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. Unless additional time is authorized by the Council, all commentary shall be limited to three minutes.

REDEVELOPMENT AGENCY CLOSED SESSION:

A. Closed Session Pursuant to:

Adjourned to a meeting of the Porterville City Council.

CITY COUNCIL CLOSED SESSION:

B. Closed Session Pursuant to:
   4- Government Code Section 54956.9(b) – Conference with Legal Counsel – Anticipated Litigation – One Case.
   5- Government Code Section 54956.9(c) – Conference with Legal Counsel – Anticipated Litigation – Four Cases.

7:00 P.M. RECONVENE OPEN SESSION

REPORT ON ANY COUNCIL AND/OR REDEVELOPMENT AGENCY ACTION TAKEN IN CLOSED SESSION

Pledge of Allegiance Led by Vice Mayor Brian Ward
Invocation
PROCLAMATIONS
Sequoia National Forest Organized Crews

PRESENTATIONS
Employee of the Month – Gary Miller
Comprehensive Annual Financial Report
Tulare County Regional Transportation Plan Update

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 February 16, 2010

2. Budget Adjustment for the 2009-2010 Fiscal Year
Re: Considering approval of budget adjustments for the addition of Y.E.S. Program staff, and the appropriation of ARRA grant funds.

3. Consideration of Proposed Budget Calendar for Fiscal Year 2010-2011
Re: Considering approval of a budget calendar for the FY2010-2011.

Re: Accepting staff’s Plans and Project Manual for the project consisting of the purchase and installation of four (4) solar panel radar speed signs.

5. Award of Contract - Morton Avenue and Mathew Street Water Trunk Line Project
Re: Awarding contract in an amount of $983,211.88 to Halapoff and Sons, Inc. of Porterville, for the project consisting of the installation of a 12” water main and related appurtenances along Morton Avenue between Westwood Street and Newcomb Street and along Mathew Street between Oak Avenue and Morton Avenue.

6. Acceptance of Project – OHV (Off-Highway Vehicle) Park Improvement
Re: Accepting project as complete from Mitch Brown Construction, and authorizing the filing of the Notice of Completion for the project consisting of the installation of ±530 linear feet of 4’ high chain link fencing and the installation of ±5,200 square feet of asphaltic concrete paving at the primary entrance of the OHV Park.

7. Acceptance of Project – Zalud Park Misters
Re: Accepting project as complete from VoltageMan, on behalf of Koolfog, Inc., and authorizing the filing of the Notice of Completion for the project consisting of the installation of a misting system at a Zalud Park pavilion.

8. Program Supplement to the Local Agency-State Master Agreement – Olive Avenue Rehabilitation Project (Main Street to H Street)
9. **Request for Authorization for Replacement of the Field Services Shop Air Compressor**
   Re: Authorizing the replacement of the Shop air compressor in Fiscal Year 2009/2010.

10. **Amendment to Traffic Resolution No. 10-2001 – Intersection Safety Improvement – Designation of “G” Street and Oak Avenue as a 2-Way Stop Intersection Along Oak Avenue**
    Re: Considering approval of a resolution amending Traffic Resolution No. 10-2001, designating “G” Street and Oak Avenue as a 2-way stop intersection along Oak Avenue.

11. **Water Well Efficiency Rehabilitation**
    Re: Authorizing an agreement between the City of Porterville and Southern California Edison to receive rebates for increasing water well operating efficiencies, and the expenditure of approximately $200,000 for rehabilitation of specified wells.

12. **Community Clean-Up Events**
    Re: Considering approval of two clean up events; “Spring Clean-Up Day” on April 17, 2010, and “Fall Clean-Up Day” on October 16, 2010, which will offer City residential refuse customers free disposal of general trash, bulky items, wood-waste, and yard clippings at the City’s Corporation Yard.

13. **Implementation of Neighborhood Stabilization Program – Sub-recipient Agreement with Community Services & Employment Training, Inc. for Rehabilitation Services**
    Re: Considering adoption of a resolution approving a sub-recipient agreement with CSET for the rehabilitation work on acquired foreclosed properties under the Neighborhood Stabilization Program.

14. **Sierra Management Extension of Contract**
    Re: An informational report regarding a request from Sierra Management to extend its agreement with the City to provide operational and management services for Fixed Route and Demand-Response through June 30, 2012.

15. **Approve Concession License with AYSO Region 315**
    Re: Considering approval of the Concession License with American Youth Soccer Organization Region 315 for the 2010 sports complex year.

16. **Temporary Closure of Murry Park Roadway for Pond Cleaning Project**
    Re: Considering authorization to close the Murry Park Roadway, from Park to Putnam, to public vehicular travel, as needed, between March 8, 2010 and April 30, 2010, for the cleaning and renovation of the Murry Park Pond.

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

**PUBLIC HEARINGS**

17. **Vacation of a Portion of H Street and Kessing Street Between Oak Avenue and the Porter Slough (Sierra View Local Health Care District)**
    Re: Considering approval of a resolution of vacation, including reservations, for a portion of H Street and Kessing Street, consistent with plans for the easterly expansion of the Sierra View District Hospital campus.
18. **Seafood Café/El Reventon Consideration of Modification or Revocation of CUP 5-2007**  
Re: Consideration of the modification or revocation of Conditional Use Permit 5-2007, following notification of a violation at the City Council meeting of February 2, 2010.

**SECOND READINGS**  
19. **Ordinance 1761, Pertaining to Fireworks**  
Re: Second Reading of Ordinance 1761, An Ordinance of the City Council of the City of Porterville Amending Chapter 12, Article II, Fireworks, of the Porterville Municipal Code, which was given first reading on February 16, 2010.

**SCHEDULED MATTERS**  
20. **Transaction and Use Tax Oversight Committee/Scheduling of Public Hearing Pursuant to Resolution 24-2006 – Follow Up in Light of February 22nd Audit Committee Meeting**  
Re: Acceptance of a status report following the Audit Committee Meeting of February 22, 2010; and authorizing the scheduling of a public hearing to consider the findings of the Transaction and Use Tax Oversight Committee pertaining to the adopted 2008-2009 Measure H Expenditure Plan.

21. **Consideration of Policy Approach for City Benevolence (“Good Works”) Fund**  
Re: Consideration of a policy approach for the administration of the City Benevolence Fund, and the development of appropriate guidelines for the allocation of funds for community-based non-profit purposes.

22. **Council Member Requested Agenda Item – Consideration of Use of Muller Field for Sports Playing Fields and Opportunities for Partnership**  
Re: Consideration of a request to consider the use of Muller Field for development of sports playing fields and opportunities for partnership.

**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 March 16, 2010 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.
CITY COUNCIL MINUTES
PORTERVILLE, CALIFORNIA
FEBRUARY 16, 2010, 6:00 P.M.

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

ORAL COMMUNICATIONS
None

A discussion ensued with regard to an urgency item regarding a resolution of support of Senator Dianne Feinstein’s Emergency Water Supply Amendment to the Jobs Bill, and whether or not the Council should add the meeting to the Agenda at that time or wait until Open Session.

City Attorney Lew advised that it could be added at either time as long as the public was notified prior to Oral Communications to allow for comment; and indicated that the vote must be unanimous. It was decided that the addition of the urgency item be considered upon reconvening to Open Session.

CLOSED SESSION:
A. Closed Session Pursuant to:
   6- Government Code Section 54956.9(c) – Conference with Legal Counsel – Anticipated Litigation – Seven Cases.
7:00 P.M. RECONVENE OPEN SESSION
REPORT ON ANY COUNCIL ACTION TAKEN IN CLOSED SESSION

A-6 City Attorney Lew reported that the City Council approved the initiation of litigation concerning false claims act and other civil claims against an employee.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Council Member Felipe Martinez that the City Council approve the initiation of litigation concerning false claims act and other civil claims against a City of Porterville employee.

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

Disposition: Approved

A-3 City Attorney Lew reported that the City Council approved a resolution accepting a grant deed and purchase of real property from Andres and Rubisela Torres for a purchase price of $3,000.00.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Council Member Felipe Martinez that the City Council approve the initiation of litigation concerning false claims act and other civil claims against a City of Porterville employee.

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

Disposition: Approved

Pledge of Allegiance Led by Council Member Felipe Martinez
Invocation – a moment of silence was observed.

City Manager Lollis indicated that a request had been received asking that the Council consider a resolution in support of Senator Dianne Feinstein’s Emergency Water Supply Amendment to the Jobs Bill.

COUNCIL ACTION: MOVED by Council Member Felipe Martinez, SECONDED by Vice Mayor Ward that the City Council approve the addition of Consideration of a Council Resolution of Support for Senator Dianne Feinstein’s Emergency Water Supply Amendment to Jobs Bill to the agenda as Item No. 26. The motion carried unanimously.
PRESENTATIONS
Employee of the Month – Richard Givens

ORAL COMMUNICATIONS
- John Koffee, Porterville resident, recommended the establishment of a civilian police review commission in light of claims against police officers, and officer involved shootings.
- Brock Neeley, Porterville resident, requested that the Council consider the formation of a civilian police review commission to improve the relationship between citizens and the police department.
- Carla (last name inaudible), 304 N. Hockett, spoke in favor of funding for literacy; and commented on the lack of public usage of the Zalud House.
- Gregory Gillett, Chair of Transaction and Use Tax Oversight Committee (TUTOC), indicated that he was available for questions regarding Item Nos. 20, 23 and 24.
- Lois Innis, 1148 W. Glen Court, spoke of the importance of supporting literacy; suggested that the Measure H Oversight Committee meet more frequently; and inquired about monies spent on consultant services regarding a new library location.
- Barry Caplan, Porterville resident, spoke of a second University of Southern California Film Program project to be shot in Porterville and opportunities available for participation.

CONSENT CALENDAR
Items 14 and 16 were removed for further discussion.

1. CITY COUNCIL MINUTES OF FEBRUARY 26, 2008

Recommendation: That the City Council approve the minutes of February 26, 2008.

Documentation: M.O. 03-021610
Disposition: Approved

2. CLAIM – JOSEPH MEJIA

Recommendation: After Consideration and investigation, staff recommends that the Council reject said claim; refer the matter to the City’s insurance adjustor; and direct the City Clerk to give the Claimant proper notification.

Documentation: M.O. 04-021610
Disposition: Approved
3. **CLAIM – KRYS'TAL MEJIA**

Recommendation: After Consideration and investigation, staff recommends that the Council reject said claim; refer the matter to the City's insurance adjustor; and direct the City Clerk to give the Claimant proper notification.

Documentation: M.O. 05-021610
Disposition: Approved

4. **CLAIM – PAULA MEJIA**

Recommendation: After Consideration and investigation, staff recommends that the Council reject said claim; refer the matter to the City's insurance adjustor; and direct the City Clerk to give the Claimant proper notification.

Documentation: M.O. 06-021610
Disposition: Approved

5. **CLAIM – SAMUEL MEJIA**

Recommendation: After Consideration and investigation, staff recommends that the Council reject said claim; refer the matter to the City's insurance adjustor; and direct the City Clerk to give the Claimant proper notification.

Documentation: M.O. 07-021610
Disposition: Approved

6. **CLAIM – MANUEL CARRASCO**

Recommendation: After Consideration and investigation, staff recommends that the Council reject said claim; refer the matter to the City's insurance adjustor; and direct the City Clerk to give the Claimant proper notification.

Documentation: M.O. 08-021610
Disposition: Approved

7. **CLAIM – DAMACIO PALAFOX**

Recommendation: After Consideration and investigation, staff recommends that the Council reject said claim; refer the matter to the City's insurance adjustor; and direct the City Clerk to give the Claimant proper notification.

Documentation: M.O. 09-021610
Disposition: Approved

8. **AUTHORIZATION TO ADVERTISE FOR BIDS - OLIVE AVENUE REHABILITATION PROJECT**
Recommendation:  That the City Council:
1. Approve staff’s recommended plans and project manual;
2. Authorize staff to advertise for bids on the project;
3. Authorize staff to appropriate the necessary LTF funds from the Overlay Program during the construction award process; and
4. Direct staff to immediately seek ARRA funds to reimburse the expended LTF funds.

Documentation:  M.O. 10-021610
Disposition:  Approved

9. AUTHORIZATION TO SEEK PROPOSALS FOR ARCHITECTURAL & ENGINEERING SERVICES FOR THE CITY OF PORTERVILLE PUBLIC SAFETY BUILDING PROJECT

Recommendation:  No action required – information only.

Disposition:  No action required.

10. AUTHORIZATION TO ENTER INTO CONTRACTS WITH SCE FOR UTILITY POLE RELOCATIONS AND STREET LIGHT INSTALLATION FOR THE JAYE STREET CORRIDOR STREET CAPITAL IMPROVEMENT PROJECTS

Recommendation:  That the City Council:
1. Approve the costs associated with the installation of street lights and existing utility pole relocations; and
2. Authorize the City Engineer to sign the SCE application and issue a $118,019.70 payment.

Documentation:  M.O. 11-021610
Disposition:  Approved

11. POLICY AND PROCEDURES FOR RECORDATION OF TRAFFIC COUNTS AND PAVEMENT MANAGEMENT POLICIES

Recommendation:  That the City Council:
1. Review the attached policies and procedures;
2. Approve both the “Traffic Count Recording Policy” and the “Pavement Management Policy” as presented; and
3. Authorize staff to make minor refinements to the policies for the sole purpose of operational clarification.

Documentation:  M.O. 12-021610
Disposition:  Approved

12. ACCEPTANCE OF APPRAISED VALUE OF RIGHT OF WAY FOR PROPERTY LOCATED AT APN 269-120-005 – TERESA M. LACHINO, A SINGLE WOMAN,
AS HER SOLE AND SEPARATE PROPERTY – JAYE/GIBBONS STREET IMPROVEMENT PROJECT

Recommendation: That the City Council:
1. Authorize staff to begin escrow, with the City paying escrow fees;
2. Authorize staff to make payment to Teresa M. Lachino, a Single Woman, as Her Sole and Separate Property, in the amount of $5,952.00 after completion of escrow;
3. Authorize the Mayor to sign all necessary documents; and
4. Authorize staff to record all documents with the County Recorder.

Documentation: Resolution No. 14-2010
Disposition: Approved

13. PURCHASE OF UPGRADE – DIGITAL EVIDENCE TRACKING SYSTEM

Recommendation: That the City Council:
1. Authorize the City Purchasing Agent to procure the “TraQ Suite” upgrade from QueTel and make payment from the Equipment Replacement Fund, PD Equipment Account.

Documentation: M.O. 13-021610
Disposition: Approved

15. APPOINTMENT TO THE GOVERNING BOARD OF THE SAN JOAQUIN VALLEY AIR POLLUTION CONTROL DISTRICT

Recommendation: That the City Council:
1. Consider approval of the draft resolution nominating council Member Mike Lane of Visalia for appointment to the Air Board; and
2. If approved, direct the City Clerk to forward a copy of the signed resolution to the District by March 1, 2010.

Documentation: Resolution No. 15-2010
Disposition: Approved

COUNCIL ACTION: MOVED by Council Member Felipe Martinez, SECONDED by Vice Mayor Ward that the City Council approve Item Nos. 1 through 13 and 15. The motion carried unanimously.

14. UPDATE ON COMMUNITY PARTNER MEETINGS REGARDING EARLY CHILDHOOD LITERACY

Recommendation: That the City Council accept the information report.

City Manager Lollis introduced the item, and presented the staff report.
Disposition: No action. Informational item only.

16. AMENDMENT TO ADMINISTRATIVE POLICY V-B-2 – USE OF CITY VEHICLES AND USE OF PERSONAL VEHICLES FOR CITY BUSINESS

Recommendation: That the City Council approve the attached draft Resolution authorizing the addition of the Leisure Services Superintendent Classification to the list of authorized personnel allowed to use their personal vehicles for City business.

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

Council Member Hamilton inquired about the cost savings mentioned in the staff report, and requested that the item be continued to the next City Council meeting to allow staff the opportunity to provide a cost savings analysis.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Council Member Felipe Martinez that the City Council continue the item to the City Council meeting of March 2, 2010; and direct staff to provide a cost savings analysis.

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

Disposition: Item continued.

PUBLIC HEARINGS

17. REQUEST FOR CONDITIONAL USE PERMIT 1-2010 TO ALLOW AN ON-SALE TYPE 41 (BEER AND WINE) LICENSE TO BE SOLD IN CONJUNCTION WITH MEALS AT THE CHERRY TREE BANQUET FACILITY LOCATED AT 839 W. HENDERSON AVENUE

Recommendation: That the City Council:
1. Adopt the draft resolution approving Conditional Use Permit 1-2010 subject to conditions of approval; and
2. Authorize the Mayor to Sign the Letter of Public Convenience or Necessity.

City Manager Lollis introduced the item. He then indicated that he was a member of a service club that met at the establishment, but that he did not have a conflict of interest. Mayor McCracken noted that although he was a caterer in town, he too did not have a conflict of interest. Assistant Planner Fernando Rios presented the staff report, during which he noted a correction needed in Condition No. 2 of the resolution, which consisted of changing 12:00 p.m. to 12:00 a.m.
Mayor McCracken inquired about Condition No. 13, which prohibited the off-sale of alcoholic beverages, and staff clarified that it was a standard condition of approval.

The public hearing opened at 7:24 p.m.

- Mark Hillman, Hillman Building Design, 250 N. Main Street, indicated that he had no problems with the conditions of approval.

- Dick Eckhoff, 197 N. Main, spoke in favor of approval.

**COUNCIL ACTION:** MOVED by Council Member Pedro Martinez, SECONDED by Council Member Felipe Martinez that the City Council adopt the draft resolution approving Conditional Use Permit I-2010 subject to conditions of approval; and authorize the Mayor to Sign the Letter of Public Convenience or Necessity. The motion carried unanimously.

**Disposition:** Approved

18. **ZALUD HOUSE GARDEN FEES AND CHARGES**

**Recommendation:** That the City Council adopts a resolution to re-establish the fee schedule that was in effect prior to March 2006, with the exception of an adjustment to the reservation/cleaning deposit to a rate of $75.00.

City Manager Lollis introduced the item, and Michelle Bascom, Administrative Analyst, presented the staff report.

The public hearing opened at 7:29 p.m.

- Dick Eckhoff, address on record, spoke against the changing of fees to pre-2006 rates; suggested that rates be considered for various uses; and suggested an increase in marketing.

The public hearing closed at 7:31 p.m.

Mayor Hamilton spoke of the need to increase public usage of the Zalud House Garden, and requested that the Council review the matter in a year.

**COUNCIL ACTION:** MOVED by Council Member Pedro Martinez, SECONDED by Council Member Hamilton that the City Council adopt a resolution to re-establish the fee schedule that was in effect prior to March 2006, with the exception of an adjustment to the reservation/cleaning deposit to a rate of $75.00; and direct staff to bring back the item in one year’s time for review.

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

Disposition: Approved

SECOND READINGS
19. ORDINANCE 1760, PERTAINING TO RECYCLING CENTERS AS CONDITIONAL USES IN THE CENTRAL COMMERCIAL (C-2) ZONE

Recommendation: That the City Council give Second Reading to Ordinance No. 1760, waive further reading, and adopt said Ordinance.

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

COUNCIL ACTION: MOVED by Council Member Pedro Martinez, SECONDED by Vice Mayor Ward that the City Council give Second Reading to Ordinance No. 1760, being AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AMENDING THE PORTERVILLE MUNICIPAL CODE APPENDIX A – ZONING ORDINANCE SECTION 801 PERTAINING TO RECYCLING CENTERS IN THE CENTRAL COMMERCIAL (C-2) ZONE, waive further reading, and adopt said Ordinance. The motion carried unanimously.

The City Manager read the ordinance by title only.

Disposition: Approved

SCHEDULED MATTERS
20. MID-YEAR BUDGET REVIEW – GENERAL AND MEASURE H FUNDS

Recommendation: That the City Council:
1. Accept the Mid-Year General Fund and Measure H Budget Reports and approve the indicated budget adjustment; and
2. That the City Council provide direction in addressing the forecasted budget deficit ($400,000).

City Manager Lollis introduced the staff report, and Finance Director Maria Bemis presented the staff report. Mr. Lollis elaborated on staff’s efforts to offset the shortfall with departmental budget savings, and an analysis of equipment replacement.

A brief discussion ensued with regard to the City’s Reserve Funds and the decrease in revenues, which were expected to continue to the next Fiscal Year. City Manager Lollis noted that the City had actually increased its services to the public.

The Council lauded staff efforts to offset the budget shortfall.
COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Council Member Felipe Martinez that the City Council accept the Mid-Year General Fund and Measure H Budget Reports and approve the indicated budget adjustment; and direct staff to continue to closely monitor the situation. The motion carried unanimously.

Disposition: Approved

21. IMPLEMENTATION OF NEIGHBORHOOD STABILIZATION PROGRAM

Recommendation: That the City Council:
1. Adopt the draft resolution authorizing the Community Development Director to submit offers on eligible properties under the Neighborhood Stabilization Program, authorize the expenditure of funds for the required deposit with the offer, and if the offer is accepted, authorize the City to open escrow on the property.

City Manger Lollis introduced the item, and Development Associate Denise Marchant presented the staff report.

Vice Mayor Ward inquired about staff time associated with the efforts. Community Development Director Dunlap elaborated on staff resources and administrative costs associated with the program; and indicated that it was an expansion of the Homebuyer Program, but marketable to a different income level.

COUNCIL ACTION: MOVED by Council Member Felipe Martinez, SECONDED by Council Member Pedro Martinez that the City Council adopt the draft resolution authorizing the Community Development Director to submit offers on eligible properties under the Neighborhood Stabilization Program, authorize the expenditure of funds for the required deposit with the offer, and if the offer is accepted, authorize the City to open escrow on the property.

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

Disposition: Approved

22. PROPOSED CHANGES TO PORTERVILLE MUNICIPAL CODE – ARTICLE II, FIREWORKS

Recommendation: That the City Council:
1. Allow the discharge time to be changed to the same time as sales, i.e twelve o'clock (12:00) noon on June 28;
2. Adjust the fine from $100 to $500 for the possession or discharge of
dangerous fireworks;
3. Maintain current process for stand site selection; and
4. Approve the proposed changes to Article II, give first reading to the
draft ordinance approving the above, waive further reading and order
the ordinance to print.

City Manager Lollis introduced the item, and Battalion Chief Loran Blasdell presented the
staff report. During the staff report it was noted that the 2nd to last paragraph of the staff report
should read “500-ft” not “400-ft”.

COUNCIL ACTION: MOVED by Council Member Felipe Martinez, SECONDED by Council
Ordinance 1761 Member Hamilton that the City Council allow the discharge time to be
changed to the same time as sales, i.e. twelve o’clock (12:00) noon on June
28; adjust the fine from $100 to $500 for the possession or discharge of
dangerous fireworks; maintain current process for stand site selection; and
approve the draft ordinance, being AN ORDINANCE OF THE CITY
COUNCIL OF THE CITY OF PORTERVILLE AMENDING CHAPTER
12, ARTICLE II, FIREWORKS, OF THE PORTERVILLE MUNICIPAL
CODE, waive further reading, and order the ordinance to print. The
motion carried unanimously.

The City Manager read the ordinance by title only.

Disposition: Approved

23. TRANSACTION AND USE TAX OVERSIGHT COMMITTEE APPOINTMENT

Recommendation: That the City Council provide direction regarding the filing of the
unexpired term of Mr. Josef Guerrero on the Transaction and Use Tax
Oversight Committee.

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

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Council
M.O. 16-021610 Member Felipe Martinez that the City Council direct staff to publicize a
30-day application period for committee members. The motion carried
unanimously.

Disposition: Approved

24. CONSIDERATION OF CORRESPONDENCE TO TRANSACTION AND USE
TAX OVERSIGHT COMMITTEE, AND SCHEDULING OF PUBLIC HEARING

Recommendation: That the City Council:
1. Consider approving the draft correspondence and authorizing its
transmittal to the Committee; and

2. Consider the scheduling of a Public Hearing.

City Manager Lollis introduced the item and presented the staff report.

Mayor McCracken indicated that he and Council Member Hamilton had recently met with two representatives from the Transaction and Use Tax Oversight Committee (TUTOC) to discuss some of their concerns. He then suggested that the matter be referred to the Internal City Audit Committee for consideration, and that a recommendation be brought back at the next regularly scheduled meeting of the City Council.

A discussion ensued with regard to issues raised by the TUTOC representatives, and means of addressing said issues.

- TUTOC Chairman Greg Gillett spoke of a lack of clarity regarding definitions, protocol, and support provided by City staff. He requested that discussions be open and public.

Mayor McCracken noted that the correspondence in the agenda had been prepared prior to their meeting, and clarified that Internal City Audit Committee meetings were subject to the Brown Act and open to the public.

Council Member Hamilton requested that an additional council member attend the Internal City Audit Committee meeting, and that the meeting include TUTOC representatives.

COUNCIL ACTION: MOVED by Council Member Hamilton, SECONDED by Council Member Felipe Martinez that the City Council refer the item to the Internal City Audit Committee, with the addition of Vice Mayor Ward, the Chair and members of TUTOC; and that a recommendation be brought back to City Council at the meeting of March 2, 2010.

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

Disposition: Approved

25. COUNCIL MEMBER REQUESTED AGENDA ITEM – CONSIDERATION OF RESOLUTION IN SUPPORT OF THE “SAFE, CLEAN, AND RELIABLE DRINKING WATER SUPPLY ACT OF 2010”

Recommendation: That the City Council consider the adoption of a Resolution of support for the “Safe, Clean, and Reliable Drinking Water Supply Act of 2010.”

City Manager Lollis introduced the item, and noted for the record that written correspondence had been received from Mr. Dennis Townsend. At the Mayor’s request, the correspondence was read into the record.
Mayor McCracken and Council members,

In reviewing the face sheet for tomorrow’s meeting I noticed item #25 under scheduled matters. Although water projects are badly needed in the valley and in our state in general, I believe the proposed $11.14 billion bond being proposed is ill-timed and fiscally irresponsible given California’s current and projected budget shortfalls. Apart from this, the bond would allocate a large amount of funds simply to appease environmental activists, causing it to cost much more than what it would take to construct the needed water infrastructure. Now is a bad time for a bond, especially one weighed down with enviro-pork. I urge you to either issue a resolution opposing the bond act or to vote “no” on a resolution in support of it. I know some, if not all of you, support Congressman Nunes in his bid to “turn on the pumps” and would urge you to continue lobbying for valley water along these lines instead of supporting more bonds.

Thank you for your consideration of my views in writing as I will likely be unable to attend tomorrow’s meeting.

Council Member Felipe Martinez spoke of the importance of water, and spoke in support of efforts to increase water supply in the valley.

Council Member Hamilton shared his reasons for not supporting the bond, but agreed that the issue of water was an important one.

COUNCIL ACTION: MOVED by Council Member Felipe Martinez, SECONDED by Council Member Pedro Martinez that the City Council approve the draft resolution of support for the “Safe, Clean, and Reliable Drinking Water Supply Act of 2010.

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

Disposition: Failed

26. CONSIDERATION OF A COUNCIL RESOLUTION OF SUPPORT FOR SENATOR DIANNE FEINSTEIN’S EMERGENCY WATER SUPPLY AMENDMENT TO JOBS BILL

City Manager Lollis introduced the item, and indicated that a request had been received from the Nisei Farmers League to provide a resolution of support for the Emergency Water Supply Amendment that Senator Dianne Feinstein has recently introduced.

Mayor McCracken noted that he had not seen the bill, and inquired about the level of urgency.
Council Member Felipe Martinez spoke about the ways in which partisan politics can cloud the issue; indicated that the water issue was a real issue; and spoke of the importance of saving jobs and getting water to those areas that need it.

Council Member Hamilton indicated that he was in support of the cause, but that there was no legislation to consider.

**COUNCIL ACTION:**
M.O. 19-021610

MOVED by Council Member Felipe Martinez, SECONDED by Council Member Pedro Martinez that the City Council approve the draft resolution of support for the Emergency Water Supply Amendment to the Jobs Bill.

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

Disposition: Failed

The Council adjourned at 8:28 p.m. to a meeting of the Porterville Redevelopment Agency.

**REDEVELOPMENT AGENCY MINUTES**
**February 16, 2010**

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

**ORAL COMMUNICATIONS**

**WRITTEN COMMUNICATIONS**
None

**SCHEDULED MATTERS**
PRA-01 AWARD OF CONTRACT – STOUT BUILDING SPRAYED POLYURETHANE ROOFING PROJECT

Recommendation: That the City Council:
1. Award the Stout Building Sprayed Polyurethane Roofing Project to Universal Coating, Inc. in the amount of $13,900.00;
2. Authorize progress payments up to 90% of the contract amount; and
3. Authorize a 10% contingency to cover unforeseen construction costs.

Agency Chair McCracken indicated that he was within 500 feet of the project, and would therefore abstain from consideration of the item. He recused himself and exited the Council Chambers.

Agency Secretary Lollis introduced the item, and Public Works Director Baldo Rodriguez presented the staff report.
MOVED by Agency Member Hamilton, SECONDED by Agency Member Felipe Martinez that the Porterville Redevelopment Agency award the Stout Building Sprayed Polyurethane Roofing Project to Universal Coating, Inc. in the amount of $13,900.00; authorize progress payments up to 90% of the contract amount; and authorize a 10% contingency to cover unforeseen construction costs.

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

Disposition: Approved

Chair McCracken returned to the Council Chambers.

The Redevelopment Agency adjourned at 8:31 p.m. to a meeting of the Porterville City Council.

ORAL COMMUNICATIONS
- John Koffee, spoke about the Valley’s overdraft in water and expressed his disappointment with the Council’s actions relative to water issues.

OTHER MATTERS
- Council Member Felipe Martinez:
  1. Reported that he would be traveling to Washington D.C. with TCAG to discuss water issues;
  2. Spoke of a recent trip to Borders in Fresno; and
  3. Commented on the Ribbon Cutting Event at the new Hoagies location, and the use of Centennial Park benches.

- Council Member Pedro Martinez:
  1. Spoke about skate park activity last Friday night;
  2. Indicated that he had recently rode his bike through town and would like to see the bike trail completed;
  3. Commented on debris in the bike line and the importance of road maintenance;
  4. Inquired about bike path efforts and the cost to initiate a community band; and
  5. Complimented the new Hoagies on Main Street.

- Council Member Felipe Martinez requested that the Council send a letter to Mr. Gustavo Rodriguez, thanking him for representing the City of Porterville in the mariachi music community.

- Vice Mayor Ward:
  1. Congratulated Administrative Services Manager/Chief Deputy City Clerk Patrice Hildreth on the recent birth of her baby girl; and
2. Announced that Little League had started, and an Arts Commission meeting was coming up.

- Council Member Pedro Martinez notified staff of a broken tree along the bike path; and inquired about cars crossing on Grand, north of Morton.

**ADJOURNMENT**

The Council adjourned at 8:43 p.m. to the meeting of March 2, 2010 at 6:00 p.m.

__________________________

Luisa Herrera, Deputy City Clerk

---

Pete V. McCracken, Mayor
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.

Y.E.S. Program

The Porterville Unified School District has requested additional staff of seven (7) for the Junior High School Y.E.S. program and two (2) for the Doyle Elementary School Y.E.S. program. The request is made due to the increase in the number of students being served. The Parks and Leisure Department projects a budgetary impact of $46,700 which will be fully reimbursed by PUSD.

California ReLeaf ARRA Grant

The Parks and Leisure Department has been awarded an ARRA grant of $100,000 by California ReLeaf. A budget adjustment of $60,394 is requested to increase the appropriation for the Heritage Center Trailway Extension Project and the balance of $39,606 appropriated for a ReLeaf Grant Tree Project.

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

ATTACHMENTS: Schedule of Budget Adjustments
Letter from Porterville Unified School District
# CITY OF PORTERVILLE
## Budget Adjustments

Date: March 2, 2010

<table>
<thead>
<tr>
<th>FUND - ACCT NO</th>
<th>NO.</th>
<th>DESCRIPTION</th>
<th>FUNDING SOURCE</th>
<th>DOLLAR AMOUNT</th>
</tr>
</thead>
<tbody>
<tr>
<td>01-4836.63</td>
<td>1</td>
<td>Y.E.S. Elementary program revenue</td>
<td>PUSD Reimbursement</td>
<td>$3,700</td>
</tr>
<tr>
<td>01-4836.64</td>
<td>2</td>
<td>Y.E.S. Junior High program revenue</td>
<td>PUSD Reimbursement</td>
<td>$43,000</td>
</tr>
<tr>
<td>01-5063-02</td>
<td>3</td>
<td>Salaries and benefits for 2 additional staff -</td>
<td>PUSD</td>
<td>$3,400</td>
</tr>
<tr>
<td>01-5063-09</td>
<td>4</td>
<td>Doyle Elementary School Y.E.S. program</td>
<td>PUSD Reimbursement</td>
<td>$300</td>
</tr>
<tr>
<td>01-5064-02</td>
<td>5</td>
<td>Salaries and benefits for 7 additional staff -</td>
<td>PUSD</td>
<td>$40,000</td>
</tr>
<tr>
<td>01-5064-09</td>
<td>6</td>
<td>Junior High School Y.E.S. program</td>
<td>PUSD Reimbursement</td>
<td>$3,000</td>
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<tr>
<td>01-4517</td>
<td>7</td>
<td>California ReLeaf ARRA Grant revenue</td>
<td>Grant</td>
<td>$100,000</td>
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<tr>
<td>89-9490-88</td>
<td>8</td>
<td>Heritage Center Trailway Extension Project</td>
<td>Grant</td>
<td>$60,394</td>
</tr>
<tr>
<td>01-6035-23</td>
<td>9</td>
<td>ReLeaf Grant Tree Project</td>
<td>Grant</td>
<td>$39,606</td>
</tr>
</tbody>
</table>
January 26, 2010

City of Porterville
291 North Main Street
Porterville, California 93257

To Whom It May Concern:

This letter is to share with you revisions to our budgeting for the “Youth Experiencing Success-YES” program specifically for our middle schools. The three middle schools have very successfully modified their programs this year and are now serving many additional students in the After School Program.

Along with this increase in number of students served has been the need to increase personnel levels to align with state guidelines. This increase is also reflected in our budget designated to reimburse the City of Porterville for more Recreation Worker positions in the middle school.

Effective January 1, 2010, the budget for middle school Recreation Workers contracted through the City of Porterville to Porterville Unified Schools has been increased seven positions with an average salary of $6,150 for a total increase of $43,000 in budget for middle schools. In addition, two positions at Doyle were established with and estimated maximum of $3,700 for the remainder of this school year. This will allow for appropriate payment when services have been rendered and billed to Porterville Unified by City of Porterville.

Our local youth continue to benefit from the results of this collaborative effort and increasingly are taking advantage of the resources the program has to offer.

Should you have any questions, please do not hesitate to contact me, 793-2451.

Respectfully,

Gary Ingraham
Director of Curriculum

Cc: Brad Rohrbach, Fiscal and Compliance Officer
COUNCIL AGENDA: March 2, 2010

SUBJECT: CONSIDERATION OF PROPOSED BUDGET CALENDAR FOR FISCAL YEAR 2010-2011

SOURCE: Finance Department

COMMENT: For the Council’s consideration, please find enclosed the proposed budget calendar for the fiscal year 2010-2011.

RECOMMENDATION: That the City Council approve the proposed budget calendar for the 2010-2011 fiscal year.

ATTACHMENTS: FY 2010-2011 Budget Calendar

D.D. Appropriated/Funded A. C.M. Item No. 3
<table>
<thead>
<tr>
<th>Date</th>
<th>Task</th>
<th>Responsibility</th>
</tr>
</thead>
<tbody>
<tr>
<td>February 22</td>
<td>Budget worksheets to Departments</td>
<td>Finance</td>
</tr>
<tr>
<td>March 5</td>
<td>Preliminary revenue estimates completed</td>
<td>Finance</td>
</tr>
<tr>
<td>March 8 - 9</td>
<td>10-Year Capital Projects update</td>
<td>CM/Directors</td>
</tr>
<tr>
<td>March 19</td>
<td>Budget retreat</td>
<td>CM/Directors</td>
</tr>
<tr>
<td>March 31</td>
<td>Completed budget worksheets to Finance</td>
<td>Directors</td>
</tr>
<tr>
<td>April 30</td>
<td>Preliminary budget completed</td>
<td>Finance</td>
</tr>
<tr>
<td>April 30</td>
<td>Preliminary budget approved by City Manager</td>
<td>CM</td>
</tr>
<tr>
<td>May 18</td>
<td>Preliminary budget presented to City Council</td>
<td>CM</td>
</tr>
<tr>
<td>May 25</td>
<td>Preliminary budget Council study session</td>
<td>Council</td>
</tr>
<tr>
<td>June 15</td>
<td>Final budget public hearing and approval by Council</td>
<td>Council</td>
</tr>
<tr>
<td>July 6</td>
<td>Ratify FY2010-2011 budget</td>
<td>Council</td>
</tr>
</tbody>
</table>
SUBJECT: AUTHORIZATION TO ADVERTISE FOR BIDS – SOLAR PANEL RADAR SPEED SIGNS

SOURCE: Public Works Department - Engineering Division

COMMENT: The City of Porterville was awarded a Safe Routes to School (SR2S) grant to purchase and install four (4) solar panel radar speed signs. The project's intent is to allow the City's C-SET concrete crew to install the speed signs. A representation of the solar panel radar speed sign is included in Council's packet.

The four locations tentatively identified are Putnam & Lowery, Putnam & Westwood, Morton & Kessing and Morton & Roche. Public Works will meet with the Police Department to confirm that the specified locations are still the priority locations.

The Plans and Project Manual are available in the La Barca Conference Room for Council's review.

The project Estimate of Probable Cost to purchase and install the four (4) speed signs is $21,200. An appropriation and budget adjustment from the Street Sign Upgrade Account (Acct.# 89-9117) is needed to cover costs associated with the project. Ninety percent ($19,080) of the $21,200 will be reimbursed via the SR2S grant. Staff estimates that the budget adjustment amount will be $21,200, more or less. The actual budget adjustment amount will be known at the time of contract award.

RECOMMENDATION: That City Council:

1. Direct the Finance Director to prepare a budget adjustment to the 2009/2010 Annual Budget at the time of contract award in the amount necessary to award the Solar Panel Radar Speed Sign project but not to exceed $22,000;

2. Direct the Finance Director to reimburse the Street Sign Upgrade Account upon receipt of the SR2S grant funds;

3. Approve staff's recommended plans and project manual; and

4. Authorize staff to advertise for bids.

ATTACHMENTS: Estimate of Probable Cost
Solar Panel Speed Sign Drawing

Item No. 4
SOLAR PANEL RADAR SPEED SIGN

ENGINEER’S ESTIMATE – FEBRUARY 18, 2010

<table>
<thead>
<tr>
<th>ITEM</th>
<th>QTY.</th>
<th>UNIT</th>
<th>DESCRIPTION</th>
<th>UNIT PRICE</th>
<th>AMOUNT</th>
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</thead>
<tbody>
<tr>
<td>1</td>
<td>4</td>
<td>EA.</td>
<td>Solar Panel Radar Speed Sign</td>
<td>$5,075</td>
<td>$20,300</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>consisting of the following components</td>
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<tr>
<td></td>
<td></td>
<td></td>
<td>a) Radar speed sign w/ 12” LED display</td>
<td></td>
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</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>b) 24”x21” Your Speed faceplate</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>c) 40 watt solar panel w/ mounting bracket</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>d) Sign &amp; solar panel connecting hardware</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>e) School speed limit sign</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>f) Sign extender bracket for school sign</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>g) 11’ aluminum pole</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>h) Concrete form for pole &amp; anchor bolts</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>i) Bash plate to protect LED sign</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>j) StreetSmart Data Collection software</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>k) One-year warranty</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

SUB TOTAL $20,300.00

Concrete costs and sign installation by C-SET $900.00

Total Estimated Probable Cost of Project $21,200.00

ESTIMATE CERTIFIED

Project Manager 2/22/10

City Engineer 2/24/10

Public Works Director 2/24/10

City Manager 2/24/10
SCHOOL

SPEED LIMIT

25

7:05AM - 8:05AM
2:05PM - 3:05PM

YOUR SPEED

15
SUBJECT: AWARD OF CONTRACT – MORTON AVENUE AND MATHEW STREET WATER TRUNK LINE PROJECT

SOURCE: Public Works Department - Engineering Division

COMMENT: On February 23, 2010, staff received nine (9) bids for the Morton Avenue and Mathew Street Water Trunk Line Project. However, one of the bids was submitted by a non-prequalified contractor and cannot be considered in this item.

The project consists of installing a 12" water main and related appurtenances along Morton Avenue between Westwood Street and Newcomb Street and along Mathew Street between Olive Avenue and Morton Avenue. The new infrastructure is considered Master Plan facilities and will assist in moving water from the West Pressure Zone to the Central Pressure Zone where most of the City’s storage facilities exist.

The engineer’s estimate for probable cost of the project is $1,372,800. The low bid for the project is 28.3% below the Engineer’s estimate. An additional $98,321.19 is required for the construction contingency (10%). An additional $49,160.59 is required for construction management, quality control and inspection. The total estimated cost for the project is $1,130,693.66.

Initially the Water Replacement Fund will finance the project as approved in the 2009/2010 Annual Budget. These funds will be reimbursed via the City’s CIEDB Loan.

The bids are as follows:

<table>
<thead>
<tr>
<th>Contractor</th>
<th>Amount</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Halopoff and Sons Inc. Porterville, CA</td>
<td>$983,211.88</td>
</tr>
<tr>
<td>2. Steve Dovali Construction Fresno, CA</td>
<td>$1,004,033.14</td>
</tr>
<tr>
<td>3. Guinn Construction Bakersfield, CA</td>
<td>$1,092,425.89</td>
</tr>
<tr>
<td>4. Bill Nelson Construction Fresno, CA</td>
<td>$1,185,530.00</td>
</tr>
</tbody>
</table>

Dir. Appropriated/Funded MB CM Item No. 5
5. Floyd Johnston Construction  
   Clovis, CA  
   $1,188,985.00

6. Kern Pacific Construction  
   Bakersfield, CA  
   $1,217,002.50

7. Spiess Construction  
   Santa Maria, CA  
   $1,218,620.00

8. Grizzly Construction  
   Fresno, CA  
   $1,249,830.00

Staff has found the low bid acceptable.

RECOMMENDATION:

That City Council:

1. Award the Morton Avenue and Mathew Street Water Trunk Line Project to Halopoff and Sons, in the amount of $983,211.88;

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

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

ATTACHMENT: Locator Map

P:\pubwork\Engineering\Council Items\Award of Contract - Morton and Mathew Water Trunk Line - 2010-03-02.doc
COUNCIL AGENDA: MARCH 2, 2010

SUBJECT: ACCEPTANCE OF PROJECT - OHV (Off-Highway Vehicle) PARK IMPROVEMENT

SOURCE: Public Works Department - Engineering Division

COMMENT: Mitch Brown Construction, Inc. has completed construction of the OHV Park Spectator Improvement per plans and specifications. The project consisted of the installation of ±530 l.f. of 4’ high chain link fencing (to separate spectator areas from riding areas) and the installation of ±5,200 s.f. of asphaltic concrete paving at the primary entrance. The proposed paving of the maintenance entrance (±1,805 s.f.) is listed as an "add-alternate" item.

City Council authorized expenditure of $27,828.79. Final construction cost is $25,909.50. Funding is provided by an OHV Grant and General Fund Carry-over approved in the 09/10 Annual Budget.

Mitch Brown Construction 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

P:\sub\work\Engineering\Council Items\Acceptance of Project - OHV (Off-Highway Vehicle) Park Improvement Project - 2010-02-02.doc

Appropriated/Funded: [Signature]

Item No. 10
SUBJECT: ACCEPTANCE OF PROJECT – ZALUD PARK MISTERS

SOURCE: Public Works Department - Engineering Division

COMMENT: VoltageMan, on behalf of Koofog, Inc., has completed construction of the Zalud Park Misters. The project consisted of the installation of 100± L.F. of 3/8" stainless steel mist line, 66 mist nozzles, 2 GPM pump, 20 L.F. of 1/4" high pressure feed line, 15 L.F. of 3/8" stainless steel distribution line, and a timer with activator.

City Council authorized expenditure of $40,000.00 for 3 misting system projects; one at Zalud Park and two at Murry Park. Zalud Park was chosen as the first site to install a misting system for the purposes of evaluating the system's functionality and amount of usage by the public. Final construction cost for the Zalud Park Misters is $4,997.50. Funding is provided by General Fund Carryover approved in the 09/10 Annual Budget.

VoltageMan 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.

ATTACHMENT: Locator Map

P:\pubworks\Engineering\Council Items\Acceptance of Project - Zalud Park Misters - 2010-03-02.doc
PROJECT LOCATION

ZALUD PARK
SUBJECT: PROGRAM SUPPLEMENT TO THE LOCAL AGENCY-STATE MASTER AGREEMENT – OLIVE AVENUE REHABILITATION PROJECT (MAIN STREET TO H STREET)

SOURCE: Public Works Department - Engineering Division

COMMENT: The Department of Transportation has submitted Program Supplement Agreement Number N039, and requests that the City execute said agreement. The executed agreement becomes a part of the Agency-State Agreement for Federal-Aid Projects No. 06-5122R.

The attached Program Supplement is for the rehabilitation of Olive Avenue between Main Street and 'H' Street by a Cold In Place Recycling process. The top 3 to 4 inches of the existing asphalt concrete will be ground in place, mixed with an emulsion and laid back down. A thin asphalt concrete overlay will be placed on top of the recycled material. The project also consists of new pavement workings, and the adjustment of existing utility structures to the new pavement grade.

RECOMMENDATION: That the City Council:

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

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

ATTACHMENTS: Program Supplement Agreement No. N039
Resolution

P:\PUBWORKS\ENGINEERING\COUNCIL ITEMS\PROGRAM SUPPLEMENT TO THE LOCAL AGENCY-STATE MASTER AGREEMENT - OLIVE AVENUE ARRA - 2010-03-02.DOC

Dir BS Appropriated/Funded MB CM Item No. 8
This Program Supplement hereby incorporates the Administering Agency-State Agreement for Federal Aid which was entered into between the Administering Agency and the State on 02/20/07 and is subject to all the terms and conditions thereof. This Program Supplement is executed in accordance with Article I of the aforementioned Master Agreement under authority of Resolution No. (See copy attached).

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

PROJECT LOCATION:
On Olive Ave, from Main St. to H St.

TYPE OF WORK: rehabilitate and resurface road

<table>
<thead>
<tr>
<th>Estimated Cost</th>
<th>Federal Funds</th>
<th>Matching Funds</th>
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</thead>
<tbody>
<tr>
<td>$318,981.00</td>
<td>$318,981.00</td>
<td></td>
</tr>
</tbody>
</table>

LOCAL $0.00 OTHER $0.00

CITY OF PORTERVILLE

STATE OF CALIFORNIA
Department of Transportation

By

Chief, Office of Project Implementation
Division of Local Assistance

Date

Attest

Title

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

Accounting Officer

Date 2-1-10

<table>
<thead>
<tr>
<th>Chapter</th>
<th>Statutes</th>
<th>Item</th>
<th>Year</th>
<th>Program</th>
<th>BC</th>
<th>Category</th>
<th>Fund Source</th>
<th>AMOUNT</th>
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<tr>
<td>268</td>
<td>2008</td>
<td>2660-603-890</td>
<td>2008-2009</td>
<td>20.30.010.810</td>
<td>F</td>
<td>262040</td>
<td>898-F</td>
<td>318,981.00</td>
</tr>
</tbody>
</table>
SPECIAL COVENANTS OR REMARKS

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

2. Any State and Federal funds that may have been encumbered for this project are available for disbursement for limited periods of time. For each fund encumbrance the limited period is from the start of the fiscal year that the specific fund was appropriated within the State Budget Act to the applicable fund Reversion Date shown on the State approved project finance letter. Per Government Code Section 16304, all project funds not liquidated within these periods will revert unless an executed Cooperative Work Agreement extending these dates is requested by the ADMINISTERING AGENCY and approved by the California Department of Finance.

ADMINISTERING AGENCY should ensure that invoices are submitted to the District Local Assistance Engineer at least 75 days prior to the applicable fund Reversion Date to avoid the lapse of applicable funds. Pursuant to a directive from the State Controller's Office and the Department of Finance; in order for payment to be made, the last date the DistrictLocal Engineer can forward an invoice for payment to the Department's Local Programs Accounting Office for reimbursable work for funds that are going to revert at the end of a particular fiscal year is May 15th of the particular fiscal year. Notwithstanding the unliquidated sums of project specific State and Federal funding remaining and available to fund project work, any invoice for reimbursement involving applicable funds that is not received by the Department's Local Programs Accounting Office at least 45 days prior to the applicable fixed fund Reversion Date will not be paid. These unexpended funds will be irrevocably reverted by the Department's Division of Accounting on the applicable fund Reversion Date.

3. The ADMINISTERING AGENCY will advertise, award and administer this project in accordance with the current published Local Assistance Procedures Manual.
SPECIAL COVENANTS OR REMARKS

4. Award information shall be submitted by the ADMINISTERING AGENCY to the District Local Assistance Engineer within 60 days of project contract award or with submittal of the ADMINISTERING AGENCY's first invoice for the construction contract, whichever is earlier.

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

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

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

ADMINISTERING AGENCY agrees to submit the final report documents that collectively constitute a "Report of Expenditures" within one hundred eighty (180) days of PROJECT completion. Failure of ADMINISTERING AGENCY to submit a "Final Report of Expenditures" within 180 days of PROJECT completion will result in STATE imposing sanctions upon ADMINISTERING AGENCY in accordance with the current Local Assistance Procedures Manual.

6. The Administering Agency shall not discriminate on the basis of race, religion, age, disability, color, national origin, or sex in the award and performance of any Federal-assisted contract or in the administration of its DBE Program Implementation Agreement. The Administering Agency shall take all necessary and reasonable steps under 49 CFR Part 26 to ensure nondiscrimination in the award and administration of Federal-assisted contracts. The Administering Agency's DBE Implementation Agreement is
SPECIAL COVENANTS OR REMARKS

incorporated by reference in this Agreement. Implementation of the DBE Implementation Agreement, including but not limited to timely reporting of DBE commitments and utilization, is a legal obligation and failure to carry out its terms shall be treated as a violation of this Agreement. Upon notification to the Administering Agency of its failure to carry out its DBE Implementation Agreement, the State may impose sanctions as provided for under 49 CFR Part 26 and may, in appropriate cases, refer the matter for enforcement under 18 U.S.C. 1001 and/or the Program Fraud Civil Remedies Act of 1986 (31 U.S.C. 3801 et seq.).

7. As a condition for receiving federal-aid highway funds for the PROJECT, the Administering Agency certifies that NO members of the elected board, council, or other key decision makers are on the Federal Government Excluded Parties List System (EPLS).

8. This project is financed, in whole or in part, with federal funds from the American Recovery and Reinvestment Act of 2009 (Recovery Act). ADMINISTERING AGENCY agrees:

1) Statutory provisions contained in Chapter 1 of Title 23 United States Code (U.S.C.) are applicable to all Recovery Act funded projects,

2) Costs incurred prior to the date of authorization are NOT eligible for reimbursement with federal Recovery Act funds,

3) Federal Prevailing Wage Rate requirements apply to all Recovery Act funded construction projects regardless of location (including projects on local roads and rural minor collectors, and Transportation Enhancement projects outside the highway right of way). ADMINISTERING AGENCY agrees to include the appropriate wage rate information in the contract and also include a contract provision that overrides the general applicability provisions in form FHWA-1273, Sections IV and V,

4) To expend and invoice for all Recovery Act funds prior to using other funds, and

5) To comply with the reporting requirements, terms and conditions set forth in Sections 1201 and 1512 of the Recovery
SPECIAL COVENANTS OR REMARKS

Act and as designated by the STATE. Failure to comply will result in retentions from progress payments due ADMINISTERING AGENCY and/or other sanctions.

6) Recovery Act funds are available for liquidation only until September 30, 2015 when the remaining balance of Recovery Act funds will expire. ADMINISTERING AGENCY agrees to submit an invoice for the balance of project Recovery Act funds (if any) to the STATE prior to July 1, 2015.
RESOLUTION NO._____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AUTHORIZING THE MAYOR TO SIGN PROGRAM SUPPLEMENT NO. N039 TO ADMINISTER THE AGENCY-STATE AGREEMENT FOR FEDERAL-AID PROJECTS NO. 06-5122R

BE IT RESOLVED by the City Council of the City of Porterville that the Mayor is hereby authorized to execute the document known as Program Supplement No. N039 to Local Agency-State Master Agreement No. 06-5122R, for the rehabilitation of Olive Avenue between Main Street and ‘H’ Street by a Cold In Place Recycling process. The top 3 to 4 inches of the existing asphalt concrete will be ground in place, mixed with an emulsion and laid back down. A thin asphalt concrete overlay will be placed on top of the recycled material. The project also consists of new pavement workings, and the adjustment of existing utility structures to the new pavement grade.

PASSED, ADOPTED AND APPROVED this 2nd day of March, 2010.

Pete V. McCracken, Mayor

ATTEST:
John D. Lollis, City Clerk

By Luisa Herrera, Deputy City Clerk
SUBJECT: REQUEST FOR AUTHORIZATION FOR REPLACEMENT OF THE FIELD SERVICES SHOP AIR COMPRESSOR

SOURCE: Public Works - Field Services Division

COMMENT: The Shop air compressor is scheduled for replacement in the 2010/2011 fiscal year. The electric motor is in need of repair which could cost up to $1,000.00. The compressor is over 20 years old and in need of other additional repairs. Preliminary estimates on a replacement compressor are approximately $4,000.00. Funds are available in the Equipment Replacement Fund to replace the compressor.


Item No. 9
SUBJECT: AMENDMENT TO TRAFFIC RESOLUTION NO. 10-2001 - INTERSECTION SAFETY IMPROVEMENT - DESIGNATION OF "G" STREET AND OAK AVENUE AS A 2-WAY STOP INTERSECTION ALONG OAK AVENUE

SOURCE: Public Works Department - Engineering Division

COMMENT: Article IV, Section 17-4 of the City's Traffic Ordinance No. 1162 authorizes the City Engineer to place and maintain or cause to be placed and maintained traffic control devices as he may deem necessary or proper to regulate traffic. The Traffic Engineer must make such determinations based on traffic engineering principals and traffic investigations. Section 17-4 stipulates that the public must be notified of the application of a traffic control device so as to be effective when the traffic control device is installed. Article VII, Section 17-7 of the Traffic Ordinance states that a resolution must be effected prior to the installation of the traffic control device.

The City Engineer, after careful consideration and review of field conditions, has determined that the intersection of "G" Street and Oak Avenue warrants the placement of stop signs for east and westbound traffic along Oak Avenue. Taken into consideration was the fact that the east and west legs of Oak Avenue have sight distance issues causing an unsafe condition for both east and westbound traffic. This is partly due to the new storage warehouse being constructed at the northwest corner of the intersection by Sierra View District Hospital. Sight distance is also restricted due to the offset intersection at this location, as approaching traffic is not as visible when compared to a typical intersection.

Traffic Ordinance No. 1162, Traffic Resolution No. 10-2001 defines and establishes certain streets and parts of streets as one way streets, through streets, stop intersections, no parking areas, diagonal parking zones, no parking zones, truck routes and commercial vehicles prohibited streets. An amendment to Traffic Resolution No. 10-2001 is necessary for "G" Street and Oak Avenue to be designated as a 2-way stop intersection along Oak Avenue.

RECOMMENDATION: That City Council:

1. Pass a resolution amending Traffic Resolution No. 10-2001, designating "G" Street and Oak Avenue as a 2-way stop intersection along Oak Avenue;

2. Authorize the City Engineer to notify the public, by any effective means, of the application of a traffic control device, namely a 2-way stop along Oak Avenue, at the intersection of "G" Street and Oak Avenue; and

3. Authorize the City Engineer to install traffic control devices, namely 2-way stop signs along Oak Avenue, at the intersection of "G" Street and Oak Avenue.

ATTACHMENT: Resolution Locator Map
RESOLUTION NO.__________

A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF PORTERVILLE
AMENDING TRAFFIC RESOLUTION NO. 10-2001

WHEREAS, Traffic Ordinance No. 1162, Traffic Resolution No. 10-2001 defines and establishes certain streets and parts of streets in the City of Porterville as one way streets, through streets, stop intersections, no parking areas, diagonal parking zones, no parking zones, truck routes and commercial vehicles prohibited streets; and

WHEREAS, the Traffic Resolution needs to be amended;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Porterville that the following change is made to Section 21 of Traffic Resolution No. 10-2001:

A. Section 21. Through Streets and Stop Intersections. Add to Section 21 the following:

21-151. The intersection of “G” Street and Oak Avenue.

PASSED, ADOPTED AND APPROVED this 2nd day of March, 2010.

______________________________
Pete V. McCracken, Mayor

ATTEST:
John D. Lollis, City Clerk

______________________________
By: Luisa Herrera, Deputy City Clerk
Proposed 2-way stop @ "G" St. and Oak Ave., along Oak Ave.
COUNCIL AGENDA: MARCH 2, 2010

SUBJECT: WATER WELL EFFICIENCY REHABILITATION

SOURCE: Public Works Department – Field Services Division

COMMENT: At the June 2, 2009, City Council meeting, the City adopted Resolution No. 45-09 declaring that the City participate with Southern California Edison (SCE) and the Valley Innovative Energy Watch (VIEW) (made up of participating County and City jurisdictions of Tulare County) with goals to achieve energy demand reduction and energy efficiencies for the local community.

The City has the opportunity to enter into an agreement with SCE to receive rebates for increasing water well operating efficiencies. These rebates along with the annual usage savings are quite substantial. Along with the efficiency savings, the replacement of worn parts also reduces the possibilities of pump failure during the critical summer months. City wells C-16, C-17, C-18, C-25, and C-23 are the best candidates for this program.

Total cost of the rehabilitation on these five wells would be approximately $200,000 with a potential rebate of $59,373, and for being a "VIEW" partner, SCE is offering an additional rebate of $19,788 from 3¢ per kwh of energy saved, bringing the total potential rebate to $79,161. Additionally, the annual energy savings is estimated at $65,405. This puts the project on track for a less than 2 year payback. Funds are available in the water replacement fund for the rehabilitation project.

The Water Division also recently made rate modifications to many of its wells and pumping stations which SCE estimates will save over $100,000 annually.

RECOMMENDATION: That the City Council:

1. Authorize entering into an agreement with Southern California Edison for rebates for increasing water well operating efficiencies;
2. Authorize the Public Works Director to sign the agreement; and
3. Authorize the expenditure of approximately $200,000 for rehabilitation of the wells noted above.

P:\pubworks\Engineering\Council Items\Water Well Efficiency Rehabilitation - 2010-03-02.doc

Dir. Appropriated/Funded CM Item No. 11
SUBJECT: COMMUNITY CLEAN UP EVENTS

SOURCE: Public Works Department - Field Services Division

COMMENT: To encourage property maintenance and beautification, the City sponsors two clean up events every year; one in the Spring and one in the Fall. These events offer City residential refuse customers free disposal of general trash, bulky items, wood waste and yard clippings at the City's Corporation Yard. Last year's events were well received, with 359 residents participating in the Spring event and 407 in the Fall. Approximately 107 tons of general refuse was received, and an additional 24 tons of recyclable material was diverted from the landfill. Total cost of both events, including disposal fees and personnel, was approximately $6,500.

Based on the success of prior events, staff recommends the City host two Community Clean Up Events in 2010. The proposed event dates are Saturday, April 17th, and Saturday, October 16th. As in the past, the events are open to all residents receiving City refuse service. Staff estimates City costs for both events to be approximately $6,500 funded through the Solid Waste Operating Budget.

RECOMMENDATION: That City Council:


2. Encourage all residents to clean up their properties and take advantage of these special opportunities offered by the City;

3. Authorize the City to accept trash, litter and yard clippings delivered by City residents receiving City refuse service to the Spring and Fall Clean Up Events for free disposal; and

4. Authorize the cost of both events be funded from the Solid Waste Operating budget.
SUBJECT: IMPLEMENTATION OF NEIGHBORHOOD STABILIZATION PROGRAM - SUBRECIPIENT AGREEMENT WITH COMMUNITY SERVICES & EMPLOYMENT TRAINING, INC. FOR REHABILITATION SERVICES

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT

COMMENT: At the February 17, 2010 City Council meeting, the Council authorized the Community Development Director to submit purchase offers on foreclosed properties under the Neighborhood Stabilization Program (NSP1). The final purchase is contingent upon an appraisal verifying the value and the City Council’s approval. The NSP program was created by the Housing and Economic Recovery Act of 2008 and through a Joint Powers Agreement with the County of Tulare, Porterville is eligible to receive $700,699 to acquire, rehabilitate, demolish and redevelop foreclosed and abandoned residential properties. The purpose of this funding allocation is to rejuvenate neighborhoods and communities that are hardest hit by the foreclosure crisis.

The foreclosed homes being purchased will require minor to substantial rehabilitation work in order to make them marketable for the City to resell to an income eligible household (120% of median income or less), and subsequently receive program income to acquire additional properties. As discussed at the last Council meeting, staff has been in discussion with Community Services & Employment Training, Inc. (CSET) to enter into a subrecipient agreement for their Sequoia Community Corps to provide the rehabilitation work. This partnership will not only provide the City with the services needed, but provide training and job creation for the participants in the CSET program. Any potential NSP property will be inspected by City staff and CSET representatives to establish the extent of the work that needs to be completed and an estimated cost of construction. This information will be considered in the financial analysis of the feasibility of the property for acquisition.

RECOMMENDATION: That the City Council:

1. Adopt the draft resolution approving the subrecipient agreement with CSET for the rehabilitation work on the acquired foreclosed properties; and

2. Authorize the Mayor to execute the subrecipient agreement with CSET.

ATTACHMENTS: 1. Draft Resolution for Subrecipient Agreement with CSET
                2. Subrecipient Agreement
RESOLUTION NO. _____

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE AUTHORIZING THE APPROVAL OF THE SUBRECIPIENT AGREEMENT WITH COMMUNITY SERVICES & EMPLOYMENT TRAINING, INC. (CSET) FOR THE PURPOSE OF REHABILITATION SERVICES ON PROPERTIES ACQUIRED BY THE CITY THROUGH THE NEIGHBORHOOD STABILIZATION PROGRAM

WHEREAS, the City of Porterville (referred to as CITY) has entered into a Subrecipient Agreement dated December 1, 2009, (referred to as SUBRECIPIENT AGREEMENT) to receive funding from Tulare County (referred to as COUNTY), who is receiving funding from the State of California’s Neighborhood Stabilization Program (referred to as NSP), from the State of California’s Department of Housing and Community Development (referred to as HCD), to finance the City of Porterville’s Neighborhood Stabilization Program (referred to as PROGRAM), as authorized by Title III of Division B of the Housing and Economic Recovery Act of 2008 (HERA); and

WHEREAS, the purpose of the PROGRAM is to mitigate the effects of the foreclosure crisis in target areas of the CITY and the eligible uses of funds for the PROGRAM include the acquisition of foreclosed properties and rehabilitation of said properties which will eventually provide benefit to low- and moderate-income persons (individuals at or below 120% of County median income) as defined by HCD; and

WHEREAS, in order to implement this program in the timely manner that is being required by HCD, CITY desires to contract with an agency to provide rehabilitation services on properties acquired by the CITY under NSP; and

WHEREAS, Community Services Employment Training, (referred to as CSET) meets the requirements as outlined by the NSP and County’s Subcontractor procurement requirements and has expertise in carrying out rehabilitation and construction activities; and

WHEREAS, CITY wishes to enter into a professional services agreement with CSET for purposes of implementing the PROGRAM mentioned above utilizing NSP funds in the manner stated in the 2009 NSP Joint Application and in accordance with all applicable state and federal requirements.

NOW, THEREFORE BE IT RESOLVED: That the City Council of the City of Porterville, State of California, hereby approves the SUBRECIPIENT AGREEMENT with CSET for rehabilitation services in accordance with PROGRAM and all applicable state and federal requirements.

BE IT FURTHER RESOLVED: The City of Porterville authorizes the Mayor to execute, in the name of the City of Porterville, the SUBRECIPIENT AGREEMENT with CSET,

ATTACHMENT
ITEM NO. 1
and any amendments thereto, and authorize the Community Development Director, or his
designee to approve payments for services rendered under the agreement.

APPROVED AND ADOPTED this ____ day of ______, 2010.

_________________________
Pete V. McCracken, Mayor

ATTEST:
John D. Lollis, City Clerk

_________________________
By Luisa Herrera, Deputy City Clerk
AGREEMENT

THIS AGREEMENT is entered into as of ____________ , between the CITY OF PORTERVILLE, referred to as CITY, and COMMUNITY SERVICES & EMPLOYMENT TRAINING, INC., referred to as CSET, with reference to the following:

A. WHEREAS, CITY has entered into an Agreement, referred to as COUNTY AGREEMENT, with the County of Tulare, referred to as COUNTY, which shall be incorporated into this agreement and made an attachment hereto as Exhibit “A” to receive funding from the State of California’s Neighborhood Stabilization Program, referred to as NSP1, from the State of California, Department of Housing and Community Development, referred to as HCD, to finance the CITY Neighborhood Stabilization Program, referred to as PROGRAM;

B. WHEREAS, the purpose of the PROGRAM is to provide benefit to low-, moderate- and middle-income (LMMI) persons. All activities carried out with NSP1 funds provided under this Agreement will benefit LMMI-verified residents of the CITY, as defined by the U.S. Department of Housing and Urban Development (HUD) and HCD;

C. WHEREAS, CSET meets the requirements as outlined by the NSP1 Program and COUNTY’s subrecipient procurement requirements and has expertise in carrying out various programs and activities;

D. WHEREAS, CITY wishes to enter into a subrecipient agreement with CSET for purposes of rehabilitating homes purchased for the CITY’S Foreclosure Acquisition/Rehabilitation component mentioned above utilizing NSP1 funds in the manner stated in the CITY’S Agreement with COUNTY.

ACCORDINGLY, IT IS AGREED:

1. TERM: This Agreement shall become effective upon the execution of this Agreement by the Porterville City Council and shall expire on May 31, 2013, or the latest amendment of the closeout date thereto unless otherwise terminated as provided in this Agreement.

2. SERVICES: CSET will provide CITY with the construction services outlined in Exhibit “A,” SCOPE OF WORK, NSP1 regulations.

3. PAYMENT OF ALLOCATION: CSET shall submit a Scope of Work, Cost Estimate, and Schedule for each project, which must be approved by CITY, who will agree to payment terms for services provided pursuant to this Agreement subject to the following conditions:
   a. Foreclosure Rehabilitation: According to NSP1 regulations, home rehabilitation must be completed in accordance with the COUNTY’S NSP1 Acquisition/Rehabilitation Program Guidelines submitted in the NSP1 Joint Application (Program Guidelines subject to change by HCD).
   b. General Conditions
      i. The compensation to be provided to CSET under this Agreement will be reduced due to any inability to provide services, whether such an inability is due to CSET activities or other activities or circumstances beyond the control of CSET.
      ii. CITY must approve budget changes and/or change orders in writing prior
to any budget adjustment or amendment.

iii. CSET shall submit biweekly invoices to CITY stating the services provided and the actual costs incurred.

iv. All invoices will be submitted to CITY Community Development Department for approval prior to payment by CITY. Invoices shall be in the form and contain the documentation requested by CITY and shall be subject to approval by CITY, which approval shall not be unreasonably withheld. CITY will make payments within thirty (30) days of receipt of approved invoice; however, if the required documentation is not provided, CITY is under no obligation to pay said invoice or request funds from COUNTY, HCD on CSET’S behalf. CITY will notify CSET of any objections, questions, or complaints regarding any particular invoice or related documentation within seven (7) days of receipt of such invoice and related documentation. If CITY determines that any amounts were improperly billed and/or paid to CSET, or CSET was improperly underpaid, adjustments by such amounts may be made in the payment on the current or a later invoice with explanation provided. No interest or penalties shall accrue for late payments.

v. All NSP1 funds shall be expended in accordance with the deadlines and milestones required within the COUNTY AGREEMENT.

4. REPORTING REQUIREMENTS: CSET shall assist CITY in fulfilling all NSP1 fiscal reporting requirements related to construction projects subject to this agreement.

5. COMPLIANCE WITH LAW: CSET shall provide services in accordance with all of the provisions of Federal, State, and local laws; current and future enacted Federal, State, and local governmental guidelines, policies and available funding covenants; and the rules and regulations governing the HCD NSP1 Program (42 U.S.C. 5301, 24 CFR Part 570, Subparts A, C, D, J, K and O). With respect to CSET’S employees, CSET shall comply with all laws and regulations pertaining to wages and hours, State and Federal income tax, unemployment insurance, Social Security, disability insurance, workers' compensation insurance, and discrimination in employment. In addition, CSET agrees to fully comply with all Federal, State and local laws, regulations, and directives that apply to the work involved in the project, including but not limited to the applicable laws and regulations specified in the COUNTY AGREEMENT, and the COMPLIANCE REQUIREMENTS, attached as Exhibit “C”.

6. RECORDS: CSET shall maintain complete and accurate records required by the Federal regulations specified in 24 CFR Part 570.506 that are pertinent to the activities to be funded under this Agreement. In addition, CSET shall maintain complete and accurate records with respect to any payments to employees or subcontractors. All such records shall be prepared in accordance with generally accepted accounting procedures, shall be clearly identified, and shall be kept readily accessible. Upon request, CSET shall make such records available to CITY and the Auditor of Tulare County and to their agents and representatives, for the purpose of auditing and/or copying such records for a period of five (5) years from the expiration date of this Agreement. CSET is responsible for fulfilling all Federal Overlay requirements and maintaining all records for the longest time periods as required in the COUNTY AGREEMENT.

7. MONITORING: CITY may monitor CSET during the term of this Agreement for compliance with any or all applicable requirements and for attainment of expenditure milestones and PROGRAM goals as outlined in the COUNTY AGREEMENT. CSET shall make all records available to CITY for any monitoring that CITY, COUNTY, HCD or other State agencies may require. CSET staff shall be available during any monitoring that CITY,
8. INSURANCE: Prior to approval of this Agreement by CITY, CSET shall file with the City Clerk evidence of the required insurance as set forth in INSURANCE REQUIREMENTS attached as Exhibit "D."

9. INDEPENDENT CONTRACTOR STATUS:
   a. This Agreement is entered into by both parties with the express understanding that CSET will perform all services required under this Agreement as an independent contractor. Nothing in this Agreement shall be construed to constitute CSET or any of its agents, employees or officers as an agent, employee or officer of CITY.
   b. CSET agrees to advise everyone it assigns or hires to perform any duty under this agreement that they are not employees of CITY. Subject to any performance criteria contained in this Agreement, CSET shall be solely responsible for determining the means and methods of performing the specified services and CITY shall have no right to control or exercise any supervision over CSET as to how the services will be performed. As CSET is not CITY'S employee, CSET is responsible for paying all required State and Federal taxes. In particular, CITY will not:
      i. Withhold FICA (Social Security) from CSET'S payments.
      ii. Make State or Federal unemployment insurance contributions on CSET'S behalf.
      iii. Withhold State or Federal income tax from payments to CSET.
      iv. Make disability insurance contributions on behalf of CSET.
      v. Obtain unemployment compensation insurance on behalf of CSET.
   c. Notwithstanding this independent contractor relationship, CITY shall have the right to monitor and evaluate the performance of CSET to assure compliance with this Agreement.

10. INDEMNIFICATION: CSET shall hold harmless, defend and indemnify CITY, its agents, officers and employees from and against any liability, claims, actions, costs, damages or losses of any kind, including death or injury to any person and/or damage to property, including CITY property, arising from, or in connection with, the performance by CSET or its agents, officers and employees under this Agreement, the JPA and/or the COUNTY AGREEMENT. Such indemnification obligations shall not be limited in any way by any limitation or the amount or type of damages, compensation or benefit payable by or for either party under worker’s or workmen’s compensation, disability benefits or other employee entitlements. This indemnification specifically includes any claims that may be made against CITY by any taxing authority asserting that an employer-employee relationship exists by reason of this Agreement, and any claims made against CITY alleging civil rights violations by CSET under Government Code sections 12920 et seq. (California Fair Employment and Housing Act), and any fines or penalties imposed on CITY for CSET’S failure to provide form DE-542, when applicable. This indemnification obligation shall continue beyond the term of this Agreement as to any acts or omissions occurring under this Agreement or any extension of this Agreement.

11. CONFLICT OF INTEREST:
   a. CSET agrees at all times in performance of this Agreement to comply with the law of the State of California regarding conflicts of interests or appearance of conflicts of interests, including, but not limited to Government Code Section 1090 et seq., and the Political Reform Act, Government Code Section 81000 et seq. and regulations promulgated pursuant thereto by the California Fair Political Practices Commission. The
statutes, regulations and laws previously referenced include, but are not limited to, prohibitions against any public officer or employee, including CSET for this purpose, from the making of any decision on behalf of CITY in which such officer, employee or CSET has a direct or indirect financial interest. A violation can occur if the public officer, employee or CSET participates in or influences any CITY decision which has the potential to confer any pecuniary benefit on CSET or any business firm in which CSET has an interest, with certain narrow exceptions.

b. CSET agrees that if any facts come to its attention, which raise any questions as to the applicability of conflicts of interest laws, it will immediately inform CITY designated representative and provide all information needed for resolution of this question.

12. TERMINATION:
   a. With Cause: This Agreement may be terminated by either party should the other party:
      i. be adjudged a bankrupt, or
      ii. become insolvent or have a receiver appointed, or
      iii. make a general assignment for the benefit of creditors, or
      iv. suffer any judgment which remains unsatisfied for thirty (30) days, and which would substantively impair the ability of the judgment debtor to perform under this Agreement, or
      v. materially breach this Agreement. Material breach includes but is not limited to CSET failing to perform obligations under this Agreement, and CSET failing to perform obligations in accordance with the program time schedule set forth in Exhibit A “COUNTY AGREEMENT.”

For any of the occurrences except item v., termination may be effected upon written notice by the terminating party specifying the date of the termination. Upon a material breach, the Agreement may be terminated following the failure of the defaulting party to remedy the breach to the reasonable satisfaction of the non-defaulting party within FIFTEEN (15) days of the receipt of written notice specifying the breach. If the breach is not remedied within that FIFTEEN (15) day period, the non-defaulting party may terminate the agreement on further written notice specifying the date of termination. If the nature of the breach is such that it cannot be cured within a FIFTEEN (15) day period, the defaulting party may, submit a written proposal within that period which sets forth a specific means to resolve the default. If the non-defaulting party consents to that proposal in writing, which consent shall not be unreasonably withheld, the defaulting party shall immediately embark on its plan to cure. If the default is not cured within the time agreed, the non-defaulting party may terminate upon written notice specifying the date of termination. CITY will pay to CSET the compensation earned for work performed and not previously paid for to the date of termination. CITY will not pay lost anticipated profits or other economic loss, nor will CITY pay compensation or make reimbursement to cure a breach arising out of or resulting from such termination. If the expense of finishing CSET’S scope of work exceeds the unpaid balance of the agreement, CSET must pay the difference to CITY. The payment of such compensation is subject to the restrictions on payment of compensation otherwise provided in this Agreement, and is conditioned upon receipt from CSET of any and all plans, specifications and estimates, and other documents prepared by CSET by the date of termination in accordance with this Agreement. Sanctions taken will be possible rejection of future proposals based on specific causes of non-performance.

b. Effects of Termination: Expiration or termination of this Agreement shall not terminate any obligations to return Program Income/NSP1 Grant funds to the CITY, to
indemnify, to maintain and make available any records pertaining to the Agreement, to cooperate with any audit, to be subject to offset, or to make any reports of pre-termination contract activities. Where CSET’S services have been terminated by CITY, said termination will not affect any rights of CITY to recover damages against CSET.

c. Suspension of Performance: Independent of any right to terminate this Agreement, the authorized representative of CITY for which CSET’S services are to be performed, may immediately suspend performance by CITY, in whole or in part, in response to health, safety or financial emergency, or a failure or refusal by CSET to comply with the provisions of this Agreement, until such time as the cause for suspension is resolved, or a notice of termination becomes effective.

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

14. HEADINGS: Section headings are provided for organizational purposes only and do not in any manner affect the scope, meaning or intent of the provisions under the headings.

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

   CSET:
   Carolyn Rose
   Executive Director
   312 NW 3rd Avenue
   Visalia, California 93291
   Phone No.: (559) 732-4194
   Fax No.: (559) 732-0233

   With A Copy To:
   Chantel Medeiros
   Division Director
   312 NW 3rd Avenue
   Visalia, California 93291
   Phone No.: (559) 732-4194
   Fax No.: (559) 732-0233

   CITY:
   John Lollis
   Manager, City of Porterville
   291 N. Main Street
   Porterville, CA 93257
   Phone No.: (559) 782-7466
   Fax No.: (559) 791-7830

   With A Copy To:
   Bradley D. Dunlap
   Community Development Director
   291 N. Main Street
   Porterville, CA 93257
   Phone No.: (559) 782-7460
   Fax No.: (559) 781-6437

   b. Notice personally delivered is effective when delivered. Notice sent by facsimile transmission is deemed to be received upon successful transmission. Notice sent by first class mail shall be deemed received on the fifth (5th) day after the date of mailing. Either party may change the above address by giving written notice pursuant to this paragraph.

16. CONSTRUCTION: This Agreement reflects the contributions of both parties and accordingly the provisions of Civil Code section 1654 shall not apply to address and interpret any uncertainty.
17. NO THIRD PARTY BENEFICIARIES INTENDED: Unless specifically set forth, the parties to this Agreement do not intend to provide any other party with any benefit or enforceable legal or equitable right or remedy.

18. GOVERNING LAW: This Agreement shall be interpreted and governed under the laws of the State of California without reference to California conflicts of law principles. The parties agree that this contract is made in and shall be performed in Tulare County, California. CITY waives the removal provisions of California Code of Civil Procedure section 394.

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

20. EXHIBITS AND RECITALS: The Recitals and the Exhibits to this Agreement are fully incorporated into and are integral parts of this Agreement.

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

22. FURTHER ASSURANCES: Each party will execute any additional documents and perform any further acts, which may be reasonably required to effect the purposes of this Agreement.

23. ASSURANCES OF NON-DISCRIMINATION: CSET shall not discriminate in employment or in the provision of services on the basis of any characteristic or condition upon which discrimination is prohibited by State or Federal law or regulation.

24. ASSIGNMENT/SUBCONTRACTING: Unless otherwise provided in this Agreement, CITY is relying on the personal skill, expertise, training and experience of CSET and CSET's employees and no part of this Agreement may be assigned or subcontracted by CSET without the prior written consent of CITY.

25. DISPUTE RESOLUTION: If a dispute arises out of or relating to this Agreement, or the breach thereof, and if said dispute cannot be settled through negotiation, the parties agree first to try in good faith to settle the dispute by non binding mediation before resorting to litigation or some other dispute resolution procedure, unless the parties mutually agree otherwise. The mediator shall be mutually selected by the parties, but in case of disagreement, the mediator shall be selected by lot from among two nominations provided by each party. All costs and fees required by the mediator shall be split equally by the parties, otherwise each party shall bear its own costs of mediation. If mediation fails to resolve the dispute within thirty (30) days, either party may pursue litigation to resolve the dispute.

26. PROFESSIONAL MANNER: CSET shall provide the services contemplated by the Agreement in a professional manner and quality satisfactory to the CITY.
27. **FUNDING CLAUSE:** CSET acknowledges that the CITY is dependent upon certain Federal and State funding to pay for the PROGRAM provided for in this Agreement. CSET acknowledges that the CITY has applied for NSP1 funding, and is subject to all regulations under that source. If for any reason the CITY is not awarded funding, this agreement is void, CSET is not entitled to any compensation or damages. If the CITY is awarded funding from COUNTY to finance the PROGRAM, this Agreement will become effective. If such funding is discontinued or reduced, CITY may exercise its sole discretion to reduce the amount of PROGRAM funds or terminate the Agreement by giving CSET 30 calendar days notice of the reduction or termination.

28. **UNEMPLOYMENT INSURANCE COMPLIANCE:** CSET acknowledges that this Agreement is subject to filing obligations pursuant to Unemployment Insurance Code Section 1088.8. Accordingly, CITY has an obligation to file a report with the Employment Development Department, which report will include CSET'S full name, tax identification number, address, the date this contract was executed, the total amount of the contract, the contract's expiration date or whether it is ongoing. CSET agrees to cooperate with CITY to make such information available and to complete DE Form 542. Failure to provide the required information may, at CITY'S option, prevent approval of this Agreement, or be grounds for termination by CITY.

29. **IMPROPER USE OF FUNDS:** CSET shall hold harmless, defend and indemnify CITY from any liability, action or losses incurred by CITY as a result of CSET'S improper use of funds under this Agreement.

30. **CLOSE-OUTS:** CSET'S obligation to CITY shall not end until all close-out requirements are completed. Activities during this close-out period shall include, but are not limited to: making final payments, disposing of program assets (including the return of all unused materials, equipment, unspent cash advances, program income balances, and accounts receivable to CITY), and determining the custodianship of records.

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

CITY

Date: ____________

By: __________________________

Pete V. McCracken, Mayor, City of Porterville
"CITY"

ATTEST:

John Lollis, City Clerk

CSET

Date: ____________

By: __________________________

Carolyn Rose, Executive Director
Community Services & Employment Training, Inc.
"CSET"

Approved as to Form
City Attorney

By: _________________________

Julia Lew

Date: ________________
EXHIBIT “A” – SCOPE OF WORK
City of Porterville Neighborhood Stabilization Program (PROGRAM)

CSET RESPONSIBILITIES:
CSET shall use the following step-by-step process to implement the PROGRAM in accordance with the Exhibit “B”, COUNTY AGREEMENT:

STEP 1: CSET will accompany CITY staff to inspect all potential NSP1 Foreclosure Acquisition/Rehabilitation and Redevelopment projects with the purpose of preparing an initial Scope of Work, Cost Estimate, and Schedule for the rehabilitation or construction of housing and recommendation to submit purchase offers or decline to bid on homes.

STEP 2: CSET will prepare and submit initial Scopes of Work, Cost Estimates, and Schedules for each potential housing project within five (5) days of inspecting the home. CSET will endeavor to outline the major rehabilitation or construction costs of completing the project within 20% of the actual cost.

CITY will be responsible for obtaining the appraisal, preparing the environmental review record, requesting SHPO review, if required, meeting all NSP1 Federal overlay requirements, securing a title report, and purchasing the property.

STEP 3: Within fifteen (15) days after the acceptance of a purchase offer by the property owner, CSET will prepare and submit a final Scope of Work, Cost Estimate, and Schedule to CITY for review and approval. CSET will seek to incorporate universal design, Energy Star appliances, energy efficient improvements, and other green design practices that comply with any new Federal and State requirements into all rehabilitation and construction activities. Scopes of Work will be prepared in accordance with the CITY Building Standards.

Cost Estimates will include rehabilitation/construction work; building permit fees; government fees; architectural and engineering services; special conditions, such as required curb and gutter, and fire suppression measures; project management and overhead fees; fifteen percent (15%) contractor profit; and ten percent (10%) contingency. CSET will prepare house plans as necessary.

STEP 4: If a subcontractor is needed to complete the project, CSET will solicit bids and conduct bid tours for the job. CSET will review specifications item by item with interested contractors at the job site. Invitations to bid will be advertised in English and Spanish in an effort to obtain three (3) reasonable bids.

CSET will verify that any subcontractor has an active, valid California Class B General Contractor License, is bonded, and is not on the Federal Debarred List. CSET will ensure that the contractor provides evidence of Workers Compensation Insurance and Comprehensive General Liability and Property Damage Insurance with a combined single limit of at least $500,000. The selected contractor’s bid should be within 10 percent (10%) of CSET’S cost estimate. If the contractor’s bid exceeds this standard, then CSET should provide a written explanation of the difference.

STEP 5: When the above steps are complete, the CITY will issue a notice to proceed with construction. CSET will schedule a pre-construction meeting between CSET, CITY, and any subcontractors. The importance of cooperation and clear communication throughout the contract
period will be emphasized. Before work begins, decisions will be made on materials selections and special order items, and a work schedule will be outlined.

**STEP 6:** After construction commences, CSET will record a mechanics lien on the property to secure our investment in the project. The lien will be released upon receipt of the final payment for rehabilitation and/or construction work performed.

**STEP 7:** CSET and subcontractors will recycle inert materials, and construction and demolition debris, according to County Ordinance #3321 effective 3/21/06. CITY staff will periodically visit the worksite to review work in progress for quality and conformance with plans, specifications, and generally accepted building practices. At the completion of each phase, CSET will submit invoices to CITY for payment. CSET will work with the CITY Building Inspectors to ensure the work complies with building codes, while not exceeding NSP rehabilitation project funding limits.

**STEP 8:** At the completion of the job, CSET will check back with all plans and specifications to confirm the work was completed as contracted. CSET and CITY Building Inspector will make final inspections. CSET will release mechanic liens after the final retention payment is issued. CSET will provide photos of the completed project.

CITY staff may inspect work for quality and conformance with plans, specifications, and generally accepted building practices.

**STEP 9:** CSET will prepare all required closeout documents, including a one (1) year guarantee on all labor and materials. The CITY will be asked to sign the Notice of Completion certifying satisfaction with completed work. CSET will provide labor and materials to repair construction defects for one (1) year from date of final approval by the CITY Building Department.

**General Administration Duties:**

As part of its contracted responsibilities, CSET will provide technical assistance and will regularly communicate with CITY staff during the planning and rehabilitation/construction of NSP1 projects.

CSET will submit invoices by the fifteenth (15th) day of each month evidencing the time incurred by project management staff and construction costs, as negotiated in the Agreement. Payment for the construction costs and each project invoice is expected within the standard thirty (30) days after approval of invoice.

CSET will perform the following administrative services:

- Assist the CITY in areas of General Administration of the PROGRAM, including, but are not limited to, NSP1 records system, all reports required by NSP1 as stated in the COUNTY AGREEMENT, PROGRAM amendments, and other services to be mutually agreed upon.
- Provide the CITY with necessary technical assistance to implement and administer the COUNTY AGREEMENT, to demonstrate compliance with NSP1 Program procedures and State regulations.
- Provide monthly reports to CITY on progress and performance in relation to the activity budget and scheduled milestones included in COUNTY AGREEMENT and approved amendments.
- Prepare and retain all pertinent records and documents sufficient to reflect all charges submitted.
• Assist with NSP1 monitoring visits to answer questions concerning any phase of the project and to mitigate adverse findings caused by lack of information.
EXHIBIT “B” – COUNTY AGREEMENT
City of Porterville Neighborhood Stabilization Program (PROGRAM)
(on file in the Community Development Department)
EXHIBIT “C” – COMPLIANCE REQUIREMENTS
ALL CONTRACTS AND SUBCONTRACTS

1. NONDISCRIMINATION CLAUSE:
   a. During the performance of this Agreement, CSET and its subcontractors shall not
      unlawfully discriminate, harass or allow harassment, against any employee or applicant
      for employment because of sex, race, color, ancestry, religious creed, national origin,
      disability (including HIV and AIDS), medical condition (cancer), age, marital status,
      denial of family and medical care leave and denial of pregnancy disability leave. CSET
      and its subcontractors shall insure that the evaluation and treatment of their employees
      and applicants for employment are free from such discrimination and harassment. CSET
      and its subcontractors shall comply with the provisions of the Fair Employment and
      Housing Act (Government Code, Section 12900 et seq.) and the applicable regulations
      promulgated thereunder (California Code of Regulations, Title 2, Section 7285.0 et seq.).
      The applicable regulations of the Fair Employment and Housing Commission
      implementing Government Code, Section 12990 (a-f), set forth in Chapter 5 of Division
      4 of Title 2 of the California Code of Regulations are incorporated into this Agreement
      by reference and made a part hereof as if set forth in full. CSET and its subcontractors
      shall give written notice of their obligations under this clause to labor organizations with
      which they have a collective bargaining or other agreement.
   b. CSET shall include the nondiscrimination and compliance provisions of this
      clause in all subcontracts to perform work under the agreement.

2. EQUAL OPPORTUNITY:
   a. The Civil Rights, Housing and Community Development, and Age
      Discrimination Acts Assurances: During the performance of this Agreement, CSET
      assures that no otherwise qualified person shall be excluded from participation or
      employment, denied program benefits, or be subjected to discrimination based on race,
      color, national origin, sex, age, handicap, religion, familial status, or religious preference,
      under any grant activity funded by this Agreement, as required by Title VI of the Civil
      Rights Act of 1964, Title I of the Housing and Community Development Act of 1974, as
      amended, the Age Discrimination Act of 1975, the Fair Housing Amendment Act of
      1988, and all implementing regulations.
   b. The Training, Employment and Contracting Opportunities for Business and
      Lower Income Persons Assurance of Compliance:
      i. The work to be performed under this Agreement is on a project assisted
         under a program providing direct federal financial assistance from the Department
         of Housing and Urban Development and is subject to the requirements of Section
         3 of the Housing and Urban Development Act of 1968, as amended, 12 U.S.C
         1701u. Section 3 requires that to the greatest extent feasible, opportunities for
         training and employment be given lower income residents of the project area and
         contracts for work in connection with the project be awarded to business concerns
         which are located in, or owned in substantial part by persons residing in the area
         of the project. The order of priority provided by Section 3 is defined in 24 CFR
         135.34(a)(2).
      ii. The parties to this Agreement will comply with the provisions of said
          Section 3 and the regulations issued pursuant thereto by the Secretary of Housing
          and Urban Development set forth in 24 CFR Part 135, and all applicable rules and
          orders of the Department issued thereunder prior to the execution of this contract.
          The parties to this contract certify and agree that they are under no contractual or
other disability which would prevent them from complying with these requirements.

iii. CSET will send to each labor organization or representative of workers with which he has a collective bargaining agreement or other contract or understanding, if any, a notice advising the said labor organization or worker's representative of his commitments under this Section 3 clause and shall post copies of the notice in conspicuous places available to employees and applicants for employment or training.

iv. CSET will include these Section 3 clauses in every contract and subcontract for work in connection with the project and will, at the direction of the State, take appropriate action pursuant to the contract upon a finding that CSET or any contractor or subcontractor is in violation of regulations issued by the Secretary of Housing and Urban Development, 24 CFR Part 135 and, will not let any contract unless CSET or contractor or subcontractor has first provided it with a preliminary statement of ability to comply with the requirements of these regulations.

v. Compliance with the provisions of Section 3, the regulations set forth in 24 CFR Part 135, and all applicable rules and orders of the Department issued thereunder prior to the execution of the Agreement shall be a condition of the federal financial assistance provided to the project, binding upon CSET, its successors and assigns. Failure to fulfill these requirements shall subject CSET, its contractors and subcontractors, its successors and assigns to those sanctions specified by the grant or contract through which federal assistance is provided, and to such sanctions as are specified by 24 CFR Part 135.

c. Americans with Disabilities Act (ADA) of 1990: By signing this Agreement, CSET assures COUNTY that it complies with the Americans with Disabilities Act (ADA) of 1990, (42 U.S.C. 12101 et seq.), which prohibits discrimination on the basis of disability, as well as all applicable regulations and guidelines issues pursuant to the ADA.

3. ANTI- LOBBYING CERTIFICATION:

a. The undersigned certifies, to the best of his or her knowledge or belief, that:

i. No Federal appropriated funds have been paid or will be paid, by or on behalf of it, to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal contract, grant, loan, or cooperative agreement;

ii. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal contract, grant, loan, or cooperative agreement, it will complete and submit Standard Form-LLL, “Disclosure Form to Report Lobbying,” in accordance with its instructions.

b. CSET shall require that the language of this certification be included in all contracts or subcontracts entered into in connection with this grant activity and that all subrecipients shall certify and disclose accordingly.

c. This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is
a prerequisite for making or entering into this transaction imposed by Section 1352, Title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than $10,000 and no more than $100,000 for such failure.

4. CONFLICT OF INTEREST OF MEMBERS, OFFICERS, OR EMPLOYEES OF CITYS, MEMBERS OF LOCAL GOVERNING BODY, OR OTHER PUBLIC OFFICIALS: No member, officer, or employee of CSET, or its designees or agents, no member of the governing body of the locality in which the program is situated, and no other public official of such locality or localities who exercise any functions or responsibilities with respect to the program during his/her tenure or for one year thereafter, shall have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for grant activities to be performed in connection with the program assisted under this Agreement. CSET shall incorporate, or cause to be incorporated, in all such contracts or subcontracts a provision prohibiting such interest pursuant to the purposes of this section.

5. CONFLICT OF INTEREST OF CERTAIN FEDERAL OFFICIALS: No member of or delegate to the Congress of the United States, and no resident commissioner, shall be admitted to any share or part of this Agreement or to any benefit to arise from the same.

6. CSET AND SUBCONTRACTS:
   a. CSET shall not enter into any agreement, written or oral, with any contractor without the prior determination by the State of the contractor’s eligibility. A contractor or subcontractor is not eligible to receive grant funds if the contractor is not licensed in a good standing in California, or is listed on the Federal Consolidated List of Debarred, Suspended, and Ineligible Contractors.
   b. This Agreement between CITY and CSET shall require CSET and its subcontractors, if any, to:
      i. Comply with the applicable State and Federal requirements described in COUNTY AGREEMENT which pertain to, among other things, labor standards, non-discrimination, Americans with Disabilities Act, Equal Employment Opportunity, and Drug-Free Workplace.
      ii. Maintain at least the minimum State-required Worker’s Compensation Insurance for those employees who will perform the grant activity or any part of it.
      iii. Maintain, if so required by law, unemployment insurance, disability insurance and liability insurance in an amount to be determined by the State, which is reasonable to compensate any person, firm, or corporation who may be injured or damaged by CSET or any subcontractor in performing the grant activity or any part of it.
      iv. Retain all books, records, accounts, documentation, and all other materials relevant to this Agreement for a period of four (4) years from the date of termination of this Agreement, or four (4) years from the conclusion or resolution of any and all audits or litigation relevant to this Agreement or the COUNTY AGREEMENT and any amendments, whichever is later.
      v. Permit the State, Federal government, the Bureau of State Audits, NCD and/or their representatives, upon reasonable notice, unrestricted access to any or all books, records, accounts, documentation, and all other materials relevant to this Agreement for the purpose of monitoring, auditing, or otherwise examining said materials.
7. COMPLIANCE WITH APPLICABLE LAWS AND REGULATIONS: Where required, CSET shall comply with, and require contractors and subcontractors to comply with, each of the following:
   a. Federal, State and local regulations that pertain to construction, health and safety, labor, fair employment practices, equal opportunity, or any other matters applicable to this Agreement.
   b. Sections 103 and 107 of the contract Work Hours and Safety Standards Act (40 U.S.C. 327-220) as supplemented by DOL Regulations (29 C.F.R., Part 5);
   c. Executive Order 11246 and all implementing regulations of the DOL;
   d. Rehabilitation Act of 1973, (24C.F.R., Part 8);

8. UNIFORM ADMINISTRATIVE REQUIREMENTS: CSET shall comply with all applicable uniform administrative requirements, as described in 24 CFR § 570.502 and 24 CFR § Part 84, and/or Part 85, as applicable.

9. PROCUREMENT:
   a. CSET shall comply with CDBG Program policy concerning the purchase of equipment and shall maintain inventory records of all non-expandable personal property as defined by such policy as may be procured with CDBG funds provided herein.
   b. CSET shall procure all materials, property, or services in accordance with the requirements of Attachment O of OMB Circular A-110, Procurement Standards, and shall subsequently follow Property Management Standards as modified by 24 CFR 570.502(b)(6), covering utilization and disposal of property.

10. REVERSION OF ASSETS: Upon expiration of the COUNTY AGREEMENT, if CSET has any CDBG funds on hand as well as any accounts receivables attributable to CDBG funds, must be transferred to CITY. Any materials and real property acquired with CDBG funds must be transferred to CITY upon expiration of this Agreement.
EXHIBIT “D” - INSURANCE REQUIREMENTS

CSET shall provide and maintain insurance for the duration of this Agreement against claims for injuries to persons and damage to property which may arise from, or in connection with, performance under the Agreement by CSET, his agents, representatives, employees or subcontractors, if applicable.

A. Minimum Scope & Limits of Insurance
   1. Coverage at least as broad as Commercial General Liability Insurance of $1,000,000 combined single limit per occurrence. If the annual aggregate applies, it must be no less than $1,000,000.
   2. Comprehensive Automobile Liability Insurance (if applicable) of $1,000,000 per occurrence.
   3. Workers Compensation and Employer’s Liability Insurance as required by law.

B. Specific Provisions of the Certificate
   1. The Certificate of Insurance for General Liability and Comprehensive Automobile Liability Insurance must meet the following requirements:
      a. Name the CITY, its officers, agents, employees and volunteers, individually and collectively, as additional insureds.
      b. State that such Insurance for additional insureds shall apply as primary insurance and any other insurance maintained by CITY shall be excess.
      c. Provide that coverage shall not be suspended, voided, canceled, reduced in coverage, or otherwise materially changed except after thirty (30) days prior written notice by certified mail, return receipt requested, has been given to the CITY.
   2. The Certificate of Insurance for Workers Compensation must include the following waiver of subrogation:
      a. Waiver of Subrogation. CSET waives all rights against the CITY and its agents, officers, and employees for recovery of damages to the extent these damages are covered by the workers compensation and employer’s liability.

C. Deductibles and Self-Insured Retentions
   The CITY Risk Manager must approve any deductible or self-insured retentions that exceed $100,000.

D. Acceptability of Insurance
   Insurance must be placed with insurers with a current rating given by A.M. Best and Company of no less than A (-) from a company admitted to do business in California. Any waiver of these standards is subject to approval by the CITY Risk Manager or CITY Risk Manager’s designee.

E. Verification of Coverage
   Prior to approval of this Agreement by the CITY, CSET shall file, with the submitting department, certificates of insurance with original endorsements effecting coverage in a form acceptable to the CITY. The CITY reserves the right to require certified copies of all required insurance policies at any time.
COUNCIL AGENDA: March 2, 2010

SUBJECT: SIERRA MANAGEMENT EXTENSION OF CONTRACT

SOURCE: Administration (Transit)

COMMENT: On July 18, 2006, the City of Porterville and Sierra Management executed an Agreement to provide operational and management services for Fixed Route and Demand-Response for the period of July 1, 2006 through June 30, 2010. The Agreement further granted the Contractor a two-year option to extend under the same terms and conditions, upon notifying the City in writing of its intent to exercise this option at least 60 days prior to the original termination of the Agreement. The original agreement was amended October 9, 2009, to incorporate language necessary to indemnify the contractor from a change in interpretation of California Highway Patrol terminal inspection procedures. All other aspects of the original agreement remained in full force and effect.

On February 17, 2010, the City received a written request from Sierra Management to exercise its option to extend this contract through June 30, 2012, under the same terms and conditions. A copy of the written request is attached for reference.

RECOMMENDATION: No action required – information only.

ATTACHMENTS:
(1) Sierra Management request to exercise option
(2) Amended Agreement dated October 9, 2009.

Item No. 14
February 16, 2010

City of Porterville
Attn: Linda Clark
291 N. Main
Porterville, Ca. 93257

RE: Agreement between The City of Porterville and Sierra Management Operational and Management Services for Transit System
Dated: July 1, 2006

Dear City of Porterville,

Effective July 1, 2006 Sierra Management was awarded the above-referenced contract, which expires on June 30, 2010. Sierra Management wishes, in accordance with the terms of the original agreement, to exercise its option to extend this contract through June 30, 2012 under the same terms and conditions.

If you have any questions, please contact Richard Tree at (559) 791-7810.

Sincerely,

[Signature]

Richard I. Tree
Transportation Manager
AMENDED AGREEMENT
BETWEEN
THE CITY OF PORTERVILLE AND
SIERRA MANAGEMENT

THIS AMENDED AGREEMENT is made and entered into this _?_ day of
OCTOBER, 2009, by and between the City of Porterville, hereinafter referred to as
"CITY" and Sierra Management, hereinafter referred to as "CONTRACTOR."

WITNESSETH:

WHEREAS, City has determined that it requires operational and management
services for Fixed Route and Demand-Response (Dial-A-Ride) public transit services,
hereinafter referred to as "TRANSIT SYSTEM," and

WHEREAS, Contractor has represented that it has the necessary expertise and
personnel, and is qualified to perform such services;

NOW, THEREFORE, it is mutually understood and agreed as follows:

1. COMPLETE AGREEMENT

This Agreement, and the attachments and documents incorporated herein,
constitute the complete and exclusive statement of the terms of the Agreement between
the City and the Contractor, and it supersedes all prior representations, understanding and
communications. The invalidity in whole or in part of any provision of this Agreement
shall not affect the validity of other provisions. City’s failure to insist in one or more
instances upon the performance of any term or terms of this Agreement shall not be
construed as a waiver or relinquishment of City’s right to such performance by
Contractor.

2. CITY DESIGNEE

The City Manager, or his Designee, shall have the authority to act for, and
exercise any of the rights of, City as set forth in the herein Agreement, subsequent to the
authorization by the City Council of the City of Porterville.

3. INDEPENDENT CONTRACTOR

Contractor’s relationship to City in performance of this Agreement is that of an
independent contractor. Contractor shall provide operations management at a level and
capability sufficient to oversee its functions and employees. The personnel performing
services under this Agreement shall at all times be under Contractor’s exclusive direction
and control and shall be employees of Contractor and not employees of City. Contractor
shall pay all wages, salaries and other amounts due its employees in connection with this
Agreement and shall be responsible for all reports and obligations respecting them, such
as social security, income tax withholding, unemployment compensation, workers’
compensation insurance, and similar matters.
Contractor shall designate and provide the services of a full-time General Manager, subject to the approval of City, who shall provide overall management and supervision of the Transit System operations under the terms of this Agreement. The General Manager must have a minimum of five years of experience in public transportation operations including at least three years' supervisory experience. A bachelor's degree in a related field from a four-year college may substitute for two years of transportation experience and one year of supervisory experience.

The General Manager shall work cooperatively with City Transit staff in matters relating to service quality, providing operational and other data as described in this Agreement, responding to comments from the Transit System passengers and the general public, and responding to specific requests for other assistance as the need arises.

Contractor shall assure City that the General Manager designated for this project will not be replaced without the written consent of City. Should the services of the General Manager become no longer available to Contractor, the resume and qualifications of the proposed replacement shall be submitted to City for approval as soon as possible, but in no event later than five (5) working days prior to the departure of the incumbent General Manager, unless Contractor is not provided with such notice by the departing employee. City shall respond to Contractor within three (3) working days following receipt of these qualifications concerning acceptance of the candidate for replacement General Manager.

The office of the General Manager will be physically located at Contractor's operations and dispatching center in the City's Transit Center located at 61 West Oak Avenue, Porterville. The General Manager will be expected to remain at the facility or otherwise within the Transit System service area as appropriate to the maximum extent possible. At all times, the General Manager shall be available either by phone or in person to make decisions regarding day-to-day Transit System operations or provide coordination as necessary, and shall be authorized to act on behalf of Contractor regarding all matters pertaining to this Agreement.

4. SCOPE OF WORK/TERMINATION

Contractor shall, upon receipt of City's notice to proceed, perform all work necessary to complete in a manner satisfactory to the City, the services set forth in "Scope of Work," attached hereto as Exhibit "A," and by this reference incorporated herein and made a part hereof. Both parties agree that in the event of a lack of funding, or should Contractor fail to perform all work as set forth to the satisfaction of the City Council, the City shall provide Contractor with sixty (60) days' written notice of City's intent to terminate this Agreement. Both parties further agree that Contractor may terminate this Agreement by providing City with sixty (60) days' written notice, whereupon City will exercise the provision of Section 16 of this Agreement.

It is further agreed that the City may significantly modify the public transit program and the scope of services provided by Contractor upon 120 days' notice.

5. TERM OF AGREEMENT

This Agreement shall become effective upon execution and shall continue in full
force and effect for a period of four (4) years beginning on July 1, 2006, and ending on June 30, 2010, unless earlier terminated as herein provided or by issuance of a new Agreement. Additionally, Contractor shall be granted a two-year option to extend under the same terms and conditions hereof, and shall notify the City in writing of its intent to exercise this option, at least 60 days prior to the original termination of this Agreement. The Contractor may, 90 days prior to the expiration date of each year of the four-year agreement (June 30), submit an adjusted hourly revenue rate for the succeeding year. Any adjustment shall be based upon changes in actual costs. The hourly rate shall not increase by more than the percentage change in the San Francisco Consumer Price Index, but not to exceed five percent (5%), unless evidenced that such costs are essential and are not within the control of the Contractor to reconcile, in which case any change in excess of the formula would require Council approval.

6. CONTRACTOR’S FEES

Effective July 1, 2006:

a. Demand-Response: Contractor’s Fees shall be decreased from $13.52 per Vehicle Revenue Hour to $12.60 per Vehicle Revenue Hour.
b. Fixed Route: Contractor’s Fees shall be decreased from $13.81 per Vehicle Revenue Hour to $13.62 per Vehicle Revenue Hour.
c. Fixed Costs: Contractor shall be paid the sum of $39,325.06 per month representing Fixed Costs for both systems, which monthly cost shall be divided one-half to Fixed Route and one-half to Demand-Response.

7. EXCLUSIVE AGREEMENT

Contractor shall serve as the exclusive contract agent for the City in the operation of the Transit System. During the term of this Agreement, the City shall not enter into an agreement with any other contractor or company for the operation of a similar system within the City.

The Contractor shall operate the Transit System at its expense, except as otherwise provided herein.

8. INTERRUPTION OF SERVICE

Contractor shall be excused for failure to perform services under this Agreement if said service is prevented by reason of acts of God, strikes, labor disputes, or other items over which Contractor has no control. No payments, however, shall be made by the City to Contractor for such time as service is not available.

9. COMPLIANCE WITH FEDERAL STANDARDS

Contractor shall comply with all Federal laws and requirements including, but not limited to, Equal Employment Opportunity, Disadvantaged Business Enterprise, Labor Protection, and other laws and regulations applicable to contracts utilizing Federal funds.
Contractor shall not discriminate on the basis of religion, creed, political affiliation, race, color, ancestry, national origin, citizenship status, age, sex, sexual orientation, marital status, family status, pregnancy, medical condition, mental or physical handicap or disability, or uniformed service member status in any consideration.


10. INSURANCE

A. During the term of this Agreement, Contractor shall procure the following insurance which shall be full coverage insurance, not subject to self-insurance provisions and shall not of its own initiative cause such insurance to be canceled or materially changed during the course of this Agreement.

(1) COMPREHENSIVE GENERAL LIABILITY INSURANCE – including contractual liability, and personal injury liability and property damage with at least five million dollars ($5,000,000) liability limit per occurrence.

(2) WORKERS’ COMPENSATION INSURANCE – Contractor shall provide the City with a current Certificate of Workers’ Compensation Insurance coverage.

B. Prior to commencement of the term of this Agreement, Contractor shall furnish a complete copy of each insurance policy and a Certificate of Insurance thereof to the City, and which shall certify that Contractor’s insurance policy provides:

(1) Signed Endorsements naming the City and the County of Tulare as additional insured on all insurance except with respect to performance hereunder for Workers’ Compensation.

(2) The coverages shall be primary as to any other insurance with respect to performance of this Agreement, and be with a company or companies having an A. M. Best Rating of no less than A:VII, and be an “admitted” insurer(s) in the State of California.

(3) Thirty (30) days’ written notice of cancellation or material change to be given to City.

C. HOLD HARMLESS CLAUSE – Contractor agrees to accept responsibility for loss or damage to any person or entity, and to defend, indemnify, hold harmless and release the City, its officers, agents, employees, and assigns from any actions, claims, damages,
disabilities or the cost of litigation that are asserted by any person or entity to the extent arising out of the negligent acts or omissions or willful misconduct in the performance by the Contractor hereunder, whether or not there is passive concurrent negligence on the part of the City, but excluding liability due to the active negligence or willful misconduct of the City. This indemnification obligation is not limited in any way by any limitation on the amount or type of damages or compensation payable to or for Contractor, or its agents or employees, under workers’ compensation acts, disability benefits acts or other employees’ benefits acts. City agrees to accept responsibility for loss or damage to any person or entity, and defend, indemnify, hold harmless and release Contractor, its officers, agents, employees, and assign from any actions, claims, damages, disabilities or the cost of litigation that are asserted by any person or entity to the extent arising out of negligent acts or omissions or willful misconduct, arising from the City’s preventative maintenance of the vehicles pursuant to Exhibit A of this Agreement.

11. MUNICIPAL BUSINESS LICENSE TAX

Before entering into this Agreement, the Contractor shall present satisfactory evidence that it has paid the Municipal Business License Tax of the City of Porterville.

12. CONTRACTOR’S PLACE OF BUSINESS

Contractor shall provide and operate its operations and dispatching center at the City’s Transit Center located at 61 West Oak Avenue, Porterville, California.

13. ASSIGNMENTS

Contractor may not assign, or in any way sublet, any rights or obligations accruing under this Agreement without the express written consent of the City. One such consent does not operate as a waiver to any right by the City to refuse subsequent assignments or subleases. In the event of any violation of this condition, City may immediately terminate this Agreement.

14. BINDING

This Agreement shall be binding on the assigns or transferees of this Agreement.

15. LEGAL FEES

Should either party bring suit in Court to enforce any of the terms of the contract documents, it is agreed by the Contractor and the City that the losing party shall pay to the prevailing party its costs and reasonable attorney’s fees.

16. SURETY

Contractor shall provide the City with either a Faithful Performance Bond or an
Irrevocable Letter of Credit in the amount of fifty percent (50%) of the projected annual Agreement amount. Said surety will remain in force for the term of the Agreement, including any extended term. Surety will be released thirty (30) days after expiration of the Agreement. All alterations, extension of time or other modifications to the Agreement may be made without consent of the surety or sureties. In the event the Contractor should default, the City may assume operation of the transit service/and or Agreement for a transit service operator in the open market and call the Performance Bond/Letter of Credit to collect from the surety any costs incurred by the City in maintaining transit service and/or in executing a new transit Agreement, including any cost increases incurred for the remaining term of the original Agreement.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement the day and year first above written.

CONTRACTOR:  
Sierra Management

By

Steven E. Tree, Owner

CITY OF PORTERVILLE:

Mayor

John Lollis, City Clerk

APPROVED AS TO FORM:

Julie M. Lewis, City Attorney
Exhibit A

SCOPE OF WORK

Contractor shall provide the necessary management, technical, and operations personnel whose expertise will assure an efficient Demand-Response and Fixed Route transportation system, hereinafter referred to as “TRANSIT SYSTEM.” All facilities, equipment, supplies, and services required in the operation of this system will be furnished by Contractor unless specifically identified in this document to be furnished by the City of Porterville. Service shall be provided in accordance with the guidelines established herein and the attachments hereto.

SERVICE STANDARDS

Contractor shall strive at all times to provide service in a manner which will maximize both efficiency and customer service. Standards as set forth in this document are intended to be reasonably attainable by the Contractor, fair to the customer, and consistent with the City’s expectations.

The Contractor and the City shall periodically meet to evaluate performance of the system based upon these standards. If the standards are not fulfilling their intended purpose, they shall be adjusted based upon recommendations made by Contractor with concurrence and final decision by City. Should it be found that Contractor’s performance has contributed to Contractor’s failure to achieve these standards, Contractor shall take all reasonable actions requested by City to correct deficiencies in performance. Should deficiencies persist, City may take whatever additional action is necessitated by the circumstances and provided for in the Agreement of which this Scope of Work is a part.

OPERATIONS

Management of the Transit System day-to-day operations will be vested in the Contractor.

A. Service Area – Transit System shall transport individuals within the following designated areas:

1. Porterville City limits* served by the City of Porterville and designated on “Service Area Boundary Map” as the COLT Service Area (Exhibit A – Attachment 1).

2. Tulare County urban areas* served by the City of Porterville and designated on “Service Area Boundary Map” as the COLT Contract Service Area. (Exhibit A – Attachment 1).

3. Other areas as the City may direct.

*Subject to periodic adjustment.
B. **Dispatching Center** – The Contractor shall provide at Contractor’s cost sufficient number of incoming telephone lines as deemed adequate by the City to reasonably handle requests for service. Said telephone lines shall be listed in the name of the City of Porterville; designated as Transit System customer service lines; and used exclusively for Transit system customer communications. Contractor shall provide and maintain in the City of Porterville a dispatching center adequately equipped to provide efficient transportation service.

C. **(1) Hours of Operation for Demand-Response** – Service shall be based upon a thirteen (13) hour operational day (7:00 a.m. to 8:00 p.m.) Monday through Friday, and upon a nine (9) hour operational day (9:00 a.m. to 6:00 p.m.) on Saturday. Operational hours shall be exclusive of Sundays and specified City holidays. (See Exhibit A, Attachment 2 – City Holidays).

Operational hours may be adjusted by the City based upon needs of the community, and may increase or decrease as ridership and operating revenues warrant.

(2) **Hours of Operation for Fixed Route** – Service for Fixed Route shall be Monday through Friday from 7:00 a.m. to 7:00 p.m., and on Saturday from 9:00 a.m. to 5:00 p.m. The City reserves the right to specify the hours of operation, the number of routes, and route alignments, any or all of which may change from time to time.

D. **Vehicles** – The City shall provide transit vehicles necessary to operate the COLT system. These vehicles shall be used only for activities directly related to the operation of the Transit System covered by this Agreement, unless otherwise authorized by the City, in writing. It is also the intent of this provision that the Contractor not put more transit vehicles in service (i.e., in use or on the street), at any one time, than are essential to provide both effective, yet efficient, public transportation services; and, although the entire inventory of active fleet vehicles assigned to Fixed Route Operation, or in the Demand-Response Operation, may, on occasion (i.e., peak demand periods), be in service at the same time, the total number of transit vehicles in regular service, under any circumstances not specifically authorized beforehand by the City in writing, shall not exceed four (4). Exhibit B, the Automotive Equipment List for the City of Porterville Public Transit System (a.k.a. Fleet Vehicle Inventory), is amended from time to time to reflect current inventories of fleet vehicles both for Demand-Response and Fixed Route.

The City reserves the right to increase or decrease the number of transit vehicles in the City of Porterville Public Transit System, and all transit vehicles utilized by the Contractor and shown on the latest Automotive Equipment list shall be leased to the Contractor by the City for $1.00 per year per vehicle. Said lease shall remain in effect only for so long as this Agreement, any extension of this Agreement, or any successor Agreement to same with the same Contractor, remains in effect. The City shall register each vehicle to show its name as registered owner. The Contractor shall be listed and identified as the motor carrier, as required by applicable California laws and regulations.
METHOD OF SERVICE

Effective August 1, 2006, the Demand-Response service shall be restricted to Seniors (age 62 and older) and handicapped passengers only, and shall be handled as follows:

A. Customer may be picked up either as a result of a telephone call for service using a specific telephone number as established in City’s name for customer communications, or at specific Dial-A-COLT points in the City, which may be determined, and designated from time to time, by the City.

B. Contractor shall obtain the following information from customer:
   1. Point of origin
   2. Point of destination
   3. Number of persons in party.

C. Customer will be advised of the approximate time of pick-up.

D. Shared Rides – A Dial-A-COLT ride may be shared or occupied by more than one (1) party of Dial-A-COLT customers at the same time. If the Contractor received additional calls for Dial-A-COLT pick-ups in the vicinity of the first call, or near the route of customers in the vicinity of the first call, Contractor shall pick up those additional passengers while en route. The service will make every reasonable effort to avoid any undue delay of any customer, either at point of pick-up or en route.

E. Dial-A-COLT units will not wait for customers more than two (2) minutes at any point to preserve efficiency of system.

F. Dial-A-COLT drivers will assist in the loading and unloading of elderly and handicapped passengers, parcels and personal effects, within limits. Large, bulky items, such as television sets and 50-pound bags will not be permitted as carry-on parcels. A maximum of four (4) regular grocery bags will be permitted at any one time. The drivers shall not be responsible to lift more than 10 pounds for any one item. Any bags, parcels or personal effects that are permitted to be transported by Dial-A-COLT shall be left at the curb of the destination. Under no circumstances are drivers permitted to enter a residence or business establishment to assist with personal effects of passengers.

Fixed Route service shall be handled as follows:

A total of seven (7) designated routes currently comprise the Fixed Route system.

Designated bus stops are located at the City Transit Center and at major activity locations throughout the community. When a passenger desires to leave the bus, he should signal the driver prior to his stop by using the pull-cord and letting the driver know where he wishes to depart the bus.

Passengers shall be limited to the number of carry-on packages by the size and number
that can be easily handled and which do not displace available seating. Strollers and carts must be folded before boarding the bus. Drivers are not permitted to assist passengers with carry-on packages on the buses. Flammable liquids, batteries, hazardous chemicals, tires, large auto parts, poisonous plants, and large, bulky objects are not permitted on Fixed Route vehicles.

Contractor shall be entitled to cause the removal of passengers (1) not paying the appropriate fare; (2) who are destructive, disruptive, noisy, threatening, or do not otherwise comply with directives of the driver relative to concerns for safety of the driver and/or other passengers; or (3) for any other reason which is necessary to protect the safety of the driver, other passengers, or the bus.

SCHEDULING

The Contractor shall follow the service hours schedule set forth by the City and comply with any adjustments thereto. Should the Contractor find the schedule detrimental to the attainment of the aforementioned objectives, Contractor shall make recommendations which in the Contractor’s opinion will improve the efficiency and service performance.

RESPONSE TIME

Contractor will regulate vehicle staging and routing of the Demand-Response system. Every effort will be made to pick up Dial-A-COLT customers as soon as reasonably possible; and with regard to ADA passengers, within the required Federal guidelines for providing service.

FARES

A. Demand-Response: The City will determine and set fares. The current fare is set at $1.50 per rider for Seniors (age 62 years of age and older) and handicapped (ADA-eligible) riders. One fare entitles the customer to transport from point of origin to destination. Each Dial-A-COLT trip must be supported by the Dial-A-COLT ride tickets, or cash, both of which shall be collected by the driver. Customers must purchase tickets from authorized sale points, which currently include City Hall and the City’s Transit Center. If various points of discharge are desired, or if various points of pick-ups are made, each point of pick-up or discharge will be considered as a separate trip and driver will collect a fare from each passenger.

B. Fixed Route: The current fare for Fixed Route is One Dollar ($1.00) one-way. Fixed Route riders are welcome to transfer between bus routes to continue a trip. Transfers are free, and the schedules are designed to make a transfer easy. If a passenger plans to transfer, he shall ask the driver for a free transfer when paying for his fare upon boarding the bus. He will then present his transfer when boarding the next bus. Transfers are provided to continue a single trip. They are not good for return trips, stopovers, or transfers to the Tulare County Transit Service, and must be utilized within thirty (30) minutes of receipt.

A monthly pass is also available for the current price of $36. Holders of a monthly pass are entitled to unlimited ridership on the Fixed Route system.
Minors six (6) years of age and under are to be accompanied by an adult. A maximum of two (2) minors, four (4) years of age and under, may ride free when accompanied by an adult.

Printing of tickets, transfers and passes shall be at the City’s cost. The City will be responsible for distribution of tickets to the authorized sale points.

Should the City authorize cash fares, the Contractor shall remit the same in full to the City monthly, and record each transaction on the appropriate Driver and Dispatcher Log Forms daily. All tickets and cash fares, if authorized, shall be returned to the City monthly along with the required data collection and report forms as hereinafter set forth.

UNIFORMS

The Contractor shall furnish and maintain all operating personnel a uniform acceptable to the City including both shirts and pants.

SUPPORT ACTIVITIES

A. Promotion/Publicity – The City shall control and provide all promotion and publicity of the transit system, with the Contractor being under no obligation to expend any sums for such promotion or publicity. The City will monitor the operation, in conjunction with the Contractor, and shall handle ticket sales for such fares and at such points as the City desires. Currently, tickets are available for purchase at City Hall and the City’s Transit Center. Monthly passes are available for purchase at the City’s Transit Center located at 61 West Oak Avenue, Porterville, California.

B. Liaison – The Contractor shall maintain continuing liaison with appropriate City departments in the operation and interpretation of policies of the transit system.

C. Training of Drivers and Operations Personnel – Contractor shall develop, implement and maintain a formal training and retraining program which shall be subject to review and approval by City.

An outline of the training program, including periodic updates, shall be on file in the office of the City’s Transit Contractor, and a copy made available to the City upon request. All drivers, dispatchers, telephone information personnel, and supervisors shall participate in the program.

Contractor shall implement and maintain a specific training and retraining program for all drivers. The program must provide a fixed minimum number of hours of training for new employees, including classroom instruction, behind the wheel training under supervision of a certified instructor, and in-service training. The program shall include, but not necessarily be limited to, instruction covering applicable laws and regulations and defensive driving practices, handicapped passenger assistance techniques, accident/incident procedures, radio procedures, operating policies and procedures, employee work rules, vehicle safety inspection,
equipment care and maintenance, customer relations and passenger conduct. Drivers shall be trained to operate all types of buses, wheelchair lifts and securement systems, and other equipment which they may be expected to use in the Dial-A-COLT and/or Fixed Route services.

All drivers shall be certified as having completed Contractor’s formal training course for new drivers as approved by City, and licensed with a valid California Class B operator’s license with appropriate certifications and medical card. Drivers of Demand-Response (Dial-A-COLT) vehicles shall possess a California General Public Paratransit Vehicle Certificate. Drivers of transit buses shall possess a Transit Bus certificate as issued by the State of California Department of Motor Vehicles, and shall meet all applicable requirements as established by the California Highway Patrol.

Dispatchers, telephone operators, supervisors and any other personnel who may from time to time be assigned to telephone information or Dial-A-COLT reservation lines shall be trained in customer relations skills, telephone manners, accident/incident procedures, transfer points, fares, Dial-A-COLT reservation procedures, and operating policies. Operations control personnel assigned to Dial-A-COLT trip scheduling and vehicle dispatching duties shall have a detailed knowledge of applicable procedures and professional techniques.

A safety program shall be developed and implemented by Contractor to assure safe conditions for all employees and customers of the transit service.

D. **Drivers – Regulations** – Contractor shall furnish the City written information covering Contractor’s policies regarding drivers’ rules; accident policy; radio policy and procedures; fog policy; vehicle inspection, care and maintenance; reporting; and pertinent sample forms.

E. **Accident or Loss Report** – All vehicular loss, damage, destruction and traffic accidents involving transit system vehicles, irrespective of injury, shall be reported to the Porterville Police Department or California Highway Patrol, as appropriate. The City Manager’s Office shall be notified of such occurrences immediately upon receipt by Contractor of such information, and Contractor and City shall coordinate the reporting of such accidents to the City’s insurance adjustor for transit vehicles, currently Bragg & Associates, through the California Transit Insurance Pool (CalTIP).

**DATA COLLECTION/REPORTING**

**Demand-Response:** The Contractor shall record and provide to City the following information by the tenth day of each month. For each party transported by Dial-A-COLT: (a) time and date of request for service; (b) number of persons in party; (c) time and date of pick-up; (d) point of origin; (e) destination; (f) time and place of arrival at destination; (g) number of miles to closest tenth traveled in the performance of such service; (h) no shows; (i) County vs. City fares; and (j) number of handicapped persons transported. Also, on a monthly basis, Contractor shall notify City of (a) total number of miles driven; (b) total number of vehicle service hours; (c) total amount of fares collected; and (d) the number of passengers, by group, i.e., seniors or handicapped. Also,
drivers will maintain trip sheets for the Demand-Response service. Trip sheets shall show number of patrons, point of origin, point of destination, and call originating time. Contractor's dispatcher shall maintain records of time of pick-up and drop for each trip. Contractor shall retain all such records for a period of twenty-four (24) months, which records shall be available for audit by the City at all reasonable times.

**Fixed Route:** The Contractor shall record and provide to the City the following information by the tenth of each month. For each route of the Fixed Route service: (a) the number of passengers, by group, i.e., general ridership, seniors, children, non-revenue, and transfers; (b) revenue miles and operating miles and revenue hours and operating hours.

It is understood that the above information will be available to the City upon request.

All information concerning the City of Porterville Public Transit activity shall be collected daily and recorded and summarized on forms approved by the City. Any change in reporting forms or procedures shall also be approved by the City.

Reporting periods shall be on a monthly basis on or before the tenth day of each month. All accounting records for the prior month, including completed monthly summary reports, shall be forwarded with the invoice for payment to the City Manager's office. In no event will payment be made for services until the above-mentioned report has been submitted to the City.

**COMMUNICATIONS**

The City shall provide the base station and antenna, radio equipment and two-way radios, and Automatic Vehicle Locator system on the vehicles.

A. **Radio Frequency** — The City furnishes a radio frequency authorized by the F.C.C. for the transit system communications equipment. The frequency is in the VHF range.

**VEHICLE FUEL**

Transit system vehicles will be fueled at the City Field Services Yard located at 555 N. Prospect. Refueling shall be accomplished in a manner to be agreed upon by the Contractor and the City.

**STORAGE OF VEHICLES**

Vehicles are currently stored at the City Field Services Yard located at 555 North Prospect. The City reserves the right to designate the storage location.

**MAINTENANCE**

The Contractor shall be responsible as follows:
A. Contractor shall not operate any vehicle when its condition jeopardizes public safety or is not in conformance with applicable Department of Transportation or California Vehicle Code requirements.

B. Contractor shall not operate a vehicle when its appearance is unacceptable to City standards for same.

1. Vehicle shall be cleaned daily of all interior litter and debris.

2. Vehicle interior panels, windows, and upholstery shall be cleaned of marks daily as necessary.

3. Vehicle exterior shall be washed as required to maintain a clean appearance. In no event shall vehicle be washed less than once weekly.

C. Contractor shall coordinate a vehicle preventative maintenance schedule with City and be responsible for scheduling vehicle use to adhere to said maintenance schedule. City retains the right to charge Contractor for City costs incurred due to missed preventative maintenance appointments. Said charges to be deducted from City’s monthly payment to Contractor.
CITY OF PORTERVILLE

SPECIFIED HOLIDAYS

New Year's Day
Independence Day, July 4th
Thanksgiving Day
Christmas Day

NOTE:

Holidays must be taken on the day of a holiday. Should a holiday fall on a Sunday, no allowance shall be made for an additional “day off.”

All holidays on which the COLT System operates, shall be operated on a “Saturday” schedule.

Exhibit A
Attachment 2
DEMAND-RESPONSE OPERATION

"Primary Vehicles"

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<th>Capacity</th>
<th>License No.</th>
<th>Fuel Type</th>
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FIXED ROUTE OPERATION

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"Back-Up Vehicles"

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* Lift Equipped

Exhibit B
SUBJECT: APPROVE CONCESSION LICENSE WITH AYSO REGION 315

SOURCE: PARKS AND LEISURE SERVICES DEPARTMENT

COMMENT: The yearly Concession License for the sports complex expired January 31, 2010. The Licensee for the last two years has been the American Youth Soccer Organization (AYSO). From 2002-07 AYSO shared the license with Flag Football of Porterville. AYSO is the only group who expressed an interest to staff the Concession License for the 2010 sports complex year.

The main leagues that the licensee services in the summer are City Youth Baseball in May and Junior Giants Baseball in July. In the fall usage consists of City Soccer, AYSO, CYSA, and Porterville Area Flag Football. The Licensee, as stated in the license, shall keep and maintain the concession building open any time the City deems the operation of the concession necessary for special activities.

The current fee for concession building usage is $5.91 per hour. The fee is adjusted yearly on July 1st by the San Francisco Consumer Price Index. All of the payments from AYSO the last two years have been made in a timely manner. AYSO has also turned in their concession report each month. The term of the License has been established for March 2, 2010 – December 31, 2010.

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

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

ATTACHMENTS: Concession License with AYSO Region 315
Parks & Leisure Services Commission Recommendation Memo

[Signatures]

Director Appropriated/Funded City Manager

ITEM NO.: 15
CITY OF PORTERVILLE
SPORTS COMPLEX
CONCESSION LICENSE

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

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

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

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

4. The LICENSEE shall open all gates and secure them open with locks upon
opening the park and concession facility. The LICENSEE shall arm the
concession building and lock all gates upon closing the concession building and
park. The LICENSEE shall turn in all keys to the CITY by January 5, 2011.

5. In the event the LICENSEE coordinates placement of refrigerators or vending
and dispensing machines at the facility, LICENSEE shall ensure such machines
are removed or disengaged from City provided utilities promptly at the conclusion
of each season. The LICENSEE shall also see to it that any type machine or
equipment does not block any door entrance.

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

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

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

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

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

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

13. The LICENSEE shall pay monthly to the City a fee of $5.91 per hour for the use of the concession building by the 5th of each month. The payment will be made by AYSO. The fee will be adjusted July 1st of each year by the San Francisco Consumer Price Index.

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

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

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

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

IN WITNESS whereof the parties have executed this License Agreement at Porterville, California this 2nd day of March, 2010.

CITY OF PORTERVILLE

BY: ____________________________
    Pete V. McCracken, Mayor

PORTERVILLE AMERICAN
YOUTH SOCCER
ORGANIZATION

BY: ____________________________
    President

ATTEST:

John Lollis, City Clerk

BY: ____________________________
    Patrice Hildreth, Chief Deputy City Clerk

APPROVED AS TO FORM:

______________________________
Julia M. Lew, City Attorney
MEMORANDUM

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

FROM:      Charles Webber, Parks & Leisure Services Commission Chair

DATE:      February 4, 2010

SUBJECT:   Sports Complex Concession License

COUNCIL AGENDA: MARCH 2, 2010

SUBJECT: TEMPORARY CLOSURE OF MURRY PARK ROADWAY FOR POND CLEANING PROJECT

SOURCE: PARKS AND LEISURE SERVICES DEPARTMENT

COMMENT: Community Services Employment Training (CSET) has previously obtained a grant to undertake the cleaning and renovation of the Murry Park Pond and adjoining areas. They are now ready to commence the project. With the City Council’s approval, they will immediately commence draining the pond and installation of fencing and signs to secure the construction area. Once the pond is significantly drained they will begin the excavation and removal of the sediments. To accommodate the construction traffic it is necessary to close the roadway around the pond during the weeks of sediment removal. CSET will clean the roadway each Friday so that the area can be utilized by the public during the weekends.

Without closure of the roadway there will be increased potential for property damage and personal injury during the construction project, and the number of weeks for the project work may be increased. Depending on circumstances, the roadway closure could start as soon as March 8, 2010, and continue until as late as April 30, 2010.

Once the sediment material is removed from the pond and excavation to the desired depth is completed there should not be a need to close the roadway for any appreciable time. Work to repair the pond outlet and erosion damage along with renovation of the island will then take place prior to refilling the pond. The pond may not be refilled with water until late May. Other work that will be conducted by CSET as a part of this project during the summer includes the pond perimeter pathway, re-landscaping, and construction of walkways.

Staff intends to cancel the annual Spring Fishing Derby scheduled for April 17, 2010 and advise those reserving the picnic pavilions of the construction project.

RECOMMENDATION: That the City Council authorize the Parks & Leisure Services Director to close to public vehicular travel the Murry Park roadway from Park to Putnam, as needed, between March 8, 2010 and April 30, 2010.

[Signatures]

Director   Appropriated/Funded   City Manager   ITEM NO.: 16
PUBLIC HEARING

SUBJECT: VACATION OF A PORTION OF H STREET AND KESSING STREET BETWEEN OAK AVENUE AND THE PORTER SLOUGH (Sierra View Local Health Care District)

SOURCE: Public Works Department – Engineering Division

COMMENT: This is the time and place set for the public hearing on the proposed vacation of a portion of H Street and Kessing Street between Oak Avenue and the Porter Slough. The Sierra View Local Health Care District represents the proprietary interest to all the property fronting the proposed street vacation and is hereby the requesting party.

The proposed vacation is consistent with plans for the easterly expansion of the Sierra View District Hospital campus. A recent study concluded that current and additional traffic related to the proposed expansion would remain at acceptable levels. Therefore, staff has concluded that closure of the streets and the proposed expansion of the hospital facilities will not cause a significant impact to the surrounding roadways.

Easements will be reserved for maintaining existing sewer and water pipelines within a segment of Kessing Street and storm drain pipelines within a segment of H Street. It is the City’s intent to retain maintenance rights on behalf of all utility companies. Exhibit “C” of the attached Resolution reserves these rights.

RECOMMENDATION: That City Council:

1. Adopt the Resolution of Vacation, including reservations, for a portion of H Street and Kessing Street between Oak Avenue and the Porter Slough;

2. Authorize the City Clerk to record the Resolution of Vacation.

ATTACHMENTS: Resolution
Exhibit “A” - Legal Description
Exhibit “B” - Map of Right of Way Vacation
Exhibit “C” - Reservations and Exceptions
RESOLUTION NO._____

A RESOLUTION OF THE CITY COUNCIL
OF THE CITY OF PORTERVILLE ORDERING THE VACATION AND CLOSING,
TO PUBLIC USE, A PORTION OF H STREET AND KESSING STREET BETWEEN OAK
AVENUE AND THE PORTER SLOUGH

WHEREAS, by Resolution No. 03-2010, passed on January 19, 2010, the Council of
the City of Porterville declared its intention to vacate a portion of H Street and Kessing Street
between Oak Avenue and the Porter Slough, hereinafter more particularly described, and set
the hour of 7:00 p.m. on the 2nd day of March, 2010 or as soon thereafter as the matter can be
heard, in the Council Chambers of said City as the time and place for hearing all persons
objecting to the proposed vacation; and

WHEREAS, such public hearing has been held at said time and place, and there were
no protests, oral or written, to such vacation;

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Porterville as
follows:

SECTION 1: The Council hereby finds, from all the evidence submitted, that the street
right of way hereinafter described is unnecessary for present or prospective right of way, and
the City Council hereby makes its order vacating said portion of H Street and Kessing Street
between Oak Avenue and the Porter Slough which is described in the legal description
attached hereto, marked Exhibit "A" and by reference made a part hereof.

SECTION 2: The subject street vacation shall be subject to the reservations and
exceptions set forth in Exhibit "C" which is attached hereto and by reference made a part
hereof.

SECTION 3: The City Clerk shall cause a copy of this resolution to be recorded in the
office of the County Recorder of Tulare County, California.

SECTION 4: The City Clerk shall certify to the passage and adoption of this resolution
and it shall thereupon take effect and be in force.

PASSED, ADOPTED AND APPROVED this 2nd day of March, 2010.

ATTEST:
John D. Lollis, City Clerk

______________________________
Pete V. McCracken, Mayor

By: Luisa Herrera, Deputy City Clerk
EXHIBIT "A"

H STREET ABANDONMENT
LEGAL DESCRIPTION

That real property situate in the Southeast quarter of Section 26, 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:

Beginning at the northeast corner of Lot 1 of Edgemont Subdivision, as recorded in Book 19, Page 68 of Maps, Tulare County Records, being a point on the south line of Porter Slough; thence

1) South 64°39′19″ East, along said south line, 65.86 feet, more or less, to the northwest corner of that parcel described in deed recorded March 17, 2009 as Document Number 2009-0015205, Official Records of Tulare County; thence

2) South 00°59′52″ West, along the westerly line of said parcel, a distance of 279.74 feet, more or less, to the southwest corner of said parcel, being a point on the north right of way line of Oak Avenue; thence

3) North 88°56′38″ West, along said north right of way line, 60.00 feet, more or less, to the southeast corner of Lot 5 of said Edgemont Subdivision; thence

4) North 00°59′52″ East, along the east line of Lots 1 through 5 of said Edgemont Subdivision, a distance of 306.83 feet, more or less, to the POINT OF BEGINNING.

Containing an area of approximately 0.40 acres.

Reserving unto the City of Porterville an easement for the maintenance, repair, and replacement of a storm drain pipeline and appurtenances, over, across, and under a portion of the described real property, being 2 (two) strips of land, each 10 feet in width, more particularly described as follows:

Strip 1:
The West 10.00 feet of the East 13.00 feet thereof.

Containing an area of approximately 0.07 acres.

Strip 2:
The East 10.00 feet of the West 13.00 feet thereof, excepting therefrom the South 178.00 feet thereof.

Containing an area of approximately 0.03 acres.

END OF DESCRIPTION
EXHIBIT “A”

KESSING STREET ABANDONMENT
LEGAL DESCRIPTION

That real property situate in the Southeast quarter of Section 26, 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:

Beginning at the northwest corner of Lot 1 of Edgemont Subdivision Number 2, as recorded in Book 20, Page 8 of Maps, Tulare County Records, being a point on the south right of way line of Putnam Avenue; thence

1) South 00°59'52" West, along the west line of said Edgemont Subdivision Number 2 and continuing along the west line of Lots 6 through 10 of Edgemont Subdivision, as recorded in Book 19, Page 68 of Maps, Tulare County Records, 543.78 feet to the southwest corner of said Lot 6, being a point on the north right of way line of Oak Avenue; thence

2) North 88°56'38" West, along said north right of way line, 50.00 feet to the southeast corner of Lot 19 of said Edgemont Subdivision; thence

3) North 00°59'52" East, along the east line of Lots 11 through 19 of said Edgemont Subdivision, 493.58 feet, to an angle point in the east line of said Lot 11; thence

4) North 44°05'27" West, along the northeasterly line of said Lot 11, a distance of 70.60 feet to an angle point in said line, being a point on the south right of way line of Putnam Avenue; thence

5) South 89°10'46" East, along said south right of way line, 100.00 feet to the POINT OF BEGINNING.

Containing an area of approximately 0.65 acres.

Reserving unto the City of Porterville an easement for the maintenance, repair, and replacement of a water pipeline and appurtenances, over, across, and under a portion of the described real property, being a strip of land 10 feet in width, more particularly described as follows:

The West 10.00 feet of the East 40.00 feet thereof.

Containing an area of approximately 0.12 acres.

Also Reserving unto the City of Porterville an easement for the maintenance, repair, and replacement of a sanitary sewer pipeline and appurtenances, over, across, and under a
portion of the described real property, being a strip of land 10 feet in width, the centerline
of which is more particularly described as follows:

Beginning at the southeast corner of Lot 15 of said Edgemont Subdivision; thence

South 88°51'08" East, 50 feet, more or less, to the southwest corner of Lot 10 of said
Edgemont Subdivision, and the terminus of said strip.

Containing an area of approximately 0.01 acres.

END OF DESCRIPTION
Reservations and Exceptions:

The City reserves and excepts from the vacation the permanent public utility easement and right at any time, or time to time, to construct, maintain, operate, replace, remove, renew, enlarge, and expand public utilities, and/or appurtenant structures in, upon, over and across any street or alley or part thereof proposed to be vacated and pursuant to any existing franchises or renewals thereof, or otherwise, to construct, maintain, operate, replace, remove, renew and enlarge lines of pipe, conduits, cables, wires, poles, and other convenient structures, equipment and fixtures for the operations of gas pipe lines, telegraphic and telephone lines, railroad lines, and for the transportation or distribution of electric energy, petroleum and its products, ammonia, water, and incidental purposes, including access and the right to keep the property free from inflammable materials, and wood growth, and otherwise protect the same from all hazards in, upon, and over the street or alley or part thereof proposed to be vacated.
PUBLIC HEARING

SUBJECT: SEAFOOD CAFE/EL REVENTON CONSIDERATION OF MODIFICATION OR REVOCATION OF CUP 5-2007

SOURCE: COMMUNITY DEVELOPMENT DEPARTMENT – PLANNING DIVISION

COMMENT: On February 2, 2010, the Council received an annual monitoring report that summarized all Police, Building, and Department of Alcoholic Beverage Control (ABC) activity throughout the 2009 year for the Seafood Café/El Reventon Conditional Use Permit (CUP) 5-2007. In the report, staff noted that in August of 2009, the ABC found contaminated alcohol being sold which violated sections of the Business and Professions Code, Health and Safety Code, and the Penal Code. The business is responsible for maintaining all alcohol and liquor clean and consumable for patrons. The business was penalized and paid a fine of $1,500 in lieu of a five-day suspension of their alcohol license. As a result of the violation, the Council considered and set a public hearing to consider modification or revocation of the CUP.

HISTORY: Conditional Use Permit 5-2007 was originally approved by Resolution 44-2007 in June 2007 for the expansion of an existing restaurant (Seafood Café), with a separate bar and a dance floor. The approved hours of operation are:

- Monday - Saturday  10am-2am
- Sunday            10am-8pm

In January of 2008 the City Council approved a modification to the CUP to alter the floor plan, which allowed the construction of a ±274 square foot multipurpose room. The Council’s new Resolution 10-2008 rescinded and replaced the previously approved (Resolution 44-2007) resolution and clarified the conditions of approval regarding the overall phasing of the restaurant, nightclub, and future banquet hall.

In July of 2008, the City Council set a public hearing to consider modification and/or revocation of CUP 5-2007. At that time there was a violation of the alcohol license for not reporting a change in ownership of the business. Secondly, a condition of the CUP required that the kitchen remain open during all hours of operation. It was found that the kitchen was being closed and was unavailable after the regular restaurant hours ceased. The Council, at that time, decided not to modify the CUP and directed staff to bring back any future violations for consideration.

Authorized Signature

Appropriated/Funded N/A  CM  Item No. 18
ANALYSIS: It is the City’s policy to consider setting a public hearing to consider modification or revocation when a business, subject to a CUP, fails to observe the terms or conditions of the permit, or the use has been conducted in violation of the provisions of this ordinance, law or regulation.

In other similar situations (different businesses), the City Council has considered modifying conditions of approval, or when more significant, punitive action, including modification or revocation of a CUP due to violations of approved conditions or local ordinances.

Should the City Council decide to proceed with a modification or revocation of the CUP, the City of Porterville Zoning Ordinance identifies the following grounds for doing so:

- Section 3101D identifies “Grounds for Revocation - That there is or has been a violation of or failure to observe the terms or conditions of the permit or variance, or the use has been conducted in violation of the provisions of this ordinance, law or regulation.”
- Section 3101E “Grounds for Revocation - That the use to which the permit or variance applies has been conducted in a manner detrimental to the public safety, health and welfare, or so as to be a nuisance. (Ord. 1198, 5-6-1980)”
- Section 3102A identifies “Grounds for Modification - That the grounds which would otherwise justify a revocation of the permit or variance can be corrected or cured by a modification imposing new or additional conditions.”

COMMENT: Staff has provided the following additional information regarding current hours of operation, and a monitoring report which includes January and February’s ABC, police, and building activity.

Due to the state of the economy, Seafood Café/El Reventon management reduced their hours of operation. The current reduced hours of operation for regular restaurant (full service menu) use are:

- Monday - Friday  11am-9pm
- Saturday          4pm-9pm

The night club hours have also been reduced:

- Thursday - Saturday 8pm-2am (in conjunction with a reduced food service menu-tacos and burritos; DJ and live band entertainment).
- On Sundays, the business is closed.

As stated, the first two months of 2010, Seafood Café/El Reventon ABC, police, and building permit activity is attached for the council’s review. A brief summary is described below:
First Quarter 2010

January – February: The Seafood Café/El Reventon had eight (8) calls made to the Police Department where officers were dispatched to the site. These calls were related to three 911 calls, two parking lot fights, a vandalized vehicle, two patron complaints, and a security guard call. All of the incidents were contained onsite and each case disposition was closed by the officer called out. The police report reflects a large number of calls that are officer initiated and not dispatched calls. Staff confirmed the number of dispatched calls to clarify the attached police report.

There has been one request for building permit during this period. The permit is to locate a seaturain at the north east corner of the parking area to be utilized as a recycling facility.

No new information or violations with ABC are listed in the report dated February 22, 2010.

Due to the history, sensitive nature of the business, public concern, and potential safety issues, the City Council requested a quarterly report for Council’s review. Although the information is early, staff believes the information is relevant to the staff report. This monitoring has assisted with the evaluation of the conditions of approval for the site and determining if a “Good Business Practice” status can be established for the Seafood Café/El Reventon.

At the request of Councilmember Pedro Martinez, staff is providing a police dispatch summary of calls made to the Seafood Café, The Mecca, and The Brickhouse dating July 2009 through February 2010. Staff reviewed all reports with Police Records Staff and identified all the calls made by security/personnel of each establishment. A summary of the calls are attached as attachment 5.

RECOMMENDATION: That the City Council receive this report as presented and direct staff on how to proceed.

ATTACHMENTS:

1. Resolution 10-2008
2. ABC Report
3. Police Summary
4. Building Permit Summary
5. Police Dispatch Summary
RESOLUTION NO. 10-2008

A RESOLUTION OF THE CITY COUNCIL OF THE CITY
OF PORTERVILLE RESCINDING AND REPLACING RESOLUTION 44-2007
CONTAINING FINDINGS AND CONDITIONS IN SUPPORT OF APPROVAL OF
CONDITIONAL USE PERMIT 5-2007 TO ALLOW THE EXPANSION OF AN
EXISTING RESTAURANT WITH LIVE ENTERTAINMENT AND BANQUET
FACILITY/DANCEHALL WITH SEPARATE BAR AREAS INTO A PREVIOUSLY
UTILIZED BOWLING AREA (FORMERLY OLIVE BOWL) TO BE LOCATED AT
1091 W. OLIVE AVENUE

WHEREAS: On June 5, 2007 the Porterville City Council by Resolution 44-2007
approved Conditional Use Permit 5-2007 which allowed for the expansion of an existing
restaurant (Seafood Café), with a separate bar to be utilized as a nightclub after the restaurant
hours (phase one). The second phase of the project proposed a banquet facility/dancehall in the
area previously utilized for bowling. As part of the second phase the building will undergo an
exterior remodel. The restaurant currently operates and serves beer, wine and distilled spirits
under an on-sale license in conjunction with the serving of meals; and

WHEREAS: The City Council of the City of Porterville at its regularly scheduled
meeting of December 4, 2007, conducted a public hearing to consider a request to allow for a
modification to the existing floor plan which proposes to close off a portion of the restaurant area
to be utilized as a multi-purpose room and to extend the hours of operation on Sundays; and

WHEREAS: Due to concerns raised by residents at the December 4, 2007 Public
Hearing, City Council continued the matter to January 15, 2008 and directed staff to investigate,
research, and report on the public concerns; and

WHEREAS: On January 15, 2008 due to phasing of the project and unclear timing of
certain conditions, the City Council continued the matter to the next Council meeting and
directed staff to clarify the phasing of the conditions of approval; and

WHEREAS: The proposed multi-purpose room, approximately 274± square feet will
be located next to the entrance to the restaurant. Depending on the type of use and considering the
footage of the room, the California Building Code 2001 allows for a maximum occupancy of 11
to 24 people; and

WHEREAS: As follow-up to the City Council meeting, public meetings with the
property owner and surrounding property owners were held on December 12, 2007; and

WHEREAS: The applicant has indicated that the multi-purpose room may be used for
a future card room. Approval of that use would be subject to Chapter 15 of the Municipal Code
and Regulations of the Bureau of Gambling Control Commission and is not associated with the
approval of this modification; and

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

ATTACHMENT
ITEM NO.
WHEREAS: The City Council made the following findings:

1. The project is Categorically Exempt pursuant to Section 15301, Class 1 of the CEQA Guidelines - (Existing Facilities).

   In brief, this section allows for minor alterations of existing facilities as long as it involves negligible or no expansion of an existing use. The interior remodel would allow for the enclosure of 274± square foot are to be utilized as an assembly room, and therefore is not expanding the existing square footage of the building.

2. That the proposed project is consistent with the General Plan.

   The General Plan designates the site as General Commercial as supported by the C-3 (Heavy Commercial) Zoning. Due to the stack zoning, C-1 and C-2 uses are allowed in this zone. Uses such as serving of alcoholic beverages in conjunction with food, nightclubs and live entertainment are uses allowed pursuant to the conditions specified in Article 8 (Central Commercial Zone) and Article Nine (Heavy Commercial Zone) of the Porterville Zoning Ordinance.

3. That the design and operation of the proposed project are consistent with the General Plan.

   The proposed use is allowed in the C-3 Zone and has an existing Conditional Use Permit 5-2007 approved by City Council Resolution 44-2007 on June 5, 2007.

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

   Conditions of approval addressed in City Council Resolution 44-2007 and additional conditions relevant to the proposed modification are included to ensure adequate development standards were met.

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

   NOW, THEREFORE, BE IT RESOLVED: That the City Council of the City of Porterville does hereby approve Conditional Use Permit 5-2007 Modification No. 1 subject to the following conditions:

**Phase One**

1. The parking lot lighting shall be provided to the satisfaction of Police Chief/Zoning administrator.

2. Provide vehicle barrier between developed and undeveloped portions of site to the satisfaction of the City Engineer and Zoning Administrator.
3. The developer/applicant shall construct and/or repair street, curb, gutter, sidewalk, etc. along the full frontage of the parcel except where they exist and are in good condition in the opinion of the City Engineer (Ord. No. 1306). Sidewalk along Olive Avenue shall be 9.5 feet in width.

4. 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).

5. The developer/applicant shall install a refuse container enclosure according to City standards. Enclosure location approved by City shall be oriented for direct stab 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.

6. A twenty-five (25) foot wide landscape planting strip shall be provided and permanently maintained adjacent to the Olive Avenue right-of-way line of the subject site as illustrated on the approved site plan (Exhibit A).

7. The owner/applicant shall install 2 tree wells within the sidewalk area between the driveways along Olive Avenue, and provide and maintain city-approved street trees. The selection of planting locations, and performance of canopy maintenance for street trees shall be conducted in manners to minimize vehicular sight safety conflicts.

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

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

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

11. 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.

12. Future Construction must meet fire flow requirements per the California Fire Code.

13. 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.

14. Conditions for Phase One must be completed within 60 days of this resolution being approved by the City Council. No building permits shall be issued until such time as all conditions for Phase One have been completed.

**Phase Two**

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

2. Building is required to be fully protected by a fire sprinkler system as per Building and Fire codes.

3. Food handling businesses require review and approval from the Tulare County Health Department prior to issue of said building permit. Your proposal also requires a grease interceptor for restaurants.

4. Seismic review and upgrades as per Building codes will be required.

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

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

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

8. 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.
Both Phases

1. Overall parking for Phase One and Two has been calculated at one (1) parking for every four seats and one (1) parking for every 50 square feet of dance floor for a total of 165 parking spaces at complete build-out.

   - Phase One of the project requires 74 parking spaces. A portion of the parking lot has been identified on the site plan as the designated phase one parking.
   - Phase Two of the project requires an additional 91 parking spaces, for the remainder of the total 165 parking spaces for the completion of the project.

2. A six (6) foot masonry block wall is required around the entire site separating non-residential from the residential zoned property. Due to the unusual circumstances of common ownership of the parcel to the south and flag parcel to the west (both parcels are in the county) phasing of the block wall will be allowed to the extent that the block wall must be constructed along any portion of the development that is improved. Any area not improved must be separated from the improved by a temporary barrier, as specified in condition #3.

3. Hours of Operation:

   - Monday through Thursday - 10:00 a.m. to 2:00 a.m.
   - Friday and Saturday - 10:00 a.m. to 2:00 a.m.
   - Sunday - 10:00 a.m. to 8:00 p.m.


5. The developer/applicant shall pay all applicable fees according to the Municipal Code and State law. The developer/applicant is hereby notified that you have the right to pay fees, dedications, reservations or other exactions, under protest, pursuant to Government Code Section 66020(a). You have 90 days from the date fees are paid to file a written protest.

6. The developer/applicant shall follow 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. A Civil Engineer shall prepare a
Master Grading and Drainage plan for the complete project (Phase 1 and Phase 2). Parking area defined in Exhibit “A” shall be reconstructed and/or rehabilitate for Phase 1. Remaining parking area and parking lot expansion shall be complete with the development of Phase 2.

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

8. The developer/applicant shall design and improve the parking lot in conformance with Section 2206 and 2211, Exhibit A of the Zoning Ordinance. Refer to Attachment 8, Exhibit “A”, of the Staff Report dated February 19, 2008 for parking area related to Phase 1 and Phase 2 development.

9. 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.).

10. Upon connection to City water system, 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. Domestic water service for Phase 1 and Phase 2 development is only contingent upon owner request. The existing water well may remain in service with “backflow” prevention in place in accordance with the City Resolution No. 9615. The decision to connect to the City’s water system for domestic use is solely at the owner’s discretion.

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

12. The developer/applicant shall comply with ordinance No. 1636 regarding Waste Water Discharge requirements and shall complete and submit the following:
   • Wastewater Discharge Permit Application, Part “A,”
   • If monitoring is required, based on the responses to questions in Part “A” of the Wastewater Discharge Permit, then the developer/applicant shall complete and submit the remainder of the application along with the Permit Fee, and provide monitoring facilities to allow inspection,
13. Upon connection to the City’s water system the developer/applicant shall comply with City standard for “backflow” prevention pursuant to Resolution No. 9615.

14. Upon connection to the City’s water system 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.

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

16. In conformance with the parking lot phasing, the owner/applicant shall provide an automatic irrigation system for all landscape planting, including trees and right of way planting. All landscaping shall be installed prior to occupancy and be permanently maintained by the owner/applicant in a healthy and vigorous growing condition, and cleanly appearance. Concrete mow strips shall be installed at the base of all fencing adjoining or crossing tufted-landscaping.

17. The project must comply with latest applicable codes.

18. The proposed restaurant/night club is considered an A-2 occupancy per 2007 CBC. Upon submittal of a permit the following will be required.

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

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

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

22. Signs require a separate permit.

23. 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.

24. Upon future construction additional hydrants will be required 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.

25. Future site development will require additional fire hydrants. All hydrants must be in place and accepted by the Fire Department prior to any combustibles being brought onto the site.
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 of 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 19th day of February, 2008.

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

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<th>F. Martinez</th>
<th>Hernandez</th>
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JOHN LONGLEY, CITY CLERK

By Luisa Herrera, Deputy City Clerk
California Department of Alcoholic Beverage Control
License Query System Summary
as of 2/22/2010

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Suspension Start Date: Suspension End Date:
Hold Information
... No Active Holds found...
Escrow
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--- End of Report ---

For a definition of codes, view our glossary.
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Local Bar & Grill Summary of Dispatched Police Calls
July 2009 – February 2010

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SUBJECT: SECOND READING - ORDINANCE 1761, PERTAINING TO FIREWORKS

SOURCE: ADMINISTRATIVE SERVICES/CITY CLERK DIVISION

COMMENT: Ordinance No. 1761, An Ordinance of the City Council of the City of Porterville Amending Chapter 12, Article II, Fireworks, of the Porterville Municipal Code, was given first reading on February 16, 2010, and has been printed.

RECOMMENDATION: That the Council give Second Reading to Ordinance No. 1761, waive further reading, and adopt said Ordinance.

Attachment: Ordinance No. 1761
ORDINANCE NO. 1761

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
AMENDING CHAPTER 12, ARTICLE II, FIREWORKS, OF THE
PORTERVILLE MUNICIPAL CODE

THE CITY COUNCIL OF THE CITY OF PORTERVILLE DOES ORDAIN AS
FOLLOWS:

Section 1. **Purpose:** The purpose of this ordinance is to address issues that have
arisen since the writing of the ordinance. It is also the intent to address grammatical
issues that have been discovered.

Section 2. Chapter 12, Article II, Section 2.1: Definitions of the Porterville
Municipal Code is amended to read as follows: Paragraph 1 Line 1
For the purposes of this article, definitions shall have the respective meaning
ascribed to them in section 12500 et seq., of the Health and Safety Code of the
State of California, and, unless otherwise apparent from the context, certain words
and phrases used in this article are defined as follows:

Paragraph 2 line 1: CITY: The City of Porterville

Paragraph 3 line 1: DANGEROUS FIREWORKS: Any fireworks specified as such in
the state fireworks law, section 12500 et seq., of the Health and Safety Code of the
State and such other fireworks as may be determined to be dangerous by the State
Fire Marshal.

Paragraph 5 line 1: Fire Chief shall mean the Fire Chief or his/her duly authorized
designee.

Paragraph 7 line 2: SAFE AND SANE FIREWORKS: Shall mean and include any
fireworks not designated as dangerous fireworks, except that in any case, only end
fuses may be used. The California State Fire Marshal’s seal of registration shall be
applied to all classified fireworks and pyrotechnic devices by a licensed
manufacturer, importer, exporter or wholesaler and shall indicate the classification
assigned by the State Fire Marshal.
Section 3. Chapter 12, Article II, Section 12-2.3 PUBLIC DISPLAYS OF FIREWORKS of the Porterville Municipal Code is amended to read as follows: Paragraph 11 line 1: The Fire Chief shall have power to adopt reasonable rules and regulations for the granting of permits for supervised public displays of fireworks by a jurisdiction, fair associations, amusement parks, other organizations or for use of fireworks by artisans in pursuit of their trade.

Paragraph 11 line 2: Every such use or display shall be handled by a licensed operator approved by the Fire Chief and shall be of such character and so located, discharged or fired so as, in the opinion of the Fire Chief after proper investigation, not to be hazardous to property or endanger any person.

Section 4. Chapter 12, Article II, Section 12-2.5 SALES OF SAFE AND SANE FIREWORKS; APPLICATIONS FOR PERMITS of the Porterville Municipal Code is amended to read as follows:

A. Any eligible organization desiring to sell safe and sane fireworks in the City of Porterville shall obtain and return an application during the period commencing on the first business day of April and ending on the last business day of April each year at the fire department.

D. The licensee shall use the net proceeds derived from its operations under such license only for such nonprofit, charitable, or religious service projects that shall be of direct benefit to the city of Porterville and for no other purpose.

Section 5. Chapter 12, Article II, Section 12-2.6 PERMIT ISSUANCE BASED ON DRAWING SELECTIONS of the Porterville Municipal Code is amended to read as follows:

3. The State Fire Marshal's license to sell Safe and Sane Fireworks;

Section 6. Chapter 12, Article II, Section 12-2.7 PERIOD OF DISCHARGE of the Porterville Municipal Code is amended to read as follows:

Safe and Sane Fireworks, as defined by section 12529 of the California Health and Safety Code, as amended ("fireworks"), may be discharged within the city limits of the city of Porterville ("City") during the period beginning at twelve o'clock (12:00) noon on June 28 and ending at eleven fifty-nine o'clock (11:59) P.M. on July 4 of any year.

Section 7. Chapter 12, Article II, Section 12-2.10 PROHIBITIONS of the Porterville Municipal Code is amended to read as follows:
D. It shall be unlawful to store any fireworks in any residence, home, garage, or automobile within the city of Porterville. It shall also be unlawful to store any fireworks in any building or other place within the city of Porterville without having first applied for and received a permit pursuant to PMC 12-2.2.

E. No fireworks shall be stored within one hundred (100) feet of any gasoline service station or any garage located within twenty-five (25) feet of any other structure. Any facility for the storage of fireworks shall maintain a minimum setback from the street curbing of ten (10) feet.

F. No person shall light, or cause or permit to be lighted, any fireworks, or any other article or material, within any structure approved for fireworks storage, or within fifty (50) feet thereof.

G. No smoking shall be allowed in any structure that is used for storing fireworks nor within fifty (50) feet of said structure. “No Smoking” signs shall be prominently displayed.

Section 8. Chapter 12, Article II, Section 12-2.11 REGULATIONS of the Porterville Municipal Code is amended to read as follows:

D. To allow smoking within fifty feet (50') of any such business location or stand or to fail to post "No Smoking" signs with such wording in red letters not less than four inches (4") in height on a white background on all sides of any such stand.

L. All electrical/spark-producing appliances (fans, coolers, air conditioners, etc.) are prohibited inside the fireworks stands and shall not block the means of egress.

Section 9. Chapter 12, Article II, Section 12-2.12 FIREWORKS STANDS; REQUIREMENTS of the Porterville Municipal Code is amended to read as follows:

A. No fireworks stand shall be located within twenty five feet (25') of any other building or within one hundred feet (100') of a gasoline pump, or within 500' of another fireworks stand, when measured closest to closest point. Minimum setback from the street curbing, alley, or driveway shall be 10'. Stands shall not cover or impede any public rights-of-way.

C. Each stand must have at least two (2) exits located on separate walls. Fireworks stands with only three (3) sides and open from the back will not require exits. Fireworks stands shall have exits at least thirty (30) inches in width at both ends of the structure. An aisle with a minimum width of thirty (30) inches shall lead to each exit. Exits shall remain unobstructed. No supplies or other materials shall be stored in front of exit doors. All exit doors shall remain unlocked and unlatched whenever the stand is occupied.
D. Each stand shall keep easily accessible a minimum of one 2½-gallon water pressure-type fire extinguisher and one 2A10BC rated dry chemical fire extinguisher and each shall be in good working order and bear a current inspection sticker. Extinguishers must be of a type approved for such use by the Porterville Fire Department.

F. After hours, stands must be properly secured or a security guard must be provided to patrol the premises. Under no circumstances shall the night watchman sleep within the fireworks stand.

J. Primary power to the temporary lighting may be by means of on-site commercial power in a fixed facility or by means of an on site portable generator. Generators must be located at least twenty five feet (25') from the fireworks stand. Location of portable generators must be approved by Fire Department.

N. All trash shall be removed from the premises and the fireworks stand each evening at the close of business.

O. No person shall light, or cause or permit to be lighted, any fireworks or any other article or material within any such stand, or within fifty (50) feet thereof.

P. No alcoholic beverages shall be allowed on the premises. No person who is under the influence of alcoholic beverages shall enter or be allowed into the sales booth.

Q. If a toilet is not immediately available during all open or sale hours of the fireworks stand, then an approved chemical one must be provided.

Section 10. Chapter 12, Article II, Section 12-2.13 FIREWORKS STANDS; LOCATIONS of the Porterville Municipal Code is amended to read as follows:

A. In no instance shall any firework stand be located within a residential zoned district.

B. No stand shall be located within 250' of any city/county boundaries

C. No stand shall be located closer than 500' from another.

Section 11. Chapter 12, Article II, Section 12-2.18 SEIZURE OF FIREWORKS of the Porterville Municipal Code is amended to read as follows:
The Fire Chief shall have the authority to seize, take, remove, or cause to be removed at the expense of the owner, all stocks of fireworks offered or exposed for sale, stored, or held in violation of this article.

Section 12. Chapter 12, Article II, Section 12-2.20 VIOLATIONS; PENALTIES of the Porterville Municipal Code is amended to read as follows:

Fine for possession or discharge of dangerous fireworks within the city of Porterville shall be $500.00.

Section 13. This ordinance shall be in full force and effect thirty (30) days from and after its publication and passage.

PASSED, APPROVED & ADOPTED this _____ day of _____________, 2010.

__________________________________________
Pete V. McCracken, Mayor

ATTEST:

John D. Lollis, City Clerk

__________________________________________
Luisa Herrera, Deputy City Clerk
TRANSACTION AND USE TAX OVERSIGHT COMMITTEE/SCHEDULING
OF PUBLIC HEARING PURSUANT TO RESOLUTION 24-2006 – FOLLOW
UP IN LIGHT OF FEBRUARY 22nd AUDIT COMMITTEE MEETING

CITY ATTORNEY

The City Council directed at the February 16, 2010, City Council Meeting that a review of Resolution 24-2006, establishing the Independent Citizen’s Oversight Committee charged to monitor the expenditure of general fund revenues derived from Measure “H”, be referred to the Audit Committee. The Audit Committee consequently held a public meeting on February 22. Several members of the Transactions and Use Tax Oversight Committee (“TUTOC”) were also in attendance.

The main issues focused upon concerned resolving provisions of the Resolution that could be subject to different interpretations, and addressing a process for TUTOC to obtain the records and information needed in order to fulfill its obligations as set by the Resolution, which would also provide better accountability for both the City and TUTOC. Another (related) area of concern expressed by the TUTOC members is the level administrative and technical assistance to be provided by the City pursuant to the Resolution (“necessary” technical/administrative assistance is specified, but not defined).

TUTOC’s primary responsibilities pursuant to the Resolution are 1) reviewing the revenue and expenditures contained in the Measure “H” budgets for conformance with the ballot measure, and 2) monitoring the expenditure of General Fund revenues derived from Measure “H,” keeping the public informed about these expenditures, and informing the public of any failure to expend in conformance with the Expenditure Plan. In conjunction with these responsibilities, TUTOC is required to “report to Council” their finding of whether the revenues and expenditures of the Measure “H” budgets are “consistent” or “inconsistent” with the intent of the ballot measure, and to issue an annual report of its conclusions which shall be a public record. The concern expressed by the members of TUTOC present at the meeting however, were that it was ambiguous as to whether these reports were to be one and the same. Additionally, the parties discussed that there needed to be a clear understanding of what constitutes “notification” to the City Council when a determination by TUTOC is made, and timelines for when the Council shall hold the public hearing if it receives a determination of “inconsistent” from TUTOC.

With regard to the provision to TUTOC of City records and information that it requests so that it may effectively engage in its operations, the Audit Committee and
members of TUTOC agreed that the Committee should develop a protocol for submission by TUTOC, in writing, to the City Clerk the specific records requested, and development of reasonable time frames for submission of the requested records to TUTOC.

As part of the discussion the Mayor (and Audit Committee Chair) circulated draft language addressing the reports made by TUTOC and the process by which the City Clerk will schedule the matters before the City Council. Those in attendance at the meeting agreed that this provided a good start to the development of protocols, and the Audit Committee took action authorizing the City Attorney (and Audit Committee Member) to utilize the draft and the input received at the meeting from the Audit Committee and the TUTOC members to develop proposed protocols addressing the filing/notification of TUTOC determinations to the City Council, the scheduling of public hearings concerning “inconsistency” determinations, and the filing and handling of requests for documents and information from TUTOC. On or before March 22, 2010, the Audit Committee will meet again to consider the draft protocols. The protocols will address coordination as between the City Council and TUTOC and not the operations of TUTOC itself, as TUTOC is charged with establishing its own operating procedures if it finds additional procedures are necessary for the effective operation of its meetings.

Notwithstanding these efforts, TUTOC has asserted that it has made a determination that the 2008-2009 expenditures were “inconsistent” with the ballot measure (as of June 9, 2009), and notwithstanding the disputes concerning whether or when notice was provided to the City Council in accord with the Resolution, the City Council clearly has notice of this determination as of the last City Council Meeting (February 16, 2010) when this item was addressed.

RECOMMENDATION: That the City Council:

1) Accept the above status report and provide any further direction it deems appropriate; and

2) Set a public hearing for the next regularly scheduled City Council Meeting (March 16, 2010), in accordance with the spirit and intent of Resolution 24-2006, to consider sustaining or rejecting the finding of TUTOC that the 2008-2009 Measure “H” expenditures were “inconsistent” with the adopted 2008-2009 Measure “H” Expenditure Plan.

ATTACHMENTS: Memorandum to City Council Resolution No. 24-2006
MEMORANDUM
MCCORMICK KABOT JENNER & LEW
1220 West Main Street
Visalia, California 93291
Telephone: (559) 734-6729
Facsimile: (559) 734-8762

February 25, 2010

TO: Porterville City Council
FROM: Julia Lew
SUBJECT: Addendum to Audit Committee/TUTOC Staff Report Based Upon Communications with TUTOC Chairman

At the February 22, 2010 Audit Committee, the TUTOC Committee members present expressed their desire to hold off on the public hearing concerning TUTOC’s determination of “inconsistent” until the completion of the protocols and TUTOC’s report concerning the determination.

In further communications, Greg Gillett, the Chairman of the TUTOC Committee, has provided that he believes the public hearing would not be fruitful without TUTOC’s report. He plans to set a TUTOC meeting for next week (tentatively set for Thursday, March 4th, 5:30 p.m.) so that TUTOC can “again” determine the documents to request from the City, discuss Committee protocol, and set a timetable for preparation and delivery of the report. His thought is by that time, if TUTOC has received the requested information, it will be able to deliver the report according to the City’s protocol and then a hearing could be set.
RESOLUTION NO. 24 -2006

A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PORTERVILLE
ESTABLISHING AN INDEPENDENT CITIZEN'S OVERSIGHT COMMITTEE
CHARGED TO MONITOR THE EXPENDITURE OF GENERAL FUND REVENUES
DERIVED FROM THE TRANSACTIONS AND USE TAX FOR PUBLIC SAFETY,
POLICE AND FIRE PROTECTION.

WHEREAS, the Porterville City Council reaffirmed the adoption of Ordinance No. 1684 on
December 6, 2005, imposing a retail transactions and use tax in accordance with the provisions of Part
1.6 (commencing with Section 7251) of Division 2 and Section 7285.91 of Part 1.7 of Division 2 of
the Revenue and Taxation Code that authorizes the City of Porterville to adopt a tax ordinance that
shall become operative if at least two-thirds of the electors voting on the measure vote to approve the
tax at an election called for that purpose; and

WHEREAS, Ordinance No. 1684 imposes, upon all retailers in the incorporated territory of the
City of Porterville, a transactions and use tax at the rate of one half of 1 percent (0.50%) of the gross
receipts of any retailer from the sale of all tangible personal property subject to the State sales and use
tax; and

WHEREAS, Ordinance No. 1684, hereinafter known as the Transactions and Use Tax for
Public Safety, Police and Fire Protection appeared on the November 8, 2005 Special Consolidated
Election ballot as Measure H; and

WHEREAS, the tax imposed by Measure H is a special tax, the proceeds of which are to
provide a source of revenue to be used to provide additional public safety, police, fire protection
services and undertake necessary capital projects to support those services, and to restore and maintain
literacy programs and services; and

WHEREAS, revenues generated by Measure H shall be accounted for and paid into a special
fund or account designated for use for Public Safety Services only; and

WHEREAS, by Ordinance No. 1684 the City adopted the Program Guidelines and Public
Safety Expenditure Plan for the administration and expenditure of the tax proceeds. The Public Safety
Expenditure Plan may be amended from time to time by a majority vote of the City Council, so long
as the funds are utilized for public safety, police and fire protection services. For the purposes of the
Ordinance, “Public Safety Services” means (a) obtaining, furnishing, operating, and/or maintaining
police protection equipment or apparatus, paying the salaries and benefits of police protection
personnel, and such other police protection service expenses as are deemed necessary by the City
Council for the benefit of the residents of the City; (b) obtaining, furnishing, operating, and/or
maintaining fire protection equipment or apparatus, paying the salaries and benefits of fire protection
personnel, and such other fire protection service expenses, including capital expenses, as are deemed
necessary by the City Council for the benefit of the residents of the City; and (c) with the use of no
more than 15% of the revenue generated from the special tax, restoration and maintenance of literacy
programs due to the established connection between illiteracy and crime; and
WHEREAS, the Porterville City Council declares that public participation is essential to ensuring the effective implementation of priority goals and objectives contained in the Public Safety Expenditure Plan, and the appropriate expenditure of General Fund revenues committed to public safety, police and fire protection services.

NOW, THEREFORE, BE IT RESOLVED that the City Council of the City of Porterville hereby directs formation of an independent citizen's oversight committee as follows:

A. **Name:** The committee shall be known as the *Transactions and Use Tax Oversight Committee.*

B. **Purpose**

1. To review the revenue and expenditures of the three Measure H budgets (Fire, Police and Literacy) contained in General Fund No. 4, Public Safety Sales Tax, and report to Council their finding as "consistent with the intent of the ballot measure" or "non consistent."

   Should a determination of "non consistent" be brought forth, the Council shall hold a public hearing on the issue and take whatever action is necessary and appropriate to correct any issues the Council concurs are inconsistent. It is not the intent of the measure nor the direction of the City Council that the committee have any input in the activities of the aforementioned departments, their sole and only purpose is to advise the City Council on whether or not they believe the departments are utilizing the funds in compliance with the intent of Measure "H" and that the City is not under funding the public safety departments based on the approved funding levels.

2. **Oversight:** Provide that certain spending decisions and priorities contained in the Porterville Police, Fire, and Emergency Response 9-1-1 Measure Program Guidelines and Expenditure Plan are subject to direct oversight and review.

C. **Charge of Committee**

1. *Monitoring of expenditures:* To monitor the expenditure of General Fund Revenues derived from the Transactions and Use Tax for Public Safety, Police and Fire Protection, and to keep the public informed about the expenditures.

2. **Inform public of failure to expend revenues:** To advise the public when General Fund revenues are not expended for certain spending decisions and priorities as set in the *Porterville Police, Fire, and Emergency Response 9-1-1 Measure Program Guidelines and Expenditure Plan.*

   The charge of the committee may be revised from time-to-time by the Porterville City Council.
D. **Powers:** The Porterville City Council empowers the committee with the following powers:

1. **Oversight:** Oversight responsibility to review expenditures related to certain spending decisions and priorities in the Porterville Police, Fire, and Emergency Response 9-1-1 Measure Program Guidelines and Expenditure Plan.

2. **Review financial statements:** Authority to review independent financial and performance audits of the General Fund No. 4, Public Safety Sales Tax.

3. **Review of General Fund Budgets:** Authority to review the Fire, Police and Literacy Budgets and the General Fund application to Public Safety to assure a continued, base level of support.

The committee shall not have the following authority:

1. **No authority to recommend or advise:** The committee does not have authority to recommend, direct, or advise on any such matters that may fall under its oversight power and authority to review. The committee is not advisory to the City Council and has no power to determine or recommend how General Fund moneys are spent. The City Council retains its authority to make such decisions and determinations and establish separate advisory groups for such purposes. The City Council shall also retain discretion and flexibility in what it asks, directs, or allows the committee to address.

E. **Committee Operations**

1. **Establishing the committee:** The committee shall be established pursuant to voter approval of Measure H in the November 8, 2005 Special Consolidated Election and within 120 days of the effective implementation date of Measure H on April 1, 2006.

2. **First meeting:** The committee shall hold its first meeting within 60 days of adoption of the City’s 2006/2007 Annual Budget.

3. **Open meeting requirements:** Meetings of the committee are subject to the open meeting requirements of the Ralph M. Brown Act. Meetings shall be noticed and open to the public.

4. **Annual report:** The committee shall issue an annual report of its conclusions. Minutes and reports of the committee are a matter of public record. Reports and minutes of the committee shall be published on the City of Porterville website.

5. **Meet at least once annually:** The committee shall meet at least once annually after adoption of the City budget.
6. **Quorum:** The committee shall make decisions by a simple majority vote of those members in attendance.

7. **Record:** The committee shall maintain a record of its meetings.

8. **Location of meetings:** The committee shall meet in Mikkabi Conference Room, 291 N. Main Street, Porterville, California, at a time convenient to members and the public or at some other location designated by the committee and available to the public.

9. **Officers:** The committee shall elect a chairperson, vice chairperson, and secretary.

10. **Effective operation of meetings:** The Porterville City Council charges the committee to establish additional operating procedures as necessary for the effective operation of committee meetings.

11. **Administrative staff:** The City Manager or his designee will provide necessary administrative and technical assistance to the committee.

12. **Resources available to the committee:** The committee shall be provided the resources to publicize its conclusions—the minimum level of resource to be a page on the City of Porterville website.

**F. Committee Composition:** The committee shall consist of 10 members as follows:

1. **City Council appointments:** For the establishment of the committee, each member of the Porterville City Council shall appoint two people to the committee. The appointee may be either a resident of Porterville, a business owner or operator. All future appointment to the committee shall be by a majority vote of the Council.

2. **Criteria for appointment:** No member of the City Council, employee of the City, or immediate family member of a City Council Member may serve on the committee.

3. **Length of appointment; rescission of appointment:** For the establishment of the first committee, each Council member shall appoint one person to a two-year term and one to a four-year term. After that, each member of the committee shall be appointed for a four-year term and shall serve until such time that his or her term is completed, or until such time that his or her appointment is rescinded by a simple majority vote of the City Council. It is provided that a member of the committee may resign at his or her discretion.

4. **Recommendation to remove by committee:** Members of the committee, by majority vote, may recommend to the Porterville City Council removal of a committee member for the following reasons: (1) malfeasance; or (2) repeated absence.
5. **Appointment of new members:** At the next regularly scheduled City Council meeting, the Council shall act to replace members of the committee in the event of removal, resignation, disability, or death.

6. **Dissolution of committee:** Dissolution of the committee shall occur in the event the *Transactions and Use Tax for Public Safety, Police and Fire Protection* is revoked or otherwise rendered invalid.

APPROVED AND ADOPTED this 21st day of February, 2006.

[Signature]
Pedro R. Martinez, Mayor

ATTEST:

John Longley, City Clerk

[Signature]
Georgia Hawley, Chief Deputy City Clerk
Porterville Police, Fire, and Emergency Response 9-1-1 Measure
Program Guidelines and Expenditure Plan

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

Fiscal Accountability Protections

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

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

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

Dedicated Accounting Structure

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

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

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

Priorities if additional revenues are available

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

Review and Modification of Expenditure Plan

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

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

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

| Fiscal Year 2005-06 Sales Tax Revenue available (partial year) | $600,000 |
| Additional Supplemental Resources (General Fund) | $50,903 |
| Total Resources Available | $650,903 |

| Increase Police Sworn by 5 positions to the base and outfit (partial year) | $412,803 |
| Increase Fire Sworn by 7 positions to the base and outfit (partial year) | $148,100 |
| Restore Literacy Programs/hours (partial year) | $90,000 |
| Total 2005-06 Fiscal Year Expenditures | $650,903 |

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

<p>| Fiscal Year 2007-08 Additional Sales Tax Revenues (Second full F/Y) | $1,863,680 |
| Increase Police Sworn by 1 additional position to the base | $87,000 |
| Maintain Expanded Patrol Operations | $508,000 |
| Maintain Expanded Gang Suppression and Narcotics Operations | $255,250 |
| Maintain 7 additional Sworn Fire personnel | $557,637 |
| Hire 1 additional Fire Investigator | $74,167 |
| Station and Equipment | $20,000 |
| Maintain Literacy Programs/hours | $187,200 |
| Expand Homework Assistance and Creative Expression Program | $83,200 |
| Increase Established Capital Reserve Fund for New Fire Station | $91,226 |
| Total 2007-08 Fiscal Year Expenditures | $1,863,680 |</p>
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<td>Increase Police Sworn by 1 additional position to the base</td>
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<td>Maintain 8 additional Sworn Fire personnel</td>
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<td>Maintain 8 additional Sworn Police personnel</td>
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<td>Total 2010-11 Fiscal Year Expenditures</td>
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* Total Reserve Cash Available for Real Property Acquisition for New Fire Station in Fiscal Year 2008/09. | $266,288 |
1. Assumes 4% growth rate in annual sales tax revenue.

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

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

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

5. The City will use base budget amounts established and approved under the Expenditure Control Budget System in determining additional funding for Police, Fire, and Literacy programs delivered through the Library to prevent erosion of existing General Fund support for these activities.
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 21st day of February, 2006.

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

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<th>Council:</th>
<th>IRISH</th>
<th>WEST</th>
<th>HAMILTON</th>
<th>STADTHER</th>
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JOHN LONGLEY, City Clerk  

[Signature]

by Patrice Hildreth, Deputy City Clerk
COUNCIL AGENDA: March 2, 2010

SUBJECT: CONSIDERATION OF POLICY APPROACH FOR CITY BENEVOLENCE ("GOOD WORKS") FUND

SOURCE: City Manager

COMMENT: At the City Council meeting on October 20, 2009, Councilman Hamilton requested that the Council consider the establishment of a City Benevolence ("Good Works") Fund, whereby through a defined process the Council could allocate funds for community-based non-profit purposes. In its action that evening, the Council authorized the establishment of the Fund with a budget appropriation of $25,000 for the 2010-2011 fiscal year, with the policy for administering the Fund to be determined by the Council. Staff was directed to investigate the existence of similar funds in other local jurisdictions, with a report back to the Council on policy alternatives.

Staff made a number of inquires and determined that, in the jurisdictions that have established similar type of funds, most commonly a volunteer citizens committee reviewed applications for funding and made recommendations to the governing body for approval. An example of such a program is in the City of Visalia, in which the Citizens Advisory Committee administers the Non-Profit Funding Program (please see attachment). Also determined during inquiry were funds that are administered by the members of the governing body. An example of such a program is the County of Tulare, in which each member of the Board of Supervisors is appropriated an equal amount of funds and provided discretion to award, with eligible organizations meeting certain basic criteria.

Staff also discovered some creative financing models for the "good works" funds. One example involved a jurisdiction's utility customers having the ability to donate a set amount each month for charitable assistance, or in the case of another jurisdiction, the utility customers could elect to have their monthly bill be "round up" to the next whole dollar, with the resulting funds used for charitable purposes.

In administering the Fund, the Council may wish to consider the focus for funding, as many of the funds focus in specific areas. Some of the focuses in other jurisdictions included: youth activities; gang prevention/intervention; clothing, food, and shelter; healthcare; emergency services; and education.
RECOMMENDATION: That the City Council consider the policy approach in the administration of the City Benevolence Fund, and give direction to staff to develop appropriate guidelines.

ATTACHMENT: City of Visalia: Non-Profit Funding Program
CITY OF VISALIA
NON-PROFIT FUNDING PROGRAM
APPLICATION FOR FUNDING
FY 2009-2010

Administered by
City of Visalia Citizens Advisory Committee

Application Due Date: Friday, June 12, 2009 @ 5:00 p.m.

Applicants Must Attend One Grant-Writing Workshop
Grant-Writing Workshops Will Be Held On:
Saturday, May 16, 2009 @ 10:00 a.m.
Thursday, May 21, 2009 @ 6:00 p.m.
Tuesday, May 26, 2009 @ 11:00 a.m.

All Grant-Writing Workshops will be held at City Hall in the Council Chambers located at 707 West Acequia Avenue
Introduction to the Non-Profit Fund Application

The City of Visalia recognizes both the importance of the community’s young residents and the role that non-profit agencies play in the lives of children. To help support the efforts of agencies working with young people, the City has established the Non-Profit Program Fund administered by the Citizens Advisory Committee. This Fund assists non-profit and local government agencies in providing programs and services aimed at (1) improving the quality-of-life of youth in the City and (2) gang prevention/intervention programs.

Instructions

Grant-writing workshops will be held on Saturday, May 16, 2009 at 10:00 a.m., Thursday, May 21, 2009 at 6:00 p.m., and Tuesday, May 26, 2009 at 11:00 a.m. for all agencies considering applying for this funding. Applicants must attend one workshop session as a prerequisite for submitting an application; the funding process is very competitive, and the workshop will assist agencies in requesting funding. All of the grant-writing workshops will be held in the Council Chambers of City Hall, located at 707 West Acequia Avenue.

Funding for an agency’s Visalia Non-Profit Program (see definition in Glossary at end of application form) is available to any qualified nonprofit and government agencies with programs or services for people under the age of 18 living in the City of Visalia.

The applicant agency must certify that (1) no funds received from the City of Visalia Non-Profit Funding Program will be used for any religious purpose and (2) the program supported will be available to any person regardless of religion, race, ethnicity, or sexual orientation.

A minimum of 25% of the annual funding from the City of Visalia will be awarded for gang prevention/intervention programs or activities, provided qualified applications are received. If not enough qualified applications with gang prevention/intervention programs or activities are received, the remainder of this set-aside amount will be dispersed to other applicants at the discretion of the CAC.

The minimum grant amount to be awarded to an agency is $3,000; the maximum grant amount to any one agency is equal to 20% of the total annual funding for the Visalia Non-Profit Program Fund. The funds are to be expended during the fiscal year.

Requests for “seed” money to start new programs or activities are strongly encouraged. Capital expenditures that benefit the qualified program or activity, as well as other uses listed in the application, are also eligible for funding. The grants are annual awards, and the funds requested are to be expended from July 1, 2009 – June 30, 2010.

Agencies may apply for funding for more than one program or activity. However, a separate application is to be completed for each program or activity for which funding is requested. An agency may receive funding for a specific program or activity from the Visalia Non-Profit Program Fund for up to three consecutive years.
Agencies are encouraged to complete the application by inserting responses into the electronic format of the application. Incomplete applications will not be accepted or reviewed. The forms and tables in the application must be completed; substitutions and references to attachments will not be accepted. In particular, agencies are urged to fully respond to item #12 of the application regarding anticipated "outputs" and "outcomes" of the program or activity. More information about these terms is found in the Glossary at the end of the application. An agency’s failure to meet the Program Outcomes or Outputs from previous grant requests may affect an agency’s current and future funding requests.

All successful applicants awarded grants will be required to submit semi-annual progress reports to the CAC in January 2010 and July 2010. Failure to submit these progress reports may jeopardize future funding requests.

Agencies must submit the original application signed by an authorized agent and an additional 6 (six) unstapled copies of the signed original for a total of 7 (seven) submitted applications. In addition, the following must be included with the application:

- One copy of the agency’s most recent Federal tax return;
- One copy of the agency’s most recent fiscal year-end financial statement;
- One copy of the agency’s IRS 501 (c) (3) determination letter;
- One copy of the resolution of the Board of Directors authorizing the grant application. The resolution must be signed by two members of the board and include the following statements:
  - The Board of Directors approves the request for funding from the City of Visalia’s Non-Profit Fund Program in the amount of $_________.
  - _______ is authorized to sign the grant application on behalf of [Grantee agency].
  - [Grantee agency] acknowledges that among the conditions placed on the grant by the City of Visalia are the following: (1) no funds received from the City of Visalia Non-Profit Funding Program will be used for any religious purpose and (2) the program or activity supported will be available to any person regardless of religion, race, ethnicity, or sexual orientation, and [Grantee Agency] agrees to comply with such conditions.

Questions should be directed to Jason Montgomery at jmontgomery@ci.visalia.ca.us

Submit completed application and required attachments
by Friday, June 12, 2009 @ 5:00 p.m. to:

City of Visalia - Citizens Advisory Committee
707 West Acequia Avenue
Visalia, CA 93291
Attn: Jason Montgomery, Finance
Submit completed applications and required attachments to:
City of Visalia - Citizens Advisory Committee
707 West Acequia Avenue
Visalia, CA 93291
Attn: Jason Montgomery, Finance

Deadline – 5:00 p.m. Friday
June 12, 2009

Visalia Non-Profit Program Fund Application

Agency name: ____________________________________________________________

Program/Activity for which funding is requested (if different): __________________________

Agency mailing address: __________________________________________________________

City: __________________ State: ___________ Zip Code: ___________

Phone: __________________ Fax: __________________ E-Mail: __________________

Contact name & title: ____________________________________________________________

Program/Activity Information

1. Amount requested in this application: __________________________

2. The funding requested is for (select one)
   □ a capital expenditure (one-time purchase or property improvement intended to be used for more than one year) that benefits a qualified program or activity.

   □ a new program or activity to be started during FY 2010.

   □ an ongoing program or activity.

   □ agency or program/ activity operations.

   □ scholarships.

   □ other (describe): ____________________________________________________________

3. Briefly describe the specific intended use of the Visalia Non-Profit Program Fund grant requested by the agency.
4. Briefly describe the program/activity for which funding is requested. (Include, for example, a description of the program or service, service locations, hours of operation, fee structure, scholarship criteria, how participants are identified or recruited. If funding is being requested for a capital expenditure, describe how the item to be purchased/facility to be constructed will enhance the agency’s program or activity.):

5. Has the program/activity been previously funded by the City of Visalia’s Non-Profit Program?
   □ No
   □ Yes. If yes, for which fiscal years was this funding awarded? ________________

6. Are there any major changes anticipated for the staffing and/or funding of the agency or activity in FY 2010?
   □ No:
   □ Yes. If “yes”, describe.

7. How many Visalia residents under the age of 18 did the agency serve through this program or activity from January 1, 2008 through December 31, 2008? ________________ (Answer “N/A” if this is a new program or activity.)

8. How many total people did this program or activity serve from January 1, 2008 through December 31, 2008? (Answer “N/A” if this is a new program or activity.) ______

9. How many Visalia residents under the age of 18 is this program or activity projected to serve for the period July 1, 2009 through June 30, 2010? ______

10. Is the purpose of the program or activity for which funding is requested gang prevention or intervention?
    □ No.
    □ Yes. If yes, describe the gang prevention or intervention aspects of the program or activity.

11. List similar programs or activities of other organizations in the City of Visalia and describe what sets apart your organization’s program or activity.
12. (a) Summarize the outcomes and/or outputs of the program or activity for which funding is being sought and (b) how these will be measured by the agency. (Refer to the “Glossary of Terms” at the end of the application for a further description of these terms. In reviewing grant proposals and allocating grant funds, preference will be given to grants that identify measurable outcomes rather than only outputs.)

**General Agency Information**

13. Agency Mission or Purpose Statement:

14. Describe the fundraising activities of the agency.

15. In the organization’s most recent fiscal year, what is the percentage of fundraising expenses compared to the total funds raised (i.e. fundraising expenses divided by the total funds raised)?

\[
\text{Total costs of fundraising} \quad \frac{\$}{\text{Total funds raised}} \quad = \quad \% 
\]
16. List the key agency staff involved with the program or activity for which funding is being requested. (Indicate those who are to be paid from City funds.)

<table>
<thead>
<tr>
<th>Staff Name</th>
<th>Position</th>
<th>Paid from City Funds</th>
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<tbody>
<tr>
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17. List the members of the Agency's Board of Directors.

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<thead>
<tr>
<th>Name</th>
<th>City</th>
<th>Board Office (if any)</th>
<th>Term Ending</th>
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18. Describe any Agency financial/budgetary problems or debt within the last 5 years (including annual budget deficits).

19. How often does the Board of Directors meet?

20. What constitutes a quorum for a meeting of the Board?

21. How many times was the quorum met in the Agency's most recent fiscal year?

22. What is the fiscal year of the agency?
<table>
<thead>
<tr>
<th>SOURCES OF REVENUE</th>
<th>Current Year Budget Amount FY 2008-2009</th>
<th>Projected Amount for FY 2009-2010</th>
<th>Status of projected FY 2009-2010 funding commitments</th>
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<tbody>
<tr>
<td>Visalia Non-Profit Program Funds</td>
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<td>Donations</td>
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<td>Fundraising events</td>
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<td>County funding</td>
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<td>State funding</td>
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<td>Private foundations</td>
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<td>Program fees</td>
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<td>Other</td>
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<td>Grants (list individually)</td>
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<td>TOTAL AGENCY REVENUE</td>
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<td>LESS AGENCY EXPENSES (from page 9)</td>
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<td>TOTAL AGENCY EXCESS OR '&lt;DEFICIT&gt;'</td>
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## Sources of Funds - Visalia Non-Profit Program

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<th>SOURCES OF REVENUE</th>
<th>Current Year Budget Amount FY 2008-2009</th>
<th>Projected Budget Amount for FY 2009-2010</th>
<th>Status of projected FY 2009-2010 funding commitments</th>
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<td>Visalia Non-Profit Program Funds</td>
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<td>&quot;S&quot; indicates secured funding sources; &quot;U&quot; to indicate unsecured</td>
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<td>Donations</td>
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<td>Private Foundations</td>
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<td>Program Fees</td>
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<td>Grants (list individually)</td>
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<td>TOTAL PROGRAM REVENUE</td>
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<td>EXPENSES CATEGORY</td>
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<td>All Other Expenses (list by categories)</td>
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<td>TOTAL AGENCY EXPENSES</td>
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## Uses of Funds - Visalia Non-Profit Program

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<tr>
<th>EXPENSES CATEGORY</th>
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<th>Projected Amount for FY 2009-2010</th>
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<td>TOTAL PROGRAM EXPENSES</td>
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CERTIFICATION
This certifies that the information contained in this application is true and accurate and that this application has been authorized by the applicant agency.

Date: ___________________________ By: ___________________________
Agency: __________________________ Title: ___________________________

Board of Directors’ Authorization to Request Funds:
A resolution of the agency’s board of directors must be included with the funding request. The resolution must be signed by two members of the governing body and include the following statements.

• The Board of Directors approves the request for funding from the City of Visalia’s Non-Profit Fund Program in the amount of $___________.
• _________ is authorized to sign the grant application on behalf of [Grantee agency].
• [Grantee agency] acknowledges that among the conditions placed on the grant by the City of Visalia are the following: (1) no funds received from the City of Visalia Non-Profit Funding Program will be used for any religious purpose and (2) the program supported will be available to any person regardless of religion, race, ethnicity, or sexual orientation, and [Grantee Agency] agrees to comply with such conditions.

Attachments:
• One copy of the agency’s most recent Federal tax return
• One copy of the agency’s most recent fiscal year-end financial statement
• One copy of the agency’s IRS 501(c) (3) determination letter
• One copy of the resolution of the Board of Directors authorizing the grant application
• 6 (six) unstapled photocopies of signed application (in addition to the original application)

Glossary of Terms
Outputs are the units of service delivered by the activity or the number of people served. These are usually measured in terms of the volume of work accomplished, such as number of low-income households served, number of meals served, nights of shelter, childcare slots, counseling sessions provided, etc.

Outcomes are benefits or changes that result from a program or project. Outcomes typically related to a change in conditions, status, attitudes, skills, knowledge, or behavior of the participants or community served. Common outcomes could include improved quality of life for program participants, improved nutritional health or sense of security, improved mental health, or sense of well-being. Outcomes need to be measurable (i.e. surveys or questionnaires of participants and may include outcomes such as, fewer number of inter-personal conflicts, number of participants who become employed or enrolled in school, or measurable improvement in classroom performance, etc.).

Visalia Non-Profit Program refers to the program or activity for which funding is being sought. Responses to questions regarding the “Visalia Non-Profit Program” should be limited to the agency’s program or activity that serves young residents of the City of Visalia even if the agency serves people in a broader geographic area or in other age groups.
SUBJECT: COUNCILMEMBER REQUESTED AGENDA ITEM – Consideration of Use of Müller Field for Sports Playing Fields and Opportunities for Partnership

SOURCE: City Manager

COMMENT: Councilman Pedro "Pete" Martinez has requested that the City Council consider the use of Müller Field as a potential location for the development of sports playing fields, as well as the opportunity to form partnerships in the potential development.

Müller Field refers to a forty (40) acre flood control basin located north of Mulberry Avenue and west of Plano Street, which was conveyed to the City of Porterville by the County of Tulare in January 2009. The drainage reservoir provides flood control protection to the City from the upper Lewis Hill watershed, and could be expanded to accept storm water runoff from the surrounding area as it develops.

Public Works staff has reviewed the reservoir site for potential playing field utilization, and makes the following observations:

1) Approximately ten (10) acres of Müller Field is reserved for Pioneer water company overspill;
2) The reservoir bottom is relatively flat with minor undulations that will require significant grading to level for playing fields;
3) Significant effort will be required to remove existing weeds and other vegetation prior to planting grass;
4) Direct access to Müller Field is via a dirt easement, which road treatments such as street grindings or base rock could be used to mitigate dust in the area; and
5) Parking in large quantity cannot be accommodated without dedicating significant portions of Müller Field or developing adjacent parking.

In support of the conceptual development of sports playing fields, the Councilman proposes that partnerships could be formed with local community sports groups, i.e. Porterville Youth Football League, for collaboration toward development.

RECOMMENDATION: That the City Council consider the use of Müller Field for the development sports playing fields and opportunities for partnership.

ATTACHMENT: Locator Map

C/M Item No. 32