Call to Order
Roll Call

Adjourn to a Joint Meeting of the Porterville City Council and Porterville Redevelopment Agency.

JOINT CITY/PORTERVILLE REDEVELOPMENT AGENCY AGENDA

Roll Call: Agency Members

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

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

Adjourn to a Meeting of the Porterville City Council.

CLOSED SESSION:
B. Closed Session Pursuant to:
7- Government Code Section 54956.9(a) – Conference with Legal Counsel – Diana Standridge v. City of Porterville et al., Tulare County Superior Court Case No. 08-228418.
8- Government Code Section 54956.9(b) – Conference with Legal Counsel – Anticipated Litigation – One Case.
9- Government Code Section 54956.9(c) – Conference with Legal Counsel – Anticipated Litigation – Two Cases.

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

Pledge of Allegiance Led by Council Member Felipe A. Martinez
Invocation

PROCLAMATIONS
 “President’s Own” U.S. Marine Band

PRESENTATIONS
 Porterville Branding Committee

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 October 13, 2009

2. Budget Adjustment for 2009-10 Fiscal Year
 Re: Considering approval of a budget adjustment in an amount of $7,075, to be funded out of the Risk Management Fund for Haz Mat services provided by the City of Visalia.

3. Authorization to Advertise for Bids – Reclamation Road 216 Pipeline and Weir
 Re: Approval of staff’s recommended Plans and Project Manual for the project consisting of the installation of ±1,200 L.F. of PVC pipe and the installation of a new check structure/weir at the site generally located near the intersection of Road 216 and Tea Pot Dome Avenue.

4. Authorization to Negotiate a Contract – Transportation Consulting Services
 Re: Authorizing award to TPG Consulting, Inc. for the preparation of the Short Range Transit Plan for the sum of $45,000; and the preparation of a formal agreement for “On-Call” Consulting Services in compliance with Section 5307 regulations.
5. **Acceptance of Project – Community Center Parking Lot**  
Re: Accepting project as complete from Mark Hoffman General Engineering, and authorizing the filing of the Notice of Completion for the project consisting of new paving, curb and gutter, sidewalk, drive approaches, irrigation sleeves, and appurtenances at the Community Center building on Putnam Avenue.

6. **Public Improvements/Reimbursement Agreement – Jaye Street Crossing Commercial Center (JLH Properties, LLC and CZEM, Partners LLC)**  
Re: Considering approval of a Public Improvement/Reimbursement Agreement defining the phased development of the commercial property known as the Jaye Street Crossing Commercial Center, and reimbursement amounts for public improvement constructed by the City.

7. **FAA Grant Application – Porterville Municipal Airport**  
Re: Considering approval of a resolution authorizing the submittal of an application, acceptance of an allocation of funds, and execution of a Grant Agreement with the Federal Aviation Administration and the California Department of Transportation for grants to support a lighting improvement project at the Porterville Municipal Airport.

8. **Advertisement – Airport Dry Farm Lease**  
Re: Informational report regarding advertising activities for the Airport Dry Farm Lease.

9. **Approval of Physician Services**  
Re: Considering approval of Valley Prompt Care for City physician services effective November 1, 2009.

10. **Annual Library Food for Fines Campaign**  
Re: Authorizing the third Annual Food for Fines Campaign from October 26, 2009 through December 9, 2009.

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

**PUBLIC HEARINGS**

11. **Water Conservation Phase II – Water System Status**  
Re: A public hearing to consider returning to Phase 1 of the Water Conservation Plan.

**SCHEDULED MATTERS**

12. **Appointments to Library Board of Trustees and Parks and Leisure Services Commission**  
Re: Appointment of interested individuals to available seats on the Library Board of Trustees and the Parks and Leisure Services Commission.

13. **Parks Development & Community Revitalization Grant Program Through Proposition 84**  
Re: Consideration of areas to focus efforts for a second Parks Development and Community Revitalization grant application, and authorization of a budget adjustment from GF Carry-Over for supplemental part-time staff assistance.
14. **Amendment to the Community Development Block Grant 2009/10 Action Plan for the Reallocation of Funds for Acquisition and Installation of the Murry Park Pool Water Slide**

Re: Considering approval of a resolution for Amendment No. 1 to the 2009-10 Action Plan to include the allocation of up to $205,000 in CDBG funds for the acquisition and installation of the water slide at the Murry Park Pool.

15. **A Resolution Approving the Form of and Authorizing the Execution and Delivery of a Purchase and Sale Agreement and Related Documents with Respect to the Sale of the Seller’s Proposition 1A Receivable from the State; and Directing and Authorizing Certain Other Actions in Connection Therewith.**

Re: Considering adoption of the proposed Proposition 1A Sale Resolution and Purchase and Sale Agreement.

16. **Council Member Requested Agenda Item – Status of Vacant Commercial Sites**

Re: Receipt of an informational report providing a status of known activities relative to prominent vacant commercial sites.

17. **Council Member Requested Agenda Item – Discussion on Beverly Street Water Main Project**

Re: Considering a request to discuss various issues related to the Beverly Street water issue, and the possibility of constructing an 8” water main along Beverly Street from W. North Grand Avenue to Castle Avenue.

18. **Council Member Requested Agenda Item – Consideration of City Council Benevolence (“Good Works”) Fund**

Re: Considering a request to discuss the creation of a Council Benevolence Fund, whereby through a defined process the Council could allocate funds for community non-profit purposes.

Adjourn to a Meeting of the Porterville Redevelopment Agency.

**REDEVELOPMENT AGENCY AGENDA**  
**October 20, 2009**

Roll Call: Agency Members

**ORAL COMMUNICATIONS**

**OTHER MATTERS**

**SCHEDULED MATTERS**

PRA-01 **Reject All Bids – Stout Building Re-Roof Project**

Re: Considering the rejection of all bids for the project consisting of the installation of a thirty year composition roof and related appurtenances at the Redevelopment Agency-owned Stout Building located at the northwest corner of Cleveland and Hockett Street.
Consider Resolutions of the Porterville Redevelopment Agency and City of Porterville Planning Commission, Each Taking Certain Actions Related to Modifications of the Previously Proposed Added Territory Boundaries for the Proposed 2009 Amendment to the Redevelopment Plan Relevant to the Porterville Redevelopment Project Area No. 1, and to the Preliminary Plan Prepared Therefore
Re: Considering approval of resolutions relative to the redevelopment plan amendment process.

Adjourn to a Meeting of the Porterville City Council.

ORAL COMMUNICATIONS
OTHER MATTERS

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

ADJOURNMENT - to the meeting of November 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 North Main Street, Porterville, CA 93257, and on the City’s website at www.ci.porterville.ca.us.
PORTERVILLE CITY COUNCIL
ADJOURNED MEETING MINUTES
COUNCIL CHAMBERS, CITY HALL
291 NORTH MAIN STREET, PORTERVILLE
OCTOBER 13, 2009, 6:00 P.M.

Called to Order at 6:00 p.m.
Roll Call: Council Member Hamilton, Council Member Pedro Martinez (arrived at 6:04 p.m.), Council Member Felipe Martinez, Vice Mayor Ward, Mayor McCracken

Pledge of Allegiance Led by Vice Mayor Ward
Invocation – a moment of silence was observed.

ORAL COMMUNICATIONS

- Parks and Leisure Services Director Jim Perrine informed the Council of an Energy Partnership meeting taking place on October 29th, in Monrovia, and indicated that travel arrangements could be made if any Council members were interested in attending.

SCHEDULED MATTER
1. LANDSCAPE AND LIGHTING MAINTENANCE DISTRICTS STUDY SESSION

Recommendation: Receive report and discuss.

City Manager Lollis introduced the item, and Parks and Leisure Services Administrative Aide Vangie Ramirez presented the staff report.

Council Member Hamilton inquired about recouping of fees associated with graffiti and vandalism to Landscape and Lighting Maintenance Districts (LLMDs). Parks and Leisure Services Director Jim Perrine indicated that the maintenance of the districts was performed by a contractor, and that any special services performed by the contractor were itemized and reported to the city for payment. Council Member Felipe Martinez inquired about the tracking of the special services.

A discussion ensued with regard to Proposition 218 requirements and the challenges associated with the approval of an assessment increase via ballot votes. Council Member Hamilton expressed concern with the potential amount of the increase. City Manager Lollis explained that the amount of the increase would depend on the consolidation of districts, and that it was possible a district’s assessment could decrease after consolidation, but that adoption of a Consumer Price Index adjustment would also be proposed.

Council Member Felipe Martinez asked how instances of trees on private properties encroaching on the public right-of-way were currently handled. City staff explained that assessment funds were for public improvements only, and that issues with a tree on private property would involve city staff contacting the private property owner, similar to the process for weed abatement.

Vice Mayor Ward brought up the issue of landscape maintenance of foreclosures, and the possible inclusion of nuisance abatement in the contractor’s agreement was discussed.
Council Member Hamilton spoke in favor of a comprehensive analysis, and stated that property owners should be informed of the level of maintenance that the current rates support.

Vice Mayor Ward inquired about the method of consolidation, and Engineer Doug Wilson indicated that the analysis would evaluate the best ways to consolidate in order to reduce administrative costs and decrease protest by comparing the types of maintenance services for each district.

Council Member Hamilton made a motion to approve the complete review of the accounting and comprehensive analysis of each district. The motion was seconded by Council Member Felipe Martinez.

Mayor McCracken opened up the floor for public comment regarding the item.

- Ron Irish, a Porterville resident, inquired about the 3-5% that was held back for replacement costs in the past; expressed concern with maintenance standards; spoke in favor of LLMDs; and suggested an improvement in management, accountability, and public relations.

- Mr. Oakley, a Porterville resident, questioned the maintenance standards, noting that trees in the Wisconsin Manor district had been cut down and never replaced.

Council Member Hamilton spoke in favor of a method to recoup the costs, but added that the City was in a contract and should maintain an acceptable standard.

Parks and Leisure Services Director Perrine responded to the issues raised by Mr. Irish and Mr. Oakley regarding the Wisconsin Manor District. He indicated that funds were not available to maintain the landscape and make the necessary repairs to the irrigation system.

A discussion ensued regarding maintenance standards for those districts which did not have sufficient assessments to cover the costs of maintenance. The question of whether or not the City should be expected to provide a certain level of maintenance without the ability to recoup the costs; and where the money would come from, if not from the district was explored.

- Ron Irish requested that the City consider incorporating replacement funds in the assessment, and requested that administrative costs per district be identified in the analysis.

Mayor McCracken requested that a breakdown of maintenance activities for each district be provided.

Council Action: Moved by Council Member Hamilton, Seconded by Council Member Felipe Martinez that the City Council approve the complete review of the accounting and comprehensive analysis of each district for the purpose of determining the optimal grouping of districts to consolidate. The motion carried unanimously.

Disposition: Approved
OTHER MATTERS

- Council Member Felipe Martinez commented on his attendance at the League of California Cities Conference pursuant to AB1234.
- Council Member Hamilton nominated former Supervisor Jim Maples and Roy Rockholt for the Hall of Fame at the Heritage Library.
- Council Member Pedro Martinez noted a school in Visalia named after Annie R. Mitchell, born in White River, graduated from Porterville High School; and spoke of Anna White Garlund, former Porterville City Council member and first female City Council member in Tulare County; and identified them as examples of individuals worthy of local recognition.
- Council Member Felipe Martinez congratulated City Manager Lollis for being a 2009 Rising Star nominee.

ADJOURNMENT
The Council adjourned at 7:30 p.m. to the meeting of October 20, 2009.

________________________________________
Luisa Herrera, Deputy City Clerk

________________________________________
Pete V. McCracken, Mayor
COUNCIL AGENDA: October 20, 2009

SUBJECT: BUDGET ADJUSTMENT FOR THE 2009-10 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.

Visalia Haz Mat Program

In the last Council meeting, staff reported that the City of Visalia is no longer able to fund the annual operational costs of the Visalia Haz Mat Team due to recent budget cuts. Since 1995, the City of Porterville has relied on the Visalia Haz Mat Team to respond to hazardous materials incidents. The Tulare County Emergency Council is pursuing the option of funding the Team through the collection of fees by the Certified Unified Program Agency, but in the interim, it is requesting that each of the incorporated cities and the county share in the semi-annual cost of $60,000 which is due by November 1, 2009. The amount of semi-annual cost sharing for the City of Porterville is $7,075 and will be funded out of the Risk Management Fund.

RECOMMENDATION: That the Council approve the attached budget adjustment, and authorize staff to modify expenditure estimate as described on the attached schedule.

ATTACHMENTS: Schedule of Budget Adjustment
Letter from Tulare County Emergency Council
Cost Sharing Visalia Haz Mat Program Matrix

DIR MB Appropriated/Funded MB C.M. Item No. 2
CITY OF PORTERVILLE
Budget Adjustments

Date: October 20, 2009

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<tr>
<th>FUND NO.</th>
<th>NO.</th>
<th>DESCRIPTION</th>
<th>FUNDING SOURCE</th>
<th>DOLLAR AMOUNT</th>
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<tr>
<td>50-1116-54</td>
<td>1</td>
<td>Visalia Haz Mat Program cost-sharing</td>
<td>Risk Management Reserve</td>
<td>$7,075</td>
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Modification No:4-09/10
September 10, 2009

To: Tulare County City Managers

The Visalia Fire Department Hazardous Materials Team (Visalia Haz Mat) has provided advanced hazardous materials response for incidents in Tulare County over the past fourteen years. Visalia Haz Mat has received specialty training and equipment to perform hazardous materials emergency response services, such as entering a “hot zone”, identifying unknown hazardous materials and performing specialized containment and control operations. Training and equipment costs have been strongly supported through the Homeland Security Grant program, but no sustainable funding has been identified for ongoing operational costs.

The Visalia Fire Department notified the Tulare County Emergency Council on July 23, 2009 that the City of Visalia is no longer able to continue funding the operational costs of the Visalia Haz Mat Team due to recent budget cuts. The City of Visalia forecasts 2009/2010 operational costs to be $119,312 (see attachment 1). The Emergency Council was tasked with identifying and recommending an alternate funding model for Visalia Haz Mat by November 1, 2009. If the Cities and the County desire to keep Visalia Haz Mat operational, $60,000 (half year cost) is due to the City of Visalia by November 1, 2009. If no alternate funding model is identified by that time, Visalia Haz Mat will submit a 30-day notification to the County and each of the Cities to terminate the Hazardous Materials Operational Area Agreement, relinquishing Visalia Haz Mat from the responsibility of providing hazardous materials emergency response services in Tulare County.

The Emergency Council has reviewed other options to provide for hazardous materials response within the County. Response cost estimates were obtained from the Bakersfield and Fresno Fire Department Haz Mat Teams. Although response costs are reasonable, response times may be unacceptable in certain areas within the county and expose the County and the Cities to unnecessary risk. The Council has also researched available grants that could be used to offset Visalia Haz Mat’s operational costs. None have been identified at this time, but we will continue to pursue this.
The Emergency Council unanimously agrees that it is imperative to maintain advanced hazardous materials response capabilities within Tulare County through Visalia Haz Mat to ensure appropriate levels of response and mitigation actions are readily available for any hazardous materials incident or emergency. The Emergency Council is pursuing the option of funding Visalia Haz Mat through the collection of fees by the Certified Unified Program Agency, which is administered by Tulare County Environmental Health. This process will likely take at least six months to establish, if at all possible. In the meantime, the Emergency Council requests that each of the incorporated Cities and the County agree to share in the semi-annual cost of $60,000, which is due to the City of Visalia by November 1, 2009 (see attachment 2).

The Emergency Council recognizes that each jurisdiction is making difficult funding decisions during these economic times, but we urge all to consider the impact it may have on the safety of our residents and businesses if we are unable to immediately respond to and mitigate the effects of a large-scale hazardous materials release. We request that a response from each City be submitted to my office by September 30, 2009. On behalf of the Tulare County Emergency Council, I thank you for your consideration of this proposal.

Sincerely,

Jean M. Rousseau
County Administrative Officer
Chairman, Tulare County Emergency Council
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<th></th>
<th>Population</th>
<th>Population %</th>
<th>Annual Cost Sharing Amount</th>
<th>Semi-Annual Cost Sharing Amount</th>
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<td>Farmersville</td>
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<td>Lindsay</td>
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<td>13.25%</td>
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<td>Woodlake</td>
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<td>1.76%</td>
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<td><strong>Total</strong></td>
<td><strong>441,481</strong></td>
<td><strong>100%</strong></td>
<td><strong>$120,000</strong></td>
<td><strong>$60,000</strong></td>
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COUNCIL AGENDA: OCTOBER 20, 2009

SUBJECT: AUTHORIZATION TO ADVERTISE FOR BIDS – RECLAMATION ROAD 216 PIPELINE AND WEIR

SOURCE: Public Works Department - Engineering Division

COMMENT: Plans and Project Manual have been prepared for the Reclamation Road 216 Pipeline and Weir. The project includes installation of ±1,200 L.F. of PVC pipe and the installation of a new check structure/weir. The project is located adjacent to 13009 Road 216. It is approximately 1,100 feet from the intersection of Road 216 and Tea Pot Dome Avenue.

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

The Estimate of Probable cost for the project is $213,317.50. An additional $21,331.75 is necessary for construction contingency (10%). An additional $10,665.87 is required for construction management, quality control and inspection (5%). The total estimated cost associated with the project is $245,315.12. An Estimate of Probable Cost is attached for Council’s review.

An appropriation from Sewer Revolving funds will become necessary to cover costs associated with the project based on City Council Closed Session action on July 21, 2009. Staff respectfully requests that an adjustment to the 2009/2010 budget be prepared to cover this new project.

RECOMMENDATION: That City Council:

1. Authorize the Finance Director to prepare a budget adjustment from Sewer Revolving fees to the 2009/2010 Annual Budget in the amount of $245,315.12 for the Reclamation Road 216 Pipeline and Weir Project.

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

3. Authorize staff to advertise for project bids.

ATTACHMENTS: Estimate of Probable Cost
Locator Map

P:\pub\work\Engineering\Council Items\Authorization to Advertise for Bids - Reclamation Road 216 Pipeline and Weir - 2009-10-20.doc

Dir  Appropriated/Funded  CM  Item No. 3
# Reclamation Road 216 Pipeline and Weir

**10/9/09**

## City of Porterville

**Road 216 Pipeline and Weir**

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<th>UNIT PRICE</th>
<th>TOTAL PRICE</th>
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<td>4</td>
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<td>At Street Station 22+19.44 - Remove and relocate existing piping including</td>
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<td>air valve assembly with box, and butterfly valve, from existing Check</td>
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<td>Structure, Install concrete caps on existing concrete irrigation line as</td>
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<td>shown on detail.</td>
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<td>At Street Station 24+77.90 - Connect to existing irrigation pipe as shown</td>
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<td>on detail and with all proper appurtenances required for proper operation.</td>
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<td>At Irrigation Pipe Station 7+65.12 - Connect to existing irrigation pipe</td>
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<td>as shown on detail and with all proper appurtenances required for</td>
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<td>proper operation.</td>
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<td>on detail and with all proper appurtenances required for</td>
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<td>proper operation.</td>
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<td>8</td>
<td>At Street Station 21+97.14 - Connect to existing effluent pipe as shown</td>
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<td>on detail and with all proper appurtenances required for</td>
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<td>proper operation.</td>
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<td>9</td>
<td>Install Check Structure per detail, with all appropriate connections,</td>
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<td>1</td>
<td>$6,000.00</td>
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<td>with all relocated material, with additional piping, with appropriate</td>
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<td>tee's, fittings, valves, thrust blocks, and all other appurtenances</td>
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<td>required for proper operation.</td>
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<tr>
<td>10</td>
<td>18° 90 degree Bend</td>
<td>EA</td>
<td>2</td>
<td>$1,500.00</td>
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<td>11</td>
<td>At effluent line station 3+06, Install cap and concrete at existing</td>
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<td>irrigation line.</td>
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**Subtotal** $183,925.00

**10% Estimating Contingency** $18,392.50

**Total Base Bid** $213,317.50

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**Project Manager** Daniel Castor 10-12-09

**Public Works Director** J. D. Long 10-12-09

**City Engineer** Michael L. Reed 10-12-09

**City Manager** 10-12-09
SUBJECT: AUTHORIZATION TO NEGOTIATE A CONTRACT – TRANSPORTATION CONSULTING SERVICES

SOURCE: Public Works Department - Engineering Division

COMMENT: On October 8, 2009, staff received two (2) Statements of Qualifications/Proposals for preparation of a Short Range Transit Plan and transit-related services required on an on-going and as-needed basis. The proposals were ranked in accordance with the "Policy for Selecting Consultants to Provide Architectural, Engineering and Similar Services" adopted by City Council (Resolution 16-2001). On October 9, 2009, staff reviewed the two proposals provided by the firms wherein they were rated according to the aforementioned policy, with the following results:

1. TPG Consulting, Inc. 76.0 pts.
2. LSC Transportation Consultants, Inc. 63.3 pts.

Section 5307 operating funds, Section 5303 planning funds, and Local Transportation Funds (LTF) are the funding sources for this project and related on-call services, as approved by the 2009/2010 Annual Budget.

The project includes several tasks and TPG Consulting, Inc. has agreed to a fee of $45,000 for the preparation of the Short Range Transit Plan. In addition, their hourly rate schedule as provided is within that expected and experienced by staff to be reasonable rates of service for additional on-call services. It is the City's intent to prepare a formal agreement for the "On-Call" Consulting Services portion of this award, and bring the Agreement back to the City Council for approval once all provisions have been formalized to meet the Federal requirements.

RECOMMENDATION: That City Council:

1. Approve the award to TPG Consulting, Inc. for the preparation of the Short Range Transit Plan for the sum of Forty-Five Thousand Dollars ($45,000);

2. Authorize progress payments up to 100% of the fee amount; and

3. Authorize staff to proceed with a formal agreement for "On-Call" Consulting Services in compliance with Section 5307 regulations.

Appropriated/Funded
COUNCIL AGENDA: OCTOBER 20, 2009

SUBJECT: ACCEPTANCE OF PROJECT – COMMUNITY CENTER PARKING LOT

SOURCE: Public Works Department - Engineering Division

COMMENT: Mark Hoffman General Engineering has completed construction of the Community Center Parking Lot project per plans and specifications. The project consisted of new paving, curb & gutter, sidewalk, drive approaches, irrigation sleeves under hardscape areas, and appurtenances at the Community Center building on Putnam Avenue.

City Council authorized expenditure of $98,215.42. Final construction cost is $93,061.09. General Fund Reappropriation and COP Refinance Funds were the funding sources for this project, as approved by the 2009/2010 Annual Budget.

Mark Hoffman General Engineering requests that the City accept the project as complete. Staff reviewed the work and found it acceptable.

RECOMMENDATION: That City Council:

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

ATTACHMENT: Locator Map
COUNCIL AGENDA: OCTOBER 20, 2009

SUBJECT: PUBLIC IMPROVEMENTS/REIMBURSEMENT AGREEMENT – JAYE STREET CROSSING COMMERCIAL CENTER (JLH Properties, LLC and CZEM, Partners LLC)

SOURCE: Public Works Department - Engineering Division

COMMENT: The property owners; CZEM, LLC (David Mossman), JLH Properties, LLC (John Hale), Michael Tolladay, Terry Tolladay and the City of Porterville have mutually agreed to enter into a Public Improvement/Reimbursement Agreement. The agreement defines the phased development of the commercial property known as the Jaye Street Crossing Commercial Center. This proposed commercial project is located on the east side of Jaye Street between Poplar Avenue and Springville Avenue. The agreement also defines the reimbursement amounts for public improvements constructed by the City and the purchase of right of way housing these improvements.

HISTORY

On February 20, 2007, the City Council adopted Resolution No. 8-2007 certifying the Final Impact Report for the development of the Jaye Street Crossing Commercial Center, and adopted Resolution No. 9-2007 approving General Plan Amendment to change the land use designation from Industrial to General Commercial. On March 5, 2007, City Council adopted Ordinance No. 1714 to change the zoning from M-1(Light Manufacturing) to C-2D (General Commercial with Design Review Overlay).


A traffic study was a component of Resolution No. 8-2007 and another traffic study was prepared for the Riverwalk Marketplace Commercial Center on the west side of Jaye Street between Springville Avenue and State Route 190. Both of the studies defined the required public improvements along Jaye Street and State Route 190.
The developer of the commercial center on the west side of Jaye Street and the City shared in the cost for all of the necessary street improvements defined by the traffic studies for both developments. A large portion of the City’s share is truly the responsibility of the proposed Jaye Street Crossing Commercial Center. The property owner/developer of this proposed project was fully aware of the City’s intentions and understood their fair share cost of the improvements adjacent to their property. They also made it clear they would reimburse the City for these improvements upon development of the property.

The property owners on the east side of Jaye Street executed a Right of Entry thereby granting permission for the City to enter upon and improve portions of the property related to the widening of Jaye Street. In turn, the City agreed to pay the fair market value of the property and the property owners agreed to pay their proportional share of the Jaye Street and State Route 190 improvements, with the understanding that these improvements were necessary for CZEM and J LH to develop their property.

PRESENT

Attached is a Public Improvement/Reimbursement Agreement defining the aforementioned conditions and further clarifies a payment structure for reimbursements by the City and the property owners of the Jaye Street Crossing Commercial Center. In total, the City will be purchasing properties valued at $148,492 and the property owners will reimburse the City $1,135,242 in public improvement costs borne by the City. It is important to note that future owners, should it apply, will be subject to the same terms as the original owners upon recordation of the attached agreement.

Reimbursement amounts are to be proportional to the amount of land being developed and payment(s) will be made prior to issuance of a building permit. The City in turn will reimburse the property owners within ten (10) days from receipt of public improvement reimbursement(s). The City may choose to reimburse developer for all parcels subject to be acquired or for those portions that may develop individually.

The parcels to be acquired by the City are shown within Exhibit C and Exhibit H. The Right of Entry that forged the ground work for this agreement is also a part of Exhibit C. A spreadsheet illustrating the public improvement reimbursement costs related to the Right of Entry is part of Resolution No. 48-2009 and attached as Exhibit B. Reimbursement costs for properties to be transferred from the property owner to the City is part of Exhibit H. All of these Exhibits and others are important components of the attached agreement.
RECOMMENDATION: That the City Council:

1. Review and approve the “Public Improvement/Reimbursement Agreement”; and

2. Authorize the Mayor and City Clerk to execute the “Public Improvement/Reimbursement Agreement”.

ATTACHMENTS: Public Improvement Agreement
Schedule I – Required Public Improvements
Exhibit ‘A’ – Legal Description
Exhibit ‘B’ – Public Improvement Plans
Exhibit ‘C’ – Site Plan
Exhibit ‘D’ – Obligations of the Developer and the City

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PUBLIC IMPROVEMENT/REIMBURSEMENT AGREEMENT

THIS PUBLIC IMPROVEMENT/REIMBURSEMENT AGREEMENT ("Agreement") is made and entered into this ___ day of ___________ 2009, by and between the CITY OF PORTERVILLE, a municipal corporation ("City"), and JLH PROPERTIES, LLC, a California limited liability corporation; MICHAEL R. TOLLADAY; TERRY A. TOLLADAY; AND CZEM, PARTNERS LLC, a California limited liability corporation (collectively, referred to herein as "Developer"), with respect to the following matters:

RECITALS

A. Developer has a legal or equitable interest in real property located on the east side of Jaye Street between Springville Avenue and State Route 190 in the City of Porterville as more particularly described in attached Exhibit A (the "Property").

B. This Agreement relates to the proposed development of the approximately 10.7 acre Property with an approximate 75,000 square foot commercial development project known as the Jaye Street Crossing Commercial Center ("the Project").

C. On February 20, 2007, the City Council adopted Resolution No. 8-2007 certifying the Final Environmental Impact Report for the Project ("EIR"), adopted Resolution No. 9-2007 approving General Plan Amendment 1-2007 to change the land use designation for the Property from Industrial to General Commercial and introduced Ordinance No. 1714 to change the zoning of the Property from M-1 (Light Manufacturing) to C-2 D (General Commercial with Design Review Overlay). On March 6, 2007, the City Council adopted Ordinance No. 1714. On June 3, 2008, the City Council adopted Resolution 48-2008 requiring Developer to reimburse City for Developer’s proportional fair share of certain off-site roadway improvements. On June 3, 2008, the City Council also adopted Resolution 49-2008, approving D-Overlay design review 2-2008 for the Project. On April 29, 2009, the City’s Parcel Map Committee adopted Resolution No. 565 approving Vesting Tentative Parcel Map 1-2009 and Resolution No. 566 approving Vesting Tentative Parcel Map 2-2009 for the Project. All of the aforementioned approvals are included in Exhibit B attached to this Agreement.
D. The City and the developer of the Riverwalk Marketplace Commercial Center Project on the west side of Jaye Street constructed the required public improvements for their commercial center and those necessary for the Project, excluding those necessary along the frontage of Springfield Avenue as described in Resolution No. 49-2008 ("Jaye Street Improvements"). Developer and City entered into a Right of Entry Agreement (attached hereto as Exhibit C) whereby Developer granted City permission to enter and improve a portion of the Property for the Jaye Street Improvements and City agreed to pay Developer fair market value for that portion of the Property used for the Jaye Street Improvements.

E. Without limiting the foregoing, Developer has undertaken to construct certain public improvements listed on Exhibit D (the "Public Improvements"). Plans and specifications for such work are described in Exhibit E.

F. City and Developer have, in good faith, negotiated the terms of this Agreement. City and Developer wish to obligate Developer to pay for a share of the cost of the Jaye Street Improvements, dedicate certain property for public improvements and convey certain property to City, and to obligate City to pay Developer for such dedication and conveyance, all on the terms contained herein.

NOW, THEREFORE, with reference to the foregoing Recitals and in consideration of the mutual promises, obligations and covenants described herein, Developer and City agrees as follows:

AGREEMENT

1. **Effective Date.**

The effective date of this Agreement shall be the date upon which it has been executed and delivered by the last of City and Developer to execute and deliver the Agreement (the "Effective Date").

2. **Term.**

   a. **Duration of Agreement.** The term of this Agreement shall commence on the Effective Date and shall terminate when all of the parties' respective obligations hereunder have been performed.

   b. **Notice of Termination.** Upon termination of the Agreement, the City Clerk shall cause a notice of such termination to be duly recorded in the Official Records of Tulare County.

3. **Obligations of City and Developer.**

   a. **Obligations of Developer.**

      i. Developer shall dedicate the right-of-way for the Public Improvements pursuant to a final subdivision map that substantially conforms to Vesting Tentative Parcel Map No. 1-2009. Developer shall construct the Public Improvements set forth in Exhibit D in accordance with the plans and specifications for such work described in Exhibit E. Dedication
of the right-of-way and construction of the Public Improvements shall occur prior to the issuance of a certificate of occupancy for Major A, Major B or Building C as shown on the Site Plan attached as Exhibit F. If Developer files a phased final map relating to the property subject to Vesting Tentative Parcel Map 1-2009 and a certificate of occupancy is sought only for Building C, Developer shall only be required to dedicate the right-of-way for and complete the Springville Avenue street improvements and miscellaneous improvements described in Exhibit D from Jaye Street to the eastern boundary of Parcel 1 as shown on Vesting Tentative Parcel Map No. 1-2009.

ii.  The Developer agrees to pay their proportional share of the costs for the Jaye Street Improvements constructed in conjunction with the Riverwalk Marketplace Commercial Center as specifically defined by Resolution 48-2008. The total reimbursement amount is $1,135,242.04. Payment shall be made prior to the issuance of a building permit for some or all of the Project buildings. If a building permit is sought for less than the entire Project, payment for that phased development shall conform to the following formula:

\[ \frac{\text{Phased Development (acres)}}{\text{Entire Commercial Site (acres)}} \times \$1,135,242.04 = \text{Phased Development Reimbursement Amount} \]

iii.  Developer shall convey the portion of the Property subject to the Right of Entry Agreement dated August 21, 2007 (“Jaye Street Property Parcels”) pursuant to a final subdivision map that substantially conforms to Vesting Tentative Parcel Map No. 1-2009 or Vesting Tentative Parcel Map No. 2-2009 (or both). Developer shall convey the right-of-way for the drive approaches constructed on the east side of Jaye Street, north and south of Vandalia Avenue (“Drive Approach Property”) pursuant to a final subdivision map that substantially conforms to Vesting Tentative Parcel Map No. 1-2009 or Vesting Tentative Parcel Map No. 2-2009 (or both). The Jaye Street Property Parcels and the Drive Approach Property are collectively referred to herein as the “Acquired Lands.”

iv.  The Public Improvements listed in Exhibit D will be required to be completed as a condition of the issuance of a certificate of occupancy only for the buildings shown as Major A, Major B, or Building C on the Site Plan attached hereto as Exhibit F. If Developer files a phased final map relating to the property subject to Vesting Tentative Parcel Map 1-2009 and a certificate of occupancy is sought only for Building C, Developer shall only be required to dedicate the right-of-way for and complete the Springville Avenue street improvements and miscellaneous improvements described in Exhibit D from Jaye Street to the eastern boundary of Parcel 1 as shown on Vesting Tentative Parcel Map No. 1-2009. Issuance of an occupancy permit for all other projects not associated with or a part of the Project identified as Major A, Major B or Building C on the Site Plan attached hereto as Exhibit F shall only be contingent upon satisfactory payment of the reimbursement amounts specified in Section 3.a.ii.

b.  Obligations of City.

i.  No later than ten (10) days from receipt of the funds referenced in Section 3.a.ii sufficient to pay the fair market value of the Jaye Street Property Parcels, City shall pay Developer the fair market value for the Jaye Street Property Parcels. Fair market value for the Jaye Street Property Parcels shall be $119,475.84 in accordance with the appraisal report prepared for the City by Simon Company, Inc. dated August 25, 2007. Property values for these
parcels are illustrated in Exhibit H and Exhibit C further defines the Jaye Street Property Parcels by legal descriptions and plats.

ii. After payment in full of the funds specified in Section 3.b.i and no later than ten (10) days from receipt of the funds referenced in Section 3.a.ii sufficient to pay the fair market value of the Drive Approach Property, City shall pay Developer the fair market value for the Drive Approach Property. Fair market value for the Drive Approach Property shall be $29,016.00 in accordance with the appraisal report prepared for the City by Simon Company, Inc. dated August 25, 2007 for the Jaye Street Property Parcels. Property values for these parcels are illustrated in Exhibit H and Exhibit G further defines the Drive Approach Property by legal descriptions and plats.

4. Assignment.

Developer may at any time or from time to time transfer its right, title or interest in or to all or any portion of the Property (a “Transfer”) to a successor landowner (a “Transferee”), on the following terms and conditions:

a. If the Transfer is of all the Property, then the Transferee shall be liable for the obligations of Developer under this Agreement.

b. In the event that Developer shall transfer less than all of the Property, then unless this Agreement is expressly assumed in writing by any Transferee of the Property, no such Transferee shall be bound by the provisions of this Agreement relating to any portion of the Property which it does not own; provided however that while this Agreement shall be in effect any such Transferee will be bound by the provisions hereof that specify the conditions to the issuance of a certificate of occupancy as to any portion of the Project acquired by any such Transferee. Further, no such Transferee shall be entitled to receive payment for the Acquired Lands that are payable by the City to Developer under this Agreement pursuant to Section 4.b, unless such right is expressly assigned to the Transferee by Developer and consented to by City on the terms and conditions provided herein.

c. Developer shall promptly notify the City in writing of the name and address of any Transferee. In the event such Transfer is a partial Transfer of the Property and Transferee does not elect to assume the obligations of Developer under this Agreement with respect to the portion of the Property transferred to such Transferee, Developer shall remain liable for its obligations to the City under this Agreement with respect to that portion.

d. In the event of a Transfer of less than all of the Property, City will, promptly after any request by Developer and any Transferee, which may be made before or after the date of any Transfer, and may be effective on or after the date of any Transfer, reasonably allocate liability for the Public Improvements between the portion of the Property retained by Developer and/or not subject to the Transfer, and the portion of the Property to be transferred to Transferee, pursuant to a written consent to be issued by the City (a “Consent”). The Consent shall not be unreasonably withheld or delayed and shall specify the Public Improvements that are to be the responsibility of the Transferee and the Public Improvements that are to be the responsibility of the Developer. The City agrees that any allocation hereunder is in the nature of an
administrative decision and may be made by the City Manager or his designee, provided the City Manager/designee agrees to consult with the Developer and the Transferee. Notwithstanding anything to the contrary contained herein, if the portion of the Project that is the subject of the Transfer is the portion identified as Major A, Major B or Building C on the Site Plan attached as Exhibit F then the Consent shall specify that the Transferee shall only be required to assume the obligation to construct those improvements identified in the Consent as a condition to the issuance of a certificate of occupancy for that portion of the Project.

e. From and after the date of any Consent, the obligations of a Transferee to construct Public Improvements shall be limited to those allocated to the Transferee in the Consent. Without limiting the foregoing, no Event of Default by Developer or other person in connection with any obligations that are not specifically allocated to a Transferee by a Consent shall be a default under this Agreement with respect to the portion thereof assigned to the Transferee so long as such Transferee complies with the obligations allocated to it in the Consent, and no such Event of Default (i) shall be grounds for the City to deny any approval requested by a Transferee, and otherwise provided for in this Agreement, including, without limitation, a certificate of occupancy, so long as the Transferee shall have fully complied with all conditions to any such approval allocated to the Transferee in the Consent or (ii) shall be grounds for termination of this Agreement or other exercise of remedies by the City with respect to the portion of the Property assigned to the Transferee.

f. In the event of any partial Transfer that is consented to by City, whereby the Transferee assumes obligations of the Developer under this Agreement, except as otherwise agreed between Developer and Transferee, Developer shall have no further obligations or benefits hereunder with respect to the obligations allocated and/or assigned to such Transferee pursuant to the Consent with respect to the portion of the Property transferred to such Transferee, save for those obligations under this Agreement the performance of which was due prior to the date of the relevant assignment.

5. **Covenants Run With The Land.**

Subject to the terms of Section 4, all of the provisions, agreements, rights, powers, standards, terms, covenants and obligations contained in this Agreement shall run with the land and shall be binding upon the parties and their respective heirs, successors (by merger, consolidation or otherwise) and assigns, devisees, administrators, representatives, lessees and all other persons or entities acquiring the Property, any lot, parcel or any portion thereof, and any interest therein, whether by sale, operation of law or other manner, and they shall inure to the benefit of the parties and their respective successors.

6. **Amendment or Termination of Agreement.**

This Agreement may be amended or terminated by written mutual consent of the parties.

7. **Agreement is Entire Agreement.**

This Agreement and all exhibits attached hereto or incorporated herein contain the sole and entire Agreement between the parties concerning the Property and Project. The parties acknowledge and agree that neither of them has made any representation with respect to the
subject matter of this Agreement or any representations inducing the execution and delivery hereof, except representations set forth herein, and each party acknowledges that it has relied on its own judgment in entering this Agreement. The parties further acknowledge that all statements or representations that heretofore may have been made by either of them to the other are void and of no effect, and that neither of them has relied thereon in its dealings with the other.

8. **Effect of Waiver.**

No waiver by a party of any provision of this Agreement shall be considered a waiver of any other provision or any subsequent breach of the same or any other provision, including the time for performance of any such provision. The exercise by a party of any right or remedy provided in this Agreement or provided by law shall not prevent the exercise by that party of any other remedy provided in this Agreement or under the law.

9. **Default.**

   a. **Default.** Failure by any party to perform any material provision herein shall constitute a default under this Agreement.

   b. **Notice of Default.** In the event of a default, the complaining party ("Complaining Party") shall give the party purportedly in default ("Defaulting Party") a written notice of the default ("Notice of Default"). The Notice of Default shall specify the nature of the alleged default and, where appropriate, the manner and period of time in which the alleged default may be satisfactorily cured.

   c. **Cure Period.** The Notice of Default shall provide that the Defaulting Party shall cure the default within thirty (30) days ("Cure Period"). The Cure Period shall commence from the date the Notice of Default is received by the Defaulting Party. If the nature of the alleged default is such that it cannot reasonably be cured within the Cure Period, the cure shall be deemed to have occurred within the Cure Period if: (1) the Defaulting Party provides written notice to the Complaining Party that the cure cannot reasonably be completed within the Cure Period; (2) the cure is commenced within the Cure Period; and (3) the cure is diligently prosecuted to completion. While any Defaulting Party is diligently curing an alleged default, the Defaulting Party shall not be considered in default for the purposes of terminating this Agreement or instituting legal proceedings. If the default is cured, then no default shall exist or be deemed to have existed and the Complaining Party shall take no further action.

   d. **Notice to Terminate.** If, after expiration of the Cure Period, the Defaulting Party has not cured the default or is not diligently curing the default in the manner set forth herein, the Complaining Party may, at its option, give notice of its intent to terminate this Agreement ("Notice of Intent to Terminate"). If the City is the Complaining Party, the City Council shall be required to consider and vote on such termination at a duly noticed meeting of the City Council of which Developer shall have at least thirty (30) days written advance notice, and Developer shall be given a reasonable opportunity at such public meeting to respond to City’s allegations of default. If Developer is the Complaining Party, Developer shall give City at least thirty (30) days advance written notice of its intention to terminate the Agreement. If the Developer elects
elects to terminate the Agreement as provided herein, this Agreement shall be terminated sixty (60) days from the date of the written notice of termination. If the City elects to terminate this Agreement as provided herein, the Agreement shall be terminated thirty (30) days from the date of the meeting at which the City Council votes to terminate the Agreement. Notwithstanding the foregoing, a termination of this Agreement pursuant to this section is effective to terminate the obligations of the Complaining Party only if a default has occurred and such default, as a matter of law, authorizes the Complaining Party to terminate its obligations under this Agreement. Once the Complaining Party has given a Notice of Intent to Terminate, legal proceedings may be instituted to obtain a declaratory judgment determining the respective termination rights and obligations under this Agreement.

e. **Legal Proceedings.** If a Defaulting Party fails to cure a default in accordance with the foregoing, the Complaining Party, at its option, may institute legal proceedings pursuant to Section 10 or, in the event of a material default, terminate this Agreement pursuant to Section 9.d.

f. **Enforced Delay; Extension of Time of Performance.** No party shall be deemed in default of its obligations under this Agreement, except of any obligation to pay any sum of money under the applicable provisions hereof, in the event and as long as (on a day-for-day basis) any such obligation is prevented, delayed, retarded or hindered by war, acts of terrorism, invasions, insurrections, riots, strikes, lockouts or other labor disturbances or disputes of any character, breakage or failure of equipment, interruption of services by suppliers thereof, unavailability of materials or labor, rationing or restrictions on the use of utilities or public transportation whether due to energy shortages or other causes, natural disaster, fires, acts of God, governmental restrictions imposed or mandated by governmental entities other than City, enactment of conflicting state or federal laws or regulations, new or supplementary environmental regulation enacted by the state or federal government, or by any other severe and unforeseeable occurrence that is beyond the control of that party (collectively “Enforced Delay”). The Term of this Agreement shall also be automatically extended for any period of Enforced Delay. If an Enforced Delay materially and adversely affects Developer’s rights hereunder as reasonably determined by Developer, Developer may elect, at its option, to terminate this Agreement with respect to the Property, or affected portion thereof. The party claiming the Enforced Delay shall send written notice of the claimed Enforced Delay to any other party within thirty (30) days from the commencement of the cause of the Enforced Delay.

10. **Legal Action.**

a. **Institution of Legal Proceedings.** If, after expiration of the Cure Period, the Defaulting Party has not cured the default or is not diligently curing the default in the manner set forth in Section 9.c, the parties shall have all rights and remedies at law or in equity, which are not otherwise provided for or prohibited by this Agreement, expressly including the remedy of specific performance of this Agreement. Except as otherwise expressly provided in this Agreement, any failure or delay by any party in asserting any of its rights or remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies.

b. **Venue of Legal Proceedings Between the Parties.** All legal or equitable actions or proceedings in which Developer or a Transferee, or both, and City are adverse parties shall be
filed in and maintained in the Superior Court of Tulare County. Such action or proceeding shall not be filed in nor removed to any federal district court by any party thereto unless said federal district court has exclusive jurisdiction over all or some portion of the action or proceeding and said action or proceeding cannot be filed or maintained in the Superior Court of Tulare County. No party to such action or proceeding may seek a change of venue to another superior court unless such a change in venue is required by law.

c. **Attorneys' Fees and Litigation Costs.** In any legal or equitable action or proceeding brought by any Party to enforce or interpret the terms of this Development Agreement, or to seek injunctive relief or declaratory relief against any other Party to this Development Agreement, the prevailing Party is entitled to recover reasonable attorneys' fees and any other costs incurred in the action or proceeding in addition to any other relief to which it is entitled.

d. **No Consequential Damages.** In no event shall either City be liable to Developer or Developer be liable to City for consequential damages resulting from or related to any dispute concerning the interpretation or enforcement of, or compliance with, the terms of this Agreement ("Dispute"). City and Developer hereby waive any right of it or its assigns or successors to obtain consequential damages resulting from or related to any Dispute from the other party.

11. **Mortgagee Protection: Certain Rights of Cure.**

a. **Mortgage Protection.** This Agreement shall be superior and senior to all liens placed upon the Property or portion thereof after the date on which a memorandum of this Agreement is recorded, including the lien of any deed of trust or mortgage ("Mortgage"). Notwithstanding the foregoing and subject to the terms of Section 4, no breach hereof shall defeat, render invalid, diminish or impair the lien of any Mortgage made in good faith and for value, but all of the terms and conditions contained in this Agreement shall be binding upon and effective against all persons and entities, including all deed of trust beneficiaries or mortgagees ("Mortgagees") who acquire title to the Property or any portion thereof by foreclosure, trustee’s sale, deed in lieu of foreclosure or otherwise.

b. **Mortgagee Not Obligated.** No foreclosing Mortgagee shall have any obligation or duty under this Agreement to construct or complete the construction of any improvements required by this Agreement, or to pay for or guarantee construction or completion thereof. City, upon receipt of a written request therefore from a foreclosing Mortgagee, shall permit the Mortgagee to succeed to the rights and obligations of Developer under this Agreement, provided that all defaults by Developer hereunder that are reasonably susceptible of being cured are cured by the Mortgagee as soon as is reasonably possible, or Mortgagee provides assurances reasonably satisfactory to City that such defaults will be cured. The foreclosing Mortgagee thereafter shall comply with all of the provisions of this Agreement.

c. **Notice of Default to Mortgagee.** If City receives notice from a Mortgagee requesting a copy of any notice of default given to Developer hereunder and specifying the address for service thereof, City shall deliver to the Mortgagee concurrently with service thereof to Developer, all notices given to Developer describing all claims by the City that an Event of
Default has occurred, or will, after the expiration of any applicable cure period, occur. If City determines that Developer is in noncompliance with this Agreement, City also shall serve notice of noncompliance on the Mortgagee, concurrently with service thereof on Developer. Each Mortgagee shall have the right during the same period available to Developer to cure or remedy, or to commence to cure or remedy, the condition of default claimed or the areas of noncompliance set forth in City’s notice.

12. **Estoppel Certificate.**

Either party from time to time may deliver written notice to the other party requesting written certification that, to the knowledge of the certifying party (i) this Agreement is in full force and effect and constitutes a binding obligation of the parties; (ii) this Agreement has not been amended or modified either orally or in writing, or, if it has been amended or modified, specifying the nature of the amendments or modifications; and (iii) the requesting party is not in default in the performance of its obligations under this Agreement, or if in default, describing therein the nature and monetary amount, if any, of the default. A party receiving a request hereunder shall execute and return the certificate within thirty (30) days after receipt thereof. The City Manager of the City shall have the right to execute the certificates requested by Developer hereunder. City acknowledges that a certificate hereunder may be relied upon by permitted transferees and Mortgagees. At the request of the Developer, the certificates provided by City establishing the status of this Agreement with respect to the Property shall be in recordable form, and Developer shall have the right to record the certificate at its cost.

13. **Severability.**

If any term or condition of this Agreement is for any reason held by a final judgment of a court of competent jurisdiction to be invalid, then this Agreement shall continue to be valid unless the provision that is found to be invalid constitutes a material change in the consideration for this Agreement, in which case, at the election by written notice of the party adversely affected by such change, this entire Agreement shall likewise be invalid, and shall be deemed null and void and of no further force or effect following such judicial determination.

14. **No Third Parties Benefited.**

No person other than the City, Developer, or their respective successors and assigns including without limitation any Transferee or holder of any Mortgage, is intended to or shall have any right or claim under this Agreement, this Agreement being for the sole benefit and protection of the parties hereto and their respective successors and assigns. Similarly, no amendment or waiver of any provision of this Agreement shall require the consent or acknowledgment of any person not a party or successor in interest to a party to this Agreement.

15. **Binding Effect of Agreement.**

The provisions of this Agreement shall bind and inure to the benefit of the parties originally named herein and their respective successors and assigns, subject, however to the terms and conditions contained in [Section 4 hereof](#).
16. **Relationship of Parties.**

It is understood that this Agreement is a contract that has been negotiated and voluntarily entered into by City and Developer and that the Developer is not an agent of City. The parties do not intend to create a partnership, joint venture or any other joint business relationship by this Agreement. The City and Developer hereby renounce the existence of any form of joint venture or partnership between them, and agree that nothing contained herein or in any document executed in connection herewith shall be construed as making the City and Developer joint venturers or partners. Neither Developer nor any of Developer’s agents or contractors are or shall be considered to be agents of City in connection with the performance of Developer’s obligations under this Agreement.

17. **Recordation of Agreement.** Within ten (10) days of the Effective Date, the City Clerk shall cause this Agreement to be duly recorded in the official records of Tulare County.

18. **Rules of Construction and Miscellaneous Terms.**

   a. The singular includes the plural; the masculine gender includes the feminine; “shall” is mandatory, “may” is permissive.

   b. Time is and shall be of the essence in this Agreement.

   c. Where a party to this Agreement consists of more than one person, each such person shall be jointly and severally liable for the performance of such party’s obligation hereunder.

   d. The captions in this Agreement are for convenience only, are not a part of this Agreement and do not in any way limit or amplify the provisions thereof.

   e. This Agreement shall be interpreted and enforced in accordance with the laws of the State of California in effect on the date thereof. In addition, the provisions of this Agreement and the attached exhibits shall be construed as a whole according to their common meaning and not strictly for or against any party, and in a manner that shall achieve the purposes of this Agreement.

   f. This Agreement and any and all amendments and supplements to it may be executed in counterparts, and all counterparts together shall be construed as one document.

19. **Exhibits.**

The exhibits to the Agreement, each of which are hereby incorporated herein by reference, are as follows:

   Exhibit A - Legal Description of Property and Plats

   Exhibit B – Project Approvals

   Exhibit C – Right of Entry
Exhibit D – Public Improvements
Exhibit E – Public Improvement Plans and Specifications
Exhibit F – Jaye Street Crossing Commercial Center Site Plan
Exhibit G – Drive Approach Property Legal Descriptions and Plats
Exhibit H – Property Values


All notices required or provided for under this Agreement shall be in writing and delivered in person or sent by certified mail, postage prepaid. Notice required to be given to the City shall be addressed as follow:

   John Lollis, City Manager
   City of Porterville
   291 North Main Street
   Porterville, CA 93257

Notices required to be given to Developer shall be addressed as follows:

   John Hale, JLH Properties
   2200 Pine Street
   Bakersfield, CA 93361

A party may change its address for notice by giving notice in writing to the other party and thereafter notices shall be addressed and transmitted to the new address.

[SIGNATURES ON NEXT PAGE]
IN WITNESS WHEREOF this Agreement has been executed by the parties on the day and year first above written.

CITY OF PORTERVILLE

By: __________________________
    Pete V. McCracken, Mayor

ATTEST:

________________________________________
John Lollis, City Clerk

APPROVED AS TO FORM

________________________________________
Julia Lew, City Attorney

DEVELOPERS

JLH Properties, LLC
A California Limited Liability Corporation

By: __________________________
    John S. Hale

Michael R. Tolladay

By: __________________________
    Michael R. Tolladay

Terry A. Tolladay

By: __________________________
    Terry A. Tolladay

CZEM, LLC
A California Limited Liability Corporation

By Aztec Mustang, a California Limited Liability Corporation, its Managing Member

By: __________________________
    David W. Mossman

Its: Managing Member
EXHIBIT A

LEGAL DESCRIPTION OF PROPERTY AND PLATS
EXHIBIT "A"
LEGAL DESCRIPTION

Parcel 1

Hale, Tolladay & CMEZ Property
APN 260-300-017

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

COMMENCING AT the South quarter corner of said Section 35;

THENCE, North 13° 56' 21" East, 267.89 feet, to the POINT OF BEGINNING, said point also being on the northerly right of way line of State Route 190 as shown on that certain unrecorded State Highway Map dated February 1965 on file at the Tulare County Surveyor's Office;

THENCE, South 81° 04' 48" East, along said northerly right of way line, 291.15 feet;

THENCE, departing from said northerly line, North 00° 18' 04" East, 479.90 feet to the beginning of curve, concave southwesterly, having a radius of 60.00 feet;

THENCE, northwesterly along said curve, through a central angle of 90° 07' 13", an arc length of 94.37 feet;

THENCE, North 89° 49' 09" West, 222.87 feet to a point on the easterly right of way line of Jaye Street as shown on that certain Record of Survey filed in Book 11 of Licensed Surveys, at page 58, in the office of the Tulare County Recorder;
THENCE, South 01°12’ 53” West, along said easterly right of way line, 470.12 feet to the easterly prolongation of the northerly right of way line of said State Route 190;

THENCE, North 88° 47’ 02” West, along said easterly prolongation, 19.73 feet to a point on said northerly right of way line;

THENCE, South 40° 20’ 13” East, along said northerly right of way line, 34.33 feet, to the POINT OF BEGINNING.

Parcel 2

Hale, Tolladay & CMEZ Property
APN 260-300-009

Those portions of Lots 48, 49 and 50 of Pleasant Grove Tract, in the City of Porterville, County of Tulare, State of California, as per map recorded in Volume 9 of Maps, at page 1, in the office of the County Recorder of Tulare County, more particularly described as follows:

BEGINNING at the intersection of the southerly line of Springville Avenue, formerly known as Oak Grove Avenue (locally known as Avenue 146), as said Avenue is shown 60 feet wide on said map, with the easterly line of that certain strip of land, 100 feet wide, conveyed to the County of Tulare by Deed recorded February 3, 1965 in Book 2567, page 65 of Official Records, in the office of the County Recorder of said County;

THENCE, along said southerly line, North 87° 11’ East, 722.82 feet;
THENCE, South 02° 35’ East, 450 feet;

THENCE, along a line that is parallel with said southerly line, South 87° 11’ West, 729.18 feet, more or less, to a point in the
easterly line of said strip of land, 100’ wide, as conveyed to the County of Tulare by above mentioned Deed;

*THENCE*, along said easterly line, North 01° 46’ 25” West, 450.07 feet, more or less, to the *POINT OF BEGINNING*;

*End of Description*
EXHIBIT B

PROJECT APPROVALS

The land use entitlements and approvals which have heretofore be granted by the City for the Project on the Effective Date are attached (Resolution No. 8-200, Resolution No. 9-2007, Ordinance No. 1714, Resolution No. 48-2008, Resolution No. 49-2008, Resolution No. 565, and Resolution No. 566).
RESOLUTION NO. 8-2007

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS IN SUPPORT OF CERTIFICATION OF AN ENVIRONMENTAL IMPACT REPORT FOR GENERAL PLAN AMENDMENT 1-2007 (FORMERLY 1-2006 (A)) AND ZONE CHANGE 3-2007 (FORMERLY 1-2006) FOR THAT 10.7± ACRE VACANT SITE LOCATED ON THE NORTHEAST CORNER OF SOUTH JAYE STREET AND STATE ROUTE 190

WHEREAS: The Final Environmental Impact evaluates the development and land use changes necessary to facilitate the development of a 10.7± acre site with a 75,000± square foot shopping center;

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of February 7, 2006, conducted a public hearing to consider General Plan Amendment 1-2007 and Zone Change 3-2007 for that 10.7± acre vacant site located on the northeast corner of South Jaye Street and State Route 190, and

WHEREAS: General Plan Amendment 1-2007, proposes to change the land use map of the Land Use Element of the General Plan from Industrial to General Commercial; and

WHEREAS: Zone Change 3-2007 proposes to change the present zoning from M-1 (Light Manufacturing) to C-2 "D" (General Commercial with Design Review Overlay) Zone contingent upon approval of General Plan Amendment 1-2007; and

WHEREAS: Development of a 75,000± square foot commercial center was evaluated in the Environmental Impact Report and will subsequently be brought to the City Council for approval. Prior to the applicant/agent submitting any final map or Conditional Use Permit for processing, General Plan Amendment 1-2007, and Zone Change 3-2007 would have to be approved; and

WHEREAS: A reconnaissance-level field survey was conducted on September 10, 2004 by Quad Knopf biologist James W. Jones, Jr. to determine whether special-status plant and animal species occur on an area which includes the subject site (area between State Route 190 to the south, Springville Avenue to the north, Jaye Street to the west and an existing Home Depot store and vacant lot to the east) or if habitats for such species are present in the project area. No Elderberry shrubs, wetland habitat, or Kit Fox dens were found to exist on the subject site. The biological study was included by reference into the Initial Study for this project; and

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

1. That an Environmental Impact Report was prepared in accordance with the California Environmental Quality Act.
2. That the subject project will not create unmitigatable adverse environmental impacts.

The Environmental Impact Report was evaluated in light of the prepared technical reports, comments from interested parties and the public, as well as responses to written comments received during the review period. It was determined that potential impacts associated with the proposed project could be mitigated to a less than significant level through the implementation of the attached mitigation measures.

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

4. That the Environmental Impact Report prepared for this project was made available for public review and comment for a thirty (30) day review period from November 11, 2005 to December 11, 2005. The agencies and parties that responded were: Matthew Francois, Esq. of Cassidy Shimko Dawson Kawakami; Porterville Parks and Leisure Services; California Department of Water Resources Floodway Protection Section; Caltrans District 6, Office of Transportation Planning; and the San Joaquin Valley Air Pollution Control District. Comments were received at the public hearing in December from John Hale, Daryl Nicholson, Greg Shelton, Ben Ennis, Boyd Leavitt, Dick Eckhoff, and Felipe Martinez. All comments have been responded to in the Final EIR.

5. That the mitigation measures contained in the Environmental Impact Report were incorporated into a Mitigation Monitoring Program attached hereto as Attachment A.

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

The reconnaissance-level field survey conducted on September 10, 2004 by Quad Knopf biologist James W. Jones, Jr. determined that there are no Elderberry shrubs, wetland habitat, or Kit Fox dens located on the subject site. Potential impacts to migratory birds associated with the removal of one oak tree on site will be mitigated as described in the mitigation monitoring reporting program or will be avoided through incorporation of the oak tree into site design.

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

8. That the analysis prepared for this project supporting the Environmental Impact Report reflects the independent judgment of the City of Porterville.

9. The developer/applicant shall comply with all mitigation measures adopted as a component of the approval of the Environmental Impact Report for this project. The
developer/applicant will be required to sign a document committing to comply with the adopted mitigation measures prior to any construction on the site.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve the Environmental Impact Report prepared for General Plan Amendment 1-2007 and Zone Change 3-2007, and that the mitigation measures defined in Attachment A shall be implemented by the applicant or his/her successors with project implementation.

Cameron Hamilton, Mayor

ATTEST:
John Longley, City Clerk

By Georgia Hawley, Chief Deputy City Clerk
<table>
<thead>
<tr>
<th>Impact Number</th>
<th>Developer Initial</th>
<th>Responsible Party</th>
<th>Mitigation Measure</th>
<th>City Approval</th>
<th>Time Span</th>
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</thead>
<tbody>
<tr>
<td>Impact #3.1.1: Visual Compatibility</td>
<td></td>
<td>City of Porterville</td>
<td>Mitigation Measure #3.1.1: The north and west elevations of the Porterville Commercial Center will be designed to minimize views of urban development and will be landscaped with trees and shrubbery. A licensed landscape architect will design a landscaping plan to achieve these goals. Outdoor billboards shall be excluded from the site. The design and appearance of retail stores, restaurants, and fueling station structures shall be in conformance with the City’s Building codes.</td>
<td>Completed prior to issuance of building permit.</td>
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<td>Impact #3.1.2: Light and Glare</td>
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<td>City of Porterville</td>
<td>Mitigation Measure #3.1.2: A lighting plan will be developed by a registered illumination engineer so that lighting levels comply with generally accepted standards. Lighting will be designed to avoid direct exposure of lighting elements and associated glare into adjacent areas. No more than a 0.25 footcandle increase shall be detected offsite on adjacent properties.</td>
<td>Completed prior to issuance of building permit.</td>
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<td>Impact #3.3.1: PM$_{10}$ From Construction Activities</td>
<td>San Joaquin Valley Air Pollution Control District</td>
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<td>* Mitigation Measure #3.3.1: The optional dust control measures in Tables 3.3-4 and 3.3-5 will be implemented. Enhanced Control Measures – The following measures should be implemented at construction sites when required to mitigate significant PM$_{10}$ impacts (note these measures are to be implemented in addition to Regulation VIII requirements) * Limit traffic speeds on unpaved roads to 15 mph; and * Install sandbags or other erosion control measures to prevent silt runoff to public roadways from sites with a slope greater than one percent. Additional Control Measures – The following control measures are strongly encouraged at construction sites that are large in area, located near sensitive receptors, or which for any other reason warrant additional emissions reduction. * Install washers for all exiting trucks, or wash off all trucks and equipment leaving the site * Install wind breaks at windward side(s) of construction areas * Suspend excavation and grading activity when winds exceed 20 mph; and * Limit area subject to excavation, grading, and other construction activity at any</td>
<td>During construction period</td>
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<td><em>Regardless of windspeed, an owner/operator must comply with Regulation VIII's 20 percent opacity limitation.</em></td>
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<td>Source: San Joaquin Valley Unified Air Pollution Control District, Guide for Assessing and Mitigating Air Quality Impacts, January 2002</td>
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<td>Heavy duty equipment (scrapers, graders, trenchers, earth movers, etc.)</td>
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<td><em>Use of alternative fueled or catalyst equipped diesel construction equipment</em></td>
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<td><em>Minimize idling time (e.g., 10 minute maximum)</em></td>
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<td><em>Limit the hours of operation of heavy duty equipment and/or the amount of equipment in use</em></td>
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<td><em>Replace fossil-fueled equipment with electrically driven equivalents (provided they are not run via a portable generator set)</em></td>
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<td><em>Curtail construction during periods of high ambient pollutant concentrations; this may include ceasing of construction activity during the peak-hour of vehicular traffic on adjacent roadways</em></td>
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<td><em>Implement activity management (e.g. rescheduling activities to reduce short-term impacts)</em></td>
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<td>Source: San Joaquin Valley Unified Air Pollution Control District, Guide for Assessing and Mitigating Air Quality Impacts, January 2002</td>
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<td>Impact #3.4.1:</td>
<td>City of Porterville</td>
<td>Mitigation Measure #3.4.1: The nesting season for avian predators and other migratory birds generally occurs sometime between February 1 and September 15. A pre-construction survey for migratory birds will be conducted prior to construction. If nesting is occurring, construction activities within 250 feet of the nest will not occur.</td>
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<td>Special Status</td>
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<td>Species – Migratory Birds</td>
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<td>Impact #3.5.1:</td>
<td>City of Porterville</td>
<td>Mitigation Measure #3.5.1: Should buried cultural resources be discovered during construction, the project contractor shall immediately halt all work within 50-feet of the find until a qualified professional archaeologist can be consulted to evaluate the find and implement appropriate mitigation measures. Should human skeletal remains be encountered, State law requires immediate notification of the County Coroner. Should the County Coroner determine that such remains are in an archaeological context, the Native American Heritage Commission in Sacramento shall be notified immediately, pursuant to State law, to arrange for Native American</td>
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Porterville Commercial Center
Final Environmental Impact Report

January 2006
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<tr>
<td>#3.11.1: Construction Noise</td>
<td>City of Porterville</td>
<td>Mitigation Measure #3.11.1: Noise producing equipment used during construction shall be restricted to the hours from 7:00 a.m. to 7:00 p.m., Monday through Friday, and 9:00 a.m. to 6:00 p.m. on Saturday and Sunday. Also, effective mufflers shall be fitted to gas- and diesel-powered equipment.</td>
<td>Before opening day of project.</td>
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<td>#3.15.1: Increased Traffic</td>
<td>City of Porterville</td>
<td>Mitigation Measure #3.15.1: The following mitigation measures are recommended to reduce traffic impacts to a less than significant level: Under &quot;Existing plus Approved/Pending Projects plus Project Only&quot; conditions, the following mitigation measures are recommended: 1. <em>Springville Avenue/Jay St</em> intersection: Install a traffic signal. This intersection is projected to operate at LOS &quot;P&quot; conditions during the AM and PM peak hour periods. This is a result of vehicles experiencing long periods of delay on Springville Avenue (minor street) while waiting for a &quot;gap&quot; to enter or cross Jaye Street (major street). This intersection is also projected to meet the Caltrans' Peak-Hour Volume Warrant 11 for urban areas. Implementation of the recommended mitigation measure will result in LOS &quot;B&quot; conditions during the AM and PM peak hour periods. 2. <em>Vandalia Avenue/Jaye Street</em> intersection: Install a traffic signal and widen the southbound approach to accommodate a dedicated left turn lane. This two-way stop-controlled intersection, which currently provides access to a home improvement store and garden center, is projected to operate at LOS &quot;P&quot; conditions during the AM and PM peak hour periods under this scenario. This intersection is also projected to meet the Caltrans' Peak-Hour Volume Warrant 11 for urban areas. Implementation of the recommended mitigation measure will result in LOS &quot;C&quot; conditions during the AM and PM peak hour periods. 3. <em>State Route 190/Jaye Street</em> intersection: Widen the southbound approach of this signalized intersection to include dual right turn lanes. Under &quot;Existing plus Approved/Pending Projects&quot; conditions this intersection is projected to operate at LOS &quot;E&quot; conditions during the PM peak hour period. With the implementation of the recommended mitigation measures, this intersection is projected to operate at LOS &quot;D&quot; conditions during the AM and PM peak hour periods.</td>
<td>Before opening day of project.</td>
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<td>City of Porterville</td>
<td>Mitigation Measure #3.15.2: The following mitigation measures are recommended to reduce traffic impacts to a less than significant level.</td>
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<td>Before opening day of project</td>
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4. *Project Driveways:* It is recommended that the project driveways along Springville Avenue contain shared movements as shown in Figure 8. The project driveway on Jaye Street between State Route 190 and Vandalia Avenue is recommended to be a “right turn only” driveway and should provide for a deceleration lane no less than 100 feet in length.

For recommended phasing of these mitigation measures please refer to the TIS (Appendix H).

5. *Springville Avenue/Jaye Street intersection:* Install a traffic signal. This intersection is projected to operate at LOS “F” conditions during the AM and PM peak hour periods. This is a result of vehicles experiencing long periods of delay on Springville Avenue (minor street) while waiting for a “gap” to enter or cross Jaye Street (major street). This intersection is also projected to meet the Caltrans’ Peak-Hour Volume Warrant 11 for urban areas. Implementation of the recommended mitigation measure will result in LOS “B” conditions during the AM and PM peak hour periods.

6. *Vandalia Avenue/Jaye Street intersection:* Install a traffic signal and widen the southbound approach to accommodate a dedicated left turn lane. This two-way stop-controlled intersection, which currently provides access to a home improvement store and garden center, is projected to operate at LOS “F” conditions during the AM and PM peak hour periods under this scenario. This intersection is also projected to meet the Caltrans’ Peak-Hour Volume Warrant 11 for urban areas. Implementation of the recommended mitigation measure will result in LOS “C” conditions during the AM and PM peak hour periods.

7. *State Route 190/Jaye Street intersection:* Widen the southbound approach of this signalized intersection to include dual right turn lanes. Under “Existing...
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<td>plus Approved/Pending Projects’ conditions this intersection is projected to operate at LOS “E” conditions during the PM peak hour period. With the implementation of the recommended mitigation measures, this intersection is projected to operate at LOS “D” conditions during the AM and PM peak hour periods.</td>
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<td>8. <em>Project Driveways:</em> It is recommended that the project driveways along Springville Avenue contain shared movements as shown in Figure 8. The project driveway on Jaye Street between State Route 190 and Vandalia Avenue is recommended to be a “right turn only” driveway and should provide for a deceleration lane no less than 100 feet in length.</td>
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<td>For recommended phasing of these mitigation measures please refer to the TIS (Appendix II).</td>
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*Porterville Commercial Center*

*Final Environmental Impact Report*

*January 2006*
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 20th day of February, 2007.

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

<table>
<thead>
<tr>
<th>Council:</th>
<th>McCracken</th>
<th>P. Martinez</th>
<th>F. Martinez</th>
<th>Hernandez</th>
<th>Hamilton</th>
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<td>AYES</td>
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<td>ABSTAIN</td>
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JOHN LONGLEY, City Clerk  

[Signature]

by Patrice Hildreth, Deputy City Clerk
RESOLUTION NO. 9-2007

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
APPROVING GENERAL PLAN AMENDMENT 1-2007 (FORMERLY 1-2006 (A)) WHICH
PROPOSES TO CHANGE THE LAND USE DESIGNATION FROM INDUSTRIAL TO
GENERAL COMMERCIAL FOR THAT 10.7± ACRE VACANT PARCEL LOCATED ON
THE NORTHEAST CORNER OF SOUTH JAYE STREET AND STATE ROUTE 190

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of
February 20, 2007, conducted a public hearing to consider General Plan Amendment 1-2007 to
change the land use map of the Land Use Element of the General Plan from Industrial to General
Commercial for that 10.7± acre vacant site located at the northeast corner of South Jaye Street and
State Route 190; and

WHEREAS: In conjunction with General Plan Amendment 1-2007, Zone Change
3-2007 proposes to change the present zoning for the same site from M-1 (Light Manufacturing) to
C-2 "D" (General Commercial with a Design Review Overlay); and

WHEREAS: Development of a 75,000± square foot commercial center was evaluated in the
Environmental Impact Report and will subsequently be brought to the City Council for approval
pending the outcome of the Council action on the General Plan Amendment and Zone Change; and

WHEREAS: The City Council received testimony from all interested parties relative to the
General Plan Amendment; and

WHEREAS: The City Council made the following findings:

1. That the proposed General Plan Amendment is consistent with the goals and policies
   of the General Plan.

1.1 Well balanced land use pattern, with compatibility among adjacent uses,
    satisfying the economic, social and environmental requirements of the
    community.

1.3 Primary retail trade center for a large market area,

3.1 The distribution and intensity of land uses in the community shall conform to
    the Land Use and Circulation Plan.

2. The amendment to the Land Use Element of the General Plan from Industrial to
   General Commercial with the associated Zone Change 1-2006 from M-1 (Light
   Manufacturing) to C-2 'D' (General Commercial with Design Review Overlay) will
   allow for future development of the site to be in conformance with the General Plan
   and Zoning Ordinance and in a manner that is compatible with surrounding land uses.
3. That an Environmental Impact Report was prepared for this project in accordance with the California Environmental Quality Act indicating that such will not have a significant effect on the environment and that implementation of the projects will comply with the recommended mitigation measures.

NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve General Plan Amendment 1-2007 (formerly 1-2006 (A)) being an amendment to the Land Use Element of the General Plan as described above.

Cameron Hamilton, 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
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JOHN LONGLEY, City Clerk

[Signature]

by Patrice Hildreth, Deputy City Clerk
ORDINANCE NO. 1714

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
APPROVING ZONE CHANGE 3-2007 (FORMERLY 1-2006) FROM M-1 (LIGHT
MANUFACTURING) TO C-2 "D" (GENERAL COMMERCIAL DESIGN REVIEW
OVERLAY) FOR THAT 10.7± ACRE VACANT SITE LOCATED ON THE
NORTHEAST CORNER OF SOUTH JAYE STREET AND STATE ROUTE 190

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of
February 20, 2007, conducted a public hearing to consider General Plan Amendment 1-2007 and Zone
Change 3-2007 for that 10.7± acre vacant site located on the northeast corner of South Jaye Street and
State Route 190; and

WHEREAS: General Plan Amendment 1-2007, proposes to change the Land Use
Element of the General Plan from Industrial to General Commercial; and

WHEREAS: In conjunction with General Plan Amendment 1-2007, Zone Change 3-2007
proposes to change the present zoning for the same site from M-1 (Light Manufacturing) to C-2 “D”
(General Commercial with a Design Review Overlay); and

WHEREAS: Development of a 75,000± square foot commercial center was evaluated in the
Environmental Impact Report and will subsequently be brought to the City Council for approval
pending the outcome of the Council action on the General Plan Amendment and Zone Change; and

WHEREAS: The City Council of the City of Porterville, after proceedings duly had and taken,
and after due and legal notice having been given, as prescribed by Ordinance 1198 of the City of
Porterville, and the laws of the State of California, has determined that the public interest would best
be served by approval of Zone Change 3-2007; and

WHEREAS: The City Council made the following findings in support of the approval of Zone
Change 3-2007:

1. The Land Use Element of the General Plan (General Plan Amendment 1-2007),
   through the proposed change, designates the subject site for General Commercial uses.

2. That the proposed zoning to C-2 “D” (General Commercial with Design Review
   Overlay) for the subject site is consistent with the proposed General Plan designation.

3. That all uses listed in Article 8 of the Porterville Zoning Ordinance will be allowed in
   the C-2 “D” (General Commercial with a Design Review Overlay) Zone subject to all
   other laws, rules and regulations.
4. That an Environmental Impact Report was certified for this project in accordance with the California Environmental Quality Act and mitigation measures incorporated into the approval will be precedent to project implementation.

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

NOW, THEREFORE, BE IT ORDAINED: That the City Council of the City of Porterville does ordain as follows:

Section 1: Zone Change 3-2007 is contingent upon approval of General Plan Amendment 1-2007; and

Section 2: That the following described property in the City of Porterville, County of Tulare, State of California, known as Zone Change 3-2007, is hereby re-zoned from M-1 (Light Manufacturing) to C-2 “D” (General Commercial with a Design Review Overlay) for that 10.7± acre vacant site located on the northeast corner of South Jaye Street and State Route 190, more particularly shown on the attached map, incorporated herein by this reference as Exhibit “A” subject to prior approval of General Plan Amendment 1-2007; and

Section 3: It is further ordained that all records of the City of Porterville, together with the official zoning map of the City of Porterville, shall be changed to show that all of the above described real property is re-zoned from M-1 (Light Manufacturing) to C-2 “D” (General Commercial with a Design Review Overlay) for that 10.7± acre vacant site located on the northeast corner of South Jaye Street and State Route 190; and

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

Cameron Hamilton, Mayor

ATTEST:
John Longley, City Clerk

Georgia Hawley, Chief Deputy City Clerk
I, JOHN LONGLEY, the duly qualified City Clerk of the City of Porterville do hereby certify:

THAT the foregoing ordinance is a true and correct copy of Ordinance No. 1714, passed and adopted by the Council of the City of Porterville at a regular meeting held on the 6th day of March, 2007, that said ordinance has been duly published pursuant to law, and that by the terms and provisions of the Charter of the City of Porterville, said ordinance to become effective on April 5, 2007, at which time said ordinance is deemed to be in full force and effect.

THAT said ordinance was introduced by Council and the same was duly passed and adopted by the following vote:

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<th>COUNCIL:</th>
<th>McCracken</th>
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JOHN LONGLEY, City Clerk

By: Patrice Hildreth, Deputy City Clerk
RESOLUTION NO. 48-2008


WHEREAS, Ennis Commercial Properties, LLC and the City of Porterville, hereinafter referred to as "Developers" agreed to share financially for the public street improvements and underground utilities associated with the development of Riverwalk Marketplace Commercial Center and Jaye Street Crossings Commercial Center outlined in their respective Environmental Impact Documents. The improvements will serve all properties on both sides of Jaye Street generally between Springville Avenue and State Route 190 in the City of Porterville, County of Tulare, State of California, as shown on the locator map (Exhibit "A") attached hereto and hereby made a part hereof; and

WHEREAS, Developers have a financial interest in the property along the east side of Jaye Street between Springville Avenue and State Route 190; and

WHEREAS, Developers have paid the entire cost of said street improvements and underground utilities serving the commercial property east of Jaye Street between Springville Avenue and State Route 190 as shown in the tabulations contained in Exhibit "B", which is attached hereto and made a part hereof; and

WHEREAS, said street improvements and underground utilities have been constructed and completed in conformity with all agreements, laws, regulations, and ordinances of the City of Porterville and the same has been constructed and completed in such a manner that the same will serve present and future owners of the property adjacent to said street improvements and underground utilities as indicated on Exhibit "A", in the City of Porterville, County of Tulare, State of California; and

WHEREAS, John S. Hale, Michael R. Tolladay and CZEM, LLC ("Owners") own the approximately 10 acre portion of land generally located east of Jaye Street between State Route 190 and Springville Avenue (Assessor Parcel Numbers 260-300-008 and 260-300-017) (the "Property"); and

WHEREAS, the Owners have applied to develop the Property as a retail center known as the Jaye Street Crossings Commercial Center (the "Project"); and

WHEREAS, the Owners have not paid, assumed or discharged any of the costs in connection with the construction of the street improvements and underground utilities listed on Exhibit "B" that are needed in connection with development of the Project;
NOW THEREFORE, BE IT RESOLVED, that at the time of issuance of a building permit for development of the Property, the Owners, or their successor(s), shall pay the proportional cost of an amount not to exceed $1,135,242.04 for the improvements listed in Exhibit "B" based on the acreage of the Property then proposed for development.

ADOPTED this 3rd day of June, 2008

Cameron Hamilton, Mayor

ATTEST:
John Longley, City Clerk

Patrice Hildreth, Chief Deputy City Clerk
**EXHIBIT "B"**

Jayne Street and State Route 190 Public Improvements,
associated with the Riverwalk Marketplace Commercial Center
and Jayne Street Crossings Commercial Center - Public Improvements Agreement
between City of Porterville and Smith Commercial Properties, LLC

<table>
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<tr>
<th>Assessor Parcel</th>
<th>Jayne Street Crossings Financial Share of Bid Proposal No.1</th>
<th>Jayne Street Crossings Financial Share of Bid Proposal No. 3</th>
<th>Jayne Street Crossings Financial Share of State Route 190 Bid</th>
<th>Jayne Street Crossings Future Financial Share of the State Route 190 / Plano Street Intersection</th>
<th>Total Reimbursement Amount*</th>
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<tr>
<td><strong>200-300-009 (7.51 Acres)</strong></td>
<td>$476,413.58</td>
<td>$53,928.81</td>
<td>$213,628.16</td>
<td>$37,226.96</td>
<td>$781,454.41</td>
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<tr>
<td><strong>200-300-017 (0.40 Acres)</strong></td>
<td>$215,000.00</td>
<td>$24,415.17</td>
<td>$98,960.46</td>
<td>$16,860.43</td>
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<td>$691,413.58</td>
<td>$78,343.98</td>
<td>$312,588.62</td>
<td>$54,087.39</td>
<td>$1,135,242.04</td>
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*OEI Estimate for State Route 190/Plano Street Intersection is $718,565.56 - Jayne Street Crossing Fair Share is 7.54%*

** Reimbursement Fees may be proportional to the area of potential phased developments of the herein existing Assessor Parcel.**
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 3rd day of June, 2008.

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

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JOHN LONGLEY, City Clerk

[Signature]

By: Patrice Hildreth, Chief Deputy City Clerk
RESOLUTION NO. 49-2008

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE CONTAINING FINDINGS AND CONDITIONS IN SUPPORT OF “D” OVERLAY REVIEW 2-2008 TO FACILITATE THE DEVELOPMENT OF A ±75,000 SQUARE FOOT COMMERCIAL CENTER TO BE LOCATED AT THE NORTHEAST CORNER OF JAYE STREET AND STATE ROUTE 190 IN THE C-2 (D) (CENTRAL COMMERCIAL – DESIGN OVERLAY REVIEW) ZONE

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of June 3, 2008, reviewed and considered “D” Overlay Site Review 2-2008, to facilitate development of a ±75,000 square foot commercial center to be located at the northeast corner of Jaye Street and State Route 190 in the C-2 (D) (Central Commercial – “D” Overlay Site Review) Zone; and

WHEREAS: On February 7, 2007 the City Council adopted Resolution 8-2007 certifying the Final Environmental Impact Report evaluating the development, mitigation measures and land use changes necessary to facilitate the development of a ±10.7 acre site with a ±75,000 square foot shopping center.

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

1. That the proposed project is consistent with the General Plan (designated as Retail Centers) and Zoning for the site (C-2 (D) Central Commercial – Design Overlay Site Review).

2. That the design and architectural features of the project are compatible with that of surrounding uses. The commercial center is located along Jaye Street, Vandalia Avenue and Springville Avenue with access from those streets. The landscaping and pedestrian access has been designed for appeal, convenience and ease of access. The colors and tones of materials used are neutral and blend and transition well with the surrounding uses.

3. That the site area, dimensions, site coverage, yard spaces, height of structures, distance between structures, off-street parking facilities, and landscaping areas either meet or exceed the minimum requirements which 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 Design Review Site Overlay 2-2008 subject to the following conditions:
1. That the project shall be constructed in accordance with the approved plans and elevations, attached and incorporated herein by reference as Attachments 4-10 to the staff report. Prior to making any modification of exterior design, materials or colors, plans and/or color samples showing the proposed modifications shall be submitted to the Zoning Administrator for approval, and any modifications shall comply with the approved building plans.

Additionally, the architectural design of buildings “C, G, Major A, and Major B” shall be approved by consent of the City Council if the design is architecturally compatible and in compliance with all applicable codes. A unified theme shall be established and maintained for all buildings, signage and accessory amenities to be constructed within the commercial center.

2. The developer is required to implement all mitigation measures incorporated into the project approval as contained in the certified Final EIR (Resolution 8-2007) for the project. A copy of the mitigations measures is attached.


4. 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 65020(a). You have 90 days from the date fees are paid to file a written protest.

5. The developer/applicant shall convey right of way along Jaye Street and Springville Avenue consistent with the fully executed Right of Entry dated August 21, 2007. The developer/applicant shall also convey additional right of way for the drive approaches constructed on the east side of Jaye Street, north and south of Vandalia Avenue. The City will pay the applicant the fair market value for the right of way described in the Right of Entry dated August 21, 2007 and the additional right of way necessary for the constructed Jaye Street drive approaches.

6. The developer/applicant shall comply with Appendix J 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. Staff is requesting that the parking lot be designed to convey water to the City drainage system without crossing driveways.
7. The developer/applicant shall provide a Preliminary Soils Report in accordance with the City's Municipal Code and Standard Specifications prior to issuance of building permits.

8. The developer/applicant shall construct the remaining Springville Avenue frontage improvements in accordance with the adopted Circulation Element and City Standards (arterial width standards) upon development of the northern vacant parcel (APN-260-300-009).

9. The developer/applicant shall construct a looped water system that provides fire flow in accordance with the California Fire Code upon development of the property.

10. The developer/applicant shall repair previously constructed street frontage improvements in accordance with City Ordinance No. 1306. The ordinance will become effective once the Jaye Street Corridor Project guarantees lapse.

11. The developer/applicant shall pay their "Pro Rata" share of all off-site road improvements, including project related traffic signals, modifications to the State Route 190/Jaye street intersection and proportional share of the future State Route 190/Plano Street intersection improvements, as defined in the traffic study (Omni- Means, November 2005) or as otherwise mutually agreed upon by all parties and returned to the City Council for approval. A Reimbursement Agreement, adopted by City Council, shall act as the instrument that describes in detail how the developer or assignees will reimburse the City for the completed improvements described in said traffic study.

12. The developer/owner shall proportionally reimburse the City for constructed frontage improvements serving the subject development should the property develop in phases. The formula is as follows:

\[
\text{Phased development (acres)/Entire Commercial Site (acres) x "Pro Rata" Share ($)} = \text{Reimbursement amount}
\]

The "Pro Rata" share will be defined after City Council accepts the completed off-site improvements related to this commercial development and the adjacent westerly commercial project. Staff anticipates an April 15, 2008 acceptance date.

13. Developer/applicant shall pay their proportional share of the sidewalk constructed along Jaye Street, Kessing Street, Poplar Avenue, Vandalia Avenue, and Springville Avenue. The project will require the extension of Springville Avenue sidewalk to the eastern property line.

14. Prior to issuance of any permits, the developer/applicant shall submit for City review and approval a precise grading and drainage plan and dedicate a drainage
easement across each lot requiring an easement, unless all lots are graded to drain to the street (C.C. Sec. 21-50).

15. The developer/applicant is advised that he is obligated to comply with the National Pollutant Discharge Elimination System (NPDES) General Permit No. CAS000002 for discharge of Storm Water Associated with construction activity will be required (except operations that result in disturbance of less than one acre of total land area and which are not a part of a larger common plan of development or sale). Before construction begins, the proponent must submit a Notice of Intent (NOI) to comply with the permit, a site map, and appropriate fee to the State Water Resources Control Board (SWRCB). The proponent must also prepare a Storm Water Pollution Prevention Plan (SWPPP) for the entire project before construction begins. The SWPPP must contain 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.

17. 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.

18. 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.

19. The developer/applicant shall move utility structures that exist within the current and ultimate rights of way (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).

20. 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. 16000 H.P.S.V. street lights are to be installed along the south side of Springville Avenue at 320 foot intervals. 9500 H.P.S.V. street lights shall be installed along the both sides of Vandalia Avenue at maximum spacing of 160 feet and on the west side Kessing Street at a maximum spacing of 320 feet.

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

22. Provide a barrier curb or other physical barrier acceptable to the Community Development Director between the developed portions of the site and the undeveloped portions of the site. No parking or vehicular circulation is allowed on unpaved portions of the site.

23. 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 on-site water mains and fire hydrants for systems not isolated by a detector check valves. Otherwise, the developer/applicant shall construct the pipe
connecting to on-site fire hydrants to City water main standards, detector check included, and shall provide easements for maintenance of the fire hydrants only.

24. 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.).

25. 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.

26. The developer/applicant shall comply with Ordinance No. 1288 regarding Waste Water Discharge requirements and shall complete and submit a Wastewater Discharge Permit Application, Part “A”. 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.

27. If hazardous materials are to be stored in jurisdictional quantities anywhere on the property, the developer/applicant shall develop and maintain a Hazardous Materials Business Plan Program, follow Chapter 6.95 of the Health and Safety Code, and shall tell the Hazardous Materials Unit of the Tulare County Division of Environmental Health.

The developer/applicant shall provide proof of compliance with County requirements before issuance of a certificate of occupancy.

28. If underground storage tank(s) are to be used for storage of hazardous substances, the developer/applicant shall follow California Health and Safety Code, Division 20, Chapter 6.7, Section 25280 through 25299.6, governing the underground storage of hazardous substances prior to issuance of Certificate of Occupancy.

29. 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.

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

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

32. The heritage oak tree at the southeast corner of Jaye & Vandalia is to be retained. An evaluation and report on recommendations for preserving the oak is to be obtained from a qualified arborist. All work within at least twenty-five (25) feet of the trunk is to be included within the arborist evaluation and monitored to ensure the health and vitality of the oak.

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

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

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

36. The owner/applicant is to install trees, approved as City Street Trees, along all public roadway and State Route 190 frontages of the property. The number of trees to be planted shall be equivalent to a minimum of one tree per 35 feet of roadway/highway frontage. The trees are to be a minimum of #15 size specimens incorporated into the designated landscape areas. Root barriers are required for all trees planted within ten feet of public sidewalks. The selection of planting locations, and performance of canopy maintenance for the trees shall be conducted to minimize vehicular sight safety conflicts.

37. Provide consistent landscaping within the area between Kessing and Jaye to provide a minimum of eight (8) feet of planting area for trees and shrubs exceeding four (4) feet in height.

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

39. Provide designated pedestrian routes between all building storefronts, linked to all
roadway frontage public sidewalks, and through parking lots. Pedestrian routes are to be apart from walking within the vehicular travel ways and compliant with Americans with Disability act requirements. Provide for at least 50% shading of site pedestrian routes, within seven years by tree canopies, or approved architectural features. The project must provide low-level illumination of the walkways.

40. Provide bicycle-parking facilities at each building site to encourage employee and patron use, and provide at least one location of bicycle storage lockers for employees of the site businesses.

41. The project must comply with latest applicable codes.

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

43. When a sprinkler system is required all valves controlling the water supply for automatic sprinkler systems and water-flow switches on all sprinkler systems shall be electrically monitored where the number of sprinklers are less than 20.

44. Submit three (3) complete sets of sprinkler and/or fire alarm plans to the Fire Department for review prior to installation.

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

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

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

48. 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.

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

50. 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.
51. All dead-end access roads in excess of 150 feet must be provided with an approved turn-around complying with City Standards.

52. Project must meet minimum fire flow requirements per the table in Appendix B & C of the California Fire Code.

53. 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.

54. A Knox box will be required. An application may be obtained from the Fire Department.

55. Hydrants will be required along streets that do not have structures facing them at a maximum spacing distance of 1000 feet per California Fire Code Appendix C Table C105.1, Note Number c.

56. That architectural detail be included on all building elevations.

57. That all secondary doors facing Jaye Street and Springville Avenue be painted to match the background color of the building wall in which the door is located and public streets.

58. The developer shall incorporate ground cover, shrubs and trees between buildings and public streets to help soften the transition between buildings and the public right-of-way.

59. All mechanical and electrical equipment must be inside the building and/or screened from public view (ex. #30 and #33 from legend) in a manner that is architecturally compatible with the building. Care must be given to screening equipment, and panels.

60. This project shall conform to the C-2 Zone development standards contained in the Porterville Zoning Ordinance Section 800.

61. Exterior materials and colors shall be specified on the architectural elevations submitted to the Building Division for building permits. Samples of these materials and colors shall also be provided at time of building permit submittal and approved by the Zoning Administrator prior to issuance of building permits.

62. Each trash receptacle shall be stored within a trash enclosure so as not to be visible to public view. The location and access of the receptacles shall be clearly shown on the plans submitted for building permits. The Zoning Administrator shall approve of receptacle storage locations prior to the issuance of building permits.
permits. Trash enclosure shall be architecturally treated to blend with the development.

63. Landscaping plans for all of the commonly maintained areas shall be included in the plans submitted for building permits. The Zoning Administrator shall approve the landscaping plans prior to the issuance of building permits.

64. The detailed site landscaping plan shall substantially comply with the conceptual landscape plan shown on Attachment 4B, and 4C, incorporated herein by reference.

65. Construction activities shall be limited to the hours between 7:00 a.m. and 6:00 p.m. Monday through Saturday.

Cameron Hamilton, Mayor

ATTEST:

John Longley, City Clerk

By: Patrice Hildreth, Chief Deputy City Clerk
VESTING TENTATIVE PARCEL MAP 1-2009
RESOLUTION 565
RESOLUTION NO. 565

A RESOLUTION OF THE PORTERVILLE CITY COUNCIL CONTAINING FINDINGS AND CONDITIONS IN SUPPORT OF APPROVAL OF VESTING TENTATIVE PARCEL MAP 1-2009 TO DIVIDE A 7.5± ACRE SITE INTO FOUR (4) PARCELS FOR THAT SITE GENERALLY LOCATED AT THE SOUTHEAST CORNER OF JAYE STREET AND SPRINGVILLE AVENUE NORTH OF STATE ROUTE 190

WHEREAS: The project proponent is requesting approval for Vesting Tentative Parcel Map 1-2009 to divide a 7.5± acre vacant site into four (4) parcels for that site located at the southeast corner of Jaye Street and Springville Avenue north of State Route 190 as follows:

<table>
<thead>
<tr>
<th>Parcel</th>
<th>Acres</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>1.1±</td>
</tr>
<tr>
<td>2</td>
<td>2.25±</td>
</tr>
<tr>
<td>3</td>
<td>1.57±</td>
</tr>
<tr>
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<td>2.58±</td>
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</tbody>
</table>

WHEREAS: On February 7, 2007 the City Council adopted Resolution 8-2007 certifying the Final Environmental Impact Report evaluating the development, mitigation measures and land use changes necessary to facilitate the development of a ±10.7 acre site with a ±75,000 square foot shopping center (Jaye Street Crossing); and

WHEREAS: The City Council of the City of Porterville at its regularly scheduled meeting of June 3, 2008, reviewed and considered “D” Overlay Site Review 2-2008, to facilitate development of a ±75,000 square foot commercial center to be located at the northeast corner of Jaye Street and State Route 190 in the C-2 (D) (Central Commercial – “D” Overlay Site Review) Zone; and

WHEREAS: The Parcel Map Committee held a scheduled public hearing on April 29, 2009. The Committee discussed concerns and conditions relevant to the proposed project. Conditions developed as a result of this meeting and subsequent staff review were discussed with the applicant’s agent and incorporated into the draft resolution of approval; and

WHEREAS: The Parcel Map Committee received testimony from all interested parties relative to the proposed vesting tentative parcel map; and

WHEREAS: The City Council made the following findings:

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

The Land Use Element of the General Plan designates the site for Retail Centers type uses. The subject site is located within the Central Commercial with Design Review Overlay Zone.
2. That the site is physically suitable for the type and density of the proposed development.

3. That the certified Final EIR (Resolution 8-2007) prepared for this project is in compliance with the California Environmental Quality Act.

4. That Resolution 8-2007 adopts a Mitigation Monitoring Plan for the Final EIR for the Jaye Street Crossing commercial development project.

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

6. The proposed project complies with all the requirements of the Subdivision Ordinance.

NOW, THEREFORE, BE IT RESOLVED: That the Parcel Map Committee of the City of Porterville does here by approve Vesting Tentative Parcel Map 1-2009, subject to the following conditions:

1. The proposed vesting tentative parcel map will not require any further environmental review. The Vesting Tentative Parcel Map shall adhere to the Certified EIR (Resolution 8-2007) including all mitigation requirements for the commercial development (Jaye Street Crossing) project. A “Notice of Determination” will be resubmitted to the county for the previously adopted EIR.

2. The map reads “VESTING TENTATIVE PARCEL MAP.”


4. 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.

5. The developer/applicant shall dedicate the right of way necessary for the construction of the required remaining Springville Avenue frontage improvements. Dedications may be conveyed by illustration and processing of the Final Parcel Map or conveyed by a separate legal instrument.
6. Prior to the recording of the Final Map or issuance of building permit, whichever may occur first, the developer/applicant/owner and City shall fully execute an agreement that defines all procedures associated with the conveyance of right of way along Jaye Street and Springville Avenue consistent with the fully executed Right of Entry dated August 21, 2007. This agreement shall specifically reiterate Council Resolution No. 48-2008 and 49-2008, which defines pro-rate share cost of improvements constructed along Jaye Street and Springville Avenue. The developer/applicant shall also convey additional right of way for the drive approaches constructed on the east side of Jaye Street, north of Vandalia Avenue. The City will pay the applicant the fair market value for the right of way described in the Right of Entry dated August 21, 2007 and the additional right of way necessary for the constructed Jaye Street drive approach.

7. Prior to the issuance of a building permit, the developer/applicant shall pay their “Pro Rata” share of all off-site road improvements, including project related traffic signals, modifications to the State Route 190/Jaye street intersection and proportional share of the future State Route 190/Plano Street intersection improvements, as defined by the traffic study prepared by Omni Means and subsequent City Council Resolution No. 48-2008 and Resolution No. 49-2008. The total reimbursement fee for the 7.51 acre property is $781,454.41.

8. The developer/applicant shall dedicate all applicable utility easements in favor of the City of Porterville that are reasonable for the orderly development of the commercial project (Section 21-23).

9. The dedication of easements or any other potential dedications shall be clearly identified on the Parcel Map. A Dedications Statement shall be placed on the map that reads:

“Pursuant to the authority conferred by the City of Porterville, Ordinance No. 1590, adopted February 20, 2001, the undersigned, on behalf of the Public and City Council of the City of Porterville consents to the acceptance and recordation of the dedication(s) as shown on this map.
Dated this _____ day of __________, 20__

By: Michael K. Reed, City Engineer          PLS 7514”
10. A Preliminary Soils Report shall be provided by a Professional Engineering authorized to perform such work. The engineer shall sign a statement on the Final Parcel Map that a Preliminary Soils Report was prepared by him or her and it is on file with the City’s Engineering and Building Division.

11. The developer/applicant shall comply with Appendix J of the California Building Code including the provision of "R-Value" tests and recommendations regarding construction of public improvements, satisfactory to the City Engineer, prior to the start of grading. The developer/applicant shall provide the items indicated below:

   a. Grading Plans and Specifications.
   

12. Prior to approval of a permit or other grant of approval for development of the property, the developer/applicant shall comply with or provide plans that comply with City Retaining Wall Standards at Lot Lines (adopted by City Council January 3, 1989).

13. Prior to issuance of a certificate of occupancy for any pad or as otherwise set forth in a Development Agreement, the developer/applicant shall provide improvements by the method indicated below:

   a. Construct or provide surety for construction of curb, gutter, connecting pavement, street safety signs, pavement markings, sidewalk, wheelchair ramp(s), streetlights, etc. along full Springville Avenue frontage per City Council Adopted Resolution No. 49-2008.
   
   b. Construct or provide surety for the installation of street lights along the north side of Vandalia Avenue per City Council Adopted Resolution No. 49-2008.
   
   c. Installation of required on site improvements, including those improvements in the opinion of the City Engineer needed for the orderly development of the adjacent property.
   
   d. Simultaneously recording of a separate legal instrument or placement of a statement of the Final Map, if appropriate, that reads as follows:

   "In accordance with Section 66411.1 of the Government Code, the construction of on-site improvements, such as, but not limited to, utilities, grading, parking lot improvements, well abandonment (if any), removal of irrigation lines (if any), etc. has been deferred until such time as a permit or other grant of approval for development of the parcel is issued. Such construction may be phased when only a portion of the parcels shown herein receive such approval. The phased construction shall consist of all
improvements related to the specific parcels plus that required to make the installed improvements properly function.”

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. Prior to recording the final map, the developer/applicant shall provide easements, permits, calculations, etc., if, in the opinion of the City Engineer, they are needed for the proper functioning or phasing of the development (e.g., water, sewer, drainage, "turn arounds", etc.). If the City Engineer determines that construction of improvements is needed to protect public health and safety or for orderly development of the surrounding area, the developer/applicant shall construct or provide a surety for said improvements.

16. To the fullest extent allowed by law, the Vesting Tentative Parcel Map (Exhibit A) shall comply and be consistent with the conditions of approval for the Jaye Street Crossing commercial development Design Review Overlay 2-2008 approved by Resolution 49-2008.

17. The Vesting Tentative Parcel Map (Exhibit A) shall adhere to the certified Final EIR approved by City Council for the Jaye Street Crossing commercial project (Resolution 8-2007).

18. Access to and from Jaye Street shall be limited to the existing driveway as shown on the Vesting Tentative Parcel Map and shall not be modified without approval of the City Engineer.

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

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

21. The Vesting Tentative Parcel Map approval time limits shall comply with Government Code Section 66452.6. Time limit extensions shall comply with the same Government Code Section and applicable section(s) of the City’s Subdivision Ordinance.
MOVED BY COMMITTEE MEMBER Mike Reed, SECONDED BY COMMITTEE MEMBER Loran Blasdell, AND CARRIED BY THE FOLLOWING VOTE:

AYES: 3
NOES: 0
ABSTAIN: 0
ABSENT: 0

April 29, 2009

ATTEST:  
Benjamin Kimball, Chairman, Parcel Map Committee
RECORDING REQUESTED BY
AND WHEN RECORDED MAIL THIS
CERTIFICATE OF COMPLIANCE TO:
City of Porterville
291 N. Main Street
Porterville, CA 93257

No fee Pursuant to Section: 6103

VESTING TENTATIVE PARCEL MAP 2-2009
RESOLUTION 566
RESOLUTION NO. 566

A RESOLUTION OF THE PORTERVILLE CITY COUNCIL CONTAINING
FINDINGS AND CONDITIONS IN SUPPORT OF APPROVAL OF VESTING
TENTATIVE PARCEL MAP 2-2009 TO DIVIDE A 3.4± ACRE SITE INTO FOUR (4)
PARCELS FOR THAT SITE GENERALLY LOCATED AT THE SOUTHEAST
CORNER OF JAYE STREET AND SPRINGVILLE AVENUE NORTH OF STATE
ROUTE 190

WHEREAS: The project proponent is requesting approval for Vesting Tentative
Parcel Map 2-2009 to divide a 3.4± acre vacant site into four (4) parcels for that site
located at the southeast corner of Jaye Street and Springville Avenue north of State Route
190 as follows:

Parcel 1 - .8696± acres
Parcel 2 - .6136± acres
Parcel 3 - .7063± acres
Parcel 4 - 1.2094± acres

WHEREAS: On February 7, 2007 the City Council adopted Resolution 8-2007
certifying the Final Environmental Impact Report evaluating the development, mitigation
measures and land use changes necessary to facilitate the development of a ±10.7 acre
site with a ±75,000 square foot shopping center (Jaye Street Crossing); and

WHEREAS: The City Council of the City of Porterville at its regularly scheduled
meeting of June 3, 2008, reviewed and considered “D” Overlay Site Review 2-2008, to
facilitate development of a ±75,000 square foot commercial center (Jaye Street Crossing)
to be located at the northeast corner of Jaye Street and State Route 190 in the C-2 (D)
(Central Commercial – “D” Overlay Site Review) Zone; and

WHEREAS: The Parcel Map Committee held a scheduled public hearing on
April 29, 2009. The Committee discussed concerns and conditions relevant to the
proposed project. Conditions developed as a result of this meeting and subsequent staff
review were discussed with the applicant’s agent and incorporated into the draft
resolution of approval; and

WHEREAS: The Parcel Map Committee received testimony from all interested
parties relative to the proposed vesting tentative parcel map; and

WHEREAS: The City Council made the following findings:

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

The Land Use Element of the General Plan designates the site for Retail
Centers type uses. The subject site is located within the Central Commercial
with Design Review Overlay Zone.
2. That the site is physically suitable for the type and density of the proposed development.

3. That the certified Final EIR (by Resolution 8-2007) prepared for this project is in compliance with the California Environmental Quality Act.

4. That Resolution 8-2007 adopts a Mitigation Monitoring Plan for the Final EIR for the Jaye Street Crossing commercial development project.

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

6. The proposed project complies with all the requirements of the Subdivision Ordinance.

NOW, THEREFORE, BE IT RESOLVED: That the Parcel Map Committee of the City of Porterville does here by approve Vesting Tentative Parcel Map 2-2009, subject to the following conditions:

1. The proposed vesting tentative parcel map will not require any further environmental review. The Vesting Tentative Parcel Map shall adhere to the Certified EIR (Resolution 8-2007) including all mitigation requirements for the commercial development (Jaye Street Crossing) project. A “Notice of Determination” will be resubmitted to the county for the previously approved EIR and D-Overlay 2-2008.

2. The map reads “VESTING TENTATIVE PARCEL MAP.”

3. The City owned parcel to the south between the proposed Jaye Street Crossing commercial development and HWY 190 is not part of the project.


5. 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.
6. Prior to the recording of the Final Map or issuance of building permit, whichever may occur first, the developer/applicant/owner and City shall fully execute an agreement that defines all procedures associated with the conveyance of right of way along Jaye Street consistent with the fully executed Right of Entry dated August 21, 2007. This agreement shall specifically reiterate Council Resolution No. 48-2008 and 49-2008, which defines pro-rate share cost of improvements constructed along Jaye Street. The developer/applicant shall also convey additional right of way for the drive approach constructed on the east side of Jaye Street, south of Vandalia Avenue. The City will pay the applicant the fair market value for the right of way described in the Right of Entry dated August 21, 2007 and the additional right of way necessary for the constructed Jaye Street drive approach.

7. Prior to the issuance of a building permit, the developer/applicant shall pay their “Pro Rata” share of all off-site road improvements, including project related traffic signals, modifications to the State Route 190/Jaye street intersection and proportional share of the future State Route 190/Plano Street intersection improvements, as defined by the traffic study prepared by Omni Means and subsequent City Council Resolution No. 48-2008 and Resolution No. 49-2008. The total reimbursement fee for the 3.4 acre property is $353,787.63.

8. The developer/applicant shall dedicate all applicable utility easements in favor of the City of Porterville that are reasonable for the orderly development of the commercial project (Section 21-23).

9. The dedication of easements or any other potential dedications shall be clearly identified on the Parcel Map. A Dedications Statement shall be placed on the map that reads:

"Pursuant to the authority conferred by the City of Porterville, Ordinance No. 1590, adopted February 20, 2001, the undersigned, on behalf of the Public and City Council of the City of Porterville consents to the acceptance and recordation of the dedication(s) as shown on this map.
Dated this ________ day of ____________, 20__

By: Michael K. Reed, City Engineer

PLS 7514"
10. A Preliminary Soils Report shall be provided by a Professional Engineering authorized to perform such work. The engineer shall sign a statement on the Final Parcel Map that a Preliminary Soils Report was prepared by him or her and it is on file with the City's Engineering and Building Division.

11. The developer/applicant shall comply with Appendix J of the California Building Code including the provision of "R-Value" tests and recommendations regarding construction of public improvements, satisfactory to the City Engineer, prior to the start of grading. The developer/applicant shall provide the items indicated below:
   
a. Grading Plans and Specifications.


12. Prior to approval of a permit or other grant of approval for development of the property, the developer/applicant shall comply with or provide plans that comply with City Retaining Wall Standards at Lot Lines (adopted by City Council January 3, 1989).

13. Prior to issuance of a certificate of occupancy for any pad or as otherwise set forth in a Development Agreement, the developer/applicant shall provide improvements by the method indicated below:
   
a. Construct or provide surety for the installation of street lights along the south side of Vandalia Avenue and the west side of Kessing Street per City Council Adopted Resolution No. 49-2008.

b. Installation of required on-site improvements, including those improvements in the opinion of the City Engineer, they will be needed for orderly development of the adjacent property.

c. Simultaneous recording of a separate legal instrument or placement of a statement on the Final Map, if appropriate, that reads as follows:

   "In accordance with Section 66411.1 of the Government Code, the construction of on-site improvements, such as, but not limited to, utilities, grading, parking lot improvements, well abandonment (if any), removal of irrigation lines (if any), etc. has been deferred until such time as a permit or other grant of approval for development of the parcel is issued. Such construction may be phased when only a portion of the parcels shown herein receive such approval. The phased construction shall consist of all improvements related to the specific parcels plus that required to make the installed improvements properly function."

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
EXHIBIT C

RIGHT OF ENTRY DATED AUGUST 21, 2007
Engineering Division
City of Porterville
291 North Main Street
Porterville, CA 93257

APN 260-300-009, 260-300-017
ADDRESS NA
PROJECT Jaye Street Corridor Construction

RIGHT OF ENTRY
FORM
Grantor/Owner

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

It is understood that this permission is not a waiver in any way of the right of fair compensation for such land or of any remedy authorized by law to secure payment therefor.

This permission is granted in consideration of the location, improvement and construction of such public improvements and appurtenances which are required by the City, with the understanding that the City will hereinafter, without unnecessary delay, negotiate with the undersigned, and any other person having any right, title or interest in said property, based on an appraisal by a licensed appraiser, to agree upon terms of compensation.

Any actual damage or substantial interference with the possession or use of the adjacent land caused by City, its permittees, contractors, agents or assigns shall be cured by same. In addition, the City of Porterville agrees to indemnify the Owner and hold said Owner harmless from any loss of, or damage to any property or injury or death of any person whomsoever arising out of or connected with their performance of any work authorized under this agreement.
This Right of Entry shall terminate at the time that the City acquires legal title of the subject property, or on June 30, 2008, whichever occurs earlier.

IN WITNESS WHEREOF, the parties have executed this agreement on this 21st day of August, 2007.

______________________________________________
John S. Hale

______________________________________________
Michael R. Tolladay

CITY OF PORTERVILLE,
a Municipal Corporation

By: ____________________________
   City Engineer

CZEM, LLC,
a California Limited Liability Company

By: Aztec Mustang, a California Limited Liability Company, its Managing Member

By: ____________________________
   City Engineer

Its: ____________________________
   Managing Member
RIGHT OF ENTRY
FORM
Grantor/Owner

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

It is understood that this permission is not a waiver in any way of the right of fair compensation for such land or of any remedy authorized by law to secure payment therefor.

This permission is granted in consideration of the location, improvement and construction of such public improvements and appurtenances which are required by the City, with the understanding that the City will hereinafter, without unnecessary delay, negotiate with the undersigned, and any other person having any right, title or interest in said property, based on an appraisal by a licensed appraiser, to agree upon terms of compensation.

Any actual damage or substantial interference with the possession or use of the adjacent land caused by City, its permittees, contractors, agents or assigns shall be cured by same. In addition, the City of Porterville agrees to indemnify the Owner and hold said Owner harmless from any loss of, or damage to any property or injury or death of any person whomsoever arising out of or connected with their performance of any work authorized under this agreement.
This Right of Entry shall terminate at the time that the City acquires legal title of the subject property, or on June 30, 2008, whichever occurs earlier.

IN WITNESS WHEREOF, the parties have executed this agreement on this ______th day of ________, 2007.

John S. Hale

CITY OF PORTERVILLE,
a Municipal Corporation

Michael R. Tolladay

By: ____________________________
City Engineer

CZEM, LLC,
a California Limited Liability Company

By: ____________________________
Its: ____________________________
Engineering Division
City of Porterville
291 North Main Street
Porterville, CA 93257

APN 260-300-009, 260-300-017
ADDRESS NA
PROJECT Jave Street Corridor Construction

RIGHT OF ENTRY
FORM
Grantor/Owner

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

It is understood that this permission is not a waiver in any way of the right of fair compensation for such land or of any remedy authorized by law to secure payment therefor.

This permission is granted in consideration of the location, improvement and construction of such public improvements and appurtenances which are required by the City, with the understanding that the City will hereinafter, without unnecessary delay, negotiate with the undersigned, and any other person having any right, title or interest in said property, based on an appraisal by a licensed appraiser, to agree upon terms of compensation.

Any actual damage or substantial interference with the possession or use of the adjacent land caused by City, its permittees, contractors, agents or assigns shall be cured by same. In addition, the City of Porterville agrees to indemnify the Owner and hold said Owner harmless from any loss of, or damage to any property or injury or death of any person whomsoever arising out of or connected with their performance of any work authorized under this agreement.
This Right of Entry shall terminate at the time that the City acquires legal title of the subject property, or on June 30, 2008, whichever occurs earlier.

IN WITNESS WHEREOF, the parties have executed this agreement on this 21st day of August, 2007.

John S. Hale

Michael R. Tolladay

CITY OF PORTERVILLE,
a Municipal Corporation

By: Michael K. Reed
City Engineer

CZEM, LLC,
a California Limited Liability Company

By: __________________________

Its: __________________________
EXHIBIT “A”
LEGAL DESCRIPTION

A portion of Lot 48 of Pleasant Grove Tract, in the City of Porterville, County of Tulare, State of California, according to the map thereof recorded in Book 9 of Maps, at page 1 in the office of the County Record of said County, more particularly described as follows:

COMMENCING AT the South quarter corner of said Section 35 of Township 21 South, Range 27 East, Mount Diablo Base and Meridian;

THENCE, along the east line of the southwest quarter of said Section 35, North 00° 24’ 04” East, a distance of 1291.27 feet;

THENCE, leaving said quarter section line, South 89° 03’ 11” East, 74.20 feet to the intersection of the southerly right of way line of Springville Avenue and the easterly right of way line of Jaye Street, said point of intersection also being the POINT OF BEGINNING;

THENCE, along the southerly right of way line of Springville Avenue, South 89° 50’ 14” East, 722.82 feet to the northwest corner of Parcel 1 of Parcel Map No. 2889 filed in Book 29 of Parcel Maps, at page 90 in the office of the Tulare County Record;

THENCE, along the westerly line of said Parcel 1, South 00° 24’ 11” West, 12.00 feet to a point in a line being distant 42.00 feet south, measured at right angles from the centerline of Springville Avenue;

THENCE, along a line parallel with the centerline said avenue, North 89° 50’ 14” West, a distance of 686.39 feet;

THENCE, South 45° 41’ 09” West, 37.97 feet to a point in a line being distant 60.00 feet east, measured at right angles from the centerline of Jaye Street;

THENCE, along a line parallel with the centerline of said street, South 01° 12’ 40” West, a distance 233.78;

THENCE, South 04° 00’ 20” West, a distance of 47.90 feet to the beginning of a curve, concaved easterly, having a radius of 50.00 feet;

THENCE, southerly and southeasterly along said curve through a central angle of 23° 33’ 23”, an arc length of 20.56 feet, to the beginning of a reverse curve, concaved westerly, having a radius of 70 feet;
THENCE, southeasterly and southerly along said curve through a central angle of 23° 33' 23", an arc length of 28.78 feet;

THENCE, South 04° 00' 20" West, a distance of 66.19 feet;


THENCE, westerly along the north line of said Parcel 'A', South 89° 58' 24" West, 26. 85 feet to the easterly right of way line of Jaye Street;

THENCE, along said easterly right of way line, North 01° 12' 40" East, a distance 450.35 feet to the POINT OF BEGINNING.

CONTAINING 13,831 square feet (0.32 acres), more or less.

BASIS OF BEARINGS for the parcel described herein is the east line of the southwest quarter of said Section 35 taken to bear North 00° 24' 04" East based on California State Plane Grid bearings for Zone 4, NAD83 which is based on a field survey tied to the south line of the Southwest quarter of said Section 35 as shown on the Record of Survey recorded in Book 21 of Licensed Survey at page 58, in the office of the County Surveyor of said County. All distances are ground distances.

End of Description

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

Signature: [Signature]
Licensed Land Surveyor

Date: 7-6-2007

[License Seal]
PROPERTY PLAT

EXHIBIT "B"

SPRINGVILLE AVE.

PORTION OF LOT 48
PLEASANT GROVE TRACT MAP
RECORD MAP 91

APN: 260-300-009

PARCEL A
LLA 152002
DOC 2003-005709

CURVE DATA

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<td>50.00</td>
<td>23°33'23&quot;</td>
<td>20.56</td>
<td>10.426</td>
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<tr>
<td>2</td>
<td>70.00</td>
<td>23°33'23&quot;</td>
<td>28.78</td>
<td>14.596</td>
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</table>

PARCEL A

SCALE: 1"=80'

That portion of Lot 48 of Pleasant Grove Tract, in the City of Porterville, County of Tulare, State of California, according to the map thereof recorded in Book 9 of Maps, at page 1 in the office of the Tulare County Recorder, situated in the Southwest quarter of Section 35, Township 21 South, Range 27 East, Mount Diablo Base and Meridian.

OWNER: ICH PROPERTIES
APN: 260-300-009
AREA: 13,831 S.F.
ACRES: 0.318 A.C.
DRAWN BY: TJ
CHC'K BY: MKR

City of Porterville
291 N. MAIN ST.
PORTERVILLE, CA 93257
559 7827462
EXHIBIT "A"
LEGAL DESCRIPTION

PARCEL A

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

COMMENCING AT the South quarter corner of said Section 35;

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

THENENCE, South 81° 04' 48" East, along said northerly right of way line, 291.15 feet, to the southeast corner of said Parcel 'B';

THENENCE, North 00° 18' 04" East, along the east line of said Parcel 'B', 477.90 feet, to the beginning of a curve concaved southwesterly, having a radius of 60.00 feet, said point also being the POINT OF BEGINNING;

THENENCE, northerly, northwesterly and westerly along said curve through a central angle of 90° 07' 13", an arc length of 94.37 feet;

THENENCE, North 89° 49' 09" West, 222.90 feet to the east right of way line of Jaye Street as shown on that certain Record of Survey filed in Book 11 of Licensed Surveys, at page 58, in the office of the Tulare County Recorder;

THENENCE, North 01° 12' 53" East, along said easterly right of way line, 2.00 feet, to the northwesterly corner of said Parcel 'B';

THENENCE, South 89° 49' 09" East, along northerly line of said Parcel 'B', 222.87 feet, to the beginning of a curve concaved southwesterly, having a radius of 60.00 feet;

THENENCE, easterly, southeasterly and southerly along said curve through a central angle of 90° 07' 13", an arc length of 94.37 feet;

THENENCE, South 00° 18' 04" West, along the east line of said Parcel 'B', 2.00 feet, to the POINT OF BEGINNING.

CONTAINING 566.02 square feet (0.013 acres), more or less.
PARCEL B

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

COMMENCING AT the South quarter corner of said Section 35;

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

THENCE, South 81° 04' 48" East, along said northerly right of way line, 282.10 feet, to the beginning of curve, concaved easterly, having a radius of 50.00 feet, a radial bearing through said point bears North 63° 51' 25" West, said point also being the POINT OF BEGINNING;

THENCE, northerly and northeasterly along said curve through a central angle of 14° 03' 24", an arc length of 12.27 feet, to the beginning of a reverse curve, concaved westerly, having a radius of 50.00 feet

THENCE, northerly and northwesterly along said curve through a central angle of 25° 50' 31", an arc length of 22.55 feet to a point in the east line of said Parcel ‘B’;

THENCE, South 00° 18' 04" West, along said east line of said Parcel ‘B’, 34.73 feet, to a point in the northerly right of way line of State Highway 190 as shown on said unrecorded State Highway Map;

THENCE, North 81° 04' 48" West, along said northerly right of way line of State Highway 190, 9.05 feet, to the POINT OF BEGINNING.

CONTAINING 125.46 square feet (0.003 acres), more or less.

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

End of Description

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

Signature: Michael K. Reed
Licensed Land Surveyor

Date: 5-3-2007
EXHIBIT "A"

LEGAL DESCRIPTION
RIGHT-OF-WAY DEDICATION

Being two portions of Parcel B of Lot Line Adjustment 15-2002, recorded January 24, 2003 as Instrument No. 2003-0006709 in the Official Records of Tulare County, being situated in the Southeast Quarter of Section 35, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, in the City of Porterville, County of Tulare, State of California, being described as follows:

Portion #1

Commencing at the South Quarter corner of said Section 35;

Thence, along the west line of said Southeast Quarter, North 00°24'04" East a distance of 756.26 feet;

Thence, leaving said quarter section line, South 89°35'56" East a distance of 66.64 feet to the northwest corner of said Parcel B, said corner being located on the easterly Right-of-Way line of Jaye Street, said point also being the POINT OF BEGINNING;

Thence, along the northerly line of said Parcel B, South 89°49'22" East a distance of 35.01 feet to a line parallel with and 85.00 feet east of, as measured normal to, the centerline of Jaye Street;

Thence, along said parallel line, South 01°12'40" West a distance of 2.00 feet;

Thence, North 89°49'22" West a distance of 19.86 feet;

Thence, South 45°41'39" West a distance of 21.61 feet to said easterly Right-of-Way line of Jaye Street;

Thence, along said easterly Right-of-Way line, North 01°12'40" East, a distance of 17.15 feet to the POINT OF BEGINNING.

The above described Parcel contains 184 square feet or 0.0042 acres, more or less.

Portion #2

Commencing at the South Quarter corner of said Section 35;
Thence, along the west line of said Southeast Quarter, North 00°24’04” East a distance of 286.89 feet to the northerly line of a Grant Deed recorded December 29, 1964 in Book 2559 at Page 131 in the Official Records of Tulare County, California;

Thence, leaving said quarter section line and along said northerly line, South 89°27’03” East a distance of 40.00 feet to the most northerly, northeast corner of said Grant Deed, said corner also being the POINT OF BEGINNING and a corner of said Parcel B;

Thence, along a line of said Parcel B, South 89°27’03” East a distance of 20.00 feet to a line parallel with and 50.00 feet east of, as measured normal to, the centerline of Jaye Street;

Thence, along said parallel line, South 01°12’40” West a distance of 22.80 feet to the northerly Right-of-Way line of Poplar Road per said Grant Deed;

Thence, along said northerly Right-of-Way line, North 40°20’05” West a distance of 30.16 feet to the POINT OF BEGINNING.

The above described parcel contains 228 square feet or 0.0052 acres, more or less.

Basis of Bearings: The West line of the Southeast Quarter of said Section 35 is taken to bear North 00°24’04” East based on California State Plane Grid bearings for Zone 4, NAD83 which is based on a field survey tied to the south line of the Southwest Quarter of Section 35, Township 21 South, Range 27 East, Mount Diablo Base & Meridian, as shown on a Record of Survey recorded in Book 21 of Licensed Surveys at Page 68. All distances are ground distances.
EXHIBIT 'B'

EAST LINE OF THE
S.W. 1/4 SEC. 35
T. 21 S., R. 27 E.
M.D.B.M.

JAYE ST.

P.O.B.

LI

50'

S89°35'56"E
66.64'

50'

S89°27'03"E
40.00'

POPLAR RD.

S 1/4 COR. SEC. 35
T. 21 S., R. 27 E.
M.D.B.M.

L1

L2

L3

L4

N89°49'22"W
19.86

S45°41'39"W
21.61

N01°12'40"E
17.15

S89°27'03"E
20.00

S01°12'40"W
22.80

L5

L6

L7

L8

N40°20'05"W
30.16

LINE TABLE
LINE BEARING LENGTH
L1 S89°49'22"E 35.01
L2 S01°12'40"W 2.00
L3 N89°49'22"W 19.86
L4 S45°41'39"W 21.61
L5 N01°12'40"E 17.15
L6 S89°27'03"E 20.00
L7 S01°12'40"W 22.80
L8 N40°20'05"W 30.16

LEGEND
CENTERLINE
BORDERLLE LINE
SECTION LINE
RIGHT OF WAY LINE
R-O-W DEDICATION #1
184 SQ.FT. 0.0042 ACRES
R-O-W DEDICATION #2
228 SQ.FT. 0.0052 ACRES
FOUND BRASS CAP

GRAPHIC SCALE

( IN FEET )
1 inch = 100 ft.

CEI®
ENGINEERING
ASSOCIATES, INC
ENGINEERS • PLANNERS • SURVEYORS
1044 E. Herndon Ave, Suite 108 (559) 447-3118
Fresno, CA 93720 FAX (559) 447-3129

RIGHT-OF-WAY DEDICATION
PORTERVILLE, CA

DWG NAME: JAYE EAST 3
© 2006 CEI ENGINEERING ASSOCIATES, INC.
PAGE 3 OF 3
EXHIBIT D

PUBLIC IMPROVEMENTS

Springville Avenue East of Jaye Street:
Reconstruct the south half of street from Jaye Street approximately 200 feet east of the
Jaye/Springville intersection to the eastern property line of the proposed commercial center as
indicated on the plans. The complete work is fully identified on sheets ___ through ___ of the
construction plans dated ___________ and on file with the City of Porterville Public Works
Department/Engineering Division.

Miscellaneous Improvements:
Street lights along Springville, Vandalia Avenue, and Kessing Street per the construction plans and
Southern California Edison plans dated ___________ and on file with the City of Porterville Public
Works Department/Engineering Division. Miscellaneous improvements shall also require those
improvements necessary to comply with the project Resolutions.
EXHIBIT E

PUBLIC IMPROVEMENTS AND SPECIFICATIONS

The public plans and specifications are available for public review in the Public Works Department at Porterville City Hall, 291 North Main Street.
EXHIBIT F

JAYE STREET CROSSING COMMERCIAL CENTER SITE PLAN
EXHIBIT G

DRIVE APPROACH PROPERTY LEGAL DESCRIPTIONS AND PLATS
EXHIBIT “A”
LEGAL DESCRIPTION

Hale, Tolladay & CMEZ Property
APN 260-300-017

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

COMMENCING AT the South quarter corner of said Section 35;

THENCE, North 00° 24’ 04” East, along the west line of said Southeast quarter, 579.64 feet;

THENCE, departing said west line, South 89° 35’ 56” East, 64.16 feet, to a point on the easterly right of way line of Jaye Street as shown on that certain Record of Survey filed in Book 11 of Licensed Surveys, at page 58, in the office of the Tulare County Recorder, said point also being to the POINT OF BEGINNING;

THENCE, departing from said easterly line, South 43° 47’ 20” East, 28.28 feet;

THENCE, South 01° 12’ 40” West, parallel with the easterly right of way line of Jaye Street, 36.33 feet;

THENCE, South 46° 12’ 40” West, 28.28 feet to a point on said easterly right of way line;

THENCE, North 01°12’ 40” East, along said easterly right of way line, 76.33 feet, to the POINT OF BEGINNING.

CONTAINING 1,127 square feet (0.026 acres), more or less.

BASIS OF BEARINGS for the parcels described herein is the west line of the southeast quarter of said Section 35 taken to bear North 00° 24’ 04” East based on California State Plane Grid bearings for Zone 4, NAD83 which is based on a field survey tied to the south
line of the Southwest quarter of said Section 35 as shown on the Record of Survey recorded in Book 21 of Licensed Survey at page 68, in the office of the County Surveyor of said County. All distances are ground distances.

End of Description

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

Signature: Michael K. Reed  
Licensed Land Surveyor

Date: 1-12-2009
That portion of Lot 39 of Pleasant Grove Tract, in the City of Porterville, County of Tulare, State of California, according to the map thereof recorded in Book 9 of Maps, at page 1 in the office of the Tulare County Recorder, situated in the Southeast quarter of Section 35, Township 21 South, Range 27 East, Mount Diablo Base and Meridian.

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

OWNER: JIC Properties
APN: 260-300-017
AREA: 1,127 S.F.
ACRES: 0.026 AC.
DRAWN BY: AV
CHC'BY: MKR
EXHIBIT “A”
LEGAL DESCRIPTION

Hale, Tolladay & CMEZ Property
APN 260-300-009

That portion of Lot 48 Pleasant Grove Tract, in the City of Porterville, County of Tulare, State of California, as per map recorded in Volume 9 of Maps, at page 1, in the office of the County Recorder of Tulare County, more particularly described as follows:

COMMENCING AT the South quarter corner of said Section 35;

THENCE, North 00° 24’ 04” East, along the west line of said Southeast quarter, 1098.03 feet;

THENCE, departing said west line, South 89° 35’ 56” East, 71.47 feet, to a point on the easterly right of way line of Jaye Street as shown on that certain Record of Survey filed in Book 11 of Licensed Surveys, at page 58, in the office of the Tulare County Recorder;

THENCE, departing from said easterly line, South 89° 35’ 56” East, 10.00 feet, to the POINT OF BEGINNING;

THENCE, South 43° 47’ 20” East, 28.28 feet;

THENCE, South 01° 12’ 40” West, parallel with said easterly right of way line of Jaye Street, 35.14 feet;

THENCE, South 46° 12’ 40” West, 28.28 feet;

THENCE, North 01°12’ 40” East, parallel with said easterly right of way line, 75.14 feet, to the POINT OF BEGINNING.

CONTAINING 1,103 square feet (0.025 acres), more or less.

BASIS OF BEARINGS for the parcels described herein is the west line of the southeast quarter of said Section 35 taken to bear North 00° 24’ 04” East based on California State Plane Grid bearings for Zone 4, NAD83 which is based on a field survey tied to the south line of the Southwest quarter of said Section 35 as shown on the Record of Survey
recorded in Book 21 of Licensed Survey at page 68, in the office of the County Surveyor of said County. All distances are ground distances.

End of Description

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

Signature: Michael K. Reed
Licensed Land Surveyor

Date: 1-12-2009
City of Porterville
291 N. MAIN ST.
PORTERVILLE, CA. 93257
(559) 782-7462

That portion of Lot 48 of Pleasant Grove Tract, in the City of Porterville, County of Tulare, State of California, according to the map thereof recorded in Book 9 of Maps, at page 1 in the office of the Tulare County Recorder, situated in the Southeast quarter of Section 35, Township 21 South, Range 27 East, Mount Diablo Base and Meridian.

<table>
<thead>
<tr>
<th>Owner:</th>
<th>JLH PROPERTIES</th>
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<td>APN:</td>
<td>260-300-009</td>
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<tr>
<td>Area:</td>
<td>1,103 S.F.</td>
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<tr>
<td>Acres:</td>
<td>0.025 AC.</td>
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<tr>
<td>Drawn By:</td>
<td>AV</td>
</tr>
<tr>
<td>Check By:</td>
<td>MKR</td>
</tr>
</tbody>
</table>

The diagram shows a property plat with details such as lot dimensions, bearings, and a legend for map features. The plat is oriented with North as the top direction and includes scale indicators.
EXHIBIT "A"
LEGAL DESCRIPTION

A portion of Lot 49 of Pleasant Grove Tract, in the City of Porterville, County of Tulare, State of California, according to the map thereof recorded in Book 9 of Maps, at page 1 in the office of the County Recorder of said County, more particularly described as follows:

COMMENCING AT the intersection of the westerly prolongation of Vandalia Avenue centerline and the west line of the Southeast quarter of Section 35, Township 21 South, Range 27 East, Mount Diablo Base and Meridian, said point being North 00° 24’ 04” East, a distance of 798.00 feet of the South quarter corner of said Section 35;

THENCE, South 89° 49’ 22” East, along the centerline of Vandalia Avenue and the westerly prolongation thereof, a distance of 332.60 feet;

THENCE, North 00° 10’ 38” East, leaving said centerline, a distance of 42.00 feet to a point in the north line of Parcel “A” of Lot Line Adjustment 15-2002, recorded January 24, 2003 as Document No. 2003-0006709 in the Official Records of Tulare County, said point also being the POINT OF BEGINNING;

THENCE, North 40° 08’ 36” East, a distance of 26.60 feet;

THENCE, South 89° 49’ 22” East, a distance of 60.00 feet;

THENCE, South 00° 17’ 51” West, a distance of 20.39 feet, to a point in the north line of said Parcel “A”;

THENCE, North 89° 49’ 22” West, along a said north line, 77.04 feet to the POINT OF BEGINNING.

CONTAINING 1,397 square feet (0.03 acres), more or less.

BASIS OF BEARINGS for the parcel described herein is the west line of the southeast quarter of said Section 35 taken to bear North 00° 24’ 04” East based on California State Plane Grid bearings for Zone 4, NAD83 which is based on a field survey tied to the south line of the Southwest quarter of said Section 35 as shown on the Record of Survey recorded in Book 21 of Licensed Survey at page 68, in the office of the County Surveyor of said County. All distances are ground distances.

End of Description

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

Signature: [Signature]
Licensed Land Surveyor

Date: 8-21-2009
EXHIBIT H

PROPERTY VALUES
## Property Transfer from Developer to City

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<th>Assessor Parcel</th>
<th>Vesting TPM #</th>
<th>Location Description</th>
<th>Area (SF)</th>
<th>Appraised Value</th>
<th>Acquisition Amount ($)</th>
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<tr>
<td>260-300-009</td>
<td>1-2009</td>
<td>Jaye Street and Springville Avenue</td>
<td>13,831.00</td>
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<td>1-2009</td>
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FAA GRANT APPLICATION – PORTERVILLE MUNICIPAL AIRPORT

AIRPORT DIVISION

The Airport Capital Plan calls for the rehabilitation of Runway 12-30 in 2011 and 2012. This major project is critical to maintain the structural qualities of the runway, especially for the air attack aircraft. The P-2V Neptune and P-3 Orion aircraft are capable of significant gross weights beyond 100,000 pounds in certain cases and require a runway which is well maintained with a significant structural section.

The runway was last reconstructed in about 1989. Since then, in 1996, a friction course was applied to facilitate runway operations. There is some cracking in the current facility at the joints. It has held up well, but this is the time for a proactive reconstruction.

A grant application is being prepared to fund the design portion of the project which would occur in 2010 and 2011. The cost estimate for the design at this time is $205,400. It is anticipated that the City will claim additional monies, up to $15,000, for administrative and environmental work. A portion of these funds will go to offset staff administrative and environmental expenditures.

It is anticipated eventually that around $3,000,000 will be expended for construction and professional construction related administrative, staking, inspection and materials testing.

For the design grant, monies have been set aside in the Airport Development Fund from land sales to cover Porterville's share of the cost. All or a portion of the construction match monies is also in the fund and a budget modification will be submitted to the Council to reserve the monies for that purpose.
A major issue in the future will be Porterville's share of the cost. It could run from $96,300 to $321,000. This is because of several factors. Under the FAA's current continuing resolution, their grant is 95%. Under new legislation, the grant would be 90%. In terms of State participation, it can be as much as 5% or equivalent to about one-half of the local share. The problem with the match issue is that Porterville received one of the last match grants for the electrical work, and it does not appear funded for at least the coming fiscal year.

A few months ago, the selection process was completed for a 5 year service contract for design and construction engineering services at the Airport. The process was approved by the FAA and the City Council. If the project moves ahead, the City's Engineering Division will perform a cost analysis and the specific agreement for the contract will be presented based upon this review and further negotiations with Tartaglia Engineering.

Staff's goal is to submit the grant application to the FAA on November 5, 2009 in Burlingame.

RECOMMENDATION: Approve the grant resolution as presented and authorize the city manager to submit a grant application for funding consideration to the FAA for the coming grant cycle.
RESOLUTION NO. _____-2009

A RESOLUTION OF THE CITY OF PORTERVILLE CITY COUNCIL, AUTHORIZING THE SUBMITTAL OF AN APPLICATION, ACCEPTANCE OF AN ALLOCATION OF FUNDS, AND EXECUTION OF A GRANT AGREEMENT WITH THE FEDERAL AVIATION ADMINISTRATION AND THE CALIFORNIA DEPARTMENT OF TRANSPORTATION FOR GRANTS TO SUPPORT A LIGHTING IMPROVEMENT PROJECT AT THE PORTERVILLE MUNICIPAL AIRPORT

WHEREAS, grant monies have been allocated by the FAA for the improvement of the Porterville Municipal Airport;

WHEREAS, pursuant to Section 21683.1 of the Public Utilities Code (PUC) the California Transportation Commission (CTC) is authorized to allocate funds for a portion of the local match for AIP grants;

WHEREAS, the California Department of Transportation acting on the authority of the California, Transportation Commission, may provide up to five (5%) for that portion of the FAA grant which is for airport and aviation purposes;

WHEREAS, the City of Porterville desires to submit an application to the FAA and the California Department of Transportation for matching monies, if an appropriation of these monies is made to the California Budget;

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Porterville, State of California:

1. Authorizes the filing of an application or applications with the FAA for monies for a design project for the reconstruction of Runway 12-30 to be completed in 2010;

2. Authorizes the filing of a matching application with the California Department of Transportation;

3. Authorizes accepting the allocation of funds for the project at the Porterville Municipal Airport;

4. Authorizes the execution of the Grant Agreement, and

BE IT FURTHER RESOLVED that the City Council of the City of Porterville does hereby authorize John D. Lollis, City Manager of Porterville, on the date of grant’s application to the Federal Aviation Administration and the California Department of Transportation to sign any documents required to apply for and accept these subject funds on behalf of the City of Porterville.
ADOPTED AND APPROVED this ______ day of October, 2009.

_____________________________________________________
Pete V. McCracken, Mayor

ATTEST:

John D. Lollis, City Clerk

By: ________________________________
Patrice Hildreth, Chief Deputy City Clerk
COUNCIL AGENDA: OCTOBER 20, 2009

SUBJECT: ADVERTISEMENT - AIRPORT DRY FARM LEASE

SOURCE: Public Works Department - Engineering Division

COMMENT: The three year Airport “Dry Farm” lease between Mr. Jeff Sheets and the City Airport will expire November 6, 2009. The City is currently advertising for a farmer and expects to award a new lease agreement at the November 3, 2009 Council meeting.

The lease has been structured to include language stating that the City reserves the right to remove acreage from the lease at any time for any reason and that weed abatement efforts in and around the airport area will be included in the farmer’s “per acre” rental rate proposal.

RECOMMENDATION: Information only.

P:\pubwork\Engineering\Council Items\Advertisement - Airport Dry Farm Lease - 2009-10-20.doc

ATTACHMENT: Locator Map
Exhibit "A"

City of Porterville
AIRPORT DRY LEASE 2009

WEED ABATEMENT LAND = 28.15 ACRES
DRY LAND LEASE = 368.97 ACRES
TOTAL LEASED PROPERTY = 397.12 ACRES

LEGEND
- DRY LAND LEASE
- WEED ABATEMENT LAND

SCALE: 1" = 1200'

REVISED 10-13-2009 Bow
SUBJECT: APPROVAL OF PHYSICIAN SERVICES

SOURCE: ADMINISTRATIVE SERVICES DEPARTMENT

COMMENT: The City of Porterville currently utilizes local health care provider Morinda Medical Group for sole-source City physician services including those for work-related illnesses, pre-employment testing, employee physicals and drug screenings, and other employee-related health needs. Staff has identified deficiencies in the current services, and believes a change in providers is warranted. Said deficiencies include but are not limited to decreased office hours; lack of communication, particularly with workers compensation cases; excessive waiting times (some employees have waited over two hours to be seen); obtaining timely drug screen results; and problems obtaining medical statements. Staff has communicated the City’s concerns with Morinda on numerous occasions, however to date the problems remain unresolved.

In light of the above, City staff has met with Dr. James and his staff at Valley Prompt Care (the only other workers’ compensation health care provider in Porterville) to discuss their ability to provide sole-source physician services to the City. Staff was encouraged by the meeting, noting the professionalism of Dr. James’ staff, the facility and efficiency of the office, and the quoted costs for services. Based on a cost-comparison analysis, it is estimated that the City could achieve an approximate 20% savings by transferring services to Valley Prompt Care.

Staff has further discussed a potential change in providers with AIMS, the City’s workers’ compensation adjuster through the Risk Management Authority, and has received a positive response. AIMS has an established professional relationship with Valley Prompt Care through other public agencies it represents. Therefore, based on the above, staff is recommending that the Council approve Valley Prompt Care for all City physician services effective November 1, 2009.

RECOMMENDATION: That the City Council approve Valley Prompt Care for City physician services effective November 1, 2009.

Item No. 9

DIR Appro./ Funded

CM
COUNCIL AGENDA: OCTOBER 20, 2009

SUBJECT: ANNUAL LIBRARY FOOD FOR FINES CAMPAIGN

SOURCE: PARKS AND LEISURE SERVICES DEPARTMENT

COMMENT: Staff proposes to conduct the third Annual Food for Fines Campaign from October 26, 2009 to December 19, 2009, an eight-week period. The library benefits from this program by recovering lost library materials and from the clearing of fines on patron accounts.

Last year the campaign ran for nine weeks, 170 library patrons participated by returning overdue materials and other overdue fines that have accrued on their accounts. During the implementation of this campaign, the library recovered 134 materials, collected 892 items of food, and waived $824.25 in fines. Through Tulare County FoodLink, the Library coordinated items received with the Porterville Rescue Mission who provided onsite pickup. This year a community partnership with Love INC, will be created to coincide with their annual family food baskets giveaway.

PROGRAM OUTLINE:
- For every can of food submitted during the drive, $1 of overdue fees will be waived up to $10 per account.
- The cans of food and other non-perishables must not be damaged or expired.
- Staff will track transactions by how many food items were donated and the total fines waived.

RECOMMENDATION: That the City Council authorize the third Annual Food for Fines Campaign from October 26, 2009 through December 19, 2009.
PUBLIC HEARING

SUBJECT: WATER CONSERVATION PHASE II - WATER SYSTEM STATUS

SOURCE: Public Works Department – Field Services Division

COMMENT: Phase II water conservation efforts for 2009 began in May. The City promoted May as water awareness month and provided water conservation information through a media campaign with newspaper and radio messages. The City distributed flyers and information on water saving tips and voluntary odd/even watering program magnets to the community through newspaper, billing inserts, and handouts at such events as the Porterville Fair. Throughout the summer, programs educating our community on the need for water awareness and conservation helped remind the public of their responsibility to use this resource as efficiently as possible.

With temperatures on the way down, water usage has slightly declined giving us the opportunity to let some of our wells rest from the long summer run. The system operated through the peak hot months exceptionally well with only a few pump malfunctions.

The residents of Porterville should be commended on their water conservation efforts because every person’s effort does help.

With the temperatures and water usage declining, staff recommends returning to Phase I of the Water Conservation Plan.

RECOMMENDATION: That City Council:

1. Return to Phase I of the Water Conservation Plan; and

2. Continue Phase I water conservation efforts.

ATTACHMENT: Water Conservation Plan
Water Usage Graph

P:\pub\work\Engineering\Council Items\Public Hearing - Water Conservation Phase II - 2009-10-20.doc

Dir \x92\x92 Appropriated/Funded \x92\x92 CM \x92\x92 Item No. \x92\x92
WATER CONSERVATION PLAN

CITY OF PORTERVILLE
INCORPORATED MAY 7, 1902

APRIL 2009
# WATER CONSERVATION PLAN

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## REVISED BY:

- John Lollis, City Manager
- Baldomero S. Rodriguez, Public Works Director
- Bryan B. Styles, Dep. Pub. Work Dir. / Field Services Manager
- Richard Mulvihill, Water Utilities Superintendent
- Jeff Friedman, Water Systems Specialist
- Judith May, Clerical Assistant III
The City of Porterville water system is municipally-owned with more than 14,800 service connections, 99% of which are metered, serving a population of over 51,500, with approximately 1,100 service connections outside the city limits. Water supplies for the City system are produced entirely from groundwater underlying the City, which is recharged from rainfall and runoff of the Western Sierra Nevada. The major stream contributing to recharge of the Tule Basin Aquifer underlying Porterville is the Tule River.

Storage capacity represents over six million gallons within the distribution system and three hillside reservoirs, two with a capacity of three-million gallons and one with a capacity of three hundred thousand gallons.

A telemetry system controls the operation of 22 of the City’s 35 active well pumps to maintain system pressure under varying loads. The water levels in the reservoirs are also monitored and controlled by the computerized telemetry control system.

Water conservation and awareness have always been areas of concern for the Porterville community. Less than normal rainfall and runoff makes efforts to promote water conservation a high priority. In addition to the benefits of conserving water as a limited natural resource, additional benefits accrue to the community in the form of a reduced impact on the Wastewater Treatment Plant and a reduction in energy costs when water supplies are conserved.

It is vitally important that the Water Conservation Plan be a joint partnership between the City and the General Public in order to achieve optimal effect. The Plan has been developed in three phases with each phase defined in terms of the available water supply:

Phase I: Applies during periods when a normal water supply is available.

Phase II: Applies during periods when there is a water supply shortage.

Phase III: Applies during periods when there is a severe water supply shortage.

Actions within each phase have been defined as either actions to be undertaken by the City or by the General Public. Due to the number of variables which affect the water conditions in existence at any one point in time, a City staff analysis of those variables will be utilized in determining the transition of the City from one phase to a more (or less) stringent phase. At such time as staff determines that water supply conditions warrant a phase change, staff will present the request to the City Council for their approval.

This plan differs from other valley community plans because the City of Porterville is in a more favorable position of having almost all of its water customers metered, which allows the City to basically control the water conservation program.
CITY WATER SYSTEM

The City has always been diligent in its efforts to provide sufficient safe and affordable drinking water to the residents of the community. Water conservation has long been a permanent part of the City’s water resource management program. Efforts to that end include:

NEW WELLS:

Over the past five years three new wells have been added to the City water system in order to serve the needs of the community. Two additional wells are planned for completion within the next few years.

TELEMETRY SYSTEM:

This system controls the operation of the well pumps to maintain system pressure under varying loads. Water levels in the reservoirs are also monitored and controlled by the computerized telemetry control system. Water is usually pumped to the reservoirs during the off-peak usage hours for later use by consumers. This system was designed for use by the City’s most efficient and productive wells with additional energy cost savings.

RESERVOIRS:

The City currently operates and maintains three hillside reservoirs - two (2) with a capacity of three-million-gallons and one (1) with a capacity of 305,000 gallons. The two largest reservoirs are usually filled during off-peak hours and then release water during the high usage hours. There is also a 300,000 gallon reservoir located at the Airport which is also part of the City system, the reservoirs increase the City’s ability to maintain system pressure during peak demand and fire flow situations. Site acquisition has been accomplished for the City’s third proposed three-million gallon reservoir.

METERIZATION PROGRAM:

With over 99% of all service connections metered, the City has a goal of 100% meterization. All new connections are required to have meters.

UTILITY BILLING NOTICE:

The City’s computerized utility billing system provides consumers with their current and past water usage history for comparison purposes. While variations may be attributable to a change known to the consumer (ie: additional persons in the home, addition of a swimming pool), it may also be the result of an undetected leak or other controllable occurrence.
WATER AUDIT/LEAKAGE DETECTION & REPAIR PLAN:

The City will continue in its proactive plan to audit water supply usage. Upon detection of the source of any leakage, corrective action will be taken immediately in order to promote the efficient use of the existing water supply and in turn reduce the energy required to operate the system.

NEW WATER LINE TESTING:

The City requires full pressure and leak testing of all newly constructed water lines.

FIRE HYDRANT TESTING:

The City Fire Department schedules their annual fire hydrant testing program during the early spring and late fall to avoid the peak water use season. Such testing is required to maintain the integrity of the fire protection system.
PHASE I

Applies during periods when a normal water supply is available

The effectiveness of any voluntary plan ultimately depends on the public's awareness of the need for the plan. Local residents have a history of commitment to their community and support of the public welfare. It is a reliance upon this tradition that makes the distribution of public information the cornerstone of the City's Water Conservation Plan.

ACTIONS BY THE CITY:

I. Public Information Program
   A. Distribution of suggestions for residential, commercial and industrial water conservation and awareness.
   B. Coordination of public information with the local news media.
   C. City participation in Water Awareness Month (May).
   D. Lawn and Landscape Watering Guides will be made available upon request.
   E. City staff will coordinate with local nurseries to compile a list of low-water using trees and plants. The list will be made available at City Hall, the Corporation Yard, and the Parks & Leisure Services Department for local residents.
   F. Coordination with local schools to encourage young people to become aware of local water issues and conditions.

II. Project Review Committee
   A. The City's Project Review Committee (PRC) will include the evaluation of all submitted projects for water use and conservation efforts. The goal of City staff in cooperation with the developer will be to voluntarily reduce consumption of water used in the project.
   B. City staff will assist the developer in familiarization with the Xeriscape Concept, combining creative landscaping and efficient irrigation to save water and promote attractive alternatives to traditional, high-water use landscapes.
III. City Landscapes and Watering Schedules

A. City parks, median islands, and landscaped public facilities will be watered during late night or early morning hours to the greatest extent possible.

B. All new landscaping projects undertaken by the City will incorporate conservation design.

IV. Retrofit Bathroom Facilities

Water saving kits which contain toilet water conservation and low-flow shower head devices will be made available to City water consumers, both residential and commercial, upon request, as funds are available.

V. Fire Hydrant Testing

The City's fire hydrant testing program will be scheduled during non-peak water usage times to the greatest extent possible without impairing the integrity of the City's fire protection service.

ACTIONS BY THE GENERAL PUBLIC:

A. The general public will be encouraged to utilize those water conservation measures contained within the City's public information program.

B. **Voluntary Odd/Even watering program is encouraged as follows:**
   1. No watering on Mondays
   2. *Addresses ending in an Odd number will water on Tuesday, Thursday and Saturday; and*
   3. *Addresses ending in an Even number will water on Wednesday, Friday and Sunday.*

C. Advise Public to turn off sprinklers on rainy days.
PHASE II

Applies during periods when there is a water supply shortage

When water supply conditions start to deteriorate it would be incumbent upon the City to implement mandatory water conservation provisions.

ACTIONS BY THE CITY:

I. Public Information Program

The City will pursue a more aggressive distribution of information than its efforts initiated in Phase I to promote public awareness of the need to conserve water with a stronger emphasis on the water shortage condition.

II. Water System Pressure Reduction

The City's water system may experience reduced water pressures during high usage periods. This may deter water use for nonessential activities and encourage scheduling of landscape watering to late nights or early mornings.

III. City Landscapes and Watering Schedules

All City parks, median islands and public facility landscapes will be watered during the late night or early morning hours to reduce impact on the water system during peak usage hours.

IV. Leak Detection - Water Waste

The City will continue in its proactive plan to audit water supply usage. All City staff will be reminded of the necessity of reporting any evidence of leaks or water waste for immediate action. There will be an emphasis on coordinated community efforts to reduce water waste.

V. Waste of Water Notices

City staff will be equipped to issue “Waste of Water” notices to consumers identified as misusing water.

VI. Voluntary Odd/Even Watering days

Increase Public education on program initiated from phase I

VII. Continuation of all Conservation programs from Phase I
ACTIONS BY THE GENERAL PUBLIC:

I. Conservation Efforts:

The general public will be strongly encouraged to utilize those water conservation measures contained within the City’s public information program.

II. Restaurants:

Notices will be sent to all restaurants within the City limits requesting support of water conservation efforts by serving water to customers upon request only.

III. Lawn and Landscaping Watering:

All residential, commercial and industrial landscape watering should be reduced to a minimum and avoid watering between the hours of 5 a.m. to 10 a.m. and 5 p.m. to 10 p.m.

IV. Vehicle Washing and Sidewalk Hosing:

A. Vehicle washing should be accomplished either by automatic car washes that recycle water or with buckets and hoses equipped with a shut-off nozzle.

B. Per Section 25-5 of the City Municipal Code, “The consumer shall use reasonable care to prevent the waste of water, shall not allow water to run or waste from his property onto streets or highways, shall not use water in washing sidewalks, building entrances or lobbies or other properties to such excess that water shall flow in street gutters beyond the frontage of the properties occupied by them.”
PHASE III

Applies during periods when there is a severe water supply shortage

ACTIONS BY THE CITY:

I. Public Information Program:

The utility billing system will begin to notify customers of restrictions on water use. The program to promote public awareness will be intensified with emphasis placed on communicating the mandatory water conservation requirements to the public.

II. Rate Structure Enhancement:

A 20% rate increase on all residential and landscape accounts will go into effect. This rate increase will encourage water conservation and will also

III. City Landscapes and Watering Schedules

All City parks, median islands and public facility landscapes will continue to be watered during the late nights or early morning hours to confine impact on the water system to off-peak usage hours. If it becomes necessary, watering of City parks and median islands will be suspended and evaluated each day.

IV. Continuation of all Conservation programs from Phases I and II in addition to Phase III regulations

ACTIONS BY THE GENERAL PUBLIC:

A. Landscape watering shall not be done between the hours of 5 a.m. to 10 a.m. and 5 p.m. to 10 p.m.

B. Sidewalk and driveway washing will be prohibited.
SUBJECT: APPOINTMENTS TO LIBRARY BOARD OF TRUSTEES AND PARKS AND LEISURE SERVICES COMMISSION

SOURCE: PARKS & LEISURE SERVICES DEPARTMENT

COMMENT: Two positions on the Library Board of Trustees have terms expiring at the end of October 2009. Two incumbents will have completed their first full three-year term and are therefore eligible for reappointment. In addition, due to resignation of one member there is a position with a one year term.

Four positions on the Parks & Leisure Services Commission have terms expiring at the end of October 2009. All of these incumbents are also completing their first full term of four years and are eligible for reappointment. Additionally, due to resignation of one member there is a position with a two-year term.

Requests for Appointment submitted to the City Clerk’s Office by the time of this report preparation are listed below in alphabetical order.

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<tr>
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<td>Catherine E. May</td>
<td>Joseph Carter</td>
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<td>Greg Shelton</td>
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<td>Rick Vafeades</td>
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RECOMMENDATION: That the City Council:
1. Appoint two interested individuals to the Library Board of Trustees three-year terms, and the third interested individual to the Library Board one-year term; and
2. Appoint four interested individuals to the Parks & Leisure Services Commission four-year terms, and one interested individual to the Parks & Leisure Services Commission two-year term.

ATTACHMENTS: Requests for Appointment

Director N/A Appropriated/Funded City Manager ITEM NO.: 12
Monday, October 05, 2009

Mr. Jim Perrine
Parks and Leisure Services Director
City of Porterville
291 N. Main Street
Porterville, CA 93257

RE: City of Porterville Request for Appointment to Library Board

Dear Mr. Perrine:

Thank you for your request that I submit an application for a position on the Porterville City Library Board of Trustees. I have enjoyed serving on the New Public Library Facilities Planning Committee. It would be not only an enriching learning experience to continue serving the City of Porterville but a repayment for the acceptance I have received as a member of this community.

My son and I moved to Porterville in 1988 when I was hired to teach for Porterville Unified School District. In the past 22 years, I developed long lasting relationships and friendships here. I have enjoyed my association with the Porterville Public Library, its friendly staff, and the well-planned events.

Libraries have always been a part of my life. As the teacher librarian at Granite Hills High School, I relish the opportunities to assist students and staff with locating books, research, and technology. I have gained experience in developing library collections, planning programs for the youth, and collaborating with my colleagues and community members. I would love to share this experience as a member of the Library Board.

Sincerely,

[signature]

Catherine E. May
Teacher Librarian
Granite Hills High School
1701 E. Putnam Ave.
Porterville, CA 93257
559-782-6119
cemay@portervilleschools.org
REQUEST FOR APPOINTMENT

Name: Catherine E. May

(Applease Print)

Appoint to: City Library Board of Trustees

(Name of Board, Commission, or Committee)

☐ Reappointment; or

IF NEW, please provide:

Street Address: 770 Phillips Circle

Porterville, CA 93257

Mailing Address:

Name of Work: Granite Hills High School

Work Address: 1701 E. Putnam Ave.

Porterville, CA 93257

Telephone: Home 559-782-8786

Work 559-782-6119

FAX 559-789-9357

E-mail cemay@portervilleschools.org

City of Porterville registered voter:

☒ Yes

☐ No

City of Porterville resident:

☒ Yes

☐ No

Date Submitted: ____________________ Council Mtg Date: ____________________

☒ Resume attached

☐ Letter of request attached
Catherine E. May

Objective
To become a member of the Porterville City Library Board of Trustees

Education
June 2001: Fresno Pacific University, Fresno, CA
Masters in Education with Library Emphasis
September 1999: Fresno Pacific University, Fresno, CA
Library Media Teacher Credential
May 1988: California State University, Fresno, CA
Clear Multiple Subjects Credential
December 1986: California State University, Fresno, CA
Bachelor of Arts Degree in Liberal Studies

Professional experience
1999 - present: Granite Hills High School, Porterville, CA
Teacher Librarian
  ▪ Responsible for managing all aspects of the Library Media Center which include: the selection, purchase, circulation, and inventory of library materials; collaboration with teachers; student instruction; professional development activities; and advocacy. Advisor for LOC (Literacy On Campus) a student advisory club for the library for activities such as Teen Read Week. Coach for CyberQuest a multi-media competition sponsored by the Tulare County Office of Education. Coordinator for GrizzComm, a Specialized Secondary Program.

1988 - 1999: Roche Ave. and Monte Vista Elementary Schools, Porterville, CA
Elementary Teacher
  ▪ First Grade Teacher and Third Grade Teacher in self-contained classrooms

Professional memberships
ALA, CSLA, PEA (Porterville Educators Association), and CUE (Computer Using Educators)

Community activities
Porterville Celebrates Reading, Read Across America, Porterville Reads, Relay for Life, Public Library New Facilities Planning Committee

Interests and activities
Reading, Crafts, Genealogical/Family Research, and Technology Workshops (i.e. PowerPoint, digital storytelling, filmmaking, photography, and instructional tools)
CITY OF PORTERVILLE
REQUEST FOR APPOINTMENT

Please complete all blanks.

Name: _ELLEN NICHOLS_  
(Please Print)

Appointment to: _LIBRARY BOARD OF TRUSTEES_  
(Name of Board, Commission, or Committee)

☒ Reappointment; or IF NEW, please provide:

Street Address: 

Mailing Address: 

Name of Business: 

☐ Own  ☐ Operate

Business Address: 

Telephone:  
Home ____________________
Work ____________________
FAX ____________________
E-mail ____________________

City of Porterville resident:  
☒ Yes  
☐ No

Registered Voter:  
☒ Yes  
☐ No
Qualifications:

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

________________________________________________________________________

☐ Resume attached

☐ Letter of request attached

Submitted By:  Ellen Nichols  6-9-09

Date

Received by:

Forwarded to: City Clerk  ☐ Date:________________________

City Council  ☐ Date:________________________

City Manager  ☐ Date:________________________

Applicable Dept.  ☐ Date:________________________

Tentative Council Mtg Date:________________________

Page 2 of 2

P:\manager\1 Carol\Appointee_form.doc
CITY OF PORTERVILLE
REQUEST FOR APPOINTMENT

Please complete all blanks.

Name: Rocco Calantone

(Please Print)

Appointment to: Parks and Leisure Comm.

(Name of Board, Commission, or Committee)

☐ Reappointment; or IF NEW, please provide:

Street Address: 1056 N. Brandy Way

PORTERVILLE

Mailing Address: SAME AS ABOVE

Name of Business: Retired

☐ Own  ☐ Operate

Business Address:

Telephone: Home 784-3664

Work N/A

FAX N/A

E-mail 3GRANDKIDS@OCSNET.NET

City of Porterville resident: Yes

Registered Voter: Yes

☐ No

☐ No

☐ Resume attached

☐ Letter of request attached

Submitted By: [Signature] 10-5-09

Date

Received by: [Signature]

Forwarded to: City Clerk  ☐ Date: _____________________________

City Council  ☐ Date: _____________________________

City Manager  ☐ Date: _____________________________

Applicable Dept.  ☐ Date: _____________________________

Tentative Council Mtg Date: _____________________________
REQUEST FOR APPOINTMENT

Name: Chris R Edwards  
(Please Print)

Appoint to: Parks & Leisure Commission  
(Name of Board, Commission, or Committee)

☐ Reappointment or

IF NEW, please provide:

Street Address: ____________________________

Mailing Address: ____________________________

Name of Work: ____________________________

Work Address: ____________________________

Telephone: Home ____________________________

Work ____________________________

FAX ____________________________

E-mail ____________________________

City of Porterville registered voter:

☒ Yes  
☐ No

City of Porterville resident:

☒ Yes  
☐ No

Date Submitted: 9-10-09  
Council Mtg Date: ____________________________

☐ Resume attached  
☐ Letter of request attached
October 1, 2009

City of Porterville
Parks and Leisure Services

Please accept my Request for Appointment to the Parks and Leisure Services Committee.

Your consideration is appreciated.

[Signature]

Gary Giraudi
CITY OF PORTERVILLE
REQUEST FOR APPOINTMENT

Please complete all blanks.

Name: Gary Giraudi  
(Please Print)

Appointment to: Parks & Leisure  
(Name of Board, Commission, or Committee)

☐ Reappointment; or IF NEW, please provide:

Street Address: 100 S. Westwood #15  
Porterville, CA 93257

Mailing Address: Same as above

Name of Business: Miller Memorial Chapel
☐ Own  ☑ Operate

Business Address: 1120 W. Goshen Ave.  
Visalia, CA 93291

Telephone: Home 559-784-3692  Cell 559-779-4856
Work 559-732-8371
FAX 559-732-0392
E-mail gary.giraudi@sci-us.com

City of Porterville resident:  
☐ Yes
☐ No

Registered Voter:  
☐ Yes
☐ No
Qualifications: A native of Porterville and Porterville schools, I have, over the years, been involved with various groups and organizations. I was part of the Neptune Swim Club, a member of the Board of the Sequoia Youth Football League, 4-H Leader, member of Rotary, current member of the Porterville Chamber of Commerce and 2004 Man of the Year, Past President of the Chamber, graduate of Leadership Porterville, past chairman of the Leadership Porterville Steering Committee, founder of and chairman of the Iris Festival for 11 years, current secretary and board member of St. Anne's School, member of the Knights of Columbus and St. Anne's Parish, current member and Vice President of the Board of the Porterville Sheltered Workshop, and a board member of the Central California Funeral Directors Association. As youth and seniors are the core of our community, my interest is providing activities for these groups in a safe, user friendly, and clean environment.

☐ Resume attached

☐ Letter of request attached

Submitted By: ___________________________ Oct. 1, 2009

Date

Received by: ____________________________

Forwarded to: City Clerk □ Date: ____________________________

City Council □ Date: ____________________________

City Manager □ Date: ____________________________

Applicable Dept. □ Date: ____________________________

Tentative Council Mtg Date: ____________________________
CITY OF PORTERVILLE
REQUEST FOR APPOINTMENT

Please complete all blanks.

Name: CASE LOK
(Please Print)

Appointment to: Parks + Recreation Co.
(Name of Board, Commission, or Committee)

☐ Reappointment; or IF NEW, please provide:

Street Address: 1150 Greenfield
Porterville CA 93257

Mailing Address:

Name of Business: Retired

☐ Own    ☐ Operate

Business Address:

Telephone: Home 784 5365
Work
FAX
E-mail

City of Porterville resident: ☐ Yes    ☐ No
Registered Voter: ☐ Yes    ☐ No
Qualifications: many Community activities in the past
and advisory boards
Former Parks maintenance employee
and supervision
Retired Landscape contractor

☐ Resume attached
☐ Letter of request attached

Submitted By: Case Lot 10/5/09

Date

Received by: Patricia Mitchell

Forwarded to: City Clerk

☐ Date: ____________________________

City Council

☐ Date: ____________________________

City Manager

☐ Date: ____________________________

Applicable Dept.

☐ Date: ____________________________

Tentative Council Mtg Date: ____________________________

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CITY OF PORTERVILLE
REQUEST FOR APPOINTMENT

Please complete all blanks.

Name: **MONTE MOORE**

(Please Print)

Appointment to: **Parks & Recreation Commission**

(Name of Board, Commission, or Committee)

☐ Reappointment; or IF NEW, please provide:

Street Address: **327 North Cottage**

Mailing Address: **Porterville, CA 93257**

Name of Business: **Porterville College - PIO**

☐ Own  ☐ Operate

Business Address: **100 East College**

Telephone: Home **(559) 784-8046**

Work **791-2209**

FAX

E-mail **MOMOORE @ PORTERVILLE COLLEGE.EDU**

**MONTERO@HOTMAIL.COM**

City of Porterville resident: ☑ Yes

Registered Voter: ☑ Yes

☐ No  ☐ No
Qualifications:

I have been a resident of Porterville since 1978 when I purchased the radio stations KTIP/KIOO, following a 30 year career broadcasting Oakland A’s baseball and major sports events another 10 years. I was a member of the original board of directors for Porterville Youth Incorporated. I served on that until the city took over operation of the Youth Center. During that time, I hosted a Big League Golf-A-Rama event, and through money made, paid for most all of the recreation equipment in the old PYI building on Hockett and even provided asphalt covering on the parking lot for basketball and other games. After the new Heritage Center was completed, we continued to donate funds from that tournament to the youth center...and the highlight was a presentation of a $50,000 check from Mark McGwire to our Golf event for us to give strictly for use of the Youth Center equipment and needs. We presented it to the city council and much of it was spent to purchase equipment now in use at the center. Mark was a friend of mine and knew of the fund-raising we had done for the Youth Center, and designated that donation for that. All totaled, we probably gave over $75,000 to the Center over the years...from a total of over $800,000 donated to our schools’ athletic teams in the 25 years we held the tournament.

I have always had an intense interest in youth activities in this community and want very much to help in providing services for their betterment. I feel I have a feeling for what our community needs from our recreation department and would like to help in any way I can to help those needs be filled.

Resume attached

Letter of request attached

Submitted By: Monte Moore 10-12-09

Date

Received by:

Forwarded to: City Clerk  Date: _____________________________

City Council  Date: _____________________________

City Manager  Date: _____________________________

Applicable Dept.  Date: _____________________________

Tentative Council Mtg Date:

Page 2 of 2

P:\public\Admin Services\Carol Bodine\Appointee_Form.wpd
LETTER OF REQUEST

City of Porterville
Human Resources

This is my official letter to request that I be considered for a position that I understand is open on the Parks and Recreation Commission.

I am currently retired from my original profession of broadcasting and am serving Porterville College as the Public Information Officer.

I have expressed my qualifications on the other page and this is to confirm that I would like to serve on that Commission and feel qualified to do so. One of my greatest satisfactions in life has been working with youth of all ages and I know of the importance of providing programs and facilities for those in our community. I have seen results from my associations with PYI and other organizations of what good mentoring and programs can do to help direct youth, and adults alike, towards a good life and away from the counter-culture that is out in our world today.

I can pledge my full support of the the city council and recreation department in striving for those goals.

Monte Moore

[Signature]
BIOGRAFICAL SKETCH: MONTE MOORE

Native of Hollis, Oklahoma
Graduate of University of Oklahoma
U.S. Army First Lieutenant: Korean War Era
Started broadcasting career Lawton, Oklahoma
Moved to Hutchinson, Kansas radio
Hired as broadcaster for University of Kansas Sports Network in Wilt Chamberlain era
Became sports director for WDAF radio and TV in Kansas City broadcasting Big 8 sports
Selected in 1962 to be announcer for Kansas City A’s major league team
Went on to broadcast 2801 consecutive games of the A’s games through Kansas City and Oakland.
Broadcast 3 consecutive World Series for NBC with Curt Gowdy, Tony Kubek, and Jim Simpson as A’s won all three championships.
Left A’s in 1978 and took NBC Game of the Week announcing job on alternate game.
Was announcer for USA Network Thursday Game of the Week 5 years
Came back to Oakland A’s as TV announcer 1986-1992....through 3 more consecutive
World Series appearances
BIOGRAPHICAL INFORMATION ON MONTE MOORE
(Regarding community service and Youth Center)

Member of original board of directors for Porterville Youth Incorporated, which created the Community Youth Center. It was first located in Jaye street building. Later, a lease was taken on the building on Hockett street, and it has been there ever since. The city took over operation of the center when PYI disbanded. Monte created a Big League Golf Tournament to help provide equipment for the Youth Center and local athletic teams. That event has raised over $750,000 through the years. Most all of the equipment in the Hockett building came from the annual Golf-A-Rama, which has gone on for 24 consecutive years.

At the 2002 awards banquet, Monte was presented with a $50,000 check for the Youth Center from his friend, Mark McGwire, major league baseball star, who had known about the Center for a few years. That check was presented to the City Council for use exclusively by the Youth Center. In 2004, Moore presented another check for just over $8,000 for the same use. He has been a devoted supporter of that and other youth organizations and sports teams ever since he purchased the local radio stations in 1978.

He has been recognized by numerous organizations through the years. He was named the Porterville Man of the Year by the Chamber of Commerce; recipient of the Alan Coates award for years of dedicated community service; Friend of Education winner from the School District; Lifetime Achievement award from CIF; Meritorius service awards from City of Porterville and Tulare County Board of Supervisors; Special recognition awards from Boy Scouts; High School Coaches of Porterville, Proteus, and the Golden Arrow award from Monache High School.

He served 17 years as an Elder at the Porterville Church of Christ, and is still active in teaching Bible classes there.

Married to Deonne for 53 years and they have three children, Bruce, Deonna, and Donnie, and they all graduated from Monache.
CITY OF PORTERVILLE
REQUEST FOR APPOINTMENT

Please complete all blanks.

Name: **Richard Rankin**

Appointment to: **Park and Leisure Services Commission**

☐ Reappointment; or IF NEW, please provide:

Street Address: 559 W. Kongi

93257

Mailing Address: Same

Name of Business: **Athletic Director Granite Hills High School**

☐ Own  ☐ Operate

Business Address: 1701 E. Putnam

93257

Telephone:  
Home: 781-8479

Work: 782-6104

FAX: 789-9357

E-mail: rankin@porterwillschool.org

City of Porterville resident: ☐ Yes  ☐ No

Registered Voter: ☐ Yes  ☐ No
Qualifications: I was born and raised in Porterville. Growing up I had the opportunity to participate in quite a few city youth sports programs. In High School and College during the summer months I worked for the Park and Leisure Services. (7 years) I have been a High School Athletic Director for the past 16 years at both Porterville HS and Granite Hills HS. This is my 26th year in Education.

☐ Resume attached
☐ Letter of request attached

Submitted By: R. Rodi 10/14/09

Date

Received By:

Forwarded to: City Clerk  ☐ Date:
City Council  ☐ Date:
City Manager  ☐ Date:
Applicable Dept.  ☐ Date:

Tentative Council Mtg Date:

Page 2 of 2
REQUEST FOR APPOINTMENT
CITY OF PORTERVILLE PERSONNEL

Name: Greg Shelton
(Please Print)

Appoint to: Parks and Leisure Services Commission
(Name of Board, Commission, or Committee)

☒ Reappointment; or

IF NEW, please provide:

Street Address: 888 N. Williford Dr. Porterville, CA, 93257
Mailing Address: Same As Above

Name of Work: Self-Employed
Work Address: Same As Above

Telephone: Home (559) 784-7809
Work Same As Above
FAX
E-mail greg-shelton@sbcglobal.net

City of Porterville registered voter:
☒ Yes
☐ No

City of Porterville resident:
☒ Yes
☐ No

Date Submitted: 9-3-09 Council Mtg Date:

☐ Resume attached
☐ Letter of request attached
CITY OF PORTERVILLE  
REQUEST FOR APPOINTMENT

Please complete all blanks.

Name:  JOSEPH CARTER
(Please Print)

Appointment to:  Parks & Leisure Services Commission  OR  LIBRARY BOARD
(Name of Board, Commission, or Committee)
Reappointment; or IF NEW, please provide :
Street Address:  998 N. Roberta Way, Porterville, CA 93257
Mailing Address:  same as above
Name of Business: Wal-Mart Distribution Center-Transportation
☐ Own  ☐ Operate
Business Address:  1300 S. F Street, Porterville, CA 93257
Telephone:  Home 791-0225
           Work 350-2334(cell)
           FAX  N/A
E-mail:  jcarter1964@gmail.com
City of Porterville resident:
☐ Yes   ☐ No
Registered Voter:
☑ Yes   ☐ No
Qualifications: I moved to Porterville 12 years ago and have been active in a variety of community events, the Chamber, and the Police Department Volunteer Program. Community stewardship is very important to me and I seek the opportunity to step-up my involvement by becoming part of the City’s Parks & Leisure Services Commission. I am certain that my previous community participation, professional development, and desire to serve Porterville make me a qualified candidate for Council’s consideration. Specific to this Commission, I have an interest in the activities that the City offers youth for the productive use of their time; the parks that attract both residents and visitors; and, the activities available to adults and seniors.

Resume attached

Letter of request attached

Submitted By: ___________________________ Date 10-14-09
Received by: ______________________________________________________
Forwarded to: City Clerk __________ Date: ______________________________
City Council __________ Date: _________________________________________
City Manager __________ Date: _________________________________________
Applicable Dept. __________ Date: ______________________________________
Tentative Council Mtg Date: _________________________________________
998 N. Roberta Way
Porterville, CA 93257
September 14, 2009

Pete McCracken, Mayor
City of Porterville
291 N. Main Street
Porterville, CA 93257

Dear Mayor McCracken:

It has come to my attention that the City of Porterville has openings for community-minded individuals interested in serving on the Parks & Leisure Services Commission and the Library Board. As one who regularly volunteers with community-wide activities, I would like to express my keen interest in further serving Porterville by appointment to one of these entities.

Porterville is fortunate to have a very active Parks & Leisure Services Department offering our citizens many opportunities to engage in special events such as Kid’s Day, the Easter egg hunt, senior dances, after school programs, and more. Additionally, we have beautiful parks which provide the perfect venues for family gatherings, skateboarding, or just a leisurely walk. I would welcome the opportunity to be a part of the team which maintains and enhances these offerings.

Our library is an important entity in Porterville. From books to computers, storytelling to genealogical research, audio books to literacy programs, it offers something for everyone. I am an avid reader and also enjoy utilizing the library for borrowing audio books for my travels. Currently, I know that our community is considering a possible build of a new library which could offer enhanced services. I proudly supported Measure H which contributed funds toward our library and literacy, and I would be very interested in becoming involved with the maintenance and potential growth of the library.

Since you know where your need lies, and I am interested in serving in either capacity, I will leave it to the wisdom of our City Council to consider my interest and most appropriate placement. Thank you for your consideration. I hope to have the opportunity to bring my resources and community stewardship to the City of Porterville.

Sincerely,

Joseph C. Carter
(559) 350-2334
Joseph C. Carter
998 North Roberta Way, Porterville, CA 93257
(559) 791-0225 Home or (559) 350-2334 Cell

Wal-Mart Stores, Inc. — Private Fleet, Porterville, CA
1999 to Present

Driver
☐ Lead Ambassador overseeing 15 driver Ambassadors with the responsibility of establishing good neighbor relationships and problem resolution with management teams at 63 stores in California. Also, assisted with three store grand openings and the coordination of various store of the month recognition events.
☐ Member of the Transportation Safety Committee.
☐ Member of the Driver Hiring Committee performing such duties as application review, applicant interviews, and reference checking.
☐ Coordinated truck delivery route arrival/departure to ensure city code compliance at the new Rosemead Supercenter.
☐ Served on the Realignment and Set Run Committee which evaluated transit time allocation and daily needs in order to meet store requirements, and recommend a set run schedule.
☐ Acted as a Mentor Driver which involved the on-the-road training of a driver to provide education on Wal-Mart culture, paperwork processing, and operations.
☐ Represented local drivers while participating in a Regional Grassroots Meeting and Regional Operations Center Grassroots Meeting
☐ Transported retail goods from Distribution Centers to stores and from backhaul vendors to Distribution Centers, achieving a 100%, on-time performance record.
☐ Drove over 1,000,000 miles with Wal-Mart without a ticket or an accident.
☐ Drove truck in 48 states and Canada and also worked as a cross country driver trainer.
☐ Completed a special Wal-Mart Media & Presentation Training Program.

Additional Competencies
☐ Demonstrated ability to communicate effectively with others and exhibit diplomacy.
☐ Motivated, conscientious, committed, organized, and professional.

Community Stewardship
☐ Active involvement in the Porterville Iris Festival, Chamber Auction, Annual Awards Banquet, and other special events coordinated by the Porterville Chamber of Commerce and Leadership Porterville organizations.
☐ Participant in the Porterville Police Department Volunteer Program.
Military Service

1984 to 1987

- United States Marine Corps, Radio Operator: Served in the 2nd Recon Battalion and the 129th Artillery Unit - Received an Honorable Discharge.
- Served as a team leader during training maneuvers leading a seven-man team through jungle, desert, and water exercises.
- Successfully completed special operations training courses.

Education & Training

- NATMI – Completed the Safety Management Training Program (2007) included accident investigation, OSHA, cost reduction, hiring/retaining drivers, etc.
- Employer Advisory Council – Effective Supervisory Skills Training Sessions
- Fresno City College, CA — Courses completed in Criminology and Liberal Studies
CITY OF PORTERVILLE
REQUEST FOR APPOINTMENT

Please complete all blanks.

Name:  Carrell Land
(Please Print)

Appointment to:  Parks and Recreation
(Name of Board, Commission, or Committee)

☐ Reappointment; or IF NEW, please provide:

Street Address:    718 W Bellevue
                  Porterville, Calif 93257

Mailing Address: Same as above

Name of Business: ____________________________

☐ Own      ☐ Operate

Business Address: ____________________________

Telephone:  Home  781-2091

Work ____________________________

FAX ____________________________

E-mail land778@gmail.com

City of Porterville resident:  ☒ Yes  ☐ No

Registered Voter:  ☒ Yes  ☐ No
Qualifications: Coached for 40 years at local high schools and Porterville College. Served as Assistant Recreation for City of Porterville 1957-1961.

☐ Resume attached
☐ Letter of request attached

Submitted By: Canelo Land Oct 15, 2009

Received by:

Forwarded to: City Clerk ☐ Date: __________________________
City Council ☐ Date: __________________________
City Manager ☐ Date: __________________________
Applicable Dept. ☐ Date: __________________________

Tentative Council Mtg Date: __________________________

Page 2 of 2
CITY OF PORTERVILLE
REQUEST FOR APPOINTMENT

Please complete all blanks.

Name: Leticia R. Lupio

Appointee to: Park & Leisure Services Commission

☐ Reappointment; or IF NEW, please provide:

Street Address: 367 S. Hockett St. Porterville Ca. 93257

Mailing Address: Same as above.

Name of Business:

☐ Own ☐ Operate

Business Address:

Telephone: Home 559-361-8046
Work 559-562-7459
FAX 559-562-9897
E-mail Ladydevine@aol.com

City of Porterville resident: X Yes
☐ No

Registered Voter: X Yes
☐ No

Page 1 of 2
Qualifications: I have been a Porterville resident for 15+ years. In those years I have been a proud parent involving my daughter with Tee Ball, Softball, Basketball, Soccer, Fishing Derby, NFL Punt, Pass & Kick. I have been a coach, assistant coach, team mom since my daughter was 4 years old. I would like the opportunity to serve on committee to give back to Porterville community by sharing and improving our Parks: Leisure by my personal experiences going to other cities to see what they offer and have. Through my daughters traveling sports in various sports activities.

Submitted By: ____________________________ 10.14.09

Date:

Received by: __________________________

Forwarded to: City Clerk □ Date: __________________________

City Council □ Date: __________________________

City Manager □ Date: __________________________

Applicable Dept. □ Date: __________________________

Tentative Council Mrg Date:__________________________
CITY OF PORTERVILLE
REQUEST FOR APPOINTMENT

Please complete all blanks.

Name: Rick Vafeades
(Please Print)

Appointment to: Commission - Parks + Recreation
(Name of Board, Commission, or Committee)

☐ Reappointment; or IF NEW, please provide:

Street Address: 528 W. Dexter

Mailing Address: Same

Name of Business:

☐ Own ☐ Operate

Business Address:

Telephone: Home 781-0638
Work
FAX
E-mail r vafeades @ hotmail.com

City of Porterville resident: ☑ Yes
☑ ☐ No

Registered Voter: ☑ Yes
☐ No

Page 1 of 2
Qualifications: 

 Involved in sports all my life. 

☐ Resume attached
☐ Letter of request attached

Submitted By: Rick Vafeedes 10-15-09

Received by:

Forwarded to: City Clerk  □ Date:________________________
                    City Council  □ Date:________________________
                    City Manager  □ Date:________________________
                    Applicable Dept. □ Date:________________________

Tentative Council Mtg Date:________________________
COUNCIL AGENDA: OCTOBER 20, 2009

SUBJECT: PARKS DEVELOPMENT & COMMUNITY REVITALIZATION GRANT PROGRAM THROUGH PROPOSITION 84

SOURCE: PARKS AND LEISURE SERVICES DEPARTMENT

COMMENT: Proposition 84 provides a grant program to fund parks and community revitalization which has now established an application deadline of March 1, 2010. While the opportunities for grant funds are great, there is a considerable amount of process required to achieve applications that will be scored well in the competitive statewide process. The focus of this funding opportunity will provide park related community facilities within economically challenged neighborhoods that are currently underserved by park facilities.

The Council has previously received a recommendation from the Parks & Leisure Services Commission on potential geographic regions/neighborhoods of the community that the Commission considered viable under the preliminary grant guidelines. At the April 21, 2009 Council meeting there was specific interest by the Council in the area of Mulberry and Indiana, as well as the area south of Olive Street School. Council directed staff to refine the scoring information for the Commission's short-list areas, as well as the Mulberry and Indiana area, utilizing the final grant guidelines. Council has also directed that a consultant prepare an application for one site, the Heritage Softball Complex.

Staff has now refined the State's database, known as the Community Fact Finder to correct errors on City park locations and acreages. We have been able to utilize the database to generate site-specific relative potential at the parcel level for the entire planning area. This information led staff to focus attention on a geographic region roughly from the south side of the Tule River at the former Tulare Valley Railroad and diagonally to the northwest, to about the Porter Slough crossing at Villa Street. This is still a large region and staff seeks input from the Council to further narrow the geographic region in which to focus an application effort.

The Heritage Complex location is close to the center of this region of interest. The Council's specific interest in the area south of Olive Street School falls at the edge of the high potential region. The Mulberry and Indiana area is predominantly in a low potential region.

[Signature]
Director

[Signature]
Appropriated/Funded

[Signature]
City Manager

ITEM NO.: 13
Outreach meetings will need to be conducted to target input from a specific neighborhood of approximately one square mile. The type of facility to be proposed in a grant application needs to be supported by the neighborhood, and can range from sports fields, passive parks, trailways, to community centers, etc. that contain an element of open space. For example, a trailway along either the Porter Slough or the Tule River with nodes for activities or passive reflection, or a Community Center located in proximity to the Olive or Putnam corridors might be possible.

Staff is concerned with the amount of time needed to compile an application. Council guidance is requested to narrow the area of interest to a single neighborhood region. It will be a challenge for staff to effectively engage a geographic segment of the community for compiling an application. Simultaneously, staff must also support the efforts of the consultant by engaging the region in proximity to the Heritage Center to achieve neighborhood participation in that grant application proposal.

The initial grant program application deadline of March 1, 2010 will be followed by a second round in approximately nine months. This second round would provide more time to define a facility and location. Resubmittal of an initial unsuccessful application for the second round is also possible, and feedback on the shortcomings of an initial application can be obtained to bolster the chance of a resubmitted application.

Should the Council wish to submit more than the one application which is being prepared by the consultant, then staff believes chances are best focusing efforts upon either:

- **North of Highway 190** and south of Locust, with Main on the west and Leggett on the east; or
- **South of Morton Avenue** and north of Orange, with Indiana on the west and Main on the east.

Staff also needs to utilize additional part-time staff assistance to provide increased capacity for grant application processes. Staff estimates $10,000 of supplemental part-time staff assistance is needed.

**RECOMMENDATION:** That the City Council determine which area to focus efforts for a second Parks Development and Community Revitalization grant application, and authorize a $10,000 budget adjustment from GF Carry-Over for supplemental part-time staff assistance.

**ATTACHMENTS:** Community competitive-potential maps
PARKS DEVELOPMENT & COMMUNITY REVITALIZATION PROGRAM

Legend
- Streets.shp
- buff04_holcomb_olive
- buff06_murry_park
- buff07_plano_sofriver
- buff08_mulberry&plano
- buff09_henderson&plano_swcom
- buff10_grand&plano
- buff12_heritage_ball_park
- buff13_morton&villa_se
- buff19_hwy65&hwy190nw
- buff21_drive-in_theater
- buff22_olive&newcomb
- Buff25_Olive_st_school
- Buff26_Mulberry_indiana
- Buff27_Lime_Sl_Parks
- Cop_limits.shp
- Low Location Potential
- Medium Location Potential
- High Location Potential

* The Fair Grounds and Municipal Ball Park have been excluded from park acreage data.
LEGEND

- City Limits
- Streets
- Plano So. of River
- Heritage Site Area
- Morton & Villa
- Olive Street School Area
- Low Location Potential
- Medium Location Potential
- High Location Potential

* The Fair Grounds and Municipal Ball Park have been excluded from park acreage data.
SUBJECT: AMENDMENT TO THE COMMUNITY DEVELOPMENT BLOCK
GRANT 2009/10 ACTION PLAN FOR THE REALLOCATION OF
FUNDS FOR ACQUISITION AND INSTALLATION OF THE MURRY
PARK POOL WATER SLIDE

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: On September 1, 2009, the City Council authorized staff to proceed with
the substantial Amendment to the 2009/2010 Community Development
Block Grant (CDBG) Action Plan of the 2005/2010 Consolidated Plan for
the purpose of reallocating funds to complete the Murry Park Pool Water
Slide Project. The Action Plan is submitted annually to the U.S.
Department of Housing and Urban Development (HUD) to enable the City
to receive federal funds under the CDBG program.

The City is proposing to use up to $205,000 in CDBG funds for the
purchase and installation of a water slide for the Murry Park Swimming
Pool. This water slide was planned to be included in the original pool
reconstruction project, but funds were not available at that time to
complete the slide. However, the infrastructure for the installation of the
slide was constructed. The City has received additional CDBG Entitlement
funds for FY 09/10 of $98,615 which were not included in the adopted
09/10 Action Plan. It is proposed that these funds, in addition to $16,860
in excess funds in the 08/09 CDBG Administration funds, up to $14,034
of the remaining fund balance in the Murry Park Improvement Program
fund, and up to $76,000 in undesignated funds in the Business Assistance
Program, be allocated to the Murry Park Improvement Project to complete
the water slide project.

The reallocation of funds is considered a Substantial Amendment to the
adopted 09/10 Action Plan. The required thirty day Public Comment
Period ran from September 11 to October 12, 2009. No comments were
received from the public regarding the Substantial Amendment.

Since this project is already a part of the Murry Park Improvement Project,
the substantial amendment would only reallocate the additional funding of
$191,475 to the Project for the installation of the slide. The Program
Model for the project identifies this as an Eligible Activity under Public
Facilities and Improvements (24 CFR 570.201(c)) and the National
Objective as a Direct Benefit to Low-and Moderate-Income Area (24 CFR
570.208 (a)(1)).
RECOMMENDATION: That the City Council adopt the resolution of approval for Amendment No.1 to the 2009/10 Action Plan to include the allocation of up to $205,000 in CDBG funds from the Business Assistance Program, Administration Fund, and the Murry Park Improvement Project for the acquisition and installation of the water slide at the Murry Park Pool.

ATTACHMENTS: 1. Draft Resolution approving the Substantial Amendment to the 2009/2010 Action Plan
RESOLUTION NO._____

A RESOLUTION OF THE CITY COUNCIL OF THE
CITY OF PORTERVILLE
APPROVING AMENDMENT NO. 1 TO THE
COMMUNITY DEVELOPMENT BLOCK GRANT
2009/2010 ACTION PLAN

BE IT HEREBY RESOLVED that the City Council of the City of Porterville does hereby approve Amendment No.1 to the Community Development Block Grant (CDBG) 2009/2010 Action Plan to include the allocation of up to $205,000 in CDBG funds from the Business Assistance Program, Administration Fund, and the Murry Park Improvement Project for the acquisition and installation of the water slide at the Murry Park Pool.

__________________________
Pete V. McCracken, Mayor

ATTEST:

John D. Lollis, City Clerk

By__________________________
Patrice Hildreth, Chief Deputy City Clerk
SUBJECT: A RESOLUTION APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF A PURCHASE AND SALE AGREEMENT AND RELATED DOCUMENTS WITH RESPECT TO THE SALE OF THE SELLER'S PROPOSITION 1A RECEIVABLE FROM THE STATE; AND DIRECTING AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH.

SOURCE: FINANCE DEPARTMENT

Background

Proposition 1A Suspension: Proposition 1A was passed by California voters in 2004 to ensure local property tax and sales tax revenues remain with local government thereby safeguarding funding for public safety, health, libraries, parks, and other local services. Provisions can only be suspended if the Governor declares a fiscal necessity and two-thirds of the Legislature concur.

The emergency suspension of Proposition 1A was passed by the Legislature and signed by the Governor as ABX4 14 and ABX4 15 as part of the 2009-10 budget package on July 28, 2009. Under the provision, the State will borrow 8% of the amount of property tax revenue apportioned to cities, counties and special districts. The state will be required to repay those obligations plus interest by June 30, 2013.

The legislature is currently reviewing a clean-up bill, SB67 which would provide for a few critical changes to the enacted legislation, including but not limited to providing for: financing to occur in November; county auditor certification of amount of Prop 1A receivable; tax-exempt structure; California Communities as the only issuer; more flexibility on bond structure (interest payments, state payment date and redemption features); sales among local agencies; and revision to the hardship mechanism. While SB 67 has not yet been passed and signed into law, California Communities expects that to occur prior to funding the Program. If for any reason SB 67 is not enacted and the bonds cannot be sold by December 31, 2009, all approved documents placed in escrow with Transaction counsel will be of no force and effect and will be destroyed.

Proposition 1A Securitization Program: Authorized under ABX4 14 and ABX4 15, the Proposition 1A Securitization Program was instituted by California Communities to enable Local Agencies to sell their respective Proposition 1A Receivables to California Communities. Currently, SB67 is being considered to clarify specific aspects of ABX4 14 and ABX4 15. Under the Securitization Program, California Communities will simultaneously purchase the Proposition 1A Receivables, issue bonds ("Prop 1A Bonds") and provide each local agency with the cash proceeds in two equal installments, on January 15, 2010 and May 3, 2010 (to coincide with the dates that the State will be shifting property tax from local agencies). The purchase price paid to the local agencies will equal 100% of the amount of the property tax reduction. All
transaction costs of issuance and interest will be paid by the State of California. Participating local agencies will have no obligation on the bonds and no credit exposure to the State.

If the City of Porterville sells its Proposition 1A Receivable under the Proposition 1A Securitization Program, California Communities will pledge the City's Proposition 1A Receivable to secure the repayment of a corresponding amount of the Prop 1A Bonds. The City's sale of its Proposition 1A Receivable will be irrevocable. Bondholders will have no recourse to the City if the State does not make the Proposition 1A Repayment.

Proposition 1A Program Sponsor: California Statewide Communities Development Authority ("California Communities") is a joint powers authority sponsored by the California State Association of Counties and the League of California Cities. The member agencies of California Communities include approximately 230 cities and 54 counties throughout California.

Benefits of Participation in the Proposition 1A Securitization Program:

The benefits to the City of participation in the Proposition 1A Securitization Program include:

- **Immediate cash relief** – the sale of the City's Proposition 1A Receivable will provide the City with 100% of its Proposition 1A Receivable in two equal installments, on January 15, 2010 and May 3, 2010.

- **Mitigates impact of 8% property tax withholding in January and May** – Per ABX4 14 and ABX4 15 and the proposed clean-up legislation SB 67, the State will withhold 8% of property tax receivables due to Cities, Counties, and Special Districts under Proposition 1A. The financing outlines bond proceeds to be distributed to coincide with the dates that the State will be shifting property tax from local agencies.

- **All costs of financing borne by the State of California.** The City will not have to pay any interest cost or costs of issuance in connection with its participation.

- **No obligation on Bonds.** The City has no obligation with respect to the payment of the bonds, nor any reporting, disclosure or other compliance obligations associated with the bonds.

Proceeds of the Sale of the City's Proposition 1A Receivable:

Upon delivery of the Proposition 1A Bonds, California Communities will make available to the City its fixed purchase price, which will equal 100% of the local agency's Proposition 1A Receivable. These funds may be used for any lawful purpose of the City and are not restricted by the program.

Proposed Proposition 1A Receivables Sale Resolution:

The proposed Proposition 1A Receivables Sale Resolution:

(1) Authorizes the sale of the City of Porterville's Proposition 1A Receivable to California Communities for 100% of its receivable;
(2) Approves the form, and directs the execution and delivery, of the Purchase and Sale Agreement with California Communities and related documents;

(3) Authorizes and directs any Authorized Officer to send, or to cause to be sent, an irrevocable written instruction required by statute to the State Controller notifying the State of the sale of the Proposition 1A Receivable and instructing the disbursement of the Proposition 1A Receivable to the Proposition 1A Bond Trustee;

(4) Appoints certain City officers and officials as Authorized Officers for purposes of signing documents; and

(5) Authorizes miscellaneous related actions and makes certain ratifications, findings and determinations required by law.

**Proposed Purchase and Sale Agreement**

The proposed Purchase and Sale Agreement:

(1) Provides for the sale of the Proposition 1A Receivable to California Communities;

(2) Contains representations and warranties of the City of Porterville to assure California Communities that the Proposition 1A Receivable has not been previously sold, is not encumbered, that no litigation or other actions is pending or threatened to disrupt the transaction and that this is an arm's length "true sale" of the Proposition 1A Receivable;

(3) Provides mechanics for payment of the Purchase Price;

(4) Contains other miscellaneous provisions.

**Proposed Purchase and Sale Agreement Exhibits:**

The proposed Proposition 1A Purchase and Sale Agreement Exhibits:

(B1) Opinion of Counsel: This is an opinion of the counsel to the local agency covering basic approval of the documents, litigation, and enforceability of the document against the Seller. It will be dated as of the Pricing Date of the bonds (currently expected to be November 10, 2009).

(B2) Bringdown Opinion: This simply "brings down" the opinions to the closing date (currently expected to be November 19, 2009).

(C1) Certificate of the Clerk of the Local Agency: A certificate of the Clerk confirming that the resolution was duly adopted and is in full force and effect.

(C2) Seller Certificate: A certification of the Seller dated as of the Pricing Date confirming that the representations and warranties of the Seller are true as of the Pricing Date, confirming authority to sign, confirming due approval of the resolution and providing payment instructions.
(C3) Bill of Sale and Bringdown Certificate: Certificate that brings the certifications of C2 down to the Closing Date and confirms the sale of the Proposition 1A Receivable as of the Closing Date.

(D) Irrevocable Instructions to the Controller: Required in order to let the State Controller know that the Proposition 1A Receivable has been sold and directing the State to make payment of the receivable to the Trustee on behalf of the Purchaser.

(E) Escrow Instruction Letter: Instructs Transaction Counsel (Orrick) to hold all documents in escrow until closing, and if closing does not occur by December 31, 2009 for any reason, to destroy all documents.

RECOMMENDATION: If the City Council wishes to participate in the Proposition 1A Securitization Program, that it should adopt the proposed Proposition 1A Sale Resolution and Purchase and Sale Agreement.

ATTACHMENT: Draft Resolution
RESOLUTION NO. ____________

CITY COUNCIL
OF THE
CITY OF PORTERVILLE

A RESOLUTION APPROVING THE FORM OF AND AUTHORIZING THE EXECUTION AND DELIVERY OF A PURCHASE AND SALE AGREEMENT AND RELATED DOCUMENTS WITH RESPECT TO THE SALE OF THE SELLER’S PROPOSITION 1A RECEIVABLE FROM THE STATE; AND DIRECTING AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION THERewith

WHEREAS, pursuant to Section 25.5 of Article XIII of the California Constitution and Chapter 14XXXX of the California Statutes of 2009 (Assembly Bill No. 15), as amended (the “Act”), certain local agencies within the State of California (the “State”) are entitled to receive certain payments to be made by the State on or before June 30, 2013, as reimbursement for reductions in the percentage of the total amount of ad valorem property tax revenues allocated to such local agencies during the State’s 2009-10 fiscal year (the “Reimbursement Payments”), which reductions have been authorized pursuant to Sections 100.05 and 100.06 of the California Revenue and Taxation Code;

WHEREAS, the City of Porterville, a local agency within the meaning of Section 6585(f) of the California Government Code (the “Seller”), is entitled to and has determined to sell all right, title and interest of the Seller in and to its “Proposition 1A receivable”, as defined in Section 6585(g) of the California Government Code (the “Proposition 1A Receivable”), namely, the right to payment of moneys due or to become due to the Seller pursuant to Section 25.5(a)(I)(B)(iii) of Article XIII of the California Constitution and Section 100.06 of the California Revenue and Taxation Code, in order to obtain money to fund public capital improvements or working capital;

WHEREAS, the Seller is authorized to sell or otherwise dispose of its property as the interests of its residents require;

WHEREAS, the California Statewide Communities Development Authority, a joint exercise of powers authority organized and existing under the laws of the State (the “Purchaser”), has been authorized pursuant to Section 6588(x) of the California Government Code to purchase the Proposition 1A Receivable;

WHEREAS, the Purchaser desires to purchase the Proposition 1A Receivable and the Seller desires to sell the Proposition 1A Receivable pursuant to a purchase and sale agreement by and between the Seller and the Purchaser in the form presented to this City Council (the “Sale Agreement”) for the purposes set forth herein;

WHEREAS, in order to finance the purchase price of the Proposition 1A Receivable from the Seller and the purchase price of other Proposition 1A Receivables from other local agencies, the Purchaser will issue its bonds (the “Bonds”) pursuant to Section 6590 of the California Government Code and an Indenture (the “Indenture”), by and between the Purchaser and Wells Fargo Bank, National Association, as trustee (the “Trustee”), which Bonds will be payable solely
from the proceeds of the Seller’s Proposition 1A Receivable and other Proposition 1A Receivables sold to the Purchaser by local agencies in connection with the issuance of the Bonds;

WHEREAS, the Seller acknowledges that (i) any transfer of its Proposition 1A Receivable to the Purchaser pursuant to the Sale Agreement shall be treated as an absolute sale and transfer of the property so transferred and not as a pledge or grant of a security interest by City of Porterville to secure a borrowing, (ii) any such sale of its Proposition 1A Receivable to the Purchaser shall automatically be perfected without the need for physical delivery, recordation, filing or further act, (iii) the provisions of Division 9 (commencing with Section 9101) of the California Commercial Code and Sections 954.5 to 955.1 of the California Civil Code, inclusive, shall not apply to the sale of its Proposition 1A Receivable, and (iv) after such transfer, the Seller shall have no right, title, or interest in or to the Proposition 1A Receivable sold to the Purchaser and the Proposition 1A Receivable will thereafter be owned, received, held and disbursed only by the Purchaser or a trustee or agent appointed by the Purchaser;

WHEREAS, the Seller acknowledges that the Purchaser will grant a security interest in the Proposition 1A Receivable to the Trustee and any credit enhancer to secure payment of the Bonds;

WHEREAS, a portion of the proceeds of the Bonds will be used by the Purchaser to, among other things, pay the purchase price of the Proposition 1A Receivable;

WHEREAS, the Seller will use the proceeds received from the sale of the Proposition 1A Receivable for any lawful purpose as permitted under the applicable laws of the State;

NOW THEREFORE, the City Council of the City of Porterville hereby resolves as follows:

Section 1. All of the recitals set forth above are true and correct, and this City Council hereby so finds and determines.

Section 2. The Seller hereby authorizes the sale of the Proposition 1A Receivable to the Purchaser for a price equal to the amount certified as the Initial Amount (as defined in the Sale Agreement) by the County auditor pursuant to the Act. The form of Sale Agreement presented to the City Council is hereby approved. An Authorized Officer (as set forth in Appendix A of this Resolution, attached hereto and by this reference incorporated herein) is hereby authorized and directed to execute and deliver the Sale Agreement on behalf of the Seller, which shall be in the form presented at this meeting.

Section 3. Any Authorized Officer is hereby authorized and directed to send, or to cause to be sent, an irrevocable written instruction to the State Controller (the “Irrevocable Written Instruction”) notifying the State of the sale of the Proposition 1A Receivable and instructing the disbursement pursuant to Section 6588.6(c) of California Government Code of the Proposition 1A Receivable to the Trustee, on behalf of the Purchaser, which Irrevocable Written Instruction shall be in the form presented at this meeting.
Section 4. The Authorized Officers and such other Seller officers, as appropriate, are hereby authorized and directed, jointly and severally, to do any and all things and to execute and deliver any and all documents, including but not limited to, if required, appropriate escrow instructions relating to the delivery into escrow of executed documents prior to the closing of the Bonds, and such other documents mentioned in the Sale Agreement or the Indenture, which any of them may deem necessary or desirable in order to implement the Sale Agreement and otherwise to carry out, give effect to and comply with the terms and intent of this Resolution; and all such actions heretofore taken by such officers are hereby ratified, confirmed and approved.

Section 5. All consents, approvals, notices, orders, requests and other actions permitted or required by any of the documents authorized by this Resolution, whether before or after the sale of the Proposition 1A Receivable or the issuance of the Bonds, including without limitation any of the foregoing that may be necessary or desirable in connection with any default under or amendment of such documents, may be given or taken by an Authorized Officer without further authorization by this City Council, and each Authorized Officer is hereby authorized and directed to give any such consent, approval, notice, order or request, to execute any necessary or appropriate documents or amendments, and to take any such action that such Authorized Officer may deem necessary or desirable to further the purposes of this Resolution.

Section 6. The City Council acknowledges that, upon execution and delivery of the Sale Agreement, the Seller is contractually obligated to sell the Proposition 1A Receivable to the Purchaser pursuant to the Sale Agreement and the Seller shall not have any option to revoke its approval of the Sale Agreement or to determine not to perform its obligations thereunder.
Section 7. This Resolution shall take effect from and after its adoption and approval.

PASSED AND ADOPTED by the City Council of the City of Porterville, State of California, this _____ day of ________________, 2009, by the following vote:

AYES:

NOES:

ABSENT:

__________________________  
Mayor

Attest:

__________________________  
City Clerk

Approved as to form:

SELLER'S COUNSEL

By__________________________

Dated: ______________________
APPENDIX A

CITY OF PORTERVILLE

Authorized Officers:  
John D. Lolis, City Manager
Maria Bemis, Finance Director

any designee of any of them, as appointed in a written certificate of such Authorized Officer delivered to the Trustee.
SCHEDULED MATTER

SUBJECT: COUNCILMEMBER REQUESTED AGENDA ITEM – STATUS OF VACANT COMMERCIAL SITES

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: At the request of Council member Pedro Martinez, staff has identified a number of prominent vacant commercial sites and is providing a status of known activities relative to those sites. Many of the sites are considered in good to moderate condition. Others are lacking in ongoing maintenance and are sources of attention on the annual weed abatement program.

<table>
<thead>
<tr>
<th>Vacant Sites/Status</th>
<th>Listed Privately</th>
<th>Listed by City</th>
<th>Activities</th>
</tr>
</thead>
<tbody>
<tr>
<td>Gang Sue’s</td>
<td></td>
<td></td>
<td>Annual Weed Abatement</td>
</tr>
<tr>
<td>Sears</td>
<td>X</td>
<td></td>
<td>Property Owner Marketing Site</td>
</tr>
<tr>
<td>Spragues</td>
<td></td>
<td></td>
<td>RGW Occupying Site</td>
</tr>
<tr>
<td>Main Street - Miscellaneous</td>
<td></td>
<td>X</td>
<td>Adding to Webpage</td>
</tr>
<tr>
<td>Longs</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Apple Annies</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Porter Theater</td>
<td>X</td>
<td>X</td>
<td>Call annually to clean property</td>
</tr>
<tr>
<td>Used Car Lots - Miscellaneous</td>
<td></td>
<td></td>
<td>No activity</td>
</tr>
<tr>
<td>Mervyn’s</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Jaye Street Crossing</td>
<td>X</td>
<td>X</td>
<td>Annual Weed Abatement</td>
</tr>
<tr>
<td>Riverwalk</td>
<td>X</td>
<td>X</td>
<td>Annual Weed Abatement</td>
</tr>
<tr>
<td>JC Penney</td>
<td>X</td>
<td></td>
<td>Property Negotiations</td>
</tr>
<tr>
<td>Porterville Hotel</td>
<td></td>
<td></td>
<td>Property Negotiations</td>
</tr>
<tr>
<td>Porterville Hardware</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Screaming Moose</td>
<td>X</td>
<td>X</td>
<td></td>
</tr>
<tr>
<td>Cobblestone Court</td>
<td>X</td>
<td></td>
<td></td>
</tr>
<tr>
<td>Copeland’s Lumber</td>
<td></td>
<td></td>
<td>RDA Acquired, Approved Housing Project</td>
</tr>
<tr>
<td>The Palace</td>
<td></td>
<td>X</td>
<td>Property Owner Exploring Options</td>
</tr>
<tr>
<td>Other</td>
<td></td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

RECOMMENDATION: Provide appropriate direction to staff
SUBJECT: COUNCIL MEMBER REQUESTED AGENDA ITEM - DISCUSSION ON BEVERLY STREET WATER MAIN PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: Councilman Hamilton has requested that the full City Council discuss the various issues related to, and the possibility of constructing an 8" water main along Beverly Street from W. North Grand Avenue to Castle Avenue. The area in question was annexed in 2006 and the residents are on individual wells, many of which are failing as of this writing. Council addressed the Beverly Street water issue at its meeting on September 1, 2009 to which the council directed the formation of a ad hoc committee to evaluate the lack of water services throughout the community. Council Members Hamilton and F. Martinez were assigned to the committee.

The area residents communicated with Councilmen Hamilton and F. Martinez and requested that the City move sooner than later to construct the above mentioned water main. The pipe line length is approximately 1,320’ and Engineering estimates that it will cost approximately $250,000 to construct.

Staff performed a door to door survey about 9 months ago and found that approximately 20% of the 30 residences that front Beverly Street have moderate to low producing wells. Some indicated that their wells stop producing water and need a few hours every day to recover. It should be noted that this project, as well as many others in the same situation, is not included in the 2009/2010 budget.

RECOMMENDATION: That City Council, after discussing the various issues related to the Beverly Street Water Main project, provide direction to Public Works as to how to proceed with this or any other water project.

ATTACHMENT: Locator Map

P:\pub\work\Engineering\Council Items\Council Member Requested Agenda Item - Discussion on Beverly Street Water Main Project - 2009-10-20.doc

Dir Appropriated/Funded _X_ CM _X_ Item No. 17
COUNCIL AGENDA: October 20, 2009

SUBJECT: COUNCILMEMBER REQUESTED AGENDA ITEM – Consideration of City Council Benevolence ("Good Works") Fund

SOURCE: City Manager

COMMENT: Councilman Hamilton has requested that the prospect of creating a Council Benevolence ("Good Works") Fund be considered. The creation of such a fund has been discussed by the Council in the past, whereby through a defined process the Council could allocate funds for community non-profit purposes.

RECOMMENDATION: None

ATTACHMENT: None
SUBJECT: REJECT ALL BIDS – STOUT BUILDING RE-ROOF PROJECT

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: On October 8, 2009, staff received three (3) bids for the Stout Building Re-Roof Project. The project includes installation of a thirty year composition roof and related appurtenances at the Redevelopment Agency-owned Stout Building located at the northwest corner of Cleveland Avenue and Hockett Street.

During the bid process, questions arose regarding the presence of asbestos or lead-based paint within the existing roof. Staff sent an addendum requiring the contractor to hire a removal contractor and abate such materials if present. The lack of information regarding the potential presence of these materials caused bids to greatly exceed the original estimate of $10,000.00, or they were non-responsive.

The bids were as follows:

<table>
<thead>
<tr>
<th>Contractor</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Garcia Roofing, Inc.</td>
<td>$9,430.00</td>
</tr>
<tr>
<td>Bakersfield, CA</td>
<td></td>
</tr>
<tr>
<td>2. Garrison Roofing Co., Inc.</td>
<td>$21,195.00</td>
</tr>
<tr>
<td>Tulare, CA</td>
<td></td>
</tr>
<tr>
<td>3. Tri-Counties Roofing Co., Inc.</td>
<td>$22,200.00</td>
</tr>
<tr>
<td>Visalia, CA</td>
<td></td>
</tr>
</tbody>
</table>

The two lowest bids received were non-responsive due to incomplete submittals. The low bid stated that asbestos removal was not included. With Council’s approval staff will obtain an asbestos/lead-based paint survey and include with the project specifications. The project can then be re-advertised with all required information regarding the presence of these materials in the existing roof.

Upon completion of the asbestos/lead-based paint survey, a new Engineer’s Estimate will be provided by memorandum for Council’s review.

Funding is available in the Redevelopment Agency Fund Balance.

Dir Appropriated/Funded CM Item No. PRA-01
RECOMMENDATION: That City Council:

1. Reject all bids; and

2. Authorize staff to re-advertise for bids on the project after receiving an asbestos/lead-based paint survey.

ATTACHMENTS: Locator Map

P:\pubworld\Engineering\Project Files\Nathan Delta\Reject All Bids-Stout Building Re-Roof Project - 2008-10-20.doc
AGENDA: October 20, 2009

JOINT MEETING OF THE PORTERVILLE REDEVELOPMENT AGENCY AND CITY OF PORTERVILLE PLANNING COMMISSION

SUBJECT: CONSIDER RESOLUTIONS OF THE PORTERVILLE REDEVELOPMENT AGENCY AND CITY OF PORTERVILLE PLANNING COMMISSION, EACH TAKING CERTAIN ACTIONS RELATED TO MODIFICATIONS OF THE PREVIOUSLY PROPOSED ADDED TERRITORY BOUNDARIES FOR THE PROPOSED 2009 AMENDMENT TO THE REDEVELOPMENT PLAN RELEVANT TO THE PORTERVILLE REDEVELOPMENT PROJECT AREA NO. 1, AND TO THE PRELIMINARY PLAN PREPARED THEREFOR

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: Background
The proposed 2009 Amendment to the Redevelopment Plan Added Territory boundaries included a large County unincorporated area; inclusion of this area was predicated on the approval of County Administrative staff and elected officials. Over the past several months, Agency staff has met numerous times with County staff and/or the District Supervisor for the purpose of moving all aspects of the Amendment process forward and, until recently, Agency staff had every reason to believe that County support for the Amendment was strong at all levels. During this period Agency staff made every effort to provide answers to questions and to provide a quick response to each request for additional information. However, as of the date this staff report was prepared, Agency staff has not received a formal commitment from County officials to joint venture in the redevelopment plan amendment process.

Therefore, Agency staff believes it is in the community’s best interest not to delay the amendment process any longer, and that the Agency should move forward without the inclusion of County unincorporated territory being a part of the Added Territory. A longer delay, for any reason, would cause the Agency to lose the next available base year for tax increment purposes. Due to the fact that each noncontiguous sub-area needs to show significant “blight” separately, reduction of certain City portions of the Added Territory should now also occur if adjacent County parcels are no longer proposed for inclusion. The inclusion of these City areas was to be largely supported by their proximity to significantly blighted County parcels and necessity for Agency intervention over the long term to support blight remediation.
History
The City Council of the City of Porterville and the Porterville Redevelopment Agency have initiated an amendment (the proposed "2009 Amendment" or "Amendment", now proposed to be titled the "2010 Amendment") to the Redevelopment Plan (the "Plan") for the Porterville Redevelopment Project Area No. 1 (the "Project") for the purposes of adding territory (the "Added Territory") to the area within the Project (the "Project Area"), reinstating the Agency's limited authority to acquire property in the Project Area through the use of eminent domain, and making modifications as appropriate and necessary to the Plan's projects and programs list specific to the Project Area.

At its meeting on April 7, 2009, the City Council, acting as the City of Porterville Planning Commission (the "Planning Commission") adopted Resolution No. 27-2009, which selected the preliminary boundaries of the area proposed to be included within the Added Territory (the "Added Territory") and formulated a preliminary plan (the "Preliminary Plan") for the Added Territory. The preliminary Added Territory boundaries included land located within the City, as well as several adjacent unincorporated areas. Following this action, on April 7, 2009, the Agency adopted Resolution No. 03-2009, accepting and approving the proposed boundaries of the Added Territory and the Preliminary Plan as formulated and recommended by the Planning Commission at its April 7, 2009 meeting.

First Agency Action
For the reasons discussed above, Agency staff and advisors are now recommending the Added Territory be modified as shown in Attachment A, included with Draft Agency Resolution (Attachment No. 1). Because this involves changes to Added Territory boundaries and the previously approved and adopted Preliminary Plan, the Planning Commission must first consider and approve the proposed modifications. Therefore, the first Agency resolution to be considered directs that the Planning Commission consider and approve the proposed Added Territory modifications. This Draft Agency Resolution also requests the Planning Commission: 1) determine that modifications will not affect the textual content of the Preliminary Plan and that said textual content remains true and correct, and 2) approve a modified Preliminary Plan. Finally, this Resolution amends the title of the Amendment from the "2009 Amendment" to "2010 Amendment."

Planning Commission Action
Subsequent to the Agency adopting the above mentioned Resolution, the City Council, acting as the City of Porterville Planning Commission, should consider and adopt the attached Draft Planning Commission Resolution (Attachment No. 2), which modifies the Added Territory boundaries as shown on Attachment A of the above mentioned resolutions, and approves a modified Preliminary Plan that includes the Added Territory boundaries shown in Attachment B of the attached Draft Planning Commission Resolution.
The Draft Planning Commission Resolution approves the proposed Added Territory modifications, and also states that, based upon analysis contained in the Preliminary Plan, the modifications will not affect the textual content of the Preliminary Plan, and that said textual content remains true and correct.

Second Agency Action
Following adoption of Planning Commission Resolution, Agency staff recommends that the Agency consider and then adopt the attached Draft Agency Resolution (Attachment No. 3), which accepts the modified Added Territory boundaries shown in Attachment A of this Resolution, and the modified Preliminary Plan previously approved by the Planning Commission.

RECOMMENDATION: That the Porterville Redevelopment Agency and City of Porterville Planning Commission:

1. As appropriate, adopt the Attached Resolutions taking certain actions to modify the Previously Proposed Added Territory Boundaries for the Proposed 2009 Amendment to the Redevelopment Plan for the Porterville Redevelopment Project Area No. 1, and to the Preliminary Plan Prepared therefor, and related matters.

ATTACHMENTS: 1) Draft Agency Resolution directs that the Planning Commission consider and approve the proposed Added Territory modifications, determine that modifications will not affect the textual context of the Preliminary Plan and that said textual context remains true and correct, approves a modified Preliminary Plan, and amends the title of the Amendment from the “2009 Amendment” to “2010 Amendment.”

2) Draft Planning Commission Resolution Modifying the Added Territory boundaries, and approves a modified Preliminary Plan

3) Draft Agency Resolution Accepting Modified Added Territory Boundaries
RESOLUTION NO. ______

A RESOLUTION OF THE PORTERVILLE REDEVELOPMENT AGENCY REQUESTING THE CITY OF PORTERVILLE PLANNING COMMISSION CONSIDER MODIFICATIONS TO PREVIOUSLY PROPOSED ADDED TERRITORY BOUNDARIES FOR THE PROPOSED 2010 AMENDMENT TO THE REDEVELOPMENT PLAN FOR THE PORTERVILLE REDEVELOPMENT PROJECT AREA NO. 1, AND TO THE PRELIMINARY PLAN PREPARED THEREFOR

WHEREAS, the City Council of the City of Porterville (the "City Council" and the "City" respectively) and the Porterville Redevelopment Agency (the "Agency") have initiated an amendment to the previously amended Redevelopment Plan (the "Plan") for the Porterville Redevelopment Project Area No. 1 (the "Project") pursuant to the provisions of the California Community Redevelopment Law (CCRL; Health and Safety Code Section 33000 et seq.) (the proposed "2010 Amendment" or "Amendment", previously titled the "2009 Amendment"), for the purposes of i) adding territory (the "Added Territory") to the area currently included within the Project (the "Project Area"), ii) reinstating the Agency's limited authority to acquire property through the use of eminent domain within the Project Area; and iii) reviewing and possibly modifying the Plan's projects and programs list specific to the Project Area; and

WHEREAS, the City Council acts as the Planning Commission of the City of Porterville and references in this resolution to the Planning Commission shall mean the City Council acting as the Planning Commission; and

WHEREAS, on April 7, 2009, the City of Porterville Planning Commission (the "Planning Commission"), by its Resolution No. 27-2009, selected the preliminary boundaries of the Added Territory, and approved and adopted a preliminary plan (the "Preliminary Plan") formulated for the Amendment pursuant to CCRL Section 33322; and

WHEREAS, on April 7, 2009, the Agency, by its Resolution No. 2009-03, among other actions, accepted and approved the Preliminary Plan formulated for the Amendment by the Planning Commission pursuant to CCRL Section 33323; and

WHEREAS, Agency staff has not received a formal commitment to joint venture in the redevelopment plan amendment process from County officials, and

WHEREAS, Agency staff and advisors recommend the Added Territory boundaries be modified as shown in Attachment A to delete the unincorporated areas as well as certain parcels within the City which, based upon detailed and economic analyses, have been determined to be not necessary for effective redevelopment; and

WHEREAS, the Agency desires to modify the boundaries of the Added Territory as shown in Attachment A and desires that the Planning Commission consider and approve said modifications as well as any other changes necessary to update the previously approved and adopted Preliminary Plan; and

WHEREAS, the Agency desires that the title of the Amendment reflect the most probable year of adoption.

NOW, THEREFORE, BE IT RESOLVED that the Porterville Redevelopment Agency does hereby resolve as follows:

ATTACHMENT
ITEM NO. 1
Section 1. The above recitals are all true and correct, and are a substantive part of this resolution.

Section 2. The Agency hereby submits its request for the Planning Commission to consider the modifications to the Added Territory as identified in Attachment A hereof.

Section 3. The Agency further requests that the Planning Commission review the Preliminary Plan and determine that modifications to the Added Territory, as identified in Attachment A, will not affect the textual context of said Preliminary Plan and that said textual context remains true and correct and to approve a modified Preliminary Plan that includes boundaries revised to comply with the Project Area shown in Attachment A.

Section 4. The Agency hereby directs that from the date of adoption of this Resolution the “2009 Amendment to the Redevelopment Plan for the Porterville Redevelopment Project Area No. 1” shall be called the “2010 Amendment to the Redevelopment Plan for the Porterville Redevelopment Project Area No. 1”.

Section 5. The Agency hereby authorizes and directs the Secretary of the Agency to transmit a copy of this resolution to the Planning Commission.

PASSED, APPROVED AND ADOPTED by the Porterville Redevelopment Agency on the 20th day of October, 2009, by the following roll call vote:

Pete V. McCracken,
Chairman of the Porterville
Redevelopment Agency

ATTEST:

Secretary of the Porterville
Redevelopment Agency
ATTACHMENT A

MAP OF PROPOSED MODIFICATIONS TO THE ADDED TERRITORY BOUNDARIES
PROPOSED 2010 AMENDMENT TO
THE REDEVELOPMENT PLAN FOR
THE PORTERVILLE REDEVELOPMENT
PROJECT NO. 1

ATTACHMENT A

PROPOSED MODIFICATIONS TO
THE ADDED TERRITORY BOUNDARIES

LEGEND

Porterville City Limits
Freeways
Railroads
Existing Project Area
Proposed Added Territory
Areas of Deletion

2,000 1,000 0 2,000
Feet

Prepared By: Urban Futures, Inc.
Base Map Source: City of Porterville
Date: 10/07/09; revised 10/08/09, 10/13/09
File: PV_RDA_BrandyRodoc_AttchA.pdf

Please note that boundaries shown are for general reference and illustrative purposes only. Not intended to be a legal description of the metes and bounds.
RESOLUTION NO.

A RESOLUTION OF THE CITY OF PORTERVILLE PLANNING COMMISSION RECOMMENDING THE MODIFICATION OF THE PREVIOUSLY PROPOSED ADDED TERRITORY BOUNDARIES FOR THE PROPOSED 2010 AMENDMENT TO THE REDEVELOPMENT PLAN FOR THE PORTERVILLE REDEVELOPMENT PROJECT AREA NO. 1, RECONFIRMING A PRELIMINARY PLAN FOR SAID PROJECT AND TAKING CERTAIN ACTIONS

WHEREAS, the City Council of the City of Porterville (the "City Council" and the "City" respectively) and the Porterville Redevelopment Agency (the "Agency") have initiated an amendment to the previously amended Redevelopment Plan (the "Plan") for the Porterville Redevelopment Project Area No. 1 (the "Project") pursuant to the provisions of the California Community Redevelopment Law (CCRL; Health and Safety Code Section 33000 et seq.) (the proposed "2010 Amendment" or "Amendment", previously titled the "2009 Amendment"), for the purposes of i) adding territory (the "Added Territory") to the area currently included within the Project (the "Project Area"); ii) reinstating the Agency's limited authority to acquire property through the use of eminent domain within the Project Area; and iii) reviewing and possibly modifying the Plan's projects and programs list specific to the Project Area; and

WHEREAS, the City Council acts as the Planning Commission of the City of Porterville and references in this resolution to the Planning Commission shall mean the City Council acting as the Planning Commission; and

WHEREAS, on April 7, 2009, the City of Porterville Planning Commission (the "Planning Commission"), by its Resolution No. 27-2009, selected the preliminary boundaries of the Added Territory, and approved and adopted a preliminary plan (the "Preliminary Plan") formulated for the Amendment pursuant to CCRL Section 33322; and

WHEREAS, on April 7, 2009, the Agency, by its Resolution No. 2009-03, among other actions, accepted and approved the Preliminary Plan formulated for the Amendment by the Planning Commission pursuant to CCRL Section 33323; and

WHEREAS, CCRL Section 33326 provides that prior to publication of notice of the agency public hearing, the planning commission may change the boundaries of a project area with the approval of the agency; and

WHEREAS, the Agency, by its Resolution No. ___, adopted October 20, 2009, has requested that the Planning Commission consider the modifications to the boundaries of the Added Territory as identified in Attachment A to this Resolution, and has requested that the Planning Commission determine that the textual content of the Preliminary Plan remains true and correct and to approve a modified Preliminary Plan that includes modified boundaries as shown in Attachment B; and

WHEREAS, the Planning Commission has considered the Agency's direction regarding Added Territory boundary modifications and recommends that the Project Area boundaries be modified, as shown in Attachment A, to delete all unincorporated County areas as well as certain parcels located within corporate City limits which, based upon detailed economic analyses, have been determined to be, given the exclusion of all unincorporated County territory, not necessary for effective redevelopment of the larger area; and
WHEREAS, the Planning Commission has reviewed the Preliminary Plan and Agency Resolution No. ________.

NOW, THEREFORE, BE IT RESOLVED that the Planning Commission does hereby resolve as follows:

SECTION 1. The facts set forth above are true and correct and are a substantive part of this Resolution.

SECTION 2: The Planning Commission hereby recommends modification of the Added Territory boundaries as shown in Attachment A attached hereto, and recommends that the Added Territory hereafter be as shown in Attachment B, attached hereto and made a part hereof, and hereby recommends the Agency approve the changes in Added Territory boundaries as shown in Attachment B.

SECTION 3. The Planning Commission hereby directs that the Preliminary Plan be amended to show the boundaries of the Added Territory as shown in Attachment B, and hereby approves the Preliminary Plan, as amended, and hereby finds that the modification of the Added Territory shown in Attachment B will not affect the textual content of the Preliminary Plan which remains true and correct.

SECTION 4. The Planning Commission hereby authorizes and directs the officers, employees, staff, consultants, and attorneys for the Planning Commission to take any action that may be necessary to effectuate the purposes of this Resolution or which are appropriate or desirable in the circumstances.

PASSED, APPROVED AND ADOPTED by the Porterville Redevelopment Agency on the 20th day of October, 2009, by the following roll call vote:

Pete V. McCracken,  
Chairman of the Porterville  
Redevelopment Agency

ATTEST:

Secretary of the Porterville  
Redevelopment Agency
ATTACHMENT A

PROPOSED ADDED TERRITORY BOUNDARY MODIFICATIONS
ATTACHMENT B

MAP OF PROPOSED
ADDED TERRITORY
PROPOSED 2010 AMENDMENT TO THE REDEVELOPMENT PLAN FOR THE PORTERVILLE REDEVELOPMENT PROJECT NO. 1

ATTACHMENT A

PROPOSED ADDED TERRITORY BOUNDARY MODIFICATIONS

LEGEND
- Porterville City Limits
- Freeways
- Railroads
- Existing Project Area
- Proposed Added Territory
- Areas of Deletion

Please note that boundaries shown are for general reference and illustrative purposes only. Not intended to be a legal description of the metes and bounds.
RESOLUTION NO. ______

A RESOLUTION OF THE PORTERVILLE REDEVELOPMENT AGENCY TAKING CERTAIN ACTIONS IN CONNECTION WITH THE PROPOSED 2010 AMENDMENT TO THE REDEVELOPMENT PLAN FOR THE PORTERVILLE REDEVELOPMENT PROJECT AREA NO. 1

WHEREAS, the City Council of the City of Porterville (the "City Council" and the "City" respectively) and the Porterville Redevelopment Agency (the "Agency") have initiated an amendment to the previously amended Redevelopment Plan (the "Plan") for the Porterville Redevelopment Project Area No. 1 (the "Project") pursuant to the provisions of the California Community Redevelopment Law (CCRL; Health and Safety Code Section 33000 et seq.) (the proposed "2010 Amendment" or "Amendment", previously titled the "2009 Amendment"), for the purposes of i) adding territory (the "Added Territory") to the area currently included within the Project (the "Project Area"), ii) reinstating the Agency's limited authority to acquire property through the use of eminent domain within the Project Area; and iii) reviewing and possibly modifying the Plan's projects and programs list specific to the Project Area; and

WHEREAS, CCRL Section 33326 provides that prior to publication of notice of the agency public hearing, the planning commission may change the boundaries of a project area with the approval of the agency; and

WHEREAS, the Planning Commission, by its Resolution No. ______, adopted on October 20, 2009, has i) recommended modification of the boundaries of the Added Territory as proposed by the Agency within its Resolution No. ______, and ii) determined that the textual content of the Preliminary Plan prepared for the Project remains true and correct, and iii) approved a modified Preliminary Plan for the purpose of replacing the Added Territory map previously included in the Preliminary Plan as Appendix A with a map depicting the currently proposed Added Territory boundaries as shown in Attachment A; and

NOW, THEREFORE, BE IT RESOLVED that the Porterville Redevelopment Agency does hereby resolve as follows:

Section 1. The above recitals are all true and correct, and are a substantive part of this resolution.

Section 2. The Agency hereby accepts the Planning Commission's review of the Preliminary Plan and determines that the modified Added Territory boundaries identified in Attachment A will not affect the textual content of said Preliminary Plan and that said textual content remains substantially true and correct.

Section 3. Agency staff and advisors are hereby authorized and directed to prepare the documents, and to take the steps necessary to allow for the modification of Added Territory boundaries.

Section 4. The Agency hereby authorizes and directs the officers, employees, staff, advisors, and attorneys for the Agency to take any action that may be necessary to effectuate the purposes of this Resolution or which are appropriate or desirable in the circumstances.
PASSED, APPROVED AND ADOPTED by the Porterville Redevelopment Agency on the 20th day of October, 2009, by the following roll call vote:

Pete V. McCracken,
Chairman of the Porterville Redevelopment Agency

ATTEST:

Secretary of the Porterville Redevelopment Agency