville Marketplace Commercial
Shopping Center located in the southwestern corner of Henderson Avenue and
Prospect Street.

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

SECTION 3: Notice is further given that on Tuesday, the 20th day of November,
2007, at 7:00 p.m., or as soon thereafter as the matter can be heard, in the Council
Chambers in the City Hall of the City of Porterville, at 291 North Main Street, is hereby
fixed for the time and place for hearing any objections to the vacation, abandonment
and closing to public use of said easements.

__________________________________________
Cameron Hamilton, Mayor

ATTEST:
John Longley, City Clerk

__________________________________________
By: Patrice Hildreth, Deputy City Clerk
PARTNERSHIP GRANT DEED

The undersigned declares that the documentary transfer tax is $ .......................... and is
computed on the full value of the interest or property conveyed, or is
computed on the full value less the value of liens or encumbrances remaining thereon at the time of sale.
The land, tenements or realty is located in
□ unincorporated area  □ city of ........................................ and

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

HENDERSON-PROSPER PARTNERS L.P.

a LIMITED Partnership organized under the laws of the State of California

hereby GRANT(S) to

THE CITY OF PORTERVILLE

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

See Exhibit "A" attached hereto and made a part hereto for the complete legal description

Dated January 14, 1992

STATE OF CALIFORNIA
COUNTY OF ORANGE
On the 14th day of January, 1992 before me, the undersigned, a Notary Public in and for said County and State, personally appeared

DAVID H. PAYNE,

personally known to me or proved to me on the basis of satisfactory evidence to be

the person(s) whose signature appears above in the capacity as

Managing General Partner,


Signature: [Signature]

FOR NOTARY SEAL OR STAMP

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

Name

Street Address

City & State

CAL-SPOT (REV. 2-92)
EXHIBIT "A"

EASEMENTS FOR SANITARY SEWER AND WATER PURPOSES SITUATE IN PORTIONS OF PARCEL MAP NO. 2874 FILED FOR RECORD IN BOOK 18 OF PARCEL MAPS, PAGE 77, TULARE COUNTY RECORDS, AND A PORTION OF LOT 134 AS SHOWN ON "MAP OF THE PIONEER LANDING COMPANY'S LOTS SUBDIVISION", FILED FOR RECORD IN VOLUME 1 OF MAPS, PAGES 110 AND 111, TULARE COUNTY RECORDS, LOCATED IN SECTION 27, TOWNSHIP 21 SOUTH, RANGE 27 EAST, MOUNT DIABLO BASE AND MERIDIAN, IN THE CITY OF PORTERVILLE, COUNTY OF TULARE, STATE OF CALIFORNIA, DESCRIBED AS FOLLOWS:

PARCEL 1:

AN EASEMENT FOR SANITARY SEWER AND WATER PURPOSES, SITUATE IN PORTIONS OF PARCELS 4 AND 7 AS SHOWN ON SAID PARCEL MAP NO. 2874, AND SAID LOT 134, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF PARCEL "2" AS SHOWN ON PARCEL MAP NO. 1610 FILED FOR RECORD IN BOOK 11 OF PARCEL MAPS, PAGE 11, TULARE COUNTY RECORDS; THENCE SOUTH 0°57'-48" WEST ALONG THE WEST LINE OF SAID PARCEL 2 A DISTANCE OF 3.80 FEET TO THE CENTRALINE OF AN EXISTING 30.00 FOOT WIDE PUBLIC UTILITY AND ACCESS EASEMENT AS SHOWN ON SAID PARCEL MAP NO. 2874; THENCE SOUTH 0°57'-30" WEST ALONG SAID CENTRALINE OF EXISTING EASEMENT A DISTANCE OF 317.00 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE SOUTH 0°02'-22" EAST 94.70 FEET TO THE SOUTH LINE OF SAID PARCEL "4"; THENCE NORTH 89°21'-07" WEST ALONG SAID SOUTH LINE OF PARCEL "4" A DISTANCE OF 185.27 FEET TO THE SOUTHWEST CORNER OF SAID PARCEL "4"; THENCE NORTH 04°44'-31" EAST, ALONG THE WEST LINE OF SAID PARCEL "4" A DISTANCE OF 18.85 FEET; THENCE SOUTH 89°57'-36" WEST 184.03 FEET TO THE WEST LINE OF SAID LOT 134; THENCE NORTH 0°28'-92" EAST ALONG SAID WEST LINE OF SAID LOT 134 A DISTANCE OF 85.97 FEET TO THE NORTHWEST CORNER OF SAID PARCEL "7"; THENCE NORTH 09°27'-16" EAST ALONG THE NORTH LINE OF SAID PARCEL "7", BEING ALSO THE SOUTH LINE OF AN 110.00 FOOT WIDE HENDERSON AVENUE, A DISTANCE OF 110.00 FEET; THENCE SOUTH 0°02'-22" EAST 705.93 FEET; THENCE SOUTH 40°12'-73" EAST 175.09 FEET; THENCE NORTH 89°37'-38" EAST 348.67 FEET; THENCE SOUTH 83°08'-12" EAST 197.00 FEET; THENCE NORTH 89°57'-18" EAST 106.00 FEET; THENCE NORTH 41°56'-59" EAST 76.94 FEET; THENCE SOUTH 0°02'-22" EAST 13.00 FEET TO THE POINT OF BEGINNING.

PARCEL 2:

AN EASEMENT FOR WATER PURPOSES, 30.00 FEET IN WIDTH, SITUATE IN A PORTION OF PARCEL "7" AS SHOWN ON SAID PARCEL MAP NO. 2874 THE CENTRALINE DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF PARCEL "7"; THENCE NORTH 89°87'-38" EAST ALONG THE NORTH LINE OF SAID PARCEL "7", BEING ALSO THE SOUTH LINE OF A 110.00 FOOT WIDE HENDERSON AVENUE, A DISTANCE OF 110.00 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE SOUTH 0°02'-21" EAST 454.00 FEET TO THE WESTERN EXTENSION OF THE CENTERLINE OF AN EXISTING 30.00 FOOT WIDE PUBLIC UTILITY AND ACCESS EASEMENT AS SHOWN ON SAID PARCEL MAP NO. 2874; THENCE NORTH 89°57'-38" EAST ALONG SAID WESTERN EXTENSION OF THE CENTERLINE OF EXISTING PUBLIC UTILITY AND ACCESS EASEMENT A DISTANCE OF 0.89 FEET TO THE WEST LINE OF SAID EXISTING PUBLIC UTILITY AND ACCESS EASEMENT AND THE END OF THIS DESCRIPTION.
RESOLUTION NO. 132-91

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

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

Attached hereto as Exhibit "A""

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

\[ Signature \]
Mayor

ATTEST:
\[ Signature \]
City Clerk

STATE OF CALIFORNIA
COUNTY OF TULARE

I, C. G. MURTAHER, the duly appointed City Clerk of the City of Porterville, do hereby certify and declare that the foregoing is a full, true and correct copy of a resolution duly and regularly passed and adopted at a regular meeting of the Porterville City Council regularly called and held on the 9th day of November, 1991.

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

AYES: COUNCILMEN: Lok, Nicholson, Gibson, Gifford, Leavitt
NOES: COUNCILMEN: None
ABSENT: COUNCILMEN: None

\[ Signature \]
C. G. MURTAHER, City Clerk

Georgia Hailey, Deputy City Clerk
RECORDING REQUESTED BY AND
WHEN RECORDED MAIL TO:

City of Porterville
291 N. Main Street
Porterville, CA 93258

-------------------space above this line reserved for recording data-------------------

GRANT OF EASEMENT

THIS GRANT OF EASEMENT is made as of the ___ day of __________, 2007, by
TARGET CORPORATION, a Minnesota corporation ("Target"), whose address is Target
Corporation, Property Development, Attn: Real Estate-Existing Stores, 1000 Nicollet Mall,
Minneapolis, Minnesota 55403, GRAND-PROSPECT PARTNERS, L.P., a California limited
partnership ("Grand Prospect"), whose address is c/o Paynter Realty & Investments, Inc.,
attention: David H. Paynter, 17671 Irvine Boulevard, Suite 204, Tustin, California, 92780, and
HENDERSON-PROSPECT PARTNERS III, L.P., a California limited partnership ("Henderson"
and together with Target and Grand Prospect, "Grantor"), whose address is c/o Paynter Realty &
Investments, Inc., attention: David H. Paynter, 17671 Irvine Boulevard, Suite 204, Tustin,
California, 92780. Target is the owner of certain real property described on Exhibit A attached
hereto and made a part hereof ("Target Property"). Grand Prospect is the fee owner of certain
real property described on Exhibit B attached hereto and made a part hereof ("Grand Prospect
Property"). Henderson is the fee owner of certain real property described on Exhibit C attached
hereto and made a part hereof ("Henderson Property" and together with the Target Property and
Grand Prospect Property, the "Grantor Property").

In consideration of One Dollar ($1.00) and other good and valuable consideration, the
receipt of which is hereby acknowledged, Grantor does hereby quitclaim unto the CITY OF
PORTERVILLE, a municipal corporation ("Grantee"), subject to the terms and conditions set
forth below, a perpetual non-exclusive easement ("Easement") for the specific purpose of
permitting Grantee the right to install, operate, maintain, repair, remove and replace certain water
and sanitary sewer facilities (collectively called the "Facilities") under the surface of that portion
of Grantor’s Property legally described on the attached Exhibit D and shown on Exhibits E-1 and
E-2 attached hereto ("Easement Area") and, together with the right of reasonable and necessary
ingress and egress to and from the Easement Area in connection with the exercise of the rights
granted herein.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

14. **Miscellaneous.** This Agreement shall be governed by and construed in accordance with the laws of the State or Commonwealth in which the Grantor’s Property is located. This Agreement shall not be construed strictly for or against either Grantor or Grantee. This Agreement may be signed in counterparts, each of which shall be deemed an original and all of which when taken together shall constitute one instrument. All notices to Grantor shall be delivered in writing at the address noted in the recitals or such other address as is provided by Grantor.
SIGNATURE PAGE
FOR
GRANT OF EASEMENT
BY
TARGET CORPORATION,
GRAND PROSPECT PARTNERS, L.P.
AND
HENDERSON-PROSPECT PARTNERS III, L.P.

IN WITNESS WHEREOF, Target has executed this instrument as of the date first above written.

TARGET CORPORATION,
a Minnesota corporation

By: ____________________________
   Scott Nelson
   Sr. Vice President

Its: ____________________________
   Target Corporation

STATE OF MINNESOTA )
    ) ss.
COUNTY OF HENNEPIN )

The foregoing instrument was acknowledged before me this 1st day of
October, 2007, by ____________________________, the
S.V.P. ____________________________ of TARGET CORPORATION, a Minnesota
corporation, on behalf of said corporation.

ELIZABETH A. MANKEY
NOTARY PUBLIC-MINNESOTA

Galler Aundy
Notary Public
SIGNATURE PAGE
FOR
GRANT OF EASEMENT
BY
TARGET CORPORATION,
GRAND PROSPECT PARTNERS, L.P.
AND
HENDERSON-PROSPECT PARTNERS III, L.P.

IN WITNESS WHEREOF, Grand Prospect has executed this instrument as of the date first above written.

GRAND PROSPECT PARTNERS, L.P.,
a California limited partnership

By: ___________________________
   Its: __________________________

STATE OF California )
COUNTY OF Orange )

On Sept 26, 2007, before me, Cami C. Burnstine, a notary public in and for said County and State, personally appeared David H. Paynter, the Managing General Partner of Grand Prospect Partners, L.P., a California limited partnership, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument, the entity upon behalf of which the person acted executed the instrument.

Witness my hand and official seal

Cami C. Burnstine
Notary Public
My Commission Expires: April 26, 2008
SIGNATURE PAGE
FOR
GRANT OF EASEMENT
BY
TARGET CORPORATION,
GRAND PROSPECT PARTNERS, L.P.
AND
HENDERSON-PROSPECT PARTNERS III, L.P.

IN WITNESS WHEREOF, Henderson-Prospect Partners III, L.P. has executed and delivered this instrument as of the date first above written.

HENDERSON-PROSPECT PARTNERS III, L.P., a California limited partnership

By: [Signature]
   Its: Managing General Partner

STATE OF California )
 )SS
COUNTY OF Orange )

On Sept 26, 2007, before me, Cami C. Burntine, a notary public in and for said County and State, personally appeared David H. Payntee, the Managing General Partner of Henderson-Prospect Partners III, L.P., a California limited partnership, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument, the entity upon behalf of which the person acted executed the instrument.

Witness my hand and official seal

Cami C. Burntine
Notary Public
My Commission Expires: April 26, 2008
ACKNOWLEDGEMENT
OF
GRANT OF EASEMENT
BY
TARGET CORPORATION,
GRAND PROSPECT PARTNERS, L.P.
AND
HENDERSON-PROSPECT PARTNERS III, L.P.

THIS IS TO CERTIFY, That pursuant to the authority conferred by City of Porterville, Ordinance No. 1590, adopted February 20, 2001, the undersigned, on behalf of the public and City Council of the City of Porterville consents to the acceptance for public purposes the real property described in the within easement and consents to the recordation thereof.

IN WITNESS WHEREOF, I have hereunto set my hand
this _______ day of _________________, 2007

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

STATE OF CALIFORNIA   )
COUNTY OF TULARE      )

On __________, 2007, before me, ____________________________, a notary public in and for said County and State, personally appeared __________________________, the ___________________ of the City of Porterville, a __________________________________ corporation, personally known to me (or proved to me on the basis of satisfactory evidence) to be the person whose name is subscribed to the within instrument and acknowledged to me that he/she executed the same in his/her authorized capacity, and that by his/her signature on the instrument, the entity upon behalf of which the person acted executed the instrument.

Witness my hand and official seal

______________________________
Notary Public
My Commission Expires: _______________

This Instrument was Prepared By:
Target Corporation Property Development
Attn: Real Estate-Existing Stores
1000 Nicollet Mall
Minneapolis, Minnesota 55403
EXHIBIT A

Legal Description of Target Property

PARCEL 1 OF PARCEL MAP 3874, IN THE CITY OF PORTERVILLE, COUNTY OF TULARE, STATE OF CALIFORNIA, AS PER MAP RECORDEd IN BOOK 39, PAGE 77, OF PARCEL MAPS IN THE OFFICE OF THE COUNTY RECORDER OF SAID COUNTY.

APN#251-350-018
EXHIBIT B

Legal Description of Grand Prospect Property

PARCEL 1

PARCEL 2 AS SHOWN ON THAT CERTAIN LOT LINE ADJUSTMENT MAP ATTACHED AS EXHIBIT “A” TO RESOLUTION 203, LOT LINE ADJUSTMENT 8-91, RECORDED OCTOBER 29, 1991 AS INSTRUMENT NO. 74396, TULARE COUNTY RECORDS BEING AN ADJUSTMENT OF LOT LINES BETWEEN PARCELS 1, 2, 3, 4, 7 AND THE REMAINDER OF PARCEL MAP 3874, RECORDED IN BOOK 39 OF PARCEL MAPS, PAGE 77, TULARE COUNTY RECORDS, IN THE CITY OF PORTERVILLE, COUNTY OF TULARE, STATE OF CALIFORNIA, AND AS MORE FULLY DESCRIBED ON EXHIBIT “B” OF SAID RESOLUTION 203, LOT LINE ADJUSTMENT 8-91.

APN: 251-350-019

PARCEL 2

ALL THAT CERTAIN REAL PROPERTY SITUATE IN A PORTION OF LOT 134 AS SHOWN ON “MAP OF THE PIONEER LAND COMPANY’S FIRST SUBDIVISION” ACCORDING TO THE MAP THEREOF RECORDED IN BOOK 1 PAGES 110 AND 111 OF MAPS, TULARE COUNTY RECORDS, DESCRIBED AS FOLLOWS:

COMMENCING AT THE NORTHWEST CORNER OF PARCEL 7 AS SHOWN ON PARCEL MAP NO. 3874, ACCORDING TO THE MAP THEREOF RECORDED IN BOOK 39 PAGE 77 OF PARCEL MAPS, TULARE COUNTY RECORDS, SAID POINT BEING ON THE WEST LINE OF SAID LOT 134; THENCE SOUTH 0°38’ 52” WEST ALONG SAID WEST LINE OF LOT 134 A DISTANCE OF 895.97 FEET TO THE TRUE POINT OF BEGINNING OF THIS DESCRIPTION; THENCE CONTINUING SOUTH 0°38’ 52” WEST ALONG SAID WEST LINE OF LOT 134 A DISTANCE OF 345.79 FEET TO THE NORTH LINE OF A 50.00 FOOT WIDE GRAND AVENUE; THENCE SOUTH 89°58’ 25” EAST ALONG SAID NORTH LINE OF GRAND AVENUE A DISTANCE OF 662.36 FEET TO THE EAST LINE OF SAID LOT 134; THENCE NORTH 0°45’ 31” EAST ALONG SAID EAST LINE OF LOT 134 A DISTANCE OF 346.56 FEET; THENCE SOUTH 89°57’ 38” WEST 663.03 FEET TO THE POINT OF BEGINNING.

APN: 251-350-016
EXHIBIT C

Legal Description of the Henderson Property

PARCEL 7 OF PARCEL MAP 3874, IN THE CITY OF
PORTERVILLE, COUNTY OF TULARE, STATE OF
CALIFORNIA, AS PER MAP RECORDED IN BOOK 39, PAGE
77, OF PARCEL MAPS IN THE OFFICE OF THE COUNTY
RECORDER OF SAID COUNTY.

APN#251-350-017
Exhibit D

Legal Description of Easement Area

Sewer and Water Easement

That portion of Parcels 4, 7 and the Remainder of Parcel Map No. 3874 in the City of Porterville, County of Tulare, State of California per map recorded in Book 39, page 77 of Parcel Maps in the Office of the County Recorder of said County also being a portion of Lot 134 of Pioneer Land Company's First Subdivision per map recorded in Book 3, page 34 of Maps in the Office of the County Recorder of said County, described as follows:

Beginning at a point in the North line of said Parcel 7, said point being North 89°5'738" East, 13.00 feet of the Northwest corner of said Parcel 7, said point also being in the South right of way of Henderson Avenue (110 feet wide);

Thence, South 00°38'52" West, 789.21 feet parallel with the West line of said Parcel 7, also being the West line of said Lot 134;

Thence, South 21°43'36" East, 94.81 feet;

Thence, North 88°47'03" East, 20.83 feet;

Thence, South 14°52'32" East, 121.73 feet;

Thence, North 89°5'738" East, 538.46 feet;

Thence, North 00°02'22" West, 93.35 feet;

Thence, South 89°5'56" East, 156.65 feet;

Thence, North 42°31'36" East, 90.83 feet;

Thence, South 89°5'733" East, 20.13 feet to a point in the East line of said Parcel 4;

Thence, North 00°02'22" West, 20.00 feet along said East line of Parcel 4;

Thence, North 89°5'733" West, 28.45 feet;

Thence, South 42°31'36" West, 75.63 feet;

Thence, North 87°12'31" West, 178.84 feet;

Thence, South 00°02'22" East, 113.28 feet;

Thence, South 89°5'738" West, 489.43 feet;

Thence, North 00°02'22" West, 108.91 feet;

Thence, South 88°47'03" West, 52.56 feet;

Thence, North 14°52'32" West, 166.06 feet;

Thence, North 00°38'52" East, 706.19 feet to a point in the North line of said Parcel 7 and in said South right of way of Henderson Avenue;

Thence, South 89°5'738" West, 20.00 feet to the point of beginning.
EXHIBIT E-1

Depiction of Easement Area
EXHIBIT E-2

Sewer and Water Easement Plat

LINE DATA

SCALE: 1" = 100'

LEGEND

PARCEL No. PER PANEL MAP No. 7778, PA. 77-77

SEWER & WATER EASEMENT PLAT

JAMES WYTON & ASSOCIATES
300 W 5TH STREET SUITE 100
PORTERVILLE, CALIFORNIA 93257
COUNCIL AGENDA: October 16, 2007

SUBJECT: AWARD OF CONTRACT – “BANKING SERVICES”

SOURCE: Administrative Services

COMMENT: At its meeting on April 3, 2007, the Council authorized staff to proceed in the request of proposals for banking services for the period beginning July 1, 2007, and ending June 30, 2012. The reasons for initiating the Request for Proposals process included the length of time (12 years) that the City has been with its current banking services provider (Union Bank of California) since conducting its last Banking Services RFP in 1995, the City’s current merchant services operations and the corresponding burdensome processing fees, and improved capabilities for customer online bill paying of City utilities.

The City received a total of four (4) responses to the RFP for Banking Services. One of the submittals received was considered non-responsive due to the fact the institution did not satisfactorily respond to all aspects of the RFP. The three (3) remaining submittals were evaluated by staff for monthly fees for banking services as outlined in the RFP based on current City activity. Consistent with the RFP requirements, two of the responders (Union Bank of California and Citizen’s Business Bank), provided comprehensive detailed monthly fee schedules based upon City activity, while one of the responders (Bank of the Sierra) provided a letter confirming their monthly fee proposal without detail.

The Audit Committee shared the concern of staff that the initial fee proposal received by letter from Bank of the Sierra was not consistent with the RFP requirements in that it did not contain enough information to evaluate it against the complete proposals submitted by the other respondents. After evaluating the remaining proposals, it was the action of the Audit Committee to recommend to the City Council the Award of Contract for Banking Services to Union Bank of California.

However, an important component of the Banking Services RFP was for the submitting parties to provide solutions to limit the City’s responsibility for merchant services processing fees, as well as ensuring the City receives the lowest or most competitive rates.
None of the submittals provided a perfect solution to eliminate transaction fees, although providing more competitive processing fee rates. At its meeting on August 7, 2007, the Council did not accept the Audit Committee's recommendation to select Union Bank of California due to not having been provided sufficient solutions for the merchant services issues. The Council acted to return the banking services issue back to the Audit Committee, for the purpose of further defining improved solutions for merchant services with the responders.

Responding to the Council's direction, the Audit Committee created a subcommittee which met with each of the responders to specifically engage in the area of merchant services to solicit more viable solutions. Disappointingly, it is the opinion of both staff and the Audit Committee that none of the responders provided acceptable solutions in the provision of merchant services. This is attributed in large part to the fact that each of the responders are contracted with a single third party providers for merchant services, thereby limiting flexibility in merchant services options. It was the determination of the Audit Committee that the limited choice of merchant service providers connected with the responding banks severely restricts evaluation of available merchant service options that may meet the needs of the City of Porterville.

At its meeting on October 1, 2007, the Audit Committee acted to recommend to the Council that the merchant services aspect of the banking services RFP be set aside, with a separate RFP being initiated specifically for merchant services providing an opportunity for alternative merchant service providers to respond. Further, the Audit Committee acted in forwarding to the Council its ranking of the banking services respondents (please see ranking below):

| Rank | Institution                     | Monthly Fees:
<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Union Bank of California</td>
<td>$1,828.37</td>
</tr>
<tr>
<td>2</td>
<td>Bank of the Sierra</td>
<td>$1,558.00 (*)</td>
</tr>
<tr>
<td>3</td>
<td>Citizen's Business Bank</td>
<td>$2,076.41</td>
</tr>
</tbody>
</table>

(*) Bank of the Sierra provided clarification to their previously proposed monthly fee schedule, providing definition to the services contained in their proposal.

In establishing the rank order of the Banking Services RFP responders, the Audit Committee considered the following criteria: 1) Monthly banking services fee schedules; 2) Responsiveness to the RFP requirements; and 3) Dedication to the local community.
RECOMMENDATION: That the Council:

1. Accept the Audit Committee’s recommendation to set aside the merchant services aspect of the Banking Services RFP and initiate a separate Merchant Services RFP; and

2. Accept the Audit Committee’s recommended ranking of the banking services responders; and

3. Select a banking services provider from the RFP responders; and

4. Authorize staff to enter into an agreement with the selected responder for banking services for the period beginning January 1, 2008, and ending June 30, 2013.
SUBJECT: COUNCIL MEMBER REQUEST FOR AN AGENDA ITEM – 
Consideration of support in the formation of a Tulare County cities 
association

SOURCE: Administration

COMMENT: A Council member has requested the above subject matter be 
added to the agenda for discussion and potential direction for 
further action.

RECOMMENDATION: None

ATTACHMENT: None

[Signatures]
SUBJECT: COUNCIL MEMBER REQUEST FOR AN AGENDA ITEM – Consideration of the creation of a Youth Commission

SOURCE: Administration

COMMENT: A Council member has requested the above subject matter be added to the agenda for discussion and potential referral to staff for further action.

RECOMMENDATION: None

ATTACHMENT: San Francisco Youth Commission Brochure
What is the Youth Commission?

Commission

\ka-mi-shun\ n. a group of persons directed to perform some duty <example: The Youth Commission makes sure YOU have a voice in City Hall>

In 1995, a group of community members and organizations came together and decided that youth needed to have a presence in City Hall. They began working on legislation with Supervisor Angela Alioto that would create a body to advise the Mayor, Board of Supervisors, and City Departments on issues facing youth in San Francisco. Surprisingly, the Board of Supervisors at the time didn’t pass the legislation, causing Supervisor Alioto and the community to take their idea to the voters. Later on that year, 60% of the voters agreed that San Francisco should have a way for youth to be heard in City Hall – and the Youth Commission was born.

With 17 members – 1 appointed by each member of the Board of Supervisors (for a total of 11), and 6 appointed by the Mayor – each from diverse backgrounds and different neighborhoods of the City – the Youth Commission makes sure government policies and decisions accurately reflect the wants and needs of youth by including their input; and supports youth leadership. The Youth Commission also educates youth and adults and encourages youth to get involved in policy discussions. We do this by holding hearings, community meetings, lobby days and meetings with public officials.

In other words...we make sure youth voices are HEARD!
About the San Francisco Youth Commission

The Youth Commission represents youth in City Hall! We are 17 diverse young people between the ages of 12-23. We come from all over the city to improve the lives of San Francisco’s youth by advising the people in government who make decisions that affect us.

**Our Mission: To Bridge the Gap Between Youth & Government...**

- to bring young people into the city government’s policy-making processes;
- to provide young people with opportunities to impact policy decisions that affect their lives;
- to educate young people about the political process;
- to develop youth leadership skills in the political arena.

**To Advocate for Better Youth Policies, Programs & Budget Priorities in SF...**

- to identify the needs (especially unmet needs) of children and youth in SF;
- to make sure city policies more accurately reflect those needs & to advocate for youth policies that support the healthy development of young people;
- to advocate for such policies by educating, advising, and making recommendations to city policy-makers and especially the Mayor and the Board of Supervisors;
- to comment and make recommendations to the Board of Supervisors on any matter that primarily affects children and youth;
- to collaborate with community groups in its advocacy and education efforts

The San Francisco Youth Commission meets on the 1st and 3rd Mondays of every month 5-7pm at City Hall in room 416.

For more information call (415) 554-6446 or visit our website at [http://www.sfgov.org/youth_commission](http://www.sfgov.org/youth_commission)
What does the Youth Commission do?

Event

*i-vent*  *n.* a noteworthy happening <see: list below for accomplishments of the Youth Commission>

SKATEBOARDING STILL NOT A CRIME?: The Youth Commission, in partnership with the skateboarding community, held a public hearing on April 11, 2002 to address skateboarding policies in San Francisco. Representatives from several City Departments and the School District came out to report on their policies and to answer the concerns of young people. Young people and their allies had the rare opportunity to speak directly with the policy makers and demand more skateboard-friendly policies.

YOUTH RECOGNITION DAY: On December 3rd, 2001, the Youth Commission and the Board of Supervisors held the City’s first Annual Youth Recognition Day. Each Supervisor chose a youth from their District to be recognized for their community involvement and service. Youth Recognition Day, born in the mind of a Youth Commissioner, gives youth the chance to receive due appreciation for the positive things they do.

YOUTH VOTE 2001: The Youth Commission joined forces with Youth Making A Change to co-coordinate the 9th Annual Youth VOTE. In October, 2001, nearly 4500 students from 17 different high schools voted on candidates, ballot initiatives and survey questions developed by the youth organizers. The Youth VOTE results helped the Youth Commissioners shape their policy goals for the 2001-02 term.

THE SPEAK YOUR MIND SERIES: In January 2000, The Housing, Education, Public Health, and Culture & Urban Environment Committees of the Youth Commission held a series of town hall meetings to inform the Mayor, The Board of Supervisors, Board of Education, and City Departments what’s on the minds of youth and where youth want to see the city spend its money.

SILENT SURVIVOR SHOUT OUT: This event was held in October 2000, during National Domestic Violence Awareness Month. The purpose of the event was to raise awareness of the effects of domestic violence on children and youth. Mayor Willie L. Brown, District Attorney Terrence Hallinan, Clerk of the Board Gloria L. Young, and many youth spoke out against Domestic Violence and the harm it causes.

THE PROP STOPS HERE: On Thursday, June 29th, 2000 the San Francisco Youth Commission held a citywide hearing on the implementation of Proposition 21, the Juvenile Crime Initiative, in San Francisco. Over 100 youth took charge of City Hall to tell city officials that San Francisco needs to be declared a Proposition 21 Free Zone.

THE LESBIAN, GAY, BISEXUAL, TRANSGENDER, QUEER AND QUESTIONING YOUTH TASK FORCE: The LGBTQ+ Youth Task Force worked with city departments to implement recommendations to improve the quality of life for LGBTQ+ Youth. The Task Force got important legislation passed to support queer youth during the 1998-2000 terms.

YOUTH EMPOWERMENT CONFERENCE: In 1998 and 1999, The Youth Commission sponsored two Youth Empowerment Conferences. In total, almost 2000 people attended to learn how they could create change and learn about what other youth are doing to improve their communities.