Call to Order
Roll Call: City Council Members

JOINT CITY COUNCIL/REDEVELOPMENT AGENCY CLOSED SESSION AGENDA

Roll Call: Redevelopment Agency Members

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

REDEVELOPMENT AGENCY CLOSED SESSION:
A. Closed Session Pursuant to:

   (During Closed Session, the Redevelopment Agency meeting will adjourn to a meeting of the Porterville City Council.)

B. Closed Session Pursuant to:


   5- Government Code 54956.9(c) – Conference with Legal Counsel – Anticipated Litigation – One Case.

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

Pledge of Allegiance Led by Council Member Pedro Martinez
Invocation
PRESENTATIONS
City Manager’s Featured Project
Project Homeless Connect

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. City Council Minutes of March 4, 2008 and November 18, 2008

2. Budget Adjustment for the 2008-09 Fiscal Year
Re: Considering approval of a budget adjustment allocating $53,864.77 received by the City in reimbursement from the State and Federal Governments for overtime incurred on three fire incidents last year to the Fire Department Training Classroom for completion of the project.

3. Claim – Elizabeth Medrano
Re: Considering rejection of a claim in an amount of $500 for wheel damage that the claimant alleges occurred when she struck a pothole while driving eastbound on N. Grand Avenue on September 17, 2008.

4. Claim – Michele Ramirez
Re: Considering rejection of a claim in an amount of $1,329.53 for damages to her home which the claimant alleges occurred when police officers used force to enter her residence on October 11, 2008.

5. Claim – Ruby Zavala
Re: Considering rejection of a claim in an amount of $1,856.29 for wheel damage that the claimant alleges occurred when she struck a utility lid while driving eastbound on Olive Ave. on Dec. 4, 2008.

6. Award of Contract – On-Call Consultant Services for Preparation of Grant Applications
Re: Authorizing the negotiation of a contract with California Consulting, LLC of Fresno for services consisting of the application for grant monies exclusively for ballfield development through Proposition 84, Major League Baseball Tomorrow Fund, and the California State Parks Land and Water Conservation Fund.

7. Award Contract - Cab & Chassis with Dual Rear Wheels
Re: Awarding contract to Downtown Ford of Sacramento in the amount of $24,229.94 for the purchase of a new dual rear wheel cab and chassis truck for the City’s Solid Waste Division.

8. Quad Knopf Professional Service Agreement – Jaye Street Extension Project (Montgomery Avenue to Gibbons Avenue)
Re: Authorizing the execution of a Service Agreement with Quad Knopf at a fee of $99,480 for services which include the completion and/or modification of plans, specifications, and hydrology/drainage report for the project consisting of the extension of Jaye Street from Montgomery Avenue to Gibbons Avenue.
9. Approval of a Southern California Edison Application and a "Cost Plus" Contract for a New Electrical Service to Municipal Water Well No. 31
Re: Authorizing the City Engineer to sign the Southern California Edison application and “Cost Plus” Contract for a new electrical service to Municipal Water Well No. 31 (Pumping Plant Facility).

10. Approval of Grant Deed – Conveyance of Land to City of Porterville from County of Tulare
Re: Accepting the grant deed conveying property to the City of Porterville for the purpose of transferring ownership of a 40 acre flood control basin and an outlying parcel generally located north of Mulberry Avenue and west of Plano Street.

Re: Accepting the appraised value of 10,521 square feet of right-of-way needed for the Scranton/Indiana Street project, and authorizing payment in the amount of $13,500 to Nicholson and Smee LLC after completion of escrow.

12. Ratification of Expenditure - Relocation of Electrical Power Poles for the Indiana Street and Scranton Avenue Reconstruction Project
Re: Approval of an expenditure of $38,466.45 for the relocation of four power poles on the south side of Scranton Avenue to allow for the widening and reconstruction, and authorizing the City Engineer to continue discussions with Southern California Edison regarding the financial responsibilities associated with the pole relocations.

13. Reject All Bids and Re-Advertise - Fire Station No. 2 Classroom HVAC Project
Re: Rejection of all bids for the Fire Station No. 2 Classroom HVAC Project, and authorizing staff to re-advertise for bids for the project consisting of the installation of four HVAC units, duct work and all appropriate appurtenances for the new Fire Station Classroom Building.

14. Collection of Statewide Building Standards Fees
Re: Informational report regarding a fee that the City must collect effective January 1, 2009, on behalf of the California Building Standards Commission, from building permit applicants based on building valuation to fund the development of statewide building standards as mandated by SB 1473.

15. Status Report – Developer Impact Fees
Re: Acceptance of a Status Report on Developer Impact Fees for the Fiscal Year ended June 30, 2008, pursuant to Government Code Section 66006 (b) (1).

16. Approve Concession License with AYSO Region 315
Re: Approval of a Concession License with American Youth Soccer Organization Region 315 for the 2009 Sports Complex year.

17. Study Committee Report – Formation of Mosquito Abatement District in Southeastern Tulare County
Re: Informational report regarding a recent meeting of the Mosquito Abatement Study Committee.

18. Approval of Council Member’s Travel to Washington D.C.
Re: Considering approval of the proposed out-of-state travel scheduled for February 2-6, 2009 for Council Member Felipe to participate in the Tulare County Association of Governments annual trip to Washington D.C. for the purpose of meeting with U.S. legislators and officials to address transportation issues impacting Tulare County.
A Council Meeting Recess Will Occur at 8:30 p.m., or as Close to That Time as Possible

PUBLIC HEARINGS
19. Request to Allow Re-Submittal for a Conditional Use Permit 4-2008 to Upgrade an Existing Type 20, Beer and Wine Off-Sale License to a Type 21, Beer, Wine and Distilled Spirits Off-Sale License and Letter of Public Convenience or Necessity for an Existing Mini-Mart
   Re: Considering the request for an existing convenience market located at 809 East Putnam Avenue.

20. Conditional Use Permit 9-2008 – Tom O'Sullivan, Plano Properties LLC
    Re: Considering the adoption of a resolution approving a Conditional Use Permit to allow for the construction of a new 3,600± square foot convenience market, gasoline/fuel islands with a matching canopy and car wash located at the southwest corner of Henderson Avenue and Plano Street.

21. Modification to Conditional Use Permit 11-83 – to Allow Sale of Beer, Wine and Distilled Spirits
    Re: Considering the adoption of a resolution approving a request to modify Conditional Use Permit 11-83 to allow for the off-sale beer, wine and distilled spirits license for the Vallarta Supermarket located in the Eastridge Plaza at the southwest corner of Olive Avenue and Plano Street.

22. Request for a Conditional Use Permit 10-2008 to Allow for an Eighteen (18) Unit Duplex Development on Three (3) Adjoining Parcels Located at 1492 and 1482 West Tomah Avenue
    Re: Considering the approval of a Conditional Use Permit to allow development of an eighteen unit duplex development, on three adjoining parcels located at 1492 and 1482 West Tomah Avenue.

SCHEDULED MATTERS
23. City Council Study Session to Review the Latest Developments with the Comprehensive Zoning Ordinance Update and Provide Comment on the Proposed Standards with Specific Attention to the Downtown and Airport Overlay Zones
    Re: A continuation of the study session held on December 16, 2008 focusing specifically on the Downtown and Airport Overlay Zones.

24. City Council Member Request to Consider Alternatives for a Planning Agency Separate from the City Council
    Re: Consideration of alternatives for a Planning Agency separate from the City Council.

25. Discussion on the Possibility of a Change to the Zoning Ordinance to Allow the Keeping of Racing, Homing, and Sporting Pigeons as Household Pets in the City of Porterville
    Re: Consideration of a request to change the city’s Zoning Ordinance.

Adjourn the City Council Meeting to a meeting of the Porterville Public Improvement Corporation.

PORTERVILLE PUBLIC IMPROVEMENT CORPORATION

Roll Call: Directors/President

WRITTEN COMMUNICATIONS
ORAL COMMUNICATIONS
PUBLIC IMPROVEMENT SCHEDULED MATTER
PIC-1. Election of Officers – Public Improvement Corporation
Re: Approval of the election of officers of the Corporation in accordance with Article III, Section 2
of the Bylaws.

Adjourn the Porterville Public Improvement Corporation Meeting to a Meeting of the Porterville City
Council.

ORAL COMMUNICATIONS
OTHER MATTERS

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

ADJOURNMENT - to the meeting of February 3, 2009 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 Office of City Clerk at (559) 782-7464. Notification 48 hours prior to the
meeting will enable the City to make reasonable arrangements to ensure accessibility to this meeting and/or
provision of an appropriate alternative format of the agenda and documents in the agenda packet.

Materials related to an item on this Agenda submitted to the City Council after distribution of the Agenda
packet are available for public inspection during normal business hours at the Office of City Clerk, 291 N.
Main Street, Porterville, CA 93257, and on the City’s website at www.ci.porterville.ca.us.
Call to Order at 6:00 p.m.
Roll Call: Council Member McCracken, Council Member Pedro Martinez, Mayor Pro Tem Felipe Martinez, Council Member Hernandez
Absent: Mayor Hamilton

ORAL COMMUNICATIONS
None

CLOSED SESSION:
A. Closed Session Pursuant to:
4- Government Code Section 54956.9(b) – Conference with Legal Counsel – Anticipated Litigation – Two Cases.
5- Government Code Section 54957 - Public Employee Appointment: Title: City Manager.

7:00 P.M. RECONVENE OPEN SESSION
REPORT ON ANY ACTION TAKEN IN CLOSED SESSION
City Attorney Julia Lew reported that no action had taken place.

Pledge of Allegiance Led by Council Member Pedro Martinez
Invocation – one individual participated.

ORAL COMMUNICATIONS
• Robert Roman, 846 N. Main St., updated the Council on the “Time Marches On” Event and provided written materials on the group’s effort to the Council.
• Jim Winton, 150 W. Morton, requested that Council pull Item No. 11 for discussion.
• An unidentified resident, 1901 Pioneer, spoke of the threat of West Nile Virus, particularly with regard to the City’s ponding basins, and inquired as to how the City planned to address the issue.
Barbara Stricklin, address inaudible, requested that the City approve a permit to allow the use of grazing animals for weed abatement.

PRESENTATIONS
Employee of the Month – Mark Azevedo

CONSENT CALENDAR
Item No. 1 was removed and continued to the next meeting. Item Nos. 4, 8 and 11 were removed for further discussion.

1. MINUTES OF JUNE 8, 2007
Recommendation: That the City Council approve the Minutes of June 8, 2007.
Disposition: Continued to the Meeting of March 18, 2008.

2. CLAIM – STEPHEN CRAIG MINNICK
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.
Documentation: M.O. 01-030408
Disposition: Approved.

3. AUTHORIZATION TO ADVERTISE FOR BIDS – FIRE STATION #2 TRAINING ROOM PROJECT
Recommendation: That the City Council:
1. Approve staff’s recommended plans and project manual; and
2. Authorize staff to advertise for bids on the project.
Documentation: M.O. 02-030408
Disposition: Approved.

4. AWARD CONTRACT – AIR CONDITIONING REPLACEMENT PROJECT
Recommendation: That the City Council:
1. Award the contract for the Wastewater Treatment Facility’s Air Conditioning Replacement Project to Morris Levin & Son of Tulare, CA, in the amount of $13,278.00;
2. Authorize progress payments up to 90% of the contract amount; and
3. Authorize a 10% contingency to cover unforeseen costs.
Documentation: M.O. 03-030408
Disposition: Approved.
6. AWARD OF CONTRACT – FINANCIAL FEASIBILITY AND ANALYSIS SERVICES FOR THE PORTERVILLE HOTEL PROJECT AND ON-CALL SERVICES

Recommendation: That the City Council:
1. Authorize staff to negotiate a contract with the number one (1) rated consultant and if a contract cannot be negotiated. Then allow staff to negotiate a contract with the second ranked consultant;
2. Authorize the Mayor to sign said contract for “on call” financial analysis services; and
3. Authorize staff to make payments, upon satisfactory completion of the contracted work, up to 100%.

Documentation: M.O. 04-030408
Disposition: Approved.

7. THIS ITEM WAS REMOVED FROM THE AGENDA

9. APPROVAL OF RESOLUTION SATISFYING SUBLEASE AGREEMENT BETWEEN CITY OF PORTERVILLE AND FRESNO MSA LIMITED PARTNERSHIP DBA VERIZON WIRELESS

Recommendation: That the City Council approve the draft resolution certifying that conditions of Section 8.2 of the Lease Agreement between the Porterville Public Financing Authority and the City of Porterville have been satisfied.

Documentation: Resolution 16-2008
Disposition: Approved.

10. ACCEPTANCE OF IMPROVEMENTS – NEW EXPRESSIONS, PHASE FIVE (BRIAN ENNIS – ENNIS HOMES)

Recommendation: That the City Council:
1. Accept the public improvements of New Expressions, Phase Five 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.

Documentation: M.O. 05-030408
Disposition: Approved.

12. EXTENSION OF TIME – IRIS HILL ESTATES TENTATIVE SUBDIVISION MAP

Recommendation: That the City Council adopt the draft resolution approving a two (2) year
extension of time for Amalene Estates Tentative Subdivision as modified.

Documentation: Resolution 17-2008  
Disposition: Approved.

13. AMENDMENTS TO EMPLOYEE PAY AND BENEFIT PLAN

Recommendation: That the City Council adopt the draft resolution amending the Employee Pay and Benefit Plan for Fiscal Years 2007-2008 and 2008-2009, and authorize the Mayor to execute these and other documents necessary to implement the provisions thereof.

Documentation: Resolution 18-2008  
Disposition: Approved.

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Council Member McCracken that the Council approve Item Nos. 2, 3, 5, 6, 9, 10, 12 and 13.

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

4. BOYLE ENGINEERING, INC. SERVICE AGREEMENT — THREE (3) MILLION GALLON MARTIN HILL RESERVOIR AND PIPELINE PROJECT

Recommendation: That the City Council:
1. Authorize staff to negotiate a schedule and liquidated damages with Boyle Engineering, Inc.;
2. Authorize the Mayor to execute a Service Agreement with Boyle Engineering, Inc. at an agreed fee of $101,900 for the services described in the staff report upon completion of successful negotiations with the consultant;
3. Authorize the expenditure of developer fees to cover the design costs until the CIEDB loan is secured; and
4. Authorize progress payments up to 100% of the fee amount and authorize a 10% contingency to cover unforeseen design efforts.

City Manager John Longley presented the item, and the staff report was waived at the Council’s request.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Council Member Pedro Martinez that the Council authorize staff to negotiate a schedule and liquidated damages with Boyle Engineering, Inc.; approve the proposed Service Agreement, as amended to strike the word “following” in line 2 of Section 1; authorize the Mayor to execute a
Service Agreement with Boyle Engineering, Inc., at an agreed fee of $101,900 for the services described in the staff report upon completion of successful negotiations with the consultant, and upon the completion of the dates set forth in Section 3; authorize the expenditure of developer fees to cover the design costs until the CIEDB loan is secured; and authorize progress payments up to 100% of the fee amount and authorize a 10% contingency to cover unforeseen design efforts.

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

Disposition: Approved, as amended.

8. APPROVAL OF SERVICE AGREEMENT BETWEEN CITY OF PORTERVILLE AND SEQUOIA RIVERLANDS TRUST FOR MAINTENANCE FOR THE CITY’S HEADGATE MITIGATION SITE

Recommendation: That the City Council:
1. Approve the Service Agreement with Sequoia Riverlands Trust for maintenance (for a period of one year) of the City’s Headgate Mitigation Site in the amount of $28,300;
2. Authorize retention of the remaining balance in the amount of $63,757 to deal with unexpected circumstances, such as vandalism, due to the remote location; and
3. Authorize the Mayor to sign all appropriate documents as necessary to maintain the Mitigation Site.

City Manager John Longley presented the item, and the staff report was waived at the Council’s request.

Council Member Hernandez moved that the Council approve staff’s recommendation. Council Member Pedro Martinez seconded the motion.

Council Member McCracken proposed an amendment to Council Member Hernandez’s motion to include direction to staff to bring an RFP back to the City Council at the first meeting in the 3rd Quarter of 2008/2009. Council Members Hernandez and Martinez accepted the amendment.

COUNCIL ACTION: MOVED by Council Member Hernandez, SECONDED by Council Member Pedro Martinez that the Council approve the Service Agreement with Sequoia Riverlands Trust for maintenance (for a period of one year) of the City’s Headgate Mitigation Site in the amount of $28,300; authorize retention of the remaining balance in the amount of $63,757 to deal with unexpected circumstances, such as vandalism, due to the remote location; authorize the Mayor to sign all appropriate
documents as necessary to maintain the Mitigation Site; and direct staff to bring an RFP back to the City Council at the first meeting in the 3rd Quarter of 2008/2009.

Disposition: Approved, as amended.

11. EXTENSION OF TIME AMALENE ESTATES TENTATIVE SUBDIVISION MAP

Recommendation: That the City Council adopt the draft resolution approving a two (2) year extension of time for Amalene Estates Tentative Subdivision as modified.

City Manager John Longley presented the item, and the staff report was waived at the Council’s request.

- Jim Winton, 150 West Morton Avenue, inquired about the newly added condition of approval and how it would apply to the remainder of the subdivision; and noted that the amended plan and the amended landscape and lighting district had fifty three (53) lots.

A discussion ensued regarding Mr. Winton’s comments and lighting and landscape assessment districts as they pertained to the tentative subdivision map. Staff indicated that there had been difficulties collecting assessments in the past due to the length of time before the districts were established as a taxing entity, and explained that the added condition was included to bring the previously approved map up to current standards.

- Jim Winton, address on record, inquired about the payment of the assessments and indicated that the developer has paid the applied assessments.

Parks & Leisure Services Director Perrine stated that the intent was to move forward and to disclose that the assessment has been applied. He noted that the number of lots stated in the resolution would need to be corrected.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Council Member Pedro Martinez that the Council adopt the draft resolution approving a two (2) year extension of time for Amalene Estates Tentative Subdivision as modified, as amended to change the number of lots referenced in paragraph 8, page 1, to the actual number of lots; and direct staff to provide a written report to the City Council at the conclusion of the matter.

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

Disposition: Approved, as amended.
21. COUNCIL MEMBER REQUEST FOR AN AGENDA ITEM – RESOLUTION IN SUPPORT OF THE ARMED SERVICES IN RESPONSE TO THE BERKELEY, CALIFORNIA CITY COUNCIL

Recommendation: None

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

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Council Member Hernandez that the City Council approve the draft resolution in support of our military in response to the Berkeley California City Council.

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

Copies of the Resolution were then presented to members of the Armed Services.

Disposition: Approved, as amended.

PUBLIC HEARINGS
14. PORTERVILLE 2030 COMPREHENSIVE GENERAL PLAN UPDATE; A REQUEST FOR APPROVAL OF A COMPREHENSIVE GENERAL PLAN UPDATE WITH AN ASSOCIATED ENVIRONMENTAL IMPACT REPORT AND URBAN WATER MANAGEMENT PLAN

Recommendation: That the City Council:
1. Adopt the draft resolution certifying the Final EIR subject to Statement of Overriding Considerations and Findings of Fact;
2. Adopt the draft resolution approving the Porterville 2030 General Plan; and
3. Adopt the draft resolution approving the Urban Water Management Plan.

City Manager John Longley presented the item, and Community Development Director Brad Dunlap introduced Planning Consultant, Michael Dyett of Dyett, Bhatia & Associates, and his associate Poppy Gilman. Mr. Dyett gave a presentation to the Council discussing the framework of the General Plan Update, and Mr. Dunlap provided more detailed information.

The public hearing opened at 8:09 p.m.

- (Inaudible) Boyles, 425 E. Thurman, spoke in favor of the proposed Porterville 2030 General
• Al Sadah, owner of Al’s Market at Westfield Avenue and Prospect Street, spoke in favor.
• Dr. John Snavely, General Plan Advisory Committee Member, recommended approval of the General Plan.
• John Eby, 1557 East Olive Avenue, General Plan Advisory Committee Member, spoke in favor of the item and commended staff and the consultant for their work.
• Dick Eckhoff, 197 N. Main Street, spoke in favor of the proposed General Plan.
• Ruth Scholt, 468 N. Sunnyside, inquired as to whether energy efficiency had been considered in the General Plan, and lauded the benefits of solar power.

The Council inquired about various sites and their designated zoning under the proposed General Plan.

The public hearing closed at 8:18 p.m.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Council Member Pedro Martinez that the Council adopt the draft resolution Resolutions 21-2008; certifying the Final EIR subject to Statement of Overriding Considerations and Findings of Fact; adopt the draft resolution approving the Porterville 2030 General Plan; and adopt the draft resolution approving the Urban Water Management Plan.

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

The Council directed staff to place a “re-affirming resolution” item on the next Council Agenda so as to provide Mayor Hamilton an opportunity to participate in voting on the item.

Disposition: Approved, with staff direction.

The Council recessed for five minutes.

15. DESIGN REVIEW OVERLAY 1-2008 & CONDITIONAL USE PERMIT 2-2008 (EMERITUS ASSISTED LIVING FACILITY)

Recommendation: That the City Council:
1. Adopt the draft resolution approving Conditional Use Permit 2-2008, subject to the conditions of approval; and
2. Adopt the draft resolution approving design review overlay D-Overlay 1-2008, subject to the conditions of approval.

City Manager John Longley presented the item, and Associate Planner Jose Ortiz presented the staff report.
The public hearing opened at 8:40 p.m.

- Peter Givas, Sacramento, applicant, spoke in favor of the Council’s approval.
- Ben Ennis, 643 Westwood Street, spoke in favor of the item.

The public hearing closed at 8:43 p.m.

The Council briefly commented on the importance of assisted living facilities. At Council Member Pedro Martinez’s request, Mr. Longley advised that information would be provided to the Council with regard to transit service at the proposed location.

**COUNCIL ACTION:**

**Resolutions 24-2008; and 25-2008**

MOVED by Council Member Pedro Martinez, SECONDED by Council Member Hernandez that the Council adopt the draft resolution approving Conditional Use Permit 2-2008, subject to the conditions of approval; and adopt the draft resolution approving design review overlay D-Overlay 1-2008, subject to the conditions of approval.

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

Disposition: Approved; Direction given to staff.

**SECOND READINGS**

16. **ORDINANCE 1736, AMENDING CHAPTER 2, ARTICLE II, FIREWORKS, OF THE PORTERVILLE MUNICIPAL CODE**

Recommendation: That the City Council give Second Reading to Ordinance No. 1736, waive further reading, and adopt said Ordinance.

City Manager John Longley presented the item and the staff report was waived at the Council’s request.

**COUNCIL ACTION:**

**Ordinance 1736**

MOVED by Council Member Pedro Martinez, SECONDED by Council Member Hernandez that the Council give Second Reading to Ordinance No. 1736, waive further reading, and adopt said Ordinance, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING CHAPTER 12, ARTICLE II, FIREWORKS, OF THE PORTERVILLE MUNICIPAL CODE.

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

The City Manager read the ordinance by title only.
Scheduled Matters

17. WATER CONSERVATION PLAN

Recommendation: That the City Council:
1. Direct staff to develop a draft resolution to the Water Conservation Plan adding voluntary odd/even watering in Phase II; and
2. Schedule a Public Hearing for April 15, 2008 to revise the Water Conservation Plan.

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

A discussion ensued about a voluntary odd/even watering schedule versus a mandatory one.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Council Member Hernandez that the Council Direct staff to develop a draft resolution to the Water Conservation Plan adding voluntary odd/even watering in Phase II; and schedule a Public Hearing for April 15, 2008 to revise the Water Conservation Plan.

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

Disposition: Approved.

18. AUTHORIZE CITY MANAGER TO SIGN CIEDB SEWER LOAN – 2ND EXTENSION

Recommendation: That the City Council:
1. Authorize the City Manager to execute (in blue ink) three copies of the “Second Amendment to the Enterprise Fund Installment Agreement” on the behalf of the City of Porterville; and
2. Direct the Chief Deputy City Clerk to attest the original documents and transmit all copies to: California Infrastructure and Economic Development Bank, Attn: Patricia Galvan.

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

It was requested by the Council that staff advise former Council Members when the Cease and Desist Order is lifted.
COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Council Member McCracken that the Council authorize the City Manager to execute (in blue ink) three copies of the “Second Amendment to the Enterprise Fund Installment Agreement” on the behalf of the City of Porterville; and direct the Chief Deputy City Clerk to attest the original documents and transmit all copies to: California Infrastructure and Economic Development Bank, Attn: Patricia Galvan.

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

Disposition: Approved.

19. SEPTIC TANK ANALYSIS – VARIOUS CITIES

Recommendation: That the City Council:
1. Take no action at this meeting; and
2. Direct the Public Works Director to complete his analysis and report back to the Council on March 18, 2008 with a recommendation.

City Manager John Longley presented the item, and Public Works Director Baldo Rodriguez presented the staff report. Prior to the staff report, Mr. Rodriguez thanked the Council on behalf of Mr. Federico Ramos for considering his request.

Council Member Pedro Martinez stated that he hoped the Council would consider modifying the criteria in the future.

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Council Member Hernandez that the Council direct the Public Works Director to complete his analysis and report back to the Council on March 18, 2008 with a recommendation.

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

Disposition: Approved.

20. ORDINANCE AMENDING SECTION 1-19 OF THE PORTERVILLE MUNICIPAL CODE REGARDING THE FILING OF CLAIMS AGAINST THE CITY
Recommendation: That the City Council consider and approve for first reading the proposed Ordinance Amending Section 1-19 of the Porterville Municipal Code Regarding Claims Against the City.

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

COUNCIL ACTION: MOVED by Council Member McCracken, SECONDED by Council Member Pedro Martinez that the Council approve for first reading the proposed Ordinance; and order the ordinance to print, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING SECTION 1-19 OF CHAPTER I OF THE PORTERVILLE MUNICIPAL CODE REGARDING CLAIMS AGAINST THE CITY.

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

The City Manager read the ordinance by title only.

Disposition: Approved.

The Council adjourned at 9:07 a.m. to a Meeting of the Porterville Public Financing Authority.

PORTERVILLE PUBLIC FINANCING AUTHORITY
March 4, 2008

Roll Call: Member McCracken, Member Pedro Martinez, Member Hernandez, Vice-Chairman Felipe Martinez
Absent: Chairman Hamilton

WRITTEN COMMUNICATIONS
ORAL COMMUNICATIONS
None

SCHEDULED MATTER
PFA-01. AUTHORIZE LEASE AGREEMENT – WIRELESS TOWER AT FIRE STATION NO. 2

Recommendation: That the Porterville Public Financing Authority:
1. Approve the Land Lease Agreement between the City of Porterville
and Fresno MSA Limited partnership d/b/a Verizon Wireless; and

2. Authorize the Chairman to sign all necessary documents.

City Manager John Longley presented the item, and the staff report was waived at the Council’s request.

AUTHORITY ACTION: MOVED by Member Pedro Martinez, SECONDED by Member McCracken that the Porterville Public Finance Authority approve the

Resolution PFA 2008-01  Land Lease Agreement between the City of Porterville and Fresno MSA Limited partnership d/b/a Verizon Wireless; and authorize the Chairman to sign all necessary documents.

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

Disposition: Approved.

The Porterville Public Financing Authority meeting adjourned at 9:09 p.m. to a meeting of the Porterville City Council.

ORAL COMMUNICATIONS
None

OTHER MATTERS
• Council Member Hernandez spoke of the success of the recent “Rock A Thon” event and lauded its worthiness.
• Council Member Pedro Martinez:
  1. Spoke of the “Rock A Thon” event, noting the event had celebrated its highest participation to date;
  2. Spoke of his participation in the “Stars in the Hills” Prom; and
  3. Thanked staff for their effort on the General Plan.
• Council Member Hernandez also made mention of his participation at the “Stars in the Hills” Prom event.
• Mayor Pro Tem Felipe Martinez:
  1. Spoke of the lack of a crosswalk on Highway 190 east of Plano Street, and requested that staff look into the matter.
  2. Noted that he had received many positive telephone calls from residents regarding the Jaye Street construction, and thanked staff for their effort.

The Council recessed at 9:15 p.m. for five minutes, and then reconvened in Closed Session.

The Council reconvened Open Session at 9:30 p.m. and reported the following action.
CLOSED SESSION


It was reported that the Council approved the request to extend the Repurchase Option with Russken Holdings, LLC, for the one-acre lot, APN 302-390-016, with Phase I to be completed by September 4, 2008, and Phase II to be completed by September 10, 2010.

Documentation: M.O. 11-030408
Disposition: Approved.

ADJOURNMENT

The Council adjourned at 9:31 p.m. to the meeting of March 18, 2008 at 6:00 p.m.

_______________________________
Luisa Herrera, Deputy City Clerk

SEAL

_____________________________
Cameron Hamilton, Mayor
Call to Order at 6:00 p.m.
Roll Call: Vice Mayor Pete McCracken, Council Member Pedro Martinez (arrived late), Council Member Felipe Martinez, and Mayor Cameron Hamilton
Absent: Council Member Brian Ward

ORAL COMMUNICATIONS
None

CLOSED SESSION:
A. Closed Session Pursuant to:
3- Government Code 54956.9(b) – Conference with Legal Counsel – Anticipated Litigation – Three Cases.
4- Government Code Section 54957 - Public Employee Performance Evaluation - Title: City Attorney.

City Manager Longley requested that Item A-4 be continued due to the unanticipated absence of City Attorney Lew due to the loss of her mother.

Disposition: Item continued.

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

Pledge of Allegiance Led by Council Member Pedro Martinez
Invocation – one individual participated.

PROCLAMATIONS
Zonta Recognition Week – December 1 – 7, 2008

PRESENTATIONS
City Manager’s Featured Project – HOME 2008 Grant Award
Introduction of New City Employees
Tulare County Economic Development Corporation
Following the presentations, Mayor Hamilton noted the passing of Council Member Ward’s
father and City Attorney Lew’s mother, and asked that they be kept in everyone’s prayers.

**ORAL COMMUNICATIONS**
- Dick Eckhoff, 197 N. Main Street, spoke in favor of Item No. 11.
- Vanessa Foley, 998 E. River, spoke of safety concerns with the stop sign at Newcomb and Scranton; and inquired about the City Council and who held them accountable.
- Robert Roman, 846 N. Main Street, Time Marches On Committee, thanked the City and Jim Perrine for their support of the Fabulous Music Jam event; presented Jim Perrine with spare parts from the clock project; and presented the City Clerk with the clock’s information for the City’s permanent record.

**CONSENT CALENDAR**
Item Nos. 2, 10 and 11 were removed for further discussion.

1. **CITY COUNCIL MINUTES OF NOVEMBER 4, 2008**

   **Recommendation:** That the City Council approve the Minutes of November 4, 2008.

   **Documentation:** M.O. 01-111808
   **Disposition:** Approved

3. **CLAIM – KATHY KECK**

   **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.

   **Documentation:** M.O. 02-111808
   **Disposition:** Approved

4. **AWARD OF CONTRACT – FIRE STATION NO. 2 (SEWER CONNECTION) PROJECT (NEWCOMB STREET N. OF MORTON AVENUE)**

   **Recommendation:** That the City Council:
   1. Award the Fire Station No. 2 (Sewer Connection) Project to Serna Construction, Inc. in the amount of $16,755.00;
   2. Authorize progress payments up to 90% of the contract amount; and
   3. Authorize a 10% contingency to cover unforeseen construction costs.

   **Documentation:** M.O. 03-111808
   **Disposition:** Approved

5. **ACCEPTANCE OF PROJECT – HENDERSON AVENUE STORM DRAIN, VILLA STREET TO ‘G’ STREET**

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

Documentation: M.O. 04-111808
Disposition: Approved

6. ACCEPTANCE OF PROJECT – D AND HOCKETT STREET ALLEY RECONSTRUCTION PROJECT

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

Documentation: M.O. 05-111808
Disposition: Approved

7. THIS ITEM HAS BEEN REMOVED.

8. CALTRANS “CALL FOR PROJECTS” – BICYCLE TRANSPORTATION ACCOUNT (BTA)

Recommendation: That the City Council:
1. Direct the Public Works Director to complete and transmit two applications to Caltrans District 6 office for Projects #1 and #2; and
2. Authorize the Mayor to sign the Resolution that 1) affirms the City’s commitment to appropriate funds in FY 2009/2010 to satisfy the City’s 10% local match and 2) approved the Bicycle Transportation Plan which contains Project #1 and Project #2.

Documentation: Resolution 92-2008
Disposition: Approved

9. AUTHORIZATION TO RE-SCHEDULE THE ZONING ORDINANCE STUDY SESSION TO DECEMBER 16, 2008

Recommendation: That the Council authorize staff to re-schedule the Study Session for the Zoning Ordinance update to the December 16, 2008 City Council Meeting.

Documentation: M.O. 06-111808
Disposition: Approved

Recommendation: That the Council approve the Community Civic Event Application and Agreement submitted by the Porterville Area Ministerial Association, subject to the stated requirements contained in the Application, Agreement and Exhibit “A”.

Documentation: M.O. 07-111808
Disposition: Approved

COUNCIL ACTION: MOVED by Council Member Felipe Martinez, SECONDED by Council Member Pedro Martinez that the City Council approve Item Nos. 1, 3 through 9, and 12.

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

2. CLAIM – HELEN KENT

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.

City Manager Longley introduced the item, and the staff report was waived at the Council’s request.

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Vice Mayor McCracken that the City Council reject said claim; refer the matter to the City’s insurance adjustor; and direct the City Clerk to give the Claimant proper notification.

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

Disposition: Approved

10. REQUEST TO SCHEDULE STUDY SESSION TO REVIEW THE MARKET ANALYSIS AND BUSINESS INCUBATOR STUDY

Recommendation: That the City Council schedule a study session on January 13, 2009 to review and discuss the material presented in the Market Analysis and Business Incubator Study.
City Manager Longley introduced the item and presented the staff report, during which time he requested a modification to change the date for the study session to January 6, 2009; to add a report on mosquito abatement in the Porterville Area to the Agenda; and to provide discretion to the City Manager to add any urgent consent calendar items.

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Vice Mayor McCracken that the City Council schedule a study session on January 6, 2009 to include review of entrepreneurial study material and a report on mosquito abatement.

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

Disposition: Approved, as amended.

11. AUTHORIZE HOLIDAY LIGHTING DECORATIONS ALONG MAIN STREET AND FOR GARDNER TREE

Recommendation: That the City Council authorize and direct the Purchasing Agent to retain the services of Christmas Décor in an amount not to exceed the funding allocation within the budget for the holiday lighting decorations along Main Street, for the Gardner Tree, and for the Centennial Plaza gazebo.

City Manager Longley introduced the item, and the staff report was waived at the Council’s request.

Council Member Pedro Martinez inquired about the lights being put up prior to the Council’s approval. City Manager Longley indicated that the occurrence was the result of a misunderstanding on the part of Christmas Décor. Staff was then directed to prevent similar occurrences in the future.

COUNCIL ACTION: MOVED by Council Member Felipe Martinez, SECONDED by Vice Mayor McCracken that the City Council authorize and direct the Purchasing Agent to retain the services of Christmas Décor in an amount not to exceed the funding allocation within the budget for the holiday lighting decorations along Main Street, for the Gardner Tree, and for the Centennial Plaza gazebo.

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

Disposition: Approved, and direction given.
PUBLIC HEARINGS

13. WATER SYSTEM STATUS / PHASE II WATER CONSERVATION

Recommendation: That the City Council return to Phase I of the Water Conservation Plan.

City Manager Longley introduced the item, and Deputy Public Works Director/Field Services Manager Bryan Styles presented the staff report.

The hearing opened to the public at 8:01 p.m. Seeing no one, the Mayor closed the public hearing at 8:02 p.m.

Council Member Felipe Martinez requested the continuation of the odd/even water schedule thru the winter, along with continued press releases.

COUNCIL ACTION:

MOVED by Council Member Pedro Martinez, SECONDED by Vice Mayor McCracken that the City Council return to Phase I of the Water Conservation Plan.

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

Disposition: Approved

14. REQUEST FOR A CONDITIONAL USE PERMIT 8-2008 TO ALLOW FOR AN UPGRADE TO FOUR (4) GAS DISPENSERS AND CANOPY AT SHERWOOD HANDY MARKET LOCATED AT 1907 W. MORTON AVENUE

Recommendation: That the City Council adopt the draft resolution approving the Conditional Use Permit 8-2008 subject to conditions of approval.

City Manager Longley introduced the item, and Community Development Director Brad Dunlap presented the staff report. During the staff report Mr. Dunlap amended Conditions 2, 28, and 31 as follows:

2. A five (5) foot wide landscape planter should be installed separating the parking area from the public street and shall be properly and permanently maintained. The number of trees to be planted should be equivalent to a minimum of one tree per thirty five (35) feet of street frontage, and the trees are to be a minimum of size fifteen (15) specimens incorporated into the designated landscape areas. Root barriers are required for all trees planted within ten (10) feet of public sidewalks, and automated irrigation systems for all landscaping will be required.

31. That the applicant/agent shall install a video surveillance system on the new pumps to the satisfaction of the Police Chief to help prevent crime.
28. Main entrance must comply with disabled access laws.

The hearing opened to the public at 8:10 p.m.

- Mark Hillman, 250 North Main Street, on behalf of the applicant, clarified that the site was not a “Shell” station and should be “Spirit”; requested a two-year extension for the completion of a block wall (Condition 4); requested clarification regarding Condition 18; and requested a one year extension of time for installation of video surveillance (Condition 31).

A discussion ensued regarding the applicant’s request for an extension for the completion of conditions 4 and 31. Community Development Director Dunlap shared the reasoning behind the recommendation of video surveillance.

The hearing closed to the public at 8:15 p.m.

COUNCIL ACTION: MOVED by Mayor Hamilton, SECONDED by Council Member Felipe Martinez that the City Council adopt the draft resolution approving the Conditional Use Permit 8-2008 subject to conditions of approval as amended per staff’s memo and the exclusion of Condition 31.

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

Disposition: Approved, as amended.

SECOND READINGS

15. SECOND READING – ORDINANCE 1748, AMENDING CHAPTER 19 ARTICLE II OF THE MUNICIPAL CODE REGARDING PARKWAY TREES

Recommendation: That the City Council give Second Reading to Ordinance No. 1748, waive further reading, and adopt said Ordinance.

City Manager Longley introduced the item, and the staff report was waived at the Council’s request.

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Vice Mayor McCracken that the City Council give Second Reading to Ordinance No. 1748, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING CHAPTER 19 ARTICLE II OF THE MUNICIPAL CODE REGARDING PARKWAY TREES, waive further reading, and adopt said Ordinance.
AYES: McCracken, P. Martinez, F. Martinez, Hamilton
NOES: None
ABSTAIN: None
ABSENT: Ward

The City Manager read the Ordinance by title only.

Disposition: Approved

16. SECOND READING – ORDINANCE 1749, AMENDING SECTION 2617 OF THE ZONING ORDINANCE REGARDING HIGHWAY WALLS AND LANDSCAPING

Recommendation: That the City Council give Second Reading to Ordinance No. 1749, waive further reading, and adopt said Ordinance.

City Manager Longley introduced the item, and the staff report was waived at the Council’s request.

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Vice Mayor McCracken that the City Council give Second Reading to Ordinance No. 1749, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING SECTION 2617 OF THE ZONING ORDINANCE REGARDING HIGHWAY WALLS AND LANDSCAPING, waive further reading, and adopt said Ordinance.

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

The City Manager read the Ordinance by title only.

Disposition: Approved

SCHEDULED MATTERS

17. CONSIDERATION OF A TIME CAPSULE IN CENTENNIAL PARK

Recommendation: That the City Council provide further direction to staff.

City Manager Longley introduced the item, and the staff report was waived at the Council’s request. Chief Deputy City Clerk Patrice Hildreth presented supplemental information regarding existing time capsules within the city.
• Robert Roman, Time Marches On Committee, spoke in favor of the City working in conjunction with the Time Marches on Committee on the time capsule.

The Council provided staff with direction to work with the Time Marches On Committee toward the installation at the April 4, 2009 event.

**COUNCIL ACTION:** MOVED by Council Member Pedro Martinez, SECONDED by Council Member Felipe Martinez that the City Council approve an appropriation of up to $700 for the time capsule.

**AYES:** McCracken, P. Martinez, F. Martinez, Hamilton

**NOES:** None

**ABSTAIN:** None

**ABSENT:** Ward

Disposition: Approved

18. REQUEST FOR COUNCIL PARTICIPATION EVALUATING GRANT WRITER CONSULTANT QUALIFICATIONS

Recommendation: That the City Council appoint one Council Member to work with staff to evaluate the consultant qualifications for grant writer.

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

**COUNCIL ACTION:** MOVED by Mayor Hamilton, SECONDED by Council Member Pedro Martinez that the City Council appoint Council Member Ward to work with staff to evaluate the consultant qualifications for grant writer.

**AYES:** McCracken, P. Martinez, F. Martinez, Hamilton

**NOES:** None

**ABSTAIN:** None

**ABSENT:** Ward

Disposition: Approved

19. REQUEST TO ESTABLISH LOOP SERVICE FOR PORTERVILLE AREA

Recommendation: That the City Council:

1. Authorize the City Manager to correspond with Supervisor Cox asking to initiate a LOOP service for Southeastern Tulare County;
2. Specifically coordinate with the Porterville Unified School District regarding the implementation of the service including pick-up and activity sites; and
3. Donate a surplus 1999 Ford Aerotech bus held by the City to TCAT.
City Manager Longley introduced the item and presented the staff report.

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Council Member Felipe Martinez that the City Council authorize the City Manager to correspond with Supervisor Cox asking to initiate a LOOP service for Southeastern Tulare County; specifically coordinate with the Porterville Unified School District regarding the implementation of the service including pick-up and activity sites; and donate a surplus 1999 Ford Aerotech bus held by the City to TCAT.

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

Disposition: Approved

The Council adjourned at 8:38 p.m. to a joint meeting of the Porterville City Council and the Porterville Redevelopment Agency.

**JOINT CITY COUNCIL/PORTERVILLE REDEVELOPMENT AGENCY AGENDA**

November 18, 2008

Roll Call: Vice Chair McCracken, Agency Member Pedro Martinez, Agency Member Felipe Martinez, Chair Hamilton
Absent: Agency Member Ward

**WRITTEN COMMUNICATION**

**ORAL COMMUNICATIONS**

None

**JOINT CITY COUNCIL/REDEVELOPMENT AGENCY SCHEDULED MATTER**

PRA-01. AUTHORIZATION TO ENTER INTO A LOAN AGREEMENT BETWEEN THE CITY OF PORTERVILLE AND THE PORTERVILLE REDEVELOPMENT AGENCY AND APPROVAL TO AMEND CONTRACT

Recommendation: That the Porterville Redevelopment Agency:

1. Request a loan in the amount of $100,000 from Risk Management for the expansion of the area to be included in the Redevelopment Project Area Amendment; and
2. Amend the contract with Urban Futures, Inc. to include Area 1 as shown on Attachment 1 of this document in an amount not to exceed $64,300.
That City Council:

1. Approve the Redevelopment Agency’s request for a loan in an amount not to exceed $100,000 for the expansion of the area to be included in the Redevelopment Area Amendment, with 3% simple interest accruing beginning upon the adoption of the Redevelopment Project Area Amendment and that payment be deferred for thirty (30) years.

City Manager Longley introduced the item. Vice Mayor/Vice Chair McCracken noted the need to abstain due to a conflict of interest and left the Council Chambers. Community Development Director Dunlap indicated the need to evoke the Rule of Necessity, which would allow Mayor/Chair Hamilton to participate due to being the least conflicted. Mr. Dunlap then presented the staff report.

**AGENCY ACTION:** MOVED by Agency Member Pedro Martinez, SECONDED by Agency Member Felipe Martinez that the Porterville Redevelopment Agency request a loan in the amount of $100,000 from Risk Management for the expansion of the area to be included in the Redevelopment Project Area Amendment; and amend the contract with Urban Futures, Inc. to include Area 1 as shown on Attachment 1 of this document in an amount not to exceed $64,300.

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

**COUNCIL ACTION:** MOVED by Council Member Pedro Martinez, SECONDED by Council Member Felipe Martinez that the City Council approve the Redevelopment Agency’s request for a loan in an amount not to exceed $100,000 for the expansion of the area to be included in the Redevelopment Area Amendment, with 3% simple interest accruing beginning upon the adoption of the Redevelopment Project Area Amendment and that payment be deferred for thirty (30) years.

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

Disposition: Approved

The Council/Agency adjourned at 8:45 p.m. to a meeting of the Porterville Public Financing Authority.

**PORTERVILLE PUBLIC FINANCING AUTHORITY AGENDA**
November 18, 2008

Roll Call: Vice Chair McCracken, Director Pedro Martinez, Director Felipe Martinez, Chair Hamilton
Absent: Director Ward

WRITTEN COMMUNICATION

ORAL COMMUNICATIONS
None

PUBLIC FINANCING SCHEDULED MATTER

PFA-1. ANNUAL MEETING OF THE PORTERVILLE PUBLIC FINANCING AUTHORITY

Recommendation: That the City Council, sitting as the Porterville Public Financing Authority, hold a public hearing meeting in accordance with the Authority’s By-laws, accept public comment, and approve the 2008 Status Report for the Redevelopment Bond Issue #1 and refinance of Tax Allocation Bond Projects.

Executive Secretary Longley introduced the item, and Community Development Director Dunlap presented the staff report.

The hearing was opened to the public at 8:46 p.m. Seeing no one, Chairman Hamilton closed the public hearing at 8:47 p.m.

AUTHORITY ACTION: MOVED by Vice Chair McCracken, SECONDED by Director Felipe Martinez that the approve the 2008 Status Report for the Redevelopment Bond Issue #1 and refinance of Tax Allocation Bond Projects

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

Disposition: Approved

The Public Financing Authority adjourned at 8:48 p.m. to a meeting of the Porterville City Council.

ORAL COMMUNICATIONS

- Dick Eckhoff, address on record, thanked the Council for approving Item No. 11, spoke in favor of the use of vendors as opposed to staff for the task, and indicated that the vendor thought that he had the approval to proceed; and extended an invitation to the lighting ceremony to take place on November 28th.

OTHER MATTERS
• Vice-Mayor McCracken spoke of information regarding mosquito abatement.
• Council Member Pedro Martinez:
  1. Spoke of his meeting with student body presidents to discuss more youth involvement in government; and
  2. Wished Members of the City Council and staff a Happy Thanksgiving.
• Council Member Felipe Martinez:
  1. Spoke of a Rail Committee meeting with Fresno State to take place on November 19th, and provided an update on the Committee’s activities; and
  2. Thanked staff for their help with the Fabulous Music Jam event.
• City Manager Longley reported on his visit to the Governor’s office regarding the J.P.A.
• Mayor Hamilton spoke of meeting a P.O.W. at the Veteran’s Day Tea and that the Council would be presenting him with a proclamation at an upcoming meeting.
• Council Member Pedro Martinez requested a press release go out regarding the proclamation.

ADJOURNMENT
The Council adjourned at 8:57 p.m. to the meeting of December 2, 2008 at 6:00 p.m.

SEAL

Luisa Herrera, Deputy City Clerk

Cameron Hamilton, Mayor
COUNCIL AGENDA: January 20, 2009

SUBJECT: BUDGET ADJUSTMENT FOR THE 2008-09 FISCAL YEAR

SOURCE: Finance Department

COMMENT: During the course of the fiscal year, budget information becomes available that more accurately identifies revenue projections and project costs. Once known, budget modifications are necessary to complete projects and record revenues. To address budget adjustments in an orderly fashion, all adjustments will be presented as one agenda item for Council’s consideration.

Fire Department Training Classroom

The City has recently received $53,864.77 in reimbursement from the State of California and the Federal Government for overtime incurred in three fire incidents last year. These funds are requested to be allocated to the Fire Department Training Classroom in order to complete the project. Some of the items still pending for the classroom include the installation of 4 HVAC units, sewer connection from the classroom to the street, T-Bar grid system, and indoor plumbing.

RECOMMENDATION: That the Council approve the attached budget adjustments, and authorize staff to modify revenue and expenditure estimates as described on the attached schedule.
CITY OF PORTERVILLE
Budget Adjustments

Date: January 20, 2009

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SUBJECT: CLAIM – ELIZABETH MEDRANO

SOURCE: ADMINISTRATIVE SERVICES DEPARTMENT

COMMENT: Ms. Elizabeth Medrano has filed a claim against the City for damages in an amount of $500. Claimant alleges that her vehicle’s wheel was damaged when she struck a pothole while driving eastbound on North Grand Avenue on September 17, 2008.

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.

Item No. 3
CLAIM AGAINST (Name of Entity: CITY OF PORTERVILLE)

Claimant's Name: Elizabeth Mendoza

DOB:

Claimant's Address: 1242 W. Castle Ave.

Claimant's Telephone No. (Home) 559-734-7192 (Work) 559-791-2123 ext 104

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

Date of incident/accident: 9-17-2008

Date injuries, damages, or losses were discovered: 9-17-05

Location of incident or accident: N. Grand headed EAST - N. Grand east

What did entity or employee do to cause this loss, damage, or injury? Lack of

Maint of Road

(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):

NA unknown

What specific injuries, damages, or losses did claimant receive? Wheel bent due to pot hole in the road

(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)].

$500

How was this amount calculated (please itemize):

Estimate given to replace the wheel.

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

Date Signed: 10-24-2008 Signature: Elizabeth Mendoza

If signed by representative:

Representative's Name Telephone:

Address e #

Relationship to Claimant
SUBJECT: CLAIM – MICHELE RAMIREZ

SOURCE: ADMINISTRATIVE SERVICES DEPARTMENT

COMMENT: Ms. Michele Ramirez has filed a claim against the City for property damages in an amount of $1,329.53. Claimant alleges the damages occurred when police officers used force to enter her residence on October 11, 2008.

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.
RECEIVED
NOV 26 2008

CITY OF PORTERVILLE
CITY CLERK OFFICE

(Please Type Or Print)

CLAIM AGAINST (Name of Entity:) CITY OF PORTERVILLE

Claimant's Name: Michele E. Ramirez
DOB: 

Claimant's Address: 1804 W. Wall Ave Porterville, CA 93257

Claimant's Telephone No. (Home) 559-781-8624 (Work) 559-784-5465

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

Date of incident/accident: 10-11-2008

Date injuries, damages, or losses were discovered: 10-11-2008

Location of incident or accident: 1804 W. Wall Ave Porterville, CA 93257

What did entity or employee do to cause this loss, damage, or injury? Used force to enter Home

(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? Hole in security gate
Hole in entry door, Hole in stucco exterior wall, Door trim stripped
Picket fence knocked down

(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)].

$329.53

How was this amount calculated (please itemize): SEE ATTACHED

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

Date Signed: 11-23-2008 Signature: Michele E. Ramirez

If signed by representative:
Representative's Name
Telephone:

Address

Relationship to Claimant
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<td>stucco repair, paint</td>
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<td>carpentry, finish. door trim, gate repair</td>
<td>1.00</td>
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Thank you, Manuel, lic. # 897507

Sub-Total $1,290.00

State Tax 7.75% on 510.00 $39.53

Total $1,329.53
SUBJECT: CLAIM – RUBY ZAVALA

SOURCE: ADMINISTRATIVE SERVICES DEPARTMENT

COMMENT: Ms. Ruby Zavala has filed a claim against the City for damages in an amount of $1,856.29. Claimant alleges that her vehicle’s wheel was damaged when she struck a utility lid while driving eastbound on Olive Avenue in the vicinity of Cloverleaf on December 4, 2008.

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: Zavala Ruby DOB: 
Claimant's Address: 19775 Oklahoma St. Strehlmoore (a 9320) 
Claimant's Telephone No. (Home): (559) 568-2916 (Work) 784-1110

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

Date of incident/accident: 12/04/08 @ 6:40 a.m.

Date injuries, damages, or losses were discovered: 12/04/08

Location of incident or accident: Intersection on Cloverleaf and E. Olive

What did entity or employee do to cause this loss, damage, or injury? Sewer lid improperly installed caused damage to front end and rear

(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? Cracked rim and tire popped, and front end rod ends damaged

(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)].

Unknown at this time, see attached

How was this amount calculated (please itemize):

Date Signed: 12/05/08 Signature: Ruby Zavala

If signed by representative:
Representative's Name: Telephone:
Address #: 
Relationship to Claimant: 
GOLDEN STATE PAINT AND BODY
License #: A141571
Always Quality First
1915 W. Olive
PORTERVILLE, CA 93257
(559) 781-3604 Fax: (559) 781-5802

PRELIMINARY ESTIMATE

Written By: Pat Fuentes
Adjuster:

Insured: Mattias Guerrero

Claim #: UNK
Policy #
Deductible:
Date of Loss:
Type of Loss:
Point of Impact:

Inspect GOLDEN STATE PAINT AND BODY
Location: 1915 W. Olive
PORTERVILLE, CA 93257

Business: (559) 781-3604

8 Days to Repair

2004 CHEV C1500 4X2 AVALANCHE 8-5.3L-FI 4D F/U BLACK Int:
VIN: 3GNEC127X4G105731 Lic: 8E20492 CA Prod Date: 08/2003 Odometer: 73881
Air Conditioning Rear Defogger Tilt Wheel
Cruise Control Intermittent Wipers Keyless Entry
Theft Deterrent/Alarm Message Center Dual Mirrors
Privacy Glass Overhead Console Fog Lamps
Clear Coat Paint Power Steering Power Brakes
Power Windows Power Locks Power Driver Seat
Power Mirrors Heated Mirrors AM Radio
FM Radio Stereo CD Player
Anti-Lock Brakes (4) Driver Air Bag Passenger Air Bag
4 Wheel Disc Brakes Cloth Seats Rear Step Bumper
Bedliner Automatic Transmission Overdrive
Aluminum/Alloy Wheels

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<th>NO.</th>
<th>OP.</th>
<th>DESCRIPTION</th>
<th>QTY</th>
<th>EXT. PRICE</th>
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<td>1</td>
<td></td>
<td>REAR SUSPENSION</td>
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<td></td>
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<tr>
<td>2*</td>
<td>R&amp;I</td>
<td>RT Rotor 1500</td>
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<td>3*</td>
<td>R&amp;I</td>
<td>RT Caliper 1500</td>
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<td>4#</td>
<td>Repl RT Caliper Guide Pin 1</td>
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<td>62.27</td>
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<td>5</td>
<td>Repl</td>
<td>RT Shock w/o 4WD</td>
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<td>101.01</td>
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<td>6</td>
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<td>Check rear alignment</td>
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<tr>
<td>7*</td>
<td>R&amp;I</td>
<td>RT Lower cntrl arm</td>
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<td>m</td>
<td>0.7</td>
<td>M</td>
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<td>9*</td>
<td>Rpr</td>
<td>RT Wheelhouse Lower Inner</td>
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<td>2.0</td>
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<td>10</td>
<td>Repl</td>
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<td>87.67</td>
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<td>11</td>
<td></td>
<td>WHEELS</td>
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<td>N</td>
<td>12**</td>
<td>Repl A/M Linglong Tire 305/40R22 +25%</td>
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<td>187.50</td>
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<td>14**</td>
<td>Repl A/M RT/Rear Chrome wheel</td>
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<td>350.00</td>
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### Preliminary Estimate

**2004 CHEV C1500 4X2 AVALANCHE 8-5.3L-FI 4D P/U BLACK Int:**

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<th>NO.</th>
<th>OP.</th>
<th>DESCRIPTION</th>
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<td>FRAME Hanger</td>
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<td>16*</td>
<td>Rpr</td>
<td>RT Rear Lower Control Arm</td>
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<td>17#</td>
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<td>18#</td>
<td>Rpr</td>
<td>SAND &amp; POLISH</td>
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<td>19#</td>
<td>Repl</td>
<td>SPRAY-ON OVERSPRAY MASK</td>
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<td>10.00</td>
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<td>20#</td>
<td>Sub1</td>
<td>HAZARDOUS WASTE REMOVAL</td>
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<td>Sub1</td>
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Subtotals => 913.30 13.1 1.0

---

**Line 4:** Note; guide pin serviced with caliper kit only per mark @ Michael's

**Line 12:** tire betterment to be given when new tire arrives

**Line 14:** price quoted from Marcus @ Roscoes

**Parts**

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<tr>
<th>Description</th>
<th>Cost</th>
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<tr>
<td>Body Labor</td>
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<tr>
<td>Paint Labor</td>
<td>1.0 hrs @ $58.00/hr</td>
</tr>
<tr>
<td>Mechanical Labor</td>
<td>3.4 hrs @ $65.00/hr</td>
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<tr>
<td>Paint</td>
<td>1.0 hrs @ $30.00/hr</td>
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</table>

**Sublet/Misc.**

|          | 87.95  |

**SUBTOTAL**

| $1784.90 |

**Sales Tax**

| $865.35 @ 8.2500% | 71.39  |

**GRAND TOTAL**

| $1856.29 |

**CUSTOMER PAY**

| $0.00    |

**INSURANCE PAY**

| $1856.29 |

---

**This Estimate is based on our inspection and does not cover additional parts or labor which may be required after the work has been started. After the work has been started, worn or damaged parts which were not evident on first inspection may be discovered. Naturally, this estimate cannot cover such contingencies. All parts will be replaced with new parts unless stated otherwise.**

If, on further inspection, additional parts or repairs are needed, you will be contacted for authorization. We are not responsible for personal property left in your vehicle during repairs. All tests will be made by our employees at your risk. All repairs must be paid for in full, including the deductible, before vehicle can be released, unless prior arrangements are made.
PRELIMINARY ESTIMATE

2004 CHEV C1500 4X2 AVALANCHE 8-5.3L-FI 4D P/U BLACK Int:

FOR YOUR PROTECTION CALIFORNIA LAW REQUIRES THE FOLLOWING TO APPEAR ON THIS FORM:

ANY PERSON WHO KNOWINGLY PRESENTS FALSE OR FRAUDULENT CLAIM FOR THE PAYMENT OF A LOSS IS GUILTY OF A CRIME AND MAY BE SUBJECT TO FINES AND CONFINEMENT IN STATE PRISON.

THE FOLLOWING IS A LIST OF ABBREVIATIONS OR SYMBOLS THAT MAY BE USED TO DESCRIBE WORK TO BE DONE OR PARTS TO BE REPAIRED OR REPLACED: MOTOR ABBREVIATIONS/SYMBOLS: D=DISTRIBUTED PART A=APPROXIMATE PRICE LABOR TYPES: B=BODY LABOR D=DIAGNOSTIC E=ELECTRICAL F=FRAME G=GLASS M=MECHANICAL P=PAINT LABOR S=STRUCTURAL T=TAXED MISCELLANEOUS X=NON TAXED MISCELLANEOUS PATHWAYS: ADJ=ADJACENT ALIGN=ALIGN A/M=AFTERMARKET BLIND=BLEND CAPA=CERTIFIED AUTOMOTIVE PARTS ASSOCIATION D&R=DISCONNECT AND RECONNECT EST=ESTIMATE EXT. PRICE=UNIT PRICE MULTIPLIED BY THE QUANTITY INCL=INCLUDED MIS=MISSING MISCELLANEOUS NAGS=NATIONAL AUTO GLASS SPECIFICATIONS NON-ADJ=NON ADJACENT O/H=OVERHAUL OP=OPERATION NO=LINE NUMBER QTY=QUANTITY QUAL RECY=QUALITY RECYCLED PART QUAL REPL=QUALITY REPLACEMENT PART COMP REPL PARTS=COMPETITIVE REPLACEMENT PARTS RECOND=RECONDITION REFIN=REFINISH REPL=REPLACE R&I=REMOVE AND INSTALL R&R=REMOVE AND REPLACE RPR=REPAIR RT=RIGHT SECT=SECTION SUBL=SUBLINE LT=LEFT W/O=WITHOUT W/=WITH/ _ SYMBOLS: #=MANUAL LINE ENTRY *=OTHER [IE. MOTORS DATABASE INFORMATION WAS CHANGED] **=DATABASE LINE WITH AFTERMARKET N=NOTES ATTACHED TO LINE. MQVP=MANUFACTURER’S QUALIFICATION AND VALIDATION PROGRAM. OPT OEM=ORIGINAL EQUIPMENT MANUFACTURER PARTS EITHER OPTIONALLY SOURCED OR OTHERWISE PROVIDED WITH SOME UNIQUE PRICING OR DISCOUNT. NWCPP=NATIONWIDE CRASH PARTS PROGRAM.

Estimate based on MOTOR CRASH ESTIMATING GUIDE. Unless otherwise noted all items are derived from the Guide D10K102, CCC Data Date 10/01/2008, and the parts selected are OEM-parts manufactured by the vehicles Original Equipment Manufacturer. OEM parts are available at OE/Vehicle dealerships. OPT OEM (Optional OEM) or ALT OEM (Alternative OEM) parts are OEM parts that may be provided by or through alternate sources other than the OEM vehicle dealerships. OPT OEM or ALT OEM parts may reflect some specific, special, or unique pricing or discount. OPT OEM or ALT OEM parts may include "Blemished" parts provided by OEM's through OEM vehicle dealerships. Asterisk (*) or Double Asterisk (**) indicates that the parts and/or labor information provided by MOTOR may have been modified or may have come from an alternate data source. Tilde sign (~) items indicate MOTOR Not-Included Labor operations. Non-Original Equipment Manufacturer aftermarket parts are described as AM, Qual Repl Parts or Comp Repl Parts which stands for Competitive Replacement Parts. Used parts are described as LKQ, Qual Recy Parts, RCY, or USED. Reconditioned parts are described as Rec. Recored parts are described as Recored. NAGS Part Numbers and Benchmark Prices are provided by National Auto Glass Specifications. Labor operation times listed on the line with the NAGS information are MOTOR suggested labor operation times. NAGS labor operation times are not included. Pound sign (#) items indicate manual entries. Some 2009 vehicles contain minor changes from the previous year. For those vehicles, prior to receiving updated data from the vehicle manufacturer, labor and parts data from the previous year may be used. The Pathways estimator has a complete list of applicable vehicles. Parts numbers and prices should be confirmed with the local dealership.

CCC Pathways - A product of CCC Information Services Inc.
SUBJECT: AWARD OF CONTRACT – ON-CALL CONSULTANT SERVICES FOR PREPARATION OF GRANT APPLICATIONS

SOURCE: Administration

COMMENT: As part of the process to move forward with On-Call Consulting Services for Preparation of Grant Applications, the City Council approved distributing a Request for Qualifications (RFQ) to consultants for the pursuit of grant-funding opportunities toward the development of ball field development through Proposition 84 funds (please see attachment). On October 17, 2008, a RFQ for “On-Call Services” for On-Call Consulting Services for Preparation of Grant Applications was issued by City staff. On November 5, 2008, staff received eight (8) proposals for providing these services. During the November 18th, 2008 City Council meeting, Council selected Councilmember Ward to serve on the evaluation team, along with the City Manager, Deputy City Manager, Community Development Director, and Parks and Leisure Services Director.

The evaluation team met on December 5, 2008 to review and rate the Statements of Qualifications (SOQ). The team determined the top three (3) individuals and/or firms, and subsequently scheduled interviews on December 22, 2008 to answer additional questions regarding their proposals and qualifications. With a unanimous 4-0 agreement (the City Manager deferring) the interviews with the consultants were rated as follows:

COMPANY

California Consulting, LLC
Fresno

Provost & Prichard Eng. Group
Visalia

Applied Development Economics
Walnut Creek/Sacramento

California Consulting LLC proposes several options for City consideration toward the pursuit of grants:

Option 1:
For a single fee of $10,000, California Consulting proposes to make application for grant monies exclusively for ball field development through Proposition 84, Major League Baseball Tomorrow Fund, and the California State Parks Land and Water Conservation Fund. Most notable is the pursuit
of Prop. 84 monies, with approximately $50 million available for Central Valley projects, of which the Heritage Center softball complex is believed to be an exemplary project.

**Option 2:**
Monthly fee of $2,500 per month (plus expenses). This is for unlimited grant writing for the City. The flat monthly fee is the most popular option for the 18 cities that the firm currently represents across California. This option also includes all lobbying services needed at no additional expense, Sacramento trips, troubleshooting with State Agencies, etc.

**Option 3:**
Monthly fee of $1,000 per month (plus expenses) and 10% of proceeds of all grants that are written and awarded. Lobbying services included at no additional cost.

**Option 4:**
The company is open to other options the City and the Council wish to propose. They customize their approach to each City and services are unique and custom to each client. This fourth option would be up to the City to propose.

It is the recommendation of staff to pursue “Option 1” as presented by California Consulting, initially focusing efforts in securing funding for the development of the Heritage Center softball complex. Funding to support contract services with California Consulting would be budgeted from unallocated General Fund reserves. With success in securing funds for the development of this project, staff would review with the Council the consideration of broadening the scope of services with California Consulting in pursuing additional grant opportunities.

Due to two (2) members of the City Council being unable to attend the last meeting on January 6th, this item was not considered at that meeting for the purposes of having prospectively the full complement of Council consider the item at this meeting.

**RECOMMENDATION:**
That City Council:

1. Authorize staff to negotiate a contract with the number one (1) rated consultant (California Consulting) pursuing “Option 1” as presented, and if a contract cannot be negotiated, then allow staff to negotiate a contract with the second ranked consultant (Provost & Prichard);
2. Authorize the Mayor to sign said contract for consulting services for preparation of grant applications; and
3. Authorize staff to make payments, upon satisfactory completion of the contracted work, up to 100%.

**ATTACHMENT:**
City of Porterville - Request for Qualifications for an On-Call Consultant for Preparation of Grant Applications
CITY OF PORTERVILLE

REQUEST FOR QUALIFICATIONS FOR AN
ON-CALL CONSULTANT
FOR PREPARATION OF GRANT APPLICATIONS

The City of Porterville is seeking "Statement of Qualifications" from consultants/consulting firms for preparation of grant applications for various projects. The first project is anticipated to be the preparation of a grant application for ball field development through Proposition 84 funding.

Other services typically rendered by the selected consultant/firm may also be utilized from time to time. The selected consultant/firm must have a substantial working knowledge of grant writing, possess strong writing and communication skills and have a flexible schedule that will allow for attendance at meetings as necessary. Although the Community Development Director or an assigned Project Manager will review the consultant/firm's work, the above referenced skills are essential to meeting the objectives of this program.

SCOPE OF CONSULTANT SERVICES:

The consultant/firm will respond directly to the Community Development Director or his designee on a particular project. It may be appropriate that a portion of the work be performed at City Hall in order to coordinate with various City departments, access City records, and to obtain other information via the Internet and telephone.

To assist the consultant/firm in determining his/her level of interest, the consultant/firm should be aware that the following tasks will be required as a minimum:

1. Preparation of a grant application for Proposition 84 funding for the development of ball fields.
2. Preparation of additional grant applications for other projects as funding becomes available.

Other Requirements:

a) The selected consultant/firm will be required to carry and provide certificates of insurance for, general and automobile liability insurance as follows:

- **General Liability** $1,000,000 minimum per occurrence
- **Automobile Liability** $1,000,000 minimum per occurrence
- **Errors and Omissions** $1,000,000 minimum per occurrence
- **Workers Compensation** Statutory Limits

The General Liability is to contain or be endorsed to name the City, its officers, officials, employees and agents as Additional Insured as respects liability arising out of the activities performed in connection with this contract. The coverage shall be primary and shall apply separately to each insured against whom claim is made or
suit is brought, except with respect to the limits of the insurer's liability. Original endorsements, signed by a person authorized to bind coverage on its behalf, shall be furnished to the City by the successful consultant/firm.

b) The selected consultant/firm shall indemnify and hold harmless the City, its officers, employees and agents from and against all claims, damages, losses and expenses caused in whole or in part by any negligent act or omission of the consultant/firm, its consultants, subcontractors, anyone directly or indirectly employed by any of them, or anyone for whose acts any of them may be liable, except where caused by the active negligence, or willful misconduct by the City.

c) Labor and material proposals submitted on this form shall be subject to the provisions of Section 1700, California Labor Code, as specified by Section 3700, California Labor Code, which requires Worker's Compensation insurance to be provided by the selected consultant/firm.

d) Worker's Compensation policy(ies) are to be endorsed to include a waiver of subrogation against the City, its officers, officials, employées and agents.

e) The consultant/firm and its employees are independent contractors and not employees of the City of Porterville. The consultant/firm and/or its insurers are responsible for payment of any liability arising out of worker's compensation, unemployment, or employee benefits offered to its employees.

f) Insurance is to be placed with insurers with a current A.M. Best's rating of no less than A: VII, unless otherwise acceptable to the City.

g) Endorsements are to be received and approved by the City before work commences.

h) The successful consultant/firm shall obtain a City of Porterville business license. Fee is based on gross receipts for all business transactions in the City of Porterville. For information, contact the Business License clerk at (559) 782-7457.

i) The City will provide a service contract, to the selected consultant/firm.

j) All work performed by the consultant/firm under this contract shall be under the ownership of the City of Porterville.

k) All work performed under this contract shall be researched, prepared and executed in a professional and competent manner for which the consultant/firm will be responsible.

l) In accordance with City of Porterville and Caltrans policy, disadvantaged business enterprises (DBE), including qualified small minority and woman-owned firms, are encouraged to submit a proposal or otherwise participate in the completion of the
work covered by this request. No DBE participation goals have been established for this project.

m) The employee(s) identified in the proposal as performing the duties under this contract shall not be replaced without the prior written approval of the Community Development Director of the City of Porterville.

Note: Consultant/firms that cannot comply with the City's insurance requirements, as described above, should not submit a response. These requirements are not negotiable.

DESIRABLE QUALIFICATIONS OF THE CONSULTANT

The City is seeking a qualified consultant/firm to provide on-call preparation of grant applications. The desired consultant/firm shall have the following qualifications:

1) Extensive experience in the preparation of a variety of grant applications.

2) The Consultant/firm's proven ability to expeditiously and accurately produce the required product in a concise and useable format.

3) The Consultant/firm's proven success in obtaining grant funding.

4) The consultant/firm must possess strong writing skills and be proficient using Microsoft Word and other standard software programs.

CONTENTS OF STATEMENTS OF QUALIFICATIONS TO BE SUBMITTED TO CITY

Consultants/Consulting firms wishing to be considered for selection to provide the services to the City described herein should submit Statements of Qualifications in their proposals containing the following information:

1) A description, including background, size and orientation of the consultant/firm.

2) A summary of the qualifications of the consultant/firm to perform the services described herein, including, but not necessarily limited to:
   a. The consultant/firm's previous experience in preparing grant applications and a listing of grants obtained over the past three years, including the type and dollar amount of said grants; and
   b. The consultant/firm's previous experience in performing similar services for other agencies; and
   c. The consultant/firm's previous experience with the City of Porterville and familiarity with the community; and
   d. The consultant/firm's ability to produce the required product in a timely fashion and ability to present such reports to elected officials and the general public, if requested.
3) Prospective consultants/firms shall describe the qualifications of all professional personnel to be assigned to this project, including a summary of similar work or studies each member has performed and a resume of each professional involved with this contract.

4) Prospective consultants/firms shall designate by name the project planner/manager to be employed in this effort. The selected consultant/firm shall not substitute the project planner/manager without prior approval by the Community Development Director of the City of Porterville.

The Statement of Qualifications shall contain the detailed information regarding the billing structure for services and the fees proposed to be charged for the services provided. For example, fees may be in the form of hourly rates which consider all billable expenses such as mileage, materials, insurance, phones, etc., or may be in the form of a percentage of the grant funds secured. In addition to the On-Call Contract, a Service Agreement will be prepared for each project outlining the scope of services, timeframe, costs, etc.

Four (4) copies of the “Statement of Qualifications” shall be submitted by not later than 5:00 P.M., November 5, 2008 to:

City of Porterville
Community Development Department
Attn: Bradley D. Dunlap, AICP, Community Development Director
291 North Main Street
Porterville, CA 93257

The “Statement of Qualifications” must be submitted in an envelope clearly marked with the proposer’s name and “On-Call Consultant”. The City will not consider late or incomplete proposals.

SELECTION PROCEDURE

Based on the “Statement of Qualifications”, City staff may select up to three (3) consultants/firms to meet with City staff to discuss the requirements in greater detail. Selection of the successful consultant/firm shall be generally based on the information provided by the Consultant/firm in response to the RFQ and any subsequent interviews that may be conducted. An evaluation committee made up of City staff will base the selection on a review of the submitted proposals. The committee will:

1. Evaluate the qualifications, including the experience of the consultant/firm’s team and subcontractors;
2. Evaluate the appropriateness of the team’s experience;
3. Verify and interview references provided.

Note: During the initial review process, staff may schedule meetings with each consultant/firm under consideration to help clarify and discuss submissions.
The City of Porterville reserves the right to reject any and all proposals submitted and to request additional information of any applicant.

AWARD OF CONTRACT

The selected consultant/firm shall be required to enter into a written contract with the City of Porterville as provided in Exhibit A – SAMPLE CONTRACT. Any executed contract for services or agreements by and between the City and the Consultant shall be subject to formal City Council approval and/or ratification. This RFQ and the selected consultant’s “Statement of Qualifications”, or any part thereof, may be incorporated into and made a part of the final contract.

In any event, the City reserves the right to further negotiate the terms and conditions of the contract with the selected consultant.

INQUIRIES REGARDING THIS RFQ:

Any inquiries regarding this RFQ or the project described herein should be directed to Linda Wammack, Development Associate, by calling (559) 782-7460.
RESPONSE TO REQUEST FOR PROPOSALS FOR ON-CALL GRANT WRITING SERVICES

TO: City of Porterville

FROM: ___________________________________________

Name/Company

__________________________________________
Address

__________________________________________
City, State, Zip Code

Telephone No. Fax No.

<table>
<thead>
<tr>
<th>Proposal Amount:</th>
<th>Hourly Rate</th>
<th>Availability/hours per week</th>
</tr>
</thead>
<tbody>
<tr>
<td>Project Manager/Principal</td>
<td>__________</td>
<td>__________</td>
</tr>
<tr>
<td>Project Staff</td>
<td>__________</td>
<td>__________</td>
</tr>
<tr>
<td>Clerical (If applicable)</td>
<td>__________</td>
<td>__________</td>
</tr>
</tbody>
</table>

OR

Percentage of grant funding award __________

Notice prior to commencing work on particular project ________ hours/days.

(Summary of qualifications, references and relevant experience must be attached.)

__________________________________________
Signature Date

______________________________
Name and Title (Printed)
EXHIBIT A
SAMPLE CONTRACT
DRAFT

DATE: [Date]

PARTIES: City of Porterville, a California municipal corporation, hereinafter referred to as "CITY"; and [Insert Consultants Name], hereinafter referred to as "CONSULTANT".

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

- Project Name: On-Call-Consulting Services
- Description of Project: Preparation of grant applications as directed by City staff.

AGREEMENTS:

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

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

SECTION 2. PAYMENT: In consideration for said services and materials,
CITY shall pay CONSULTANT on a time and materials basis.

TIME OF PAYMENT: Progress payment requests shall be submitted by the 25th of each month. CONSULTANT should receive payment within 30 days of the date the bill is received.

SECTION 3. COMPLETION DATE: The services to be performed by CONSULTANT will be commenced upon execution of this agreement and all "work directives" shall be completed by [Enter Work Completion Date].

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

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

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

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

(ii) Bodily injury and property damage insurance in the amount not less than One Million Dollars ($1,000,000) per occurrence; and

(iii) Errors and Omissions insurance of One Million Dollars ($1,000,000) minimum per occurrence, if deductible for Errors and Omissions insurance is Fifty Thousand Dollars ($50,000) or more, the City may require a Surety Bond for the deductible; and

(iv) Automotive liability in the amount not less than One Million Dollars ($1,000,000) per occurrence; fully protecting CITY, its elected and appointed officers, employees, agents and assigns, against all claims arising from the negligence of CONSULTANT and any injuries to third parties, including employees of CITY and CONSULTANT. CONSULTANT agrees to indemnify, defend (at CITY’S election), and hold harmless the CITY against any claims, actions or demands against CITY, and against any damages, liabilities for personal injury or death or for loss or damage to property, or any of them arising out of negligence of CONSULTANT or any of its employees or agents.
SECTION 6. WORKMANSHIP AND MATERIALS: Every part of the work herein described shall be executed in a professional manner with competent, experienced personnel. Finished or unfinished material prepared under the agreement by CONSULTANT, shall become property of CITY. CONSULTANT hereby warrants that any materials prepared under this agreement shall be fit for the intended use contemplated by the parties.

SECTION 7. ASSIGNMENT OF CONTRACT: It is acknowledged by the parties that CITY has entered into this contract with the express understanding that CONSULTANT will perform all work. CONSULTANT shall not, without the written consent of CITY, assign, transfer or sublet any portion or part of this work, nor assign any payments to others.

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

SECTION 9. CONFLICT OF INTEREST CODE: CONSULTANT agrees to comply with the regulations of CITY'S "Conflict of interest Code". Said code is in accordance with the requirements of the Political Reform Act of 1974. CONSULTANT covenants that it presently has no interest, and shall not have any interest, direct or indirect, which would conflict in any manner with the performance of service required hereunder. The term "conflict" shall include, as a minimum, the definition of a "conflict of interest" under the California Fair Political Practices Act and the City of Porterville Conflict of Interest Code, as that term is applied to consultants.
SECTION 10. TERMINATION: Either party for just cause may terminate this contract by giving a thirty (30) day written notice to the other party. CITY may cancel contract upon five (5) day written notice in the event of nonperformance by CUNSLTANT. Upon termination by CITY, CITY shall be relieved of any obligation to pay for work not completed including profit and overhead. CONSULTANT may be entitled to just and equitable compensation for satisfactory work completed, except CITY can withhold damages incurred as a result of the termination.

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

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

CITY OF PORTERVILLE                      CONSULTANT

By____________________________________  By____________________________________

Cameron Hamilton, Mayor

Date________________________________   Date________________________________
COUNCIL AGENDA: JANUARY 20, 2009

SUBJECT: AWARD CONTRACT – CAB & CHASSIS WITH DUAL REAR WHEELS

SOURCE: Administrative Services/Purchasing

COMMENT: Staff solicited bids for a new dual rear wheel cab & chassis truck for the City’s Solid Waste Division. In response to solicitation, five (5) bids were received, all of which are responsive to the specifications. We also received two (2) “No Bid” letters. The bids are as follows:

<table>
<thead>
<tr>
<th>Bidder</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>Downtown Ford</td>
<td>$24,229.94</td>
</tr>
<tr>
<td>Sacramento, CA</td>
<td></td>
</tr>
<tr>
<td>Clevenger Ford</td>
<td>$25,728.41</td>
</tr>
<tr>
<td>Porterville, CA</td>
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<tr>
<td>Three-Way Chevrolet</td>
<td>$27,581.70</td>
</tr>
<tr>
<td>Bakersfield, CA</td>
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</tr>
<tr>
<td>Jim Burke Ford</td>
<td>$30,777.71</td>
</tr>
<tr>
<td>Bakersfield, CA</td>
<td></td>
</tr>
<tr>
<td>Central Valley Truck Center</td>
<td>$33,563.02</td>
</tr>
<tr>
<td>Fresno, CA</td>
<td></td>
</tr>
</tbody>
</table>

Staff has reviewed the bids and finds the low bidder to be responsive to the specifications. Funds for the purchase of the vehicle have been appropriated in the Solid Waste Division’s Equipment Replacement Fund.

RECOMMENDATION: That Council award the contract for a new dual rear wheel cab & chassis truck to Downtown Ford of Sacramento, CA, in the amount of $24,229.94. Further, that Council authorize payment upon satisfactory delivery of the equipment.

D.D. Appropriated/Funded C.M. Item No. 7
SUBJECT: QUAD KNOPF PROFESSIONAL SERVICE AGREEMENT – JAYE STREET EXTENSION PROJECT (MONTGOMERY AVENUE TO GIBBONS AVENUE)

SOURCE: Public Works Department - Engineering Division

COMMENT: Over five (5) years ago, Quad Knopf prepared, what staff considered to be, 65% plans and specifications for the extension of Jaye Street from Montgomery Avenue to Gibbons Avenue and other proposed street improvements in the general area for the City of Porterville. The project was shelved due to the lack of funds. Due to the immediate need to connect Jaye Street from State Route 190 to Gibbons Avenue, staff has defined funds for the construction of the necessary improvements to make this project a reality.

State law designates Quad Knopf as the “Responsible Engineer in Charge” for the shelved plans and specifications. Therefore, staff recently asked Quad Knopf to provide the City with a Scope of Services and a fee proposal for updating the plans and specifications to meet current General Plan policies, City codes and City regulations. Quad Knopf was also asked to perform a Hydrology and Drainage study so that pipelines can be installed within Jaye Street to serve the needs of the surrounding area. Quad Knopf has delivered a detailed scope of services and a fee proposal of $99,480 to complete and/or modify the plans, specifications, and hydrology/drainage report. Attached is a consultant executed Service Agreement for Council’s review and reference.

The herein described design requirements will be in compliance with the recently adopted General Plan, triggering substantial design changes, one of which being roadway widths. Design and construction funds are available as defined by the 08/09 fiscal year budget.

RECOMMENDATION: That City Council:

1. Authorize the Mayor to execute a Service Agreement with Quad Knopf at an agreed fee of $99,480 for the services described herein; and

2. Authorize progress payments up to 100% of the fee amount and authorize a 10% contingency to cover unforeseen design efforts.

ATTACHMENTS: Locator Map Proposed Service Agreement

P:\pubwork\Engineering\Council Items\Quad Knopf Engineering Service Agreement - Jaye Street Montgomery to Gibbons Project - 2009-01-20.doc

DIR Appropriated/Funded [ ] CM [ ] Item No. 8
SERVICE AGREEMENT

DATE: December 23, 2008

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

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

Project Name: Jaye Street Extension Project (Montgomery Avenue to Gibbons Avenue)

Description of Project: As described in the attached Exhibit "A, Scope of Work, and accompanying Project Budget.

AGREEMENTS:

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

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

SECTION 2. PAYMENT: In consideration for said services and materials,
CITY shall pay CONSULTANT on a time and materials basis, not to exceed Ninety Nine Thousand, Four Hundred Eighty Dollars, ($99,480.00) (refer to attached fee schedule, if used.)

TIME OF PAYMENT: Progress payment requests shall be submitted by the 25th of each month. CONSULTANT should receive payment within 30 days of the date the bill is received.

SECTION 3. COMPLETION DATE: The services to be performed by CONSULTANT will be commenced upon execution of this agreement and all “work directives” shall be completed within consecutive ninety (90) calendar days.

The parties agree that time is of the essence under this contract. Inasmuch as it would be difficult to ascertain the actual amount of damages sustained by delay in performance of said contract, the amount of three hundred dollars ($300) per calendar day shall be deducted from the contract price for liquidated damages for each calendar day beyond the completion date listed above. Said deduction will not be made if CONSULTANT submits proof in writing that delay in completion was due to a cause beyond its control.

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

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

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

(ii) Bodily injury and property damage insurance in the amount not less than One Million Dollars ($1,000,000) per occurrence; and

(iii) Errors and Omissions insurance of One Million Dollars ($1,000,000) minimum per occurrence, if deductible for Errors and Omissions insurance is Fifty Thousand Dollars ($50,000) or more, the City may require a Surety Bond for the deductible; and

(iv) Automotive liability in the amount not less than One Million Dollars ($1,000,000) per occurrence; fully protecting CITY, its elected and appointed officers, employees, agents and assigns, against all claims arising from the negligence of CONSULTANT and any injuries to third parties, including employees of CITY and CONSULTANT. CONSULTANT
agrees to indemnify, defend (at CITY'S election), and hold 
harmless the CITY against any claims, actions or demands 
against CITY, and against any damages, liabilities for 
personal injury or death or for loss or damage to property, or 
any of them arising out of negligence of CONSULTANT or 
any of its employees or agents.

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

SECTION 7. ASSIGNMENT OF CONTRACT: It is acknowledged by the 
parties that CITY has entered into this contract with the express 
understanding that CONSULTANT will perform all work. CONSULTANT 
shall not, without the written consent of CITY, assign, transfer or sublet 
any portion or part of this work, nor assign any payments to others.

SECTION 8. AFFIRMATIVE ACTION. CONSULTANT will not 
discriminate against any employee, or applicant for employment because 
of race, color, religion, gender, marital status, or national origin.
SECTION 9. CONFLICT OF INTEREST CODE: CONSULTANT agrees to comply with the regulations of CITY'S “Conflict of Interest Code”. Said code is in accordance with the requirements of the Political Reform Act of 1974.

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

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

SECTION 11. ENTIRE CONTRACT: It is understood and agreed that this Service Agreement represents the entire Agreement between the parties. Should it be necessary to institute legal proceedings to enforce any and all of the covenants and conditions of this Agreement, the prevailing party shall be entitled to recover attorneys’ fees and costs.
SECTION 12. DISPUTES; VENUE: If either party initiates an action to
enforce the terms hereof or declare rights hereunder, the parties agree
that the venue thereof shall be the County of Tulare, State of California.
CONSULTANT hereby waives any rights it might have to remove any
such action pursuant to California Code of Civil Procedure Section 394.

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

CITY OF PORTERVILLE

CONSULTANT

By_________________________ By_________________________

Cameron Hamilton, Mayor

Date________________________ Date________________________

mkr:vs
EXHIBIT A

CITY OF PORTERVILLE
JAYE STREET IMPROVEMENTS

SCOPE OF SERVICES
Based on our meeting with City staff, the intent is to complete the design and construction documents for the construction and reconstruction of Jaye Street from the south end of the proposed roundabout at Jaye Street and Montgomery to Gibbons Avenue based on the original Jaye Street/Gibbons Avenue Project design by Quad Knopf.

Under City of Porterville Project Number 85-9717-88 and Quad Knopf Project Number 00329, Quad Knopf prepared plans and technical specifications for the Jaye Street/Gibbons Avenue Project to an approximate 90% completion level prior to the project being suspended. Since that time, development has occurred in the area between Poplar Ditch, Gibbons Avenue, Jaye Street and Indiana Street, and has constructed frontage improvements along Indiana Street, Gibbons Avenue and Jaye Street. In addition, the City of Porterville is currently under contract with a separate consultant for the design of a roundabout at Jaye Street and Montgomery Avenue which is located at the north end of the original Jaye Street/Gibbons Avenue Project. It is assumed that the existing improvements and the proposed projects conform to Quad Knopf’s original horizontal control and project boundaries for the Jaye Street portion.

Our project manager and project engineer will work with the City staff representative to assure that the improvement plans for both projects are coordinated and that all tie-in points for underground facilities and street improvements match.

Jaye Street Roadway Improvements: As mentioned above, the project will connect to the south end of the proposed roundabout project at Jaye Street and Montgomery Avenue, and will continue to and include the intersection of Jaye Street and Gibbons Avenue. Improvements to Gibbons Avenue will only include those improvements necessary at Jaye Street to provide a functional intersection that meets Caltrans design requirements. The previous design consisted of an 84’ wide right-of-way with a street section of 64’ curb-to-curb. The new design will consist of a City standard 2-lane, 60’ right-of-way collector with a 40’ wide curb-to-curb street section. For this project, the City will only acquire right-of-way necessary to construct the 40’ wide street section and the 10’ right-of-way behind the west curb line. The west curb and gutter will align with the existing curb and gutter installed by the subdivision on Jaye Street from Gibbons Avenue north to the City well site. Two left turn pockets will be provided along the length of the project. One will be located at Melinda Avenue, and the other location will be determined at the kick-off meeting. A couple of elements included in the previous project will also be eliminated in the new project which includes the elimination of the sidewalk along the east side of Jaye Street and the truck parking along the Walmart Distribution Center frontage. Sidewalk will be installed along the west side of Jaye Street only. Pavement section designs will be based on the previous geotechnical information and R-values shown on the original plans which ranged from 51 to 66.

One new element to the project is a new median to be constructed in Jaye Street from Gibbons Avenue to Melinda Avenue. Based on input from the kick-off meeting, Quad Knopf will prepare
up to 3 alternative median layouts for the City’s review. A final median layout will be prepared based on the feedback from the City review. This median layout will be incorporated into the construction documents.

The street improvements will allow for future widening of Jaye Street to the east should it become necessary in the future. It is assumed that the future widening would be limited to a maximum 84’ right-of-way width and approximately 64’ curb-to-curb width.

Quad Knopf will perform a limited topographic survey to supplement the original surveys performed for the project and any recent topographic information provided by the City, and confirm location and elevations of improvements constructed since the previous survey.

The street improvement plans will also include the installation of street lights along Jaye Street based on 9500 lumen street lights at 160’ staggered spacing. Striping and signage plans will also be prepared based on the Caltrans Highway Design Manual.

A right-of-way strip plan will be prepared for the project by the City to identify right-of-way constraints. Working with the City staff and the right-of-way strip plan, Quad Knopf will identify any right-of-way along Jaye Street and Gibbons Avenue at Jaye Street to be acquired to accommodate the proposed street improvements. Once the properties have been identified, the City of Porterville will order and provide the necessary preliminary title reports for these properties. Based on the preliminary title reports, Quad Knopf will also provide right-of-way acquisition documents which will consist of a legal description and exhibit of the property to be acquired. The City of Porterville will provide all other services necessary to acquire the property including property appraisals and property owner negotiations. The City has indicated that they may want to acquire right-of-way along Gibbons Avenue for future street improvements. Quad Knopf will review the right-of-way requirements with the City and if additional right-of-way documents are desired, we will provide these as additional services.

**Hydrology and Drainage:** As part of the prior Jaye Street/Gibbons Avenue project, a hydrology report was prepared to determine the storm drain facilities needed to accommodate storm runoff in the project area, and the ultimate design of the storm drainage basin located on the west side of Jaye Street and on the south side of Poplar Ditch. The designs were based on the City of Porterville Storm Drain Master Plan, October 1994 Update. The hydrology report will be reviewed and updated to reflect the existing improvements that have been constructed since the original report, updated storm drain master plan facilities and planned facilities, revised and updated drainage area(s), and actual percolation rates from geotechnical investigations provided by the City for the storm drain basin. As discussed in our meeting with the City, the drainage area will be limited by South Main Street to the east and upstream of the project area.

Based on the updated hydrology report, Quad Knopf will determine the type, size and extent of storm drainage facilities to be constructed within the new Jaye Street project area, and the current capacity and ultimate design capacity of the existing storm drain basin. The construction plans for Jaye Street will include any necessary storm drain trunk lines and appurtenances within the project construction area as well as the ultimate design for the storm drain basin. It is anticipated that the basin will be incrementally improved as development occurs in the area. If the existing
basin is inadequate for current conditions and the proposed project, the construction plans will include earthwork necessary to accommodate the design runoff for these conditions.

**Culvert Design:** The project will also include the completion of the culvert design at Poplar Ditch to allow for the southerly extension of Jaye Street. For purposes of this proposal, it is assumed that the original culvert designs and the original hydraulic studies of the Poplar Ditch will be adequate to satisfy the requirements of the Lower Tule Irrigation District (LTID) for ultimate approval of the plans by the LTID. We will work with LTID to process the plans in an expeditious manner in an attempt to keep it on schedule with the remainder of the street improvement plans.

**Underground City Facilities:** The installation and extensions of City water, sanitary sewer and storm drain facilities will be included in the construction plans for the Jaye Street improvements. A 12” water main currently exists within the limits of the Jaye Street project area. In conjunction with City staff, we will review the current and potential future water service locations and will include the installation of these services in the Jaye Street construction plans.

The original plans for Jaye Street included the extension of an 8” sanitary sewer line from Montgomery Avenue to Poplar Ditch. The proposed new Jaye Street improvement plans will tie-in to the southerly extension of the 8” sanitary sewer line from the proposed roundabout construction plans and continue it south to Poplar Ditch.

Storm drain trunk lines identified in the updated Hydrology Report for Jaye Street and required appurtenances, such as manholes, catch basins and outfall structures, will be included in the construction plans also.

**Utility Coordination:** Early contact with the utility companies is very critical to projects requiring relocations, and can aid in the successful completion and staying on target with the construction schedule. Quad Knopf will coordinate with the affected utility companies to relocate their affected infrastructure to accommodate the construction of the improvements.

The multi-step utility coordination will be a written and personal-contact approach and will include the following steps.

- Send Notification Letters to all utility companies notifying them of the upcoming improvements.
- Submit Improvement Plans and Utility Applications to the respective utility companies requesting the required relocations and new service connections.
- Conduct site visits with the utility companies, or joint City and utility company meetings as required.
- Coordinate with SCE to obtain the Rule 16 drawings and client requirements for the construction phase of the project.
- Coordinate the receipt of all utility company contracts and invoices for the Client. Follow-up to ensure all applications and payments to utility companies, if applicable have been submitted, so construction is not delayed.
**Landscape and Irrigation Plans:** The new median in Jaye Street between Gibbons Avenue and Melinda Avenue will be landscaped to provide an entry statement to the City. We will prepare up to 3 concept landscape plans to be included with the alternative median layouts. Based on the City selected alternative layout and landscape concept, Quad Knopf will prepare landscape and irrigation plans, and specifications which will be included in the construction document package.

**Construction Documents:** Quad Knopf will modify the previous construction plans to reflect the current scope of work and provide a complete set construction plans for City approval and bidding purposes. Plans will be prepared in accordance with previously agreed upon standards.

Quad Knopf will prepare the technical specifications for the construction documents in accordance with the City of Porterville standards, “Green Book”, Caltrans, and APWA standards. A bid list will be prepared which itemizes the various items of work along with quantities and units of measure that will be coordinated with the technical specifications for performance, and measurement and payment. An opinion of probable construction cost will be prepared based on the bid list. This estimate will be signed and stamped by the project engineer. The City will compile these documents (construction plans, technical specifications and bid list) with the “boiler plate” City bid and contract documents to complete the bid documents for advertising. All documents will be prepared in an approved version of MS Word and MS Excel formats to facilitate the assimilation of the bid documents. Reproducible original construction plans will be provided to the City for their use in advertising the project.

From our meeting, it is understood that the project will be locally funded and will be a non-prevailing wage project. All documents will be prepared based on that condition.

**WORK PLAN**

**Task 1.0**  PS&E

1.1 Kick-off Meeting/Notice to Proceed
   - Meet with Quad Knopf project team and City staff;
   - Confirm scope and schedule;
   - Receive Notice to Proceed;
   - Confirm criteria for hydrology report; and
   - Review alignment and median criteria.

1.2 Supplemental Topographic Surveys
   - Gather all existing available data;
   - Perform field survey to collect supplemental topographic information; and
   - Reduce field data and add to existing topographic survey information.

1.3 Street Improvements Plans – 84' right-of-way with 64' curb-to-curb cross-section.
   - Prepare up to 3 alternative median layouts for the new median in Jaye Street from Gibbons Avenue to approximately Melinda Avenue including landscape concepts described in Task 1.10 – Landscape and Irrigation Documents;
   - Prepare final median layout based on City review and comments;
• Prepare Jaye Street improvement plans from the south end of roundabout project to Gibbons Avenue;
• Prepare improvement plans for Gibbons Avenue @ Jaye Street intersection;
• Provide street cross sections with pavement sections and R-values;
• Prepare a street lighting plan for Jaye Street; and
• Prepare a signage and striping plan.

1.4 Underground Facilities
• Prepare improvement plans for the extension of an 8" sewer main from the south end of the proposed roundabout project to Poplar Ditch;
• Prepare improvement plans for any necessary storm drain trunk line improvements in Jaye Street from Gibbons Avenue to Poplar Ditch; and
• Prepare improvement plans for the installation of any required water services to the existing 12" water main in Jaye Street.

1.5 Storm Drain Basin
• Prepare plans for ultimate storm drain basin design including fencing and access, and identify any improvement necessary to accommodate current conditions; and
• Prepare plans for any necessary discharge structures from the Jaye Street storm trunk line.

1.6 Drainage Study
• Prepare an updated hydrology report, and present to City staff;
• Identify storm drain trunk line collection facilities; and
• Determine current and ultimate design capacity of existing Jaye Street storm basin.

1.7 Culvert Design
• Complete the Poplar Ditch culvert construction plans; and
• Process plans through LTID for approval

1.8 Technical Specifications and Estimates
• Prepare in accordance with City of Porterville standards, "Green Book", Caltrans and APWA standards;
• Technical specifications will be suitable for inclusion with City of Porterville "boiler plate" front-end proposal and contract requirements;
• Prepare bid item list with descriptions, quantities and units of measure; and
• Prepare an estimate of probable construction costs, the final estimate will be stamped and signed by the project engineer.

1.9 Right-of-way Documents
• Provide overall right-of-way acquisition plan; include Gibbons Avenue to S. Main Street;
• Provide final legal descriptions and 8-1/2 x 11 exhibits for each property acquisition. (Assume 13 parcels for Jaye Street and Gibbons Avenue/Jaye Street intersection).
• Stake the new right-of-way line on individual parcels (one time only)

City of Porterville – Jaye Street Project
5 of 8
1.10 Landscape and Irrigation Documents
- Prepare up to 3 concept landscape plans for the new median in Jaye Street from Gibbons Avenue to approximately Melinda Avenue which will be included in the alternative median layouts described in Task 1.3 – Street Improvement Plans;
- Prepare final concept landscape plan based on City review and comments;
- Prepare landscape plans based on the final concept landscape plan;
- Prepare irrigation plans based on the final concept landscape plan; and
- Prepare landscape and irrigation technical specifications.

Deliverables for Task 1.0
- Up to 3 alternative median layouts with landscape concept plans;
- Final median layout with landscape concept plan;
- 50%, 95%, 100% submittals for construction plans, technical specifications and opinions of probable construction costs; and
- Draft and Final Hydrology Report.

Task 2.0 Utility Coordination
- Contract and provide preliminary project information to utility companies, and request information on current utility locations and type.
- Provide utility companies with progress plans for review and comment, and begin coordination of any required relocations.
- Coordinate with City staff and attend up to 4 utility coordination meetings including site visits.
- Coordinate with City staff and prepare applications for any necessary relocation. Applications to be submitted by the City.
- Coordinate utility requirements between City staff, affected utilities and the project team.
- Attend pre-construction meeting with City staff, utility companies and contractor.

Deliverables for Task 2.0
- Copies of transmittals to utility companies;
- Meeting agendas with follow-up meeting minutes from Quad Knopf scheduled utility company and/or City and utility company meetings – up to 4 meetings; and
- Provide copies of completed utility applications.

ADDITIONAL SERVICES (Optional services if desired by the City)
Bidding Assistance: If desired by the City, provide bid assistance to address questions, clarifications and the preparation of addenda. A separate scope and fee estimate can be provided upon request.

Construction Staking: If desired by the City, Quad Knopf will provide construction staking services for the project. A separate scope and fee estimate can be provided upon request.

Construction Support Services: If desired by the City, Quad Knopf will provide experienced staff to provide construction administration services, construction inspection (part-time or full-time), and/or construction management services. A separate scope and fee estimate can be provided upon request.

PROJECT TEAM

Jeff Cowart, PE (Quad Knopf) – Project Manager
Rick Joyner, PE, PLS (Quad Knopf) – Project Engineer
Miguel Barcenas, PE (Quad Knopf) – Hydrology Report
Andrew Randolph, PE (Taylor-Teter) – Culvert Design
Meredith Inglehart (Quad Knopf) – Utility Coordination
Kristin Roberts, EIT (Quad Knopf) – Designer
Craig Knopf, PLS (Quad Knopf) – Right-of-Way Documents
David Berry, PLS (Quad Knopf) – Field Survey
Dan Garver, ASLA (Quad Knopf) – Landscape Architect
**FEE PROPOSAL:**

<table>
<thead>
<tr>
<th>Task 1.0 - PS&amp;E</th>
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<tbody>
<tr>
<td>1.1 Kick-off Meeting/Notice to Proceed</td>
<td>$3,600.00</td>
</tr>
<tr>
<td>1.2 Supplemental Topographic Surveys</td>
<td>$8,780.00</td>
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<td>1.3 Street Improvements Plans</td>
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<td>1.4 Underground Facilities</td>
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<td>1.5 Storm Drain Basin</td>
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<td>1.6 Drainage Study</td>
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<td>1.7 Culvert Design</td>
<td>$9,990.00</td>
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<tr>
<td>1.8 Technical Specifications and Estimates</td>
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<tr>
<td>1.9 Right-of-way Documents (Assumes 13 parcels)</td>
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<td>1.10 Landscape and Irrigation Documents</td>
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Total Fee = $99,480.00
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<td>2.2 Supplemental Topo Survey</td>
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<td>3.1 Street Improvement Plans</td>
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<td>5.1 Storm Drain Basin</td>
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<td>Mon 2/20/09</td>
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<td>Mon 2/20/09</td>
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<td>7.1 Culvert Design</td>
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<td>Mon 2/20/09</td>
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<tr>
<td>9.1 Right-of-way Documents</td>
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<td>Mon 2/20/09</td>
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<tr>
<td>10.1 Landscape and Irrigation</td>
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<tr>
<td>15.1 Utility Coordination</td>
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SUBJECT: APPROVAL OF A SOUTHERN CALIFORNIA EDISON APPLICATION AND A "COST PLUS" CONTRACT FOR A NEW ELECTRICAL SERVICE TO MUNICIPAL WATER WELL NO. 31

SOURCE: Public Works Department - Engineering Division

COMMENT: Design plans and specifications for the second phase of Well No. 31 (Pumping Plant Facility) are complete. The second phase of the project will equip the municipal well so that it can be integrated into the City's water system. Dee Jaspar and Associates provided the design services for both phases of Well No. 31. During the second design phase, the consultant contacted Southern California Edison (SCE), and requested a service for the City's new 250 horse power turbine pump and motor.

When SCE reviewed the project and performed their electrical loading analyses for the municipal well, Edison determined that a new feed would be required. The new feed would originate on the west side of Mathew Street approximately midway between Forrest Avenue and Orange Avenue and extend south along Mathew Street about 310 feet to the new well site. The new feed will require a new 4'x6' pull box, 310 lineal feet of 4" underground conduit, concrete slab for a pad mounted transformer, bollards, trenching, backfilling, pavement patch, sidewalk repairs and related appurtenances. Installation of these materials will become a contractual requirement of the City's contractor.

Typically, SCE does not charge electrical service set up fees when the City installs large municipal wells. However, in this case a portion of the work requires the installation of "Intercepting Y's" around an existing live conduit. This type of work is only allowed by contractors that are certified by SCE and there is an additional cost associated with this specialized work. The fee for what SCE terms "Cost Plus" work is $10,184.24.

Funding is available as defined by the 08/09 fiscal year budget and staff anticipates reimbursement via the CIEDB Loan that is currently approaching approval.

RECOMMENDATION: That City Council:

1. Allow the City Engineer to sign the SCE application and "Cost Plus" Contract; and

2. Authorize the payment of $10,184.24 for the "Cost Plus" work.

ATTACHMENTS: SCE Cost Plus Contract, Locator Map
## Appendix A - Refundable Option Electric Line Extension Agreement

<table>
<thead>
<tr>
<th>Loc. 6951</th>
<th>W.O. 2338</th>
<th>A.I. 82329</th>
<th>Job # 307556</th>
</tr>
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</table>

### 1. SCE Rule 16 Cost to Serve
- **A. SCE Rule 16 Cost to Serve**
  - $20,683.93
- **B. Less Applicant Allowances**
  - $39,732.96
- **C. Excess Rule 16 Cost to (Line 5. (A))**
  - $0.00
- **D. Excess Allowances to (Line 2.)**
  - $19,049.03

#### SCE Cost to Serve Rule 15
- **E. Overhead**
  - 0 Feet x $0.00 Unit Cost
  - $0.00
- **F. Underground**
  - 0 Feet x $0.00 Unit Cost
  - $0.00
- **G. Project Specific (If 2X Unit Cost or Competitive Bid)**
  - $5,007.58
- **H. Total SCE Rule 15 Cost to Serve**
  - $5,007.58

### 2. Applicant Allowances (From Line 1. (D))
- $19,049.03

### 3. Refundable:
- **A. SCE Rule 15 Cost to Serve (Line 1. (H))**
  - $5,007.58
- **B. Plus Estimated Value of Structures**
  - $1,599.50
- **C. Subtotal (Line 3. (A) + 3. (B))**
  - $6,607.08
- **D. Less Allowance (Line 2)**
  - $19,049.03
- **E. Refundable Amount (Line 3. (C) - 3. (D))**
  - $0.00
- **F. Plus Refundable ITCC* on Line 3. (E)**
  - $0.00
- **G. Total Amount (Line 3. (E) + 3. (F))**
  - $0.00

### 4. Payment Option Selected:
- **Refundable Has Chosen:**
  - **Sign**
  - **Line 3. (G):**
  - $0.00

#### Value of Structures:
- **Sign**
  - **$1,599.50**

#### Refundable Payment:
- **Sign**
  - **$0.00**

#### Amount Subject to Refund/Credit:
- **Sign**
  - **$1,599.50**

### 5. Other Non-Refundable Advances & Credits
- **A. Other Non-Refundable Charges**
  - (Rule 16, flat rate, inspection, R/W, etc.)
  - **Sign**
  - **$8,000.00**

- **B. ITCC* on Other Non-Refundable**
  - **Sign**
  - **$2,800.00**

- **C. ITCC* on Applicant Furnished Facilities**
  - **Sign**
  - **$983.74**

- **D. Installed Cost of Substructure by SCE**
  - **Sign**
  - **$0.00**

- **E. Less Applicant Design or Reimbursable Credits**
  - **Sign**
  - **$0.00**

- **F. Total Non-Refundable (Line 5. (A) thru 5. (D) - 5. (E))**
  - **Sign**
  - **$11,831.74**

- **G. Total Credits (Line 5. (E) - 5. (A) thru 5. (D))**
  - **Sign**
  - **$0.00**

### 6. Amount to Be Paid by Applicant to SCE
- **Sign**
  - **$10184.24**

### 7. Amount to Be Refunded to Applicant Upon Fulfillment of All Contractual Obligations
- **Sign**
  - **$615.76**

* Income Tax Component of Contribution

---

*H. Total SCE Rule 15 Cost to Serve*
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<tr>
<th>Description</th>
<th>Amount</th>
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<tr>
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</tr>
<tr>
<td>Item # 53507  82329  148441  307556 - LINE EXTENSION</td>
<td>$10,184.24</td>
</tr>
</tbody>
</table>

Previous Payment
* Enclosed are 2 copies of our invoice. Please return 1 copy of the invoice with your payment
* Final electrical inspection from the local governmental building and safety department must be received before we can energize your service.
* If a street light work order is associated with this project, contracts for that project will be enclosed.
* Enclosed are copies of refundable and discount option appendices. Please select one option, sign both copies (one as selected, the other as not selected) and return with your payment.
* All prices are applicable for a period of 90 days from this date and are subject to change thereafter.
* Please return all applications and/or contracts fully completed.
* Easement documents will be mailed directly to you from our Right of Way department. Please complete and return them as soon as possible, as we will not be able to proceed with the project without clearance.
* An Edison Inspector must approve all underground systems. Please call your designated inspector 48 hours prior to construction to schedule an inspection.
* Call the Edison company at 1-800-655-4555 to make application for electrical service.

Invoice Total $10,184.24

Please detach and return payment stub with payment

Payment Stub

Invoice #: 50890

CITY OF PORTERVILLE
291 N MAIN ST
PORTERVILLE CA 93257 3737

Please pay total amount now due: $10,184.24

Thank you for paying promptly

Make check payable to Southern California Edison
2425 SOUTH BLACKSTONE AVENUE
TULARE CA 93274
**Invoice #** | 48714  
---|---  
**Invoice Date:** | 12/11/2008  
**SCE Contact:** | Miguel Trujillo  
**Telephone:** |  
**Install - Billing Option:** | SCE INSTALL - REFUNDABLE  

<table>
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<th>Amount</th>
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<tr>
<td>Item # 51164 82329 148441 307556 - LINE EXTENSION</td>
<td>$8,778.85</td>
</tr>
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**Previous Payment**

- Enclosed are 2 copies of our invoice. Please return 1 copy of the invoice with your payment.
- Final electrical inspection from the local governmental building and safety department must be received before we can energize your service.
- If a street light work order is associated with this project, contracts for that project will be enclosed.
- Enclosed are copies of refundable and discount option appendices. Please select one option, sign both copies (one as selected, the other as not selected) and return with your payment.
- All prices are valid until 12-31-08 due to the Income Tax Component of Contribution (ITCC) rate change from 22% to 35% effective 1-1-09. Invoices not paid in full on or before 12-31-08 will be re-priced using current labor, material, and tax rates.
- Please return all applications and/or contracts fully completed.
- Easement documents will be mailed directly to you from our Right of Way department. Please complete and return them as soon as possible, as we will not be able to proceed with the project without clearance.
- An Edison inspector must approve all underground systems. Please call your designated inspector 48 hours prior to construction to schedule an inspection.
- Call the Edison company at 1-800-655-4555 to make application for electrical service.

**Invoice Total** | $8,778.85

Please detach and return payment stub with payment

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<tr>
<td>Invoice #: 48714</td>
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<td>CITY OF PORTERVILLE</td>
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<tr>
<td>291 N MAIN ST</td>
</tr>
<tr>
<td>PORTERVILLE CA 93257 3737</td>
</tr>
</tbody>
</table>

Please pay total amount now due: $8,778.85

Thank you for paying promptly

Make check payable to Southern California Edison

2425 SOUTH BLACKSTONE AVENUE
TULARE CA 93274
CONTRACT FOR EXTENSION OF ELECTRIC DISTRIBUTION LINE
RULE NO. 15

1. PARTIES

This Contract for Extension of Electric Distribution Line ("Contract") is issued this 10th DAY OF DECEMBER, 2008.

The Parties to this Contract are:

CITY OF PORTERVILLE
("Applicant")

and Southern California Edison Company ("SCE"). Applicant and SCE are referred to individually as "Party" and collectively as "Parties".

2. RECITALS

Applicant has requested SCE, pursuant to SCE's Rule No. 15, Distribution Line Extensions, to install an electric distribution line extension ("Line Extension") to the location or locations described as follows:

293 S MATHEW, PORTERVILLE

Hereinafter referred to as "Project")

3. AGREEMENT

3.1 Responsibilities of Applicant

Construction

Applicant shall, in accordance with SCE's specifications and timing requirements for the Project:

- Perform route clearing, tree trimming, trenching, excavating, and backfilling and compacting;
- Furnish imported backfill material and dispose of trench spoil as required;
- Furnish, install and transfer ownership to Edison any substructures, conduit, and protective structures required other than the conduit portion of cable-in-conduit;
- Obtain any necessary construction permits for all work performed by Applicant under this Contract.

If Applicant elects to have SCE perform any part of this work, Applicant shall pay to SCE, as specified herein and before the start of construction, SCE's estimated-installed costs thereof.

Rights of Way

Applicant hereby grants to SCE the rights of way and easements for the distribution Line Extension over the shortest, most practical, available, and acceptable route within Applicant's property for the purpose of making delivery of electric service hereunder. Such easement shall include the right of access and right to trim trees as necessary. Where formal rights of way, easements, land leases, or permits are required by SCE for installation of facilities on or over Applicant's property, or the property of others, Applicant understands and agrees that SCE shall not be obligated to install the distribution Line Extension for the Project unless and until any necessary permanent rights of way, easements, land leases, and permits, satisfactory to SCE, are granted to or obtained for SCE without cost to or condemnation by SCE.

Advances
Applicant shall contribute or advance, before the start of construction, the refundable and non-refundable amounts as set forth in Appendix A to this Contract. This includes the costs for substructures and, conduits which SCE had previously installed at its expense in anticipation of the current distribution Line Extension. Any necessary riser conduit, conduit covering, and miscellaneous riser material required for the distribution Line Extension shall be furnished or paid for by Applicant and shall be installed by SCE.

All contributions and advances by Applicant are taxable and shall include an Income Tax Component of Contribution (ITCC) at the rate provided in SCE’s Preliminary Statement. ITCC will be either refundable or non-refundable depending on whether the corresponding contribution or advance is refundable or non-refundable.

**Joint Applicants.** The total contribution or advance from joint Applicants will be apportioned by SCE among the members of the group in such manner as Applicants mutually agree.

3.2 **Responsibilities of SCE**

**Construction**

SCE shall install, own, operate, and maintain the distribution Line Extension to serve the Project. SCE will install only those facilities that, in SCE’s judgment, will be used within a reasonable time to serve permanent loads.

**Refunds**

SCE shall make refunds to Applicant in accordance with the provisions of Rule 15.

3.3 **Ownership of Facilities**

Title to and ownership of the distribution Line Extension shall vest in SCE. Applicant does hereby agree that upon completion and acceptance by SCE of any Applicant-installed facilities, title to each and every component part thereof shall immediately pass to SCE free and clear of all liens and encumbrances.

3.4 **Service Facilities**

Service extensions shall be installed pursuant to SCE’s Rule 16, Service Extensions.

3.5 **Street Lighting Facilities**

Street lighting and distribution Line Extensions within the Project solely for service to street lighting equipment shall be installed in accordance with the appropriate street light tariff schedule. Street light revenues are not applicable toward allowances or refunds for distribution Line Extensions. Electroliers shall be located at points determined by the governmental agency having jurisdiction over streets to be dedicated to that agency or by Applicant for privately owned and maintained streets open to and used by the general public.

3.6 **Non-Refundable Discount Option**

In lieu of contributing the total refundable amount, Applicant has the option of contributing, on a non-refundable basis, a percentage of such refundable amount as set forth in Appendix A to this Contract. Applicant has or has not chosen this option as indicated by signature on Appendix A.

3.7 **Refunds**
The total refundable amount shall be subject to refund, without interest, in accordance with the provisions of Rule 15, which include the following:

**Residential.** Refunds will be made on the basis of any new customer permanent load connected to the distribution Line Extension which produces additional revenues to SCE. The refund will be deducted from the total refundable amount, and the remaining amount subject to refund will represent that portion of the distribution Line Extension cost not supported by revenues.

**Non-Residential.** Refunds will be made on the basis of Applicant or any new customer permanent load connected to the distribution Line Extension which produces additional revenues to SCE. SCE shall be responsible to review Applicant’s actual net revenue for the first three years from the date SCE is first ready to serve. Applicant shall be responsible for notifying SCE if new, permanent load is added the fourth through tenth year from the date SCE is first ready to serve. Such review shall determine if additional net revenue justifies refunds to Applicant.

**Unsupported Distribution Line Extension Cost.** When any portion of a refundable amount has not qualified for a refund at the end of twelve (12) months from the date SCE is first ready to serve, Applicant will pay to SCE an ownership charge on the remaining refundable balance. The difference between the total refundable advance and any refunds made or eligible to be made to Applicant shall serve as the basis of a monthly ownership charge (“base”). Monthly ownership charges are calculated by multiplying the base times the Customer-financed added facilities percentage in Rule 2. Monthly ownership charges are distinct from the refundable amount and will normally be accumulated and deducted from refunds due to Applicant. This provision does not apply to individual residential Applicants. The monthly ownership charges herein shall automatically increase or decrease if the California Public Utilities Commission should subsequently authorize a higher or lower percentage rate for the monthly ownership charges, effective on the date of such authorization.

**Refund Period.** The total refundable amount is subject to refund for a period of ten (10) years after the distribution Line Extension is first ready to serve. Any unrefunded amount remaining at the end of the ten-year period shall become property of SCE.

3.8 Payment Adjustments

**Contract Compliance.** If, after six (6) months following the date SCE is first ready to serve residential loads for which allowances were granted, one (1) year for non-residential loads, Applicant fails to take service, or fails to use the service contracted for, Applicant shall pay to SCE an additional contribution, based on the allowances for the loads actually installed.

**Excess Facilities.** If the load information provided by Applicant results in SCE having installed facilities which are in excess of those needed to serve the actual loads, and SCE elects to reduce such excess facilities, Applicant shall pay to SCE its estimated total costs to remove, abandon, or replace the excess facilities, less the estimated salvage of any removed facilities.

3.9 Reimbursement to Applicant

Where mutually agreed upon by SCE and Applicant, Applicant may perform SCE’s work or install facilities normally installed by SCE. Such work shall be in accordance with SCE’s specifications and timing requirements. SCE shall reimburse Applicant SCE’s estimated installed cost of such facilities and work by applying a credit toward Applicant’s advance. Any amount not so credited shall be reimbursed to Applicant upon acceptance of the work and facilities by SCE.

3.10 Delays in Construction

**Force Majeure.** SCE shall not be responsible for any delay in the installation or completion of the facilities by SCE resulting from the late performance of Applicant’s responsibilities under this Contract, shortage of labor or material, strike, labor disturbance, war, riot, weather conditions, governmental rule, regulation or order, including orders or judgments of any court or commission,
delay in obtaining necessary land rights, act of God, or any other cause or condition beyond the control of SCE.

**Resources.** SCE shall have the right, in the event it is unable to obtain sufficient supplies, materials, or labor for all of its construction requirements, to allocate materials and labor to construction projects which it deems, in its sole discretion, most important to serve the needs of its customers. Any delay in construction hereunder resulting from such allocation shall be deemed to be cause beyond SCE’s control.

**Contract Revision.** If Applicant does not commence installation of any facilities which are Applicant’s responsibility or SCE is prevented from commencing the installation of the facilities for causes beyond its reasonable control within one year from the effective date of this Contract, SCE may, in its discretion, revise its cost estimate and recalculate the refundable and/or non-refundable amounts set forth herein. SCE will notify Applicant of such increased costs and give the option to either terminate this Contract or pay SCE the additional charges.

3.11 **Contract Termination**

If at any time during the term of this Contract, SCE is not the sole deliverer of electrical requirements for the Project, this Contract may be terminated. Upon termination of the Contract, Applicant agrees to forfeit that portion of the advance paid to SCE for its expenses covering any engineering, surveying, right of way acquisition and other associated work incurred by SCE. If such expenses are greater or less than the refundable and/or non-refundable advance, Applicant shall pay to SCE, or SCE shall refund the balance to Applicant, without interest, as the case may be.

3.12 **Indemnification**

Applicant shall, at its own cost, defend, indemnify, and hold harmless SCE, its officers, agents, employees, assigns, and successors in interest from and against any and all liability, damages, losses, claims, demands, actions, causes of action, costs including attorney’s fees and expenses, or any of them, resulting from the death or injury to any person or damages to any property caused by Applicant or its contractor and employees, officers or agents of either Applicant or its contractor, or any of them, and arising out of the performance or nonperformance of their obligations under this Contract.

3.13 **Assignment of Contract**

Applicant may assign this Contract, in whole or in part, only if SCE consents to writing and the party to whom the Contract is assigned agrees in writing, to perform the obligations of Applicant hereunder. Assignment of the Contract shall not release Applicant from any of the obligations under this Contract unless otherwise provided therein.

3.14 **Joint and Several Liability**

Where two or more individuals or entities are joint Applicants under this Contract, all Applicants shall be jointly and severally liable to comply with all terms and conditions herein.

3.15 **Warranty**

Applicant warrants that all work and/or equipment furnished or installed by Applicant or its contractor shall be free of defects in workmanship and material. The warranty period shall begin from the date of final acceptance by SCE and extend for one (1) year. Should the work develop defects during that period, SCE, at its election, shall either (a) repair or replace the defective work and/or equipment, or (b) demand that Applicant repair or replace the defective work and/or equipment and, in either event, Applicant shall be liable for all costs associated with such repair.
and/or replacement. Applicant upon demand by SCE, shall promptly correct, to SCE’s satisfaction and that of any governmental agency having jurisdiction, any breach of any warranty.

3.16 Contract Effective Date

This Contract shall not be effective unless it is (1) executed and delivered by Applicant to SCE together with payment required hereunder within ninety (90) days of the date in Paragraph 1 of this Contract and (2) accepted by SCE. This Contract shall then be effective on the date executed by SCE and shall take effect without further notice to Applicant.

3.17 Commission Jurisdiction

This Contract is subject to the applicable provisions of SCE’s tariffs, including Rule 15, filed and authorized by the California Public Utilities Commission.

This Contract shall, at all times, be subject to such changes or modifications by the Public Utilities Commission of the State of California, as said Commission may, from time to time, direct in the exercise of its jurisdiction.

3.18 Completion Date

The completion date requested by Applicant is ________________________________

4. SIGNATURE CLAUSE

The signatories hereto represent that they have been appropriately authorized to enter into this Contract on behalf of the party for whom they sign.

APPLICANT(S)

CORPORATION, PARTNERSHIP, OR DBA: ________________________________

NAME OF AUTHORIZED INDIVIDUAL: __________________________________ __

SIGNATURE: ____________________________________________________________

TITLE: _________________________________________________________________

MAILING ADDRESS: _______________

TELEPHONE: ________________________________

ADDITIONAL SIGNATURES FOR JOINT APPLICANTS

NAME OF AUTHORIZED INDIVIDUAL: ________________________________

SIGNATURE: __________________________________________________________

TITLE: _________________________________

MAILING ADDRESS: ________________________________

TELEPHONE: ________________________________

NAME OF AUTHORIZED INDIVIDUAL: ________________________________

SIGNATURE: __________________________________________________________

TITLE: _________________________________

MAILING ADDRESS: ________________________________

TELEPHONE: ________________________________

APPORTIONMENT OF ADVANCE AMONG JOINT APPLICANTS:

5
SOUTHERN CALIFORNIA EDISON COMPANY

NAME OF AUTHORIZED INDIVIDUAL: Brad Hefner

SIGNATURE: ________________________________

TITLE: Planning Supervisor

DATE EXECUTED: ________________________________

DATE SCE FIRST READY TO SERVE:

SCE WORK ORDER NUMBER: AI: 6951-2338, 82329
SOUTHERN CALIFORNIA EDISON ("SCE")
DISTRIBUTION LINE AND/OR SERVICE EXTENSION
APPLICANT'S INSTALLATION OPTION AND
STATEMENT OF APPLICANT'S CONTRACT ANTICIPATED COSTS

Applicant: City of Porterville
Work Order Number: 6451-2338 82329
Project Specific Location: 293 S. Mathew Porterville

1. INSTALLATION OPTIONS

Applicant understands that in accordance with SCE's Rule 15 and/or Rule 16, Applicant can elect to have either SCE install the Distribution Line and/or Service Extension or a Qualified Contractor/Subcontractor install the Distribution Line and/or Service Extension.

2. SCE'S ESTIMATED REFUNDABLE COST INFORMATION

SCE's estimated refundable costs are based on the work that SCE would normally perform that can be performed by a Qualified Contractor/Subcontractor under the provisions of the Applicant Installation Option, Rule 15, Section G, and in accordance with SCE's Terms and Conditions Agreement for Installation of Distribution Line Extension by Applicant (Form 14-188).

SCE's estimated refundable costs:* $ __________________________

If applicable, other estimated cost information may be provided below. This could include the credit amount for Rule 16, street light, or other associated installation work.

SCE Rule 16 credit amount:* $ __________________________
SCE street light credit amount:* $ __________________________
SCE associated work credit amount:* $ __________________________

3. APPLICANT SELECTION

Applicant understands the installation options under Section 1 above, and hereby elects the following Installation Option by initialing the appropriate selection below:

_________ Installation by SCE

_________ Installation by Qualified Contractor/Subcontractor

Under installation by Qualified Contractor/Subcontractor, Applicant shall secure project specific bid information from Qualified Contractors/Subcontractors for the installation of the Distribution Line and/or Service extension. Applicant shall contribute or advance before the start of construction any refundable or non-refundable amounts as specified in Rules 15 and 16.

*Please refer to the specific contract, Appendix A, for detailed financial information.

Form 14-754, New 7/04
4. APPLICANT'S CONTRACT ANTICIPATED COST INFORMATION (to be completed only if installation is performed by a Qualified Contractor/Subcontractor as selected in Section 3 above)

Applicant and/or Applicant's Qualified Contractor/Subcontractor understands that for the portion of the Electrical Distribution and/or Service Extension that SCE would normally install, in accordance with SCE’s Rule’s 15 and/or 16 and the Terms and Conditions Agreement for Installation of Distribution Line Extension by Applicant, the Applicant, prior to performing any work associated with the installation of these electrical facilities, and for the purpose of utility billing and accounting, shall elect one of the following options, and return this form to SCE prior to SCE proceeding with any further work on the Applicant’s project.

Option 1 Applicant elects to provide SCE with the Applicant’s Contract Anticipated Costs, which are subject to refund, that are associated with that portion of the new Distribution Line and/or Service Extension normally installed by SCE, and understands that the lower of SCE’s estimated refundable cost or the Applicant’s Contract Anticipated Costs, which are subject to refund, as submitted below, shall apply to any applicable SCE refunds and allowances provided in accordance with Rules 15 and 16,1 or

Option 2 Applicant elects not to provide SCE with the Applicant’s Contract Anticipated Costs, which are subject to refund. The Applicant understands that by selecting this option, the Applicant is directing SCE to use SCE’s estimated refundable cost for all billing and accounting.

Applicant understands the Applicant Cost Information, as described above, and hereby elects the following by initialing the appropriate selection below:

- Option 1 - Applicant’s Contract Anticipated Costs $______________
- Option 2 - SCE’s Estimated Refundable Costs

5. ITCC

SCE shall value all trenching, conduit, backfill, street repair, substructures, and encasement, based on SCE’s estimate of such items, for the purposes of collecting the applicable governmental taxes (ITCC) on contributions to SCE.

6. UTILITY RESPONSIBILITIES

Upon receipt of this completed and signed form, SCE shall begin the process of producing the applicable contracts and forms based on the selections made by the Applicant.

7. SIGNATURE

I declare under penalty of perjury that the foregoing is true and correct.

Applicant’s signature: ____________________________________________

Applicant’s printed name: ________________________________________

Date: __________________________

---

1 Excludes the estimated costs of work the Applicant cannot perform, such as, work on or in proximity to, energized equipment.

Form 14-754, New 7/04
SUBJECT: APPROVAL OF GRANT DEED - CONVEYANCE OF LAND TO CITY OF PORTERVILLE FROM COUNTY OF TULARE

SOURCE: Public Works Department - Engineering Division

COMMENT: The County of Tulare recently executed a Grant Deed conveying property to the City of Porterville for the purpose of transferring ownership of a 40 acre flood control basin known as Muller Field and a pertinent outlying parcel (connecting drainage ditch). The property is generally located north of Mulberry Avenue and west of Plano Street and was incorporated into the City of Porterville on December 13, 2006.

The property transaction memorializes the December 12, 2006, Tulare County Agreement No. 22968 whereby the City Council agreed to take control of this drainage reservoir as a condition of Annexation No. 464. The basin provides flood control protection to the City from the upper Lewis Hill watershed and could be expanded to accept storm water runoff from the surrounding area as it develops.

RECOMMENDATION: That City Council:

1. Accept the conveyance of land from County of Tulare to City of Porterville;

2. Authorize the Mayor and City Clerk to sign the Grant Deed; and

3. Authorize the City Clerk to record the Grant Deed with the County Recorder's Office.

ATTACHMENTS: Grant Deed Agreement No. 22968 w/ Locator Map
RESOLUTION NO. __________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE APPROVING CONVEYANCE OF LAND BY GRANT DEED TO CITY OF PORTERVILLE

BE IT RESOLVED by the City Council of the City of Porterville, that the City of Porterville hereby accepts a Grant Deed from County of Tulare for the purpose of transferring that certain following described real property, in the City of Porterville, County of Tulare, State of California, to-wit:

See Grant Deed and Exhibit “A”, legal description attached hereto and made a part thereof.

BE IT FURTHER RESOLVED that the Mayor and City Clerk be authorized to sign the Grant Deed and said deed to be recorded in the office of the Tulare County Recorder.

The foregoing has been authorized by the City Council for the City of Porterville.

APPROVED AND ADOPTED this 20th day of January, 2009.

__________________________
Cameron Hamilton, Mayor

ATTEST:
John D. Lollis, City Clerk

__________________________
By: Patrice Hildreth, Chief Deputy City Clerk
November 6, 2008

City of Porterville, City Clerk
Attn: Mike Reed
291 N. Main Street
Porterville, CA 93257

Re: Grant Deed / Ponding Basin Ave. 162, W of Rd. 252, Porterville

Dear Mr. Reed:

Enclosed please find the grant deed transferring the property to the City of Porterville. The APN's for the property are listed as follows: 248-010-001, 248-010-002, 248-010-003, and portion of 248-060-021.

Please be aware that the grant deed needs to be recorded and it would be the City's responsibility to have it recorded.

Should you have any questions, please do not hesitate to contact me at 733-6653 ext 4368.

Sincerely,

Bertha Cervantes
Property Specialist II

Enc.
GRANT DEED

FOR A VALUABLE CONSIDERATION, receipt of which is hereby acknowledged, COUNTY OF TULARE hereby GRANT(S) to the CITY OF PORTERVILLE, A MUNICIPAL CORPORATION the following described real property situated in the County of Tulare, State of California:

"SEE EXHIBIT A"

Dated this 28th day of October, 2008

Connie Conway
Chairman of the Board of Supervisors

STATE OF CALIFORNIA )
COUNTY OF TULARE )

On October 28, 2008, before me Michelle Baldwin, a Notary Public, personally appeared Connie Conway, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal

Signature Michelle Baldwin

Michelle Baldwin
Commission # 1539967
Notary Public - California
Tulare County
Exhibit A

Parcel No. 1:

The South 50 feet of the East 1,000 feet of the Southeast Quarter of the Northwest Quarter of Section 24, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, in the County of Tulare, State of California, according to the official plat thereof.

Excepting therefrom that portion conveyed to the County of Tulare by deed recorded June 24, 1965 in Book 2594 Page 663 of Official Records.

Also excepting and reserving therefrom that interest reserved in a Conservator's Deed from Flora C. Salas, conservator of the estate of Cecil N. Salas per deed recorded in Volume 3265 Page 635 on September 12, 1975 in Official Records. Said reservation is for the full, complete and uninterrupted use of the irrigation pumping plant and well together with all appurtenance thereto which is situated within the above described parcel of land.

Parcel No. 2:

Lot 50 of the Pioneer Land Co's first subdivision, in the County of Tulare, State of California, as per map recorded in Book 3, Page 34 of maps in the office of the County Recorder of said County.

Parcel No. 3:

The East half of the East half of Lot 41 of the Pioneer Land Company's first subdivision; in the County of Tulare, State of California, as per map recorded in Book 3, Page 34 of maps in the office of the County Recorder of said County.

Parcel No. 4:

That portion of the West half of the East half of Lot 41 of Pioneer Land Co's first subdivision, in the County of Tulare, State of California, as per map recorded in Book 3, page 34 of maps in the office of the County Recorder of said County, lying Northeasterly of the Right of Way of the A.T.&.S.F. Railroad.
AGREEMENT REGARDING DISPOSITION OF
FLOOD CONTROL BASIN

THIS AGREEMENT is entered into this 12th day of December, 2006, between the COUNTY OF TULARE, referred to as COUNTY, and the CITY OF PORTERVILLE, referred to as CITY, with reference to the following:

A. WHEREAS, CITY obtained Local Agency Formation Commission (LAFCO) approval to annex approximately 215 acres of land generally between Mulberry Avenue on the south, Plano Street on the east, Reid Avenue on the north and Lime Street on the west known as City of Porterville Annexation No. 464, LAFCO Case Number 1367-P-307; and

B. WHEREAS, COUNTY owns a 40 – acre flood control basin, operated and maintained by the Tulare County Flood Control District, referred to as BASIN, located northwest of the intersection of Plano Street and Mulberry Avenue as shown on Exhibit "A" in the area annexed by City, referenced by said LAFCO Case Number 1367-P-307; and

C. WHEREAS, LAFCO Resolution No. 06-044 included the following condition to be adhered to: “8(c) The Certificate of Completion shall not be recorded until the City enters into an agreement with the Tulare County Flood Control District for the disposition of the flood control basin occupying APN’s [currently identified as] 248-010-01, -02, -03 and 248-060-21,” legally described on Page 2 herein, Paragraph 1, as Parcels 1 thru 4; and

D. WHEREAS, BASIN provides flood protection to City from a 3.6 square mile drainage area known as the upper Lewis Hill watershed as shown on Exhibit "A"; and

E. WHEREAS, City desires to expand use of BASIN to accept stormwater runoff from future development in area annexed by said City of Porterville Annexation No. 464; and

F. WHEREAS, County desires to transfer BASIN property rights and operation and maintenance responsibilities to City while reserving the right to drain COUNTY areas in the Lewis Hill watershed to BASIN.

TULARE COUNTY AGREEMENT NO. 22968
ACCORDINGLY, IT IS AGREED:

1. County agrees to transfer BASIN property rights to CITY upon the following terms and conditions contained in this agreement, all that certain real property situated in the County of Tulare, State of California, as shown on Exhibit "B" and legally described as follows:
   Parcel No. 1:
   The South 50 feet of the East 1,000 feet of the Southeast Quarter of the Northwest Quarter of Section 24, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, in the County of Tulare, State of California, according to the official plat thereof.
   Excepting therefrom that portion conveyed to the County of Tulare by deed recorded June 24, 1965 in Book 2594 Page 663 of Official Records.
   Also excepting and reserving therefrom onto the Grantor, full, complete and uninterrupted use of the irrigation pumping plant and well together with all appurtenances thereto which is situated within the above described parcel of land.
   Parcel No. 2:
   Lot 50 of Pioneer Land Co's first subdivision, in the County of Tulare, State of California, as per map recorded in Book 3, Page 34 of maps in the office of the County Recorder of said County.
   Parcel No 3:
   The East half of the East half of Lot 41 of the Pioneer Land Company's first subdivision; in the County of Tulare, State of California, as per map recorded in Book 3, Page 34 of maps in the office of the County Recorder of said County.
   Parcel No. 4:
   That portion of the West half of the East half of Lot 41 of Pioneer Land Co's first subdivision, in the County of Tulare, State of California, as per map recorded in Book 3, page 34 of maps in the office of the County Recorder of said County, lying Northeasterly of the Right of Way of the A.T.& S.F. Railroad.

2. CITY agrees to operate and maintain BASIN in accordance with all applicable Federal, State, and local laws, regulations and directives; City agrees to continually accept drainage runoff into BASIN from County roads and lands located in said upper Lewis Hill watershed.
3. CITY agrees that no authorization, oversight, input or requirement other than the authority conferred by this Agreement shall be necessary from the COUNTY.

4. This Agreement is effective at such time as the BASIN is annexed to CITY.

5. CITY hereby agrees to pay all expenses arising out of the design, operation, maintenance, construction and/or upkeep of said BASIN and hereby waives any claim against the COUNTY for any cost of design, operation, maintenance, construction and/or upkeep of said BASIN.

6. From and after the effective date of this Agreement as noted in paragraph 4 above, CITY shall have all responsibility and liability for all activities and omissions related to the design, construction, upkeep, operation and maintenance of said BASIN, and CITY shall hold harmless, defend and indemnify COUNTY, its agents, officers and employees from and against any liability, claims, actions, costs, damages or losses of any kind, including, but not limited to court cost and attorney fees, death or injury to any person and/or damage to any property (including COUNTY property), arising out of or related to said design, construction, upkeep, operation and maintenance by CITY, its agents, officers, independent contractors, developers and employees. CITY shall maintain adequate insurance coverage, either through policies issued by insurance companies or through self insurance reserves, to provide said indemnity to the COUNTY.

7. This Agreement represents the entire agreement between CITY and COUNTY as to its subject matter and no prior oral or written understanding shall be of any force or effect. No part of this Agreement may be modified without the written consent of both parties.

8. Except as may be otherwise required by law, any notice to be given shall be written and shall be either personally delivered, sent by facsimile transmission or sent by first class mail, postage prepaid and addressed as follows:

   COUNTY: Tulare County Resource Management Agency
           County Engineer
           Government Plaza
           5961 S. Mooney Blvd.
           Visalia, CA 93277

   (Fax No.: (559) 730-2653 / Phone No. (559) 733-6291)
CITY: City of Porterville
City Engineer
291 N. Main Street
Porterville, CA 93257

(Fax No.: (559) 781-6437/ Phone No: (559) 791-7804)

Notice delivered personally or sent by facsimile transmission is deemed to be received upon receipt. Notice sent by first class mail shall be deemed received on the fourth day after the date of mailing. Either party may change the above address by giving written notice pursuant to this paragraph.

9. This Agreement reflects the contributions of both parties and accordingly the provisions of Civil Code Section 1654 shall not apply to address and interpret any uncertainty.

10. Unless specifically set forth, the parties to this Agreement do not intend to provide any other party with any benefit or enforceable legal or equitable right or remedy.

11. This Agreement shall be interpreted and governed under the laws of the State of California without reference to California conflicts of law principles. Any litigation arising out of this Agreement shall be brought in Tulare County California. CITY waives the removal provisions of California Code of Civil Procedure Section 394.

12. The failure of either party to insist on strict compliance with any provision of this Agreement shall not be considered a waiver of any right to do so, whether for that breach or any subsequent breach. The acceptance by either party or either performance or payment shall not be considered to be a waiver of any preceding breach of the Agreement by the other party.

13. The Recitals and the Exhibits to this Agreement are fully incorporated into and are integral parts of this Agreement.

14. This Agreement is subject to all applicable laws and regulations. If any provision of this Agreement is found by any court or other legal authority, or is agreed by the parties, to be in conflict with any code or regulation governing its subject, the conflicting provision shall be considered null and void. If the effect of nullifying any conflicting provision is such that a material benefit of the Agreement to either party is lost, the Agreement may be terminated at
the option of the affected party. In all other cases the remainder of the Agreement shall
continue in full force and effect.

15. Each party agrees to execute any additional documents and to perform any further acts which
may be reasonably required to effect the purposes of this Agreement.

16. CITY expressly agrees that it will not discriminate in employment or in the provision of
services on the basis of any characteristic or condition upon which discrimination is prohibited
by state or federal law or regulation.

THE PARTIES, having read and considered the above provisions, indicate their agreement by
their authorized signatures below.

COUNTY OF TULARE

ATTEST: C. Brian Haddix,
County Administrative Officer/Clerk of the Board
of Supervisors of the County of Tulare

By [Signature]
Deputy Clerk

Approved as to Form
County Counsel

By [Signature]
Deputy

CITY OF PORTERVILLE

ATTEST: John Longley
City Manager/City Clerk of the City of Porterville

BY [Signature]
Deputy Clerk

Chairman, Board of Supervisors

Cameron Hamilton, Mayor
CITY COUNCIL AGENDA: JANUARY 20, 2009

SUBJECT: ACCEPTANCE OF APPRAISED VALUE OF RIGHT OF WAY FOR PROPERTY LOCATED AT APN 268-110-018 – NICHOLSON AND SMEE, LLC – SCRANTON/INDIANA STREET PROJECT

SOURCE: PUBLIC WORKS DEPARTMENT

COMMENT: Daryl Nicholson and Gary Smee, owners of property located at APN’s 268-110-018, have accepted the appraised value of $13,500.00 for 10,521 square feet of right-of-way needed for the Scranton/Indiana Street Project.

The City recently had the property appraised by Keith J. Hopper, MAI, The Hopper Company, a Certified General Real Estate Appraiser. The appraisal came in at $13,500.00 for the 10,521 square feet of property needed for the project. This appraisal is available in the Community Development Department for your review.

Funding for this project was approved in the 2008/2009 Budget from Measure R Regional Funds.

RECOMMENDATION: That City Council:

1. Authorize staff to begin escrow, with the City paying escrow fees;
2. Authorize staff to make payment to Nicholson and Smee LLC, in the amount of $13,500.00 after completion of escrow;
3. Authorize the Mayor to sign all necessary documents; and
4. Authorize staff to record all documents with the County Recorder.

ATTACHMENTS:

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

DD Appropriated/Funded CM ___ ITEM NO. 11
PROPERTY PLAT

NE COR., SE QTR.
SEC 3, T22S., R27E

500°38'54"W
B92.09'

20' WIDE ROAD EASEMENT
PER BK. 3, PG. 404,
TULARE COUNTY RECORDS

GIBBONS AVE

APN 268-110-018

LINE DATA

L1 S00°38'54"W  437.67'
L2 N89°55'50"W  60.00'
L3 N00°38'54"E  88.23'
L4 N07°10'06"E  352.28'
L5 S89°21'06"W  20.00'

City of Porterville
291 N. MAIN ST.
PORTERVILLE, CA.  93257
559 782-7462

That portion of the North half of the South half
of Section 3, Township 22 South, Range 27 East,
Mount Diablo Base and Meridian, in the County
of Tulare, State of California.

OWNER:  Nicholson & Smea LLC
APN:     268-110-018
AREA:    10,521 S.F.  (Total)
ACRES:   0.2415  AC.  (Total)
DRAWN BY TJ
CHK'D 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
NICHOLSON AND SMEE, LCC

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 Nicholson and Smee, LCC, 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 $13,500.00 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 forgoing has been accepted by the City Council for the City of Porterville.

______________________________
Cameron Hamilton, Mayor

ATTEST:

John Lollis, City Clerk

______________________________
Patrice Hildreth, Chief Deputy City Clerk
EXHIBIT "A"

That portion of the North half of the South half of Section 3, Township 22 South, Range 27 East, Mount Diablo Base and Meridian, according to the Official Plat of the Survey of said land on file in the Bureau of Land Management at the date of the issuance of the Patent thereof, lying East of the East line of the State Highway, as conveyed to the State of California, by Deed recorded January 26, 1953 in Book 1645 page 136 of Official Records, File No. 2495, in the County of Tulare, State of California, more particularly described as follows:

COMMENCING at the Northeast corner of the Southeast quarter of said Section 3;

Thence, along the east line of said Southeast quarter, South 00° 38' 54" West, a distance of 892.09 feet, said point being the POINT OF BEGINING;

Thence, continuing along the east line of said Southeast Quarter, South 00° 38’ 54” West, a distance of 437.86 feet, to the south line of said North half of the South half:

Thence, along the south line of said North half of the South half, North 89° 55’ 50” West, a distance of 60.00;

Thence, North 00° 38’ 54” East, a distance of 88.23 feet;

Thence, North 07° 10’ 06” East, a distance of 352.28 feet;

Thence, South 89° 21’ 06” West, a distance of 20.00 to the POINT OF BEGINNING;

EXCEPTING that interest in the East 20.00 feet of the Southeast Quarter of Section 3, Township 22 South, Range 27 East, Mount Diablo Base and Meridian, according to the Official Plat thereof, as granted to Tulare County for road purposes per Deed recorded in Book 3, page 404 of Tulare County Official Records.

The above described parcel contains 10,521 square feet or 0.2415 Acres more or less.

BASIS OF BEARINGS being the east line of the Southeast quarter of Section 3, Township 22 South, Range 27 East, Mount Diablo Base and Meridian, taken as North 0° 38’ 54” East, as shown on Record of Survey filed in Book 21 of Licensed Surveys, at page 68 in the Office of the Tulare County Recorder.

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: 4-10-2003
SUBJECT: RATIFICATION OF EXPENDITURE – RELOCATION OF ELECTRICAL POWER POLES FOR THE INDIANA STREET AND SCRANTON AVENUE RECONSTRUCTION PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: City staff has asked Southern California Edison (SCE) to relocate 4 power poles on the south side of Scranton Avenue due to the widening and reconstruction of Indiana Street and Scranton Avenue. The project encompasses all of Indiana Street and Scranton Avenue from the Indiana Street & Gibbons Avenue intersection to a point about 400 feet east of State Route 65 on Scranton Avenue.

Staff is currently in discussions with SCE about whether it is the City’s responsibility to pay for the relocation of these poles. City staff is of the opinion that due to the improper placement of poles within SCE Easement and lack of a full encompassing easement (accounting for overhead lines); the City is not responsible for the relocation of these poles per the existing Franchise Agreement. These discussions have been ongoing for the last few months.

To expedite this project, staff finds it necessary to execute the application/contract and pay the appropriate fees ($38,466.45) so that SCE can proceed with the relocation of these poles. Planning for the relocation of these poles by SCE is near completion. However, the discussion between which Agency is the responsible party for the relocation has hindered their completion date. Staff believes negotiations should continue upon execution of the application/contract and payment of applicable fees. There is a chance that these fees could be reimbursed once the discussions are complete.

Funding for this project is from the 08/09 Annual Budget approved for the Reconstruction of Indiana Street and Scranton Avenue.

RECOMMENDATION: That City Council:

1. Allow the City Engineer to sign the SCE application/contract;

2. Approve the expenditure of $38,466.45 to cover costs to relocate the Scranton Avenue power poles; and

3. Authorize the City Engineer to continue discussions with SCE regarding financial responsibilities associated with the pole relocations.

ATTACHMENTS: Locator Map
Edison Invoice

Item No. 12
October 6, 2008

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

Subject: SCE Project Number: 6251-6757; 86765  

Project Location: Indiana/Scranton, Porterville, CA  

Street Widening

Thank you for the opportunity to assist you with your electrical needs. The information provided below indicates requirements needed to complete your project. Please read and follow the directions so that your project may be completed in a timely manner.

- Enclosed are two copies of our invoice. Return one copy of the invoice with your payment.

Please return the documents and/or payment in the enclosed self-addressed envelope. After receipt of the required documents, your project will be scheduled for construction. If you have any questions, feel free to call me at (559) 685-3742 or (559) 240-7823.

Sincerely,

William J. Harper  
Customer Service Planner

Enclosures  
2425 S. Blackstone Ave.  
Tulare, CA 93274
<table>
<thead>
<tr>
<th>Description</th>
<th>Amount</th>
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<tbody>
<tr>
<td>86765-RELOCATE 4 POLES, ADD 1 GUY STUB POLE FOR FRANCHISE ADJUSTMENT, STREET WIDENING</td>
<td>$38,466.45</td>
</tr>
<tr>
<td>296807 - RELOCATE FACILITIES</td>
<td></td>
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</tbody>
</table>

Previous Payment:
* Enclosed are 2 copies of our invoice. Please return 1 copy of the invoice with your payment.
* Final electrical inspection from the local governmental building and safety department must be received before we can energize your service.
* If a street light work order is associated with this project, contracts for that project will be enclosed.
* All prices are applicable for a period of 90 days from this date and are subject to change thereafter.
* Please return all applications and/or contracts fully completed.
* Easement documents will be mailed directly to you from our Right of Way department. Please complete and return them as soon as possible, as we will not be able to proceed with the project without clearance.
* An Edison Inspector must approve all underground systems. Please call your designated inspector 48 hours prior to construction to schedule an inspection.
* Call the Edison company at 1-800-655-4555 to make application for electrical service.

Invoice Total: $38,466.45
<table>
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<td>Item # 47448</td>
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<td>86765</td>
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- An Edison Inspector must approve all underground systems. Please call your designated inspector 48 hours prior to construction to schedule an inspection.
- Call the Edison company at 1-800-655-4555 to make application for electrical service.

Invoice Total: $38,466.45

Please pay total amount now due: $38,466.45

Thank you for paying promptly.

Make check payable to Southern California Edison
2425 SOUTH BLACKSTONE AVENUE
TULARE CA 93274
COUNCIL AGENDA: JANUARY 20, 2009

SUBJECT: REJECT ALL BIDS AND RE-ADVERTISE – FIRE STATION NO. 2 CLASSROOM HVAC PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENTS: On January 13, 2009, staff received six (6) bids for the Fire Station No. 2 Classroom HVAC project. The project consists of the installation of four (4) HVAC units, duct work and all appropriate appurtenances for a proper functioning air conditioning system for the new Fire Station Classroom Building.

The Engineer’s Estimate for the base bid of the project is $26,000.00. The low bid exceeded the Engineer’s Estimate by 19%. It should be noted that the Engineer’s Estimate may be artificially low as it did not include a cost for “duct work”. Staff is currently revising the estimate to include “duct work”.

The bids are as follows:

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<tr>
<th></th>
<th>Company</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Zone Air Conditioning Porterville, CA</td>
<td>$31,000.00</td>
</tr>
<tr>
<td>2</td>
<td>Aire Serv Heating &amp; Air Conditioning Porterville, CA</td>
<td>$38,990.00</td>
</tr>
<tr>
<td>3</td>
<td>Johnson Controls, Inc. Bakersfield, CA</td>
<td>$52,529.00</td>
</tr>
<tr>
<td>4</td>
<td>Dan’s Air Conditioning &amp; Heating Visalia, CA</td>
<td>$54,780.00</td>
</tr>
<tr>
<td>5</td>
<td>Patton Air Conditioning Fresno, CA</td>
<td>$77,068.00</td>
</tr>
<tr>
<td>6</td>
<td>American Inc. Visalia, CA</td>
<td>$77,600.00</td>
</tr>
</tbody>
</table>

Council has implemented a policy stipulating that bids received by staff exceeding the Engineer’s Estimate by more than 10% shall be rejected. This has been a beneficial program and Council has been consistent in its application. It should also be noted that a bidder’s bond was not included with the low bid thereby disqualifying it from consideration. Staff has found all bids to be unacceptable.
SUBJECT: COLLECTION OF STATEWIDE BUILDING STANDARDS FEES

SOURCE: Public Works Department - Building Division

COMMENT: Effective January 1, 2009, cities and counties must collect, on behalf of the California Building Standards Commission ("Commission"), a fee from building permit applicants based on building valuation to fund development of statewide building standards. SB 1473 (Calderon) added Health and Safety Code Section 18930.5, 18931.6, 18931.7 and 18939.3 to mandate the collection of the fees to fund development of statewide building standards, with emphasis on green building standards.

An applicant for a building permit must pay a fee of four dollars ($4.00) per every hundred thousand dollars ($100,000) in building valuation, as determined by the local building official, with a minimum fee of one dollar ($1.00).

As an example, a building permit request with a valuation of less than $100,000 will be assessed $1. A building permit request with a valuation of $250,000 will be assessed an $8 and a building permit request with a valuation of $1 million will be assessed $40. The Commission may ultimately reduce the fee upon a determination that a lesser amount is necessary to maintain the building standards development program.

RECOMMENDATION: For Information Only

P:\pub\work\Engineering\Council Items\Collection of Statewide Building Standards Fees - 2009-01-20.doc
SUBJECT: STATUS REPORT - DEVELOPER IMPACT FEES

SOURCE: Administrative Services – Finance Division

COMMENT: Pursuant to Government Code Section 66006 (b) (1), a detailed fund analysis of the Capital Improvement Funds containing Developer Impact Fees has been prepared. In accordance with Section 66006(b) (2), a copy of this analysis was delivered to the Home Builders Association of Tulare/Kings Counties, Inc (HBA), per their request, at least fifteen days prior to this Council meeting.

The format and content of this analysis have been developed around criteria previously approved by the HBA. As of June 30, 2008, the City is in compliance with the requirements of the Code.


ATTACHMENT: Status Report
## CITY OF PORTERVILLE

### DEVELOPER IMPACT FEE SUMMARY
#### 2007/08

<table>
<thead>
<tr>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
<th></th>
</tr>
</thead>
<tbody>
<tr>
<td>WATER ACREAGE FEE</td>
<td>$ (10,213,082)</td>
<td>$ 91,631</td>
<td>$ 37,053</td>
<td>$ (2,135,836)</td>
<td>$ (12,220,234)</td>
</tr>
<tr>
<td>SEWER ACREAGE FEE</td>
<td>$ (2,111,542)</td>
<td>$ 47,109</td>
<td>$ 22,179</td>
<td>$ (551,033)</td>
<td>$ (2,593,287)</td>
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<tr>
<td>STORM DRAIN FEE</td>
<td>$ 1,767,816</td>
<td>$ 464,283</td>
<td>$ 88,956</td>
<td>$ (428,797)</td>
<td>$ 1,892,258</td>
</tr>
<tr>
<td>TRANSPORTATION IMPACT FEE</td>
<td>$ 408,644</td>
<td>$ 1,490,277</td>
<td>$ 56,822</td>
<td>$ (1,407,916)</td>
<td>$ 547,827</td>
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<tr>
<td>PARK IMPACT FEE</td>
<td>$ 64,302</td>
<td>$ 74,778</td>
<td>$ 3,263</td>
<td>$ (98,757)</td>
<td>$ 43,586</td>
</tr>
</tbody>
</table>
### Water Projects

<table>
<thead>
<tr>
<th>Description</th>
<th>Total Expenditure</th>
<th>Allowed D.I.F. Percentage</th>
<th>Eligible D.I.F. Expenditure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Miscellaneous water projects</td>
<td>$1,050</td>
<td>0%</td>
<td>$1,050</td>
</tr>
<tr>
<td>Master plan update</td>
<td>113</td>
<td>100%</td>
<td>113</td>
</tr>
<tr>
<td>Rehabilitate wells</td>
<td>18,507</td>
<td>0%</td>
<td>-</td>
</tr>
<tr>
<td>Martin Hill booster</td>
<td>2,095</td>
<td>100%</td>
<td>2,095</td>
</tr>
<tr>
<td>Well #28</td>
<td>77</td>
<td>100%</td>
<td>77</td>
</tr>
<tr>
<td>Well #29</td>
<td>562,159</td>
<td>100%</td>
<td>562,159</td>
</tr>
<tr>
<td>Master plan payback</td>
<td>70,121</td>
<td>100%</td>
<td>70,121</td>
</tr>
<tr>
<td>West to central booster</td>
<td>26,762</td>
<td>100%</td>
<td>26,762</td>
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<tr>
<td>Water well #30, Newcomb Ag purchase/design</td>
<td>71</td>
<td>100%</td>
<td>71</td>
</tr>
<tr>
<td>Eastside tanks (2)</td>
<td>197,184</td>
<td>100%</td>
<td>197,184</td>
</tr>
<tr>
<td>Airport inter-tie</td>
<td>813,373</td>
<td>100%</td>
<td>813,373</td>
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<tr>
<td>Deficient fire flow</td>
<td>157,991</td>
<td>0%</td>
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<tr>
<td>Ag well conversions</td>
<td>2,885</td>
<td>100%</td>
<td>2,885</td>
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<tr>
<td>Water well #31 design</td>
<td>460,996</td>
<td>100%</td>
<td>460,996</td>
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<tr>
<td>Airport industrial development - West St</td>
<td>439,152</td>
<td>0%</td>
<td>-</td>
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<tr>
<td>Scenic Heights tank analysis</td>
<td>4,075</td>
<td>0%</td>
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</tbody>
</table>

**WATER TOTAL**

<table>
<thead>
<tr>
<th>Total Expenditure</th>
<th>Allowed D.I.F. Percentage</th>
<th>Eligible D.I.F. Expenditure</th>
</tr>
</thead>
<tbody>
<tr>
<td>$2,756,611</td>
<td>$2,135,836</td>
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</table>

### Sewer Projects

<table>
<thead>
<tr>
<th>Description</th>
<th>Total Expenditure</th>
<th>Allowed D.I.F. Percentage</th>
<th>Eligible D.I.F. Expenditure</th>
</tr>
</thead>
<tbody>
<tr>
<td>Airport industrial development (PS7 lift station upgrade)</td>
<td>371,688</td>
<td>100%</td>
<td>371,688</td>
</tr>
<tr>
<td>Master plan paybacks</td>
<td>153,299</td>
<td>100%</td>
<td>153,299</td>
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<tr>
<td>Replace grit system towers</td>
<td>4,595</td>
<td>0%</td>
<td>-</td>
</tr>
<tr>
<td>Buried sludge removal</td>
<td>176,155</td>
<td>0%</td>
<td>-</td>
</tr>
<tr>
<td>Effluent pipeline/land leveling</td>
<td>895,407</td>
<td>0%</td>
<td>-</td>
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<tr>
<td>Engine blower #1 replacement</td>
<td>226,231</td>
<td>0%</td>
<td>-</td>
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<tr>
<td>Air fuel ration controller</td>
<td>68,400</td>
<td>0%</td>
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<tr>
<td>Annexation sewer projects</td>
<td>235</td>
<td>0%</td>
<td>-</td>
</tr>
<tr>
<td>Indiana/Scranton sewer</td>
<td>71</td>
<td>100%</td>
<td>71</td>
</tr>
<tr>
<td>Biosolids Management plan</td>
<td>75</td>
<td>0%</td>
<td>-</td>
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<tr>
<td>Expansion - emergency storage</td>
<td>4,265</td>
<td>0%</td>
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<tr>
<td>Morton Ave sewer main</td>
<td>2,287</td>
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<tr>
<td>Westwood at Morton lift</td>
<td>12,218</td>
<td>100%</td>
<td>12,218</td>
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<tr>
<td>Contact chamber - water pump</td>
<td>188</td>
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<tr>
<td>Sewer master plan update</td>
<td>666</td>
<td>100%</td>
<td>666</td>
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<tr>
<td>WWTF discharge report</td>
<td>61,640</td>
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<tr>
<td>Percolation pond project</td>
<td>387</td>
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<tr>
<td>Putnam at Matthew pump</td>
<td>10,656</td>
<td>100%</td>
<td>10,656</td>
</tr>
<tr>
<td>Jaye St - Hwy 190/Springville pipe</td>
<td>1,655</td>
<td>100%</td>
<td>1,655</td>
</tr>
<tr>
<td>Sludge drying beds</td>
<td>252</td>
<td>0%</td>
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<tr>
<td>Sludge lines</td>
<td>125</td>
<td>0%</td>
<td>-</td>
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<tr>
<td>Jaye St - cross Hwy 190</td>
<td>780</td>
<td>100%</td>
<td>780</td>
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</table>

**SEWER TOTAL**

<table>
<thead>
<tr>
<th>Total Expenditure</th>
<th>Allowed D.I.F. Percentage</th>
<th>Eligible D.I.F. Expenditure</th>
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</thead>
<tbody>
<tr>
<td>$1,991,275</td>
<td>$551,033</td>
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<tr>
<td>Description</td>
<td>Total Expenditure</td>
<td>Allowed D.I.F. Percentage</td>
</tr>
<tr>
<td>-------------------------------------------------</td>
<td>-------------------</td>
<td>--------------------------</td>
</tr>
<tr>
<td><strong>Storm Drain Projects</strong></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Master plan paybacks</td>
<td>$2,926</td>
<td>100%</td>
</tr>
<tr>
<td>Drainage reservoir #51</td>
<td>1,383</td>
<td>100%</td>
</tr>
<tr>
<td>Purchase reservoir #19</td>
<td>97,287</td>
<td>100%</td>
</tr>
<tr>
<td>Airport industrial development - West St</td>
<td>279,170</td>
<td>100%</td>
</tr>
<tr>
<td>G St - Henderson Ave - G to Villa</td>
<td>17,419</td>
<td>100%</td>
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<tr>
<td>Jaye St project - Vandalia Ave</td>
<td>6,766</td>
<td>100%</td>
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<tr>
<td>Master plan update</td>
<td>23,846</td>
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<td><strong>STORM DRAIN TOTAL</strong></td>
<td>$428,797</td>
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<tr>
<td><strong>Transportation Projects</strong></td>
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</tr>
<tr>
<td>Jaye St - 190/Springville</td>
<td>5,332,797</td>
<td>24%</td>
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<td>Hillside ordinance development</td>
<td>2,000</td>
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<tr>
<td>Transfer to General Fund</td>
<td>$150,000</td>
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<tr>
<td><strong>TRANSPORTATION TOTAL</strong></td>
<td>$5,484,797</td>
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<tr>
<td><strong>Park Projects</strong></td>
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<tr>
<td>Transfer to General Fund</td>
<td>$98,757</td>
<td>100%</td>
</tr>
<tr>
<td><strong>PARK TOTAL</strong></td>
<td>$98,757</td>
<td></td>
</tr>
</tbody>
</table>
CITY OF PORTERVILLE

DEVELOPER FEE RATE STRUCTURE
2007/08

<table>
<thead>
<tr>
<th></th>
<th>SINGLE FAMILY (R-1)</th>
<th>DUPLEX (R-2)</th>
<th>MULTI-FAMILY (R-3 &amp; R-4)</th>
<th>MOBILE HOMES</th>
<th>INSTITUTIONAL</th>
<th>COMMERCIAL / PROFESSIONAL</th>
<th>INDUSTRIAL</th>
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</thead>
<tbody>
<tr>
<td>WATER ACREAGE FEE / ACRE</td>
<td>$2,712</td>
<td>$6,788</td>
<td>$15,848</td>
<td>-</td>
<td>$1,770</td>
<td>$2,038</td>
<td>$15,652</td>
</tr>
<tr>
<td>SEWER ACREAGE FEE / ACRE</td>
<td>$1,656</td>
<td>$3,849</td>
<td>$8,979</td>
<td>-</td>
<td>$624</td>
<td>$2,340</td>
<td>$9,989</td>
</tr>
<tr>
<td>STORM DRAIN FEE / ACRE</td>
<td>$4,467</td>
<td>$5,958</td>
<td>$8,939</td>
<td>-</td>
<td>$11,914</td>
<td>$11,914</td>
<td>$11,914</td>
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<tr>
<td>TRANSPORTATION FEE / UNIT</td>
<td>$955</td>
<td>$647</td>
<td>$647</td>
<td>-</td>
<td>$2,459</td>
<td>$4,678</td>
<td>$697</td>
</tr>
<tr>
<td>PARK IMPACT FEE / UNIT</td>
<td>$594</td>
<td>$461</td>
<td>$461</td>
<td>$333</td>
<td>-</td>
<td>-</td>
<td>-</td>
</tr>
</tbody>
</table>
SUBJECT: APPROVE CONCESSION LICENSE WITH AYSO REGION 315

SOURCE: PARKS AND LEISURE SERVICES DEPARTMENT

COMMENT: Two local soccer organizations, AYSO and CYSA, originally indicated to staff that they would be interested in the Concession License for the entire 2009 Sports Complex year. The Licensee from 2002-’07 was AYSO and Flag Football of Porterville. AYSO was the Licensee in 2007-’08. This is the first time there has been multiple organizations interested in obtaining the license during the same season(s).

All of the payments from AYSO in 2008 have been made in a timely manner. AYSO has also turned in their monthly concession report each month. CYSA in Porterville is a growing youth soccer organization in hopes of doing some fundraising through concession sales. CYSA has been diligent in reserving fields and making payments to the Parks and Leisure Services office.

Staff initially proposed that CYSA be granted the Concession License for February-July 2009 and AYSO be granted the Concession License August 2009-January 2010. CYSA was primarily interested in the months of September through November. AYSO was willing to be granted the License September through November and allow CYSA to obtain it the remaining nine months. The Parks & Leisure Services Commission was unable to achieve concurrence with the two organizations.

The current fee for concession building usage is $5.84 per hour. The fee is adjusted yearly on July 1st by the San Francisco Consumer Price Index. The term for the License has been established for a period of one year.

Staff and the Parks & Leisure Services Commission recommend the approval of the proposed Concession License with AYSO Region 315.

RECOMMENDATION: That the City Council approve the Concession License with AYSO Region 315, and authorize and direct the Mayor to execute same.

ATTACHMENTS: Concession License with AYSO Region 315
Parks & Leisure Services Commission Recommendation Memo
CITY OF PORTERVILLE
SPORTS COMPLEX
CONCESSION LICENSE

The City of Porterville, hereinafter referred to as "CITY" hereby grants to the American Youth Soccer Organization (AYSO), hereinafter referred to as "LICENSEE", a license for services to the public in general, of the sale of soft drinks, ice creams, hot dogs, pre-packaged food, and general confectionery articles and products at the Sports Complex Concession Building located at 2701 W. Scranton Avenue, Porterville CA, from February 1, 2009 – January 31, 2010.

1. The LICENSEE shall not sell or serve any type of alcoholic beverage on the premises.

2. The LICENSEE shall, at all times during the term of said License, keep and maintain the concession building open for the convenience of patrons at said Field during the hours in which said Field is being utilized for organized recreation or at any other time the CITY deems the operation of the concession necessary for special activities.

3. The LICENSEE shall keep and maintain all concession facilities, equipment and grounds at and around said concession building in good and sanitary condition and shall keep and maintain all of the concession fixtures and equipment in good condition and repair.

4. The LICENSEE shall open all gates and secure them open with locks upon opening the park and concession facility. The LICENSEE shall arm the concession building and lock all gates upon closing the concession building and park.

5. In the event the LICENSEE coordinates placement of refrigerators or vending and dispensing machines at the facility, LICENSEE shall ensure such machines are removed or disengaged from City provided utilities promptly at the conclusion of each season.

6. In the event the LICENSEE shall fail, neglect or refuse to abide by and perform the terms, conditions, covenants, and agreements hereof, the CITY may, at its option, terminate and cancel this License and in the event of a termination of this License, the LICENSEE shall surrender up and deliver to the CITY complete possession of the premises where said License is being operated within 30 days after receiving notice to vacate.

7. The LICENSEE shall not assign, transfer or convey this license or any of the rights or benefits hereunder to any person, firm or corporation without first securing the written consent of the CITY.
8. The CITY, by its authorized agents and servants, reserves the right of entry upon the premises where said license is being operated for purposes of inspection.

9. Nothing herein shall be construed as making the CITY and the LICENSEE partners and/or joint ventures.

10. To the fullest extent permitted by law, the LICENSEE shall and hereby does agree to save, defend and indemnify the CITY, all of its officers, agents and employees of and from all manner of claims, demands, actions or causes of actions of all persons arising from or in any way connected with the use, occupation or employment of said License, or activities engaged in, or carried on or conducted upon the premises by the LICENSEE, together with costs and attorney's fees and shall secure, at LICENSEE's expense, liability insurance including product liability indemnifying the CITY and the LICENSEE in the sum of two million dollars ($2,000,000) combined single limit for property damage and injury, including death, to one or more persons, and deposit with the CITY an original certificate of said insurance, name the CITY, its officers, agents and employees as an additional insured on LICENSEE's policy.

11. LICENSEE shall maintain Workers' Compensation Insurance for all its employees and volunteers who are in any way connected with the performance of LICENSEE's concessionary interests to the extent as provided by law.

12. During the entire term of this License, the Licensee shall not suffer, allow, or permit any income, profit, or emolument gross and net, from any of its activities arising from, connected with, or in any manner associated with the use and employment by the LICENSEE of this License to inure, to be paid to, or delivered to the benefit of any members, private shareholder, or individual; and/or income, profit, gross and net, or other rights or benefits which shall arise from the use and employment of this LICENSEE shall be used solely, positively and exclusively to meet the necessary expenses or upkeep and operation of the activities of the LICENSEE as such, and not any members, shareholders, or individual.

13. The LICENSEE shall pay monthly to the City a fee of $5.84 per hour for the use of the concession building by the 5th of each month. The payment will be made by AYSO. The fee will be adjusted July 1 of each year by the San Francisco Consumer Price Index.

14. The LICENSEE shall maintain and keep adequate records of its sales from the licensed premises and agrees to permit the CITY to examine said records on demand. In addition, the LICENSEE shall submit a completed "Monthly Concession Report" form to the City no later than the fifth day of the month following any month during which the LICENSEE conducted concession sales.

15. The LICENSEE shall have the right and privilege, provided it is not in default of the terms and provisions of the License, at the end of the term or sooner termination thereof, to remove from the Licensed premises all personal property belonging to the LICENSEE, together with their stocks, goods and wares and
trade fixtures that LICENSEE may have installed, provided the same can be removed without material injury to the premises and the LICENSEE hereby acknowledges receipt of the premises in good condition and repair.

16. Notwithstanding any provision of this agreement to the contrary this agreement may be terminated by either party, with our without cause, by giving the other party thirty (30) days written notice of termination. Notice shall be given by personal delivery or first class mail, return receipt requested.

17. Attorney Fees. If any litigation is commenced between the parties to the Agreement concerning the Agreement or the rights and duties of either in relation to the Agreement, the party prevailing in that litigation shall be entitled, in addition to any other relief that may be granted in the litigation to a reasonable sum as and for its attorneys fees in the litigation, which shall be determined by the court in that litigation or in a separate action brought for that purpose.

IN WITNESS whereof the parties have executed this License Agreement at Porterville, California this 20th day of January, 2009.

CITY OF PORTERVILLE

BY: ____________________________
   Cameron J. Hamilton, Mayor

PORTERVILLE AMERICAN
YOUTH SOCCER
ORGANIZATION

BY: ____________________________
   President

ATTEST:

John Lollis, City Clerk

BY: ____________________________
   Patrice Hildreth, Chief Deputy City Clerk

APPROVED AS TO FORM:

_______________________________
Julia M. Lew, City Attorney
MEMORANDUM

TO: Mayor Hamilton  
    Vice Mayor McCracken  
    Council Member F. Martinez  
    Council Member P. Martinez  
    Council Member Ward

FROM: Joe Ruiz, Parks & Leisure Services Commission Chair

SUBJECT: Sports Complex Concession License

SUBJECT: Study Committee Report – Formation of Mosquito Abatement District in Southeastern Tulare County

SOURCE: Administration

COMMENT: On Monday, January 12, 2009, the special committee that was formed to study the potential formation of or annexation into a mosquito abatement district met to discuss recent meetings of the City Councils for both Lindsay and Porterville regarding the matter. It was reported by the City of Porterville Council representative, Vice Mayor Pete McCracken, that the Porterville City Council had rescinded its previous action in opposition to the formation of an abatement district, instead taking no official position on the issue. It was related that sentiment had been expressed by some Council members that the consideration of forming an abatement district be submitted directly to a ballot vote in a regular election, without conducting a survey to gauge constituent sentiment.

It was discussed during the committee meeting that the benefit of the survey would be to define potential geographical sub-district(s) that may be in favor of formation or annexation, thus increasing the potential for implementation in a specific area, i.e. Northern District (Frazier Valley and Lindsay) or Southern District (Porterville, Terra Bella, Ducor). There was concern expressed that in a single ballot measure, one geographical area could prevent another geographical area from implementing an abatement program.

It was speculated at the study committee meeting that it was potentially more costly to conduct a ballot measure without first conducting a survey of voter sentiment, due to the supposed additional expense of preparing ballot measure informational materials. LAFCO Executive Director, Mr. George Finney, was tasked with confirming ballot measure expenses with the County Elections Office, which will be reported to both the Lindsay and Porterville City Councils. Ballot measure expenses would traditionally be borne by the abatement district that is seeking annexation and/or formation given such expenses are recoverable by assessment should the measure prove successful. Mr. Finney was also tasked to determine if survey expenses were recoverable by assessment, and if so, could agencies other than the abatement...
district be reimbursed should they choose to financially contribute to an abatement district survey.

It is expected that Mr. Finney will be present at the February 2\textsuperscript{nd} meeting of the Porterville City Council to present his determinations.

RECOMMENDATION: None – Information only
SUBJECT: APPROVAL OF COUNCIL MEMBER’S TRAVEL TO WASHINGTON D.C.

SOURCE: ADMINISTRATION

COMMENT: On an annual basis, the Tulare County Association of Governments (TCAG) travels to Washington D.C. to meet with U.S. legislators and officials to address transportation issues impacting Tulare County. During its yearly trips to Washington, TCAG endeavors to lobby on behalf of Tulare County with one united voice, and as such, representatives from TCAG member agencies are encouraged to participate. It is proposed that City Council Member Felipe Martinez be selected to travel to Washington D.C. in this regard. The trip is scheduled for February 2 – 6, 2009.

TCAG will fund lodging and airfare for one elected official. Funds are available in the City Council budget to cover associated additional expenses which are estimated not to exceed $450.

RECOMMENDATION: That the City Council, consistent with past Council practice, confirm the proposed out-of-state travel scheduled for February 2 – 6, 2009 for Council Member Felipe Martinez.

Item No. 18
CITY COUNCIL AGENDA: JANUARY 20, 2009

PUBLIC HEARING

SUBJECT: REQUEST TO ALLOW RE-SUBMITTAL FOR A CONDITIONAL USE PERMIT 4-2008 TO UPGRADE AN EXISTING TYPE 20, BEER AND WINE OFF-SALE LICENSE TO A TYPE 21, BEER, WINE AND DISTILLED SPIRITS OFF-SALE LICENSE AND LETTER OF PUBLIC CONVENIENCE OR NECESSITY FOR AN EXISTING MINI-MART

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: The applicant is requesting consideration to a re-submittal of Conditional Use Permit 4-2008 to allow for the upgrade of an existing Type 20 beer and wine off-sale alcohol license to a type 21 beer, wine and distilled spirits off-sale license for an existing convenience market located at 809 East Putnam Avenue. On March 1, 2005, the Porterville City Council at their regularly scheduled meeting by Resolution 38-2005 denied Conditional Use Permit 1-2005 to allow for the same upgrade request of an existing Type 20 beer and wine off-sale license to a Type 21 beer, wine and distilled spirits off-sale license.

Staff’s review of the request to reconsider the Alcohol License upgrade has not found any substantial change in circumstances from the previous request for consideration. Staff reviewed police reports and how these reports relate to growth/building permits in the area. It is staff’s position that the only change in circumstances from the last request for upgrade is the signed petition submittal of the surrounding residents in support of the alcohol license upgrade. The identified changes in circumstances, do not qualify as material evidence of substantial change to warrant an alcohol upgrade.

Pursuant to “General Rule” Exemption 14 Ca. Admin. Code 15061 b3 of the CEQA Guidelines, the proposed project qualifies for a categorical exemption.

RECOMMENDATION: That the Council determine that there is insufficient evidence of a substantial change in circumstances and deny re-application at this time.

ATTACHMENTS:

1. Complete Staff Report

DD: Appropriated/Funded N/A CM: Item No. 19
CITY COUNCIL STAFF REPORT
City of Porterville
JANUARY 20, 2009

CONDITIONAL USE PERMIT 4-2008
FOR CITY COUNCIL MEETING JANUARY 20, 2009

APPLICANT: Mounib Dakhil – Sunnyside Market
809 E. Putnam Ave
Porterville, CA 93257

PROJECT DESCRIPTION: The applicant is requesting consideration to a re-submittal of Conditional Use Permit 4-2008 to allow for the upgrade of an existing Type 20 beer and wine off-sale alcohol license to a type 21 beer, wine and distilled spirits off-sale license for an existing convenience market located at 809 East Putnam Avenue.

SIZE OF PROPERTY: 25,972 square feet

GENERAL PLAN CLASSIFICATION: Neighborhood Commercial

ZONING CLASSIFICATION: C-1 (Neighborhood Commercial)

SURROUNDING ZONING AND LAND USES:

North: Low Density Residential – R-1 (Single Family Residential)
West: Parks and Recreation – OA (Open Area) – Porterville Municipal Golf Course
South: Low Density Residential – R-1 (Single Family Residential)
East: Low Density Residential – R-1 (Single Family Residential)

<table>
<thead>
<tr>
<th>Date Environmental Document Distributed</th>
<th>Date Notice Published in Porterville Recorder</th>
<th>Date Notice Mailed to Property Owners within 300 feet of property</th>
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<tbody>
<tr>
<td>Categorically exempt from CEQA</td>
<td>January 6, 2009</td>
<td>January 8, 2009</td>
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</table>

ENVIRONMENTAL REVIEW:

Pursuant to “General Rule” Exemption 14 Ca. Admin. Code 15061 b3 of the CEQA Guidelines, the proposed project qualifies for a categorical exemption.
"Any use involving the sale of alcoholic beverages under an off-sale license within 600 linear feet of the nearest property line of any sensitive use as defined in this article shall be subject to obtaining approval of a Conditional Use Permit.

Any duly licensed off-sale liquor establishment in operation on July 20, 2004 shall be subject to the provisions of Article 25, of the ordinance."

The subject site is located in Census Tract 39.01 which allows a maximum of eight (8) off-sale alcohol licenses. Currently, there are eleven (11) existing licenses there, including the one at this site.

Under the regulations of the Business and Professions Code, whenever the ratio of off-sale licenses to population in a census tract exceeds the average ratio for the county, an “undue concentration” of licenses is determined to exist. In such circumstances, no additional licenses may be granted by the ABC unless the City Council determines that there is a public convenience or necessity in the community for the additional license or upgrade in license type.

State Law also requires that if a license location is changed or the type of license is upgraded or downgraded (to increase or decrease privileges), a Letter of Public Convenience or Necessity is needed.

Staff’s review of the request to reconsider the Alcohol License upgrade has not found any substantial change in circumstances from the previous request for consideration. Staff reviewed police reports and how these reports relate to growth/building permits in the area. In review of the police reports since the last request, there is significant criminal activity that can be linked to the sale of alcohol at this site. Additionally, the only development growth that has occurred in the area since the last request has been north of Morton Avenue and west of Leggett Street. It is staff’s position that the only change in circumstances from the last request for upgrade is the signed petition submittal of the surrounding residents in support of the alcohol license upgrade. The identified changes in circumstances, do not qualify as material evidence of substantial change to warrant an alcohol upgrade.

CITY COUNCIL OPTIONS:

1. Determine that there is material evidence of a substantial change in circumstances, and authorize Conditional Use Permit 4-2008 subject to conditions of approval.

2. Determine that there is insufficient evidence of a substantial change in circumstances and deny re-application at this time.

RECOMMENDATION: That the Council determine that there is insufficient evidence of a substantial change in circumstances and deny re-application at this time.

ATTACHMENTS:

1. Existing Land Use/General Plan Land Use/Zoning Map
2. Census Tract Map 39.01
RESOLUTION NO. ____________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS AND CONDITIONS IN SUPPORT OF APPROVAL OF CONDITIONAL USE PERMIT 4-2008 TO ALLOW THE UPGRADE OF AN EXISTING TYPE 20, BEER AND WINE OFF-SALE LICENSE TO A TYPE 21, BEER, WINE AND DISTILLED SPIRITS OFF-SALE LICENSE AND LETTER OF PUBLIC CONVENIENCE OR NECESSITY FOR AN EXISTING MINI-MART LOCATED AT 809 EAST PUTNAM AVENUE

WHEREAS: The City Council of the City of Porterville, at its regularly scheduled meeting of January 20, 2009, conducted a public hearing to consider Conditional Use Permit 4-2008, being a request to allow the upgrade of an existing Type 20, beer and wine off-sale license to a Type 21, beer, wine and distilled spirits off-sale license and a Letter of Public Convenience or Necessity for an existing mini-mart located at 809 East Putnam Avenue; and

WHEREAS: The City Council received testimony from all interested parties relative to said Conditional Use Permit; and

WHEREAS: 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.

   Conditional Use Permit 8-82 allowed for approval of a PD(R)-(Planned Development Residential Subdivision) for Hacienda Heights which also included a small commercial parcel. Approval of Phase One of Conditional Use Permit 8-82 allowed for the construction of the existing mini-mart and fuel dispensing island. On or about July 1983, the mini-mart was built. The existing market has been selling alcoholic beverages (beer and wine) prior to the adoption of Article 21 of the Porterville Zoning Ordinance.

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

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

3. Section 2100 D of the Porterville Zoning Ordinance states the following:

   Any use involving the sale of alcoholic beverages under an off-sale license within 600 linear feet of the nearest property line of any sensitive use as defined in this article shall be subject to obtaining approval of a Conditional Use Permit.

   Any duly licensed off-sale liquor establishment in operation on July
20, 2004 shall be subject to the provisions of Article 25, of the ordinance.

4. State Law requires that if a license location is changed or the type of license is upgraded or downgraded (to increase or decrease privileges), a Letter of Public Convenience or Necessity is required.

5. The subject site is located in Census Tract 39.01 which allows a maximum of eight (8) off-sale alcohol licenses. Currently, there are eleven (11) (to include the existing off-sale of beer and wine license at 809 E. Putnam Avenue).

6. Under the regulations of the Business and Professions Code, whenever the ratio of off-sale licenses to population in a census tract exceeds the average ratio for the county, an “undue concentration” of licenses is determined to exist. In such circumstances, no additional licenses may be granted by the ABC unless the City Council determines that there is a public convenience or necessity in the community for the (subject) alcoholic beverage licensed establishment.

7. This project is Categorically Exempt pursuant to “General Rule” Exception - 14 Ca. Admin. Code 15061 (b) (3) - Permit regulating operation of an existing mini-mart.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve Conditional Use Permit 4-2008 subject to the following conditions:

1. The developer/applicant shall install security lighting on the exterior of the building and/or in the parking lot sufficient to allow reasonable surveillance of the parking area to the satisfaction of the Porterville Police Department.

2. No alcohol advertising shall be displayed on the outside of the proposed building.

3. Any future change in operation which substantially alters the conditions or nature of the subject business will require approval by the City Council if such modification involves the sale of alcoholic beverages.

4. That the consumption of alcoholic beverages shall be prohibited on-site.

5. Upon approval of the Conditional Use Permit, any future violations of regulations of the codes relating to the sales or consumption of alcohol, and/or excessive service calls by the Police Department resulting form the sales of alcohol will result in revocation of the Conditional Use Permit.

6. That a Letter of Public Convenience or Necessity will require approval by the Porterville City Council.

7. At all times, the facility shall be operated and maintained to comply with State Laws, the City of Porterville Zoning Ordinance, adopted Building Codes and all other applicable laws and ordinances.
8. The applicant shall provide a loading space(s) in accordance with Section 2400 and 2401 of the Zoning Ordinance.

9. No alcohol advertising shall be displayed on the outside of the proposed building.

10. That all distilled spirits shall be kept and maintained in a secure area accessible only to employees and retrieved at the request of the customer.

11. The Conditional Use Permit shall become null and void if not under taken and actively and continuously pursed within one (1) year.

12. Unless an extension of time is granted by the City Council, the Conditional Use Permit shall expire one (1) year after the date of approval if the up-grade of the off-sale Type 21, beer, wine and distilled spirits license has not been granted by the Department of Alcoholic Beverage Control Board.

Cameron Hamilton, Mayor

ATTEST:

John Lollis, City Clerk

By ____________________________
    Patrice Hildreth, Chief Deputy City Clerk
January 20, 2009

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

Attention Joyce Knodel:

RE:  “Sunnyside Handy Market” – 809 East Putnam Avenue

Dear Ms. Knodel:

The City Council of the City of Porterville has elected to approve submittal of this letter regarding the public convenience or necessity to be served through issuance of a Type 21 off-sale beer, wine and distilled spirits license in conjunction with the existing mini-market located at 809 East Putnam Avenue.

Approval of this letter was based on the following:

1. Per Section 23958.4 of the “Business and Professions Code”, the subject site is located within Census Tract 39.01 which allows eight (8) off-sale licenses. At present there are 11 to include the existing off-sale of beer and wine license at 809 E. Putnam Avenue.

2. Section 2100 D of the Porterville Zoning Ordinance states the following:

Any use involving the sale of alcoholic beverages under an off-sale license within 600 linear feet of the nearest property line of any sensitive use as defined in this article shall be subject to obtaining approval of a Conditional Use Permit.

On January 20, 2009, the City Council conditionally approved Conditional Use Permit 4-2008 (see attached resolution) to allow for the up-grade of an existing Type 20 off-sale of beer and wine to a Type 21 off-sale of beer, wine and distilled spirits license. As a condition of approval, a Letter of Public Convenience or Necessity was required to be approved by the City Council.
In consideration of the above, the City Council determined that public convenience or necessity would be served by the issuance of the Type 21 off-sale beer, wine and distilled license in conjunction with the exiting mini-market.

Further, issuance of the Type 21 off-sale license allowing beer, wine and distilled spirits 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 Sunnyside Handy Market are to be in small quantities in conjunction with the purchase of other merchandise, to include an added service to the customers.

For these reasons, the City Council of the City of Porterville supports issuance of the Type 21 off-sale beer, wine and distilled spirits license from the Sunnyside Handy Market located at 809 East Putnam Avenue.

Sincerely,

Cameron Hamilton, Mayor
SunnySide Market 809 E. Putnam Ave.
To the city council of Porterville

From

Sunnyside Handy Market
809 E Putnam Ave
Porterville Ca 93257

Hello dear sirs and madams; please kindly accept to read this application from us for a re-consideration of an upgrade from beer and wine license type 20 to type 21 so we can start selling hard liquor in our store.
As a start; I want to tell you that a few years ago we applied for a liquor license but our request was denied by the city council for reasons such as having liquor might make more people drunk and lead them to cause problems and that the neighborhood is already not safe. However this time we are applying and we’re all hope that you gentlemen and ladies are going to take the last peaceful and quiet few years in your consideration and that our neighborhood is getting bigger and there isn’t any liquor store close by us.
Actually, the nearest store is few miles away and that’s the thing our customers are complaining about to the extent that most of them have signed on papers which we have at the store asking for the approval of a liquor license for our store.
Finally, we sure appreciate any time and effort you gentlemen and ladies spend looking through our application and re-considering this upgrade for the benefit of public, progress of the city and business and so may God help you to do the right thing as you always do.

And thank you very much
Sincerely
Owner

Munis B. Dakhil
559- 359-3361

General manager

Frank Alset
559- 359-5411

Attachment
Item No. 4

Letter # 2
Date 3-24-08
To whom it may Concern:

We the undersigned Customers of Sunny Side Handy Market, located at 809 East Putnam Street, respectfully request the approval of a Liquor License for the above stated Business.

1. 
2. 
3. 
4. 
5. Steve Osborne
6. 
7. 
8. Ray Parterson
9. Lee Henning
10. 
11. 
12. 
13. 
14. 
15. Gino Beticino
16. Tracey Yemora
17. Chris Woods
18. Robert Carabace
19. 
20. 

ATTACHMENT ITEM NO. 5
To whom it may Concern:

We the undersigned Customers of Sunny Side Handy Market, located at 809 East Putnam Street, respectfully request the approval of a Liquor License for the above stated Business.

1. [Signature]
2. Nicolas Tena
3. Martha Cerr
4. [Signature]
5. Thomas Castille
6. [Signature]
7. Nelly Rebollo
8. Amey Nawaz
9. [Signature]
10. [Signature]
11. Santiago Arce
12. Lynda Car
13. Tom Bithner
14. [Signature]
15. [Signature]
16. Jamshed Bhattarai
17. [Signature]
18. [Signature]
19. [Signature]
To whom it may Concern:

We the undersigned Customers of Sunny Side Handy Market, located at 809 East Putnam Street, respectfully request the approval of a Liquor License for the above stated Business.

1. Rosemary Sunby
2. C. M. Butler
3. M. McCutcheon
4. Nancy Branch
5. Marie Lentz
6. Kenneth Tyler
7. Robert Torres
8. Angel Grappe
9. Francine Autt
10. Sisay Mosama
11. Yedira Pico
12. Liquia Barino
13. Semy Sun
14. Todd Brulie
15. Robert Chaffer
16. G. Bright
17. Amende Nise
18. Mary Ann Shepherd
To whom it may Concern:

We the undersigned Customers of Sunny Side Handy Market, located at 809 East Putnam Street, respectfully request the approval of a Liquor License for the above stated Business.

1. [Signature]
2. [Signature]
3. [Signature]
4. [Signature]
5. [Signature]
6. [Signature]
7. [Signature]
8. [Signature]
9. [Signature]
10. [Signature]
11. [Signature]
12. [Signature]
13. [Signature]
14. [Signature]
15. [Signature]
16. [Signature]
17. [Signature]
18. [Signature]
19. [Signature]
20. [Signature]
To whom it may Concern:

We the undersigned Customers of Sunny Side Handy Market, located at 809 East Putnam Street, respectfully request the approval of a Liquor License for the above stated Business.

1. Michael O'Neal
2. Jose Rojas
3. Sharley Fernandez
4. Andrea Rania
5. Jose Yepeda
6. Patty Molina
7. [Signature]
8. [Signature] 784-7055
9. [Signature] cook
10. [Signature]
11. Donna Abramchuk
12. VERONICA GARCIA
13. [Signature] MELISSA
14. [Signature]
15. Victoria Canales
16. MATTHEW ARISCO
17. Maria Hymnan
18. [Signature] Tamayo
19. Sandra Villarreal
20. Chilo Alvarado
To whom it may Concern:

We the undersigned Customers of Sunny Side Handy Market, located at 809 East Putnam Street, respectfully request the approval of a Liquor License for the above stated Business.

1. Jamie Sanchez
2. Jane Williams
3. Bob Jones
4. Lily Casey
5. Dennis
6. James Brown
7. Jane Davis
8. Jose Valdez
9. Carlo Martinez
10. Yiana Gonzalez
11. Joe Brown
12. SC JO
13. Kimberly Hudson
14. Louis A. Lubitz
15. Li feliz
16. Scot Johnson
17. George F.
18. Larry Fox
19. Mr. Lee
20. James Castro
To whom it may Concern:

We the undersigned Customers of Sunny Side Handy Market, located at 809 East Putnam Street, respectfully request the approval of a Liquor License for the above stated Business.

1. Demarion Phanthavong
2. Rubiana Rodriguez
3. David H. Harris
4. Jane Duffy
5. Beatrice Smith
6. Allen Bean
7. Alfredo Lopez
8. 
9. Transito Hernandez
10. 
11. 
12. 
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14. 
15. 
16. 
17. 
18. 
19.
To whom it may Concern:

We the undersigned Customers of Sunny Side Handy Market, located at 809 East Putnam Street, respectfully request the approval of a Liquor License for the above stated Business.

1. Sandra Biss
2. Stella Gonzalez
3. Kathleen Denny
4. Colleen Fother
5. Carol Colon
6. Tony Coulter
7. Paul Cole
8. James Whiter
9. Jess S. Meyn
10. Art
11. Abigail
12. Jose Torres
13. Michael Stein
14. Paul Lee
15. 
16. Raymond Aquino
17. David Langel
18. Sara Dick
19. Maureen Martinez
20. Carl Costa
To whom it may Concern:

We the undersigned Customers of Sunny Side Handy Market, located at 809 East Putnam Street, respectfully request the approval of a Liquor License for the above stated Business.

1. Taralindo
2. Ali Ace
3. Phee Fung
4. Lawful
5. 
6. Rudy Garcia
7. Kelly Garcia
8. Annie Silva
9. 
10. Belo Can
11. Ray Hart
12. Ignacio Ramirez
13. Isidro Alvarado
14. Chilo Alvarado
15. Francilca Rodriguez
16. Devon Fowler
17. Curt M. John
18. Frank Martinez
19. Jacqueline Moore
20. John
To whom it may Concern:

We the undersigned Customers of Sunny Side Handy Market, located at 809 East Putnam Street, respectfully request the approval of a Liquor License for the above stated Business.

1. STEPHEN CHASSAD
2. [Signature]
3. Belinda Le Vasseur
4. Patricia Le Vasseur
5. Jody Cook
6. Jane Z
7. Scotty Lek
8. Jose Garcia
9. Robert Burn
10. [Signature]
11. Chi Murgia
12. [Signature]
13. Warren Myhre
14. Mary Oracio
15. Michael Murray
16. [Signature]
17. Julie Roady
18. Barbara Banda
19. Mike [Other]
To whom it may Concern:

We the undersigned Customers of Sunny Side Handy Market, located at 809 East Putnam Street, respectfully request the approval of a Liquor License for the above stated Business.

1. Dave Smith
2. 
3. Lynnette Wester
4. George Pray
5. 
6. Blaine West
7. Bobette Mitchell
8. 
9. 
10. 
11. Chris Walter
13. Rogelio Macinagal
14. Gina Zotta
15. Araseli Camarena
16. Salvador Linares
17. 
18. Mattie C. Daniel
19. 


To whom it may Concern:

We the undersigned Customers of Sunny Side Handy Market, located at 809 East Putnam Street, respectfully request the approval of a Liquor License for the above stated Business.

1. Jesse D. Shields Jr.
2. Jesse D. Shields Sr.
3. Demi Parn
4. Ben L
5. Joe McFerres
6. 
7. Rhonda Case
8. Jim Standards
9. 
10. 
11. 
12. 
13. Patricia Wiel
14. Lane Yates
15. Scott Kauadz
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100. 

Signatures
we the undersigned Customers of Sunny Side Handy Market, located at 809 East Putnam Street, respectfully request the approval of a Liquor License for the above stated Business.

1. 
2. 
3. Adrian Serrato
4. Tony Ruiz
5. Florentino Serrato
6. 
7. 
8. JOHN ALBA 4-10-1982
9. Mary Escobar
10. Joan M. Jones
11. 
12. 
13. Janie Hampton
14. Abel Calderon
15. Miguel Cepremoz
16. Mary Lee
17. Chastity Mannino
18. M.
19. Heather Magee
20. Eric Reaves
To whom it may Concern:

We, the undersigned Customers of Sunny Side Handy Market, located at 809 East Putnam Street, respectfully request the approval of a Liquor License for the above stated Business.

1. Sande Beyerback
2. Dick Yoder
3. Jack Bow
4. Maro Leif
5. (signature)
6. David Mervin
7. (signature)
8. Stanley May
9. (signature)
10. (signature)
11. (signature)
12. Gregory Clark
13. Gerardo Gonz
14. Ken Hubly
15. Elvis Beers
16. Sylvia Robbins
17. George L. Carter
18. (signature)
19. Rodney A. Carr
20. John Hurle
To whom it may Concern:

We the undersigned Customers of Sunny Side Handy Market, located at 809 East Putnam Street, respectfully request the approval of a Liquor License for the above stated Business.

1. Linda Muller
2. Sue Soga
3. Mario Mota
4. Sue
5. Michael Hopper
6. ENDI PHENISAVATH
7. Shelli
8. Rey Martinez
9. Debi
10. Regan Atty
11.:
12. JESSICA Rodriguez
13. Robert Wagner
14. Marlen
15. M.
16. E. Cote
17. Kathy Miller
18. Natasha R
19. Annie Silver
20. Robert M. Oute
To whom it may Concern:

We the undersigned Customers of Sunny Side Handy Market, located at 809 East Putnam Street, respectfully request the approval of a Liquor License for the above stated Business.

1. Jose Luis Aquilar
2. Angu Vasquez
3. Mark Alvarado
4. Greg Casada
5. Glory Connor
6. Roxane Hillman
7. Allen Sezko
8. Daniel Butler
9. 
10. Jon Yen
11. 
12. 
13. 
14. 
15. 
16. 
17. Evi Rodriguez
18. 
19. Sonia Garcia
20. 

Cordero
Santana
Diaz
Buck
Garcia
Sezko
Yen
To whom it may Concern:

We the undersigned Customers of Sunny Side Handy Market, located at 809 East Putnam Street, respectfully request the approval of a Liquor License for the above stated Business.

1. Cinnette Loft
2. Mario Aguilera
3. Royce Campbell
4. Henry
5. Alfredo
6. Robert I.
7. Anthony Trinidad
8. Gilbert Martinez
9. Ted & I Howard
10. Dana Michaels
11. [Signature]
12. [Signature]
13. Euge Jee
14. Srisay Mosana
15. Eddie Morenchakto
16. Thomas White
17. Antonio Rios
18. [Signature]
19. [Signature]
We, the undersigned Customers of Sunny Side Handy Market, located at 809 East Putnam Street, respectfully request the approval of a Liquor License for the above stated Business.

1. Joe Alconato
2. Ermerto Esto
3. [Signature]
4. John Liperi
5. Jessica De
6. Thomas Barrons
7. Almoro Hdez.
8. [Signature]
9. Marie Bamber
10. [Signature]
11. Mario Belloita
12. Joe Jones
13. David Palma
14. Rubin F F
15. Joseph Espinoza
16. [Signature]
17. [Signature]
18. [Signature]
19. Raymond Aquila
20. Sylvia Soria
To whom it may Concern.

We the undersigned Customers of Sunny Side Handy Market, located at 809 East Putnam Street, respectfully request the approval of a Liquor License for the above stated Business.

1. [Signature]
   [Handwritten Name]
2. [Signature]
   [Handwritten Name]
3. [Signature]
   [Handwritten Name]
4. [Signature]
   [Handwritten Name]
5. [Signature]
   [Handwritten Name]
6. [Signature]
   [Handwritten Name]
7. [Signature]
   [Handwritten Name]
8. [Signature]
   [Handwritten Name]
9. [Signature]
   [Handwritten Name]
10. [Signature]
    [Handwritten Name]

11. [Signature]
12. [Signature]
13. [Signature]
14. [Signature]
15. [Signature]
16. [Signature]
17. [Signature]
18. [Signature]
19. [Signature]
20. [Signature]
To whom it may Concern:

We the undersigned Customers of Sunny Side Handy Market, located at 809 East Putnam Street, respectfully request the approval of a Liquor License for the above stated Business.

1. Stephanie Savage
2. John Hughes
3. Rose Underwood
4. Christina Jones
5. Myla Moore
6. [Signature]
7. [Signature]
8. [Signature]
9. [Signature]
10. Kevin Curry
11. John Garcia
12. Jennifer Christensen
13. Stephen Park
14. [Signature]
15. Freddie Smith
16. Jake Ortiz
17. Henre Cifuentes
18. Shemuel Epstein
19. Jesse Snelton
20. Anthony Rodriguez
To whom it may Concern:

We the undersigned Customers of Sunny Side Handy Market, located at 809 East Putnam Street, respectfully request the approval of a Liquor License for the above stated Business.

1. [Signature]
2. [Signature]
3. [Signature]
4. [Signature]
5. [Signature]
6. [Signature]
7. [Signature]
8. [Signature]
9. [Signature]
10. [Signature]
11. Michelle R. Armas
12. [Signature]
13. [Signature]
14. Yomaira Nuñez
15. Sherri A. Grace
16. [Signature]
17. [Signature]
18. [Signature]
19. [Signature]
20. Robert Castella
RESOLUTION NO. 38-2005

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
CONTAINING FINDINGS FOR DENIAL OF CONDITIONAL USE PERMIT 1-2005 TO
ALLOW THE UPGRADE OF AN EXISTING TYPE 20, BEER AND WINE OFF-SALE
LICENSE TO A TYPE 21, BEER, WINE AND DISTILLED SPIRITS OFF-SALE LICENSE
AND LETTER OF PUBLIC CONVENIENCE OR NECESSITY FOR AN EXISTING MINI-
MART LOCATED AT
809 EAST PUTNAM AVENUE

WHEREAS: The City Council of the City of Porterville, at its regularly scheduled meeting
of February 15, 2005, conducted a public hearing to consider Conditional Use Permit 1-2005, being
a request to allow the upgrade of an existing Type 20, beer and wine license to a Type 21, beer, wine
and distilled spirits off-sale license and a Letter of Public Convenience or Necessity for an existing
mini-mart located at 809 East Putnam Avenue; and

WHEREAS: The City Council received testimony from all interested parties relative to said
Conditional Use Permit; and

WHEREAS: The City Council made the following findings:

1. This project is Categorically Exempt pursuant to “General Rule” Exception - 14 Ca.
Admin. Code 15061 (b) (3) - Permit regulating operation of an existing mini-mart.
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.

2. Section 2100 D of the Porterville Zoning Ordinance states the following:

Any use involving the sale of alcoholic beverages under an off-sale
license within 600 linear feet of the nearest property line of any
sensitive use as defined in this article shall be subject to obtaining
approval of a Conditional Use Permit.

Any duly licensed off-sale liquor establishment in operation on July
20, 2004 shall be subject to the provisions of Article 25, of the
ordinance.

3. State Law requires that if a license location is changed or the type of license is
upgraded or downgraded (to increase or decrease privileges), a Letter of Public
Convenience or Necessity is required.
4. The subject site is located in Census Tract 30.01 which allows a maximum of eight (8) off-sale alcohol licenses. Currently there are 10 (to include the existing off-sale of beer and wine license at 809 E. Putnam Avenue). The majority of the licenses are located in the commercial areas along Plano Street and Date Avenue. Two (2) of those businesses are licensed to sell distilled spirits, as is the Big "D" Liquor Store on the east side of Plano Street located in Census Tract 41.01.

5. Under the regulations of the Business and Professions Code, whenever the ratio of off-sale licenses to population in a census tract exceeds the average ratio for the county, an "undue concentration" of licenses is determined to exist. In such circumstances, no additional licenses may be granted by the ABC unless the City Council determines that there is a public convenience or necessity in the community for the (subject) alcoholic beverage licensed establishment.

6. That due to the nature of the request to upgrade the existing Type 20 off-sale (beer and wine) license to a Type 21 off-sale (beer, wine and distilled spirits) license, the City Council finds that granting the proposed intensification of use would result in an undesirable effect on the community by establishing a City wide precedent allowing other convenience stores to seek similar intensifications thereby impacting the health, safety and general welfare of citizens residing in the community.

7. That due to the existing over concentration of off-sale licenses in Census Tract No. 30.01, approval of the Conditional Use Permit would further facilitate a precedence of allowing future Conditional Use Permits for alcoholic beverages in this Census Tract.

8. That due to the aforementioned, the proposed Conditional Use Permit would encourage potential of an environment of unstable, and undesirable conditions not suitable for the character of a site in the vicinity of the closeness of the existing residential subdivision to the south and Murry Park to the west.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby deny Conditional Use Permit 1-2005.

Pedro R. Martinez, Mayor

ATTEST:

John Longley, City Clerk

By Georgia Hawley, Chief Deputy City Clerk
STATE OF CALIFORNIA  )
CITY OF PORTERVILLE  ) SS
COUNTY OF TULARE  )

I, JOHN LONGLEY, the duly appointed City Clerk of the City of Porterville do hereby certify and declare that the foregoing is a full, true and correct copy a resolution passed and adopted by the Council of the City of Porterville at a regular meeting of the Porterville City Council duly called and held on the 15th day of March, 2005.

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

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<tr>
<th>Council:</th>
<th>WEST</th>
<th>IRISH</th>
<th>HAMILTON</th>
<th>STADTHERR</th>
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JOHN LONGLEY, City Clerk

by Patrice Hildreth, Deputy City Clerk
RESOLUTION NO. ____________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS AND CONDITIONS IN SUPPORT OF APPROVAL OF CONDITIONAL USE PERMIT 4-2008 TO ALLOW THE UPGRADE OF AN EXISTING TYPE 20, BEER AND WINE OFF-SALE LICENSE TO A TYPE 21, BEER, WINE AND DISTILLED SPIRITS OFF-SALE LICENSE AND LETTER OF PUBLIC CONVENIENCE OR NECESSITY FOR AN EXISTING MINI-MART LOCATED AT 809 EAST PUTNAM AVENUE

WHEREAS: The City Council of the City of Porterville, at its regularly scheduled meeting of January 20, 2009, conducted a public hearing to consider Conditional Use Permit 4-2008, being a request to allow the upgrade of an existing Type 20, beer and wine off-sale license to a Type 21, beer, wine and distilled spirits off-sale license and a Letter of Public Convenience or Necessity for an existing mini-mart located at 809 East Putnam Avenue; and

WHEREAS: The City Council received testimony from all interested parties relative to said Conditional Use Permit; and

WHEREAS: 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.

Conditional Use Permit 8-82 allowed for approval of a PD(R)-Planned Development Residential Subdivision) for Hacienda Heights which also included a small commercial parcel. Approval of Phase One of Conditional Use Permit 8-82 allowed for the construction of the existing mini-mart and fuel dispensing island. On or about July 1983, the mini-mart was built. The existing market has been selling alcoholic beverages (beer and wine) prior to the adoption of Article 21 of the Porterville Zoning Ordinance.

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

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

3. Section 2100 D of the Porterville Zoning Ordinance states the following:

Any use involving the sale of alcoholic beverages under an off-sale license within 600 linear feet of the nearest property line of any sensitive use as defined in this article shall be subject to obtaining approval of a Conditional Use Permit.

Any duly licensed off-sale liquor establishment in operation on July
20, 2004 shall be subject to the provisions of Article 25, of the ordinance.

4. State Law requires that if a license location is changed or the type of license is upgraded or downgraded (to increase or decrease privileges), a Letter of Public Convenience or Necessity is required.

5. The subject site is located in Census Tract 39.01 which allows a maximum of eight (8) off-sale alcohol licenses. Currently, there are eleven (11) (to include the existing off-sale of beer and wine license at 809 E. Putnam Avenue).

6. Under the regulations of the Business and Professions Code, whenever the ratio of off-sale licenses to population in a census tract exceeds the average ratio for the county, an “undue concentration” of licenses is determined to exist. In such circumstances, no additional licenses may be granted by the ABC unless the City Council determines that there is a public convenience or necessity in the community for the (subject) alcoholic beverage licensed establishment.

7. This project is Categorically Exempt pursuant to “General Rule” Exception - 14 Ca. Admin. Code 15061 (b) (3) - Permit regulating operation of an existing mini-mart.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve Conditional Use Permit 4-2008 subject to the following conditions:

1. The developer/applicant shall install security lighting on the exterior of the building and/or in the parking lot sufficient to allow reasonable surveillance of the parking area to the satisfaction of the Porterville Police Department.

2. No alcohol advertising shall be displayed on the outside of the proposed building.

3. Any future change in operation which substantially alters the conditions or nature of the subject business will require approval by the City Council if such modification involves the sale of alcoholic beverages.

4. That the consumption of alcoholic beverages shall be prohibited on-site.

5. Upon approval of the Conditional Use Permit, any future violations of regulations of the codes relating to the sales or consumption of alcohol, and/or excessive service calls by the Police Department resulting form the sales of alcohol will result in revocation of the Conditional Use Permit.

6. That a Letter of Public Convenience or Necessity will require approval by the Porterville City Council.

7. At all times, the facility shall be operated and maintained to comply with State Laws, the City of Porterville Zoning Ordinance, adopted Building Codes and all other applicable laws and ordinances.
8. The applicant shall provide a loading space(s) in accordance with Section 2400 and 2401 of the Zoning Ordinance.

9. No alcohol advertising shall be displayed on the outside of the proposed building.

10. That all distilled spirits shall be kept and maintained in a secure area accessible only to employees and retrieved at the request of the customer.

11. The Conditional Use Permit shall become null and void if not under taken and actively and continuously pursed within one (1) year.

12. Unless an extension of time is granted by the City Council, the Conditional Use Permit shall expire one (1) year after the date of approval if the up-grade of the off-sale Type 21, beer, wine and distilled spirits license has not been granted by the Department of Alcoholic Beverage Control Board.

_____________________________
Cameron Hamilton, Mayor

ATTEST:

John Lollis, City Clerk

By ____________________________
Patrice Hildreth, Chief Deputy City Clerk
January 20, 2009

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

Attention Joyce Knodel:

RE: “Sunnyside Handy Market” – 809 East Putnam Avenue

Dear Ms. Knodel:

The City Council of the City of Porterville has elected to approve submittal of this letter regarding the public convenience or necessity to be served through issuance of a Type 21 off-sale beer, wine and distilled spirits license in conjunction with the existing mini-market located at 809 East Putnam Avenue.

Approval of this letter was based on the following:

1. Per Section 23958.4 of the “Business and Professions Code”, the subject site is located within Census Tract 39.01 which allows eight (8) off-sale licenses. At present there are 11 to include the existing off-sale of beer and wine license at 809 E. Putnam Avenue.

2. Section 2100 D of the Porterville Zoning Ordinance states the following:

Any use involving the sale of alcoholic beverages under an off-sale license within 600 linear feet of the nearest property line of any sensitive use as defined in this article shall be subject to obtaining approval of a Conditional Use Permit.

On January 20, 2009, the City Council conditionally approved Conditional Use Permit 4-2008 (see attached resolution) to allow for the up-grade of an existing Type 20 off-sale of beer and wine to a Type 21 off-sale of beer, wine and distilled spirits license. As a condition of approval, a Letter of Public Convenience or Necessity was required to be approved by the City Council.
In consideration of the above, the City Council determined that public convenience or necessity would be served by the issuance of the Type 21 off-sale beer, wine and distilled license in conjunction with the exiting mini-market.

Further, issuance of the Type 21 off-sale license allowing beer, wine and distilled spirits 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 Sunnyside Handy Market are to be in small quantities in conjunction with the purchase of other merchandise, to include an added service to the customers.

For these reasons, the City Council of the City of Porterville supports issuance of the Type 21 off-sale beer, wine and distilled spirits license from the Sunnyside Handy Market located at 809 East Putnam Avenue.

Sincerely,

Cameron Hamilton, Mayor
CITY COUNCIL OPTIONS:

1. Determine that there is material evidence of a substantial change in circumstances, and authorize Conditional Use Permit 4-2008 subject to conditions of approval.

2. Determine that there is insufficient evidence of a substantial change in circumstances and deny re-application at this time.

RECOMMENDATION: Action to be determined by City Council.

ATTACHMENTS:

1. Existing Land Use/General Plan Land Use/Zoning Map
2. Census Tract Map 39.01
3. Site Plan, interior layout, elevations and pictures of existing site
4. Applicant’s letter Draft Resolution
5. Customer signatures
6. City Council Resolution 38-2005
7. Draft Resolution
8. Mayor’s letter of public convenience or necessity

Jose B. Ortiz 1/20/09
Project Planner Date
PUBLIC HEARING

SUBJECT: CONDITIONAL USE PERMIT 9-2008 - TOM O’SULLIVAN, PLANO PROPERTIES LLC

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT – PLANNING DIVISION

COMMENT: The applicants are requesting approval of a Conditional Use Permit (CUP) to allow the construction of a new 3,600± square foot convenience market, gasoline/fuel islands with a matching canopy and carwash. The subject site is situated in a General Service and Commercial Zone, located at the southwest corner Henderson Avenue and Plano 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 future uses.

The self-service fuel operation will consist of two islands containing four (4) gas pumps. The proposed canopy and carwash have been conditioned to be architecturally compatible with the proposed main building. Hours of operation are weekdays 6:00am to 11:00pm seven days a week.

RECOMMENDATION: Staff recommends that the City Council adopt the draft resolution approving Conditional Use Permit 9-2008, subject to conditions of approval.

ATTACHMENT:

1. Complete Staff Report

DD CM Appro./Funded Item No. 20
CONDITIONAL USE PERMIT 9-2008 –
FOR CITY COUNCIL MEETING JANUARY 20, 2009

Proposed new convenience market and gas pumps with a canopy located at the southwest corner of Henderson Avenue and Plano Street

OWNER/APPLICANT: Tom O’Sullivan (Plano Properties LLC)
814 W. OLIVE AVENUE
PORTERVILLE, CA 93257

REPRESENTATIVE: Mark Hillman – Hillman Building Designers
250 N. Main Street
PORTERVILLE, CA 93257

PROJECT LOCATION: Southwest corner of Henderson Avenue and Plano Street

PROJECT DESCRIPTION: The applicants are requesting approval of a Conditional Use Permit (CUP) to allow the construction of a new 3600± square foot liquor/convenience market, add gasoline/fuel islands with a matching canopy and a automobile vacuum area, manual carwash and automatic carwash. The subject site is situated in a C-3 (Service and General Commercial) Zone, located at the southwest corner of Henderson Avenue and Plano Street.

SIZE OF PROJECT: 1.30 Acres

GENERAL PLAN CLASSIFICATION: General and Service Commercial

ZONING CLASSIFICATION: C-3 (General and Service Commercial)

SURROUNDING ZONING AND LAND USES:

North: City C-3 – Vacant undeveloped land that is disked annually
South: City C-3 – Auto Service and Storage Commercial Uses
East: City C-3 (Industrial Park) – Poultry Manufacturing Plant (Foster Farms)
West: City C-3 - Vacant undeveloped land that is disked annually
LEGAL NOTICES:

<table>
<thead>
<tr>
<th>Date Environmental Document Distributed</th>
<th>Date Notice Published in Porterville Recorder</th>
<th>Date Notice Mailed to Property Owners within 300 feet of property</th>
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<tr>
<td>Categorically exempt form CEQA</td>
<td>1-6-09</td>
<td>1-8-09</td>
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ENVIRONMENTAL REVIEW

The subject proposal is categorically exempt pursuant to Class 32, Section 15332(a-e) (In-fill Development) of the CEQA Guidelines.

PROJECT DESCRIPTION/ANALYSIS:

The undeveloped subject site encompasses three (3) parcels on approximately 1.30± acres on the southwest corner of Henderson Avenue and Plano Street. The site is rectangular in shape and will allow for vehicular access via a driveway on Henderson Avenue and Plano Street.

Once a Lot Line Adjustment has been completed, 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 on both the north and east side of the new building. The proposed canopy and self-service gas pumps consist of two (2) islands containing eight (8) gas pumps. A trash enclosure will be located at the northwest section of the project. A loading zone is located on the east side of the building near the north side of the area where the vacuum and carwash area 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 north side of the property along the Henderson Avenue frontage (two) and two (2) along the east side of the property on Plano Street.

The subject site is zoned C-3 and is designated for Service and General 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. Additionally, the proposed sale of alcohol is allowed in the C-3 zone with the proposed convenience market and will not require a conditional use permit, but because there is an over concentrated number of licenses in the Census Tract 37 a letter of public convenience or necessity is required by the Department of Alcohol and Beverage Control.

Approval of CUP 9-2008 would allow construction of a new 3600± square foot building, a matching proposed canopy for a gasoline/fuel island, a matching manual carwash canopy and automatic carwash building. The colors, trim and building finish of both the buildings and canopies will be soft crème tone finishes matching in architecture and design. Any deviation from this design will require Zoning Administrator or City Council approval.
The presence of on-site personnel operating the market will ensure the proper maintenance and cleanliness of the site. The proposal makes additional use of viable commercial parcels. 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.

RECOMMENDATION: That the City Council:

1. Adopt the draft resolution approving Conditional Use Permit 9-2008, subject to conditions of approval.
2. Authorize mayor to sign the letter of public convenience or necessity.

ATTACHMENTS:

1. Land Use, Zoning and General Plan Map
2. Site Plan (Exhibit “A”)
3. Rendering (Exhibit “B”)
4. Applicant request for “Letter of Public Convenience or Necessity”
5. Draft Resolution
6. Draft Letter of Public Convenience or Necessity
CUP 9-2008

Subject Site

Henderson Avenue

Plano Street

Land Use/ Zoning

- General & Service Commercial/ C-3
- Low Medium Density Residential/ R-2
- Commercial Mixed Use/ R-3 & C-2
- Industrial Park/ M-1

ATTACHMENT
ITEM NO. 1
Exhibit "A"
ATTACHMENT
ITEM NO. 2
November 25, 2008

Jose Ortiz
Planning Division
City of Porterville
291 North Main Street
Porterville, CA 93257

RE: BSR 19-2008

Dear Jose,

In follow up of our conversation concerning the submittal of the Conditional Use Permit for the Convenience Market and Fueling Station proposed at the Southwest corner of Plano and Henderson, we wish to request the City Council to provide a letter of convenience or necessity for off-sale alcohol.

The Project Review comments indicate that the site is located in Census Tract 37 and that there are presently 6 off sale licenses existing and that the allowed number is six. We do not know what the boundaries of Census Tract 37 are. However, we feel that the location of the proposed convenience store is in an area that is presently under-served.

Our feeling is based on the fact that there are no convenient stores North along Plano or East along Henderson from the subject site. The nearest site along Henderson Avenue is at Second Street which is approximately four tenths of a mile and the nearest site South along Plano Street is at the intersection of Orange and Plano, 1.5 miles and at the intersection of Plano and Leggett, 1.25 miles.

We believe that the letter of convenience or necessity is justified on the basis of the location of the proposed convenience store and the lack of services in that area.

If you have any questions or require additional information related to this request, please let me know.

Very Truly Yours,

/s/ James S. Winton
Civil Engineer

cc: Tom O'Sullivan

JSW/bg
Resolution No. ____________

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS IN SUPPORT OF THE APPROVAL OF CONDITIONAL USE PERMIT 9-2008 FOR THAT 1.30± ACRE SITE LOCATED AT THE SOUTHWEST CORNER OF HENDERSON AVENUE AND PLANO STREET

WHEREAS: The City Council at its regularly scheduled meeting of January 20, 2009, conducted a Public Hearing to consider Conditional Use Permit 9-2008 to allow the development of a new 3,600± square foot convenience market, a canopy for an addition of gasoline/fuel islands, automobile vacuum area, a manual carwash with canopy and an automatic carwash building. The subject site is situated in a C-3 (Service and General Commercial) Zone, located at the southwest corner of Henderson Avenue and Plano 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 (Service and General Commercial) and Zoning (C-3 Service and General 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 “In-fill Development” Exemption Class 32, Section 15332 (a-e) 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 9-2008 subject to the following conditions:

1. The 3,600-square-foot convenience market requires a total of 18 parking spaces. The plan indicates that 22 parking spaces are proposed for the convenience store; eight (8) parking spaces are provided at the fuel dispensing area, six (6) parking spaces provided for the vacuum and carwash for a total of 36 spaces.
2. The plan indicates that an 10’x40’ loading zone is proposed for a total of 400 square feet. Pursuant to Section 2401 A of the Zoning Ordinance, a minimum width for a loading zone is 10 feet.

3. The applicant shall separate any area not improved for use with bollards, wheel stops curb or other alternative method to the satisfaction of the Zoning Administrator that restricts access to the undeveloped areas of the project site.

4. Pursuant to Section 701 A (1) of the Zoning Ordinance, Automobile fuel dispensing requires a conditional use permit.

5. As a condition of approval for the conditional use permit, clear visibility from the cashier’s area in the convenience store to the fuel dispensing pumps will be required.

6. The applicant has indicated that a block wall will enclose the tank area.

7. The applicant must maintain the proposed landscaping to include street trees and an automatic irrigation system.

8. The ultimate design of a proposed freestanding sign at the northeast corner of the project must maintain an unrestricted traffic visibility for the intersection. The building plans will need to show the distance from the property line and the proposed free standing signs.

9. The plan indicate that the parking stalls 13 through 22 fronting on Henderson Avenue will be 18 feet in depth rather than 20 feet showing an additional 2 feet of landscaping for a total of 7 feet in front of the proposed parking spaces.

10. The applicant must maintain clear back-up visibility design for and the parking nearest the trash enclosure. This will insure site visibility of the vehicle backing out of parking space 1 being able to see incoming traffic off of Henderson Avenue.

11. Pursuant to Section 15332 Class 32 (In-fill Development Projects) the proposed project is categorically exempt from CEQA. As a result Planning will require the following:

12. The applicant indicated that the off-sale of beer and wine is proposed in conjunction with the proposed convenience store.

Since the subject site is not located within 600 feet of a sensitive use, a conditional use permit is not required for the off-sale of beer and wine at this location.

The site is located in Census Tract 37. At present six (6) off-sale beer and wine licenses exist. The number allowed is six (6). The request for an additional off-sale of beer and wine license would exceed the number allowed, and as a result a Letter of Public Convenience or Necessity would require City Council approval.
As a result, a letter from the applicant/agent needs to be submitted with a brief summary of why the Letter of Public Convenience or Necessity is being requested.


14. 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.

15. The developer/applicant shall comply with Appendix J, “Grading” of the 2007 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.

16. Developer/applicant shall provide a Soils Report in conformance with Chapter 18 of the California Building Code. Expansive soils are known to be in the area of the proposed development. The Soils Report shall include R-Value testing, expansion indexes, etc required for the construction of public improvements.

17. 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).

18. The developer/applicant shall construct sidewalk to meet commercial standards (9.5 feet wide).

19. The developer/applicant is hereby notified that the property is subject to $3,444.00 development fees per Resolution No. 132-2003. The fee is associated with the construction of concrete improvements along Plano Street by City.

20. 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.

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

22. Easement shall be in place that allow for mutual use of sewer and water, if applicable.
23. The developer/applicant shall have a registered Civil Engineer or Land Surveyor prepare and submit a Lot Line Adjustment or Parcel Merger that will reconfigure property lines to meet the requirements of all applicable codes. The following information is required at the time of submittal:

24. 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.

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

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

27. The developer/applicant shall provide street lights on Marbelite poles following Southern California Edison Company specifications, as approved by the City Engineer.
Street light shall be installed along Henderson Avenue only at 320 foot intervals.
Do not use wood poles without prior written approval of the City Engineer.

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

29. 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.).

30. The developer/applicant shall obtain permission from the irrigation company to remove or replace deteriorating pipeline that is in conflict with the public improvements associated with the proposed project.

31. 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.

32. The developer/applicant is advised that he is obligated to comply with the National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS0000002 for discharge of Storm Water Associated with construction activity will be required (except operations that result in disturbance of less than one acre of total land area and which are not a part of a larger common plan of development or sale). Before construction begins, the proponent must submit a Notice of Intent (NOI) to comply with the permit, a site map, and appropriate fee
to the State Water Resources Control Board (SWRCB). The proponent must also prepare a Storm Water Pollution Prevention Plan (SWPPP) for the entire project before construction begins. The SWPPP must contain at a minimum all items listed in Section A of the permit, including descriptions of measures to be taken to prevent or eliminate unauthorized non-storm water discharges and both temporary (e.g., fiber rolls, silt fences, etc.) and permanent (e.g., vegetated swales, detention basins, etc.) best management practices that will be implemented to prevent pollutants from discharging with storm water into water of the United States. If portions of the project area are to be sold off before the entire project is completed, the proponent must submit to the California Regional Water Quality Control Board a change of information form identifying the new owners along with a revised site map clearly depicting those portions that were sold and those that are remaining. The proponent is also responsible for informing each new owner of their responsibility to submit their own NOI, site map, and appropriate fee to the SWRCB and to prepare their own SWPPP.

33. 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 by obtaining a Dust Control Permit, as well as Section 7-8, Project Site Maintenance of the Standard Specifications. The developer/applicant shall provide a street sweeper as necessary to comply. During grading operations the "Supervising Civil Engineer" shall be responsible for enforcing the dust control provisions of Section 7-8 or the developer/applicant shall pay inspection fees on the grading cost to compensate the City for dust control inspection. The improvement plans shall show a designated wash out area for concrete trucks, and a sign designating it as such. The developer/applicant shall remove and properly dispose of waste concrete deposited in this area. The developer/applicant shall provide a street sweeper as necessary to comply.

34. San Joaquin Valley Air Pollution Control District (District) Adoption of Rules 9510 and 3180 – Indirect Source Review (ISR) Rules

Effective March 1, 2006, the San Joaquin Valley Air Pollution Control District will enforce the Indirect Source Rule (ISR). ISR applies to projects that are at least:

50 residential units
2,000 square feet of commercial space
9,000 square feet of educational space
10,000 square feet of government space
20,000 square feet of medical or recreational space
25,000 square feet of light industrial space
39,000 square feet of general office space
100,000 square feet of heavy industrial space
Or, 9,000 square feet of any land use not identified above.
Projects that meet the above thresholds but are found through the application process to have mitigated emissions of less than two tons per year each of nitrogen oxides and PM10 (particulate matter 10 microns and smaller) will not be subject to the emission-reduction requirements of the rule.

a. It is the applicants’ responsibility to file an application (found at http://www.valleyair.org/ISR/ISR.htm) with the District. The application must be filed with the District no later than concurrent with an application for final discretionary approval with a public agency. An application maybe filed with the District prior to applying for a final discretionary permit from the local agency, at the discretion of the applicant. This timing was included in the rule so that applications filed with the District would not interfere with the local agency development approval process and so that local agencies could consider the benefits of the ISR program emission reductions in their environmental documents.

b. The District recognizes the land use authority of local land use agencies and will not impose any design requirements upon ISR projects.

c. ISR applicants can take credit for those measures that are required by the local agency or included in the design of the project that have a quantifiable air quality benefit. ISR applicants can also take emission reduction credit for those measures that are not required by the local agency, but have been voluntarily identified by the applicant.

d. The District will be responsible for enforcing compliance for those measures identified by the applicant that are not required by the local agency and do not affect the design or construction standards. Examples of District enforced measures are operational measures such as businesses offering transit subsidies to employees and transportation demand management programs. The District will enforce those measures through a Monitoring and Reporting Schedule (MRS).

e. The District will notify the local agency when a project’s application is deemed complete, and when it is approved. The District will send copies of the preliminary and finalized MRS to the local agency for voluntary review for consistency with local regulations and programs.

f. If the local agency, or applicant or district determines that a measure on the MRS is not consistent with local agency regulations and programs, that measure will be removed from the MRS and the project will be re-assessed.

g. The District will provide a letter of rule compliance status to the local agency upon request.

h. The ISR Rules and Program does not place any requirements upon the agency.

For more information regarding the Indirect Source Rule, please contact the San Joaquin Valley Air Pollution Control District at (559) 230-6000. The Central Region office in Fresno is leading the ISR enforcement.

35. 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.

36. The developer/applicant shall comply with Chapter 10 of the 2007 California Plumbing Code, by installing a water/oil/sand separator and connecting to the City’s sewer system for the proposed carwash.

37. The developer/applicant shall install a refuse container enclosure which will accommodate solid waste and recyclable materials removal or collection according to City standards (Sec 13-15). **The enclosure location is to be approved by 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 enclosure opening shall be oriented for direct access.

38. The developer/applicant shall comply with the Flood Damage Prevention Ordinance. The property is within a Flood Hazard Zone AH with a Base Flood Elevation of 448.0 feet. A Licensed Civil Engineer or Land Surveyor shall confirm that the finished floor will be constructed at or above the Base Flood Elevation in letter form or by providing a Preliminary Elevation Certificate. The same professional shall confirm that the finish floor is at or above the Base Flood Elevation by submitting an Elevation Certificate to the City Engineer for approval prior to the issuance of a certificate of occupancy. Preliminary Elevation Certificates and Elevation Certificates are available within the Engineering Division upon request.

39. 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.

40. The developer/applicant shall design on-site water systems meeting the requirements of California Plumbing Code and Fire Code. It shall be noted that the City water system complies with Title 22 of the California Administrative Code and any assurance to effectively provide water pressure for multi-story buildings is the sole responsibility of the owner/builder.

41. A back-flow device is required on the water meter.

42. A grease trap or grease interceptor is required.

43. The developer/applicant shall comply with the City standard for "backflow" prevention pursuant to Resolution No. 9615.
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 time of building permit submittal.

48. Soil compaction test is required.

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

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

51. Restrooms and Main entrance must comply with disabled access laws.

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

53. Signs required separate permits.

54. Requires 1 ADA Van accessible parking stall (17ftX18ft).

55. Sand and Oil Separator required.

56. NO DEFFERED ITEMS.

57. A Knox box may be required. An application may be obtained from the Fire Department.

58. Project must meet minimum fire flow requirements per the table in Appendix B & C of the California Fire Code.

59. Any 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.

60. All roof-top and wall mounted mechanical equipment shall be screened from view in a manner that is architecturally compatible with building.

61. Lighting from the fuel island canopy and parking lot will be designed to minimize glare and light spillover onto adjacent properties.
62. 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.

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

64. 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 Lollis, City Clerk

By _______________________
Patrice Hildreth, Acting Chief Deputy City Clerk
January 20, 2009

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

Attention Joyce Knodel:

RE: Convenience Market – located at the southwest corner of Henderson Avenue and Plano Street

Dear Ms. Knodel:

The City Council of the City of Porterville has elected to approve submittal of this letter regarding the public convenience or necessity to be served through issuance of an off-sale beer, wine and distilled spirits license in conjunction with the convenience market located at the southwest corner Henderson Avenue and Plano Street.

Approval of this letter was based on the following:

1. Per Section 23958.4 of the “Business and Professions Code”, the subject site is located within Census Tract 41.01 which allows six (6) off-sale type alcohol licenses. At present there are six (6) issued licenses.

2. In consideration of the above, the City Council determined that public convenience or necessity would be served by the issuance of an off-sale beer, wine and distilled spirits license in conjunction with the proposed convenience market.

Further, issuance of an off-sale license allowing beer, wine and distilled spirits 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 convenience market are to be in small quantities in conjunction with the purchase of other merchandise, to include an added service to the customers.

For these reasons, the City Council of the City of Porterville supports issuance of an off-sale beer, wine and distilled spirits license for the convenience market located at southwest corner of Henderson Avenue and Plano Street.

Sincerely,

Cameron Hamilton, Mayor
PUBLIC HEARING

SUBJECT:  MODIFICATION TO CONDITIONAL USE PERMIT 11-83 – TO ALLOW SALE OF BEER, WINE AND DISTILLED SPIRITS

SOURCE:  COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: The applicant is requesting a modification to Conditional Use Permit 11-83 to allow for the off sale of beer, wine and distilled spirits and a Letter of Public Convenience or Necessity for the Vallarata Supermarket located in the Eastridge Plaza at the southwest corner of Olive Avenue and Plano Street.

Pursuant to “General Rule” Exemption 14 Ca. Admin. Code 15061 (b) (3) of CEQA guidelines the project as proposed qualifies for a categorical exemption.

RECOMMENDATION:  That the City Council:

1. Adopt the draft resolution approving Conditional Use Permit 11-83 subject to conditions of approval.

2. Authorize the Mayor to sign the Letter of Public Convenience or Necessity

ATTACHMENT:

1. Complete Staff Report

[Signatures and Date]  Appropriated/Funded 4/4  CM  [Signature]  Item No. 21
MODIFICATION #1 TO CONDITIONAL USE PERMIT 11-83
FOR CITY COUNCIL MEETING OF JANUARY 20, 2009

Proposed Type 20 off-sale beer and wine license at the Vallarta Supermarket located in Eastridge Plaza at the southwest corner of Olive Avenue and Plano Street.

APPLICANT: Virgil L. Griffin
Jag Architecture
15 Hubble Street
Irvine, CA 92618

PROPERTY OWNER: John Welter
KIMCO Realty Corp.
6861 Douglas Blvd.
Granite Bay, CA 95746

PROJECT DESCRIPTION: The applicant is requesting Modification #1 Conditional Use Permit 11-83 to allow for an off-sale beer, wine and distilled spirits license and a Letter of Public Convenience or Necessity for the Vallarta Supermarket located in Eastridge Plaza at the southwest corner of Olive Avenue and Plano Street.

SIZE OF PROJECT: 41,000± square foot market within the 8 acre Eastridge Plaza

GENERAL PLAN CLASSIFICATION: Retail Center

ZONING CLASSIFICATION: Planned Development – Retail Centers

SURROUNDING ZONING LAND USE:

North: City OA – Public Institutional (Armory and Fairgrounds)
West: City Retail Centers – Public Institutional and Parks and Recreation (vacant/undeveloped)
South: City Retail Centers – High Density Residential (apartments)
East: City OA/NC – Parks and Recreation/ Neighborhood Commercial
LEGAL NOTICES:

<table>
<thead>
<tr>
<th>Date Environmental Document Distributed</th>
<th>Date Notice Published in Porterville Recorder</th>
<th>Date Notice Mailed to Property Owners within 300 feet of property</th>
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<td>Categorically exempt form CEQA</td>
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ENVIRONMENTAL REVIEW:

Pursuant to “General Rule” Exemption 14 Ca. Admin. Code 15061 (b) (3) of CEQA guidelines the project as proposed is categorical exempt.

PROJECT DESCRIPTION/ANALYSIS:

Section 2100 D of the Porterville Zoning Ordinance states the following:

Any use involving the sale of alcoholic beverages under an off-sale license within 600 linear feet of the nearest property line of any sensitive use as defined in this article shall be subject to obtaining approval of a Conditional Use Permit.

The Porterville Fairgrounds and Barn Theatre are located to the north and east of the Eastridge Plaza, within the 600 linear-foot requirement.

City Staff has contacted the Department of Alcoholic Beverage Control Board and it has been determined that the proposed off-sale license will require a Letter of Public Convenience or Necessity. Census Tract 41.01, in which the subject site is located is over concentrated with alcoholic licenses. The over concentration of off-sale alcoholic licenses is determined by the formula comparing the population of the census tract with the number of off-sale establishments. Over concentration is reached in this census tract when the number of off-sale licenses exceeds the number of licenses allowed by the Alcoholic Beverage and Control Board. There are currently eleven (11) off-sale type licenses in Census Tract 41.01. The number of off-sale licenses allowed in Census Tract 41.01 is eight (8). Therefore an over concentration exists. As such, a Letter of Public Convenience or Necessity by the City Council is required.

The Department of Alcoholic Beverage Control Board has informed Staff that at present, a moratorium for all alcohol licenses is in effect, thus limiting the issuance of new licenses. The Department of Alcoholic Beverage Control Board will still approve the off-sale licenses pursuant to approval of a Letter of Public Convenience or Necessity by the Governing Body.

For the purposes of clarification, the proposed modification to the existing conditional use permit is to allow the off-sale of alcohol. The grocery store does not require City Council approval. The grocery store is allowed use in the Planned Develop Retail Centers Zone. Additionally, the building was previously used as a Save Mart grocery market. The Vallarta Supermarket was reviewed by the Project Review Committee and all the exterior modifications were minor in nature approved by the Zoning Administrator. Staff found that all the necessary improvements to the building interior and exterior were in compliance with all applicable codes and ordinances.
The opening of the Vallarta Supermarket will be a benefit to the Porterville community and fill a void for the immediate demographic area. Additionally, the supermarket will occupy a vacant building that was previously utilized as a Save Mart Grocery Store that sold alcohol. Due to the nature of conditional use permits, the use/sale of alcohol expired when the previous grocery store closed. The Vallarta Supermarket is proposing and requesting a use that previously existed in the same building. Staff has found that the proposed use is consistent with General Plan Land Use Designation, zoning requirements and complies with all applicable building and fire codes.

STAFF RECOMMENDATION: That the City Council:

1. Adopt the draft resolution approving Modification #1 to Conditional Use Permit 11-83 subject to conditions of approval.
2. Authorize the Mayor to sign the Letter of Public Convenience or Necessity

ATTACHMENTS:

1. Radius Map/ Site Plan
2. Floor Plan indicating location of proposed display of beer and wine
3. Elevation/Color Rendering
4. Applicant's Modification to Conditional Use Permit Application
5. Draft Resolution
6. Letter of Public Convenience or Necessity

Jose B. Ortiz ___________________________ January 12, 2009
Project Planner ___________________________ Date
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: Vallarta Supermarket

NAME, MAILING ADDRESS AND TELEPHONE NUMBER OF PROPERTY OWNER(S):
Kimco Realty Corp.
1621-B, S. Melrose Dr., Vista, CA 92081

NAME, MAILING ADDRESS AND TELEPHONE NUMBER OF APPLICANT /CONTACT PERSON:
JAG Architecture, Inc., Attention: Virgil L. Griffin
15 Hubble, Suite 200, Irvine, CA 92618 Phone Number: (949) 752-9333

PROJECT ADDRESS AND NEAREST CROSS STREETS:
305 E. Olive Ave., Porterville, CA
SWC of Plano & Olive Avenue

The applicant requests a Conditional Use Permit to use the above described property for the following purposes:
Vallarta Market selling packaged and unpackaged foods, as well as prepared food.

Date of most recent sale of property: ________________

If applicant is the lessee, give date property was leased: ________________

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

Date said restrictions expire: ________________
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 proposed use is consistent with the previous use “food market”. The proposed improvements will revive the current property by occupying the currently vacant former “Savemart” and improving the appearance of the center with the new look of the Vallarta Market.

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).

   834 Occupancy

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

   220 Employees

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

   477 Stalls provided on site.

   (d) Maximum height of buildings or structures.

   40 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.
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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<th>No. on Map</th>
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**OWNER'S DECLARATION**

STATE OF CALIFORNIA  )
COUNTY OF TULARE     )  ss

I, ________________________, 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 ____________________________

this __________ day of ____________________, 20 ___.

Telephone (_____) ____________________

Signed ______________________________

Mailing Address _______________________

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 ________________________________
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. Filing fee $1,164

1. The Conditional Use Application form must be filled out completely. The application must be signed by the 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 to a suitable scale and must be correctly prepared. It must show each parcel within 300 feet of the exterior boundaries of property involved, not just the center point. In addition, the map must label 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 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 the Property Owners’ List (as explained below).

3. The Property Owners List should be typewritten or printed on Avery 5160 or equivalent 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 300-foot Radius Map. The list must be of the latest available assessment roll and may be obtained through the Tulare County Assessor’s Office or Title Company.

4. The Plot Plan, if applicable, must be drawn to a readable and accurate scale and 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 line clearly shown (9 copies initially with additional copies to be submitted prior to public hearing). It is suggested to include photos and drawings of the proposed buildings on a scale large enough to illustrate the subjects under discussion. Photographs or drawings of structures are also helpful, and elevation drawings, including color scheme, may be required.

Submit this information and the application to the Planning Division, City Hall, Porterville, California. The application must be complete in every respect, with all questions answered completely, 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.
RESOLUTION NO._____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS AND CONDITIONS IN SUPPORT OF APPROVAL OF MODIFICATION # 1 TO CONDITIONAL USE PERMIT 11-83 TO ALLOW THE OFF-SALE OF BEER, WINE AND DISTILLED SPIRITS AND A LETTER OF PUBLIC CONVENIENCE OR NECESSITY FOR VALLARTA SUPERMARKET AT THE EASTRIDGE PLAZA, LOCATED AT THE SOUTHWEST CORNER OF OLIVE AVENUE AND PLANO STREET

WHEREAS: The City Council of the City of Porterville, at its regularly scheduled meeting of January 20, 2009, conducted a public hearing to consider a Modification to Conditional Use Permit 11-83, being a request to allow for off-sale of beer, wine and distilled spirits, and a Letter of Public Convenience or Necessity for the Vallarta Supermarket in the Eastridge Plaza located at Olive Avenue and Plano Street.

WHEREAS: Section 2100 D of the Porterville Zoning Ordinance states the following:

"Any use involving the sale of alcoholic beverages under an off-sale license within 600 linear feet of the nearest property line of any sensitive use as defined in this article shall be subject to obtaining approval of a Conditional Use Permit."

The Porterville Fairgrounds and Barn Theatre are located to the north and west side of the Eastridge Shopping Center.

WHEREAS: The City Council received testimony from all interested parties relative to said Conditional Use Permit; and

WHEREAS: Census Tract 41.01, in which the subject site is located, is over concentrated with eleven (11) alcoholic beverage licenses where eight (8) are allowed, according to the Department of Alcoholic Beverage Control Board's method for determining over concentration.

WHEREAS: The Department of Alcoholic Beverage Control Board has informed Staff that at present, a moratorium for off-sale licenses is in effect. The Department of Alcoholic Beverage Control Board will still approve the off-sale Type 20 or 21 licenses if a Letter of Public Convenience or Necessity is approved by the Governing Body.

WHEREAS: The City Council made the following findings:

1. That the proposed project is consistent with the General Plan Land Use Designation and zoning (Retail Centers) for the site.

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

3. That the standards of population density, site area, dimensions, site coverage, yard spaces, height of structures, distance between structures, off-street parking facilities, and landscaped areas will produce an environment of stable and

ATTACHMENT
ITEM NO. 5
desirable character consistent with the objectives of the Zoning Ordinance.

4. That pursuant to Section 15061 b-3, -(General Rule) of the California Environmental Quality Act Guidelines, the modification to Conditional Use Permit 11-83 to allow the sale of beer, wine and distilled spirits under an off-sale license is Categorically Exempt.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve Modification #1 to Conditional Use Permit 11-83 subject to the following conditions:

1. That any future changes in operation which substantially alters the condition or nature of the subject business will require approval by the City Council if such modification involves the sale of alcoholic beverages.

2. That consumption of alcoholic beverages purchased from the Vallarta Supermarket shall be prohibited on property located within the shopping center.

3. Upon approval of the Modification to the Conditional Use Permit, any future violations of regulations of the codes relating to the sales or consumption of alcohol, and/or excessive service calls to the Police Department resulting from the sales of alcohol will result in revocation of the Conditional Use Permit.

4. That a Letter of Public Convenience or Necessity will require approval by the Porterville City Council.

5. No outdoor advertising of alcoholic beverages is allowed.

6. At all times, the facility shall be operated and maintained to comply with State Law, the City of Porterville Zoning Ordinance, adopted Building Codes and all other applicable laws and ordinances.

7. The Conditional Use Permit shall become null and void if not under taken and actively and continuously pursed within one (1) year.

__________________________
Cameron Hamilton, Mayor

ATTEST:

John Lollis, City Clerk

By _______________________
Patrice Hildreth, Chief Deputy City Clerk
January 20, 2009

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

Attention Joyce Knodel:

RE: Vallarta Supermarket at the Eastridge Plaza – located at the southwest corner of Olive Avenue and Plano Street

Dear Ms. Knodel:

The City Council of the City of Porterville has elected to approve submittal of this letter regarding the public convenience or necessity to be served through issuance of an off-sale beer, wine and distilled spirits license in conjunction with the Vallarta Supermarket locate in the Eastridge Plaza at the southwest corner Olive Avenue and Plano Street.

Approval of this letter was based on the following:

1. Per Section 23958.4 of the “Business and Professions Code”, the subject site is located within Census Tract 41.01 which allows eight (8) off-sale type alcohol licenses. At present there are eleven (11) issued licenses.

2. On January 20, 2009, the City Council conditionally approved Modification to Conditional Use Permit 11-83 (see attached resolution) to allow the off-sale of beer, wine and distilled spirits in conjunction with the Vallarta Supermarket. As a condition of approval, a Letter of Public Convenience or Necessity was required to be approved by the City Council.

3. In consideration of the above, the City Council determined that public convenience or necessity would be served by the issuance of an off-sale beer, wine and distilled spirits license in conjunction with the Vallarta Supermarket.
Further, issuance of an off-sale license allowing beer, wine and distilled spirits 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 Vallarta Supermarket are to be in small quantities in conjunction with the purchase of other merchandise, to include an added service to the customers.

For these reasons, the City Council of the City of Porterville supports issuance of an off-sale beer, wine and distilled spirits license for the Vallarta Supermarket in the Eastridge Plaza located at southwest corner of Olive Avenue and Plano Street.

Sincerely,

Cameron Hamilton, Mayor
PUBLIC HEARING

SUBJECT: REQUEST FOR A CONDITIONAL USE PERMIT 10-2008 TO ALLOW FOR AN EIGHTEEN (18) UNIT DUPLEX DEVELOPMENT ON THREE (3) ADJOINING PARCELS LOCATED AT 1492 AND 1482 WEST TOMAH AVENUE.

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT - PLANNING DIVISION

COMMENT: The applicant is requesting approval of a Conditional Use Permit to allow development of an eighteen (18) unit duplex development on three (3) adjoining parcels located at 1492 and 1482 West Tomah Avenue. There are existing single family units located on 1492 and 1482 West Tomah Avenue. These units will be demolished prior to the construction of proposed projects. The proposed development is located in the R-2 (Four Family Residential) Zone. The construction of the development will be done in nine (9) phases, constructing one (1) duplex at a time until completion. The development will begin at 1492 West Tomah Avenue with the first set of duplexes (units 7 and 8 on the site plan). Phase two (2) will consist of units 5 and 6, phase three (3) will consist of units 3 and 4 and so on developing towards the north, until all three parcels are developed and complete.

Pursuant to Section 301 A-2 (R-2 Zoning) of the Porterville Zoning Ordinance, two (2) to four (4) family units per lot are allowed. Additional units may be allowed subject to the approval of the Conditional Permit, provided the Maximum number of units do not exceed a ratio of one (1) unit per three thousand (3,000) square feet of lot area. Based on the 1.29 combined acreage of the three adjoining parcels, 18.74 units are allowed.

The square footage of area for the front parcel allows for 7.53 units based on one (1) unit per every 3000 square feet. The site plan indicates that eight (8) units are proposed. Pursuant to Section 3001 B-5(b) of the Porterville Zoning Ordinance, the Zoning Administrator has the authority to round this number up to the next whole number.

Based on extensive review by City Staff, the proposed project meets all Zoning Ordinance requirements for a multi-family residential development.

RECOMMENDATION: That the City Council adopt the draft resolution approving Conditional Use Permit 10-2008 subject to conditions of approval.

ATTACHMENT: Complete Staff Report
CONDITIONAL USE PERMIT 10-2008
FOR CITY COUNCIL MEETING OF JANUARY 20, 2009

APPLICANT: Hillman Building Designers
250 North Main Street
Porterville, CA 93257

PROPERTY OWNER: Spencer Trust
P.O. BOX 1572
Porterville, CA 93257

PROJECT DESCRIPTION: The applicant is requesting approval of a Conditional Use Permit to allow development of an eighteen (18) unit duplex development on three (3) adjoining parcels located at 1492 and 1482 West Tomah Avenue.

SIZE OF PROPERTY: 1.29± acres

GENERAL PLAN CLASSIFICATION: Medium Density Residential

ZONING CLASSIFICATION: R-2 (Four Family Zone)

SURROUNDING ZONING AND LAND USE:

North: Medium Density Residential- R-2 (Four Family Zone)
West: Medium Density Residential- R-2
South: Medium Density Residential- R-2
East: Medium Density Residential- R-2
LEGAL NOTICES:

<table>
<thead>
<tr>
<th>Date Environmental Document Distributed</th>
<th>Date Notice Published in Porterville Recorder</th>
<th>Date Notice Mailed to Property Owners within 300 feet of property</th>
</tr>
</thead>
<tbody>
<tr>
<td>Categorically exempt from CEQA</td>
<td>January 6, 2009</td>
<td>January 7, 2009</td>
</tr>
</tbody>
</table>

ENVIRONMENTAL SETTING:

Pursuant to section 15332 Class 32 (In-fill-Development-less than five acres), the proposed project is categorically exempt from the California Environmental Quality Act (CEQA).

PROJECT DESCRIPTION/ANALYSIS:

The applicant is requesting approval of a Conditional Use Permit to allow development of and eighteen (18) unit duplex development on three (3) adjoining parcels located at 1492 and 1482 West Tomah Avenue. There are existing single family units located on 1492 and 1482 West Tomah Avenue. These units will be demolished prior to the construction of proposed projects. The proposed development is located in the R-2 (Four Family Residential) Zone. The construction of the development will be done in nine (9) phases, constructing one (1) duplex at a time until completion. The development will began at 1492 West Tomah Avenue with the first set of duplexes (units 7 and 8 on the site plan) and installation of necessary site improvements. Phase two (2) will consist of units 5 and 6, phase three (3) will consist of units 3 and 4 and so on developing towards the north, until all three parcels and complete.

Pursuant to Section 301 A-2 (R-2 Zoning) of the Porterville Zoning Ordinance, two (2) to four (4) family units per lot are allowed. Additional units may be allowed subject to the approve of the Conditional Permit, provided the maximum number of units do not exceed a ratio of one (1) unit per three thousand (3,000) square feet of lot area. Based on the 1.29 combined acreage of the three adjoining parcels 18.74 units are allowed.

The square footage of area for the front parcel allows for 7.53 units based on one (1) unit per every 3000 square feet. The site plan indicates that eight (8) units are proposed. Pursuant to Section 3001 B-5(b) of the Porterville Zoning Ordinance, the Zoning Administrator has the authority to round this number up to the next whole number.

The proposed eighteen (18) unit duplex development will consist of a twenty (20’) foot wide common concrete driveway, with eighteen (18) covered and fourteen (14) uncovered parking stalls. Parking stalls are layout adjacent to the units facing the storage and laundry rooms. The duplex development is proposing a six (6’) foot block wall with a four (4’) foot rod iron fence fronting Tomah Avenue. Duplexes will only be accessible through the common driveway and automatic gate fence with knox box located at the entrance of the site.
Each parcel will contain a trash enclosure with a stucco finish to match the duplexes. Each unit will have a private storage area and each duplex will contain a laundry room. Each unit has a fenced in rear yard with side yard access and common shared landscaped open space. The architectural features include stucco exterior walls, varied wall planes, and trim. The duplex development will enhance the ambiance of the neighborhood while preserving the community's identity.

Due to the concerns of the Project Review Committee had on phasing out the development, it was recommended that a master plan be prepared showing the proposed phasing, to include the anticipated time of build-out for each phase. This was due to possible future changes proposed for multiple family residential uses and any revisions to the California Building Code 2007. The Master Plan addressed this issue by labeling each phase of the development.

**RECOMMENDATION:** That the City Council adopt the draft resolution approving Conditional Use Permit 10-2008, subject to the conditions of approval

**ATTACHMENTS:**

1. Locator Map / 300’ Radius Map
2. Overall Site Layout
3. Site Plans
4. Floor plans
5. Elevation/ Color Rendering
6. Draft Resolution

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**Fernando Rios**

Project Planner

**January 20, 2009**

Date
RESOLUTION NO.

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS AND CONDITIONS IN SUPPORT OF APPROVAL OF CONDITIONAL USE PERMIT 10-2008 TO ALLOW FOR AN EIGHTEEN (18) UNIT DUPLEX DEVELOPMENT ON THREE (3) ADJOINING PARCELS LOCATED AT 1492 AND 1482 WEST TOMAH AVENUE

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of January 20, 2009, conducted a public hearing to consider Conditional Use Permit 10-2008, to allow for development of an eighteen (18) unit multi-family duplex development on three (3) adjoining parcels located at 1492 and 1482 West Tomah Avenue; and

WHEREAS: This project is Categorically Exempt pursuant to Section 15332 Class 32 of the CEQA Guidelines- construction of infill-development. 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; and

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

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

2. That subject site is zoned R-2 (Four Family Residential). The proposed use is allowed pursuant to approval of a Conditional Use Permit.

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

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

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 storage of hazardous materials other than what is utilized by residential households will be prohibited.

7. That the standard of population density, site area dimension, site coverage, yard spaces, height of structures, distance between structures, covered parking, and landscaping areas will produce an environmental of stable and desirable character consistent with the objectives of the Zoning Ordinance.
8. The proposed project meets all the requirements, to include on site parking, lot coverage, number of units allowed and landscaping required in the R-2 Zone set forth by Section 300 of the Zoning Ordinance. Additionally, conditions of approval will ensure adequate development standards are met.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve Conditional Use Permit 10-2008, subject to the following Conditions:

1. The project shall be constructed to be consistent with the approved site plan, floor plans, and architectural rendering attached to the staff report of Conditional Use Permit 10-2008 and incorporated herein by reference.

2. The developer/applicant shall have a registered Civil Engineer or Land Surveyor prepare and submit a Lot Line Adjustment that will adjust property lines to meet the requirements of all applicable code. An access easement shall be clearly identified within the legal description and shown on the map. The owner shall convey the easements to the City of Porterville for the sewer and water mains to be constructed within the access easement. The following information is required at the time of submittal:
   - Three copies of a Map and Legal Descriptions
   - Processing fee in the amount of $616.00 made payable to the City of Porterville
   - Adequate title information (deed, etc.) to verify current ownership and the method of creation of the effected parcels

A lot line adjustment showing easements and common ingress/egress for all three (3) parcels will be required prior to submitting for a building permit.

3. Trash enclosure will be required on all three (3) parcels.

4. Applicant/agent needs to install wheel stops in all parking stalls.

5. All comments by the Engineering Division are to be satisfied when submitting for a building permit application and/or prior to the issuance of a Certificate of Occupancy.


7. The developer/applicant shall pay all applicable fees in accordance with the Municipal Code and State law. Fees are subject to change annually. The developer/applicant is hereby notified that you have the right to pay fees, dedications, reservations or other exactions, under protest, pursuant to Government Code Section 66020(a). You have 90 days from the date fees are paid to file a written protest.
8. The developer/applicant shall comply with Appendix J, “Grading” of the 2007 California Building Code by providing a soils engineering report and a grading and drainage plan signed by a civil engineer or architect.

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


11. Developer/applicant shall construct water and sewer mains per City Standard and Specifications in the access easement across the frontage of all parcels to be developed. City services shall extend from these mains to each parcel fronting the access easement. The water and sewer mains shall be maintained by the City of Porterville.

12. 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.

13. The developer/applicant shall construct street paving (half-street, if necessary to match existing grades), curb, gutter, sidewalk, etc. along the full frontage of Tomah Avenue except where they exist and are in good condition in the opinion of the City Engineer.

14. 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).

15. The developer/applicant shall provide street lights 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.

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

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

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

20. The developer/applicant shall construct the pipe connecting to on-site fire hydrants to City water main standards and shall provide easements for maintenance of the fire hydrants. The locations of fire hydrants shall be shown on the site plan.

21. The developer/applicant shall install all required refuse container enclosures on each parcel which will accommodate solid waste and recyclable materials removal or collection according to according to City standards (Sec 13-15). 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 locations require refuse trucks to travel on the parking lot. The enclosure openings shall be oriented to allow for direct pickup of the refuse.

22. The developer/applicant shall comply with City standard for “backflow” prevention pursuant to Resolution No. 9615.

23. The developer/applicant shall 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. Deferred items will not be acceptable.
24. Compliance with access laws (both State and Federal) is required.

25. Compliance with all applicable codes is required.

26. School Development fees and all other city fees are due at the time of building permit.

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

28. Signs required separate permits.

29. Demo permits required for removal of all structures.

30. The project must comply with latest applicable codes.

31. All hydrants must be in place and accepted by the Fire Department prior to any combustibles being brought onto the site.

32. 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.

33. 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.

32. Developer/applicant shall provide an approved turn-around complying with City Standards.

33. Project must meet minimum fire flow requirements per the table in Appendix B & C of the California Fire Code. The present fire flow in the area is presently inadequate. Flow from the nearest hydrant is 740 GPM with 24 pounds residual. An annalist will be required from a licensed Engineer to show the required fire flow can be met.

34. The minimum fire flow for one and two family dwellings having a fire area not exceeding 3,600 square feet shall be 1,000 g.p.m. with 20 psi residual pressure. One and two family dwellings having a fire area greater than 3,600 square feet shall be 1,500 g.p.m. with 20 psi residual pressure.

35. 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.
36. Applicant/agent shall apply for an encroachment permit, due to the Rod Iron fence that's proposed on the City's right-of-way. Fees will be paid at the time of submittal. Height and visibility restrictions will be enforced according to the Zoning Ordinance.

37. 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.

38. The subject site will be developed in accordance with the site plan, elevation plans, and building colors and materials labeled “Exhibit A”.

39. 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 Lollis, City Clerk

By ________________________
  Patrice Hildreth, Chief Deputy City Clerk
SUBJECT: CITY COUNCIL STUDY SESSION TO REVIEW THE LATEST DEVELOPMENTS WITH THE COMPREHENSIVE ZONING ORDINANCE UPDATE AND PROVIDE COMMENT ON THE PROPOSED STANDARDS WITH SPECIFIC ATTENTION TO THE DOWNTOWN AND AIRPORT OVERLAY ZONES

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT—PLANNING DIVISION

COMMENT: Staff has been moving forward on the creation of a comprehensive zoning and subdivision ordinance for the City of Porterville to implement the Porterville 2030 General Plan that was adopted in March 2008.

Dyett and Bhatia Urban and Regional Planners prepared the General Plan and are now working with staff to prepare the Zoning Ordinance. So far they have provided staff with a series of documents (including “Modules”) containing important policy decisions and proposals for the organization of the ordinance and the development standards contained therein.

During the past several months, a Zoning Ordinance Update Committee, made up of the General Plan Update Advisory Committee has been meeting with staff and reviewing these modules in order to provide our consultant with needed direction and comments. Additionally, a Zoning Ordinance Technical Committee has been meeting with staff for the same purpose to obtain technical feedback. Many good ideas have come from these meetings.

Staff is presenting the ideas developed so far to the Council for further direction and feedback. Because the amount of information is significant and couldn’t be completely covered in one meeting, staff is making a significant effort to summarize the information and focus only on major policy issues.

The presentation that will be made avoids significant attention to commonly agreed upon direction and focuses instead on issues where there may be a wide range of, or differing, opinions among staff and the committees. Also included are policy changes that are considered to be very significant in the way that they will effect the community and need to be brought into the spotlight early to avoid surprises later.

This Study Session is a continuation of the study session held on December 16, 2008 and will focus specifically on the Downtown and Airport Overlay Zones.

RECOMMENDATION: For information purposes only

ATTACHMENTS: 1. Copies of the presentation slides that will be used during the Study Session
DOWNTOWN

Downtown Goals
- Support thriving, vital downtown
- Diversified economic base
- Vibrant mixed-use community
  - More housing
  - Convenient community services
  - Outdoor living space
  - Less dependency on auto transportation
- Pedestrian friendly downtown

Downtown Districts

Pedestrian Amenities in the Public Right of Way for new buildings or major additions
- Sidewalks
- Street Trees
- Landscaping
- Benches and Trash Receptacles
- Street Lights

Downtown Retail - North of Olive Avenue (DR-N)
- Pedestrian-oriented environment
- Shops and restaurants lining Main Street
- Residential or office uses on upper floors
- Buildings line the street
- Parking on streets and is less located off Main
- Sidewalk shaded with trees, awnings, etc
- Outdoor Cafe areas provided along the sidewalk
- Continuous rows of street trees

Building Form – DR-N
- Buildings extend no more than 40% for the first floor and 20% for additional floors
- Ground floors of buildings shall provide accessible public space
- Access and egress shall be provided
- Public spaces shall be provided
- Public space shall accommodate the needs of pedestrians, transit, and vehicles
- 100% of the building Alcove shall be accessible

ITEM NO. 1
Historic Building Façade Renovations

Main Street – DR-N

Downtown Retail – South of Olive Avenue (DR-S)
- Welcoming gateway to Downtown
- Continuous row of street trees line the street
- Buildings line the street
- Parking on the streets and at the side/side
- 10:6 landscaping buffer widths from parking
- Trees, plantings & percolation sheds sidewalk
- New 16 ft. landscaped median on Main Street
- Provide pedestrian amenities
- Maintain curb cuts on Main Street
- Extend existing landscaped median on Olive

Building Form – DR-S

Main Street – DR-S

Orange Street – DR-S
**Downtown Mixed Use (D-MX)**
- Attracts businesses and residents Downtown
- Provides transition between commercial areas and residential neighborhoods
- Mix includes commercial, service, office, and residential uses
- Attractive streetscape with landscaping and trees
- Buildings line the street

**Downtown Professional Office (D-PO)**
- Adaptive re-use of existing buildings
- Infill of new small office buildings
- 1-2 story buildings, up to 50' at 40' with GDP
- Building form typical of 1920s residential
- Buildings and entries face the street
- Continuous row of street trees
- 20' landscaped front yard
- Parking on street, in garage, or at side/rear
- Plaster strips should be maintained

**Building Form – D-PO (new construction)**
- New additions integrated with building form
- 10% max. sail on sides
- Parking adjacent to back door
- Maintain walkway between elements and yards
- No curb cut at front yard parking

**Building Form – D-PO (renovations)**
- New additions integrated with building form
- 10% max. sail on sides
- Parking adjacent to back door
- Maintain walkway between elements and yards
- No curb cut at front yard parking

**Putnam Street – D-PO**
- Preserve and enhance pedestrian pathways
- Select trees from existing inventory
- Enhance street trees and pedestrian paths

**Cleveland and Thurman – D-PO**
- Preserve and enhance pedestrian pathways
- Select trees from existing inventory
- Enhance street trees and pedestrian paths
Downtown Retail – D Street (DR-D)

- Mix of medium-scale retail and service uses
- 15-20 ft landscaped front yard
- Parking on the streets or at side/rear
- 10 ft landscaping buffer sidewalks from parking
- New 10' wide landscaped median with rain basin on D St between Ctrw & Pomare
- Double row of trees to shade sidewalks
- Parking areas visible from the street may not exceed 30% of the lot frontage
- CLPs for stems with a gross floor area of 50,000 square feet or greater

Building Form – DR-D

D Street – DR-D

D Street – DR-D

Downtown General Commercial (D-GC)

- Retail, service, and heavy commercial uses
- Meets local and regional demand
- Complements adjacent Downtown pedestrian-oriented environment

Downtown Public and Semi-Public (D-PS)

- Provides for large-scale public facilities, integrated into the Downtown
- Incorporates pedestrian walkways and/or view corridors that connect to Downtown
- Incorporates attractive landscaping consistent with local character
Downtown High Density Residential (DRM-3)
- Attached homes, two-to-four-plexes, and apartment or condominium buildings
- Maximum density of 24 units per gross acre
- Convenient access to community services
- Outdoor living space on balconies and in common areas
- Buildings front the street
- Landscaped front yards
- Continuous rows of street trees

Downtown Medium Density Residential (DRM-2)
- Variety of housing types
- Small lot single-family homes
- Detached and low density developments
- Duplexes
- Townhouses
- Garden apartments
- Maximum density of 12 units per gross acre
- Close proximity to community services and retail establishments
- Buildings front the street
- Landscaped front yards
- Continuous rows of street trees

Ground Floor Windows and Design

Limits on Blank Walls
- Upper floors are also subject to limits on blank walls
- Maximum 30 ft between openings

Walls must have openings at least every 20 feet on Main Street, and every 25 feet on other streets. Openings shall have transparent glazing and provide views into active spaces.

Ground Floor Articulation (commercial uses)

Residential Building Design: Façade Articulation
- Street-facing facades shall have at least one projection or recess at least 4 feet in depth, or two projections or recesses at least 2.5 feet in depth, for every 25 linear feet of wall.
Relationship to Design Guidelines

- Zoning governs as the legally binding document
- Establish legal requirements that are complimented by Design Guidelines
- Zoning includes quantitative development standards
- Design Guidelines illustrate development standards and show how the more qualitative development standards can be met

Zoning Regulations

- Development Standards
  - Lot, Density, and Block Standards
  - Building Form, Location, and Street Design
  - Parking
  - Open Space and Landscaping

Zoning Regulations

- Supplemental Regulations
  - Block Standards
  - Public Improvements
  - Building Projections
  - Building Design
  - Mechanical Equipment and Utilities
  - Building Security
  - Awnings and Canopies
  - Parking
  - Open Space
  - Pedestrian Walkways

Parking Location
Parking Frontage Limitations

Downtown Districts

- Current ordinance has maximum height of 50 feet. This is being proposed to remain the same with transitional heights and yards when adjacent to:
  - RS-1
  - RS-2
  - RM-1 Districts

Downtown Districts

- Introduction of "Build-to" Lines
  - 75% of building at setback or property line in Downtown Retail zone.
  - 40% of building at setback or property line in Downtown Mixed Use Zone.

Downtown Districts

- Proposed mixed-use standards include limiting residential uses at the rear and/or above commercial uses.
- Includes addressing building entry.
- Includes requiring 150 square feet of usable open space per unit
- Includes setback requirements for residential units.

Airport Overlay Zone

Purpose

- Protect adjacent land uses from potential airport hazards
- Identify compatible uses to accident hazard and noise exposure potential
- Prohibit incompatible uses from being established
- Require noise-attenuated construction around airport
- Comply with Federal Aviation Administration Requirements
Example of Airport Impact Map - Noise

Example of Compatibility Tracking

Airport Safety Zones Map

Example of Development Standards

<table>
<thead>
<tr>
<th>TABLE 9.3: DEVELOPMENT STANDARDS - AIRPORT SAFETY ZONES</th>
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<tr>
<td>Safety Zone Type</td>
</tr>
<tr>
<td>------------------</td>
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</tbody>
</table>
| Normal Li-Noise 
Environmental Li-Noise | 0 | 10 | 20 | 30 | 40 | 50 | 60 | 70 | 80 |
| Non-Residential Development | 15 | 40 | 100 | 150 | 200 | 250 | 300 | 350 | 400 |
| Non-Residential Development 
Environmental Li-Noise | 35 | 120 | 220 | 400 | 450 | 500 |
| Non-Residential Development 
Environmental Li-Noise | NA | NA | 4 | 4 | 4 | 4 |
| Aviation Easement Dedication | NA | NA | 12 | 12 | 12 | 12 |

Additional Regulations

- Height limitations
- FAA Notification
- Aviation Easement Dedication
- Overflight Notification
- Nonconforming Uses
SUBJECT: CITY COUNCILMEMBER REQUEST TO CONSIDER ALTERNATIVES FOR A PLANNING AGENCY SEPARATE FROM THE CITY COUNCIL

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT—PLANNING DIVISION

COMMENT: Subsequent to the City Council’s abolition of the Planning Commission in 1986, the Council has periodically considered the re-establishment of a commission separate from the Council. The Council currently serves as the planning agency, or commission, and considers all planning related matters. Pursuant to a request by a Councilmember, this item has been scheduled for the current Council to consider options including variations to a traditional commission. The following alternatives represent concepts, each of which provides for potential variations. Upon receiving direction from Council, staff will evaluate in more detail alternatives of interest to the Council.

In any agency, there is a hierarchy of project approvals including those decisions made at the staff level, those made at the Zoning Administrator level, those made at the planning commission level and those made at the City Council level. The City’s current structure provides for this hierarchy but combines the Planning Commission and City Council in one step. In the event the Council chooses to move forward with the creation of a separate Planning Commission (or variation) the City’s Municipal Code will need to be amended to clarify a hierarchy of projects as well as the development process. Much of this is currently being developed in the updated zoning ordinance but with the Council as the Planning Commission. If the Council wishes to move forward with this effort, it makes sense to integrate the changes in the current zoning ordinance update effort.

Alternatives:

City Council - Meeting on Off-Council Tuesdays
City Council meet on 1st and 3rd Tuesdays and Council (as planning commission) meet on the 2nd and 4th Tuesdays.

Planning Commission

• 5 to 7 member board serving at the Council’s leisure
(Based on staff’s experience, there are a number of ways to appoint commissioners that can greatly affect the autonomy of a commission. This should be considered at some depth in the event the Council chooses to move forward.)
• Advisory to the Council on General Plan amendments, zone changes and appealed items (Staff level planning decisions would be appealable to the commission – commission decisions to the Council.)
• Decision making authority on development proposals would typically include conditional use permits, design overlays (or similar), variances, maps, etc.
• Council would have approval authority on all General Plan amendments, zone changes, development agreements and code amendments
• At the request of Council, undertake planning studies and recommend action to the Council

Appropriated/Funded NO

Item No. 24
Long Range Planning Committee

- 5 to 9 members
- Review general plan amendments, zone changes, code amendments and other long range planning matters and recommend action to the Council. (This structure was established in June 2001 and existed until February 17, 2004. During its existence, there were a number of challenges including attendance and achieving a quorum, inconsistent recommendations, and lack of regular business resulting in infrequent meetings.)

Planning Committee

- Membership could be made up of 3-5 members of the public
- Project Review Committee members with 3 to 5 public representatives (The Project Review Committee is comprised of the City staff from planning, engineering, building, fire, and police. Voting members of staff could also be reduced to provide for a more manageable size committee.)
- PRC members would vote with the public representatives
- Tasks for the committee might include reviewing and providing recommendations to Council on General Plan amendments, code amendments, zone changes, development agreements, and other legislative acts
- Approve all or a portion of the conditional use permits, development plans, variances, and maps
- Again, the difference between what the Committee or Project Review Committee considers would depend on the delineation of authority established by Council

Council Committee

- Subgroup of the Council combined with 3 to 5 public representatives
- Assumptions in the Draft Zoning Ordinance Update

General Pros and Cons:

Pros
Distributes the decision making authority and focuses the City Council meetings on the general business of the City.

Vests decision making authority in appointed public members to facilitate the planning process and focus effort in one primary area.

Cons
Creates an additional step in the development process and results in a longer period of time for project approvals.

Provides for some additional cost for case processing (this may or may not be significant depending on the alternative).

Distribution of authority could result in decisions that may not be substantially supported by the Council.

RECOMMENDATION: That the City Council provide direction to staff.
SUBJECT: DISCUSSION ON THE POSSIBILITY OF A CHANGE TO THE ZONING ORDINANCE TO ALLOW THE KEEPING OF RACING, HOMING, AND SPORTING PIGEONS AS HOUSEHOLD PETS IN THE CITY OF PORTERVILLE

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: The Community Development Department has been contacted with a request to consider the merits of allowing the keeping of racing, homing, and sporting pigeons as household pets.

Section 221 (A) of the Porterville Zoning Ordinance lists the types of uses that are allowed in the R-1-8 (One Family 8,000 square foot zone), which in turn is the bases for similar uses in all residential zones. The seventh paragraph of this section states:

"Household pets, such as domestic cats, dogs, birds or fowl ordinarily permitted in a dwelling and kept only for the company or pleasure provided to the occupants. Household pets shall not include horses, cows, goats, sheep or other equine, bovine, ovine or ruminant animals, pigs, predatory wild animals, chickens, ducks, geese, turkeys, pigeons, game birds and fowl which normally constitute an agricultural use. The keeping of more than three (3) dogs shall be considered as constituting a "kennel" and shall be subject to provisions of subsection 701A37 of this ordinance."

In 1994, The City of Visalia adopted an ordinance allowing the keeping of racing, homing, and sporting pigeons as household pets within certain conditions. The conditions were intended to limit the number of pigeons and regulate their keeping so as to not cause a nuisance to adjacent properties. A special permitting process for this request was also instituted. A copy of this ordinance is attached to this staff report and labeled as “Attachment 1.”

RECOMMENDATION: That the City Council direct staff on whether or not to study this item further and bring it back to a future council meeting.

ATTACHMENTS: 1. Visalia’s ordinance providing for the keeping of pigeons
December 29, 1994

Mike Allen
Visalia Racing Pigeon Club
31230 Tower Road
Visalia, CA 93292

Re: Amendment of the Zoning Ordinance to provide for the keeping of racing, homing, and sporting pigeons as household pets.

On Monday, December 19, 1994, the Visalia City Council passed and adopted Ordinance No. 9459 amending Section 7220 of Article 2 of Chapter 17 of the Visalia Ordinance Code and adding a new Section 7494 of Article 14 of Chapter 17, there to, providing for the keeping of racing, homing, and sporting pigeons as household pets.

This ordinance shall become effective January 19, 1995. This ordinance is subject to the limitations and permit requirements listed; see attached copy of the ordinance.

YOU ARE HEREWITH NOTIFIED that the City of Visalia, pursuant to Resolution No. 85-136, has specifically made the provision of Code of Civil Procedure, Section 1094.6 applicable to all final administrative orders or decisions of the City of Visalia. Pursuant to said Code Section, you have ninety days within which to seek judicial review of the validity of this decision by the City of Visalia.

If you have any questions regarding this action, please call the Planning Division at 738-3359.

PHYLLIS CORING
CITY PLANNER

Attachment
ORDINANCE NO. 94-59

AN ORDINANCE OF THE CITY OF VISALIA
AMENDING SECTION 7220 OF ARTICLE 2 OF CHAPTER 17
OF THE VISALIA ORDINANCE CODE AND
ADDING A NEW SECTION 7494 OF ARTICLE 14 OF CHAPTER 17, THEREIO,
PROVIDING FOR THE KEEPING OF RACING, HOMING,
AND SPORTING PIGEONS AS HOUSEHOLD PETS

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF VISALIA:

Section 1. Section 7220 of Article 2 of Chapter 17 of the Visalia
Ordinance Code is hereby amended to read as shown in Exhibit "A"
attached hereto and made a part hereof by this reference.

Section 2. A new Section 7494, consisting of Section 7494.1 through
7494.5 is hereby added to Article 14 of Chapter 17 of the Visalia
Ordinance Code to read as follows:

SECTION 7494. KEEPING OF RACING, HOMING, AND SPORTING PIGEONS AS
HOUSEHOLD PETS

Section 7494.1 Purpose and Intent
Section 7494.2 Applicability
Section 7494.3 Limitations
Section 7494.4 Additional Limitations
Section 7494.5 Permit Requirements

Section 7494.1 Purpose and Intent

Pigeons which have been selectively bred for specific racing,
homing, or sporting purposes, for the company and pleasure
provided to the occupants, shall be considered to be household
pets subject to the limitations of this Section.

Section 7494.2 Applicability

The provisions of this Section shall apply only to parcels 10,000
square feet in area or larger, which are located within the R-1-6,
R-1-12.5, R-1-20, and RA zones.

Section 7494.3 Limitations

Leg Banding: All racing, homing, or sporting pigeons shall be
banded with a "leg band." The leg band is defined as a seamless
band, made of a durable material, which designates the national
organization with which the bird is registered, and indicates the
year of birth of the bird. Birds which are not banded shall not
be considered to be racing, homing, or sporting pigeons.
Number Limit: The number of racing, homing, or sporting pigeons shall not cumulatively exceed 100 per parcel.

Loft Setbacks: The structure ("loft") housing the racing, homing, or sporting pigeons shall comply with setback, height, and lot coverage limitations in the underlying zone. The loft shall be setback a minimum distance of ten (10) feet from residential structures on the site, to provide adequate distance for clean and sanitary loft maintenance, and a minimum distance of twenty five (25) feet from the buildable area of any adjacent parcel. The "buildable area" shall be defined as that portion of the parcel which excludes the front, rear, and side yard setback areas.

Loft Maintenance: Any loft used for housing the racing, homing, or sporting pigeons shall be kept in a clean and sanitary condition at all times.

Release and Feeding of Pigeons: All racing, homing, or sporting pigeons shall be confined to the loft, except for limited periods necessary for exercise, training, and competition. At no time shall pigeons be allowed to perch or linger on the buildings or property of others. Objects shall not be thrown at the birds during their training or exercise. All birds shall be fed within the confines of the loft.

Racing Pigeon Association Membership: Owners of racing, homing, or sporting pigeons kept as household pets are required to be members of a nationally recognized racing, homing, or sporting pigeon association.

Section 7494.4 Additional Limitations

The limitations set forth in Section 7494.3 shall be deemed minimum limitations required for the keeping of pigeons as provided for herein. The City may, as a condition to issuance of the permit required in Section 7494.5, set forth additional requirements in said permit as may be necessary to maintain the health, safety, and general welfare of its citizens.

Section 7494.5 Permit Requirements

The keeping of racing, homing, or sporting pigeons, in accordance with the limitations specified in Section 7494.3, may be permitted upon issuance of a permit by the Planning and Building Division. A permit for keeping pigeons may be processed as an administrative matter by the Planning and Building Division and no public hearing shall be required. The permit application shall be made on a form prescribed by the Planning and Building Division, and shall be accompanied by a fee set by resolution of the City Council sufficient to cover the cost of handling the application.

The applicant shall provide documentation of membership in a nationally recognized racing, homing, or sporting pigeon association with the permit application.
The permit may be granted for a maximum period of three (3) years. The permit may be renewed upon reapplication and a site inspection to verify compliance with the requirements of this ordinance.

The City shall have the right to enter the property for verification of permit compliance, consistent with the provisions and limitations of Section 7602.

The permit shall be revoked by the Planning and Building Division upon violation of any condition, regulation, or limitation of the permit issued, unless such violation is corrected within ten (10) days of notice of such violation. Any permit may be revoked for any violation. In the event of permit revocation, or objections to limitations placed thereon, an appeal may be made in writing to the Planning Commission. The Planning Commission shall review the appeal consistent with the provisions of Section 7536. The decision of the Planning Commission may be appealed to the City Council consistent with the provisions of Section 7537.

Section 3. This ordinance shall become effective 30 days after passage.

PASSED AND ADOPTED: December 19, 1994

ATTEST:

RANDY GROOM, CITY CLERK

STATE OF CALIFORNIA)
COUNTY OF TULARE ) ss.
CITY OF VISALIA 

I, Randy Groom, City Clerk of the City of Visalia, certify the foregoing is the full and true Ordinance 9459 passed and adopted by the Council of the City of Visalia at a regular meeting held on December 19, 1994, and certify a summary of this ordinance has been published in the Visalia Times-Delta.

DATED: December 20, 1994

RANDY GROOM, CITY CLERK

By Linda Rodriguez Todd, Deputy
An act to add Section 65852.6 to the Government Code, relating to birds.

LEGISLATIVE COUNSEL'S DIGEST

AB 3109, Harvey. Pigeons.
Under existing law, local government may regulate land use within its jurisdiction for various specified purposes.
This bill would provide that it is the policy of the state to permit the breeding and maintaining of homing pigeons consistent with the preservation of public health and safety and would distinguish them from fowl.

THE PEOPLE OF THE STATE OF CALIFORNIA DO ENACT AS FOLLOWS:

SECTION 1. Section 65852.6 is added to the Government Code, to read:
65852.6. (a) It is the policy of the state to permit breeding and the maintaining of homing pigeons consistent with the preservation of public health and safety.
(b) For purposes of this section a 'homing pigeon,' sometimes referred to as a racing pigeon is a bird of the order Columbae. It does not fall in the category of 'fowl' which includes chickens, turkeys, ducks, geese and other domesticated birds other than pigeons.
ELECTION OF OFFICERS – PUBLIC IMPROVEMENT CORPORATION

ADMINISTRATIVE SERVICES DEPARTMENT

In 1988, the Porterville Public Improvement Corporation was formed, designating the City Council Members as Directors, and various City staff members as Officers of the Corporation. In light of the recent retirement of City Manager/City Clerk John Longley who served as Secretary on the Board of Directors, and in accordance with Article III, Section 2 of the Bylaws, action by the Corporation is hereby requested to approve the election of new Officers.

While Article III, Section 2 of the Bylaws identifies service by Officers until succession, staff proposes a new election so as to provide an accurate designation of Corporate Officers.

That the City Council, sitting as the Porterville Public Improvement Corporation, approve the election of officers as indicated in the attached draft resolution.

Draft Resolution for Election of Officers

Item No. P1-2-1
RESOLUTION NO. PIC 2009-01

A RESOLUTION OF THE PORTERVILLE PUBLIC IMPROVEMENT CORPORATION ELECTING OFFICERS FOR THE PORTERVILLE PUBLIC IMPROVEMENT CORPORATION

BE IT HEREBY RESOLVED by the Directors of the Porterville Public Improvement Corporation, that the following persons are elected to the offices set forth opposite their names below, as officers of the Corporation, to serve until succession, or election and qualification of the successors, as provided in Article III, Section 2 of the Bylaws of the Corporation.

<table>
<thead>
<tr>
<th>Name</th>
<th>Office</th>
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<tbody>
<tr>
<td>Cameron J. Hamilton</td>
<td>President</td>
</tr>
<tr>
<td>Peter V. McCracken</td>
<td>Vice President</td>
</tr>
<tr>
<td>John Lollis</td>
<td>Secretary</td>
</tr>
<tr>
<td>Brad Dunlap</td>
<td>Treasurer</td>
</tr>
<tr>
<td>Julia Lew</td>
<td>Legal Counsel</td>
</tr>
</tbody>
</table>

Cameron J. Hamilton, President

ATTEST:

John Lollis, Secretary